

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	12/12/2014	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 1/9/2015

2. COMAR Codification

Title Subtitle Chapter Regulation

07 02 07 01-.26

3. Name of Promulgating Authority

Department of Human Resources

4. Name of Regulations Coordinator

Andrea Shuck

Telephone Number

4102607787

Mailing Address

45 Calvert Street

City State Zip Code

Annapolis MD 21401

Email

ashuck@dhr.state.md.us

5. Name of Person to Call About this Document

Steve Berry

Telephone No.

410-767-7018

Email Address

Steve.Berry@maryland.gov

6. Check applicable items:

- New Regulations

- Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: October 14, 2014.

- Repeal of Existing Regulations

- Recodification

Incorporation by Reference of Documents Requiring DSD Approval

Reproposal of Substantively Different Text:

: Md. R
(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

Yes - No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Sandra Barnes, Assistant Attorney General, (telephone #410-767-7765) on October 31, 2014. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Ted Dallas

Title

Secretary

Telephone No.

410-767-7193

Date

December 8, 2014

Title 07
DEPARTMENT OF HUMAN RESOURCES

Subtitle 02 SOCIAL SERVICES ADMINISTRATION

07.02.07 Child Protective Services - Investigation of Child Abuse and Neglect

Authority: Family Law Article §5-701 et seq.; Human Services Article, §§1-202, 1-203, 4-202, and 4-207; Annotated Code of Maryland; (Agency Note: 42 U.S.C. 5106a(b)(2); 45 CFR §1340.20)

Notice of Proposed Action

[]

The Secretary of the Department of Human Resources proposes to amend regulations .01 - .13, adopt new regulations .14 - .17, and .19, repeal regulations .16 and .23, and amend and recodify existing regulations .14 - .15, .17 - .22 to be .18, .20 - .26 under Chapter 07.02.07 Investigation of Child Abuse and Neglect.

Statement of Purpose

The purpose of this action is to incorporate several new statutory changes and add clarifying language. Alternative response assessments were added as another option for responding to reports of child abuse and neglect. This new type of response caused changes to the eligibility for Child Protective Services (CPS). How to conduct and complete the alternative response was added to this chapter. Guidelines were also provided on the expungement of alternative response records.

New language was added to the confidentiality section to allow health practitioners and certain members of higher education access to child protective services information. Guidelines were also added regarding the Department releasing information on fatalities and near fatalities.

The definition of a maltreater was clarified as well as the criteria CPS may use to determine if a minor should be identified as a maltreater. The right of individuals who are not identified as a maltreater to appeal was added to reflect Office of Administrative Hearings' decisions on indicated or unsubstantiated investigations. Language was added to include grooming a child for a sexual relationship as an element of sexual abuse as well as expanding on the definition of caregiver to include any individual engaging in human sex trafficking.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Andrea Shuck, Regulations Coordinator, Department of Human Resources, 301 W. Saratoga St., Rm. 265, Baltimore, MD 21201, or call 410-767-7193, or email to andrea.shuck@maryland.gov, or fax to 410-333-0637. Comments will be accepted through February 9, 2015. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2015

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

No

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

Not applicable

E. If these regulations have no economic impact under Part A, indicate reason briefly:

There is no economic impact because existing resources will be used to implement the regulation.

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

Not applicable

G. Small Business Worksheet:

Attached Document:

.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;
 - (2) *Comprehensive assessment of:*
 - (a) *Risk of harm to children;*
 - (b) *Risk of subsequent abuse or neglect; and*
 - (c) *Family strengths and needs; and*
 - [(2)](3) Initiation of *or referrals to* protective and other services for:
 - (a) - (b) (text unchanged)
 - (c) Household or family members of abused or neglected children[; and].
 - [(3)] Investigation of a substantial risk of child sexual abuse by a registered child sexual offender.]
- B. The goals of CPS are to:
- (1) Promptly investigate reports of child abuse and neglect [and of a substantial risk of child sexual abuse by a registered child sexual offender];
 - (2) *In certain low risk reports of abuse or neglect, promptly initiate a comprehensive family assessment;*
 - [(2)](3)- [(3)](4) (text unchanged)
 - [(4)](5) Create and maintain accurate reports and records that can serve as tools in providing services and in conducting subsequent investigations *or assessments.*

.02 Definitions.

- A. In this chapter, the following terms have the meanings indicated.
- B. Terms Defined.
- (1) (text unchanged)
 - (2) "Alleged abuser" means an individual [found by] *reported to* a local department [to have been] *as* responsible for the abuse of a child.
 - (3) "Alleged neglecter" means an individual [found by] *reported to* a local department [to have been] *as* responsible for the neglect of a child.
 - (4) "*Alternative Response*" means a component of Child Protective Services that provides for comprehensive assessment of:
 - (a) *Risk of harm to a child;*
 - (b) *Risk of subsequent child abuse or neglect;*
 - (c) *Family strengths and needs; and*
 - (d) *The provision of or referral for necessary services.*
 - [(4)](5) [Caretaker] *Caregiver.*
 - (a) "[Caretaker] *Caregiver*" 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] *Caregiver*" 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.
 - (c) "*Caregiver*" includes, in cases of human trafficking, any individual engaged in trafficking a minor or otherwise controlling a child.
 - [(5)](6) "Central registry" means the component of the Department's Client Information System (CIS) or [other confidential computerized database] *MD CHESSIE* that contains information regarding child abuse and neglect investigations *and is available to every local department.*
 - [(6)](7) (text unchanged)
 - [(7)](8) "Child abuse" means one or more of the following by a parent, [caretaker] *caregiver*, or household or family member:
 - (a) - (b) (text unchanged)
 - [(8)](9) "Child neglect" means one or more of the following by a parent or [caretaker] *caregiver:*
 - (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] *was* harmed or placed at substantial risk of harm; or
 - (b) (text unchanged)
 - [(9)](10) "[Children] *Child* in need of assistance (CINA)" has the meaning defined in Courts and Judicial Proceedings Article, §3-801(f), Annotated Code of Maryland.
 - [(10)](11) (text unchanged)
 - [(10-1)](12) "CPS unit" means that unit of a local department responsible for [investigating] *responding to* reports of [suspected] child abuse or neglect.
 - (13) "*CPS response*" means an investigation or assessment conducted pursuant to Family Law Article, §5-706, Annotated Code of Maryland.
 - [(11)](14) - [(12)](15) (text unchanged)
 - [(12-1)] "Drug-exposed newborn" means an infant younger than 30 days old:
 - (a) Who has a positive toxicology screen for illegal substances as evidenced by any appropriate test after birth;

(b) Who has symptoms of withdrawal from, or of exposure to, illegal substances as determined by medical personnel; or

(c) Whose mother had a positive toxicology screen for illegal substances upon admission to the hospital or at the time of delivery.]

[(13)](16) (text unchanged)

[(14)](17) Failure to [Give] *Provide Proper Care and Attention*.

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

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

[(15)](18) - [(16)](19) (text unchanged)

(20) "*Grooming a child for a sexual relationship*" means the forming of a closer relationship with the intent of using it for subsequent inappropriate sexual contact.

[(17)](21) "Health care practitioner" [means an individual who is authorized to practice healing under] *has the meaning stated in Health Occupations Article, §1-301, Annotated Code of Maryland.*

[(18)](22) "Household" means the location in which a child or [caretaker] *caregiver* resides.

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

[(20)](24) "Human trafficking" means any conduct prohibited by Criminal Law Article, §11-303, Annotated Code of Maryland.

(25) "*Identify an individual as responsible for child abuse or neglect in a central registry*" means entering a notation listed in a central registry to make clear that the individual has been determined by a local department to be responsible for indicated child abuse or neglect under circumstances specified in Family Law Article, §5-714, Annotated Code of Maryland.

[(21)] Identifying Information.

(a) [(26)] "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)](a) [The] A child [who is] alleged to have been abused or neglected;

[(ii)](b) A member of the *child's* household;

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

[(iv)](d) An individual [suspected of being] *alleged to be* responsible for child abuse or neglect.

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

[(23)](28) "Law enforcement agency" means a [State, county, or municipal] police department, bureau, or agency [which includes] *including* but [is] not limited to[, a]:

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

(b) A Sheriff's office;

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

(d) *The* Attorney General's office.

[(24)](29) "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, *assess* or assist in the investigation or *assessment* of a report of [suspected] *alleged* abuse or neglect.

[(25)](30) "Local department case file" means the component of [the Department's confidential computerized database] *MD CHESSIE* that contains information regarding child abuse and neglect investigations or *assessments* to which access is limited to the *staff of* the local department [staff] responsible for the [investigation] *CPS response*.

[(26)](31) (text unchanged)

[(27)](32) "Maltreater" means an individual [who has abused or neglected a child] *found responsible by a local department for indicated or unsubstantiated child abuse or neglect*.

[(28)](33) - [(29)](34) (text unchanged)

[(30)](35) "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, *assessment*, service, or treatment of a child or family.

[(31)](36) (text unchanged)

[(32)](37) "Police officer" means any *federal*, State, or local officer who is authorized to make arrests as part of the officer's official duty.

[(33)](38) - [(34)](39) (text unchanged)

[(35)](40) "Receiving a report" means obtaining sufficient information to initiate [an] *a* [investigation] *CPS response*.

[(36)](41) Record.

(a) "Record" means the original or a copy of documentary material, in any form, concerning [an investigation of suspected] *a CPS response to 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.

[(37-1)](42) - [(40)](45) (text unchanged)

[(41)](46) "Sexual abuse" means any act that involves sexual molestation or exploitation of a child, *including grooming a child for a sexual relationship.*

[(42)](47) Sexual Molestation or Exploitation.

(a) (text unchanged)

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

(i) - (ii) (text unchanged)

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

(iv) Human trafficking.

[(43)] "Substantial risk of child sexual abuse" means a likelihood that child sexual abuse will occur.]

[(44)](48) "Substantial risk of harm" means a foreseeable risk of harm to a child during alleged [child abuse or neglect] *maltreatment.*

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

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

[(47)](49) (text unchanged)

(50) "*Victim*" means a child who has been abused or neglected.

.03 Eligibility for Child Protective Services (CPS).

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

(1) The [child suspected of being abused or neglected] *alleged victim*;

(2) - (3) (text unchanged)

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

C. [A drug-exposed newborn infant, younger than 30 days old, is eligible for CPS if medical or social work hospital staff suspects the child is at substantial risk of harm] *Low risk reports of child abuse or neglect are eligible for an alternative response.*

D. A report that is not assigned for an alternative response shall be assigned for investigation.

E. Reports that are not eligible for an alternative response are:

(1) Sexual abuse; and

(2) Abuse or neglect:

(a) Occurring in an out-of-home placement;

(b) Resulting in death or serious physical or mental injury;

(c) If, in the previous 3 years, the alleged maltreater has been identified as responsible for abuse or neglect as documented in the records of the local department; or

(d) If the alleged maltreater has had one report assigned for an alternative response within the past 12 months or 2 reports assigned for an alternative response within the past 24 months.

F. A report assigned for an alternative response may be reassigned at any time for an immediate investigation based on any of the following factors and circumstances:

(1) A reassessment of the report or relevant facts;

(2) A determination that the case satisfies a criterion in subsection E. of this regulation; or

(3) A family's inability or refusal to participate in the alternative response assessment.

G. A report assigned for an investigation may be reassigned for an alternative response at any time based on:

(1) A reassessment of the report or relevant facts that demonstrate that the case meets the criteria for an alternative response;

(2) A determination that accepted services would address all issues of risk of abuse or neglect and child safety;

and
(3) Approval by a caseworker supervisor.

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

[E. 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. (text unchanged)

B. Mandated Reporters.

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

(a) (text unchanged)

(b) In writing, within 48 hours of the contact that revealed the [suspected] abuse or neglect.

(2) - (3) (text unchanged)

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

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

(1) - (5) (text unchanged)

(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] *a maltreator*; or

(c) Relates to the identification of *the risk and safety of a child*; and

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

(a) - (b) (text unchanged)

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

(1) (text unchanged)

(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] *that are confidential* under canon law, [church] *religious* doctrine, or practice.

.05 Receiving Reports of [Suspected] Child Abuse or Neglect.

A. The local department shall receive reports of [suspected child abuse or neglect] *alleged maltreatment* from any source including local department staff.

B. Each local department shall establish a process for ensuring that a report of [suspected child abuse or neglect] *alleged maltreatment* from any source is immediately directed to the CPS unit within the local department.

C. On-Call Staff.

(1) Each local department shall have staff on-call 24 hours a day, 7 days a week, to receive and take appropriate action on reports of [suspected child abuse and child neglect] *alleged maltreatment*.

(2) The local department shall ensure that the public has a means of [access to staff who are on-call after] *making reports outside of* normal office hours.

D. If a local department receives a report of [suspected child abuse or neglect] *maltreatment* alleged to have occurred in Maryland, it shall:

(1) - (2) (text unchanged)

(3) Immediately notify the local law enforcement agency of a report accepted for [investigation] *a CPS response*; and

(4) (text unchanged)

E. [Suspected Abuse or Neglect] *Maltreatment Alleged to Have Occurred Outside of the State.*

(1) If [suspected abuse or neglect] *maltreatment* is alleged to have occurred outside of the State and the victim is currently a child who lives outside of the State, a person who would be required to report [suspected abuse or neglect] *alleged maltreatment* notwithstanding provisions in Family Law Article, §5-704 or 5-705, Annotated Code of Maryland, shall report the [suspected abuse or neglect] *alleged maltreatment* to any local department in accordance with §B of this regulation.

(2) Promptly after receiving a report of [suspected abuse or neglect] *alleged maltreatment* under this section, the local department shall forward the report to the appropriate agency outside of this State that is authorized to receive and investigate reports of [suspected abuse or neglect] *maltreatment*.

F. If a reported incident of [suspected child abuse or neglect] *maltreatment* does not meet the definition of child abuse or neglect defined in Regulation .02B of this chapter, the local department may:

(1) Decline to initiate [an investigation] *a CPS response*;

(2) (text unchanged)

(3) [On forms created or approved by the Administration, maintain] *Maintain* a record of nonidentifying information including:

(a) (text unchanged)

(b) The reason for not accepting the report for [investigation] *a CPS response*.

G. If a report of [suspected child abuse or neglect] *maltreatment* arises from the failure of a voluntary placement agreement involving a child with disabilities, where a reasonable fear for the safety of the child or family members is not supported by diagnostic evidence, family history, or current circumstances, a local department shall [take appropriate action to determine whether abuse or neglect exists and notwithstanding provisions in Family Law Article, §5-714, Annotated Code of Maryland, shall identify an individual responsible for alleged abuse or neglect] *initiate an appropriate CPS response*.

H. If the local department receives a report of [suspected child abuse or neglect] *alleged maltreatment* based on information that the reporter knew to be false at the time of the report, the local department shall, upon completion of

the [investigation] *CPS response*, refer the reporter to the local State's Attorney's office for possible prosecution under Criminal Law Article, §9-503, Annotated Code of Maryland.

.06 Initial Response to a Report of [Suspected] Child Abuse or Neglect.

A. A time period established in this regulation starts when the local department has sufficient information to begin [an investigation] *a CPS response*, regardless of the form in which that information is received.

B. (text unchanged)

C. The local department shall enter identifying information into [MD CHESSIE, CIS] *the central registry* and, as [available] *appropriate*, add to or correct information already entered.

D. The local department shall use MD CHESSIE, CIS, [AMF], *other appropriate databases* and available case records to obtain information concerning the child, [caretaker] *caregiver*, or household or family members, and other individuals as appropriate.

E. If a report of [suspected child abuse or neglect] *alleged maltreatment* concerns [conduct of] a local department employee, *immediate family member of a local department employee, or other individual as to whom the local department determines that the outcome of its CPS response might reasonably be questioned due to the possibility of bias or other applicable circumstance*, the local department shall:

(1) (text unchanged)

(2) If necessary to protect confidentiality or to facilitate an objective [investigation] *CPS response*:

(a) Request that another local department conduct the [investigation] *CPS response*; or

(b) (text unchanged)

F. Report of Child Fatality. If a report of [suspected child abuse or neglect] *alleged maltreatment* involves a child fatality:

(1) The local department shall contact the Administration not later than the next working day to:

(a) (text unchanged)

(b) Discuss the local department's plan for completing the investigation *and responding to any inquiries made pursuant to Human Services Article, §1-203, Annotated Code of Maryland*; and

(2) (The Administration [shall] *may* promptly notify the State Fatality Review Team.

G. Report Concerning Child Care. If a report of [suspected child abuse or neglect] *alleged maltreatment* concerns a child care center or family day care home, the local department shall:

(1) (text unchanged)

(2) [Conduct an investigation of the report] *If accepted for investigation, respond* in accordance with procedures agreed upon by the local department and the Office of Child Care of the State Department of Education.

H. Report Concerning Foster Home. If a report of [suspected abuse or neglect] *alleged maltreatment* concerns a foster home licensed by a local department or a licensed child placement agency, the local department, under COMAR 07.02.11.23, shall:

(1) *Notify the Administration;*

[(1)](2) In the case of a home licensed by a child placement agency, notify the child placement agency;

[(2)](3) In the case of a home licensed by a local department, notify and, to the extent feasible, coordinate the

[investigation] *CPS response* with the:

(a) – (b) (text unchanged)

[(3)](4) Exchange information with the *Administration*, caseworkers or child placement agency regarding:

(a) - (b) (text unchanged)

(c) The disposition [of the child abuse or neglect investigation] *or assessment resulting from a CPS response*.

I. If a report of [suspected child abuse or neglect] *alleged maltreatment* concerns an adult who is believed to have been abused or neglected as a child, the local department shall:

(1) Determine if the [suspected abuser or neglecter] *alleged maltreater*:

(a) - (c) (text unchanged)

(2) Assess whether children are at risk of child abuse or neglect by the [suspected abuser or neglecter] *alleged maltreater*.

(3) *Depending on the extent of the abuse or neglect and other factors such as how recently the abuse or neglect occurred and the risk to other children, conduct an investigation.*

J. If appropriate, the local department shall request information from a provider of health care, including mental health care or substance abuse treatment, regarding a child or adult being assessed or served in connection with a reported incident of [suspected] child abuse or neglect.

K. [Investigations] *CPS Responses Across Jurisdictional Lines in Maryland.*

(1) Except as provided in §[K(4)] *E.* of this regulation, if a child is alleged to have been abused or neglected in [a jurisdiction other than] *Maryland regardless of where the child is living at the time of the report*, responsibility for the [investigation] *CPS response* rests with the local department where the abuse or neglect is alleged to have occurred.

(2) The local department investigating a report is responsible for:

(a) (text unchanged)

(b) Interviewing [a suspected abuser or suspected neglecter] *the alleged maltreater* if the individual is living in the area served by that department or, if [a suspected abuser or neglecter] *the alleged maltreater* lives in another

jurisdiction, requesting that the local department or appropriate social service agency in that jurisdiction interview the individual;

(c) Requesting that the local department or appropriate social service agency where the [child] *alleged victim* lives conduct the relevant interviews and assess the child's and family's need for services;

(d) - (e) (text unchanged)

(3) The local department where the child lives is responsible for:

(a) - (b) (text unchanged)

(c) Assessing service needs including the child's need for protection from further abuse or neglect if the [suspected abuser or neglector] *alleged maltreater* is a member of the child's household or family;

(d) (text unchanged)

(e) Forwarding findings of the [investigation] *CPS response* to the local department where the abuse or neglect is alleged to have occurred; and

(f) (text unchanged)

[(4) A local department responsible for investigating a report of child abuse or neglect may request that a local department in another jurisdiction investigate the report and make a recommended finding if the:

(a) Report concerns conduct of a local department employee; or

(b) Local department determines that the outcome of its investigation might reasonably be questioned due to the possibility of bias or other applicable factors.]

L. [Investigations] *CPS Response Across Jurisdictions* — [Alleged] Maltreatment Outside Maryland.

(1) If a local department receives a report that a child is alleged to have been abused or neglected outside Maryland, the local department shall:

(a) Request that the reporter also contact the agency responsible for the [investigation] *CPS response* of such reports in the jurisdiction where the maltreatment is alleged to have occurred; and

(b) (text unchanged)

(2) (text unchanged)

(3) The local department shall cooperate to the extent requested with the agency investigating *or assessing* the report.

.07 Investigation of [Suspected] Child Abuse and Neglect — General.

A. (text unchanged)

B. If necessary, the local department shall seek further information from a reporting source, parents, other relatives, and other appropriate community agencies such as schools, hospitals, clinics, or police. The local department may seek police or court involvement if necessary to complete its investigation.

C. If the local department is denied entry to a child care center or family day care home to conduct an on-site investigation, the local department shall contact the Office of Child Care of the State Department of Education's regional manager in an attempt to gain entry under COMAR [07.04.01] *13A.15.07* and [07.04.02] *13A.16.07*.

D. Initial Interviews—*Investigation* [Reports of Suspected Child Abuse or Neglect].

(1) - (2) (text unchanged)

(3) During an initial interview with the [individual identified in a report as being responsible for suspected abuse or neglect] *alleged maltreater*, the local department representative shall provide information concerning:

(a) The nature of the reported [child abuse or neglect] *alleged maltreatment*; and

(b) (text unchanged)

E. - F. (text unchanged)

G. *The local department, or where applicable, law enforcement shall notify the State's Attorney's office of any preliminary findings in an abuse investigation within 10 days of receipt of the report of alleged child abuse.*

.08 On-Site Investigation.

A. Physical and Sexual Abuse. Within 24 hours of receiving a report of [suspected] child abuse, the local department or, by joint agreement with the appropriate law enforcement agency, a law enforcement officer, shall:

(1) - (2) (text unchanged)

(3) Attempt to see any other children who are in the care of the [suspected] maltreater and determine if the health, safety, and well-being of the children require that they be removed;

(4) Attempt to have an on-site interview with the alleged victim's [caretaker] *caregiver*;

(5) - (6) (text unchanged)

B. (text unchanged)

C. Abuse and Neglect—Mental Injury.

(1) Within 5 calendar days of receiving a report of [suspected] *alleged* child abuse or neglect involving mental injury, a local department shall follow the procedures under §A of this regulation.

(2) If an investigation of abuse or neglect suggests issues relating to a child's emotional or psychological well-being, a separate investigation of mental injury may be conducted after consideration of *relevant factors including but not limited to* any of the following:

(a) - (e) (text unchanged)

(3) *Professional Assessments – Mental Injury.*

- (a) If a worker suspects mental injury, the worker shall obtain an assessment by any two of the following:
 - (i) A licensed physician, as defined in Health Occupations Article, §14-101, Annotated Code of Maryland;
 - (ii) A licensed psychologist, as defined in Health Occupations Article, §18-101, Annotated Code of Maryland; or
 - (iii) A licensed social worker, as defined in Health Occupations Article §19-101, Annotated Code of Maryland, and including a licensed social worker employed by any local department.
- (b) The professional assessment shall include:
 - (i) A determination whether the child has sustained a mental injury;
 - (ii) If applicable, a description of observable, identifiable, and substantial impairment of the child's mental or psychological ability to function; and
 - (iii) If applicable, an explanation of the act or omission that is believed to have caused the mental injury.
- (c) The local department shall consider professional assessments along with other information gathered during the investigation.
- (4) *Mental Injury – Categorized.*
 - (a) If the mental injury is caused by an act to a child, it shall be referred to as child abuse; or
 - (b) If the mental injury is caused by an omission or other failure to provide proper care or attention to a child, it shall be referred to as child neglect.

.09 Completion of Investigation of [Suspected] Child Abuse or Neglect.

- A. [All Investigations.
 - (1) The local department shall complete its investigation using assessment tools and forms required by the Administration.
 - [(2)]B. The local department or, by joint agreement, law enforcement shall:
 - [(a)](1) - [(b)](2) (text unchanged)
 - [(3)]C. An investigation is complete when the local department or law enforcement:
 - [(a)](1) (text unchanged)
 - [(b)](2) Determines if evidence is present to identify [an alleged abuser or neglector] *a maltreater*;
 - [(c)](3) Determines the names, ages, and conditions of other children in the household or in the care or custody of [an alleged abuser or neglector] *a maltreater*;
 - [(d)](4) – [(f)](6) (text unchanged)
 - [(4) If an assessment by other than the local department is necessary to determine the nature, extent, or cause of injury, sexual abuse, or neglect, and the assessment is not completed within 60 days, the local department may, with a supervisor's approval, complete the investigation with a pending finding until it receives the required assessment.]
- B. *Mental Injury.*
 - (1) Professional Assessments—Mental Injury.
 - (a) If a worker suspects mental injury, the investigation shall include an assessment by any two of the following:
 - (i) A licensed physician, as defined in Health Occupations Article, §14-101, Annotated Code of Maryland;
 - (ii) A licensed psychologist, as defined in Health Occupations Article, §18-101, Annotated Code of Maryland; or
 - (iii) A licensed social worker, as defined in Health Occupations Article, §19-101, Annotated Code of Maryland, and including a licensed social worker employed by any local department.
 - (b) The professional assessment shall include:
 - (i) A determination whether the child has sustained a mental injury;
 - (ii) If applicable, a description of observable, identifiable, and substantial impairment of the child's mental or psychological ability to function; and
 - (iii) If applicable, an explanation of the act or omission that is believed to have caused the mental injury.
 - (c) The local department shall consider professional assessments along with other information gathered during the investigation.
 - (2) *Mental Injury—Categorized.*
 - (a) Child abuse or neglect involving mental injury shall be referred to as:
 - (i) Abuse, if the mental injury is caused by an act to a child; or
 - (ii) Neglect, if the mental injury is caused by an omission or other failure to provide proper care or attention to a child.
 - (b) Mental injury not included under §B(2)(a) of this regulation may not be categorized as child abuse or neglect.]

.10 Identification of [Alleged Abuser or Alleged Neglector] Maltreater.

- A. Except as provided in this chapter, if a local department completes an investigation with a finding of indicated or unsubstantiated child abuse or neglect, it shall identify [an alleged abuser or neglector] *a maltreater*.
- B. If a local department completes an investigation with a finding of ruled out child abuse or neglect, it may not identify [an individual as an alleged abuser or alleged neglector] *a maltreater*.

C. [The] *If a* local department [may not identify an individual as an alleged abuser or neglector if it has insufficient evidence to determine, by a preponderance of the evidence, who is responsible for the alleged abuse or neglect] *makes a finding of indicated or unsubstantiated child abuse or neglect but has insufficient evidence to identify by a preponderance of the evidence the individual responsible for the maltreatment, it shall not identify a maltreater.*

D. If a child, other than the parent of a victim, [is] *was* responsible for causing an injury or was involved in a sexual act toward another child, the local department may consider the following factors in determining whether to identify the child perpetrator as [an alleged abuser] *a maltreater*:

- (1) The age and developmental level of the [alleged] victim;
- (2) The age and developmental level of the [alleged abuser] *maltreater*;
- (3) (text unchanged)
- (4) The [alleged abuser] *maltreater's* use of coercion, cruelty, or violence; [and]
- (5) Whether the act was inappropriate for the developmental level of each child[.];
- (6) *The likelihood the maltreater committing further maltreatment; and*
- (7) *The availability and utilization of services to minimize the risk of future maltreatment.*

E. More than one individual may be identified as [an alleged abuser or alleged neglector] *a maltreater* if more than one:

(1) Parent, [caretaker] *caregiver*, or household or family member [is] *was more likely than not* involved in the abuse of a child; or

(2) Parent or [caretaker is] *caregiver was more likely than not* involved in the neglect of a child.

F. The standard of proof required for a determination that an individual is [an alleged abuser or alleged neglector] *a maltreater* is a preponderance of the evidence and not beyond a reasonable doubt as required for a criminal conviction.

.11 Disposition of Investigation of [Suspected] Child Abuse [and] or Neglect — General.

A. - C. (text unchanged)

.12 Disposition of Investigation of [Suspected] Child Abuse.

A. Indicated Child Abuse.

(1) Physical Abuse Other than Mental Injury. Except as provided in §A(3) of this regulation, a finding of indicated child physical abuse is appropriate if there is credible evidence, which has not been satisfactorily refuted, that it is more likely than not that the following four elements are present:

- (a) (text unchanged)
- (b) The injury was caused by a parent, [caretaker] *caregiver*, or household or family member;
- (c) - (d) (text unchanged)

(2) Sexual Abuse.

(a) A finding of indicated child sexual abuse is appropriate if there is credible evidence, which has not been satisfactorily refuted, that the following three elements are present:

- (i) (text unchanged)
- (ii) The sexual molestation or exploitation was caused by a parent, [caretaker] *caregiver*, or household or family member; and
- (iii) (text unchanged)

(b) (text unchanged)

(3) Abuse—Mental Injury. A finding of indicated child abuse with mental injury is appropriate if there is credible evidence, which has not been satisfactorily refuted, that the following four elements are present:

- (a) (text unchanged)
- (b) The mental injury was caused by a parent, [a caretaker] *caregiver*, or household or family member;
- (c) - (d) (text unchanged)

B. Unsubstantiated Child Abuse. A finding of unsubstantiated child abuse is appropriate when there is insufficient evidence to support a finding of indicated or ruled out child abuse. A finding of unsubstantiated may be based, but is not required to be based, on the following:

(1) (text unchanged)

(2) Insufficient evidence that the [individual] alleged [to be responsible for the child abuse] *abuser* was a parent, [caretaker] *caregiver*, or household or family member;

(3) The lack of a credible account by the [suspected] *alleged* victim or a witness;

(4) (text unchanged)

(5) [Despite reasonable efforts, an] *An* inability to [complete the investigation] *make a finding of indicated or ruled out* due to factors such as:

(a) Lack of access to the child or [individual] alleged *abuser* [to be responsible for the child abuse] *despite reasonable efforts*; or

(b) *An* [Inability] *inability* to obtain relevant facts regarding the alleged child abuse *despite reasonable efforts*.

C. Ruled Out Child Abuse. A finding of ruled out child abuse is appropriate if child abuse did not occur. A finding of ruled out may be based on credible evidence that:

(1) There was no physical or mental injury or, in the case of [suspected] *alleged* sexual abuse, no sexual molestation or exploitation;

(2) (text unchanged)

(3) The individual identified as responsible for the injury or [sexual molestation or exploitation] *alleged sexual abuse* was not the child's parent, [caretaker] *caregiver*, or household or family member; or

(4) (text unchanged)

D. If a child, other than the parent of a victim, was responsible for causing an injury or was involved in a sexual act toward another child, the local department may consider the [following] factors in *Regulation .10D of this chapter* to [determining] *determine* the appropriate finding[.]:

[(1) The age and developmental level of the child victim;

(2) The age and developmental level of the child perpetrator;

(3) The psychological condition of each child;

(4) The child perpetrator's use of coercion, cruelty, or violence; and

(5) Whether the act was inappropriate for the developmental level of each child.]

.13 Disposition of Investigation of [Suspected] Child Neglect.

A. Indicated Child Neglect.

(1) Neglect—Other than Mental Injury. Except as provided in §A(2) of this regulation, a finding of indicated child neglect is appropriate when there is credible evidence, which has not been satisfactorily refuted, that the following four elements are present:

(a) - (b) (text unchanged)

(c) The failure to provide proper care and attention was by the child's parent or [caretaker] *caregiver*; and

(d) (text unchanged)

(2) Neglect—Mental Injury. A finding of indicated child neglect with mental injury is appropriate if there is credible evidence, which has not been satisfactorily refuted, that the following four elements are present:

(a) (text unchanged)

(b) The failure to provide proper care and attention to the child was by a parent or [caretaker] *caregiver*;

(c) - (d) (text unchanged)

B. Unsubstantiated Child Neglect.

(1) (text unchanged)

(2) A finding of unsubstantiated child neglect may, but need not, be based on the following:

(a) Insufficient evidence that the [individual] alleged [to be responsible for the child neglect] *neglector* was a parent or [caretaker] *caregiver*;

(b) (text unchanged)

(c) Lack of a credible account by the [suspected] *alleged* victim or a witness;

(d) (text unchanged)

(e) An inability to [complete the investigation] *make a finding* due to such factors as:

(i) [not] *Not* having access to the child or the [individual] alleged [to be responsible for the child abuse] *neglector*; or

(ii) [other] *An inability to obtain* relevant facts regarding the alleged child neglect *despite reasonable efforts*.

C. Ruled Out Child Neglect. A finding of ruled out child neglect is appropriate when child neglect did not occur. A finding of ruled out may be based on credible evidence that:

(1) - (2) (text unchanged)

(3) The individual alleged to be responsible for the child neglect was not a parent or a [caretaker] *caregiver*; or

(4) (text unchanged)

.14 Completion of Investigation.

A. Before a local department closes its record of investigation, it shall:

(1) *Ensure that the record is complete;*

(2) *Send notice of the finding to the maltreater and, if applicable of the right to appeal under COMAR 07.02.26;*

(3) *In a case of indicated or unsubstantiated maltreatment where no individual has been identified as a maltreater, send notice of the finding to any alleged maltreater of the right to appeal the finding under COMAR 07.02.26.*

(4) *Send notice to an individual responsible for the alleged victim's welfare of the finding, stating that:*

(a) *Child Protective Services are being terminated; and*

(b) *The case is or is not being referred for additional services.*

(5) *Within 5 working days of completing an investigation, the local department shall complete a written report of its findings, including:*

(a) *The identification of any needed services; and*

(b) *A finding of indicated, unsubstantiated, or ruled out child abuse or neglect;*

(6) *In the case of an abuse investigation, the local department shall make a final report to the State's Attorney's office upon completion of the written report.*

(7) *In the case of a neglect investigation, the local department may make a final report to the State's Attorney's office upon completion of the written report.*

.15 Alternative Response Assessment of Child Abuse or Neglect.

- A. During the alternative response assessment, the local department shall gather appropriate information to:
- (1) Evaluate the child's home environment;
 - (2) Decide on the safety of the child and of other children in the household;
 - (3) Decide on the safety of other children in the care or custody of the individual suspected of abuse or neglect;
 - (4) Determine what services, if any, are appropriate; and
 - (5) Determine if the local department should initiate the process of voluntary placement as defined in Family Law Article, §5-525(a), Annotated Code of Maryland, take the child into shelter care, or file a CINA petition.
- B. Initial Interviews—Alternative Response.
- (1) Before an initial interview with an adult, the local department representative shall present identification as a local department representative.
 - (2) Before an initial interview with a child, the local department representative shall present identification in a manner appropriate to the child's developmental level.
 - (3) During an initial interview with the individual the allegations were made against, the local department representative shall provide information concerning:
 - (a) The nature of the reported child abuse or neglect; and
 - (b) The local department's alternative response process.
- C. If during the course of an alternative response assessment, the department becomes concerned about danger to a child, the department should follow the procedures as outlined in Regulation .07E of this chapter.
- D. If during the course of an alternative response assessment, the department takes a child into custody without parental consent or before court approval, the local department shall have the child examined as outlined in Regulation .07F of this chapter.
- E. The local department shall advise the appropriate law enforcement agency that the report has been assigned for an alternative response, if the law enforcement agency made the report of abuse or neglect.

.16 On-Site Alternative Response Assessment.

- A. Within 24 hours of receiving a report of child abuse assigned for an alternative response, the local department shall:
- (1) Initiate an on-site assessment with the child's parent or primary caregiver;
 - (2) Initiate an on-site assessment with the child and attempt to see any other children in the care or custody of the individual alleged to have caused the abuse;
 - (3) Determine if the health, safety or well-being of any children are at risk;
 - (4) Document all visits or attempted visits; and
 - (5) If appropriate, obtain information relating to possible resources for the family.
- B. Within 5 days of receiving a report of child neglect assigned for an alternative response, the local department shall follow the procedures under §A of this regulation.

.17 Completion of Alternative Response Assessment.

- A. The local department shall complete its alternative response assessment using assessment tools and forms required by the Administration.
- B. The local department shall:
- (1) Complete an alternative response assessment within 60 days after receipt of the report; and
 - (2) Within 10 days after completing the alternative response assessment, provide a written report to the family members who are participating in the alternative response assessment as to whether and what services are necessary to address:
 - (a) The safety of the child or other children in the household; and
 - (b) The risk of subsequent abuse or neglect; and
 - (3) Consistent with the assessment and any safety or service plans:
 - (a) Render any appropriate services in the best interests of the child;
 - (b) Refer the family or child for additional services; or
 - (c) As necessary for the safety of the child or other children in the household, establish a plan to monitor the safety plan and the provision or completion of appropriate services.

[.14].18 Reports[, Service Decisions, and Plans].

- A. The local department or, where applicable, law enforcement shall notify the State's Attorney's office of [its]any preliminary findings in an abuse investigation within 10 days of receipt of the report of [suspected] alleged child abuse.
- B. Written Report.
- (1) Within 5 working days of completing [a child abuse or neglect] an investigation, the local department shall complete a written report of its findings including:
 - (a) -(b) (text unchanged)
 - (2) - (3) (text unchanged)

[C.] .19 Provision of Services.

[(1)] A. If a local department determines that, as a result of its [investigation and assessment] *CPS response*, continuing services are appropriate, it shall immediately refer the case to staff providing continuing services.

[(2)] B. If continuing child welfare services are provided through purchase or by referral, information from the record regarding the [investigation and assessment] *CPS response* shall be shared with the provider as appropriate to the case and in accordance with confidentiality provisions of Regulation [19].24 of this chapter.

[(3)] C. If the local department determines that a child is a CINA, it shall file a petition with the court in accordance with Courts and Judicial Proceedings Article, §3-809, Annotated Code of Maryland.

[(4)] D. Regardless of whether the local department petitions the court for a finding that the child is a CINA, the local department shall continue, as appropriate, to assess the child's safety.

[.15].20 The Record.

A. The local department shall maintain a case record for every child and family referred in accordance with Regulation [17].20 of this chapter.

B. The record shall include:

(1) Information obtained in the child abuse or neglect [investigation] *CPS response*, including but not limited to:

- (a) The [written] initial *written* report of [suspected] abuse or neglect;
- (b) Documentation of the local department's contacts and interviews [during its investigation];
- (c) The local department's written report [of its findings] *and assessments*; and

(d) *A recording of any interview conducted by the local department or, in a joint investigation, by law enforcement during the CPS response; and*

[(d)](e) All other reports, including medical reports, correspondence, consents, and any other documents relating to the [investigation] *CPS response* including, if helpful to the [investigation] *CPS response*, reports or other documentation or photographs prepared by law enforcement as a result of its participation in the [investigation] *CPS response*; and

(2) (text unchanged)

(3) The names and addresses of both parents, guardians, identified relatives, and other significant individuals related to the [investigation or assessment] *CPS response*.

C. If a local department provides child welfare services other than child protective services after [an investigation] *completion of a CPS response* [has been completed], on a voluntary basis or by authority of a court, the local department's files related to the child welfare services shall be kept with, but not be part of, the *CPS response* record.

[.16 Completion of Investigation.

Before a local department closes its record of investigation, it shall:

A. Ensure that the record is complete;

B. Send notice to the individual found responsible for abuse or neglect of the finding and, if applicable, of the right to appeal under COMAR 07.02.26; and

C. D. Send notice to the individual or individuals responsible for the alleged victim's welfare of the finding, stating that:

(1) *Child Protective Services* are being terminated; that the individual has a right to appeal the termination of services pursuant to COMAR 07.01.04; or

(2) The case is being referred for additional services.]

[.17].21 Expunging Local Department Abuse and Neglect Records.

A. *Investigation.*

[A.](1) Unsubstantiated.

[(1)](a) If there has been no subsequent report resulting in a finding of indicated or unsubstantiated child abuse or neglect, the local department shall expunge its records related to the investigation that resulted in the unsubstantiated finding within 5 years of receiving the report.

[(2)](b) If there has been a subsequent child abuse or neglect report resulting in a finding of unsubstantiated child abuse or neglect, the local department may not expunge its record related to the investigation that resulted in the unsubstantiated finding until the later of:

[(a)](i) 5 years after receiving the report that led to the unsubstantiated finding; or

[(b)](ii) The date of expungement of the record related to the subsequent investigation.

[(3)](c) If there has been a subsequent finding of indicated child abuse or neglect concerning an individual found responsible for unsubstantiated child abuse or neglect, the local department may not expunge its record related to either investigation.

[B.](2) Ruled Out.

[(1)](a) If there has been no subsequent report concerning an [individual alleged to be responsible for child abuse or neglect] *alleged maltreater in an investigation that resulted in a finding of* [that was] ruled out, the local department shall expunge its records related to the investigation within 120 days of receiving the report.

[(2)](b) If, before expungement of a record relating to a finding of ruled out child abuse or neglect, the local department receives a report concerning the same [individual] alleged [to have been responsible in an earlier

investigation,] *maltreater* the local department may not expunge its record related to the investigation that resulted in a ruled out finding until the date of expungement of the record related to the subsequent investigation.

[(3)](c) If there has been a subsequent finding of indicated child abuse or neglect concerning an [individual] alleged [to be responsible in an investigation that resulted] *maltreater* in a *case that resulted in a finding of ruled out [finding]*, the local department may not expunge its record related to either investigation.

[C.](3) Screened Out Reports.

[(1)](a) If there has been no subsequent report concerning an [individual] alleged *maltreater in a report* [to be responsible for child abuse or neglect that was screened out], the local department shall expunge its records related to the screened out report within 120 days of receiving the report.

[(2)](b) If, before expungement of a report [relating to a] *that was screened out* [report of child abuse or neglect], the local department receives a new report concerning the same [individual] alleged [to have been responsible] *maltreater* [in an earlier report], the local department may not expunge its record related to the [report that resulted in a] screened out report [finding] until the date of expungement of the [report] *record* related to the subsequent report.

[D.](4) Indicated Findings. Except in accordance with schedules pertaining to the general retention of records, a local department may not expunge [its] *a* record related to an investigation of child abuse and neglect that resulted in a final ruling of indicated.

[E.](5) Upon written request by an [individual suspected or] alleged [to be responsible for child abuse or neglect] *maltreater or maltreater*, the local department may [continue to maintain] *retain* its record of investigation beyond the expungement date.

[F.](6) - [G.](7) *(text unchanged)*

B. *Alternative Response.*

(1) *The local department shall maintain complete records related to an alternative response for 3 years after the report was received if there is no subsequent child welfare involvement; and*

(2) *Expunge complete records related to an alternative response if there is no subsequent child welfare involvement within 3 years.*

[H.](C. Expungement of records in accordance with this chapter shall include[:

(1) Shredding] *shredding* or deleting all documents [in the record of the investigation], including the report of [suspected] abuse or neglect and all assessments and investigative findings[; and] *in all information sources available to the Department.*

(2) Clearing CIS, AMF, and MD CHESSIE of all information pertaining to the abuse or neglect report.]

[.18].22 CIS, MD CHESSIE, and the Central Registry.

A. Process for Entering Information into CIS, MD CHESSIE, and the Central Registry.

(1) Upon accepting a report of [suspected] child abuse or neglect for [investigation] *a CPS response*, the local department shall enter identifying information into MD CHESSIE and, as appropriate, add to or correct information already entered.

(2) Identifying information regarding a report of [suspected] child abuse or neglect may not be [maintained on] *retained in CIS or MD CHESSIE* past the date for expungement.

(3) The local department may only [indicate on CIS and MD CHESSIE by use of a marker, code, flag, or other symbol next to the name of an individual that the] *identify an individual as a maltreater on the central registry* [has been found responsible for alleged child abuse or neglect] if the individual *was found responsible for indicated child abuse or neglect; and*[:]

(a) [Has been] *Was* found guilty of any criminal charge arising out of the [alleged] abuse or neglect;

(b) [Has been found responsible for indicated child abuse or neglect and has failed] *Failed* to exercise appeal rights in accordance with COMAR 07.02.26; or

(c) *Unsuccessfully* [Appealed] *appealed* [a] *the indicated* finding in accordance with COMAR 07.02.26[, and was found responsible for indicated child abuse or neglect].

B. Maintenance of Identification as Alleged Abuser or Neglector.

(1) Seven years after a local department has entered the name of an individual [found responsible for indicated child abuse or neglect] *identified in the central registry as a maltreater*, the local department shall remove from [CIS and MD CHESSIE any marker, code, flag, or other symbol identifying the individual as responsible for indicated child abuse or neglect] *the central registry that identification but may not remove that person's name from identifying information.*

(2) If, during the 7 years, an individual [has] *is* again [been found responsible for indicated child abuse or neglect, the marker, code, flag, or other symbol may not be removed] *identified as a maltreater in the central registry, the local department shall maintain the maltreater identification* in the earlier case until, in accordance with §B(1) of this regulation, the [marker, code, flag, or other identifier is removed in] *identification is removed as to* the latter case.

[.19].23 Confidentiality — [Investigations of] CPS Responses to Child Abuse or Neglect.

A. Except as otherwise provided in Family Law Article, Title 5, Subtitle 7, and Human Services Article, §§1-201—1-203, Annotated Code of Maryland, and this chapter:

(1) *(text unchanged)*

(2) The unauthorized disclosure of records and reports concerning child abuse or neglect and the information contained in them is a criminal offense subject to the penalty set out in Human Services Article, §1-202[(f) (e), Annotated Code of Maryland.

B. A local department shall disclose a record or report concerning a child abuse or neglect [investigation] *CPS response*:

(1) To a court:

(a) (text unchanged)

(b) Ruling [on] *in a CINA [petition]case or on a petition for guardianship with a right to consent to adoption of the child; or*

(c) (text unchanged)

(2) Under an order of an administrative law judge if:

(a) (text unchanged)

(b) Provision is made to:

(i) (text unchanged)

(ii) [Protect] *To withhold the identity of the [report or other]individual who made the report, unless the reporter is a mandatory reporter who has waived this protection in writing, and of any [individuals] individual whose life or safety is likely to be endangered by disclosure;*

(3) (text unchanged)

(4) On a written request, to the Baltimore City Health [Department] *Department's Office of Youth Violence Prevention*:

(a) If the Baltimore City Health [Department] *Department's Office of Youth Violence Prevention* is providing treatment or care to a [child who is the subject of a report of] *victim in a case of child abuse or neglect, for a purpose relevant to the provision of the treatment or care; [or]*

(b) *If the record or report concerns a child convicted of a crime or adjudicated delinquent for an act that caused a death or near fatality; or*

[(b)](c) If the record or report concerns a victim of a crime of violence, as defined in Criminal Law Article, §14-101, Annotated Code of Maryland, who is a child residing in Baltimore City for the purpose of developing appropriate programs and policies aimed at reducing violence against children in Baltimore City; and

(5) To the Division of Parole and Probation in the Department of Public Safety and Correctional Services if, as a result of a report [or investigation of suspected] *of alleged child abuse or neglect, the local department has reason to believe that an individual who lives with or is in the regular presence of a child is registered under Criminal Procedure Article, Title 11, Subtitle 7, Annotated Code of Maryland, as a result of committing a sexual crime against a child.*

(6) *To a health care practitioner, or agency, institution, or program providing treatment or care to a victim of maltreatment for a purpose relevant to the treatment or care and limited to:*

(a) *Information regarding the condition and well-being of the victim;*

(b) *Information regarding the medical, mental health, and developmental needs of the victim;*

(c) *The name of any health care practitioner identified in the record as providing care or treatment to the victim; and*

(d) *Any other information in the record or report that the local department deems useful to the practitioner or agency, institution or program.*

(7) *In response to a request concerning child abuse or neglect of a child who has suffered a fatality or near fatality, the information required to be disclosed by Human Services Article, §1-203, Annotated Code of Maryland on a form developed by the Department regarding the acts and omissions of the local department or the Department and information limited to:*

(a) *The name of any child who sustained a fatality;*

(b) *The date of the report of the fatality or near fatality;*

(c) *The dates of any prior or subsequent reports and findings concerning the maltreater, the victim, or the victim's or maltreater's family or household;*

(d) *The number and type of any services provided to the maltreater, the victim, or household or family members;*

(e) *The number and type of any referrals for services provided to the maltreater, the victim, or household or family members;*

(f) *Any prior CINA adjudications of the victim, siblings, or other children in the household, family, or care of the maltreater;*

(g) *The status of any CPS case involving the victim that was open at the time of the fatality or near fatality;*

(h) *A summary of the facts, including the dates of the fatality or near fatality;*

(i) *In the case of a fatality, the cause of the fatality as reported by the medical examiner; and*

(j) *Other information concerning the circumstances of the fatality or near fatality as determined by the Secretary of the Department or the director of the local department to be consistent with the public interest.*

C. [To the extent relevant to the purpose of the following exceptions to the confidentiality of case records,] *If it furthers the purpose of the specific exception to confidentiality, a local department may disclose a record or report concerning a [child abuse or neglect investigation] CPS response to:*

- (1) Local or state departments of social services, law enforcement, and members of multidisciplinary case consultation teams, investigating a report of [known or suspected or alleged] child abuse or neglect or providing services to a [child or family members who are the subject of the report] *victim or a victim's family*;
- (2) (text unchanged)
- (3) A licensed practitioner, agency, institution, or program providing treatment or care to a [child who is the subject of a report of child abuse or neglect] *victim*;
- (4) [An individual identified as responsible for alleged abuse or neglect] *A maltreater* if the individual is responsible for the child's welfare;
- (5) A child's parent or [caretaker] *caregiver*;
- (6) The appropriate public school superintendent or principal, or equivalent employee of a nonpublic school that holds a State certificate of approval or is registered with the State Department of Education, *or a nonpublic school under the jurisdiction of the superintendent of schools for the Archdiocese of Baltimore, the Archdiocese of Washington, or the Catholic Diocese of Wilmington* for the purpose of carrying out appropriate personnel or administrative actions following a report of [suspected] child abuse involving a student committed by:
- (a) [A public school] *A employee in that school or school system*;
- (b) [An employee of that nonpublic school];
- (c) [An independent contractor who supervises or works directly with students in that school or school system [or that nonpublic school]]; or
- (d) [An employee of an independent contractor, including a bus driver or bus assistant, who supervises or works directly with students in that school or school system [or that nonpublic school]];
- (7) The appropriate school superintendent if the report concerns [suspected] child abuse involving a student committed by an employee, independent contractor, or employee of an independent contractor described in §C(6) of this regulation and employed by a nonpublic school under the jurisdiction of the superintendent of schools for the Archdiocese of Baltimore, the Archdiocese of Washington, or the Catholic Diocese of Wilmington;
- (8) [The appropriate public school superintendent for the purpose of carrying out appropriate personnel actions following a report of suspected child abuse involving a student committed by:
- (a) A public school employee in that school system;
- (b) An independent contractor who supervises or works directly with students in that school system; or
- (c) An employee of an independent contractor, including a bus driver or bus assistant, who supervises or works directly with students in that school system] *The president of a Maryland public institution of higher education, as defined in Education Article, Title 10, Subtitle 1, Annotated Code of Maryland, or the Chancellor of the University System of Maryland, to carry out appropriate personnel or administrative actions following a report of child abuse committed:*
- (i) *By an employee of the institution who has on-campus contact with children; or*
- (ii) *By a contractor, an employee of a contractor, or a volunteer of the institution who has on-campus contact with children; and*
- (9) The Office of Child Care of the State Department of Education for disclosure to an operator of a child care center that is required to be licensed or to hold a letter of compliance under Family Law Article, Title 5, Subtitle 5 Part VII, Annotated Code of Maryland, or to a family day care provider who is required to be registered under Family Law Article, Title 5, Subtitle 5 Part V, Annotated Code of Maryland, for the purpose of:
- (a) Determining the suitability of an individual for employment in the child care center or family day care home; or
- (b) Carrying out appropriate personnel actions following a report of [suspected] child neglect or abuse alleged to have been committed by an employee of the child care center or family day care home and involving a child who [is currently or who] was [previously], *at the time of the alleged maltreatment*, under the care of the child care center or family day care provider;
- (10) [An] *A qualified* addictions specialist, as defined in Family Law Article, Title 5, Subtitle 12, Annotated Code of Maryland;
- (11) The Office of the [Independent] Juvenile Justice Monitoring unit of the Office of the Attorney General; or
- (12) A licensed practitioner of a hospital or birthing center for the purpose of making discharge decisions concerning a child, when the practitioner suspects that the child may be in danger after discharge, based on the practitioner's observation or knowledge of the behavior of the child's parents or immediate family members *but limited to only the following information*:.
D. Only the following information concerning child abuse and neglect may be disclosed to a practitioner of a hospital or birthing center:]
- (1) (a) Whether there is a prior finding of indicated child abuse or neglect by either parent; and
- (2) (b) Whether there is an open [investigation of child abuse or neglect pending against] *CPS response with either parent*.
- [E.] D. In accordance with COMAR 07.02.26 and in connection with an appeal request by an alleged [abuser or alleged neglecter] *maltreater*, a local department shall disclose a redacted record to the appellant.

[F. Except as specifically ordered by a court or administrative law judge in accordance with §B of this regulation, when a record or report is disclosed, provision shall be made for the protection of the identity of the reporter or any other individual whose life or safety is likely to be endangered by disclosing the information.]

[G.]E. A record or report may be disclosed only to individuals who, by law or by written agreement, are subject to the requirements of Human Services Article, §1-202, Annotated Code of Maryland.

[H.]F. Disclosure by Consent.

(1) In addition to the provisions of §§B—E of this regulation, a local department may disclose information, records, or reports concerning [an investigation of] a *CPS response* to child abuse or neglect if all parties about whom information will be disclosed have waived their confidentiality interest in [writing] *accordance with COMAR 07.01.07.05*.

(2) A parent, guardian, or custodian may [sign a written waiver of] *waive* a child's right to confidentiality *only* if the local department does not suspect that the [parent, guardian, or custodian] *individual* was responsible *for* or contributed to the child's abuse or neglect.

(3) Notarized Consent.

(a) In response to a notarized request from an individual working or volunteering with children or applying to work or volunteer with children, a local department may notify a designated party of whether [a local department], *in a final ruling, the individual has been* identified [the individual] as responsible for indicated child abuse or neglect.

(b) When a local department has notified a designated party that an individual has been found responsible for indicated child abuse or neglect in accordance with §H(3)(a) of this regulation, the individual may submit a second notarized request, pursuant to which the local department may release to the designated party a brief written summary of the facts resulting in the indicated finding [so long as the local department protects] *withholding* the identity of the reporter and individuals other than the applicant named in the record.

(c) Except where an individual has been identified [on CIS or MD CHESSIE] *as a maltreater on the central registry*, disclosure under [Regulation .19 of this chapter] *this regulation* may not be based solely on information [on CIS, MD CHESSIE, or on any other] *in the central registry and must include review, as available, of the local department's case file and any other material necessary to ensure that disclosures are accurate*.

(d) *When a local department receives a request concerning an individual as to whom there is a pending child abuse or neglect investigation, the local department shall not respond to the request until there is a final ruling.*

(e) *When a local department receives a request concerning an individual with a finding of indicated child abuse or neglect who has not been offered an opportunity to request a contested case hearing, the local department shall:*

(i.) *Provide the individual with appeal rights pursuant to Family Law Article, §5-706.1, Annotated Code of Maryland; and*

(ii.) *Wait for a final ruling before providing the requested information.*

(f) *The local department may not use or disclose records related to an alternative response for purposes of responding to a request for background information for employment or voluntary services; and*

(g) *The local department shall protect from disclosure records related to an alternative response in accordance with Human Services Article, Title 1, Subtitle 2, Annotated Code of Maryland.*

[I.]G. Except as provided in §B of this regulation, when making the decision to disclose information, records, or reports in accordance with [Regulation .19 of this chapter and Human Services Article, §1-202, Annotated Code of Maryland] *this regulation*, the local department:

(1) Shall consider whether disclosure is in the best interests of any children identified in the record; and

(2) May withhold information on the basis that disclosure is contrary to a child's best interest.

[J.]H. Identification of Reporting Source. A local department may not identify the individual who reported child abuse or neglect unless:

(1) - (2) (text unchanged)

[K.]I. If demographic and statistical data do not identify particular individuals or cases, the data may be publicized or distributed for administrative or research purposes.

[.20].24 Multidisciplinary Case Consultation Teams.

A. (text unchanged)

B. Purpose and Composition of Other Multidisciplinary Case Consultation Teams.

(1) The local department may establish or convene a multidisciplinary case consultation team if needed to assist in a particular [investigation] *CPS response* or provision of service in a particular case with representatives, as appropriate from the entities specified in §A(2) of this regulation.

(2) Reports Concerning Child Care Centers or Family Day Care Homes.

(a) If a report concerns child abuse or neglect in a child care center or family day care home, the local department shall assist the Office of Child Care of the State Department of Education's regional manager in convening a multidisciplinary case consultation team to coordinate investigation procedures consistent with the written agreement developed under Family Law Article, §5-706[e] (f), Annotated Code of Maryland.

(b) (text unchanged)

(3) (text unchanged)

[.21].25 Development of Procedures for Joint Investigations.

A. The local department shall collaborate to develop a written agreement that specifies standard operating procedures for the investigation and prosecution of reported cases of [suspected] *alleged* abuse and neglect with:

(1) - (4) (text unchanged)

B. (text unchanged)

C. *Include a provision for ensuring that law enforcement make available to the local department any and all recordings of victim, witness, or maltreater interviews conducted in the course of a joint investigation.*

[.22].26 Hearings.

An individual who is identified as [an alleged abuser or alleged neglecter in an resulting in an indicated or unsubstantiated finding] *a maltreater or an individual who was alleged to be a maltreater that resulted in a finding of indicated or unsubstantiated child abuse or neglect* may request a hearing in accordance with COMAR 07.02.26.

[.23 Reports of Substantial Risk of Child Sexual Abuse.

A. An individual may notify a local law enforcement agency or local department, orally or in writing, if the individual has reason to believe that a parent, guardian, or caretaker allows a child to reside with or be in the regular presence of an individual, other than the child's parent or guardian, who:

(1) Is a registered child sexual offender; and

(2) Based on additional information, poses a substantial risk of sexual abuse to the child.

B. If acting as a staff member of a hospital, public health agency, child care institution, juvenile detention center, school, or similar institution, an individual who notifies the appropriate authorities under §A of this regulation immediately shall notify and give all the information required by this regulation to the head of the institution or the designee of the head of the institution.

C. An individual reporting under this regulation shall include:

(1) The information required by Regulation .04D(1)—(4) of this chapter;

(2) The identity of the registered child sexual offender; and

(3) Additional specific information regarding the substantial risk of sexual abuse to the child, including the nature and extent of the risk and any evidence or information concerning previous instances of sexual abuse.

D. Receiving Reports.

(1) A local department shall receive reports made pursuant to this regulation from any source.

(2) The local department shall develop procedures for receiving reports under this regulation that are consistent with Regulation .05A—F of this chapter.

(3) If a report fails to contain the information required by §A of this regulation, the local department may take action consistent with Regulation .05 of this chapter.

E. Initial Response to a Report.

(1) The local department shall develop procedures to respond to reports under this regulation that are consistent with Regulation .06A—H, K, and L of this chapter.

(2) The local department shall:

(a) Verify that the report concerns a registered child sexual offender who is not the parent of the child [suspected] *alleged* to be at risk; and

(b) Determine whether the report contains specific information that the registered child sexual offender poses a substantial risk of sexual abuse by eliciting additional information, including, but not limited to:

(i) Conduct or statements of the child;

(ii) Conduct or statements of the child sexual offender; and

(iii) Details of prior offenses committed by the registered child sexual offender including the age and gender of prior victims and the nature, circumstances, dates, and locations of each prior offense.

(3) If appropriate, the local department shall request information from a provider of health care, including mental health or substance abuse treatment, regarding a child or adult being assessed or served in connection with a report under this regulation.

F. Investigation of a Substantial Risk of Child Sexual Abuse.

(1) The local department shall make a thorough investigation to protect the health, safety, and welfare of any child who may be at a substantial risk of child sexual abuse when the local department has:

(a) Credible information that a child's parent, guardian, or [caregiver] *caretaker* allows a child to reside with or be in the regular presence of a registered child sexual offender who is not the child's parent or guardian; and

(b) Additional credible information that the registered child sexual offender poses a substantial risk of child sexual abuse.

(2) The local department shall conduct its investigation with the appropriate law enforcement agency.

(3) The local department and the appropriate law enforcement agency shall, within 5 calendar days of the local department receiving the report:

- (a) See the child in person;
 - (b) Attempt to have an on-site interview with the child's [caregiver]*caretaker*;
 - (c) Attempt to interview the individual identified as the registered child sexual offender;
 - (d) Determine the safety of and, preliminarily, the level of risk to the child who is the subject of the report and any other children in the child's household; and
 - (e) Determine the safety of and, preliminarily, the level of risk to any children residing with or in the regular presence of the registered child sexual offender, including any children in the care and custody of the registered child sexual offender.
- (4) The local department shall, as soon as possible but not later than 30 days from its receipt of the report:
- (a) Complete the investigation;
 - (b) Determine whether any child neglect or child abuse, including child sexual abuse, has occurred and, if so, whether the local department should immediately file a petition alleging that a child is in need of assistance;
 - (c) Determine whether any child is at a substantial risk of child sexual abuse; and
 - (d) Take appropriate action to protect any child at a substantial risk of child sexual abuse, including:
 - (i) Advising the child's parent, guardian, or [caregiver]*caretaker* of the risk;
 - (ii) Developing a safety plan with the child's parent, guardian or [caregiver]*caretaker*; and
 - (iii) Offering appropriate services to the child's family.
- (5) The local department shall retain records related to reports and investigations pursuant to this regulation for a period of 5 years.
- (6) The local department may decline to investigate a report if it determines that a local department has already investigated a report containing substantially the same allegations.]