CD08-22

DEPARTMENT OF SOCIAL SERVICES

CHILDREN'S DIVISION

P. O. BOX 88

JEFFERSON CITY, MISSOURI

May 13, 2008

What's Inside:
Policy revisions for documenting Administrative Review, CANRB and Judicial Review determinations; CS-24 revision

M E M O R A N D U M

TO: REGIONAL EXECUTIVE STAFF, CIRCUIT MANAGERS, AND CHILDREN'S DIVISION STAFF

FROM: PAULA NEESE, DIRECTOR

SUBJECT: ADMINISTRATIVE REVIEW, CHILD ABUSE NEGLECT REVIEW BOARD (CANRB) AND JUDICIAL REVIEW DETERMINATIONS AND SUBSEQUENT ACTIONS

CS-24 DESCRIPTION OF THE INVESTIGATION PROCESS REVISION

DISCUSSION:

The purpose of this memorandum is to inform staff of Child Welfare Manual revisions that provide clarification of the alleged perpetrator appeal process. These revisions address:

- Updates to FACES screens related to the perpetrator appeal process;
- Procedures for handling situations where the Division substantiated on multiple child abuse/neglect findings, but the court only adjudicates on one or a few, leaving findings of child abuse or neglect open for appeal;
- Introduction of the revised (CS-24) Description of the Investigation;

Updates to FACES during the Perpetrator Appeal Process

Current policy directs staff to update the FACES *Conclusion* screen; *Participant Characteristics* screen; and the *Appeals* screens appropriately and in a timely manner. Although policy does not direct staff to change the conclusion date on the FACES screens, some staff have incorrectly assumed the conclusion date changes with the update. The purpose of these revisions is to clarify procedures to ensure conclusion dates are entered consistently across the state, for the purpose of calculating appeal and expungement timelines.

Reversal of Preponderance of Evidence (POE) Finding

If the decision of POE is to reversed by an Administrative Review or CANRB the following should be completed within (10) ten working days:

- Change investigative conclusion on FACES *Conclusion* screen from "POE" to "unsubstantiated", deleting worker findings and severity;

- Update the individual conclusion on the *Participant Characteristics* screen from "POE" to "Unsubstantiated", deleting worker findings and severity; and

- Update the *Appeals* screen.

- When a *POE - Preliminary Finding* or *POE- Finding Pending Appeal* is reversed, **do not** change the conclusion date. The system should reflect the conclusion date of the **original** determination of the investigation and serves as the starting point for retention and expungement purposes.

- Send out new CS-21s to all parties that received the initial CS-21. Staff will change the finding on the CS-21 to unsubstantiated and in the field under *"this determination is based on the following facts discovered during the investigation."* Staff should include the statement:

  "This case has been reviewed and the previous finding has been overturned. This case is unsubstantiated."

- File a copy of all notification letters in the case record; and

- Enter summary in case record.

POE is changed to "Court Adjudicated"

When POE conclusions are changed to "court adjudicated" staff will immediately update the *FACES Conclusion*, *Participant Characteristics* from POE to "court adjudicated" and make the appropriate updates to the *Appea*ls screen. **When the finding is changed to "court adjudicated", the conclusion date is changed in FACES to reflect the date of the court decision**. All POE and Court Adjudicated cases are retained indefinitely.

It is imperative that the conclusion status is updated in the FACES system in an accurate and timely manner, as appeal actions are critically affected by this information. The overall report conclusion, as well as the individual victim/perpetrator conclusions should be updated accordingly. Only supervisors or above may update the overall conclusion status on closed cases on the FACES *Conclusion* screen.

A conclusion of "court adjudicated" is appropriate in the following situations:

- *Judicial Review* - The Division receives in writing from the circuit court that as a result of a judicial review, a POE finding has been "sustained" or "substantiated".

- *Juvenile Court Action* – 1) Cases in which the victim is placed in the custody of Children's Division (CD) and specific findings of Child Abuse/Neglect are adjudicated. The adjudicatory hearing must have been held for these cases to be exempt. 2) Cases in which a child is not taken into custody, but the juvenile court, through a judicial order, upholds the findings of the Division on the incident.

In both situations, the court order must include specific allegations, and the alleged perpetrator found to have been the person who abused/neglected the child, for the court adjudication standard to apply.

- *Criminal Convictions* - Cases where the alleged perpetrator has been found guilty by due process of charges relative to the CA/N incident.

For cases where the Division found POE on multiple types of abuse/neglect, and the Court only adjudicated on one or some of the findings, the conclusion status in FACES should still be changed to reflect conclusion code "A" (Court Adjudicated). Staff will need to specify in the FACES *Conclusion Summary* which finding of abuse or neglect was adjudicated, and clearly note which findings of abuse or neglect remain substantiated by POE only. This applies to criminal convictions as well. **Alleged perpetrators have the right to appeal any child abuse/neglect finding substantiated by the Division that was not specifically adjudicated by the Court.**

Local procedures should be developed so that CD staff work closely with the Courts to monitor cases (Juvenile, as well as Criminal cases) for "Court Adjudication" in order to update FACES correctly and in a timely manner.

The Circuit Manager will review the court order and case record immediately following adjudication to determine which findings were adjudicated, assuring accurate data entry, and proceeding with the appeal process as applicable.

If there are any questions as to whether the "court adjudicated" standard applies, staff should refer the case through supervisory channels to the Division of Legal Services to assure that "court adjudicated" is the appropriate determination.

Revised CS-24 – Description of the Investigation Process

The *CS-24 – Description of the Investigation Process* has been revised to reflect the above changes to the perpetrator appeal process.

NECESSARY ACTION:

1. Review this memorandum with all Children's Division staff.
2. All questions should be cleared through normal supervisory channels and directed to:

PDS CONTACT:	**DEPUTY DIRECTOR:**
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CHILD WELFARE MANUAL REVISIONS:

Section 2, Chapter 4.1.8 Reaching a Conclusion
Section 2, Chapter 4.5 Alleged Perpetrator Appeal Process
Section 2, Chapter 4.5.3 Judicial Review

REVISED MISSOURI STATUTES: 210.152 RSMo. 210.153 RSMo.
CHILDREN'S DIVISIONS FORMS REVISIONS: CS-24 – Description of the Investigation Process