

VIRGINIA COMMISSION ON YOUTH

Review of the Standard of Proof to Determine a Founded Case of Child Abuse and Neglect

DRAFT RECOMMENDATIONS

Draft Recommendations: Training/Guidance

Option 1. Hearing officers - Require DSS hearing officers to undergo CPS new worker guidance training as well as training on forensic interviewing, other best practices, and topics deemed essential to recognizing abuse and neglect. DSS hearing officers shall undergo training within the first 6 months of employment. Further, require continuing education training annually, biennially, or as deemed necessary. DSS shall determine the training requirements.

and/or

Option 2. CPS workers - Support DSS's efforts in regards to training on how cases are being overturned due to documentation issues. In this training, request that CPS and DSS appeals division identify procedural and documentation errors that prevent a hearing officer from using their discretion to uphold a founded case in which abuse and neglect occurred.

The Department of Social Services is currently working on training to address this issue. This recommendation would be to support DSS's ongoing effort.

and/or

Option 3. Child and Family Services Manual - Request the Department of Social Services update and clarify the sections on conducting investigations involving public school employees in their chapter on out-of-family investigations in the Child and Family Services Manual.

Draft Recommendations: Sexual abuse

Option 1. Amend subsection (c) of § 63.2-1511 to exempt certain sexual abuse complaints from the use of the higher standard of gross negligence or willful misconduct.

Potential Code language: C. If, after an investigation of a complaint under this section, the local department determines that the actions or omissions of a teacher, principal, or other person employed by a local school board or employed in a school operated by the Commonwealth were within such employee's scope of employment and were taken in good faith in the course of supervision, care, or discipline of students, then the standard in determining if a report of abuse or neglect is founded is whether such acts or omissions constituted gross negligence or willful misconduct. **For purposes of this section, if the act that gave rise to the investigation was any act of sexual**

exploitation or any sexual act upon a child in violation of the law, then it shall never be considered in good faith or in the scope of employment.

and/or

Option 2. Request the Department of Social Services provide guidance to CPS workers that states that if the act that gave rise to the investigation of abuse and neglect was for any act of sexual exploitation or any sexual act upon a child in violation of the law, then it shall not be deemed to be an act or omission taken in the scope of employment. The local department worker would therefore not apply § 63.2-1511 analysis.

and/or

Option 3. Request the Department of Social Services provide guidance to CPS workers that detail the scenarios and appropriate analysis for gross negligence or willful misconduct as it applies to complaints of sexual abuse.