

8

Right to Review for Alleged Perpetrators

TABLE OF CONTENTS

8.1 Right to Review

- 8.1.1 Basis and purpose
- 8.1.2 Alleged perpetrators of adult abuse, neglect or exploitation
- 8.1.3 Circumstances requiring notification
- 8.1.4 Notification at the discretion of the LDSS
- 8.1.5 Notification error
- 8.1.6 Entering dispositions at the conclusion of an investigation
 - 8.1.6.1 Unfounded or invalid dispositions
 - 8.1.6.2 When the alleged perpetrator cannot be identified
- 8.1.7 Required contents in the right to review notification
 - 8.1.7.1 Notification when the alleged perpetrator is a minor
 - 8.1.7.2 Notification when the alleged perpetrator is an incapacitated adult
- 8.1.8 Consultation with law enforcement prior to notification of alleged perpetrator
- 8.1.9 APS investigation and registration shall remain open
- 8.1.10 Provision of services to adult
- 8.1.11 Responsibilities of the alleged perpetrator if review is requested
- 8.1.12 Acknowledgement of request
- 8.1.13 Time frame to conduct the review hearing
- 8.1.14 Location of the right to review hearing
- 8.1.15 Pre-review hearing preparation
 - 8.1.15.1 The APS case record
- 8.1.16 When information is requested by the alleged perpetrator

- 8.1.17 If the alleged perpetrator fails to appear for a scheduled hearing
- 8.1.18 Conducting the right to review hearing
- 8.1.19 Introduction and summary of the review hearing process
- 8.1.20 Right to review hearing participants
- 8.1.21 Role of alleged perpetrator during hearing
- 8.1.22 Role of the APS worker during the hearing
- 8.1.23 Role of witnesses during the hearing
- 8.1.24 Responsibility of the local director or his designee
- 8.1.25 Time frame to notify alleged perpetrator of hearing results
- 8.1.26 Hearing decision is final
- 8.1.27 Additional documentation requirements after hearing
 - 8.1.27.1 Identification of alleged perpetrator is reversed
 - 8.1.27.2 Identification of alleged perpetrator is sustained
 - 8.1.27.3 Amend or reverse disposition or findings
 - 8.1.27.4 Sustain disposition or findings
- 8.1.28 Notifying the APS Division Regional Consultants
- 8.1.29 Other amendments to the record

8.2 Appendix A: LDSS notification to alleged perpetrator

8.3 Appendix B: Acknowledgement of a timely request for review

8.4 Appendix C: Acknowledgement of an untimely request for review

8.5 Appendix D: Failure to appear for hearing

8.6 Appendix E: Sustain LDSS investigation disposition (needs protective services) and identification of perpetrator

8.7 Appendix F: Sustain LDSS investigation disposition (needs protective services- Version 2) and identification of perpetrator

8.8 Appendix G: Sustain LDSS investigation disposition (needs protective services) and reverse identification of perpetrator

8.9 Appendix H: Sustain LDSS investigation disposition (needs protective services- Version 2) and reverse identification of perpetrator

8.10 Appendix I: Reverse LDSS investigation disposition and identification of perpetrator

8

RIGHT TO REVIEW

8.1 Right to Review

8.1.1 Basis and purpose

There are particular instances in which individuals identified as alleged perpetrators in substantiated Adult Protective Services (APS) cases are entitled to a right to review. This due process protection is pursuant to the 14th Amendment of the United States Constitution and Article 1, Section 11 of the Constitution of Virginia which prohibit a state from depriving any person of life, liberty, or property, without due process of law. APS regulations, 22 VAC 30-100, establish the right to review process and outline the steps for a right to review hearing.

Individuals identified as an alleged perpetrator who are required to be notified by the local department of social services (LDSS) shall be afforded the opportunity to request a review by the local director or his designee. The local director or his designee shall have the authority to sustain, amend, or reverse the findings of the investigation or the disposition.

8.1.2 Alleged perpetrators of adult abuse, neglect or exploitation

An alleged perpetrator of adult abuse, neglect or exploitation may be a family member, neighbor, caregiver, or any other individual whose maltreatment of an adult meets the definitions of abuse, neglect or exploitation in §63.2-100 of the Code of Virginia and state regulations.

A facility such as a nursing home or group home or an organization such as a non-profit agency or home care business is not a perpetrator and shall not be identified as such in the case record.

8.1.3 Circumstances requiring notification

(22VAC 30-100-40.) The local department shall provide written notification to the alleged perpetrator within 30 calendar days of the conclusion of the investigation when:

- a. The disposition (i) is needs protective services and accepts, (ii) needs protective services and refuses, or (iii) need for protective services no longer exists; and
- b. The local department notified a licensing, regulatory, or legal authority of the disposition pursuant to § 63.3-1605 D of the Code of Virginia.

(§ 63.2-1605 of the Code of Virginia). D. The local department shall refer any appropriate matter and all relevant documentation, to the appropriate licensing, regulatory, or legal authority for administrative action or criminal investigation.

A substantiated APS case is one in which the APS investigation has been completed and the investigation disposition is one of the following:

- needs protective services and accepts
- needs protective services and refuses; or
- need for protective services no longer exists

The disposition is the determination that there is a preponderance of evidence that abuse, neglect or exploitation has occurred or that adult is at risk of abuse, neglect or exploitation and that the adult is in need of protective services (22 VAC 30-100-40).

Residents in facility investigations who are identified as an alleged perpetrator in a substantiated case where the referral for investigation was sent to a licensing, regulatory, or legal entity are entitled to notification of right to review.

Chapter 2, Section 2.36.1 contains a list of licensing, regulatory, and legal authorities to whom LDSS often refer matters for administrative action or criminal investigation.

8.1.4 Notification at the discretion of the LDSS

(22 VAC 30-100-40). It is optional for the LDSS to provide right to review notification to an adult whom the LDSS determines to be self-neglecting and is therefore considered to be the alleged perpetrator.

Additionally, when the circumstances of the investigation do not require a referral pursuant to § 63.2-1605 D of the Code of Virginia, the LDSS may provide notification to the alleged perpetrator at its discretion. If an LDSS provides notification in optional circumstances, see Section 8.1.8 regarding consultation with law enforcement prior to notification.

8.1.5 Notification error

If the APS worker notified a licensing, regulatory or legal authority but later determines such notification was not required, the APS worker shall send a clarification to the appropriate entity. If no other licensing, regulatory, or legal authority needed to be notified, then the right to review does not occur.

8.1.6 Entering dispositions at the conclusion of an investigation

The investigation shall be completed and a disposition shall be determined no later than 45 days from the date the report was received. Any delay in completing the investigation or making a disposition within the 45-day period shall be documented in PeerPlace.

When a disposition of needs and accepts, needs and refuses, or need no longer exists is entered and certified, and a right to review hearing is required the local department will:

- Click reopen APS investigation on the certification tab in PeerPlace
- Document the right to review process in the APS investigation notes

8.1.6.1 Unfounded or invalid dispositions

APS cases in which the disposition is either unfounded or invalid are not subject to the right to review process.

A case with an unfounded disposition means a review of the facts does not show a preponderance of evidence that the abuse, neglect or exploitation occurred or that the adult is at risk of abuse, neglect or exploitation.

A case with an invalid disposition means that after the investigation was initiated, the worker determined the report did not meet the criteria of a valid report.

8.1.6.2 When the alleged perpetrator cannot be identified

There may be instances where at the conclusion of an investigation a preponderance of evidence indicates that abuse, neglect or exploitation has occurred or is occurring or the adult is at risk of abuse, neglect or exploitation but the APS worker is unable to determine who the alleged perpetrator is. If the identity of the alleged perpetrator cannot be determined, the LDSS shall ensure that the case record reflects that there was no identified perpetrator.

If the APS report listed an alleged perpetrator but the investigation determined that the individual was not the alleged perpetrator, the case record shall reflect this information. If at the conclusion of the investigation, the APS worker cannot determine the alleged perpetrator, notification will not be sent and a review hearing will not be held.

If the alleged perpetrator's name is known but his address or contact information is not locatable, notification cannot be provided and a hearing cannot be held.

8.1.7 Required contents in the right to review notification

The notification to the alleged perpetrator shall contain the following information:

(22VAC 30-100-40) A summary of the evidence and information used by the local department to support the findings for the investigation; inform the alleged perpetrator about his right to review; and if applicable, identify all licensing, regulatory, or legal authorities and the date these authorities were notified.

The written notification shall also state that if the alleged perpetrator disagrees with being identified as the alleged perpetrator, he has the right to request a review by the local director or his designee.

The written notification shall include a summary of information used by the LDSS to support the identification of the individual as the alleged perpetrator. The entire case record is not provided with the right to review notification.

The LDSS may provide written notices by mail, email, or fax. However, as the notice may contain sensitive information, the LDSS should send the notice in the most secure method. The APS worker should discuss the LDSS's preferred method of written notification to the alleged perpetrator with the director, the supervisor, and agency attorney, as appropriate.

Pursuant to 22 VAC-30-100-50, the identity of the person who reported the suspected abuse, neglect or exploitation shall be held confidential unless the reporter authorizes the disclosure of his identity or disclosure is ordered by a court.

The notification letter to the alleged perpetrator may be obtained from PeerPlace using the notification letters tab then selecting “LDSS notification to alleged perpetrator,” document sending the letter in the APS investigation notes and uploaded the letter using the attachments tab in the client registration.

See Appendix A for sample notification letter to an alleged perpetrator.

8.1.7.1 Notification when the alleged perpetrator is a minor

When the alleged perpetrator is a minor, the notification shall be sent to the minor’s parent or legal guardian. It is the responsibility of the parent or legal guardian to make the written request for a review hearing.

8.1.7.2 Notification when the alleged perpetrator is an incapacitated adult

When the alleged perpetrator is an incapacitated adult who may not understand the notification letter or have the ability to make a written request for a review hearing, the notification shall be sent to adult’s legal representative (i.e. guardian or power of attorney). The adult’s legal representative may make the written request for a review hearing.

The notification letter shall not be sent to a caregiver, family member or other individual unless that person has the legal authority to act on behalf of the incapacitated adult. If no individual has the legal authority to act on behalf of the adult, the notification letter shall be sent to the incapacitated adult.

8.1.8 Consultation with law enforcement prior to notification of alleged perpetrator

When the LDSS has referred information to law enforcement at any point during the investigation, the LDSS shall consult with law enforcement prior to providing the notification to the alleged perpetrator.

Prior consultation with law enforcement will make law enforcement aware of:

- safety concerns or protection needs of the adult; and
- whether notification to the alleged perpetrator may affect an ongoing criminal investigation

(22VAC 30-100-40) The local department may delay notification to the alleged perpetrator by an additional 30 calendar days at the request of a law-enforcement agency.

If law enforcement requests that the LDSS delay notifying the alleged perpetrator because notification will impede or jeopardize the criminal investigation, the LDSS shall delay notification an additional 30 days (total of 60 days from the date of the disposition). Specific reasons for the delay shall be documented in the APS investigation notes tab (i.e. an arrest warrant for the alleged perpetrator is being issued imminently, the alleged perpetrator is under surveillance, etc.) and shall include the name of the law enforcement official who requested the delay. The revised date of notification to the alleged perpetrator shall also be discussed with law enforcement (e.g. “the new date a letter will be sent to the alleged perpetrator is October 15, 2021”).

Law enforcement and the LDSS shall consult prior to the revised notification date (e.g. October 15, 2021) and discuss the impending notification to the alleged perpetrator.

Law enforcement can only request a single 30-day delay of notification to the alleged perpetrator. State regulations do not permit further delays.

8.1.9 APS investigation and registration shall remain open

The APS investigation and registration shall remain open until the alleged perpetrator submits a timely written request for a review hearing or until the time frame for the alleged perpetrator to request a review has passed. The alleged perpetrator's written request must be received by the LDSS 30 calendar days from the date on the LDSS letter to the alleged perpetrator notifying him of his right to request a review.

If the alleged perpetrator requests a right to review, the APS investigation and registration shall remain open until the local director or his designee issues his review decision.

8.1.10 Provision of services to adult

If the disposition is needs protective services and accepts, services shall be provided to the adult. See Chapter 2, Adult Protective Services for additional information regarding opening a case to adult protective services. Service delivery shall not be delayed until after the hearing is conducted.

8.1.11 Responsibilites of the alleged perpetrator if review is requested

(22VAC 30-100-45) A written request for an informal hearing with the local department must be received by the local department within 30 calendar days of the date of the local department's written notification that meets the requirements of 22 VAC 30-100-40 F to be deemed timely.

Within 30 calendar days of the being notified by the LDSS, the alleged perpetrator may submit a written request to the LDSS requesting a review hearing.

When the LDSS receives a written request for a review, the LDSS shall stamp the written request with the date it was received, document receipt in the APS investigation notes, and upload the letter under the attachments tab in the client registration.

If the alleged perpetrator fails to submit a timely written request, the alleged perpetrator has waived his right to review. Document in the APS investigation notes, reclose the investigation, and if the adult is not receiving ongoing APS services, close the registration.

8.1.12 Acknowledgement of request

LDSS shall acknowledge the alleged perpetrator's timely or untimely request for a hearing. See Appendix B for a timely request sample letter and Appendix C for an untimely request sample letter.

The LDSS shall document sending the acknowledgement of request in the APS investigation notes, and upload the letter under the attachments tab in the client registration.

When the right to review is timely requested, the acknowledgement letter shall include the following information:

- The date, time and location of the hearing including if the hearing will be held virtually;
- A summary of the evidence and how and where the evidence can be examined;
- A statement that the LDSS has the burden of proving that the individual is the perpetrator of the alleged abuse, neglect or exploitation;

- A warning that if the individual fails to appear at the hearing the requested review will be deemed to be withdrawn; and
- A statement that if the individual fails to appear at the hearing, he will have 14 days from the date of the hearing decision letter to present good cause for his failure to appear in order receive a new hearing.

8.1.13 Time frame to conduct the review hearing

If the alleged perpetrator submits a timely written request for review, the LDSS shall conduct an informal review hearing within 30 calendar days of the date that timely notice was received. The LDSS may accommodate an alleged perpetrator's reasonable request to conduct the hearing outside of the 30-day timeframe.

8.1.14 Location of the right to review hearing

Hearings may be conducted in person, by phone, or virtually. The right to review hearing shall be held in a location designated by the LDSS unless it is being held virtually or by phone. The LDSS may hold the hearing at another location if the alleged perpetrator provides a legitimate reason explaining why he is unable to attend the hearing in the location designated by the LDSS.

Example: The alleged perpetrator is incarcerated and unable to attend the hearing at the LDSS. The LDSS would coordinate with the jail authority or Department of Corrections to provide the alleged perpetrator virtual or telephone access for the right to review hearing.

8.1.15 Pre-review hearing preparation

LDSS are encouraged to review the APS case with the LDSS attorney and discuss what role the LDSS attorney will take in the hearing.

8.1.15.1 The APS case record

The APS record may include the following:

- All PeerPlace documentation related to the individual's identification as the alleged perpetrator.
- The hard copy documents such as photos, etc.

If the alleged perpetrator requests to review the APS case record prior to the hearing he or she shall have the opportunity to do so. Only information that is directly related to the APS investigation and the disposition may be released.

Case information that the alleged perpetrator is not entitled to review shall be redacted or shall not be provided. See Section 8.1.16 regarding what type of information is permitted and prohibited from being provided to the alleged perpetrator. If certain documentation is withheld, the LDSS shall inform the alleged perpetrator why the information was not provided.

The alleged perpetrator may request to review the case record at the LDSS or pick up the record from the LDSS, or request that the record be mailed to him.

LDSS staff participating in the review hearing shall also review the APS record prior to the hearing.

8.1.16 When information is requested by the alleged perpetrator

The LDSS shall provide information to the alleged perpetrator if he or she requests information prior to the hearing. Any mitigating information or documentation that would indicate another individual could be the alleged perpetrator shall be provided. An example of mitigating information would be the neighbor's statement such as "her adult son has been very helpful to her since he moved in and he made sure she attended all of her medical appointments."

However, some information in the case record may be prohibited from being released.

- Information prohibited from being disclosed by state or federal law or regulation shall not be released to the alleged perpetrator.
- Any identifying information about the adult victim (i.e. name, date of birth, address) shall be redacted.
- In accordance with § 32.1-127.1:03 of the Code of Virginia, medical records from healthcare professionals that the APS worker obtained during the investigation shall not be provided to the alleged perpetrator, unless the victim gives specific authorization for the release of the health records.
- Pursuant to § 63.2-1606 of the Code of Virginia LDSS shall not disseminate criminal investigative reports received from law enforcement agencies.
- The identity of the reporter shall not be released unless the reporter gives permission for the release or a court has ordered the disclosure.
- Information related to the provision of services to the adult shall not be released or shall be redacted from the case record.

LDSS are advised to consult with the LDSS attorney for advice and guidance on the releasing of information to alleged perpetrators.

The LDSS shall document the alleged perpetrator's request to review the record and the means by which the alleged perpetrator reviewed the record in the APS investigation notes.

8.1.17 If the alleged perpetrator fails to appear for a scheduled hearing

If the hearing has been scheduled for a certain time but the alleged perpetrator fails to arrive on time for the hearing, the local director or his designee may wait a reasonable amount of time for the alleged perpetrator to arrive for the hearing.

If the alleged perpetrator fails to appear for the hearing, the local director or his designee shall convene the review hearing, document the alleged perpetrator's failure to appear, and base the review decision upon a review of the investigative record. After the hearing, the local director or his designee shall send a letter to the perpetrator notifying him of his failure to appear and that the alleged perpetrator may request the hearing be rescheduled if he can demonstrate good cause for his failure to appear. Good cause is an emergency or other event beyond the control of the alleged perpetrator that prevents him from attending the hearing. See Appendix D for a sample letter to alleged perpetrator regarding failure to appear.

The alleged perpetrator's failure to appear shall be documented in the APS investigation notes.

8.1.18 Conducting the right to review hearing

(22VAC 30-100-45) The director shall preside over the informal hearing. Except for the director, no person whose regular duties include substantial involvement with the local department's adult abuse, neglect, or exploitation investigations shall preside over the hearing.

8.1.19 Introduction and summary of the review hearing process

At the beginning of the hearing the local director or his designee will discuss the purpose of the hearing, outline the use of witnesses, establish the order of presentations, and other issues related to the structure of the hearing. The hearing may be recorded by either party.

The LDSS may wish to consult the agency attorney to determine how to handle an alleged perpetrator's request to record the hearing or establishing an LDSS protocol, including a consent process, when recording right to review hearings.

8.1.20 Right to review hearing participants

Hearing participants include the alleged perpetrator, and if the alleged perpetrator chooses, a legal representative and/or counsel, the APS worker who issued the disposition, and the APS worker's supervisor.

Notification of the right to review hearing is not provided to the adult who is the subject of the APS report, however the adult may attend the hearing.

8.1.21 Role of alleged perpetrator during hearing

(22VAC 30-100-45) The alleged perpetrator may be represented by counsel. The alleged perpetrator shall be entitled to present the testimony of witnesses, documents, factual data, arguments, or other submissions of proof.

The alleged perpetrator presents information in order to establish why he or she should not be identified as the alleged perpetrator in the APS record and/or why other information in the record may be incorrect.

It is the responsibility of the alleged perpetrator to make his or her arrangements for legal representation. However, counsel is prohibited from testifying on behalf of the alleged perpetrator.

8.1.22 Role of the APS worker during the hearing

The LDSS has the burden of proof at the hearing. The APS worker shall present a summary of the case. The summary shall include all factors that contributed to identifying a specific individual as the alleged perpetrator as well as why the particular disposition was made.

If the alleged perpetrator or his representative makes a statement during the review hearing that the APS worker believes is inaccurate, the APS worker shall state the reason why he or she believes the statement is inaccurate. Information or statements not raised during the hearing shall not be considered by the local director or his designee when issuing his decision.

The APS worker shall not introduce new information during the hearing that was not obtained during the investigation and included in the APS record.

8.1.23 Role of witnesses during the hearing

The local director or his designee will determine at the beginning of the conference how many witnesses will testify and the type of information to which they will testify. If several witnesses will be providing similar testimony (i.e. the alleged perpetrator is

an excellent personal care provider) the local director or his designee may request that only a designated number of witnesses testify in order to avoid repetitive testimony.

Witnesses shall follow certain rules. Any witness who plans to testify shall wait outside the hearing room until called to testify. Witnesses will be entitled to remain in the room following testimony at the discretion of both parties and the local director or his designee.

8.1.24 Responsibility of the local director or his designee

(22VAC 30-100-45) The director shall have the authority to sustain, amend, or reverse the findings of the investigation or the disposition.

The local director or his designee shall consider all information presented by both parties during the hearing. The local director or his designee shall have the authority to sustain, amend, or reverse the LDSS's findings regarding the identification of the alleged perpetrator. The local director or his designee shall have the authority to sustain, amend, or reverse the disposition of the case.

If the results from the hearing are requested in any legal proceedings, the LDSS should consult with the agency attorney on the request to release records.

8.1.25 Time frame to notify alleged perpetrator of hearing results

(22VAC 30-100-45) The director shall notify the alleged perpetrator, in writing, of the results of the informal hearing within 30 calendar days of the date of the hearing. The decision of the director shall be final. The results of the informal hearing shall be mailed, certified with return receipt, to the alleged perpetrator. A copy of the final decision shall be mailed to the appropriate licensing, regulatory, or legal authority.

The LDSS shall document the results of the right to review hearing, including the notification to the alleged perpetrator and licensing, regulatory, or legal authorities in the APS investigation notes. The notification letter to the alleged perpetrator will be uploaded to the attachments tab in the client registration.

See Appendix E through I for sample letters to notify the alleged perpetrator of the hearing results.

8.1.26 Hearing decision is final

(22VAC 30-100-45) All written findings and actions of the local department or its director, including the decision of the director at the conclusion of the review, are final and shall not be (i) appealable to the Commissioner for Aging and Rehabilitative Services or (ii) considered a final agency action for purposes of judicial review pursuant to the provisions of the Administrative Process Act (§2.2-4000 et seq. of the Code of Virginia).

8.1.27 Additional documentation requirements after hearing

8.1.27.1 Identification of alleged perpetrator is reversed

If the local director or his designee determines that the alleged perpetrator was incorrectly identified, the corresponding investigation in PeerPlace shall reflect this. The LDSS will select the alleged perpetrator from the list on the alleged perpetrator tab and uncheck the box identifying him as the alleged perpetrator. The LDSS shall document the reversal of the alleged perpetrator in the APS investigation notes.

(22VAC 30-100-45) If the director reverses the identification of the alleged perpetrator, the local department shall continue to offer services to the adult if the disposition remains needs protective services and accepts.

8.1.27.2 Identification of alleged perpetrator is sustained

If the local director or his designee determines that the identity of the alleged perpetrator is sustained, the results of the hearing shall be documented in the APS investigation notes. The LDSS will reclose the APS investigation on the certification tab once all right to review documentation is complete. When APS ongoing services resolve the APS case registration will be closed.

8.1.27.3 Amend or reverse disposition or findings

If the local director or his designee determines the investigation disposition or investigation findings were incorrect, the disposition will be reversed or amended to reflect the correct disposition.

- The LDSS will document the reason the disposition is being amended or reversed on the investigative findings tab using the investigative findings text box.

- An entry will be made using “Addendum” to reflect the reason the disposition is being amended or reversed as a result of the right to review hearing. The original investigative findings will not be edited and remain a part of the case record.
- The LDSS will ensure all right to review hearing, results, and notifications are documented in the APS investigation notes.
- The LDSS will reclose the APS investigation on the certification tab.
- The APS registration will be closed.

If the adult is receiving services and the disposition is changed from needs protective services to unfounded or invalid the LDSS will notify the adult of the termination of services.

If the adult is receiving home based services, the adult is entitled to appeal the termination of services and must be notified using the NOA. The LDSS must continue to offer services through the appeal process.

Documentation of the home based service appeal will be documented in the client registration notes. Once the appeal has concluded and is documented the APS registration shall be closed.

The LDSS may offer the adult a referral to Adult Services if there are unmet service needs and the adult can be served by the Adult Services program.

8.1.27.4 Sustain disposition or findings

If the local director or his designee determines that the disposition or findings are sustained, the results of the hearing shall be documented in the APS investigation notes. Once all right to review documentation is complete, the LDSS will reclose the APS investigation on the certification tab. When APS ongoing services resolve, the APS case registration will be closed.

8.1.28 Notifying the APS Division Regional Consultants

LDSS shall email the APS Division Regional Consultant after the hearing is conducted to provide the results of the hearing.

The email shall identify the PeerPlace ID in the subject line of the email.

8.1.29 Other amendments to the record

If the alleged perpetrator requests amendments to the record (e.g. the alleged perpetrator's date of birth was incorrect, the alleged perpetrator's employer's name was misspelled) he may make this request pursuant to the Government Data Collection and Dissemination Practice Act. See Chapter 6, Confidentiality for additional information.

If other amendments to the record are made, the LDSS shall document the amendments made in the APS investigation notes.

The purpose of the right to review hearing is not to make minor or technical changes to the APS case record but rather to provide the alleged perpetrator with the opportunity to challenge the LDSS designation that he is the alleged perpetrator in a substantiated APS case.

8.2 Appendix A: LDSS notification to alleged perpetrator

Date

Alleged Perpetrator's name
Alleged Perpetrator's address

Dear (alleged perpetrator's name):

This is to notify you that you have been identified as an alleged perpetrator in an Adult Protective Services (APS) case that has been substantiated based on the following/enclosed information. (Provide summary of reason(s) that disposition was issued in body of letter or as an enclosure).

Unlike Child Protective Services, Virginia APS does not maintain a central registry or database of alleged perpetrators of adult abuse, neglect or exploitation.

APS does not have the authority to revoke a license or provider agreement issued by another licensing, regulatory or legal authority. However, in accordance with state law (§ 63.2-1605 of the Code of Virginia and Virginia Administrative Code 22 VAC 30-100-50), your name has been provided to the following licensing, regulatory, or legal authority:

(List name of agency(s) and date information was shared with agency(s))

You may contact the agency listed above if you have questions about your (enter applicable term: license or provider agreement).

If you do not agree with being named as an alleged perpetrator of abuse, neglect or exploitation of an adult, you have the right to request a review by the Director of (name of LDSS). The Director has the authority to sustain, amend, or reverse your identification in the case record as an alleged perpetrator as well as sustain, amend, or reverse the investigation disposition. The decision of the local director or his designee is final pursuant to 22 VAC 30-100-45 I and 63.2-1605 J of the Code of Virginia.

If you want to request a review, you must notify (name of LDSS) in writing no later than 30 calendar days from the date of this letter. In your request you must refer to the following code number (enter PeerPlace ID and APS Report number in which perpetrator was identified). Your request must be addressed as follows:

Name of LDSS
Attention: (LDSS to designate staff person)
LDSS Address

Sincerely,

Name of APS worker

PeerPlace ID XXXXX
APS Report Number XXXX

8.3 Appendix B: Acknowledgement of a timely request for review

Date

Alleged Perpetrator's name
Alleged Perpetrator's address

Dear (**alleged perpetrator's name**):

Your request for a review dated (add date of request) was received by (Name of LDSS) on (Date). We are required to schedule and conduct your review hearing by (Date). Please inform the worker identified below prior to the review if an attorney will be representing you.

The review hearing is scheduled for (Date) and (Time) at (Location/Address). If the hearing is not being conducted virtually, please sign in at the front desk and the worker will escort you to (room location of hearing). If you fail to appear at the scheduled hearing, you will be deemed to have withdrawn your request for review. If you fail to appear, you shall have 14 days from the date of the hearing decision letter to present good cause for your failure to appear in order to receive a new hearing. Good cause is an emergency or other event beyond your control (such as your hospitalization) that prevents you from attending the hearing.

The Adult Protective Services (APS) case was substantiated based on the following/enclosed information (Provide brief summary of reason(s) that the disposition was issued in the body of the letter or as enclosure).

(Name of LDSS) has the burden of proving that you are the perpetrator of the abuse, neglect or exploitation.

Please be advised that if you fail to appear the decision will be based solely on information provided by the APS worker.

If you would like to review information related to your identification as an alleged perpetrator, or have any additional questions please contact (Name) at (phone number). The information may be mailed to you, you may request to review the record at (name of LDSS) or you may pick up the information directly from (name of LDSS).

Sincerely,

Local Director

Cc: APS worker and APS supervisor
PeerPlace ID XXXXX
APS Report Number XXXX

8.4 Appendix C: Acknowledgement of an untimely request for review

Date

Alleged Perpetrator's name
Alleged Perpetrator's address

Dear (**alleged perpetrator's name**):

Your written request for a review (Date of letter) was received by (Name of LDSS) on (Date). As your request for review was not received by (last date letter could have been received), we are denying your request for a review hearing.

Should you have any questions regarding this letter, please contact (Name) at (phone number).

Sincerely,

Local Director

Cc: APS worker and APS supervisor

PeerPlace ID XXXXX
APS Report Number XXXX

8.5 Appendix D: Failure to appear for hearing

Date

Alleged Perpetrator's name
Alleged Perpetrator's address

Dear (alleged perpetrator's name):

Your right to review hearing was scheduled for (date of hearing). However, you did not appear for the hearing. We proceeded in your absence and after careful review of the Adult Protective Services (APS); I have decided to sustain the disposition of the APS investigation and your identification as the perpetrator.

If you had good cause for failing to appear, you may make a written request that my decision be set aside and the hearing be rescheduled. Examples of good cause may include your hospitalization, your illness, or an accident. You are required to present proof of good cause with your written request to reschedule the hearing.

Other reasons for failure to appear may be accepted depending on the information you provide.

If you do not respond in writing within 14 calendar days from the date of this letter, this decision will be final pursuant to 22 VAC 30-100-45 I and § 63.2-1605 J of the Code of Virginia.

Should you have any questions regarding this letter, please contact (Name) at (phone number).

Sincerely,

Local Director

Cc: APS worker and APS supervisor

PeerPlace ID XXXXX
APS Report Number XXXX

8.6 Appendix E: Sustain LDSS investigation disposition (needs protective services) and identification of perpetrator

Date

Alleged Perpetrator's name
Alleged Perpetrator's address

Dear (alleged perpetrator's name):

After careful review of the Adult Protective Services (APS) record and the information presented at the review hearing on (Date), I have decided to sustain the LDSS investigation disposition of needs protective services because information in the case record demonstrated that there is a preponderance of evidence that abuse, neglect or exploitation has occurred or is occurring. I have also decided to sustain your identification as the alleged perpetrator.

This decision is final pursuant to 22 VAC 30-100-45 I and § 63.2-1605 J of the Code of Virginia.

Should you have any questions regarding this letter, please feel free to contact me at (phone number).

Sincerely,

Local Director

Cc: APS worker, APS supervisor and regulatory/licensing agency (if originally notified)

Certified Mail No: XXXXXXX

PeerPlace ID XXXX
APS Report Number XXXX

8.7 Appendix F: Sustain LDSS investigation disposition (needs protective services-Version 2) and identification of perpetrator

Date

Alleged Perpetrator's name
Alleged Perpetrator's address

Dear (alleged perpetrator's name):

After careful review of the Adult Protective Services (APS) record and the information presented at the review hearing on (Date), I have decided to sustain the LDSS investigation disposition of needs protective services because information in the case record demonstrated that there is a preponderance of evidence that the adult is at risk of abuse, neglect or exploitation. I have also decided to sustain your identification as the alleged perpetrator.

This decision is final pursuant to 22 VAC 30-100-45 I and § 63.2-1605 J of the Code of Virginia.

Should you have any questions regarding this letter, please feel free to contact me at (phone number).

Sincerely,

Local Director

Cc: APS worker, APS supervisor and regulatory/licensing agency (if originally notified)

Certified Mail No: XXXXXXXX

PeerPlace ID XXXX
APS Report Number XXXX

8.8 Appendix G: Sustain LDSS investigation disposition (needs protective services) and reverse identification of perpetrator

Date

Alleged Perpetrator's name
Alleged Perpetrator's address

Dear (**alleged perpetrator's name**):

After careful review of the Adult Protective Services (APS) record and the information presented at the review hearing on (Date), I have decided to sustain the LDSS investigation disposition of needs protective services because information in the case record demonstrated that there is a preponderance of evidence that abuse, neglect or exploitation has occurred or is occurring.

However, I have decided to reverse your identification as the alleged perpetrator. Your name will be removed from the APS record as the alleged perpetrator.

This decision is final pursuant to 22 VAC 30-100-45 I and § 63.2-1605 J of the Code of Virginia.

Should you have any questions regarding this letter, please feel free to contact me at (phone number).

Sincerely,

Local Director

Cc: APS worker, APS supervisor and regulatory/licensing agency (if originally notified)

Certified Mail No: XXXXXXX

PeerPlace ID XXXXX
APS Report Number XXXX

8.9 Appendix H: Sustain LDSS investigation disposition (needs protective services-Version 2) and reverse identification of perpetrator

Date

Alleged Perpetrator's name

Alleged Perpetrator's address

Dear (alleged perpetrator's name):

After careful review of the Adult Protective Services (APS) record and the information presented at the review hearing on (Date), I have decided to sustain the LDSS investigation disposition of needs protective services because information in the case record demonstrated that there is a preponderance of evidence that the adult is at risk of abuse, neglect or exploitation.

However, I have decided to reverse your identification as the alleged perpetrator. Your name will be removed from the APS record as the alleged perpetrator.

This decision is final pursuant to 22 VAC 30-100-45 I and § 63.2-1605 J of the Code of Virginia.

Should you have any questions regarding this letter, please feel free to contact me at (phone number).

Sincerely,

Local Director

Cc: APS worker, APS supervisor and regulatory/licensing agency (if originally notified)

Certified Mail No: XXXXXXXX

PeerPlace ID XXXXX
APS Report Number XXXX

8.10 Appendix I: Reverse LDSS investigation disposition and identification of perpetrator

Date

Alleged Perpetrator's name

Alleged Perpetrator's address

Dear (alleged perpetrator's name):

After careful review of the Adult Protective Services (APS) record and the information presented at the review hearing on (Date), I have decided to reverse the LDSS investigation disposition and reverse your identification as the alleged perpetrator. Your name will be removed from the APS record as the alleged perpetrator.

This decision is final pursuant to 22 VAC 30-100-45 I and § 63.2-1605 J of the Code of Virginia.

Should you have any questions regarding this letter, please feel free to contact me at (phone number).

Sincerely,

Local Director

Cc: APS worker, APS supervisor and regulatory/licensing agency (if originally notified)

Certified Mail No: XXXXXXXX

PeerPlace ID XXXXX
APS Report Number XXXX