

**Montana School
Guidelines
for the
Identification
and
Reporting of
Child Abuse and Neglect
2015 - 2016**

**CHILD AND FAMILY SERVICES DIVISION
of the**



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INTRODUCTION

"Thousands of children are alive and safe today because a principal or a teacher or some other caring adult at school was sensitive to a particular child's behavior, was willing to observe and to listen, and then acted on that information by filing a report. Reporting-by itself-does not guarantee that a child will be protected from continued abuse; but the failure to report adds yet another layer of bitterness and betrayal to the suffering of an already betrayed child."

National Association of Elementary School Principals

Vol. 9 Number 9 June, 1991

This publication contains important information to assist school personnel in identifying, reporting and responding to the abused and neglected children with whom they have contact. Unfortunately, a disturbing number of cases go unreported. In addition to professional, legal, and moral responsibility, school personnel are in daily contact with children and have the unique opportunity to observe and advocate for them.

Montana's child abuse and neglect mandatory reporting laws apply equally to administrators, aides, bus drivers, counselors, custodians, food services workers, librarians, nurses, secretaries and teachers-any and all school personnel who work during the regular school hours. Child abuse and neglect must be reported before a child can be protected and services offered to the family.

WHY SCHOOL EMPLOYEES SHOULD BE INVOLVED

In an article for the Education Commission of the States, C.D. Jones and Phil Fox describe the school system as "the most comprehensive social resource for the total growth of a child." For that reason they conclude, "educators are a major factor in assisting abused and neglected children and their families."

Educators and other school employees are in a unique position to help abused and neglected children, their families, child protective service workers, and the community in overcoming the effects of child abuse and neglect. Research indicates that over half of America's abused and neglected children are of school age. A child may have been abused prior to school entrance but the situation may not come to anyone's attention until the child enters school.

Moreover, since schools are one of the few places where children are seen on a daily basis over extended periods of time, school staff have an opportunity to compare and contrast unusual behavior to behavior considered normal. In addition to the legal obligation, the moral and ethical obligations are compelling reasons for school personnel to take an active role in reporting suspected child abuse and neglect cases.

HOW TO REPORT SUSPECTED CHILD ABUSE AND NEGLECT

When you have information that leads you to suspect that child abuse or neglect may be occurring, call the **MONTANA'S STATEWIDE TOLL-FREE CHILD ABUSE HOTLINE at 1-866-820-KIDS (1-866-820-5437)**. This Hotline is available 24 hours a day, 7 days a week.

A trained Intake Specialist will take your information and will send it to your local Child and Family Services Division office where a child protection specialist (CPS worker) will investigate the report. If it is an emergency, the information will be immediately transmitted to the local office. Law Enforcement will be informed when appropriate.

This method of reporting assures that reports are defined in a consistent way throughout Montana. It also allows local CFSD CPS workers more time to focus on investigation and intervention in child

abuse and neglect cases. You and your local CPS workers will continue to have contact during investigations and interventions and you may still contact your local CPS worker if you have questions about a report you made to the Hotline. **It is important that you call the HOTLINE to report suspected child abuse or neglect rather than your local office. A report cannot be entered into the Child Protective Services automated system unless the report is entered by a Centralized Intake Specialist, 1-866-820-5437.**

When an incident of suspected child abuse and neglect is reported to the Child and Family Services Division child abuse hotline, some action will be taken. If a report does not meet the criteria that warrant an investigation, at the very least, a record of the report will be made and kept. School employee's legal obligation will be fulfilled, and the investigative process will have been initiated. On the other hand, if an educator or other school employee fails to make a report, there may be no way for CFSD to know that a child might be in danger.

Of particular concern to some school employees, in the past, is the lack of follow-up information received from Child and Family Services after a referral is made. The 2013 Legislature amended the child abuse and neglect reporting statute to address these types of concerns and allow the Division to share some information with school employees and other mandatory reporters. The Division may now verify that an abuse or neglect report was received, what response will be taken by the Division, the timeframe for the response, and that a report has been acted upon. The Division may also share limited information about the investigation of the report which may include its outcome and any subsequent action that will be taken on behalf of the child who is the subject of the report.

A school employee who receives any confidential information regarding a child's case is bound by the confidentiality statute and may not share the information with anyone, including other school employees, not specifically listed in the statutes.

MONTANA STATE LAWS

Montana's child abuse and neglect laws are more inclusive than stated below. Only some of the Montana Code Annotated sections pertinent to the reporting of child abuse and neglect cases by school personnel are reproduced here:

41-3-101, MCA. Declaration of policy. (1) It is the policy of the state of Montana to:

(a) provide for the protection of children whose health and welfare are or may be adversely affected and further threatened by the conduct of those responsible for the children's care and protection;

(b) achieve these purposes in a family environment and preserve the unity and welfare of the family whenever possible;

(c) ensure that there is no forced removal of child from the family based solely on an allegation of abuse or neglect unless the department has reasonable cause to suspect that the child is at imminent risk of harm;

(d) recognize that a child is entitled to assert the child's constitutional rights;

(e) ensure that all children have a right to a healthy and safe childhood in a permanent placement;

(f) ensure that whenever removal of a child from the home is necessary, the child is entitled to maintain ethnic, cultural and religious heritage whenever appropriate.

41-3-102, MCA. Definitions.

(6) "Child" or "youth" means any person under 18 years of age.

(7) (a) "Child abuse or neglect" means:

(i) *actual* (emphasis added) physical or psychological harm to a child;

(ii) *substantial risk* (emphasis added) of physical or psychological harm to a child; or

(iii) abandonment.

(b) (I) The term includes:

(A) *actual* (emphasis added) physical or psychological harm to a child or *substantial risk* (emphasis added) of physical or psychological harm to a child by the acts or omissions of a person responsible for the child's welfare; or

(B) exposing a child to the criminal distribution of dangerous drugs, as prohibited by 45-9-101, the criminal production or manufacture of dangerous drugs, as prohibited by 45-9-110, or the operation of an unlawful clandestine laboratory, as prohibited by 45-9-132.

(ii) For the purposes of this subsection (7), "dangerous drugs" means the compounds and substances described as dangerous drugs in schedules I through IV in Title 50, chapter 32, part 2.

41-3-201, MCA. Reports.

(1) When professionals and officials listed in 41-3-201 subsection (2) know or have reasonable cause to suspect, as a result of information they receive in their professional or official capacity, that a child is abused or neglected by anyone regardless of whether the person suspected of causing the abuse or neglect is a parent or other person responsible for the child's welfare, they shall report the matter promptly to the Department of Public Health and Human Services, Child and Family Services Division's **MONTANA'S STATEWIDE TOLL-FREE CHILD ABUSE HOTLINE, (1-866-820-5437)**.

(2) Professionals and officials required to report are:

(a) a physician, resident, intern, or member of a hospital's staff engaged in the admission, examination, care, or treatment of persons;

(b) a nurse, osteopath, chiropractor, podiatrist, medical examiner, coroner, dentist, optometrist, or any other health or mental health professional;

(c) religious healers;

(d) school teachers, other school officials, and employees who work during regular school hours;

(e) a social worker, operator or employee of any registered or licensed day-care or substitute care facility, staff of a resource and referral grant program organized under 52-2-711 or of a child and adult food care program, or an operator or employee of a child-care facility;

(f) a foster care, residential, or institutional worker;

(g) a peace officer or other law enforcement official;

(h) a member of the clergy;

(i) a guardian ad litem or a court-appointed advocate who is authorized to investigate a report of alleged abuse or neglect; or

(j) an employee of an entity that contracts with the department to provide direct services to children.

(3) A professional listed in subsection (2) (a) or (2) (b) involved in the delivery of care of an infant shall report to the department any infant known to the professional to be affected by a dangerous drug, as defined in 50-32-101.

(5) (a) When a professional or official required to report under subsection (2) makes a report, the department may share information with:

(i) that professional or official; or

(ii) other individuals with whom the professional or official works in an official capacity if the individuals are part of a team that responds to matters involving the child or the person about whom the report was

made and the professional or official has asked the information be shared with the individuals.

(b) The department may provide information in accordance with 41-3-202(8) and also share information about the investigation, limited to its outcome and any subsequent action that will be taken on behalf of the child who is the subject of the report.

(c) Individuals who receive information pursuant to this subsection (5) shall maintain the confidentiality of the information as required by 41-3-205.

41-3-202, MCA. Action on reporting.

(8) The department shall, upon request from any reporter of alleged child abuse or neglect, verify whether the report has been received, describe the level of response and timeframe for action that the department has assigned to the report, and confirm that it is being acted upon.

41-3-203, MCA. Immunity from liability.

(1) Anyone investigating or reporting any incident of child abuse or neglect under 41-3-201 or 41-3-202, participating in resulting judicial proceedings, or furnishing hospital or medical records as required by 41-3-202 is immune from any liability, civil or criminal, that might otherwise be incurred or imposed unless the person was grossly negligent or acted in bad faith or with malicious purpose or provided information knowing the information to be false.

(2) A person who provides information pursuant to 41-3-201 that is substantiated by the department or a person who uses information received pursuant to 41-3-205 that is substantiated by the department to refuse to hire or to discharge a prospective or current employee, volunteer, or other person who through employment or volunteer activities may have unsupervised contact with children is immune from civil liability unless the person acted in bad faith or with malicious purpose.

41-3-205, MCA. Confidentiality-disclosure exceptions.

(1) The case records of the department and its local affiliate, the local office of public assistance, the county attorney, and the court concerning actions taken under this chapter and all records concerning reports of child abuse and neglect must be kept confidential except as provided by this section. Except as provided in subsection (8) and (9), a person who

permits or encourages the unauthorized dissemination of the contents of case records is guilty of a misdemeanor.

(2) Records may be disclosed to a court for in camera inspection if relevant to an issue before it. The court may permit public disclosure if it finds disclosure to be necessary for the fair resolution of an issue before it.

(3) Records, including case notes, correspondence, evaluations, videotapes, and interviews, unless otherwise protected by this section or unless disclosure of the records is determined to be detrimental to the child or harmful to another person who is a subject of information contained in the records, may be disclosed to the following persons or entities in this state and any other state or country:

(v) a school employee participating in an interview of a child by a social worker (aka child protection specialist), county attorney, or peace officer as provided in 41-3-202;

(w) a member of a county interdisciplinary child information team formed under the provisions of 52-2-211.

41-3-207, MCA. Penalty for Failure to Report.

(1) Any person, official, or institution required by law to report known or suspected child abuse or neglect who fails to do so or who prevents another person from reasonably doing so is civilly liable for the damages proximately caused by such failure or prevention.

(2) Any person or official required by law to report known or suspected child abuse or neglect who purposely or knowingly fails to report known child abuse or neglect or purposely or knowingly prevents another person from doing so is guilty of a misdemeanor.

TRUANCY VS. EDUCATIONAL NEGLECT

Truancy alone does not meet the criteria for child neglect. Chronic truancy in the presence of additional information indicating parental neglect must be reported to Montana's Child Abuse Hotline. If truancy is the sole issue of concern, the school's truancy officer can refer to the Montana Code Annotated section cited below which is not inclusive of the entire law:

20-5-106. MCA. Truancy.

(1) For the purposes of this part "truant" or "truancy" means the persistent nonattendance without excuse, as defined by district policy, for all or any part of a school day equivalent to the length of one class period of a child required to attend a school under [20-5-103](#).

(2) If an attendance officer discovers a child is truant, the attendance officer may make a reasonable effort to notify the parent, guardian, or other person responsible for the care of the child that the continued truancy of the child may result in the prosecution of the parent, guardian, or other person responsible for the care of the child under the provisions of this section. If the child is discovered to be truant after the attendance officer has made a reasonable effort to notify the parent, guardian, or other person responsible for the care of the child, the attendance officer may require that the parent, guardian, or other person responsible for the care of the child and the child meet with an individual designated by the school district to formulate a truancy plan to address and resolve the truancy. If the parent, guardian, or other person responsible for the care of the child fails to meet with the designated individual or fails to uphold the responsibilities under the provisions of the truancy plan, the attendance officer may refer the matter to the prosecuting attorney in a court of competent jurisdiction for a determination regarding whether to prosecute the parent, guardian, or other person responsible for the care of the child.

Educational Neglect is not defined in statute Child and Family Services Division (CFSD) has defined educational neglect as the complete failure of a parent, guardian or person responsible for the care of the child’s welfare, to enroll a child of compulsory attendance age in an educational program. Failure to enroll a child in an educational program should be reported to Montana’s Child Abuse Hotline.

THE EXTENT OF CHILD ABUSE AND NEGLECT

Presently, there are 2298 children in foster care under the jurisdiction of State courts. In state fiscal year 2015, 12,884 children were involved in 8,909 investigations conducted by Child and Family Services Division staff resulting in 1579 children being removed from their parents’ care.

There are situations in which the investigating CPS worker determines that the child may safely remain in the home with supportive services, in-home services may be provided by department staff or contracted providers. These services include but are not limited to: home visiting, parenting classes, stress and anger management, budgeting, transportation, and child care/respice. SFY 2015 numbers for families and children served through in-home services are not yet finalized;

however current statistics show we've served 1,226 children in 685 families.

REPORTING PROCEDURE AND INFORMATION

Reporting is the most critical step in obtaining help for both the child and the family. Under Montana law, if any school staff member has reasonable cause to suspect that a child is being abused or neglected, it remains that individual's obligation to see that the situation is reported to the Child Abuse Hotline.

Reporting concerns to the principal does not satisfy the reporting requirement. School personnel must report directly to the Child and Family Services Division Hotline. Where there is a conflict between state law and a school's reporting procedures, state law prevails.

41-3-201, MCA. Reports.

(7) The reports referred to under this section must contain:

(a) the names and addresses of the child and the child's parents or other persons responsible for the child's care;

(b) to the extent known, the child's age and the nature and extent of the child's injuries, including any evidence of previous injuries;

(c) any other information that the maker of the report believes might be helpful in establishing the cause of the injuries or showing the willful neglect and the identity of person or persons responsible for the injury or neglect; and

(d) the facts that led the person reporting to believe that the child has suffered injury or injuries or willful neglect, within the meaning of this chapter.

Generally speaking, the role of school personnel ends with the reporting of child maltreatment. Reporting, however, is just the beginning of the child protection process. Treatment, strengthening of families, rehabilitation and prevention of further child maltreatment still lie ahead. Increasingly, schools and school personnel are providing assistance and support to the Child and Family Services Division's staff by:

- participating on multidisciplinary teams to share information about families and children after they have been reported;
- providing direct support services to the child, the parents and the family; and

- becoming actively involved in community efforts to reduce the incidence of child maltreatment.

INVESTIGATION AND INTERVENTION

People reporting child maltreatment sometimes express feelings of guilt for making the referral because they believe the report may bring punishment to the family. Reporters are sometimes fearful they may be targeted by the alleged maltreating individual. The names and any identifying information regarding the reporter are confidential and are not released or disclosed unless a District Court Judge orders the release. The main goal of the Child and Family Services Division is to protect the child while supporting the family through remediation, not punishment.

After a referral is made to the Hotline, the CPS worker, police officer or county attorney conducts an investigation. In Montana, a CFSD CPS worker most often investigates reports of child abuse.

There may be a situation that necessitates the emergency removal of a child by CFSD from his or her home because of an immediate apparent danger. Under these circumstances, Child and Family Services Division CPS workers, police officers or county attorneys may remove a child and place him or her in a protective environment such as a foster or kinship home or group home. Even if a child is in protective custody, school personnel may not deny a parent access to their child unless the school has a copy of a court order restricting the parents. Ask your local CPS worker if you have questions about this.

A social worker (aka child protection specialist), county attorney or police officer may interview a student at school as part of a child abuse and neglect investigation without prior parental permission. Section 41-3-202, MCA.

There may be situations, particularly with very young children, when a CPS worker may invite a teacher or counselor to be present during the interview if this would help a child feel comfortable. Questions from school staff regarding their involvement in this process should be discussed with the CPS worker conducting the interview.

If it is determined that the child is neglected or abused by a person responsible for the child's welfare, the CPS worker will provide

appropriate protective services to the child. "A person responsible for a child's welfare" is defined as:

- (a) the child's parent, guardian, foster parent or an adult who resides in the same home in which the child resides;
- (b) a person providing care in a day-care facility;
- (c) an employee of a public or private residential institution, facility, home, or agency; or
- (d) any other person responsible for the child's welfare in a residential setting. (MCA§ 41-3-102)

If the investigation indicates that the abuse or neglect was caused by someone other than a person legally responsible for the child's welfare, such as school personnel, a babysitter, a neighbor or a stranger, law enforcement will take over the primary responsibility for any continuing investigation. **Regardless of who the perpetrator is thought to be, school staff must report all suspected cases of abuse or neglect to the Child Abuse Hotline.**

If you are uncertain whether to report or to whom you should report suspected child maltreatment, call the **7 days a week, 24 hours a day Child Abuse Hotline at 1-866-820-5437.**

The removal of the child from the parents' custody is recommended only when the child cannot be protected in the home. Under these circumstances, the Child and Family Services Division through the local county attorney, petitions the District Court for the legal authority to remove the child from the home. During this time, the child may be placed in a foster home or in a kinship placement with a relative and a treatment plan will be developed with the parents. The plan may include medical examinations, psychological evaluations, participation in various treatment programs and permission for a CPS worker to gain entry into the home.

The primary purpose of child abuse and neglect laws is the protection of the child. The primary goal of CFSD intervention is to stabilize and strengthen the family while providing protection for the child. If parents have repeatedly failed treatment programs, and continue to lack adequate motivation or ability to protect their children, it may become necessary to permanently remove the child from the home. Termination of parental rights can only be ordered by the District Court. This ensures that the legal rights of all parties are represented.

This action, if ordered, makes it possible for the child to be placed for adoption. Termination of parental rights is the last resort after all previous efforts to help the parents have been exhausted.

RECOGNIZING INDICATORS OF CHILD MALTREATMENT

Child maltreatment is a complex, insidious problem that cuts across all sectors of society. The economic and human costs of child maltreatment in American society are astronomical. It is likely that billions of dollars are spent in treatment and social service costs and in lessened productivity for a generation of maltreated children. The human costs are a litany of psychological tragedies. Maltreated children suffer from poor peer relations, cognitive deficits and low self-esteem. They may be more aggressive and may have behavioral problems and psychopathology. The emotional damage may last a lifetime (Aber and Cicchetti, 1984).

Educators are trained observers of children's behaviors. They are sensitive to the range of behaviors expected from children of a given age group, and they are quick to notice behaviors that fall outside this range. Particularly for the educator, behavior can often be a clue to the presence of child abuse and neglect. Behavioral indicators may exist alone or may accompany physical indicators. They range from subtle clues to graphic statements by children that they have been maltreated.

Physical and behavioral indicators are listed on pages 13 through 19. These lists are not exhaustive; many more indicators exist than can be included. The presence of a single indicator does not prove that maltreatment exists. However, the repeated presence of an indicator, the presence of several indicators in combination, or the appearance of serious injury should alert the educator to the possibility that child abuse or neglect may be present.

PHYSICAL NEGLECT

In Montana, physical neglect is the most common type of child maltreatment. Physical neglect is either the failure to provide basic necessities, including but not limited to appropriate and adequate nutrition, protective shelter from the elements and appropriate clothing related to weather conditions, or failure to provide cleanliness and general supervision, or both, or exposing or allowing the child to be

exposed to an unreasonable physical or psychological risk to the child. Indicators of neglect may include:

- rarely or frequently occurring signs
- chronic (there most of the time), periodic (noticeable after weekends or absences), or episodic (seen twice this semester when there was unusual stress in the family)
- in a given community or subpopulation, do all the children display these indicators, or only a few?
- is this culturally acceptable child-rearing or true neglect?

Answers to questions like these can be extremely helpful in determining neglect.

Physical Indicators of Neglect

- constant hunger, poor hygiene, or inappropriate clothing
- consistent lack of supervision, especially when engaged in dangerous activities or over extended periods of time (observed outside the classroom)
- constant fatigue or listlessness (constantly falls asleep in class)
- unattended physical problems or medical needs, such as untreated or infected wounds
- abandonment

Signs of Neglect

- extreme behavior-often children go to extreme measures to get attention or to withdraw from attention
- “uncared-for” appearance - dirty, tattered, torn clothes
- inappropriate clothing for weather conditions or child’s age
- inadequate or no shelter
- lack cleanliness and personal hygiene habits
- chronic diaper rash
- matted hair
- inadequate food - undernourished and tired appearance
- pale and listless
- lack of supervision
- chronic truancy or failure to enroll children in school
- untreated medical conditions or injuries
- poor dental health
- failure to thrive
- delayed growth, maturation
- delayed speech

- begs, steals, hoards food

PSYCHOLOGICAL MALTREATMENT

Psychological abuse/neglect is the second most common type of child maltreatment in Montana. Psychological abuse or emotional maltreatment is a pattern of psychologically destructive behavior involving: rejecting, terrorizing, isolating, ignoring and/or corrupting. In most cases, it is the psychological consequences of the act that define that act as being abusive.

While psychological maltreatment may occur alone, it is important to understand that it is the primary issue in the broader picture of abuse and neglect. It provides the unifying theme and is the critical aspect in the overwhelming majority of physical and sexual abuse and neglect cases (Garbarino, Guttman and Seely, 1986).

Psychological abuse or neglect- severe maltreatment through acts or omissions that is injurious to the child's emotional, intellectual, or psychological capacity to function, including the commission of acts of violence against another person residing in the child's home. The term may not be construed to hold a victim responsible for failing to prevent the crime against the victim.

Psychological abuse is the repeated action on the part of parents or others that belittles the child, makes the child fearful and stops the healthy developmental and or socio-emotional growth of a child.

Parents or others who are emotionally or psychologically abusing a child may:

- blame or belittle the child
- threaten the child
- withhold affection
- harshly criticize the child
- reject the child
- treat siblings unequally
- appear unconcerned about the child
- hold unrealistic expectations for the child
- verbally assault the child and create a climate of fear
- isolate by cutting the child off from normal social experiences
- corrupt the child by teaching socially deviant patterns of behavior
- commit acts of violence toward another person with a child

present

Physical Indicators of Psychological Maltreatment may include:

- speech disorders
- lags in physical development
- failure-to-thrive syndrome (progressive wasting away)

Behavioral Indicators of Psychological Maltreatment:

Often, psychological maltreatment is observed through behavioral indicators, and even these indicators may not be immediately apparent. The maltreated child may demonstrate the following behavioral characteristics:

- habit disorders such as thumb sucking, biting, rocking, enuresis, or eating disorders
- conduct disorders including withdrawal and anti-social behavior such as destructiveness, cruelty and stealing
- neurotic traits such as sleep disorders and inhibition of play
- psychoneurotic reactions including hysteria, obsession, compulsion, phobias and hypochondria
- behavior extremes such as appearing overly compliant, extremely passive; or aggressive, very demanding or undemanding
- overly adaptive behaviors which are either inappropriately adult (e.g., parenting other children) or inappropriately infantile (e.g., rocking, head banging, or thumb sucking)
- emotional and intellectual developmental delays
- attempted suicide
- truancy, running away

The behavior of psychologically maltreated and emotionally disturbed children is similar. However, the parents of an emotionally disturbed child generally accept the existence of the issue. They are usually concerned about the child's welfare and are actively seeking help. On the other hand, the parents of a psychologically maltreated child may blame the child for the problem (or ignore its existence), may refuse offers of help, and are generally unconcerned about the child's welfare.

PHYSICAL ABUSE

The third most common type of child maltreatment in Montana is physical abuse. Physical abuse can be an intentional act, an intentional

omission, or gross negligence resulting in substantial skin bruising, internal bleeding, substantial injury to skin, burns, bone fractures, extreme pain, permanent or temporary disfigurement, impairment of any bodily organ or function, or death.

Physical Indicators of Physical Abuse

- bruises and welts-located on face, mouth, torso, buttocks-in various stages of healing, choke marks, human hand marks
- burns-scalding and cigarette burns, rope and carpet burns
- broken bones and fractures
- lacerations or abrasions
- unexplained abdominal injuries-swelling, constant vomiting
- human bite marks
- head injuries
- missing hair, any unexplained injuries, marks or redness
- injuries at different stages of healing
- injuries or medical conditions that haven't been properly treated
- wary-flinching or ducking when adults make sudden movements
- fearfulness of physical closeness
- anxious and apprehensive-nightmares and flashbacks.

Behavioral Indicators of Physical Abuse

A child's behavior may also be a clue to the presence of child maltreatment. It may be the only clue, especially in adolescents. These behavioral indicators may exist independently of, or in conjunction with physical ones and include the child who:

- is wary of physical contact with adults. In the classroom, most children accept physical closeness to a teacher. The abused child often avoids it, sometimes even shrinking at the touch or approach of an adult
- becomes apprehensive when other children cry
- demonstrates extremes in behavior (e.g., aggressiveness or withdrawal) or behavior which lies outside the range expected for the child's age group
- seems frightened of the parents (e.g., states he/she is afraid to go home, cries when it is time to leave, or is frightened when parents are mentioned)
- reports injury by a parent

SEXUAL ABUSE

Sexual abuse of children is the fourth most common type of child maltreatment in Montana. The statutory definitions of sexual abuse and sexual exploitation involving children are as follows:

Definitions of Sexual Abuse taken from MCA 41-3-102

“Sexual abuse” means the commission of sexual assault, sexual intercourse without consent, indecent exposure, deviate sexual conduct, sexual abuse, ritual abuse or incest, as described in Title 45, chapter 5. Sexual abuse does not include any necessary touching of an infant’s or toddler’s genital area while attending to the sanitary or health care needs of that infant or toddler by a parent or other person responsible for the child’s welfare.

"Sexual exploitation" means allowing, permitting or encouraging a child to engage in a prostitution offense, as described in 45-5-601 through 45-5-603, or allowing, permitting or encouraging sexual abuse of children as described in 45-5-625.

The Child and Family Services Division is responsible for the investigation of abuse or neglect caused by a parent or legal guardian responsible for the child’s welfare. Law enforcement is responsible for the investigation of all other abuse and neglect cases. **Child sexual abuse must be reported immediately to the Montana Child Abuse Hotline, 1-866-820-5437.**

Child sexual abuse refers to the use of a child by an adult for sexual purposes, whether or not consent is alleged to have been given. Any form of direct or indirect sexual contact between a child and an adult is abusive because it is motivated solely by adult needs and involves a child, who, by virtue of age and position in life, is unable to give consent.

Sexual activity between children can constitute sexual abuse when there are differences in age or developmental levels, coercion and/or lack of mutuality, or when one child takes advantage of another. Sexual abuse involves forcing, tricking, bribing, threatening or pressuring a child into sexual awareness or activity and occurs when an older or more knowledgeable child or adult uses a child for sexual pleasure.

The abuse often begins gradually and increases over time.

Sexual abuse by family members or acquaintances is most likely to occur in the home of the victim or the perpetrator and is usually repeated over a period of time.

Physical Indicators of Sexual Abuse

- difficulty in walking or sitting
- torn, stained, or bloody underclothing
- complaints of pain or itching in the genital area
- bruises or bleeding in external genitalia, vaginal or anal area
- venereal disease, particularly in a child under 13
- pregnancy, especially in early adolescence

Behavioral Indicators of Sexual Abuse

- appear withdrawn; engage in fantasy or infantile behavior; even appear developmentally delayed
- have poor peer relationships (e.g., fighting, no friends)
- be unwilling to change for gym or to participate in physical activities
- engaged in delinquent acts, or run away
- display bizarre, sophisticated, or unusual sexual knowledge or behavior
- state he/she has been sexually assaulted by a caretaker
- depression or withdrawal from friends, family or usual activities
- seductiveness, provocative behavior
- severe behavior changes
- excessive bathing or poor hygiene
- eating disorders
- wearing many layers of clothing
- excessive masturbation

SOME MYTHS ABOUT SEXUAL ABUSE

Myth: *To protect children from sexual abuse, you should warn them about strangers and the “dirty old man in the park”.*

Fact: In most instances of sexual abuse the abuser is someone the child knows and trusts. The abuser may be a member of the family, a relative, a day care provider, a neighbor, a teacher, a coach or a clergy person; however, the majority of the persons on this list do not abuse children.

Myth: *The child sexual abuser relies on physical violence.*

Fact: The child sexual abuser rarely uses physical violence and usually will avoid its use; injury may lead to discovery. The sexual abuser is more likely to use his power and authority as an adult (or older child) to coerce the child victim through bribes, threats and the child's fear of the unknown. Children are often taught to obey adults without question or resistance. The abuser's most powerful weapons are authority and secrecy.

Myth: *The child or youth is at fault for encouraging or allowing the sexual abuse to happen.*

Fact: Adults are responsible for their own behavior. A common characteristic to sexual abusers is a capacity for rationalizing their actions, mentally justifying an illegal, unacceptable, and inappropriate behavior. The myth of the seductive or sexually promiscuous child is one way of doing this. These justifications ignore the abuser's responsibility as an adult, the child's vulnerability and dependency on the adult, and the long-term harm to the child.

Myth: *The lower the family income and social status, the higher the likelihood of sexual abuse.*

Fact: Socioeconomic status is of no relevance in identifying sexual abuse. Sexual abuse appears to occur at all levels of income and education. Most of the families present an appearance of respectability. The vast majority of parents hold jobs, function well in the community, and are respected by their peers.

Myth: *In the majority of cases, maltreated children want to leave their homes permanently.*

Fact: On the contrary, most children do not want their families disrupted; they simply want the abuse to stop.

Myth: *Once incest is brought to the attention of the authorities, the family admits the problem and seeks help.*

Fact: The denial system of the family may be very strong. Often, family members will assert that nothing has happened, or if confronted with undeniable circumstances claim that, "it will never happen again." In this circumstance, treatment is very difficult. If the victim returns home without intensive intervention in the family system, the old patterns of sexual abuse will continue.

DISTINGUISHING ABUSE FROM ACCIDENT

The following information is provided to assist school personnel in identifying possible abuse; however, the statute requires that you must report if you have reasonable cause to suspect that a child has been abused or neglected.

The very nature of childhood invites accidents. Children are curious and fearless. They run, climb, jump and explore. A young child's motor skills may outpace his cognitive skills allowing him to approach danger without recognizing it. How may school personnel distinguish the non-accidental injury caused by a maltreating adult?

When observing injuries, please consider the following:

- **Where is the injury?** Certain locations on the body are more likely to sustain accidental injury: knees, elbows, shins, the forehead are all parts of the body that can be injured during an accidental fall or bump. Protected or non-protuberant parts of the body such as the back, thighs, genital area, buttocks, back of the legs or face, are less likely to accidentally come into contact with objects which could cause injury. For example, bruised knees and shins on a toddler are likely to be the result of normal age-related activity; bruises on the lower back are less likely to have been inflicted non-accidentally.
- **How many injuries does the child have?** Are there several injuries occurring at one time or over a period of time? The greater the number of injuries, the greater the cause for concern. Unless involved in a serious accident, a child is not likely to sustain a number of different injuries accidentally. Injuries in different stages of healing can suggest a chronological pattern of occurrence.
- **What is the size and shape of the injury?** Many non-accidental injuries are inflicted with familiar objects: a stick, a board, a belt, a hair brush. The marks that result bear strong resemblance to the object used. For example, welts caused by beating a child with an electrical cord might be loop-shaped; a belt might cause bruises in the shape of the buckle. Accidental marks resulting from bumps and falls usually have no defined shape.
- **Does the description of how the injury occurred seem likely?** If an injury is accidental, there should be a reasonable explanation of how it happened which is consistent with its severity, type and location. When the description of how the injury occurred and the appearance of the injury do not seem related, there is cause for concern.

- **Is the injury consistent with the child's developmental capabilities?**

As a child grows and gains new skills, he increases his ability to engage in activities which can cause injury. A toddler trying to run is likely to suffer bruised knees and a bump on the head before the skill is perfected. He is less likely to suffer a broken arm than is an eight-year-old who has discovered the joy of climbing trees. A two-week-old infant does not have the movement capability to self-inflect a bruise. Accidents do happen. Parents are not perfect. Injuries occur that may have been avoided. Still, accidents of this nature should not happen repeatedly.

WHAT IF A CHILD TELLS YOU ABOUT ABUSE OR NEGLECT?

There may be a time when a child or adolescent tells you, openly or indirectly, about abuse or neglect in his or her family. Recognize the strength the child has demonstrated by sharing this, and honor the trust shown by choosing you as a confidant. Although it may be a difficult subject to discuss, it is important that you handle the disclosure with sensitivity.

These general guidelines may help:

- Do not promise not to tell. Know your limits. This is not a situation you can handle by yourself.
- Tell the truth. Don't make promises you can't keep, particularly relating to secrecy, court involvement, placement and caseworker decisions. After abuse or neglect has been disclosed, there may be actions taken over which neither you nor the child has control.
- Listen to what is being told to you. Do not project or assume anything. Do not push the child to share more than he or she is willing. The child needs warmth and acceptance, not curiosity or interrogation. It is not necessary at this time that the child reveal specific or intimate details.
- Be supportive. Remember why the child came to you. The child needs your help, support and guidance. Be there for him or her.
- Reassure the child that he or she has done the right thing by telling you. Acknowledge the difficulty of the decision and the personal strength shown in making this choice. Make it clear that the abuse or neglect is not the child's fault, that the child is not bad or to blame.
- Keep your own feelings under control. Be calm and nonjudgmental. Do not express emotions such as shock,

embarrassment, anger or disgust. Do not criticize or belittle the child's family.

- Use the child's own vocabulary. The child may relate the abuse or neglect to you using family terminology. Do not try to substitute more polite or correct words.
- Let the child know that telling about the abuse or neglect was the right thing to do.
- Report the maltreatment to **the Child Abuse Hotline, 1-866-820-5437** as soon as possible.

If an educator or other school employee fails to make a report, nothing may be done to help the child.

WHO COMMITS CHILD ABUSE?

A child abuser is most often a parent, a step-parent or a caretaker. He or she can be found in any and all cultural, ethnic, occupational and socioeconomic groups. The abuser could be a family member, a friend, a peer, a stranger, a teacher, a coach, a member of the clergy or a day care provider.

Many of us have felt at times that life is more than we can handle. What stops us from giving up or lashing out are skills and mechanisms we have learned that help control or divert our anger; accept and assume adult responsibility, recognize realistic boundaries of acceptable behavior and expectation, and seek and accept help and support. It is when adults are faced with a situation that requires the use of coping skills they have never developed, that child abuse or neglect may occur.

School personnel will be better able to fulfill the responsibility of identifying and reporting suspected child abuse or neglect if all temptation to stereotype child abusers is avoided.

Research on child abusers has revealed the following:

- Only a small number of child abusers are psychotic or psychopathic.
- Reported molestations are committed most often by family or friends of the victim.
- Child abuse is reported to be a conditioned behavior; people who have had poor parent models tend to be poor parents themselves.

- A poor self-image, lack of self-confidence and isolation from family, friends and others are characteristic of child abusers.
- Abusing parents and caretakers are often experiencing marital or emotional conflicts.
- The abuse of alcohol and/or other drugs is common.
- Abusing parents often reverse roles with their children. Parents express unrealistically high expectations of their children, demand love but have difficulty in meeting the emotional needs of their children.
- Child abuse is seldom the result of any single factor. Most families will experience a combination of problems and negative situational factors (i.e., housing conditions, financial circumstance, degree of social contact, employment conditions). Child abuse often stems from the family's inability to cope with these problems.

SUPPORT FOR CHILDREN AND THEIR FAMILIES

After the reporting of abuse or neglect, children's lives may be filled with stress, leaving children unsure about trusting the consistency promised by anyone with whom they may be involved. Sensitivity to the need of children for consistency is vital. To alleviate stress, school personnel should provide support, caring, consistency, and stability to these children. If asked, most CFSD CPS workers will work with school personnel to let them know when a case is going to court.

Another issue that may be part of children's lives is that of court involvement. Courts often present a scary image for children. Children who know their case is coming to court often feel agitated, anxious and insecure. Helping children deal with their feelings about their families' court involvement involves three steps for school personnel:

- education about the court process;
- sensitivity to an individual child's experience; and
- knowing when cases are going to court could help the educator anticipate and be sensitive to children's feelings.

Effective July 1, 2007, Montana Code Annotated §41-3-445 requires that district court judges or the entity conducting the permanency hearing consult with the child about the permanency plan for the child in an age-appropriate manner. This statutory change was needed to comply with new federal requirements. Child protection staff

may need to assist in arranging for a child to attend the permanency hearing if required by the court and prepare the child for this event.

Part of the court process may include placing children in foster homes or with safe family members if the child's CPS worker believes that the children will be unsafe at home. Separation from parents, no matter how abusive or neglectful, has a profound impact on children. When appropriate and possible, CFSD will attempt to place children in the same school system to provide some consistency.

Because the foster parents or the kinship family are providing care for children, the school should attempt to work closely with these families. The school's intent and that of the foster/kinship family are identical; therefore the two working together on behalf of the children increases the children's ability to cope. In addition, educators need to be sensitive to children's needs when they are in foster care. For example, children may need to know that people do not see them differently or that their biological families' are not "bad".

Parents involved with the Child and Family Services Division may be lonely, isolated, and also may experience periods of great personal and/or family stress. Many schools are now providing programs and services that reach out to these parents and may directly support and benefit them.

APPENDIX A

Recommendation for Reporting Child Abuse and Neglect and When Abuse of a Student Occurs at School

A. The following basic information should be clearly defined in all school/district policies and procedures for reporting cases of child abuse or neglect:

1. A statement indicating school board and school district support for reporting child abuse and neglect:

The Board of Trustees, recognizing the harmful effects of child abuse and neglect, does hereby emphatically and enthusiastically support those sections of Montana law concerned with the reporting of suspected cases of child abuse and neglect.

2. Who specifically is mandated to report by law?

Realizing the seriousness of child abuse and neglect, this Board requires compliance with this law by all school teachers, school officials and other employees who work during regular school hours. (Section 41-3-201, MCA.)

Any of the above-named employees who fail to report to the Child and Family Services known or suspected cases of child abuse or neglect, or who prevent another person from reasonably doing so, may be held civilly liable for the damages proximately caused by such failure or prevention and is guilty of a misdemeanor. (Section 41-3-207, MCA.)

3. A brief rationale for involving school personnel in reporting:

Abused and neglected children are among the most difficult to reach in the classroom. They frequently learn the least while demanding a considerable share of our educational resources. If we can break the cycle of abuse, we can have a more teachable student in our classroom- and a more productive individual in our society.

4. The name and appropriate section numbers of the state reporting statute; immunity from civil liability and criminal penalty for those who report confidentiality of records pertaining to reports of suspected abuse or neglect:

Montana laws pertaining to reporting and investigating child abuse and neglect are found in Title 41, Chapter 3, Part 2, MCA. This law provides that all records concerning the reporting of child abuse or neglect are confidential and grants immunity from any liability, civil or criminal, that might otherwise be incurred or imposed, unless the person acted in bad faith or with malicious purpose.

5. The exact language of the law defining reportable conditions (abuse and/or neglect). If necessary, explain and clarify the state definition (Section 41-3-102, MCA.):

(6) "Child" or "youth" means any person under 18 years of age.

(7) (a) "Child abuse or neglect" means:

(i) actual physical or psychological harm to a child;

(ii) substantial risk of physical or psychological harm to a child; or

(iii) abandonment.

(b) (i) The term includes:

(A) *actual physical or psychological harm to a child or substantial risk of physical or psychological harm to a child by the acts or omissions of a person responsible for the child's welfare; or*

(B) *exposing a child to the criminal distribution of dangerous drugs, as prohibited by 45-9-101, the criminal production or manufacture of dangerous drugs, as prohibited by 45-9-110, or the operation of an unlawful clandestine laboratory, as prohibited by 45-9-132.*

(ii) *For the purposes of this subsection (7), "dangerous drugs" means the compounds and substances described as dangerous drugs in Schedules I through IV in Title 50, chapter 32, part 2.*

(c) *In proceedings under this chapter in which the federal Indian Child Welfare Act is applicable, this term has the same meaning as "serious emotional or physical damage to the child" as used in 25 U.S.C. 1912(f).*

(d) *The term does not include self-defense, defense of others, or action taken to prevent the child from self-harm that does not constitute physical or psychological harm to a child.*

6. The person or agency to receive reports:

*When a teacher, school official or other employee who works during regular school hours suspects child abuse or neglect, that person must promptly notify the **24 hour/7 days a week Child Abuse Hotline**.*

7. The information required of the reporter:

(a) *the names and addresses of the child and his or her parents or other persons responsible for his or her care;*

(b) *to the extent known, the child's age, the nature and extent of the child's injuries including any evidence of previous injuries;*

(c) *any other information the reporter believes might be helpful in establishing the cause of the injuries or showing the willful neglect and the identity of the person or persons responsible; and*

(d) *the facts that led the person reporting to believe that the child has suffered injury or injuries or willful neglect.*

B. In addition, school districts may want to include in their reporting policies and procedures such additional information as:

1. the action that will be taken by the school board for failure to report;
2. the role of the schools in multi-disciplinary community efforts to provide service to abused and neglected children and their families;
3. the schools' role in providing parent training, public awareness

programs or other activities devoted to preventing child abuse and neglect; and

4. other community resources the schools can draw on in responding to child abuse or neglect cases.

8. What is the legal obligation of teachers to report child abuse or neglect (mandatory reporting) vs. a mandatory reporter's legal obligation to report teacher-on-student excessive corporal punishment/assault/sexual misconduct?

Teachers and school personnel are mandatory reporters in that they are required to report if they have "reasonable cause to suspect", based on information they received in their professional capacity, that a child may be abused or neglected

9. When a person (mandatory reporter or not) calls the child abuse hotline with a report of a school employee hurting a student, what is the protocol of the child abuse hotline staff?

A person aware of school staff/student or student/student abuse shall report to the child abuse hotline. The person will be informed that CFSD does not investigate that type of child maltreatment and will be referred to law enforcement and the school district official. If the report is received from a mandatory reporter, CFSD will also report the referral to law enforcement and/or the school district official. CFSD only has authority to investigate maltreatment perpetrated by a "person responsible for a child's welfare."

Definition of a Person Responsible for a Child's Welfare

(2) "A person responsible for a child's welfare" means:

- (a) the child's parent, guardian, foster parent or an adult who resides in the same home in which the child resides;
- (b) a person providing care in a day-care facility;
- (c) an employee of a public or private residential institution, facility, home, or agency; or
- (d) any other person responsible for the child's welfare in a residential setting. (*Section 41-3-102, MCA.*)

10. Further clarification to define the role of CFSD in this situation.

CFSD takes calls about possible child abuse and neglect. CFSD does provide information to callers to contact law enforcement after assessing the report is not one where a "person responsible for a child's welfare" is the alleged perpetrator and, therefore, not a child protective services

matter. Calls about abused or neglected children, where the alleged perpetrator is not a “person responsible for a child’s welfare” are considered “third party” reports. In these situations the role of the child abuse hotline is one of referral and agency assistance. The hotline staff refers the caller to law enforcement when the call is assessed to not be a child protective services matter and may involve possible criminal activity.

APPENDIX B

CHILD AND FAMILY SERVICES OFFICES

If school personnel have questions about the Child and Family Services Division/DPHHS and its response to a child abuse and neglect case, contact the CPS worker involved or his or her supervisor. Further concerns should be directed to the regional administrator for your area.

CHILD and FAMILY SERVICES DIVISION (DPHHS) 841-2400
PO Box 8005, 301 S. Park Avenue Helena, MT 59604-8005

1. EASTERN REGIONAL OFFICE - Miles City 234-1385
708 Palmer, PO Box 880 Miles City 59301
2. NORTH CENTRAL REGIONAL OFFICE - Great Falls 727-7746
2300 12th Ave. S., Suite #211, Great Falls 59405
3. SOUTH CENTRAL REGIONAL OFFICE - Billings 657-3120
2525 Fourth Ave. N., Suite #309, Billings 59101
4. SOUTHWEST REGIONAL OFFICE - Helena 444-2030
2024 Ninth Avenue, Helena 59601
5. WESTERN REGIONAL OFFICE - Missoula 523-4100
2677 Palmer, Suite 300, Missoula 59808

Please call the Child Abuse Hotline to make all reports, it is a toll free call, 1-866-820-5437.

CHILD AND FAMILY SERVICES ~ LOCAL OFFICES

No.	County	City	Phone
1.	Beaverhead	Dillon	683-3793
2.	Big Horn	Hardin	665-4164
3.	Blaine	Chinook	265-1233
	(Response office – Hill Co., Havre)		
4.	Broadwater	Townsend	444-2030
	(Response office - Lewis & Clark Co., Helena)		
5.	Carbon	Red Lodge	446-3729
6.	Carter	Ekalaka	234-1385
	(Response office – Custer Co., Miles City)		
7.	Cascade	Great Falls	727-7746
8.	Chouteau	Fort Benton	265-1233
	(Response office - Hill Co., Havre)		
9.	Custer	Miles City	234-1385
10.	Daniels	Scobey	433-1903
	(Response office – Richland Co., Sidney)		
11.	Dawson	Glendive	377-4963
12.	Deer Lodge	Anaconda	563-7051
13.	Fallon	Baker	234-1385
	(Response Office – Custer Co., Miles City)		
14.	Fergus	Lewistown	538-7731
15.	Flathead	Kalispell	751-5950
16.	Gallatin	Bozeman	585-9984
17.	Garfield	Jordan	234-1385
	(Response office - Custer Co., Miles City)		
18.	Glacier	Cut Bank	278-5142
19.	Golden Valley	Ryegate	323-2107
	(Response office - Musselshell Co., Roundup)		
20.	Granite	Phillipsburg	563-7051
	(Deer Lodge Co., Anaconda responds to the Drummond & Phillipsburg areas)		
21.	Hill	Havre	265-1233
22.	Jefferson	Boulder	444-2030
	(Response office – Lewis & Clark Co., Helena)		
	(Response office for Whitehall only is Silver Bow Co., Butte)		
23.	Judith Basin	Stanford	538-7731
	(Response office - Fergus Co., Lewistown)		

24.	Lake	Polson	883-7850
25.	Lewis & Clark	Helena	444-2030
26.	Liberty	Chester	265-1233
	(Response office - Hill Co., Havre)		
27.	Lincoln	Libby	293-3757
28.	Madison	Virginia City	585-9984
	(Response Office - Gallatin Co., Bozeman)		
29.	McCone	Circle	433-1903
	(Response office - Richland Co., Sidney)		
30.	Meagher	White Sulphur Springs	323-2107
	(Response office – Musselshell Co., Roundup)		
31.	Mineral	Superior	822-4809
32.	Missoula	Missoula	523-4100
33.	Musselshell	Roundup	323-2107
34.	Park	Livingston	222-7402
35.	Petroleum	Winnett	538-7731
	(Response office - Fergus Co., Lewistown)		
36.	Phillips	Malta	654-1535
37.	Pondera	Conrad	278-5142
38.	Powder River	Broadus	234-1385
	(Response office - Custer Co., Miles City)		
39.	Powell	Deer Lodge	563-7051
	(Response Office – Deer Lodge Co., Anaconda)		
40.	Prairie	Terry	377-4963
	(Response office – Dawson Co., Glendive)		
41.	Ravalli	Hamilton	363-1961
42.	Richland	Sidney	433-1903
43.	Roosevelt	Wolf Point	653-3520
44.	Rosebud	Forsyth	346-7918
45.	Sanders	Thompson Falls	827-4317
46.	Sheridan	Plentywood	433-1903
	(Response office – Richland Co., Sidney)		
47.	Silver Bow	Butte	496-4950
48.	Stillwater	Columbus	322-4821
49.	Sweet Grass	Big Timber	222-7402
	(Response office – Park Co., Livingston)		
50.	Teton	Choteau	278-5142
	(Response office – Pondera Co., Conrad)		

- | | | | |
|-----|-------------|--|----------|
| 51. | Toole | Shelby | 278-5142 |
| | | (Response office – Pondera Co., Conrad) | |
| 52. | Treasure | Hysham | 346-7918 |
| | | (Response office - Rosebud Co., Forsyth) | |
| 53. | Valley | Glasgow | 228-2108 |
| 54. | Wheatland | Harlowton | 323-2107 |
| | | (Response office - Musselshell Co., Roundup) | |
| 55. | Wibaux | Wibaux | 377-4963 |
| | | (Response office - Dawson Co. Glendive) | |
| 56. | Yellowstone | Billings | 657-3120 |

Please call the Child Abuse Hotline to make all reports, it is a toll free call, 1-866-820-5437.

APPENDIX C

RESOURCES

The Child and Family Services Division recommends that individuals call their local Child and Family Services office for recommendations on resources to address specific concerns about child abuse and neglect. Developing communication and rapport with your local office will be beneficial for children with protective service needs in the future. The directory for local offices is in Appendix B.

Your local office offers training for prospective resource families for foster care and adoption. Individuals may wish to receive further education by taking this training, and may make an informed decision to become a licensed foster or adoptive parent. The training material utilized by DPHHS for licensing foster and adoptive parents is “KCS - Keeping Children Safe A Pre-service Training”. Some of the information in this pamphlet is from KCS.

Information to help you learn about the child abuse laws and Children's Protective Services is available. The Montana Code Annotated (MCA) may be found in the reference section of your county library. The website for Montana Code Annotated is http://leg.mt.gov/bills/mca_toc/

Your local Child and Family Services' office may be located through the County Social Services Office number listed in the county government section of the local telephone directory.

APPENDIX D

Child Abuse and Neglect Report Requirements FERPA and the Public Schools

In 1974, the Family Educational Rights and Privacy Act of 1974, (FERPA) commonly referred to as FERPA, was enacted. The act protects students' rights to privacy and allows for the release of information contained in education reports only with parental consent, with several limited exceptions. Shortly after passage of the act, an issue was raised whether teachers or other school authorities who are required by state law to report suspected cases of child abuse and neglect would be jeopardizing the school's federal funding if they made such reports without consent of a student's parents.

This potential conflict between FERPA and state child abuse and neglect reporting laws was raised by the Education Commission of the States' Child Abuse and Neglect Project with the Secretary of the Department of Health, Education and Welfare and the House Committee on Education and Labor of the U.S. House of Representatives. It has been resolved favorably from the point of view of child abuse and neglect authorities.

Reports based on information obtained from education records may be disclosed without obtaining parental consent and without any liability in the following instances of special concern to child abuse authorities:

(1) Reports to state and local authorities required under state reporting laws passed prior to November 19, 1974, do not require parental consent to be released. Montana is one of approximately 31 states that had child abuse and reporting statutes requiring education personnel to report suspected incidents prior to that date.

(2) A school may release personally identifiable information from education records to comply with a judicial order or lawfully issued subpoena.

(3) HEW maintains that many reports of suspected incidents of child abuse and neglect are made on the basis of the teacher's personal knowledge and observation which do not constitute education records. Since FERPA governs the release of information

from educational records, such reports can be made to child abuse authorities. Therefore, FERPA should not represent a conflict to compliance with the reporting requirements of most child abuse and neglect statutes.

APPENDIX E

The Department of Public Health and Human Services (DPHHS) does not discriminate on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin. If you believe you have been subjected to discrimination, contact the DPHHS Human Resources Division at (406) 444-3136 or the Montana Human Rights Bureau at 1-(800)-542-0807, or relay service at 711.

APPENDIX F

For further information about Child and Family Services Division programs, please refer to the CFSD website <http://www.dphhs.mt.gov/cfsd/>

This handbook was printed with funding
from a federal Children's Justice Act Grant
School districts and others are granted permission to
reprint this booklet for the distribution to staff
or see it online at

<http://dphhs.mt.gov/portals/85/cfsd/documents/CANpubs/4mtschoo!guidelines.pdf>

12,000 copies of this public document were published at an
estimated cost of \$0.2198 per copy, for a total cost of \$2,637.81,
which includes \$2,637.81 for printing and \$0.00 for distribution.

UNPAM 119

Revised July 2015