

§ 412.001 Definitions.

*ACF* means the Administration for Children and Families, Department of Health and Human Services.

*Administrative closure* means that ORR has determined that it will not make a finding regarding an allegation of child abuse or neglect. ORR may make a determination of administrative closure both before and after an investigation begins. Reasons for administrative closure of an intake report before investigation may include, but are not limited to, lack of jurisdiction to conduct an investigation of the allegation, transfer of the report to another jurisdiction or agency, duplication of an already existing report, an allegation not rising to the level of child abuse or neglect, or an allegation is otherwise outside the scope of this rule, as described at § 412.100(c). Reasons for a disposition of administrative closure after investigation may include, but are not limited to, inability to contact the child, insufficient information to proceed with the investigation, or transfer of the report to another jurisdiction or agency.

*Allegation* means a written or oral report to ORR of suspected child abuse or neglect.

*Alleged perpetrator* means a person who is alleged to have abused or neglected a child within the scope of this part as described at § 412.100(a) and (c).

*Appeal and review process* means the appeal to an Administrative Law Judge (ALJ) of the HHS Departmental Appeal Board (DAB), and review by the Assistant Secretary for ACF of the disposition that an allegation of child abuse or neglect was substantiated at Tier I or Tier II.

*Attorney of record* has the same definition as provided under 45 CFR 410.1001.

*Care provider facility* has the same definition as provided under 45 CFR 410.1001.

*Child abuse and neglect* means any act or failure to act which results in death, serious physical or emotional harm, sexual abuse, or exploitation of a child; or an act or failure to act which presents an imminent risk of serious harm to a child including but not limited to physical abuse, verbal or emotional abuse, sexual harassment, sexual abuse, inappropriate sexual behavior, neglect, and medical neglect.

*Child advocates* has the same definition as provided under 45 CFR 410.1001.

*Contractor* means an entity that receives a contract as provided under 45 CFR 75.2.

*Days* means calendar days, unless otherwise stated.

*Disposition* means a finding by ORR at the conclusion of an investigation that an allegation of abuse or neglect is substantiated at Tier I, substantiated at Tier II, not substantiated, unfounded, or administratively closed.

*Emergency or influx facility (EIF)* has the same definition as provided under 45 CFR 410.1001.

*HHS* means the U.S. Department of Health and Human Services.

*Inappropriate sexual behavior* refers to inappropriate sexual, derogatory, or offensive conduct that does not rise to the level of sexual abuse or sexual harassment.

*Intake report* means an allegation of child abuse or neglect identified by ORR as describing child abuse or neglect of an unaccompanied child by an alleged perpetrator.

*Legal service provider (LSP)* has the same definition as provided under 45 CFR 410.1001.

*Medical neglect* means any failure to provide medical care or access to medical services that endangers the health of the child.

*Multidisciplinary team* is a group of individuals comprised of ORR staff that includes subject matter experts that provides input to ORR's Child Welfare Investigators by assessing reported allegations of child abuse and neglect at care provider facilities and making recommendations regarding the physical and behavioral healthcare needs of unaccompanied children potentially impacted by child abuse and neglect at these facilities.

*Neglect* refers to any failure to provide adequate food, water, clothing, shelter, or other necessities; punitive, careless, or unnecessary denial of access to other basic services such as education, legal aid, exercise, recreation, bathroom usage, and communication or correspondence with families, sponsors, or attorneys.

*Not substantiated allegation* means a disposition that there is not a preponderance of the evidence establishing that the alleged perpetrator committed child abuse or neglect, but there is at least some evidence that the unaccompanied child was harmed or placed at risk of harm, whether or not by the alleged perpetrator.

*ORR* means the Office of Refugee Resettlement, Administration for Children and Families, U.S. Department of Health and Human Services.

*ORR Central Registry* means a database maintained by ORR consisting of ORR findings of sustained perpetrators of child abuse and neglect at Tier I.

*ORR Child Welfare Investigator* means an ORR staff member who investigates reports of alleged abuse or neglect of children, renders the investigative disposition, and issues corrective action on behalf of ORR and performs other related work for ORR.

*Physical abuse* means physical harm to a child that includes, but is not limited to, bruises, cuts, sprains, welts, fractures, burns, lacerations, missing or broken teeth, muscle strains, or internal injuries; in addition to physical mistreatment such as whipping, punching, shoving, kicking, hitting, biting, shaking, dragging, throwing, stabbing, or choking a child, as well as the inappropriate use of restraints.

*Preponderance of the evidence* means proof, after assessing the totality of available information, that leads to the conclusion that the fact at issue is more probably true than not.

*Sexual abuse* has the same definition as provided under 45 CFR part 411.6.

*Sexual harassment* has the same definition as provided under 45 CFR part 411.6.

*Sub-grantee* means a person or entity that receives a subaward from a care provider facility to carry out activities and programs of ORR or the care provider facility pursuant to a grant or agreement with ORR or with a care provider facility (but does not include an individual that is a beneficiary of such program).

*Substantiated allegation—Tier I* means a disposition that there is a preponderance of the evidence establishing that the alleged perpetrator committed child abuse or neglect, and the investigation indicates one or more Automatic Tier I substantiating circumstances are found pursuant to § 412.100(e)(7), or substantiation is warranted based on consideration of aggravating and mitigating factors pursuant to § 412.100(e)(8).

*Substantiated allegation—Tier II* means a disposition that there is a preponderance of the evidence establishing that the alleged perpetrator committed child abuse or neglect, and that based on consideration of aggravating and mitigating factors pursuant to § 412.100(e)(8), the evidence does not warrant a finding of Substantiated Allegation—Tier I.

*Substantiated perpetrator* means a person against whom an allegation of child abuse or neglect has been substantiated by ORR at Tier I or Tier II, but who has not exhausted all applicable appeal and review processes for such allegations.

*Sustained allegation* means an allegation that was substantiated by ORR at Tier I or Tier II and:

- (1) That was upheld pursuant to appeal and review processes, as described at § 412.102; or
- (2) For which the appeal was dismissed, including when the substantiated perpetrator waives their right to appeal by not making a timely request to the DAB ALJ or by waiving those rights as specified in § 412.102(c).

*Sustained perpetrator* means a substantiated perpetrator at Tier I or Tier II:

- (1) Whose child abuse or neglect finding was upheld in the appeal and review process; or
- (2) Whose appeal and review process was dismissed, including due to waiving their right to appeal by not timely requesting an appeal to the DAB ALJ or by waiving those rights as specified in § 412.102(c).

*Unaccompanied child/children* has the same definition as provided under 45 CFR 410.1001.

*Unfounded allegation* means a disposition that there is not a preponderance of the evidence establishing that the alleged perpetrator committed child abuse or neglect, and the evidence indicates that the unaccompanied child was not harmed or placed at risk of harm.

*Verbal or emotional abuse* means any criticisms, comments, behaviors, or threats that cause harm to a child's psychological, intellectual, or emotional functioning or self-esteem, which may be exhibited by a child's anxiety, loneliness, fear, sadness, withdrawal, aggression, or loss of trust with staff.

*Volunteer* has the same definition as provided under 45 CFR 411.