

FACTORS TO CONSIDER IN ASSESSING AN INDIVIDUAL'S RISK TO CHILDREN

If a legally-exempt provider or employee, volunteer or household member of the provider acknowledges that he or she has been the subject of an indicated report of child abuse or maltreatment, the social services district must determine, on the basis of information available, that individual's risk to the health, safety and well-being of the children in care. In making such a determination, the following factors should be considered, although not all factors will be relevant to each particular case:

1. The seriousness of the incident(s) cited in the indicated report(s);
2. The seriousness and extent of any injury sustained by the child(ren) named in the indicated report(s);
3. Any detrimental or harmful effect on the child as a result of the individual's actions or inactions and relevant events and circumstances surrounding these actions and inactions as these relate to the indicated report(s);
4. The age of the subject and child at the time of the incident(s) of child abuse and maltreatment;
5. The time which has elapsed since the most recent incident of child abuse and maltreatment;
6. The number of indicated incidents of abuse and maltreatment; (Where there is more than one substantiated incident, you should evaluate each incident separately. You should also evaluate the total effect of all the indicated incidents when assessing the risk the person might pose to the safety and well-being of the children.)
7. The degree to which the position entails supervision of, interaction with, and/or opportunity to be with a child or children on a regular and substantial basis and whether the position may involve being alone with a child or children or in the presence of other adults;
8. Any information produced by the applicant or employee or produced on his behalf in regard to his rehabilitation. Rehabilitation is a showing by the individual of positive and successful efforts to rectify a problem which resulted in child abuse or maltreatment so that children under his or her care will not be in danger. In finding rehabilitation it should be shown:
 - a. That acts of child abuse and maltreatment apparently have not been repeated;

- b. That evidence exists of actions taken by the individual which show that he or she is now able to deal positively with a situation or problem that gave rise to the previous incident(s) of child abuse and maltreatment;
 - c. When relevant, that professional treatment (e.g., counseling or self-help groups) has been successful, and
 - d. That employment or practice in the child care field has been successful.
9. Each report must be carefully reviewed. Extra weight and scrutiny must be given to a report(s) where the abuse or maltreatment resulted in a fatality, sexual abuse, subdural hematoma, internal injuries, extensive lacerations, bruises, welts, burns, scalding, malnutrition or failure to thrive.

Definition of subject of the report:

Section 412.4 of the Social Services Law defines "subject of the report" as any parent of, guardian of or other person legally responsible for a child reported to the Central Register of Child Abuse and Maltreatment who is allegedly responsible for causing injury, abuse or maltreatment to such child or who allegedly allows such injury, abuse or maltreatment to be inflicted on such child, or an operator of or employee or volunteer in a home or facility operated or supervised by an authorized agency, the Division for Youth, or an office of the Department of Mental Hygiene or in a family day-care home, a day care center or a day-services program who is allegedly responsible for causing injury, abuse or maltreatment to a child who is reported to the Central Register of Child Abuse or Maltreatment or who allegedly allows such injury, abuse, or maltreatment to be inflicted on such child.