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## Purpose

To guide case determinations regarding valid allegations of child maltreatment in cases assigned for an investigation response.

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## Related Policies

Family Services [Policy 50](#): Child Abuse and Neglect Definitions  
Family Services [Policy 51](#): Screening Reports of Child Abuse and Neglect  
Family Services [Policy 52](#): Child Safety Interventions – Investigations and Assessments  
Family Services [Policy 57](#): Risk of Harm/Sexual Abuse Investigations  
Family Services [Policy 66](#): Interviewing Children and Youth in DCF Custody  
Family Services [Policy 68](#): Serious Physical Injury – Investigation and Case Planning  
[Practice Guidance on Applying a “Preponderance of the Evidence” Evidentiary Standard to Substantiation Decisions](#)

## Introduction

33 V.S.A. § 4911 integrates the following values and purposes into the work of the division:

- (1) protect children whose health and welfare may be adversely affected through abuse or neglect;
- (2) strengthen the family and make the home safe for children whenever possible by enhancing the parental capacity for good child care;
- (3) provide a temporary or permanent nurturing and safe environment for children

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when necessary; and for these purposes require the reporting of suspected child abuse and neglect, an assessment or investigation of such reports and provision of services, when needed, to such child and family;

- (4) establish a range of responses to child abuse and neglect that take into account different degrees of child abuse or neglect and that recognize that child offenders should be treated differently from adults; and
- (5) establish a tiered child protection registry that balances the need to protect children and the potential employment consequences of a registry record for a person’s conduct that is substantiated for child abuse and neglect; and
- (6) ensure that in our efforts to protect children from abuse and neglect, we also ensures that investigations are thorough, unbiased, based on accurate and reliable information weighed against other supporting or conflicting information, and adhere to due process requirements.

Further, 33 V.S.A. § 4903 tasks the division with investigating complaints of neglect, abuse, or abandonment of children, including when, whether, and how names are placed on the Child Protection Registry.


## Policy

At the conclusion of an investigation of alleged child maltreatment, the division will determine if the allegation is substantiated or unsubstantiated. Determinations should be made based on an analysis of the evidence. See [Practice Guidance on Applying a “Preponderance of the Evidence” Evidentiary Standard to Substantiation Decisions](#) for information about evidence gathering during investigations, weighing evidence, and considerations related to the credibility of evidence.

The decision to substantiate a report of child maltreatment shall be based on accurate, reliable, and pertinent evidence gathered during the investigation. Both direct and circumstantial evidence should be considered and weighed in the decision. Prior history of child maltreatment or criminal history that poses a significant risk to children may be considered. Hearsay information from a reliable source may be considered. A statement or disclosure from the child or youth indicating they were abused or neglected is not required. All information shall be weighed with other supporting, conflicting, or neutral data. For a preponderance of the evidence, the evidence must show that the underlying claim is more likely than not to be true (i.e., 51% or more).

In order to substantiate an allegation of child abuse or neglect, the division must determine there is a preponderance of the evidence necessary to conclude that:

1. The child is an abused or neglected child as defined in 33 V.S.A. § 4912 and
2. Unless the substantiated maltreatment is sexual abuse, a person responsible the child’s welfare is the perpetrator.

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The division will assume that any adult residing in the child’s home serves in a parental role unless there is evidence to the contrary.

In addition to determining whether the allegation of child maltreatment is consistent with the statutory definition of harm, the judgment of the worker regarding the following issues, as applicable, factor into the decision to substantiate:

- If the allegation is not sexual abuse, is the person alleged to have abused or neglected the child **a person responsible for the child’s welfare**?
  - Includes the child's parent; guardian; foster parent; any other adult residing in the child's home who serves in a parental role; an employee of a public or private residential home, institution or agency; or other person responsible for the child's welfare while in a residential, educational, or child care setting, including any staff person (33 V.S.A. § 4912 (10))
- Did harm (physical injury or emotional maltreatment, neglect, abandonment, or sexual abuse) occur?
- Was there intent to cause harm? *Intent is not required for substantiation. Assessing the individual’s intent may help to evaluate whether the injury occurred non-accidentally.*
- Did the harm occur by other than accidental means?
- Does the evidence show that the underlying claim is more likely than not to be true (i.e., 51% or more or a preponderance of the evidence)?

If the division cannot determine the specific perpetrator but determines a preponderance of the evidence supports the child was abused or neglected by a parent or other person responsible for the child’s welfare, the record should reflect substantiation, with “perpetrator unknown”.

When documenting information regarding domestic violence or intimate partner violence (IPV), the worker should avoid language that blames the adult victim for the batterer’s abusive behavior.

Ideally, the substantiation determination is made **jointly** by the investigating worker and supervisor. When the family services worker and the supervisor disagree, the supervisor may make the decision or request consultation with the child safety team ([Child Safety Consult Request](#)). The rationale for the case determination will be outlined in the case determination tool. Upon review, the district director or other person in the supervisor’s chain of command may change the supervisor’s case determination.

In all cases where policy requirements for substantiation have been met and the worker or supervisor recommends that the allegation be unsubstantiated, consultation shall occur with the child safety team ([Child Safety Consult Request](#)). Complex cases or

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situations involving disagreement amongst the team may be brought to the division’s director of operations or Deputy Commissioner for final decision.

### Departmental Interpretation of Statutes

In addition to Vermont statute, departmental policy and regulations provide the following guidance about substantiation of child abuse or neglect.

- (1) In the following types of maltreatment, **a person responsible for the child’s welfare** must be the perpetrator of child maltreatment, including risk of harm. Child maltreatment is substantiated when there is a preponderance of the evidence necessary to determine the following criteria are met:

<b>Type of Maltreatment</b>	<b>Substantiation Criteria</b>
Abandonment	Failed or ceased to provide for the needs of the child and did not made arrangements for the child’s care. The situation must exist beyond a reasonable time based on the child's age and developmental level.
Emotional Maltreatment	<p>Emotionally maltreated the child, which is evident when:</p> <p>(1) A <u>pattern of behavior</u> is present. The pattern does not have to be of the same behavior for the purpose of substantiating the report. Examples of patterns of behaviors associated with emotional maltreatment include, <b>but are not limited to</b>:</p> <ul style="list-style-type: none"> <li>• Ignoring the child, either physically or psychologically, by choosing to not respond to the child (e.g., refusing to look at the child or call the child by their name);</li> <li>• Rejecting the child by actively refusing to respond to their needs (e.g., refusing to touch a child, denying the needs of a child, ridiculing a child);</li> <li>• Confining or isolating the child for long periods of time or limiting the child’s freedom of movement;</li> <li>• Verbally assaulting behavior which involves the constant belittling, berating, shaming, ridiculing, or threatening the child; or</li> <li>• Terrorizing the child through threats and bullying which creates a climate of fear for the child in the home.</li> </ul> <p><b>AND</b></p> <p>(2) The behavior is <u>malicious</u> – cruel behavior intended to induce suffering, including terrorizing or torturing which does not result in physical harm.</p> <p><b>AND</b></p>

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Type of Maltreatment	Substantiation Criteria
	<p>(3) The behavior resulted in <u>impaired psychological growth and development</u>. In making this last decision, the family services worker may seek the advice of a medical, mental health, or other professional if necessary.</p>
Neglect	<p>Neglect may be based on a single issue or chronic concerns. A pattern exists of failing to provide or maintain one or more of the following:</p> <ul style="list-style-type: none"> <li>• Adequate nutritious food needed to maintain age-appropriate physical and social activities and prevent nutritional deficiencies, illness, or impairment of physical and mental functioning (a medical or nutritional practitioner must support this finding);</li> <li>• Clothing and footwear appropriate to the environmental conditions;</li> <li>• Adequate shelter and protection from weather and hazards in the dwelling or on the property; or</li> <li>• Adequate medical, dental, or mental health care for a health problem which, in the opinion of a medical or mental health professional, has or may result in risk of physical or mental limitation or incapacity if untreated.</li> </ul> <p>The steps taken by the individual to reduce or eliminate the neglect shall be taken into consideration in making the decision to substantiate. If the neglect is solely the result of the parent or caretaker's lack of financial means, neglect shall not be substantiated (33 V.S.A. § 4915b(f)).</p> <p>Also, if a parent or caretaker is legitimately practicing their religious beliefs by not providing specific medical treatment, neglect shall not be substantiated for that reason alone. In this case, court action may be initiated under 33 V. S. A. <a href="#">Chapter 53</a>, if necessary, to assure the child's well-being.</p>
Physical Abuse	<p>A child has been physically injured, by other than accidental means, causing:</p> <ul style="list-style-type: none"> <li>• Death; or,</li> <li>• Permanent or temporary disfigurement or impairment of any bodily organ or function. Visible bruises are not required in order to substantiate. Physical injury is abuse when: <ul style="list-style-type: none"> <li>○ the injury occurred by other than accidental means; or</li> <li>○ there was intent to cause harm; or</li> <li>○ a reasonable person could have predicted the harm.</li> </ul> </li> </ul>
Risk of Physical Harm	<p>A significant danger that a child will suffer serious harm by other than by accidental means, which harm would be likely to cause physical injury. Risk of physical harm includes, <b>but is not limited to</b>:</p> <ul style="list-style-type: none"> <li>• Engaged in a single, egregious act that has caused the child to be at</li> </ul>

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Type of Maltreatment	Substantiation Criteria
	<p>significant risk of serious physical injury;</p> <ul style="list-style-type: none"> <li>• Allowed the child to be present during the production or pre-production of methamphetamines;</li> <li>• Failed to provide supervision or care appropriate for the child’s age or development and, as a result, the child is at significant risk of serious physical injury;</li> <li>• Failed to provide supervision or care appropriate for the child’s age or development due to use of illegal substances, or misuse of prescription drugs or alcohol;</li> <li>• Failed to supervise a child appropriately in a situation in which drugs, alcohol, or drug paraphernalia are accessible to the child; or</li> <li>• Allowed a registered, convicted, or substantiated sex offender to reside with or spend unsupervised time with a child.</li> </ul> <p>Considerations related to substantiating risk of physical harm include, but are not limited to, the alleged perpetrator's history of child maltreatment or criminal history that poses a significant risk to children, the nature of the abuse or offense, and the history of treatment indicating they are still a risk to the alleged victim.</p> <p>Unless the risk of harm is due to a single, egregious act, the steps taken by the individual to reduce or eliminate the risk shall be taken into consideration and evaluated against the overall pattern of behavior(s) in making the decision to substantiate.</p>

(2) **Any person** may be substantiated for sexually abusing a child. Child maltreatment is substantiated when there is a preponderance of the evidence necessary to determine the criteria in the table below are met. In addition, the division will consider the following for all forms of sexual abuse:

- a. Was there a significant difference in age, size, or developmental level between the actor and victim?
- b. Was force, threat, or coercion used? Or was the victim unable or lacked the opportunity to consent?
- c. Was the alleged perpetrator a person responsible for the child’s welfare, or the child’s parent, step-parent, grandparent, or foster parent?
- d. Was the actor at least 18 years of age, residing in the victim's household, and serving in a parental role with respect to the victim?

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<b>Type of Maltreatment</b>	<b>Criteria for Substantiation</b>
<p>Child Pornography  (Child Sexual Abuse Material or CSAM)</p>	<p>A person possesses any visual representation of a child or portion of a child's body which depicts nudity, sexual conduct or sado-masochistic abuse and which is harmful to children or violates community standards of morality and decency. The definition of child pornography includes:</p> <ul style="list-style-type: none"> <li>• aiding, abetting, counseling, hiring, or procuring of a child to perform or participate in any photograph, motion picture, exhibition, show representation, or other presentation which, in whole or in part, depicts sexual conduct, sexual excitement, or sadomasochistic abuse involving a child; OR</li> <li>• viewing, possessing, or transmitting child pornography, with the exclusion of the exchange of images between mutually consenting minors, including the minor whose image is exchanged.</li> </ul>
<p>Exploitation</p>	<p>A person has taken unjust advantage of a child for their own gain or gratification.</p>
<p>Incest</p>	<p>A sexual act or lewd and lascivious conduct between a child and their parent, step-parent, grandparent, sibling or half-sibling, aunt, uncle, niece or nephew.</p> <p>For allegations where the only involved parties are children, sexual abuse is not substantiated as incest – unless there is a significant difference in age, size, or developmental level OR the use of force, threat, or coercion.</p>
<p>Lewd and Lascivious Conduct</p>	<p>A person has committed a lewd or lascivious act upon or with any part of the body of a child or in the presence of the child when such conduct violates community standards of morality and decency.</p> <p>Lewd and lascivious conduct is substantiated only if the conduct would not be considered developmentally normal during childhood or adolescence AND:</p> <ul style="list-style-type: none"> <li>• There is significant difference in age, size or development; OR</li> <li>• There is force, threat, or coercion; OR</li> <li>• There is a lack of opportunity or ability to consent.</li> </ul> <p>For youth victims 16 years of age and older, age difference does not apply. Substantiation decisions are based on elements of force, threat, coercion or lack of opportunity or ability to consent.</p>
<p>Luring</p>	<p>A person has solicited, lured, enticed or attempted to solicit, lure, or entice a person to engage in a sexual act or lewd and lascivious conduct when the person lured was:</p> <ul style="list-style-type: none"> <li>• A child under the age of 16; or</li> <li>• Another person believed by the person to be a child under the age of 16.</li> </ul>

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<b>Type of Maltreatment</b>	<b>Criteria for Substantiation</b>
	Luring can be done in-person, or through written or telephonic correspondence or electronic communication. Luring is not substantiated absent a significant difference in age, size or development and the behavior would be considered developmentally normal during childhood or adolescence.
Sex Trafficking of Minors	<p>A person has:</p> <ul style="list-style-type: none"> <li>• Exploited a minor;</li> <li>• Recruited, enticed, harbored, transported, provided, or obtained a minor by any means for the purpose of sexual exploitation;</li> <li>• Exploited a minor through survival sex (exchanging sex/sexual acts for money or something of value, such as shelter, food, or drugs);</li> <li>• Used a minor in child pornography;</li> <li>• Exploited a minor through sex tourism, mail order bride trade, or early marriage; or</li> <li>• Exploited a minor by having them perform in sexual venues (e.g., peep shows or strip clubs).</li> </ul>
Obscenity	<p>A person has sold, lent, distributed, given away, or showed to a child or cause a child to be shown, any visual representation of a person or portion of the human body which depicts nudity, sexual conduct, or sado-masochistic abuse and which is harmful to children.</p> <p>“Visual representation” includes, but is not limited to, photos and videos. Consideration should be given to whether the individual intended for the child to view the nudity or sexual conduct. In-person exposure is not considered visual representation for the purpose of the obscenity definition (see lewd and lascivious conduct).</p> <p>Obscenity does not include conduct that would be considered developmentally normal during childhood or adolescence or to the exchange of images between mutually consenting minors, including the minor whose image is being exchanged.</p>
Risk of Sexual Abuse	<p>A significant danger that a child will suffer serious harm by other than by accidental means, which harm would be likely to cause sexual abuse. Considerations related to substantiating risk of sexual abuse include, but are not limited to, the following:</p> <p>The alleged perpetrator's sexually harmful behaviors towards children (including, but not limited to, registered, convicted, or substantiated offenses), the nature of the abuse or offense, and the history of treatment indicating they are still a risk to the alleged victim.</p> <p>In risk of sexual abuse cases, the perpetrator is considered to be the person whose behavior or history poses a risk to the child. The person</p>




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<b>Type of Maltreatment</b>	<b>Criteria for Substantiation</b>
	<p>responsible for the child’s welfare may also be substantiated as a perpetrator of risk of sexual abuse if through their acts or omissions they knowingly place the child at substantial risk of sexual abuse.</p> <p>If an adult alleges they were sexually abused as a child and the alleged perpetrator has <b>current</b> access to children, the decision to substantiate will be based on current risk of sexual abuse to a child and informed by the interview of the now-adult victim.</p> <p>In a residential, educational, or child care setting, the person responsible for the child’s welfare may include the hiring authority who knowingly maintains the employment of a person who poses an ongoing risk of harm to children or who does not create a plan approved by the department that adequately addresses and ensures child safety.</p>
Sexual Assault	<p>A person has engaged in a sexual act with:</p> <ul style="list-style-type: none"> <li>• A child under the age of 16, except where (a) the persons are married to each other and the sexual act is consensual; (b) the actor is less than 19 years old, the victim is at least 15 years old, the sexual act is consensual and the actor does not serve in a parental role; or (c) both persons are under 18 years of age and the sexual act is mutually agreeable and there is no information to suggest use of force, threat or coercion, lack of opportunity or ability to consent, or significant age, size or developmental differences between the involved persons. Conduct that would be considered developmentally normal during childhood or adolescence is not sexual assault.</li> <li>• A child over the age of 16, if the sexual act is forced, threatened or coerced, or was unable or lacked the opportunity to consent.</li> </ul> <p>Sexual assault includes a sexual act with a child who is under the age of 18 and is entrusted to the actor's care by authority of law or resides in the victim’s household and serves in a parental role with respect to the victim.</p>
Voyeurism	<p>A person has viewed, photographed, filmed, or recorded in any format the intimate areas of a child naked or undergarment-clad, including genitals, pubic area, buttocks, or female breast of a child that is unrelated to a legitimate professional or caretaker purpose and the conduct violates community standards of morality and decency.</p>

### Considerations for Case Determination in Serious Physical Abuse Cases

In accordance with Family Services [Policy 68](#), consultation and review of case determinations will occur with the assigned policy and operations manager prior to the

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finalization of serious physical abuse case determinations. In instances where a child has experienced serious injury or death and the perpetrator of the abuse is unknown, the case determination will include consideration of the parent(s) role in any harm as well as other categories of maltreatment including any neglect or risk caused by the parent. For information on consultation requirements for serious physical abuse cases post-case determination, see Family Services [Policy 68](#).

### **Case Determination When the Perpetrator Has Not Been Interviewed**

When efforts to interview the alleged perpetrator have been unsuccessful because the individual cannot be located or refused to be interviewed, abuse or neglect may still be substantiated.

In the case of a perpetrator who could not be located, the worker will first wait two weeks after sending the alleged perpetrator a registered letter at their last known address:

- Informing the individual that they are the subject of a child abuse/neglect investigation; and
- Requesting that the person contact the investigator immediately.

### **Overview of Child Protection Registry Levels & Determining Level Assignment**

#### **Child Protection Level Assignment 7/1/2009 – 2/28/2019**

All individuals placed on the *Child Protection Registry* after July 1, 2009 have a designated child protection level related to the risk of future harm to children. The words “level” and “tier” should be read with the same meaning. The terms are sometimes used interchangeably and reflect language used in statute and historical verbiage in the division’s data system(s).

From 7/1/2009 – 2/28/2019, the assignment of levels was based on the age of the perpetrator and an evaluation of the risk the person responsible for the abuse or neglect poses to the safety of children and includes, but is not limited to, consideration of the following factors:

- (1) The nature of the conduct and the extent of the child’s injury, if any;
- (2) The person’s prior history of child abuse or neglect as either a victim or perpetrator;
- (3) Any adjudication in criminal court or family court findings;
- (4) The person’s response to the investigation, acceptance of responsibility for the conduct, ability and willingness to engage in recommended services; and
- (5) Any prior termination of parental rights.

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Individuals whose names were placed on the *Child Protection Registry* between 7/1/2009 and 2/28/2019 were assigned Child Protection Level 1 or 2.

### Child Protection Level Assignment on or after 3/1/2019

For individuals whose names are placed on the *Child Protection Registry* on or after 3/1/2019, regardless of the date of the report or incident, the *Child Protection Registry* reflects one of four levels based on an identification of risk of future harm to children.

A person’s level designation is documented and will remain on the *Child Protection Registry* permanently, unless expunged or overturned. No individuals have the right to automatic expungement.

Level assignments are not appealable decisions. The following tables guide level decisions.

LEVEL 1	
Age of Substantiated Perpetrator When Maltreatment Occurred	Type of Maltreatment
18 or older	<ul style="list-style-type: none"> <li>• Serious physical injury, including with death resulting</li> </ul>
26 or older	<ul style="list-style-type: none"> <li>• Sexual abuse</li> <li>• Risk of sexual abuse by a person with a history of perpetrating sexual abuse, including but not limited to, a history with:               <ul style="list-style-type: none"> <li>○ Registration as a sex offender</li> <li>○ Sexual offense conviction</li> <li>○ Substantiation for sexually abusing a child or vulnerable adult, or</li> <li>○ Any other sexual offending history.</li> </ul> </li> </ul>

LEVEL 2	
Age of Substantiated Perpetrator When Maltreatment Occurred	Type of Maltreatment
Under age 18	<ul style="list-style-type: none"> <li>• Serious physical injury, including with death resulting</li> </ul>
18 – 25	<ul style="list-style-type: none"> <li>• Sexual abuse</li> <li>• Risk of sexual abuse by a person with a history of perpetrating sexual abuse, including but not limited to, a history with:               <ul style="list-style-type: none"> <li>○ Registration as a sex offender</li> <li>○ Sexual offense conviction</li> <li>○ Substantiation for sexually abusing a child or vulnerable adult, or</li> </ul> </li> </ul>

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	<ul style="list-style-type: none"> <li>• Any other sexual offending history.</li> </ul>
18 or older	<ul style="list-style-type: none"> <li>• Physical abuse or risk of harm resulting from malicious punishment</li> <li>• Neglect of a child under the age of 3</li> </ul>

<b>LEVEL 3</b>	
<b>Age of Substantiated Perpetrator When Maltreatment Occurred</b>	<b>Type of Maltreatment</b>
Under age 18 with high or very high risk level at the time of substantiation  <p style="text-align: center;"><b>OR</b></p> Under age 18 if no risk level is available or applicable and there is information to suggest one of the following: <ul style="list-style-type: none"> <li>• This is a pattern of behavior by the alleged actor; or</li> <li>• There is significant violence or predatory behavior by the alleged actor.</li> </ul>	<ul style="list-style-type: none"> <li>• Sexual abuse</li> <li>• Risk of sexual abuse by a person with a history of perpetrating sexual abuse, including but not limited to, a history with:               <ul style="list-style-type: none"> <li>○ Registration as a sex offender</li> <li>○ Sexual offense conviction</li> <li>○ Substantiation for sexually abusing a child or vulnerable adult, or</li> </ul> </li> <li>• Any other sexual offending history.</li> </ul>
18 or older with high or very high risk level at the time of substantiation  <p style="text-align: center;"><b>OR</b></p> 18 or older if no risk level is available or applicable (including out-of-home perpetrators, foster parents, education staff, professional caretakers, etc.) who <u>have not</u> : <ul style="list-style-type: none"> <li>• Accepted responsibility for the conduct;</li> <li>• Begun nor will begin recommended services or treatment, if applicable; nor</li> <li>• Shown the ability to engage in the division's intervention and process, which suggests they may be able to effectively control risky behavior.</li> </ul>	<ul style="list-style-type: none"> <li>• Any other physical abuse that is not serious physical injury or malicious punishment</li> <li>• Emotional maltreatment</li> <li>• Risk of harm</li> <li>• Risk of sexual abuse by person without history of perpetrating sexual abuse (person responsible for child's welfare)</li> </ul>
<b>LEVEL 4</b>	
<b>Age of Substantiated Perpetrator When Maltreatment Occurred</b>	<b>Type of Maltreatment</b>
Under age 18 with low or moderate risk level at the time of substantiation  <p style="text-align: center;"><b>OR</b></p>	<ul style="list-style-type: none"> <li>• Any abuse or neglect that is not serious physical injury</li> </ul>

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<p>18 or older if no risk level is available or applicable (including out-of-home perpetrators, foster parents, education staff, professional caretakers, etc.) who <u>demonstrate all of the following</u>:</p> <ul style="list-style-type: none"> <li>• Accepts responsibility for the conduct;</li> <li>• Has begun or will begin recommended services or treatment, if applicable; and</li> <li>• Has shown the ability to engage in the division's intervention and process, which suggests they may be able to effectively control risky behavior.</li> </ul>	
<p>18 or older with low or moderate risk level at the time of substantiation</p> <p style="text-align: center;"><b>OR</b></p> <p>Under age 18 if no risk level is available or applicable and there is no information to suggest:</p> <ul style="list-style-type: none"> <li>• This is a pattern of behavior by the alleged actor; or</li> <li>• Significant violence or predatory behavior by the alleged actor.</li> </ul>	<ul style="list-style-type: none"> <li>• Any other physical abuse that is not serious physical injury or malicious punishment</li> <li>• Emotional maltreatment</li> <li>• Risk of harm</li> <li>• Risk of sexual abuse by person without history of perpetrating sexual abuse (person responsible for child's welfare)</li> </ul>

### Requests for Administrative Review

For information about the administrative review process, see [Rule 3000 - Administrative Review Process](#).

### Eligibility to Petition for Expungement from the Child Protection Registry

The following individuals may request a review for the purposes of expungement of an individual entry in the *Child Protection Registry*:

Date of Substantiation	Level	Years Since Substantiation
Before 7/1/2009	N/A	3 years
Between 7/1/2009 and 2/28/2019	Level 1	7 years
	Level 2	3 years

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After 3/1/2019	Level 1	15 years
	Level 2	7 years
	Level 3	3 years
	Level 4	1 years

In addition to the eligibility timeframes, a person who is required to register as a sex offender on the State’s Sex Offender Registry is not eligible to petition for expungement of their sexual abuse *Child Protection Registry* record until the person is no longer subject to sex offender registry requirements.

13 V.S.A. 5407 requires individuals convicted of a sex offender registry offense in another state to register in Vermont within 10 days after establishing residence in this state or crossing into this state for the purposes of employment, carrying on a vocation, or being a student.

**Entries in the SSMIS Child Abuse Report**

The case determination and all required information will be entered into the SSMIS Child Abuse Report ([FS-590](#)) after a case determination has been made and the alleged perpetrator has been sent the determination letter.

When entering information into the SSMIS Child Abuse Report ([FS-590](#)), division staff shall utilize the Chapter 49 categories of maltreatment definitions. If selecting one of the older categories on the [FS-590](#), it must be used in conjunction with an abuse definition currently in Vermont statute.

The SSMIS entry is as follows:

Code	Definition
S	Substantiated
U	Unsubstantiated
J	Judicial findings of CHINS (A) or CHINS (B) of abuse or neglect which would not be considered abuse or neglect as defined in Chapter 49.

The Commissioner’s Registry Review Unit (CRRU) will enter the following codes, as follows:

Code	Definition
A	Case is currently under appeal with the CRRU
S	Substantiation when the determination is upheld after review
O	Overturn after review by CRRU or Human Services Board. An overturn

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	entry may also take place when, prior to a formal review, it has been determined by the Director of Operations or Deputy Commissioner that the investigation does not meet current substantiation standards.
R	Re-opened investigation
E	Expunged following review by the Commissioner or designee
W	Substantiation withdrawn by the Department

CRRU will notify the district office of its decisions regarding substantiation and expungement reviews.

At times, the Commissioner can approve the immediate placement of a substantiation determination into the Child Abuse Report, causing immediate placement of the person’s name on the *Child Protection Registry*. Examples of situations that will be considered are:


- Serious physical abuse (broken bones, central nervous system trauma, serious burns, poisoning, etc.)
- Serious sexual abuse (examples might include penetration with a significant age, size, developmental difference)
- A pattern of sexual abuse and when the perpetrator has access to other children/vulnerable adults or seeks the same
- Indications of significant psychological impairment, substance abuse, developmental challenges or other obstacles which impair the perpetrator’s ability to control behavior and when the perpetrator has access to children/vulnerable adults or is known to be seeking access

District directors or the RLSI director should bring these requests to director of operations for immediate action.

The following information, although entered into the child abuse report, is excluded from the *Child Protection Registry*:

**Automatic Expungement of Registry Records** – *Child Protection Registry* entries concerning a person who was substantiated for behavior occurring before the person reached 10 years of age shall be expunged when the person reaches the age of 18, provided that the person has not acquired any subsequent registry record.

**Court Findings of Child Abuse or Neglect** – The juvenile court, at times, makes a CHINS(A) or CHINS(B) finding of abuse or neglect when that abuse or neglect **would not be considered abuse or neglect under Chapter 49**. In these instances, information should be entered into the child abuse form. However, the code “J” (judicial finding) will be used instead of “S” for

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substantiation. Persons so coded will appear in the master index with a “J” next to their name. They will not be sent a substantiation letter, nor do they have appeal rights.

## Notification of Case Determination

### Reporter

Upon the request of a mandated reporter, the family services worker shall inform them of the case determination. All such notifications will be documented in the case record.

### Perpetrator or Alleged Perpetrator

As required by 33 V.S.A. § 4916a, if an investigation results in a determination that a report of child abuse or neglect should be substantiated, DCF is required to notify the person alleged to have abused or neglected a child of the following:

- (1) the nature of the substantiation decision, and that DCF intends to enter the record of the substantiation into the *Child Protection Registry*;
- (2) who has access to *Child Protection Registry* information and under what circumstances;
- (3) the implications of having one’s name placed on the *Child Protection Registry* as it applies to employment, licensure, and registration;
- (4) the *Child Protection Registry* child protection level designation to be assigned to the person and the date that the person is eligible to seek expungement based on the designation level;
- (5) the right to request a review of the substantiation determination by an administrative reviewer; the time in which the request for review shall be made; and the consequences of not seeking a review;
- (6) the right to receive a copy of the Commissioner’s written findings if applicable; and
- (7) ways to contact DCF for any further information.

The division’s letter templates (listed below) along with the enclosure of [Vermont’s Child Protection Registry Brochure & Form](#) comply with the notification topics required by statute.

The person alleged to have abused or neglected the child will be informed of the division’s determination verbally whenever possible, and subsequently documented in the case file, and by the letters below. Notice by DCF to a person alleged to have abused or neglected a child shall be by first-class mail sent to the person’s last known mailing address, or if requested by the person, to the person’s email address collected during the investigation. DCF shall maintain a record of the notification, including who sent the notification, the date it is sent, and the address to which it is sent. For additional information about guidelines for the division’s substantiation notification process,



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checklists, and administrative tracking expectations, see the [Child Safety Interventions SharePoint Page](#).


<b>Form</b>	<b>Determination</b>	<b>In-home</b>	<b>Risk Level</b>	<b>To Whom</b>	<b>Services Recommended</b>
<a href="#">306A</a>	Unsubstantiated	In-home	Low/Mod	Parent/Caretaker	No
<a href="#">306B</a>	Unsubstantiated	In-home	High/V. High	Parent/Caretaker	Yes
<a href="#">306C</a>	Unsubstantiated	Out-of-home		Alleged Perpetrator	N/A
<a href="#">306D</a>	Unsubstantiated	Out-of-home	Low/Mod	Parent/Caretaker	N/A
<a href="#">306E</a>	Unsubstantiated	Out-of-home	High/V. High	Parent/Caretaker	N/A
<a href="#">306F</a>	Substantiated	In-home		Parent/Caretaker	Yes
<a href="#">306G</a>	Substantiated	Out-of-home		Parent/Caretaker	Yes
<a href="#">306H</a>	Substantiated	Out-of-home		Parent/Caretaker	No
<a href="#">306I</a>	Substantiated	Out-of-home		Parents of Minor Sexual Abuse Actor	No

In all cases, the perpetrator must be notified of the outcome and of appeal rights, when applicable. Within 5 business days of the division’s decision to substantiate allegations of abuse or neglect, the determination should be entered into SSMIS and both the perpetrator and the CRRU should be notified of that outcome.

A person whose conduct is the subject of a substantiation determination may seek an administrative review of the department’s determination by notifying CRRU within 30 days after the date the department sent notice of the right to review. The Commissioner may grant an extension past the 30-day period for good cause, not to exceed 60 days after the Department has sent notice of the right to review.

In cases where the alleged perpetrator is also a perpetrator of domestic violence, notification may cause risk to the child and adult victims. The worker should attempt to contact the adult victim to inform them that the perpetrator is receiving notice.

When the alleged actor is under the age of 18, notification should be made in care of the parents or in care of the worker if the actor is in DCF custody.

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**Perpetrator or Alleged Actors Who Are Minors**

If the person alleged to have abused or neglected a child is a minor, any substantiation notice shall be sent:

1. To the minor's parents or guardian; or
2. If the child is in DCF custody, to the family services worker assigned to the child by the department and the child's counsel of record.

The division will inform the parents of a perpetrator of sexual abuse by letter that the child has engaged in inappropriate sexual activity and has been entered into the *Child Protection Registry*. The family services worker should assist the family of the perpetrator in arranging treatment, where appropriate. If a family refuses treatment and there are concerns about ongoing risk to a child, a CHINS petition may be considered.