**Section 385.50 Child Abuse or Child Neglect**

a) Indicated Reports of Child Abuse/Neglect

An individual who is a household member and identified as a perpetrator of child abuse/neglect in a single child protection investigation that does not rise to the level of a presumption of unsuitability can be assessed and recommended for waiver at the supervisory level. An individual who is a household member and identified as a perpetrator of child abuse/neglect in child protection reports that create a presumption of unsuitability (a single indicated report resulting in 20 or 50 year retention or two indicated reports each with a five year retention period) shall require a waiver through the Director or designee in order to be cleared.

b) Assessment of Indicated Reports

1) A household member, employee, applicant for employment, volunteer or non-licensed contractual provider indicated as a perpetrator in a child protection investigation that does not rise to the level of a presumption of unsuitability shall be assessed in order to determine a recommendation to grant or deny a waiver for licensure or employment. The assessment shall include the Department or POS licensing staff obtaining a written consent and reviewing the child protection records, as well as the following details:

A) the nature of the abuse or neglect with which the individual was identified, including whether the abuse or neglect resulted in serious injury or death to a child or children;

B) the circumstances surrounding the commission of the abuse or neglect, including the age of the perpetrator and the children, that would demonstrate unlikelihood of repetition;

C) the amount of time that has elapsed since the abuse or neglect occurred and whether prior incidents of child abuse or child neglect have been indicated against the individual;

D) whether the abuse or neglect involved single or multiple child victims;

E) the relationship of the incident of child abuse or neglect to the individual's current or conditional job responsibilities within the child care facility;

F) whether the individual has been convicted of a criminal offense which might have bearing on the individual's ability to function in a child care facility as licensee or employee;

G) evidence of rehabilitation such as employment, education, participation in therapy since the indicated incident of abuse or neglect; and

H) three positive character references.

2) When a household member, employee, applicant for employment, volunteer or non-licensed contractual provider has been indicated as a perpetrator in a child protection investigation that equates to a presumption of unsuitability, the licensing entity or employer may request a review of the denial and request a waiver of the presumption of unsuitability. Requests for a waiver of presumption of unsuitability shall be in writing and postmarked within 30 days after notice is received by the licensing entity or employer. The Department or Purchase of Service Agency shall review the child protection reports that led to the indicated findings that equate to a presumption of unsuitability, before making a decision in requesting a waiver for a presumption of unsuitability.

3) The Director of the Department or the Director's designee shall review any materials submitted on the individual's behalf and may waive the presumption that the individual is unsuitable for licensure or employment. When the Director or designee determines there is good cause for waiving the presumption of unsuitability, the hiring or licensing decision shall be made in accordance with the totality of the requirements of this Part and the applicable licensing standards.

c) Notification of Hiring Decision

A child care facility shall notify the Department in writing of its decision regarding the employment of a person, or retention of an employee, who has been indicated as a perpetrator of child abuse/neglect. The decision of the employer is final. Employment decisions may not be appealed to the Department.

(Source: Amended at 45 Ill. Reg. 12963, effective September 28, 2021)