



NEW JERSEY DEPARTMENT  
OF CHILDREN AND FAMILIES

## New Jersey Department of Children and Families Policy Manual

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### Investigation Findings

**4-1-2013**

The children and families served by DCF have the right to timely, definitive finding determinations.

The determination of whether a child is abused or neglected is based on the assigned CP&P Worker's or the IAIU Investigator's investigation efforts, including:

- Direct observation of injuries or conditions;
- Statements obtained from the parent/caregiver and the alleged perpetrator, and the consistency of those statements with injuries or circumstances;
- Statements by the child victim;
- Medical corroboration of injuries and probable cause of injuries;
- Behavioral indicators of the parent and child;
- Diagnosis of a parent's substance addiction(s) or mental health status; and
- Statements from witnesses, other adults and children in the household, corroboration and credibility.

The Worker or Investigator addresses and resolves each individual allegation of child abuse or neglect documented at screening or determined during the investigation. Make a determination as to whether the information gathered supports a determination that what occurred constitutes child abuse or neglect under the law. The information documented in the investigation must support the finding.

### Findings

**4-1-2013**

The assigned Worker and his or her immediate Supervisor review and analyze the facts gathered during the CPS investigation in order to determine the findings of the investigation.

Based upon the assessment made regarding harm, perpetrator identification and responsibility, accidental injury or risk, and the family assessment, one of the following determinations is made for each CPS allegation:

- Substantiated;
- Established;
- Not Established; or
- Unfounded.

DCF adopted this Four-Tier Finding Determination Model April 1, 2013, with the adoption of New Jersey Administrative Code, N.J.A.C. 10:129, CHILD PROTECTION INVESTIGATIONS, at Subchapter 7, Findings and Documentation.

The first step in the process is determining whether child abuse or neglect occurred. If yes, the finding is either Substantiated or Established. If no, the finding is either Not Established or Unfounded.

### **History of Finding Determinations**

**4-1-2013**

Starting April 1, 2005, to the April 1, 2013 adoption of the Four-Tier Model, DCF adhered to a strict two-tier model, with investigation finding determinations limited to:

- Substantiated; and
- Unfounded.

Prior to April 1, 2005, DCF adhered to a three-tier model:

- Substantiated;
- Not Substantiated (also known as "Unsubstantiated"); and
- Unfounded.

On April 1, 2005 "Not Substantiated" was eliminated as a DCF finding determination for all CPS reports received on or after that date. From April 1, 2013, forward, DCF - CP&P Workers and IAIU Investigators - must make a definitive finding of whether a child is an abused or a neglected child (Substantiated or Established) or not (Not Established or Unfounded).

## **Child - Is the Victim a Child?**

**10-26-2015**

While it may seem obvious in most cases as to whether the victim is a child, some cases present unique circumstances. For the purpose of making a finding at the conclusion of a child protective service investigation, a child is a born person under 18 years of age. No determination that a child is an abused or neglected child may be made prior to the child's birth.

Findings of assault or mistreatment of those over 18 and under CP&P supervision are evaluated, with services provided, as needed, but it cannot be considered "child abuse."

If the person about whom the allegation has been made, is determined to be an adult (over age 18), but the incident of abuse or neglect happened when the person was a child (under age 18), the Worker informs the victim of his/her right to pursue the matter through criminal court. The Worker determines if there are younger siblings in the home who may be at risk, and proceeds to conduct investigations regarding those children.

The Department's Institutional Abuse Investigation Unit, IAIU, will investigate matters in which an adult (a person over age 18) claims he or she was abused prior to turning age 18. IAIU is authorized to investigate the allegation, especially if the alleged perpetrator is still working at a facility or a program where children may be at risk at present.

## **Identification of the Perpetrator**

**4-1-2013**

A perpetrator of child abuse or neglect must be the child's parent, guardian, caregiver, temporary caregiver, or institutional caregiver:

- The assigned Worker shall make every reasonable effort to identify the perpetrator for each Substantiated allegation of child abuse or neglect. For DCF purposes, he or she shall be called the Substantiated perpetrator.
- The assigned Worker shall make every reasonable effort to identify the perpetrator for each Established allegation of child abuse or neglect. For DCF purposes, he or she shall be called the Established perpetrator.

Only confirmed perpetrators of Substantiated incidents of child abuse or neglect shall be entered into the Department's Child Abuse Registry of Substantiated perpetrators of child abuse and/or neglect. See [CP&P-IX-G-1-100](#), Child Abuse Registry.

Confirmed perpetrators of Established incidents of child abuse or neglect shall not be entered into the Child Abuse Registry.

If a perpetrator cannot be identified, the investigation finding cannot be Substantiated or Established. Direct specific questions pertaining to multiple potential perpetrator case situations to the Deputy Attorney General.

Identification of a perpetrator may occur through identification by the child or a witness, by admission of responsibility for the maltreatment by the perpetrator him or herself, by the type of injury or harm, by consideration of who had access to the child, or by the circumstances of the incident.

Frequently investigation and assessment activities may focus only on the actual or alleged perpetrator, but the possibility of a passive perpetrator must not be overlooked. The passive perpetrator may be the child's other parent or another adult who resides in the home and has caregiving responsibilities for the child.

The Worker must consider the responsibility of the other parent to protect the child, what efforts toward protection were made, and whether or not there was observation or even awareness of the incident. The Worker must also determine the likelihood of similar failure to protect or intervene in the future. To conclude that someone is a passive perpetrator requires that he or she:

- Was a parent, caregiver, temporary caregiver, or institutional caregiver;
- Had knowledge, or should have known of the abuse/neglect or of the probability of abuse/neglect;
- Had the ability to stop or prevent it; and
- Did not make reasonable efforts to stop or prevent the incident.

Therefore, when an incident of abuse or neglect has occurred and a parent, caregiver, temporary caregiver, or institutional caregiver has observed, permitted, or otherwise allowed a child to be mistreated, and has knowingly failed to protect the child, that person may also be considered a perpetrator of child neglect. A passive perpetrator may be found to be a Substantiated perpetrator or an Established perpetrator, depending on the investigation findings, the circumstances of the case, and the mitigating and aggravating factors in play.

See [CP&P-II-C-6-200](#), Timeframes for Findings Determinations, and [CP&P-II-C-6-300](#), Notification of Investigation Findings.

## **Burden of Proof**

**4-1-2013**

There is a significant difference between the burden of proof required in criminal court proceedings and civil court proceedings related to child abuse and neglect. Criminal charges must be proven "beyond a reasonable doubt." In most civil proceedings that CP&P is party to, the standard is a less stringent "preponderance of the evidence," which is generally understood to mean a 51% confidence that alleged conduct occurred. For this reason, a criminal matter can be dismissed for lack of evidence or inadmissible evidence, lack of suitable testimony, or for other reasons. However, that same

individual, exonerated from all criminal charges, could be found responsible for the alleged act by CP&P or in a Superior Court civil proceeding.

For CP&P to make a child protective service finding of Substantiated or Established, ". . . the preponderance of the evidence indicates that a child is an 'abused or neglected child' as defined in N.J.S.A. 9:6-8.21 . . ." N.J.A.C. 10:129-7.3(c)1 and 2.

- Superior Court, Family Part (acting under civil law) can order social services to counter child abuse or neglect, such as counseling, homemaker services, psychological evaluations, out-of-home placement of children, or treatment for alcohol, drugs, or other problems.
- Criminal Court is empowered to punish convicted offenders by sentencing them to terms of incarceration, issuing fines, and/or placing them on probation/supervision.

## **CPS Investigation Finding Determinations - Four (4) Tier Findings**

### **Investigation Findings Overview**

#### **Introduction**

**4-1-2013**

The assigned CP&P Worker or IAIU Investigator and his or her immediate Supervisor review and analyze the facts gathered during the CPS investigation in order to determine the findings of the investigation. No matter the finding, the information must support the finding.

The determination of whether a child is abused or neglected is based on a preponderance of the evidence -- a more-likely-than-not level of confidence -- taking into account: direct observation of the child's injuries or condition; statements by the parent/caregiver and the alleged perpetrator, and the consistency of those statements with injuries or circumstances; medical corroboration of injury and probable cause of injury; behavioral indicators; diagnosis of substance addiction(s); witness statements, corroboration, and credibility; and statements by the child victim. (The CP&P CPS investigation is detailed in policy, [CP&P-II-C-5-800](#), Investigations of Abuse/Neglect Referrals and Reports. The Institutional Abuse Investigation Unit investigation is detailed in the IAIU Manual)

State statute defines "abused or neglected child" at N.J.S.A. 9:6-8.21, Definitions.

Each allegation of child abuse or neglect recorded by State Central Registry during the screening of the report, and each additional allegation found during the investigation must be addressed and resolved by making a determination as to whether the information supports the determination that what occurred constitutes child abuse or neglect under the statute. In addition, when abuse/neglect is found, the Worker/Investigator, assisted by the Supervisor, attempts to identify and confirm the

perpetrator. When child abuse/neglect is found, the Worker/Investigator and Supervisor determine whether the finding is Substantiated or Established. When child abuse/neglect is NOT found, the Worker/Investigator and Supervisor determine whether the finding is Not Established or Unfounded.

Only information related to Substantiated incidents is available upon a Child Abuse Record Information (CARI) check. See [CP&P-IX-G-1-100](#), Terms and Definitions, CARI. Only Substantiated incidents are subject to appeal. Information associated with all findings is available to DCF staff, to assist with case handling, case planning, and decision-making activities.

Cases under CPS investigation are fact-sensitive. The assigned Worker/Investigator and Supervisor weigh the factors present to make the best investigation finding determination based on the facts of the case. Staff need to make defensible, sound decisions, based on the unique facts of the given case. Staff exercise professionalism, objectivity, and good judgment in making each investigation finding determination.

Consult the Deputy Attorney General (DAG) if questioning whether DCF has sufficient proofs necessary to satisfy the requirements for a preponderance of the evidence to yield a clear indication of abuse or neglect. If DCF and the DAG disagree, see [CP&P-IX-L-1-400](#), CP&P/Division of Law Dispute Resolution.

When there are numerous allegations under investigation, send the finding notification determination letter that corresponds to the highest finding determined. If one allegation is Substantiated, the report is considered a Substantiated Report. Complete the letter to illustrate what specific allegation or allegations were Substantiated.

### **DCF Investigation Finding Determinations 4-1-2013**

Based upon the assessment made regarding harm, perpetrator identification and responsibility, accidental injury or risk, and the family assessment, one of the following determinations is made for each CPS allegation:

- Substantiated
- Established
- Not Established
- Unfounded

Each finding is defined in the Administrative Code, N.J.A.C. 10:129-7.3. This Manual policy directly quotes the Administrative Code, and provides details to explain what each of the four findings depicts.

### **Administrative Code Guides the Process 4-1-2013**

New Jersey Administrative Code, N.J.A.C. 10:129, CHILD PROTECTION INVESTIGATIONS, at Subchapter 7, Findings and Documentation, defines terms, and guides the CPS investigation finding determination process.

In accordance with the code, the first step in making a CPS investigation finding is determining whether the child(ren) was abused or neglected, as defined in State statute, N.J.S.A. 9:6-8.21. If child abuse or neglect can be proven by a preponderance of the evidence, then assess to determine whether the allegation is Substantiated or Established. A finding of Substantiated or Established shall each constitute a finding that a child IS an abused or neglected child.

The existence of any one or more of six (6) distinct circumstances shall require a finding of Substantiated. See Automatically Substantiating Circumstances - The "Absolutes." See N.J.A.C. 10:129-7.4, Required findings of substantiated. If no "absolute" applies, the determination of whether a finding of child abuse/neglect is Substantiated or Established shall be an administrative decision made solely by DCF (CP&P or IAIU), based on a weighing of aggravating and mitigating circumstances (see policy below and Administrative Code, N.J.A.C. 10:129-7.5).

DCF shall not make a finding of Substantiated or Established on an allegation of medical neglect or medical neglect of a disabled infant when the harm or risk of harm to the child is the sole result of treatment in good faith by spiritual means alone through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof. (N.J.A.C. 10:129-7.3(f)) DCF shall investigate the matter. A Safety Protection Plan may be warranted, to ensure the child is safe. Litigation may be available, pursuant to Title 30. Consult the Deputy Attorney General, DAG.

If a preponderance of the evidence cannot support a determination that the child is abused or neglected, the finding determination must be Not Established or Unfounded. A finding of Not Established or Unfounded shall constitute a finding that a child is NOT an abused or a neglected child. If the child was not abused or neglected, but he or she was harmed or at risk of harm, the finding is Not Established; if the child was not harmed or at risk of harm, the finding is Unfounded. The determination of whether a finding is Not Established or Unfounded shall be an administrative decision made solely by DCF (CP&P or IAIU).

### **Required Criteria for Finding Child Abuse/Neglect 4-1-2013**

To make a finding of child abuse or neglect in New Jersey, the review and analysis of the facts must include a determination whether:

- The alleged child victim is a born child, under 18 years of age.

- The alleged perpetrator(s) is the child's parent, guardian or other person in a caregiving role, who has custody or control of the child. For CP&P policy, see, Identification of the Perpetrator.
- The child victim(s) was harmed or placed at substantial risk of harm, meeting criteria specified in the Allegation-Based System. (See [CP&P-II-C-5-110](#), Harm or Risk of Harm; [CP&P-II-A-2-200](#); and [CP&P-II-C-5-100](#).)
- There is a specific incident or set of circumstances that suggest the harm or substantial risk of harm was caused by the child's parent, guardian, or other person having custody or control of the child.

## **Making the Finding**

**4-1-2013**

If, upon applying the concepts of this policy, the CP&P Worker and Supervisor question which finding determination applies to the investigation at hand, consult the Casework Supervisor and, if necessary, the Local Office Manager. The IAIU Investigator and Assistant Regional Supervisor consult the Regional Supervisor, if help is needed in making the decision in an institutional abuse matter.

The courts can determine whether child abuse or neglect occurred through a fact-finding process. However, the investigation finding determination is an administrative decision, as described in this policy, made solely by DCF.

If a child was harmed by what appears to be child abuse or neglect, but the perpetrator is unknown, the finding must be Not Established.

Consult the Deputy Attorney General to assist with making the investigation finding determination and whether to name a perpetrator or perpetrators, when:

- A child was harmed, but the specific person or persons responsible cannot be determined, where the harm or risk could not have occurred without a parent, guardian, caregiver, temporary caregiver, or institutional caregiver (i.e., an "eligible perpetrator") having been responsible; or
- In situations where the child was harmed, the responsible person cannot be identified, but there is a limited pool of potential persons (i.e., eligible perpetrators) responsible for the harm.

## **Definition of Abused or Neglected Child from State Statute, N.J.S.A. 9:6-8.21**

**4-1-2013**

The first step in making a CPS investigation finding is determining whether the child(ren) was abused or neglected. Administrative Code, N.J.A.C. 10:129, explains that the DCF investigation finding is based on an indication whether a child is an "abused or a neglected child," as defined in State statute, N.J.S.A. 9:6-8.21.

**N.J.S.A. 9:6-8.21c defines "abused and neglected child" as follows:**

"Abused or neglected child" means a child less than 18 years of age whose parent or guardian, as herein defined,

- (1) inflicts or allows to be inflicted upon such child physical injury by other than accidental means which causes or creates a substantial risk of death, or serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ;
- (2) creates or allows to be created a substantial or ongoing risk of physical injury to such child by other than accidental means which would be likely to cause death or serious or protracted disfigurement, or protracted loss or impairment of the function of any bodily organ;
- (3) commits or allows to be committed an act of sexual abuse against the child;
- (4) or a child whose physical, mental, or emotional condition has been impaired or is in imminent danger of becoming impaired as the result of the failure of his parent or guardian, as herein defined, to exercise a minimum degree of care (a) in supplying the child with adequate food, clothing, shelter, education, medical or surgical care though financially able to do so or though offered financial or other reasonable means to do so, or (b) in providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm, or substantial risk thereof, including the infliction of excessive corporal punishment; or by any other acts of a similarly serious nature requiring the aid of the court;
- (5) or a child who has been willfully abandoned by his parent or guardian, as herein defined;
- (6) or a child upon whom excessive physical restraint has been used under circumstances which do not indicate that the child's behavior is harmful to himself, others or property; or
- (7) or a child who is in an institution and
  - (a) has been placed there inappropriately for a continued period of time with the knowledge that the placement has resulted or may continue to result in harm to the child's mental or physical well-being or
  - (b) who has been willfully isolated from ordinary social contact under circumstances which indicate emotional or social deprivation.

A child shall not be considered abused or neglected pursuant to paragraph (7) of subsection c. of this section if the acts or omissions described therein occur in a day school as defined in this section.

No child who in good faith is under treatment by spiritual means alone through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall for this reason alone be considered to be abused or neglected.

**Finding of SUBSTANTIATED 4-1-2013**

**Definition 4-1-2013**

**N.J.A.C. 10:129-7.3(c)1 defines "Substantiated" as follows:**

An allegation shall be "Substantiated" if the preponderance of the evidence indicates that a child is an "abused or neglected child" as defined in N.J.S.A. 9:6-8.21 and either the investigation indicates the existence of any of the circumstances in N.J.A.C. 10:129-7.4 (i.e., the "absolutes") or substantiation is warranted based on consideration of the aggravating and mitigating factors listed in N.J.A.C. 10:129-7.5.

A finding of Substantiated is disclosed in Child Abuse Record Information (CARI) inquiries (i.e., CARI check).

**Discussion 4-1-2013**

Under a finding determination of "Substantiated," DCF has determined that the child IS an abused or a neglected child, as defined by State statute. The finding may be based on an "absolute" condition, which mandates a finding of Substantiated , or, in taking into account the aggravating or mitigating factors, the abuse/neglect is determined to warrant a finding of Substantiated child abuse or neglect.

**Automatically Substantiating Conditions - The "Absolutes" 4-1-2013**

Administrative Code, N.J.A.C. 10:129-7.4 specifies that an allegation shall be Substantiated if an investigation reveals that any one (1) or more of the following six (6) distinct conditions exists:

**1. The death or near death of a child as a result of abuse or neglect.**

A child died or nearly died due to abuse or neglect. See relevant policies:

- "Child death" as an allegation, [CP&P-II-E-1-100](#), Child Death.
- [CP&P-VII-A-1-100](#), Child Fatality and Near Fatality Reporting, including definitions for "Reportable Fatality" and "Near Fatality."

**2. Subjecting a child to sexual activity or exposure to inappropriate sexual activity or materials.**

An incident of child sexual abuse, proven upon investigation. See relevant policies:

- [CP&P-II-C-5-700](#), Sexual Abuse.
- [CP&P-II-E-1-160](#), Sexually Transmitted Diseases.
- [CP&P-II-E-1-170](#), Sexual Penetration.
- [CP&P-II-E-1-180](#), Sexual Exploitation.
- [CP&P-II-E-1-190](#), Sexual Molestation.
- [CP&P-II-E-1-200](#), Substantial Risk of Sexual Injury.

For child-on-child sexual abuse, see [CP&P-II-B-1-550](#), Reports and Referrals Regarding Child-on-Child Sexual Abuse and Child-on-Child Sexual Activity.

**3. The infliction of injury or creation of a condition requiring the child to be hospitalized or to receive significant medical attention.**

Child hospitalized or in need of significant medical attention due to abuse or neglect. See relevant policies:

- [CP&P-II-C-5-700](#), Physical Abuse. and Physical and Medical Indicators of Neglect.

See relevant allegations, listed in Volume II Subchapter E.

**4. Repeated instances of physical abuse committed by the perpetrator against any child.**

Repeated acts of child abuse by the same perpetrator. Prior incident(s) was Substantiated, Established, or Not Established. A history of abuse in a family/home.

This "absolute" could apply to a first incident reported, if evidence is found which indicates a pattern of abusive behavior, injuries to a child, harm.

**5. Failure to take reasonable action to protect a child under circumstances where the parent or guardian knew or should have known that sexual abuse or repeated instances of physical abuse were being inflicted.**

Lack of supervision, leaving a child(ren) in danger when the parent or caregiver knows, or should have known, that the child is or was being harmed. This "absolute" applies to matters of sexual abuse or chronic physical abuse, where the "other" parent is aware of the abuse, and "turns a blind eye" or otherwise fails to take any action to stop it, thus allowing the perpetrator's abusive behavior to continue.

In situations in which the "other" parent did not know, but becomes aware of, or witnesses, an act of sexual abuse or physical abuse, this factor would apply to that parent or caregiver if he or she failed to take reasonable actions immediately to protect the child.

In domestic violence matters, it may not be "reasonable" to expect the non-perpetrating parent or caregiver (i.e., an adult victim) to protect the child, if he or she is also at risk of bodily harm at the hands of the batterer/perpetrator. See relevant policies:

- [CP&P-VIII-B-1-100](#), Domestic Violence and [Domestic Violence Protocol](#)

**6. Depriving a child of necessary care (food, shelter, health care, supervision) which either caused serious harm or created a substantial risk of serious harm.**

These are cases of severe neglect, in which a child is seriously injured or at substantial risk of serious harm or death.

"Serious harm" is intended to be of a nature that would result in significant and lasting physical, emotional, or psychological harm necessitating substantial medical or mental health treatment.

"Substantial risk of serious harm" is intended to apply to circumstances where it is probable that the caregiver's acts or omissions could result in significant and lasting physical, emotional, or psychological harm necessitating substantial medical or mental health treatment.

This "absolute" includes cases of willful abandonment, deprivation of food, withholding of vital health care, forced isolation, and other acts or omissions of similar severity. See relevant policies:

- [CP&P-II-C-5-700](#), Physical and Medical Indicators of Neglect.
- [CP&P-II-C-5-700](#), Conditions that May Be Related to Emotional Abuse or Emotional Neglect.
- [CP&P-II-C-5-700](#), Abandonment.

## Aggravating Factors

4-1-2013

After determining that no "absolutes" apply Administrative Code, N.J.A.C. 10:129-7.5(a), indicates that the CP&P Worker or the IAIU Investigator, together with his or her direct Supervisor, shall consider the following aggravating factors in determining whether an incident of child abuse or neglect shall be Substantiated or Established. The Worker/Investigator and Supervisor weigh any existing aggravating factors and any existing mitigating factors.

### The aggravating factors include:

#### 1. Institutional abuse or neglect.

An allegation concerning the action or failure to act by the staff of a facility, a day school, a resource home, or an institution. Report investigated by the DCF Institutional Abuse Investigation Unit (IAIU).

- See a complete discussion of Institutional Abuse/Neglect in the IAIU Manual

#### 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.

A client's or perpetrator's failure to cooperate with DCF or court initiatives, placing a child at potential risk. Such "conditions" include, but are not limited to:

- Court orders. See [CP&P-I-A-1-150](#), Legal Provisions for Intervention
- The Case Plan. See policy [CP&P-III-C-6-100](#), Collecting Information and Negotiating Case Plans, and [CP&P-III-B-1-100](#), Case Planning.
- An agreement drawn at a Family Team Meeting. See [CP&P-III-B-5-500](#), Family Engagement, and CP&P Family Agreement.
- A Child Safety Protection Plan. See [CP&P-IV-A-2-100](#), Assessing Child Safety in Out-Of-Home Placement Settings, and [CP&P-IV-A-2-300](#), Safety Protection Plan. See [CP&P-III-B-6-600](#), CP&P Structured Decision-Making (SDM), and Child Safety Assessment (In-Home).

Also see policy [CP&P-III-C-2-150](#), Service Provision.

In IAIU matters, the perpetrator is not following the corrective action plan, or is in violation of the policies governing the institution for which he or she works. See IAIU policy.

(Compare this factor to Mitigating Factor # 1, action taken by the perpetrator/family to correct negative behavior.)

**3. The tender age, delayed developmental status or other vulnerability of the child.**

Take into account the child victim's age or status, particularly if very young, pre-school, under 5; developmental stage; disabilities, if any; and other vulnerabilities:

- Consider whether the child was abused or neglected in the past, which may render him or her particularly sensitive or vulnerable.
- Was the child traumatized by this incident, based on prior incidents and trauma.
- Is the child a foster child, with a history of prior abuse/neglect, disruptions and instability.

Pay particular attention to the child's ability to care for him or herself.

**4. Any significant or lasting physical, psychological, or emotional impact on the child.**

How much - to what degree - was the child victim negatively impacted by the abuse/neglect? What is the long term impact? Is there reason to believe the impact to the child's physical body, emotions, confidence, and self-image is significant or long lasting? See relevant policies:

- [CP&P-II-C-5-700](#), Conditions That May Be Related to Emotional Abuse or Emotional Neglect.
- [CP&P-II-C-5-700](#), Effect on Child.
- [CP&P-II-C-5-700](#), Conduct Which May Cause Emotional Harm.

**5. An attempt to inflict any significant or lasting physical, psychological, or emotional harm on the child.**

Did the parent or caregiver attempt to harm the child, even though the child was not actually physically injured? (Example: The parent swung at the child, but the punch went wide; the parent discharged a gun, firing at the child, but missed.)

Did the parent or caregiver terrorize the child, whether verbally or by an action (such as brandishing a weapon in front of the child, as a means of scaring the child into compliance)?

**6. Evidence suggesting a repetition or pattern of abuse or neglect, including multiple instances in which abuse or neglect was substantiated or established.**

This incident is not the first incident of child abuse/neglect regarding this family, child, or perpetrator. Repeated incidents. A pattern of negative behavior.

The incident may be one in a pattern of incidents of child abuse and/or neglect; the "pattern" may include a history of Substantiated incidents or Established incidents. Evidence from Not Established incidents may be used to demonstrate a pattern of abuse/neglect.

This may be the first incident investigated by Child Protection and Permanency or IAIU, in which evidence was found to indicate prior occurrences or ongoing incidents of child abuse/neglect by the parent or caregiver.

This factor is in contrast to Mitigating Factor # 3, an "isolated incident."

**7. The child's safety requires separation of the child from the perpetrator.**

The child or children were removed from the home or separated from the parent, family, or the perpetrator due to child abuse or neglect, or risk of serious harm, OR a child(ren) was removed from a resource family home or other out-of-home placement setting due to abuse or neglect, or risk of serious harm, found by CP&P or IAIU upon intervention.

This includes situations in which the perpetrator is being compelled to leave the home.

See policy [CP&P-II-C-2-700](#), Removal of a Child.

**Mitigating Factors**

**4-1-2013**

After determining that no "absolutes" apply, Administrative Code, N.J.A.C. 10:129-7.5(b), indicates that the CP&P Worker or the IAIU Investigator, together with his or her direct Supervisor, shall consider the following mitigating factors in determining whether an incident of child abuse or neglect shall be Substantiated or Established. The Worker/Investigator and Supervisor weigh any existing mitigating factors and any existing aggravating factors.

**The mitigating factors include:**

**1. Remedial actions taken by the alleged perpetrator before the investigation was concluded.**

Take into account whether the perpetrator is in treatment, attending a program, or is taking any other remedial action to address his or her abusive behavior or the family's difficulties and needs. An indication or a clear demonstration of changed behavior is required; verbal remorse alone is not sufficient.

This condition considers any services, treatment, and/or actions commenced before the DCF investigation finding determination is made.

**2. Extraordinary, situational, or temporary stressors that caused the parent or guardian to act in an uncharacteristic abusive or neglectful manner.**

The parent/child's caregiver abused or neglected the child in reaction to an unusual or extreme situation or stress. The parent/caregiver consistently acts in a more positive manner toward the child and family, and acted inappropriately in this instance due to the immediate circumstances.

This factor may apply to a domestic violence victim, who fails to remove him or herself and/or the children from the batterer due to the dynamics of domestic violence.

**3. The isolated or aberrational nature of the abuse or neglect.**

The child abuse/neglect is an isolated incident. There is no evidence of a pattern of neglectful or abusive behavior on the part of the child's parent or the caregiver. This factor is in contrast to Aggravating Factor # 6, a "pattern" of abusive behavior on the part of the parent/caregiver. A subsequent report may yield evidence of an historical pattern or behavior, however, which would eliminate this mitigating condition.

**4. The limited, minor, or negligible physical, psychological, or emotional impact of the abuse or neglect on the child.**

The child did not suffer any injury or harm, or suffered a minor degree of harm as a result of the abuse/neglect. (This factor is in contrast to Aggravating Factor # 4, whereby the child has suffered significant or lasting harm.)

**Finding of ESTABLISHED**

**4-1-2013**

**Definition**

**4-1-2013**

**N.J.A.C. 10:129-7.3(c)2 defines "Established" as follows:**

An allegation shall be "Established" if the preponderance of the evidence indicates that a child is an "abused or neglected child" as defined in N.J.S.A. 9:6-8.21, but where the act or acts committed or omitted do not warrant a finding of "Substantiated" as defined in (c)1 above.

A finding of Established is not disclosed upon a CARI check request, but a record of the incident is maintained in DCF files.

**Discussion** **4-1-2013**

Under a finding determination of "Established," DCF has determined that the child IS an abused or a neglected child, BUT, in taking into account the aggravating and the mitigating factors, the abuse/neglect does not warrant a finding of substantiated.

**Finding of NOT ESTABLISHED** **4-1-2013**

**Definition** **4-1-2013**

**N.J.A.C. 10:129-7.3(c)3 defines "NOT Established" as follows:**

An allegation shall be "Not Established" if there is not a preponderance of the evidence that a child is an abused or neglected child as defined in N.J.S.A. 9:6-8.21, but evidence indicates that the child was harmed or was placed at risk of harm.

A finding of Not Established is not disclosed upon a CARI check request, but a record of the incident is maintained in DCF files.

**Discussion** **4-1-2013**

Under a finding determination of "Not Established," CP&P or IAIU has determined that child abuse/neglect did NOT occur. However, a child was harmed or placed at risk of harm. This includes situations where:

- A parent or caregiver accidentally injures or causes harm to his or her child;
- An investigation of child-on-child sexual abuse is conducted, where child-on-child sexual activity is found;
- A child alleges he or she was sexually abused, but there is not a preponderance of evidence of child sexual abuse; or
- The perpetrator is not a parent or caregiver.

**Finding of UNFOUNDED** **4-1-2013**

**Definition** **4-1-2013**

**N.J.A.C. 10:129-7.3(c)4 defines "Unfounded" as follows:**

An allegation shall be "Unfounded" if there is not a preponderance of the evidence indicating that a child is an abused or neglected child as defined in N.J.S.A. 9:6-8.21, and the evidence indicates that a child was not harmed or placed at risk of harm.

A finding of Unfounded is not disclosed upon a CARI check request. A finding of Unfounded is eligible for expunction from agency records, under specified conditions. See [CP&P-III-E-2-100](#), Expunction of Records.

**Discussion**

**4-1-2013**

Under a finding determination of "Unfounded," CP&P or IAIU has determined that child abuse/neglect did NOT occur. A child was NOT harmed or placed at risk of harm, or no "incident" occurred.

**CPS Investigation Finding Determination Process 4-1-2013**

**Step-by-Step Finding Determination Decision Process 4-1-2013**

<b>Responsibility</b>	<b>Action Required</b>
CP&P Worker/IAIU Investigator	Investigate CPS allegation. See <a href="#">CP&amp;P-II-C-5-100</a> , Child Protection Investigation Workflow.
Worker/Investigator and Supervisor	Conference the case. Determine:  a) Whether child abuse/neglect occurred, as defined in statute, N.J.S.A. 9:6-8.21.  b) If YES (child abuse/neglect DID occur), determine whether to SUBSTANTIATE or to ESTABLISH:  1) Determine whether one or more ABSOLUTES apply.  2) If YES, SUBSTANTIATE. If NO, proceed to 3.  3) Review AGGRAVATING FACTORS and MITIGATING FACTORS. Discuss. Weigh all factors. Apply professional judgment. Be objective. Come to a joint determination: If AGGRAVATING FACTORS prevail, SUBSTANTIATE. If MITIGATING FACTORS prevail, ESTABLISH.  c) If NO (child abuse/neglect did NOT occur), determine

	<p>whether to NOT ESTABLISH or to UNFOUNDED:</p> <ol style="list-style-type: none"> <li>1) Determine whether a CHILD WAS HARMED or was PLACED AT RISK OF HARM.</li> <li>2) If YES, the finding is NOT ESTABLISHED.</li> <li>3) If NO, the finding is UNFOUNDED.</li> </ol> <p>Document the complete finding determination decision-making process in NJS, to justify the finding determination. The Worker/Investigator completes the case recording; the Supervisor approves the work:</p> <ol style="list-style-type: none"> <li>a) Document the finding determination in the Investigation Summary, DCF Form <a href="#">2-1</a>.</li> <li>b) Document the entire decision-making process, as detailed above - proceeding from step a) to step b), and on to step c), as applicable - to document each step taken during the process, thereby documenting the reasoning behind the finding determination that was made.</li> </ol>
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**Four-Tier Decision-Making Flow Chart**

**4-1-2013**

[Click here to view the Investigative Finding Decision Making Process flow chart.](#)