

62A-4a-414 Interviews of children -- Recording required -- Exceptions.

- (1)
 - (a) Except as provided in Subsection (4), interviews of children during an investigation in accordance with Section 62A-4a-409, and involving allegations of sexual abuse, sexual exploitation, severe abuse, or severe neglect of a child, shall be conducted only under the following conditions:
 - (i) the interview shall be recorded visually and aurally on film, videotape, or by other electronic means;
 - (ii) both the interviewer and the child shall be simultaneously recorded and visible on the final product;
 - (iii) the time and date of the interview shall be continuously and clearly visible to any subsequent viewer of the recording; and
 - (iv) the recording equipment shall run continuously for the duration of the interview.
 - (b) This Subsection (1) does not apply to initial or minimal interviews conducted in accordance with Subsection 62A-4a-409(8)(b) or (c).
- (2) Interviews conducted in accordance with Subsection (1) shall be carried out in an existing Children's Justice Center or in a soft interview room, when available.
 - (a) If the Children's Justice Center or a soft interview room is not available, the interviewer shall use the best setting available under the circumstances.
 - (b) Except as provided in Subsection (4), if the equipment required under Subsection (1) is not available, the interview shall be audiotaped, provided that the interviewer shall clearly state at the beginning of the tape:
 - (i) the time, date, and place of the interview;
 - (ii) the full name and age of the child being interviewed; and
 - (iii) that the equipment required under Subsection (1) is not available and why.
- (3) Except as provided in Subsection (4), all other investigative interviews shall be audiotaped using electronic means. At the beginning of the tape, the worker shall state clearly the time, date, and place of the meeting, and the full name and age of the child in attendance.
- (4)
 - (a) Subject to Subsection (4)(b), an interview described in this section may be conducted without being taped if the child:
 - (i) is at least nine years old;
 - (ii) refuses to have the interview audio taped; and
 - (iii) refuses to have the interview video taped.
 - (b) If, pursuant to Subsection (4)(a), an interview is conducted without being taped, the child's refusal shall be documented as follows:
 - (i) the interviewer shall attempt to get the child's refusal on tape, including the reasons for the refusal; or
 - (ii) if the child does not allow the refusal, or the reasons for the refusal, to be taped, the interviewer shall:
 - (A) state on the tape that the child is present, but has refused to have the interview, refusal, or the reasons for the refusal taped; or
 - (B) if complying with Subsection (4)(b)(ii)(A) will result in the child, who would otherwise consent to be interviewed, to refuse to be interviewed, the interviewer shall document, in writing, that the child refused to allow the interview to be taped and the reasons for that refusal.
 - (c) The division shall track the number of interviews under this section that are not taped, and the number of refusals that are not taped, for each interviewer, in order to determine whether

a particular interviewer has a higher incidence of refusals, or taped refusals, than other interviewers.

Amended by Chapter 239, 2010 General Session