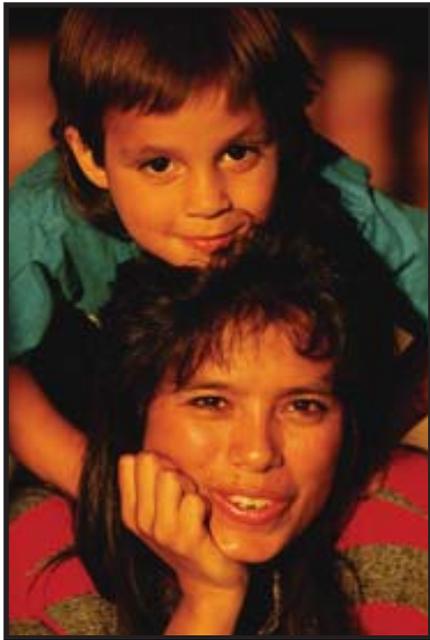


# CAREGIVERS' RIGHTS AND RESPONSIBILITIES

*Life affords no greater responsibility,  
no greater privilege,  
than the raising of the next generation.*

— C. Everett Koop, M.D.



*The time is always right  
to do what is right.*

— Rev. Martin Luther King, Jr.

*Success is the result of  
perfection, hard work,  
learning from failure,  
loyalty and persistence.*

— Colin Powell



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**Section 8**  
*Caregivers' Rights  
and Responsibilities*

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# ILLINOIS LAW AND DCFS RULES GIVE FOSTER CAREGIVERS RIGHTS AND RESPONSIBILITIES

Foster caregivers are entrusted with the health, safety and welfare of abused and neglected children. With this important trust comes certain rights, responsibilities and opportunities to be represented and to participate in representing foster families and children in foster care.

This section brings together the major Illinois legal references and DCFS rules, policies and procedures related to foster caregivers' rights and responsibilities.

## Private Agency Foster Homes

Your private agency's unique policies and supports are not given in this handbook. If your agency has not given you its policies in writing, ask.

## DCFS Foster Homes

Caregivers whose homes are supervised directly by a DCFS office will find supports unique to DCFS-supervised foster families. Ask your DCFS region about unique regional policies or supports.

*Current and proposed DCFS rules affecting foster caregivers can also be found on the DCFS website on the Illinois Home Page at: [www.DCFS.illinois.gov](http://www.DCFS.illinois.gov)*

Additional rights and responsibilities of caregivers are given by topic (Health, Education, Court, etc.) in the other sections of this handbook. Changes to foster caregivers' rights and responsibilities will be published as needed in the DCFS-sponsored newsletter, *Illinois Families Now and Forever*®, and should also be communicated through your agency or DCFS region. Any foster caregiver or child welfare staff member may call the DCFS Advocacy Office for Children and Families at 800-232-3798 with questions or for clarification of any DCFS rule, policy or procedure.

## THE FOSTER PARENT LAW

Until June 3, 1995, rights and responsibilities for the individuals providing foster care were not clearly defined. Without a clear job description, caregivers, agencies and DCFS had struggled in placing caregivers' rights and responsibilities within child welfare policy.

The Foster Parent Law, signed June 3, 1995 at the Statewide Foster Parent Conference in Peoria, was the result of a collaboration of the DCFS director, the DCFS Statewide Foster Care Advisory Council, the Governor, the Illinois legislature, the Illinois Foster Parent Association, the Child Care Association, the Cook County Foster Parent Action Council and others.

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The Foster Parent Law, nicknamed the “Foster Parent Bill of Rights”:

- states the 15 general rights and 17 responsibilities of all Illinois foster parents; and
- spurred the development of legislation to codify an official Statewide Foster Care Advisory Council to advise DCFS about foster care issues, and to oversee the implementation of the Foster Parent Law.

## **What Does The Foster Parent Law Mean to You?**

The rights summarized on pages 5-6 help caregivers, agencies and DCFS regions know what role the caregivers should have in the child welfare team. The responsibilities summarized on pages 7-8 help prospective caregivers know what will be expected of them before they decide to become licensed for foster care and gives current caregivers a clear understanding of the general expectations of the agency or DCFS region.

DCFS Rule 340 implements the Foster Parent Law and clarifies the foster caregivers’ rights and responsibilities. This DCFS rule is a very important step that defines the caregiver role within child welfare. While the Foster Parent Law is specific to licensed caregivers, the rights and responsibilities are also important for relative caregivers. The DCFS and agency foster care programs focus on implementing Rule 340 for all types of foster homes.

## **Statewide Foster Care Advisory Council**

The Statewide Foster Care Advisory Council and its membership is mandated by the Statewide Foster Care Advisory Council Law.

The Council has two primary functions:

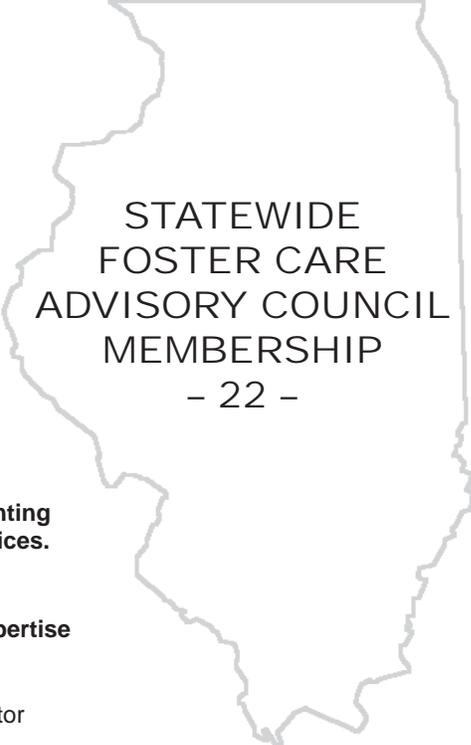
- 1) to advise DCFS on foster care and other matters which affect foster care in Illinois; and
- 2) to ensure that caregivers’ rights and responsibilities contained in the Foster Parent Law are followed in the everyday operation of child welfare agencies and DCFS regions.

Having the Statewide Council mandated by Illinois law ensures:

- input of those who provide foster care services for DCFS, regardless of any changes in DCFS leadership;
- two-way communication from caregivers to DCFS and from DCFS to caregivers;
- input from private agency caregivers and staff about implementation issues unique to private agencies or private agency homes; and
- equitable representation on the Council of recognized foster parent groups and all geographic areas of Illinois.

- ★ **Foster Parent Regional Representatives**  
(According to DCFS regions)
  - ★ 2 Southern
  - ★ 2 Northern
  - ★ 3 Central
  - ★ 6 Cook County
- ★ **Illinois Foster and Adoptive Parent Association**  
Current President
- ★ **2 Foster Parents (1 from Cook County)**  
From DCFS Child Welfare Advisory Committee
- ★ **2 Foster Care Professionals from the DCFS Child Welfare Advisory Committee representing private agencies providing foster care services. (1 from Cook County)**
- ★ **4 “Non-DCFS” persons with recognized expertise in foster care**

All members are appointed by the DCFS director



**STATEWIDE  
FOSTER CARE  
ADVISORY COUNCIL  
MEMBERSHIP**

- 22 -

### Meetings

Statewide Foster Care Advisory Council meetings are held six to nine times per year throughout the state, and visitors are always welcome. Meeting dates and times may be obtained by calling the caregiver and parent support office at 217-524-2422 or by checking the foster care link on the DCFS website ([www.DCFS.illinois.gov](http://www.DCFS.illinois.gov)).

### Subcommittees

Several subcommittees work on ongoing issues of interest to foster families, such as licensing and other foster care policy. Ad hoc (temporary) committees are formed to study a time-limited issue or help DCFS draft proposed rules as needed. The Council is always looking for caregivers with particular skills or expertise to join a subcommittee or ad hoc committee.

### Statewide Foster Care Advisory Council Membership

Composition of membership, terms of office and qualifications are all given within the Statewide Foster Care Advisory Council Law (See pages 11-12). All members are appointed by the DCFS director. Membership is open to any caregiver with a license supervised by a private agency or DCFS foster care program. Prospective members with proven leadership ability who have been

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active in their regional council or have other applicable skills are eligible to contact his or her DCFS regional administrator and inform him or her of their interest. Regional administrators make recommendations for region-based members, but the DCFS director officially appoints members.

## **Regional Foster Care Advisory Councils**

Each of the DCFS regions has a foster care advisory council composed of foster parents and staff. Each regional council determines how it functions. The Statewide Foster Care Advisory Council regional representative is automatically a member of the regional council. The regional Statewide representative facilitates communication to and from the Statewide Council. Visitors are always welcome at any regional council meeting. Times and locations are available by calling the DCFS regional office. (See Section 1, pages 7-8 for a list of offices.)

### **How to Become a Regional Council Member**

Regional councils are always looking for both DCFS and private agency caregivers to become active members. If you would like to apply to be a member, talk to the Chair or President of your regional council or call your local DCFS office to inquire about requirements and application procedures. Most regional councils also have subcommittees needing input and leadership.

### **Agency/DCFS Regional Foster Parent Law Implementation Plans**

The Foster Parent Law requires every foster care agency and DCFS region to submit an implementation plan to the Statewide Foster Care Advisory Council by November 30th each year. The implementation plan outlines specific ways the agency or region is putting caregiver rights and responsibilities into every day practice.

Many private agencies also have advisory councils to advise the agency administration on foster care issues. Often, agency and DCFS councils provide input on annual Foster Parent Law implementation plans.

Each agency and DCFS region is required to formulate the plan with input from agency foster parents. If you would like to have input or a copy of the plan, contact your agency or DCFS region.

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# FOSTER PARENT RIGHTS

PUBLIC ACT 89.19

1. **Dignity, Respect and Consideration**      The right to be treated with dignity, respect, and consideration as a professional member of the child welfare team.
2. **Training**      The right to be provided standardized pre-service training and appropriate ongoing training to meet mutually assessed needs and improve the foster parent's skills.
3. **Support Services**      The right to be informed as to how to contact the appropriate child placement agency in order to receive information and assistance to access supportive services for children in their care.
4. **Financial Reimbursement**      The right to receive timely financial reimbursement commensurate with the care needs of the child as specified in the service plan.
5. **Information Prior to Placement**      The right to be provided a clear, written understanding of a placement agency's plan concerning the placement of a child in their home. Inherent in this policy is the responsibility to support activities that will promote the child's right to relationships with his own family and cultural heritage.
6. **Fair, Timely and Impartial Investigations**      The right to be provided a fair, timely, and impartial investigation of licensing complaint issues and be provided the opportunity to have a person of their choosing present during the investigation and due process; the right to be provided the opportunity to request and receive mediation and/or an administrative review of decisions which affect licensing parameters; and the right to have decisions concerning a licensing corrective action plan specifically explained and tied to the licensing standards violated.
7. **Additional Information on Care of a Child**      The right, at any time during which a child is placed with the foster parent, to receive additional or necessary information that is relevant to the care of the child.
8. **Receive specific information required by state law**      Be given information concerning a child from DCFS as required under the Children and Family Services Act and from a child welfare agency as required under the Child Care Act of 1969.
9. **Notification of Scheduled Meetings**      The right to be notified of scheduled meetings and staffings concerning the foster child in order to actively participate in the case planning and decision-making process regarding the child in their care, including individual service planning meetings, administrative case reviews, interdisciplinary staffings, and individual educational planning meetings; the right to be informed of decisions made by the courts or the agency concerning the child; the right to have their input on the plan of services for a child given full consideration in the same manner as information presented by any other professional on the team; and the right to communicate with other professionals who work with the foster child within the context of the team, including therapists, physicians, and teachers.

\*Rights 7 and 8 are listed as 7 and 7.5 in the actual text of the statute. See page 9.

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# FOSTER PARENT RIGHTS

PUBLIC ACT 89.19

**10. Disclosure of Information**

The right to be provided, prior to placement of the child, with any information a caseworker has regarding the child and the child's family which is pertinent to the care and needs of the child and to the making of a permanency plan for the child. The information should be provided in writing prior to placement. If the placement is an emergency the information should be provided verbally prior to placement and followed up in writing as soon as the information becomes available. Disclosure of information concerning a child's family shall be limited to that information which is essential for understanding the needs of and providing care to the child in order to protect the rights of the child's family. When a positive relationship exists between the foster parents and the child's family, the child's family may consent to disclosure of additional information.

**11. Written Notice of any Placement Changes**

The right to be given reasonable written notice of any change in a child's case plan or of plans to terminate the placement of the child with the foster parents and of the reasons for the change or termination in placement. Such notice should only be waived in cases of a court order or when the child is determined to be at imminent risk of harm.

**12. Timely Notification of Court Hearings**

Writ of Mandamus

The right to be notified in a timely and complete manner of all court hearings, including the date and time of the court hearing, the name of the judge or hearing officer hearing the case, the location of the court proceeding, the court docket number of the case, and the right to intervene in court proceedings or to seek mandamus under the Juvenile Court Act of 1987.

**13. Placement Option for Former Foster Child**

The right to be considered as a placement option when a foster child who was formerly placed with the foster parents is to be re-entered into foster care when such placement would be consistent with the best interest of the child and other children in the home.

**14. Appeals Process**

The right to have timely access to the existing appeals process with the child placement agency. The assertion of the access to appeal will be free from acts of harassment and retaliation.

**15. Hotline Information**

The right to be informed of the Foster Parent Hotline established under this Act and all of the rights accorded to foster parents concerning reports of misconduct by department employees, service providers, or contractors, confidential handling of those reports and investigation by the Inspector General.

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# FOSTER PARENT RESPONSIBILITIES

PUBLIC ACT 89.19

- 1. Communicate with Child's Team** The responsibility to openly communicate and share information about the child with other members of the child welfare team.
- 2. Confidentiality** The responsibility to respect the confidentiality of information concerning foster children and their families and act appropriately within applicable confidentiality laws and regulations.
- 3. Advocate** The responsibility to advocate for children in their care.
- 4. Treatment & Care of Children & Birth Families** The responsibility to treat children in their care and their children's families with dignity, respect, and consideration.
- 5. Recognize Strengths and Limitations** The responsibility to recognize their own individual and familial strengths and limitations when deciding whether to accept a child into care, recognize their own support needs and utilize appropriate supports in providing care for foster children.
- 6. Support Groups** The responsibility to be aware of the benefits of relying on and affiliating with other foster parents and foster parent associations in improving the quality of care and service to children and families.
- 7. Training Needs** The responsibility to assess their ongoing individual training needs and take action to meet those needs.
- 8. Strategize to Avoid Placement Disruptions** The responsibility to develop and assist in the implementation of strategies to prevent placement disruptions, recognizing the traumatic impact of placement disruptions on a foster child and all members of the foster family, and to provide emotional support for the foster children and members of the foster family should preventive strategies fail and placement disruption occur.
- 9. Minimize Stress** The responsibility to know the impact foster parenting has on individuals and family relationships and endeavor to minimize, as much as possible, any stress that results from foster parenting.
- 10. Promote Foster Care Positively** The responsibility to know the rewards and benefits to children, parents, families, and society that come from foster parenting and promote the foster parenting experience in a positive way.
- 11. Know Child Welfare System** The responsibility to know the role, rights and responsibilities of foster parents, other professionals in the child welfare system, the child, and the child's own family.

# FOSTER PARENT RESPONSIBILITIES

PUBLIC ACT 89.19

- |   |  |
|---|--|
| <b>12. Be a Mandated Reporter</b><br><br>Know Investigation Process | The responsibility to know and, as necessary, to fulfill their responsibility to serve as mandated reporters of suspected child abuse/neglect under the Abused and Neglected Child Reporting Act and to know the child welfare agency's policy regarding allegations that foster parents have committed child abuse or neglect and applicable administrative rule and procedures governing investigations of such allegations. |
| <b>13. Participate in Training</b>                                  | The responsibility to know and receive training regarding the purpose of administrative case reviews, client service plans and court processes, as well as any filing or time requirements associated with these proceedings, and actively participate in their designated role in these proceedings.  |
| <b>14. Know Appeal Process</b>                                      | The responsibility to know the child welfare agency's appeal procedure for foster parents and the rights of foster parents under the procedure.  |
| <b>15. Maintain Accurate Records</b>                                | The responsibility to know and understand the importance of maintaining accurate and relevant records regarding the child's history and progress and be aware of and follow the procedures and regulations of the child welfare agency with which they are licensed or affiliated.   |
| <b>16. Share Information</b>  | The responsibility to share information through the child welfare team regarding the child's adjustment in their home with the subsequent caregiver, whether the child's parent or another substitute caregiver.   |
| <b>17. Respect and Maintain Child's Culture</b>                     | The responsibility to provide care and services which are respectful of, and responsive to, the child's cultural needs and are supportive of the relationship between the child and his/her own family. Recognize the increased importance of maintaining a child's cultural identity when the race or culture of the foster family differs from that of the foster child and take action to address these issues.             |

## **Responsibility of DCFS and Private Agencies**

*"The Department of Children and Family Services and agencies providing foster care services under contract with the department shall be responsible for implementing the provisions of this Act. Annual plans for each region of the Department of Children and Family Services and its contracted agencies shall be developed for public review and comment. These plans shall be reviewed, approved, and monitored by the department's Statewide Foster Care Advisory Council under rules developed by the department.*

*Nothing in this Amendatory Act shall be construed to create a private right of action or a judicially enforceable claim on the part of any individual or agency."*

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# Foster Parent Law (Full Text)

## (Public Act 89-19)

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Published as a public service by the Illinois Department of Children and Family Services

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(20 ILCS 520/1-1)

Sec. 1-1. Short title. This Article may be cited as the Foster Parent Law.

(Source: P.A. 89-19, eff. 6-3-95.)

(20 ILCS 520/1-5)

Sec. 1-5. Legislative findings. Family foster care is an essential service for children and their families who have been separated due to the tragedy of child abuse, neglect, or dependency. When children have been separated from their families, it is the responsibility of the child welfare team to respond to the needs of the children and their families by means including (i) providing protection and nurture to children in a safe, healthy environment; (ii) meeting the developmental and emotional needs of the children, including maintaining and promoting a child's emotional attachment to his or her own family; (iii) protecting and promoting the child's cultural identity and heritage; and (iv) working toward permanency for children by connecting them to safe, nurturing relationships intended to last a lifetime, preferably with their own family.

Foster parents are an essential part of and fulfill an integral role on the child welfare team along with children in care who are old enough to participate in planning and services, parents of children in care, caseworkers, and other professionals serving the child and family. By providing care for children and supporting the attachment of children to their families in a manner sensitive to each child's and family's unique needs, the foster parent serves the child, the family, and the community.

In order to successfully fulfill their role on the professional child welfare team, foster parents must be committed to the goal of the child welfare program and must provide care to children and promote the best interests of the children and families served. In order to achieve this goal, foster parents must understand and be sensitive to issues of culture, ethnicity, religion, and children's connectedness with their families and must maintain a level of care, conduct, and demeanor that is consistent with the high professional ethics demanded of all other members of the child welfare team.

The General Assembly finds that there is a need to establish public policy regarding the role of foster parents. The General Assembly establishes this statement of foster parents' rights and responsibilities, which shall apply to all foster parents in the State of Illinois, whether supervised by the Department of Children and Family Services or by another agency under contract to the Department of Children and Family Services to provide foster care services.

(Source: P.A. 89-19, eff. 6-3-95.)

(20 ILCS 520/1-10)

Sec. 1-10. Definitions. In this Law:

"Child welfare team" or "team" means the persons who provide child welfare services to a child under Section 5 of the Children and Family Services Act.

"Department" means the Department of Children and Family Services.

"Foster parent" means a person who is licensed as a foster parent under the laws of this State.

(Source: P.A. 89-19, eff. 6-3-95.)

(20 ILCS 520/1-15)

Sec. 1-15. Foster parent rights. A foster parent's rights include, but are not limited to, the following:

(1) The right to be treated with dignity, respect, and consideration as a professional member of the child welfare team.

(2) The right to be given standardized pre-service training and appropriate ongoing training to meet mutually assessed needs and improve the foster parent's skills.

(3) The right to be informed as to how to contact the appropriate child placement agency in order to receive information and assistance to access supportive services for children in the foster parent's care.

(4) The right to receive timely financial reimbursement commensurate with the care needs of the child as specified in the service plan.

(5) The right to be provided a clear, written understanding of a placement agency's plan concerning the placement of a child in the foster parent's home. Inherent in this right is the foster parent's responsibility to support activities that will promote the child's right to relationships with his or her own family and cultural heritage.

(6) The right to be provided a fair, timely, and impartial investigation of complaints concerning the foster parent's licensure, to be provided the opportunity to have a person of the foster parent's choosing present during the investigation, and to be provided due process during the investigation; the right to be provided the opportunity to request and receive mediation or an administrative review of decisions that affect licensing parameters, or both mediation and an administrative review; and the right to have decisions concerning a licensing corrective action plan specifically explained and tied to the licensing standards violated.

(7) The right, at any time during which a child is placed with the foster parent, to receive additional or necessary information that is relevant to the care of the child.

(7.5) The right to be given information concerning a child (i) from the department as required under subsection (u) of Section 5 of the Children and Family Services Act and (ii) from a child welfare agency as required under subsection (c-5) of Section 7.4 of the Child Care Act of 1969.

(8) The right to be notified of scheduled meetings and staffings concerning the foster child in order to actively participate in the case planning and decision-making process regarding the child, including individual service planning meetings, administrative case reviews, interdisciplinary staffings, and individual educational planning meetings; the right to be informed of decisions made by the courts or the child welfare agency concerning the child; the right to

provide input concerning the plan of services for the child and to have that input given full consideration in the same manner as information presented by any other professional on the team; and the right to communicate with other professionals who work with the foster child within the context of the team, including therapists, physicians, and teachers.

(9) The right to be given, in a timely and consistent manner, any information a caseworker has regarding the child and the child's family which is pertinent to the care and needs of the child and to the making of a permanency plan for the child. Disclosure of information concerning the child's family shall be limited to that information that is essential for understanding the needs of and providing care to the child in order to protect the rights of the child's family. When a positive relationship exists between the foster parent and the child's family, the child's family may consent to disclosure of additional information.

(10) The right to be given reasonable written notice of (i) any change in a child's case plan, (ii) plans to terminate the placement of the child with the foster parent, and (iii) the reasons for the change or termination in placement. The notice shall be waived only in cases of a court order or when the child is determined to be at imminent risk of harm.

(11) The right to be notified in a timely and complete manner of all court hearings, including notice of the date and time of the court hearing, the name of the judge or hearing officer hearing the case, the location of the hearing, and the court docket number of the case; and the right to intervene in court proceedings or to seek mandamus under the Juvenile Court Act of 1987.

(12) The right to be considered as a placement option when a foster child who was formerly placed with the foster parent is to be re-entered into foster care, if that placement is consistent with the best interest of the child and other children in the foster parent's home.

(13) The right to have timely access to the child placement agency's existing appeals process and the right to be free from acts of harassment and retaliation by any other party when exercising the right to appeal.

(14) The right to be informed of the Foster Parent Hotline established under Section 35.6 of the Children and Family Services Act and all of the rights accorded to foster parents concerning reports of misconduct by department employees, service providers, or contractors, confidential handling of those reports, and investigation by the Inspector General appointed under Section 35.5 of the Children and Family Services Act.

(Source: P.A. 94-1010, eff. 10-1-06.)

(20 ILCS 520/1-20)

Sec. 1-20. Foster parent responsibilities. A foster parent's responsibilities include, but are not limited to, the following:

(1) The responsibility to openly communicate and share information about the child with other members of the child welfare team.

(2) The responsibility to respect the confidentiality of information concerning foster children and their families and act appropriately within applicable confidentiality laws and regulations.

(3) The responsibility to advocate for children in the foster parent's care.

(4) The responsibility to treat children in the foster parent's care and the children's families with dignity, respect, and consideration.

(5) The responsibility to recognize the foster parent's own individual and familial strengths and limitations when deciding whether to accept a child into care; and the responsibility to recognize the foster parent's own support needs and utilize appropriate supports in providing care for foster children.

(6) The responsibility to be aware of the benefits of relying on and affiliating with other foster parents and foster parent associations in improving the quality of care and service to children and families.

(7) The responsibility to assess the foster parent's ongoing individual training needs and take action to meet those needs.

(8) The responsibility to develop and assist in implementing strategies to prevent placement disruptions, recognizing the traumatic impact of placement disruptions on a foster child and all members of the foster family; and the responsibility to provide emotional support for the foster children and members of the foster family if preventive strategies fail and placement disruptions occur.

(9) The responsibility to know the impact foster parenting has on individuals and family relationships; and the responsibility to endeavor to minimize, as much as possible, any stress that results from foster parenting.

(10) The responsibility to know the rewards and benefits to children, parents, families, and society that come from foster parenting and to promote the foster parenting experience in a positive way.

(11) The responsibility to know the roles, rights, and responsibilities of foster parents, other professionals in the child welfare system, the foster child, and the foster child's own family.

(12) The responsibility to know and, as necessary, fulfill the foster parent's responsibility to serve as a mandated reporter of suspected child abuse or neglect under the Abused and Neglected Child Reporting Act; and the responsibility to know the child welfare agency's policy regarding allegations that foster parents have committed child abuse or neglect and applicable administrative rules and procedures governing investigations of those allegations.

(13) The responsibility to know and receive training regarding the purpose of administrative case reviews, client service plans, and court processes, as well as any filing or time requirements associated with those proceedings; and the responsibility to actively participate in the foster parent's designated role in these proceedings.

(14) The responsibility to know the child welfare agency's appeal procedure for foster parents and the rights of foster parents under the procedure.

(15) The responsibility to know and understand the importance of maintaining accurate and relevant records regarding the child's history and progress; and the responsibility to be aware of and follow the procedures and regulations of the child welfare agency with which the foster parent is licensed or affiliated.

(16) The responsibility to share information, through the child welfare team, with the subsequent caregiver (whether the child's parent or another substitute caregiver) regarding the child's adjustment in the foster parent's home.

(17) The responsibility to provide care and services that

are respectful of and responsive to the child's cultural needs and are supportive of the relationship between the child and his or her own family; the responsibility to recognize the increased importance of maintaining a child's cultural identity when the race or culture of the foster family differs from that of the foster child; and the responsibility to take action to address these issues.  
(Source: P.A. 89-19, eff. 6-3-95.)

(20 ILCS 520/1-25)

Sec. 1-25. Implementation; annual plan.

(a) The department, and agencies providing foster care services under contract with the department, are responsible for implementing this Law.

(b) The department, and each agency providing foster care services under contract with the department, shall

prepare an annual plan for implementing this Law in each of the department's administrative regions of this State. The plans shall be prepared by January 1 of 1996 and each year thereafter and shall be submitted for public review and comment. The plans shall be reviewed, approved, and monitored by the department's Statewide Foster Care Advisory Council under rules adopted by the department.  
(Source: P.A. 89-19, eff. 6-3-95.)

(20 ILCS 520/1-30)

Sec. 1-30. No private right of action or claim. Nothing in this Law shall be construed to create a private right of action or claim on the part of any individual or child welfare agency.

(Source: P.A. 89-19, eff. 6-3-95.)

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# Statewide Foster Care Advisory Council Law

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Section 5-1. This Article may be cited as the Statewide Foster Care Advisory Council Law.

Section 5-5. The Department of Children and Family Services ("the department") shall convene and maintain a Statewide Foster Care Advisory Council to advise the department with respect to all matters involving or affecting the provision of foster care to abused, neglected, or dependent children and their families.

The responsibilities of the Council shall include:

(1) Providing input on the issues that affect foster care and services received by children who are in the care of the department and their families.

(2) Identifying, analyzing, and recommending solutions to any issue concerning foster care services.

(3) Interpreting to the general public the need for foster care the important service that foster parents provide.

(4) Promoting the statewide exchange and pooling of information in the area of foster care.

(5) Participating in statewide planning and promoting foster parent involvement in local planning concerning foster care services.

(6) Reviewing and making recommendations on department foster care and child welfare service delivery policies, guidelines, and procedures.

(7) Developing recommendations concerning foster care training to improve the quality of foster care services children receive.

(8) Reviewing and advising the department on pending or enacted legislation, primarily as concerns foster care services, and on the department's responses or positions regarding that legislation.

(9) Developing, as necessary, recommendations by which the department may improve the child welfare service delivery system, primarily on issues affecting the delivery of foster care services.

(10) Reviewing, approving, and monitoring plans of the department's administrative regions and contract agencies providing foster care as required by the Foster Parent Law.

Section 5-10. Membership

(a) The Statewide Foster Care Advisory Council shall consist of the following membership:

(1) 2 foster parents from the department's southern

and northern administrative regions; 3 foster parents from the department's central administrative region; and 2 foster parents from each of the department's Cook County administrative regions. One of the 6 foster parents representing the Cook County administrative regions shall be the current President of the Cook County Foster Parent Advisory Committee;

(2) 2 foster parents representing the department's Child Welfare Advisory Committee, with at least one foster parent residing in Cook County;

(3) 2 foster care professionals representing the department's Child Welfare Advisory Committee to represent agencies providing foster care services under contract to the department;

(4) the current president of the Illinois Foster Parent Association; and

(5) 4 other non-department persons with recognized expertise regarding foster care who shall be nominated by the director of the department ("the director").

Each administrator of the department's specified administrative regions shall make recommendations of foster parents for appointment as members to the director. The recommendations of the Regional Administrator shall be based upon consultation by the Regional Administrator with organized foster parent groups and department staff.

All appointments to the Council shall be made in writing by the director. In soliciting and making appointments, the director shall make all reasonable efforts to ensure the membership of the Council is culturally diverse and representative and also geographically representative of the department's administrative regions.

(b) Each member shall be appointed for a term of 3 years. No member shall be appointed to more than 2 terms, except the President of the Illinois Foster Parent Association and the President of the Cook County Foster Parent Association may serve as long as he or she holds office. Members shall continue to serve until their successors are appointed. The terms of original members and of members subsequently appointed to fill vacancies created by a change in the number of the Council's members shall be determined to assure as nearly as possible that the terms of one-third of the members in each sector expire each year on June 30th. The original

members in each sector shall determine by lot the length of each member's term, one-third to be for 3 years, one-third to be for 2 years, and one-third to be for one year, and the Council's secretary shall record the results. Thereafter, any member appointed to fill a vacancy other than one created by the expiration of a regular 3 year term shall be appointed for the unexpired term of the predecessor member, or in the case of new memberships created by change in number of members, for such term as is appropriate under this subsection.

(c) Members of the Advisory Council shall serve without compensation, except that the department shall reimburse members for travel and per diem expenses associated with participation in Advisory Council meetings and activities. Reimbursement shall be consistent with Illinois Department of Central Management Services rules, as approved by the Governor's Travel Control Board.

#### Section 5-15. Officers.

(a) Officers of the Statewide Foster Care Advisory Council shall consist of a Chairperson and Vice-Chairperson, who shall be elected by the Council. The immediate past Chairperson shall serve as a consultant for one year. The director shall appoint a staff member of the Illinois Department of Children and Family Services to maintain records, prepare notices and agendas for each meeting, and otherwise carry out the functions of the Council.

(b) The Chairperson and Vice-Chairperson shall be elected for a term of one year at a meeting prior to July of each year, and those officers shall assume the duties of their offices on the first day of July each year.

(c) Any officer of the Advisory Council shall be eligible for consecutive election to the office held for no more than 2 consecutive one year terms.

(d) The Chairperson of the Advisory Council shall perform the duties ordinarily ascribed to that office and shall preside at all meetings of the Advisory Council. The Chairperson shall also serve as an ex-officio member of all committees of the Advisory Council and shall make such reports on behalf of the Advisory Council as may be required.

(e) In the event of the Chairperson's inability to act, the Vice-Chairperson shall act in his or her stead.

#### Section 5-20. Meetings.

(a) Regular meetings of the Statewide Foster Care Advisory Council shall be held at least quarterly. The meetings shall take place at locations, dates, and times determined by the Chairperson of the Advisory Council after consultation with members of the Advisory Council and the director or the designated department staff member.

It shall be the responsibility of the designated department staff member at the direction of the Chairperson to give notices of the location, dates, and time of meetings to each member of the Advisory Council, to the director, and to staff consultants at least 30 days prior to each meeting.

Notice of all scheduled meetings shall be in full compliance with the Illinois Open Meetings Act.

(b) Special meetings of the Advisory Council may be called by the Chairperson after consultation with members of the Council and the director or the designated department staff member, provided that:

- (1) at least 7 days notice by mail is given the membership;
- (2) the notice sets forth the purpose or purposes of the meeting; and

(3) no business is transacted other than that specified in the notice.

(c) An agenda of scheduled business for deliberation shall be developed in coordination with the department and the Chairperson and distributed to the members of the Advisory Council at least 7 days prior to a scheduled meeting of the Council.

(d) If a member is absent for 2 consecutive meetings or has not continued to make a significant contribution as evidenced by involvement in council activities, membership termination may be recommended by the Chairperson to the director. The member shall be terminated and notified in writing. Members shall submit written confirmation of good cause to the Chairperson or designated department staff member when a meeting has been missed.

#### Section 5-25. Quorum.

(a) A quorum at any regular or special meeting of the Advisory Council shall be necessary to transact business and shall consist of one-third of the duly appointed members of the Advisory Council. For the purpose of election of officers, the necessary quorum shall be a majority of the duly appointed members.

(b) For the purpose of subcommittee action, a quorum shall consist of at least one-half of those members appointed to the subcommittee, but in no event fewer than 2 individuals.

(c) All deliberations of the Advisory Council and its subcommittees shall be governed by Robert's Rules of Order.

#### Section 5-30. Committees

(a) Standing and Ad Hoc Committees of the Advisory Council shall be appointed by the Chairperson of the Advisory Council. The majority action of the Advisory Council shall give approval to the establishment of a committee, as well as determine completion of a committee's assignment. Final committee reports will be submitted to the director.

(b) Members of Standing or Ad Hoc Committees must be members of the Advisory Council.

(c) A Nominating Committee shall be appointed by the Chairperson at the April Advisory Council meeting. The Nominating Committee shall present a slate for Chairperson and Vice-Chairperson at the June Advisory Council meeting.

Section 5-35. Minutes. Minutes will be kept of the transactions of each Council meeting and shall be filed with the director. Minutes must be recorded in writing and must include:

- (1) the date, time, and place of the meeting;
- (2) the members of the public body recorded as either present or absent; and
- (3) a general description of all matters proposed, discussed, or decided and a record of any votes taken.

Section 5-40. Professional staff. The director or a designated department staff member shall serve as the Advisory Council's official consultant and advisory. The director may designate other members of the staff to assist in that consultation.

Section 5-45. Rules of Procedure. The Advisory Council shall within 6 months of its first meeting adopt Rules of Procedure to govern the business of the Council.

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# MAINTAINING A FOSTER CARE LICENSE

After DCFS issues an *initial four-year license*, families must continue to follow all of the guidelines given in DCFS Licensing Standards for Foster Family Homes (Rule 402) in order to *maintain* their license. That's why it is so important for caregivers to know and understand the exact licensing standards found in DCFS Rule 402.

DCFS is legally responsible for *issuing* foster care licenses and *monitoring* foster family homes. DCFS requires each contracted private agency or DCFS region to monitor the licenses of all foster family homes supervised by the agency and region according to a standard DCFS procedure.

## Monitoring Visits

Licensing staff may make either *unannounced* or *announced* monitoring visits as part of the standard license monitoring procedure, or in response to a complaint alleging licensing violations.

### New License

Sometime near the end of the first 60 days after DCFS issues a new foster parent license, an *unannounced* visit is required. New foster families are told about this visit during the initial licensing process, so, although it is unannounced, it should not be a surprise.

During this visit, licensing staff verifies that:

- the number of children in the home matches licensing capacity;
- the ages of children cared for matches licensing standards;
- children's records are being maintained;
- space within the home is being used as planned and licensed;
- unsafe conditions do not exist;
- there have been no changes to the physical environment;
- discipline problems do not seem to exist; and
- there are no persons living in the home not accounted for in the record.

### Bi-Annual Monitoring Visit

Licensing staff will make an *unannounced* visit every six months for three years after the license is issued. Discussion at the annual monitoring visit will be about:

- provisions of the license;
- supervision of the children;
- evacuation plans, in case of emergency;
- changes since the previous visit;

- 
- discipline techniques;
  - nutrition plans;
  - foster caregiver responsibility as a mandated reporter for children placed in the home;
  - safety issues;
  - sleeping arrangements; and
  - support services.

### License Renewal Visit

#### 5½ Months Prior to License Expiration

Licensed caregivers will receive a letter from DCFS Central Office of Licensing indicating the expiration date of their license and instructions to complete the enclosed renewal application and to contact their licensing representative. The caregivers should *immediately* contact their licensing representative to begin the renewal process.

Visits to renew the foster care license are conducted *by appointment*. During the renewal visit, the licensing representative will check that all licensing standards are met. It may feel like an initial licensing visit, but, it is also a good opportunity to discuss experiences and ask questions.

After the renewal visit, the licensing representative may recommend to:

- renew the foster care license;
- issue a 6-month conditional license until the home can come into compliance with licensing standards. Conditional licenses cannot be renewed as conditional; or
- not renew the license and not issue a conditional license.

#### “As Needed” Visits

Unannounced visits are made “as needed” to check that the family and their home meets licensing standards. “As needed” visits are used if a foster family *has established a pattern* of not meeting licensing standards. The frequency of these visits is determined by the foster family’s ability to come into, and remain, in compliance with licensing standards.

**Tip from Experienced Caregivers:** If you don’t understand why licensing staff is visiting, just ask. If the answer is difficult to understand, or visits seem too frequent or unnecessary, talk to the supervisor and your agency or DCFS regional administration for clarification. Put your questions and concerns in writing.

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## Transferring Supervision of a Foster Care License

### Foster Parent Right: To Request A Transfer

A caregiver has the right to request to transfer the foster care license from one agency to another agency, from a private agency to DCFS, or from DCFS to a private agency.

Caregivers sometimes decide to transfer their license in these situations:

- the current agency does not have a specific program which matches their skills, abilities and/or interests. Example: Caregivers with skills or the desire to foster medically complex children might decide to transfer to an agency with a specific foster care program for medically complex children; or
- they are extremely dissatisfied with their current agency's service, support, or foster care program, and feel they have exhausted avenues of complaint within their current supervising agency or DCFS region.

An agency or DCFS region is not required to accept the transfer of a foster parent license, but will be more likely to consider accepting the transfer if:

- the caregiver is in good standing with the current supervising agency or DCFS region;
- caregiver's skills and interests match the needs of children within the foster care program/s;
- there is not a pending licensing investigation or a licensing corrective action plan in place;
- the foster family does not have children currently placed with them; or
- adoption of children currently placed with the foster family is not pending.

If the new agency or DCFS region decides to accept the transfer, the new agency will:

- ask the caregiver to sign a form authorizing their current agency to release their file to the new agency;
- send the signed consent form to the current agency with a letter requesting the foster family file; and
- submit the transfer to DCFS for approval.

**NOTE:** Licenses are not to be transferred during the licensing renewal process (6 months prior to expiration) unless *prior approval* is received by the agency from DCFS' Central Office of Licensing.

### **Automatic Transfer of License by DCFS**

DCFS monitors the performance and quality of services provided by all contracted private child welfare agencies. If an agency's services do not meet DCFS quality standards, DCFS has the right to cancel the agency's contract. If this happens, foster families supervised by the agency will receive a letter from DCFS explaining that the agency's contract

has been cancelled and naming the new agency responsible for the supervision of the foster family and the children placed with them. In this case, DCFS will automatically transfer the foster care license to the new supervising agency and the new agency will contact the foster family.

Caregivers should expect the new agency to visit them to:

- welcome and orient them to the new agency's policies and procedures; and
- ensure licensing standards are being followed.

## **ANSWERS TO COMMON LEGAL QUESTIONS**

### **Do Foster Caregivers Have A Legal Relationship or Responsibility for Children in Foster Care?**

No. DCFS is legally responsible for all children while they are in foster care. The extent of DCFS' legal authority depends on what the court has ordered. If a caregiver adopts a child or becomes a child's legal guardian when the child leaves foster care, then the caregiver assumes legal responsibility for the child as the adoptive parent or guardian. See Section 7.

### **Do Foster Caregivers Have to Use the Child's Legal Name?**

Yes. The name that appears on the child's birth certificate is the name to be used for school and all other legal purposes, such as bank accounts and medical records. If you have questions about the child's legal name, ask the caseworker.

### **What Happens if a Caregiver is Sued?**

If caregivers are sued as a result of their activities as a foster caregiver, they may ask that the Illinois Attorney General represent them in court. To request legal representation, foster parents should ask the child's caseworker to forward their request. The caseworker will forward a written request to the Regional DCFS Counsel within three working days. The DCFS Regional Counsel will then consult with his or her supervisor before forwarding the request to the Attorney General. Legal representation in lawsuits against an individual for matters unrelated to foster parenting is the responsibility of the individual. Legal representation by the Attorney General is not guaranteed.

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### **What Can Foster Caregivers Sign on Behalf of Their Foster Children?**

Foster caregivers make dozens of daily decisions related to the care, safety and well-being of the children placed with them. They are asked to sign field trip slips and to give permission to go to slumber parties. However, these routine, day-to-day parenting decisions are different from giving consent. The term consent involves signing a formal, legally binding document, after an informed, deliberative process. Caregivers do not have the authority to give consent on behalf of foster children. The DCFS guardian or designee and the child's birth parents (depending on the authority given by the Juvenile Court and/or the nature of the consent) can be consenting parties.

Still, in the foster care role, there will be many instances when an adult signature is requested for an activity or a service. The charts included on pages 17-19 designate instances when they can make a decision or approve participation and when a foster caregiver must ask the caseworker to request approval or consent from the DCFS Guardian's office.

### **What if a child is arrested for a crime?**

When a child who is under state care is arrested or charged for an alleged crime, the case will not be handled by the Child Protection Division of the Court, which deals with matters of child abuse and neglect. Instead, this matter would be handled by the Juvenile Justice Division or Criminal Division, depending on the age of the child and the charge.

If a youth is brought in for questioning or arrested in a criminal or juvenile justice matter, the foster caregiver should notify the caseworker immediately. Give as much information to the caseworker about the circumstances of the questioning or arrest, such as where the youth is being held, the alleged charge and any pending court dates.

Caregivers may choose to be a source of support for the youth during the proceedings. For example, you may decide to attend court hearings or restorative justice proceedings, make visits if he or she is held in custody or even post bond on behalf of the child. However, since foster parents are not legal guardians, they have no obligation to participate in any proceeding. Therefore, it is important that the caseworker be kept apprised of all developments. The caseworker will contact the DCFS Office of Legal Services or the DCFS Guardian's office, as appropriate.

# AUTHORITY TO GIVE CONSENTS AND MAKE DECISIONS ON BEHALF OF CHILDREN IN FOSTER CARE

**Foster caregivers can never sign a consent.**

	Caregiver Can Decide or Approve	Ask Caseworker for Approvals or Consents
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	Caregiver Can Decide or Approve	Ask Caseworker for Approvals or Consents
<b>Adoption</b>		
1) Prior to termination of parental rights		X
2) Legally free foster child		X
<b>Bail Bond Funds Request</b>		X
<b>Behavioral/Mental Health</b>		
Counseling		X
Psychiatric evaluation/treatment		X
Psychiatric hospitalization		X
<b>Child Care</b>		
Babysitter - short periods of time in foster home, not overnight	X	
Day Care	May express a preference	X
Respite Care - in licensed home-not over 30 days		X
<b>Church/Religious Instruction</b>		
Choose church and religious training (Unless parental rights are terminated or a release form is signed)		X
<b>Enlistment in the Job Corps</b>		X
<b>Enlistment in the U.S. Armed Services</b>		X
<b>Foster Youth Driver</b>		
Sign for driver's training	X	
Sign for driver's permit and driver's license (Foster caregiver must have proper insurance which insures child.)	X	
Car Ownership		X
<b>HIV/AIDS (Section 5: pages 34-39)</b>		
Release of HIV Status		X
Testing—Under 12 years old		X
<ul style="list-style-type: none"> <li>• Child age 12 and over can consent to his/her own testing.</li> <li>• A physician may test without consent in order to provide an appropriate diagnosis.</li> </ul>		
Treatment		X
<b>Legal Counsel Appointment</b>		X
<b>Legal Settlement Approval</b>		X
<b>Local Area Network (LAN)</b>		
Wraparound Services		X

# AUTHORITY TO GIVE CONSENTS AND MAKE DECISIONS ON BEHALF OF CHILDREN IN FOSTER CARE

**Foster caregivers can never sign a consent.**

	Caregiver Can Decide or Approve	Ask Caseworker for Approvals or Consents
<b>Marriage: Under 18</b>		X
<b>Media</b>		
Interviews		X
Photos		X
<b>Medical Care</b>		
Emergency treatment - Take or have child taken for treatment first, then notify the caseworker		X
Physician to provide routine medical treatment		X
Hospitalization		X
Major Surgery		X
Immunizations		X
Dental Care: Routine, including fillings and x-rays		X
Orthodontics		X
Dental Surgery		X
Medical Care Exceptions:		X
1) Pregnant female consents to all of her own medical care during pregnancy – not just medical care related to pregnancy.		
2) Pregnant and/or parenting youth consents for medical care of his/her children.		
3) Any minor (under 18) age 12 years or older may give his/her own consent to outpatient counseling or services which address drugs, alcohol, sexually transmitted diseases, birth control and HIV testing and/or treatment.		
4) Doctors or dentists may decide to treat in a medical crisis without consent, if consent is not available.		X
<b>Medicine</b> - See Section 5, page 14.		
Psychotropic drug alters mood or behavior.		X
<b>Mental Health Information</b> - See page 20		
<b>Social Activities</b>		
Approve attendance at social events such as birthday parties or overnight visits with friends	X	
Sign for fishing licenses	X	
<b>Travel</b>		
In Illinois: under 30 days		X
Standing permission to routinely visit same in-state or out of state location (Example: family summer cottage)		X
Out-of-state in U.S.: up to 30 days		X
Out-of-state in U.S.: over 30 days		X
Out-of-country		X
Passport: Consent to issuance for child under 12 years old		X

# AUTHORITY TO GIVE CONSENTS AND MAKE DECISIONS ON BEHALF OF CHILDREN IN FOSTER CARE

**Foster caregivers can never sign a consent.**

Caregiver Can Decide or Approve	Ask Caseworker for Approvals or Consents
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<b>School</b>		
Choose a new school		X
Enroll child in school	X	
Notify former school of transfer to new school		X
Enroll child in free school breakfast or lunch programs	X	
Attend school conferences/handle routine school issues	X	
Receive contact from school regarding child's injuries	X	
Receive and review report cards	X	
Give permission for participation in in-state class trips*	X	
Give permission for out-of-state class trips		X
Sign "release of liability" form for school trips		X
Give permission for extra-curricular school activities, except athletic participation	X	
Consent to athletic participation		X
Enroll in required school insurance for athletics or other activities		X
Consent to release school information		X
For non-special education students: Appeal education plans, suspensions and expulsions		X
<b>Special Education</b>		
Sign for testing to determine child's special needs	X	
Sign for individual special educational needs	X	
Consent to the release of school information		X
Appeal the special educational plan	X	
Appeal suspensions or expulsions	X	

\* If permission slip includes *release from liability* for the school, the caseworker must get consent from the Guardian's office.

*If a foster parent is not authorized to make the decision or approve participation, it is the caseworker's responsibility to obtain the proper consents. Foster parents can be helpful by making consent requests as far in advance as possible.*

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# KEEPING INFORMATION AND RECORDS ABOUT CHILDREN AND FAMILIES CONFIDENTIAL

Confidentiality is an important part of your responsibility as a caregiver and is part of the Licensing Standards Section 402.24. Information shared with you by the caseworker or other members of the child welfare team is shared in confidence to help you understand and care for the child as you attempt to meet his or her needs daily. This information should not be discussed with neighbors, friends, relatives, or other caregivers.

Children can become very upset, feel bad about themselves and lose faith in their foster parents when they overhear conversations about themselves or their family situations. Children also lose trust when suddenly confronted with confidential information by someone they feel should not know that information. For both reasons—the child’s self-esteem and continued trust in you, and because it is your legal responsibility—information should be kept confidential.

## What Caregivers are Entitled to Know

At a minimum, caregivers are to be given this information:

- detailed information, in writing, concerning the child prior to placement. If placement is an emergency the information should be provided verbally and then provided in writing as it becomes available. Within 10 days of placement the department should receive a signed verification from the prospective foster parents that the following information was provided;
- available, detailed information about the child’s education and health history, and copies of immunization records, including insurance and medical card information;
- a history of the child’s previous placements and reasons for change of placement excluding the identity and location of previous caregivers;
- a copy of the child’s portion of the Integrated Assessment and the client service plan, including visitation arrangements, and all amendments or revisions to it as related to the child;
- details of the child’s Individualized Education Plan (IEP) when the child is receiving special education services;
- any known social or behavioral information necessary to care for and safeguard the children to be placed or currently in the home including, but not limited to, fire setting, perpetration of sexual abuse, destructive behavior and substance abuse; and
- the foster caregiver may review the supporting documents in the child’s file in the presence of caseworker staff. If a caregiver wishes to review supporting documents in a child’s file advance notice must be given to the agency so the file can be prepared.

*Child Care Act, Section 5*

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## Mental Health Information

Release of and access to clinical, social work, psychological, psychiatric, or other mental health information is limited to:

- the parent or guardian of a child who is under 12 years old;
- the youth 12 years or older;
- the parent or guardian of youth at least 12 years old, but not yet 18, if the youth is informed and does not object, or the therapist does not find that there are compelling reasons for denying access. The parent or guardian who is denied access may petition the court for access;
- the guardian of a youth 18 years old or older; and
- an attorney or Guardian ad litem who represents a minor 12 years old or older in any judicial or administrative proceeding, provided that the court or administrative hearing officer has entered an order granting the attorney this right.

Caregivers will not have access to mental health information without the consent of the proper party given above.

### Confidentiality Guidelines for Sharing Information

Generally, personal information and records about children and their families may not be given to others unless an individual 18 years old or older gives written consent, or the parent or guardian of someone under 18 gives written consent. Based on frequently asked questions about confidentiality and the responsibility of caregivers, the following guidelines can help you to determine what can and cannot be shared and in what context.

#### Support Groups

Participants in special support groups such as “Mothers of Children with ADD” come together to give and receive support. Sharing information outside the group is not supportive. Principles of confidentiality should be stated at the beginning of each session. Participants must agree not to repeat, outside of the meeting, any information about a specific child, the family, or the foster family. *Any violation of confidentiality is a violation of licensing standards and is an issue the support group needs to deal with.*

#### Training

It is appropriate to share information in general terms without identifying the child or supplying identifying information.

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### Other Foster Caregivers or Relatives

Sharing of information about children or their families with other caregivers or relatives, who have no need to know about why the child is in foster care, is a violation of confidentiality. Seeking help from other caregivers on handling behavioral issues is appropriate, but sensitive, and information should not be shared with third parties.

### School Personnel

The school and teacher need to know the child is in foster care due to the contacts required by the caseworker, your relationship with the child as the foster caregiver and the application for free lunch, textbooks and fees. *The teacher and everyone else at the school do not need to know the details of the case and personal information about the child and birth family.* Prior school records, including special education, will be available for school personnel to use to help guide the child academically. If the teacher wants more information, get the caseworker's opinion of what the teacher needs to know, or ask the caseworker to respond to the teacher's request.

### Babysitters/Respite Providers

If another caregiver, relative, or other person provides babysitting or respite, consult with the caseworker about information you feel is necessary to share for them to adequately take care of the child. The extent of information shared for a temporary or respite placement may vary, depending on the length of time, frequency, status of the respite provider, needs of the child and based on a "need to know."

### Press Protocol—Dealing with the Media

Caregivers may be interested in positive press coverage about foster care, but need to make sure it happens within the parameters of the state's confidentiality laws. The DCFS Communications Office can help decipher confidentiality laws for anyone seeking local press coverage for agency or foster parent support group events, or whether a newspaper wants to feature a child or foster family. Some general rules to keep in mind follow. But the easy way for any caregiver in dealing with the media is to refer them to DCFS Communications at 312-814-6847. If it is a good opportunity, DCFS Communications will make sure it happens, and will work with you to make sure the child's confidentiality is maintained. **All press inquiries MUST be immediately directed to the Communications Office at 312-814-6847.**

### Interviews:

All requests for interviews or to publish photos of a child in foster care - whether by a newspaper, other media outlet, or for other use such as agency promotional materials - must have prior approval of the Communications Office at 312-814-6847.

- a child in foster care may not be interviewed nor have any photos of him or her published in an agency annual report, or any document or publication which would be used as a marketing tool;

- 
- children 14 years old or older can be interviewed with the written consent of both the child and the DCFS Guardian if the caseworker agrees that the interview is in the best interest of the child; and
  - these people **MUST** be present for an interview at a foster home: representative from the Communications Office; the caseworker and foster caregivers; the director of the private agency, or his designee, if possible.

### **Photos**

- the child's image cannot be shown, unless there has been a termination of parental rights (TPR);
- a general group setting is permissible, if parental rights have been terminated; and
- a child under 14 may **NOT** be identified as a child in foster care, unless the situation involves a recognition or honor of the child, then the child can be identified as being in foster care, **IF** it is relevant or significant to the honor, **AND** with permission of the child, the DCFS Guardian and the Communications Office.

### **Parties**

- if the party is sponsored by an organization which wants the press present, they **MUST** notify the Communications Office and DCFS Guardian in advance; and
- photos are allowed, if approved in advance by DCFS, and are photos of children whose parental rights have been terminated.

### **Consents**

- must be obtained in writing from the DCFS Guardian's office;
- may only be authorized by the Guardian or the DCFS Consent Unit. No authorized agents can consent; and
- after the Guardian has given consent, the interview or contact must be coordinated with the DCFS Communications Office.

### **Planning or Treatment Teams**

After discussing with the caseworker what can be shared with other service providers, it is appropriate for caregivers to share major life occurrences, such as termination of parental rights or adoption as the case plan, or visitation details with teachers, doctors, respite providers, etc. as members of the team to benefit the child. Often, these occurrences have an impact on the child's behavior and feelings and the team members can help the child cope if they are aware of specific circumstances. It is not appropriate to share this information without clearing it first with the caseworker.

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### **Sharing Permanency Plans**

After adoption has become the goal and parental rights have been terminated, sharing of the permanency plan is appropriate only on a “need to know” basis as approved by the caseworker. Sharing of the permanency plan for the child with other foster family members or friends is only appropriate when the plan is clear and the caseworker and foster parents decide that sharing would not violate the child’s rights to confidentiality and would benefit the child. You should not discuss specific placement of a child or attempt to arrange placement of a child on your own.

### **HIV Status and Testing Confidentiality and Consents**

See Section 5; Health Services, page 37-39.

### **Sexually Problematic Behavior Confidentiality and Consents**

See Section 5; Health Services, page 28.

### **Disagreements About Confidentiality**

If a caregiver and caseworker disagree about maintaining confidentiality, the caseworker’s supervisor needs to be involved. For example, an adoptive family has been selected and the caseworker has asked the foster family not to share this with the child yet, but the foster family feels that the child knowing will relieve his or her fears of never having a permanent family. The agency and DCFS have the final decision, but caregivers can appeal their decision to agency administration or through the DCFS Appeal System. (See pages 26-28)

## **Confidentiality of Caregiver Information**

Prospective and current foster families are often concerned about what happens to all of the personal information gathered and stored by their agency and DCFS during and after licensing. The caregiver’s signature on the licensing application implies that they are informed of the process and are giving their consent for the process to occur.

A foster caregiver’s name, address and phone number must not be disclosed without prior written notice. Caregivers may also request the caseworker not to release this information to the child. DCFS Rules and Procedures about the confidentiality of information are outlined in Rules 315 and 301.

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## MANAGING DISAGREEMENTS

Caregivers and other child welfare team members, just like family members or co-workers, will sometimes disagree about:

- services or supports requested for the child;
- supports requested for the foster family;
- service planning, including visitation, transportation, etc.;
- quality of services being provided;
- foster family adherence to licensing standards;
- moving a child from the foster home; and
- recommendations to the juvenile court about permanency goals, including who should adopt the child.

### Get the Facts First

There's no substitute for knowing and understanding your rights, responsibilities, your authority and that of other child welfare team members, including your agency and DCFS. Find out what state laws, DCFS rules and policies say. Use all of the learning tools at your disposal to learn more — this handbook, available training, the DCFS website for DCFS rules, caregiver networking groups, regional councils and other caregivers who have been through similar circumstances.

Lack of knowledge and differences in interpretation of laws or DCFS rules, policies or procedures can lead to a disagreement of opinion about what can be done for children and families. If you or your caseworker and agency are not sure about what guidance Illinois law or DCFS policies and procedures give in a particular situation, call the DCFS Advocacy Office for Children and Families at 800-232-3798. While the Advocacy Office does not give legal advice or act as formal advocates for callers, it can help both caregivers and agency staff understand DCFS rules and policy and can provide informal advocacy in helping to obtain services for children. Any agency or individual can also request an official, written interpretation of DCFS rules and procedure through DCFS' Office of Child and Family Policy.

### Apply the Golden Rule

Start by treating your child's caseworker and other staff the way you would wish to be treated. Give the caseworker a chance to be your teammate. If you disagree, try to resolve your own disagreements first. Make any requests to the caseworker early. The caseworker will often have to get a supervisor's sign-off for what you want or need. All requests for services for children begin with the caseworker. Don't expect the caseworker to know everything. Do expect him or her to find the right answers and work with you on the child's behalf. Call the supervisor if you cannot reach or come to an agreement with the caseworker.

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## Listen to Other Points of View

It's interesting to consider that when you disagree with someone, the person you are disagreeing with is every bit as certain of his or her position as you are of yours. Yet we always take sides — our own! Practice being a good listener. It doesn't make you weak. It doesn't mean you are not passionate about your beliefs, or that you are admitting that you are wrong. You are simply trying to see another point of view — you are seeking first to understand.

When you understand other points of view, several things can happen. First, you could learn something new and expand your horizons. Second, when the other person feels listened to, he or she will appreciate and respect you far more than when you habitually jump in with your opinion. A side benefit is that the person you are talking to may be willing to listen to you. One thing is guaranteed — if you don't listen first, no one will.

## Choose Your Battles Wisely

There will always be times you will want or need to argue, confront or fight for something you believe in. Some people argue, confront or battle over almost anything, turning their lives into battles over relatively minor things. There is so much frustration living this type of life that the person loses track of what is really relevant. The truth is, life is rarely what we want it to be, and other people often don't act as we would like them to. There are always going to be people who disagree with you, people who do things differently and things that don't work out. Accepting this can lead to a more stress free life. Make sure you regularly reevaluate your priorities, get the facts and then assertively move forward to advocate for the "big stuff" the child or your family needs.

## Know Your Agency's Policies and Use the Chain of Command

If your agency has not distributed agency policy or an agency phone book, ask for copies. If you feel your concerns are not being heard or being considered, or your questions are not being answered, or you have requested services for your child without response, ask yourself:

- Have I communicated my point-of-view clearly and unemotionally?
- Do I know and understand agency or DCFS rules or policies about this issue?
- Am I talking to someone who has the authority to make a decision? If not, who can?

If you disagree with the caseworker, go up the agency chain of command — to the supervisor, the program head and the executive director if necessary. Put your requests in writing and keep copies. Keep a phone log of conversations.

Many agencies and DCFS regions also have an internal appeal process for caregivers supervised by the agency or region. Additionally, the Foster Parent Law requires agencies and regions to establish a grievance procedure for issues specifically contained within the Foster Parent Law.

## THE DCFS SERVICE APPEAL PROCESS

Individuals who are currently receiving child welfare services or are requesting services may appeal actions and decisions made by DCFS or contracted agency staff directly to DCFS through the DCFS Service Appeal process. Individuals with the right to file an appeal are: children in foster care, birth parents, and foster caregivers or relatives who are the *current caretakers* of the child/ren in foster care. What issues are appealable depends on the role of the individual filing the appeal. The DCFS Service Appeal process is outlined in DCFS Rule 337 and Procedure 337.

### Decisions that May Be Appealed

Foster caregivers can appeal these decisions to DCFS:

- a change in the child’s placement—this does not include placement with birth or adoptive parent/s or siblings;
- decisions that directly affect you. *Example:* foster care payments;
- decisions about services for the benefit of the child in your care. *Examples:* day care, medical, educational or psychological services; and
- failure to provide services agreed to in the service plan for the benefit of the child in your care. *Examples:* counseling or providing medical equipment.

### Decisions that May Not Be Appealed

Foster caregivers may not appeal the following issues:

- adjustments made in services by changes to state or federal law;
- issues already previously determined through the service appeal process;
- issues not defined as “services” under DCFS rules. Foster parents may be directed to other appeal processes within DCFS in these cases;
- issues that only regard the Medical Assistance Program; and
- issues in which the court has already entered an order.

*To appeal an indicated finding of child abuse or neglect, or to appeal to remove unfounded records from the State Central Register (SCR), see pages 38-39.*

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**To Appeal, Write a Letter**

Appeal letters should include your name, address and phone number (days and evenings), a statement of your wish to appeal and what decision you are appealing. You should also include a brief summary of your position.

Send your appeal letters to:

DCFS Administrative Hearings Unit  
17 N. State, 7th Floor, Chicago, IL 60602  
Phone: 312-814-5540      Fax: 312-814-5602

**Emergency Appeal**

**Emergency Review**

**Within 10 calendar days from the date of your initial appeal**

Sometimes DCFS or an agency takes an action without telling you before they do it. Usually this happens if the agency or DCFS believes a child to be either at imminent risk of harm if action is not taken immediately.

**If this happens, foster caregivers have the right to request an Emergency Review to stop the agency or DCFS from taking action that involves a change in placement of the child.**

An Emergency Review allows DCFS to make a temporary decision based on a concern that the child will be in “imminent risk of harm” while the case is proceeding through the service appeal process. Foster caregivers, DCFS or a provider agency can request an Emergency Review.

To request an Emergency Review, *send a written request within 10 calendar days of the date on the notice of decision or the date the action was taken* to the same address as shown on page 26 for filing a service appeal.

**What Information to Include in Your Appeal Letter**

- **information about you:** name, address, phone (days and evenings);
- agency name or DCFS region;
- child/ren’s name/s, ID numbers and dates of birth;
- caseworkers name and phone number;
- **your request:** ask for mediation, fair hearing and/or emergency review or ask for help in deciding what to request; and
- **briefly list the issues:** The DCFS staff person receiving your appeal letter needs a *short summary* to be able to respond to your request quickly. Rambling letters and volumes of pages are unnecessary and will slow the process. Just number and list the decisions and issues. For example: 1) Child was never returned to my home after I was found innocent of child abuse. 2) Service plan says child is to have counseling. Counseling has never been approved.

**Attach:** Copies of any previous DCFS or agency written notice/s of decision.

**Do not attach:** "Evidence," such as service plan copies, receipts or case chronologies. Keep these for later use.

### **Mediation: An Optional, Informal Way to Resolve Disputes Within 30 calendar days of date of appeal**

After a caregiver sends in an appeal letter or fax, the Administrative Hearing Unit will reply by letter, asking if he or she would like to participate in mediation to try to solve the issues before a formal fair hearing.

Mediation is an *informal process* where the caregiver and the staff responsible for the decision discuss differences with a neutral third party (a trained mediator) leading the discussion. The caregiver has 15 days after mediation to accept or reject the mediation agreement. Mediation gives all parties in the decision-making process a chance to express their point-of view, take part in the decision-making process and be a part of the final decision.

If agreement is reached in mediation, all parties sign a Memorandum of Agreement which lists the terms of the agreement. Mediation services resolve the majority of the issues coming to DCFS for appeal. Using mediation services is optional. Caregivers may request a Fair Hearing instead, or at any time during the mediation process. The agreement is not a legally binding contract.

### **Fair Hearing: A Formal Process Within 45 calendar days of the filing date of appeal**

An impartial Administrative Law Judge is appointed by DCFS to preside over the Fair Hearing, which is a *formal process* in which records of the proceedings are kept. Legal rules of evidence are generally followed.

During the Fair Hearing both the caregiver and other parties have the right to:

- examine the other side's evidence;
- present and question witnesses;
- present any information relevant to the issues;
- question or disprove any information, including an opportunity to question opposing witnesses; and
- mutually agree to a resolution of any issue in dispute.

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DCFS will almost always be represented by an attorney. The caseworker and other staff involved in your case may not be present unless you or the DCFS attorney calls them as witnesses.

During this formal process, the administrative law judge conducts the hearing in many ways that are similar to hearings in court. Foster caregivers are not required to have an attorney representing them at the Fair Hearing. However, they must understand that if they decide to present their own argument, they will be facing a licensed attorney and they must follow the rules of evidence set out for administrative proceedings such as service appeals.

Foster caregivers who are unable to secure an attorney to represent them may wish to consider going to mediation instead of going immediately to a Fair Hearing, because mediation is an informal process where caregivers can discuss their concerns with involved staff under the guidance of a trained mediator.

If agreement is reached, the case is dismissed. If mutual agreement is not reached, the Administrative Law Judge will recommend to the DCFS director how the issue should be resolved.

### **Final DCFS Decision**

#### **Within 90 days from the filing date of the appeal**

The DCFS director will consider the Administrative Law Judge's recommendation and issue DCFS' final decision on the issue.

DCFS must make and act upon its final administrative decision within 90 days from the date the service appeal was filed, unless a delay in this time frame is caused or agreed to by the person appealing.

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# VOICING OTHER TYPES OF COMPLAINTS

## Staff or Agency Performance

If you feel that the caseworker, supervisor or any staff member of the agency is not doing his or her job, inform your agency's chain of command, beginning with the staff person's supervisor and moving up until the matter gets resolved. Complaints about DCFS staff should be directed to the supervisor, then up the chain of command to the DCFS regional administrator of the region. Likewise, complaints about the performance of agencies that contract with DCFS should be directed to the caseworker's supervisor and continue up that agency's chain of command.

Whether you are a caregiver licensed through DCFS or a private agency, if your issue is not resolved once you have taken your concern up the appropriate chain of command, your next step is to contact the DCFS Advocacy Office for Children and Families (800-232-3798). Be prepared to explain your situation with specific examples.

## Medical Services or Equipment

Caseworkers can be helpful in providing informal advocacy to foster caregivers with children needing medical equipment, special medical services or treatment, or training in caring for children. Work closely with your caseworker.

## Discrimination

If you feel you have been discriminated against by DCFS, one of its contracted agencies or any of their staff on the basis of race, color, religion, sex, national origin, inability to speak or comprehend the English language, or physical or mental handicap, there is a process to review your situation. Though this is not appealable through the service appeal process, you may voice your discriminatory concerns through DCFS by *contacting, within 30 days from the date of the alleged discrimination.*

DCFS Office of Affirmative Action  
1921 S. Indiana  
Chicago, IL 60616  
312-328-2493

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## INVESTIGATIONS INVOLVING CAREGIVERS

Caregivers can be involved in any of three distinctly different types of investigations:

- child abuse/neglect investigations
- licensing complaints; and
- Office of the Inspector General investigations.

Understanding your role and rights, as well as the role and rights of others involved, in each type of investigation, and your right to appeal is important in handling difficult circumstances effectively.

### Child Abuse or Neglect Investigations

Caregivers can fulfill three distinct roles in protecting children from abuse or neglect:

- you may be the first to notice signs of abuse and neglect for children placed in your home and function as a *mandated reporter* in calling the DCFS Hotline to report your observations;

Example: A child returns to the foster home from a visit with his father with bruises and welts on the back of his legs. You immediately report suspected abuse to the DCFS Hotline.

- You may have information useful to the abuse/neglect investigation and be interviewed as a *collateral resource*; and

Example: An investigator contacts you about a report of neglect involving your neighbor's son. As a neighbor, and with the boy being the best friend of your son and at your house daily, the investigator is looking for information you may have that will help in the investigation.

- *Monitor the safety and welfare of a child in an indicated report*, sharing information with the caseworker or making another report if there is a new incident.

Example: The eight year-old girl was sexually abused by an older child in the home. You and the caseworker work out a safety plan for the child and, as the caregiver, you monitor that it is being followed. You are also responsible for calling the Hotline if you suspect any future abuse.

Caregivers can also find themselves in several other situations involving a child abuse/neglect investigation:

- 1) a caregiver may be accused of abuse/neglect through a report called in to the DCFS Hotline and be investigated; or
- 2) a family member or a child living within the foster home may be the subject of an abuse/neglect investigation.

## Talking to the DCFS Abuse/Neglect Hotline -- 800-25-ABUSE

### Legal Requirements for All Mandated Reporters

- suspected child abuse or neglect must be reported *immediately*;
- privileged communication between professional and client is not grounds for failure to report. Willful failure to report suspected incidents of child abuse or neglect is a misdemeanor. Further, professionals may also be subject to penalties by their regulatory boards;
- the mandated reporter may be required to testify regarding any incident reported, if the case becomes the subject of legal or judicial action;
- state law protects the identity of all mandated reporters, who are given immunity from legal liability as a result of reports made in good faith; and
- reports must be confirmed in writing to the local investigation unit *within 48 hours* of the Hotline call. Report forms may be obtained from the local DCFS office.

## MANDATED REPORTERS

Medical Personnel

Law Enforcement Personnel

Social Service/  
Mental Health Personnel

Child Care Personnel

School Personnel

Coroner/Medical Examiner Personnel

The foster caregiver's role as a mandated reporter is to inform the DCFS Abuse/Neglect Hotline if you have reason to believe *that a child in your care* has been harmed or is in danger of being harmed — physically, or through neglect — and that another person either committed the harm or should have taken steps to protect the child from the harm.

An optional online mandated reporter training is available on the Virtual Training Center (VTC) at [www.dcfstraining.org](http://www.dcfstraining.org).

*Foster caregivers are mandated reporters ONLY for children placed in their home or under their direct care and supervision. Caregivers are not legally mandated to report suspected abuse or neglect of other children, but as concerned citizens they should make a report.*

### False Reporting to the Hotline

Caregivers should be aware that it is a violation of Illinois law to intentionally make false reports of child abuse or neglect to the DCFS Hotline. Making false reports is a Class 4 Felony.

*If a caregiver is the subject of an unfounded report and believes the report was made intentionally as an act of retaliation, he or she may make a request, in writing, within 10 days of the receipt of the DCFS notification letter, that the State Central Register (SCR) retain the report.*

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## Your Rights as a Mandated Reporter

### Notification of the Finding

After the investigation is completed, DCFS sends the mandated reporter a letter about what the investigation “found.” If the investigation found credible evidence of abuse or neglect, then the report is “indicated.” If credible evidence was not found, then the report is “unfounded.”

### Request A “Second Review” of the Case

The notification letter also informs the mandated reporter of his or her right to request a second review of the investigation *within 10 days*, if he or she has any concerns about the adequacy of the investigation, and provides the address to send the written request.

DCFS has established multi-disciplinary review committees in each region of the State to do reviews requested by mandated reporters. Each committee is composed of a health care professional, a DCFS employee, a law enforcement official, a licensed social worker and a representative of the State’s Attorney’s Office. The Committee will review the case and make recommendations to the DCFS director as to the adequacy of the investigation and the accuracy of the final finding determination. All parties are notified of the director’s final decision.

### When Can DCFS Become Involved in Suspected Cases of Child Abuse or Neglect?

Illinois law is quite clear about the circumstances under which DCFS can investigate and intervene when abuse or neglect of a child is suspected.

#### All of following conditions must be present:

- the victim must be less than 18 years of age;
- the alleged perpetrator (person alleged to have committed the abuse/neglect) must be a:
  - parent;
  - stepparent;
  - paramour of the birth parent;
  - guardian;
  - foster caregiver;
  - immediate family member (siblings and grandparents, any person living in the home of the child);
  - person who came to know the child through an official capacity of position of trust (i.e. teacher, or health care professional, or volunteer in a youth program, etc.); or
  - person who is responsible for the welfare of the child (i.e. babysitter, day care facility or residential facility, etc.).
- there must be a specific incident of abuse or neglect or a specific set of circumstances involving suspected abuse or neglect; and
- there must be either demonstrated harm or a substantial risk of physical or sexual injury to the child.

**Role of the DCFS Hotline Worker:**

The function of the DCFS Hotline worker is to determine whether or not the harm to the child described by the mandated reporter or other caller constitutes abuse or neglect under the State’s legal definition and can be investigated by DCFS. It is not the job of the Hotline worker to decide if the suspected abuse has actually occurred. All Hotline workers receive extensive, special training related to Illinois laws and what constitutes an abuse/neglect report.

**What Happens if a Report is Taken?**

If the Hotline worker takes your report, he or she will tell you and an investigation will begin within 24 hours. As a mandated reporter, you will be asked to supply a written confirmation of your verbal report within 48 hours. The local DCFS field office can provide the form (CANTS 4 or 5). This report may be used as evidence in any court proceeding that results from the incident.

**Local Child Protection Investigation (CPI) Unit Investigates Report**

An investigator will attempt to make contact with the reporter and then the child victim within 24 hours. If there is a possibility that the child is in immediate danger, the investigation begins immediately. The DCFS Child Protection Investigation Unit will investigate allegations of the circumstances listed below:

Abandonment/desertion	Inadequate clothing	Poison/noxious substances
Bone fractures	Inadequate food	Sexual exploitation
Burns/Scalding	Inadequate shelter	Sexual molestation
Cuts, bruises, welts, abrasions and oral injuries	Inadequate supervision	Sexual penetration
Death	Internal injuries	Sexually transmitted diseases
Diseases transmitted sexually	Lock-out	Sprains, dislocations
Environment injurious to health and welfare	Malnutrition	Substance misuse
Environmental neglect	Medical neglect	Substantial risk of physical injury
Failure to thrive	Medical neglect of disabled infants	Substantial risk of sexual injury
Head injuries	Mental injury	Torture
Human bites	Mental/emotional impairment	Tying/close confinement
		Wounds

**Initial Investigation: First 14 days**

In a small percentage of cases, the investigator may determine after the initial contact with the child that the abuse or neglect did not occur. The child protective service worker (CPSW) will verbally inform the mandated reporter and the alleged perpetrator of the abuse or neglect that the report was taken, but it is “unfounded” and the investigation is being discontinued. Or, after the initial contact, the CPSW may determine that the child is immediately safe, but further investigation is needed.

**Formal Investigation**

**Completed within 60 days with one opportunity for a 30-day extension**

During the investigation, the CPSW will contact the victim, the mandated reporter, the alleged perpetrator, non-involved parents/caretakers, other adults living in the home, siblings and others who may have important information about the case. Investigators may also talk with other family members, potential witnesses or professionals to obtain additional, relevant information. Also,

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investigators will coordinate with police who may be conducting a related, but separate investigation. This happens when it is likely that the State's Attorney will press criminal charges against the alleged perpetrator.

### **Foster Caregiver as a Subject of an Abuse/Neglect Investigation**

Having an investigator arrive at your home and inform you that a Hotline report accusing you of child abuse or neglect has been made can be a very frightening experience. Investigators must handle the investigation of a foster caregiver in the same way they would anyone else.

**Although investigations of foster caregivers must be treated the same as anyone else, every attempt is made to expedite the investigation (DCFS Procedure 300.70(b)).** If you know you are innocent, try to remain calm and work through the investigation process. You have the following rights:

#### **RIGHT: To know the exact allegations made against you.**

The investigator must inform you of the allegations. Tip: Take notes while the investigator is informing you of the allegations. Read your notes back to the investigator to verify that you have them correctly noted.

#### **RIGHT: To know the circumstances surrounding the allegation/s.**

The circumstances include the "what," "where," and "when" information surrounding the report. For example, the circumstances of the abuse allegations are that you were seen in the backyard beating a six-year-old child with a belt about 2 p.m. today. You will not be given the name of the person who called in the report to the Hotline — all reporters must remain confidential.

#### **RIGHT: To offer names of people (collaterals) who will substantiate your story.**

Many investigations can be dealt with quickly. Once you know what the allegations are against you, you can decide how to proceed. Maybe, it is just a misunderstanding and can be cleared up quickly by offering facts and the names of others who can verify what you tell the investigator.

### **Questioning of Children**

The investigator must see the child or children alleged to have been abused or neglected within 24 hours of the report to the DCFS Hotline, or sooner to determine whether they are safe and not in immediate danger. Sometimes, the CPSW will go to the school to question the child before you are even aware of the allegations. If the child lives with you, the CPSW may question the child while in your home.

#### **RIGHT: To call someone for advice prior to questioning.**

##### **To have an attorney or representative present during questioning.**

Sometimes, the allegations and situation are not simple. After hearing the allegations, you may want or need advice on how to proceed. You have the right to call someone for advice before being questioned by the investigator. You also

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have the right to secure an attorney to be present during questioning, if you can do so within *24 hours*. You also have a right to have a personal representative or witness of your choosing present with you during questioning, *if they can be present within four hours and will sign an Acknowledgment of Non-Disclosure form (CANTS 23)*.

Remember: the CPSW is aware of your rights. Exercising your rights is not an indication of guilt, but a matter of self-protection.

## **Removal of Children from a Foster Home**

### **Your Own Children: Birth or Adopted Children**

Caregivers who are under investigation for abuse or neglect have the same rights as any other parents: to be notified of and to appear at the Temporary Custody Hearing within 48 hours of the removal of their children.

### **Children in Foster Care**

The CPSW has the right to remove children in foster care from a foster home without giving advance notice if he or she believes the child is in imminent risk of harm.

### **What Happens as a Result of an Abuse/Neglect Investigation?**

The CPSW gathers information during the investigation about the specific allegation/s of harm to the child. At the end of that process, the CPSW must decide if the report is "indicated" or "unfounded." The standard of proof is "credible evidence," a lower standard than that required for any court procedure. The lower standard of proof allows DCFS to serve families and protect children in many situations that could not be proven using the higher law enforcement or judicial standards. DCFS can *indicate* the report if the CPSW finds that there is credible evidence that the perpetrator committed the abuse or neglect. If credible evidence cannot be documented, the report will be *unfounded*.

### **"Indicated" Finding**

Indicated reports showing credible evidence that abuse or neglect occurred have these possible outcomes:

- abused or neglected child is unsafe and is removed from home;
- abused or neglected child and other children living in the home are unsafe and are removed from home;
- children are not removed from home because they are not currently at risk, for example, the perpetrator of abuse no longer lives in the home;
- criminal charges are recommended; or
- services are provided for the child/ren and family.

### **“Unfounded” Finding**

These situations can lead to an unfounded finding:

- it is impossible to *document* credible evidence of abuse or neglect from the facts; or
- no credible evidence exists that abuse or neglect occurred.

### **Concurrent Investigations**

An allegation charging a licensed caregiver of abuse or neglect will also result in a licensing complaint investigation. Formerly the licensing investigation took place after the CPSW investigation was completed. However, to minimize the impact of two investigations on the foster family and to make the process more effective, DCFS recently established a policy for concurrent investigations. While the licensing investigator and CPSW are not required to conduct all investigative activities together, such cooperation is encouraged. Both the CPSW and the licensing investigator will jointly plan their respective investigations and exchange investigative information weekly.

Once the CPSW and the licensing complaint investigations are completed, based on the findings, the local DCFS or private agency child welfare team will be responsible for monitoring the protective plan, developing a corrective plan (if needed) and additional follow-up casework.

### **Rights of Subjects of Child Abuse and/or Neglect Investigations After the Investigation**

#### **Notification of the Finding**

Anyone who has been the subject of an investigation has the right to receive written notification of the finding (indicated or unfounded) from DCFS, who must mail the notification within 10 calendar days after the final determination has been entered into the State Central Register (SCR). *If the report is unfounded, DCFS must also send written notification to all persons interviewed during the investigation informing them that the report was unfounded. This is only done with the consent of the adult subject of the investigation.*

#### **Record Retention**

*The State Central Register (SCR) retains records of indicated findings for a minimum of 5 years and longer for indicated findings of serious child abuse or neglect. A complete listing of the SCR record retention policy for files of indicated cases is in DCFS Procedure 300, Appendix B.*

#### **Request SCR Keep “Unfounded” File to Substantiate False Reporting**

Anyone who feels he or she may be the victim of individuals calling in false reports to the DCFS Hotline may request DCFS keep the file in case evidence of harassment is needed at a later date. This written request must be made to DCFS *within 10 days* of receipt of the DCFS notification letter. All identifying information about any unfounded report involving the death of a child, the sexual abuse of a child or serious physical injury to a child shall be

retained in the State Central Register for three years from the date the final

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finding report is entered into the SCR. DCFS automatically retains unfounded reports of physical injury called in by mandated reporters for 12 months as possible background and history for investigators if future reports are made. Other unfounded reports must be removed from the SCR after 30 days.

### **Copy of the Investigation File**

The DCFS notification letter informs the subject how and where to request a copy of the file of the investigation. Any information that could identify the reporter will be deleted from the file.

### **Return of Children to the Foster Home**

The caseworker has the responsibility of deciding whether or not it is in the child's best interest to be returned to your foster home, based on the facts of the investigation, the CPSW's indicated or unfounded finding, and any other issues, such as a pending licensing complaint. If you do not agree with the caseworker's decision, go up the chain of command to the supervisor and administrator. You also may have the right to appeal to DCFS, depending on the facts of your case. If you need help determining your appeal rights in having the children returned, call the DCFS Advocacy Office for Children and Families at 800-232-3798.

## **Child Abuse/Neglect Appeal Process**

The process and time frames for the child abuse/neglect appeal process are different than the service appeal process.

When a person appeals a child abuse/neglect decision, a date for a hearing will be set and a pretrial conference will be scheduled immediately.

### **Notification of Appeal Rights and Deadlines**

At the beginning of the investigation, a brochure will be included with the DCFS letter listing the subject's rights to appeal to DCFS and stating all appeal deadlines, which are as follows, and are given in more detail in DCFS Rule 336.

Any person who has been named as a subject in a report of child abuse or neglect to DCFS has the right to file an appeal either personally, *in writing* or through an authorized representative within 60 days of the postmark on DCFS' notice of the investigative finding.

The following issues may be appealed through the appeal process:

- an indicated finding of child abuse or neglect;
- failure to remove an unfounded report of child abuse or neglect from the State Central Register within the timeframes given in Rule 336.60, unless the report is being retained as a false report at the subject's request;
- failure to expunge or remove information about an indicated report of child abuse or neglect that the appellant believes is maintained in a manner inconsistent with the Abused and Neglected Child Reporting Act; and

- issues of whether the department's determined retention period assigned to the indicated report is in accordance with Confidentiality of Personal Information of Persons Served by DCFS rules;

Issues that may not be appealed are:

- issues in which the department has already made a final administrative decision as a result of a previous appeal;
- issues not regarding a child abuse or neglect report;
- cases where the court has made a judicial decision on the issue being appealed or a judicial finding of child abuse or neglect has been made on the issue and the appellant is requesting that the record of the report be expunged, amended or removed;
- instances when the request for the appeal was not received within 60 calendar days of the postmarked date of the notice that the report was indicated;
- instances when the appeal has been withdrawn in writing;
- instances when the appeal has been abandoned as defined in Rule 336.200; and
- instances when the issue is not within the jurisdiction of the Administrative Hearing Unit as set in Rule 336.60.

Written appeal letters must be sent to the address given in the notice from the State Central Register.

### **Timeframes for the Appeal**

In an appeal to a child abuse or neglect decision, the Chief Administrative Law Judge will:

- schedule a pre-hearing conference at least 15 days before the first hearing date;
- schedule a hearing at a date within 70 calendar days after the date of receipt of the appellant's request for an administrative hearing at a time and place reasonably convenient for all parties; and
- provide a written notice to the parties within 10 calendar days after the receipt of a sufficient request for an administrative hearing, with information on the scheduled hearings, the nature of the appeal, the appeal process and the appellant's rights.

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### **Pre-hearing Conference**

The pre-hearing conference is typically conducted by telephone, unless the judge and other parties agree to an in-person conference. The Administrative Law Judge addresses the following issues during the pre-hearing conference:

- whether parties have exchanged lists of the persons who will provide testimony during the administrative hearing;
- whether children under 14 years of age may testify or be involved in the hearing, and if so, any restrictions or conditions regarding their testimony;
- whether witnesses should be scheduled to testify at specific times;
- whether the parties have or will have exchanged records or documents prior to the administrative hearing;
- whether the parties can agree upon any facts as true;
- motions filed by any party; and
- the need for an interpreter for a party whose primary language is not English or who requires communication assistance.

### **The Administrative Hearing**

In an administrative hearing concerning child abuse or neglect reports the department carries the burden of proof of justifying the refusal to amend, expunge or remove the record. The department must prove that a preponderance of evidence supports the indicated finding, or that the record of the report is being maintained in a manner consistent with the Abused and Neglected Child Reporting Act and in accordance with department rules, 89 Ill. Adm. Code 300, Reports of Child Abuse and Neglect.

### **Rights and Responsibilities in Administrative Hearings**

The Administrative Law Judge is responsible for insuring that all outlined rights are upheld and responsibilities are met during the appeal process:

- during the administrative hearing, the appellant (foster caregiver) and the department have the right to:
  - present and question witnesses;
  - present any information relevant to the issues;
  - question or disprove any information, including an opportunity to question opposing witnesses; and
  - dispose of any disputed issue by mutually agreeing to a resolution any time prior to the conclusion of the administrative hearing.
- the department has an obligation to present evidence which creates a full and complete record, subject to department rules and statutes on confidentiality;
- before and during the administrative hearing the appellant may withdraw the appeal; and the department may expunge the indicated finding or amend the indicated finding to delete any information which identifies the appellant as a perpetrator.

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- at any time prior to the commencement of the administrative hearing and with written notice, the department representative may add or amend the allegations which support the indicated finding against the appellant;
  - the person making the appeal may bring an Authorized Representative to the hearing. Expenses of a representative or of an appellant's witnesses shall be paid by the person making the appeal;
  - the appellant can request an interpreter, at no cost to the appellant, if English is not the primary language, or a sign interpreter or other assistance for communication if the appellant is hearing impaired; and
  - hearings shall be recorded on audiotapes. However, any party wishing to have the proceedings recorded by a certified court reporter may do so at the party's own expense.

Note to caregivers: Please see the cautions stated on pages 28-29 regarding whether you may wish to hire an attorney to represent you at this formal hearing.

### **Making the Final Administrative Decision**

The Administrative Law Judge's recommendation is due within 90 days after receipt of a timely and sufficient request for an appeal, unless extended by action of the appellant.

Within the same 90 day time period, the director shall receive and accept, reject, amend or return the Administrative Law Judge's recommendation to the Administrative Hearings Unit for further proceedings. The 90-day time period may be extended by the actions of the appellant.

The director's decision is the final administrative decision of the department. If the decision requires corrective action by the department, the director shall appoint a department staff person who shall be responsible for insuring compliance with the decision.

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## LICENSING COMPLAINTS

A licensing “complaint” is defined as any report claiming violations of the law or DCFS rule related to foster parenting, which can include child abuse or neglect.

Licensing complaints typically come from:

- written communication or phone calls to a private agency or DCFS;
- DCFS or private agency staff who observe licensing violations in the course of their work;
- “indicated” reports of abuse or neglect within a foster family home;

Note: If credible evidence exists of child abuse or neglect within a foster family home, the “indicated” report by the child protection investigator automatically generates a licensing complaint, causing a licensing investigation; and

- child protection investigators who find no credible evidence of abuse or neglect in a foster family home *after* investigation, but do observe what *may be* licensing violations.

### **Licensing Complaint Investigation Process**

A licensing complaint will be taken if the alleged violation has occurred within 60 days and the description of events or observations seem to show licensing violations.

Factual information will be gathered and the person making the complaint will be told about the licensing investigation process, including the possible need to re-interview the license holder. Information contained in any licensing complaint is confidential and the identity of the person making the complaint will not be revealed.

### **Within 2 Business Days of the Complaint**

The private agency caseworker (for homes supervised by an agency) or DCFS licensing staff (homes in a DCFS regional foster care program) within two business days must begin a licensing investigation with an unannounced visit to the foster home.

**Caregivers have the right** to have a person of their choice with them during the licensing investigation to serve as a witness or advocate. If the person of choice is not present at that moment, caregivers may take at least four hours to have them present. The witness or advocate must agree to DCFS rules of confidentiality. Any person who is a witness or advocate will not be notified of the outcome of the licensing investigation.

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### **Within 30 Calendar Days of the Complaint**

The investigation should be completed within 30 calendar days of the complaint, but can be extended another 30 calendar days upon written notice to the caregiver.

### **15 Days after Completing the Investigation**

DCFS or the private agency must make a formal determination of whether or not a licensing violation has occurred.

### **5 Calendar Days after Determination**

DCFS or the private agency will send the caregivers being investigated a certified letter summarizing the findings of the licensing investigation.

### **Caregivers Have the Right to Informal Review of the Decision**

If the caregiver disagrees with the licensing investigation decision, he or she may make a written request for an informal supervisory review of the decision within 10 days of the postmarked date of the letter. The licensing worker, the supervisor and the caregiver are required to attend this meeting. The caregiver may bring an attorney or representative to this meeting. Caregivers may share additional information at the meeting, which they believe to be relevant.

After the informal supervisory review, if the licensing decision is overturned, the process stops. If the decision is not overturned, there are several possible outcomes, and enforcement actions will proceed.

### **Possible Outcomes of a Licensing Investigation**

#### **Corrective Action Plan**

If licensing violations are found and are correctable and the caregiver is willing and able to correct them in a short period of time, a written corrective action plan will be developed.

The written corrective action plan always contains:

- what exact licensing violations were found;
- a clear statement of what is expected in correcting them; and
- a specified time frame for completion.

#### **Post Complaint Monitoring Visit**

If the licensing investigation decision is not overturned, a time period for compliance to licensing standards is confirmed in writing to the caregivers. After the time period allowed, the licensing worker makes an *unannounced* visit to the foster family home to determine whether the licensing violations have been corrected.

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## Caregiver Surrenders the License

During the investigation, the caregivers may decide to voluntarily surrender their license.

## Possible Enforcement Actions of Licensing Standards

DCFS regions and agencies, in consultation with DCFS, are responsible for ensuring that licensing standards are met by the foster family homes under their supervision. DCFS issues all foster care licenses, even to private agency foster homes, and has *the final responsibility and authority* to enforce licensing standards.

### Enforcement actions are progressive and include:

- making a written assessment of the foster family's compliance with licensing standards. The licensing worker must show that a "preponderance" of evidence exists to substantiate the violation;
- consultation. The licensing worker must be able to show that he or she has attempted to work with the foster family in resolving any licensing issues or problems that were identified; and
- documentation. Every contact leading up to any enforcement action must be recorded in the case file. Documentation includes information about the:
  - seriousness of the violation;
  - substantial nature of the violation;
  - person or persons responsible for the violation;
  - ability to correct the licensing violation;
  - previous citations;
  - overall compliance; and
  - risk to children.

## Negative Licensing Enforcement Actions

If a prospective or current foster family has not been willing or able to comply with DCFS licensing standards, after reasonable steps have been taken to help them comply, negative enforcement actions are usually the result.

### Denial of an Initial License

A foster care license may be denied if the prospective foster family:

- fails to complete the licensing process;
- has a member of the household with a criminal history that prevents licensing;
- home does not meet licensing standards, after reasonable attempts have been made to make corrections; or
- has a member of the household with a serious/recent history of child abuse/neglect.

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### **Changing/Reducing Capacity**

A corrective action plan determined by the caseworker and caregiver may be used to change the parameters of a license. The action commonly taken is to reduce the number of children a family may foster.

### **Refusal to Renew A License**

Licenses may not be renewed if documented evidence exists that the health, safety, morals or welfare of children are in jeopardy. The licensing worker's supervisor and the DCFS Licensing Administrator must approve this action. If this happens, the supervising agency will notify the caregivers by certified letter of the reasons the license is not being renewed and advising them that Central Office Licensing will formally notify them of their appeal rights.

### **Revoking A License**

Licenses may be revoked if the health, safety, morals or welfare of the children are in jeopardy. The licensing worker, the supervisor, DCFS Licensing Administrator and DCFS Central Office of Licensing review the enforcement documentation and are involved in the decision to revoke a license. The foster parents will be notified by letter from DCFS of the decision to revoke their license and advising them of their rights.

### **The "Conditional" License**

If serious licensing violations are found any time, the licensing worker may recommend revoking the foster parent/s' original license and issuing a 6-month probationary license to allow the caregivers time to correct licensing violations if they indicate a willingness to do so. A corrective action plan is made which lists expectations and time frames for completion. At the beginning of the sixth month, a renewal study begins and the foster family home is expected to be in full compliance with licensing standards. If the foster family home is in full compliance, a full four-year license is issued. If not, revocation proceedings begin and an enforcement hearing is scheduled for the conditional license.

### **Administrative Order of Closure**

The DCFS director is authorized by the Child Care Act, Section 11.2, to issue an order to immediately close a "licensed facility" whenever DCFS finds that continued operation jeopardizes the health, safety, morals or welfare of children. If applicable, the director is also authorized to initiate license revocation proceedings within 10 working days. An Administrative Order of Closure is signed by the DCFS director and *delivered in person by licensing staff* to the foster parent/s. Then, a letter citing all licensing violations and offering the opportunity for an informal review is sent to the foster parent/s within 10 working days. If the foster parents request a review within 10 days from the postmarked date of the DCFS letter, the review *is scheduled immediately*. If a review is not requested, the license revocation proceeds.

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### **Caregiver Rights Under Negative Enforcement Actions by DCFS**

Prior to revoking or refusing to renew a license, DCFS must notify the caregiver by registered mail. The DCFS letter contains information about how to request a hearing, if desired.

#### **10 Days from Postmark to Request Hearing**

The caregiver has 10 days from the postmarked date of the DCFS letter to make a written request for a hearing. The caregiver, in the same letter, may also request a written statement of the charges from DCFS. If the caregiver does not request a hearing within 10 days from the postmarked date of the DCFS letter, the license will be revoked or the renewal denied.

#### **Hearing within 30 Days of Postmark of Request/15 Day Notification of Hearing Date**

If the caregiver requests a hearing within 10 days from the postmark date time limit, the hearing date must be within 30 days of the postmark on the caregiver's request letter. DCFS must also notify the caregivers by registered mail at least 15 days in advance of the hearing date set. Both DCFS and the caregiver may subpoena witnesses and provide relevant documents for the hearing. A hearing officer will be appointed by DCFS. An attorney may represent the caregivers, if they choose to hire one. After the hearing, DCFS will either determine whether to revoke or not renew the license, or will decide that no action should be taken.

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# OFFICE OF THE INSPECTOR GENERAL (OIG) INVESTIGATIONS

The Office of the Inspector General is legally authorized to investigate allegations of misconduct and violations of rules, procedures or laws by any employee, foster parent or contractor of DCFS.

## OIG Investigation Process

Complaints are called in to the OIG by the public, staff or caregivers through 800-722-9124. If a complaint is accepted, the OIG will begin an investigation including a full record review and interviews of relevant witnesses. While conducting investigations, care is taken to conceal the identity of the person making the complaint.

Examples of caregiver complaints called into the OIG:

- retaliation of staff, including removal of children, not placing children and citing licensing violations which did not exist;
- agency not sending payments to caregivers monthly, or paying with bad checks; and
- failure of staff to meet children’s needs.

### Impounding Files and Records

The OIG is charged not only with investigating misconduct, but also with conducting investigations “in a manner designed to ensure the preservation of evidence for possible use in a criminal prosecution.” OIG investigators often must impound files to ensure the integrity of records. Although unusual, it is possible that an OIG investigator could arrive unannounced at the foster family home to impound records. **Tip:** Tell the investigator which records you need back immediately. (i.e. Health Passport to take to doctor appointment).

### Interviewing Subjects of Misconduct or Persons with Information

The OIG’s most frequent contact with caregivers is to interview caregivers who have made complaints or have information that may help the OIG investigate complaints. Although rare, foster parents could also be the subjects of an OIG investigation. It is important to know your rights in either situation, as well as the rights of the OIG.

**Caregiver’s Right:** To have an attorney present, if desired, or have a support person present during questioning. This person must agree to keep all information confidential. They must not be involved in the allegations, and they must agree to comply with OIG procedures.

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## **Criminal Investigations**

If evidence exists that a criminal act may have been committed, the OIG will notify the Illinois State Police, Attorney General or other law enforcement agency. If another law enforcement agency elects to investigate, the OIG will close that portion of the OIG case referred, but retain the case on monitor status. If the law enforcement agency decides not to prosecute, the OIG file will be reopened.

## **Death Review**

The OIG investigates all Illinois cases in which a child has died where the child was in DCFS care, the subject of an open investigation or family case, or the subject of a closed abuse and neglect report within the last 12 months. In the unlikely event that a child dies while living with a foster family, the foster family would be involved in the OIG's investigation.

## **System Improvement Recommendations**

At the request of the DCFS director, or when the OIG has noticed a particularly high level of complaints in a specific division of DCFS, the OIG will conduct a systemic review of a DCFS division, a private agency or area of practice. Investigations yield recommendations specific to the case and generic recommendation of systemic reform and efficiency. The OIG monitors compliance with all recommendations.