

WAC 110-30-0030 What is child abuse or neglect? Child abuse or neglect means the injury, sexual abuse, or sexual exploitation of a child by any person under circumstances which indicate that the child's health, welfare, or safety is harmed, or the negligent treatment or maltreatment of a child by a person responsible for or providing care to the child. An abused child is one who has been subjected to child abuse or neglect as defined in this section.

(1) Physical abuse means the nonaccidental infliction of physical injury or physical mistreatment on a child that harms the child's health, welfare, or safety. It may include, but is not limited to, such actions as:

- (a) Throwing, kicking, burning, or cutting a child;
- (b) Striking a child with a closed fist;
- (c) Shaking a child under age three;
- (d) Interfering with a child's breathing;
- (e) Threatening a child with a deadly weapon; or

(f) Doing any other act that is likely to cause and that does cause bodily harm greater than transient pain or minor temporary marks or that is injurious to the child's health, welfare or safety.

(2) Physical discipline of a child, including the reasonable use of corporal punishment, is not considered abuse when it is reasonable and moderate and is inflicted by a parent or guardian for the purposes of restraining or correcting the child. The age, size, and condition of the child, and the location of any inflicted injury shall be considered in determining whether the bodily harm is reasonable or moderate. Other factors may include the developmental level of the child and the nature of the child's misconduct. A parent's belief that it is necessary to punish a child does not justify or permit the use of excessive, immoderate or unreasonable force against the child.

(3) Sexual abuse means committing or allowing to be committed any sexual offense against a child as defined in the criminal code. The intentional touching, either directly or through the clothing, of the sexual or other intimate parts of a child or allowing, permitting, compelling, encouraging, aiding, or otherwise causing a child to engage in touching the sexual or other intimate parts of another for the purpose of gratifying the sexual desire of the person touching the child, the child, or a third party. A parent or guardian of a child, a person authorized by the parent or guardian to provide childcare for the child, or a person providing medically recognized services for the child, may touch a child in the sexual or other intimate parts for the purposes of providing hygiene, child care, and medical treatment or diagnosis.

(4) Sexual exploitation includes, but is not limited to, sex trafficking and commercial sexual exploitation as those terms are defined by law and includes such actions as allowing, compelling, encouraging, aiding, or otherwise causing a child to participate in one or more of the following:

- (a) Any sex act when anything of value is given to or received by any person for the sex act;
- (b) Sexually explicit, obscene, or pornographic activity to be photographed, filmed, or electronically reproduced or transmitted;
- (c) Sexually explicit, obscene, or pornographic activity as part of a live performance or for the benefit or sexual gratification of another person.

(5) Negligent treatment or maltreatment means an act or a failure to act, or the cumulative effects of a pattern of conduct, behavior, or inaction, on the part of a child's parent, legal custodian, guardi-

an, or caregiver that shows a serious disregard of the consequences to the child and creates a clear and present danger to the child's health, welfare, or safety.

(a) When considering whether a clear and present danger exists, evidence of a parent's substance abuse as a contributing factor must be given great weight.

(b) The fact that the siblings share a bedroom is not, in and of itself, negligent treatment or maltreatment.

(c) Poverty, homelessness, or exposure to domestic violence perpetuated against someone other than the child does not, in and of itself, constitute negligent treatment or maltreatment.

(d) A child does not have to suffer actual damage or physical or emotional harm to be in circumstances that create a clear and present danger to the child's health, welfare, or safety.

(e) Negligent treatment or maltreatment may include, but is not limited to one or more of the following:

(i) Failure to provide adequate food, shelter, clothing, supervision, or health care necessary for a child's health, welfare, or safety, such that the failure shows a serious disregard of the consequence to the child and creates a clear and present danger to the child's health, welfare, or safety;

(ii) Actions, failures to act, or omissions that result in injury or risk of injury to the physical, emotional, and/or cognitive development of a child, such that it shows a serious disregard of the consequences to the child and creates a clear and present danger to the child's health, welfare, or safety;

(iii) The cumulative effects of a pattern of conduct, behavior, or inaction by a parent or guardian in providing for the physical, emotional or developmental needs of the child, such that it shows a serious disregard of the consequences to the child and creates a clear and present danger to the child's health, welfare, or safety;

(iv) The effects of chronic failure on the part of a parent or guardian to perform basic parental functions, obligations, or duties that causes injury or substantial risk of injury to the physical, emotional, or cognitive development of the child, such that it shows a serious disregard of the consequences to the child and creates a clear and present danger to the child's health, welfare, or safety.

[WSR 18-14-078, recodified as § 110-30-0030, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.08.090, 74.04.050, 74.13.031, and chapter 26.44 RCW. WSR 17-22-059, § 388-15-009, filed 10/26/17, effective 11/26/17. Statutory Authority: RCW 74.08.090, 74.04.050, 74.13.031, chapter 26.44 RCW, and 2005 c 512. WSR 07-14-011, § 388-15-009, filed 6/22/07, effective 7/23/07. Statutory Authority: RCW 74.13.031, 74.04.050, and chapter 26.44 RCW. WSR 02-15-098 and 02-17-045, § 388-15-009, filed 7/16/02 and 8/14/02, effective 2/10/03.]