

# Adult Protective Services Due Process for Paid Caregivers

**Policy 8.18**

**Effective: December 15, 2023**

## Introduction

When allegations of abuse, neglect and/or exploitation are substantiated against a paid caregiver (see Definitions/Acronyms section) and the decision is made to pursue placement on the Abuse Registry, the perpetrator must be granted due process.

## Scope

State law prohibits any person whose name is listed on the Abuse Registry from being hired or otherwise permitted to provide services to “vulnerable persons”, as defined by T.C.A. § 68-11-1002(6). Failure to pursue placement on the Abuse Registry would allow perpetrators to have continued access to vulnerable adults.

## Policy

The Abuse Registry for the State of Tennessee is maintained by the Health Facilities Commission (HFC).

The Abuse Registry includes names of persons who have abused, neglected, or exploited (A/N/E) vulnerable persons. If allegations of A/N/E are substantiated against a paid caregiver and the decision is made to pursue placement on the Abuse Registry, the perpetrator must be granted due process.

Due process is:

1. formal/legal proceedings carried out in accordance with established rules and principles;
2. a judicial requirement that prevents the unfair, arbitrary, or unreasonable treatment of an individual.

Adult Protective Services (APS) must provide the accused paid caregiver with due process prior to placement on the Abuse Registry to allow them to present a defense. Since placement on the Abuse Registry will prohibit the person from being hired or permitted to provide services to vulnerable persons, it is important that a thorough investigation is conducted.

## The Due Process Committee

The committee is comprised of staff from APS and Office of General Counsel (OGC). After a case has been presented, the committee will determine if there is sufficient evidence to substantiate the allegation and proceed with registry placement. If the committee determines the allegations are substantiated, OGC will serve an Intent to Place letter on the alleged perpetrator. Once served, the alleged perpetrator has ten (10) business days to request a hearing.

**Note:** APS and OGC have established [rules](#) which govern the registry placement process.

Any individual who has been placed on the Vulnerable Persons Registry by the Tennessee Department of Human Services (TDHS) may make a written request for removal from the Registry. See [8.23 APS Removal from Abuse Registry](#)

## Supporting Documents

[HS-3258 Written Statement](#)

[Due Process Presentation Template](#)

[APS Due Process Procedures](#)

[8.23 APS Removal from Abuse Registry](#)

## Definitions/Acronyms

Term	Definition
AP	Alleged Perpetrator

<b>A/N/E</b>	Abuse, neglect, and/or exploitation
<b>APS</b>	Adult Protective Services
<b>CMS</b>	Case Management System
<b>DA</b>	District Attorney
<b>ECF CHOICES</b>	Employment Community First
<b>HFC</b>	Health Facilities Commission
<b>IS</b>	Investigative Specialist
<b>OGC</b>	Office of General Counsel
<b>Paid Caregiver</b>	An individual who, for compensation, supervises or assists a vulnerable adult with activities of daily living, in-home care, supervision, housekeeping, medical, psychiatric, psychological health and/or health-related care/services or, as part of meeting the personal needs and care of the adult, has access to or control of the property of the adult either by employment or agreement or course of conduct.
<b>RS</b>	Regional Supervisor
<b>Self-Determination Waiver</b>	Offers supports to adults with intellectual disabilities who qualify for and, absent the provision of services provided under the Self-Determination Waiver, would require placement in a private Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID).
<b>TC</b>	Team Coordinator

### Supersedes

APS Policy Manual, Chapter 19: Due Process for Release of Identification of Indicated Perpetrators of Abuse, Neglect or Exploitation, eff. date April 2011

### Approval History

Approved By	Approver Title	Approved Date	Effective Date
Clarence Carter	Commissioner	12/03/2023	12/15/2023

### Revision History

Date	Version	Location of Change	Description/Reason for Change
12/02/2024	12/15/2023	Definitions/Acronyms	Minor change to remove DIDD Acronym as the agency has been renamed, and the acronym was not used in the document.
12/03/2023	12/15/2023	N/A	New Policy

<b>Approved By</b>	<i>Clarence H. Carter</i>	<b>Approval Date</b>	12/03/2023
<b>Authority</b>	T.C.A. § 68-11-1004, § 68-11-1002(6); Tenn. Rules & Regs. Ch. 1240-07-03, et. seq.	<b>Effective Date</b>	12/15/2023
<b>Application</b>	Adult Protective Services Staff		