



PIERCE
LAW FIRM

501 CONGRESS, SUITE 150
AUSTIN, TEXAS 78701*

BRADLEY@PIERCE.LAW
TEL. (512) 763-2404

DISCLOSURE OF ALLEGATIONS TO PARENTS

40 TAC § 707.491, which governs investigations by the Texas Department of Family and Protective Services (DFPS), requires that the investigator “at the first contact with the parent(s)...must...[a]dvice the parent(s) or alleged perpetrator(s) of the complaints or allegations in the report while protecting the identity of the reporter.” This requirement is derived from the federal Child Abuse Prevention and Treatment Act (“CAPTA”), which requires state child welfare departments to have “provisions and procedures to require that a representative of the child protective services agency shall, at the time of initial contact with the individual subject to a child abuse or neglect investigation, advise the individual of the complaints or allegations made against the individual.” 42 USCS § 5106a(b)(2)(B)(xviii).

The United States Department of Health and Human Services Administration for Children and Families (ACF) publishes a policy handbook to provide states guidance for complying with CAPTA. The handbook specifically addresses whether a department may have a policy or practice of requiring that allegations only be disclosed in a face-to-face meeting. ACF begins by posing the following question: “Would a State be out of compliance with CAPTA if it implemented a rule to specify that ‘initial contact’ in the CAPTA provision at section 106[a](b)(2)(B)(xviii) meant ‘face-to-face’ contact only?” ACF then responds with, “Yes. The CAPTA provision requires that the State notify the individual of the complaints or allegations made against him or her at the initial time of contact **regardless of how that contact is made**” (emphasis added). ACF goes on to explain that the same rule applies “whether the State is investigating the complaint through a formal investigation or an alternate response system.” U.S. Dep’t of Health and Human Svcs., Admin. for Children & Families, 2.1H CAPTA, Assurances and Requirements, Notification of Allegations, Child Welfare Policy Manual, https://www.acf.hhs.gov/cwpm/public_html/programs/cb/laws_policies/laws/cwpm/policy_dsp_pf.jsp?citID=353.

Therefore, DFPS is required to disclose to a parent upon initial contact each allegation in the report, regardless of whether that contact is made face-to-face or not or whether the underlying matter is a formal investigation or an alternative response assessment.