



Rules of
Department of Social Services
Division 35—Children’s Division
Chapter 31—Child Abuse

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**Title 13—DEPARTMENT OF
SOCIAL SERVICES
Division 35—Children's Division
Chapter 31—Child Abuse**

13 CSR 35-31.010 Definitions

PURPOSE: This rule establishes definitions pertaining to investigations and assessments conducted pursuant to Chapter 210, RSMo.

(1) The Children's Division shall use the definitions set forth below when conducting investigations and assessments pursuant to Chapter 210, RSMo.

(A) "Emotional abuse" is 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.

(B) "Physical injury" includes 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.

(C) "Proper or necessary support" includes 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.

(D) "Sexual abuse" is 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 (18) years of age, section 567.050, RSMo if the victim is less than eighteen (18) 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.

AUTHORITY: sections 207.020 and 210.145.20, RSMo Supp. 2014. Original rule filed May 26, 2015, effective Nov. 30, 2015.*

**Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993, 2014 and 210.145, RSMo 1975, amended 1980, 1982, 1986, 1990, 1993, 1994, 2000, 2002, 2003, 2004, 2007, 2011, 2012, 2014.*

13 CSR 35-31.015 Investigations Involving a Conflict of Interest

PURPOSE: This rule defines the investigation procedure used when the relationship of the subject of a report of child abuse or neglect to the Children's Division is such that a conflict of interest may occur.

(1) Definitions.

(A) Out-of-Home Investigation Unit-The unit of investigators responsible for investigating child abuse and neglect when the child is in an out-of-home setting.

(2) The following categories of persons, when reported as either the victim or alleged perpetrator of child abuse or neglect, may be considered to have such a relationship to the Children's Division that a thorough investigation might be hindered by a conflict of interest:

(A) An employee of the Children's Division, the Department of Social Services central office or other Department of Social Services employees located in a Children's Division office;

(B) The immediate family or household member of that employee; or

(C) Children placed in foster care and in the custody of the Children's Division when the alleged perpetrator is a licensed foster parent. These calls will be investigated by the Out-of-Home Investigation Unit.

(3) Reports of abuse or neglect involving those persons, either as victims or perpetrators, shall be made to the Child Abuse and Neglect Unit in the central office of the Children's Division. The Child Abuse and Neglect Unit will assign the report to the Children's Division county/circuit staff selected by the regional office to initiate and conduct the investigation.

AUTHORITY: section 207.020, RSMo Supp. 2014. This rule originally filed as 13 CSR 40-31.011. Original rule filed March 7, 1984, effective June 11, 1984. Moved to 13 CSR 35-31.015 and amended: Filed July 29, 2015, effective Feb. 29, 2016.*

**Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993, 2014.*

13 CSR 35-31.025 Child Abuse and Neglect Review Process

PURPOSE: This rule establishes a child abuse and neglect review process to provide for a review of child abuse and neglect determinations when an alleged perpetrator disagrees with the division's finding of preponderance of the evidence.

(1) Upon written request, the Children's Division will provide an opportunity for an administrative review to any alleged perpetrator who disagrees with the local division's finding of preponderance of the evidence in a child abuse or neglect investigation.

(2) The alleged perpetrator will receive written notification of the preponderance of the evidence finding by the local division office and of his or her right to an administrative review of the finding.

(A) The alleged perpetrator will have sixty (60) days from the receipt of the notification



of the child abuse/neglect finding to request an administrative review in writing to the circuit manager.

(B) The circuit manager, or his or her designee, will review, within ten (10) working days of receipt of the request, the investigative report and all appropriate material presented by the alleged perpetrator and determine whether to uphold or reverse the finding.

(C) The circuit manager, or his or her designee, will notify the alleged perpetrator in writing of the decision to uphold or reverse the original finding. If the finding is upheld, the circuit manager, or his or her designee, will forward the request to the Child Abuse and Neglect Review Board (CANRB) for further administrative review.

(3) The division may establish more than one (1) Child Abuse and Neglect Review Board to assure timely review of child abuse and neglect determinations.

(4) Each Child Abuse and Neglect Review Board will be composed of nine (9) members from specified professions outlined in section 210.153, RSMo 2000. Members are appointed by the governor with the advice and consent of the senate.

(5) Initially, three (3) board members will be appointed to serve for a term of three (3) years, three (3) board members will be appointed to serve for a term of two (2) years, and three (3) board members will be appointed to serve for a period of one (1) year.

(A) Members may continue serving after their term expires and until either their reappointment or until their replacement is appointed and approved.

(B) The members of the board shall designate a chairperson.

(6) The governor may remove and/or replace a member of the board for the following reasons:

(A) Death;

(B) Resignation;

(C) Mental or physical incapacitation which limits the member from effectively serving on the board; or

(D) For good cause as determined by the governor.

(7) The members of the board will hold all information obtained in the course of a review in the strictest confidence and will not discuss or disclose any information regarding any case, except as permitted under section 210.150, RSMo 2000.

(8) The members of the board will meet at a location within Missouri regularly, depending on the number of requests for review being filed, but a minimum of one (1) board will meet a minimum of one (1) time per month.

(9) The Child Abuse and Neglect Review Board will adhere to the following procedures for notification and scheduling of child abuse and neglect reviews:

(A) Within five (5) working days of receiving the request for review, the Children's Division CANRB liaison will notify the alleged perpetrator and the circuit manager of the date, time, and location of the review.

1. The Children's Division CANRB liaison or the board may grant a continuance to the alleged perpetrator for good cause. However, the number of continuances will be restricted to assure timely reviews.

2. If court adjudication occurs prior to the CANRB proceeding or prior to the CANRB's issuance of the board's determination, the Children's Division CANRB liaison or the board will notify the alleged perpetrator that the board is foreclosed from ruling on the division's finding by statute.

3. If requested, and not otherwise prohibited by statute, the circuit manager will provide a copy of the child abuse and neglect investigation to the alleged perpetrator, including all records provided to the board, with the exception of confidential information or other information that could jeopardize child safety.

4. The alleged perpetrator may submit written information for the board to review before the proceeding if it is received by the board not less than twenty-one (21) calendar days prior to the hearing date; and

(B) The Children's Division CANRB liaison or the board shall notify the child or the child's parent, guardian, or legal representative that a review has been scheduled and of their opportunity to attend and/or to provide information on behalf of the child. The child's parent, guardian, or legal representative may submit written information for the board to review before the proceeding if it is received by the board not less than twenty-one (21) calendar days prior to the hearing date.

(10) At the review, the division, the child's representative, and then the alleged perpetrator (in that order) will each have twenty (20) minutes to present information to the board.

(A) The board may approve extra time for any presentation at the board's discretion.

(B) The alleged perpetrator's attendance is not mandatory for a review to be held.

(C) The board may approve participation

by conference call for any participant.

(D) The alleged perpetrator may be represented by legal counsel.

(E) The division will be represented by appropriate staff, legal counsel, and/or the written record.

(F) The alleged perpetrator and the division may have witnesses provide testimony.

(G) Witnesses shall only be allowed to attend that portion of the review in which they are presenting information.

(H) The board will review and discuss all relevant materials and testimony, and all board members present at the hearing shall have the right to vote on whether to uphold or reverse the division's finding.

1. The board must have a quorum of not less than five (5) members to hold a hearing. If a quorum is not present, the hearing will be cancelled and rescheduled.

2. The board's decision must be based on a majority vote. In cases where there is no majority vote, the division's finding shall remain unchanged and considered affirmed.

3. The board's decision must be based on competent and substantial evidence on the whole record to support the preponderance of the evidence finding of abuse or neglect.

4. The board's decision must occur on the day of the review.

(11) The decision of the board will be the agency's final decision upholding or reversing the preponderance of the evidence finding of abuse or neglect.

(12) Within five (5) working days of the board's decision, the board shall notify the alleged perpetrator, the Children's Division, and the child's representative of the board's decision in writing. The decision shall be mailed to the last known address of such persons and their attorneys or legal representatives of record.

(13) The board shall expunge its administrative files at three (3) years with the exception of a log documenting the board's final decision.

(14) Annually, the department will evaluate the following factors related to the work of the Child Abuse and Neglect Review Board(s):

(A) Number of requests;

(B) Geographic area of requests;

(C) Results of reviews;

(D) Composition of the board(s); and

(E) Necessary amendments of the rules.



AUTHORITY: section 210.153, RSMo Supp. 2007. Original rule filed Sept. 27, 2007, effective March 30, 2008.*

**Original authority: 210.153, RSMo 1994, amended 2004.*