

INVESTIGATION OF CHILD ABUSE AND NEGLECT IN OUT OF FAMILY
COMPLAINTS

22 VAC 40-730

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COMPLAINTS**

22 VAC 40-730-10. 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.

~~"Central Registry" means the name index of individuals involved in child abuse and neglect reports maintained by the Virginia Department of Social Services.~~

"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,

INVESTIGATION OF CHILD ABUSE AND NEGLECT IN OUT OF FAMILY COMPLAINTS

and well-being of children during absence of a parent or guardian, as defined in § 63.1-195 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), 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 § 63.1-195 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.

~~"Identifying information" means name, race, sex, and date of birth of the subject.~~

"Local agency" means the local department of social services responsible for conducting investigations of child abuse or neglect complaints as per § 63.1-248.6 of the Code of Virginia.

INVESTIGATION OF CHILD ABUSE AND NEGLECT IN OUT OF FAMILY COMPLAINTS

"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.

"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.

22 VAC 40-730-20. General.

Complaints of child abuse or neglect involving caretakers in out of family settings are for the purpose of this chapter complaints in state licensed and religiously exempted child day centers, regulated family day homes, private and public schools, group residential facilities, hospitals or institutions. These complaints shall be investigated by qualified staff employed by local departments of social services or welfare.

Staff shall be determined to be qualified based on criteria identified by the department.

All staff involved in investigating a complaint must be qualified.

INVESTIGATION OF CHILD ABUSE AND NEGLECT IN OUT OF FAMILY COMPLAINTS

This regulation is limited in scope to the topics contained herein. All issues regarding investigations, findings and appeals are found in Child Protective Services, 22 VAC 40-705, and as such are cross referenced and incorporated into and apply to out of family cases to the extent that they are not inconsistent with this regulation.

In addition to the authorities and the responsibilities specified in department policy for all child protective services investigations, the policy for investigations in out of family settings is set out in 22 VAC 40-730-30 through 22 VAC 40-730-130.

22 VAC 40-730-40. Involvement of regulatory agencies.

The authority of the local agency to investigate complaints of alleged child abuse or neglect in regulated facilities overlaps with the authority of the public agencies which have regulatory responsibilities for these facilities to investigate alleged violations of standards.

1. For complaints in state regulated facilities and religiously exempted child day centers, the local agency shall contact the regulatory authority and share the complaint information. The regulatory authority will appoint a staff person to participate in the investigation to determine if there are regulatory concerns.
2. The CPS worker assigned to investigate and the appointed regulatory staff person will discuss their preliminary joint investigation plan.

INVESTIGATION OF CHILD ABUSE AND NEGLECT IN OUT OF FAMILY COMPLAINTS

- a. The CPS worker and the regulatory staff person shall review their respective needs for information and plan the investigation based on when these needs coincide and can be met with joint interviews or with information sharing.
- b. The investigation plan must keep in focus the policy requirements to be met by each party as well as the impact the investigation will have on the facility's staff, the victim child or children, and the other children at the facility.

22 VAC 40-730-50. Involvement of other parties.

A. In a facility for which there is not a state regulatory authority, such as in schools, the CPS worker ~~may~~ shall ask the facility administrator or school superintendent to designate a ~~staff~~ person to participate in the joint investigative process.

B. When CPS and law enforcement will be conducting a joint investigation, the CPS worker shall attempt to facilitate a coordinated approach among CPS, law enforcement and the regulatory authority or facility designee.

22 VAC 40-730-60. Contact with CPS regional coordinator.

A. The local agency shall contact the department's regional CPS coordinator as soon as is practical after the receipt of the complaint. The regional coordinator will review the procedures to be used in investigating the complaint and provide any case planning assistance the local worker may need.

INVESTIGATION OF CHILD ABUSE AND NEGLECT IN OUT OF FAMILY COMPLAINTS

B. The regional coordinator shall be responsible for monitoring the investigative process and shall be kept informed of developments which substantially change the original case plan.

C. At the conclusion of the investigation the local agency shall contact the department's regional CPS coordinator to review the case prior to notifying anyone of the disposition. The regional coordinator shall review the facts gathered and policy requirements for determining whether or not abuse or neglect occurred. However, the statutory authority for the disposition rests with the local agency. This review ~~should~~ shall not interfere with the requirement to complete the investigation in the legislatively mandated time frame.

22 VAC 40-730-70. Contact with the facility administrator.

A. The CPS worker shall initiate contact with the facility administrator at the onset of the investigation.

B. The CPS worker shall inform the facility administrator or his designee of the details of the complaint. When the administrator or designee chooses to participate in the joint investigation, he will be invited to participate in developing the plan for investigation, including decisions about who is to be present in interviews. If the administrator or designee is the alleged abuser or neglecter, this contact should be initiated with the individual's superior, which may be the board of directors, etc. If there is no superior, the CPS worker may use discretion in sharing information with the administrator.

C. Arrangements are to be made for:

INVESTIGATION OF CHILD ABUSE AND NEGLECT IN OUT OF FAMILY COMPLAINTS

1. Necessary interviews;
2. Observations including the physical plant; and
3. Access to information, including review of pertinent policies and procedures.

D. The CPS worker shall keep the facility administrator apprised of the progress of the investigation. In a joint investigation with a regulatory staff person, either party may fulfill this requirement.

22 VAC 40-730-80. Contact with the alleged victim child.

The CPS worker shall interview the alleged victim child and shall determine along with a regulatory staff person or facility administrator or designee who may be present in the interview. Where there is an apparent conflict of interest, the CPS agency shall use discretion regarding who is to be included in the interview.

22 VAC 40-730-90. Contact with the alleged abuser or neglecter.

A. The CPS worker shall interview the alleged abuser or neglecter according to a plan developed with the regulatory staff person, facility administrator, or designee. Where there is an apparent conflict of interest, the CPS agency shall use discretion regarding who is to be included in the interview. At the onset of the initial interview with the alleged abuser or neglecter, the CPS worker shall notify him in writing of the general nature of the complaint and the identity of the alleged victim child to avoid any confusion regarding the purpose of the contacts.

INVESTIGATION OF CHILD ABUSE AND NEGLECT IN OUT OF FAMILY COMPLAINTS

B. The alleged abuser or neglector has the right to involve a representative of his choice to be present during his interviews.

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

Ray C. Goodwin, Acting Commissioner
Virginia Department of Social Services

Date: