

MANUAL TRANSMITTAL

Arkansas Department of Human Services
Division of Children and Family Services

Policy Form Policy Directive

Issuance Number: FSPP 2007-08

Service Programs Policy Manual

Issuance Date: July 25, 2007

From: Pat Page, DCFS Director

Expiration Date – Until Superseded

Subj.: Executive Directive: Executive Directive 2007-08, which replaces all previous Executive Directives concerning use of the CFS-311 (Notice to Local Educational Agency of Child Maltreatment)

In April 2007, a Benton County Circuit Court judge ruled that the Arkansas Child Maltreatment Central Registry is unconstitutional because offenders are not provided with due process before the offender's name is placed on the Central Registry. Due process means notice and the opportunity to be heard. This means offenders have the right to receive notice and request a hearing before their name is put on the Central Registry.

Due to changing legal circumstances, the two previous Executive Directives issued on this topic should be disregarded. New/revised policy and forms (CFS-307, CFS-311, and CFS-313) will be developed and issued as soon as possible. Pub-052 has been amended to comply with the finding of the court.

One critical component of due process is notice. The investigator must provide notice to the offender via the CFS-312. The CFS-312 informs the offender of the determination of the investigation. If the investigation is determined true, the form also notifies the offender that an administrative hearing must be requested within thirty (30) days. If the offender does not request an administrative hearing within thirty (30) days, the offender's name is placed in the Central Registry. If the offender does request an administrative hearing within thirty (30) days, the offender's name will not go into the Central Registry unless the Administrative Law Judge upholds the investigative determination of true. This means that true investigative determinations will no longer immediately go into the Central Registry. At a minimum, it will take at least thirty (30) days before an offender's name will go into the Central Registry. If the offender requests an administrative hearing, it will take longer.

If the investigator does not send the offender the CFS-312 form on a true investigative determination, then the Central Registry will not be able to tell anyone that we have a true report on this offender. The value of the investigation is limited unless the CFS-312 is sent to the offender providing the offender the constitutionally required notice.

Upon completion of the investigation, the investigator will go into the Document Tracking screen on CHRIS. Click on the "standard" line, go to the pick-list and select the CFS-312 (Notice of Determination). Key the date the CFS-312 was sent in the "Date Requested" field. After the postal service returns the green card, key the date the offender received notice (the date the offender signed the green card) in the field "Date Received/Issued." These dates are critical and must be correctly entered. Because the supervisor has previously approved the investigation, he /she will no longer sign the CFS-312. The investigator will now sign the form.

Because the offender has not had due process, the investigator cannot send the CFS-307 (Follow-up with Child Maltreatment Reporter) or the CFS-311 (Notice to LEA of Child Maltreatment) until the offender's name is placed in the Central Registry. If the offender does not request an administrative hearing, the investigator will send the CFS-311 after the thirty (30) days have lapsed after notice. If the offender requests an administrative hearing, the investigator sends the CFS-307 and the CFS-311 if the investigative determination of true is upheld. If the report is unsubstantiated, the investigator will send the CFS-307 upon completion of the investigation.

When it is appropriate, the investigator may contact the school to notify them that a child in their school has been identified as a victim of child maltreatment. However, the name of the offender or the offender's relationship to the victim may not be disclosed until the offender's name has been placed on the Central Registry.

Note: Amended forms (CFS-307, CFS-311, CFS-312a, CFS-312b, and Pub-052) have been attached to this Executive Directive for your convenience. The forms are available on CHRIS and should be used from this point forward.

**THIS EXECUTIVE DIRECTIVE IS EFFECTIVE IMMEDIATELY
Submit inquiries to: DCFS Policy Unit, phone (501) 682-8451**