



Pennsylvania Child Protective Services Law: Module 6: Disposition of Cases Transfer of Learning

Participant Guide

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Table of Contents

Section I: Welcome & Introductions	1
PowerPoint.....	2
Agenda.....	12
Section II: Learning Needs Identification	13
Online Course Learning Objectives	14
Section III: Decision Tree and Checklist Introduction	15
CPS Decision Tree.....	16
CPS Checklist: Disposition	17
CPS Checklist Guide	21
Section IV: Perpetrator	27
Who is a Perpetrator?.....	28
Section V: Culpability	29
Standards of Culpability.....	30
Section VI: Child Abuse	31
Child Abuse	32
Defining Child Abuse	35
Defining Child Abuse Notes.....	37
Section VII: Exclusions to Child Abuse	38
Exclusions	39
Exclusions Worksheet	41
Implementation Plan.....	43
References	44

Section I: Welcome & Introductions

PowerPoint

 University of Pittsburgh	SCHOOL OF Social Work <i>Empower People Lead Organizations Grow Communities</i>
<p>Pennsylvania Child Protective Services Law: An Update for Child Welfare Professionals</p> <p>DISPOSITION OF CASES <i>TRANSFER OF LEARNING</i></p> <p>Module 6:</p>	
The Pennsylvania Child Welfare Resource Center	Pennsylvania Child Protective Services Law: Module 6: Disposition of Cases Transfer of Learning
1	
 University of Pittsburgh	SCHOOL OF Social Work <i>Empower People Lead Organizations Grow Communities</i>
<p>Learning Objectives</p> <p>Participants will be able to:</p> <ul style="list-style-type: none">– Describe CCYAs requirements for reporting case status to the Department.– Apply decision making tools to case scenarios to determine the disposition of cases.	
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2	



Name Tents

Organization	Position
Length of time in current position	Name



Consideration of Culpability

The amended definition of **child abuse** requires evidence that “the person acted intentionally, knowingly, or recklessly when causing the injury or harm to the child or creating a risk of injury or harm to the child.”

Specifically, the CPSL states: “Conduct that causes injury or harm to a child or creates a risk of injury or harm to a child shall not be considered child abuse if there is no evidence that the *person acted intentionally, knowingly or recklessly.*”



Consideration of Culpability

“Intentionally, Knowingly, or Recklessly”

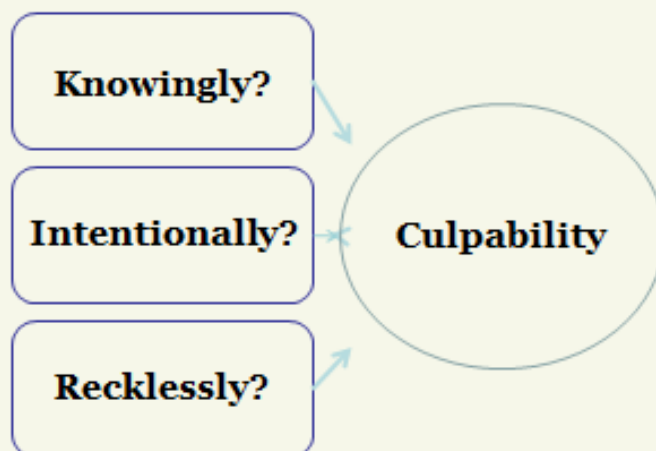
What does that mean?

- **Intentionally**: Done with the direct purpose of causing the type of harm that resulted
- **Knowingly**: Understanding that the harm is “practically certain to result”
- **Recklessly**: Conscious disregard for foreseeable risk

The CPSL reached into the criminal law statute for its definition of these three terms. You can review criminal code definitions by clicking on the law icon.



Restatement of Culpability



Remember:
The terms **knowingly**, **intentionally**, and **recklessly** are not mutually exclusive, but *at least one* of the terms must apply to any situation and all types of alleged **child abuse**



Old Definition of Child Abuse

(1) The term "child abuse" shall mean any of the following:

- (i) Any recent act or failure to act by a perpetrator which causes nonaccidental serious physical injury to a child under 18 years of age.
- (ii) An act or failure to act by a perpetrator which causes nonaccidental serious mental injury to or sexual abuse or sexual exploitation of a child under 18 years of age....



Nonaccidental

An injury that is the result of an intentional act that is committed with disregard of a substantial and unjustifiable risk.



Exclusion: Environmental Factors

As you know,
environmental factors
that are beyond a parent's
control cannot be deemed
physical or mental abuse.
The law was amended to
clarify that this exclusion
does not pertain to any
person or entity defined
under **child care
service**, except for an
adoptive parent.

<http://www.bigstockphoto.com/image-2642727/stock-photo-mother-playing-with-her-daughter>



Exclusions: Religious Beliefs

You also know that if a child has not been provided needed medical or surgical care because of sincerely held religious beliefs, when those beliefs are consistent with a bona fide religion, that the child can not be deemed to be abused.

This section of the law has been amended to:

Include
caregivers within
the **third
degree of
consanguinity**,
and with whom
the child resides

Exclude
situations that
result in the
child's death due
to a failure to
provide needed
medical care or
surgical care

Clarify that this
exclusion does
not apply to child
care services,
except for
adoptive parents



Exclusions: Reasonable Force

A *new* exclusion to child abuse refers to the use of reasonable force on or against a **child** by the child's own **parent** or a **person responsible for the child's welfare**. An **act** will not be considered child abuse if any of the following conditions apply:

- The use of reasonable force constitutes incidental, minor or reasonable physical contact with the child or other actions that are designed to maintain order and control
- The use of reasonable force is necessary:
 - To quell a disturbance or remove the child from the scene of a disturbance that threatens physical injury to persons or damage to property
 - To prevent the child from self-inflicted physical harm
 - For self-defense or the defense of another individual
 - To obtain possession of weapons or other dangerous objects or controlled substances or paraphernalia that are on the child or within the control of the child



Exclusions: Contact During Sports and Extracurricular Activities

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An additional *new* exclusion to the substantiation of child abuse states that an individual participating in a practice or competition in an interscholastic sport, physical education, a recreational activity or an extracurricular activity that involves physical contact with a child does not, in itself, constitute contact subject to reporting requirements.



Exclusions: Child on Child Contact

Harm or injury to a child that results from the act of another child is not considered child abuse unless:

- The child who caused the injury is also a perpetrator
- Any of the following sexual offenses were committed:
 - Rape
 - Involuntary deviate sexual intercourse
 - Sexual assault
 - Aggravated indecent assault
 - Indecent assault
 - Indecent exposure

<http://www.bigstockphoto.com/image-1933809/stock-photo-children-fighting>



Exclusions: Child on Child Contact

<http://www.bigstockphoto.com/image-1566796/stock-photo-argument>

The law specifies that no child shall be deemed to be a perpetrator of child abuse based solely on physical or mental injuries caused to another child in the course of a dispute, fight or scuffle entered into by mutual consent.



Indicated Reports

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It has remained unchanged that a child abuse report may be indicated when an investigation by the department or the county agency determines that substantial evidence of alleged abuse by a perpetrator exists based on:

- Available medical evidence
- CPS investigation
- An admission by the perpetrator of the acts of abuse



Indicated Reports: Amendment

A CPSL amendment now permits a child abuse report to be indicated in these two circumstances:

- A report may be indicated for any child who is the victim of child abuse, regardless of the number of alleged perpetrators
 - Substantial evidence must exist for each perpetrator identified
- A report may be indicated for any child who is the victim of child abuse when the perpetrator is unknown
 - Substantial evidence of abuse by a perpetrator must exist even though the department or county agency is unable to identify the specific perpetrator

The county agency is still responsible to conduct a thorough investigation and attempt to identify all responsible person(s).



Founded Reports: Amendment

The CPSL amendments have added the following three provisions for the determination of a founded disposition:

1. Acceptance into an accelerated rehabilitative disposition program, and the reason for the acceptance involves the same factual circumstances as in the allegation of child abuse
2. A consent decree is entered in a juvenile proceeding, involving the same factual circumstances as in the allegation of child abuse, and the terms and conditions of the consent decree include an acknowledgment, admission or finding that a child who is the subject of the report has been abused by the child who is alleged to be delinquent
3. A final protection from abuse order has been granted when the child who is a subject of the report is one of the individuals protected under the protection from abuse order and all of the following conditions have been met:
 - Only one individual is charged with the abuse in the protection from abuse action
 - Only that individual defends against the charge
 - The adjudication involves the same factual circumstances involved in the allegations of child abuse
 - The protection from abuse adjudication finds that the child abuse occurred



County Agency Notification to the Department of Human Services



- Immediately upon conclusion of the child abuse investigation, the county agency must provide the results of its investigation to the department, in a manner prescribed by the department
- Immediately upon the completion of an assessment of general protective services report, the county agency must notify the department:
 - If the report was determined to be valid (has merit) or invalid (does not have merit)
 - Whether the family was accepted for services or referred to community services
- The county agency must also immediately notify the department upon the closure of services for a child or family that has been accepted for services



Scenario

A staff person from an after-school program reports that a child in her program has been spending time alone with a convicted child molester. The mother has been asking this man to baby-sit on Friday nights since she cannot find another sitter. The staff person believes that the mother knows that the man has molested other children. She does not have any reason to believe that the child in her program has been molested.

Agenda

Section I: Welcome & Introductions

Section II: Learning Needs Identification

Section III: Decision Trees and Checklist Introduction

Section IV: Perpetrator

Section V: Culpability

Section VI: Child Abuse

Section VII: Exclusions to Child Abuse

Section VIII: Indicated and Founded Case Requirements

Section IX: Department Notification

Section X: Tool Application

Section II: Learning Needs Identification

Online Course Learning Objectives

Place a dot along the continuum in a place that best represents your ability to accomplish the learning objective.

- Define the key components added or revised by CPSL amendments that inform the determination of a disposition for a report of suspected child abuse



- Identify exclusions added or modified by CPSL amendments that affect the disposition of a report of suspected child abuse



- Apply decision trees to support the determination of a report of suspected child abuse

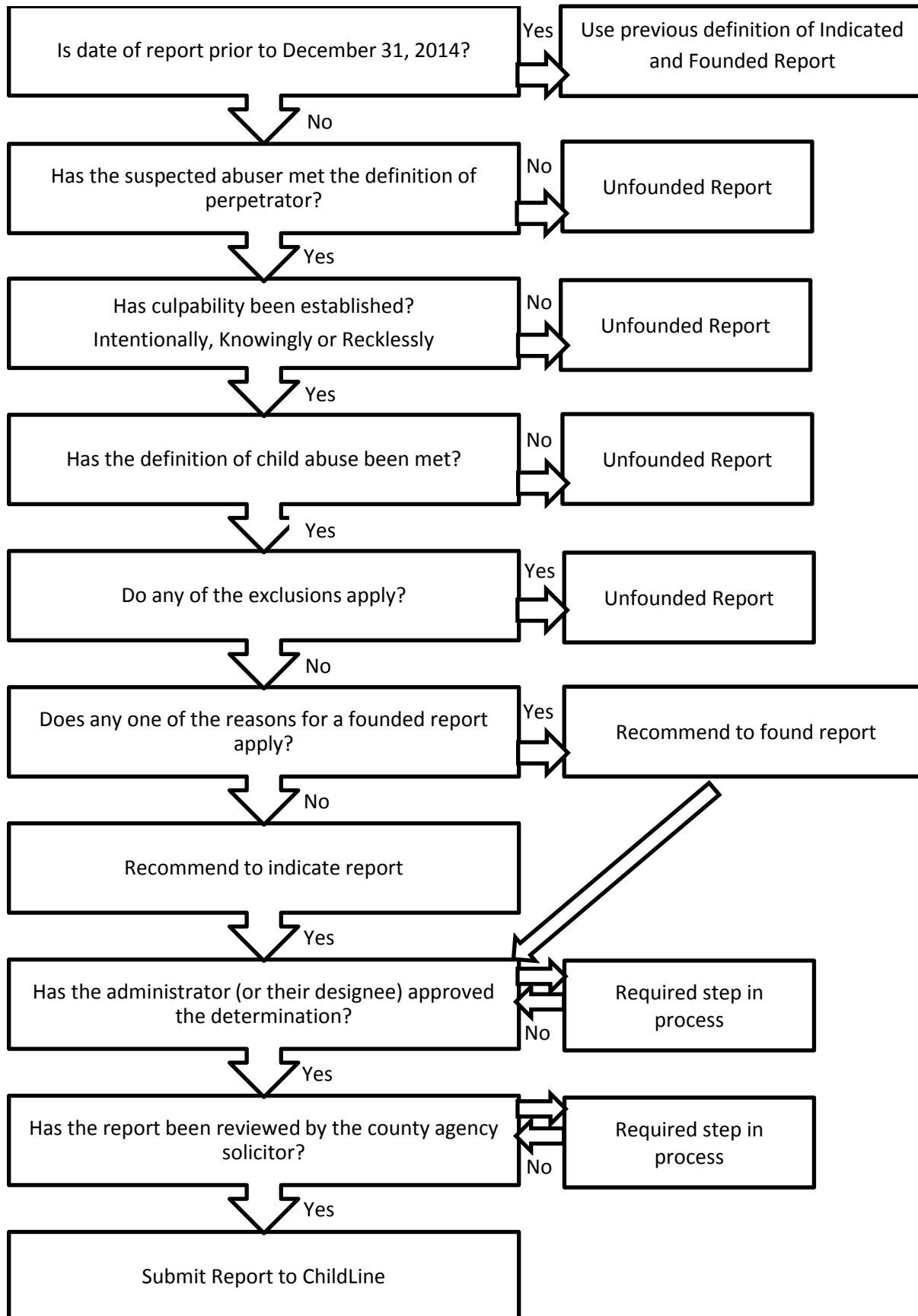


- Identify the county agency's and the department's responsibilities in providing notification of the outcome of a report of suspected child abuse or of a general protective services assessment



Section III: Decision Tree and Checklist Introduction

CPS Decision Tree



CPS Checklist: Disposition

This checklist is a tool to use when reviewing cases and case status determinations.

The checklist guides you through important considerations, including jurisdiction, acts and failures to act, culpability, and exclusions.

Please refer to the accompanying guide, which includes instructions and definitions for easy reference.

Case Information	Jurisdiction	
Case Name:	Did alleged abuse occur in this county?	
	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Assigned to:	Address:	County where abused occurred:
		County Contact Information:
Supervisor:		Notification of allegations made: <input type="checkbox"/> Yes Date:
Other identifying information:		Notes regarding steps taken:
Perpetrator Does the person who allegedly committed the suspected abuse meet the definition of perpetrator?		Notes regarding Perpetrator:
For an act? <input type="checkbox"/> Yes <input type="checkbox"/> No	For a failure to act? <input type="checkbox"/> Yes <input type="checkbox"/> No	

CPS Checklist: Disposition

Definition: Is It Child Abuse? Does the act or failure to act meet the definition of child abuse, categorized by one of the types enumerated in CPSL?		
Type of Child Abuse	Documentation/Description	Dates
<input type="checkbox"/> (1) Causing bodily injury to a child through any recent act or failure to act	<input type="checkbox"/> Injury: <input type="checkbox"/> Impairment: <input type="checkbox"/> Caused substantial pain:	Recent act? <input type="checkbox"/> Within two years of date of report Date of injury: Date of report:
<input type="checkbox"/> (2) Fabricating, feigning or intentionally exaggerating or inducing a medical symptom or disease which results in a potentially harmful medical evaluation or treatment to the child through any recent act	Act constituting abuse:	Date of incident: Date of report:
<input type="checkbox"/> (3) Causing or substantially contributing to serious mental injury to a child through any act or failure to act or a series of such acts or failures to act	Psychological condition: Doctor or psychologist:	Date condition identified: Date of report:
<input type="checkbox"/> (4) Causing sexual abuse or exploitation of a child through any act or failure to act.	Act causing abuse/exploitation:	Date of incident: Date of report:

CPS Checklist: Disposition

Definition: Is It Child Abuse? Does the act or failure to act meet the definition of child abuse, categorized by one of the types enumerated in CPSL?		
Type of Child Abuse	Documentation/Description	Dates
<input type="checkbox"/> (5) Creating a reasonable likelihood of bodily injury to a child through any recent act or failure to act	Act creating likelihood of injury:	Date of incident: Date of report:
<input type="checkbox"/> (6) Creating a likelihood of sexual abuse or exploitation of a child through any recent act or failure to act	Act creating likelihood of abuse/exploitation:	Date of incident: Date of report:
<input type="checkbox"/> (7) Causing serious physical neglect of a child	Act which caused serious physical neglect:	Date of incident: Date of report:
<input type="checkbox"/> (8) Engaging in any of the following recent acts: <ul style="list-style-type: none"> <input type="checkbox"/> Kicking, biting, throwing, burning, stabbing or cutting in a manner that endangers the child <input type="checkbox"/> Unreasonably restraining or confining a child, based on consideration of the method, location or the duration of the restraint or confinement <input type="checkbox"/> Forcefully shaking a child under one year of age <input type="checkbox"/> Forcefully slapping or otherwise striking a child under one year of age <input type="checkbox"/> Interfering with the breathing of a child <input type="checkbox"/> Causing a child to be present at a location while a violation of 18 Pa.C.S. § 7508.2 (relating to operation of methamphetamine laboratory) is occurring, provided that the violation is being investigated by law enforcement <input type="checkbox"/> Leaving a child unsupervised with an individual, other than the child's parent, who the actor knows or reasonably should have known: (A) Is required to register as a Tier II or Tier III sexual offender under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders), where the victim of the sexual offense was under 18 years of age when the crime was committed.(B) Has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.24 (relating to assessments) or 	Additional documentation or description:	Recent act? <input type="checkbox"/> Within two years of date of report Date of incident: Date of report:

CPS Checklist: Disposition

any of its predecessors. (C) Has been determined to be a sexually violent delinquent child as defined in 42 Pa.C.S. § 9799.12 (relating to definitions).		
Definition: Is It Child Abuse? Does the act or failure to act meet the definition of child abuse, categorized by one of the types enumerated in CPSL?		
Type of Child Abuse	Documentation/Description	Dates
<input type="checkbox"/> (9) Causing the death of the child through any act or failure to act	Documentation:	Date of death: Date of report:
Standards of Culpability Did the perpetrator act:		
<input type="checkbox"/> Knowingly Notes:	<input type="checkbox"/> Intentionally Notes:	<input type="checkbox"/> Recklessly Notes:
Exclusions to Substantiation of Child Abuse Check any applicable exclusion below		
<input type="checkbox"/> Environmental factors		
<input type="checkbox"/> Practice of religious beliefs		
<input type="checkbox"/> Use of force for supervision, control, and safety		
<input type="checkbox"/> Rights of parents		
<input type="checkbox"/> Participation in events that involve physical contact with a child		
<input type="checkbox"/> Child-on-child contact		
<input type="checkbox"/> Defensive force		
Notes regarding applicable exclusion:		
Recommended Disposition Based upon foregoing information, this report is:		
<input type="checkbox"/> Indicated		
<input type="checkbox"/> Founded		
<input type="checkbox"/> Unfounded		

CPS Checklist Guide

Perpetrator	
For committing an act	For failing to act
<ul style="list-style-type: none"> • The child's parent • A spouse or former spouse of the child's parent • A paramour or former paramour of the child's parent • A person 14 year or older that is responsible for the child's welfare • A resident of the child's home that is 14 years or older • A relative 18 years or older • An individual 18 years or older who does not reside in the same house as the child but is related within the third degree of consanguinity or affinity by birth or adoption to the child 	<ul style="list-style-type: none"> • The child's parent • A spouse or former spouse of the child's parent • A paramour or former paramour of the child's parent • A person 18 or older responsible for the child's welfare • A person 18 or older who resides in the same home as the child
Child abuse	
Intentionally, knowingly or recklessly doing any of the following:	
<p>(1) Causing bodily injury to a child through any recent act or failure to act <u>Bodily injury</u>: Impairment of physical condition or substantial pain <u>Recent act or failure to act</u>: Any act or failure to act committed within two years of the date of the report to the department or the county agency</p> <p>(2) Fabricating, feigning or intentionally exaggerating or inducing a medical symptom or disease which results in a potentially harmful medical evaluation or treatment to the child through any recent act.</p> <p>(3) Causing or substantially contributing to serious mental injury to a child through any act or failure to act or a series of such acts or failures to act. <u>Serious mental injury</u>: A psychological condition, as diagnosed by a physician or licensed psychologist, including the refusal or appropriate treatment, that:</p> <ol style="list-style-type: none"> 1. Renders a child chronically and severely anxious, agitated, depressed, socially withdrawn, psychotic or in reasonable fear that the child's life or safety is threatened; or 2. Seriously interferes with a child's ability to accomplish age-appropriate developmental and social tasks. <p>(4) Causing sexual abuse or exploitation of a child through any act or failure to act. <u>Sexual abuse or exploitation</u>: Any of the following:</p> <p>Using a child, by employment, persuasion, coercion, etc., to engage in or assist another to engage in sexually explicit conduct, including but not limited to:</p> <ol style="list-style-type: none"> 1. The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another individual to engage in sexually explicit conduct, which includes, but is not limited to, the following: <ol style="list-style-type: none"> i. Looking at the sexual or other intimate parts of a child or another 	

CPS Checklist Guide

individual for the purpose of arousing or gratifying sexual desire in any individual.

- ii. Participating in sexually explicit conversation either in person, by telephone, by computer or by a computer-aided device for the purpose of sexual stimulation or gratification of any individual.
- iii. Actual or simulated sexual activity or nudity for the purpose of sexual stimulation or gratification of any individual.
- iv. Actual or simulated sexual activity for the purpose of producing visual depiction, including photographing, videotaping, computer depicting or filming.

Exception: Consensual activities between a child 14 years of age or older and another person who is 14 years old or older and within 4 years of the child's age is not an offense under this definition.

2. Any of the following offenses committed against a child (see **Handout #1: Sexual Abuse or Exploitation 18 Pa. C.S. Definitions** for expanded definitions):

Rape (18 Pa. C.S. §3121)
Statutory sexual assault (18 Pa. C.S. §3122.1)
Involuntary deviate sexual intercourse (18 Pa. C.S. §3123)
Sexual assault (18 Pa. C.S. §3124.1)
Institutional sexual assault (18 Pa. C.S. §3124.2)
Indecent assault (18 Pa. C.S. §3126)
Indecent exposure (18 Pa. C.S. §3127)
Incest (18 Pa. C.S. §4302)
Prostitution (18 Pa. C.S. §5902)
Sexual abuse (18 Pa. C.S. §6312)
Unlawful conduct with a minor (18 Pa. C.S. §6318)
Sexual exploitation (18 Pa. C.S. §6320).

*Effective **December 31, 2014**. 23 Pa. C.S. §6303 (Act 108)*

(5) Creating a reasonable likelihood of bodily injury to a child through any recent act or failure to act.

(6) Creating a likelihood of sexual abuse or exploitation of a child through any recent act or failure to act.

(7) Causing serious physical neglect of a child.

Serious physical neglect: Any of the following when committed by a perpetrator that endangers a child's life or health, threatens a child's well-being, causes bodily injury or impairs a child's health, development or functioning:

- 1. A repeated, prolonged or unconscionable egregious failure to supervise a child in a manner that is appropriate considering the child's developmental age and abilities.
- 2. The failure to provide a child with adequate essentials of life, including food, shelter or medical care.

(8) Engaging in any of the following recent acts:

CPS Checklist Guide

1. Kicking, biting, throwing, burning, stabbing or cutting a child in a manner that endangers the child.
2. Unreasonably restraining or confining a child, based on consideration of the method, location or the duration of the restraint or confinement.
3. Forcefully shaking a child under one year of age.
4. Forcefully slapping or otherwise striking a child under one year of age.
5. Interfering with the breathing of a child.
6. Causing a child to be present at a location while a violation of 18 Pa.C.S. § 7508.2 (relating to operation of methamphetamine laboratory) is occurring, provided that the violation is being investigated by law enforcement.
7. Leaving a child unsupervised with an individual, other than the child's parent, who the actor knows or reasonably should have known:
 - (A) Is required to register as a Tier II or Tier III sexual offender under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders), where the victim of the sexual offense was under 18 years of age when the crime was committed.
 - (B) Has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.24 (relating to assessments) or any of its predecessors.
 - (C) Has been determined to be a sexually violent delinquent child as defined in 42 Pa.C.S. § 9799.12 (relating to definitions).
- (9) Causing the death of the child through any act or failure to act.
- (10) Sexual misconduct (Pennsylvania School Code §1205.6): Any act, including but not limited to, any verbal, nonverbal, written or electronic communication, or physical activity, directed toward or with a child or a student regardless of the age of the child or student that is designed to establish a romantic or sexual relationship with the child or student. **Student** - An individual enrolled in a public or private school, intermediate unit or area vocational-technical school who is under 18 years of age.

Such prohibited acts include, but are not limited to:

 - (1) Sexual or romantic invitations;
 - (2) Dating or soliciting dates;
 - (3) Engaging in sexualized or romantic dialogue;
 - (4) Making sexually suggestive comments;
 - (5) Self-disclosure or physical exposure of a sexual, romantic or erotic nature; or
 - (6) Any sexual, indecent, romantic, or erotic contact with the child or student.

Standards of Culpability

Intentionally: A person acts intentionally with respect to a material element of an offense when:

- (i) if the element involves the nature of his conduct or a result thereof, it is his conscious object to engage in conduct of that nature or to cause such a result; and
- (ii) if the element involves the attendant circumstances, he is aware of the existence of such circumstances or he believes or hopes that they exist.

CPS Checklist Guide

Knowingly: A person acts knowingly with respect to a material element of an offense when:

- (i) if the element involves the nature of his conduct or the attendant circumstances, he is aware that his conduct is of that nature or that such circumstances exist; and
- (ii) if the element involves a result of his conduct, he is aware that it is practically certain that his conduct will cause such a result.

Recklessly: A person acts recklessly with respect to a material element of an offense when he consciously disregards a substantial and unjustifiable risk that the material element exists or will result from his conduct. The risk must be of such a nature and degree that, considering the nature and intent of the actor's conduct and the circumstances known to him, its disregard involves a gross deviation from the standard of conduct that a reasonable person would observe in the actor's situation.

Do any exclusions apply?

Environmental factors: No child shall be deemed to be physically or mentally abused based on injuries that result solely from environmental factors, such as inadequate housing, furnishings, income, clothing and medical care, that are beyond the control of the parent or person responsible for the child's welfare with whom the child resides. This subsection shall not apply to any child-care service as defined in this chapter, excluding an adoptive parent.

Practice of religious beliefs: If, upon investigation, the county agency determines that a child has not been provided needed medical or surgical care because of sincerely held religious beliefs of the child's parents or relative within the third degree of consanguinity and with whom the child resides, which beliefs are consistent with those of a bona fide religion, the child shall not be deemed to be physically or mentally abused. In such cases the following shall apply:

- (1) The county agency shall closely monitor the child and the child's family and shall seek court-ordered medical intervention when the lack of medical or surgical care threatens the child's life or long-term health.
- (2) All correspondence with a subject of the report and the records of the department and the county agency shall not reference child abuse and shall acknowledge the religious basis for the child's condition.
- (3) The family shall be referred for general protective services, if appropriate.
- (4) This subsection shall not apply if the failure to provide needed medical or surgical care causes the death of the child.
- (5) This subsection shall not apply to any child-care service as defined in this chapter, excluding an adoptive parent.

Use of force for supervision, control and safety purposes: Subject to subsection (d), the use of reasonable force on or against a child by the child's own parent or person responsible for the child's welfare shall not be considered child abuse if any of the following conditions apply:

- (1) The use of reasonable force constitutes incidental, minor or reasonable physical contact with the child or other actions that are designed to maintain order and control.

CPS Checklist Guide

(2) The use of reasonable force is necessary:

- i. to quell a disturbance or remove the child from the scene of a disturbance that threatens physical injury to persons or damage to property;
- ii. to prevent the child from self-inflicted physical harm;
- iii. for self-defense or the defense of another individual; or
- iv. to obtain possession of weapons or other dangerous objects or controlled substances or paraphernalia that are on the child or within the control of the child.

Rights of parents: Nothing in this chapter shall be construed to restrict the generally recognized existing rights of parents to use reasonable force on or against their children for the purposes of supervision, control and discipline of their children. Such reasonable force shall not constitute child abuse.

Participation in events that involve physical contact with child: An individual participating in a practice or competition in an interscholastic sport, physical education, a recreational activity or an extracurricular activity that involves physical contact with a child does not, in itself, constitute contact that is subject to the reporting requirements of this chapter.

Child-on-child contact:

- (1) Harm or injury to a child that results from the act of another child shall not constitute child abuse unless the child who caused the harm or injury is a perpetrator.
- (2) Notwithstanding paragraph (1), the following shall apply:
 - i. Acts constituting any of the following crimes against a child shall be subject to the reporting requirements of this chapter:
 - A. rape as defined in 18 Pa.C.S. § 3121 (relating to rape);
 - B. involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse);
 - C. sexual assault as defined in 18 Pa.C.S. § 3124.1 (relating to sexual assault);
 - D. aggravated indecent assault as defined in 18 Pa.C.S. § 3125 (relating to aggravated indecent assault);
 - E. indecent assault as defined in 18 Pa.C.S. § 3126 (relating to indecent assault); and
 - F. indecent exposure as defined in 18 Pa.C.S. § 3127 (relating to indecent exposure).
 - ii. No child shall be deemed to be a perpetrator of child abuse based solely on physical or mental injuries caused to another child in the course of a dispute, fight or scuffle entered into by mutual consent.
 - iii. A law enforcement official who receives a report of suspected child abuse is not required to make a report to the department under section 6334(a) (relating to disposition of complaints received), if the person allegedly responsible for the child abuse is a nonperpetrator child.

Defensive force: Reasonable force for self-defense or the defense of another individual, consistent with the provisions of 18 Pa.C.S. §§ 505 (relating to use of force in self-protection) and 506 (relating to use of force for the protection of other persons), shall not be considered child abuse.

CPS Checklist Guide

Based upon foregoing information, report is:

Indicated report:

Defined as: Issued when an investigation by the department or the county agency determines that substantial evidence of the alleged abuse by a perpetrator exists based on: available medical evidence; Child Protective Service investigation; or an admission of the acts of abuse by the perpetrator. A report may be indicated for any child who is the victim of child abuse, regardless of the number of alleged perpetrators. The report may be indicated listing the perpetrator as “unknown” if substantial evidence of abuse exists, but the specific perpetrator cannot be identified

Founded report, because:

- There has been a judicial adjudication that the subject child has been abused with the same factual circumstances as the allegation of child abuse.
- Acceptance into an accelerated rehabilitative disposition program for the same factual circumstances in the report of child abuse.
- Consent decree in a juvenile proceeding involving the same circumstances in the allegation of child abuse.
- A final PFA order has been granted when the child who is the subject of the report is one of the individuals being protected; and only one individual is charged with and defends against the charge of abuse, adjudication involves the same factual circumstances as the allegation of child abuse, and the PFA adjudication finds that the child abuse occurred.

Unfounded report:

Defined as: Any report made pursuant to this chapter unless the report is a “founded reporter” or an “indicated report”.

Section IV: Perpetrator

Who is a Perpetrator?

Referring to the old and new definitions of perpetrator, answer the questions below:

Old	New
<p>A person who has committed child abuse and is a parent of a child, a person responsible for the welfare of a child, an individual residing in the same home as a child or a paramour of a child's parent.</p>	<p>A person who has committed child abuse as defined in this section. The following shall apply:</p> <p>(1) The term includes only the following:</p> <ul style="list-style-type: none"> (i) A parent of the child. (ii) A spouse or former spouse of the child's parent. (iii) A paramour or former paramour of the child's parent. (iv) A person 14 years of age or older and responsible for the child's welfare. (v) An individual 14 years of age or older who resides in the same home as the child. (vi) An individual 18 years of age or older who does not reside in the same home as the child but is related within the third degree of consanguinity or affinity by birth or adoption to the child. <p>(2) Only the following may be considered a perpetrator for failing to act, as provided in this section:</p> <ul style="list-style-type: none"> (i) A parent of the child. (ii) A spouse or former spouse of the child's parent. (iii) A paramour or former paramour of the child's parent. (iv) A person 18 years of age or older and responsible for the child's welfare. (v) A person 18 years of age or older who resides in the same home as the child.

1. What individuals are still considered perpetrators?

2. What individuals have been added to the definition of perpetrator?

Section V: Culpability

Standards of Culpability

Intentionally: A person acts intentionally with respect to a material element of an offense when:

- (i) if the element involves the nature of his conduct or a result thereof, it is his conscious object to engage in conduct of that nature or to cause such a result; and
- (ii) if the element involves the attendant circumstances, he is aware of the existence of such circumstances or he believes or hopes that they exist.

Knowingly: A person acts knowingly with respect to a material element of an offense when:

- (i) if the element involves the nature of his conduct or the attendant circumstances, he is aware that his conduct is of that nature or that such circumstances exist; and
- (ii) if the element involves a result of his conduct, he is aware that it is practically certain that his conduct will cause such a result.

Recklessly: A person acts recklessly with respect to a material element of an offense when he consciously disregards a substantial and unjustifiable risk that the material element exists or will result from his conduct. The risk must be of such a nature and degree that, considering the nature and intent of the actor's conduct and the circumstances known to him, its disregard involves a gross deviation from the standard of conduct that a reasonable person would observe in the actor's situation.

NOTES:

Section VI: Child Abuse

Child Abuse

Intentionally, knowingly or recklessly doing any of the following:

- (1) Causing bodily injury to a child through any recent act or failure to act
Bodily injury: Impairment of physical condition or substantial pain
Recent act or failure to act: Any act or failure to act committed within two years of the date of the report to the department or the county agency
- (2) Fabricating, feigning or intentionally exaggerating or inducing a medical symptom or disease which results in a potentially harmful medical evaluation or treatment to the child through any recent act.
Recent act: Any act committed within two years of the date of the report to the Department of Public Welfare or county agency.
- (3) Causing or substantially contributing to serious mental injury to a child through any act or failure to act or a series of such acts or failures to act.
Serious mental injury: A psychological condition, as diagnosed by a physician or licensed psychologist, including the refusal or appropriate treatment, that:
 1. Renders a child chronically and severely anxious, agitated, depressed, socially withdrawn, psychotic **or** in reasonable fear that the child's life or safety is threatened; **or**
 2. Seriously interferes with a child's ability to accomplish age-appropriate developmental and social tasks.
- (4) Causing sexual abuse or exploitation of a child through any act or failure to act.
Sexual abuse or exploitation: Any of the following:
Using a child, by employment, persuasion, coercion, etc., to engage in or assist another to engage in sexually explicit conduct, including but not limited to:
 1. The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another individual to engage in sexually explicit conduct, which includes, but is not limited to, the following:
 - v. Looking at the sexual or other intimate parts of a child or another individual for the purpose of arousing or gratifying sexual desire in any individual.
 - vi. Participating in sexually explicit conversation either in person, by telephone, by computer or by a computer-aided device for the purpose of sexual stimulation or gratification of any individual.
 - vii. Actual or simulated sexual activity or nudity for the purpose of sexual stimulation or gratification of any individual.
 - viii. Actual or simulated sexual activity for the purpose of producing visual depiction, including photographing, videotaping, computer depicting or filming.

Exception: Consensual activities between a child 14 years of age or older and another person who is 14 years old or older and within 4 years of the child's age is not an offense under this definition.

2. Any of the following offenses committed against a child:

Rape (18 Pa. C.S. §3121)
Statutory sexual assault (18 Pa. C.S. §3122.1)
Involuntary deviate sexual intercourse (18 Pa. C.S. §3123)
Sexual assault (18 Pa. C.S. §3124.1)
Institutional sexual assault (18 Pa. C.S. §3124.2)
Indecent assault (18 Pa. C.S. §3126)
Indecent exposure (18 Pa. C.S. §3127)
Incest (18 Pa. C.S. §4302)
Prostitution (18 Pa. C.S. §5902)
Sexual abuse (18 Pa. C.S. §6312)
Unlawful conduct with a minor (18 Pa. C.S. §6318)
Sexual exploitation (18 Pa. C.S. §6320).

*Effective **December 31, 2014.** 23 Pa. C.S. §6303 (Act 108)*

- (5) Creating a reasonable likelihood of bodily injury to a child through any recent act or failure to act.
- (6) Creating a likelihood of sexual abuse or exploitation of a child through any recent act or failure to act.
- (7) Causing serious physical neglect of a child.

Serious physical neglect: Any of the following when committed by a perpetrator that endangers a child's life or health, threatens a child's well-being, causes bodily injury or impairs a child's health, development or functioning:

- 1. A repeated, prolonged or unconscionable egregious failure to supervise a child in a manner that is appropriate considering the child's developmental age and abilities.
 - 2. The failure to provide a child with adequate essentials of life, including food, shelter or medical care.
- (8) Engaging in any of the following recent acts:
- 1. Kicking, biting, throwing, burning, stabbing or cutting a child in a manner that endangers the child.
 - 2. Unreasonably restraining or confining a child, based on consideration of the method, location or the duration of the restraint or confinement.
 - 3. Forcefully shaking a child under one year of age.
 - 4. Forcefully slapping or otherwise striking a child under one year of age.
 - 5. Interfering with the breathing of a child.
 - 6. Causing a child to be present at a location while a violation of 18 Pa.C.S. § 7508.2 (relating to operation of methamphetamine laboratory) is occurring, provided that the violation is being investigated by law enforcement.

7. Leaving a child unsupervised with an individual, other than the child's parent, who the actor knows or reasonably should have known:
 - (A) Is required to register as a Tier II or Tier III sexual offender under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders), where the victim of the sexual offense was under 18 years of age when the crime was committed.
 - (B) Has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.24 (relating to assessments) or any of its predecessors.
 - (C) Has been determined to be a sexually violent delinquent child as defined in 42 Pa.C.S. § 9799.12 (relating to definitions).

Recent act: Any act committed within two years of the date of the report to the Department of Public Welfare or county agency.

(9) Causing the death of the child through any act or failure to act.

(10) Sexual misconduct (*Pennsylvania School Code §1205.6*): Any act, including but not limited to, any verbal, nonverbal, written or electronic communication, or physical activity, directed toward or with a child or a student regardless of the age of the child or student that is designed to establish a romantic or sexual relationship with the child or student. **Student** - An individual enrolled in a public or private school, intermediate unit or area vocational-technical school who is under 18 years of age.

Such prohibited acts include, but are not limited to:

- (1) Sexual or romantic invitations;
- (2) Dating or soliciting dates;
- (3) Engaging in sexualized or romantic dialogue;
- (4) Making sexually suggestive comments;
- (5) Self-disclosure or physical exposure of a sexual, romantic or erotic nature; or
- (6) Any sexual, indecent, romantic, or erotic contact with the child or student

Defining Child Abuse

My assigned component(s) of the legal definition of child abuse are:

Answer the following questions about each of your assigned components of the legal definition of child abuse:

1. What are related key terms and how are they defined?
2. What criteria must be met?
3. Provide an example from your experience – what does this type of abuse look like?

Defining Child Abuse

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Defining Child Abuse: Notes

Section VII: Exclusions to Child Abuse

Exclusions

Environmental factors: No child shall be deemed to be physically or mentally abused based on injuries that result solely from environmental factors, such as inadequate housing, furnishings, income, clothing and medical care, that are beyond the control of the parent or person responsible for the child's welfare with whom the child resides. This subsection shall not apply to any child-care service as defined in this chapter, excluding an adoptive parent.

Practice of religious beliefs: If, upon investigation, the county agency determines that a child has not been provided needed medical or surgical care because of sincerely held religious beliefs of the child's parents or relative within the third degree of consanguinity and with whom the child resides, which beliefs are consistent with those of a bona fide religion, the child shall not be deemed to be physically or mentally abused. In such cases the following shall apply:

- (1) The county agency shall closely monitor the child and the child's family and shall seek court-ordered medical intervention when the lack of medical or surgical care threatens the child's life or long-term health.
- (2) All correspondence with a subject of the report and the records of the department and the county agency shall not reference child abuse and shall acknowledge the religious basis for the child's condition.
- (3) The family shall be referred for general protective services, if appropriate.
- (4) This subsection shall not apply if the failure to provide needed medical or surgical care causes the death of the child.
- (5) This subsection shall not apply to any child-care service as defined in this chapter, excluding an adoptive parent.

Use of force for supervision, control and safety purposes: Subject to subsection (d), the use of reasonable force on or against a child by the child's own parent or person responsible for the child's welfare shall not be considered child abuse if any of the following conditions apply:

- (1) The use of reasonable force constitutes incidental, minor or reasonable physical contact with the child or other actions that are designed to maintain order and control.
- (2) The use of reasonable force is necessary:
 - i. to quell a disturbance or remove the child from the scene of a disturbance that threatens physical injury to persons or damage to property;
 - ii. to prevent the child from self-inflicted physical harm;
 - iii. for self-defense or the defense of another individual; or
 - iv. to obtain possession of weapons or other dangerous objects or controlled substances or paraphernalia that are on the child or within the control of the child.

Rights of parents: Nothing in this chapter shall be construed to restrict the generally recognized existing rights of parents to use reasonable force on or against their children for the purposes of supervision, control and discipline of their children. Such reasonable force shall not constitute child abuse.

Participation in events that involve physical contact with child: An individual participating in a practice or competition in an interscholastic sport, physical education, a recreational activity or an extracurricular activity that involves physical contact with a child does not, in itself, constitute contact that is subject to the reporting requirements of this chapter.

Child-on-child contact:

- (1) Harm or injury to a child that results from the act of another child shall not constitute child abuse unless the child who caused the harm or injury is a perpetrator.
- (2) Notwithstanding paragraph (1), the following shall apply:
 - i. Acts constituting any of the following crimes against a child shall be subject to the reporting requirements of this chapter (see **Handout #1: Sexual Abuse or Exploitation 18 Pa. C.S. Definitions** for expanded definitions):
 - A. rape as defined in 18 Pa.C.S. § 3121 (relating to rape);
 - B. involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse);
 - C. sexual assault as defined in 18 Pa.C.S. § 3124.1 (relating to sexual assault);
 - D. aggravated indecent assault as defined in 18 Pa.C.S. § 3125 (relating to aggravated indecent assault);
 - E. indecent assault as defined in 18 Pa.C.S. § 3126 (relating to indecent assault); and
 - F. indecent exposure as defined in 18 Pa.C.S. § 3127 (relating to indecent exposure).
 - ii. No child shall be deemed to be a perpetrator of child abuse based solely on physical or mental injuries caused to another child in the course of a dispute, fight or scuffle entered into by mutual consent.
 - iii. A law enforcement official who receives a report of suspected child abuse is not required to make a report to the department under section 6334(a) (relating to disposition of complaints received), if the person allegedly responsible for the child abuse is a nonperpetrator child.

Defensive force: Reasonable force for self-defense or the defense of another individual, consistent with the provisions of 18 Pa.C.S. §§ 505 (relating to use of force in self-protection) and 506 (relating to use of force for the protection of other persons), shall not be considered child abuse.

Exclusions Worksheet

Ben:

Thirteen year old Ben has been increasingly disruptive and disrespectful at school. At home, he has been assaultive toward his mother and little sister. Today, Ben suffered bruises during a physical altercation with his father.

The investigation discovered that his father had found Ben threatening his mother with a can of pepper spray, holding it up to her face as she crouched in a corner. When Ben didn't drop the pepper spray, his father lunged at Ben, trying to take it from him. Ben and his father grappled until finally his father managed to grab Ben's arm and knock the pepper spray out of his hand.

Does an exclusion apply? _____

Why or why not?

Devon:

Devon is a three year old girl with a brain tumor. The doctor believes she can successfully remove the tumor and provide Devon with a healthy normal life. Without surgery, the tumor will continue to grow, affecting Devon's brain function and general health, and Devon will likely die within two years. Devon's parents belong to the Faith Tabernacle Congregation. They hold their church's conviction to follow the will of God in all areas of life, including physical health. For this reason, they refuse to get Devon medical care to treat the tumor.

Does an exclusion apply? _____

Why or why not?

Brad:

Brad is a 14 year old who was put in charge of his 12 year old brother Bruce while their parents went grocery shopping. Bruce and Brad became involved in a dispute over a video game that resulted in Bruce's arm being broken.

Does an exclusion apply? _____

Why or why not?

Michael

Nine year old Michael lives with his mother. Michael has juvenile diabetes and his mother must help him monitor his blood glucose levels, make sure he gets regular meals, and administer insulin injections to regulate the disease. Michael's mother has a history of substance abuse, and has trouble keeping a job. On occasion, Michael's mother runs out of money at the end of the month and rations his insulin and blood testing strips. She is sometimes unable to purchase enough food, and Michael goes to school without breakfast or lunch. The school nurse tries to help Michael and provides him food from the cafeteria when she is aware that he is hungry. She has had to call an ambulance more than once when Michael has collapsed at school because of very high or very low blood sugar. The mother is not eligible for food stamps or free lunches. The mother's explanation of the situation is that the family is experiencing a financial hardship because of extensive medical bills.

Does an exclusion apply? _____

Why or why not?

Implementation Plan

Use this worksheet to summarize the ways in which you will transfer your learning:

[illegible]

References

Commonwealth of Pennsylvania. The Child Protective Services Law (23 Pa.C.S. Chapter 63). (2014).

University of Pittsburgh. (2014). Pennsylvania child protective services Law: Module 6: Dispositions of cases. Mechanicsburg, PA: University of Pittsburgh School of Social Work, Pennsylvania Child Welfare Resource Center.