

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code, Section 512 (31 **Del.C.** § 512)

FINAL

ORDER

DSSM 1003.4 Court Appointed Special Advocate (CASA or guardian ad litem)

Nature of the Proceedings:

Delaware Health and Social Services ("Department") / Division of Social Services initiated proceedings to amend the Division of Social Services Manual (DSSM) regarding the Court Appointed Special Advocate. The Department's proceedings to amend its regulations were initiated pursuant to 29 **Delaware Code** Section 10114 and its authority as prescribed by 31 **Delaware Code** Section 512.

The Department published its notice of proposed regulation changes pursuant to 29 **Delaware Code** Section 10115 in the December 2008 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by December 31, 2008 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

Summary of Proposed Change

The proposed change described below amends policy in the Division of Social Services Manual (DSSM) regarding the Court Appointed Special Advocate.

Statutory Authority

31 **Delaware Code** Ch. 36, Court-Appointed Special Advocate Program

Summary of Proposed Changes

DSSM 1003.4, Court Appointed Special Advocate (CASA or guardian ad litem): This section is being revised to clarify the responsibilities of Division of Social Services (DSS) staff. Text is being deleted that indicates DSS staff will notify the CASA of staffing, investigations, or proceedings regarding the child. DSS staff do not have this information.

Summary of Comments Received With Agency Response

The State Council for Persons with Disabilities (SCPD) offered the following observations and recommendations summarized below. DSS has considered each comment and responds as follows.

SCPD did not identify any concerns with the proposed revision and has the following observations.

Title 31, Chapter 36 establishes a CASA program in which the Family Court appoints individuals to represent a child's interests in Family Court proceedings. See Title 31 Del.C. §§3602(5) and 3606. The CASA is entitled to have access to all records related to the child. See Title 31 Del.C. §§3606(f) and 3610. The DSS regulation implements these statutes by allowing a CASA to access DSS records. However, DSS proposes to delete the following sentence: "The CASA must also be notified of any staffing, investigations or proceedings regarding the

child, so that they may participate and represent the child." DSS proposes the deletion since "DSS staff do not have this information." This sentence may "date back" to the period pre-dating the establishment of the DSCY&F when DSS was responsible for activities now conducted by DFS. The enabling statute does contemplate that the "Division" (defined as DFS) notify the CASA of placement changes and complaints regarding a child.

Agency Response: Thank you for your concurrence.

Findings of Fact:

The Department finds that the proposed changes as set forth in the December 2008 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the Division of Social Services Manual (DSSM) as it relates to the Court Appointed Special Advocate is adopted and shall be final effective February 10, 2009.

Vincent P. Meconi, Secretary, DHSS

DSS PROPOSED REGULATION #09-06

REVISIONS:

1003.4 Court Appointed Special Advocate (CASA or guardian ad litem)

A Court Appointed Special Advocate (CASA) is given permission to inspect and/or copy any records relating to the child and his or her family/guardian without their consent. The CASA has the authority to interview all parties having significant information relating to the child. ~~The CASA must also be notified of any staffing, investigations or proceedings regarding the child, so that they may participate and represent the child.~~

If information is released under the procedures applying to CASA, pertinent details of the reasons for the release shall be documented and written notification of this release shall be sent to the last known address of the individual to whom the record refers.

12 DE Reg. 1095 (02/01/09) (Final)