

DEPARTMENT OF SOCIAL SERVICES

CHILDREN'S DIVISION

P. O. BOX 88

JEFFERSON CITY, MISSOURI

December 22, 2015

M E M O R A N D U M

<p><b><u>What's Inside:</u></b></p> <p>CA/N Definitions</p>
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TO: REGIONAL DIRECTORS, FIELD SUPPORT MANAGERS,  
CIRCUIT MANAGERS AND SUPERVISORS

FROM: TIM DECKER, DIRECTOR

SUBJECT: CHILD ABUSE/NEGLECT DEFINITIONS

DISCUSSION:

The purpose of this memorandum is to introduce additions to child abuse/neglect definitions as defined in the Missouri Code of Regulations [13 CSR 35-31.010](#). The legal definitions listed below must be utilized by staff when making a determination whether abuse or neglect has occurred. These definitions became law on November 30<sup>th</sup>, 2015.

**Abuse**

*Abuse* is defined as, "Any physical injury, sexual abuse, or emotional abuse inflicted on a child other than by accidental means by those responsible for the child's care, custody, and control, except that discipline including spanking, administered in a reasonable manner, shall not be construed to be abuse."

*Physical injury* is defined as, "any bruising, lacerations, hematomas, welts, permanent or temporary disfigurement; loss, or impairment of any bodily function or organ, which may be accompanied by physical pain, illness, or impairment of the child's physical condition."

*Sexual abuse* is defined as, "any sexual or sexualized interaction with a child, except as otherwise provided in paragraph 2 below.

1. Sexual abuse shall include, but is not limited to:
  - a. Any touching of the genitals, anus or buttocks of a child, or the breast of a female child, or any such touching through the clothing; any act involving the genitals of a child and the hand, mouth, tongue, or anus of another person; or any sexual act involving the penetration, however slight, of a child's mouth, penis, female genitalia, or anus by any body part of another person, or by any instrument or object;

b. Any conduct that would constitute a violation, regardless of arrest or conviction, of chapter 566 RSMo if the victim is less than eighteen years of age, section 567.050, RSMo if the victim is less than eighteen years of age, sections 568.020, 568.060, 568.080, or 568.090, RSMo, sections 573.025, 573.035, 573.037, or 573.040, RSMo or an attempt to commit any of the preceding crimes;

c. Sexual exploitation of the child, which shall include:

i. Allowing, permitting or encouraging a child to engage in prostitution, as defined by state law; or,

ii. Allowing, permitting, encouraging or engaging in the obscene or pornographic photographing, filming or depicting of a child as those acts are defined by state law. This includes the storage or transmission of any data depicting said obscene or pornographic acts, images, or recordings.

2. Any reasonable interaction with a child, including touching a child's body for the purpose of providing the proper or necessary care or support of the child, shall not be considered sexual abuse. The touching of a child's body, including a child's genitals, buttocks, anus, or breasts for reasonable, medical, child rearing or child care purposes shall not be considered sexual abuse.

3. The division shall not be required to prove that the alleged perpetrator received sexual gratification or that there was an exchange or promise of anything of value as a result of the act of sexual abuse to establish sexual abuse under chapter 210 or 211 RSMo.

4. The use of force or coercion is not a necessary element for a finding of sexual abuse.

5. Sexual abuse may occur over or under the child's clothes.

6. The division shall not be required to prove that the child suffered trauma or harm as a result of the act of sexual abuse.

7. A child cannot consent to a sexual or sexualized act or interaction with a person responsible for that child's care, custody, and control."

*Emotional abuse* is defined as, "any injury to a child's psychological capacity or emotional stability demonstrated by an observable or substantial change or impairment in the child's behavior, emotional response, or cognition, which may include but is not limited to: anxiety, depression, withdrawal, or aggressive behavior; and which may be established by either lay or expert witnesses."

## **Neglect**

*Neglect* is defined as, "A failure to provide, by those responsible for the care, custody, and control of the child, the proper or necessary support, education as required by law, nutrition, or medical, surgical, or any other care necessary for the child's well-being."

*Proper or necessary support* is defined as including, “adequate food, clothing, shelter, medical care, or other care and control necessary to provide for the child's physical, mental, or emotional health or development.”

<b>NECESSARY ACTION</b>	
<ol style="list-style-type: none"> <li>1. Review this memorandum with all Children’s Division staff.</li> <li>2. Review revised Child Welfare Manual chapters as indicated below.</li> <li>3. All questions should be cleared through normal supervisory channels and directed to:</li> </ol>	
<b>PDS CONTACT</b> Kara Wilcox-Bauer 573-526-9707 Kara.B.Wilcox-Bauer@dss.mo.gov	<b>PROGRAM MANAGER</b> Christy Collins 573-751-9603 Christy.M.Collins@dss.mo.gov
<b>CHILD WELFARE MANUAL REVISIONS</b> <a href="#">Section 2, Chapter 4.1.8.1.1, The Laws on Child Abuse/Neglect</a> <a href="#">Section 2, Chapter 4.3.8.3.1, Fatality/Critical Event Reporting and Review Protocol</a> <a href="#">Section 7, Glossary</a> <a href="#">Section 7, Chapter 28, Physical Abuse</a> <a href="#">Section 7, Chapter 29, Sexual Abuse</a> <a href="#">Section 7, Chapter 30, Neglect</a> <a href="#">Section 7, Chapter 33, Emotional Abuse</a>	
<b>FORMS AND INSTRUCTIONS</b> N/A	
<b>REFERENCE DOCUMENTS AND RESOURCES</b> N/A	
<b>RELATED STATUTE</b> <a href="#">Section 210.110, RSMo.</a>	
<b>ADMINISTRATIVE RULE</b> <a href="#">13 CSR 35-31.010</a>	
<b>COUNCIL ON ACCREDITATION (COA) STANDARDS</b> N/A	
<b>CHILD AND FAMILY SERVICES REVIEW (CFSR)</b> N/A	
<b>PROTECTIVE FACTORS</b> N/A	
<b>FACES REQUIREMENTS</b> N/A	

