

<h1>ACF</h1> Administration for Children and Families	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Administration for Children, Youth and Families	
	1. Log No: ACYF-CB-PI-98-08	2. Issuance Date: June 29, 1998
	3. Originating Office: Children's Bureau	
	4. Key Words: CAPTA; Appeals Requirement	

PROGRAM INSTRUCTION

TO: The State Office, Agency or Organization Designated by the Governor to Apply for a State Child Abuse and Neglect State Grant under the Child Abuse Prevention and Treatment Act (CAPTA)

SUBJECT: Guidance on the CAPTA State plan assurance for States to have an appeals process in place no later than October 3, 1998 for individuals who disagree with an official finding of child abuse or neglect

LEGAL AND RELATED REFERENCES: Section 106(b)(2)(A)(xi)(II) of CAPTA; ACYF-NCCAN-PIQ-97-01, Dated April 30, 1997; and ACYF-NCCAN-PIQ-97-03, Dated September 26, 1997

PURPOSE: The purpose of this issuance is to provide instruction to the States on the establishment of the appeals process required by section 106(b)(2)(A)(xi)(II) of CAPTA.

BACKGROUND: The 1996 CAPTA amendments (Public Law 104-235) authorize the annual award of funds to States that submit State plans and meet certain other eligibility criteria. Specifically, subsection (b) of section 106 requires the State to submit with its State plan certain assurances signed by the Governor of the State. One of those assurances is for the State to have provisions, procedures, and mechanisms in place by October 3, 1998 for an appeals process by which individuals who disagree with an official finding of child abuse or neglect can appeal such a finding.

As we have stated in previous issuances, this requirement applies to the perpetrator of child abuse or neglect (ACYF-NCCAN-PIQ-97-03, Q/A #5) and applies to all States receiving funds under a CAPTA State plan, not just States with Central Registries (ACYF-NCCAN-PIQ-97-01, Q/A #19). This requirement is to assure that individuals who have been found by the State to have committed child abuse or neglect are afforded due process.

INSTRUCTION: By October 3, 1998, States must have in place an appeals process by which an individual who is officially found to have committed child abuse or neglect can appeal such a finding. States have some flexibility in determining the type of appeals process that best meets their needs. For example, the appeals process can be established through the courts, through some other external appeals process, or through an internal appeals process.

The appeals process, however, must meet the following minimum conditions in order to satisfy the CAPTA requirements:

1. The process must afford the individual with a finding of child abuse or neglect an opportunity for due process.
2. The office or individual(s) hearing such appeals cannot be involved in any other stage of the case.
3. The office or individual(s) established to hear such appeals must have the authority to overturn a previous finding of child abuse or neglect.
4. Individuals must be given written notification of their right to appeal, and the method by which they may appeal, at the time they are notified of the official finding of child abuse or neglect.

EFFECTIVE DATE: October 3, 1998

INQUIRIES TO: ACF Regional Offices, Regions I - X

/s/

James A. Harrell
Deputy Commissioner
Administration on Children, Youth, and Families