

# Guide to APS findings

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If Adult Protective Services makes a finding against you of abuse, neglect, financial exploitation, misappropriation, or abandonment, you may not be able to work or volunteer with children or vulnerable adults for the rest of your life. Learn your rights and responsibilities when APS investigates you and makes a finding against you, and the process for appealing the finding.

## 1. APS basics

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If you or someone you know may be the victim of abuse, neglect, exploitation or abandonment, read about [protecting elders and vulnerable adults from abuse and neglect](#).

Adult Protective Services (APS) (<https://www.dshs.wa.gov/altsa/adult-protective-services-aps>) is a statewide government agency. It is part of the Department of Social and Health Services (DSHS) (<https://www.dshs.wa.gov/>). APS investigators respond to reports of possible abuse, neglect, exploitation, stealing of property, or abandonment of vulnerable adults living at home or in a facility. Vulnerable adults can be any of these:

- 60 years or older and functionally, mentally, or physically unable to care for themselves
- Have a court-appointed guardian
- Have a developmental disability
- Living in a nursing home, adult family home, boarding home, or other facility
- Getting services from home health, hospice, or home care agencies
- Getting services from an individual care provider or a personal aide

## 2. APS investigation

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If you're not sure if APS has an open investigation on you, contact them and ask. Protect yourself. Follow up in writing. Save a copy for your records.

To investigate, an APS investigator will make an unannounced home visit. They will also interview you, the alleged vulnerable adult, the person who made the allegation, and other witnesses. They may take photos and review records, including bank and other financial documents.

If the APS investigator believes that the conduct they're investigating is criminal, APS could ask the police to conduct their own investigation.

There's no time limit for APS to finish its investigation. Don't assume that the investigation is over just because APS has stopped contacting you. It's only over once you get a letter from them saying so. That letter will tell you what APS' "findings" are from its investigation. It will also say that APS believes the allegations are one of these:

- **( ) Substantiated**— more likely than not the abuse or neglect happened
- **Unsubstantiated**— more likely than not the abuse or neglect did not happen
- **Inconclusive**— APS can't determine if the abuse or neglect happened

**Make sure you get and read this notice!** You must give APS an address where you can get mail. APS must notify you by certified and regular mail. You have a short time to challenge a finding.

If the investigator decides the vulnerable adult needs protection, APS can seek a protection order, file for guardianship or advise the vulnerable adult or someone in the adult's life to do so. APS may also make other referrals for the vulnerable adult to get help.

## 3. Rights during investigation

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- **You have the right to have a third party with you during the interview**, such as a friend, lawyer, union representative, family member, or guardian.

- If you don't speak or understand English well, **you have the right to a free interpreter** APS may **not** use your family members as interpreters.
- **If you have a disability, you have the right to any accommodations** necessary to take part in the process. For example, if you have a vision impairment, APS may need to give you large-print versions of any documents the investigator intends to show you. Or if you need to take breaks during the interview, APS should allow you to do so.
- You have the right **to stop the interview** at any time and reschedule.
- You have the right **not to take part in the interview**.
- You have the right to provide APS documents or witnesses related to the alleged incident.

A substantiated APS finding against you isn't a criminal conviction. It's an agency (administrative) finding. If you apply to volunteer or to work with children or vulnerable adults, you will sign a form letting the employer check with DSHS's Background Check Central Unit (BCCU) (<https://www.dshs.wa.gov/ffa/background-check-central-unit>). The APS finding appears as an adverse action of abuse or neglect, even if you're appealing it.

A substantiated finding permanently bars you from any work or volunteer position that would give you unsupervised access to children or vulnerable adults, including volunteering at a child's school, housekeeping for a long-term care facility, or caregiver jobs, among others. Anyone who asks APS can find your name listed on the state's Vulnerable Adult Abuse Registry. But if you appeal the finding and win, they remove your name from the Registry.

## 4. Request hearing

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After you get a "substantiated initial finding" letter from APS, you have **30 days** from the date APS sent this letter to ask the Office of Administrative Hearings (OAH) in writing for a hearing. OAH must get your request by 5 p.m. on the 30th calendar day from the date APS mailed the letter. File your request early to prevent OAH from saying it didn't get your request on time.

You can fax your request to OAH, but then you must also mail it on the same day.

**Keep a copy of your hearing request.** Put on it the date you mailed it.

Your hearing request must include:

- Your full name, current address, and phone number. Update this information with OAH and APS if it changes. Keep proof you sent OAH and APS an update.
- A brief explanation why you disagree with APS' finding.
- If you need an interpreter or other help such as an accommodation for a disability.

You have the right to notices about your hearing in the language you speak at home.

## 5. Pre-hearing conference

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After you submit your hearing request, the Office of Administrative Hearing (OAH) will send you and the APS representative notices about your case. You should record any dates listed in the notices and make sure you appear in person or by phone on all pre-hearing conference and hearing dates.

Before your hearing, OAH will schedule a pre-hearing conference with an Administrative Law Judge (ALJ). The pre-hearing conference will help you understand the issues better and get ready for your hearing. It will probably be by phone and usually you must call in to the pre-hearing conference. The ALJ will only call you if the notice says so. **If you don't call OAH on time, you might lose the right to have a hearing.**

At the pre-hearing conference, ask the ALJ to order the APS representative to send you a copy of your entire APS file, if they haven't already done so. You can ask for a paper or an electronic copy. APS will only give you a copy of the APS file if you sign an agreement (a protective order) to use the file only to fight the findings against you and not to disclose the records to anyone else.

At the pre-hearing conference, tell the ALJ about any dates or times you can't go to the hearing, or send OAH and the APS representative a letter about this. Otherwise, OAH just picks a date on its own. Changing the date can be hard.

## 6. Hearing prep

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After the pre-hearing conference, the ALJ will send another letter with the deadlines for you and the APS representative to file evidence, such as documents, pictures, and other papers showing why the finding is wrong, and to provide a list of witnesses. You must send the APS representative an exact copy of everything you send the ALJ by the date in the letter.

If the ALJ doesn't send you a deadline, your evidence is due to the ALJ and APS representative **5 days** before the hearing. Check with your witnesses first. Make sure they can and will testify at the hearing.

Read about [representing yourself at a DSHS hearing](#) for more tips on how to get ready for your hearing.

## 7. Hearing

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Like the pre-hearing conference, this will probably take place by phone. A hearing could last more than a day. If you don't have a phone with reliable coverage and enough minutes, call OAH or APS to ask for an in-person hearing, or use another phone.

## 8. Appeal ALJ decision

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The ALJ will send you and APS a written decision, usually called an Initial Decision. If you or APS disagree with the ALJ's Initial Decision, you can appeal. You will first appeal to [DSHS's Board of Appeals \(BOA\)](#) (<https://www.dshs.wa.gov/office-of-the-secretary/board-appeals>). Your Initial Decision will say how to petition for review and what your deadline is to do it.

The appeal to the Board of Appeals is in writing only. Neither you nor APS appears before the Review Judge. The Review Judge considers only documents and testimony from your ALJ hearing. You must present all your documents and testimony at your hearing with the ALJ. You need special permission from BOA to add new facts or documents on appeal.

If you send the BOA a written appeal, you must send the APS representative a copy. APS will have a chance to respond in writing to your appeal, and vice versa.

The Review Judge will send you and APS a written decision called a Review Decision. APS can't appeal it, but **if you disagree with the BOA's Review Decision**, you can ask a Superior Court for further review. You should also try to talk to a lawyer.

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