

INVESTIGATION OF CHILD ABUSE AND NEGLECT IN OUT OF FAMILY
COMPLAINTS

22VAC40-730-10. Definitions.

The following words and terms when used in conjunction with this chapter shall have the following meanings, unless the context clearly indicates otherwise:

"Caretaker," for the purpose of this chapter, means any individual determined to have the responsibility of caring for a child.

"Child Protective Services" means the identification, receipt and immediate investigation of complaints and reports of child abuse and neglect for children under 18 years of age. It also includes documenting, arranging for, and providing social casework and other services for the child, his family, and the alleged abuser.

"Complaint" means a valid report of suspected child abuse or neglect which must be investigated by the local department of social services.

"Child day center" means a child day program operated in other than the residence of the provider or any of the children in care, responsible for the supervision, protection, and well-being of children during absence of a parent or guardian, as defined in §63.2-100 of the Code of Virginia. For the purpose of this chapter, the term shall be limited to include only state licensed child day centers and religiously exempted child day centers.

"Department" means the Department of Social Services.

"Disposition" means the determination of whether abuse or neglect occurred.

"Facility" means the generic term used to describe the setting in out of family abuse or neglect and for the purposes of this regulation includes schools (public and private),

INVESTIGATION OF CHILD ABUSE AND NEGLECT IN OUT OF FAMILY

COMPLAINTS

private or state-operated hospitals or institutions, child day centers, state regulated family day homes, and residential facilities.

"Facility administrator" means the on-site individual responsible for the day-to-day operation of the facility.

"Family day home," for the purpose of this chapter, means a child day program as defined in §63.2-100 of the Code of Virginia where the care is provided in the provider's home and is state regulated; locally approved or regulated homes are not included in this definition.

"Founded" means that a review of the facts shows by a preponderance of the evidence that child abuse and/pr neglect has occurred. A determination that a case is founded shall be based primarily on first source evidence; in no instance shall a determination that a case is founded be based solely on indirect evidence or an anonymous complaint.

"Gross negligence" means negligence beyond the ordinary; a reckless or wanton disregard of the duty of care toward others.

"Local agency" means the local department of social services responsible for conducting investigations of child abuse or neglect complaints as per §63.2-1503 of the Code of Virginia.

"Participate" means to take part in the activities of the joint investigation as per a plan for investigation developed by the CPS worker with the facility administrator or regulatory authority or both.

"Physical plant" means the physical structure/premises of the facility.

INVESTIGATION OF CHILD ABUSE AND NEGLECT IN OUT OF FAMILY

COMPLAINTS

"Regulatory authority" means the department or state board that is responsible under the Code of Virginia for the licensure or certification of a facility for children.

"Residential facility" means a publicly or privately owned facility, other than a private family home, where 24-hour care is provided to children separated from their legal guardians, that is subject to licensure or certification pursuant to the provisions of the Code of Virginia and includes, but is not limited to, group homes, group residences, secure custody facilities, self-contained residential facilities, temporary care facilities, and respite care facilities.

"Willful misconduct" means a conscious purpose or intent to do wrong.

22VAC40-730-115. Procedures for conducting an investigation of a teacher, principal or other person employed by a local school board or employed in a nonresidential school operated by the Commonwealth.

A. Each local department of social services and local school division shall adopt a written interagency agreement as a protocol for investigating child abuse and neglect reports against school personnel. The interagency agreement shall be based on recommended procedures for conducting investigations developed by the Departments of Education and Social Services.

B. These procedures for investigating school personnel amplify or clarify other Child Protection Services (CPS) regulations.

1. In determining the validity of a report of suspected abuse or neglect pursuant to 63.2-1511, the local department must consider whether the school employee used

INVESTIGATION OF CHILD ABUSE AND NEGLECT IN OUT OF FAMILY

COMPLAINTS

reasonable and necessary force. The use of reasonable and necessary force does not constitute a valid report.

2. The local department shall conduct a face-to-face interview with the person who is the subject of the complaint or report.

2 3. At the onset of the initial interview with the alleged abuser or neglector, the local department shall notify him in writing of the general nature of the complaint and the identity of the alleged child victim regarding the purpose of the contacts.

3 4. The written notification shall include the information that the alleged abuser or neglector has the right to have an attorney or other representative of his choice present during his interviews. However, the failure by a representative of the Department of Social Services to so advise the subject of the complaint shall not cause an otherwise voluntary statement to be inadmissible in a criminal proceeding.

5. The standard for determining a founded finding of abuse or neglect is whether such acts or omissions constituted gross negligence or willful misconduct, otherwise such acts should be considered within the employee's scope of employment and taken in good faith in the course of supervision, care, or discipline of students.

4-6. Written notification of the findings shall be submitted to the alleged abuser or neglector. The notification shall include a summary of the investigation and an explanation of how the information gathered supports the disposition.

57. The written notification of the findings shall inform the alleged abuser or neglector of his right to appeal.

INVESTIGATION OF CHILD ABUSE AND NEGLECT IN OUT OF FAMILY

COMPLAINTS

68. The written notification of the findings shall inform the alleged abuser or neglecter of his right to review information about himself in the record with the following exceptions:

- a. The identity of the person making the report.
- b. Information provided by any law-enforcement official.
- c. Information that may endanger the well-being of the child.
- d. The identity of a witness or any other person if such release may endanger the life or safety of such witness or person.

No information shall be released by the local department in cases that are being criminally investigated unless the release is authorized by the investigating law-enforcement officer or his supervisor or the local attorney for the Commonwealth.

I certify that this regulation is full, true and correctly dated.

Julie Christopher, Chair
State Board of Social Services
June 15, 2005