

ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER a: SERVICE DELIVERY

PART 300
REPORTS OF CHILD ABUSE AND NEGLECT

Section	
300.10	Purpose
300.20	Definitions
300.30	Reporting Child Abuse or Neglect to the Department
300.40	Content of Child Abuse or Neglect Reports
300.50	Transmittal of Child Abuse or Neglect Reports
300.60	Special Types of Reports (Recodified)
300.70	Referrals to the Local Law Enforcement Agency and State's Attorney
300.80	Delegation of the Investigation
300.90	Time Frames for the Investigation
300.100	Initial Investigation
300.110	The Formal Investigative Process
300.120	Taking Children into Temporary Protective Custody
300.130	Notices Whether Child Abuse or Neglect Occurred
300.140	Transmittal of Information to the Illinois Department of Professional Regulation and to School Superintendents
300.150	Referral for Other Services
300.160	Special Types of Reports
300.170	Child Death Review Teams
APPENDIX A	Acknowledgment of Mandated Reporter Status
APPENDIX B	Child Abuse and Neglect Allegations

AUTHORITY: Implementing and authorized by the Abused and Neglected Child Reporting Act [325 ILCS 5] and Section 3 of the Consent by Minors to Medical Procedures Act [410 ILCS 210/3].

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ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

302.20, 302.100, 302.110, 302.120, 302.130, 302.140, 302.150, 302.160, 302.170, 302.180, 302.190, and Appendix A at 11 Ill. Reg. 3492; emergency amendments at 11 Ill. Reg. 4058, effective February 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 12619, effective July 20, 1987; recodified at 11 Ill. Reg. 13405; amended at 13 Ill. Reg. 2419, effective March 1, 1989; emergency amendment at 14 Ill. Reg. 11356, effective July 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 17558, effective October 15, 1990; amended at 14 Ill. Reg. 19827, effective November 28, 1990; emergency amendment at 15 Ill. Reg. 14285, effective September 25, 1991; amended at 15 Ill. Reg. 17986, effective December 1, 1991; emergency amendment at 17 Ill. Reg. 15658, effective September 10, 1993, for a maximum of 150 days; emergency expired on February 7, 1994; amended at 18 Ill. Reg. 8377, effective May 31, 1994; amended at 18 Ill. Reg. 8601, effective June 1, 1994; amended at 19 Ill. Reg. 3469, effective March 15, 1995; amended at 19 Ill. Reg. 10522, effective July 1, 1995; amended at 20 Ill. Reg. 10328, effective July 19, 1996; amended at 22 Ill. Reg. 18847, effective October 1, 1998; amended at 23 Ill. Reg. 13590, effective November 15, 1999; amended at 24 Ill. Reg. 7707, effective June 1, 2000; amended at 25 Ill. Reg., 12781, effective October 1, 2001; amended at 26 Ill. Reg. 7435, effective May 15, 2002; amended at 26 Ill. Reg. 11730, effective August 1, 2002, amended at 27 Ill. Reg. 1114, effective January 15, 2003; amended at 27 Ill. Reg. 9431, effective June 9, 2003; preemptory amendment at 29 Ill. Reg. _____, effective_____.

Section 300.20 Definitions

"Abused child" means a child whose parent or immediate family member, or any person responsible for the child's welfare, or any individual residing in the same home as the child, or a paramour of the child's parent:

inflicts, causes to be inflicted, or allows to be inflicted upon such child physical or mental injury, by other than accidental means, which causes death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function;

creates a substantial risk of physical or mental injury to such child by other than accidental means which would be likely to cause death, disfigurement, impairment of physical or emotional health, or loss of or impairment of any bodily function;

commits or allows to be committed any sex offense against such child, as such sex offenses are defined in the Criminal Code of 1961, as amended, and extending those definitions of sex offenses to include children under 18 years of age;

commits or allows to be committed an act or acts of torture upon such child; or

ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

inflicts excessive corporal punishment; or

commits or allows to be committed the offense of female genital mutilation, as defined in Section 12-34 of the Criminal Code of 1961, against the child. [325 ILCS 5/3]

"Caregiver" means the child's parents, guardian, custodian or relative with whom the child lives and who has primary responsibility for the care and supervision of the child.

"Child" means any person under the age of 18 years, unless legally emancipated by reason of marriage or entry into a branch of the United States armed services. [20 ILCS 515/107]

"Child care facility" means any person, group of persons, agency, association or organization, whether established for gain or otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody in any facility as defined in the Child Care Act of 1969, established and maintained for the care of children. Child care facility includes a relative who is licensed as a foster family home under Section 4 of the Child Care Act of 1969 [225 ILCS 10/2.05].

"Child care worker" means any person that works directly with children, or owners/operators of child care facilities regardless of whether the facility is licensed by the Department of Children and Family Services. Types of facilities include child care institutions; child welfare agencies, day care/night care centers; day care/night care homes; day care/night care group day care homes; group homes; hospitals or health care facilities; school personnel, including school teachers or administrators, but not tenured school teachers or administrators who have other processes available to them; and employees who work with children before and after school programs, recreational programs summer camps or as full-time nannies. Child care workers may also include any person employed in one of these settings but is alleged to be responsible for child abuse or neglect outside of their employment. Child care workers include persons currently engaged in the job placement process as a child care worker; persons currently enrolled in an academic program which leads to a position as a child care worker position; or persons that have applied for a license required for a child care worker position. Persons shall qualify only if, at the time of the notice of the investigation, that person has applied for or will apply within 180 days for a position as a child care worker; or is enrolled in or will commence within 180 days an academic program which leads to a position as a child care worker; or has applied for a license as a child care worker.

"Child Protective Service Unit" (CPS) means certain specialized State employees of the Department assigned by the Director or his designee to perform the duties and

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

responsibilities as provided under this Part. They are also known as investigative staff. [325 ILCS 5/3]

"Children for whom the Department is legally responsible" means children for whom the Department has temporary protective custody, custody or guardianship via court order, or children whose parents have signed an adoptive surrender or voluntary placement agreement with the Department.

"Collateral contact" means obtaining information concerning a child, parent, or other person responsible for the child from a person who has knowledge of the family situation but was not directly involved in referring the child or family to the Department for services.

"Credible evidence of child abuse or neglect" means that the available facts when viewed in light of surrounding circumstances, would cause a reasonable person to believe that a child was abused or neglected.

"Delegation of an investigation" means the investigation of a report of child abuse or neglect has been deferred to another authority. The Department maintains responsibility for determining whether the report is indicated or unfounded, entering information about the report in the State Central Register and notifying the subjects of the report and mandated reporters of the results of the investigation.

"Department" means the Department of Children and Family Services.

"Determination" means a final Department decision about whether there is credible evidence that child abuse or neglect occurred. A determination must be either "indicated" or "unfounded."

"Disfigurement" means a serious or protracted blemish, scar, or deformity that spoils a person's appearance or limits bodily functions.

"Formal investigation" means those activities conducted by Department investigative staff necessary to make a determination as to whether a report of suspected child abuse or neglect is indicated or unfounded. Those activities shall include: *an evaluation of the environment of the child named in the report and any other children in the same environment; a determination of the risk to such children if they continue to remain in the existing environments, as well as a determination of the nature, extent and cause of any condition enumerated in such report, the name, age and condition of other children in the environment; and an evaluation as to whether there would be an immediate and urgent necessity to remove the child from the environment if appropriate family preservation services were provided. After seeing to the safety of the child or children, the*

ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

Department shall forthwith notify the subjects of the report in writing, of the existence of the report and their rights existing under the Act in regard to amendment or expungement. [325 ILCS 5/3]

“Godparent” is a person who sponsors a child at baptism or one in whom the parents have entrusted a special duty that includes assisting in raising a child if the parent cannot raise the child. The worker shall verify the godparent/godchild relationship by contacting the parents to confirm the fact that they did, in fact, designate the person as the godparent. If the parents are unavailable, the worker should contact other close family members to verify the relationship. If the person is considered to be the child’s godparent, in order for placement to occur, the same placement selection criteria as contained in 89 Ill. Adm. Code. 301.60 (Placement Selection) must be met. If the godparent is not a licensed foster parent, all the conditions currently in effect for placement with relatives in 89 Ill. Adm. Code. 301.80 must be met.

"Indicated Report" means any report of child abuse or neglect made to the Department for which it is determined, after an investigation, that credible evidence of the alleged abuse or neglect exists.

"Initial Investigation" means those activities conducted by Department investigative staff to determine whether a report of suspected child abuse or neglect is a good faith indication of abuse or neglect and, therefore, requires a formal investigation. Good faith in this context means that the report was made with the honest intention to identify actual child abuse or neglect.

"Initial Oral Report" means a report alleging child abuse or neglect for which the State Central Register has no prior records on the family.

"Neglected child" means any child who is not receiving the proper or necessary nourishment or medically indicated treatment including food or care not provided solely on the basis of present or anticipated mental or physical impairment as determined by a physician acting alone or in consultation with other physicians or otherwise is not receiving the proper or necessary support or medical or other remedial care recognized under State law as necessary for a child's well-being (including where there is harm or substantial risk of harm to the child's health or welfare), or other care necessary for a child's well-being, including adequate food, clothing and shelter; or who is abandoned by his or her parents or other person responsible for the child's welfare without a proper plan of care; or who is a newborn infant whose blood, urine or meconium contains any amount of controlled substance as defined in subsection (f) of Section 102 of the Illinois Controlled Substances Act or a metabolite thereof, with the exception of a controlled substance or metabolite thereof whose presence in the newborn infant is the result of medical treatment administered to the mother or newborn infant. A child shall not be

ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

considered neglected for the sole reason that the child's parent or other person responsible for his or her welfare has left the child in the care of an adult relative for any period of time. A child shall not be considered neglected or abused for the sole reason that such child's parent or other person responsible for his or her welfare depends upon spiritual means through prayer alone for the treatment or cure of disease or remedial care under Section 4 of the Abused and Neglected Child Reporting Act. Where the circumstances indicate harm or substantial risk of harm to the child's health or welfare and necessary medical care is not being provided to treat or prevent that harm or risk of harm because such parent or other person responsible for the child's welfare depends upon spiritual means alone for treatment or cure, such child is subject to the requirements of this Act for the reporting of, investigation of, and provision of protective services with respect to such child and his health needs, and in such cases spiritual means through prayer alone for the treatment or cure of disease or for remedial care will not be recognized as a substitute for such necessary medical care, if the Department or, as necessary, a juvenile court determines that medical care is necessary. A child shall not be considered neglected or abused solely because the child is not attending school in accordance with the requirements of Article 26 of The School Code. [325 ILCS 5/3]

"Perpetrator" means a person who, as a result of investigation, has been determined by the Department to have caused child abuse or neglect.

"Person responsible for the child's welfare" means the child's parent, guardian, foster parent, relative caregiver, an operator, supervisor, or employee of a public or private residential agency or institution or public or private profit or not-for-profit child care facility; or any other person responsible for the child's welfare at the time of the alleged abuse or neglect, or any person who came to know the child through an official capacity or position of trust, including but not limited to health care professionals, educational personnel, recreational supervisors, members of the clergy and volunteers or support personnel in any setting where children may be subject to abuse or neglect. [325 ILCS 5/3]

"Private Guardianship" means an individual person appointed by the court to assume the responsibilities of the guardianship of the person as defined in Section 1-3 of the Juvenile Court Act of 1987 [705 ILCS 405/1-3] or Article XI of the Probate Act of 1975 [755 ILCS 5/Art. XI].

"Relative", for purposes of placement of children for whom the Department is legally responsible, *means any person, 21 years of age or over, other than the parent, who:*

is currently related to the child in any of the following ways by blood or adoption:
grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin,
first cousin once removed (children of one's first cousin to oneself), second cousin

ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

(children of first cousins are second cousins to each other), godparent (*as defined in this Section*), great-uncle, or great-aunt, or

is the spouse of such a relative, or

is the child's step-father, step-mother, or adult step-brother or step-sister,

Relative also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person. [20 ILCS 505/7(b)]

"Subject of a report" means any child reported to the child abuse/neglect State Central Register, and his or her parent, personal guardian or other person responsible for the child's welfare who is named in the report.

"Temporary protective custody" means custody within a hospital or other medical facility or a place previously designated by the Department, subject to review by the Court. Temporary protective custody cannot exceed 48 hours excluding Saturdays, Sundays and holidays.

"Undetermined report" means any report of child abuse or neglect made to the Department in which it was not possible to complete an investigation within 60 days on the basis of information provided to the Department.

"Unfounded report" means any report of child abuse or neglect for which it is determined, after an investigation, that no credible evidence of the alleged abuse or neglect exists.

(Source: Peremptory amendment at 29 Ill. Reg. _____, effective _____)

Section 300.160 Special Types of Reports

Five types of child abuse or neglect reports shall receive special attention as specified in subsections (a) through (e):

- a) Incident Involving the Death of a Child
 - 1) The Department shall immediately contact the appropriate medical examiner or coroner, the local law enforcement agency, and the State's Attorney when there is reasonable cause to suspect that a child has died as a result of abuse or neglect. The child protective investigator assigned to the investigation shall require a copy of the completed autopsy report from the coroner or medical examiner.

ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

- 2) The Department shall refer to the child death review teams described in Section 300.170 of this Part the death of any child who is:
 - A) a child for whom the Department of Children and Family Services is legally responsible;
 - B) a child being served in an open service case either by the Department or through purchase of service contracts with private agencies;
 - C) the subject of a pending child abuse or neglect investigation; or
 - D) a child who was the subject of an abuse or neglect investigation at any time during the 12 months immediately preceding the child's death; or
 - E) any other child whose death is reported to the State central register as a result of alleged child abuse or neglect if the report is subsequently indicated.

- 3) The Department shall cooperate with the work of the Office of the Inspector General and the child death review teams by:
 - A) providing to the team all records and case information relevant to the review, including records and information concerning all available previous reports or investigations of suspected child abuse or neglect. Other records and case information relevant to the review include:
 - i) birth certificates;
 - ii) all relevant medical and mental health records;
 - iii) records of law enforcement agency investigations;
 - iv) records of coroner or medical examiner investigations;
 - v) records of the Department of Corrections concerning a person's parole;
 - vi) records of a probation and court services department, and records of a social service agency that provided services to the child or the child's family;
 - B) assisting the Office of the Inspector General and the team in its review of the child's death;

ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

- C) reporting on any follow-up interventions suggested by the Office of the Inspector General or the team;
 - D) providing follow-up on death cases where circumstances surrounding the death suggest other children may be at risk. Follow-up may include, but is not limited to:
 - i) further investigation;
 - ii) risk assessment;
 - iii) grief counseling for other children in the family;
 - iv) referrals for other services as appropriate;
 - E) providing information and consultation regarding the juvenile court process and the availability of the court to protect or intervene with surviving siblings; and
 - F) assisting with making arrangements for the date, time, and location of team meetings.
- 4) The Department shall prepare individual death review reports and issue an annual cumulative report to the Governor and General Assembly incorporating the data, appropriate findings and recommendations from the individual reports.
- A) Child death review reports shall be completed no later than six months after the date of the death of the child. Upon completion of each report the Department shall notify the President of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, and the members of the Senate and the House of Representatives in whose district the child's death occurred. Reports shall address:
 - i) cause of death;
 - ii) identification of child protective or other services provided or actions taken regarding the child and his or her family;
 - iii) extraordinary or pertinent information concerning the circumstances of the child's death;
 - iv) whether the child or the child's family received assistance, care, or other social services prior to the child's death;

ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

- v) actions or further investigation undertaken by the Department since the death of the child; and
 - vi) recommendations concerning child protective, child welfare, or prevention issues.
- B) Reports shall not contain information identifying the name of the deceased child, his or her siblings, parents or other persons legally responsible for the child, or any other members of the child's household.
- C) Reports concerning the death of a child and the cumulative reports shall be made available to the public after completion or submittal.
- i) A child-specific request for a report may be honored by the Department when the Department determines that disclosure of the information is not contrary to the best interest of the deceased child's siblings or other children in the household.
 - ii) The Department shall not release or disclose to the public the substance or content of any psychological, psychiatric, therapeutic, clinical, or medical report pertaining to the deceased child or the child's family except as it may apply directly to the cause of the child's death.
- D) The Department may request and shall receive in a timely fashion from departments, boards, bureaus, or other agencies of the state, or any of its political subdivisions, or any duly authorized agency, or any other agency that provided assistance, care or services to the deceased child any information they are authorized to provide to enable the Department to prepare the report.

b) Reports Involving Child Care Facilities

Reports alleging abuse or neglect of children in child care facilities shall be made and received in the same manner as other reports. The appropriate supervisor or administrator at the facility shall be notified once the formal investigation has been commenced. Department licensing staff will be notified of all reports on licensed facilities upon commencement of the formal investigation. The Department shall advise the supervisor or administrator of their responsibility to take reasonable action necessary, based on all relevant circumstances and the allegations being investigated, to insure that the alleged perpetrator of the reported

ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

abuse or neglect is restricted from contact with children in the facility during the course of the formal investigation.

c) Reports Involving Child Care Workers

Investigators, their supervisors and designated legal staff will be sent notification via e-mail within 24-hours of receipt of reports that may pertain to a child care workers. The notification will advise staff to determine during the initial investigation if the alleged perpetrator is a child care worker. Investigators shall provide the alleged perpetrator the CFS 1050-54 and SACWIS/CANTS 8 at the time of the initial interview and explain the information contained on the documents. The CPSW shall also explain that persons who are actively engaged in the job seeking process for a child care position, currently enrolled or soon to be enrolled in an academic program which leads to a position as a child care worker or a current applicant for a license for a child care worker position, and persons investigated in their personal capacity whose employment or license may be affected by an indicated finding must identify themselves to the investigator. Persons identified as child care workers shall be provided the following information.

- Administrator's Teleconference

An Administrator's Teleconference is held after the investigator, the investigator's supervisor and Child Protection Manager have concurred with the decision to recommend that the case be indicated. The Administrator's Teleconference provides the child care worker the opportunity to present documentary evidence or other information that supports his or her position and to provide information to assist the Department in making the most accurate decision regarding the allegations of child abuse and/or neglect.

- Expedited Administrative Appeal

In the event that the allegation of child abuse and/or neglect is indicated, an Expedited Administrative Appeal provides the child care worker with a final administrative decision within 35 days of the receipt of his or her request for an appeal, absent any continuances requested by the child care worker.

- Reports Not Related to Employment

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

Child care workers named as alleged perpetrators in reports of abuse or neglect that are not related to their child care facility employment may choose to participate in an expedited process by informing the investigator that they would like the investigation treated as an employment related investigation.

1) Recommendation to Indicate a Report of Abuse or Neglect

The investigator must evaluate every piece of information and evidence obtained during a child abuse and neglect investigation, including both inculpatory and exculpatory evidence. Inculpatory evidence is a legal term for evidence showing or tending to show a person's involvement in an act or tending to establish guilt. In child abuse and neglect investigations, inculpatory evidence means evidence showing or tending to show that a person abused or neglected a child. Exculpatory evidence is a legal term for evidence tending to establish a person's innocence or evidence that tends to justify or clear a person from alleged fault or guilt. In child abuse and neglect investigations, exculpatory evidence means evidence showing or tending to show that a person did not abuse or neglect a child.

The investigator shall also complete the Investigative Summary, ensuring that the investigative summary details all of the evidence that the investigator has gathered during the investigation demonstrating that an incident of child abuse and neglect has occurred and the person recommended to be indicated is the person responsible for that abuse or neglect as well as all evidence that the investigator has gathered during the investigation demonstrating that an incident of child abuse and/or neglect has not occurred or that the person recommended to be indicated is not responsible for the child abuse and/or neglect.

The investigator shall print the Investigative Summary for use in the Administrator's Teleconference. All information identifying the reporter source and other persons with information (OPWI) shall be redacted. The intake narrative, reporter/source/OPWI section and the protective custody section shall also be redacted.

The investigator shall schedule an in person meeting with the alleged perpetrator/child care worker prior to the Administrator's Teleconference to inform him or her of the decision to recommend that the case be indicated, and to provide the alleged perpetrator/child care worker with the SACWIS/CANTS 9, the redacted Investigative Summary and the

ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

SACWIS/CANTS 10. The investigator shall complete the final page of the SACWIS/CANTS 9 by including the State Central Register number and ask the alleged perpetrator/child care worker to sign the acknowledgment of receipt. If the alleged perpetrator/child care worker refuses to sign the acknowledgement of receipt form, the investigator shall note that on the acknowledgment form and in a SACWIS case note. The investigator shall also use the in person meeting to review the information concerning the Administrator's Teleconference and explain the right to request an Expedited Appeal if the case is indicated.

If the investigator has made two unsuccessful attempts to meet in person with the alleged perpetrator/child care worker to deliver the SACWIS/CANTS 9, redacted Investigative Summary and the SACWIS/CANTS 10, the investigator shall work with the Child Protection Administrator to obtain a new date and time for the Administrator's Teleconference for a date two weeks in the future. The investigator shall send the completed SACWIS/CANTS 9, the SACWIS/CANTS 10 and the redacted Investigative Summary to the alleged perpetrator/child care worker via certified mail. The investigator shall document in a SACWIS case note all attempts to meet in person with the alleged perpetrator/child care worker and the fact that the SACWIS/CANTS 9 and 10 and the redacted Investigative Summary were sent to the alleged perpetrator/child care worker by certified mail.

2) Scheduling an Administrator's Conference

After the approval to indicate the report is given is given to the investigator, an Administrator's Teleconference shall be scheduled in accordance with the appropriate Child Protection Administrator's schedule. Administrator's Teleconferences should be scheduled on Wednesdays and at the earliest possible date, but can be scheduled on other days to accommodate the schedules of the administrator or the alleged perpetrator/child care worker and his or her representative.

The investigator shall enter the date and time for the Administrator's Teleconference on the SACWIS/CANTS 9, Notification of Intent to Indicate Child Care Worker for Report of Child Abuse and/or Neglect. The CPSW shall also enter information regarding the children reported to be abused and/or neglected; the location where the reported abuse and/or neglect is alleged to have occurred; a description of the allegations for which the Department intends to find the person responsible, including the name of the allegation, and the allegation(s) number and the number of

ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

years that the allegation(s) recommended to be indicated will remain on the State Central Register.

Prior to the Administrator's Teleconference, the investigator shall forward to the Child Protection Administrator copies of any hard copy documents obtained during the course of the child abuse and neglect investigation. On the scheduled date and time, the alleged perpetrator/child care worker shall contact the Child Protection Administrator at the number contained on the SACWIS/CANTS 9, Notice of Intent to Indicate Child Care Worker for Report of Child Abuse and/or Neglect. Field staff are encouraged to attend the Administrator's Teleconference.

It is important that the Investigative Summary that is provided to the alleged perpetrator/child care worker in advance of the Administrator's Teleconference contain a full and detailed explanation of the information and evidence that has been gathered and provide a rationale as to why the case is being recommended to be indicated. Documentation of all of the evidence that has been gathered during the investigation must be listed on the Investigative Summary that suggests an incident did occur and the alleged perpetrator is responsible, as well as all evidence that has been gathered that suggests an incident did not occur or that the alleged perpetrator is not responsible.

The Administrator's Teleconference is not a hearing and the alleged perpetrator/child care worker cannot present the testimony of witnesses. The alleged perpetrator/child care worker can provide other information and documentary evidence.

3) Administrator's Teleconference

The Child Protection Administrator (CPA) shall convene the Administrator's Teleconference on the date and time listed in the SACWIS/CANTS 9 Notice of Intent to Indicate Child Care Worker for Report of Child Abuse and/or Neglect. When the alleged perpetrator/child care worker and/or his representative calls in, the CPA shall explain the purpose of the teleconference and ask all persons to identify themselves and allow the alleged perpetrator/child care worker and/or his or her representative to provide the CPA with any information that will help the Department make the most accurate decision regarding the current allegations. The Child Protection Administrator shall provide the alleged perpetrator/child care worker and/or his or her representative the ability to fax any documentary evidence that the alleged perpetrator/child care

ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

worker feels is necessary for the CPA to make the most accurate decision regarding the current allegations of child abuse and/or neglect.

The CPA shall also document the persons who attended the teleconference, all information provided by the alleged perpetrator/child care worker and any documentary evidence received from the alleged perpetrator on the Administrator's Teleconference Form. The CPA shall send a copy of the Administrator's Conference form to the investigator who shall ensure that the form is placed in the investigative file maintained in the local index.

The CPA shall also send a letter to the alleged perpetrator advising him or her of the decision to unfound or uphold the indicated finding. This information shall also be provided to the responsible Child Protection Manager

For those cases in which the recommendation to indicate has been upheld by the Child Protection Administrator, the investigator shall confirm that the case has been closed in SACWIS, the investigator shall confirm the date that the final finding letter was sent from SACWIS and complete the SACWIS/CANTS 11 form. The investigator shall then mail the SACWIS/CANTS 11 form to the alleged perpetrator/child care worker. This letter will be sent in addition to the formal notification letter from the State Central Register.

If the Child Protection Administrator sends the case back for further investigation, the Child Protection Administrator shall provide the investigator with instructions regarding further investigatory steps to be taken. The Child Protection Administrator shall also give the investigator a due date by which the additional investigatory steps are to be completed. The Child Protection Administrator has the authority to indicate or unfound the matter once they have been provided with the additional information.

In the event that the alleged perpetrator/child care worker does not call into the Administrator's Teleconference at the scheduled time, the Child Protection Administrator shall wait a minimum of one half hour for the alleged perpetrator/child care worker and/or his or her representative to call in. After waiting one half hour for the alleged perpetrator/child care worker to call in, the Child Protection Administrator shall review the investigation and make a determination to indicate, unfound or send the investigation back for further investigation based on the provided

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

investigation information. The Child Protection Administrator should complete the Administrator's Conference Form noting that the alleged perpetrator/child care worker failed to call in and provide the reasons for his or her decision.

4) Administrative Appeals

A) Expedited Appeals

Persons who have been identified as child care workers have the right to request an expedited appeal when they request an administrative appeal of the indicated finding in the Department's Administrative Hearings Unit. An expedited appeal requires that the Director issue a final administrative decision within 35 days of the date of the receipt of the child care worker's appeal. The 35-day time period excludes any time attributable to an appellant's request for a continuance or any continuance or date set by the agreement of the parties. A child care worker must specifically request an expedited appeal in writing at the time of the initial request for an appeal filed with the Department's Administrative Hearings Unit. Any written request for an appeal that is received by the Department's Administrative Hearings Unit that does not expressly request an expedited appeal will automatically be treated as a regular appeal.

B) Regular Appeals

If the child care worker does not request an expedited appeal, but does appeal the indicated finding, they are entitled to have a final administrative decision with 90 days of the date of the receipt of the appeal. The 90-day time period excludes any time attributable to an appellant's request for a continuance or any continuance or date set by the agreement of the parties. Any written request for an appeal that is received by the Department's Administrative Hearings Unit that does not expressly request an expedited appeal will automatically be treated as a regular appeal.

de) Reports Involving Schools

When a report is received alleging abuse or neglect of a child by a school employee known to the child through the employee's official or professional capacity, the Department will take the following actions:

ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

- 1) To the extent possible, conduct an investigation involving a teacher at a time when the teacher is not scheduled to conduct classes.
- 2) Conduct investigations involving other school employees in such a way as to minimize disruption of the school day.
- 3) Make reasonable efforts to conduct the initial investigation in coordination with the employee's supervisor, if the report does not involve allegations of sexual abuse or extreme physical abuse.
- 4) When a report of alleged abuse involving a teacher occurred in the course of the teacher's efforts to maintain safety for other students, determine whether the teacher used reasonable force in accordance with rules established by the local board of education as authorized by the School Code [105 ILCS 5].
- 5) Advise school officials that they may, in accordance with the School Code, withhold from any person, information on the whereabouts of any child removed from school premises, when the child has been taken into protective custody as a victim of suspected child abuse and that they may direct persons seeking information to the Department or to the local law enforcement agency.
- 6) Advise school employees accused of child abuse or neglect of their due process rights, of the steps in the investigative process, and that they may have their superior, association or union representative, and attorney present at any interview or meeting at which the school employee is present.
- 7) Prior to indicating a report involving a school employee, the Department will take the following steps:
 - A) send the employee a copy of the investigative file with identifying information deleted. Any materials and evidence submitted to the Department subsequent to sending the employee a copy of the investigative file shall be sent to the employee upon receipt by the Department;
 - B) allow the school employee, prior to the final finding, an opportunity to:

ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

- i) present evidence to the contrary regarding the report; and
 - ii) request an informal conference at which the employee may present the additional evidence and/or, subject to the discretion of the Department, confront the accuser, provided the accuser is 14 years of age or older.
- 8) If an informal conference is requested, the Department shall schedule the conference after receipt by the employee of the copy of the investigative file, and shall:
 - A) conduct the conference in a neutral setting away from the school grounds during hours when school is not in session, unless requested otherwise by the school employee;
 - B) notify the following persons of the conference, if the purpose of the conference is merely to submit additional evidence:
 - i) the school employee and representative;
 - ii) Department representatives including the investigative worker;
 - C) notify the following additional persons if the employee wishes to confront the accuser and the Department has approved such a confrontation:
 - i) the accuser, provided the accuser is 14 years of age or older, and the accuser's parents, guardian and/or representative of a Child Advocacy Center, when involved in the case. (The accuser is the person who has made the allegation of abuse or neglect. The accuser is not necessarily the same as the reporter.);
 - ii) representatives of the State's Attorney's Office or law enforcement agency in the county where the alleged incident occurred, when the State's Attorney's Office or law enforcement agency are currently involved in the investigation and/or are considering filing criminal charges in the case;

ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

- iii) persons identified by the employee who have information relevant to the report, who will be included in only those portions of the conference pertaining to their testimony;
 - D) following the conference, allow the school employee at least five calendar days to present additional evidence to the Department;
 - E) make a final determination with regard to the report in accordance with Section 300.110 of the Part.
- 9) No such conference will be allowed when there is a criminal investigation pending and the Department has been advised by law enforcement authorities or the State's Attorney not to allow a face-to-face confrontation between the accused and the accuser.
- 10) When determining whether to allow the school employee to confront an accuser who is 14 years or older, the Department shall take the following into consideration:
 - A) whether, due to the nature of the allegation, a confrontation with the accused school employee would cause excessive trauma to the child, and
 - B) whether the child has a documented history of mental, emotional or developmental problems.
- 11) The Department shall inform the child and the child's parents in writing prior to the conference and orally at the conference that:
 - A) they may decline to attend or proceed with the conference, and
 - B) if they do attend, they may refuse to answer any questions posed, and
 - C) if the child attends, he or she has the right to have an attorney or other person representing his or her interests present at the conference, in addition to his or her parents or guardian.
- 12) Child's or parent's refusal to attend a conference or to answer questions shall not be grounds for unbounding an otherwise credible report.

ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

- 13) All proceedings shall be confidential and no statement, summary, transcript, recording or other investigative product shall be released except on written order of the court, or in compliance with the confidentiality provisions of the Abused and Neglected Child Reporting Act. Violations of these provisions is a Class A misdemeanor (see 325 ILCS 5/11).
- 14) Whether or not an informal conference has been conducted, the school employee retains all other appeal rights provided in the Abused and Neglected Child Reporting Act [325 ILCS 5/7.16] and 89 Ill. Adm. Code 336 (Appeal of Child Abuse and Neglect Investigation Findings).

ed) Reports Involving State Facilities and State Employees Acting in Their Official Capacity

When reports are received alleging abuse or neglect of children by any State of Illinois Department or any State employee acting in his or her official capacity, the report-taker will immediately notify the Director of the Department or designee. The Director or designee will transmit the details of the report to the Division of Internal Investigation, Illinois Department of State Police.

fe) Reports Involving Juvenile Alleged Perpetrators

Reports of abuse or neglect in which a juvenile (anyone under 18 years of age) has been named as the alleged perpetrator shall be handled as follows:

1) Juvenile Parents of Alleged Victims

All calls received by State Central Register (SCR) that meet the Department's criteria to be accepted for investigation, and in which the alleged perpetrator is a juvenile who is also the parent of the alleged victim, will be investigated and maintained on the State Central Register without regard to the age of the alleged perpetrator.

2) All other Children Under the Age of 18

Calls received at SCR alleging that children under the age of 18 are responsible for abuse or neglect will be accepted for investigation. SCR will consider situations in which children under the age of 18 are allegedly responsible for abuse or neglect to determine whether there is reasonable cause to suspect that the maltreatment is the result of blatant disregard on the part of an adult who is an eligible perpetrator. If so, a report will be

ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

accepted alleging inadequate supervision with the adult as the alleged perpetrator.

- 3) Indicated Findings
- A) If after an investigation, reports are indicated and children under the age of 10 are determined to be the perpetrator, the child will not be named as the perpetrator for purposes of retaining the report in the State Central Register.
 - B) If after an investigation, reports are indicated and children between the ages of 10 and 18 are determined to be the perpetrator, reports that carry a five-year retention schedule will be expunged from the State Central Register after five years or at the perpetrator's twenty-first birthday, which ever is sooner.
 - C) In the event that the same child between the ages of 10 and 18 is determined to be an indicated perpetrator of another report that requires a five year retention schedule, the information concerning the previous report(s) and the subsequent report will be maintained at the State Central Register for a period of five years from the date of the subsequent report or at the perpetrator's twenty-first birthday, which ever is sooner.
 - D) Reports that carry a 20 or 50 year retention schedule will be expunged from the State Central Register after five years or at the perpetrator's twenty-third birthday, which ever is sooner.
 - E) In the event that the same child between the ages of 10 and 18 is subsequently determined to be an indicated perpetrator of an allegation carrying a 20 or 50 year retention schedule, the information concerning the previous reports and the subsequent report will be maintained at the State Central Register for a period of five years from the date of the subsequent report or at the perpetrator's twenty-third birthday, which ever is sooner.

(Source: Peremptory amendment at 29 Ill. Reg. _____, effective _____)