

## DEPARTMENT OF HUMAN SERVICES

### Social Services Rules

#### REFERRAL AND ASSESSMENT

##### 12 CCR 2509-2

*[Editor's Notes follow the text of the rules at the end of this CCR Document.]*

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#### 7.100 REFERRAL AND ASSESSMENT [Eff. 8/1/17]

##### 7.101 DOCUMENTATION OF REFERRALS [Eff. 8/1/17]

All reports that meet the definition of a referral for intrafamilial, third party, or institutional abuse and/or neglect shall be entered into the state automated case management system. Any time a case is opened, it shall come through the referral or assessment process in the state automated case management system with the exception of Interstate Compact on the Placement of Children (ICPC), out of state subsidized adoption, and Division of Youth Corrections (DYC) Medicaid-only.

##### 7.102 HOTLINE REQUIREMENTS [Eff. 1/1/15]

The establishment of a statewide child abuse and neglect reporting hotline system is intended to provide an additional resource for the public to make an initial report of suspected or known abuse and/or neglect.

###### 7.102.1 COUNTY HOTLINE RESPONSIBILITIES [Eff. 8/1/17]

- A. County departments shall establish a dedicated child abuse and neglect reporting telephone line to receive calls from the statewide child abuse and neglect reporting hotline system.
- B. County departments shall ensure that all calls received through the statewide child abuse and neglect reporting hotline system will be answered by a live person designated by the county, which may include county staff, local law enforcement, the Hotline County Connection Center, and/or an answering service.
- C. County departments shall ensure that any county department staff that responds to inquiries regarding child abuse and/or neglect or gathers information for reports of child abuse and/or neglect are trained and annually certified according to the requirements outlined in Section 7.603 (12 CCR 2509-7).
- D. County departments shall ensure that all reports and inquiries received through the statewide child abuse and neglect reporting hotline system are documented in the state automated case management system by the end of the next business day following receipt as defined in Section 7.103.9.
- E. When county departments select a routing method in the statewide child abuse and neglect reporting hotline system that prevents call data from being collected by the hotline system, county departments shall provide the State Department with designated monthly reports.
  1. County departments shall use a uniform template, provided by the State Department, to report the following:
    - a. Call volume,

- b. Average call duration; and,
  - c. Average wait time.
- 2. The monthly reports shall be due to the State Department by the third business day of the following month.

**7.102.2 HOTLINE COUNTY CONNECTION CENTER RESPONSIBILITIES [Eff. 8/1/17]**

- A. Hotline County Connection Center staff shall be continuously available twenty-four (24) hours a day, seven (7) days a week to receive and immediately route hotline calls to the appropriate county department.

The appropriate county department shall be determined by the following criteria in order of priority:

- 1. Residence of the child;
  - 2. Current location of the child; or,
  - 3. Incident location.
- B. All Hotline County Connection Center staff shall be trained and annually certified according to the requirements outlined in Section 7.603 (12 CCR 2509-7).
- C. Hotline County Connection Center staff shall ensure that all hotline calls are documented in the state automated case management system.

**7.102.3 TRANSFER OF HOTLINE RESPONSIBILITIES [Eff. 8/1/17]**

- A. With the express written consent of the Board of County Commissioners of a county, a county department may request that the State Department assist that county with the taking of calls or initial contacts from the public of reports of possible child abuse and/or neglect or of inquiries. The Executive Director of the State Department must approve this arrangement in writing (26-5-111(3) (B), C.R.S.).
- B. A county department may request that the State Department receive after-hours reports or inquire on behalf of the county department by submitting a written request to the State Department. The Board of County Commissioners must officially approve the use of the hotline system on behalf of the county. Approval of such arrangement shall be approved by the State Department Executive Director or his/her designee (26-5-111(4) (E), C.R.S.).
- C. In the event of a natural disaster or other emergency situation in which county departments cannot receive reports or inquiries from the statewide child abuse and neglect reporting hotline system, county departments may request that the Hotline County Connection Center receive their reports or inquiries, until they are able to resume normal operations.
- D. County departments may request another county department to receive reports and inquiries from the statewide child abuse and neglect reporting hotline system on behalf of the county department subject to the Board of County Commissioners' approval. Documentation of agreement from both county departments must be submitted to the State Department's Executive Director or his/her designee prior to implementation.

Reports and inquiries taken by a county department or the Hotline County Connection Center on behalf of another county department must follow the requirements defined in 26-5-111, C.R.S. and Sections 7.101, 7.101.1, 7.102.1 D., 7.103, 7.103.1, and 7.103.2.

- E. When the Hotline County Connection Center or another county department enters a report of child abuse and/or neglect into the state automated case management system on behalf of another county department, it shall transfer the referral to the appropriate responsible county department through the state automated case management system within two (2) hours after the call is completed. The method for notification is as follows:
  - 1. When a referral is sent during regular business hours, notification shall be through telephone call, voicemail, e-mail, text, or other emerging technology, and shall be documented in the state automated case management system; or,
  - 2. When a referral is sent outside of regular business hours, notification shall be through personal contact to a person who is the appropriate county department representative, and shall be documented in the state automated case management system.
- F. When a county department receives referrals from the Hotline County Connection Center or another county department, the county department shall confirm receipt of the referral within two (2) hours through the state automated case management system.
- G. When the Hotline County Connection Center or another county department enters an inquiry into the state automated case management system on behalf of another county department, they shall transfer the inquiry to the appropriate county department as follows:
  - 1. Child welfare inquiries regarding child(ren/youth) or families with child welfare involvement shall be transferred to the appropriate county department through the state automated case management system within two (2) hours after the call is completed.
    - a. When a child welfare inquiry is sent outside of regular business hours, notification shall be through personal contact to a person who is the appropriate county department representative, and shall be documented in the state automated case management system.
  - 2. All other inquiries and requests for non-child welfare information shall be transferred to the appropriate county department through the state automated case management system within two (2) hours after the call is completed.
- H. When a county department receives an inquiry from the Hotline County Connection Center or another county department, the county department shall confirm receipt of the inquiry as follows:
  - 1. Child welfare inquiries regarding child abuse and/or neglect or families with child welfare involvement shall be confirmed through the state automated case management system within two (2) hours of receipt.
    - a. When a child welfare inquiry is received outside of regular business hours the county department shall also confirm receipt through personal contact with the appropriate county department representative, and shall be documented in the state automated case management system.
  - 2. All other inquiries and requests for non-child welfare information shall be confirmed through the state automated case management system by the close of the next business day.

**7.103 Receipt Of Referral Alleging Intrafamilial Or Third Party Abuse And/Or Neglect And/Or A Youth In Conflict– Information To Be Gathered**

- A. Upon receipt of a report alleging intrafamilial or third party abuse and/or neglect, and/or a youth in conflict, the county departments or the Hotline County Connection Center shall gather and document the following information, when available.
1. Reporting party's:
    - a. Name;
    - b. Address;
    - c. Telephone number;
    - d. Reporter type; and
    - e. Relationship to the alleged victim child(ren)/youth and/or a youth in conflict.
  2. Alleged victim child(ren)/youth's and/or a youth in conflict:
    - a. Name;
    - b. Address;
    - c. Current specific location;
    - d. School or child care (if applicable);
    - e. Birth date(s) or estimated age(s);
    - f. Information as to whether or not the child(ren)/youth have American Indian or native Alaskan heritage, and if so, the tribal affiliation; and
    - g. Any developmental delays, physical disabilities, competency or cultural considerations.
  3. Family and household members:
    - a. Names;
    - b. Birth date(s) or estimated age(s);
    - c. Relationship to each other;
    - d. Relationship to the alleged victim child(ren)/youth and/or a youth in conflict; and
    - e. Any developmental delays, physical disabilities, competency or cultural considerations.
  4. Person(s) alleged to be responsible for the abuse and/or neglect:
    - a. Name;
    - b. Birth date(s) or estimated age(s);

- c. Present location;
    - d. Current or last known address;
    - e. Relationship to the alleged victim child(ren)/youth; and
    - f. Any developmental delays, physical disabilities, competency or cultural considerations.
  - 5. Narrative describing the presenting problems and specific allegations of the abuse and/or neglect, including but not limited to:
    - a. When it occurred;
    - b. Location;
    - c. Witness(es) of the incident; and
    - d. Description of any injury that was sustained.
    - e. When substance exposed newborn is a referral reason, the county departments or the hotline county connection center shall ask the Colorado Plan of Safe Care enhanced questions.
  - 6. The date, time, and location the alleged victim child(ren)/youth and/or a youth in conflict were last seen by the reporting party.
  - 7. The nature of any other environmental hazards in the home which may impact child(ren)/youth or worker safety.
  - 8. The name and contact information of any individuals who may have information about the referral, and/or the identity and contact information of collateral agencies and individuals involved with the family.
  - 9. Date and time referral received.
  - 10. Family strengths and supports, and/or other protective factors or actions taken.
- B. If at any point during the referral process, a county department becomes aware of an allegation that a child(ren)/youth is, or may be, a victim of sex trafficking, the county department shall:
- 1. Report immediately, and no later than twenty-four (24) hours from when the county department becomes aware, to the local law enforcement agency; and,
  - 2. Document the details of the report to law enforcement in the comprehensive child welfare information system.
- C. If at any point during the referral process when the reporting party is a runaway and homeless youth provider, and a county department becomes aware that a youth is experiencing homelessness, has run away, or is unaccompanied and is seeking shelter, then the county department shall gather and document the following information:
- 1. Does the provider believe there is a reasonable plan in place to keep the child or youth free from harm, and, if not, what the provider believes would prevent harm,

2. Has the shelter provider notified parent(s)/guardian(s) and, if so, what is their response; and
3. When did intake of the child or youth occur and how many days are left in the 21-day shelter period allowable pursuant to section 26-5.7-107, C.R.S.

**7.103.1 Jurisdiction for Referrals Concerning Intrafamilial and Third-Party Abuse and/or Neglect [Eff. 1/1/15]**

- A. The county department with jurisdiction for responding to a referral concerning intrafamilial or third-party abuse is the department for the county in which the alleged victim child(ren) resides the majority of the time except when custody of the alleged victim child(ren) is shared equally between caregivers. When custody is shared equally between caregivers, the county department with jurisdiction is the department for the county in which the person(s) alleged to be responsible for the abuse and/or neglect reside, if known.
- B. When a family is homeless as defined in 42 U.S.C. Section 11302, the county department with jurisdiction is the department for the county in which the alleged victim child(ren)'s primary nighttime residence is located.
- C. If the jurisdiction is unable to be determined by A or B, above, the county department with jurisdiction is the department for the county in which the alleged victim child(ren) are currently present, as set forth in Section 19-3-201, C.R.S.
- D. County departments shall use available resources to determine jurisdiction including, but not limited to:
  1. Colorado benefits management system;
  2. Alleged victim child(ren)'s school or daycare;
  3. History within the state automated case management system;
  4. Colorado courts;
  5. Where services may be provided.

**7.103.11 Transfer of Jurisdiction [Eff. 1/1/15]**

- A. If the county department that receives a referral determines that another county department has jurisdiction, the county department that received the referral shall:
  1. Gather and document all information as available in Section 7.103.1, A;
  2. Gather and document all information necessary to determine jurisdiction; and
  3. Contact the county determined to have jurisdiction within the following timeframes:
    - a. If the referral is assigned an immediate response, within four (4) hours of determining jurisdiction.
    - b. If the referral is assigned either a three (3) day or five (5) day response, within one (1) business day of determining jurisdiction.
- B. The county determined to have jurisdiction shall screen the referral.

- C. When the county department that received the referral makes a decision based upon the referral prior to determining jurisdiction, the county department determined to have jurisdiction shall uphold that decision including assignment and response time, unless:
1. Additional or new information is gathered by the county department determined to have jurisdiction.
  2. The additional or new information shall relate to the safety of the child.
  3. The child welfare or county department director of the county department determined to have jurisdiction overrides the decision.
  4. The authorization, information, and justification for any change shall be documented in the referral notes.
- D. If an immediate response is necessary, the county department where the child is located at the time of the referral is the responsible county department while jurisdiction is determined.

**7.103.2 RECEIPT OF REFERRAL ALLEGING INSTITUTIONAL ABUSE AND/OR NEGLECT – INFORMATION TO BE GATHERED [Eff. 8/1/17]**

- A. Upon receipt of a report alleging institutional abuse and/or neglect the county departments or the Hotline County Connection Center shall gather and document the following information when available.
1. Reporting party's:
    - a. Name;
    - b. Address;
    - c. Telephone number;
    - d. Reporter type; and,
    - e. Relationship to the alleged victim child(ren)/youth.
  2. Alleged victim child(ren)/youth's:
    - a. Name;
    - b. Address;
    - c. Current specific location;
    - d. School or child care (if applicable);
    - e. Birth date(s) or estimated age(s);
    - f. Any developmental delays, physical disabilities, competency or cultural considerations; and,
    - g. Primary language.

3. Narrative describing the presenting problems and specific allegations of the abuse and/or neglect, including but not limited to:
  - a. Time and date;
  - b. Location;
  - c. Witness(es) of the incident;
  - d. If any injury was sustained;
  - e. Provision of medical treatment, and if no medical treatment has been provided whether in reporter's opinion the injury sustained requires medical services; and,
  - f. Provider's actions or omissions in relation to the incident.
4. Person(s) alleged to be responsible for the abuse and/or neglect:
  - a. Name;
  - b. Birth date(s) or estimated age(s);
  - c. Present location;
    1. If the person(s) is a staff person(s), determine if the person(s) has been moved to a non-child contact role, and/or separated from the alleged victim child(ren)/youth.
    2. If the person(s) is another resident, determine where he/she is in relation to the alleged victim child(ren)/youth.
  - d. Current or last known address;
  - e. Any developmental delays, physical disabilities, competency or cultural considerations; and,
  - f. Telephone number.
5. Institution where the incident occurred:
  - a. Name;
  - b. Address;
  - c. Telephone number;
  - d. Whether the institution has been notified of the allegation; and,
  - e. Any actions taken by the institution.
6. Parent(s)/guardian(s) of the alleged victim child(ren)/youth:
  - a. Name;
  - b. Address;



- c. Telephone number; and,
  - d. Whether the parent(s)/guardian(s) have been notified.
- 7. Determine who has legal custody of the alleged victim child(ren)/youth.  
When a county department or other state holds legal custody;
  - a. Obtain the agency's name, telephone number and/or staff representative's name and telephone number; and,
  - b. Whether the institution has completed notification of the custodial county/agency.
- 8. Date and time referral received.
- B. If at any point during the referral process, a county department becomes aware of an allegation that a child(ren)/youth is, or may be, a victim of sex trafficking, the county department shall:
  - 1. Report immediately, and no later than twenty-four (24) hours from when the county department becomes aware, to the local law enforcement agency; and,
  - 2. Document the details of the report to law enforcement in the state automated case management system.

**7.103.21 Jurisdiction for Referrals Concerning Institutional Abuse and/or Neglect [Eff. 1/1/15]**

The county in which the facility is located shall have jurisdiction for responding to a referral concerning institutional abuse, to include, non-certified kinship care providers that provide care for children with an open child welfare case who are in the legal custody of a county department.

**7.103.3 RECEIPT OF REFERRAL, JURISDICTION, AND INITIAL REVIEW WHEN A YOUTH IS SEEKING RE-ENTRY SERVICES THROUGH THE FOSTER YOUTH IN TRANSITION PROGRAM**

- A. Upon receipt of a report regarding a youth in need of services to re-enter through the Foster Youth in Transition Program pursuant to the Colorado Revised Statutes, pursuant to section 19-7-301, C.R.S., et seq, the county or Hotline County Connection Center shall gather the following information, when available:
  - 1. The reporting party's:
    - a. Name;
    - b. Address;
    - c. Telephone number;
    - d. Reporter type; and
    - e. Relationship to the youth seeking services.
  - 2. The following information regarding the youth seeking services:
    - a. Legal name;

- b. Address or county where the youth self attests to reside;
  - c. Current specific location and contact information; and
  - d. Birth date(s) or estimated age(s).
- B. The county in which a youth self attests to reside shall have jurisdiction for a re-entry referral to the Foster Youth in Transition Program.
- C. Upon receipt of a request for re-entry services through the Foster Youth in Transition Program a county department shall initiate a review of eligibility, notifications, provision of services, and timelines as described in 7.203.40, ET SEQ. (12 CCR 2509-3).

**7.103.4 Initial Review [Eff. 3/1/18]**

When available, the county department shall gather the information in Section 7.103.1, A and/or B, and conduct an initial review. The initial review shall decide if no further action is required, if the referral shall be assigned for assessment, the appropriateness of an immediate response to an assessment, the need for red team review, and/or the appropriateness of a referral to prevention services. It shall include, but not be limited to, the following actions:

- A. Review the child(ren)/youth's vulnerability as defined in section 7.000.2.
- B. Review the comprehensive child welfare information system and any available county department files within twenty-four (24) hours for:
  - 1. Prior referrals and/or involvement with the alleged victim child(ren), family, and person(s) alleged to be responsible for the abuse and/or neglect;
  - 2. Actions taken; and
  - 3. Services provided to inform whether there is known or suspected abuse and/or neglect or serious threats of harm to a child.
- C. As available and appropriate, obtain information from collateral sources such as schools, medical personnel, law enforcement agencies, or other care providers.
- D. All referrals shall be reviewed and approved by a supervisor, and documented in the comprehensive child welfare information system. The review shall include, at a minimum, two certified child welfare staff. If there is disagreement in the determination, the referral shall be reviewed through the red team process.
- E. Prevention services shall be considered, if available, for screened out referrals.
- F. When an institutional referral is received regarding county certified foster homes or county certified kinship homes, the certifying county shall be notified. The certifying county shall review the referral for support and service considerations and certification concerns. The notification and review shall be documented in the comprehensive child welfare information system.
- G. When an institutional referral is received regarding non-certified kinship homes, the custodial county shall be notified. The custodial county shall review the referral for support and service considerations. The notification and review shall be documented in the comprehensive child welfare information system.

**7.103.5 Referrals Requiring No Further Action**

County departments may determine that a referral does not require further action and screen it out for the following reasons:

- A. The current allegations have previously been assessed;
- B. The alleged victim child(ren) or youth in conflict are not located or reside in the State of Colorado. In this circumstance, the county department shall inform the other state or county department of the referral;
- C. Referral does not meet criteria of abuse and/or neglect as defined in statutes and regulations;
- D. Referral lacks sufficient information to locate the alleged victim child(ren) or youth in conflict; or
- E. Referral is duplicative of a previous referral. In this circumstance, the county department shall associate the duplicate referral with the previous referral in the comprehensive child welfare information system.

A referral cannot be considered duplicate if the following circumstances are present:

- 1. Different incident date;
- 2. Different alleged victim;
- 3. Different alleged person responsible for abuse and/or neglect;
- 4. Different household; and/or
- 5. Additional information poses a new or renewed threat of safety to the child(ren)/youth.
- F. The person alleged to be responsible for the abuse and/or neglect is a third (3rd) party and ten (10) years of age or older. In this circumstance, the county department shall send the referral to the appropriate law enforcement agency.
- G. There is no current allegation of child abuse and/or neglect;
- H. More appropriate services for the child/youth who is alleged to be a youth in conflict are currently being provided by another agency;
- I. Referral does not meet the definition of youth in conflict as defined in section CCR 2509-1, 7.000.2; and
- J. The decision to screen out a referral shall be made by a minimum of two (2) certified child welfare staff from the same county or in conjunction with another county. When there is disagreement to screen out, the referral shall be reviewed through the red team process.

**7.103.6 Criteria For Assigning A Referral For Assessment**

- A. County departments shall screen in and assign a referral for assessment if it:
  - 1. Contains specific allegations of known or suspected abuse and/or neglect as defined in Section 7.000.2;
  - 2. Provides sufficient information to locate the alleged victim; and

3. Identifies a victim under the age of eighteen (18); or
  4. Identifies a victim between eighteen and under twenty-one years of age who is under the continuing jurisdiction of the court and in the care of a facility.
- B. Any time a case is opened, it shall come through the referral or assessment process in the comprehensive child welfare information system with the exception of Interstate Compact on the Placement of Children (ICPC), out of state subsidized adoption, out of state Medicaid, Interstate Compact on Adoption and Medicaid Assistance (ICAMA), or Division of Youth Services (DYS) Medicaid only.
- C. The county department shall review and respond, either with a face-to-face intervention or by telephone, when notified by the court-appointed detention screener or a law enforcement officer of a child or/youth in the custody of a law enforcement agency who is inappropriate for secure detention but cannot be returned home.

**7.103.70 Response Time for Referrals Assigned for Assessment**

- A. County departments shall assign the appropriate response time for assessments based upon the date the referral is received using the following criteria:
1. An immediate response is required when a referral indicates that:
    - a. There may be present danger of moderate to severe harm; or,
    - b. The child's vulnerability and/or factors such as drug and alcohol abuse, violence, isolation, or risk of flight increase the need for immediate response.
    - c. An immediate response shall require a response within eight (8) hours from the receipt of the referral. If the victim child(ren)/youth cannot be located within the initial timeframe, subsequent face to face contact attempts shall continue to be made every twenty-four (24) hours from the time of the initial attempted contact.
  2. A three (3) calendar day response is required when a referral indicates that:
    - a. There may be impending danger of moderate to severe harm; or,
    - b. The alleged victim child(ren)'s vulnerability and/or factors such as drug and alcohol abuse, violence, isolation, or risk of flight, increase the need for intervention in the near future.
    - c. The three (3) calendar day count starts on the day following the receipt of a referral, and expires at the end of the third calendar day at 11:59 PM following receipt of the referral.
    - d. If the victim child(ren)/youth cannot be located within the initial timeframe, subsequent face to face contact attempts shall continue to be made within every subsequent three calendar days.
  3. A five (5) working day response is required when:
    - a. A referral indicates an absence of safety concerns.

- b. The five (5) day count starts on the first business day following the receipt of a referral and expires at the end of the fifth business day at 11:59 PM following the receipt of the referral.
  - c. If the victim child(ren)/youth or child/youth in conflict cannot be located within the initial timeframe, subsequent face to face contact attempts shall continue to be made within every subsequent five business days.
- B. The decision of how quickly to initiate an assessment shall be based on specific reported information that is credible and that indicates whether a child may be unsafe or at risk of harm.

**7.103.71 Red Teams**

- A. County departments shall implement a process utilizing the Red Team framework to review referrals with:
  - 1. Child welfare history that includes three (3) or more assessments within the past year regarding the household members in the current referral;
  - 2. Narrative that identifies the alleged victim child(ren)/youth as a child/youth with a vulnerability as defined in section 7.000.2;
  - 3. Two (2) or more screened out non-duplicative referrals with no assessment in the prior twelve (12) months; and/or
  - 4. Criminal history that includes felony and/or misdemeanor convictions related to child abuse and/or neglect, including crimes of violence, domestic violence, and/or unlawful sexual behavior regarding the household members in the current referral.
- B. County departments practicing Differential Response shall utilize the RED Team process for track assignment decisions when considering the Family Assessment Response (FAR) track on assessments requiring three (3) calendar or five (5) business day response times.
- C. The Red Team process is not required for review of the following exceptions:
  - 1. Referrals necessitating an immediate response;
  - 2. Referrals necessitating a response prior to the next business day;
  - 3. Referrals alleging institutional abuse and/or neglect; or
  - 4. Referrals alleging youth in conflict.
- D. County departments may choose to utilize the RED team process for the above exceptions.
- E. The RED team process shall be documented in the framework. The documentation shall reflect the discussion and justification for the decisions.
- F. All RED team decisions shall be approved by a certified supervisor by the end of the calendar day and documented in the comprehensive child welfare information system by the end of the next business day.

**7.103.8 DIFFERENTIAL RESPONSE [Eff. 1/1/15]**

- A. County departments interested in participating in Differential Response shall conduct the following:
1. Submit a letter of interest to the State Department;
  2. Form a County Differential Response Implementation Committee;
  3. Attend Differential Response Training and Coaching Sessions as determined by the State Department;
  4. Complete the Readiness Self-Assessment Process;
  5. Demonstrate the ability to meet the State Department's performance expectations on safety and well-being measures; and,
  6. Demonstrate county staff understands how to correctly enter information into the comprehensive child welfare information system.

Upon successful completion of the above efforts, a county may be selected to participate in Differential Response by the Executive Director of the State Department.

- B. County departments that implement Differential Response shall utilize the RED Team framework to review referrals, determine response times, and determine the appropriate track assignment in accordance with the approved RED Team process.
1. High Risk Assessment (HRA) is mandatory for a child fatality, near fatality, or egregious incident determined to be the result of abuse and/or neglect, institutional abuse, and intrafamilial sexual abuse. RED Teams may use discretion to assign a High Risk Assessment (HRA) based on the following factors: present danger, multiple previous referrals, and/or presenting case characteristics such as type of alleged maltreatment paired with high vulnerability of the alleged victim.
  2. The Family Assessment Response (FAR) is for referrals with low to moderate risk. RED teams may use discretion to assign the Family Assessment Response (FAR) in assessments alleging a child fatality, near fatality, or egregious incident. If it is determined that a child fatality, near fatality or egregious incident is the result of abuse and/or neglect, the track shall be changed to a High Risk Assessment. Institutional abuse or intrafamilial sexual abuse shall not be assigned the Family Assessment Response (FAR).
  3. All RED Team decisions shall be approved by a supervisor by the end of the calendar day and documented in the comprehensive child welfare information system by the end of the next business day.

**7.103.9 DUTIES TO REPORTING PARTIES – INFORMATION TO BE PROVIDED [Eff. 1/1/15]**

- A. Within SIXTY (60) calendar days of receiving a referral alleging abuse and/or neglect from a mandatory reporter listed in Section 19-1-307(2)(e.5)(I), C.R.S., the county department shall notify such individual when:
1. The county department is aware the individual is and continues to be officially and professionally involved in the ongoing care of the child who was the subject of the referral; and,

2. The mandatory reporter has a need to know in order to fulfill his or her professional and official role in maintaining the child's safety; and,
  3. Unless the county department has actual knowledge that the mandatory reporter continues to be officially and professionally involved in the ongoing care of the child who was the subject of the report, a county department shall request written affirmation from a mandatory reporter stating that the reporter continues to be officially and professionally involved in the ongoing care of the child who was the subject of the report and describing the nature of the involvement.
- B. The county department shall notify the mandatory reporter of the following information:
1. The name of the child and the date of the referral;
  2. Whether the referral was accepted for assessment;
  3. Whether the referral was closed without services;
  4. Whether the assessment resulted in services related to the safety of the child;
  5. The name of and contact information for the county caseworker responsible for the assessment; and,
  6. Notice that the reporting mandatory reporter may request updated information within ninety (90) calendar days after the county department received the referral and information concerning the procedure for obtaining updated information.

**7.103.10 DOCUMENTATION REQUIREMENTS – WHEN SUPERVISOR APPROVAL IS REQUIRED [Eff. 1/1/15]**

- A. All referrals including the information gathered pursuant to Sections 7.103.1 and 7.103.2 shall be entered into the comprehensive child welfare information system by the end of the next business day following receipt of the referral.
- B. The initial review shall be documented in the comprehensive child welfare information system by the end of the next business day following receipt of the referral. The supervisor is to ensure that the review and the documentation have occurred.
- C. The decision to screen out a referral for further action shall be documented in the comprehensive child welfare information system by the end of the following business day that the decision is made. This shall include an explanation of the reasons why no further action was needed. The determination to screen out a referral for further action must be approved by a supervisor.
- D. All RED Team decisions shall be approved by a supervisor by the end of the calendar day and documented in the comprehensive child welfare information system by the end of the next business day.

**7.104 Intrafamilial, Institutional, And Third-Party Abuse And/Or Neglect Assessments [Eff 3/1/18]**

The requirements of this section address intrafamilial, institutional and third-party abuse and/or neglect assessments except for assessments involving safe haven voluntarily surrendered infants, as described in section 19-3-304.5, C.R.S. Assessment rules pertaining to safe haven voluntarily surrendered infants are set forth in section 7.106.4.

- A. The assessment shall begin with face-to-face contact with the alleged victim child(ren)/youth and includes, but is not limited to:
  - 1. Face-to-face contact with the primary caregiver;
  - 2. Assessing for current or impending danger and taking action to secure safety, if indicated;
  - 3. Assessing risk, needs, protective capacities and strengths of child(ren)/youth and families; and,
  - 4. Obtaining culturally relevant and appropriate resources for the alleged victim child(ren)/youth and their families.
- B. At the point of first contact with the alleged victim child(ren)/youth, the assessment shall focus immediately on whether the child(ren)/youth is safe, and include the following:
  - 1. To assess for safety, county departments shall consider:
    - a. The safety threshold criteria for current or impending danger of moderate to severe harm;
    - b. The current or impending dangers described in the Colorado Family Safety Assessment tool;
    - c. Child(ren)/youth vulnerabilities/strengths;
    - d. Caregiver strengths/protective capacities; and,
    - e. Actions that respond to the current or impending danger.
  - 2. If the child(ren)/youth is unsafe, the caseworker shall analyze whether:
    - A. A safety plan can reasonably be expected to control current or impending danger while the assessment continues, and if so, develop a safety plan as described in Section 7.107.16 AND 7.107.17.
    - B. If a safety plan cannot reasonably be expected to control current or impending danger the caseworker shall, if necessary, initiate an out-of-home placement. Section 19-3-401, C.R.S., describes the process of taking children/YOUTH into custody.
    - C. If the child(ren)/youth is unsafe, the safety plan, or decision to initiate an out-of-home placement shall be reviewed and approved by a supervisor as soon as possible and no later than twenty-four (24) hours from the face to face interview or observation with the alleged victim child(ren)/youth. Documentation of the approval shall be entered in the state automated case management system.
  - 3. For county departments implementing Differential Response, in the first sixty (60) calendar days of a Family Assessment Response (FAR), upon supervisory approval, the caseworker may change tracks to a High Risk Assessment (HRA) to assess, attain or maintain child(ren)/youth safety due to lack of cooperation or additional information gathered during the assessment, or if requested to do so by the person(s) alleged to be responsible for the abuse and/or neglect.



4. For county departments implementing Differential Response, if at any point safety cannot be sustained in a Family Assessment Response (FAR), the caseworker, with approval from the supervisor, shall open a case and/or request court orders.
  5. If at any point new information is gathered that contains information defined in Section 7.103, a new referral shall be generated.
- C. Safety interventions shall be used continuously throughout all assessments. Safety interventions are defined as the actions and decisions required to:
1. Identify and assess current or impending danger to child(ren)/youth safety;
  2. Plan for an unsafe child(ren)/youth to be protected;
  3. Work with caregivers to identify safety and network supports for child(ren)/youth protection; and,
  4. Manage plans designed to assure child(ren)/youth safety while a safe and permanent home is established.
- D. When determining jurisdiction within open assessments, when current or impending danger is identified, the responding county shall consider the following:
1. The timeframes and completion of activities within the assessment including response time, completion of the safety and risk assessment, and the assessment closure;
  2. Verification of the new residence and documentation of efforts to determine correct jurisdiction;
  3. Considerations of distance between reported residence and new residence; and,
  4. Assessment completion and the need for further services.
- E. When determining jurisdiction within open assessments and no current or impending danger is identified, the county with the open assessment shall complete the assessment.

**7.104.1      Intrafamilial Abuse And/or Neglect Assessment**

- A. The assessment shall begin as soon as reasonably possible following receipt of the referral according to the assigned response time.
- B. The assessment shall be conducted as set forth in Section 19-3-308(2),(3),(4) through 19-3-308.5, C.R.S., and the following:
1. The assessment shall include a face to face interview or observation of the alleged victim child(ren)/youth within the assigned response timeframe, according to the following procedures:
    - a. Interviews shall be face-to-face with the child(ren)/youth if the child(ren)/youth has the verbal, emotional, and/or developmental ability to relate information relevant to safety decisions. If the child(ren)/youth does not have such verbal, emotional, and/or developmental ability, face to face observation of the child(ren)/youth, as appropriate to assess the allegations in the referral, is sufficient. Documentation shall support why the child(ren)/youth was unable to be interviewed and how allegations were addressed during the observation.

- b. When child(ren)/youth are unable to be interviewed within the assigned response time, caseworkers shall document interviews with household members and collaterals to determine that the child(ren)/youth is safe or in current or impending danger. Documentation shall support why the child(ren)/youth was unable to be interviewed.
  - c. If a caseworker gathering information in the Colorado Family Safety Assessment tool determines child(ren)/youth are unsafe and it is unreasonable to interview the child(ren)/youth at the time of removal, the caseworker shall interview the child(ren)/youth as soon as it is reasonable. Documentation shall support why the child(ren)/youth was unable to be interviewed.
  - d. Caseworkers and other child welfare staff shall not be required to have face to face contact with a child(ren)/youth who are undergoing lifesaving medical intervention, in critical condition or deceased. Information of abuse and/or neglect shall be gathered through interviews with household members and collaterals and documented in the state automated case management system. The caseworker shall interview or observe the victim child(ren)/youth once they are medically cleared.
  - e. Interviews shall be conducted out of the presence of the person(s) alleged to be responsible for the abuse and/or neglect.
  - f. The requirements of section (e) above do not apply in a Family Assessment Response (FAR) where the initial interview may be conducted with the entire family, when doing so does not compromise the safety of the child(ren). Children may be interviewed outside the presence of the suspected person(s) responsible for the abuse and/or neglect at any point during the assessment.
  - g. Information obtained from the interview with the non-offending parent and victim child(ren)/youth shall not be revealed to the alleged perpetrator of domestic violence, and shall be subject to the rules of discovery and governed by the confidentiality provisions under Section 7.605.
  - h. If face to face interview(s) or observation(s) cannot be accomplished with the alleged victim child(ren)/youth within the assigned response timeframe, reasonable efforts to interview or observe the child(ren)/youth shall continuously be made as defined in 7.103.61(D). Efforts shall be documented in the state automated case management system and continue until the interview or observation occurs or the assessment is completed.
- C. The assessment shall include;
- 1. Face to face interviews and/or observations with:
    - a. All victim children/youth within the assigned timeframe, except as identified in 7.104.1(B)(1),(a),(b),(c) and (d); and,
    - b. Household members.
  - 2. Documentation of efforts to engage non-custodial parent(s); and other persons identified through the assessment who may have information regarding the alleged abuse and/or neglect.
  - 3. The extent of child(ren)/youth abuse and/or neglect, to include, but not limited to:

- a. Impact to the child(ren)/youth;
  - b. Type and severity of injuries, if applicable; and,
  - c. Child(ren)/youth's explanation of the abuse and/or neglect.
4. Circumstances surrounding the child(ren)/youth abuse and/or neglect, to include, but not limited to:
  - a. Caretaker explanation of the abuse and/or neglect;
  - b. Environmental influences; and,
  - c. Contributory factors.
  - d. Child(ren)/youth functioning;
  - e. Caregiver(s) functioning; and,
  - f. Parenting practices and disciplinary practices.
5. The assessment shall include visiting the alleged victim child(ren)/youth's place of residence or place of custody if:
  - a. The home conditions are the subject of the assessment; or,
  - b. Information obtained in the interview process indicates assessment of the home environment is necessary due to current or impending danger.
6. The assessment shall determine the names and conditions of any children living in the same household as the alleged victim child(ren)youth.
7. The assessment shall include consideration of race/ethnicity, religion, accepted work-related practices of agricultural communities, and accepted child-rearing practices of the culture in which the alleged victim child(ren)/youth participate.
8. When assessing allegations of interfamilial abuse and/or neglect, the assessment shall include record checks of all adults residing in the household to assess for felony, and/or misdemeanor criminal convictions, related to child abuse and/or neglect, crimes of violence, domestic violence, or unlawful sexual behavior. Information gathered from record checks shall be used as one component to inform the overall assessment process. Records checks shall include:
  - a. The state automated case management system;
  - b. Colorado court management system of the state judicial department; and
  - c. The National Sex Offender Public Website operated by the United States Department of Justice.
  - d. When county departments have a memorandum of understanding to allow access to the National Crime Information Center (NCIC) data, b and c may be substituted with documentation that a NCIC check was completed.
9. When assessing allegations of sexual abuse, the county department shall:

- a. Use due diligence in following specific check criteria for each website;
    - b. Immediately report any violations of sex offender registration to local law enforcement; and,
    - c. Report all law enforcement verified matches of sex offenders to the individual supervision officer/agent or team responsible for community supervision and public safety;
    - d. Use both the state and national websites to check if a person alleged to be responsible of the abuse and/or neglect is a sex offender; and,
    - e. County departments may use local law enforcement to check if a person alleged to be responsible for the abuse and/or neglect is a sex offender.
  - 10. The assessment shall include documentation of efforts to interview and advise the person(s) alleged to be responsible for the abuse and/or neglect of the referral and afford such person(s) an opportunity to respond to the allegations. Interviews with third party person(s) responsible for abuse/neglect are not required in assessments.
  - 11. The assessment shall include use of the Colorado Family Safety Assessment tool as describe in Section 7.107.1.
  - 12. The assessment shall include use of the Colorado Family Risk Assessment tool as described in Section 7.107.2.
  - 13. The assessment shall include documentation of reasonable efforts to prevent out-of-home placement, unless an emergency exists, and to maintain the family unit. Reasonable efforts include, but are not limited to:
    - a. Engaging family and extended family in safety planning as described in Section 7.107.17, if appropriate;
    - b. Providing in-home services, if appropriate and available;
    - c. Removing the person(s) alleged to be responsible for the abuse and/or neglect from the home rather than the child(ren)/youth, if possible;
    - d. Work with the caregiver to place the child(ren)/youth in a safe environment; or,
    - e. Engaging family and extended family in securing a kinship placement.
  - 14. When assessing allegations of substance exposed newborns, the county department shall develop and document a Colorado Plan of Safe Care according to the requirements outlined in section 7.107.5.
- D. If at any point during the assessment, a county department becomes aware of an allegation that a child(ren)/youth is, or may be a victim of human trafficking, the county department shall:
- 1. Report, to the appropriate law enforcement agency, within twenty-four (24) hours from when the county department becomes aware and,
  - 2. Document the details of the report to law enforcement in the statewide automated case management system, AND,

3. Complete the human trafficking screen to identify risk factors or indicators related to human trafficking.

**7.104.12 Audio Or Video Recording Of The Interview Or Observation [Eff. 1/1/15]**

- A. The interview or observation may be audio or video taped except when it is impracticable under the circumstances or will result in trauma to the child, as determined by the county department.
- B. If audio or video recording is conducted, the following standards shall be followed:
  1. The interview shall be conducted by a competent interviewer, and may occur at a child advocacy center, as defined in Section 19-1-103(19.5), C.R.S., that has a Memorandum of Understanding with the county department responsible for the assessment or by a competent interviewer for the county department.
  2. The child shall be advised that audio or video taping of the interview is to be conducted and the advisement shall be documented in the state automated case management system. If the child objects to videotaping of the assessment, such taping shall not be conducted by the county department.
  3. If it is the county department's policy to routinely video or audio tape interviews, and an exception is made, the reason for the exception shall be documented in the state automated case management system.
  4. If there is a request by any party to the action to view or listen to an audio or video tape, the child and/or the guardian ad litem shall be notified in advance of the request, when possible.
  5. Access to these audio or video tapes shall be subject to the rules of discovery and governed by the confidentiality provisions under Section 7.605.

**7.104.13 Conclusion Of Assessment – Timing, Findings, Services [Eff. 3/1/18]**

**7.104.131 Timing [Eff. 3/1/18]**

- A. High Risk Assessments (HRA) or Traditional Response Assessment shall be approved by a certified supervisor and closed within sixty (60) calendar days of the date the referral was received.
- B. The initial assessment phase of a Family Assessment Response (FAR) shall be approved by a supervisor and closed within sixty (60) calendar days from the date the referral was received.

If ongoing services are identified in the assessment phase of a FAR, the FAR shall be opened into the service phase. The service phase shall include a treatment/prevention plan which is specific, measurable, achievable, realistic, and time limited (SMART). The treatment/prevention plan shall be created in collaboration with the family. This treatment/prevention plan must meet the guidelines in 7.301.2 for purposes of treatment/prevention plans.
- C. The Colorado Family Safety Assessment tool shall be approved in the state automated case management system by a certified supervisor as soon as possible and no later than fourteen (14) calendar days from the date the alleged victim child(ren)/youth was interviewed or observed.
- D. The Colorado Plan of Safe Care shall be approved in the state automated case management system and approved by a supervisor within sixty (60) calendar days from the date the referral was received.

**7.104.132 Findings and Services [Eff. 3/1/18]**

- A. County departments shall enter a finding of founded, inconclusive or unfounded, as an outcome of all high risk or traditional assessments in the state automated case management system no later than sixty (60) days after the receipt of the referral.
- B. County departments may elect to defer entering a founded finding pursuant to Section 19-3-309.5, C.R.S. If the county department elects to defer entering a finding of founded abuse and/or neglect, the county shall enter into a pre-confirmation agreement and follow the procedures described in Section 7.108.
- C. If the person alleged to be responsible for the abuse and/or neglect is unknown or cannot be determined, a finding of "founded" may be entered into the state automated case management system.
- D. In a Family Assessment Response (FAR), no finding shall be made.
- E. Prior to closing an assessment, county departments shall refer all victim child(ren) under the age of five (5) to the appropriate state or local agency for developmental screening when the county department makes a finding of founded abuse and/or neglect.
- F. County departments may refer any child under the age of five (5) to the appropriate state or local agency for developmental screening in a Family Assessment Response (FAR) or Traditional Response Assessment, if a parent consents and the child presents with needs that might benefit from a developmental screening as determined by the county department.
- G. In a High Risk Assessment (HRA) or traditional response assessment, county departments shall enter the findings of abuse and/or neglect in the state automated case management system even if there is a criminal or civil proceeding pending against the person found responsible for the abuse and/or neglect arising out of the same incident.

**7.104.14 Documentation Required During Assessment**

- A. At the time of a new assessment, county departments shall document that a review related to prior involvement as set forth in Section 7.104.1, B, 6, has occurred. This shall be documented in the assessment closure summary of the state automated case management system.
- B. The results of any record checks including felony, and/or misdemeanor criminal convictions, related to child abuse and/or neglect, crimes of violence, domestic violence, or unlawful sexual behavior on all adults residing in the household being assessed, and attempts to access other information as set forth in Section 7.104.11 shall be documented in the state automated case management system.
- C. The full name(s), including nicknames and/or aliases, address(es), and date(s) birth of the person(s) alleged to be responsible for the abuse and/or neglect shall be documented in the state automated case management system.
- D. All interactions with the family, including efforts to engage the family and extended family, as part of the assessment shall be documented in the state automated case management system. Any specific information gathered, such as electronic media, photographs or videotapes shall be filed in the case record and referenced in the state automated case management system.
- E. When a face to face interview or observation of the alleged victim child(ren)/youth is video or audio taped, the required advisement of the child(ren)/youth shall be documented as set forth in section 7.104.12.

- F. If it is the county department's policy to routinely video or audio tape interviews, and an exception is made, the reason for the exception shall be noted in the state automated case management system.
- G. The Colorado Family Safety Assessment tool shall be completed with household members and documented in the state automated case management system. Documentation and approval by a certified supervisor in the state automated case management system is required as soon as possible and no later than fourteen (14) calendar days from the date the alleged victim child(ren)/youth was interviewed or observed.
- H. If a Family Assessment Response (FAR) is changed to a High Risk Assessment (HRA), the change shall be made in the state automated case management system and all information documentation shall be transferred.
- I. Any reasonable efforts to prevent out-of-home placement shall be documented in the state automated case management system.
- J. If the assessment contains allegations of human trafficking, the human trafficking screening tool shall be completed and documented in the assessment closure summary in the statewide automated case management system.
- K. The Colorado Plan of Safe Care shall be completed with the parent/caregiver(s), documented in the state automated case management system, and approved by the supervisor within sixty (60) calendar days from the date the referral was received.

**7.104.141 Documentation Required at Conclusion of Assessment [Eff. 3/1/18]**

- A. County departments shall document the completed assessment in the state automated case management system, including completion of the assessment closure summary. Supervisors shall approve the closure of the assessment within sixty (60) calendar days from the date of the referral. The assessment closure shall include the following:
  - 1. Brief summary of initial concerns and any additional concerns discovered during the assessment, the actions that were taken, and/or protective factors that exist which mitigate the harm, danger or risk;
  - 2. Worker analysis of:
    - a. Relevant criminal, Colorado courts state management system of the state judicial department, national sex offender registry history, and/or child welfare history gathered throughout the assessment, and any concerns identified related to the current assessment;
    - b. Efforts to engage the family and extended family;
    - c. For High Risk Assessments (HRA), or Traditional Response Assessments, that require a finding, clearly summarize the type, severity level and facts that support the decision; and,
    - d. Family and/or agency plan, if applicable.
- B. In a HRA or Traditional Response Assessment, county departments shall enter the findings of abuse and/or neglect in the state automated case management system even if there is a criminal or civil proceeding pending against the person found responsible for the abuse and/or neglect arising out of the same incident. The reported data shall include the following:

1. The name, address, gender, date of birth, and race of the victim child(ren);
2. The composition of the victim child(ren)'s immediate family;
3. At a minimum, the name and last known mailing address of the person found to be responsible for the abuse and/or neglect, the date of birth, and Social Security Number, if known;
4. The type of abuse and/or neglect;
5. The severity level of the abuse and/or neglect;
6. Any previous incidents of abuse and/or neglect of the victim child(ren) or siblings;
7. The name(s) and address(es) of any person(s) previously found responsible for abuse and/or neglect, if known;
8. The name of the source of the referral submitted to the county department, if known;
9. The county department that conducted the assessment of the referral; and,
10. The date the referral was made and the date the county department made the finding of founded abuse and/or neglect.

**7.104.15 Notice [Eff.3/1/18]**

- A. Notice of the outcome of an assessment shall be made as described below. Unless otherwise described below or authorized by law, no other entity shall receive notification.
- B. Regardless of the outcome of the assessment and as allowable by law, county departments shall notify and document in the state automated case management system:
  1. The parent(s), guardian(s), custodian(s), or caregiver(s) of the alleged victim child(ren)/youth of the outcome of the assessments. Non-custodial parent(s) shall also be notified of the outcomes of the assessments unless;
    - a. Documentation supports efforts to locate the non-custodial parent were unsuccessful; or,
    - b. Documentation supports that it is not in the best interests of the child(ren)/youth to give notice to the non-custodial parent.
  2. The person alleged to be responsible for the abuse and/or neglect of the outcome of the assessment;
  3. The specified mandatory reporter, who meets the criteria of 7.103.8(a) and is identified in Section 7.103.8, B, of the;
    - a. Name of the child(ren)/youth;
    - b. The date of the referral;
    - c. Whether the referral was accepted for assessment;
    - d. Whether the referral was closed without services;



- e. Whether the assessment resulted in services related to the safety of the child;
    - f. The name and contact information for the county caseworker responsible for the assessment; and,
    - g. The county procedure for requesting updated information within ninety (90) calendar days after the county department received the referral.
  - 4. Where applicable, the local licensing unit, the director or administrator of the facility, the agency with licensing or certifying authority and the State Department, Division of Child Welfare and Division of Early Care and Learning, if the abuse and/or neglect assessment involved a state-licensed or county-certified facility. The referral and assessment may be used for investigations and licensing action where the referral involves a licensed child care provider as defined in the Child Care Licensing Act, Section 26-6-101, C.R.S., et seq.
- C. When the assessment results in a finding of founded abuse and/or neglect, county departments shall provide additional notice as described below:
- 1. County departments shall notify the local law enforcement agency and the District Attorney's Office of a founded report. Any copies of child abuse/neglect reports provided to law enforcement or the District Attorney's office shall be marked confidential.
  - 2. County departments shall notify the person found responsible for child abuse and/or neglect of the finding by first-class mail to the responsible person's last known mailing address, using a form approved by the State Department. County departments shall retain a copy of the notice in the case file showing the date of mailing. The notice shall include the following information:
    - a. The type and severity level of the abuse and/or neglect, the date the referral was made to the county department, which county department completed the assessment, the date the county department made the finding in the state automated case management system, and information concerning persons or agencies that have access to the information.
    - b. The circumstances under which information contained in the state automated case management system will be provided to other individuals or agencies.
    - c. How to access the county's dispute resolution process. County departments are authorized to offer a county dispute resolution process to persons alleged to be responsible for abuse and/or neglect.
    - d. The right of the person found to be responsible for abuse and/or neglects to request a state level appeal as set forth in Sections 7.111 through 7.112. The county department shall provide the State Department approved appeal form to the person found to be responsible for abuse and/or neglect.
    - e. Notice that the scope of the appeal is limited to challenges that the finding(s) are not supported by a preponderance of the evidence or that the actions found to be abuse and/or neglect do not meet the legal definitions of abuse and/or neglect. The State Department will be responsible for defending the determination at the state level fair hearing.
    - f. A full explanation of all alternatives and deadlines contained in Sections 7.111 through 7.112.

**7.104.2 INSTITUTIONAL ABUSE AND/OR NEGLECT - GROUNDS FOR ASSESSMENT [Eff. 1/1/15]**

This section addresses assessments of referrals alleging institutional abuse and/or neglect as defined in Section 7.000.2 except that a referral of a minor injury resulting from physical restraint shall not, by itself, require an assessment unless there are surrounding circumstances that would indicate abusive and/or neglectful behavior by the care provider.

Such circumstances include referrals alleging:

- A. Abusive or neglectful behavior,
- B. A pattern of frequent injuries by the same caregiver/staff, and/or
- C. Similar incidents in the same facility.

**7.104.21 Agency Responsible for Conducting Institutional Abuse and/or Neglect Assessment [Eff. 1/1/15]**

- A. The county department in which the facility named in the referral is located shall conduct the assessment. The assessment shall follow the institutional abuse and/or neglect protocol described in Section 7.104.22.
- B. The assessment shall be conducted by a qualified and neutral party in those situations in which the county department is the supervisory agency, such as for certified county foster and group homes. Such an assessment shall be arranged for by the responsible county department with either another county department, another agency within the community who accepts delegated responsibility, or a disinterested and qualified staff person within the county department.

**7.104.22 Institutional Abuse and/or Neglect Assessment – Timing and Requirements [Rev. eff. 11/1/15]**

The county department conducting the assessment shall assign priority in response time using the criteria set forth in Section 7.103.61, B.

- A. A face-to-face interview with the alleged victim child(ren) according to procedures for interviewing children described in Section 7.104.1.
- B. The assessment shall include the following actions:
  - 1. A face-to-face interview with the alleged victim child(ren) according to procedures for interviewing children described in Section 7.104.1 and the following:
    - a. The alleged victim child(ren) shall be interviewed in a setting which is as neutral as possible and where confidentiality can be maintained;
    - b. The alleged victim child(ren) shall not be taken off the grounds for the interview unless the county department has court ordered custody or law enforcement has taken the child into protective custody;
    - c. The person(s) alleged to be responsible for the abuse and/or neglect and other related parties (i.e., foster parents, spouse or other facility staff) shall not be allowed to be present during the interview with the alleged victim child(ren); and,

- d. The county department shall, if necessary, obtain a court order to access the alleged victim child(ren) if the facility refuses access.
  - 2. The assessment shall determine if there are other victim child(ren) not named in the referral and immediately assess the safety of those individuals.
  - 3. The assessment shall obtain the names and addresses of any other alleged victim child(ren) who may no longer be in the facility and interview those individuals, if appropriate.
  - 4. The assessment shall include interviews of witnesses, including children and staff who may have additional information.
  - 5. The assessment shall include making reasonable efforts to interview and advise the person(s) alleged to be responsible for the abuse and/or neglect of the referral and afford such person(s) an opportunity to respond to the allegations.
  - 6. The assessment shall include obtaining a detailed description of the incident and of the injuries and an assessment of the appropriateness of physical management or restraint if this was involved.
  - 7. If applicable, the assessment shall include documentation of compliance with the reasonable and prudent parent standard in Section 7.701.200, F.
- D. If at any point during the assessment, a county department becomes aware that a child/youth is, or is alleged to be, a victim of sex trafficking, the county department shall:
- 1. Report immediately, and no later than twenty-four (24) hours from when the county department becomes aware, to the local law enforcement agency; and,
  - 2. Document the details of the report to law enforcement in the state automated case management system.

**7.104.23 Documentation – Report Required [Eff. 1/1/15]**

- A. A written report of the assessment documented in the state automated case management system shall be prepared by the county department that conducted the assessment within sixty (60) calendar days after receipt of the referral.
- B. A report shall be provided as described below:
  - 1. A written report shall be provided to the facility administrator/director.
  - 2. A written report shall be provided to the agency with licensing/certifying authority.
  - 3. The Institutional Abuse Review Team, Early Childhood and Learning Division, and the State Department's Twenty-Four (24) Hour Monitoring Team, when the incident involves a twenty-four (24) hour care facility shall be provided a report through the state automated case management system.
  - 4. The same custodial counties as required in Section 7.104.24 shall be provided a report through the state automated case management system.
- C. The report shall include, at a minimum, the following information:

1. Name(s) of person(s) alleged to be responsible for the abuse and/or neglect;
2. The name(s), age(s), and duration of the alleged victim child(ren)'s placement in the facility being assessed;
3. The name of the facility and the county in which it is located;
4. The name of director/administrator of the facility;
5. The approximate number of children served by the facility;
6. The age range of children served by the facility and type of children served (e.g., child with developmental disabilities);
7. A summary of activities involved in the assessment, including a list of the individuals interviewed;
8. A summary of findings or conclusions, including the information on which the findings or conclusions are based; and,
9. A summary of the recommendations and/or need for an identified corrective or remedial action.

**7.104.24 Notice [Eff. 1/1/15]**

A. The following individuals shall receive notice:

1. The licensing authority or certifying unit shall be notified that a referral concerning abuse and/or neglect has been received within one (1) working day after receipt of the referral.
2. The licensing authority or certifying unit shall be notified if the assessment indicates there is an immediate threat to the child(ren)'s health, safety, or welfare within one (1) working day of such determination.
3. Custodial agencies, including county departments, other states, and appropriate divisions of the State Department shall be notified as follows:
  - a. Immediately, if there are safety issues or if an injury requires medical treatment; and,
  - b. Following completion of the assessment, if a child in their custody was the subject of a referral or if the assessment reveals concerns regarding the child care practices which could negatively impact the child(ren).
4. Parents or legal guardians of alleged child(ren) victim(s) shall be notified as follows:
  - a. By the custodial counties when alleged abuse and/or neglect occurs in out-of-home care setting;
  - b. By the assessing county when there is no custodial county;
  - c. By the assessing county when alleged abuse and/or neglect occurs in less than twenty-four (24) hour child care with notification provided prior to an interview with child(ren), when possible;

- d. When an assessment is being or has been conducted on a referral of abuse and/or neglect; and shall include the nature of the alleged abuse and/or neglect and the findings of the assessment; and,
  - e. If circumstances do not allow for direct contact, then notification of the allegations of abuse and/or neglect and findings shall be provided in writing.
- 5. Parents or legal guardians of uninvolved children in less than twenty-four (24) hour licensed child care settings shall be given notice of an assessment within seventy-two (72) hours when it has been determined by the State Department or county department that:
  - a. The incident of alleged child abuse and/or neglect that prompted the assessment is at the level of a moderate, severe, or fatal incident of abuse and/or neglect, or involves sexual abuse;
  - b. Notice to the parents or legal guardians of the uninvolved children is essential to the assessment of the specific allegation of abuse and/or neglect or is necessary for the safety of children cared for at the facility; and,
  - c. A determination has been made and a state or county department supervisor has provided written approval of the determination for which basis and approval may be in electronic form.
- 6. The director of the facility or director's designee shall be:
  - a. Apprised of the allegation of abuse and/or neglect; and,
  - b. Advised regarding the results of the assessment and provided a verbal report immediately once a determination is made. If the county department is unable to make a determination regarding the person(s) alleged to be responsible for abuse and/or neglect, the director shall also be advised so that decisions regarding the continued employment of the employee can be made by the facility.
- 7. Guardians ad litem of alleged victims, by the custodial county when there is an assessment of an allegation of abuse and/or neglect in out-of-home care.

### **7.104.3 THIRD-PARTY ABUSE AND/OR NEGLECT – GROUNDS FOR ASSESSMENT [Eff. 1/1/15]**

This section addresses assessments of referrals alleging abuse and/or neglect by a third-party, as defined in Section 7.000.2, who is not related to the alleged victim child(ren) in the contexts described in the previous sections addressing intrafamilial and institutional abuse and/or neglect.

#### **7.104.31 Third-Party Abuse and/or Neglect Assessment- Timing and Requirements**

- A. When the referral alleges abuse and/or neglect by a third-party ten (10) years of age or older, the county department shall immediately forward the referral to the appropriate law enforcement agency for screening and investigation.
- B. When the referral alleges human trafficking of a minor the county department shall forward the referral to the appropriate law enforcement agency.
- C. When the referral alleges the abuse and/or neglect by a child under ten (10) years of age, county departments shall be the agency responsible for the assessment. The assessment shall focus on:

1. Whether or not the incident occurred;
  2. The entire situation including the actions or omissions of adults who are responsible for care of the children involved; and,
  3. Any interventions that may be necessary to secure safety and address treatment needs.
- D. If a county department reasonably believes that the protection and safety of a child is at risk due to an act or omission on the part of the persons responsible for the child's care, the county department shall make a referral concerning intrafamilial abuse and/or neglect.1/1/15]

**7.104.32 Documentation – Report from Law Enforcement [Eff. 1/1/15]**

County departments shall attempt to obtain a copy of the report summarizing any investigation that was conducted by law enforcement. If the report is obtained, it shall be the basis upon which the county department enters a founded finding of abuse and/or neglect into the state automated case management system.

**7.105 Assessments Involving Allegations of A Youth In Conflict**

- A. The youth in conflict assessment shall be used based on the following criteria:
1. The referral is assigned for assessment;
  2. The referral meets the definition of youth in conflict, as defined in section 7.000.2; and
  3. The referral does not contain any new allegations of abuse and/or neglect.
- B. The assessment at a minimum shall include:
1. Face-to-face contact with the child/youth alleged to be a youth in conflict if the child/youth is able to be located.
  2. Face-to-face contact with the primary caregiver;
  3. Assessing the likelihood of substantial harm resulting from the conflict and the caregiver's response to the conflict;
  4. Considering the strengths and needs of the household;
  5. Considering appropriate resources for the child/youth and the household;
  6. Making efforts to engage non-custodial parent(s);
  7. Making reasonable efforts to prevent out of home placement which includes: engaging family and extended family including sibling/s and their families in supporting the child/youth in conflict and their caregiver; providing in home services if appropriate and available; and engaging family and extended family in securing a kinship placement if needed;
  8. The use of the Colorado Family Safety Assessment Tool as described in section 7.107.2;
  9. The use of the Colorado Risk Assessment Tool as described in section 7.107.2;

10. If at any point during the assessment, it becomes apparent that the child/youth is demonstrating symptoms of a mental health disorder, intellectual and/or developmental disability (IDD), a referral shall be made to a mental health and/or IDD provider for prescreening and services;
11. If at any point new information is gathered that contains information defined in section 7.103, a new referral shall be generated; and
12. Documentation of assessment activities within the statewide automated child welfare information system.

**7.106 ADDITIONAL CATEGORIES OF ASSESSMENTS [Eff. 1/1/15]**

**7.106.1 EGREGIOUS INCIDENTS OF ABUSE AND/OR NEGLECT, NEAR FATALITIES, OR CHILD FATALITIES [Eff. 1/1/15]**

The requirements of this section address assessments of referrals of an incident of suspected abuse and/or neglect involving any of the following circumstances:

- A. Significant violence, torture, use of cruel restraints, or other similar, aggravated circumstance;
- B. A child has died; or,
- C. A physician has determined that a child is in serious, critical, or life-threatening condition as a result of sickness or injury.

**7.106.11 Assessment Procedures – Timing and Requirements [Eff. 1/1/15]**

- A. County departments shall conduct a High Risk Assessment (HRA), or traditional response assessment of egregious incidents of abuse and/or neglect, a near fatality, or a child fatality in intrafamilial and institutional settings in those cases in which:
  1. There is reason to know or suspect that abuse and/or neglect caused or contributed to the incident; or,
  2. The cause of the incident is unknown or the information given is not consistent with the degree or type of injury and/or subsequent death.
- B. County departments shall:
  1. Coordinate with the following agencies to ensure prompt notification of an incident of egregious abuse and/or neglect, near fatality, or fatality of a child, which is suspicious for abuse and/or neglect:
    - a. Law enforcement;
    - b. District attorney's office;
    - c. Coroner's office; and,
    - d. Hospitals.

2. Coordinate the assessment with law enforcement. At a minimum in cases in which there are no surviving children, county departments shall provide law enforcement and the coroner with information related to any prior involvement with the child, the family, or the person alleged to be responsible for the abuse and/or neglect.
3. Assess the condition of any surviving child(ren) and take action necessary to ensure their protection by:
  - a. Visiting the child(ren)'s home or place of custody;
  - b. Interviewing and/or observing the child(ren);
  - c. Examining the child(ren) to include an assessment of the child(ren)'s overall current physical, mental, or emotional condition;
  - d. Assessing the safety of the home environment, to include an interview with the parents, guardians, and/or legal custodians; and,
  - e. Seeking an emergency protective order only when there are reasonable grounds to believe that a surviving or non-injured child(ren) is at risk of severe emotional or physical harm in his/her home environment.

**7.106.121 Additional Actions When County Department has had Prior/Current Involvement**

- A. When a county department has custody of the child/YOUTH and/or protective supervision, it shall immediately take the following actions:
  1. Notify the parents, guardians, and/or legal custodians of the incident. If the parents, guardians, and/or legal custodians reside in another county or state, the county department shall coordinate with the county department of residence for the parents, guardians, and/or legal custodians to provide personal notification, whenever possible.
  2. Notify the sibling/s in an age-appropriate and developmentally appropriate manner of the event and any placement changes from the Department of Human Services directly or indirectly in consideration of the victim's preferences when possible.
  3. Notify the director of the county department of the incident. The county director shall also be immediately notified if the department has had prior child welfare involvement within the last three (3) years that was directly related to the egregious incident of abuse and/or neglect, near fatality or fatality to include referrals that have been screened out. A complete copy of the child/youth's case record shall be made available to the director of the county department.
  4. Notify the court, the attorney for the county department, and the Guardian Ad Litem (when one has been assigned) of the incident involving any child/youth who is under the court's jurisdiction.
- B. Upon notification of an egregious incident of abuse and/or neglect, near fatality or fatality in which the county department has had prior child welfare involvement within the last three (3) years with the child, family, or person alleged to be responsible for abuse and/or neglect, the director of the county department shall take the following actions:



1. Designate an individual(s) who will be responsible for assessing the egregious incident of abuse and/or neglect, near fatality or fatality. In the event of a conflict of interest, the county department shall arrange for the assessment to be conducted by another county department with personnel having appropriate training and skill.
  2. When a county department determines that an incident of egregious abuse and/or neglect, near fatality, or fatality of a child is founded for child abuse and/or neglect, the director shall ensure that the county department conducts a complete internal administrative review of any child welfare involvement in the case prior to the egregious incident of abuse and/or neglect, near fatality or fatality. This review shall be referred to as the county department's internal review and shall be completed whenever the county department has had current or prior involvement with the child, family or person alleged to be responsible for the abuse and/or neglect, within the last three (3) years. The review shall include, at a minimum:
    - a. Assessment of the interventions made by the county department.
    - b. Evaluation of the case plan.
    - c. Identified areas of strengths and/or weaknesses in the casework process.
    - d. Analysis of any systemic issues that may have led to delays or oversights.
    - e. Evaluation of the role played by other community agencies and the overall case coordination.
    - f. Recommendations for staff training or changes in the system that would avoid other similar occurrences.
  3. Submit a written report of the county department's internal review within ninety (90) calendar days of the initial notification of the egregious incident of abuse and/or neglect, near fatality or fatality to the State Department.
- C. If another county department also has current and/or prior involvement with the child, family or person alleged to be responsible for the abuse and/or neglect within the three (3) year period of the incident of egregious abuse and/or neglect, near fatality or fatality (including referrals that were screened out), the State Department shall decide whether a county department internal review report will be required.

**7.106.13 Reporting to the State [Eff. 9/1/2018]**

- A. Within twenty-four (24) hours (excluding weekends and holidays) of a county department becoming aware of an egregious incident of abuse and/or neglect, or near fatality or fatality of any child, which is suspicious for abuse and/or neglect, the county department shall call or email the following known information to the State Department which shall also be documented on the state prescribed form:
1. Name and age of victim;
  2. The referral identification number generated by the state automated case management system;
  3. Known circumstances around the egregious incident of abuse and/or neglect, near fatality or fatality;

4. A description of physical injuries or medical condition of the child(ren) at the time of receipt of the information;
  5. The names and ages of surviving or non-injured child(ren) who may be at risk;
  6. A brief description of family/caregiver's prior involvement with child welfare, if any;
  7. The actions taken by the county department to date and future actions to be taken;
  8. The involvement of other professionals in the case;
  9. Whether the child was in out-of-home placement at the time of the incident; and,
  10. For fatal incidents, the county shall enter the child's date of death in the state automated case management system.
- B. Upon notification of an egregious incident of abuse and/or neglect, near fatality or fatality, the county department shall take the required steps to restrict access to the state automated case management system to the current assessment of the egregious incident of abuse and/or neglect, near fatality or fatality, and any prior involvement in the state automated case management system regarding this child, the child's family members, and the person(s) suspected of the abuse and/or neglect. Access shall remain restricted until the conclusion of the state child fatality review, at such time the county department shall determine whether the records shall be unrestricted.
- C. The county department shall provide the following information to the State Department within sixty (60) calendar days of the initial notification of the egregious incident of abuse and/or neglect, near fatality or fatality, to the extent possible, and no longer than sixty (60) calendar days without a written request from the county department for an extension and subsequent State Department approval granting an extension:
1. The completed referral/assessment summary in the state automated case management system;
  2. Copies of any pertinent social, medical, and mental health evaluations of all involved subjects (child(ren), family, caregivers, etc.);
  3. Coroner's records, including autopsy report;
  4. Police reports of present investigation as well as any prior criminal history of all subjects;
  5. A copy of any of the case record not obtainable in the state automated case management system;
  6. A statement of any human services and Medicaid assistance or services that were being provided to the child and are recorded in the state automated case management system, the Colorado Benefits Management System, or the Colorado child care automated tracking system, any member of the child's family, or the person alleged to be responsible for the abuse and/or neglect; and,
  7. The age, income level, and education of the legal caregiver at the time of the fatality.

**7.106.14 State Review of an Incident of Egregious Abuse or Neglect, Near Fatality or Fatality of a Child [Eff. 1/1/15]**

When a county department determines that an incident of egregious abuse and/or neglect, near fatality, or fatality of a child is founded for child abuse and/or neglect, and where a county department had previous involvement within 3 years prior to the date of the incident, the county department shall submit reports outlined in 7.106.13 C for review by the State Department in accordance with Section 7.106 of this rule, and cooperate with the State Department's review. The State Department shall conduct a multidisciplinary review of such cases, where a county department had previous involvement in the three years prior to the incident of egregious abuse and/or neglect, near fatality, or fatality. A county representative(s) from each county having previous involvement in the three years prior to the incident shall participate in the multidisciplinary review in person, by telephone, or through other emerging technology. The State Department Child Fatality Review shall occur within forty-five (45) business days of the State Department receiving all required and relevant reports and information critical to an effective fatality review. These reviews shall include:

- A. The circumstances around the incident of egregious abuse or neglect against a child, near fatality, or child fatality;
- B. The services provided to the child, the child's family, and the perpetrator by the county department for any county with which the family has had previous involvement, as defined in paragraph (c) of subsection (2) of this section, within three years prior to the incident of egregious abuse or neglect against a child, near fatality, or fatality of a child due to abuse or neglect;
- C. The county department's compliance with statutes, regulations, and relevant policies and procedures that are directly related to the incident of egregious abuse or neglect against a child, near fatality, or fatality;
- D. Identification of strengths and best practices of service delivery to the child and the child's family;
- E. Consideration of factors that may have contributed to conditions leading to the incident of egregious abuse or neglect against a child, near fatality, or fatality, including, but not limited to, lack of or unsafe housing, family and social supports, educational life, physical health, emotional and psychological health, and other safety, crisis, and cultural or ethnic issues;
- F. The supports and services provided to siblings, family members, and agency staff after the incident of egregious abuse or neglect against a child, near fatality, or fatality; and,
- G. The quality and sufficiency of coordination between state and local agencies

**7.106.15 CASE SPECIFIC REVIEW REPORT [Eff. 1/1/15]**

The Department will author confidential and non-confidential case specific review reports in accordance with Section 26-1-139, C.R.S. As part of this process, the Department shall request a response to the case specific review report from any county having previous involvement with the family as defined in Section 26-1-139(2)(c), C.R.S., and include the response(s) in the final confidential and non-confidential report.

**7.106.16 CHILD FATALITY REVIEW TEAM ANNUAL REPORT [Eff. 1/1/15]**

By July 1 of each year, the Department will author an annual Child Fatality Review Team report. It shall contain the following information:

- A. Policy recommendations based on the collection of reviews required by Section 26-1-139(5)(a), C.R.S.

- B. Status of recommendations made in prior case specific, executive summary reports. This shall include all recommendations from publicly posted reports from the most recent, complete calendar year and all recommendations from prior years that were not completed at the time of the last annual report.
- C. Aggregate demographic data. This may include, but not be limited to, data such as age of children at the time of the incident, race/ethnicity of the children, relationship of the perpetrator to the child, and other factors determined to be of importance.
- D. A summary of review findings from reports completed on incidents from the most recent complete calendar year.
- E. Joint recommendations made with the Colorado Department of Public Health and Environment's Child Fatality Prevention System as required by Section 25-20.5-407(1)(i), C.R.S.

**7.106.2 MEDICAL NEGLECT OF INFANTS AND TODDLERS WITH DISABILITIES – GROUNDS FOR ASSESSMENT [Eff. 1/1/15]**

The requirements of this section address assessments of referrals of medical neglect involving:

- A. Infants less than one (1) year of age who were born with a life-threatening condition and who may have additional non-lethal physical or mental disabilities; or,
- B. Toddlers under three (3) years of age who have been continuously hospitalized since birth, who were born extremely premature, or who have a long-term disability.

**7.106.21 Agency Responsible for Conducting the Assessment [Eff. 1/1/15]**

- A. The county department responsible for conducting the assessment of a referral of medical neglect shall be the county in which the caregivers of the hospitalized infant reside.
- B. If the caregivers' residence cannot be determined, the county department in which the hospital is located shall be responsible for conducting the assessment.

**7.106.22 Assessment Procedures – Timing and Requirements [Eff. 1/1/15]**

County departments shall:

- A. Work with medical organizations, hospitals, and health care facilities to implement procedures that ensure a timely response and resolution of referrals of medical neglect;
- B. Obtain all relevant medical data concerning the child. County departments shall seek a court order to obtain records if the request for such material is refused;
- C. Coordinate with any existing hospital review committees, which may have evaluated and recommended treatment in the case under assessment;
- D. If, after assessing the medical neglect referral, there are indications that the referral of medical neglect may be founded, the county department shall interview the parent(s); and,

- E. Refer the matter to the local law enforcement agency in cases in which the infant has died before the assessment is completed and the county department has reason to suspect withholding of medically indicated treatment. The matter shall be referred to the law enforcement agency in the location where the child died. However, if it is determined that treatment was not medically indicated, or that medically-indicated treatment had not been withheld, then the report shall be deemed unfounded.

**7.106.23 Medical Decisions Regarding Infants and Toddlers [Eff. 1/1/15]**

- A. County department staff shall make no medical decisions regarding infants and toddlers and shall seek an independent medical consultation when indicated.
- B. If the parent(s) wish to seek a second medical opinion, the county department shall provide referral assistance.
- C. If the county department finds that an independent medical evaluation is necessary to determine the infant or toddler's medical prognosis, the county department shall recommend to the parent(s) that an independent medical evaluation be done.
- D. If the county department determines that medically-indicated treatment or palliative care is being or will be withheld; and:
  - 1. The infant or toddler's condition requires an urgent response, or,
  - 2. Efforts by the county department or hospital personnel to obtain parental consent to treatment would be futile or already have failed, then the matter shall be brought to court under a petition. The petition may include a request to place temporary custody of the child with the county department to ensure proper medical treatment is provided. The county department shall immediately secure a court order if indicated.

**7.106.3 ASSESSMENT OF MEDICAL NEGLECT IN WHICH RELIGIOUS CONSIDERATIONS ARE INVOLVED - GROUNDS FOR ASSESSMENT [Eff. 1/1/15]**

County departments shall assess cases of medical neglect including those cases in which there is a failure to provide medical treatment based upon the parent's, guardian's, or custodian's religious beliefs and there is concern that such failure will result in a threat to child's health and welfare.

**7.106.31 Assessment Procedures – Timing and Requirements [Eff. 1/1/15]**

The assessment shall be conducted as described below:

- A. The county department shall obtain a medical evaluation if the child's condition presents substantial concern for the child's health and welfare. This evaluation shall be obtained with the consent of the parents, guardians, or legal custodians. If such consent is refused, the county department shall seek a court order to obtain medical evaluation;
- B. The county department shall consult with medical practitioners and consider whether the child's condition is life-threatening or will result in serious disability without professional medical care; and,

- C. If the child's condition is determined to be life-threatening or could result in serious physical impairment or serious disability without professional medical care, the county department shall seek a court order authorizing the provision of the necessary medical care in the event that such care is refused by the parent, guardian, or legal custodian. The county department may, but is not required to, seek temporary custody of the child in order to obtain judicial authorization for treatment.

**7.106.32 Spiritual Healing Considerations [Eff. 1/1/15]**

If spiritual healing is involved, the county department shall follow the guidelines defined in Section 19-3-103(2)(a), (b), C.R.S., to decide whether the method is a "recognized" method of religious healing and whether such healing is considered to be medically effective for the child's condition.

**7.106.33 Impact of Parental Interference on Findings [Eff. 1/1/15]**

- A. If a parent, guardian, legal custodian, or caregiver inhibits or interferes with the provision of medical evaluation or treatment according to a court order, that act would constitute neglect and in such circumstances a referral shall be made to law enforcement and the county department may file a dependency and neglect petition.
- B. For purposes of entering founded findings of abuse and/or neglect into the state automated case management system, reporting to police for criminal investigation, and filing of dependency and neglect petitions, no child who is under treatment by a recognized method of religious healing shall, for that reason alone, be considered to have been neglected and dependent unless the child's parent, legal guardian, custodian, or caregiver inhibits or interferes with the provision of medical services according to court-ordered medical evaluation or treatment.

**7.106.4 Safe Haven Voluntarily Surrendered Infant Grounds for Assessment**

The requirements of this section address assessments of referrals when an infant is voluntarily surrendered to staff at a hospital, community clinic emergency center, or fire station within 72 hours of birth and the parent does not express an intent to return for the infant in accordance with section 19-3-304.5, C.R.S. Requirements set forth in section 7.104 through 7.104.15 do not apply to safe haven voluntarily surrendered infant assessments.

**7.106.41 Agency Responsible for Conducting the Assessment**

The county department responsible for conducting the assessment of a referral of a safe haven voluntarily surrendered infant shall be the county in which the infant was voluntarily surrendered.

**7.106.42 Assessment Procedures – Timing and Requirements**

County departments shall:

- A. Assign priority in response time using the criteria set forth in section 7.103.60.
- B. Conduct a face-to-face observation with the alleged victim child in accordance with the assigned response time.
- C. Conduct a check with law enforcement for reported missing infants.
- D. Place the infant in a potential adoptive home.
- E. Open a case to pursue permanency.

- F. Report the assessment to the state department within 5 business days of receiving a referral of a voluntarily surrendered infant.
- G. If additional allegations of known or suspected abuse and/or neglect are identified during the course of the assessment, the requirements set forth in sections 7.104 through 7.104.15 shall apply.

**7.106.43 Findings**

- A. A parent shall not be the subject of a confirmed allegation of abuse and/or neglect solely based on surrendering an infant pursuant to section 19-3-304.5, C.R.S.

**7.106.44 Documentation Required at Conclusion of Assessment**

- A. Enter a closure summary containing a brief summary of initial concerns and any additional concerns discovered during the assessment and the actions that were taken.
- B. The assessment shall be approved by a certified supervisor and closed within sixty (60) calendar days of the date the referral was received.

**7.107 INSTRUMENTS, TOOLS, AND INTERVIEW PROCEDURES**

The following instruments, tools, and procedures are intended to assist county departments in making informed and reliable decisions.

**7.107.1 COLORADO FAMILY SAFETY ASSESSMENT TOOL [Rev. eff. 1/1/17]**

There shall be a transition period for completion of training and access to the new Colorado Family Safety Assessment Tool in the state automated case management system. All county child welfare case carrying staff and supervisors shall be trained and have access to the new tool by January 1, 2017.

**7.107.11 Parameters for Use of the Colorado Family Safety Assessment Tool**

The Colorado Family Safety Assessment shall be completed:

- A. At the time of initial response with household members.
- B. As soon as additional household members are available, each household member shall be assessed using the current or impending dangers identified in the Colorado Family Safety Assessment tool.
- C. If household members are not available at the time of initial response, the Colorado Family Safety Assessment shall be completed based on the information available and based on the interview or observation of the alleged victim child(ren)/youth and/or child/youth in conflict.
- D. If no current or impending danger is identified within 14 calendar days through the Colorado Family Safety Assessment, interviews with additional household members identified outside of the 14 calendar days, shall be documented in the state automated case management system.
- E. At the time of contact with the alleged victim child(ren)/youth and/or child/youth in conflict, or other family members and current or impending danger is identified, the entire Colorado Family Safety Assessment tool shall be completed.
- F. The tool shall be completed using available information and accessible household members to mitigate the danger.

- G. Prior to end dating a safety plan.
- H. Whenever there is a significant change in household circumstances or situations that might pose a new or renewed threat to the safety of child(ren)/youth.
- I. Prior to reunification.
- J. Prior to child(ren)/youth returning home.
- K. In all program area 5 (PA 5) referrals being assessed, except:
  - 1. Institutional abuse assessments, as described in section 7.104.22;
  - 2. Fatality assessments when there are no surviving siblings, or
  - 3. When caregivers have abandoned an infant as described in C.R.S. 19-3-304.5.

**7.107.12 Safety Threshold [Eff. 1/1/17]**

The following criteria shall be present to determine that current or impending danger exists. Meeting these criteria indicates that the household members behavior, condition or situation threatens the safety of a child(ren)/youth:

- A. The threat to child(ren)/youth safety is specific and observable;
- B. Conditions reasonably could result in moderate to severe harm to a child(ren)/youth;
- C. This harm is likely to occur if not resolved;
- D. A child(ren)/youth is vulnerable to the threat of harm as defined in the Colorado Family Safety Assessment tool, and/or through professional observation; and,
- E. The caregiver(s) is unable and/or unwilling to control conditions, situation and/or behaviors that threaten child(ren)/youth safety.

**7.107.13 Assessment of Current or Impending Danger [Eff. 1/1/17]**

- A. The county department shall use the current or impending dangers outlined in the Colorado Family Safety Assessment tool to assess for the safety of identified child(ren)/youth.
- B. The list of current or impending danger descriptions shall be referenced when assessing threats to child(ren)/youth safety and prior to checking current or impending dangers in the Colorado Safety Family Assessment Tool.

**7.107.14 Safety Assessment Decision [Eff. 1/1/17]**

- A. If none of the current or impending dangers In The Colorado Family Safety Assessment tool are identified, the remaining required sections of the tool shall be completed within fourteen (14) calendar days and no further safety intervention is required.
- B. If assessment of the child(ren)/youth and household members determines that the child(ren)/youth is safe and emergency out-of-home placement occurred prior to the completion of the Colorado Family Safety Assessment, efforts should be made to return responsibility for the child(ren)/youth's safety back to the caregiver(s).



- C. The caregiver strengths and protective capacity shall be assessed using the strengths and protective capacities listed in the Colorado Family Safety Assessment tool to determine whether a caregiver has the capacity and willingness to assure the child(ren)/youth's protection.
- D. If the assessment of the child(ren)/youth and household members determines the child(ren)/youth is unsafe, further assessment, analysis and planning are necessary as described in 7.107.17.

**7.107.15 Actions that Respond to Current or Impending Danger [Eff. 1/1/17]**

The action required shall be determined and based on the completion of the Colorado Family Safety Assessment tool as follows:

- A. If no current or impending danger to the child(ren)/youth has been identified as a part of the assessment, no further safety intervention is required;
- B. If current or impending danger to the child(ren)/youth has been identified as a part of the Colorado Family Safety Assessment tool and caregivers' strengths, protective capacities and/or actions control for the identified danger, no further safety intervention is required; or,
- C. If current or impending danger has been identified and caregiver(s) or family actions do not control the current or impending danger, safety intervention analysis is required.

**7.107.16 Safety Intervention Analysis [Eff. 1/1/17]**

- A. When current or impending danger is identified as described in section 7.107.15 (c) one of the following shall be initiated:
  - 1. A safety plan shall be developed that can reasonably be expected to control for identified current or impending danger to the child(ren)/youth; or,
  - 2. Human or social service's custody shall be obtained if it is the only plan that sufficiently controls for the current or impending danger.

**7.107.17 Safety Planning [Eff. 1/1/17]**

- A. A safety plan shall be developed for all child(ren)/youth in current or impending danger when a safety plan can reasonably be expected to control for identified dangers.
- B. Safety plans shall be reviewed and approved by a supervisor as soon as possible and no later than twenty-four (24) hours from the interview or observation with the alleged victim child(ren)/youth.
- C. Safety plans shall be documented in the state automated case management system no later than fourteen (14) calendar days from the date the alleged victim child(ren)/youth was interviewed or observed.
- D. Safety plans shall include the following:
  - 1. Identification of each family member and safety management provider who is participating in the plan;
  - 2. A description of actions to be taken that address each specific current or impending danger, including:
    - A. Frequency of each action;

- B. Who is responsible for each action;
  - C. The safety response shall have an immediate impact on controlling the identified current or impending danger; and,
  - D. Be readily accessible at a level required to ensure safety.
- 3. When available, caregiver(s) acknowledgement of current or impending dangers and willingness to participate in the safety plan; and,
  - 4. Caseworker activities to oversee the safety plan.
- E. Parents, caregivers, and others who are a part of the safety plan shall sign the safety plan and receive a copy. The signatures and paper form shall be retained in the file.
  - F. Safety plans shall not be developed if the safety analysis results in the decision that human or social services custody is the only plan that is sufficient to control for all identified current of impending danger.

**7.107.18 Timing and Documentation [Eff. 1/1/17]**

- A. The Colorado Family Safety Assessment tool shall be completed with household members at the time of the contact and documented in the state automated case management system no later than fourteen (14) calendar days.
- B. The Colorado Family Safety Assessment tool shall be approved by a supervisor as soon as possible and no later than fourteen (14) calendar days from the date the alleged victim child(ren)/youth was interviewed or observed.
- C. If the child(ren)/youth is determined to be in current or impending danger, the remainder of the Colorado Family Safety Assessment tool shall be completed at the time of contact with available information and accessible household members to determine the actions needed that respond to the current or impending danger and shall be documented in the state automated case management system within fourteen (14) calendar days of the alleged victim child(ren)/youth interview or observation.
- D. If the child(ren)/youth is determined to be in current or impending danger, the safety assessment, safety plan, or decision to initiate human or social services custody shall be reviewed and approved through contact with a supervisor as soon as possible and no later than twenty-four (24) hours from the interview or observation with the alleged victim child(ren)/youth. Supervisor contact and approval shall be documented in the state automated case management system within fourteen (14) calendar days of the alleged victim child(ren)/youth interview or observation.

**7.107.2 Colorado Family Risk Assessment Tool [Rev. eff. 7/10/17]**

There shall be a transition period for completion of training and access to the new Colorado Family Risk Assessment Tool in the state automated case management system. All county child welfare case carrying staff and supervisors shall be trained and have access to the new tool by January 1, 2017.

**7.107.21 Parameters for Use of the Colorado Family Risk Assessment Tool [Eff. 1/1/17]**

- A. The Colorado Family Risk Assessment tool shall be completed:
  - 1. With the household members;

2. As part of any Program Area 5 assessment, except:
  - a. Institutional assessment as described in section 7.104.22;
  - b. Fatality assessment when there are no surviving siblings; or,
  - c. When caregivers have abandoned an infant as described in C.R.S. 19-3-304.5.
- B. The Colorado Risk Assessment Tool shall be used to:
  1. Determine risk for future abuse and/or neglect;
  2. Aid in determining if services should be provided; and,
  3. Aid in determining the appropriate level of services.

**7.107.22 Procedures for Completing the Colorado Family Risk Assessment Tool [Eff. 1/1/17]**

The Colorado Family Risk Assessment tool shall be completed with the family, and shall address all areas of risk on the tool.

**7.107.23 Risk Analysis [Eff. 1/1/17]**

If the risk assessment score is high, the county shall document reasonable efforts to hold a family engagement meeting to discuss next steps with the family.

**7.107.24 Timing and Documentation [Eff. 1/1/17]**

- A. The completed Colorado Family Risk Assessment shall be documented in the state automated case management system within thirty (30) calendar days from the date the referral was received.
- B. Family Engagement Meetings shall be documented in the framework in the state automated case management system.
- C. If the risk assessment score is high and the county department decides to close the assessment without providing services, the county department shall document in the statewide case management system how they reached the decision.

**7.107.3 YOUTH SAFETY ASSESSMENT TOOL (Reserved for Future Use)**

**7.107.4 COLORADO HUMAN TRAFFICKING SCREEN PARAMETERS FOR USE:**

The Colorado human trafficking screen shall be completed:

- A. Anytime a county accepts a referral for assessment with human trafficking concerns.
- B. Anytime during an open assessment or case where new concerns related to human trafficking arise.
- C. Anytime a child/youth in state custody returns to care from runaway or missing status

**7.107.5 Colorado Plan of Safe Care parameters for use**

The Colorado Plan of Safe Care shall be completed:

- A. Any time a referral is accepted for assessment and the child meets the definition of substance exposed newborn as described in 19-1-103(1)(a)(vii), C.R.S and 19-3-102(1)(g), C.R.S.
- B. The Colorado Plan of Safe Care shall be completed based on the information available and based on the interview or observation of the alleged victim child(ren) and in collaboration with parents, caregivers, medical providers, and others who may be a part of the plan.
- C. A Colorado Plan of Safe Care shall be documented in the state automated case management system and approved within sixty (60) calendar days from the date the referral was received.

**7.107.51 When to complete a Colorado Plan of Safe Care**

The action required shall be determined and based on an assessment that contains an allegation of substance exposed newborn as follows:

- A. If a Colorado Plan of Safe Care has not been created by a medical, treatment or community provider, the caseworker shall create a Colorado Plan of Safe Care, and/or;
- B. When a Colorado Plan of Safe Care has been developed by a medical, treatment or community provider, the caseworker shall update the Colorado Plan of Safe Care to reflect the current circumstances.

**7.108 DEFERRAL PROCESS – WHEN PERMITTED [Eff. 1/1/15]**

- A. County departments may follow the deferral process in the following circumstances:
  - 1. When the person has had no previous allegations of abuse and/or neglect assessed;
  - 2. When the abuse and/or neglect that the person is found to be responsible for is at the level of minor incident of abuse and/or neglect, pursuant to Section 7.000.2;
  - 3. When the person found to be responsible for the abuse and/or neglect and the county department decide on a mutually agreeable method for resolving the issues related to the referral; and,
  - 4. When the requirements set forth in the agreement for resolving the issues related to the referral of abuse and/or neglect can be completed within sixty (60) calendar days after the receipt of the referral.
- B. County departments are not obligated to enter into any agreements to defer entering a finding of founded abuse and/or neglect into the state automated case management system.
- C. The agreement shall be in writing and signed by the caseworker and the person found to be responsible for the abuse and/or neglect, and reviewed by the supervisor.
- D. Upon deciding to enter into the deferral process, the county department shall document the decision in the state automated case management system.

**7.108.1 DEFERRAL PROCESS COMPLETED [Eff. 1/1/15]**

If the person who is found to be responsible for the abuse and/or neglect completes the agreement, as determined by the county department, the county department shall make an individual finding of “deferred” with an overall finding of founded into the state automated case management system regarding the referral of abuse and/or neglect related to the assessed incident.

**7.108.2 DEFERRAL PROCESS NOT COMPLETED [Eff. 1/1/15]**

If the person who is found to be responsible for the abuse and/or neglect does not complete the agreement, as determined by the county department, the county department shall make an entry for the individual and overall finding of "founded" into the state automated case management system regarding abuse and/or neglect related to the assessed incident.

**7.109 ENTERING FOUNDED FINDINGS REPORTS OF CHILD ABUSE OR NEGLECT [Eff. 1/1/15]**

In a High Risk Assessment or non-dual track counties, the county department shall enter the founded finding even if there is a criminal or civil proceeding pending against the person responsible arising out of the same incident. The reported data shall include the following:

- A. The name, address, gender, date of birth, and race of the child(ren) victim(s);
- B. The composition of the victim's immediate family;
- C. At a minimum, the name and last known mailing address of the person found to be responsible for the child abuse or neglect, and the date of birth and Social Security Number, if known;
- D. The type of abuse or neglect;
- E. The severity of the abuse or neglect;
- F. Any previous incidents of child abuse or neglect of child or siblings;
- G. The name(s) and address(es) of any person(s) responsible for previously founded abuse or neglect, if known;
- H. The name of the source of the referral submitted to the county department, if known;
- I. The county department that investigated the referral; and,
- J. The date the suspected abuse or neglect referral was made to the county department and the date the county department made a founded finding of the abuse or neglect.

**7.110 NOTICE TO THE PERSON FOUND TO BE RESPONSIBLE FOR CHILD ABUSE OR NEGLECT [Eff. 1/1/15]**

- A. The county department shall notify the person found responsible for child abuse or neglect of the finding by first-class mail to the responsible person's last known mailing address, using a form approved by the State Department. The county department shall retain a copy of the notice in the case file showing the date of mailing.
- B. At a minimum, the notice shall include the following information:
  - 1. The type and severity level of the abuse or neglect, the date the referral was made to the county department, which county department completed the assessment, the date the county made the finding in the state automated case management system, and information concerning persons or agencies that have access to the information.
  - 2. The circumstances under which information contained in the state automated case management system will be provided to other individuals or agencies.

3. How to access the county's dispute resolution process. Counties are authorized to offer a county dispute resolution process to persons alleged to be responsible for an incident of child abuse or neglect.
4. The right of the person found responsible to request a state level appeal as set forth in Section 7.111. The county shall provide the State Department approved appeal form to the person.
5. Notice that the scope of the appeal is limited to challenges that the finding(s) are not supported by a preponderance of the evidence or that the actions found to be child abuse or neglect do not meet the legal definitions of child abuse or neglect. The State Department will be responsible for defending the determination at the State level fair hearing.
6. A full explanation of all alternatives and deadlines contained in Sections 7.111 through 7.112.

**7.111 STATE LEVEL APPEAL PROCESS [Eff. 1/1/15]**

- A. Persons found responsible for an incident of child abuse or neglect by the county department shall have the right to a state level appeal to contest the finding. The request for appeal of the decision shall first be submitted to the State Department unit designated to handle such appeals. If the State Department and the Appellant are unable or unwilling to resolve the appeal in accordance with the provisions set forth below in this section, the State Department shall forward the appeal to the Office of Administrative Courts (OAC) to proceed to a fair hearing before an Administrative Law Judge (ALJ).
- B. The grounds for appeal shall consist of the following:
  1. The findings are not supported by a preponderance of credible evidence; or,
  2. The actions ultimately found to be abusive or neglectful do not meet the statutory or regulatory definitions of child abuse or neglect.
- C. The person found to be responsible for child abuse or neglect shall have ninety (90) calendar days from the date of the notice of founded finding to appeal the finding in writing to the State Department. The written appeal shall be submitted on the State approved form provided by the county and shall include:
  1. The contact information for the Appellant;
  2. A statement detailing the basis for the appeal; and,
  3. The county department notice of finding of responsibility for child abuse or neglect.
- D. The state level appeal process must be initiated by the person responsible for child abuse or neglect or his/her legal representative. The Appellant need not hire an attorney to appeal the county determination. If the individual is a minor child, the appeal may be initiated by his/her parents, legal custodian, or legal representative.

- E. The appeal must be submitted to the State Department within ninety (90) calendar days of the date of the notice of founded finding. If the appeal is filed more than ninety (90) calendar days from the date of the notice of founded finding, the Appellant must show good cause for not appealing within the prescribed period as set forth in Section 7.000.2, A. Failure to request State review within this ninety-day (90) period without good cause shall be grounds for the State Department to not accept the appeal.
- F. The founded finding shall be utilized for safety and risk assessment, employment, and background screening by the State Department while the administrative appeal process is pending.
- G. The Appellant shall have the right to appeal even if a dependency and neglect action or a criminal prosecution for child abuse is pending arising out of the same report. The State Department shall hold in abeyance the administrative process pending the outcome of the dependency and neglect or criminal action if requested by the Appellant or if the State Department determines that awaiting the outcome of the court case is in the best interest of the parties. If the Appellant objects to the continuance, the continuance shall not exceed one hundred eighty (180) days without the Appellant having the opportunity to seek review of the extended continuance by an Administrative Law Judge. The pendency of other court proceeding(s) shall be considered to be good cause to continue the appeal past the one hundred eighty (180) day timeframe.
- H. The following circumstances shall be considered to be admissions to the factual basis of the finding of responsibility for child abuse or neglect entered into the state automated case management system and shall be considered to be conclusive evidence of the person's responsibility for child abuse or neglect to support a motion for summary judgment submitted to the Office of Administrative Courts:
  - 1. When a Dependency and Neglect Petition has been adjudicated against or a deferred adjudication entered against the Appellant on the basis of Sections 19-3-103 or 19-3-102 (1)(a), (b), or (c), C.R.S., arising out of the same factual basis as the founded finding in the state automated case management system;
  - 2. The Appellant has been found guilty of child abuse, or has pled guilty or nolo contendere to child abuse as part of any plea agreement including, but not limited to, a deferred judgment agreement, arising out of the same factual basis as the founded finding in the state automated case management system; or,
  - 3. The Appellant has been found guilty or has pled guilty or nolo contendere to a domestic violence related or alcohol traffic related offense arising out of the same factual basis as the founded report in the state automated case management system.
- I. When an Appellant requests an appeal, the State Department shall request the records relied upon in making the finding from the county department responsible for entering the finding, which has been appealed. The county department shall submit the record to the State Department as soon as practicable within the time frame requested by the Department.
- J. After the Appellant requests an appeal, the State Department shall inform the Appellant regarding the details of the appeal process, including timeframes and contact information.
  - 1. The Appellant, as the party in interest, shall have access to the county record in order to proceed with the appeal. Appellant's use of the county file for any other purpose is prohibited unless otherwise authorized by law.

2. Prior to providing access to the Appellant, the State Department shall redact identifying information contained in the county file to comply with state and federal law regarding the confidentiality of child abuse or neglect records or other protected information including, but not limited to, reporting party name(s) and addresses, Social Security Number, foster parent identifying information, and information pertaining to other parties in the case that the appellant does not have a legal right to access.
- K. The State Department is authorized to enter into settlement negotiations with the Appellant as part of the litigation process. The State Department is authorized to enter into settlement agreements that modify, overturn or expunge the reports as reflected in the state portion of the state automated case management system. The State Department is not authorized to make any changes in the county portion of the state automated case management system. In exercising its discretion, the State Department shall take into consideration the best interests of children, the weight of the evidence, the severity of the abuse or neglect, any pattern of abuse or neglect reflected in the record, the results of any local court processes, the rehabilitation of the Appellant, and any other pertinent information.
- L. The State Department and the Appellant shall have one hundred twenty (120) days from the date that the State Department receives the appeal to resolve the issue(s) on appeal. The 120 day time limit may be extended by agreement of both the Appellant and the State Department if it is likely that the additional time will result in a fully executed settlement agreement or resolution of the appeal.
- M. As soon as it is evident within the 120 days that the Appellant and the State Department will not resolve the issue(s) on appeal, the State Department shall forward a copy of the Appellant's original appeal document(s) to the Office of Administrative Courts in order to initiate the Office of Administrative Courts fair hearing process.
- N. If, by the end of the 120 day period, the State Department has been unable to contact the Appellant using the information submitted by the Appellant, including by first class mail, and the Appellant has not contacted the State Department, the appeal shall be deemed abandoned. The finding entered by the county department shall be upheld in the state automated case management system without further right of appeal. The State Department shall notify the Appellant of this result by first class mail to the address submitted by the Appellant.

#### **7.112 STATE FAIR HEARING BEFORE THE OFFICE OF ADMINISTRATIVE COURTS**

- A. When the Office of Administrative Courts receives the appeal documents from the State Department, the Office of Administrative Courts shall docket the appeal and enter a procedural order to the parties indicating the following:
  1. The date and time for a telephone scheduling conference with the parties.
  2. During the telephone scheduling conference, the Office of Administrative Courts shall determine the date for the hearing. Following the scheduling conference, the Office of Administrative Courts will issue a further procedural order and notice of hearing. The order/notice will contain the hearing date, the fourteen (14) day deadline for the notice of issues, the fourteen (14) day deadline for response and deadline for filing pre-hearing statements. Any party requiring an extension or modification of any of the deadlines in the order may file a request with the Administrative Law Judge. The Office of Administrative Courts shall also issue a protective order which will protect and govern the handling of all pleadings, discovery, and evidence. The order must be signed by an Administrative Law Judge and must state that:



- a. Any documents exchanged by the parties containing confidential information, including, but not limited to pleadings, Trails reports and investigative records, medical records, law enforcement investigation records, and documents regarding child victims will be used for the sole purpose of proceeding with this appeal.
  - b. The parties may disclose confidential information to their attorneys or any expert witness only as necessary for the prosecution or defense of the appeal. The appellant is not authorized to disclose or use confidential information for any other purpose.
  - c. The parties may exchange discovery containing information that is confidential under department rule 12 CCR 2509-2, § 7.111.
  - d. To the extent that the parties may disclose confidential records to expert witnesses, the parties shall provide a copy of the protective order to the expert witnesses and advise the expert witness of his or her obligation not to disclose the records or information learned from the confidential records.
  - e. The exchange and use of the confidential information or records does not waive the right of either party to object to the admission of the documents into evidence on any grounds.
  - f. If the parties use or offer confidential information or records as evidence during the course of the hearing, counsel and the parties shall take reasonable measures to protect such information or records from public disclosure including but not limited to filing records under seal.
  - g. The appellant must destroy or return to the department all protected health and abuse and neglect information (including all copies made) at the end of the appeal or, should the appellant choose to pursue any further administrative remedies, when those remedies have been exhausted.
  - h. The hearing regarding the factual basis for the child abuse and/or neglect finding shall be closed to the public.
  - i. This order does not prohibit the department from using documents or information as authorized, required, or permitted by law.
3. The notice of issues shall include the following:
- a. The specific allegations(s) that form the basis of the county department's finding that the Appellant was responsible for child abuse or neglect;
  - b. The specific type and severity of child abuse asserted against Appellant and the legal authority supporting the finding; and,
  - c. To the extent that the State Department determines that the facts contained in the state automated case management system support a modification of the type or severity of child abuse or neglect determined by the county department, the State Department shall so notify the county department and the Appellant of that modification and the process shall proceed on the modified finding(s).

4. The Appellant shall respond to the State Department's submittal by providing the factual and legal basis supporting the appeal to the State Department and to the Office of Administrative Courts.
  5. If the Appellant fails to participate in the scheduling conference referenced above or fails to submit the response referenced herein, the Office of Administrative Courts shall deem the appeal to have been abandoned by the Appellant and render an Initial Decision Dismissing Appeal. In accordance with the procedures set forth below, the Office of Appeals may reinstate the appeal for good cause shown by the Appellant.
  6. In the event that either party fails to respond to a motion to dismiss filed in the appeal, the Administrative Law Judge shall not consider the motion to be confessed and shall render a decision based on the merits of the motion.
- B. The Administrative Law Judge shall conduct the appeal in accordance with the Administrative Procedure Act, Section 24-4-105, C.R.S. The rights of the parties include:
1. The State Department shall have the burden of proof to establish the facts by a preponderance of the evidence and that the facts support the conclusion that the Appellant is responsible for the child abuse or neglect indicated in the notice of issues provided by the State Department. The state automated case management system is not the only acceptable evidence for establishing that the finding is supported by a preponderance of evidence;
  2. Each party shall have the right to present his or her case or defense by oral and documentary evidence, to submit rebuttal evidence, and to conduct cross-examination;
  3. Subject to these rights and requirements, where a hearing will be expedited and the interests of the parties will not be subsequently prejudiced thereby, the Administrative Law Judge may receive all or part of the evidence in written form or by oral stipulations;
  4. A telephonic hearing may be conducted as an alternative to a face-to-face hearing unless either party requests a face-to-face hearing in writing. The written request for a face-to-face hearing must be filed with the Office of Administrative Courts and the other party at least ten (10) calendar days before the scheduled hearing. A request for a face-to-face hearing may necessitate the re-setting of the hearing; and,
  5. Where facilities exist that have videoconferencing technology local to the county department that made the founded finding, either party may request that the hearing be conducted via that technology. The requesting party shall investigate the feasibility of this approach and shall submit a written request outlining the arrangements that could be made for video conference. The Office of Administrative Courts shall hold the hearing via videoconferencing for the convenience of the parties whenever requested and feasible. A request for a hearing via videoconferencing may necessitate the re-setting of the hearing.
- C. At the conclusion of the hearing, unless the Administrative Law Judge allows additional time to submit documentation, the Administrative Law Judge shall take the matter under advisement. After considering all the relevant evidence presented by the parties, the Administrative Law Judge shall render an Initial Decision for review by the Colorado Department of Human Services, Office of Appeals.

- D. The Initial Decision shall uphold, modify or overturn/reverse the county finding. The Administrative Law Judge shall have the authority to modify the type and severity level of the child abuse or neglect finding to meet the evidence provided at the hearing. The Administrative Law Judge shall not order the county to modify its record; rather, the State Department shall indicate the outcome of the appeal in its portion of the state automated case management system.
- E. When an Appellant fails to appear at a duly scheduled hearing having been given proper notice, without having given timely advance notice to the Office of Administrative Courts of acceptable good cause for inability to appear at the hearing at the time, date and place specified in the notice of hearing, then the appeal shall be considered abandoned and the Administrative Law Judge shall enter an Initial Decision Dismissing Appeal. In accordance with the procedures set forth in Section 7.114, the Office of Appeals may reinstate the appeal for good cause shown by the Appellant.

**7.113 TRANSITION TO THE NEW APPEAL PROCESS [Eff. 1/1/15]**

Appeals shall be submitted to the Colorado Department of Human Services section authorized by the Executive Director to process these appeals, using the state approved appeal form provided to individuals who have been found responsible for an incident of child abuse or neglect.

**7.114 STATE DEPARTMENT OFFICE OF APPEALS FUNCTIONS [Eff. 1/1/15]**

- A. Review of the Initial Decision and hearing record and entry of the Final Agency Decision shall be pursuant to state rules at Sections 3.850.72 - 3.850.73 (9 CCR 2503-8).
- B. Review shall be conducted by a State adjudicator in the Office of Appeals not directly involved in any prior review of the county report being appealed.
- C. The Final Agency Decision shall advise the Appellant of his/her right to seek judicial review in the State District Court, City and County of Denver, if the Appellant had timely filed Exceptions to the Initial Decision.
- D. If the Appellant seeks judicial review of the Final Agency Decision, the State Department shall be responsible for defending the Final Agency Decision on judicial review.
- E. In any action in any court challenging a county's founded finding of child abuse or neglect, the State Department will defend the statutes, rules, and state-mandated procedures leading up to the finding, and will defend all county actions that are consistent with statutes, rules, and state-mandated procedures. The State Department shall not be responsible for defending the county department for actions that are alleged to be in violation of, or inconsistent with, state statutes, state rules or state-mandated procedures.

**7.115 CONFIDENTIALITY OF APPEAL RECORDS [Eff. 1/1/15]**

- A. All records submitted by the parties as part of the state level appeal process and all notices, orders, agency notes created by or made part of the State Department's agency record shall be confidential and shall not be released or disclosed unless such release or disclosure is permitted by the applicable state statutes or Section 7.605.
- B. Initial and Final Agency Decisions where information identifying the Appellant, victim(s), other family members, or other minors have been blocked out may be released to the public.

## **Editor's Notes**

### **History**

Rule 7.111 eff. 10/01/2007.

Entire rule repealed eff. 08/01/2012.

Entire rule eff. 01/01/2015.

Rules 7.107.1, 7.107.2 emer. rules eff. 07/10/2015.

Rules 7.104.22, 7.107.1, 7.107.2 eff. 11/01/2015.

Rules 7.104.1 A-C, 7.104.22 D eff. 10/01/2016.

Rules 7.107.1-7.107.2 eff. 11/01/2016.

Rule 7.106.14 eff. 07/01/2017.

Rules 7.100, 7.101, 7.102.1-7.102.3, 7.103, 7.103.2 eff. 08/01/2017.

Rules 7.103.61, 7.103.8 A eff. 02/01/2018.

Rules 7.102.3 G.1, 7.103.3-7.103.6, 7.104, 7.104.1 eff. 03/02/2018.

Rules 7.106.121 B.2-3, 7.106.13 C eff. 09/01/2018.

Rules 7.103 A, 7.103.4, 7.103.5, 7.103.60, 7.103.61, 7.105, 7.107.11 eff. 03/15/2019.

Rule 7.104.131 eff. 01/01/2020.

Rules 7.105 B.7, 7.106.121 A eff. 06/01/2020.

Rule 7.103 C eff. 01/30/2021.

Rules 7.104.1 C.10, 7.104.1 D, 7.104.14 J, 7.104.31, 7.107.4 eff. 07/30/2021.

Rule 7.112 A.2 emer. rule eff. 09/03/2021.

Rule 7.112 eff. 11/30/2021.

Rules 7.103 B.2, 7.103 C, 7.103.3-7.103.10 eff. 12/30/2021.

Rules 7.104, 7.106.121 B.1, 7.106.4-7.106.44 eff. 01/30/2022.

Rules 7.103 A.5.e, 7.104.1 C.14, 7.104.131 D, 7.104.14 K, 7.107.5, 7.107.51 eff. 03/30/2022.

Rules 7.103.2 A.3, 7.103.21, 7.103.4 F-G, 7.103.6 A.4, 7.104.2, 7.104.24 A.6-7 eff. 06/30/2022.