

Section 1416 Investigative Assessment in Out-of-Home Living Arrangements

January 18, 2002

I. Introduction

This section describes the requirements for completion of child protective services investigative assessments in the various situations in which children may be placed for care on a twenty-four hour basis away from their families. Departments of Social Services have the responsibility to investigate/assess allegations of abuse, neglect, or dependency involving children in family foster homes; public and private group homes; child caring institutions; and DHHS facilities.¹

A. Legal Basis

North Carolina law requires that the county Directors of Social Services provide protective services for children alleged to be abused, neglected, or dependent. Protective services include screening and investigation of complaints². Because the definitions of abused, neglected, or dependent juveniles include caretakers, as well as parents, as perpetrators,³ the law requires investigation of reports of abuse, neglect, or dependency in all circumstances where children reside in out-of-home care.

B. Definitions

Caretaker - "Any person other than a parent, guardian, or custodian who has responsibility for the health and welfare of a juvenile in a residential setting. A person responsible for a juvenile's health and welfare means a stepparent, foster parent, an adult member of the juvenile's household, an adult relative entrusted with the juvenile's care, or any person such as a house parent or cottage parent who has primary responsibility for supervising a juvenile's health and welfare in a residential child care facility or residential educational facility, or any employee or volunteer of a division, institution, or school operated by the Department of Health and Human Services." **"Caretaker" also means any person who has the responsibility for the care of a juvenile in a child care home or child care facility or residential education facility, or any employee or volunteer of a division, institutional, or school operated by the Department of Health and Human Services as defined in Article 7 of Chapter 110 of the General Statutes and includes any person who has the approval of the care provider to assume responsibility for the juveniles under the care of the care provider⁴. (See attached DHHS Directive 61).**

¹ N.C.G.S. 7B-302

² N.C.G.S. 7B-300

³ N.C.G.S. 7B-101

⁴ Ibid.

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Foster Child - An individual less than 18 years of age who has not been emancipated under the provisions of Article 56 of Chapter 7B of the General Statutes... who is dependent, neglected, abandoned, destitute, orphaned, delinquent, or otherwise in need of care away from home and not held in detention. Individuals who have reached their 18th birthday and sign a voluntary boarding home agreement in order to remain in foster care do not meet the definition of foster child for the purposes of child protective services.⁵

Family Foster Home - "A place of residence of a family, person, or persons who are licensed to provide full time foster care services to children under the supervision of a county department of social services or a licensed private agency, and which meets the regulations regarding capacity set forth in Rule .0602 of this Section."⁶ "Not more than seven children may be provided care in any foster home at any given time. These seven children shall include the foster parent's own children, foster children, day care children or any other children. Not more than five foster children shall reside in a family foster home at any one time."⁷ Exceptions to this capacity limit are made based upon specific criteria and with prior approval from the Chief of Children's Services.

Therapeutic Home - "A residential facility primarily located in a private residence which provides professionally trained parent-substitutes who work intensively with individuals in providing for their living, socialization, therapeutic and skill-learning needs. The parent-substitutes have skills and training above those of alternative family living service providers and receive close supervision and support from program staff. The facility may utilize services from a facility providing treatment services such as outpatient or day treatment."

"Services are designed to provide a healthy adult role model for both emotionally disturbed children and for those children who have substance abuse-related problems. These services are provided in a home environment and utilize other treatment facilities."

"Each facility shall be designed primarily to serve either emotionally disturbed children and adolescents, those children and adolescents with substance abuse-related problems, or both, under 18 years of age who need a therapeutic residential setting providing training and support toward the development of independent living skills."⁸

Supervised Living for Individuals for all Disability Group - (sometimes known as Alternative Family Living)-a 24 hour facility which provides residential services to individuals in a home environment services to individuals in a home environment where the primary purpose of these services is the care, habilitation

⁵ N.C.G.S. 7B-201; and 131D-10.3, (3) and (9)

⁶ N.C.A.C. 41F .0601

⁷ N.C.A.C. 41F .0602

⁸ N.C.A.C. 14O .0401

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or rehabilitation of individuals who have a mental illness, a developmental disability or disabilities, or a substance abuse disorder, and who require supervision when a residents. (Note: Those facilities may serve children or adults).

Residential Child-Care Facility - A staffed premise with paid or volunteer staff where children receive continuing full-time foster care. "Residential child-care facility" includes child-caring institutions, group homes, and children's camps that provide foster care.

Group Home - "A residential child-care facility operated either under public or private auspices which receives for twenty-four hour care no more than nine children. This number includes the care givers' own relatives under the age of 18. The composition of the group shall include no more than two children under the age of two, four children under the age of six, and six children under the age of twelve. A group home shall not provide day care, nor shall it be available to adults in the community who wish to rent rooms."⁹

Residential Treatment Facility - "A facility which provides a structured living environment for children and adolescents who are primarily mentally ill and who may also be multi-handicapped and for whom removal from home is essential to facilitate treatment. Services are designed to address the functioning level of the child or adolescent and include training in language or communication skills, social relationships, and recreational skills. Some children or adolescents may be able to receive services in a day treatment facility, have a job placement, or attend public schools; for others, special education services may need to be offered within the residential setting. Different levels of residential treatment programs are provided to meet the individual needs of the children and adolescents placed in the facility."¹⁰

Residential Therapeutic Camp - "A residential treatment facility provided in a camping environment which is designed to help individuals develop behavior control, coping skills, self-esteem, and interpersonal skills. Services may include supervised peer interaction, provision of healthy adult role models, and supervised recreational, educational and therapeutic experiences."

"Each facility shall be designed to serve children and adolescents six through 17 years of age who are emotionally disturbed or who have mental retardation or other developmental disabilities."

"These Rules are not applicable to facilities designed primarily for recreational purposes or those subject to regulation by the N.C. Division of Youth Services."¹¹

⁹ N.C.A.C. 41E .0403

¹⁰ N.C.A.C. 14I .0601

¹¹ N.C.A.C. 14O .0301

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Child Caring Institution - "A residential child-care facility utilizing permanent buildings located on one site for ten or more foster children. Exception can be made when no more than two group homes located on the site and licensed as meeting licensure regulations for group homes are operated by a county department of social services or by a private program licensed to provide child care or child placement services."¹²

DHHS Facilities - Schools, institutions, or divisions operated by the Department of Health and Human Services. Note: Since the development of the Department of Juvenile Justice, the training schools and detention centers are no longer DHHS facilities. Departments of Social Services will only intervene when a report alleges abuse, neglect or dependency by a caretaker. See Attachment 1 for a list of DHHS facilities.

II. Investigative Assessments in Family Foster Homes, Therapeutic Homes, and Supervised Living for Individuals in all Disability Groups

A. Implications for CPS Investigative Assessments of Family Foster Care Homes

Family foster homes are subject to regulation and, as such, are already under the supervision of a county department of social services, another public agency, or a private child placing agency. Foster children living in these homes were placed by an agency that has ongoing responsibility for their care and the authority to make placement decisions. The investigative case decision to substantiate or not has important implications for the continued use of the foster home.

Foster parents are said to be more than twice as likely as the general public to be reported for child abuse, neglect, and dependency. On the one hand, child maltreatment does occur in foster homes. Some of the reasons are:

1. DSS information about a family may be insufficient to rule out applicants with serious problems.
2. Exceptional stresses in the foster family may have caused a breakdown in the functioning of the family.
3. A foster child's intense need to provoke an abusive reaction may cause a breakdown in a foster parent's self-control.
4. A foster parent may be overburdened by too many disturbed children.
5. A foster parent may receive inadequate training or too little support in handling the stress involved in providing foster care.

¹² N.C.A.C. 41G .0501

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6. DSS information about a child may be insufficient to allow the foster parents to choose not to accept the child that the foster parents feel unprepared to handle.

Foster parents are also at great risk of being *falsely* accused. Below are some of the reasons:

1. Children who have experienced the uncertainties and insecurities of years in foster care, often with multiple moves, have been damaged in ways which influence their behavior. Some behaviors include:
 - a. Maladaptive or anti-social coping mechanisms,
 - b. Manipulation by using an allegation as a means to get out of a placement or as an act of revenge,
 - c. Inability to trust,
 - d. False belief that a CPS report on the foster parents can result in the child's return to biological parents.
2. Many people do not understand why someone would choose to be a foster parent, especially for children with difficult behaviors or handicapping conditions. Hence, the community is often suspicious of foster parents' motives.
3. Birth parents may report the child's foster parents out of jealousy, resentment, or as a way to justify their own past behavior.

Foster parents are typically unprepared for the impact of a CPS report. Many assume: "It cannot happen to me." Most are shocked when they are approached by a CPS social worker and will likely experience a series of negative feelings. Some of these feelings are:

1. Trauma as rooted in the experience of being overwhelmed by a sudden, unexpected life event. Many foster parents express shock and disbelief at finding themselves the subject of a CPS investigative assessment.
2. Betrayal as reported by many foster parents when their prime source of support (their foster care licensing worker) is not permitted to discuss the details of the investigative assessment with them.
3. Stigma by being accused of maltreating a child. Often foster parents report feelings of inadequacy, shame, and a general decline in self-esteem and self-respect. They feel isolated because there are few or no others with whom they can share their experiences.

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4. Powerlessness by feeling out of control of their lives. Throughout an often lengthy process, foster parents report feeling that they are given little information about the process of the investigative assessment and that they have no forum for explaining their side of the story.
5. Fear of losing their foster care license.
6. Anger as they may perceive that they have not received enough support from the supervising agency for dealing with a child's difficult behavior.

During the recruitment process, foster parent applicants hear how much they are needed by the community to care for other people's children. They experience a lengthy process of evaluation and training. When individuals or families open their homes to foster children, they take on an enormous responsibility. At the same time, these families experience a state of crisis as they adjust to the comings and goings of foster children. Foster parents must be prepared for the possibility that they may be the subject of a CPS investigative assessment.

When this occurs, not only are the foster children in their care investigated as victim children but so are their own children living in the home.¹³

The purpose of foster care is to provide safe, nurturing substitute care for children during the time that they cannot live in their own homes or in another permanent home. Departments of Social Services and other child placing agencies have the dual role of protecting children and preserving foster family resources. Thus, it is North Carolina policy that CPS investigative assessments of foster families be conducted by a Department of Social Services other than the foster care licensing agency as a means to avoid conflict of interest. The investigating agency should conduct the investigative assessment with all of the above-mentioned implications in mind.

B. Implications for CPS Investigative Assessments in Therapeutic Homes and Alternate Family Living Arrangements

Most of the following guidance for CPS investigative assessments in family foster homes also applies to CPS investigative assessments in therapeutic homes for children and adolescents and in alternative family living (AFL) arrangements. Therapeutic homes and AFL's are licensed through the Division of Facility Services and supervised by local mental health agencies. They are not family foster homes, and they are subject to a different set of standards.

The Division of Facility Services does not have direct access to the North Carolina Central Registry as does the Division of Social Services. Therefore, there is no mechanism to check the history of these providers for previous status as perpetrators, and some providers may have a history of substantiation. It is important to discuss previous history of reports with these providers and with the

¹³ N.C.G.S. 7B-302

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staff responsible for supervising the therapeutic home or AFL under investigative assessment.

Unlike family foster homes, there is no automatic revocation of licensure when one of these home receives a substantiation. The investigating agency should make clear, specific recommendations, if any, to the supervising agency and Division of Facility Services in the written report in case the caretakers in a therapeutic home or AFL are substantiated but allowed to maintain their license.

There are a greater number of children voluntarily placed by their parents or legal custodians in therapeutic homes and AFL's than in family foster homes. Careful attention is needed to ensure that all of the requirements for interviewing parents/custodians and notifications are met in these instances when a county DSS is not the legal custodian.

For the purpose of simplicity, the following procedures for CPS investigative assessments will use the terms "family foster home", "foster child", and "foster parents." With the above exceptions, the remaining guidance applies to therapeutic homes and AFLs, the client children, and their caretakers.

C. Screening

It is the duty of Departments of Social Services (DSS) to screen complaints of abuse, neglect, or dependency of children.¹⁴ When the county Department of Social Services receives a report alleging abuse, neglect, or dependency involving children in a family foster home, the Department of Social Services shall determine whether the allegations, if true, would meet the definitions of abuse, neglect, or dependency as provided in the statutes. All other children living in the foster home, such as the foster parents' children, are also to be considered "alleged victim children" and investigative assessments shall be initiated on each child within mandated time frames.

The intake social worker must distinguish between licensing issues and reports that allege abuse, neglect or dependency. The same standards apply to the definition of abuse, neglect, and dependency with foster family homes as apply to nuclear families. If, at any time, the foster care licensing staff or the social worker for a foster child have reason to suspect abuse, neglect, or dependency in a foster home, a report must be made to child protective services staff in order for an investigative assessment to be initiated.

G.S. 7B-301 and NCAC 411 .0304 require that in any report of alleged abuse, neglect, or dependency the screening process must include diligent efforts to obtain the following information from the person making the report:

¹⁴ N.C.G.S. 7B-302

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1. The name and address of the parent, guardian, or caretaker and the name of the alleged perpetrator. In the case of family foster care, the caretaker name(s) would include the name(s) of the licensed foster parent(s).
2. The name and actual or approximate age of the alleged victim child or children, as well as the names and ages of other children in the home.
3. The nature and extent of any injury or condition resulting from the alleged abuse, neglect, or dependency.
4. The present whereabouts of the child or children.
5. Other information that the reporter has which might be helpful in establishing the need for protective services or court intervention, including the name, address, and telephone number of other individuals who may have information about the condition of the child or children.
6. The name, address, and telephone number of the individual making the report. Refusal of the person making the report to give a name shall not preclude the county DSS' investigative assessment of the alleged abuse, neglect, dependency, or death as a result of maltreatment.

The county DSS receiving a CPS report on a family foster home is responsible for deciding whether the report meets the definition of abuse, neglect, or dependency. Screening and investigative decisions must be based on statute rather than local licensing policy. If the report is accepted for investigative assessment, the county DSS must also decide whether it is appropriate for them to conduct the investigative assessment, or whether they need to request the assistance of a reciprocal county to conduct the investigative assessment (See Section 1410, Procedures for Investigative Assessments: When There Is a Conflict of Interest). The following guidelines specify which agencies conduct the investigative assessment under different circumstances.

1. Reports of suspected abuse, neglect, or dependency in foster homes licensed by agencies other than the county DSS are investigated by the county DSS in which the foster home is located.

An exception to this policy is in reports involving a foster home licensed by any agency when the local DSS has children in their legal custody residing in the home in their county. Under this circumstance, the county DSS should request another county DSS to conduct the investigative assessment to avoid any conflict of interest.

2. Reports of suspected abuse, neglect, or dependency in DSS-supervised foster homes must be referred to another county department of social

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services for investigative assessment. (See Section 1410 for a discussion of conflict of interest).

D. Reports Not Accepted for Investigative Assessment

CPS reports that are not accepted for investigative assessments require:

- **two-party review;**
- **that one of the parties must be in a management position, and all persons participating in the intake decision must sign this intake form; and**
- **a written notice to the reporter, unless waived or anonymous, within five work days after receipt of the report stating the report was not accepted for investigative assessment.**

The notice shall include:

- **information regarding the process by which the reporter may obtain a review of the agency's decision not to accept the report for investigative assessment;**
- **whether or not the report was referred to the appropriate state or local law enforcement agency; and**
- **referrals to outreach services or other agencies as appropriate.**¹⁵

1. Reports Not Constituting Abuse and Neglect

Although some complaints may not meet the statutory definitions of abuse, neglect, or dependency¹⁶ there may be legitimate concerns about child care and practices in the foster care setting. Complaints about the general quality of care and issues concerning the foster home's compliance with licensing standards should be referred to the agency or staff responsible for supervision of the family foster home for follow-up.

2. Two-Level Review of Decision

As with all CPS reports not accepted for investigative assessment, there is to be a two-level review before making a decision that the information does not constitute a report of abuse, neglect, or dependency. This review must include, at a minimum, the social worker and someone in a

¹⁵ Children Services Standard #3

¹⁶ N.C.G.S. 7B-101

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management position and all persons participating in the intake decision must sign the intake form.¹⁷

3. Notice to Reporter

The county DSS receiving a complaint that does not meet the definition of abuse, neglect, or dependency must give written notice within five (5) working days of receipt of the report that the report was not accepted for investigative assessment. The county DSS must inform the reporter whether the report was referred to the appropriate State or local law enforcement agency.¹⁸ The county DSS should tell the reporter of any referral to an outside agency responsible for supervision of the family foster home when licensing or general child care issues are the subject of the report.

These activities are performed by the county DSS receiving the report. If the decision is to screen out the report, there is no need to contact a reciprocal county.

E. Initiation of the CPS Investigative Assessment

When a Child Protective Services Report involves an allegation against a placement provider, there shall be:

- **An immediate and initial assessment by the home county of risk of harm to the child in foster care and to all other children in the care of the provider. This assessment shall be documented as a part of the investigative assessment in the child's placement record.**
- **Removal of the child only when the assessment of harm indicates that the risk of harm to the child superceded the positive strengths of that child's relationship to the placement providers. If the child was removed, documentation must reflect rationale for removing the child from the home.**
- **Documentation in the child's placement record that gives investigative assessment findings and case decision; and**
- **Documentation in the placement provider's record that does not contain any identifying information regarding the alleged victim child.**
- **Documentation in the placement provider's record shall be limited to the immediate assessment of the risk of harm and the ability of the**

¹⁷ N.C.A.C. 411 .0304; Children's Services Standard #3

¹⁸ N.C.G.S.7B-302; Children's Services Standard #3

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placement providers to care for the child and the outcome of the investigative assessment.¹⁹

When the intake process results in a decision to accept a report of abuse, neglect, or dependency in a family foster home, **the county DSS where the child is found at the time of the CPS report shall initiate an investigative assessment.** In most cases, this county will also be the county in which the foster family home is located, although there may be instances when the foster child is visiting family in another county and the report is made to the county DSS where the child is visiting. The county where the child is visiting initiates the report by seeing the child, and notifies the county DSS where the foster home is located. The required procedures in the initiation phase of investigative assessment in family foster care settings are:

1. The county DSS where the child is found at the time of the CPS report must initiate an investigative assessment of any report alleging abuse within 24 hours after receiving the report. For reports alleging neglect or dependency, the maximum time for initiation is within 72 hours. **Initiation includes having a face-to-face contact with all children living in the home.²⁰** If there is no face-to-face contact with the alleged victim within the statutory time frame, there must be documentation to reflect diligent efforts made to see the child within the timeframes and documentation that the child was seen as soon as possible.²¹
2. As with investigative assessments in other settings, it is important to see the alleged victim child as soon as possible to assess the child's condition, to assess the levels of immediate and continuing risk of harm, and to assure the child's safety during the investigative period. If the CPS staff initiating the investigative assessment determines risk of harm that supercedes the positive strengths of the child's relationship with the placement provider for any foster children in the family foster home, they will need to coordinate with the placement staff or the agency holding custody of the children to arrange for the children to be moved to a substitute placement resource.

The county where the child is found at the time of the referral and which receives the CPS report initiates the investigative assessment. That county should initiate the investigative assessment and assess the harm and the immediate level of risk to the child and take whatever actions may be necessary to protect the child. This action applies to situations when a county DSS will necessarily be requesting another county DSS to conduct the investigative assessment. The investigating county is not responsible for performing these duties. Because the initiating county

¹⁹ Children's Services Standard #103

²⁰ N.C.A.C. 411 .0304

²¹ Children's Services Standard #7

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DSS will have met the statutory time frame for initiation, the reciprocal county assigned to conduct the investigative assessment does not have the obligation to meet this statutory time frame. (See Section 1410: Conflict of Interest: Reciprocal County Protocol).

2. There are additional issues when investigating a family foster home that require special attention. Administrative Rule requires the following:

a. When DSS accepts a CPS report of abuse, neglect, or dependency in a family foster home that is under the supervision of another public or private agency, the county DSS must notify the responsible agency that a report has been received and accepted for investigative assessment.²² This notice may be verbal and should be made as soon as possible after acceptance of the complaint.

This contact will give the two agencies an opportunity to discuss the investigative procedure and to coordinate their activities with the children and foster parents.

b. Depending on the nature of the complaint, it is permissible for the agency responsible for supervising the family foster home or the DSS foster care licensing staff to notify the foster parents that a complaint regarding one or more of the children in the home has been received and will be investigated. The foster parents should be told what to expect during the course of the investigative assessment by the licensing agency.

With some reports, the sharing of this information may not be appropriate. The reciprocal county/CPS staff and/or law enforcement may require that the family not receive prior notice due to the nature of the report. In these situations, it is important for the CPS staff conducting the investigative assessment, the supervising agency or foster care licensing staff, and law enforcement to coordinate when, how, and by whom the foster parents will be notified of the allegations and subsequent investigative assessment.

c. The CPS staff conducting the investigative assessment must maintain close contact with the supervising agency or foster care licensing staff to share information regarding the progress of the investigative assessment and case decision. This sharing of information is essential in planning for continued use of the family foster home. The administrative rules provide that foster home licenses are automatically revoked when an agency duly

²² NCAC.411 .0304

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authorized by law to investigate allegations of abuse or neglect finds that the foster parent has abused or neglected a child.²³ Automatic revocation of licenses applies only to foster family homes licensed by the Division of Social Services.

- d. If, at any time during the investigative assessment, the decision is made to remove any foster children from the home, the foster parents should be so advised. The agency responsible for the children's placements should work with the foster parents whenever possible to help them prepare the children for the move.

When alleged victim children have been removed from the home prior to completion of the investigative assessment, it is still necessary to complete all aspects of the CPS investigative assessment. Only after a case decision has been made is it possible to determine whether the family foster home will remain licensed and available to receive children.

Sometimes foster parents will request that the children be removed and/or that their license be withdrawn, mistakenly thinking that such action will terminate the investigative assessment. All aspects of the investigative assessment must be completed once a CPS report is accepted for investigative assessment. Once initiated, both law and North Carolina Administrative Code require that investigative assessments be thorough. It is not possible to meet this requirement if components of an investigative assessments are omitted.

- e. As with any CPS investigative assessment, the process is disruptive and stressful for the family being assessed. The impact may be even greater with foster families. It is critical that a thorough investigative assessment be completed as soon as possible. The case decision not only impacts the foster family, but also has implications for placement decisions for the foster children and for the licensing agency's or staff's continued use of that family foster home.
- f. Telling birth families when their child has allegedly been abused or neglected in foster care is an extremely sensitive issue. It is necessary to inform the parents of the investigative assessment, at least at the point that the case decision is made, unless their parental rights have been terminated. However, when foster children have ongoing contact with their birth families and there is the possibility that the child may share the information, the agency or staff responsible for the child's placement should consider talking with the parents

²³ NCAC 41F .0807

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earlier in the process. **The birth family should not hear this information first from their child.**

F. Required Notices on Reports Accepted for Investigative Assessment

1. Notice To the Individual Making the Report

Within five (5) working days after receipt of a report of abuse, neglect, or dependency, the county DSS that initially received the CPS report shall give a written notice to the person making the report, unless requested by that person not to give notice, as to whether the report was accepted for investigative assessment and whether the report was referred to the appropriate State or local law enforcement agency²⁴

Within five (5) working days after completion of the protective services investigative assessment, the county DSS shall give a written notice to the person making the report, unless requested by that person not to give notice, or if the reporter is anonymous, as to whether there is a finding of abuse, neglect, or dependency, whether the county DSS is taking action to protect the juvenile, and what action it is taking. The second notification shall include notice that, if the person making the report is not satisfied with the agency's decision not to file a petition, he may request a review of by the district attorney within five (5) working days of receipt²⁵

2. Report to the Licensing Authority

When the case decision is made, the investigating DSS shall provide a written report to the state agency responsible for licensing the family foster home. When the investigative assessment involves a reciprocal county process, the investigating DSS shall prepare a report to the director of the agency supervising the family foster home (and to the director of the agency holding legal custody of the alleged victim child if these agencies are different). This report should contain the following information:

- a. Name of the family foster home as specified on the license and the license identification number.
- b. Nature of the complaint, as received by the county DSS where the complaint was filed. **In order to protect confidentiality, do not identify the complainant in this or any other report.**
- c. The case decision and the date the decision was made.

²⁴ G.S. 7B-302, Children's Services Standard #4

²⁵ Ibid.

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- d. If substantiated, the type of abuse, neglect, or dependency found.
- e. If substantiated, the name(s) of the perpetrator(s).
- f. Recommendations, if appropriate, regarding continued use of the family foster home even if no abuse, neglect, or dependency was found.

See Attachment 2 for a model format of this report. The DSS **must** submit this report rapidly because administrative action is often dependent on this information. A copy of this report should be sent to the district attorney when that office is involved in the investigation.

Written reports on family foster homes licensed through the Division of Social Services are to be sent by the county supervising the foster home (home county) to the Children's Services Section.

Written reports on homes licensed by the Division of Facility Services (i.e., therapeutic homes for children and adolescents) should be sent directly to:

Division of Facility Services
Domiciliary and Group Care Section
2701 Mail Service Center
Raleigh, NC 27699-2701

It should be noted that these written reports, whether to the Division of Social Services or to the Division of Facility Services, become a part of public record. Therefore, the report should **only** contain the required information. In order to protect the confidentiality of children in foster care, do not use their full names in the written report. Identify the foster children involved by their first name, last initial, age, and gender.

3. Reports to the District Attorney and Law Enforcement

- a. Whenever the DSS finds evidence that a foster child may have been abused by a foster parent, they shall immediately notify the county DSS in which the foster home is located, if the county is different from the assessing county. The county in which the foster home is located shall make an immediate oral and subsequent written report of the findings to the district attorney or the district attorney's designee and the appropriate local law

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enforcement agency within 48 hours after receipt of the report.²⁶

This report shall include:

- (1) The name, age, and address of the foster child, the foster parents, and the alleged perpetrator;
- (2) Whether the alleged abuse was physical, emotional or sexual;
- (3) The date the report was received and when evidence that abuse may have occurred was found;
- (4) A description of the evidence that abuse may have occurred; and
- (5) The plan developed by DSS to protect the child and what is being done to carry out the plan.

DSS may share the name, address, and/or telephone number of the reporter if needed by the district attorney or law enforcement in order to carry out their assessment.²⁷

The local law enforcement shall immediately, but no later than 48 hours after receipt of the information, initiate and coordinate a criminal investigation with the protective services investigative assessment being conducted by the assessing county DSS.²⁸

The immediacy of the above reports to the district attorney and law enforcement is critical.

G. Tasks in Conducting a Thorough Investigative Assessment

1. The DSS must conduct a thorough investigative assessment of any report of abuse, neglect, or dependency in a family foster care home²⁹ NCAC 41I .0305 instructs that a thorough investigative assessment will assess:
 - a. Whether the specific environment in which the child or children are found meets the child or children's need for care and protection;
 - b. Facts regarding the existence of abuse, neglect, or dependency;

²⁶ N.C.G.S.7B-307; Children's Services Standard #25

²⁷ N.C.A.C. 41I.0304

²⁸ N.C.G.S.7B-307

²⁹ N.C.G.S. 7B-302

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- c. Extent of abuse, neglect, or dependency; and
 - d. Risk of harm to and need for protection of the alleged victim child or children and any other children in the foster home.
2. Elements included in a thorough investigative assessment are outlined in NCAC 41I .0305. However, the nature of a family foster home investigative assessment alters some of these requirements. The requirements and discussion of these as related to a family foster home investigative assessment follows:
- a. The DSS conducting the investigative assessment must obtain information from the records of the county agency holding custody of the alleged victim child to ascertain the history of previous reports of abuse or neglect concerning that child. If there is a reciprocal investigative assessment, the county holding legal custody of the alleged victim should automatically provide this information to the agency conducting the investigative assessment at the time of requesting their assistance.

As a part of a thorough investigative assessment, the DSS shall:

- review its Children's Services records for previous contact with the family; and³⁰
- conduct a Central Registry check unless the agency has conducted such a check in the 60 days prior to the new report or the agency is providing continuous child protective services to the family;³¹
- interview all persons named at the time of the report as having information relevant to the investigative assessment or there shall be documentation to justify why these contacts were not made;³²
- contact other persons or agencies known to be currently involved with the family or known to have knowledge of the situation or there shall be documentation to justify why these contacts were not made.³³

The DSS that conducts the investigative assessment must conduct a check of the CPS Reports to the Central Registry to ascertain the history of previous reports of abuse or neglect concerning the alleged victim child or children. They should check with the agency or staff responsible for licensing and supervising

³⁰ Children's Services Standard #22

³¹ ibid

³² Children's Services Standard #16

³³ Children's Service Standard #16

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the family foster home for information about previous reports involving the particular foster family home. There may have been previous CPS reports that were not substantiated for abuse or neglect, and the home remained licensed.

- b. When a report of a juvenile's death resulting from abuse, neglect, or dependency **or** a report of suspected abuse, neglect, or dependency of a juvenile in a non-institutional (including foster families) is received, the agency must determine if other juveniles live in the home and, if so, immediately initiate individual investigative assessments in order to determine whether the child(ren) require protective services or whether immediate removal of the juveniles from the home is necessary for their protection. All children living in the home are considered to be alleged victim children. Failure to cooperate with an investigative assessment may result in legal action for interference or revocation of the foster home license.
- c. The requirement for a face-to-face interview with any parent or primary caretaker, on the same day as the interview with the alleged victim child or children, relates to the foster parents.
- d. As in all CPS investigative assessments, DSS must make a visit to the place where the victim child or children reside.³⁴ When the alleged victim child has been moved from the family foster home due to the allegation, this requirement has special implications.

The DSS conducting the investigative assessment may visit the home where the child currently resides. The child may have shared additional information with the new caretakers about events in the previous foster home. It is important that the current caretakers are interviewed either face-to-face or by telephone in order to ascertain if this is the case.

The DSS conducting the investigative assessment must visit the foster home where the child resided at the time of the alleged incident³⁵. Such a visit will shed light on the facts of the allegations as related to the physical setting.

- e. DSS shall interview the alleged perpetrator(s) face-to-face, during the course of the investigative assessment, or there shall be documentation to reflect diligent efforts made.³⁶

³⁴ Children's Service Standard #15

³⁵ Children's Services Standard #15

³⁶ Children's Services Standard #14

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- f. It is especially important for the DSS conducting the investigative assessment to talk with the agency or staff responsible for supervising the family foster home. They may have essential information about the family dynamics and circumstances relevant to the situation. The child's foster care worker is a valuable source of information regarding the child's history, behaviors, and special needs.

Another valuable source for collateral information may be the birth parents of the alleged victim child who resides in the family foster home. When children have ongoing visitation with their parents, they may have shared information about events in the family foster home pertinent to the investigative assessment. It is permissible for the investigating agency or staff to consult with the agency or staff responsible for these children's placement to determine whether the birth parents are credible collaterals and the advisability of talking with them. The investigating agency may request the agency or staff responsible for the child's placement to conduct a courtesy interview with the birth parents.

3. Special requirements for CPS investigative assessments involving family foster homes include:
 - a. A discussion of the allegations with the foster parent;
 - b. A discussion of the procedures to be followed during the investigative assessment, and
 - c. A discussion of the findings with the foster parent.

In reciprocal county investigative assessments, the county DSS where the foster home is located should make the initial contact with the foster parents to inform them of the allegations and the procedures to be followed during the investigative assessment. It is good practice that these discussions be face-to-face and done jointly with the reciprocal DSS staff. It is also highly recommended that the discussion of the findings with the foster parents be conducted face-to-face and jointly by the reciprocal county DSS staff and the agency staff responsible for supervising the family foster home.

H. Confidentiality

1. Confidentiality of Case Records

In all cases of child abuse, neglect, or dependency, there is a professional and legal responsibility to maintain confidentiality. G.S. 7B-2901 mandates confidentiality of case records and provides only for

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examination by the juvenile or by court order. In order to protect confidentiality in CPS cases, it is recommended that DSS maintain a case record in the child's name, separate from any record in the family's name.

Under the following circumstances, individuals other than county DSS personnel allowed to examine the case record include:

- a. Federal and State personnel who carry lawful responsibility for program audit, review and evaluation;
- b. The child or child's attorney, including a court appointed guardian ad litem;
- c. The agency attorney when advising on the case or preparing for court;
- d. The prosecutor when carrying out mandated responsibilities; and
- e. Law enforcement when investigating a case on behalf of the prosecutor.

2. Confidentiality of Information

Although the identity of the reporter is confidential,³⁷ DSS may reveal the name and address of the reporter to law enforcement when law enforcement is assisting in a CPS investigative assessment.³⁸ Sharing of this information is necessary for law enforcement to perform their duties as related to the criminal investigation of the report.

The court may order the sharing of information among such public agencies as the court deems necessary to reduce the trauma to the victim³⁹. Additionally, the Director of Social Services may make a written demand for any information or reports, whether or not confidential, that may in the director's opinion be relevant to the investigation or the provision of protective services. Other agencies or individuals who may have pertinent information include:

- a. Mental health centers,
- b. Health departments,
- c. Private health providers,

³⁷ G.S. 7B-302

³⁸ N.C.A.C. 411 .0304

³⁹ N.C.G.S. 7B-2901(c)

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- d. Hospitals,
- e. Multi-disciplinary or interagency groups doing case consultation on child abuse or neglect, and
- f. Private therapists.

If a custodian of criminal investigative information or records believes that release of such information will jeopardize the right of the State to prosecute a defendant or the right of the defendant to receive a fair trial or will undermine an ongoing or future investigation, it may seek an order from a court of competent jurisdiction to prevent disclosure of the information⁴⁰

3. Sharing Information with Parents

Birth parents of alleged victim children have the right to know the nature of any report of abuse, neglect, or dependency involving their children in a family foster home. DSS should share this information with the parents in a tactful manner. (See Initiation of Investigative Assessment, above.) The agency or staff responsible for the child's placement should explain to parents the process of a CPS investigative assessment and ask them if their child has shared any information during visitation that may be pertinent to the allegations. At the conclusion of a thorough investigative assessment, the county DSS where the foster home is located must inform the birth parents of the case decision either verbally or in writing. If verbal notice is given, the case record should include documentation of this notice to the parents.

When interviewing birth parents as collaterals, it is appropriate to tell them that there has been a report of abuse, neglect, or dependency involving the foster parents for their child and that a CPS investigative assessment is being conducted. It is **not** permissible to share **details** that would violate the foster family's confidentiality or the confidentiality of other children in the foster home. At no time should the DSS reveal the identity of the reporter or the identity of other foster children to parents.

I. Post-Investigative Assessment Procedures

- 1. When a thorough investigative assessment is complete, the DSS conducting the investigative assessment should conduct a review of the findings with the foster parents. It is also good practice for the agency or staff responsible for supervising the family foster home to accompany the investigating DSS worker during this review.

⁴⁰ N.C.G.S. 7B-302.

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When the case decision substantiates abuse or neglect, the supervising agency or staff will need to explain the necessary process for requesting termination of the foster family home's license if the home is licensed by the Division of Social Services as well as the process for decision-making relating to any foster children remaining in the home. Screening and investigative decisions must be based on statute rather than local licensing policy.

When the case decision does not substantiate abuse, neglect, or dependency, or when only dependency is substantiated in the foster family home, there is no requirement that the foster care license be terminated. However, there may be concerns about standards and practice in the family foster home that need corrective action. If appropriate, the DSS that conducted the investigation should make recommendations to the supervising agency for improved standards and practice in the foster family home. The supervising agency or staff will follow up with the foster parents to implement these recommendations.

2. When the case decision has been made, the director of the county DSS where the foster home is located must inform the child's parent of that case decision.⁴¹
3. At the conclusion of the investigative assessment, the Director of the investigating county DSS must provide a written report to the appropriate state licensing authority. If the investigative assessment was conducted by a reciprocal county, a copy of this report should be sent to the county in which the foster family home is located. For foster homes licensed by the Division of Social Services, a copy of this report must be sent to the Children's Services Section. The DSS must submit this report rapidly because administrative action is often dependent on this information.
4. The county DSS that conducted the investigative assessment must notify the alleged perpetrator of the case decision.
5. The county in which the foster home is located must submit a completed DSS-5104 to the Central Registry.
6. The investigating county DSS must document actions taken and the basis for decision-making in the case record and file all required reports. It is not appropriate to file any CPS investigative material in the case record for the family foster home. The CPS case record or section for the child should contain all of the following:
 - a. A copy of the DSS-5104 (Central Registry form);

⁴¹ N.C.A.C. 411 .0306

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- b. Case dictation;
- c. A copy of the written report to appropriate licensing authority;
- d. A copy of written reports to the District Attorney and law enforcement if there is evidence of abuse; and
- e. A copy of written notices to parents, custodians, alleged perpetrators or documentation if verbal notices were given.

III. Investigative Assessment in Residential Child Care Facilities

A. Introduction

The following information applies to CPS investigative assessments in a variety of settings in which children remain on a 24-hour basis for care, shelter, correction or treatment. Such settings include group homes, child-caring institutions, residential treatment facilities for children and adolescents who are mentally ill, and residential therapeutic camps for children and adolescents licensed by the Division of Social Services or by the Division of Facility Services. Other settings include facilities operated by the Department of Health and Human Services (DHHS) and are included as Attachment 1.

Acute care hospitals and the inpatient mental health facilities operated by acute care hospitals, schools, and recreational summer camps are excluded from CPS investigative assessment.

Although schools, as such, are excluded from CPS investigative assessments, this is **not true for boarding schools**. An Attorney General's opinion dated January 12, 1988, states: "In summary, it is my opinion that when juveniles reside in boarding schools or other institutions, persons employed by or otherwise affiliated with the school or institution may be 'caretakers' as that term is defined in the Juvenile Code and may be held accountable for abuse or neglect of juveniles in their care. It is also my opinion that County Departments of Social Services have the duty to investigate reports of abuse or neglect of juveniles residing in boarding schools or other institutions in order to ascertain whether such juveniles have been abused or neglected by their caretakers, have been abused or neglected at the direction or with the permission of their caretakers, or have been abused or neglected by reason of failure of their caretakers to perform their duties with respect to the juveniles."

When receiving a report involving any of these settings, it is essential to determine which agency has licensing authority or whether it is a DHHS operated facility. The individual with on-site administrative responsibility should be able to provide this information.

B. Screening

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It is the duty of Departments of Social Services (DSS) to screen reports of abuse, neglect, or dependency of children. When the county DSS receives a report alleging abuse, neglect, or dependency involving children in a residential child-care facility, the DSS shall determine whether the allegations meet the definitions of abuse, neglect, or dependency as provided in the statutes.

When a report is received of abuse, neglect, or dependency in an institutional setting (such as a residential child care facility or residential educational facility), the DSS must immediately determine whether or not they require protective services or whether immediate removal of those juveniles from the facility is necessary for their protection. All children named as victims must be subjects of the investigative assessments, even if the alleged perpetrator no longer works in the facility. Additional investigative assessments are initiated only if this is indicated from findings from the assessments of alleged victim children.⁴²

The screening process must include diligent efforts to obtain the following information from the person making the report:

1. The name and address of the parent, guardian, or caretaker and the name of the alleged perpetrator. In the case of residential child-care facilities, the name and address of the facility are also needed.
2. The name and actual or approximate age of the alleged victim child or children.
3. The nature and extent of any injury or condition resulting from the alleged abuse, neglect, or dependency.
4. The present whereabouts of the child or children.
5. Other information that the reporter has which might be helpful in establishing the need for protective services or court intervention, including the name, address and telephone number of other individuals who may have information about the condition of the child or children.
6. The name, address, and telephone number of the individual making the report. Refusal of the person making the report to give a name shall not preclude the county DSS' investigation of the alleged abuse, neglect, dependency, or death as a result of maltreatment.

The agency receiving a CPS report alleging abuse, neglect or dependency in a residential child care facility is responsible for the screening of the report. Decisions regarding the appropriate DSS to conduct the investigative assessment is specified in the following guidelines.

⁴² N.C.G.S. 7B-302(b)

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1. Investigative assessments of reports of suspected abuse, neglect, or dependency in residential child-care facilities licensed by agencies other than the county DSS or in DHHS operated facilities are conducted by the county DSS in which the residential child-care facility or DHHS operated facility is located.

An exception to this policy is in reports involving a residential child-care facility licensed by any agency when the county DSS holds custody of the alleged victim child or children residing in the residential child-care facility. Under this circumstance, the county DSS should request another county DSS to conduct the investigative assessment to avoid any conflict of interest.

2. Reports of suspected abuse, neglect, or dependency in DSS-supervised residential child care facilities must be referred to another county department of social services for the investigative assessment.

C. Reports Not Accepted for Investigative Assessment

CPS reports that are not accepted for investigative assessment require:

- **two-party review;**
- **that one of the parties must be in a management position, and all persons participating in the intake decision must sign this intake form; and**
- **a written notice to the reporter, unless waived or anonymous, within five work days after receipt of the report stating the report was not accepted for investigative assessment.**

The notice shall include:

- **information regarding the process by which the reporter may obtain a review of the agency's decision not to accept the report for investigative assessment;**
- **whether or not the report was referred to the appropriate state or local law enforcement agency; and**

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- **referrals to outreach services or other agencies as appropriate.**⁴³

1. Reports Not Constituting Abuse and Neglect

Although some reports may not meet the statutory definitions of abuse, neglect, or dependency, there may be legitimate concerns about child care and practices in the residential child-care facility. Reports about the general quality of care and issues concerning the facility's compliance with licensing standards should be referred to the appropriate licensing authority for follow-up. With reports involving DHHS facilities, DSS should contact the chief administrative officer of the school, institution, or Division.

2. Two-Level Review of Decision

As with all CPS reports not accepted for investigative assessment, there is to be a two-party review before making a decision that the information does not constitute a report of abuse, neglect, or dependency. This review must include, at a minimum, the social worker and someone in a management position and all persons participating in the intake decision must sign the intake form.

3. Notice to Reporter

The county DSS receiving a report that does not meet the definition of abuse, neglect, or dependency must give written notice within five (5) working days of receipt of the report that the report was not accepted for investigative assessment. The same requirement is true when the county DSS does not accept the report because the alleged perpetrator is clearly not a caretaker of the alleged victim in a residential child-care facility. The county DSS must inform the reporter whether the report was referred to the appropriate State or local law enforcement agency. The county DSS should tell the reporter of any referral to an outside agency responsible for supervision of the residential child-care facility when licensing or general child care issues are the subject of the report.

4. Reports to the District Attorney

If the report indicates harm to a child in violation of any criminal statute, whether or not the alleged perpetrator is a caretaker, the director must carry out his or her responsibility to make a report to the district attorney. (See Section III.E. below.)

D. Initiation of the CPS Investigative Assessment

⁴³ Children's Services Standard #3

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When a report of a juvenile's death as a result of suspected maltreatment or a report of suspected abuse, neglect, or dependency of a juvenile in an institutional setting (such as a residential child care facility or residential educational facility) is received the director of the Department of Social Services shall ascertain if other juveniles remain in the facility subject to the alleged perpetrator's care or supervision and, if so, assess the circumstances of those juveniles in order to determine whether they require protective services or whether immediate removal of those juveniles from the facility is necessary for their protection.⁴⁴

When the intake process results in a decision to accept a report of abuse, neglect, or dependency in a residential child-care facility, **the county DSS in which the facility is located shall initiate an investigative assessment.** The required initiation procedures in residential child-care facilities are:

1. DSS must initiate an investigative assessment of any report alleging abuse within 24 hours after receiving the report. For reports alleging neglect or dependency, the maximum time for initiation is within 72 hours. Initiation includes having a face-to-face contact with the alleged victim child and other children under the care/supervision of the alleged perpetrator. If face-to-face contact is not possible, documentation shall reflect efforts made to see the child within the timeframes and that the child was seen as soon as possible.

The county where the child is found at the time of the referral and which receives the CPS report initiates the investigative assessment by seeing the child. That county must see the child, assess the harm, the immediate level of risk to the child, and take whatever legal action may be necessary to protect the child. This action also applies to situations when a county DSS will be requesting another county DSS to conduct the investigative assessment. Responsibility for initiation also applies if the child is visiting in another county at the time of the report. In this instance, the information received during this activity by the county DSS where the child is found at the time of the report and will be shared with the county conducting the investigative assessment, which is not responsible for initiating contact with the child.

2. When investigating residential child-care facilities or DHHS-operated facilities there are additional issues that require special attention. Administrative Rule requires the following:
 - a. When DSS receives a report for investigative assessment of abuse, neglect, or dependency within a DHHS facility, all volunteers and employees of the facility are automatically

⁴⁴ N.C.G.S. 7B-302

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considered caretakers under the law⁴⁵. As with other residential facilities, the county DSS shall notify the individual who is administratively responsible for on-site operation and solicit the cooperation of the administration.⁴⁶ This notice may be verbal and should be made as soon as possible after acceptance of the report.

- b. When DSS accepts a report for investigative assessment in a residential child-care facility licensed by the Division of Social Services, the county DSS should notify the Children's Services Section at (919) 733-4622. The Division of Social Services, Children's Services will need the following information:
 - (1) The name of the facility,
 - (2) The nature of the report, and
 - (3) The name of the alleged perpetrator.
- c. The Division of Facility Services, which also licenses residential child-care facilities, does not require notification prior to completion of the investigative assessment.
- d. Reports of alleged abuse, neglect, or dependency in DSS-operated residential child-care facilities should be referred to a reciprocal county assigned by the regional office for that DSS (See Section 1410, Conflict of Interest). The reciprocal county will conduct those CPS investigative assessments.
- e. CPS case decisions as to whether or not to substantiate abuse, neglect, or dependency shall be made within 30 days or there shall be documentation to reflect the rationale to extend the investigative assessment beyond 30 days.⁴⁷

The process of a CPS investigative assessment can be disruptive for the ongoing, daily operation of the residential child-care facility. It is critical that the process be completed as soon as possible. The case decision not only impacts on the individuals involved, but also has implications for personnel and administrative decisions.

- f. Telling families when their child has allegedly been abused or neglected in a residential child-care facility is an extremely

⁴⁵ N.C.G.S. 7B-101 (3)

⁴⁶ N.C.A.C. 411 .0304

⁴⁷ Children's Services Standard #27

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sensitive issue. Certainly, parents who have voluntarily placed their child in the facility and maintain legal custody need to know as soon as possible that their child is an alleged victim of abuse, neglect, or dependency. They also need to know what to expect during the investigative assessment.

When a county DSS is the legal custodian of the child, that DSS also needs to be informed as soon as possible of the report. It is necessary to inform the parents of children in DSS custody of an investigative assessment, at least at the point that the case decision is made. However, when children have ongoing visitation with their families and there is the possibility that the child may share the information, the agency responsible for the child's placement should talk with the parents earlier in the process. **The family should not hear this information first from their child.**

E. Required Notices on Reports Accepted for Investigative Assessment

1. Notice To the Individual Making the Report

Within five (5) working days after receipt of a report of abuse, neglect, or dependency, the county DSS that initially received the CPS report shall give a written notice to the person making the report, unless requested by that person not to give notice, as to whether the report was accepted for investigation and whether the report was referred to the appropriate State or local law enforcement agency (G.S. 7B-302).

Within five (5) working days after completion of the protective services assessment, the county DSS shall give written notice to the person making the report, unless requested by that person not to give notice, or if the reporter is anonymous, as to whether the county DSS is taking action to protect the juvenile, and what action it is taking. The second notification shall include notice that, if the person making the report is not satisfied with the decision, he may request review of that decision by the prosecutor within (5) working days of receipt (G.S. 7B-302).

2. Report to the Licensing Authority

When the case decision is made, the DSS that conducted the investigative assessment shall provide a written report to the appropriate licensing authority for the residential child-care facility or to the appropriate Division Director in the case of DHHS-operated facilities.

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Written reports on residential child care facilities licensed by the Division of Facility Services should be sent directly to:

Division of Social Services
Children's Services
325 N. Salisbury Street
Mail Service Center #2409
Raleigh, NC 27603

Written reports on residential child care facilities licensed by the Division of Facility Services should be sent directly to:

Division of Facility Services
Domiciliary and Group Care Section
P.O. Box 29530
Raleigh, NC 27626-0530

Courier No. 56-20-05

Written reports on DHHS-operated schools, institutions, or facilities should be sent to the appropriate Division Director. Addresses of these facilities are included as Attachment 1.

Note: The county Director may share information and a summary of documentation from the case record without a court order with public or private agencies or individuals that are being utilized to provide or facilitate the provisions of protective services to a child. The sharing of this information should prevent the agency or operated facility from re-interviewing the child. This report should contain the following information:

- a. Name of the facility and, when applicable, the facility license identification number.
- b. Nature of the complaint. In order to protect confidentiality, do not name the complainant in this report.
- c. The case decision and the date the decision was made.
- d. If substantiated, the type of abuse, neglect, or dependency found.
- e. If substantiated, the name(s) of the perpetrator(s).
- f. If appropriate, recommendations regarding child care operations in the facility even if no abuse or neglect was found. It is not appropriate to make recommendations regarding personnel actions in this report.

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The DSS **must** submit this report rapidly because administrative action is often dependent on this information. A copy of this report should be sent to the district attorney when that office is involved in the investigation.

It should be noted that these written reports become a part of public record. Therefore, the report should only contain the required information. In order to protect the confidentiality of children, do not use their full names in the written report. Identify the victim children by their first name, last initial, age, sex, and race. Do **not** identify the complainant in this or any other written report.

3. Reports to the District Attorney and Law Enforcement

- a. If the county DSS receives information that a juvenile may have been physically harmed in violation of any criminal statute by any person other than the juvenile's parent, guardian, custodian, or caretaker, the county DSS shall make an immediate oral and subsequent written report of that information to the district attorney or the district attorney's designee and to the appropriate local law enforcement agency within 48 hours after receipt of the information. The local law enforcement agency shall immediately, but no later than 48 hours after receipt of the information, initiate a criminal investigation. Upon completion of the investigation, the district attorney shall determine whether criminal prosecution is appropriate.⁴⁸
- b. Whenever the DSS finds evidence that a child may have been abused by a caretaker in a residential child-care facility, they shall immediately notify the county DSS in which the child-care facility is located (when this county is other than the investigating county). The county DSS in which the residential child-care facility is located shall make an immediate and subsequent written report of the findings to the district attorney or the district attorney's designee and the appropriate local law enforcement agency within 48 hours after receipt of the report. This report shall include:
 - (1) The name and address of the child, the facility name, and the name of the alleged perpetrator;
 - (2) Whether the alleged abuse was physical, emotional or sexual;

⁴⁸ N.C.G.S. 7B-307

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- (3) The date the report was received and when evidence that abuse may have occurred was found;
- (4) A description of the evidence that abuse may have occurred; and
- (5) The plan developed by DSS to protect the child and what is being done to carry out the plan.

DSS may share the name, address, and/or phone number of the reporter if needed by the district attorney in order to carry out his or her investigation.⁴⁹

Local law enforcement shall immediately, but no later than 48 hours after receipt of the information, initiate and coordinate a criminal investigation with the protective services investigative assessment being conducted by the county DSS..

F. Tasks in Conducting a Thorough Investigative Assessment

1. The DSS must conduct a thorough investigative assessment of any report of abuse, neglect, or dependency in a residential child-care facility or DHHS-operated facility⁵⁰

NCAC 411 .0305 instructs that a thorough investigative assessment will assess:

- a. Whether the specific environment in which the child or children are found meets the child or children's need for care and protection;
 - b. Facts regarding the existence of abuse, neglect, or dependency;
 - c. Extent of abuse, neglect, or dependency; and
 - d. Risk of harm to and need for protection of the child or children.
2. Elements included in a thorough investigative assessment are outlined in NCAC 411 .0305. However, the nature of an investigative assessment in a residential child-care facility alters some of these requirements. The requirements and discussion of are as follows:
 - a. DSS must check the county agency's records and the CPS Reports to the Central Registry to ascertain if any previous reports

⁴⁹ N.C.A.C. 411 .0304

⁵⁰ G.S. 7B-302

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of abuse or neglect have been made concerning the alleged victim child or children⁵¹

- b. The requirement for a face-to-face interview with any parent or caretaker, on the same day as the interview with the victim child or children, relates to the caretaker or caretakers for the alleged victim child in the residential child-care facility⁵². If a face-to-face interview with the caretaker cannot be accomplished on the same day as the interview with the child, there shall be documentation to reflect diligent efforts made or rationale for delaying the interview that does not compromise the safety of the child.⁵³
- c. As in all CPS investigative assessments, DSS must make a visit to the place where the victim child or children resides.⁵⁴ When the alleged victim child has been moved from the facility under investigation, this requirement has special implications.

The DSS may visit the current residence of the child in order to assess the appropriateness and safety of the current placement. If the current residence is in a county other than where the facility is located, the DSS may request a courtesy interview with the child by the county DSS where the child currently resides. The child may have shared additional information with the new caretakers about events in the previous residential setting. It is important that the current caretakers are interviewed either face-to-face or by telephone in order to ascertain if this is the case.

The DSS conducting the investigative assessment must visit the residential child-care facility where the child resided at the time of the alleged incident. The facts of the allegations as related to the physical setting can be examined during this visit.

- d. DSS must interview the alleged perpetrator or perpetrators face-to-face, during the course of the investigative assessment, or there shall be documentation to reflect diligent efforts made.⁵⁵
- f. Professionals or staff at a residential child-care facility having relevant knowledge pertaining to the alleged abuse, neglect, or dependency shall be interviewed.⁵⁶ (NCAC 411 .0305).

⁵¹ N.C.A.C.411 .0305 and Children's Services #22

⁵² N.C.A.C. 411 .0305; Children's Services Standard #11

⁵³ Children's Services Standard #11

⁵⁴ G.S. 7B-302

⁵⁵ Children's Services Standard #14

⁵⁶ Ibid.

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Another valuable source for collateral information may be the parents of the alleged victim child and the parents of other non-victim children who reside in the residential child-care facility. When these children have ongoing visitation with their parents, they may have shared information with their parents about events in the residential child-care facility pertinent to the investigative assessment. The DSS conducting the investigative assessment should consult with the agency or staff responsible for these children's placements to determine if the parents are credible collaterals. The county conducting the investigative assessment may request the county DSS where the parents are located to interview the parents.

3. Special requirements for CPS investigative assessments involving residential child-care facilities:
 - a. A discussion of the allegations with the individual who has on-site administrative responsibility for the facility includes:
 - b. A discussion of the procedures to be followed during the investigative assessment;
 - c. The involvement of resources within and without the facility as needed and appropriate;
 - d. A discussion of the findings with the Administrator of the facility that shall be confirmed in writing by the county director and shall be held confidential by all parties as outlined in NCAC 411 .0313.
4. CPS reports in residential child-care settings should not be viewed in isolation. A thorough investigative assessment may reveal systemic and programmatic factors that need to be addressed. If the county DSS finds that other issues need assessment, such as training needs, administrative oversight, staffing patterns, and information provided to staff about children and their special needs, they should bring these issues to the attention of the individual who has on-site administrative responsibility.

G. Confidentiality

1. Confidentiality of Case Records

In all cases of child abuse, neglect, or dependency, there is a professional and legal responsibility to maintain confidentiality. G.S. 7B-2901 mandates confidentiality of case records and provides only for examination by the juvenile or by order of the judge. In order to protect confidentiality in CPS cases, it is recommended that DSS maintain a

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case record in the child's name, separate from any record in the family's name.

Under the following circumstances, persons outside the county DSS allowed to examine the case record include:

- a. Federal and State personnel who carry lawful responsibility for program audit, review and evaluation;
- b. The child or child's attorney, including a court appointed guardian ad litem;
- c. The agency attorney when advising on the case or preparing for court;
- d. The prosecutor when carrying out mandated responsibilities; and
- e. Law enforcement when investigating a case on behalf of the prosecutor.

2. Confidentiality of Information

Although the identity of the reporter is confidential, DSS may reveal the name and address of the reporter to law enforcement when this information is necessary for law enforcement to perform their duties as related to the report.

The law does not preclude the necessary sharing of information among authorized agencies.⁵⁷ DSS may share necessary information with public or private agencies or individuals to facilitate provision of services for the child. Other agencies or individuals who may receive pertinent information include:

- a. Mental health centers,
- b. Health departments,
- c. Private health providers,
- d. Hospitals,
- e. Multi-disciplinary or interagency groups doing case consultation on child abuse or neglect,
- f. Private therapists.

⁵⁷ N.C.A.C. 41I. 0305

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The Director or the Director's representative may make a written demand for any information or reports held by other agencies or individuals, whether or not confidential, that may in the Director's opinion be relevant to the protective services case.⁵⁸ Upon the Director's or the Director's representative's request and unless protected by the attorney-client privilege, any public or private agency or individual shall provide access to and copies of this confidential information and these records to the extent permitted by federal law and regulations. If a custodian of criminal investigative information or records believes that release of such information will jeopardize the right of the State to prosecute a defendant or the right of the defendant to receive a fair trial or will undermine an ongoing or future investigation, it may seek an order from a court of competent jurisdiction to prevent disclosure of the information

3. Sharing Information with Parents

Parents of alleged victim children have the right to know the nature of any complaint of abuse, neglect, or dependency involving their children in a residential child-care facility. DSS should share this information with the parents in a tactful manner. DSS should explain to parents the process of a CPS investigative assessment and ask them if their child has shared any information during visitation that may be pertinent to the allegations. At the conclusion of a thorough investigative assessment, DSS must inform the parents of the case decision either verbally or in writing. If verbal notice is given, the case record should include documentation of this notice to the parents. (See Post-Investigation Procedures below.)

It is permissible for DSS to share information with parents of non-victim children who reside in the residential child-care facility. Some of the non-victim children must be seen and/or interviewed as a part of a thorough investigative assessment. When these children have ongoing visitation with their birth parents, their parents should be interviewed as collateral contacts, if it is felt that they would be credible collaterals, to determine if their children have shared any pertinent information during visits.

When interviewing parents as collaterals, it is appropriate to tell them that there has been a report of abuse, neglect, or dependency involving the residential child care facility and that a CPS investigative assessment is being conducted. It is **not** permissible to share **details** of the case, such as information that would violate the confidentiality of any other adults or children involved in the investigative assessment. At no time should the DSS reveal the identity of the reporter or the identity of other children to parents.

H. Post-Investigative Assessment Procedures

⁵⁸ N.C.G.S. 7B-302(e)

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1. The DSS that conducted the investigative assessment should conduct an oral review of the findings with the on-site administrator, followed by a written report.⁵⁹
2. When a thorough investigative assessment is complete, the county director must inform any parent or legal custodian of the case decision.⁶⁰
3. At the conclusion of the investigative assessment, the Director of the DSS conducting the investigative assessment must provide a written report to the appropriate licensing authority as outlined in Section II. E. above. The DSS must submit this report rapidly because administrative action is often dependent on this information.
4. The DSS conducting the investigative assessment must notify the alleged perpetrator of the case decision.⁶¹
5. The DSS conducting the investigative assessment must submit a completed DSS-5104 to the Central Registry.
6. The DSS that conducts the investigative assessment must document actions taken and the basis for decision-making in the case record and file all required reports. NCAC 411 .0312 requires that the DSS maintain a separate case record or a separate section in a family record on children reportedly abused or neglected. It is not appropriate to file any CPS investigative material in any case record for a residential child-care facility. The case record in the child's or family's name should contain all of the following:
 - a. A copy of the DSS-5104 (Central Registry form);
 - b. Case dictation;
 - c. A copy of the written report to the appropriate licensing authority;
 - d. A copy of written reports to the District Attorney and law enforcement if there is evidence of abuse; and
 - e. A copy of written notices to parents, custodians, perpetrators, or documentation if verbal notices were given.

IV. CONCLUSION

The provision of child protective services is the responsibility of county departments of social services. This task is particularly crucial for children in out-of-home settings.

⁵⁹ N.C.A.C. 411 .305

⁶⁰ N.C.A.C. 411 .0306

⁶¹ N.C.A.C. 411 .0306

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These children have already suffered separation from their families for various reasons. It is imperative that they not experience additional trauma from abuse, neglect, or dependency in their out-of-home placement. Therefore, it is particularly important that CPS investigative assessments not only determine whether or not a child has been maltreated, but what steps are needed to improve the level of child care in all out-of-home settings, thus preventing future maltreatment of all children in those settings.

[Attachment 1- School, Facilities and Institutions Operated by DHHS](#)

[Attachment 2- Abuse/Neglect/Dependency Report](#)

[Attachment 3-DHHS Directive Number 61](#)