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	Policy Title:	Responsible Individuals List Policy			
	Policy Number:	Pre-Custody Policy 002	Version:	1	Effective Date:

Approved By: YFS Operations Team

Date: 08/14/2020

Overview

Description: The Responsible Individuals List (RIL) policy seeks to provide instruction around the process by which Youth & Family Services (YFS) staff will ensure that individuals who have been identified as perpetrators of abuse or serious neglect are appropriately added to the North Carolina Responsible Individual List.

Purpose/Rationale: In accordance with Section 106(a) of the Child Abuse Prevention and Treatment Act (CAPTA), North Carolina Department of Health and Human Services (DHHS) is required to maintain a list of individuals determined to be responsible for the abuse and/or serious neglect of a juvenile. DHHS is further required to provide due process procedures for the alleged responsible individual to request a judicial review of the abuse and/or serious neglect decision, as well as the placement of his or her name on the RIL.

Applicability: Child Protective Services (CPS) frontline and supervisory staff; Legal; Continuous Quality Improvement (CQI); Senior Social Service Managers; Director & Deputy Director(s)

Definition(s):

Responsible Individual: a parent, guardian, custodian, or caretaker who abuses or seriously neglects a juvenile

Caretaker: any person other than a parent, guardian, or custodian who has responsibility for the health and welfare of a juvenile in a residential setting. A person responsible for a juvenile's health and welfare means a step-parent, foster parent, adult member of the juvenile's household, adult relative entrusted with the juvenile's care, or any person such as a house parent or cottage parent who has primary responsibility for supervising a juvenile's health and welfare in a residential child care facility or residential educational facility, or any employee or volunteer of a division, institution, or school operated by the Department of Health and Human Services.

Serious Neglect: conduct, behavior, or inaction of the juvenile's parent, guardian, custodian, or caretaker that evidences a disregard of consequences of such magnitude that the conduct, behavior, or inaction constitutes an unequivocal danger to the juvenile's health, welfare, or safety, but does not constitute abuse

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Abuse: inflicts or allows to be inflicted upon the juvenile a serious physical injury by other than accidental means; creates or allows to be created a substantial risk of serious physical injury; uses cruel or grossly inappropriate procedures or cruel or grossly inappropriate device to modify behavior; commits, permits, or encourages the commission of a violation of laws regarding sexual contact with a minor as noted in North Carolina General Statutes; creates or allows to be created serious emotional damage to the juvenile; encourages, directs, or approves of delinquent acts involving moral turpitude; commits or allows to be committed an offense of human trafficking, involuntary servitude, or sexual servitude against the child

Personal Written Notice: delivery in person of the case decision to the responsible individual by the Child Welfare Specialist II.

Ex Parte Hearing: a hearing in which not all parties are present or given the opportunity to be heard (Ex-parte—Latin: “from the part”)

Judicial Review: district court level hearing on a petition, initiated by the alleged responsible individual, for a review of the county child welfare agency’s decision to identify the individual as responsible for abuse and/or serious neglect and place their name on the RIL

Failure to Comply: Because YFS and other authorized agencies and persons rely on RIL information to help determine an individual’s appropriateness for providing care for children, an outdated or otherwise inaccurate RIL could pose a potential risk to a child’s safety and well-being.

Additionally, the CAPTA grant requires each state to establish procedures for individuals found to have abused or seriously neglected a juvenile to appeal that decision. Non-compliance with this requirement directly impacts receipt of CAPTA funds.

Policy:

Upon making a case decision to substantiate abuse and/or serious neglect and identifying a responsible individual, the CPS Child Welfare Specialist II and assigned supervisor must ensure that the responsible individual receives notification in accordance with the process outlined below. The CPS Child Welfare Specialist II and supervisor must further work with their Senior Social Service Manager, Legal team, and CQI to ensure that all facets of the RIL process are completed in accordance with the procedures outlined below. The Senior Social Service Manager must monitor adherence to this policy by completing monthly reviews of the 5104A Not Approved queue in ISSI and/or The Responsible Individual List Status in SafeMeasures.

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Procedure(s) that apply:

Consultation, Staffing, & Notification

Cases appearing to meet the criteria for substantiation of abuse or serious neglect must first be staffed between the Child Welfare Specialist II, supervisor, and assigned Senior Social Service Manager. If the decision to substantiate for abuse or serious neglect is upheld, the case must then be staffed with an agency attorney to ensure that we have the evidence necessary to meet the legal definition of Abuse +/-or Serious Neglect.

Additional Child Welfare Specialist II Responsibilities

When a substantiation of abuse or serious neglect is made, the Child Welfare Specialist II must complete the following steps:

- Complete the RIL notification letter in consultation with the YFS attorney.
- Make face-to-face contact with the alleged responsible individual to explain the reason for the substantiation in an "expeditious manner" which is defined as "allowing more time than immediate, but without undue delay." *See below for instructions on what to do if the perpetrator cannot be located within the first 5 days after case decision.*
- Provide personal written notice to the alleged responsible individual of their potential placement on the RIL, as well as of their due process rights, using the RIL notification letter template and a blank petition for Judicial Review. The Child Welfare Specialist II must have two copies of the RIL notification letter with them during this meeting: one copy for the alleged responsible individual to maintain for their records and one copy for the worker to request that the individual sign for inclusion in the agency's records. *Please note that it is permissible for a Child Welfare Specialist II other than the one assigned to the case to complete the case decision/RIL placement notification contact.*
- Scan the agency copy of the letter into Onbase
- Document the date of delivery of the RIL notification letter, and any supporting documentation, in the Ongoing Case Contacts section of the Documentation Tool in ISSI.
- Notify the District Attorney and Law Enforcement of the Case Decision of Abuse or Serious Neglect

Supervisor Responsibilities

In addition to participating in the case staffings outlined above, the assigned supervisor must complete the following steps when a decision is made to substantiate abuse or serious neglect:

- Ensure that the RIL information is included in the Case Decision Rationale
- Sign the RIL notification letter
- Confirm the date of RIL notification delivery and complete the 5104 A form in ISSI

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- Investigative Assessments will not be closed until the service of the RIL notification is complete.
- Monitor compliance with the RIL process
- Work closely with YFS legal team and document efforts completely, especially during COVID-19 pandemic beginning March 2020.

Diligent Efforts to Provide Notice of Placement on the Responsible Individual List

Diligent and persistent efforts to complete the notification process outlined above must be made by the Child Welfare Specialist II following the case decision. Should the worker find themselves unable to complete the required contact in an *expeditious manner*, the RIL notification letter must be sent to the individual's last known address by registered or certified mail, with restricted delivery and return receipt requested. The notification letter must be addressed specifically to the alleged responsible individual, as they are the only person for whom receipt of the notification is permissible.

Unsuccessful Efforts & Ex Parte Hearing

Should the RIL notification letter be returned as undeliverable, or signed by someone other than the intended recipient, the individual must not be placed on the RIL. When this situation arises, the following steps must be taken:

- Both the Child Welfare Specialist II and assigned supervisor must meet with an agency attorney to complete a request for ex parte hearing.
- The supervisor must ensure that the Child Welfare Specialist II has completed diligent efforts prior to said meeting.
- The Child Welfare Specialist II will complete an Affidavit to Request an Ex Parte Hearing on Diligent Efforts form and have the document notarized and filed with the court.
- The Child Welfare Specialist II and supervisor must attend the scheduled ex parte hearing.

Successful Efforts & Judicial Review

Upon receipt of notification of potential placement on the RIL, all alleged responsible individuals have the right to request a judicial review of the agency's RIL placement decision. Should the alleged responsible individual exercise that right, the following steps must be taken:

- The Mecklenburg County Juvenile Clerk will alert the YFS Managing Attorney that a petition for Judicial Review has been filed.
- A YFS Legal Assistant will upload the document into On-base and the Managing Attorney notify CQI that a petition has been filed and will assign a YFS attorney.
- CQI will schedule a "Director Determination Meeting."

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- Both the Child Welfare Specialist II and assigned supervisor must participate in a RIL staffing that includes CQI, an agency attorney, the Senior Social Services Manager, and the Deputy Director/their designee.
- The supervisor must enter the Deputy Director's decision in the 5104A in ISSI within 3 business days of the staffing.
- The CQI representative will notify the identified perpetrator of the Director's Decision by form letter and document the meeting in the narrative node in the Investigation in ISSI.
- The Child Welfare Specialist II and supervisor, along with any other Child Welfare Specialist II associated with the case, must attend the Judicial Review.
- The assigned supervisor must complete the 5104A in ISSI upon receipt of the hearing order.
- If the individual filing for review has been criminally charged, the Child Welfare Specialist II and supervisor must notify the agency attorney immediately, as the court may opt to stay the judicial review process. The supervisor must monitor the status of the charges, as well as ensure that the assigned agency attorney is notified immediately of the final disposition of said charges and that the criminal order is scanned into Onbase.
- If the individual is criminally convicted of the exact same charges with the same victim, the individual may be added to the RIL by completing the 5104A within 3 days of receipt of the criminal order. If the individual is not convicted or the charges are dismissed, YFS will schedule an additional Director Determination meeting at the request of the YFS attorney to CQI. If the Director determines that the agency will move forward with the Judicial Review, the assigned YFS attorney will notify the court to schedule the Judicial Review.
- The YFS Supervisor will complete the 5104A process in ISSI and notify Data Integrity.

Out-of-State Situations

In situations where reports contain allegations of abuse and/or serious neglect occurring outside of North Carolina or involving children and/or adults who reside out-of-state, the following procedures must be followed in accordance with NCDHHS policy.

- When the report indicates that both the child and parent/caretaker reside in North Carolina, but the alleged maltreatment occurred out-of-state, YFS shall complete the CPS assessment. If a substantiation of abuse and/or serious neglect is made, the alleged responsible individual is not eligible for judicial review (as the review must occur in the county where the abuse occurred) and therefore must not have their name placed on the RIL.
- When the report involves allegations of maltreatment against a resident child by a non-resident parent/caretaker while the child was outside of North Carolina, YFS must refer the report to the state where the alleged maltreatment occurred. If that state refuses to accept

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the report, YFS must complete the CPS assessment with assistance from the other state. If a substantiation of abuse and/or serious neglect is made, the alleged responsible individual is not eligible for judicial review and therefore must not have their name placed on the RIL.

- When the report involves allegations of maltreatment occurring in NC against a resident child by a non-resident parent/caretaker, YFS must complete the CPS assessment with assistance from the state in which the parent/caretaker resides. If a substantiation of abuse and/or serious neglect is made, the alleged responsible individual is eligible for judicial review and may have their name placed on the RIL.

Form(s) that apply:

North Carolina Division of Social Services Responsible Individuals List Form (DSS-5104A)

<https://www2.ncdhhs.gov/info/olm/forms/dss/dss-5104a.pdf>

RIL Notification Letter

<https://mecktech.sharepoint.com/teams/DSS/YFS2/forms/YFS%20Forms/RIL%20Letter.pdf>

Administrative Office of the Courts Petition for Judicial Review (AOC-J-131)

<https://mecktech.sharepoint.com/teams/DSS/YFS2/forms/YFS%20Forms/RIL%20AOC%20Petition.pdf>

Affidavit for Ex-Parte Hearing on Diligent Efforts

https://mecktech.sharepoint.com/:w:/r/teams/DSS/YFS2/forms/_layouts/15/WopiFrame.aspx?source=doc=%7B656B69D4-3F5E-4B16-9A47-60D014BA319E%7D&file=Petition%20for%20RIL%20Ex%20Parte%20Hearing.docx&action=default

Reference(s):

North Carolina Juvenile Code Definitions

https://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_7B/GS_7B-101.html

North Carolina Division of Social Services Manual, Chapter X: The Juvenile Court and Child Welfare

<https://www2.ncdhhs.gov/info/olm/manuals/dss/csm-67/man/CScX-03.htm>

RIL EKP (will be accessible via MeckEDU)

Policies:

North Carolina Division of Social Services Manual, Chapter VIII-Section 1427: Responsible Individuals List

<https://www2.ncdhhs.gov/info/olm/manuals/dss/csm-60/man/CS1427.PDF>

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Contact(s):

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Policy History:

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