

# Chapter 110-30 WAC

## CHILD PROTECTIVE SERVICES

(Formerly chapter 388-15 WAC)

**WAC**

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**PROGRAM DESCRIPTION**

**WAC 110-30-0010 What is the child protective services program?** (1) Child protective services (CPS) means those services provided by the department of social and health services designed to protect children from child abuse and neglect and safeguard such children from future abuse and neglect, and conduct investigations of child abuse and neglect reports (RCW 26.44.020 (12) and (16)).

(2) CPS may include the following:

- (a) Investigation of reports of alleged child abuse or neglect.
- (b) Assessment of risk of abuse or neglect to children.
- (c) Provision of and/or referral to services to remedy conditions that endanger the health, safety, and welfare of children.
- (d) Referral to law enforcement when there are allegations that a crime against a child (RCW 26.44.030(4) and 74.13.031(3)) might have been committed.
- (e) Out of home placement and petitions to courts when necessary to ensure the safety of children.

[WSR 18-14-078, recodified as § 110-30-0010, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031, 74.04.050, and chapter 26.44 RCW. WSR 02-15-098 and 02-17-045, § 388-15-001, filed 7/16/02 and 8/14/02, effective 2/10/03.]

**WAC 110-30-0020 What definitions apply to these rules?** The following definitions apply to this chapter.

**"Abuse or neglect"** means the injury, sexual abuse, sexual exploitation, negligent treatment, or maltreatment of a child as defined in RCW 26.44.020 and this chapter.

**"Administrative hearing"** means a hearing held before an administrative law judge and conducted according to chapter 34.05 RCW and chapter 388-02 WAC.

**"Administrative law judge (ALJ)"** is an impartial decision-maker who presides at an administrative hearing. The office of administrative hearings, which is a state agency but not part of DSHS, employs the ALJs.

**"Alleged perpetrator"** means the person identified in a CPS referral as being responsible for the alleged child abuse or neglect.

**"Alternative response system"** means a contracted provider in a local community that responds to accepted CPS

referrals that are rated low or moderately low risk at the time of intake.

**"Appellant"** means a person who requests an administrative hearing to appeal a CPS finding.

**"Child protection team (CPT)"** means a multidisciplinary group of persons with at least four persons from professions that provide services to abused or neglected children and/or parents of such children. The CPT provides confidential case staffing and consultation to children's administration.

**"Child protective services (CPS)"** means the section of the children's administration responsible for responding to allegations of child abuse or neglect.

**"Children's administration (CA)"** means the cluster of programs within DSHS that is responsible for the provision of child protective, child welfare, foster care licensing, group care licensing, and other services to children and their families.

**"Department"** or **"DSHS"** means the Washington state department of social and health services.

**"Department of early learning (DEL)"** means the Washington state agency responsible for licensing child care homes and child care facilities.

**"Division of children and family services (DCFS)"** means the division of children's administration that provides child protective, child welfare, and support services to children and their families.

**"Division of licensed resources (DLR)"** means the division of children's administration responsible for licensing group care and foster care facilities, and responding to allegations of abuse or neglect in such facilities.

**"Finding"** means the final decision made by a CPS social worker after an investigation regarding alleged child abuse or neglect.

**"Founded"** means the determination following an investigation by CPS that based on available information it is more likely than not that child abuse or neglect did occur.

**"Inconclusive"** means the determination following an investigation by CPS, prior to October 1, 2008, that based on available information a decision cannot be made that more likely than not, child abuse or neglect did or did not occur. Beginning October 1, 2008 the department will no longer make inconclusive findings, but shall retain such findings made prior to that date as provided in these rules.

**"Mandated reporter"** means a person required to report alleged child abuse or neglect as defined in RCW 26.44.030.

**"Preponderance of evidence"** means the evidence presented in a hearing indicates more likely than not child abuse or neglect did occur.

**"Screened-out report"** means a report of alleged child abuse or neglect that the department had determined does not rise to the level of credible report of abuse or neglect and is not referred for investigation.

**"Unfounded"** means the determination following an investigation by CPS that based on available information it is more likely than not that child abuse or neglect did not occur or there is insufficient evidence for the department to determine whether the alleged child abuse did or did not occur.

[WSR 18-14-078, recodified as § 110-30-0020, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031, 74.04.050, and chapter 26.44

RCW. WSR 08-18-040, § 388-15-005, filed 8/28/08, effective 10/1/08; WSR 02-15-098 and 02-17-045, § 388-15-005, filed 7/16/02 and 8/14/02, effective 2/10/03.]

### **WAC 110-30-0030 What is child abuse or neglect?**

Child abuse or neglect means the injury, sexual abuse, or sexual exploitation of a child by any person under circumstances which indicate that the child's health, welfare, or safety is harmed, or the negligent treatment or maltreatment of a child by a person responsible for or providing care to the child. An abused child is one who has been subjected to child abuse or neglect as defined in this section.

(1) Physical abuse means the nonaccidental infliction of physical injury or physical mistreatment on a child that harms the child's health, welfare, or safety. It may include, but is not limited to, such actions as:

(a) Throwing, kicking, burning, or cutting a child;

(b) Striking a child with a closed fist;

(c) Shaking a child under age three;

(d) Interfering with a child's breathing;

(e) Threatening a child with a deadly weapon; or

(f) Doing any other act that is likely to cause and that does cause bodily harm greater than transient pain or minor temporary marks or that is injurious to the child's health, welfare or safety.

(2) Physical discipline of a child, including the reasonable use of corporal punishment, is not considered abuse when it is reasonable and moderate and is inflicted by a parent or guardian for the purposes of restraining or correcting the child. The age, size, and condition of the child, and the location of any inflicted injury shall be considered in determining whether the bodily harm is reasonable or moderate. Other factors may include the developmental level of the child and the nature of the child's misconduct. A parent's belief that it is necessary to punish a child does not justify or permit the use of excessive, immoderate or unreasonable force against the child.

(3) Sexual abuse means committing or allowing to be committed any sexual offense against a child as defined in the criminal code. The intentional touching, either directly or through the clothing, of the sexual or other intimate parts of a child or allowing, permitting, compelling, encouraging, aiding, or otherwise causing a child to engage in touching the sexual or other intimate parts of another for the purpose of gratifying the sexual desire of the person touching the child, the child, or a third party. A parent or guardian of a child, a person authorized by the parent or guardian to provide child-care for the child, or a person providing medically recognized services for the child, may touch a child in the sexual or other intimate parts for the purposes of providing hygiene, child care, and medical treatment or diagnosis.

(4) Sexual exploitation includes, but is not limited to, sex trafficking and commercial sexual exploitation as those terms are defined by law and includes such actions as allowing, compelling, encouraging, aiding, or otherwise causing a child to participate in one or more of the following:

(a) Any sex act when anything of value is given to or received by any person for the sex act;

(b) Sexually explicit, obscene, or pornographic activity to be photographed, filmed, or electronically reproduced or transmitted;

(c) Sexually explicit, obscene, or pornographic activity as part of a live performance or for the benefit or sexual gratification of another person.

(5) Negligent treatment or maltreatment means an act or a failure to act, or the cumulative effects of a pattern of conduct, behavior, or inaction, on the part of a child's parent, legal custodian, guardian, or caregiver that shows a serious disregard of the consequences to the child and creates a clear and present danger to the child's health, welfare, or safety.

(a) When considering whether a clear and present danger exists, evidence of a parent's substance abuse as a contributing factor must be given great weight.

(b) The fact that the siblings share a bedroom is not, in and of itself, negligent treatment or maltreatment.

(c) Poverty, homelessness, or exposure to domestic violence perpetuated against someone other than the child does not, in and of itself, constitute negligent treatment or maltreatment.

(d) A child does not have to suffer actual damage or physical or emotional harm to be in circumstances that create a clear and present danger to the child's health, welfare, or safety.

(e) Negligent treatment or maltreatment may include, but is not limited to one or more of the following:

(i) Failure to provide adequate food, shelter, clothing, supervision, or health care necessary for a child's health, welfare, or safety, such that the failure shows a serious disregard of the consequence to the child and creates a clear and present danger to the child's health, welfare, or safety;

(ii) Actions, failures to act, or omissions that result in injury or risk of injury to the physical, emotional, and/or cognitive development of a child, such that it shows a serious disregard of the consequences to the child and creates a clear and present danger to the child's health, welfare, or safety;

(iii) The cumulative effects of a pattern of conduct, behavior, or inaction by a parent or guardian in providing for the physical, emotional or developmental needs of the child, such that it shows a serious disregard of the consequences to the child and creates a clear and present danger to the child's health, welfare, or safety;

(iv) The effects of chronic failure on the part of a parent or guardian to perform basic parental functions, obligations, or duties that causes injury or substantial risk of injury to the physical, emotional, or cognitive development of the child, such that it shows a serious disregard of the consequences to the child and creates a clear and present danger to the child's health, welfare, or safety.

[WSR 18-14-078, recodified as § 110-30-0030, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.08.090, 74.04.050, 74.13.031, and chapter 26.44 RCW. WSR 17-22-059, § 388-15-009, filed 10/26/17, effective 11/26/17. Statutory Authority: RCW 74.08.090, 74.04.050, 74.13.031, chapter 26.44 RCW, and 2005 c 512. WSR 07-14-011, § 388-15-009, filed 6/22/07, effective 7/23/07. Statutory Authority: RCW 74.13.031, 74.04.050, and chapter 26.44 RCW. WSR 02-15-098 and 02-17-045, § 388-15-009, filed 7/16/02 and 8/14/02, effective 2/10/03.]

#### **WAC 110-30-0040 What is child abandonment? (1)**

A Parent or guardian abandons a child when the parent or guardian is responsible for the care, education, or support of a child and:

(a) Deserts the child in any manner whatever with the intent to abandon the child;

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(b) Leaves a child without the means or ability to obtain one or more of the basic necessities of life such as food, water, shelter, clothing, hygiene, and medically necessary health care; or

(c) Forgoes for an extended period of time parental rights, functions, duties and obligations despite an ability to exercise such rights, duties, and obligations.

(2) Abandonment of a child by a parent may be established by conduct on the part of a parent or guardian that demonstrates a substantial lack of regard for the rights, duties, and obligations of the parent or guardian or for the health, welfare, and safety of the child. Criminal activity or incarceration of a parent or guardian does not constitute abandonment in and of themselves, but a pattern of criminal activity or repeated or long-term incarceration may constitute abandonment of a child.

[WSR 18-14-078, recodified as § 110-30-0040, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031, 74.04.050, and chapter 26.44 RCW. WSR 02-15-098 and 02-17-045, § 388-15-011, filed 7/16/02 and 8/14/02, effective 2/10/03.]

**WAC 110-30-0050 Who may receive child protective services?** Children and families may receive child protective services when there is an allegation that a child has been abused or neglected:

(1) By a parent, legal custodian, or guardian of the child; or

(2) In a DSHS licensed, certified, or state-operated facility; or

(3) By persons or agencies subject to licensing under chapter 74.15 RCW, including individuals employed by or volunteers of such facilities.

[WSR 18-14-078, recodified as § 110-30-0050, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031, 74.04.050 and chapter 26.44 RCW. WSR 02-15-098 and 02-17-045, § 388-15-013, filed 7/16/02 and 8/14/02, effective 2/10/03.]

**WAC 110-30-0060 What is the responsibility of CPS regarding reports of abuse or neglect?** (1) CPS must record a report from any source alleging child abuse or neglect.

(2) CPS must determine whether alleged incidents or conditions meet the definitions of child abuse or neglect in this chapter or in chapter 26.44 RCW.

(3) CPS must assess or investigate all reports of alleged child abuse or neglect that meet the definitions of child abuse or neglect contained in this chapter or in chapter 26.44 RCW.

(4) CPS must investigate anonymous reports only as provided in RCW 26.44.030(15).

(5) CPS must maintain a record of reports received that are not investigated because they do not meet the definitions of child abuse or neglect as defined in RCW or this chapter.

(6) CPS must report to law enforcement per RCW 26.44.030(4) and 74.13.031.

[WSR 18-14-078, recodified as § 110-30-0060, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031, 74.04.050, and chapter 26.44 RCW. WSR 02-15-098 and 02-17-045, § 388-15-017, filed 7/16/02 and 8/14/02, effective 2/10/03.]

**WAC 110-30-0070 How does CPS respond to reports of alleged child abuse or neglect?** (1) CPS must assess all reports that meet the definition of child abuse or neglect using

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a risk assessment process to determine level of risk and response time.

(2) CPS must provide an in-person response to alleged victims and must attempt an in-person response to the alleged perpetrator of child abuse and neglect in referrals assessed at moderate to high risk.

(3) CPS may refer reports assessed at low to moderately low risk to an alternative response system.

(4) CPS may interview a child, outside the presence of the parent, without prior parental notification or consent (RCW 26.44.030(10)).

(5) Unless the child objects, CPS must make reasonable efforts to have a third party present at the interview so long as the third party does not jeopardize the investigation (RCW 26.44.030).

(6) CPS may photograph the alleged child victim to document the physical condition of the child (RCW 26.44.050).

(7) CPS attempts to complete investigations within forty-five days. In no case shall the investigation extend beyond ninety days unless the investigation is being conducted under local protocol, established pursuant to chapter 26.44 RCW, and a law enforcement agency or prosecuting attorney has determined that a longer investigation period is necessary.

[WSR 18-14-078, recodified as § 110-30-0070, filed 6/29/18, effective 7/1/18. Statutory Authority: Chapter 26.44 RCW, RCW 74.08.090, 74.13.031, 74.04.050, and 2007 c 220. WSR 09-07-001, § 388-15-021, filed 3/4/09, effective 4/4/09. Statutory Authority: RCW 74.13.031, 74.04.050 and chapter 26.44 RCW. WSR 02-15-098 and 02-17-045, § 388-15-021, filed 7/16/02 and 8/14/02, effective 2/10/03.]

**WAC 110-30-0080 What special requirements must CPS follow for Indian children?** (1) These special requirements apply to children defined as Indians in WAC 388-70-091.

(2) The DCFS social worker shall document in case records efforts to keep Indian families together and to avoid separating the Indian child from his parents, relatives, tribe or cultural heritage as per RCW 26.44.010 and WAC 388-70-093.

(3) In alleged child abuse and neglect situations, the DCFS social worker shall document in case records, efforts to utilize staff and services particularly capable of meeting the special needs of Indian children and their families, in consultation with the child's tribe and/or local Indian child welfare advisory committee per WAC 388-70-600 through 388-70-640.

(4) The DCFS social worker shall promptly advise the tribal council and the local Indian child welfare advisory committee that a child affiliated with the tribe is the victim of substantiated child abuse or neglect. The provisions of RCW 26.44.070, WAC 377-70-640, limiting who has access to confidential information, shall be followed in all cases.

[WSR 18-14-078, recodified as § 110-30-0080, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031, 74.04.050, and chapter 26.44 RCW. WSR 02-15-098 and 02-17-045, § 388-15-025, filed 7/16/02 and 8/14/02, effective 2/10/03.]

**WAC 110-30-0090 What information may CPS share with mandated reporters?** (1) CPS in the conduct of ongoing case planning and consultation with those persons or agencies required to report alleged child abuse or neglect

under RCW 26.44.030 and with consultants designated by CPS, may share otherwise confidential information with such persons, agencies, and consultants if the confidential information is pertinent to cases currently receiving child protective services.

(2) When CPS receives a report of alleged child abuse or neglect, mandated reporters, as identified in RCW 26.44.030, and their employees must provide upon request by CPS, all relevant records in their possession related to the child (RCW 26.44.030).

[WSR 18-14-078, recodified as § 110-30-0090, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031, 74.04.050, and chapter 26.44 RCW. WSR 02-15-098 and 02-17-045, § 388-15-029, filed 7/16/02 and 8/14/02, effective 2/10/03.]

**WAC 110-30-0100 When will CPS involve local community resources?** (1) CPS may use local community resources to respond to reports of abuse or neglect when the department's assessment of risk determines that a community response is in the best interest of the child and family.

(2) CPS may involve local community resources in the planning and provision of services to help remedy conditions that contribute to the abuse or neglect of children.

(3) CPS must have community based child protective teams (CPT) available for staffing and consultation regarding cases of child abuse or neglect. CPS must present cases for staffing with the CPT in accordance with executive order 95-04 and department procedures.

(4) There are special requirements for staffing Indian children cases with the local Indian child welfare advisory committee (WAC 388-70-600).

[WSR 18-14-078, recodified as § 110-30-0100, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031, 74.04.050, and chapter 26.44 RCW. WSR 02-15-098 and 02-17-045, § 388-15-033, filed 7/16/02 and 8/14/02, effective 2/10/03.]

**WAC 110-30-0110 Under what circumstances may CPS place a child in out-of-home care?** (1) When CPS determines that a child is at risk of serious harm in the care of the parent, legal custodian, or guardian CPS may seek an out-of-home placement for the child. Before placing a child in out-of-home care one of the following must be in place:

(a) A court order directing that the child be placed in out-of-home care (RCW 13.34.050); or

(b) A law enforcement officer placing the child in protective custody (RCW 26.44.050); or

(c) A physician or hospital administrator detaining a child and CPS assuming custody until a court hearing is held (RCW 26.44.056); or

(d) A voluntary placement agreement signed by the child's parent, guardian, or legal custodian. Voluntary placements of Indian children must comply with RCW 13.34.245.

(2) CPS must attempt to place the child with a relative willing and available to care for the child, unless there is reasonable cause to believe that the health, safety and welfare of the child would be jeopardized or that efforts to reunite the parent and child will be hindered (RCW 13.34.060). If a relative appears suitable and competent with good character to provide adequate care, the background check of a relative shall be completed as soon as possible after the child is placed (RCW 74.15.030).

[WSR 18-14-078, recodified as § 110-30-0110, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031, 74.04.050, and chapter 26.44 RCW. WSR 02-15-098 and 02-17-045, § 388-15-037, filed 7/16/02 and 8/14/02, effective 2/10/03.]

**WAC 110-30-0120 When will CPS involve the juvenile court?** CPS may file a dependency petition with the juvenile court when CPS determines that court intervention is necessary for protection of the child.

(1) CPS must file a dependency petition with the juvenile court when a child is to remain in out of home care beyond seventy-two hours (excluding Saturdays, Sundays, and holidays) unless the child's parent or legal custodian signs a voluntary placement agreement.

(2) CPS must make reasonable efforts to notify both parents, guardians, and any legal custodian(s) that a dependency petition has been filed. The notice must inform these parties of the date, time, and location of the initial shelter care hearing and of the parent(s) and any legal custodian's legal rights. If the court has entered an order for the out-of-home placement of the child, a hearing shall be held within seventy-two hours, excluding Saturdays, Sundays, and holidays.

(3) Whenever CPS assumes custody of a child from law enforcement, and places the child in out of home care, a court hearing must be held within seventy-two hours from the time the child is taken into protective custody, excluding Saturdays, Sundays and holidays.

(4) Whenever CPS assumes custody from a physician or a hospital administrator and places the child in out-of-home care, a court hearing must be held within seventy-two hours from the time CPS assumes custody of the child, excluding Saturdays, Sundays, and holidays.

[WSR 18-14-078, recodified as § 110-30-0120, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031, 74.04.050, and chapter 26.44 RCW. WSR 02-15-098 and 02-17-045, § 388-15-041, filed 7/16/02 and 8/14/02, effective 2/10/03.]

**WAC 110-30-0130 What are the department's responsibilities regarding notification of the parent or legal custodian in child protective services cases?** CPS must notify the parent, guardian, or legal custodian of a child at the earliest possible point that will not jeopardize the investigation or the safety or protection of the child when:

(1) CPS is investigating a report alleging an act or acts of child abuse or neglect, and:

(a) The child is alleged to be the victim; and/or

(b) CPS interviews a child in relation to an alleged act of child abuse or neglect.

(2) CPS takes a child into custody pursuant to a court order issued under RCW 13.34.050.

(3) CPS receives custody of a child from law enforcement pursuant to RCW 26.44.050.

(4) CPS files a dependency petition.

[WSR 18-14-078, recodified as § 110-30-0130, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031, 74.04.050, and chapter 26.44 RCW. WSR 02-15-098 and 02-17-045, § 388-15-045, filed 7/16/02 and 8/14/02, effective 2/10/03.]

**WAC 110-30-0140 When must the department notify the parent, guardian or legal custodian of allegations of child abuse or neglect made against them?** The department must notify the parent, guardian or legal custodian of a child

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of the allegations of child abuse or neglect made against that person at the initial point of contact with that person, in a manner consistent with the laws maintaining the confidentiality of the persons making the allegations. Investigations of child abuse and neglect should be conducted in a manner that will not jeopardize the safety or protection of the child or the integrity of the investigation process.

[WSR 18-14-078, recodified as § 110-30-0140, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.08.090, 74.04.050, 74.13.031, chapter 26.44 RCW, and 2005 c 512. WSR 07-14-011, § 388-15-049, filed 6/22/07, effective 7/23/07. Statutory Authority: RCW 74.13.031, 74.04.050, and chapter 26.44 RCW. WSR 02-15-098 and 02-17-045, § 388-15-049, filed 7/16/02 and 8/14/02, effective 2/10/03.]

**WAC 110-30-0150 What steps must the department take to provide an opportunity for the parent(s), guardian, or legal custodian(s) to review case information?** To provide an opportunity for the parent(s), guardian, or legal custodian(s) to review case information, CPS must give such person the opportunity to read or obtain relevant parts of the case record, provided the person or persons have requested access to the information and the law does not otherwise prohibit such access (RCW 13.50.100).

[WSR 18-14-078, recodified as § 110-30-0150, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031, 74.04.050, and chapter 26.44 RCW. WSR 02-15-098 and 02-17-045, § 388-15-053, filed 7/16/02 and 8/14/02, effective 2/10/03.]

**WAC 110-30-0160 What limitations does the department have on the disclosure of case information?** Information obtained by CPS is confidential pursuant to federal and state law. The department may only disclose case record information as permitted by applicable statutes and the provisions of chapter 388-01 WAC.

[WSR 18-14-078, recodified as § 110-30-0160, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031, 74.04.050, and chapter 26.44 RCW. WSR 02-15-098 and 02-17-045, § 388-15-057, filed 7/16/02 and 8/14/02, effective 2/10/03.]

## NOTIFICATION AND APPEAL OF FINDINGS

**WAC 110-30-0170 What is the purpose of these rules?** The purpose of these rules is to describe:

(1) The procedures for notifying the alleged perpetrator of any findings made by a CPS social worker in an investigation of suspected child abuse or neglect; and

(2) The process for challenging a founded CPS finding of child abuse or neglect (RCW 26.44.100 and 26.44.125).

[WSR 18-14-078, recodified as § 110-30-0170, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031, 74.04.050, and chapter 26.44 RCW. WSR 02-15-098 and 02-17-045, § 388-15-061, filed 7/16/02 and 8/14/02, effective 2/10/03.]

**WAC 110-30-0180 Does CPS have to notify the alleged perpetrator of the results of CPS investigation?** CPS has the duty to notify the alleged perpetrator in writing of any finding made by CPS in any investigation of suspected child abuse and/or neglect.

[WSR 18-14-078, recodified as § 110-30-0180, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031, 74.04.050, and chapter 26.44 RCW. WSR 02-15-098 and 02-17-045, § 388-15-065, filed 7/16/02 and 8/14/02, effective 2/10/03.]

**WAC 110-30-0190 How does CPS notify the alleged perpetrator of the finding?** (1) CPS notifies the alleged perpetrator of the founded finding by sending the CPS finding notice via certified mail, return receipt requested, to the last known address. CPS must make a reasonable, good faith effort to determine the last known address or location of the alleged perpetrator.

(2) CPS notifies the alleged perpetrator of the unfounded finding by sending the CPS finding notice via mail, to the last known address, or email. CPS must make a reasonable, good faith effort to determine the last known address or location of the alleged perpetrator.

(3) When CA is actively working with the alleged perpetrator and the certified mail sent pursuant to subsection (1) of this section is returned, CA will attempt to personally serve the CPS founded findings letter to the alleged perpetrator.

[WSR 18-14-078, recodified as § 110-30-0190, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 26.44.100, 74.13.031, and chapter 26.44 RCW. WSR 18-01-047, § 388-15-069, filed 12/12/17, effective 1/12/18. Statutory Authority: RCW 26.44.100 and P.L. 93-247, P.L. 111-320. WSR 15-16-041, § 388-15-069, filed 7/28/15, effective 8/28/15. Statutory Authority: RCW 26.44.100. WSR 15-01-099, § 388-15-069, filed 12/17/14, effective 1/17/15. Statutory Authority: RCW 74.13.031, 74.04.050, and chapter 26.44 RCW. WSR 02-15-098 and 02-17-045, § 388-15-069, filed 7/16/02 and 8/14/02, effective 2/10/03.]

**WAC 110-30-0200 What information must be in the CPS finding notice?** The CPS finding notice must inform the alleged perpetrator of the department's investigative finding, including the legal basis for the findings and sufficient factual information to apprise the alleged perpetrator of the date and nature of the founded reports. The notice must also contain the following:

(1) The alleged perpetrator may submit to CPS a written response regarding the CPS finding. If a response is submitted, CPS must file this response in the department's records.

(2) Information in the department's records may be considered in later investigations or proceedings relating to child protection or child custody.

(3) Founded CPS findings may be considered in determining:

(a) If an alleged perpetrator is qualified to be licensed to care for children or vulnerable adults;

(b) If an alleged perpetrator is qualified to be employed by a child care agency or facility;

(c) If an alleged perpetrator may be authorized or funded by the department to provide care or services to children or vulnerable adults.

(4) The alleged perpetrator's right to challenge a founded CPS finding.

[WSR 18-14-078, recodified as § 110-30-0200, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031, 74.04.050, and chapter 26.44 RCW. WSR 02-15-098 and 02-17-045, § 388-15-073, filed 7/16/02 and 8/14/02, effective 2/10/03.]

**WAC 110-30-0210 What happens to unfounded CPS findings?** (1) Beginning October 1, 2008 the department will no longer make inconclusive findings, but shall retain and destroy such findings made prior to that date as provided in these rules.

(2) An unfounded, screened out or inconclusive allegation of child abuse or neglect may not be disclosed to a child

placing agency, private adoption agency, or any other provider licensed under chapter 74.15 RCW.

(3) At the end of three years from the receipt of a screened-out report that alleged child abuse or neglect, the department must destroy its records relating to that report.

(4) At the end of six years from the date of the completion of an investigation of a report of child abuse or neglect, the department must destroy records relating to unfounded or inconclusive reports, unless a prior or subsequent founded report has been received regarding the child who is the subject of the report, a sibling or half-sibling of the child, or a parent, guardian, or legal custodian of the child, before records are destroyed.

(5) The department shall retain records relating to founded reports of child abuse and neglect as required by DSHS records retention policies. If dependency is established under chapter 13.34 RCW as to a child who is subject of a report of child abuse or neglect, all records relating to the child or the child's parent, guardian, or legal custodian, including any screened-out, unfounded or inconclusive reports not destroyed prior to the establishment of dependency or received after dependency was established, shall be retained as required by DSHS records retention policies regarding dependency records.

[WSR 18-14-078, recodified as § 110-30-0210, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031, 74.04.050, and chapter 26.44 RCW. WSR 08-18-040, § 388-15-077, filed 8/28/08, effective 10/1/08; WSR 02-15-098 and 02-17-045, § 388-15-077, filed 7/16/02 and 8/14/02, effective 2/10/03.]

**WAC 110-30-0220 Can an alleged perpetrator challenge a CPS finding of child abuse or neglect?** A person named as an alleged perpetrator in a founded CPS report made on or after October 1, 1998, may challenge that finding.

[WSR 18-14-078, recodified as § 110-30-0220, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031, 74.04.050, and chapter 26.44 RCW. WSR 02-15-098 and 02-17-045, § 388-15-081, filed 7/16/02 and 8/14/02, effective 2/10/03.]

**WAC 110-30-0230 How does an alleged perpetrator challenge a founded CPS finding?** (1) In order to challenge a founded CPS finding, the alleged perpetrator must make a written request for CPS to review the founded CPS finding of child abuse or neglect. The CPS finding notice must provide the information regarding all steps necessary to request a review.

(2) The request must be provided to the same CPS office that sent the CPS finding notice within thirty calendar days from the date the alleged perpetrator receives the CPS finding notice (RCW 26.44.125).

[WSR 18-14-078, recodified as § 110-30-0230, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 26.44.125 (2) and (4). WSR 13-17-126, § 388-15-085, filed 8/21/13, effective 9/21/13. Statutory Authority: RCW 74.13.031, 74.04.050, and chapter 26.44 RCW. WSR 02-15-098 and 02-17-045, § 388-15-085, filed 7/16/02 and 8/14/02, effective 2/10/03.]

**WAC 110-30-0240 What happens if the alleged perpetrator does not request CPS to review the founded CPS finding within thirty days?** (1) If the alleged perpetrator does not submit a written request within thirty calendar days for CPS to review the founded CPS finding, no further review or challenge of the finding may occur.

(2) If the department has exercised reasonable, good faith efforts to provide notice of the CPS finding to the alleged perpetrator, the alleged perpetrator shall not have further opportunity to request a review of the finding beyond thirty days from the time the notice was sent.

[WSR 18-14-078, recodified as § 110-30-0240, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 26.44.100, WSR 15-01-099, § 388-15-089, filed 12/17/14, effective 1/17/15. Statutory Authority: RCW 74.13.031, 74.04.050, and chapter 26.44 RCW. WSR 02-15-098 and 02-17-045, § 388-15-089, filed 7/16/02 and 8/14/02, effective 2/10/03.]

**WAC 110-30-0250 What happens after the alleged perpetrator requests CPS to review the founded CPS finding of child abuse or neglect?** (1) CPS management level staff or their designees who were not involved in the decision making process will review the founded CPS finding of child abuse or neglect. The management staff will consider the following information:

- (a) CPS records;
- (b) CPS summary reports; and
- (c) Any written information the alleged perpetrator may have submitted regarding the founded CPS finding of abuse and/or neglect.

(2) Management staff may also meet with the CPS social worker and/or CPS supervisor to discuss the investigation/finding. After review of all this information, management staff decides if the founded CPS finding is correct or if it should be changed.

(3) Management staff must complete their review of the founded CPS finding within thirty calendar days from the date CPS received the written request for review.

[WSR 18-14-078, recodified as § 110-30-0250, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 26.44.125 (2) and (4), WSR 13-17-126, § 388-15-093, filed 8/21/13, effective 9/21/13. Statutory Authority: RCW 74.13.031, 74.04.050, and chapter 26.44 RCW. WSR 02-15-098 and 02-17-045, § 388-15-093, filed 7/16/02 and 8/14/02, effective 2/10/03.]

**WAC 110-30-0260 How does CPS notify the alleged perpetrator of the results of the CPS management review?** CPS will notify the alleged perpetrator in writing of the results of the CPS management review. CPS will send this notice to the last known address of the alleged perpetrator by certified mail, return receipt requested. The notice of the CPS management review decision will also contain information regarding how to request a hearing.

[WSR 18-14-078, recodified as § 110-30-0260, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031, 74.04.050, and chapter 26.44 RCW. WSR 02-15-098 and 02-17-045, § 388-15-097, filed 7/16/02 and 8/14/02, effective 2/10/03.]

**WAC 110-30-0270 What happens if CPS management staff changes the founded CPS finding?** If CPS management staff changes the founded CPS finding, CPS notifies the alleged perpetrator that the department has changed the finding to either inconclusive or unfounded. CPS management staff or their designee must correct the department's records to show the changed finding.

[WSR 18-14-078, recodified as § 110-30-0270, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031, 74.04.050, and chapter 26.44 RCW. WSR 02-15-098 and 02-17-045, § 388-15-101, filed 7/16/02 and 8/14/02, effective 2/10/03.]

(6/29/18)

**WAC 110-30-0280 What happens if CPS management staff does not change the founded CPS finding?** (1) If CPS management staff does not change the founded CPS finding, the alleged perpetrator has the right to further challenge that finding by requesting an administrative hearing.

(2) The request for a hearing must be in writing and sent to the Office of Administrative Hearings. WAC 388-02-0025 lists the current address.

(3) The office of administrative hearings must receive the written request for a hearing within thirty days from the date that the person requesting the hearing receives the CPS management review decision.

[WSR 18-14-078, recodified as § 110-30-0280, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031, 74.04.050, and chapter 26.44 RCW. WSR 02-15-098 and 02-17-045, § 388-15-105, filed 7/16/02 and 8/14/02, effective 2/10/03.]

**WAC 110-30-0290 What laws and rules will control the administrative hearings held regarding the founded CPS findings?** Chapter 34.05 RCW, RCW 26.44.100 and 26.44.125, chapter 388-02 WAC, and the provisions of this chapter govern any administrative hearing regarding a founded CPS finding. In the event of a conflict between the provisions of this chapter and chapter 388-02 WAC, the provisions of this chapter must prevail.

[WSR 18-14-078, recodified as § 110-30-0290, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031, 74.04.050, and chapter 26.44 RCW. WSR 02-15-098 and 02-17-045, § 388-15-109, filed 7/16/02 and 8/14/02, effective 2/10/03.]

**WAC 110-30-0300 What effect does a petition for dependency have on an administrative hearing?** (1) If a dependency petition, based on chapter 13.34 RCW, regarding the alleged abuse or neglect has been filed, the administrative hearing must be stayed (postponed) until the superior court has entered an order and findings regarding the dependency petition.

(2) The ALJ must consider any superior court dependency findings and order relating to the alleged abuse or neglect.

(3) If the superior court has entered findings that the alleged perpetrator was the person responsible for the alleged child abuse or neglect, the ALJ must uphold the CPS finding. The ALJ must reiterate the court ruling and incorporate that ruling in the decision issued by the ALJ.

[WSR 18-14-078, recodified as § 110-30-0300, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031, 74.04.050, and chapter 26.44 RCW. WSR 02-15-098 and 02-17-045, § 388-15-113, filed 7/16/02 and 8/14/02, effective 2/10/03.]

**WAC 110-30-0310 What factors must the ALJ consider in order for the alleged abused and/or neglected child to testify at the administrative hearing?** (1) The ALJ must give special consideration to any request by a party for the alleged abused or neglected child to testify in order to protect the physical and emotional well being of the child. For the protection of the child, the ALJ must determine:

(a) If compelling reasons exist to have the child testify. If compelling reasons do exist, the ALJ must consider alternative methods to in-person testimony by the child. Such methods may include, but are not limited to, having the child testify by telephone or videotape; or

(b) If the rights of a party (either the appellant or DSHS) would be prejudiced by not having the child testify in person. If a party's rights would be prejudiced, the ALJ must consider other methods to hear the child's testimony without having the child directly confront the alleged perpetrator.

(2) If the child does testify at the hearing, the ALJ must include a written finding in the administrative hearing decision regarding the compelling reasons for the child's testimony and what alternative methods to in-person testimony the ALJ considered.

[WSR 18-14-078, recodified as § 110-30-0310, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031, 74.04.050, and chapter 26.44 RCW. WSR 02-15-098 and 02-17-045, § 388-15-117, filed 7/16/02 and 8/14/02, effective 2/10/03.]

**WAC 110-30-0320 Are there issues the ALJ may not rule upon during an administrative hearing regarding a founded CPS finding?** In any administrative hearing regarding a founded CPS finding, an ALJ may not rule upon the department's decisions regarding the following:

- (1) Placement of the alleged abused or neglected child;
- (2) Risk assessments used in making placement decisions regarding the alleged abused and/or neglected child; or
- (3) Service plans for the alleged perpetrator and/or alleged abused or neglected child.

[WSR 18-14-078, recodified as § 110-30-0320, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031, 74.04.050, and chapter 26.44 RCW. WSR 02-15-098 and 02-17-045, § 388-15-121, filed 7/16/02 and 8/14/02, effective 2/10/03.]

**WAC 110-30-0330 Are the administrative hearings open to the public?** Based on RCW 26.44.125, any administrative hearing regarding founded CPS findings is confidential and must not be open to the public.

[WSR 18-14-078, recodified as § 110-30-0330, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031, 74.04.050, and chapter 26.44 RCW. WSR 02-15-098 and 02-17-045, § 388-15-125, filed 7/16/02 and 8/14/02, effective 2/10/03.]

**WAC 110-30-0340 How does the ALJ make a decision regarding the founded CPS finding?** (1) The ALJ must decide if a preponderance of the evidence in the hearing record supports a determination that the alleged perpetrator committed an act of abuse or neglect of a child.

(2) If the ALJ determines that a preponderance of the evidence in the hearing record supports the founded CPS finding, the ALJ must uphold the finding.

(3) If the ALJ determines that the founded CPS finding is not supported by a preponderance of the evidence in the hearing record, the ALJ must remand the matter to the department for a change of the finding consistent with the ruling of the ALJ.

[WSR 18-14-078, recodified as § 110-30-0340, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031, 74.04.050, and chapter 26.44 RCW. WSR 02-15-098 and 02-17-045, § 388-15-129, filed 7/16/02 and 8/14/02, effective 2/10/03.]

**WAC 110-30-0350 How will the appellant be notified of the ALJ's decision?** After the administrative hearing, the ALJ will send a written decision to the appellant and the department.

[WSR 18-14-078, recodified as § 110-30-0350, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031, 74.04.050, and chapter 26.44 RCW. WSR 02-15-098 and 02-17-045, § 388-15-133, filed 7/16/02 and 8/14/02, effective 2/10/03.]

**WAC 110-30-0360 What if the appellant or the department disagrees with the decision?** If the appellant or the department disagrees with the ALJ's decision, either party may challenge this decision according to the procedures contained in chapter 34.05 RCW and chapter 388-02 WAC.

[WSR 18-14-078, recodified as § 110-30-0360, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031, 74.04.050, and chapter 26.44 RCW. WSR 02-15-098 and 02-17-045, § 388-15-135, filed 7/16/02 and 8/14/02, effective 2/10/03.]

**WAC 110-30-0370 What happens if the ALJ rules against the department?** If the department challenges the ALJ's decision, the department will not change the finding in the department's records and the finding will remain in effect pending the final decision from the department's challenge. If the department does not challenge the ALJ's decision, the department will correct the finding in the department's records consistent with the ALJ's decision.

[WSR 18-14-078, recodified as § 110-30-0370, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031, 74.04.050, and chapter 26.44 RCW. WSR 02-15-098 and 02-17-045, § 388-15-141, filed 7/16/02 and 8/14/02, effective 2/10/03.]

**WAC 110-30-0380 Family planning.** (1) Family planning services are those services which enable individuals including minors and handicapped persons, to make choices regarding the number and spacing of children. These services include outreach, information, referral, support services (such as transportation and child care), counseling, education, medical care and follow-up. Family planning medical services include physical examinations, lab tests, diagnosis, treatment, surgical procedures as appropriate, drugs, supplies, devices furnished, prescribed by or under the supervision of a physician.

(2) Goals for family planning shall be limited to those specified in WAC 388-15-010 (1)(a) through (e). Also see WAC 388-15-010(2).

(3) Family planning is a federally mandated service offered to all appropriate persons in the aid to families of dependent children program and also to any appropriate individual who meets the state's financial eligibility requirements (including anyone who within three months has been an applicant for or a recipient of AFDC (see WAC 388-15-020 (1)(e)(i))). Services will be provided promptly to all of the foregoing individuals who voluntarily request such services.

[WSR 18-14-078, recodified as § 110-30-0380, filed 6/29/18, effective 7/1/18. Order 1238, § 388-15-240, filed 8/31/77; Order 1204, § 388-15-240, filed 4/1/77; Order 1147, § 388-15-240, filed 8/26/76; Order 1088, § 388-15-240, filed 1/19/76.]

**WAC 110-30-0390 Services to individuals released from mental hospitals or in danger of requiring commitment to such institutions.** (1) These services are those services necessary to enable eligible individuals age 65 or over to remain in the community in lieu of care in a mental hospital, or upon release from a mental hospital, to return to and live in the community. Services may also be provided to

recipients of AFDC who are being released from mental institutions.

(2) Necessary adult services shall be provided to beneficiaries of SSI, recipients of Title XIX, and other individuals whose income does not exceed the standard in WAC 388-15-020 who:

(a) Are released from a mental hospital, or

(b) Need alternate care to continue to live in the community.

(3) Services provided to accomplish the objective to assist the recipient to maintain or be restored to the greatest possible degree of independent functioning and self help shall be any appropriate adult services described in WAC 388-15-100 through 388-15-400.

(4) Services to be provided to accomplish this objective for recipients of AFDC age 21 or under being released from mental institutions shall be any appropriate family or children's service described in WAC 388-15-100 through 388-15-400.

(5) See also chapter 388-95 WAC.

[WSR 18-14-078, recodified as § 110-30-0390, filed 6/29/18, effective 7/1/18. Order 1088, § 388-15-400, filed 1/19/76.]