

**STATE OF RHODE ISLAND
DEPARTMENT OF CHILDREN, YOUTH AND FAMILIES**

PUBLIC NOTICE OF PROPOSED RULE-MAKING

In accordance with Rhode Island General Law (RIGL) 42-35 and 42-72-5, notice is hereby given that the Department of Children, Youth and Families proposes to amend the following DCYF rule:

Standards for Investigating Child Abuse and Neglect (CA/N) Reports

This rule has been amended to include a process to ensure that DCYF arranges contact with a minor child who has knowledge of an abuse and/or neglect incident through that child's parent or guardian. Further, the rule allows that parent or guardian to be present during the interview, which must be conducted in an age and developmentally appropriate setting and manner. The previous version of this policy, refiled 1/5/2007, is superseded by this amended version.

In the development of this rule, consideration was given to the following: (1) alternative approaches; and (2) overlap or duplication with other statutory and regulatory provisions. No alternative approach or duplication or overlap was identified based upon available information.

This proposed rule is accessible on the R.I. Secretary of State's website (www.sec.state.ri.us/ProposedRules/) and the DCYF website (<http://www.dcyf.ri.gov>) or available in hard copy upon request (401 528-3641). Interested persons should submit data, views or written comments by December 24, 2010 to Sarah St. Jacques, Principal Human Services Policy and Systems Specialist, Department of Children, Youth and Families, 101 Friendship Street, Providence, RI 02903 sarah.stjacques@dcyf.ri.gov.

In accordance with RIGL 42-35-3, an oral hearing will be granted if requested by twenty-five (25) persons, by an agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within thirty (30) days of this notice.

Standards for Investigating Child Abuse and Neglect (CA/N) Reports (Levels 1, 2, 3)

Rhode Island Department of Children, Youth and Families

Policy: 500.0050

Effective Date: July 7, 1984 Revised Date: ~~February 3, 2003~~ Version: ~~65~~

The Department of Children, Youth and Families has established standards for investigating child abuse and/or neglect (CA/N) reports. These standards contain general directives for the handling of all investigations and designate different activities that must be completed by the Child Protective Services (CPS) Hotline Call Floor or Field Child Protective Investigator (CPI), ~~and/or Field CPI~~. Each investigative level (1,2,3) is based on specific allegations prioritized in accordance with the severity of harm or threat of harm to the child. The assessment of the safety of a child is a critical component of a child protective investigation.

Rhode Island General Law 40-11-7 requires child abuse and/or neglect investigations to include personal contact with ~~each the child(ren)~~ named in the report as well as any other children in the household or child care facility. In compliance with the statute, the Field CPI ~~shall~~ make every effort to locate and interview each child who was residing in the household or present in the child care facility at the time the abuse and/or neglect took place, whether or not he or she is the alleged victim. When the alleged perpetrator is the parent or guardian of a child victim, the CPI must make every effort to confirm the past and present whereabouts of any child of that parent or guardian who was not residing in the household at the time of the alleged incident of abuse and/or neglect.

The Field CPI must interview the child, if the child is of the mental capacity to be interviewed, in the absence of the person(s) responsible for the alleged abuse and/or neglect. In addition, the CPI has the right to question the child without the consent of the parent(s) or other person responsible for the child's welfare. In the event that the CPI is denied reasonable access to the child, he or she may request the intervention of the local law enforcement agency or seek an appropriate court order to examine and interview the child. ~~The CPI shall also make every effort to confirm the past and present whereabouts of any child(ren) of the parent who was not residing in the household at the time of the alleged incident of abuse and/or neglect.~~

Upon receipt of a CA/N report, the Call Floor/Hotline CPI initially sets the investigative standard (Level 1, 2, 3) based on the allegation(s) of abuse and/or neglect. Each level has specific responsibilities that must be performed by the Field CPI in the course of his or her investigation. The CPI Investigative Supervisor can upgrade the investigative level when circumstances warrant such a change. The Field CPI is then required to complete all responsibilities associated with the new investigative level.

The CPI or Supervisor can never downgrade the level of investigation. However, in certain circumstances, such as when the initial investigation proves the allegation(s) to be false, the CPI may be allowed to omit specific tasks with administrative approval.

Related Procedure

Standards for Investigating Child Abuse and Neglect (CA/N) Reports (Levels 1, 2, 3)

Standards for Investigating Child Abuse and Neglect (CA/N) Reports (Levels 1, 2, 3)

Procedure from Policy 500.0050: Standards for Investigating Child Abuse and Neglect (CA/N) Reports (Levels 1, 2, 3)

- A. The ~~Call Floor~~Hotline CPI determines the investigative level (1, 2, 3) for each report of child abuse or neglect.
1. The level of investigation is noted on the CPS Report.
 2. Each investigative level (1, 2, 3) is based on specific child abuse and/or neglect allegations prioritized in accordance with the severity of harm or threat of harm to the child.
 3. Each investigative level includes a minimum number of tasks that the Field CPI is responsible to perform during the course of the investigation.
- B. Listed below are the allegations and worker responsibilities associated with each investigative level.
1. Level 1
 - a. Allegations
 - i. Death
 - ii. Brain Damage/Skull Fracture
 - iii. Subdural Hematoma
 - iv. Internal Injury
 - v. Sexually Transmitted Disease
 - vi. Sexual Intercourse
 - vii. Sexual Exploitation
 - viii. Sexual Molestation
 - b. Worker Responsibilities
 - i. Contact police.
 - ii. Notify DCYF legal counsel.
 - iii. Contact the reporter, if identified, to secure additional information.
 - iv. The initial visit to the ~~family~~ home or child care facility must be unannounced, unless the family is aware of the allegation(s) and the Department's involvement.
 - v. Interview the victim(s) face to face, as soon as possible within the timeframes of the Response Priority (i.e., Emergency - 10 minutes, Immediate - within shift, Routine - 24 hours).
 - vi. Interview each involved adult, including alleged perpetrator(s) and caretaker(s), as soon as possible after the interview with the victim(s).
 - vii. Interview individually all other children who resided in the household or were present in the child care facility at the time of the alleged abuse and/or neglect.
 - viii. Confirm the whereabouts of any other children of the parent ~~or~~ guardian who did not reside in the household at the time of the alleged incident of abuse and/or neglect when the alleged perpetrator is parent or guardian.
 - ix. Interview other adult household members or facility staff.
 - x. Interview any known witnesses to or individuals who may have knowledge relating to the abuse and/or neglect incident. In the event that the witness or individual who has knowledge relating to the abuse and/or neglect incident is a minor child, contact with that child is arranged through the child's parent or guardian. The parent or guardian may choose to be present during the

interview, which must be conducted in an age and developmentally appropriate setting and manner.

- xi. Interview at least two other professionals who are believed to have first-hand knowledge of the incident, the injury and/or the family's circumstances.

2. Level 2

a. Allegations

- i. Burn/Scalding
- ii. Poisonous/Noxious Substance
- iii. Wound
- iv. Malnutrition/Starvation
- v. Bone Fracture
- vi. Excessive/Inappropriate Discipline
- vii. Cut/Bruise/Welt
- viii. Human Bite
- ix. Sprain/Dislocation
- x. Tying/Close Confinement
- xi. Drug/Alcohol Abuse
- xii. Emotional Abuse
- xiii. Lack of Supervision - Caretaker
- xiv. Lack of Supervision - No Caretaker
- xv. Abandonment
- xvi. Medical Neglect
- xvii. Failure to Thrive
- xviii. Corporal Punishment (Institutional)
- xix. Inappropriate Restraint (Institutional)

b. Worker Responsibilities

- i. Contact the reporter, if identified, to secure additional information.
- ii. The initial visit to the ~~family~~-home or child care facility must be unannounced, unless the family is aware of the allegation(s) and the Department's involvement.
- iii. Interview the victim(s) face to face, as soon as possible within the timeframes of the Response Priority (i.e., Emergency - 10 minutes, Immediate - within shift, Routine - 24 hours).
- iv. Interview each involved adult, including alleged perpetrator(s) and caretaker(s), as soon as possible after the interview with the victim.
- v. Interview individually all other children who resided in the household or were present in the child care facility at the time of the alleged abuse and/or neglect.
- ~~vi.~~ Confirm the whereabouts of any other children of the parent or guardian who did not reside in the household at the time of the alleged incident of abuse and/or neglect when the alleged perpetrator is parent or guardian.
- vii. Interview other adult household members or facility staff.
- ~~viii.~~ Interview any known witnesses to or individuals who may have knowledge relating to the abuse and/or neglect incident. In the event that the witness or individual who has knowledge relating to the abuse and/or neglect incident is a minor child, contact with that child is arranged through the child's parent or guardian. The parent or guardian may choose to be present during the interview, which must be conducted in an age and developmentally appropriate setting and manner.
- ~~viii.~~ix. Interview at least two other persons who are believed to have first-hand knowledge of the incident, the injury and/or the family's

circumstances. One of these collateral contacts must be with a professional person.

3. Level 3
 - a. Allegations
 - i. Other Abuse
 - ii. Inadequate Food
 - iii. Inadequate Shelter
 - iv. Inadequate Clothing
 - v. Educational Neglect
 - vi. Emotional Neglect
 - vii. Other Neglect
 - viii. Other Institutional Abuse
 - ix. Other Institutional Neglect
 - b. Worker Responsibilities
 - i. Contact the reporter, if identified, to secure additional information.
 - ii. The initial visit to the ~~family~~-home or child care facility must be unannounced, unless the family is aware of the allegation(s) and the Department's involvement.
 - iii. Interview the victim(s) face to face, as soon as possible within the timeframes of the Response Priority (i.e., Emergency - 10 minutes, Immediate - within shift, Routine - 24 hours).
 - iv. Interview each involved adult, including alleged perpetrator(s) and caretaker(s), as soon as possible after the interview with the victim(s).
 - v. Interview individually all other children who resided in the household or were present in the child care facility at the time of the alleged abuse and/or neglect.
 - vi. Confirm the whereabouts of any other children of the parent or guardian who did not reside in the household at the time of the alleged incident of abuse and/or neglect when the alleged perpetrator is parent or guardian.
 - vii. Interview other adult household members.
 - viii. Interview any known witnesses to or individuals who may have knowledge relating to the abuse and/or neglect incident. In the event that the witness or individual who has knowledge relating to the abuse and/or neglect incident is a minor child, contact with that child is arranged through the child's parent or guardian. The parent or guardian may choose to be present during the interview, which must be conducted in an age and developmentally appropriate setting and manner.
- C. Locating Subjects of Report
1. Child Residing in the Household
 - a. The Field CPI shall make every effort to locate and interview each child who was residing in the household at the time of the alleged abuse and/or neglect, whether or not he or she is the alleged victim.
 - b. If there is any indication that a child, who resided in the household at the time of the alleged abuse and/or neglect, whether or not he or she is the alleged victim, is living in another state, the CPI must make every effort to locate the child and facilitate an interview of the child through the child welfare agency in that state.
 - c. Search efforts must be documented (Investigation Contact Note) in the investigative record.
 2. Child Not Residing in the Household

- a. The Field CPI shall make every effort to confirm the past and present whereabouts of any child ~~(ren)~~ of the parent who was not residing in the household at the time of the alleged incident of abuse and/or neglect.
 - b. If there is any indication that a child of the parent, who was not residing in the household at the time of the alleged incident of abuse and/or neglect, is living in another state, the CPI shall make every effort to confirm the past and present whereabouts of the child through communication with the child's present caretaker and/or the child welfare agency in that state.
 - c. Search efforts must be documented (Investigation Contact Note) in the investigative record.
3. Perpetrator
- a. Every reasonable effort should be made to find and interview the perpetrator.
 - b. Search efforts must be documented (Investigation Contact Note) in the Investigative record.
 - c. If a criminal investigation is in progress and law enforcement requests that the Department delay interviewing the perpetrator, CPI and supervisor will inform administrator and legal counsel.
 - i. The Department will comply with the request to delay the interview for a period not exceeding two (2) weeks.
 - ii. The decision to delay the interview for a specified amount of time is documented (Investigation Contact Note) in the investigative record.
 - iii. At the end of the agreed upon period, not exceeding two (2) weeks, the CPI will contact the police to determine the status of the investigation and to advise of the Department's intent to contact and interview the perpetrator.
 - iv. If law enforcement requests a further delay because DCYF contact would compromise the criminal investigation, CPI and supervisor must consult with administrator and legal counsel.
4. If there is a problem or question in locating the subjects of the report, an administrator must be informed. Administrator will determine if further attempts should be made to locate the subject(s) of the report.
5. An allegation, relating to a child participant in the Investigation or in the Case who cannot be seen or interviewed, may be confirmed as "Unable to Complete" with administrative approval.
- a. The allegation(s) relating to a child who cannot be seen or interviewed must be confirmed on the "Allegations" tab of the Investigation as "Unable to Complete".
 - b. If there is no allegation relating to a child who cannot be seen/interviewed, that child must be identified as a victim of "Other Neglect" with a finding of "Unable to Complete". The fact that the child cannot be located despite appropriate efforts causes reasonable suspicion and is the basis for adding the allegation of "Other Neglect".
- D. Police Involvement
1. The ~~Call Floor~~ Hotline or Field CPI must immediately notify the police when the child is known or suspected to be at imminent risk of harm or when it is otherwise judged that there is a need for an emergency police response.
 2. The local law enforcement authority must be notified of all Level 1 allegations of abuse and/or neglect prior to or during the investigation and all indicated cases of abuse and/or neglect, regardless of the investigative level. If extenuating circumstances cause the CPI, after discussing the situation with his or her supervisor, to determine that the police should not be notified, the CPI must document (Investigation Contact Note) the reasons for this decision in the investigative record.

3. If, after completing the investigation and consulting with DCYF legal counsel, the CPI has reasonable cause to know or suspect that a child has been subjected to criminal abuse or neglect, he or she shall immediately relate that information to the law enforcement agency.
 4. Refer to Department Policy 500.0065, Police Involvement in Child Protective Investigation for details.
- E. Legal Consult is required in the following situations:
1. During the investigation of any Level 1 allegation, if the initial findings suggest substantiation.
 - a. Legal consult is not required on a Level 1 allegation if there is insufficient evidence to indicate the investigation.
 - i. CPI must confer with CPI Supervisor.
 - ii. CPI documents (Investigation Contact Note) in the investigative record that conference occurred, case was unfounded and legal consult is not required.
 - b. The CPI, however, can schedule a legal consult to review the case, even if there is insufficient evidence to indicate, if CPI feels the need to have a legal review.
 2. In all cases involving indicated allegations of sexual abuse and alcohol/drug abuse.
 3. When a Report of Examination is filed, indicating abuse and/or neglect.
 4. In any case to determine if court action is warranted or advisable.
 5. Access to the home to investigate is denied.
 6. Prior to any legal action regarding a child of Indian heritage.
 7. Legal Counsel documents the results of the consult in RICHIST.
- F. The CPI Supervisor can upgrade the investigative level when appropriate. The Field CPI is obligated to perform all tasks associated with the new investigative level. Reasons for upgrading the investigative level could include:
1. Additional Allegations - If the Department is informed of an additional allegation that requires a higher level of investigation, the entire report is upgraded to that level.
 2. Initiation of Court Action or 72 (physician or nurse practitioner) or 48 (police or DCYF CPI/Social Caseworker II) Hour Child Protective Hold
 - a. If such action becomes necessary, the Field Supervisor may determine that the risk to the child or the severity of the situation warrants the upgrading of the investigative level.
 - b. Refer to Policy 500.0075, Removal of Child from Home for details.
 3. Previous History of Abuse/Neglect - Although the present allegation may fall within a lower investigative level, a more intense investigation may be warranted if there have been prior agency contacts with the family.
 4. Severity of the Injury - Although an allegation, by definition, falls within a lower level of investigation, the severity of the injury may warrant a higher level of investigation.
- G. The CPI or Supervisor can never downgrade the level of investigation.
1. In certain circumstances (e.g., allegation(s) determined to be false upon initial investigation, subject of the report is being harassed), the CPI may be allowed to omit certain tasks.
 - a. Administrative approval is required to end an investigation without completing all responsibilities outlined within the level of investigation.
 - b. CPI or supervisor must document (Investigation Contact Note) the approval in the investigative record.

2. Unless otherwise allowed within this policy and procedure, all tasks corresponding to a particular level of investigation must be completed and documented in the investigative record.