ORANGE COUNTY SOCIAL SERVICES AGENCY

CFS OPERATIONS MANUAL

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Child Abuse Central Index (CACI) Grievance Reviews

OCSSA

Purpose

To provide guidelines for the grievance review process for individuals reported to the California Department of Justice (DOJ) for inclusion in CACI.

Approved

This policy was approved by Gary Taylor, Director of CFS, on August 15, 2013. *Signature on file.*

Most Recent Revision

This revision of the Policy and Procedure (P&P) includes:

• Information from the passage of Assembly Bill (AB) 717 which removed requirement for child welfare agencies to submit results of inconclusive child abuse reports to the DOJ
• Additional policy regarding notification to the DOJ when a request for grievance has not been received but the allegation which is the basis for CACI submission is modified

Background

The California Penal Code (PC) has required child welfare agencies to submit a written report to the California DOJ to list an individual's name in CACI for all substantiated and inconclusive allegations of child abuse and severe neglect.

In 2004, the *Burt v County of Orange* ruling mandated that due process be provided to individuals requesting to challenge their CACI listing, but did not specify the nature of the process. In response, Orange County Children and Family Services (CFS) developed a three level grievance process.

In 2007, the *Gomez v Saenz* lawsuit settlement agreement included a specific process for challenging a CACI listing. As of March 1, 2008, all 58 California counties were required to provide appropriate notice to individuals of their CACI listing, as well as the right to appeal. Individuals who wish to challenge their CACI listing must be given a grievance hearing.

Effective January 1, 2012, AB 717 modified reporting requirements to CACI to reflect that only substantiated allegations of child abuse and severe neglect be submitted to the DOJ. In addition, the Child Abuse and Neglect Reporting Act (CANRA) was amended to reflect, in part:

• All inconclusive reports of child abuse or severe neglect previously submitted to CACI will be removed from the CACI database
• Substantiated reports will not include situations where the investigation found the report to be false, inherently improbable, to involve accidental injury, or to not constitute child abuse or neglect as defined by Penal Code (PC) Section (§) 11165.6
• Police and sheriff departments will no longer forward reports of child abuse and severe neglect to CACI
• Persons listed on CACI have a right to a hearing to challenge the CACI listing although it may be denied under certain circumstances. The hearing will meet due process requirements
• CACI listings will be removed for persons who reach 100 years of age

Definitions

For purposes of this P&P, the following applies:

Good cause: A legally sufficient reason to grant the complainant's request for continuance, as determined by the Grievance Review Officer.

POLICY

Notice of Right to Grieve

California Department of Social Services (CDSS) Manual of Policies and Procedures (MPP) Division 31-021 and All County Letter (ACL) 10-52 outline CACI grievance procedures.

Within five business days of submission of the *Child Abuse or Severe Neglect Indexing Form (BCIA 8583*) to the DOJ by CFS, CFS will provide the individual with written notification of the individual's submission to the DOJ.

Written notification includes:

• *Notice of Central Index Child Abuse Listing (SOC 832)* indicates:
  • That CFS has completed an investigation, the findings of the investigation, and the referral of the individual to the DOJ for CACI listing
  • Victim's name, a brief description of the alleged abuse or neglect, and the date and location of alleged incident
  • Individual's right to request a grievance
  • County contact
• *Grievance Procedures for Challenging Reference to the Child Abuse Central Index (SOC 833)*
• *Request for Grievance Hearing (SOC 834)*

The information and materials will be mailed to the individual's last known address or any other address known by CFS that will most likely reach the individual.

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Grievance Requests

Following notice that an individual is named as a suspect in CACI, the individual may request a grievance hearing.

Exception: No grievance hearing is required when a court of competent jurisdiction (including, but not limited to, juvenile, criminal, civil, or probate proceedings) has determined that the suspected child abuse or severe neglect has occurred, or when the allegation of child abuse or severe neglect resulting in the notification to the CACI is pending before the Court. A complainant who has initially been denied a hearing has a right to a hearing when the Court's jurisdiction has terminated without the Court making a determination that the suspected child abuse or severe neglect occurred.

When a court case is pending but the complainant is not a party to the court proceedings, the complainant is entitled to a grievance hearing.

A grievance will be initiated by the complainant who will submit (by mail, fax, or in person) a written and signed request for grievance. The request will include the referral number, name of county, complete contact information, date of birth, name of representative and contact information for representative, if applicable, and the facts that the complainant believes to provide a basis for reversal of the outcome of the CFS investigation.

The complainant will submit the request for grievance to the Social Services Agency (SSA) Grievance Review Coordinator or designee within 30 calendar days of the date the notice and request for grievance was mailed to the complainant. Failure to submit the request for grievance to SSA within 30 calendar days will constitute waiver of the right to a grievance hearing.

When a complainant was not previously sent a request for grievance, the complainant will file the request for grievance with SSA within 30 calendar days of becoming aware that he or she is listed on the CACI and becoming aware of the grievance process.

Upon request, SSA will assist the complainant with completion of the form necessary to initiate the request for grievance.

Internal Review

CFS may resolve a grievance prior to holding a hearing.

Per CFS policy, when a request for grievance is received by SSA, the Grievance Review Coordinator or designee will notify the Senior Social Worker (SSW) who completed the child abuse investigation, their Senior Social Services Supervisor (SSSS), and Program Manager (PM) by email. An internal review will be completed by the SSW and SSSS who will examine:

• Screener and Investigation Narratives
• Other pertinent documentation gathered during the course of the investigation
• New information which has come forward since the conclusion of the investigation (i.e., court decisions, new evidence, etc.)

The SSW and SSSS will consider whether the disposition is supported by the currently available information.

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Note: Occasionally, a request for grievance has not been received by SSA but new information is obtained that was not available at the time of the investigation and may affect the original disposition (e.g., CFS files an amended petition to strike the allegation that was the basis for the CACI submission, etc.). When this occurs, the assigned SSW will consult with a SSSS to determine whether to conduct an internal review.

When it is determined that the information may not or does not support the disposition, the SSW and/or SSSS will meet with the assigned PM to review and obtain approval to modify the disposition, when appropriate. If modifying, the SSW (or SSSS) who conducted the internal review will immediately and no later than five business days after a decision has been made to modify the disposition:

• Update the Investigation Narrative to indicate that an internal review resulted in a change in disposition
• Modify the Allegation Conclusion in Child Welfare Services/Case Management System (CWS/CMS)
• Notify the DOJ (refer to "Disposition Changes" Policy section below for direction)
• Notify the Grievance Review Coordinator or designee who will inform the complainant in writing of the results of the internal review

Additionally, per CFS policy, when the District Attorney (DA) has been notified of a substantiated allegation at the conclusion of an ER investigation, the disposition is subsequently changed as a result of an internal review, and SSA is aware of an ongoing criminal investigation related to that allegation, notify the DA and law enforcement by sending a copy of an amended *Child Abuse or Severe Neglect Indexing Form (BCIA 8583).* Document follow-up notification in the Investigation Narrative. Refer to CFS P&P Abuse Investigations—Findings, Documentation, and Cross Reporting (A-0305) for information on cross reporting at the conclusion of an ER investigation.

Note: When neither the SSW nor the SSSS involved in the child abuse investigation are available, the Grievance Review Coordinator or designee will contact the PM to assign an alternate SSSS to review the original investigation record and participate in the grievance hearing, if necessary. If the disposition is modified as a result of the internal review, the alternate SSSS will be responsible for completing the activities outlined above.

Grievance Hearing

A grievance hearing is the second and final level of review. A grievance hearing will be scheduled within 10 business days and held no later than 60 calendar days from the date the request for grievance is received, unless otherwise agreed to by the complainant and SSA.

The Grievance Review Coordinator or designee will mail notice of the date, time, and location of the grievance hearing to the complainant at least 30 calendar days prior to the hearing, unless otherwise agreed to by the complainant and SSA.

The complainant or SSA may request a continuance of the grievance hearing not to exceed 10 business days. Additional continuances, or dismissal of the hearing, will be granted with mutual agreement of all parties involved, or for good cause. Per CFS policy, no more than two continuances will be granted without good cause.

OCSA

The complainant may have an attorney or other representative present at the grievance hearing. When the complainant has provided a signed *Authorization of Representation (F063-25-529)* form prior to the grievance hearing, CFS will release information as allowed by law to the attorney or representative. Upon receipt of notification that the complainant will be bringing an attorney, County Counsel will be notified of the hearing and any future dates that are calendared.

Grievance hearings will be conducted, to the extent possible, in a non-adversarial atmosphere.

Grievance Review Officer

A Grievance Review Officer will conduct the grievance hearings. The Grievance Review Officer is designated by the CFS Director and will be:

• A person not involved in the investigation or decision of the alleged child abuse or severe neglect
• Neither a coworker nor a person directly in the chain of supervision of any persons involved in the original investigation of the alleged child abuse or severe neglect. (**Note:** Coworker includes a staff person who has regular direct contact with the staff involved in the finding related to the grievance, and this person is unable to act as an impartial reviewer)
• Knowledgeable of the child welfare field and capable of objectively reviewing information pertaining to the grievance
• Able to conduct a fair and impartial hearing

The Grievance Review Officer will voluntarily disqualify him or herself and withdraw from the grievance proceeding if unable to give a fair and impartial hearing. The complainant may also request at any time prior to the close of the record that the Grievance Review Officer be removed on the grounds that a fair and impartial hearing cannot be held or a decision cannot be rendered. Such request will be ruled on by the Grievance Review Officer prior to the close of record. Further, the Grievance Review Officer's supervisor will review and adopt or reject the request, in consultation with the Deputy County Counsel assigned to advise the Grievance Review Officer. If the complainant's motion for disqualification is granted, the hearing will be postponed and rescheduled with another Grievance Review Officer. If the Grievance Review Officer is disqualified after the hearing but before the close of record, the Grievance Review Coordinator or designee will notify the complainant and CFS that the case is being assigned to another Grievance Review Officer for preparation of the decision on record. The complainant may elect to have a new grievance hearing.

Inspection of Evidence

Each party will make documents and other evidence that will be used during the grievance hearing available for inspection by the opposing party and their attorney or representative at least 10 business days prior to the hearing, to the extent permitted by law.

Each party will make available to the opposing party a list of witnesses to be called during the grievance hearing at least 10 business days prior to the hearing, to the extent permitted by law.

SSA may redact names and personal identifiers from the documents and evidence as required by law and to protect the identity, health, and safety of reporting parties. SSA may further redact information regarding mandated reporter's observations of the evidence indicating abuse or neglect.

Requests for inspection of CFS documents, other evidence, and the sharing of witness lists will be arranged by the Grievance Review Coordinator or designee.

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Hearing Guidelines and Procedures

An initial time estimate may be requested at the time the hearing is scheduled and set accordingly. Generally two hours will be set aside for a hearing, however, if after exchange of witness lists and documents, it is anticipated that additional time is needed, parties will be allowed to provide a time estimate to the Grievance Review Officer. Parties will adhere to time estimates provided, absent good cause. In granting additional time, Grievance Review Officers should be mindful of their duty to provide due process.

Each party and their attorney or representative (and witnesses while testifying), will be the only persons allowed in the hearing room unless all parties and the Grievance Review Officer consent to the presence of other persons.

Either party may call witnesses to the hearing and question the other party's witnesses. The Grievance Review Officer may limit the questioning to protect a witness from unnecessary embarrassment, oppression, or harassment.

The Grievance Review Officer may prevent the presence or questioning of a child at the hearing for good cause, including but not limited to protecting the child from trauma or ensuring the child's health, safety, and/or well-being. The Grievance Review Officer may permit the presence or testimony of a child only if the child's participation in the hearing is voluntary and the child is capable of providing voluntary consent. The Grievance Review Officer may interview the child outside the presence of the parties in order to determine whether the child's participation is voluntary or whether good cause exists for preventing the child from being present or providing testimony.

The SSW who conducted the child abuse investigation will be present at the hearing. Per CFS policy, if the SSW who prepared the Investigation Narrative is not available (**Note:** This does not include a conflict due to a work assignment), the SSSS who approved the Investigation Narrative will be present, or another SSSS designated by the program's PM. When the SSW is not available, the complainant and attorney or representative will be notified and given the option to invoke the continuance rules outlined in the "Grievance Hearing" Policy section above.

All testimony will be given under oath or affirmation.

The Grievance Review Officer has no subpoena power.

CFS will first present evidence supporting the disposition which is the subject of the grievance. The complainant will then provide evidence supporting the claim that the CFS decision should be withdrawn or modified. CFS will be allowed to present rebuttal evidence in further support of the original disposition. Thereafter, the Grievance Review Officer, at his or her discretion, will allow the parties to submit any additional evidence that may be warranted to fully evaluate the matter under review.

The Grievance Review Officer will have the authority to continue a grievance hearing up to 10 calendar days if additional evidence or witnesses are necessary to make a decision.

OCSA

Grievance hearings will be recorded as part of the administrative record. The SSA Custodian of Records will possess and maintain the administrative record of grievance hearings. The complainant or complainant's attorney will be allowed to review the recording and/or request a transcription. The complainant will be responsible for the cost of transcription, if requested. If any party seeks judicial review of the final decision, the administrative record will be lodged with the Court.

Information disclosed at the grievance hearing will not be used for any other purpose unless otherwise required by law. No information presented at the grievance hearing will be disclosed to any person other than those directly involved in the matter. Any records or other evidence disclosed by CFS to the complainant or the complainant's representative will be returned to CFS at the conclusion of the hearing.

Grievance Hearing Decisions

The Grievance Review Officer will determine, based on the evidence presented during the grievance hearing, whether the allegation of child abuse or severe neglect is unfounded, inconclusive, or substantiated as defined in PC § 11165.12. SSA bears the burden of proof at the hearing.

The Grievance Review Officer will submit a written recommended decision to the CFS Director within 30 calendar days of the completion of the grievance hearing. The recommended decision will include:

- Summary statement of facts
- Issues involved
- Findings
- Basis for decision

The CFS Director will issue a written final decision adopting, rejecting, or modifying the recommended decision within 10 business days after the recommendation has been issued. The final decision will be based on the evidence presented at the grievance hearing. The CFS Director will provide an explanation when a recommended decision is rejected or modified.

Decision Distribution

The CFS Director's office will provide copies of the recommended and final decisions to:

- The complainant who requested a grievance hearing
- The complainant's attorney or representative, when applicable
- California Department of Social Services (CDSS)
- CFS Director, assigned Deputy Director, assigned PM
- County Counsel, if present at the grievance hearing
- Deputy Director of the Grievance Review Officer, Grievance Review Officer, Grievance Review Coordinator

Disposition Changes

When a substantiated finding is changed as a result of a grievance hearing, the Grievance Review Coordinator or designee will immediately and no later than five business days after a decision has been made to modify the finding, advise DOJ of the change, request that the complainant's name be removed from the CACI when the disposition is inconclusive or unfounded, and modify documentation in CWS/CMS and the Investigation Narrative, as needed. For instruction on modifying a disposition in a closed referral, refer to CWS/CMS Data Entry Standards—Grievance Request for Closed Referrals. For instruction on modifying a disposition in a referral that has been promoted to a case, refer to CWS/CMS Data Entry Standards—Grievance Requests with a Change in Allegation Conclusion on Referrals with a Disposition of *Open New Case*.

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Per CFS policy, when the DA has been notified of a substantiated allegation at the conclusion of an ER investigation, the disposition is subsequently changed as a result of a grievance hearing, and SSA is aware of an ongoing criminal investigation related to that allegation, notify the DA and law enforcement by sending a copy of an amended *Child Abuse or Severe Neglect Indexing Form (BCIA 8583).* Document follow-up notification in the Investigation Narrative. If the DA or law enforcement has questions about the change in disposition, the Grievance Review Coordinator or designee will respond to the inquiry.

Note: If a complainant requests a grievance hearing and CFS does not have documentation to support the corresponding CACI submission, the Grievance Review Coordinator or designee will immediately and no later than five business days after a decision has been made to modify the finding, contact DOJ to request that the complainant's name be expunged. The Grievance Review Coordinator or designee will complete this process by submitting an amended *Child Abuse or Severe Neglect Indexing Form (BCIA 8583)* and noting in Section C, "Orange County Children and Family Services has no supporting documentation on this complainant. Please remove from CACI." For further direction on this process, refer to CWS/CMS Data Entry Standards—Notifying the Department of Justice of No Supporting Documentation.

Hearing Record

The hearing record, including documents and other evidence accepted during the grievance hearing, will be retained by the Grievance Review Officer until a final decision has been rendered. At the conclusion of the grievance process, all grievance materials including the hearing record, recording, and documents accepted as evidence at the hearing, will be sent to and maintained by the SSA Custodian of Records for a period of three years. After three years, the grievance materials will be purged, pursuant to a CEO-approved record management schedule, provided litigation has not been initiated during that time or the hearing materials have not been identified for legal hold.

If the complainant challenges the final decision of the CFS Director, the evidence and information disclosed at the grievance hearing may be part of an administrative record for a writ of mandate and kept confidential. The administrative record will be kept confidential, and if requested, filed with the Court under seal.

Conflicts of Interest

The Grievance Review Coordinator or designee will check for conflicts of interest for all grievance hearings. A Grievance Review Officer who was involved in the original investigation decision will not participate in the review process on the referral in question. An alternate Grievance Review Officer will be identified when a conflict of interest arises, or when the Grievance Review Officer is unavailable to participate in a grievance hearing.

CACI Inquiries

Per PC Section 11170(f)(1), persons may contact the DOJ to inquire about a CACI listing, utilizing *Child Abuse Central Index Self Inquiry Request (BCIA 4056).* The DOJ will notify in writing when the person is listed as a complainant or a victim and will refer the person to the agency that originally submitted the CACI information. Such inquiries made to CFS will be referred to the Grievance Review Coordinator or designee for processing.

REFERENCES

Attachments and CWS/CMS Data Entry Standards

Hyperlinks are provided below to access attachments to this P&P and any CWS/CMS Data Entry Standards that are referenced.

- CWS/CMS Data Entry Standards—Grievance Request for Closed Referrals
- CWS/CMS Data Entry Standards—Grievance Requests with a Change in Allegation Conclusion on Referrals with a Disposition of *Open New Case*
- CWS/CMS Data Entry Standards—Notifying the Department of Justice of No Supporting Documentation

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Hyperlinks

Users accessing this document by computer may create a direct connection to the following references by clicking on them.

- CFS P&P Child Abuse Summary Reports and Suspect Notification (A-0404)
- CFS P&P Abuse Investigations—Findings, Documentation, and Cross Reports (A-0305)

Other Sources

Other printed references include the following:

None.

FORMS

Online Forms

Forms listed below may be printed out and completed, or completed online, and may be accessed by clicking on the link provided.

Form Name	Form Number
Request for Grievance Hearing—Initial	F063-25-524
Request for Grievance Hearing—Initial (Spanish)	F063-25-524Sp
Request for Grievance Hearing—Initial (Vietnamese)	F063-25-524VN
Request for Grievance Hearing—Denied	F063-25-520
Request for Grievance Hearing—Denied (Spanish)	F063-25-520Sp
Request for Grievance Hearing—Denied (Vietnamese)	F063-25-520VN
Request for Grievance Hearing—Court Case Pending	F063-25-521
Request for Grievance Hearing—Court Case Pending (Spanish)	F063-25-521Sp
Request for Grievance Hearing—Court Case Pending (Vietnamese)	F063-25-521VN
Authorization of Representation	F063-25-529
Authorization of Representation (Spanish)	F063-25-529Sp
Authorization of Representation (Vietnamese)	F063-25-529VN
827 Petition Information Sheet	F063-25-527
827 Petition Information Sheet (Spanish)	F063-25-527Sp
827 Petition Information Sheet (Vietnamese)	F063-25-527VN
Recommended Decision	F063-25-518
Recommended Decision (Spanish)	F063-25-518Sp
Recommended Decision (Vietnamese)	F063-25-518VN
Final Decision	F063-25-519

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Final Decision (Spanish)	F063-25-519Sp
Final Decision (Vietnamese)	F063-25-519VN
Grievance Internal Review—Modified Finding	F063-25-608
Grievance Internal Review—Modified Finding (Spanish)	F063-25-608Sp
Grievance Internal Review—Modified Finding (Vietnamese)	F063-25-608VN
California Safety Assessment	Via SDM Application
Grievance Review Hearing Time Waiver	F063-25-729
Grievance Review Hearing Time Waiver (Spanish)	F063-25-729
Grievance Review Hearing Time Waiver (Vietnamese)	F063-25-729
Acknowledgement of Request for Grievance Review	F063-25-730

Hard Copy Forms

Forms listed below must be completed in hard copy (including multi-copy NCR forms). ***For reference purposes only,*** links are provided to view these hard copy forms, where available.

Form Name	Form Number
Child Abuse or Severe Neglect Indexing Form	BCIA 8583
Child Abuse Central Index Self Inquiry Request	BCIA 4056

CWS/CMS Forms

The following forms may **only** be obtained in CWS/CMS. ***For reference purposes only,*** links are provided to view these CWS/CMS forms, where available.

Form Name	Form Number
Notice of Child Abuse Central Index Listing	SOC 832
Notice of Child Abuse Central Index Listing (Spanish)	SOC 832 (SP)
Grievance Procedures for Challenging Reference to the Child Abuse Central Index	SOC 833
Grievance Procedures for Challenging Reference to the Child Abuse Central Index (Spanish)	SOC 833 (SP)
Request for Grievance Hearing	SOC 834
Request for Grievance Hearing (Spanish)	SOC 834 (SP)

Brochures

Brochures to distribute in conjunction with this procedure include:

Brochure Name	Brochure Number
None.	

PROCEDURE

Actions—Processing Grievance Requests	The following actions will be completed when a request for grievance has been filed.

DCSSA

Staff Responsible	Step	Action
Grievance Review Coordinator or Designee	**1.**	Receive request for grievance. a. Date stamp. b. Search referral information. Identify original and prior allegation(s) and any prior involvement in grievance process. Confirm validity of request for grievance. **Note:** If supporting documentation is not located, refer to "Disposition Changes" Policy section above. c. Log request for grievance. d. Create file, including request for grievance, copies of Screener and Investigation Narratives, and any other pertinent information.
	2.	Determine status of court case, if applicable. a. If case is pending in Court, notify complainant of delay in grievance using *Request for Grievance Hearing—Pending (F063-25-521)*. Track progress in Court and contact complainant upon completion of Court case to schedule a grievance hearing. b. If a court of competent jurisdiction has already determined that the abuse or severe neglect occurred, notify complainant that hearing is not required, using *Request for Grievance Hearing—Denied (F063-25-520)*.
	3.	When a hearing is necessary, notify complainant of receipt of grievance request using *Acknowledgement of Request for Grievance Review (F063-25-730).* Include *827 Petition Information Sheet (F063-25-527), Grievance Review Hearing Time Waiver (F063-25-729),* and *Authorization of Representation (F063-25-529).* Complainant may express intent to file 827 petition by completing and returning the *Grievance Review Hearing Time Waiver (F063-25-729)* or decline to file the 827 petition.
	4.	Once complainant has indicated that records have been obtained or has requested to proceed without records, schedule grievance hearing and notify complainant, using *Request for Grievance Hearing—Initial (F063-25-524)*. a. Reserve room for hearing. b. Notify SSW, SSSS, and PM of hearing date, time, and location.

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c. Identify and arrange for interpreter for hearing date, when needed.

d. Coordinate hearing date with County Counsel's availability if complainant intends to have an attorney or representative present.

5. Obtain signed *Authorization of Representation (F063-25-529)* authorizing communication with attorney or representative, when complainant indicates intent to be represented.

SSW

6. Conduct internal review of referral with SSSS to determine whether allegation conclusion is supported, documented, and consistent with the definitions provided in PC § 11165.12.

7. Consult with PM if there is concern that allegation conclusion is not supported or documented and/or that disposition may be changed.

8. When a decision has been made to change a disposition, immediately and no later than five business days after a decision has been made to modify the finding, modify Investigation Narrative and CWS/CMS, and notify DOJ of the change in disposition.

9. If aware of an ongoing criminal investigation related to the original allegation, notify the DA and law enforcement of change in disposition. Document follow-up notification in Investigation Narrative.

10. Notify Grievance Review Coordinator or designee of change in disposition.

11. If grievance hearing remains on calendar and the complainant has retained an attorney, contact County Counsel to confer.

Grievance Review Coordinator or Designee

12. When disposition has been modified to inconclusive or unfounded and a grievance hearing is no longer needed, notify complainant using *Grievance Internal Review—Modified Finding* (*F063-25-608)*. Remove hearing date from calendar.

SSA Custodian of Records

13. Upon granting of 827 petition, coordinate requests for inspection of documents, other evidence, and witness lists.

Grievance Review Officer

14. Ensure that recording equipment is available for scheduled grievance hearing.

15. Provide *de novo* review of documents associated with request for grievance.

16. Conduct hearing, following guidelines set forth in "Hearing Guidelines and Procedures" Policy section above.

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	17.	Submit a written recommended decision to the CFS Director within 30 calendar days of the close of the review hearing, using *Recommended Decision (F063-25-518)*.
CFS Director	**18.**	Based on the evidence presented at the hearing, issue a written final decision adopting, rejecting, or modifying the recommended decision, using *Final Decision (F063-25-519)*, within 10 business days after the recommended decision is issued. Explain decision.
	19.	Provide copy of final decision to parties identified in "Decision Distribution" Policy section above.
Grievance Review Coordinator or Designee	**20.**	If there has been a change in disposition, upon receipt of *Final Decision (F063-25-519)*: • Immediately and no later than five business days after a decision has been made to modify the finding, notify DOJ and modify documentation in CWS/CMS and Investigation Narrative • If aware of an ongoing criminal investigation related to the original allegation, notify the DA and law enforcement of change in disposition by forwarding a copy of the amended *Child Abuse or Severe Neglect Indexing Form (BCIA 8583)*. Document in Investigation Narrative • Notify current Voluntary Family Services (VFS) SSW, SSSS, and PM. Per standard procedure, the VFS SSW will complete Structured Decision Making (SDM) Safety Assessment and Risk Reassessment to ensure that no current safety threats exist, prior to closing the case. If a current safety threat is identified, the SSW will consult with the SSSS and PM to determine whether the concern warrants filing a new child abuse referral
	21.	Include copies of *Recommended Decision (F063-25-518)* and *Final Decision (F063-25-519)* letters in grievance file.
	22.	Maintain log of grievance reviews and decisions.
	23.	Send complete grievance file to SSA Custodian of Records.

LEGAL MANDATES

Penal Code (PC) Sections (§§) 11164–11174.3 constitute the Child Abuse and Neglect Reporting Act (CANRA) which is intended to protect children from abuse and neglect.

PC § 11165.6 defines "child abuse or neglect."

PC § 11165.12 provides the definitions of unfounded, substantiated, and inconclusive child abuse reports.

PC § 11169(a) outlines DOJ reporting requirements.

PC § 11169(c) provides guidelines on complainant notification.

PC § 11169(d) states that any person listed on CACI has the right to a hearing before the agency that requested his/her inclusion in CACI to challenge the listing. The hearing will satisfy due process requirements.

PC § 11169(e) states that a grievance hearing will be denied when a court of competent jurisdiction has determined that suspected child abuse or severe neglect resulting in the referral to CACI is pending before the Court. If the court terminates jurisdiction, the court has not made a finding concerning whether the suspected abuse or neglect was substantiated, and a hearing has not previously been provided, the listed person has a right to a hearing.

PC § 11169(g) and California Department of Justice Information Bulletin, No. 12-06-BCIA (December 19, 2012) indicate that as of January 1, 2013, any person listed in CACI prior to reaching 18 years of age will be deleted 10 years from the date of the incident if no subsequent report concerning the same person was received during the 10-year period.

PC § 11169(h) states that if after a grievance hearing or a court proceeding described in PC § 11169(d), it is determined a person's CACI listing was based on a report that was not substantiated, CFS will notify the DOJ of that result for removal from CACI.

PC § 11170 requires the DOJ to maintain an index of all reports of child abuse and severe neglect that are determined to be substantiated, and defines who, when, and how index information may be obtained.

PC § 11170(f)(1) states that any person may determine if he or she is listed in CACI by making a request in writing to the DOJ.

All County Letter (ACL) 07-53, delineates the process and procedure for grievance hearings in light of the *Gomez v. Saenz* settlement.

All County Information Notice (ACIN) I-21-08 provides instruction regarding grievance hearing requirements as stipulated in the *Gomez v. Saenz* lawsuit settlement.

ACIN I-22-08 provides instruction regarding activities set forth in the *Gomez v. Saenz* lawsuit settlement. This includes CFS responsibility to provide grievance hearings for individuals who challenge their listing in CACI.

ACL 10-52 informs about CACI grievance hearing regulations required by the *Gomez v. Saenz* court-ordered settlement agreement. The regulations added Section 31-021 and amended Sections 31-003, 31.410, and 31-501 of the Manual of Policies and Procedures (MPP).

ACL 12-21 provides information on the provisions of AB 717. Provisions include changes to CACI reporting requirements, effective January 1, 2012. AB 717 further specifies that any person listed in CACI has the right to a due process hearing before the agency which requested the CACI submission, except in specific circumstances.

Gomez v. Saenz (2007) alleged that individual's names were submitted to CACI without a right to challenge the placement, violating due process guarantees of the California Constitution. This lawsuit further challenged the accuracy of information retained in CACI and alleged that a significant number of listings were maintained without adequate underlying files to support the listings.

Burt v. County of Orange (2004) 120 Cal. App. 4th 273 states a suspected abuser is entitled to request a hearing regarding the findings of the child abuse investigation and reporting of his or her name to the DOJ for inclusion in the CACI.

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*Lorenza P. v. Superior Court (1988) 197 Cal. App. 3d 607,*610 states even if Juvenile Court proceedings are not instituted and the matter is handled informally, the child's records relating to the incident remain confidential.

California Department of Justice (DOJ) Information Bulletin 11-10-BCIA (December 7, 2011) directs the DOJ to receive and enter into CACI only substantiated reports of child abuse or severe neglect submitted by a child welfare agency or county probation department.

California Department of Social Services (CDSS) Child Welfare Services (CWS) Manual of Policies and Procedures (MPP), Division 31-003, provides definitions of *Notice of Child Abuse Central Index Listing (SOC 832)*, *Grievance Procedures for Challenging Reference to the Child Abuse Central Index (SOC 833)*, and *Request for Grievance Hearing (SOC 834).*

CDSS CWS MPP, Division 31-021, provides guidelines for CACI grievance procedures.

CDSS CWS MPP, Division 31-501, provides guidance on child abuse and neglect reporting requirements.

California DOJ Title 11, Division 1, Chapter 9, Article 1 outlines procedures used by the California DOJ to administer the CACI.

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