

NEW YORK STATE
 DEPARTMENT OF SOCIAL SERVICES
 40 NORTH PEARL STREET, ALBANY, NEW YORK 12243



Arthur Y. Webb
 Acting Commissioner

[An Administrative Directive is a written communication to local Social Services Districts providing directions to be followed in the administration of public assistance and care programs.]

ADMINISTRATIVE DIRECTIVE

TRANSMITTAL NO.: 82 ADM-54
 [Services]

TO: Commissioner of Social Services

SUBJECT: Expungement of Child Protective Services Records Upon a Determination of "Unfounded"

DATE: August 23, 1982

SUGGESTED DISTRIBUTION: Commissioner
 Directors of Services
 All Child Protective Services Staff

CONTACT PERSON: All inquires regarding this release should be directed to Mr. H. A. Harkess, Bureau of Policy Planning, 40 North Pearl Street, Albany, New York 12243 or by calling toll free 1-800-342-3715, extension 4-9574.

I. PURPOSE

The purpose of this release is to advise local social services officials and child protective services staff of Chapter 585 of the Laws of 1981 which amended subdivision 5 of Section 422 of Social Services Law regarding the expungement of child protective services registers and records upon a determination that a report of suspected child abuse or maltreatment is unfounded. This release also advises that the Department has promulgated regulations establishing a procedure for the review of unfounded determinations and for the expungement of local registers and records upon notification from the State Central Register of Child Abuse and Neglect that the unfounded determination is affirmed. This release further directs local social services officials and child protective services staff to comply with these regulations in their handling of unfounded reports.

II. BACKGROUND

The Child Protection Act of 1973 (Social Services Law 412 et seq)

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Social Services Law and Other Legal References	Bulletin/Chapter Reference	Miscellaneous Reference
81 ADM 100		432.3(j) 432.9	SSL 412.5 SSL 422.5	MB 192	

provides for investigations of reports of suspected child abuse or maltreatment. It further provides for local registers and records regarding the results of these investigations and establishes categories of determinations regarding these results. In this regard, Section 422.5 of the Social Service Law provides that unless an investigation determines that some credible evidence of the alleged abuse or maltreatment exists the report shall be judged to be unfounded, and all information identifying the subjects of the report shall be expunged from the central register. The purpose of these expungements was, and is, to protect innocent parties from having a record of an allegation of child abuse or maltreatment for which there has been no determination that there is in fact any credible evidence to sustain that allegation.

The Department has consistently applied Section 422.5 and 422.9 of Social Services Law to extend the expungement requirement to local central registers of child abuse and maltreatment as well as to the State Central Register. It has not been clear, however, whether local child protective services records and/or other records containing references to the report of suspected abuse or maltreatment and/or to the child protective services investigation were also subject to the expungement requirement.

In order to clarify the extent and intent of the expungement requirement relating to an unfounded report, the Legislature passed and the Governor signed into law Chapter 585 of the Laws of 1981. Chapter 585 amends subdivision 5 of Section 422 of the Social Services Law to provide that not only shall the State Central Register and any local central register of child abuse and maltreatment be expunged upon notification from the State Central Register that an unfounded determination is affirmed, but that this expungement shall also include the records of all local child protective services.

On July 28, 1982, the Department officially promulgated Regulations which amend 432.3(j), repeal 432.3(k), redesignate 432.3(l) through (s) to be 432.3(k) through (r) respectively and adds a new Section 432.9. These regulations contain the procedures for reporting determinations regarding reports of suspected abuse or maltreatment to the State Central Register and for making expungements of local registers and records when the State Central Register affirms an unfounded determination.

III. PROGRAM IMPLICATIONS

The new law and the implementing regulations do not make any substantive change in State Department of Social Services policy regarding the reporting and reviewing of determinations or regarding the general expungement of child protective services registers and records upon an affirmed determination that a report alleging abuse or maltreatment is unfounded. What is new is the specific statutory requirement that local child protective services records must be expunged as well. While the Department has long recommended that local records be expunged along with the local

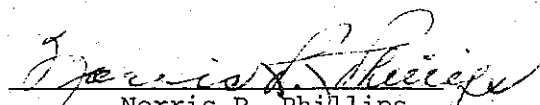
register when a report is determined to be unfounded, there has been no clear statutory authority to guide such recommendations. The passage of Chapter 585 and the issuance of the Department's implementing regulations now clearly establish expungement of local records as not only a recommendation but a requirement.

IV. REQUIRED ACTION

Chapter 585 of the Laws of 1981 became effective on September 1, 1981. All reports of suspected child abuse or maltreatment which were received on or after that date and for which a determination of unfounded has been reported to and affirmed by the State Central Register are subject to the requirements of the revised statute and of the Department's implementing regulations. Local districts must, therefore, review all those reports received since September 1, 1981 which have been affirmed by the State Central Register as unfounded. For all such reports, the local district must make the required expungements as directed in the implementing regulations. To assist local districts in complying with these requirements, a copy of the regulations promulgated by the Department are attached to and made a part of this release.

V. EFFECTIVE DATE

As the effective date of Chapter 585 is September 1, 1981, the effective date of this release is September 1, 1981 and applies to all unfounded reports of child abuse or maltreatment occurring on and after that date.


Norris P. Phillips
Deputy Commissioner
Division of Services

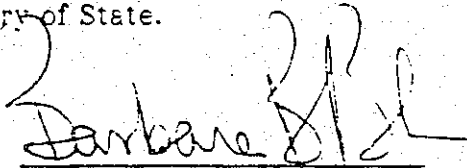
Attachment

STATE DEPARTMENT OF SOCIAL SERVICES
ALBANY, NEW YORK

Pursuant to the provisions of Sections 20(3)(d), 34(3)(f) and 398-b of the Social Services Law, I, Barbara B. Blum, Commissioner of Social Services, do hereby amend, as hereinafter indicated, Sections 430.12(c)(3)(i) and 430.12(d)(1)(i) of the Official Regulations of the State Department of Social Services, being Chapter II of Title 18 NYCRR, effective immediately upon filing with the Secretary of State.

Dated: JUN 4 1987

Signed:

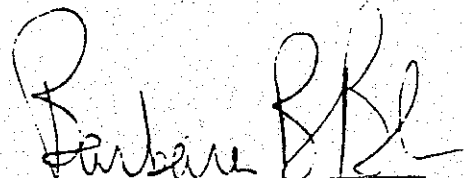


Commissioner

This is to certify that this is the original of an order of the State Department of Social Services, made on 3/ amending Sections 430.12(c)(3)(i) and 430.12(d)(1)(i) of the Official Regulations of the State Department of Social Services, being Title 18 NYCRR, the express terms of which were published in the New York State Register on MAR 31 1987

Dated: JUN 4 1987

Signed:



Commissioner

Subparagraph (i) of paragraph (3) of subdivision (c) of Section 430.12 is amended to read as follows:

(i) Standard: Casework contacts involving the child, the child's caretakers, the child's parents or relatives, if any, and district personnel shall adhere to the standards mandated in Section 431.15, and, for children with a permanency planning goal of return to parents, such contacts with the child's parents shall continue at least quarterly after the twelfth month in care. Contacts between the caseworker and the parents or relatives shall be scheduled to occur in the home of the parent or relative as often as is practicable, and in no case for less than 50% of the required contacts, unless the parents or relatives specifically request otherwise, or unless the necessity of placement for the child is based wholly on the reason described as child service needs, as defined in paragraph 430.10(c)(5). In the case of children 13 years or older placed by the court as PINS or juvenile delinquents in an institution more than 100 miles from their homes, the requirement for contacts in the parents' home shall be waived. At the time a discharge plan is developed for the child appropriate in-home contact with the parents shall be arranged.

Subparagraph (i) of paragraph (1) of subdivision (d) of Section 430.12 is amended to read as follows:

(i) Standard: Districts shall plan for and make efforts to facilitate at least bi-weekly visiting between the child and the parents or caretakers to whom he is to be discharged, unless such visiting is specifically prohibited by court order, or by the transfer of custody agreement, or because the placement that was chosen pursuant to the stan-

standards expressed in Section 430.11 make bi-weekly visitation an impossibility. In the latter case, the district, at a minimum, shall, except as hereinafter provided, plan for and facilitate monthly visits between the parent and the child. In the case of children 13 years or older placed by the court as PINS or juvenile delinquents in an institution less than 100 miles from their homes and the placement that was chosen pursuant to the standards expressed in Section 430.11 make bi-weekly visitation impossible, the district, at a minimum, shall plan for and facilitate quarterly ~~monthly~~ visits between the parent and the child; however, at the time a discharge plan is developed for the child, appropriate visits of a greater frequency than quarterly, between the child and the family shall be arranged. These The efforts of the districts to facilitate at least bi-weekly visiting shall include: (a) provision of financial assistance, transportation or other assistance which is necessary to enable bi weekly visiting to occur; and (b) follow-up with the parent or relative when scheduled visits do not occur in order to ascertain the reasons for missed visits and to make reasonable efforts to prevent similar problems in future visits. In the case of children 13 years or older placed by the court as PINS or juvenile delinquents in an institution more than 100 miles from their homes, this visitation standard shall be waived. At the time a discharge plan is developed for the child, appropriate visits between the child and the family shall be arranged. Any act to limit or terminate visiting for children voluntarily placed in foster care must comply with the requirements set forth in Section 431.13 of this Title.

(Deleted material [brackets]; new material underlined).