

## Three frequently asked questions by APS Workers

1. Are there universal guidelines for arriving at a finding?

**Answer:** Yes. These universal guidelines for APS Workers in California can be found under sections 2.1, 2.2, and 2.3 of the CWDA's Adult Protective Services Consistency Guidelines (hereafter referred to as "Guidelines") found here:

<https://www.cwda.org/formguidelines/adult-protective-services-consistency-guidelines>

2. Is there a universal definition of investigation for APS in California?

**Answer:** Yes. The California Welfare and Institutions Code (WIC) defines an APS investigation as follows:

⇒ **Definition of Investigation**– WIC [15610.40](#). "'Investigation' means that activity undertaken to determine the validity of a report of elder or dependent adult abuse."

**NOTE:** Even when the client is no longer at risk by the time you conduct your investigation, you are determining whether what was alleged likely happened or not. During your investigation, you may find out that the client may no longer be abused or at risk of abuse.

3. When my county's historical practice differs from the Consistency in Findings Matrix, how do I proceed?

**Answer:** Please refer your county's leadership to the CWDA's Guidelines, which are intended to promote consistency in practice under a realigned APS program:

<https://www.cwda.org/formguidelines/adult-protective-services-consistency-guidelines>

## Myth Buster

### I. General Myths

1. When the report alleges elder or dependent adult abuse in the past, but the abuse is currently not happening, you cannot have a finding of confirmed or unfounded.

**FALSE** When the report alleges past abuse, you can make a determination regardless of timeframe of abuse.

2. If by the time I investigate the report, the suspected abuser is no longer in contact with the client, I cannot have a finding of confirmed or unfounded. For example, if the Suspected Abuser is the IHSS Provider, who is no longer the client's provider.

**FALSE** When the report alleges abuse, you can make a determination even if the abuser is no longer involved nor has access.

3. I was told that APS can have a finding of confirmed or unfounded only when it is cross-reported to us by law enforcement.

**FALSE** APS is mandated to investigate an allegation of abuse as defined in the WIC, and have a finding of confirmed, inconclusive or unfounded (*or in the case of NTD, a finding of Not Applicable*), and should not be influenced by law enforcement's response to the finding.

4. In order to have a finding of Confirmed, I have to be very sure that the abuse occurred, because I don't want to damage the suspected abuser's reputation in case I'm wrong.

**FALSE** The role of the APS worker is to look at the facts and see if they meet the defining elements of the type of abuse, by following an APS appropriate investigation. The Training on Consistency in Determining Findings will help determine if an allegation should be confirmed. Remember, findings should not be influenced by possible repercussions for a suspected abuser as a consequence of the finding, nor should they be influenced by the possibility of a future abuser registry.

5. I can have a finding of unfounded or confirmed even when I did not interview the suspected abuser.

**TRUE** If the evidence meets the Essential Defining Elements, you may have a finding of confirmed, even if you have not interviewed the suspected abuser.

## II. Myths on Confirmed Findings

6. You can only use "Confirmed" when the client confirms abuse, unless the client has memory impairment and it is clear that the stories provided by the client are implausible.

**FALSE** You arrive at a finding based on training and evidence (see intro paragraph), e.g., often victims of abuse may deny or not disclose allegations.

7. Confirming an allegation is done when there is evidence—such as facts or observations—that meet the Essential Defining Elements of that type of abuse.

**TRUE** Findings should be based upon the social worker's evaluation of the credible information gathered as to whether or not abuse has occurred. There are multiple types of evidence. Please refer to the Guidelines—Guiding Principles section on "Types of Evidence."

8. I confirm an allegation when the client confirms the abuse, but may also be contributing to the problem. For example, when the client confirms being abusive to the suspected abuser.

**TRUE** Findings should be made based upon the social worker's evaluation, regardless of the client's possible contribution to the situation.

### III. Myths on Inconclusive Findings

9. Inconclusive is the safest finding when client denies the abuse.

**FALSE** There are different reasons why the client might deny the abuse; a caveat to believing the client is when the client may be trying to protect the suspected abuser or is being unduly influenced by the suspected abuser. Where possible, evidence should be gathered from more than one source.

10. "Inconclusive" is only selected when there is not enough evidence, or sufficient client cooperation, to determine a finding of "Confirmed."

**IT DEPENDS** A finding of "inconclusive" is appropriate when the information gathered reasonably supports only some of the essential elements of the alleged abuse or neglect. Confirmed and unfounded findings require information to support them. When the worker is unable to gather sufficient information to reasonably determine if the abuse happened or not, inconclusive is the appropriate finding.

11. "Unfounded" is not an adequate selection, and "Inconclusive" should be used instead as "a way to stay on the safe side of things."

**FALSE** "Unfounded" should be selected when the information gathered *reasonably refutes* the essential elements of the alleged abuse or neglect—that is, the abuse unlikely occurred. "Inconclusive" should be selected when the information gathered reasonably supports only some of the essential elements of the alleged abuse or neglect.

12. The reason we use "Inconclusive" most of the time is because we were encouraged in training to use this finding unless we have confirmed allegations. Therefore, this finding is used for all cases unless allegations were confirmed.

**FALSE** The Guidelines were developed to assure that counties were consistent in determining findings. "Inconclusive" should be selected when the information gathered reasonably supports only some of the essential elements of the alleged abuse or neglect. Findings should be based upon the facts/information gathered by the APS worker that are related to the essential elements of the

abuse alleged, and the evaluation of those facts by the APS worker using his/her expertise, experience, and training.

13. If I use “Inconclusive” then this will “take away” from the services I provide.

**FALSE** Services offered depend on your assessment, service plan, and client need, and not on whether you have a finding of Inconclusive.

#### **IV. Myths on Unfounded Findings**

14. Unfounded cannot be used as a finding determination. I’ve been trained or told that we cannot use Unfounded as a reason.

**FALSE** The Guidelines were developed to assure that counties were consistent in determining findings. “Unfounded” should be selected when the information gathered *reasonably refutes* the essential elements of the alleged abuse or neglect—that is, the abuse unlikely occurred. Findings should be based upon the facts/information gathered by the APS worker that are related to the essential elements of the abuse alleged, and the evaluation of those facts by the APS worker using his/her expertise, experience, and training.

#### **V. Evidentiary Challenges**

15. I can have a finding of Unfounded or Confirmed when I have difficulties acquiring evidence. For example, I only have the client’s statement, but no access to collateral contacts, or I am unable to obtain the needed information like medical records, financial records, or criminal history.

**TRUE** Findings are based on preponderance of evidence. This means, having more evidence (or higher quality evidence) in favor of an allegation than not in favor, i.e., an objective review of the evidence revealing that the alleged abuse more likely occurred than not. “Confirmed” can be thought of as 51% or greater likelihood of supporting all legal elements based on using preponderance of evidence as the standard of proof.

16. I cannot have a finding of Unfounded or Confirmed when the client has cognitive, developmental or mental health issues making their statement unreliable, and I am unable to observe the physical evidence (e.g., a bruise or decubiti).

**FALSE** As just mentioned above in number 15, findings are based on preponderance of evidence, i.e., having more evidence (or higher quality of evidence) in favor of an allegation than in not.

17. You can confirm a case when you don’t see any bruises or there is no physical evidence, e.g., when the client says that the physical abuse occurred, but there is no physical evidence.

**TRUE** In general, believe the client, especially when they recount or describe abuse suffered. Approach the investigation and assessment with an open mind. Where possible, evidence should be gathered from more than one source.

## **VI. Client Participation and Capacity**

18. If the client says that the abuse did not happen—or retracts their statement, “lacks capacity,” or becomes uncooperative—but the evidence confirms the allegations, you could have a finding of confirmed.

**TRUE** Your finding is not exclusively dependent on the client’s statement, but on the direct or indirect evidence that you gathered through your investigation.

19. If, during an APS investigation, the client alleges IHSS fraud by the provider claiming hours they did not work, and the client did not authorize the timesheet, but the next day the client withdraws the allegation saying they were mad at the provider, then the allegation is unfounded.

**IT DEPENDS** If the nature of the evidence that led to your original finding has changed, then you would need to reassess whether you still have the evidence needed to meet the Essential Defining Elements for that type of abuse.

## **VII. Financial Abuse**

**Note:** Part of your consideration in looking at Financial Abuse, is assessing for Financial Self-Neglect and Abuse by Other.\*

20. I can confirm financial abuse when the suspected abuser is not known to the client, and the financial institution has resolved the issue. For example, a scam involving identity theft.

**TRUE** We are investigating the allegation, and the evidence could meet the Essential Defining Elements of Financial abuse.

21. I can have a finding of Confirmed when the client believed the scam, but another party intervened to prevent the scam from happening. For example, the financial institution convinced the client not to withdraw money for an IRS scam.

**\*FALSE** Even when the evidence does not meet the Essential Defining Elements of Financial Abuse by other, **you could suspect financial self-neglect and confirm that**, and tailor the appropriate services to assist the client. Even if the scam did not go through, and the allegation of abuse by others was therefore Unfounded, the client may still be at risk for a future scam. Additionally, the SOC 242 Report captures any reported scams.

22. I can have a finding of Unfounded, if the client recognized a scam, and did not participate in it (e.g., a lottery scam), and there was no financial loss.

**TRUE** Even if the scam did not go through, the client may still be at risk for a future scam, and screening for financial self-neglect is appropriate. And as mentioned above, the SOC 242 Report captures any reported scams.

23. I can have a finding of Unfounded when the client continues to participate in a scam (e.g., Lotto, Granny/IRS/computer virus Scam), even when they've been explained that it is a scam and how it works, and I do not suspect cognitive incapacity, but rather poor decision-making; OR the client was reimbursed by the bank or recovered the money in another way.

**FALSE** If the client has sent money to the scammer, then abuse by other happened, and therefore the finding is not dependent on the client's willingness to participate (or capacity), but on whether the situation meets the Essential Defining Elements of Financial Abuse found in the Consistency in Findings Matrix. In addition, you would assess for Financial Self-Neglect.

24. APS receives a report that a caregiver stole from a client. The client has no proof, and the investigation yields no proof nor likelihood that it happened; yet the client is adamant that items were stolen. There is no history nor suspicion that the client suffers from mental health issues. I should confirm the allegations.

**FALSE** Findings are not exclusively dependent on the client's statements, nor their mental health/cognitive status, even if the client suffers from mental health issues. If the findings of your investigation do not yield information to support the Essential Defining Elements of Financial Abuse, then you would arrive at a finding as described by the Matrix, Guide, and the Consistency in Findings class.

25. Let's say that the Client engages in a financial agreement (e.g., loan, investment, business opportunity) with a Suspected Abuser or another party, and promissory notes are written or communication is exchanged between both parties. The Suspected Abuser or other party initially makes payments (e.g., monthly/quarterly) to the client, but shortly thereafter stops making the payments. This is considered financial abuse on the part of the Suspected Abuser or other party.

**IT DEPENDS** For instance, you may determine that the situation does not meet the definition of financial abuse (e.g., party cannot make repayments, or the agreement is not being fulfilled), and the client might be referred to other appropriate remedial services. Yet, if the situation meets the defined criteria (e.g., undue influence, the client suffers from impaired decision making, etc.) the training materials—along with appropriate MDT discussions—could help you determine if the Essential Defining Elements are met for a finding of Confirmed.

26. Client has a family member who evidently preys on client due to beginning stages of dementia or cognitive decline. The client denies financial abuse and reports giving money willingly to the Suspected Abuser, but the client falls behind on paying bills, mortgage/rent, and in attaining essential food; therefore, placing the client's own health and safety at risk. Financial abuse by the Suspected Abuser is Confirmed.

**TRUE** This scenario illustrates how the client is being harmed and impacted by the situation, and it meets the Essential Defining Elements of the abuse.

27. When the client is alert and oriented and provides extra or reportedly excessive gifts and money to her privately paid caregiver, this is not financial abuse.

**IT DEPENDS** You would need to screen for decisional ability, and assess other considerations such as the extent of the client's estate, the client's lifestyle and lifelong pattern, the length and nature of the relationship with the caregiver, the presence or absence of involved family, if the client is still able to meet their financial needs and obligations, obtain desired amenities, and maintain their lifestyle. Depending on the evidence found during the assessment and investigation, this may be considered Unfounded, Inconclusive, or even Confirmed, particularly if the client is being unduly influenced.

28. When the client has a joint bank account with the Suspected Abuser, who reportedly withdraws monies from the account, then there is no financial abuse because both parties are joint owners of the account.

**IT DEPENDS** For instance, you would need to look into the timing and sequence of events, the reason the joint account was set up, screen for undue influence, and assess other considerations. Even when this might not meet a criminal standard, it could meet the civil standard of financial abuse.

## **VIII. Neglect**

29. If the client suffers a fall, or health complications, or a crisis while the primary caregiver (e.g., a family member) is not home due to running an errand or time off, and the client is hospitalized as a result, then this would be considered neglect on the part of the caregiver.

**IT DEPENDS** For example, there might be circumstances that explain the situation, such as is this a pattern or an isolated event, the level of care that the client needs (like stand-by vs. hands on care), etc. The evidence might be more likely to support a finding of Confirmed if the caregiver is paid and the crisis/injury occurred during a paid shift.

30. The client arrives at the hospital with serious medical concerns, somewhat dirty with feces dried to buttocks. The hospital calls APS to report suspected neglect. Upon the APS worker's arrival at

the hospital, the client's attending physician fails to offer an opinion as to neglect or general progression of an existing disease process. Also, the client and the Suspected Abuser deny poor care. Because we don't have a medical opinion confirming neglect, then I cannot confirm neglect.

**IT DEPENDS** For example, the client's home environment could reveal concerns that support neglect by other, including self-neglect. You need to assess the overall condition of the client when brought to the Emergency Department and the signs of neglect by other represented by the condition of the client. It is not always necessary to have the medical opinion, if there is other compelling evidence of neglect.

#### **IX. Physical Abuse**

31. APS receives a report that the client's caretakers are using drugs in front of the client, who is developmentally delayed. The report also alleges that the client is given drugs. When the client is asked if they have been using drugs, the client shakes their head as in saying no, but gestures how to smoke from a pipe. Also, the Suspected Abuser is denying the allegations. Because of this, we cannot confirm the abuse.

**FALSE** Just because the client denies the physical abuse, does not mean that the alleged abuse did not happen. The finding should be based on the social worker's investigation and assessment of the available evidence.

#### **X. Sexual Abuse**

32. The client no longer wishes the caregiver to provide needed personal care, because during a previous personal care session the client became aroused. The client now is alleging sexual abuse, therefore we can confirm sexual abuse.

**IT DEPENDS** The client's statement alone is not sufficient to confirm sexual abuse, and a proper investigation and assessment of the evidence gathered will help you assess if you have the information necessary to meet the Essential Defining Elements of sexual abuse.

33. APS received a report that a developmentally delayed adult was sexually abused. They are unable to verbalize the abuse, and the Suspected Abuser is denying the allegation. Therefore, you cannot confirm sexual abuse.

**FALSE** Just because a vulnerable adult cannot relate what happened to them, does not prevent you from pursuing an investigation to gather the evidence that you need to meet the Essential Defining Elements of sexual abuse. You may pursue the investigation, gather more information and evidence, including but not limited to prior report history, physical/medical such as marks, abrasions, etc.



The Matrix offers a variety of signs and indicators of sexual abuse to guide your investigation.

#### **XI. Self-Neglect**

34. If the client chooses to be homeless, as a lifestyle choice (and exercising their constitutional right to self-determination), then self-neglect would be Unfounded, as long as the client continues to obtain essential food, clothing, medical care, and manage their moneys.

**TRUE** Self-neglect would be Unfounded if there is no question about the client's decisional capacity in reference to lifestyle choices and they are meeting their basic needs. Some counties may have programs designed to specifically serve the homeless population, whereas others may not. Therefore, the level of engagement of APS with the homeless population may be based on local practices.

#### **XII. Psychological Abuse**

35. If the client is the only one reporting verbal abuse, and no one else corroborates, then the mental suffering is unfounded.

**IT DEPENDS** You have to assess the repercussions to the client in terms of how they feel, and how it affects their daily life, and how dependent they might be on the suspected abuser.

36. When the client engages in arguments with close family members (e.g., husband, wife, son, caregiver, etc.) and reports psychological abuse, we cannot confirm mental suffering.

**IT DEPENDS** You have to assess the repercussions to the client in terms of how they feel, and how it affects their daily life, and how dependent they might be on the suspected abuser. The social worker should also assess for caregiver stress and consider referring family members to local resources and supports, to help ensure that arguing does not become a precursor to neglect or physical abuse.

#### **XIII. Isolation**

37. If the client resides in a memory care unit within an assisted living facility, is conserved and the conservator says they're not allowing a specific family member to visit due to problematic behavior towards the client and the facility's staff, then isolation would be unfounded.

**XIV. IT DEPENDS**

38. This situation would need to be investigated further and should include a review of any available conservatorship court records and/or collateral information and contacts. Consideration should also be given regarding if this action is done in the best interest of the client.

**XV. Abandonment**

39. If a family member or informal caregiver takes client to the Emergency Room for evaluation due to health concerns, challenging behaviors (e.g., dementia/Alzheimer's and wandering at night), or for being unable to properly care for the client, then, this would not constitute abandonment.

**IT DEPENDS** A proper investigation and assessment of the evidence gathered will help you assess if you have the information necessary to meet the Essential Defining Elements of Abandonment.

**Policy Clarification and Case Exceptions****XVI. Guidance**

40. When an APS Worker is assigned to complete a face-to-face investigation, and is unable to complete the investigation (Client moved, wrong address, etc.), then the APS Worker may close the investigation without findings.

**TRUE** There are many situations that can result in the case being closed without findings, after the worker has used due diligence in making every effort to obtain the information or locate the client. They include (but are not limited to):

- NTD cases where the client is safe, but you have been unable to gather enough information to determine whether the abuse occurred.
- Cases where you are unable to locate the client, and therefore you can't gather enough information to make a finding.
- Cases where the client refused to cooperate in the investigation into a self-neglect or mental suffering allegation and you are unable to gather enough information to make a finding.
- Cases where the client refused to cooperate in the investigation when the alleged abuse is perpetrated by another person AND there is no other avenue for determining whether the abuse occurred.

- Cases where the client has moved out of the area after the case was opened and therefore you can't gather enough information to make a finding.

**XVII. Special Case Scenarios**

41. It is important to determine that the allegations meet the definition of abuse, per California's Welfare and Institutions code, and that any finding conforms to the necessary Essential Defining Elements for that type of abuse.

**TRUE** An allegation may reference a landlord/tenant issue, yet it might also meet the criteria of a type of elder or dependent adult abuse.

42. When Law Enforcement requests APS to hold off an investigation, I can still have a finding.

**TRUE** There are times when law enforcement may ask you to limit certain aspects of your investigation (e.g., discussing certain allegations with the victim or alleged perpetrator) to not compromise the law enforcement investigation. This should not preclude you from providing services and working with law enforcement to assist you in determining your findings. Your finding can differ from that of LE's finding. The APS SW is investigating elder/dependent adult abuse, and LE is determining if a crime has been committed. In situations like these, please consult with your APS leadership on best practices that support collaboration and partnership with law enforcement. At the same time, the role of the APS program is to assess for the safety of our clients, and a request of this nature would have to be assessed in this light by your APS leadership.

43. I have to have a Confirmed finding in order to cross-report a report of abuse (SOC 341) to law enforcement.

**FALSE** APS is mandated at the time they receive the initial report, before the investigation has begun, to cross-report the suspected elder or dependent adult abuse to law enforcement, per WIC 15640.

44. When investigating a case that is an NTD, you would follow the same investigative techniques and finding determination process as you would with a case subject to an in-person response.

**TRUE** In an NTD case you would still complete your investigation and make a finding. However, if there is no information to corroborate, or the inability to obtain it, or it is unnecessary to pursue the information, then the finding of Not Applicable might be an option.

45. If the date of incident of the reported abuse was over three years ago, then it cannot be investigated by APS.

**FALSE**

You would determine your finding based on training, APS eligibility criteria, and the Essential Defining Elements of the abuse alleged, regardless of timeframe; although timeframe would affect your Service Plan.