 Department of Children & Family Services <i>Building a Stronger Louisiana</i>	Division/Section	Child Welfare
	Chapter No./Name	4 – Child Protective Services (CPS)
	Part No./Name	19 – Due Process and Appeals
	Section No./Name	Due Process and Appeals
	Document No./Name	4-1900 Overview of Due Process, Appeals and PSRT
	Effective Date	August 6, 2020

I. STATEMENT OF POLICY

It is the policy of the Department of Children and Family Services (DCFS) to allow all individuals the right to appeal their valid child abuse or neglect finding. Individuals are placed on the State Central Registry (SCR) or State Repository (repository) as a result of a valid child abuse and/or neglect investigation, after the exhaustion of an individual's due process rights. * DCFS has a Protective Services Review Team (PSRT) who reviews all valid findings once an appeal has been requested or for other administrative reasons, when a valid finding may affect a client's employability, or volunteer rights. Beginning August 1, 2018, ** any individual with a valid finding as a perpetrator of child abuse or neglect as the result of a CPS investigation shall have the right to an administrative appeal of the valid finding decision. The appeal process shall be in accordance with [Children's Code, Article 616.1.1](#) and the [LAC Title 67](#), Part V. §1111.

II. PROCEDURES

DCFS maintains a * State Repository (Repository) of all reports of child abuse and/or neglect. This Repository includes all reports made to DCFS of suspected child abuse and/or neglect, along with investigative findings of Valid, Invalid, Inconclusive, Unable to Locate, Client Non-Cooperative and False Reports. When an investigation is complete, notification is provided, to the perpetrators in the case, which includes the length of time their report findings of child abuse and/or neglect information will remain in the Repository.


DCFS also maintains a State Central Registry (SCR), which is a listing of individuals who are found to be a perpetrator of certain valid allegations of child abuse and/or neglect. Whether or not an individual is placed on the (SCR), and the length that they are to remain on the SCR, is determined by the specific allegations(s) and the allegation tier level.

DCFS maintains the confidentiality of investigative information, and will only release information as allowed by law. In most cases, such as requests for DCFS clearances for employment purposes, DCFS will not release the name of the perpetrator of a valid case of child abuse and/or neglect, until their administrative appeal rights have been exhausted.

DCFS maintains a PSRT that is responsible for reviewing all cases that are appealed through the Division of Administrative Law (DAL), as well as, certain valid cases in which a child abuse and/or neglect check has been completed and a valid finding is located (see Policy 4-260 Guide to Child Abuse/Neglect Background Clearances).

A. ELIGIBILITY FOR DUE PROCESS

1. Individual who is found to be a perpetrator of a valid allegation of abuse/neglect after August 1, 2018 **

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Any client who receives a valid finding after *** August 1, 2018**, will have **20** days (excluding legal holidays which includes Saturdays and Sundays) from the date of their written notification, from **DCFS**, to request an Administrative Appeal. If an appeal has not been requested after **20** days, the client is no longer eligible for an Administrative Appeal for the **Case ID number(s) identified on that specific letter.** **

Additionally, any client whose name is included on the SCR after to August 1, 2018, may file a rule to show cause against DCFS in the court exercising juvenile jurisdiction in the parish in which the investigation was conducted to show why the individual's name should *** not** be removed from the SCR. This rule to show cause may be filed for a perpetrator of a Tier 2 valid determination after nine years from the date of the case closure, or, four years from the date of the case closure for a perpetrator of a Tier 3 valid determination. Individuals on the SCR as a result of a Tier 1 investigation; or where there is a Child in Need of Care Adjudication regarding the investigation; or the individual has been convicted of a crime associated with the investigation; **or the individual has a criminal conviction for any offense listed in RS 15:587.1;** or the individual has subsequent valid investigations cannot be removed from the SCR through this procedure.


2. Individual who is found to be a perpetrator of a valid allegation of abuse/neglect before **August 1, 2018**

If a client received a valid finding before **August 1, 2018**, and they want to exercise their right to an Administrative Appeal they must contact DCFS, in-person, at their nearest local **DCFS** Child Welfare office, to obtain a copy of **their** written notification. The client has 20 days (excluding legal holidays which includes Saturdays and Sundays), from the date of the written notice, to request an Administrative Appeal. If an Administrative Appeal is not requested within 20 days of receipt of the written notice, then the client has exhausted their appeal rights.

Individuals listed as a perpetrator in a valid investigation occurring prior to **August 1, 2018**, may also request a correction or expungement order from the court **pursuant to the relevant state laws and regulations that were in effect at the time of that investigation.** If the individual is interested in obtaining a court order for correction or expungement of this information, it will be necessary to file appropriate pleadings with the court with juvenile jurisdiction for the parish in which the investigation was conducted. If the court issues the correction or expungement order, **DCFS** will remove the information from the SCR and/or State Repository as applicable.

B. APPEALS

The Division of Administrative Law (DAL) is the agency responsible for conducting administrative appeals for **DCFS**. When **DCFS **** notifies a client of a valid investigation, they will receive a listing of all prior valid child abuse and/or neglect finding(s) associated with their

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case identification number(s) in the DCFS data system. The letter will also notify the client whether they are able to appeal these prior investigations, or *** notify them** if their appeal rights have already been exhausted.

The DAL is staffed with impartial Administrative Law Judges (ALJs) who conduct the appeal hearings. Once the appeal is conducted the ALJ issues a written decision based on evidence presented. **DCFS** will bear the burden of proof by proving that it is more likely than not that the finding of valid **allegation finding(s)** should be upheld.

When the individual is notified they have appeal rights, they will be advised they may, under certain circumstance, request an expedited appeal. **They will also be notified of the time frame for an expedited appeal. The** circumstances **in which **** an individual may request an expedited appeal can be found in, Section [4-1940](#), Expedited Appeals Process for the criteria for an expedited appeal.

C. PROTECTIVE SERVICES REVIEW TEAM

The DCFS Protective Services Review Team (PSRT), a state level working group, will reviews the *** CPS investigation** case decision on all cases appealed to the DAL, and certain cases in which a child abuse **and/or** neglect clearance is completed on. PSRT will provide a departmental decision regarding the validity decision, prior to the notification to the individual of their appeal right and the release of the SCR clearance information. The PSRT conducts administrative reviews on investigations, utilizing a standardized instrument, to determine if the validity decision and tier **level** determination meet policy requirements or **if the validity decision allegation, and/or tier level** needs to be changed. These reviews occur either as a result of an appeal request or other administrative reasons. The Louisiana Children's Code definitions of Abuse and Neglect, Appendix 4-B Definitions of Allegations, and other DCFS Policy will be the guide that is used to maintained or change all validity decisions **and/or tier levels. ****

III. FORMS AND INSTRUCTIONS

There are no forms and instructions associated with this policy

IV. REFERENCES

*** [4-260](#) Guide to Child Abuse/Neglect Background Clearances**
[Appendix 4-B](#) Definitions of Allegations
[4-1940](#) Expedited Appeals Process
[Louisiana Children's Code, Article 616.1.1](#)
[LAC 67:V.1101 - 1111](#) **