	<b>CHILD AND FAMILY SERVICES MANUAL</b>	<b>Effective Date</b> January 1, 2015		
	<b>Child Abuse and Neglect Findings Policy</b>	Section 2	Subsection 8	Page 1

## I. SUBJECT

Office of Child and Family Services Child Abuse and Neglect Findings Policy

## II. PHILOSOPHY

The Office of Child and Family Services of The Maine Department of Health and Human Services is mandated to receive reports of suspected child maltreatment, to assess appropriate allegations, and to reach decisions, based on the preponderance of facts and evidence, about whether or not a child has indeed been harmed and, if harmed, to what degree of severity. When it has been determined that a child has been seriously harmed or is in danger, child safety must be established and maintained well into the future. When a child has experienced low or moderate severity maltreatment, child protection services may be offered to families in order to help reduce risk of maltreatment well into the future.

## III. PURPOSE

This policy informs staff of the definitions and guidelines in deciding on whether or not to unsubstantiate, indicate or substantiate a person responsible for a child when an assessment has been completed due to allegations of child abuse and/or neglect.

## IV. PRACTICE MODEL

In our response to child safety concerns, we reach factually supported conclusions in a timely and thorough manner.


## V. DEFINITIONS:

**Abuse or neglect** means a threat to a child's health or welfare by physical, mental or emotional injury or impairment, sexual abuse or exploitation, deprivation of essential needs or lack of protection from these or failure to ensure compliance with school attendance requirements under Title 20-A, section 3272, subsection 2, paragraph B or section 5051-A, subsection 1, paragraph C, by a person responsible for the child.

**A finding** is a decision reached by a social worker based on the facts and evidence gathered during an assessment to support a decision that a "person responsible for a child" has, by a preponderance of the evidence, abused or neglected a child.

**Indicated** finding means that facts and evidence gathered during an assessment/investigation support a decision that a "person responsible for a child" has, by preponderance, subjected that child to low or moderate severity abuse and/or neglect.

**Person responsible for a child** means a person with responsibility for a child's health or welfare, whether in the child's home or another home, or a facility which, as part of its function, provides

	<b>CHILD AND FAMILY SERVICES MANUAL</b>	<b>Effective Date</b> January 1, 2015		
	<b>Child Abuse and Neglect Findings Policy</b>	Section 2	Subsection 8	Page 2

for care of the child. It includes the child’s custodian. In licensed Maine Residential facilities, a “caregiver” may be determined to be “a person responsible for the child”.

**Preponderance of evidence** means that the evidence gathered in the assessment/investigation demonstrates that the existence of the contested fact is more probable (at least 51%) than its nonexistence. This standard of proof equates to “more likely than not”.

**Risk** is the likelihood that a child may experience some form of abuse and/or neglect based on factors and/or circumstances to which that child has been exposed.

**Severity** is the degree to which a child has been impacted by maltreatment. The degrees of severity are low/moderate or high.

**Signs of Danger:** These are very serious behaviors, conditions, and child or family circumstances (caused by the person responsible for the child) that either have caused or very soon could cause high severity child abuse and neglect. When they are present, signs of danger require safety planning.

**Substantiated** finding means that facts and evidence gathered during an assessment/investigation support a decision that a “person responsible for a child” has, by preponderance, subjected that child to specific high severity abuse and/or neglect thus causing the child to be in danger.

**Threat of** means a child is exposed to one or more risk factors that may imminently cause that child to experience high severity child abuse, neglect. When deciding whether or not a “threat of sexual abuse” exists, the time frame being considered may be extended, but only when the social worker/investigator has documented an analysis of the specific factors about the abuser and the likelihood for him/her to sexually abuse a child in a specific case which sufficiently supports that finding when it was reached.


**Unsubstantiated** finding means that facts and evidence gathered during an assessment/investigation support a decision that a “person responsible for a child” has not, by preponderance, subjected that child to specific abuse and/or neglect.

**Very likely** means that there exists a supportable, firm intellectual conviction that the facts observed in the assessment/investigation process will result in specific high severity child maltreatment outcomes.

## VI. LEGAL BASE

Title 22 M.R.S. § 4002 & 4004 (C-1)

## VII. PROCEDURE STATEMENT

	<b>CHILD AND FAMILY SERVICES MANUAL</b>	<b>Effective Date</b> January 1, 2015		
	<b>Child Abuse and Neglect Findings Policy</b>	Section 2	Subsection 8	Page 3

**CRITERIA FOR DETERMINING THE SEVERITY OF ABUSE/NEGLECT:**

Physical Abuse – High Severity  
(A substantiated finding)

**A social worker/investigator reaches a substantiated finding for physical abuse when:**

1. An individual has been determined to have been “a person responsible for the child”; and
2. That person caused a serious physical injury to that child that required medical attention (whether or not medical attention was actually received). This does not include parental behaviors prior to a child’s birth; or
3. That person has engaged in confirmed conduct, past or present, that is unlikely to change in a timely manner and that created an immediate risk (*threat of*) of serious physical injury to a child, which, if to occur, would require medical attention.

**\*(When reaching a high severity physical abuse finding, that decision must be based on the identification of a sign of danger supported by an analysis of available information and /or a lack of parental protective capacity.)**

Physical Abuse – Low or Moderate Severity  
(An Indicated finding)


**A social worker/investigator reaches an indicated finding for physical abuse when:**

1. A person has been determined to have been “a person responsible for the child”; and
2. That person caused or engaged in behavior that was likely to cause a minor physical injury to that child that did not or would not require medical attention. This does not include parental behaviors prior to a child’s birth.

Neglect – High Severity  
(A substantiated finding)

**A social worker/investigator reaches a substantiated finding for neglect when:**

1. A person has been determined to have been “ a person responsible for the child”; and

	<b>CHILD AND FAMILY SERVICES MANUAL</b>	<b>Effective Date</b> January 1, 2015		
	<b>Child Abuse and Neglect Findings Policy</b>	Section 2	Subsection 8	Page 4


2. That person failed to provide essential food, clothing, shelter, care, supervision, medical and/or mental health treatment when that failure caused or was very likely to cause (*threat of*) a serious injury, serious illness or serious impairment in the near future that required or would require treatment, or
3. That person poses a threat of neglect based on the identification of a sign of danger supported by an analysis of available information and/or a lack of parental protective capacity; or
4. That person has allowed or deprived a child at least 7 years of age and has not completed grade 6 to have the equivalent of 7 full days of unexcused absences or 5 consecutive days of unexcused absences during the school year *AND that lack of attendance has had a documentable serious impact upon the child*; or
5. That person failed to protect that child from experiencing high severity physical, sexual, emotional abuse and/or neglect caused by another person that could have been prevented. However, in domestic violence cases, this finding can only be reached for the adult victim of the abuser when that person is a party to a child protection petition that has been filed that seeks to ensure child safety.

**\*When reaching a high severity neglect finding, that finding must be based on the identification of a sign of danger supported by an analysis of available information and /or a lack of parental protective capacity.**

Neglect – Low or Moderate Severity  
(An indicated finding)

**A social worker/investigator reaches an indicated finding for neglect when:**

1. A person has been determined to have been “ a person responsible for the child”; and
2. That person failed to provide essential food, clothing, shelter, care, supervision, medical and/or mental health treatment when that failure caused and/or was likely to cause a minor injury, minor illness or

	<b>CHILD AND FAMILY SERVICES MANUAL</b>	<b>Effective Date</b> January 1, 2015		
	<b>Child Abuse and Neglect Findings Policy</b>	Section 2	Subsection 8	Page 5


minor impairment in the near future that did not or would not require treatment; or

3. That person failed to protect the child from experiencing low to moderate severity physical, sexual, emotional abuse and/or neglect caused by another person that could have been prevented. This finding does not apply in a domestic violence case where the person having failed to protect is the adult victim of the abuser, or
4. That person has allowed or deprived a child at least 7 years of age and has not completed grade 6 to have the equivalent of 7 full days of unexcused absences or 5 consecutive days of unexcused absences during the school year when not attending school has had documentable minor impact upon the child.

High Severity Sexual Abuse  
(A substantiated finding)

**A social worker/investigator reaches a substantiated finding of child sexual abuse when:**

1. A person has been determined to have been “a person responsible for the child”; and
2. That person had physical contact with either a child’s breasts, genitals, buttocks, or other body parts in a sexualized manner or for sexual gratification; or
3. That person had that child touch him/herself or anyone else in a sexualized manner; or
4. That person is a convicted child sexual offender or previously substantiated sexual abuser of child/ren who has unsupervised access and/or contact with a child in contradiction of law or DHHS child safety plan and so poses a *threat of* sexual abuse to that child imminently; or
5. That person who is not a convicted sexual offender or substantiated sexual abuser has engaged in confirmed sexual conduct, past or present that is unlikely to change in a timely manner and that has created an imminent *threat of* sexual abuse to that child; or

	<b>CHILD AND FAMILY SERVICES MANUAL</b>	<b>Effective Date</b> January 1, 2015		
	<b>Child Abuse and Neglect Findings Policy</b>	Section 2	Subsection 8	Page 6


6. That person created or caused to be created, or that permitted or distributed sexualized media content (e.g. photographs, videos, recordings, etc.), involving the child; or
7. That person intentionally and purposefully subjected that child to suggestive remarks, sexualized behaviors or to a sexualized environment (including prostitution or human trafficking), that caused and/or creates a threat to that child to be sexually abuse; or
8. That person forces or encourages a child to view either adult or child pornography.

**\*When reaching a high severity sexual abuse finding, that finding must be based on the identification of a sign of danger supported by an analysis of available information and /or a lack of parental protective capacity.**

Emotional abuse – High Severity (A substantiated finding)

**A social worker/investigator reaches a high severity finding for emotional abuse when:**

1. A person has been determined to have been “a person responsible for the child”; and
2. That person has acted in such a way as to have caused a child to experience “**serious harm**” (mental or emotional injury or impairment which now or in the very near future is likely to be evidenced by serious mental, behavioral or personality disorder; severe anxiety, depression or withdrawal; untoward aggressive behavior; seriously delayed development; or other serious dysfunctional behavior); or
3. That person has exposed a child to a pattern of or at least one serious incident of domestic violence. Exposure to very serious physical violence equates to high severity impact. However, in a domestic violence case, this finding can only be reached for the adult victim of the abuser when that person is a party to a child

	<b>CHILD AND FAMILY SERVICES MANUAL</b>	<b>Effective Date</b> January 1, 2015		
	<b>Child Abuse and Neglect Findings Policy</b>	Section 2	Subsection 8	Page 7

protection petition that has been filed that seeks to ensure child safety.

**\*When reaching a high severity emotional abuse finding, that finding must be based on the identification of a sign of danger supported by an analysis of available information and /or a lack of parental protective capacity.**

Emotional Maltreatment  
 – Low or Moderate  
 Severity (An indicated  
 finding)

**A social worker/investigator reaches an indicated finding of emotional abuse when:**

1. A person has been determined to have been a person responsible for the child; and
2. That person has exposed that child to circumstances, behaviors or conditions that resulted in that child demonstrating a noticeable degree of emotional impairment or distress.


**NOTIFICATION OF FINDINGS TO A “PERSON RESPONSIBLE FOR THE CHILD”:**

Any “person responsible for the child” who is determined, by a preponderance of facts and/or evidence gathered during an assessment, to have harmed a child is entitled to receive a timely written notice within 10 days of the findings being reached along with the specific facts that support each individual finding. This information must be provided in a language that the “person responsible for the child” can easily understand (sixth grade reading level).

The notice will also provide a “person responsible for the child” with information both about the Office of Child and Family Services MACWIS database, the potential “collateral consequence” for present and future employment, and the right to appeal in accordance with the Rules Governing the Appeal of Child Maltreatment Findings.

**FINDINGS OF ABUSE OR NEGLECT BY A MINOR:**

A person under the age of 18 may be substantiated or indicated if he/she is a biological parent to the child, or he/she was “a person responsible for a child”, and maltreated that child when that child was in the minor’s care. However, in both these circumstances, a District Program Administrator must approve and document in MACWIS what supported the findings. Special consideration will be given to the age of the minor, how it was determined that he/she was “a person responsible for the child” when maltreatment occurred, and the factors that were considered in deciding he/she was the one who maltreated the child.

	<b>CHILD AND FAMILY SERVICES MANUAL</b>	<b>Effective Date</b> January 1, 2015		
	<b>Child Abuse and Neglect Findings Policy</b>	Section 2	Subsection 8	Page 8


**NOTIFICATION TO A MINOR:**

In the event that findings are reached for a minor, both that minor and his/her custodian must be notified of the specific findings and the facts that support those findings, as well as the right of appeal. This notification requires a “face to face” meeting with both the minor and his/her custodians followed up with a written notice of findings. Either or both the minor and his/her custodian may appeal the findings before the minor reaches the age of 25.

**DISCLOSURE OF FINDINGS:**

**For information regarding records disclosure please refer to Title 22, M.R.S. §4008**  
**Employers:** Only high severity, substantiated child maltreatment findings will be disclosed by The Office of Child & Family Services to potential employers regarding potential employees who are or may be engaged in specified categories of child related activities or employment.



	<b>CHILD AND FAMILY SERVICES MANUAL</b>	<b>Effective Date</b> January 1, 2015		
	<b>Child Abuse and Neglect Findings Policy</b>	Section 2	Subsection 8	Page 9

**These are very serious parental behaviors, conditions, and child or family circumstances that either have caused or very soon could cause high severity child abuse and neglect. When they are present, signs of danger require safety planning.**

**1. A parent/caregiver behavior IS violent and/or out of control and this behavior causes or threatens serious harm to a child.**

- Violent shaking and/or choking of an infant or young child.
- Use of any extreme physical treatment of a child which causes or is likely to cause an injury. (e.g. torture, extensive bruises, multiple serious abrasions, broken bones, significant hair loss from being pulled, inflicted serious and or multiple burns, internal injuries which may result from kicking, pushing, throwing or slamming)
- Brutal or bizarre behaviors directed at a child and/or adult.
- Use or threatened use of guns, knives or any other weapon or implement which causes or threatens serious harm to a child and/or adult.
- A parent/caregiver expresses bizarre and/or irrational thoughts (demonstrates impaired judgment, sees or hears things that are not there, sees child as "evil"), and these behaviors cause or threaten serious harm to a child.
- Any behavior that indicates a significant lack of self-control (e.g. reckless, unstable, raving, explosive, suicidal and/or homicidal behavior).

**2. A parent/caregiver describes or acts towards a child in predominantly negative terms or has extremely unrealistic expectations of the child.**


- Pervasively demeaning, degrading, humiliating, and/or scapegoating a child.
- Expects a child to perform or act in a way that is impossible or improbable for the child's age (e.g. babies and toddlers not expected to cry, child expected to be still for extended periods of time, to be toilet trained, or to eat neatly).

**3. A parent/caregiver caused high severity child abuse and/or neglect AND is communicating a plausible threat of high severity child abuse and/or neglect to a child.**

- Manipulation/retaliation (e.g. threats of having to go into a foster home, not being able to see a parent any more, a parent/caregiver having to go to jail, etc.) for a child's contact, communication, or disclosure resulting in CPS involvement.
- Terrorizing with threats to kill or seriously harm the child, a loved one, animal, or valued possession.

**4. There are serious maltreatment allegations or there are high severity maltreatment findings, and there is reason to believe the family is about to flee or to refuse access to a child.**

- Family has previously fled in response to serious CPS involvement.
- Parent/caregiver says they may flee or it appears as if they are planning to flee.
- Parents are isolating the child in response to CPS intervention.

	<b>CHILD AND FAMILY SERVICES MANUAL</b>	<b>Effective Date</b> January 1, 2015		
	<b>Child Abuse and Neglect Findings Policy</b>	Section 2	Subsection 8	Page 10

**5. A parent/caregiver is unwilling or unable to provide sufficient supervision to protect a child from high severity child abuse and/or neglect.**

- Parent/Caregiver is unable to recognize threats of serious harm; and therefore, cannot adequately provide supervision to protect the child from the threat(s).
- Even after being made aware of a plausible threat of serious harm, a parent/caregiver's response indicates he or she will not, even in light of this knowledge, adequately protect and supervise the child from the threat(s) of serious harm.

**6. A parent/caregiver has not or is unable to meet a child's medical needs that may result in serious health care problems if left untreated.**

- Parent/caregiver does not seek treatment for a child's serious medical condition.
- Parent/caregiver does not follow prescribed treatment for a serious condition.
- A parent/caregiver has removed child from a hospital against medical advice.

**7. A parent/caregiver has previously abused or neglected a child, and the high severity of the child maltreatment or the parent/caregiver's response suggests that a child's safety is of serious concern.**

- A parent/caregiver has previously lost custody of a child as result of a child protection proceeding.
- There is a chronic and/or an escalating pattern of maltreatment.
- Parent/caregiver does not acknowledge or take responsibility for prior serious harm to a child.

**8. A child is fearful of people living in or frequenting the home, and there are serious allegations or high severity child maltreatment.**


- A child cries, cowers, cringes, trembles or otherwise exhibits fear in the presence of certain individuals or verbalizes such fear.
- Child exhibits severe anxiety (e.g. nightmares, insomnia) related to a situation associated with a person(s) living in or frequenting the home.
- Child reasonably expects retribution or retaliation from parent/caregiver.

**9. A parent/caregiver is unwilling or unable to meet the child's immediate safety needs for food, clothing, and/or shelter, which causes or threatens serious harm.**

- A child is deprived of food and/or drink for prolonged periods of time and/or a child appears to be malnourished.
- Lack of parental response to identified threat(s) which fail to protect from unsafe, hazardous, and/or no housing (in dangerous weather/environment)
- Dangerous substances or objects within reach of a vulnerable child.

**10. There is reason to believe that child sexual abuse has occurred AND current circumstances suggest that the child's safety may be of immediate concern.**

- Alleged abuser has continued access.

	<b>CHILD AND FAMILY SERVICES MANUAL</b>	<b>Effective Date</b> January 1, 2015		
	<b>Child Abuse and Neglect Findings Policy</b>	Section 2	Subsection 8	Page 11

- A parent/caregiver has not demonstrated the ability or willingness to believe and/or protect a child from sexual abuse.

**11. A parent/caregiver’s reported and/or observed drug or alcohol abuse seriously affects his/her ability to supervise, protect, or care for a vulnerable child.**

- A parent/caregiver has misused drugs and/or alcohol to the extent that judgment and actions are seriously impaired.
- A parent/caregiver’s active use of substances that result in impulsive, dangerous behaviors.
- Co-sleeping in combination with substance abuse, or use of unsafe sleeping environment.

**12. A parent/caregiver’s reported or observed behaviors are indicative of serious physical, mental illness or developmental disability, which has or may soon seriously effect his/her ability to supervise, protect, or safely care for a vulnerable child.**

- A parent/caregiver refuses supports and/or services that would enable the parent/caregiver to safely care for and protect a child, given the parent/caregiver’s serious physical or mental limitations (i.e. medication).

**13. A batterer of domestic violence affects the ability of the adult victim of the domestic violence to care for and/or protect a child from high severity maltreatment.**


- A parent/caretaker is unable to provide basic care and/or supervision for the child because of injury, incapacitation, forced isolation, or other controlling behavior of the alleged or observed domestic violence abuser.
- A parent/caregiver is forced, under threats of serious harm, to participate in or witness abuse of a child, and/or a child is forced, under threat of harm, to witness or participate in the abuse of a parent/caretaker.
- A batterer has caused unexplained injuries, and the adult victim’s explanations are inconsistent or contrary to credible information (from a child, neighbors, previous police reports, etc.)

**14. A child’s behavior triggers a parent/caregiver’s inappropriate response that caused or is likely to cause serious harm to a child.**

- A parent/caregiver cannot tolerate a crying infant who cannot be soothed.
- A parent/caregiver has unrealistic expectations and an inability to tolerate a child who cannot meet his or her expectations.
- A child demonstrates uncontrolled, rageful, or aggressive behavior.

**15. A parent/caregiver’s explanations for serious maltreatment and/or serious unexplained child injuries are inconsistent with credible supporting evidence or change over time.**

- A serious injury that is inconsistent with the explanation given by the parent/caregiver.
- A child who has a serious injury, and everyone who has had access and opportunity denies responsibility for the injury.

	<b>CHILD AND FAMILY SERVICES MANUAL</b>	<b>Effective Date</b> January 1, 2015		
	<b>Child Abuse and Neglect Findings Policy</b>	Section 2	Subsection 8	Page 12

**16. There is evidence of and/or a report of abuse/neglect related to a child’s death or an unexplained child’s death.**

- More than one "SIDS" or other unexplained death in the family.
- A parent/caregiver was present when a child died and he/she has no explanation for the cause of death.
- A parent/caregiver uses a child care provider whose actions contributed to a child’s death.