**Section 336.20 Definitions**

*"Abused child" means a child whose parent or immediate family member, or any person responsible for the child's welfare, or any individual residing in the same home as the child, or a paramour of the child's parent:*

*inflicts, causes to be inflicted, or allows to be inflicted upon such child physical* or mental *injury, by other than accidental means, which causes death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function;*

*creates a substantial risk of physical* or mental *injury to such child by other than accidental means which would be likely to cause death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function;*

*commits or allows to be committed any sex offense against such child, as such sex offenses are defined in the Criminal Code of 2012* [720 ILCS 5] *or in the Wrongs to Children Act* [720 ILCS 150]*, and extending those definitions of sex offenses to include children under 18 years of age;*

*commits or allows to be committed an act or acts of torture upon such child;*

*inflicts excessive corporal punishment or, in the case of a person working for an agency who is prohibited from using corporal punishment, inflicts corporal punishment upon a child or adult resident with whom the person is working in his or her professional capacity;*

*commits or allows to be committed the offense of female genital mutilation, as defined in Section 12-34 of the Criminal Code of 2012, against the child.*

*causes to be sold, transferred, distributed or given to such child under 18 years of age a controlled substance as defined in Section 102 of the Illinois Controlled Substances Act* [720 ILCS 570] *or in violation of the Methamphetamine Control and Community Protection Act* [720 ILCS 646]*, except for controlled substances that are prescribed in accordance with Article III of the Illinois Controlled Substances Act and are dispensed to such child in a manner that substantially complies with the prescription; or*

*commits or allows to be committed the offense of involuntary servitude, involuntary sexual servitude of a minor, or trafficking in persons as defined in Section 10-9 of the Criminal Code of 2012 against the child.*

*A child shall not be considered abused for the sole reason that the child has been relinquished in accordance with the Abandoned Newborn Infant Protection Act.* [325 ILCS 5/3]

"Administrative hearing", in the context of this Part, means a formal review of a final finding determination made by the Division of Child Protection at the conclusion of a child abuse and neglect investigation.

"Administrative Law Judge" or "ALJ" means a licensed attorney who is appointed by the Director of the Department and is responsible for conducting administrative hearings, including pre-hearings, and issuing a recommended decision.

"Adult resident" means any person between 18 and 22 years of age who resides in any facility licensed by the Department under the Child Care Act of 1969 [225 ILCS 10]. For the purpose of this Part, the definitions of "abused child" and "neglected child" include adult residents who meet the criteria set forth in those definitions.

"Agency" means *a child care facility licensed under Section 2.05 or Section 2.06 of the Child Care Act of 1969 and includes a transitional living program that accepts children and adult residents for placement who are in the guardianship of the Department*. [325 ILCS 5/3]

"Amend", as used in this Part, means changing the final finding determination of an allegation in an indicated report of child abuse or neglect or changing identifying information of the subjects of an indicated report of child abuse or neglect.

"Administrative appeal" or "appeal"" means the pre-hearing conference and formal administrative hearing.

"Appellant" means the person who requests a review or administrative hearing or in whose behalf a review and administrative hearing is requested.

"Authorized representative" means a person, including an attorney, authorized in writing by a party to assist in an administrative appeal. If the party is unable to reduce the authorization to writing, the Department, on request, shall assist the party in doing so.

"Blatant disregard" means *an incident where the real, significant and imminent risk of harm would be so obvious to a reasonable parent or caretaker that it is unlikely that a reasonable parent or caretaker would have exposed the child to the danger without exercising precautionary measures to protect the child from harm. With respect to a person working at an agency in his or her professional capacity with a child or adult resident, "blatant disregard" includes a failure by the person to perform job responsibilities intended to protect the child's or adult resident's health, physical well-being, or welfare, and, when viewed in light of the surrounding circumstances, evidence exists that would cause a reasonable person to believe that the child was neglected. With respect to an agency, "blatant disregard" includes a failure to implement practices that ensure the health, physical well-being, or welfare of the children and adult residents residing in the facility.* [325 ILCS 5/3]

"Chief Administrative Law Judge" or "Chief ALJ" means the person who is responsible for the supervision of the Administrative Law Judges and the coordination of the administrative hearing appeal process.

"Child care worker" means any person who is employed to work directly with children and any person who is an owner/operator of a child care facility, regardless of whether the facility is licensed by the Department. "Child care worker" also means persons employed as full-time nannies. "Child care worker" also includes a person currently enrolled in an academic program that leads to a position as a child care worker; or who has applied for a license required for a child care worker position. A person will be considered to be a child care worker under this Part if, at the time of the notice of the investigation, he or she:

has applied for, or will apply within 180 days for, a position as a child care worker;

is enrolled in, or will commence within 180 days, an academic program that leads to a position as a child care worker; or

has applied for a license as a child care worker.

A child care worker may be subject to this Part if alleged to be responsible for child abuse or neglect outside of his or her employment.

For the purposes of this definition, any person who is employed full- or part-time at or is the owner of any of the following shall be considered a child care worker:

child care institutions;

child welfare agencies;

day care/night care centers;

day care/night care homes;

day care/night care group day care homes;

group homes;

hospitals or health care facilities;

schools, including school aides, bus drivers, school teachers and administrators, but not tenured school teachers or administrators who have other disciplinary processes available to them; and

before and after school programs, recreational programs and summer camps.

*"Child" means any person under the age of 18 years, unless legally emancipated by reason of marriage or entry into a branch of the United States armed services.* [325 ILCS 5/31]

"Credible evidence of child abuse or neglect" means that the available facts, when viewed in light of surrounding circumstances, would cause a reasonable person to believe that a child was abused or neglected.

"Date of action" means the date on which any Department action becomes effective.

"Day", for purposes of computation of time, means business day, unless otherwise specified.

"Department" means the Illinois Department of Children and Family Services.

"Department's legal representative" means an attorney who is licensed to practice law in the State of Illinois and who is responsible for presenting the Department's case.

"Discovery", for purposes of this Part, means the rights of any party to request and have access to, in advance of the hearing, any materials relevant to the investigation and indicated finding and a list of witnesses in the possession of any other party.

"Expedited appeal" means an appeal that may be requested only by a child care worker who is the subject of a Department determination of indicated child abuse and/or neglect. Expedited appeals require that the Director issue a final administrative decision within 35 calendar days after the date of receipt by the Department's Administrative Hearings Unit of a written request for an expedited appeal, excluding any continuances at the request of, or with the agreement of, the appellant.

"Expunge", as used in this Part, means removing identifying information regarding the subjects of an indicated child abuse or neglect report from the State Central Register.

"Final administrative decision" means the Department's final decision, order or determination on an appealed issue rendered by the Director in a particular case that affects the legal rights, duties or privileges of participants, that terminates the proceedings on the specific appeal before the Department's Administrative Hearings Unit, and that may be further appealed to the circuit court under the Illinois Administrative Procedure Act.

*"Indicated report" means any report* *made under the Abused and Neglected Child Reporting* Act [325 ILCS 5] (ANCRA) *for which it is determined, after an investigation, that credible evidence of the alleged abuse or neglect exists* [325 ILCS 5/3].

"Member of the clergy" means a clergyman or practitioner of any religious denomination accredited by the religious body to which he or she belongs.

*"Neglected child" means any child:*

*who is not receiving:*

*the proper or necessary nourishment or medically indicated treatment, including food or care not provided solely on the basis of the present or anticipated mental or physical impairment as determined by a physician acting alone or in consultation with other physicians; or*

*the proper or necessary support or medical or other remedial care recognized* *under State law as necessary for a child's well-being;* *or*

*other care necessary for his or her well-being,* *including adequate food, clothing and shelter;*

*who is subjected to an environment which is injurious insofar as:*

*the child's environment creates a likelihood of harm to the child's health, physical well-being, or welfare; and*

*the likely harm to the child is the result of a blatant disregard of parent, caretaker, or agency responsibilities;*

*who is abandoned by his or her parents or other person responsible for the child's welfare without a proper plan of care;*

*who has been provided with interim crisis intervention services under Section 3-5 of the Juvenile Court Act of 1987* [705 ILCS 405] *and whose parent, guardian or custodian refuses to permit the child to return home and no other living arrangement agreeable to the parent, guardian or custodian can be made, and the parent, guardian or custodian has not made any other appropriate living arrangement for the child; or*

*who is a newborn infant whose blood, urine or meconium contains any amount of a controlled substance as defined in Section 102(f) of the Illinois Controlled Substances Act or a metabolite thereof, with the exception of a controlled substance or metabolite thereof whose presence in the newborn infant is the result of medical treatment administered to the mother or the newborn infant.*

*A child shall not be considered neglected for the sole reason that:*

*the child's parent or other person responsible for his or her welfare has left the child in the care of an adult relative for any period of time;*

*the child has been relinquished in accordance with the Abandoned Newborn Infant Protection Act* [325 ILCS 2].

*A child shall not be considered neglected or abused for the sole reason that:*

*the child's parent or other person responsible for his or her welfare depends upon spiritual means through prayer alone for the treatment or cure of disease or remedial care as provided under Section 4* of ANCRA; or

*the child is not attending school in accordance with the requirements of Article 26 of the School Code* [105 ILCS 5]*.* [325 ILCS 5/3]

"Parents" means the child’s legal parents whose rights have not been terminated.

"Parties" means the Department and those persons who have appealed the final finding determination made by the Department. No person may join in an appeal unless that person would have standing to appeal the determination himself or herself.

*"Perpetrator" means a person who, as a result of investigation, has been determined by the Department to have caused child abuse or neglect.* [325 ILCS 5/3]

*"Person responsible for the child's welfare" means:*

*the child's parent, guardian, foster parent or relative caregiver;*

*any person responsible for the child's welfare in* *a public or private residential agency or institution;*

*any person responsible for the child's welfare within a public or private profit or not-for-profit child care facility; or*

*any other person responsible for the child's welfare at the time of the alleged abuse or neglect, including:*

*any person that is the custodian of a child under 18 years of age who commits or allows to be committed, against the child, the offense of involuntary servitude, involuntary sexual servitude of a minor, or trafficking in persons for forced labor or services* (see *Section 10-9*(b), (c) and (d) *of the Criminal Code of 2012*); *or*

*any person who came to know the child through an official capacity or position of trust, including but not limited to health care professionals, educational personnel, recreational supervisors, members of the clergy, and volunteers or support personnel in any setting where children may be subject to abuse or neglect*. [325 ILCS 5/3]

"Preponderance of the evidence" means the greater weight of the evidence which renders a fact more likely than not.

"Regular appeal" means an appeal that may be requested by a perpetrator, including child care workers, in which the final administrative decision by the Director is issued within 90 calendar days after the date of receipt by the Department's Administrative Hearings Unit of a written request for an appeal, excluding any requests for a continuance by the perpetrator or any continuances by the agreement of the parties.

"Request for an appeal" means the written request by an appellant for an administrative hearing to determine whether the record of the report should be amended, expunged, or removed on the grounds that it is inaccurate or being maintained in a manner inconsistent with the Abused and Neglected Child Reporting Act. If the appellant is unable to request an appeal in writing, the Department or purchase of service agency shall help the appellant put the request in writing.

"State Central Register" or "SCR" is the record of child abuse and/or neglect reports maintained by the Department pursuant to ANCRA. The State Central Register is also referred to as the Department's statewide toll-free child abuse and neglect hotline.

"Stipulation" means an agreement by the parties that certain facts are true or can be introduced into evidence without further proof.

"Subject of report" means any child or adult resident reported to the *central register of child abuse and neglect established under* *Section 7.7 of ANCRA* *as an alleged victim of child abuse or neglect and the parent or guardian of the alleged victim or other person responsible for the alleged victim's welfare* who is named in the report *or added to the report as an alleged perpetrator of child abuse or neglect*. [325 ILCS 5/3]

*"Unfounded report" means any report made under ANCRA for which it is determined, after an investigation, that no credible evidence of the alleged abuse or neglect exists.* [325 ILCS 5/3]

"Unknown perpetrator" means a person who caused or is alleged to have caused child abuse or neglect and whose identity or identifying information has not been determined by the Department.

(Source: Amended at 41 Ill. Reg. 15260, effective December 6, 2017)