

**CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION**

**IF YOU WERE INVESTIGATED OR INDICATED IN ILLINOIS FOR CHILD  
NEGLECT UNDER ALLEGATION 74 (“INADEQUATE SUPERVISION”) FROM  
FEBRUARY 24, 2012 THROUGH MAY 9, 2017, THIS NOTICE AFFECTS YOUR  
RIGHTS**

**A State Court authorized this Notice. This is not a solicitation from a lawyer.**

**Please Read this Notice Carefully**

- A proposed statewide settlement has been reached in a class action lawsuit involving investigations and indicated findings for child neglect under DCFS Allegation 74 “Inadequate Supervision.” You may be a class member and may be entitled to participate in the proposed settlement.
- The Circuit Court of Cook County has ordered issuance of this notice in the lawsuit entitled *Nicole P., et al. v. Ill. Dep’t of Children & Family Servs., et al.*, 2016 CH 12809 (P. Meyerson, J.). Both sides have agreed to settle this dispute to avoid burdensome and costly litigation.
- If the Court approves the Settlement and you were investigated or indicated for neglect under Allegation 74 “Inadequate Supervision” between February 24, 2012 and May 9, 2017, you must take action described under Settlement below in order to benefit from the settlement.

**Summary.** The following chart describes the basic terms of the settlement. You are not responsible for attorneys’ fees or any other costs. This settlement resolves the claims raised in this lawsuit.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>If you</b>	<b>Relief</b>
Were <b>indicated</b> for Allegation 74 “Inadequate Supervision” prior to February 24, 2012.	You are not affected by this settlement.
Were <b>investigated or indicated</b> for Allegation 74 “Inadequate Supervision” between February 24, 2012 and May 9, 2017.	You may request a special review of your indicated finding for Allegation 74, Inadequate Supervision, if the allegation was investigated or indicated between February 24, 2012 and May 9, 2017. During the special review process, you may provide additional documentation or information that is relevant to the indicated finding for Allegation 74. A neutral person employed by DCFS will review

	<p>the indicated finding and any relevant documentation or information you provide and will make a recommendation to either uphold or expunge the indicated finding.</p> <p>If the indicated finding for Allegation 74 is upheld after the Special Review, it will remain on the DCFS State Central Register for the time period set forth in the final finding letter notifying you of the indicated finding. You will have no further right to appeal the Special Reviewer's decision.</p> <p>If the indicated finding for Allegation 74 is unfounded after the Special Review, it will be removed from the State Central Register and you will receive notice that the indicated finding has been removed from the State Central Register. The removal of your name as a perpetrator of child neglect for Allegation 74 will not impact any proceedings or findings in juvenile or criminal court.</p>
<p>Were <b>investigated</b> based on Allegation 74 after May 9, 2017.</p>	<p>You are not affected by this settlement.</p>

**Lawsuit.** This case was filed by Nicole P., Brittaney S. and Deona W. (together, the “Named Plaintiffs”), who were appointed by the Court to act as representatives of the Plaintiff Class. The Plaintiff Class alleges that the Illinois Department of Children and Family Services (“DCFS”) violated the Illinois Administrative Procedure Act by investigating and indicating persons under a rule known as Allegation 74 (Inadequate Supervision) that was legally void.

**The “Plaintiff Class” consists of: All Persons Who Were Investigated, Indicated or Registered for Neglect by Illinois Department of Children and Family Services Under Allegation 74 (“Inadequate Supervision”) from February 24, 2012, Through May 9, 2017.**

**Settlement.** The parties have reached a settlement of this matter. Under the settlement, class members may elect to have their finding of inadequate supervision reviewed under the amended Allegation 74 administrative rule that was adopted in accordance with Illinois law on or about May 9, 2017:

- Class members are entitled to have their indicated finding for Allegation 74 Inadequate Supervision reviewed (“Special Review”) by a neutral reviewer (“Special Reviewer”). The Special Review will be conducted under the revised Allegation 74 rule that was effective on May 9, 2017, even if the investigation occurred and the indicated finding was entered under the old Allegation 74 rule.

- Class members must submit a written request for a Special Review of the finding of inadequate supervision against them in order to receive such review. The deadlines for submitting a request are described below.
- DCFS will provide notice about this Special Review process via publication by internet and through sending the individualized notice and questionnaire to members of the Class who meet certain criteria. That criteria is set forth below:
  - DCFS will send individualized notice and questionnaires to any and all members of the Plaintiff Class identified by the Department’s records as a “child care worker”;
  - DCFS will send individualized notice and questionnaires to any and all members of the Plaintiff Class who were indicated under Allegation 74 between August 28, 2015, and May 9, 2017, and who had (1) no other allegations indicated as to them in the same investigation during that period, nor (2) any subsequent indicated findings as to them for an allegation other than Allegation 74 during that period (through May 9, 2017); and
  - For all background checks up through and until August 28, 2020, DCFS will send individualized notice and questionnaires to any and all members of the Plaintiff Class who submit to a DCFS background check that returns an indicated finding for Allegation 74 where such finding is causing the continuation of a registry (either because it is the sole registered finding or because other findings would have expired but for the Allegation 74 finding).
- The time period by which you **must** submit a request for Special Review depends on your specific case. These time periods are set forth below:
  - for any class member who received an Individualized Notice, 120 days from the date on which the Individualized Notice was postmarked as sent to that class member; or
  - for any class member who did not receive an Individualized Notice, the latest of the following dates is the deadline by which you **must** submit a request for Special Review:
    - by October 19, 2018;
    - within 60 days of notification by the background check unit of an indicated finding for Allegation 74 that was entered between February 24, 2012 to May 9, 2017; or
    - by May 31, 2019, if submitted with the approval of Plaintiffs’ counsel in writing.

- Within 180 business days of the settlement, DCFS will develop and implement mandatory training regarding the new Allegation 74.

If you are a member of the Class and the settlement is approved, any indicated finding for Allegation 74 is subject to review by the Special Reviewer, if requested in writing by a Class member. The finding will either be expunged or upheld. The class member will be able to submit any documentation related to the investigation and indicated finding for Allegation 74 with their completed questionnaire.

**Background Information.** The Illinois Department of Children and Family Services (DCFS) was created by the Children and Family Services Act, 20 ILCS 505/1 *et seq.* and derives its authority to investigate allegations of child abuse and neglect from the Abused and Neglected Child Reporting Act (ANCRA), 325 ILCS 5/2. Pursuant to these statutes, DCFS has promulgated administrative rules regarding child abuse and neglect investigations. These rules include an allegation system that defines the specific harm to a child and on the evidence that is necessary to be gathered to reach a finding with respect to each specific allegation. The allegation system is contained in Appendix B to DCFS Rule 300 and Procedure 300, Child Abuse and Neglect Investigations. The Administrative Procedure Act, 5 ILCS 100/1 *et seq.*, is the state law that governs administrative rulemaking.

This class action lawsuit was filed on September 28, 2016, seeking to prohibit DCFS from continuing to investigate, indicate and register persons pursuant to Allegation 74, and from maintaining the names of all persons on the State Central Register (SCR) who were indicated pursuant to Allegation 74. The SCR is a confidential list of persons who have been indicated by DCFS as perpetrators of child abuse and/or neglect; it is not accessible by the general public but is accessible by employers of people who work with children, law enforcement, and physicians.

Effective July 13, 2012, the Illinois legislature had amended ANCRA, by amending the definition of “neglected child” to include a child “who is subjected to an environment which is injurious insofar as (i) the child's environment creates a likelihood of harm to the child's health, physical well-being, or welfare and (ii) the likely harm to the child is the result of a blatant disregard of parent, caretaker, or agency responsibilities.” The 2012 legislation also added a definition of “blatant disregard.” P.A. 97-803, eff. July 13, 2012. Although ANCRA was amended, DCFS did not amend Allegation 74 “Inadequate Supervision” at that time.

The Allegation 74 inadequate supervision rule that was in effect during the class period (between February 24, 2012, and May 9, 2017) authorized investigations and indicated findings of neglect in the SCR when children were placed in circumstances “likely to require judgment or actions greater than the child's level of maturity, physical condition and/or mental abilities would reasonably dictate.” In this lawsuit, the Plaintiff Class alleges that the Circuit Court of Cook County had found – in an August 28, 2015 Order in *Manier v. DCFS* – that Allegation 74 was unlawful because it was outside the scope of ANCRA.

DCFS has contested the allegations set forth in plaintiffs’ Complaint. DCFS contends that the August 28, 2015 Order in *Manier v. DCFS* has no legal precedent and that there are two other court decisions which held that Allegation 74 was lawful and within the scope of ANCRA. The

first, *Velazquez v. Department of Children and Family Services*, 2014 Ill App. (1<sup>st</sup>) 132758-U (May 15, 2014), pre-dates the *Manier* decision and is a Rule 23 decision with limited precedential value under the Illinois Supreme Court rules. There, the Appellate Court held that Allegation 74 was a valid exercise of DCFS's authority under ANCRA. The second, *Graham v. Department of Children and Family Services*, 2015 MR 1557, Circuit Court of DuPage County (June 13, 2016) likewise held that Allegation 74 did not exceed the scope of ANCRA.

DCFS has amended Allegation 74 to more accurately reflect the agency's policy of allowing parents to make prudent and reasonable parenting decisions for their children. The revised Allegation 74, which was promulgated in accordance with Illinois law, was effective May 5, 2017, and DCFS staff were notified of this change on May 9, 2017. DCFS has also drafted revised Procedures for Allegation 74, which are attached in draft form to the proposed settlement agreement as Appendix H. DCFS will adopt those revised Procedures by February 28, 2018.

**Court Hearing.** The Court has scheduled a Fairness Hearing (the "Hearing") to consider whether to approve the settlement. The Court appointed the law firm of Jones Day and the Family Defense Center as "Class Counsel." The Named Plaintiffs and Class Counsel believe the settlement confers substantial benefits upon the Class, and that it is fair, reasonable, adequate, and in the best interest of the Class.

**The Hearing has been scheduled for May 31, 2018, at 2:00 p.m., in the Circuit Court of Cook County, 50 West Washington Street, Courtroom 2305, Chicago, IL 60602. At the Hearing, the Court will determine whether the proposed settlement should be finally approved as fair, reasonable, and adequate.**

You do not need to appear at the Hearing, but you may appear if you wish. If you wish to object to the settlement, you must file a written objection with the Clerk of the Circuit Court of Cook County, Chancery Division, 50 West Washington Street, Room 802, Chicago, Illinois 60602.

- Your objection must be filed in writing by April 30, 2018. If you do not file a written objection by this date you will waive your right to speak at the May 31, 2018 fairness hearing.
- Your objection must contain the name and number of this case (Nicole P., et al. v. Ill. Dep't of Children & Family Servs., et al., 2016 CH 12809).

- You must also serve copies of your objection on Class Counsel and Defendants' attorneys (identified below), postmarked by April 30, 2018:

MARK W. DEMONTE  
JASON Z. ZHOU  
JONES DAY  
77 W. Wacker Dr, Suite 3500  
Chicago IL 60601

BARBARA L. GREENSPAN, AAG  
DANIELLE J. STEIMEL, AAG  
Office of the Illinois Attorney General  
100 W. Randolph, Suite 11-200  
Chicago IL 60601

- Your objection must include your name, and street address, along with a statement of the reasons why you believe the Court should find that the proposed settlement is not in the best interests of the Settlement Class. It is not sufficient to simply state that you object; you must state your reasons.

You may obtain a copy of the proposed settlement agreement at [www.familydefensecenter.net](http://www.familydefensecenter.net).

Additional information about the Court's rulings in this case is available at <http://www.familydefensecenter.net>.

If you have any further questions, you may email class counsel at [Allegation74Class@familydefensecenter.net](mailto:Allegation74Class@familydefensecenter.net). In any email you send to the class counsel, please identify your question as concerning "*Nicole P. Litigation*." Do not contact the Court.