

APPENDIX

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ADMINISTRATIVE GUIDELINES AND PROCEDURES FOR HANDLING CHILD ABUSE AND NEGLECT IN CLAY COUNTY, INDIANA

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HANDLING CHILD ABUSE AND NEGLECT IN
CLAY COUNTY, INDIANA

The Indiana Juvenile Code requires any individual who has reason to believe that a child is a victim of child abuse or neglect to report to the child protection service. I.C. 31-6-11-3, I.C. 31-6-11-4. All Clay Community School corporation staff are obligated under this law. Any staff member who has reason to believe that a child is a victim of abuse or neglect should notify the principal immediately. The principal also has a duty to report, but may delegate the responsibility. The law also provides penalties for failure to report.

NOTE: Delegation of the task of reporting does not relieve anyone with knowledge of the event of the responsibility to report. Therefore, it is essential that the parties with knowledge be certain that a report is made. Failure to report suspected abuse or neglect, when known, is a crime punishable by up to 6 months imprisonment. I.C. 31-6-11-20.

An individual making such a report in good faith is immune from any civil or criminal liability that might otherwise be imposed because of such action. The individual making the report is presumed by law to have acted in good faith. I.C. 31-6-11-7.

Under Indiana Law, I.C. 31-6-11-11, the Child Protection Service (CPS) of the Clay County Department of Public Welfare is required to initiate an appropriately thorough child protection investigation of every report of known or suspected child abuse or neglect which it receives. When the report alleges a child may be a victim of child abuse (as opposed to neglect), the investigation must be initiated by CPS within 24 hours of the receipt of the report. However, if the immediate safety or well-being of a child appears to be endangered, the CPS investigation must be initiated immediately. Similarly, any law enforcement agency which receives a report of child abuse or neglect that indicates an immediate danger to the child's health or welfare is required to initiate an immediate investigation of the report.

Frequently, the investigation will include an interview with the alleged victim at his/her school during regular school hours. So that such interviews may be conducted with as much predictability, orderliness, and effectiveness as possible, the attached guidelines for Child Protection Service Personnel, law enforcement officers, and school administrators have been developed. (See attachment.)

These guidelines are appropriate in terms of the law and in protecting the interests of the child, parents and school personnel while affording authorities latitudes within which they may discharge their duties.

At the conclusion of the interview, the investigative team may determine that protection of the child requires the immediate taking of the child into custody. Although Indiana law provides for a method whereby a child who is alleged to be the victim of abuse may be taken into custody pursuant to a court order, I.C. 31-6-4-9, it should be recognized by the school administrator that the statutorily described procedure is slow and cumbersome. I.C. 31-6-4-4 provides that "A child may be taken into custody by any law enforcement officer, probation officer, or caseworker acting with probable cause to believe the child is a child in need of services if: (1) it appears that the child's physical or mental condition will be seriously impaired or seriously endangered if he is not immediately taken into custody; and (2) there is no reasonable opportunity to obtain an order of the court."

Guidelines for determining when such immediate custodial action is required in order to protect the child are based primarily on I.C. 31-6-4-6(d), which states that the intake officer (law enforcement officer) may place a child in detention if he reasonably believes that the child is a child in need of services and that: (1) detention is necessary to protect the child; (for example, the child may have serious physical injuries which would warrant immediate medical attention); (2) the child is unlikely to appear before the juvenile court for subsequent proceedings; (there have been instances when parents have removed the child from the county or even the state in order to avoid involvement with law enforcement and CPS); (3) the child has a reasonable basis for requesting that he not be released; (many times, children are quite candid in stating that they are fearful for returning home; the initial report, previous history, and information obtained during the investigative interview may tend to support the child's reactions); or (4) the parent, guardian, or custodian of the child cannot be located or for some reason cannot take custody of the child.

Note: The reporting and investigating of suspected child abuse and neglect are not discretionary matters: they are required by law. It is hoped that the proposed procedural guidelines for the handling of in-school interviews of alleged victims will facilitate the cooperative efforts of school administrators, CPS workers, and law enforcement officers to protect the children of the Clay Community Schools.

This agreement is effective February 2, 1991, through February 1, 1993, as provided by law. Upon agreement of both parties and approval of the State Department of Public Welfare, this agreement may be amended at any time.

INVESTIGATION OF CHILD ABUSE AND NEGLIGENCE
IN-SCHOOL INTERVIEWS OF ALLEGED VICTIMS

1. When at all possible, the Child Protection Service (CPS)/law enforcement team investigating reported abuse will notify the principals of the school they intend to visit that they will be at the school on that date.

Because of the irregularity of abuse reports, which are required by law to be received 24 hours a day, it is not always possible for workers and officers in the field to know from the outset what the scope of their day's investigation will be. Similarly, because investigators never know how long any investigative interview may last, it may be impossible to inform a school administrator about the exact time investigators will be at the school. Working within these limitations, therefore, the CPS/law enforcement team will do its best to give school officials advance warning of their visit, at that time identifying the child who is to be interviewed.

2. Parents of the child to be interviewed should not be notified at the school at this point.

The parent or guardian of the alleged victim has no statutory or constitutional right to be present at the investigatory interview.

3. Upon entering the school building, the CPS worker will immediately contact the school representative previously designated by the school.

Each school building should provide the CPS, on a yearly basis, the name of the person at the school with whom the investigative team should make the initial contact. In turn, CPS will provide to each school the name(s) of its caseworker(s). Both CPS workers and law enforcement personnel will present proper identification documents (ID card or equivalents) to the school representative.

4. Prior to the interview with the child, the CPS worker and the school representative will decide where the interview will be conducted and who will be present.

It may be desirable for the school nurse, counselor, or other school staff member specially trained in dealing with serious problems of children, to be present at the investigative interview. It should be remembered, however, that children who are the victims of abuse characteristically have great difficulty in talking about the incident constituting the abuse. In some instances, the presence of a third adult at the interview may only inhibit the child's ability to describe his/her experience. In other instances, the presence of the school staff member - possibly already familiar to and trusted by the child may help the child be more willing to express himself. The initial consultation between the CPS worker and the school representative may reveal facts (nature of the child, nature of the alleged abuse, etc.) which will affect the decision as to who should be present at the interview. A school representative may generally be present unless there is good cause to exclude him or her.

It is generally not a good idea for the school principal or other authority figure to represent the school at the interview. The child who is the victim of abuse by a family authority figure is not likely to respond freely in the presence of yet another such figure.

5. The school representative will arrange to have the child brought from the classroom to the designated area. The interview will then be conducted by the CPS worker/law enforcement team.
6. At the conclusion of the interview, the CPS worker/law enforcement team may decide that protection of the child requires the immediate taking of the child into custody. The decision, and the reason(s) for the decision, will be promptly and clearly communicated to the school representative.
7. AT THIS POINT, the CPS worker/law enforcement team will make every reasonable effort to notify the parent or guardian (by telephone) that the child is being taken into protective custody.

The school should be able to provide (through a medical emergency care or equivalent record kept on file there) telephone numbers at which the parent or secondarily responsible person can be reached.

Information conveyed to the parent by telephone at this time will be limited to the facts that (1) the child is being taken into custody (2) for its own protection (3) by CPS, the CPS caseworker/law enforcement team (4) they should contact CPS immediately so that they can arrange to come into the CPS office and begin working on the resolution of the problem involving their child.

8. After such notification (or reasonable attempt to notify has been made), the CPS worker/law enforcement team will take the child with them from the school.

NOTE: NO CHILD SHOULD EVER BE RELEASED BY THE SCHOOL TO ANYONE OTHER THAN A PROPERLY IDENTIFIED CPS WORKER/LAW ENFORCEMENT OFFICER UNLESS A COURT ORDER AUTHORIZING SUCH ACTION IS PRESENTED.

9. If a parent subsequently calls or comes to the school demanding an explanation of the action taken by the investigative team, he should be referred directly to CPS/law enforcement team.

The parent should be told that the custodial action was taken by CPS/law enforcement team, not by the school, and that the problem must be dealt with through CPS.

AGREEMENT MADE THIS 19 DAY OF December 1996

This agreement is effective February 3, 1997 through February 1, 1999, as provided by law. Upon agreement of both parties and approval of the State Office of Family and Children Services, this agreement may be amended at any time.

Dec 19, 1996
Date

Thomas W. [Signature]
Superintendent, Clay Community School Corp.

12/19/96
Date

Andrea X. [Signature]
Director, Clay County Family and Children

PROCEDURE FOR REPORTING CHILD ABUSE/NEGLECT

Any school employee who has reason to believe that a child is a victim of child abuse or neglect shall make a report to the Welfare Department and/or the building principal.

The principal will contact a school nurse and file a report with the Welfare Department if deemed appropriate.