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May 28, 2015

ALL COUNTY LETTER (ACL) NO. 15-49

REASON FOR THIS TRANSMITTAL

- ☐ State Law Change
- ☒ Federal Law or Regulation Change
- ☐ Court Order
- ☐ Clarification Requested by One or More Counties
- ☐ Initiated by CDSS

TO: ALL COUNTY CHILD WELFARE DIRECTORS
ALL CHILD WELFARE SERVICES PROGRAM MANAGERS
ALL COUNTY CHIEF PROBATION OFFICERS
ALL TITLE IV-E AGREEMENT TRIBES
ALL INDEPENDENT LIVING PROGRAM COORDINATORS

SUBJECT: **COMMERCIALLY SEXUALLY EXPLOITED CHILDREN (CSEC)
DOCUMENTATION IN THE CHILD WELFARE SERVICES/CASE
MANAGEMENT SYSTEM (CWS/CMS)**

REFERENCE: PUBLIC LAW (P.L.) 113-183; SENATE BILL (SB) 855 (CHAPTER 29, STATUTES OF 2014); CSEC PROGRAM, WELFARE AND INSTITUTIONS (WIC) CODE SECTION 16524.6 ET SEQ.; ACL 14-62; PENAL CODE SECTION 11165.1.

This ACL provides instruction on how to properly document within CWS/CMS children and youth¹ who are, or are at risk of being, commercially sexually exploited as required by the Title IV-E program (as amended by P.L. 113-183) and the county elective CSEC Program (established in SB 855).² Specifically, these instructions explain when and how to use the existing “Exploitation” abuse category and the new statewide Special Project Codes (SPCs) to capture this information.

¹ Social Security Act § 471(a)(9)(C)(i)(I) “any child or youth over whom the State agency has responsibility for placement, care, or supervision and who the State has reasonable cause to believe is, or is at risk of being, a sex trafficking victim (including children for whom a State child welfare agency has an open case file but who have not been removed from the home, children who have run away from foster care and who have not attained 18 years of age or such older age as the State has elected under Section 475(8) of this Act, and youth who are not in foster care but are receiving services under Section 477 of this Act)”

² WIC § 16524.6 et. seq.

Because permanent system changes to CWS/CMS for CSEC-related data will not be in place by statutory reporting deadlines, the SPCs were developed for interim use until the necessary system changes can be made. The SPCs will be available for county use no later than June 1, 2015.

Background

Recent legislation (SB 855, Chapter 29, Statutes of 2014) amended the WIC section 300 to clarify that under existing law, commercially sexually exploited children³ whose parents or guardians failed or were unable to protect them may fall within the description of section 300(b) and be adjudged as dependents of the juvenile court. The Legislature also amended the WIC (commencing with Section 16524.6) to establish a state-funded CSEC Program to be administered by the California Department of Social Services (CDSS) that counties may elect to participate in. In addition, on September 29, 2014, the President signed P.L. 113-183, the Preventing Sex Trafficking and Strengthening Families Act. This new federal law contains several provisions relating to sex-trafficked children, including a requirement that agencies develop policies and procedures for identifying, documenting, and determining appropriate services for serving children and youth who the state has reasonable cause to believe is, or is at risk of being, a victim of sex trafficking and reporting related data to the U.S. Department of Health and Human Services, Administration for Children and Families.

Use of the Exploitation Abuse Category for Commercial Sexual Exploitation

Currently, “exploitation” is defined in the Child Welfare Services Manual of Policies and Procedures, Division 31 as “forcing or coercing a child into performing functions which are beyond his/her capabilities or capacities, or into illegal or degrading acts. The term also includes sexual exploitation as defined by Penal Code Section 11165.1(c).” Penal Code section 11165.1(c) includes in the definition for sexual exploitation conduct involving child pornography, employment of a minor to perform obscene acts, and knowingly promoting, aiding, assisting, employing, using, persuading, inducing, or coercing a child to engage in, or assist others to engage in, prostitution or a live performance involving obscene sexual conduct, or to pose or model for purposes of preparing film or pictorial depictions involving obscene sexual conduct.⁴

³ WIC § 300(b)(2) “...a child who is sexually trafficked, as described in Section 236.1 of the Penal Code, or who receives food or shelter in exchange for, or who is paid to perform, sexual acts described in Section 236.1 or 11165.1 of the Penal Code, and whose parent or guardian failed to, or was unable to, protect the child, is within the description of this subdivision, and that this finding is declaratory of existing law. These children shall be known as commercially sexually exploited children.”

⁴ Penal Code § 11165.1(c)(2) “A person who knowingly promotes, aids, or assists, employs, uses, persuades, induces, or coerces a child, or a person responsible for a child's welfare, who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or a live performance involving obscene sexual conduct, or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, drawing, painting, or other pictorial depiction, involving obscene sexual conduct...”

Additionally, WIC section 300(b)(2) describes a commercially sexually exploited child as a child who is sexually trafficked (as described in Section 236.1 of the Penal Code), or who receives food or shelter in exchange for, or who is paid to perform, sexual acts described in Section 236.1 or 11165.1 of the Penal Code.

Based upon these definitions and descriptions, caseworkers should use the existing “exploitation” abuse category concerning any allegation of commercial sexual exploitation.

Instructions for Using the Exploitation Abuse Category

When a referral comes in through the hotline indicating the commercial sexual exploitation of a minor, the intake worker will choose “exploitation” as the abuse category allegation in the Referral Notebook. If the exploitation allegation is substantiated, the appropriate CSEC SPC(s) should be attached to the minor that was the focus of the allegation in the case notebook. Based upon the evidence gathered during the investigation, caseworkers should use appropriate judgment to determine who is named as the perpetrator in the allegation and whether other allegations, such as neglect, should also be documented in the referral.

Additionally, when choosing the primary reason for removal and placement of a child when commercial sexual exploitation is a part of the decision, “exploitation” should be provided as the primary and/or secondary reason for removal, depending upon the circumstances of the case. For example, if the parent’s failure to protect the child from commercial sexual exploitation is the primary reason for removal, then “general neglect” could be the primary reason and exploitation is the secondary reason for removal. If “exploitation” is chosen as a primary or secondary abuse category, then all applicable SPCs should be attached in the case notebook. Refer to **Attachment A** for instructions on locating and entering the exploitation allegation and for locating and entering exploitation as the reason for removal.

Four Special Project Codes

The SPCs in the tables below will be used in identifying and documenting children and youth⁵ who are, or at risk of being, commercially sexually exploited and have new or existing open cases in CWS/CMS. The SPCs are located on the Special Project page of the case notebook in CWS/CMS. The SPCs will be programmed into the application and active no later than June 1, 2015. Caseworkers shall commence use of the first

⁵ WIC § 10609.45 & WIC § 11375; Social Security Act § 471(a)(9)(C)(i)(I) “any child or youth over whom the State agency has responsibility for placement, care, or supervision and who the State has reasonable cause to believe is, or is at risk of being, a sex trafficking victim (including children for whom a State child welfare agency has an open case file but who have not been removed from the home, children who have run away from foster care and who have not attained 18 years of age or such older age as the State has elected under Section 475(8) of this Act, and youth who are not in foster care but are receiving services under Section 477 of this Act)”

two SPCs no later than July 1, 2015. The second two SPCs will be available for county use no later than June 1, 2015, but are not required to be used until their specified commencement dates. Please note that a child or youth may have multiple SPCs attached to his or her case notebook, if applicable. Refer to **Attachment A** for specific instructions on locating and entering the Case Notebook client-specific CSEC SPCs listed below.

The following SPC Titles and Descriptions are held to a character limit (30 and 254 respectively), therefore they contain truncated and abbreviated words.

1.	S-CSEC Victim During Care⁶	Child/youth who is CSEC/sex trafficked, or who receives food or shelter in exchange for, or who is paid to perform, sexual acts as described in Penal Code §236.1 or §11165.1, including pornography and who became such a victim WHILE IN foster care
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- The start date will be the date the child or youth—while in care—became a victim of commercial sexual exploitation, as identified by the caseworker through the county screening process. The end date will be entered as the date the child or youth no longer receives child welfare services.
- Commence use of this SPC no later than July 1, 2015.
- Required by the county elective CSEC Program and the federal Title IV-E Program.

2.	S-CSEC Victim Before Care⁷	Child/youth who is CSEC/sex trafficked, or who receives food or shelter in exchange for, or who is paid to perform, sexual acts as described in Penal Code §236.1 or §11165.1, including pornography and who became such a victim BEFORE entering foster care
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- The start date must be entered but cannot be entered as a date prior to the child or youth's entry into the child welfare system. Therefore, caseworkers should enter the start date as the date the case was opened. The end date will be entered as the date the child or youth no longer receives child welfare services.
- Commence use of this SPC no later than July 1, 2015.
- Required by the county elective CSEC Program and the federal Title IV-E Program.

⁶ Social Security Act § 471(a)(9)(C)(i)(I), § 479(c)(3)(E), & WIC § 16524..9

⁷ Social Security Act § 471(a)(9)(C)(i)(I), § 479(c)(3)(E), & WIC § 16524..9

3.	S-CSEC At-Risk⁸	Min. of 2 indicators: prior sexual trauma; freq. AWOL/homeless; solicitation charges; probation/LE involvement; history of hard substance abuse; branding tattoos; freq. truancy; relationship w/ much older adult; tech use involving atypical sexual behav.
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- The start date will be the date the child or youth is identified by the caseworker as being at-risk for CSE based upon meeting the risk factor requirements in the SPC description and based upon the knowledge of the caseworker. The end date will reflect the date the child or youth is no longer considered to be at-risk for commercial sexual exploitation, or the date when the child or youth became a victim of commercial sexual exploitation. If the child or youth becomes a victim of commercial sexual exploitation after having been identified and documented as at-risk for commercial sexual exploitation, the social worker should end date the S-CSEC At-Risk SPC and add the S-CSEC Victim During Care SPC to the case notebook.
- The indicators listed were obtained from research, survivors, advocates, and county stakeholders. Due to the SPC description area being limited to 254 text characters, this list is not an exhaustive list of all risk factors.
- Commence use of this SPC no later than September 29, 2016.
- Required by the federal Title IV-E Program.

4.	S-CSEC Absence From Placement⁹	Dependent/ward who is AWOL, or is abducted, or is otherwise absent from placement and is CSEC/sex trafficked as described in WIC §300(b)(2) or Penal Codes §236.1 or §11165.1 during absence from placement and identified as such upon return to placement
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- This SPC applies to children and nonminor dependents in foster care and not the expanded populations of youth identified in Footnote 1 on the first page of this ACL.
- Per federal law¹⁰, the social worker will need to ascertain the child's experiences while absent from placement, including whether the child was a victim of commercial sexual exploitation during the absence from placement. Once the child is so identified, however long it may take, the social worker will retroactively enter the start date as the date when the child was first absent from placement and the end date as the date the child returned to placement.

⁸ Social Security Act § 471(a)(9)(C)(i)(I)

⁹ Social Security Act § 471(a)(35)(A)(iii)

¹⁰ Social Security Act § 471(a)(35)(A)(iii) "determining the child's experiences while absent from care, including screening the child to determine if the child is a possible sex trafficking victim (as defined in Section 475(9)(A))"

- This SPC may be used multiple times for separate incidents.
- Commence use of this SPC no later than September 29, 2015.
- Required by the federal Title IV-E Program.

CWS/CMS System Change

While CDSS recognizes that these SPCs do not capture all of the new Title IV-E data requirements, the upcoming CWS/CMS system change will provide counties with the ability to document all Title IV-E Program required data for children, youth, and nonminors who are, or are at risk of being, commercially sexually exploited. This CWS/CMS system change will occur before federal deadlines for the data elements not captured by these interim SPCs.

Counties needing additional assistance regarding data entry should contact their System Support Consultant at the Office of Systems Integration, or the CMS Support Branch at (916) 651-7884 or CMSProgramPolicyUnit@dss.ca.gov. For any other questions, please contact the Child Welfare Policy and Program Development Bureau; CSEC Program staff at CSECProgram@dss.ca.gov or (916) 651-6160.

Sincerely,

Original Document Signed By:

KEVIN GAINES, for

GREGORY E. ROSE
Deputy Director
Children and Family Services Division

Attachment

c: CWDA

Instructions for entering the CSEC Special Project Codes

Client Services - [Case [E., Benjamin]]

File Edit Search Action Associated Attach/Detach Window Help Toolz

ID Svc Comp Assignment Trans Req ICPC-100A ICPC-100B Doc Tracking Spec Proj

Special Project

Special Project Name	Start Date	End Date	County
+			

Special Project Name Start Date End Date County Description

Ready Case [E., Benjamin]

In the Client's **open Case**:

1. Click on the **Special Projects** Page tab.
 2. Click on the "+" in the Special Project grid and select the appropriate code (listed below).
- **S-CSEC Victim During Care**
Child/youth who is CSEC/sex trafficked, or who receives food or shelter in exchange for, or who is paid to perform, sexual acts as described in Penal Code §236.1 or §11165.1, including pornography and who became such a victim WHILE IN foster care
 - **S-CSEC Victim Before Care**
Child/youth who is CSEC/sex trafficked, or who receives food or shelter in exchange for, or who is paid to perform, sexual acts as described in Penal Code §236.1 or §11165.1, including pornography and who became such a victim BEFORE entering foster care

- **S-CSEC At-Risk**

Min. of 2 indicators: prior sexual trauma; freq. AWOL/homeless; solicitation charges; probation/LE involvement; history of hard substance abuse; branding tattoos; freq. truancy; relationship w/ much older adult; tech use involving atypical sexual behav.

- **S-CSEC Absence From Placement**

Dependent/ward who is AWOL, or is abducted, or is otherwise absent from placement and is CSEC/sex trafficked as described in WIC §300(b)(2) or Penal Codes §236.1 or §11165.1 during absence from placement and identified as such upon return to placement

Instructions for locating and entering the Exploitation Allegation

Client Services - Referral [E, Benjamin] - [Allegation {}]

File Edit Search Action Associated Attach/Detach Window Help Toolz

+

ID Conclusion

Identification

People Involved

Alleged Victim
[E, Benjamin J. (13)]

Alleged Perpetrator

Abuse Category
Exploitation

Placement Facility Type

Perpetrator Type

☒ Perpetrator
☐ Perpetrator-SCP/Res. Facility Staff
☐ Non-Protecting Parent

Occurrence Information

Start Date End Date

Number of Occurrences
Per

Information of Incident

Information Source

☒ Alleged By Reporter ☐ Added By Investigator

Perpetrator History

Allegation Perpetrator History

Date	Name
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Ready Referral [E, Benjamin] -> Allegation {}

In the Referral Management (green section):

1. Click on the **Create New Allegation “+”** button.
2. Click the dropdown button in the **Abuse Category** field and select **Exploitation**.

Instructions for locating and entering Exploitation as a Reason for Removal

Client Services - Referral [E, Benjamin] - [Temporary Custody]

File Edit Search Action Associated Attach/Detach Window Help Toolz

Child Removal Info

Temporary Custody
☒ Yes ☐ No

Removed From
 First Caretaker Relationship To Child

 First Caretaker Removed From

 Second Caretaker Relationship To Child

 Second Caretaker Removed From

Reasons For Removal
 Primary Reason For Removal
 Exploitation
 + Secondary Reasons for Removal

Removed By
☒ Law Enforcement ☐ Staff Person ☐ Safely Surrendered Baby

Law Enforcement
 Officer: First MI Last Name

 Officer Phone Ext Badge/ID No.
 -

Staff Person

Receiver of Safely Surrendered Baby

Notification Information
☒ Mother Notified ☐ Father Notified
 Notification Date

 Time
 : am
☐ Notified of Civil Rights

Child Notified
☐ Yes
☒ No
☐ Not applicable
 Notification Comments

Guardian Notified **Attorney Notified**

Ready Referral [E, Benjamin] -> Client [Benjamin E] -> Temporary Custody []

In the Placement Management (red section) of the Referral:

1. Click on the **Placement “+”** button.
2. Click the dropdown menu button in the **Reasons For Removal** field and select **Exploitation**.