**Section 300.110 The Formal Investigative Process**

a) Beginning the Formal Investigation

The formal investigation begins as soon as investigative staff make a determination following the initial investigation that there is reasonable cause to believe that child abuse or neglect exists. Any actions described below which were taken during the initial investigation need not be repeated. Any time frames listed in Section 300.90 which apply to the formal investigation mentioned below are retroactive to the beginning of the initial investigation.

b) Notifications During the Formal Investigation

1) During the first contact, after the formal investigation has begun, with the child's custodial parent, personal guardian, or legal custodian and the alleged perpetrator, the investigative staff shall notify them in writing that:

A) the Department has received a report alleging abuse or neglect of their child; and

B) the Department is legally mandated to investigate all child abuse or neglect reports; and

C) information concerning the report has been entered into the Department's files; and

D) the Department will work confidentially with them unless it becomes necessary to share information with authorized individuals or agencies as provided by law in 89 Ill. Adm. Code 431; and

E) the subjects have the right of access to the information in the report with the exception of information which would identify the reporter or persons who cooperated in the investigation.

2) Department investigative staff shall not give Miranda warnings to alleged perpetrators.

c) Required Investigative Contacts

Investigative staff shall have direct, in-person contact with the alleged child victim, the alleged perpetrator, and the child's caretaker within seven days of the date the report was received, except in those situations noted in Section 300.110(d). If the subjects of the report do not speak the English language, an interpreter shall be obtained or a worker assigned who speaks the same language as the subjects of the reports.

d) Situations Where the Contact Requirement is Waived

1) In-person contact is not required when:

A) any subject of a child abuse or neglect report refuses to meet with or speak to the investigative worker; and

B) the worker has attempted to involve the local law enforcement agency or the State's Attorney, but this has failed to gain cooperation.

2) In-person contact is not required when it is documented that a child abuse or neglect subject is inaccessible.

3) In-person contact is not required when it is documented that the investigative worker has made a good faith attempt to locate the subjects of the report, but cannot, after a diligent search, locate them.

e) Collateral Contacts

The Department may make collateral contacts with persons other than the subjects of the report or the reporter to obtain further information regarding suspected child abuse or neglect. When determining whether collateral contacts should be made, the Department shall weigh:

1) the allegations contained in the report;

2) the severity of the incident; and

3) the likelihood that the collateral contact will have relevant information about the allegations or the incident.

f) Administrative Subpoenas

If a mandated reporter who is believed to have information about the subject of a report is not allowed or refuses to speak with or provide documents to a child protective service worker about the reported child or family, an administrative subpoena may be issued to obtain the necessary information. This applies regardless of whether the mandated reporter made the report being investigated. In addition, if a parent, personal guardian, legal custodian, or alleged perpetrator refuses to meet with or speak to a child protective service worker, a subpoena may be issued to obtain the necessary information.

g) Photographs and X-rays

1) Department investigative staff may take or obtain color photographs and x-rays of a child who is the subject of an abuse or neglect report when the child has observable marks or injuries believed to be caused by abuse or neglect. When the child's environment creates a substantial risk of injury or other harm, photographs may be taken of the child's environment.

2) If the child's parents, personal guardian, or legal custodian can be located, he or she shall be notified of the Department's intent to secure the photographs or x-rays.

h) Immunity from Liability

1) Any persons, institutions, or agencies shall have immunity from any liability if they, in good faith:

A) report suspected child abuse or neglect;

B) assist in the investigation of a child abuse or neglect report;

C) take temporary protective custody in accordance with Section 300.120; or

D) take photographs or x-rays to substantiate the abuse or neglect report.

2) For purpose of any civil or criminal liability, a person's good faith in taking the above actions shall be presumed.

i) Final Determinations Regarding Child Abuse or Neglect

1) Investigative staff in their role as mandated reporters may add allegations of abuse or neglect or subjects to a report during the course of the investigation.

2) Upon completion of a formal investigation of abuse or neglect, investigative staff shall make a final determination as to whether a child was abused or neglected. This determination shall be based upon whether the information gathered from other persons during the investigation and the direct observations made by the investigative staff during the investigation constitute credible evidence of child abuse or neglect.

3) Allegations may be determined to be indicated, undetermined, or unfounded.

A) When credible evidence of abuse or neglect has been obtained pertinent to an allegation, the allegation is indicated.

i) If any allegation of child abuse or neglect is indicated, the report is indicated.

ii) Investigative staff shall not determine that a report is indicated based solely upon the existence of a prior unfounded report or reports.

iii) A court finding of child abuse or neglect shall be presumptive evidence that the report is indicated.

B) When credible evidence of abuse or neglect has not been obtained, the allegation is unfounded. If all allegations of child abuse or neglect are unfounded, the report is unfounded.

C) When investigative staff have been unable, for good cause, to gather sufficient facts to support a decision within 60 days of the date the report was received, the allegation shall be considered undetermined. Additional periods of 30 days shall then be permitted to complete the investigation, after which a determination shall be made. In the absence of credible evidence of abuse or neglect, the allegations and the report shall be designated unfounded.

D) Good cause for extending the period for making a determination an additional 30 days may include but is not limited to the following reasons:

i) State's attorneys or law enforcement officials have requested that the Department delay making a determination due to a pending criminal investigation.

ii) Medical or autopsy reports needed to make a determination are still pending after the initial 60 day period.

iii) The report involves an out-of-state investigation and the delay is beyond the Department's control.

iv) Multiple alleged perpetrators or victims are involved necessitating more time in gathering evidence and conducting interviews.

(Source: Amended at 22 Ill. Reg. 18847, effective October 1, 1998)