

# Final Rule: Establishing Adult Protective Services Regulations

## An Overview for ACL's Network:

On May 7, 2024, the Administration for Community Living (ACL) released a final rule to establish the first federal regulations for adult protective services (APS) programs. The new regulations will take effect on June 7 of this year, but regulated entities have until May 8, 2028 to fully comply. ACL looks forward to working with stakeholders to implement the final rule and will provide robust technical assistance and other resources in the coming months. Additional information can be found at: [ACL.gov/APSrule](https://acl.gov/APSrule).

## Summary

The APS final rule was developed in response to long-standing requests from the APS community, Congress, and other stakeholders for federal guidance, leadership, stewardship, resources, and support for APS systems and victims of adult maltreatment.

Those requests became particularly urgent in recent years, when ACL received appropriations to fund – for the first time – the state APS formula grant program that was authorized by the Elder Justice Act in 2010. (In 2021, ACL received one-time COVID-19 supplemental appropriations to fund start-up costs and fund the program for two years. In 2023, the program was added to ACL's ongoing annual appropriations.)

The new regulations promote high-quality APS and will improve consistency in services across states. With the final rule, ACL aims to support the national network that delivers APS, with the ultimate goal of better meeting the needs of adults who experience, or are at risk of, maltreatment or self-neglect. To those ends, the final rule:

- Establishes a set of national standards for the operation of APS programs that all state APS systems must meet. These standards codify – and build upon – the existing National Voluntary Consensus Guidelines for State APS Systems. It's important to note that these standards represent the “floor” – states are encouraged to adopt services, practices, and processes that exceed them.
- Establishes definitions for terms that are foundational to APS practice to improve information sharing, data collection, and program standardization between and within states, but does not require states to adopt them verbatim.
- Creates a tiered assessment system to differentiate between cases that represent immediate risk (defined as those that are life-threatening or likely to cause irreparable harm or significant loss of income, assets, or resources) and those that do not, and establishes response timelines for each.
- Requires APS programs to provide at least two ways for reports of adult maltreatment and self-neglect to be made 24 hours per day, seven days per week. At least one must be an online method, such as a secure email inbox.
- Emphasizes person-directedness and least-restrictive alternatives as core values in APS practice.
- Requires robust conflict of interest policies to support ethical APS practice.
- Promotes coordination and collaboration with other entities, such as state Medicaid agencies, long-term care ombudsmen, tribal APS, and law enforcement.
- Requires state APS entities to create state plans at least every five years and to submit annual program performance data.

The final rule is the culmination of many years of engagement with stakeholders from APS, as well as aging and disability advocates, from across the country. In September 2023, [ACL issued a proposed rule](#) that incorporated input received through several listening sessions; extensive research; and analysis of data from a 2021 survey of 51 APS systems, ACL's National Adult Maltreatment Reporting System, and policy profiles from APS programs in all states and territories.

The final rule reflects the thoughtful, detailed input received on the proposed rule from more than 170 commenters. Overall, the comments supported the goals and content of the proposed rule, but some state APS programs raised concerns about the administrative burden and expense of implementing its requirements, particularly given the limited federal funding for the programs. To address those concerns, ACL deleted or significantly modified a number of policies in the final rule. For example, the timeline for compliance is lengthened from three years to four, and the final rule does not include requirements for staff-to-client ratios. We have highlighted the significant changes from the proposed rule in the “key provisions” section of this fact sheet.

## Background on Adult Maltreatment and Adult Protective Services

Research shows that at least 1 in 10 older adults who live in the community experiences some form of maltreatment each year – and this is likely an undercount, because only 1 in 14 cases is reported. We also know that adults with disabilities experience abuse and neglect far more often than their peers without disabilities, although estimates of the prevalence vary significantly from one study to the next.

This can have serious physical and mental health, financial, and social consequences. People who experience abuse have higher rates of depression, hospitalization, and institutionalization – and they are more likely to die prematurely. They also may experience deteriorated family relationships, diminished autonomy, and institutionalization as the direct result of maltreatment.

APS programs across the country support older adults and adults with disabilities who experience, or who are at risk of, maltreatment or self-neglect. APS programs investigate reports of maltreatment; conduct case planning, monitoring, and evaluation; and provide (or connect people to) a variety of medical, social service, economic, legal, housing, law enforcement, and other protective, emergency, or support services to help them recover.

APS has been funded and administered wholly at the state or local level until recently. Consequently, there is wide variation in APS services and practices between, and even within, states.

## Key Provisions of the Final Rule

Following is a brief overview of some of the key provisions of the final rule. It was written with the goal of being easier to understand for people who do not have an in-depth understanding of APS or a legal background. It does not include all of the provisions or complete details of the summarized provisions. Please use this document as a tool to help navigate the final rule; it should NOT be considered a substitute. Provisions that are significantly different from those found in the proposed rule are italicized and noted with an asterisk.

### Establishing a common vocabulary for APS

APS terminology varies significantly between states, which may have a direct effect on service availability, the types of cases APS programs accept for investigation, and the ability to collect and share data across states. The final rule defines a number of terms that are foundational to APS practice but allows states considerable flexibility in implementation. APS systems must collectively incorporate every term defined in the rule – and all elements of each definition – into their definitions; but they are not required to adopt each definition verbatim. § 1324.402(a)(5)

The rule:

- Defines “adult maltreatment” and its component parts, including “abuse,” “neglect,” “financial exploitation,” “sexual abuse.” § 1324.401
- *Defines and clarifies “self-neglect” and separates it from the definition of adult maltreatment, recognizing, that unlike abuse, neglect, financial exploitation, and sexual abuse, there is no perpetrator in self-neglect cases and APS must offer a differentiated response.\* § 1324.401*
- *Removes the requirement of a “trust relationship” between an alleged perpetrator and victim from the definition of “adult maltreatment.” Instead, the final rule encourages states to prioritize cases involving a trust relationship.\* § 1324.401*
- *Adds a definition of “APS response” to more accurately reflect the holistic nature of APS service provision and investigatory functions.\* § 1324.401*

## Accepting and Responding to Reports

Because timely response to reports can mean the difference between life and death or risk of serious harm, the final rule establishes requirements for APS programs to accept and respond to reports swiftly and effectively while balancing staffing and resource constraints. It also establishes requirements for ensuring simple, readily accessible reporting channels. For example, the final rule:

- Requires that states maintain at least two ways to report adult maltreatment and self-neglect that are accessible 24 hours per day, seven days per week. § 1324.405(a)  
*In a change from the proposed rule, the final rule:*
  - » Adds a requirement that one of the two reporting methods be online, such as a secure web portal or email inbox.\*
  - » Clarifies that while the reporting methods must be available at all times, APS can retrieve reports the next business day.\*
- Requires APS to maintain a tiered system that, at a minimum, differentiates between cases that represent immediate risk (defined as those that are life-threatening or likely to cause irreparable harm or significant loss of income, assets, or resources) and those that do not. § 1324.402(b)(2)
  - » For reports that represent immediate risk, the final rule requires APS to initiate a response within 24 hours of screening. The final rule also clarifies that this response may be fulfilled through a partnership with Emergency Management Systems, law enforcement, or other appropriate community resources with 24-hour response capability.
  - » For reports that do not represent immediate risk, response must begin within seven calendar days.
- Narrows the requirements for a feedback loop between APS programs and mandated reporters. *In response to comments regarding the proposed rule's general requirement that APS programs contact mandated reporters after receiving a report of adult maltreatment or self-neglect, the final rule only requires APS programs to contact mandated reporters who make a report in the course of their professional duties. The alleged victim must also consent to any release of information, and the APS program is limited in the type of information they must provide a mandated reporter.\* § 1324.405(b)*

## Conflict of Interest

Conflicts of interest arise when the financial or personal interests of a state employee, APS worker, or APS program influence – or are at odds with – the interests of a client or group of clients. A conflict of interest also may arise when an APS worker has a “dual relationship” with a client, meaning they serve in multiple roles – which could be at odds with each other – for a single client. The final rule contains several provisions to reduce the risks of conflicts of interest. For example, it:

- Requires APS programs to establish monitoring and oversight procedures to identify conflicts of interest. § 1324.404
- Requires APS programs to have mechanisms to identify, remove, and remedy any actual or perceived conflicts of interest at organizational and individual levels. § 1324.404
- Establishes requirements for dual relationships. Specifically, the rule:
  - » Prohibits dual relationships, unless they are unavoidable. § 1324.404(d)
    - *In addition, the rule generally prohibits APS programs from petitioning for guardianship or serving as a guardian by establishing narrow circumstances under which such a dual relationship can be considered “unavoidable.”\* § 1324.404(d)(1)*
  - » Requires APS programs to implement safeguards for unavoidable dual relationships. § 1324.404(d)
  - » *Requires APS programs to document all dual relationships in the case record, including steps taken to address the conflicts of interest.\* § 1324.404(d)(2)*

## Person-Directed Practice and Least-restrictive Alternatives

The principles of self-determination are foundational to the final rule. The rule requires APS systems to ensure that planning and delivery of all services respect the fundamental right of adults to make their own life choices and that services are driven by the person receiving them, based on their unique needs, strengths, preferences, and experiences. For example, the final rule:

- Requires state APS systems to receive and respond to reports of adult maltreatment and self-neglect in a manner that incorporates principles of person-directed services and planning and emphasizes strong preference for least restrictive alternatives. § 1324.402(b)

- Requires APS workers to relay to clients their rights related to APS under state law during their first meeting. These rights may include the right to refuse to speak to APS, to accept or decline services, and their right to confidentiality. § 1324.403(c)
- Requires APS programs to develop service plans in consultation with the client, and to directly provide or refer to services that respect the autonomy of clients, as well as the client's views about safety and quality of life. § 1324.403(e)
- Establishes stronger protections for APS clients subject to, or at risk of, guardianship by prohibiting APS from serving as a guardian or petitioning for guardianship unless it is unavoidable, and by requiring enhanced documentation and mitigation measures in such cases. § 1324.404(d)(1)
- Clarifies that emergency protective action is permitted only as a measure of last resort to protect the life and safety of the client, either from harm by others or from self-harm. § 1324.401 § 1324.404(d)(1)
- *Emphasizes that adults are presumed to have the capability to make decisions about how to live and care for themselves unless a court of law has determined otherwise, and clarifies that "self-neglect" requires APS intervention only in cases where there is serious risk of imminent harm to oneself or to others.\* § 1324.401*
- Requires APS systems to ensure coordination with other entities but provides flexibility to choose from a variety of means. These include the development of formal multidisciplinary and cross-agency teams, memoranda of understanding, data-sharing agreements, or other less formal arrangements. § 1324.406(b)
- Encourages APS systems to coordinate with state Medicaid agencies around critical incidents and other issues, to the extent permitted by state law. § 1324.406(a)(2)(i)
- Clarifies that while state privacy laws may prevent sharing certain client information, at a minimum, APS systems should work with other entities to coordinate their work around prevention and the sharing of promising practices to address adult maltreatment and self-neglect. § 1324.406

### Program Performance Data

Under the final rule, APS systems are required to report performance data, which will provide valuable information to help APS systems understand and improve their operations and help drive ongoing performance improvement. This data will supplement public health surveillance data on adult maltreatment and self-neglect currently collected by ACL through the National Adult Maltreatment Reporting System. The final rule:

- Requires states to submit performance data annually. § 1324.407(a)
- Requires APS systems to retain individual case data obtained from APS investigations for a minimum of five years. § 1324.407(b)

### Submission of State Plans

The final rule requires the state APS entity to develop and submit a single state plan to ACL at least every five years. The state plan must describe which populations will be served, which services will be provided, and which entities will oversee the provision of those services and contain assurances that the state APS system will develop and adhere to all policies and procedures required by the rule. § 1324.400

### Coordination with Other Entities

Coordination with partners maximizes the resources of APS systems, improves investigation capacity, and ensures APS response is effective. Entities other than APS also have authority to investigate or advocate on behalf of adults who experience adult maltreatment or self-neglect depending on who is eligible for the entity's programs, who is the alleged perpetrator, and where the maltreatment took place. An effective, evidence-based, and holistic response to adult maltreatment must include all concerned entities working in coordination. Therefore, the final rule:

- Requires APS systems to ensure coordination with other entities engaged in the detection, prevention, investigation, and remediation of adult maltreatment and self-neglect. The rule also requires coordination with other government agencies, tribes and tribal APS programs, law enforcement bodies, and advocacy organizations, among others. *The preamble of the rule also emphasizes the importance of coordination with tribes and tribal APS programs.\* § 1324.406(a)*

## Effective Date

The final rule will take effect on June 7, 2024 (30 days after it is officially published), and regulated APS entities have until May 8, 2028 to comply.

In the coming months, ACL will share resources and provide robust technical assistance to support state APS systems, local APS programs, and others in meeting the requirements of the new regulations. ACL also will work with regulated APS entities through a supportive corrective action process if more time is needed to fully comply with specific provisions.

## Learn More

- **Informational Webinar:** Join ACL for an introductory overview of the new regulation on Tuesday, May 14 at 3 p.m. (Eastern).
- More information, including registration details for the informational webinar, a link to the final rule, and links to resources and technical assistance can be found at [ACL.gov/APSRule](https://acl.gov/APSRule).