



Iowa Department of Human Services

Terry E. Branstad
Governor

Kim Reynolds
Lt. Governor

Charles M. Palmer
Director

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GENERAL LETTER NO. 17-B(1)-11

ISSUED BY: Bureau of Child Welfare and Community Services
Division of Adult, Children and Family Services

SUBJECT: Employees' Manual, Title 17, Chapter B(1), **CPS ASSESSMENT PROCEDURES**, Contents (pages 1 and 2), revised; pages 14 and 61 through 66, revised; and page 14a, new.

Summary

Chapter 17-B(1) is revised to:

- ◆ Add a section titled "Confidential Access at Facility or School."
- ◆ Add facility or school visit language to the "Observing the Child Victim" section that highlights the Iowa Code section giving authority to use confidential access.
- ◆ Implement the following law changes regarding the appeal rights for subjects of a child abuse report (child protective services assessment), as directed by 2012 Iowa Acts, House File 2226:
 - A subject has the right to request correction to a child protective services assessment.
 - A person alleged responsible has the right to file an appeal of the child protective services assessment.
 - All other subjects have the right to file a motion to intervene in the appeal of the child protective services assessment, if an appeal is granted.
 - Upon request of any party to the hearing, the administrative law judge may stay the hearing until the conclusion of the adjudicatory phase of a pending juvenile or district court case relating to the data or findings.
 - If no party files an appeal within 10 days from the date of the proposed decision, the proposed decision becomes the final decision. If a party files an appeal within 10 days from the date of the proposed decision, the director has 45 days to issue a ruling. The proposed decision becomes the final decision if there is no ruling from the director within that 45 day period.
 - A person alleged responsible has the right to file an appeal of the final agency action to the district or higher courts.
- ◆ Revise procedures for "Reviews and Appeals," "Role of the Child Protection Worker and Supervisor," and "District and Higher Courts" sections.
- ◆ Remove the section titled "Administrative Appeal/Administrative Hearing."

Effective Date

February 1, 2013

Material Superseded

This material replaces the following pages from Employees' Manual, Title 17, Chapter B(1):

<u>Page</u>	<u>Date</u>
Contents (page 1)	July 3, 2009
Contents (page 2)	August 17, 2007
14	August 17, 2007
61, 62	July 1, 2011
63	August 17, 2007
64-66	April 30, 2010

Additional Information

Refer questions about this general letter to your area service administrator.

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Confidential Access at a Facility or School

Facilities and schools have responsibility for the care and supervision of children set in the Iowa Code, much like the Department. Presenting your state identification when you arrive will assist facility and school personnel in confirming you have the statutory authority to confidentially access a child.

If additional information is requested, you may want to cite the legal reference which states that confidential access can be used in a facility or a public or private school during a child protective assessment. Administrators of a facility or a public or private school shall cooperate by allowing confidential access to the alleged child victim and other children having relevant information.

Iowa Code section 232.71B, subsection 6, states the following:

Facility or school visit. The assessment may include a visit to a facility providing care to the child named in the report or to any public or private school subject to the authority of the department of education where the child named in the report is located. The administrator of a facility, or a public or private school shall cooperate with the child protection worker by providing confidential access to the child named in the report for the purpose of interviewing the child, and shall allow the child protection worker confidential access to other children for the purpose of conducting interviews in order to obtain relevant information. The child protection worker may observe a child named in a report in accordance with the provisions of section 232.68, subsection 3, paragraph "b." A witness shall be present during an observation of a child. Any child aged ten years of age or older can terminate contact with the child protection worker by stating or indicating the child's wish to discontinue the contact. The immunity granted by section 232.73 applies to acts or omissions in good faith of administrators and their facilities or school districts for cooperating in an assessment and allowing confidential access to a child.

Procedures for Observing the Alleged Victim

1. When you observe a child, have a witness present (however, it is not necessary that a witness be present during the interview with the child).
 - ◆ When observing a child aged four or older, do not touch the child, remove the child's clothing, or induce the child to remove clothing. Removal or adjustment of clothing to permit observation must be voluntary on the child's part.
 - ◆ If the child is under age four, you may view the child's unclothed body other than the genitalia and pubes. If a child has injuries near the genital area, do not attempt to observe these injuries unless the parent or guardian gives permission.
2. In a report of physical abuse, carefully describe and document all injuries observed, including the exact location, size, color, and shape.

Note the child's and the caretaker's explanations as to how each injury occurred.

- ◆ With a mentally retarded or developmentally disabled child, the observation may proceed as long as the child consents and the child appears to have a developmental age of four or older. (Ask school or facility personnel for assistance in determining the developmental age of the child.)
- ◆ If a child aged ten or older expresses a desire to end contact with you, you must terminate the contact.

Observation of Other Children

1. Observe other children who are in the care of the person alleged responsible for the abuse when concerns regarding the protection of these children are identified. This means children who are:
 - ◆ In the same home as the parents who are alleged to be responsible for the abuse;
 - ◆ In the same facility (such as a child-care home or center) where the person alleged to be responsible for the abuse works or lives; or
 - ◆ Under the care of a person who is not registered to provide child care.

Media and Legislative Contacts

1. When responding to calls from the media about a particular case, do not divulge details about a particular case or verify whether an assessment is being conducted.
2. Provide general information about the abuse assessment:
 - ◆ Who mandatory reporters are
 - ◆ How people can contact the Department
 - ◆ How an assessment is conducted
 - ◆ What happens to the information gathered during an assessment
3. Complete a summary (contact notation) of the questions asked and the answers given and immediately send an electronic message to:
 - ◆ Your supervisor
 - ◆ Your service area manager
 - ◆ Your area social work administrator
 - ◆ The Field Operations Support Unit
 - ◆ The child protective service program manager
 - ◆ The administrator of the Division of Child and Family Services
 - ◆ The deputy director for operations
 - ◆ The Department director
 - ◆ The Office of Communications

Reviews and Appeals

Link to [Policy](#)

NOTE: Any subject of a report may request correction of the report within 90 days of the date of the outcome notice. Procedures are outlined on forms:

- ◆ [470-3242, Notice of Child Abuse Assessment: Not Confirmed](#)
- ◆ [470-3243, Notice of Child Abuse Assessment: Founded](#)
- ◆ [470-3575, Notice of Child Abuse Assessment: Confirmed Not Registered](#)

The review process consists of:

- ◆ Local service area review of request for correction (if applicable)
- ◆ Administrative appeal
- ◆ Appeal through the district or higher court systems

1. If a subject disagrees with the information contained within the [Child Protective Assessment Summary, form 470-3240](#), regardless of the finding, the assessment worker or supervisor may meet with the subject to discuss the summary and any changes or corrections the subject wishes to submit. If the assessment worker and supervisor agree with making the requested corrections, the corrections will be completed in an addendum.
2. If the assessment worker and supervisor do not feel that a meeting is appropriate, or after such a meeting, decide that the report should not be changed, they will advise the subject as follows:
 - ◆ If the subject requesting correction is a person alleged responsible for the abuse, they have the right to request an appeal as previously advised in the outcome notice.
 - ◆ If the subject requesting correction is a subject other than a person alleged responsible for the abuse, they have the right to file a motion to intervene in the appeal hearing, if one is granted, as previously advised in the outcome notice.

NOTE: If any local DHS office receives a written request for correction and the assessment worker and supervisor do not make the changes as requested, the request must be referred to the DHS Appeals Section within 24 hours. For more details see [RC-0038, Worker's Guide to the Appeals Process](#), in 1-E-Appendix. The outcome notice also contains information that tells the subject how to file. No appeal form is necessary, although the subject may choose to complete one. Also advise of legal services available in the community.

Subjects are not required to request local or service area review before requesting an appeal or a motion to intervene in the appeal hearing. The subject has 90 days from the date of the notice of child abuse assessment to request an appeal.

3. Do not advise subjects about their chances of obtaining the correction or expungement they seek or try to discourage them from appealing, even if it seems likely their request will be denied due to timeliness or some other factor.
4. Upon receipt of an appeal request, Appeals staff will issue a written acknowledgment to the requester and a motion to intervene notice to all other subjects.
5. When the Appeals Section requests additional information, provide this information within ten working days.

Role of the Child Protection Worker and Supervisor

1. When a subject requests an appeal or motion to intervene in an appeal hearing, instruct the subject to send the request, in writing, dated and signed by the subject to: DHS, Appeals Section, 1305 E Walnut St, Des Moines, IA 50319-0114.
2. If the subject submits an appeal or motion to intervene in an appeal hearing to the local office, send it to the address above within 24 hours. Keep a copy in the case record.
3. The Department of Inspections and Appeals provides administrative law judges to hear appeals on child abuse assessments and issue decisions. The Department of Inspections and Appeals will send you and your supervisor a copy of:
 - ◆ The notice of prehearing conference.
 - ◆ The notice of hearing.
 - ◆ The proposed decision.
4. Provide requested information within the time limit specified by the attorney.
5. An assistant attorney general represents you and your supervisor during the appeal process. The assistant attorney general may contact you or your supervisor directly with questions about the assessment or the *Child Protective Assessment Summary*, form 470-3240.
6. A prehearing conference is scheduled to determine voluntary settlement potential, the appeal issue, exhibits, and witness lists. When you receive a notice of prehearing conference:
 - ◆ Contact the administrative law judge to provide a telephone number where you can be reached at the time and date of the conference.
 - ◆ Contact the attorney representing you about three weeks before the prehearing conference date.

NOTE: Upon request of any party to the appeal proceeding, the administrative law judge may stay the hearing until the conclusion of the adjudicatory phase of a pending juvenile or district court case relating to the data or findings. An adjudication of a child in need of assistance or a criminal conviction in a district court case relating to the child abuse data or findings may be determinative in the appeal proceeding.

7. At the prehearing conference or administrative hearing:

- ◆ You and your supervisor may be asked to provide testimony at the appeal prehearing and hearing. The hearing may be held at the county office or by telephone.
- ◆ The assistant attorney general may also ask you and your supervisor to assist in locating and issuing subpoenas to other witnesses who are asked to provide testimony.

NOTE: Payment for expenses of witnesses subpoenaed for appeals is provided through service area administrative funds, if available. Obtain prior approval from the service area manager before authorizing the Attorney General's office to issue a subpoena.

8. The appeal may be settled without needing to go to hearing if the assistant attorney general and the appellant or the appellant's attorney are able to reach a mutually acceptable compromise. Generally, the assistant attorney general consults with the worker and supervisor before such a compromise is agreed upon.

NOTE: If an appeal is dismissed due to a settlement agreement, the administrative law judge issues an "Order Implementing Settlement Agreement and Dismissing Appeal." This is the final decision. Take immediate action to ensure that the decision is implemented within seven business days. The supervisor shall track that the addendum is completed, approved and on the system within seven business days of the date of the decision.

9. After the appeal hearing, the administrative law judge issues a proposed decision. You and your supervisor will receive a copy of the proposed decision.

NOTE: This decision becomes final within 10 days, unless within that 10 day period, a party to the appeal proceeding requests that the director of the Department review the decision. The director has 45 days from the date of the proposed decision to issue a ruling. If the director does not rule within that 45 day period, the proposed decision becomes the final decision.

10. If you disagree with the proposed decision, immediately contact the program manager, the service help desk, or the assistant attorney general who represented DHS at the hearing to discuss the proposed decision. The attorney representing the Department will make the final decision on submitting a request for director's review of a proposed decision.

NOTE: The Appeals Advisory Committee meets weekly to review requests submitted by the assistant attorney general and make recommendations to the director to review proposed decisions issued during that week. If the Appeals Advisory Committee approves the request, the Director's Office will review the proposed decision and issue a final decision. You and your supervisor will receive a copy of the final decision.

11. If the final appeal decision changes the content of the *Child Protective Assessment Summary*, form 470-3240, or removes a report from the Registry, take the following steps within seven working days of the date on the decision:
- ◆ Delete, add, or provide corrected information to the original *Child Protective Services Assessment Summary*, by issuing an addendum as directed by the appeal decision. Reference the appeal decision in the addendum.
 - ◆ Send the addendum to the subjects of the report, the juvenile court, the county attorney, and other persons who received a copy of the original *Child Protective Services Assessment Summary*.
 - ◆ Send a *Notice of Child Abuse Assessment* (outcome notice) to the subjects, the county attorney, juvenile court, and other persons notified of the outcome of the original report.
 - ◆ Make the necessary changes in the STAR system and save the addendum on the Case Flow system.
 - ◆ If there is an open service case, notify the assigned caseworker of the changes to the original *Child Protective Services Assessment Summary*.

District and Higher Courts

NOTE: If a person alleged responsible for the abuse is still dissatisfied with the summary after the administrative appeal process, that person named responsible for the abuse has the option of taking the appeal to the district court and pursuing the case through the court system.

The Attorney General's office represents the Department in court. The worker and supervisor are usually not required to present testimony or provide information at this stage of the process. However, you will be notified of the outcome of the court case.

If a court order is issued that changes the *Child Protective Services Assessment Summary*, form 470-3240, you and your supervisor will be notified.

- ◆ Take the steps outlined for modification of the *Child Protective Services Assessment Summary* after an appeal decision.
- ◆ Complete this within seven days of the date of the court order.

Record Check Evaluation

NOTE: A "record check evaluation" is an evaluation of the abuse report to determine if the person found to be responsible for child abuse is suitable for employment in a regulated setting.

People named on the Central Abuse Registry as responsible for the abuse of a child are entitled to an evaluation of the Registry placement decision before prohibition of licensure, registration, or employment.

The evaluation determines a person's suitability for continued work as:

- ◆ A registered or nonregistered home child care provider
- ◆ An employee of a licensed or registered child care facility, including:
 - Child care center
 - Foster family home
 - Foster group care facility
- ◆ An employee of a psychiatric facility for children
- ◆ An employee of a shelter care facility
- ◆ An employee of a detention facility
- ◆ An employee of a state-operated facility
- ◆ An employee of a hospital or health care facility
- ◆ A school of nursing student