

Investigative Finding Decision Making Process

If Yes

Investigator determines whether one or more of the absolutely substantiating circumstances specified in N.J.A.C. 10:129-7.4 exists.

Investigator determines whether or not a preponderance of evidence indicates that a child is abused or neglected as defined in N.J.S.A § 9:6-8.21.

If No

Investigator determines whether there is any evidence that a child was harmed or placed at risk of harm.

Absolutely Substantiating Circumstances (NJAC 10:129-7.4)

1. The death or near death of a child as a result of abuse or neglect;
2. Subjecting a child to sexual activity or exposure to inappropriate sexual activity or materials;
3. The infliction of injury or creation of a condition requiring a child to be hospitalized or to receive significant medical attention;
4. Repeated instances of physical abuse committed by the perpetrator against any child;
5. Failure to take reasonable action to protect a child from sexual abuse or repeated instances of physical abuse under circumstances where the parent or guardian knew or should have known that such abuse was occurring; or
6. Depriving a child of necessary care which either caused serious harm or created a substantial risk of serious harm.

If Yes

The Abuse or Neglect is Not Established

If No

The Abuse or Neglect is Unfounded

If Yes

If No

Consider both the Aggravating and Mitigating Factors in N.J.A.C. 10:129-7.5

Aggravating Factors

1. Institutional abuse or neglect;
2. The perpetrator's failure to comply with court orders or clearly established or agreed-upon conditions designed to ensure the child's safety, such as a child safety plan or case plan;
3. The tender age, delayed developmental status or other vulnerability of the child;
4. Any significant or lasting physical, psychological, or emotional impact on the child;
5. An attempt to inflict any significant or lasting physical, psychological, or emotional harm on the child;
6. Evidence suggesting a repetition or pattern of abuse or neglect, including multiple instances in which abuse or neglect was substantiated or established; and
7. The child's safety requires separation of the child from the perpetrator.

Mitigating Factors

1. Remedial actions taken by the alleged perpetrator before the investigation was concluded;
2. Extraordinary, situational, or temporary stressors that caused the parent or guardian to act in an uncharacteristic abusive or neglectful manner;
3. The isolated or aberrational nature of the abuse or neglect; and
4. The limited, minor, or negligible physical, psychological, or emotional impact of the abuse or neglect on the child.

If Mitigating Factors Prevail

The Abuse or Neglect is Established

The Abuse or Neglect is Substantiated

If Aggravating Factors Prevail