

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

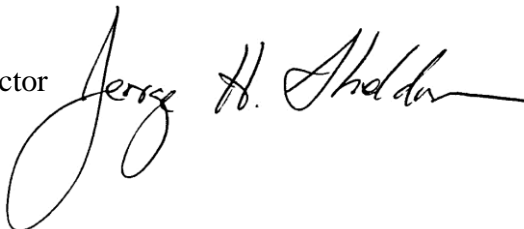
POLICY GUIDE 2016.08

Procedures 300 Reports of Child Abuse and Neglect
Rule 300 Reports of Child Abuse and Neglect
Rule 383 Licensing Enforcement

DATE: June 15, 2016

TO: SCR Child Welfare Specialists, Supervisors and Administrators; Child Protection Specialists, Supervisors and Administrators; AHU Administrative Law Judges and Administrators; Licensing Representatives, Supervisors and Administrators

FROM: George H. Sheldon, Director



EFFECTIVE: Immediately

I. PURPOSE

The purpose of this Policy Guide is to provide instruction to SCR, Child Protection, AHU and Licensing staff for the implementation of changes in policy and procedure, as required by recent changes to ANCRA (PA 99-0350). The instructions in this Policy Guide and other recent changes to ANCRA (PA 99-0350) will be incorporated into **Rule and Procedures 300, Appendix B The Allegations System, and Rule 383, Licensing Enforcement.**

This Policy Guide is effective immediately.

II. PRIMARY USERS

Primary users are SCR Child Welfare Specialists and Supervisors, Child Protection Specialists and Supervisors, Administrative Law Judges and Licensing Representatives and Supervisors.

III. BACKGROUND

This policy sets forth the principles and procedures for reporting and investigating specific types of incidents of abuse and neglect in the lives of youth/adult residents that DCFS provides services and supports to and/or who are placed with an agency, as defined in Section 3 of the Abused and Neglected Child Reporting Act:

(325 ILCS 5/3) (from Ch. 23, par. 2053)

"Agency" means a child care facility licensed under Section 2.05 or Section 2.06 of the Child Care Act of 1969 and includes a transitional living program that accepts children and adult residents for placement who are in the guardianship of the Department.



(225 ILCS 10/2.05) (from Ch. 23, par. 2212.05)

Sec. 2.05. "Facility for child care" or "child care facility" means any person, group of persons, agency, association, organization, corporation, institution, center, or group, whether established for gain or otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody in any facility as defined in this Act, established and maintained for the care of children. "Child care facility" includes a relative, as defined in Section 2.17 of this Act, who is licensed as a foster family home under Section 4 of this Act.

(Source: P.A. 98-804, eff. 1-1-15.)

Sec. 2.06. "Child care institution" means a child care facility where more than 7 children are received and maintained for the purpose of providing them with care or training or both. The term "child care institution" includes residential schools, primarily serving ambulatory handicapped children, and those operating a full calendar year, but does not include:

(a) Any State-operated institution for child care established by legislative action;

(b) Any juvenile detention or shelter care home established and operated by any county or child protection district established under the "Child Protection Act";

(c) Any institution, home, place or facility operating under a license pursuant to the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act of 2013, the ID/DD Community Care Act, or the MC/DD Act;

(d) Any bona fide boarding school in which children are primarily taught branches of education corresponding to those taught in public schools, grades one through 12, or taught in public elementary schools, high schools, or both elementary and high schools, and which operates on a regular academic school year basis; or

(e) Any facility licensed as a "group home" as defined in this Act.

IV OVERVIEW

Public Act 99-0350 amends, among other Acts, Section 5/3 of the Abused and Neglected Child Reporting Act [325 ILCS 5/3] with respect to the definition of "Agency," "Abused Child," and "Blatant Disregard." The Department shall initiate immediate changes to practice, with subsequent changes to be placed in rule and procedure, for the implementation of the following requirements that provide for the reporting and investigation of incidents of abuse and neglect that occur in agency settings as a result of systemic problems within the agency or when the perpetrator of abuse or neglect cannot be identified.

- With respect to "blatant disregard," to address the failure of an agency to implement practices and maintain an environment and conditions that ensure the health, physical well-being or welfare of a child or adult resident; and

- The implementation of criteria and standards for the acceptance and investigation of reports of abuse or neglect committed by an agency, as “agency” is defined in Section 3 of ANCRA, or person working for an agency who is responsible for the welfare of a child or adult resident.

Accepting reports and conducting investigations of Neglect by Agency include, but are not limited to, the following situations:

- An incident or situation where the agency is providing services to a ward of the court and/or under the guardianship of DCFS;
- An incident or situation can occur whether or not the alleged victim is physically at a site owned, leased or operated by the agency;
- An incident or situation where agency personnel (staff, interns, contractors, consultants, and/or volunteers) are, or should have been, physically present and providing services at that point in time;
- Any situation involving physical conditions at a site provided by the agency, even in the absence of agency personnel;
- A report shall not be determined to be indicated or unfounded solely because a subject of a report resigns his/her position during the investigation; and
- A concurrent final finding determination may be made that indicates both an individual perpetrator and a systemic agency problem for having caused or contributed to the incident of harm.

V. INSTRUCTIONS

SCR

When assessing a potential report that includes information that may qualify for **Allegation #86**, hotline staff shall determine whether the information provided by the caller meets the standard of the associated harm and of “blatant disregard,” as codified in Rule and set forth in DCFS procedure. Specifically, hotline staff must determine whether the information provided by the reporter indicates that agency environment and conditions expose a child or adult resident to harm, risk of harm or a lack of necessary care, including but not limited to, adequate supervision, food, clothing and shelter and that the harm the child or adult resident has been subjected to is injurious to the extent agency staff culpability is mitigated by systemic problems, such as inadequate staffing, management, training or supervision. Also included in this allegation are incidents of harm when the perpetrator cannot be identified.

Hotline staff should evaluate the caller’s information for applicable Circumstances and Factors To Be Considered, as set forth in DCFS Rule and Procedure. Reports that include **Allegation #86** shall be processed, completed and transmitted according to current procedures.

Child Protection

Once a Child Protection Specialist determines a report that includes **Allegation #86** was made in good faith, the Child Protection Specialist shall continue the investigation by applying the criteria and fulfilling the requirements of the allegation, as well as current investigatory procedures and practice, in order to reach a final finding determination.

Allegation of Harm #86 NEGLECT BY AGENCY

a) Definition

Neglect by Agency

Neglect by Agency means the failure of an agency to implement practices that ensure the health, physical well-being or welfare of the children or adult residents residing in the facility, and/or there are conditions at the agency that expose children or adult residents to harm, risk of harm or a lack of other necessary care, including but not limited to, adequate supervision, food, clothing and shelter; or a child or adult resident is subjected to an environment that is injurious to the extent staff culpability for abuse or neglect is mitigated by systemic problems, such as inadequate staffing, management, training or supervision of staff; and/or an incident of abuse or neglect against a child or adult resident where the perpetrator of such harm cannot be identified.

b) Taking a Report

- 1) A service recipient/youth has been exposed to harm or risk of harm due to the blatant disregard of caregiver responsibilities by the agency responsible for the youth's welfare. (NEGLECT)

c) Investigating a Report

- 1) Required Contacts:

All contacts and attempted contacts must be documented in a contact note within 48 hours.

- A) Interview the CEO/Executive Director of the agency.
- B) A waiver of any of the above requirements must be approved by the Child Protection Supervisor and may require approval by the Area Administrator. Details of the request and the Supervisor's decision must be documented in a supervisory note.

2) Required Activities:

All investigative activities must be documented in a contact or case note within 48 hours.

A) Consultation with the Area Administrator must occur prior to closing the investigation.

3) Documentation Required

A) There is evidence that documents that a youth has been exposed to harm or risk of harm.

B) A waiver of any of the above requirements must be approved by the Child Protection Supervisor and may require approval by the Area Administrator. Details of the request and the Supervisor's decision must be documented in a supervisory note.

4) Assessment of Factors and Evidence to Determine a Finding

A) Documentation of a detailed analysis of all inculpatory and exculpatory evidence has been reviewed and considered and any conflicting evidence has been resolved to the extent possible.

B) The Child Protection Specialist and Child Protection Supervisor shall have a formal supervisory conference to assess all inculpatory and exculpatory evidence obtained during the course of the investigation in order to reach an investigative finding. The supervisory consultation must be documented in a supervisory note.

Child Protection and Licensing Concurrent Investigations

The Child Protection Specialist shall immediately notify the local DCFS Licensing Representative of the investigation. A concurrent licensing complaint investigation shall be performed for all Department and private agency foster homes, day care homes and all other licensed facilities named in reports of alleged incidents of abuse or neglect. For all reports that include **Allegation #86**, current practice and procedures apply for conducting concurrent Child Protection and Licensing investigations. For instruction and information concerning concurrent Child Protection and Licensing investigations, staff should reference **Procedures 300.110, Special Types of Reports and Procedures 383.37, Additional Requirements for Concurrent Investigations.**

Licensing/Monitoring

For a report with an indicated **Allegation #86, Neglect by Agency**, DCFS Licensing shall apply the current practice and procedure for requiring the indicated facility to develop and implement a Corrective Plan for the agency conditions that led to the indicated report and violation of licensing standards. The Corrective Plan shall identify any systemic problem that led to the indicated final finding determination and include suggested corrective measures.

Corrective Plans must be approved by the Licensing Supervisor and monitored by the Licensing Representative. In reviewing the continued qualifications of a facility for an operating license, the Department shall evaluate the facility's compliance with any Corrective Plan resulting from an indicated report or licensing investigation and take appropriate enforcement action for repeated failure to correct identified problems, in accordance with applicable state law and regulation. Such enforcement action may include, but not be limited to, revoking a license; refusing to renew a license; or refusing to issue a full license, subsequent to a permit. All licensees and permit holders are afforded due process rights through AHU for any action taken.

Administrative Hearings

An individual or agency that has been indicated as a perpetrator and who has received notice of the indicated final finding determination made against them has the right to challenge the decision by requesting an appeal of the indicated finding.

To begin the appeal process, the perpetrator or appropriate officer/administrator/owner of the agency shall request in writing on the form provided that the Department review its decision. The request must be mailed or faxed to the address or fax number designated in the written notice within 60 days after notification of the completion of the investigation, as determined by the date of the notification sent by the Department.

Special Note: It is possible for an appellant/agency to have concurrent hearings to appeal a licensing enforcement action and an indicated report for child abuse or neglect. When common issues of fact or law are raised in more than one appeal, the Chief Administrative Law Judge may consolidate the appeals into a single group hearing.

VI. QUESTIONS

Questions regarding this Policy Guide may be directed to the Office of Child and Family Policy at 217-524-1983 or via Outlook at OCFP – Mailbox. Non Outlook users may e-mail questions to cfpolicy@idcfs.state.il.us.

VII. FILING INSTRUCTIONS

This Policy Guide should be filed immediately after **Rule and Procedures 300, Appendix B and Rule 383, Subpart C**.