



TITLE	POLICY NUMBER	
PSRT Policy	DCS 09-05	
RESPONSIBLE AREA	EFFECTIVE DATE	REVISION
Office of Accountability	12/29/2022	

## **I. POLICY STATEMENT**

Protective Services Review Team (PSRT) reviews all proposed findings prior to being substantiated to ensure an alleged perpetrator has been notified prior to being entered into the Central Registry. This section explains the statutory and regulatory requirements for DCS appeals and provides guidance where needed to further explain these requirements.

It is the policy of the Department of Child Safety (DCS) to conduct administrative reviews of certain DCS investigations for the purpose of ensuring determinations of parents being placed on the Central Registry are consistent with policy guidelines.

## **II. APPLICABILITY**

This policy applies to DCS Specialists, Program Supervisors, Program Managers, OCWI (Office of Child Welfare Investigations) Managers, OCWI Investigators, and Protective Services Review Team (PSRT) employees of DCS.

## **III. AUTHORITY**

[A.R.S § 8-811](#)

Hearing process; definitions

[A.R.S. § 8-804](#)

Central registry; notification; definition

[A.R.S. § 41-1092.03](#)

Notice of appealable agency action or contested case; hearing; informal settlement conference; applicability

[Child Abuse Prevention and Treatment Act, as Amended, 1996](#)

[A.A.C. R21-1-305](#) Request for Hearing: Form; Time Limits; Presumptions

[A.A.C. R21-1-308](#) Hearings; Location; Notice; Time

#### IV. DEFINITIONS

Central Registry: The database of substantiated reports of child abuse or neglect contained within the DCS case management information system.

Custodian: a person, other than a parent or legal guardian, who stands in the place of a parent to the child or a person to whom legal custody for the child has been given by order of the juvenile court.

Department or DCS: The Arizona Department of Child Safety.

Dependency petition: a formal document filed in the Superior Court Juvenile Division that says a child may have been abused or neglected and is in need of protection.

Director: The Director of the Arizona Department of Child Safety.

Probable cause: The information gathered during the investigation would lead a reasonable person to believe that an incident of abuse or neglect occurred, and that the abuse or neglect was committed by the parent, guardian, or custodian. The DCS Specialist does not need to prove that abuse or neglect definitely occurred, but should have some credible evidence to support that finding.

Proposed Substantiated: when the information gathered during the investigation supports that an incident of abuse or neglect occurred based upon a probable cause standard and a dependency petition is not filed.

Proposed Substantiated Pending Dependency Adjudication (PDA): when a petition has been filed through the juvenile court alleging dependency based on abuse and/or neglect.

Proposed Substantiated – Perpetrator deceased: when the evidence supports that an incident of abuse and/or neglect occurred based upon a probable cause standard; however, the perpetrator dies before the entry of the finding.

Regional Review Specialist (RRS): A specialist within the Protective Services Review Team (PSRT) who reviews all proposed substantiated allegations.

Proposed Substantiated – Perpetrator unknown: when the information gathered during the investigation supports that an incident of abuse and/or neglect occurred based upon a probable cause standard and the alleged perpetrator’s identity cannot be confirmed.

Substantiated report: An allegation of child abuse and neglect found to be true by a probable cause standard, after the perpetrator has been provided due process. A proposed substantiated allegation will be substantiated after an appeal process has taken place or the timeframe to appeal the allegation has lapsed. A proposed substantiated pending dependency adjudication allegation will be substantiated once there is an adjudication in the juvenile court based on abuse and/or neglect allegations.

Unable to Locate: when there is insufficient evidence to conclude that the child was abused and/or neglected because, despite reasonable efforts, the child victim cannot be located. If a child cannot be located but sufficient evidence has been collected from other professionals, such as law enforcement reports and/or medical records, the allegation shall be proposed substantiated.

Unsubstantiated finding: When the information gathered during the investigation does not support an incident of abuse and/or neglect occurred based upon a probable cause standard. This finding shall include a written explanation supporting this decision.

## **V. POLICY**

A. A person involved in a dependency matter will have a proposed substantiated finding pending dependency adjunction until a juvenile court judge makes a finding based on the petition or until the dependency is dismissed prior to adjudication. If an adjudication occurs, the person's finding will be substantiated and entered into the Central Registry.

B. Information Needed for a Proposed Substantiated Finding of Abuse

In order for there to be a “proposed substantiated” finding of abuse, the event must be the result of a behavior by a person who had care, custody, and control of the child. When the DCS Specialist completes an investigation and prepares a “proposed substantiated” finding, the information must include the following:

1. Timeframe/Date the abuse occurred;
2. Who committed the abuse;
3. Child victim's name;
4. Details of how the child was abused and/or neglected; and
5. When the abuse occurred.

C. Information Needed for a Proposed Substantiated Finding of Neglect

In order for there to be a “proposed substantiated” finding of neglect, the event must be the result of a behavior by a parent, guardian, or custodian. When a DCS Specialist completes an investigation and prepares a “proposed substantiated” finding, the information must include the following:

1. Timeframe/Date the neglect occurred;
2. Who committed the abuse and/or neglect;
3. Child victim's name; and
4. Details of how the child was neglected, including:
  - a. What evidence supports the substantial risk of harm; and
  - b. A description of the substantial risk of harm.

D. Types of findings that PSRT reviews:

1. All reports that are Proposed Substantiated; and
2. Proposed Substantiated Pending Adjudication.

E. Types of findings that PSRT does **not** review:

1. Proposed Substantiated Perpetrator Deceased;
2. Proposed Substantiated Perpetrator Unknown:

3. Unable to Locate; and
  4. Unsubstantiated.
- F. A person found to have a substantiated report of child abuse or neglect in a non-dependency finding may appeal and request an administrative hearing from the Department to challenge the action of being placed on the Central Registry.
- G. Central Registry Background Checks shall be conducted for the following purposes:
1. Foster Home Licensing;
  2. Adoptive Parent Certification;
  3. Child Care Home Certification;
  4. Registration of unregulated child care homes with the Child Care Resource and Referral System;
  5. Home and community-based services certification for services to children or vulnerable adults;
  6. Current employees and applicants of the State of Arizona who provide direct service to children or vulnerable adults;
  7. Employees or prospective employees of contractors or sub-contractors who provide direct service to children or vulnerable adults; and
  8. Licensees who provide direct services to children and are not contracted with the State.

## **VI. PROCEDURES**

### **A. PSRT Review of All Proposed Substantiated Findings**

When the DCS Program Supervisor approves the proposed substantiated finding, the finding is automatically sent to the allegation inbox in Guardian for the PSRT

team to review. The Regional Review Specialist (RRS) conducts a brief screening to ensure basic elements are present and completed before accepting the case for processing, including whether:

1. The finding statement meets established criteria;
2. The alleged perpetrators and victims named in the finding statement are properly built in Guardian;
3. The names, to include aliases, and the current mailing address information of each alleged perpetrator have been updated, to include the 4-digit zip code extension, so that they can be notified of their due process rights;
4. The correct person IDs for each child victim and each alleged perpetrator were used (multiple person IDs for the same person should be avoided);
5. The correct category (abuse or neglect) is reflected for each victim; and
6. The proposed findings were entered for the right children, as to the right perpetrator, with the right allegations.

**B. PSRT Reviews of Dependency Cases**

1. PSRT RRS and Legal Assistants review all proposed substantiated pending dependency adjudication findings. The review includes ensuring all neglect and/or abuse findings listed in the dependency petition are proposed for every alleged perpetrator and victim named in the petition.
2. The findings will continue to be reviewed until a victim becomes adjudicated dependent or until a dependency is dismissed prior to an adjudication.
3. If a victim is adjudicated dependent in relation to the alleged perpetrator, PSRT will change the finding from “proposed substantiated pending dependency adjudication” to “substantiated,” and the perpetrator’s name will be entered into the DCS Central Registry.
4. Findings that result in a dependency adjudication are not eligible for an appeal through the Office of Administrative Hearings. The alleged perpetrator’s due process occurs through the dependency action in juvenile

court.

5. If a dependency matter is dismissed prior to adjudication, all proposed substantiated pending dependency adjudication findings will be “unsubstantiated” by PSRT.
  - a. PSRT will notify the DCS Specialist, Program Supervisor, and Program Manager by email to notify them that the finding has been unsubstantiated and provide them with the opportunity to enter a new finding of “proposed substantiated.”
  - b. If the court made a specific finding that the dependency adjudication is based on the child’s behaviors or is not a result abuse or neglect, the findings will also be unsubstantiated, and the DCS Specialist may not enter a “proposed substantiated” finding.

#### C. PSRT Reviews of Non-dependency Cases

##### 1. Initial Notification Letter

When PSRT receives a proposed substantiated finding, PSRT shall send a [Notice of Proposed Substantiation Report \(CSO-1024A\)](#) to an alleged perpetrator within 14 days by first class mail or personal service.

##### 2. The PSRT Appeal Process

- a. PSRT conducts an independent and impartial review of the investigation after an alleged perpetrator requests a hearing by submitting the form [CSO-1211A Request for DCS Findings Appeal](#) and any supporting documentation. Each request for hearing received from an alleged perpetrator shall be screened for timeliness and legal eligibility.
- b. If the request meets the legal standards as defined in [A.A.C. R21-1-305](#), the PSRT Regional Review Specialist shall contact the DCS Specialist and Program Supervisor to request any necessary information or documentation not contained in Guardian. This correspondence shall include the Program Manager if requested in writing.

- c. If the request is untimely or does not meet the legal standards as defined in [A.A.C. R21-1-305](#), the PSRT Regional Review Specialist will send the applicable form to the alleged perpetrator:
    - i. [CSO-1213A Denial of Appeal Letter](#) for requests that are untimely;
    - ii. [CSO-1214A – Registry Substantiated Finding Notification](#) for requests that do not meet the legal standards; or
    - iii. [CSO-1256A - PSRT Appeal – Untimely and Legal Exception \(Finding Made\) Form](#) for requests that are both untimely and do not meet the legal standards.
  - d. The PSRT Regional Review Specialist shall complete the review within 60 days due to legal mandates whether or not the requested documentation was provided.
3. There are three possible appeal outcomes of a PSRT review:
- a. Affirm, meaning probable cause was established;
  - b. Amend, meaning probable cause was not established given the available evidence; and
  - c. Ineligibility, in which the perpetrator is ineligible for appeal.
    - i. If PSRT is unable to support the finding, they will notify the applicable specialist, supervisor and manager who was involved in the investigation. The email will explain why the finding cannot be supported in an administrative hearing;
    - ii. If the outcome of the review is a recommendation to amend the finding, the investigation team is responsible for entering an unsubstantiated allegation in order for PSRT to close their appeal case. The investigation team may request a case conference to further discuss or provide additional support.



- iii. An alleged perpetrator is ineligible for an appeal if:
  - (a) the request for an appeal is untimely (an alleged perpetrator has 20 days to request an appeal);
  - (b) the alleged perpetrator is being heard in another court venue, such as a family court or criminal court in which the alleged abuse is being discussed; or
  - (c) a judge has already made a finding of abuse or neglect in another court.

#### 4. Steps of Appeal Process

- a. The Department shall mail a notice of hearing to all interested parties at least 20 days before the hearing date.
- b. The PSRT reviewer attends an administrative hearing at the Office of Administrative Hearings (OAH) and is represented by an Assistant Attorney General (AAG).
- c. The PSRT reviewer provides testimony and the alleged perpetrator is given an opportunity to provide any information.
- d. A hearing is conducted and the Administrative Law Judge (ALJ) has 20 days to take on the matter under advisement and issue a recommended order to determine if the finding should be substantiated.
- e. The Department receives the order, and the Director has 30 days to agree, disagree, or modify the ALJ's recommended order. If the Director takes no action, the ALJ's recommended order becomes certified.
- f. If the recommended order is to substantiate, the perpetrator's name will be placed in the Central Registry. If the recommended order is to unsubstantiate, DCS will amend the finding and the alleged perpetrator's name will not be placed on the Central Registry.
- g. The alleged perpetrator also has the option to enter into a

settlement prior to the hearing in which they agree that the incident occurred, but would like to revise the finding statement. The alleged perpetrator is then also agreeing to have their name placed on the Central Registry with the amended finding statement.

## **VII. FORMS INDEX**

[CSO-1024A - Notice of Proposed Substantiation of Child Safety Report](#)

[CSO-1211A - Request for DCS Findings Appeal](#)

[CSO-1213A – Denial of Appeal Letter](#)

[CSO-1214A – Registry Substantiated Finding Notification](#)

[CSO-1256A - PSRT – Appeal – Untimely and Legal Exception \(Finding Made\)](#)