

# **APPENDIX A**

## **Part 2**

### **CODE OF MARYLAND REGULATIONS Title 07 DEPARTMENT OF HUMAN RESOURCES Subtitle 02 SOCIAL SERVICES ADMINISTRATION**

Chapter 07 Child Protective Services – Investigation of Child Abuse and Neglect

Resource: [www.dsd.state.md.us/comar/comar.htm](http://www.dsd.state.md.us/comar/comar.htm)

07.02.07.01

## **.01 Purpose and Scope.**

A. The purpose of Child Protective Services (CPS) is to stop and prevent child abuse and neglect through the:

- (1) Investigation of child abuse and neglect; and
- (2) Initiation of protective and other services for:
  - (a) Children who are believed to have been abused or neglected;
  - (b) Parents or other adults having permanent or temporary care, custody, or responsibility for supervision of abused or neglected children; and
  - (c) Household or family members of abused or neglected children.

B. The goals of CPS are to:

- (1) Promptly investigate reports of child abuse and neglect;
- (2) Determine what services or plans for care are required to protect a child from being abused or neglected;
- (3) Initiate services as appropriate to:
  - (a) Promote safety;
  - (b) Reduce the risk of future or further abuse or neglect; and
  - (c) Remedy the effects of past abuse or neglect; and
- (4) Create and maintain accurate reports and records that can serve as tools in providing services and in subsequent investigations.

## **.02 Definitions.**

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

- (1) "Administration" means the Social Services Administration of the Department of Human Resources.
- (2) "Alleged abuser" means an individual found by a local department to have been responsible for the abuse of a child.
- (3) "Alleged neglector" means an individual found by a local department to have been responsible for the neglect of a child.
- (4) Caretaker.
  - (a) "Caretaker" means an individual who has, or is known to a child through having had, permanent or temporary care, custody, or responsibility for supervision of the child.
  - (b) "Caretaker" includes, but is not limited to, a stepparent, foster parent, guardian, custodian, or employee or volunteer in a facility or program caring for a child.
- (5) "Central registry" means the component of the Department's Client Information System (CIS) or other confidential computerized database that contains information regarding child abuse and neglect investigations.
- (6) "Child" means an individual younger than 18 years old.
- (7) "Child abuse" means one or more of the following by a parent, caretaker, or household or family member:
  - (a) Physical injury, not necessarily visible, or mental injury of a child, under circumstances that indicate that the child's health or welfare is harmed or at substantial risk of being harmed; or
  - (b) Sexual abuse of a child, regardless of whether the child has physical injuries.
- (8) "Child neglect" means one or more of the following by a parent or caretaker:
  - (a) A failure to provide proper care and attention to a child, including leaving a child unattended, under circumstances that indicate that the child's health or welfare is harmed or placed at substantial risk of harm; or
  - (b) Mental injury or a substantial risk of mental injury of a child that is caused by the failure to provide proper care and attention to a child.
- (9) "Children in need of assistance (CINA)" has the meaning defined in Courts and Judicial Proceedings Article, §3-801(f), Annotated Code of Maryland.

(10) "Client Information System (CIS)" means the Department's automated database that maintains data related to services provided by local departments.

(11) "Custodian" means an agency or individual, other than a child's parent or legal guardian, to whom a court has given legal custody.

(12) "Department" means the Department of Human Resources.

(13) "Educator or human service worker" means any professional employee of a:

(a) Correctional institute;

(b) Public, parochial, or private educational facility;

(c) Health care facility;

(d) Juvenile services facility;

(e) Social service agency or institution; or

(f) Licensed facility which includes, but is not limited to:

(i) Caseworkers;

(ii) Counselors;

(iii) Probation or parole officers;

(iv) Social workers; and

(v) Teachers.

(14) Failure to Give Proper Care and Attention.

(a) "Failure to give proper care and attention" means the omission of proper care or attention or the provision of improper care or attention.

(b) "Failure to give proper care and attention" includes leaving a child unattended.

(15) "Family member" means a relative by blood, adoption, or marriage.

(16) "Final ruling" means a finding of the local department after all timely appeals have been taken and decided.

(17) "Health practitioner" means an individual who is authorized to practice healing under Health Occupations Article, Annotated Code of Maryland.

(18) "Household" means the location in which a child or caretaker resides.

(19) "Household member" means an individual who lives in, or is regularly present in, a household.

(20) Identifying Information.

(a) "Identifying information" means information relating to the identity of an individual associated with a report of child abuse or neglect.

(b) "Identifying information" includes, but is not limited to, the name of:

(i) The child who is alleged to have been abused or neglected;

(ii) A member of the household;

(iii) A parent or legal guardian of the child; or

(iv) An individual suspected of being responsible for child abuse or neglect.

(21) "Indicated" means a finding that there is credible evidence, which has not been satisfactorily refuted, that abuse or neglect occurred.

(22) "Law enforcement agency" means a State, county, or municipal police department, bureau, or agency which includes but is not limited to, a:

(a) State, county, or municipal police department or agency;

(b) Sheriff's office;

(c) State's Attorney's office; and

(d) Attorney General's office.

(23) "Local department" means the department of social services, or the Montgomery County Department of Health and Human Services, that has jurisdiction in a county or Baltimore City to investigate or assist in the investigation of a report of suspected abuse or neglect.

(24) "Local department case file" means the component of the Department's confidential computerized database that contains information regarding child abuse and neglect investigations to which access is limited to the local department staff responsible for the investigation.

(25) "Maltreatment" means child abuse or child neglect.

(26) "Maltreater" means an individual who has abused or neglected a child.

(27) "Maryland Children's Electronic Social Services Information Exchange (MD CHESSIE)" means Maryland's Statewide-automated case management system.

(28) "Mental injury" means the observable, identifiable, and substantial impairment of a child's mental or psychological ability to function.

(29) "Multidisciplinary case consultation team" means a group of professionals convened regularly or as needed by a local department or the Administration to consult regarding investigation, service, or treatment of a child or family.

(30) Out-of-Home Care.

(a) "Out-of-home care" means care provided to a child in a setting other than the home of the child's parent or guardian.

(b) "Out-of-home care" includes, but is not limited to, day care, foster care, residential or 24-hour care, respite care, preschool, school, camp, or recreational programs.

(31) "Police officer" means any State or local officer who is authorized to make arrests as part of the officer's official duty.

(32) "Preponderance of the evidence" means that it is more likely than not that an act or omission occurred.

(33) Providing Proper Care and Attention.

(a) "Providing proper care and attention" means providing care appropriate to the child's needs and development.

(b) "Providing proper care and attention" includes, but is not limited to:

(i) Providing appropriate food, clothing, shelter, medical care, nurturing, activity, guardianship, and supervision; and

(ii) Caring and planning for the child's welfare.

(34) "Receiving a report" means obtaining sufficient information to initiate an investigation.

(35) Record.

(a) "Record" means the original or a copy of documentary material, in any form, concerning an investigation of suspected child abuse or neglect.

(b) "Record" includes a report of suspected child abuse or neglect received by or from a state, county, or municipal corporation in a state, or any subdivision or agency.

(36) "Regularly present in a household" means visiting or staying in a home with sufficient frequency to make an individual a significant part of the child's or family's life.

(37) "Report" means an allegation of child abuse or neglect made or received under Family Law Article, Title 7, Subtitle 5, Annotated Code of Maryland, and this chapter.

(38) "Ruled out" means a finding that abuse or neglect did not occur.

(39) "Sexual abuse" means any act that involves sexual molestation or exploitation of a child.

(40) Sexual Molestation or Exploitation.

(a) "Sexual molestation or exploitation" means sexual contact or conduct with a child.

(b) "Sexual molestation or exploitation" includes, but is not limited to:

(i) Exposure, voyeurism, sexual advances, kissing, or fondling;

(ii) Sexual crime in any degree including rape, sodomy, or prostitution; or

(iii) Allowing, encouraging, or engaging in obscene or pornographic display, photographing, filming, or depiction of a child in a manner prohibited by law.

(41) "Substantial risk of harm" means a foreseeable risk of harm to a child during alleged child abuse or neglect.

(42) "Suspected abuser" means an individual reported to or suspected by a local department as having been responsible for abuse of a child.

(43) "Suspected neglecter" means an individual reported to or suspected by a local department as having been responsible for neglect of a child.

(44) "Unsubstantiated" means a finding that there is insufficient evidence to support a finding of indicated or ruled out.

**.03 Eligibility for Child Protective Services (CPS).**

A. The following, regardless of economic circumstances, are eligible for CPS:

- (1) The child suspected of being abused or neglected;
- (2) The alleged maltreater; and
- (3) Household and family members.

B. A disabled infant with a life-threatening condition who does not receive appropriate nutrition, hydration, medication, or medical care is eligible for CPS as a neglected child, as defined by 42 U.S.C. §5106g.

C. As required by COMAR 07.02.04.07E, if a parent, guardian, or custodian is unwilling to apply in writing for CPS on the form prescribed by the Administration, the local department may note the refusal and sign the form.

D. If a local department provides services such as homemaker, day care, or legal services as part of a service plan of protective services for children, the local department shall determine eligibility for these services or for any applicable waiver of fees under COMAR 07.02.04.



## **.04 Reporting Suspected Child Abuse or Neglect.**

A. Except as provided in §§B—E of this regulation, an individual who has reason to believe that a child has been abused or neglected shall immediately, in a case of:

- (1) Abuse, notify a local law enforcement agency or a local department; and
- (2) Neglect, notify a local department.

B. Mandated Reporters.

(1) A health practitioner, educator, human service worker, or police officer shall report suspected child abuse or neglect:

- (a) Immediately, by oral report; and
- (b) In writing, within 48 hours of the contact that revealed the suspected abuse or neglect.

(2) Upon request, a local department shall distribute a supply of forms created by the Administration to individuals who are required to report child abuse or neglect in writing.

(3) An individual required to submit a written report:

- (a) May use the Administration form described in §B(2) of this regulation;
- (b) Shall send the written report to the local department; and
- (c) In the case of suspected child abuse, shall send a copy of the report to the local State's Attorney's office.

C. An employee of a local department who, in the course of employment, receives a report of suspected child abuse or neglect communicated formally or informally to the employee, or who otherwise has reason to suspect that child abuse or neglect has occurred, shall immediately report the information to the CPS unit within the local department for prompt investigation.

D. A report shall include as much of the following information the individual making the report is able to provide:

- (1) The names and home addresses of the child, both parents, and any other individual responsible for the care of the child;
- (2) The present location of the child;
- (3) The child's age;
- (4) The names and ages of other children in the home;
- (5) The specific nature and extent of injury, sexual abuse, or failure to provide proper care and attention of the child, and any information known to the individual making the report of possible previous abuse or neglect;

(6) Other information that:

(a) Might aid in establishing the cause of injury;

(b) Assists in identifying the individual or individuals responsible for the abuse or neglect; or

(c) Relates to the identification of risk; and

(7) In the case of suspected child abuse or neglect involving a mental injury:

(a) A description of the substantial impairment of the child's mental or psychological ability to function that was observed and identified; and

(b) An explanation of why the reporter believes the mental injury is attributable to maltreatment or failure to provide proper care and attention.

E. An individual is not required to report suspected child abuse or neglect in violation of:

(1) The attorney-client privilege under Courts and Judicial Proceedings Article, §9-108, Annotated Code of Maryland, which includes disclosure of information:

(a) Communicated in confidence by a client to the client's attorney, or other information relating to the representation of the client; or

(b) That would violate a constitutional right to assistance of counsel; or

(2) The privilege described in Courts and Judicial Proceedings Article, §9-111, Annotated Code of Maryland, pertaining to communications to a minister of the gospel, clergyman, priest, or rabbi of an established church of any denomination received in a professional capacity under circumstances where the professional is bound to maintain the confidentiality of that communication under canon law, church doctrine, or practice.