

**TEMPLATE COMMENT TABLE**

<b>Citation</b>	<b>Title</b>	<b>Proposed Rule Language</b>	<b>Comment</b>
1324.400	Eligibility for funding	To be eligible for funding under 42 U.S.C. 1397m–1(b) State entities are required to adhere to all provisions contained herein.	
1324.401	Definitions	As used in this part, the term —	
		<b>Abuse</b> means the knowing infliction of physical or psychological harm or the knowing deprivation of goods or services that are necessary to meet essential needs or to avoid physical or psychological harm.	
		<b>Adult</b> means older adults and adults with disabilities as defined by State APS laws.	
		<b>Adult maltreatment</b> means self-neglect or abuse, neglect, exploitation, or sexual abuse of an adult at-risk of harm from a perpetrator with whom they have a trust relationship.	
		<b>Adult Protective Services (APS)</b> means such services provided to adults as the Assistant Secretary for Aging may specify in guidance and includes such services as:	
		(1) Receiving reports of adult abuse, neglect, exploitation, sexual abuse, and self-neglect;	
		(2) Investigating the reports described in paragraph (1) of this definition;	
		(3) Case planning, monitoring, evaluation, and other case work and services, and;	
		(4) Providing, arranging for, or facilitating the provision of medical, social services, economic, legal, housing, law enforcement, or other protective, emergency, or supportive services.	
		<b>Adult Protective Services Program</b> means local Adult Protective Services providers within an Adult Protective Services system	
		<b>Adult Protective Services (APS) System</b> means the totality of both the State entity and the local APS programs.	
		<b>Allegation</b> means an accusation of adult maltreatment associated with each adult in a report made to APS. There may be multiple allegations in an investigation.	
		<b>At risk of harm</b> means the possibility that an individual will experience an event, illness, condition, disease, disorder, injury, or other outcome that is adverse or detrimental and undesirable.	
		<b>Assistant Secretary for Aging</b> means the position identified in section 201(a) of the Older Americans Act (OAA), 42 U.S.C. 3002(7).	
		<b>Case</b> means all activities related to an APS investigation of, and response to, an allegation of adult maltreatment.	

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		<b>Client</b> means an adult who is the subject of an investigation by APS regarding a report of alleged adult maltreatment.	
		<b>Conflict of Interest</b> means a situation that interferes with a program or program representative's ability to provide objective information or act in the best interests of the adult. A conflict of interest would arise when an employee, officer, or agent of APS, any member of their immediate family, their partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from their affiliation with APS systems.	
		<b>Dual relationship</b> means relationships in which an APS worker assumes one or more professional, personal, or volunteer roles in addition to their role as an APS worker at the same time, or sequentially, with a client.	
		<b>Emergency Protective Action</b> means emergency use of APS funds to purchase goods or services, immediate access to petitioning the court for temporary or emergency orders, and emergency out-of-home placement.	
		<b>Exploitation</b> means the fraudulent or otherwise illegal, unauthorized, or improper act or process of a person, including a caregiver or fiduciary, that uses the resources of an adult for monetary or personal benefit, profit, or gain, or that results in depriving an adult of rightful access to, or use of, their benefits, resources, belongings, or assets.	
		<b>Inconclusive</b> means a determination that there was not sufficient evidence obtained during an APS investigation for APS to conclude whether adult maltreatment occurred.	
		<b>Intake or pre-screening</b> means the APS process of receiving allegations of adult maltreatment and gathering information on the reports, the alleged victim, and the alleged perpetrator.	
		<b>Investigation</b> means the process by which APS examines and gathers information about an allegation of adult maltreatment to determine if the circumstances of the allegation meet the States's standards of evidence for a finding of a substantiated, unsubstantiated, or inconclusive allegation.	
		<b>Mandated Reporter</b> means someone who is required by State law to report suspected adult maltreatment to APS.	
		<b>Neglect</b> means the failure of a caregiver or fiduciary to provide the goods or services that are necessary to maintain the health or safety of an adult.	
		<b>Perpetrator</b> means the person determined by APS to be responsible for one or more instances of adult maltreatment for one or more victims.	

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		<b>Post-investigation Services</b> means the activities undertaken by APS in support of a client after a finding on an allegation of adult maltreatment has been made.	
		<b>Quality assurance</b> means the process by which APS programs ensure investigations meet or exceed established standards, and includes:	
		(1) Thorough documentation of all investigation and case management activities;	
		(2) Review and approval of case closure; and	
		(3) Conducting a case review process.	
		<b>Screening</b> means a process whereby APS carefully reviews the intake information to determine if the report of adult maltreatment meets the minimum requirements to be opened for investigation by APS, or if the report should be referred to a service or program other than APS.	
		<b>Self-neglect</b> means an adult's inability, due to physical or mental impairment or diminished capacity, to perform essential self-care tasks including:	
		(1) Obtaining essential food, clothing, shelter, and medical care;	
		(2) Obtaining goods and services necessary to maintain physical health, mental health, or general safety, or;	
		(3) Managing one's own financial affairs.	
		<b>Sexual abuse</b> means the forced and/or unwanted sexual interaction (touching and non-touching acts) of any kind with an adult.	
		<b>State entity</b> means the unit of State, District of Columbia, or U.S. Territorial Government designated as responsible for APS programs, including through the establishment and enforcement of policies and procedures, and that receives Federal grant funding from ACL under section 2042(b) of the EJA, 42 U.S.C. 1397m-1(b).	
		<b>Substantiated</b> means APS has made an investigation disposition that the allegation of maltreatment meets state law or agency policy for concluding that the adult was maltreated.	
		<b>Trust relationship</b> means the rational expectation or belief that a relative, friend, caregiver, or other person with whom a relationship exists can or should be relied upon to protect the interests of an adult (as defined above) and/or provide for an adult's care. This expectation is based on either the willful assumption of responsibility or expectations of care or protection arising from legal or social conventions.	
		<b>Unsubstantiated</b> means that APS has made an investigation disposition that the allegation of maltreatment does not meet State law or agency policy for concluding that the adult was maltreated.	

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		<b>Victim</b> means an adult who has experienced adult maltreatment.	
1324.402	<b>Program Administration</b>	(a) The State entity shall create and implement policies and procedures for APS systems to receive and respond to reports of adult maltreatment in a standardized fashion. Such policies and procedures, at a minimum, shall:	
		(1) Incorporate principles of person directed services and planning and reliance on least restrictive alternatives, as well as other policies identified by the Assistant Secretary for Aging;	
		(2) Define the populations eligible for APS services;	
		(3) Define the settings, locations, and types of alleged perpetrator for each adult maltreatment type that are subject to APS investigations in the State;	
		(4) Define processes for receiving, screening, prioritizing, and referring cases based on risk and type of adult maltreatment consistent with §1324.403, including:	
		(i) Creation of at least a two-tiered response system for initial contact with the alleged victim based on risk of death, irreparable harm, or significant loss of income, assets, or resources.	
		(A) For immediate risk, response should occur in person no later than twenty-four hours after receiving a report of adult maltreatment.	
		(B) For non-immediate risk, response should occur no more than seven calendar days after report of adult maltreatment is received.	
		(5) Define investigation and post investigation procedures, as identified in § 1324.403.	
		(b) At first contact APS systems shall provide to potential APS clients an explanation of their rights, including:	
		(1) The right under State law to confidentiality of personal information;	
		(2) The right under State law to refuse to speak to APS;	
		(3) The right under State law to refuse APS services, and;	
		(4) Such other explanations of rights as determined by the Assistant Secretary for Aging.	
		(c) Information shall be provided in a format and language understandable by the individual, and in alternative formats as needed.	
		(d) The State entity shall establish policies and procedures for the staffing of APS systems that include:	
		(1) Staff training and on-going education, including training on conflicts of interest;	
		(2) Staff supervision, and;	
		(3) Staff to client ratios.	

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		(e) The State entity shall establish such other program administration policies and procedures and provide other information to APS clients as established by the Assistant Secretary for Aging.	
1324.403	<b>Investigation and post-investigation services.</b>	The State entity shall adopt standardized and systematic policies and procedures for APS investigation and post-investigation activities across and within the State including, at a minimum:	
		(a) Screening, triaging, and decision making criteria or protocols to review and assign adult maltreatment reports for APS investigation, and to report to other authorities;	
		(b) Tools and/or decision-making processes for APS to review reports of adult maltreatment for any emergency needs of the adult and for immediate safety and risk factors affecting the adult or APS worker when responding to the report and;	
		(c) Practices during investigations to collect information and evidence to inform allegation disposition and service planning that will:	
		(1) Recognize acceptance of APS services is voluntary, except where limited by State law;	
		(2) Ensure safety of APS client and worker;	
		(3) Ensure the preservation of an adult's rights;	
		(4) Integrate principles of person directedness and trauma-informed approaches;	
		(5) Maximize engagement with the APS client, and;	
		(6) Permit APS to seek emergency protective action only as appropriate and necessary as a measure of last resort to protect the life and wellbeing of the client from self-harm or harm from others.	
		(d) Methods to make determinations on allegations and record case findings, including:	
		(1) Ability for APS programs to consult with appropriate experts, other team members, and supervisors;	
		(2) Protocols for the standards of evidence APS should apply when making a determination on allegations.	
		(e) Provision of APS post investigation services, as appropriate, that:	
		(1) Respect the autonomy and authority of clients to make their own life choices;	
		(2) Respect the client's views about safety, quality of life, and success;	
		(3) Hold perpetrators accountable for the adult maltreatment and for stopping the abusive behavior;	
		(4) Develop any service plan or referrals in consultation and agreement with the client;	
		(5) Engage community partners through referrals for services or purchase of services where services are not directly provided by APS, and;	

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		<p>(6) Monitor the status of client and services, and the impact of services.</p> <p>(f) Case handling criteria that:</p> <p>(1) Establish timeframes for on-going review of open cases;</p> <p>(2) Establish length of time by which investigations should be completed, and determinations be made; and</p> <p>(3) Documents, at a minimum:</p> <p>(i) The APS interventions and services delivered;</p> <p>(ii) Significant changes in client status;</p> <p>(iii) Assessment of the outcome and efficacy of intervention and services;</p> <p>(iv) Assessment of safety and risk at case closure; and</p> <p>(v) The reason or decision to close the case.</p>	
1324.404	<b>Conflict of interest.</b>	<p>The State entity shall establish standardized policies and procedures to avoid both actual and perceived conflicts of interest for APS. Such policies and procedures must include mechanisms to identify, remove, and remedy any existing conflicts of interest at organizational and individual levels, including to:</p> <p>(a) Ensure that employees and agents engaged in any part of an APS investigation do not also provide direct services to, or oversee the direct provision of services, to the client;</p> <p>(b) Ensure that employees and agents administering APS programs do not have a personal financial interest in an entity to which an APS program they refer clients to services recommended by the APS program;</p> <p>(c) Ensure that no APS employee or agent, or member of an employee or agent's immediate family, is subject to conflict of interest;</p> <p>(d) Prohibit dual relationships unless unavoidable and ensure appropriate safeguards are established should such relationships occur;</p> <p>(e) Establish robust monitoring and oversight, to identify conflict of interest, and;</p> <p>(f) Remove and remedy actual, perceived, or potential conflicts that arise.</p>	
1324.405	<b>Accepting reports.</b>	<p>(a) The State entity shall establish standardized policies and procedures for receiving reports of adult maltreatment 24 hours per day, 7 calendar days per week, using multiple methods of reporting to ensure accessibility.</p> <p>(b) The State entity shall establish standardized policies and procedures for APS to accept reports of alleged adult maltreatment by mandatory reporters that:</p>	

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		(1) Shares information regarding a report to APS with the mandated reporter which shall include, at a minimum:	
		(i) Whether a case has been opened as a result of the report, and;	
		(ii) The disposition or finding of the allegation in the report.	
		(c) The State entity shall establish and adhere to standardized policies and procedures to maintain the confidentiality of reporters and information provided in a report.	
1324.406	<b>Coordination with other entities.</b>	(a) State entities shall establish policies and procedures, consistent with State law, to ensure coordination and to detect, prevent, address, and remedy adult maltreatment with other appropriate entities, including but not limited to:	
		(1) Other APS programs in the state, when authority over APS is divided between different jurisdictions or agencies;	
		(2) Other governmental agencies that investigate allegations of adult maltreatment, including, but not limited to, the State Medicaid agency, State nursing home licensing and certification, State department of health and licensing and certification, and tribal governments;	
		(3) Law enforcement agencies with jurisdiction to investigate suspected crimes related to adult maltreatment; State or local police agencies, tribal law enforcement, State Medicaid Fraud Control Units, and Federal law enforcement agencies;	
		(4) Organizations with authority to advocate on behalf of individuals who experienced the alleged adult maltreatment, such as the State Long-Term Care Ombudsman Program and/or investigate allegations of adult maltreatment such as the Protection and Advocacy Systems;	
		(5) Emergency management systems, and;	
		(6) Banking and financial institutions.	
		(b) Policies and procedures must, at a minimum:	
		(1) Address coordination and collaboration to detect, prevent, address, and remedy adult maltreatment during all stages of an adult maltreatment investigation conducted by APS or by other agencies and organizations with authority and jurisdiction to investigate reports of adult maltreatment;	
		(2) Address information sharing on the status and resolution of investigations between the APS system and other entities responsible in the state or other jurisdiction for investigation, to the extent permissible under applicable State law, and;	

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		(3) Allow for the establishment of memoranda of understanding, where appropriate, to facilitate information exchanges, quality assurance activities, cross-training, development of formal multidisciplinary and cross agency adult maltreatment teams, co-location of staff within appropriate agencies, and other activities as determined by the State entity.	
		The State entity shall develop policies and procedures for APS for the collection and maintenance of data on investigations conducted by APS systems. They shall:	
		(a) Collect and report annually to ACL such APS system-wide data as required by the Assistant Secretary for Aging.	
		(b) Develop policies and procedures to ensure that the APS system retains individual case data obtained from APS investigations for a minimum of 5 years.	
1324.407	<b>APS program performance.</b>	The State entity shall develop policies and procedures for APS for the collection and maintenance of data on investigations conducted by APS systems. They shall:	
		(a) Collect and report annually to ACL such APS system-wide data as required by the Assistant Secretary for Aging.	
		(b) Develop policies and procedures to ensure that the APS system retains individual case data obtained from APS investigations for a minimum of 5 years.	
1324.408	<b>State plans.</b>	(a) State entities must develop and submit to the Director of the Office of Elder Justice and Adult Protective Services, the position designated by 42 U.S.C. 3011(e)(1), a State APS plan that meets the requirements set forth by the Deputy Assistant Secretary for Aging.	Is this an operations plan or a formal state plan?
		(b) The State plan shall be developed by the State entity in collaboration with APS programs.	
		(c) The State plan shall be updated at least every five years but as frequently as every three years.	
		(d) The State plan shall contain an assurance that all policies and procedures described herein will be developed and adhered to by the State APS system;	
		(e) State plans will be reviewed and approved by the Director of the Office of Elder Justice and Adult Protective Services. Any State dissatisfied with the final decision of the Director of the Office of Elder Justice and Adult Protective Services may appeal to the Deputy Assistant Secretary for Aging within 30 calendar days of the date of the Director of the Office of Elder Justice and Adult Protective Services' final decision and will be afforded the opportunity for a hearing. If the State is dissatisfied with the final	



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		<p>decision of the Deputy Assistant Secretary for Aging, it may appeal to the Assistant Secretary for Aging within 30 calendar days of the date of the Deputy Assistant Secretary for Aging's decision.</p>	
<p><b>Summary of Costs and Benefits</b></p>		<p>Compared to the baseline scenario wherein APS systems continue to operate under State law with no Federal regulation, we identify several impacts of this proposed rule. We anticipate that the proposed rule will: require the revision of State policies and procedures, require training on new rules for APS staff, require the submission of new State plans, require data sharing agreements between APS systems and other State entities, require APS systems create a feedback loop to provide information to mandatory reporters, require data reporting to ACL, inform potential APS clients of their rights under State law, and require new or updated record retention systems for certain States. We anticipate that the final rule will result in improved consistency in implementation of APS systems within and across States, clarity of obligations associated with Federal funding for administrators of APS systems, and will result in better and more effective service delivery within and across States with better quality investigations in turn leading to more person-directed outcomes.</p> <p>This analysis describes costs associated with issuing APS regulations and quantifies several categories of costs to grantees (State entities) and subgrantees (APS programs), collectively referred to as APS systems, and to ACL under the proposed rule. Specifically, we quantify costs associated with APS systems (1) revising policies and procedures, (2) conducting trainings, (3) implementing policies and procedures (3) reporting data to ACL (4) maintaining records retention system (5) developing State plans. The proposed effective date of this rulemaking is three years from the date of final publication. This is to allow for variation in the timing of State legislative sessions. We anticipate that all States will have fully implemented the rule by its effective date and impacts will be measurable by that time. We conclude the proposed rule would result in a cost of \$3,532,916.99 to fully implement. This cost will be offset by improved investigations and better outcomes for the victims of adult maltreatment. This represents significant value, particularly given the widespread and egregious nature of adult maltreatment in the United States.</p> <p>The analysis also includes a discussion of the potential benefits under the rule that we do not quantify. We request comments on our estimates of the cost and benefits of this proposed rule, including the impacts that are may not be quantified in this analysis. A detailed discussion of costs and</p>	

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<p><b>a. Costs of the Proposed Rule</b></p>	<p><b>1. Revising Policies and Procedures</b></p>	<p>benefits associated with the rulemaking follows.</p> <p>This analysis anticipates that the proposed rule would result in one-time costs to State entities and APS programs to revise policies and procedures. The majority of APS systems currently maintain policies and procedures, often based on State statute. Data from our National Process Evaluation Report of Adult Protective Services (OMB Control Number 0985–0054) and State experiences incorporating concepts from the Consensus Guidelines suggest our proposed rules will establish a minimum standard that may reflect current practice in many States. For example, while all States currently require a screening process for intake, there is no uniformity or standardization in this process across or within States and detail contained in policies and procedures (if present) varies. Therefore, in requiring standard policies and procedures for APS systems, ACL anticipates that all APS programs may create new or revise their current policies and procedures under the proposed rule; however, the level of revision will vary by State. There is currently no data on the total number of APS programs. Our estimates reflect our understanding of the structure of State APS systems and the assumption that there is one program per county in local-level systems, totaling 928 APS programs nationwide.<sup>57</sup> We estimate that roughly half of these entities will require more extensive revisions, with the rest requiring limited revisions to their current policies and procedures. We estimate that programs with more extensive revisions will spend twenty (20) total hours on revisions per entity. Of these, fifteen (15) would be spent by a mid-level manager equivalent to a first-line supervisor (Occupation code 43–1011), at a cost of \$30.47 unadjusted hourly wage, \$60.94 per hour adjusted for nonwage benefits and indirect costs (15 × \$60.94), while an average of five (5) hours would be spent by executive staff equivalent to a general and operations manager (Occupation code 11–1021), at a cost of \$55.41 per hour unadjusted hourly wage, \$110.82 per hour adjusted for non-wage benefits and indirect costs (5 × \$110.82). For programs with less extensive revisions, we assume fifteen (15) total hours spent on revisions per entity. Of these, ten (10) hours would be spent by a mid-level manager equivalent to a first-line supervisor (Occupation code 43–1011), at a cost of \$30.47 per hour unadjusted hourly wage, \$60.94 per hour adjusted for non-wage benefits and indirect costs (10 × \$60.94), while an average of five (5) hours would be spent by executive staff equivalent to a general and operations manager (Occupation code 11–1021), at a cost of \$55.41 unadjusted hourly wage, \$110.82 adjusted for non-wage benefits and indirect costs (5 × \$110.82).</p>	

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		<p>We monetize the time that would be spent by APS programs on revising policies and procedures by estimating a total cost per entity of \$1,468.02 or \$1,163.50, depending on the extent of the revisions. For the approximately 464 programs with less extensive revisions, we estimate a cost of approximately \$539,864. For the 464 programs with more extensive revisions, we estimate a cost of approximately \$681,244.80.28. We estimate the total cost associated with revisions with respect to the proposed rule for APS systems of \$1,221,108.80. The above estimates of time and number of State entities or APS programs that would revise their policies under the regulation are approximate estimates based on ACL's extensive experience working with APS systems, including providing technical assistance, and feedback and inquiries that we have received from State entities and APS programs. Due to variation in the types and sizes of State entities and incomplete data on local programs, the above estimates of time and number of entities that would revise their policies under the regulation is difficult to calculate precisely.</p>	
	<p><b>2. Trainings on New Requirements</b></p>	<p><i>Cost to conduct trainings (ACL staff and contractors):</i> ACL estimates that the Federal Government will incur a onetime expense with respect to training or re-training State entities under the proposed rule. Senior ACL staff will train State entities by the ten (10) HHS regions assisted by its technical assistance provider the APS Technical Assistance Resource Center (TARC). We assume for each of the ten (10) regions that trainings will take three (3) hours of staff time for one Federal GS-14 equivalent at a cost of \$63.64 unadjusted hourly wage, \$127.28 adjusted for non-wage benefits and indirect costs (3 × \$127.28), three (3) hours of staff time for one GS-13 equivalent at a cost of \$53.85 per unadjusted hourly wage, \$107.70 per hour adjusted for non-wage benefits and indirect costs (3 × \$107.70), and (3) and three hours of staff time for five (5) contractors equivalent to training and development managers (U.S. Department of Labor (DOL) Bureau of Labor Statistics (BLS) Occupation code 11-3131) at a cost of \$61.92 per hour unadjusted for non-wage benefits, \$123.84 per hour adjusted for non-wage benefits and indirect costs (3 × 5 × \$123.84). This is inclusive of time to prepare and conduct the trainings. We monetize the time spent by Federal employees and contractors to prepare and conduct trainings for State entities by estimating a total cost per regional training of \$2,562.54. For ten trainings a total of \$25,625.40.</p>	

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		<p><i>Cost to conduct training (State entity to local APS program):</i> We further anticipate in each of the 15 local-level systems the State entity would incur a one-time expense to conduct a training on the new policies and procedures for the State's local APS programs. For each State entity to prepare and conduct a training (15 trainings total) we anticipate two (2) employees per State entity each equivalent to a first-line supervisor (BLS Occupation code 43-1011), would spend two (2) total hours (one (1) hour per employee) at a cost of \$30.47 per hour unadjusted hourly wage, \$60.94 per hour adjusting for nonwage benefits and indirect costs (2 × \$60.94). We monetize the time spent by State entities to prepare and conduct trainings for local APS programs at \$121.88 per training. For 15 State entities we anticipate a total of \$1,828.20.</p>	
		<p><i>Cost to conduct training (APS programs to APS workers):</i> We anticipate each of the 928 local APS programs will incur a one-time expense to conduct a training for APS workers on new policies and procedures. For each program to prepare and conduct a training we anticipate three (3) hours to prepare and conduct a training of one mid-level manager equivalent to a first-line supervisor (BLS Occupation code 43-1011), at a cost of \$30.47 per hour unadjusted hourly wage, \$60.94 after adjusting for non-wage benefits and indirect costs (3 × \$60.94). We monetize the time spent by APS programs to prepare and conduct trainings at \$182.82 (928 × \$182.82). We monetize the time spent by APS programs to train their workers at \$169,656.96.</p>	
		<p><i>Cost to receive training:</i> There is no data on individual local APS program staffing. However, NAMRS does track an aggregate number of APS staff at the State and local level, from State supervisors to local APS workers: 8,287. We assume 5 percent of these workers are executive staff equivalent to a general and operations manager (BLS Occupation code 11-1021), at a cost of \$55.41 unadjusted hourly wage, \$110.82 per hour adjusted for non-wage benefits and indirect costs (414 × \$110.82), 15 percent are first-line supervisor (Occupation code 43-1011), at a cost of \$60.94 per hour adjusting for non-wage benefits and indirect costs (1,243 × \$60.94) and 80 percent are Social and Human Service Assistants (Occupation code 21-1093) at a cost of \$19.45 per hour unadjusted hourly wage, and \$38.90 adjusted for non-wage benefits and indirect costs. (6,629 × \$38.90). We monetize the time spent by APS staff to receive a one-hour training at \$379,496. We monetize the total amount of time spent to give and receive trainings at \$576,606.56. Of this, \$550,981.16 is State expense and \$25,625.40 is Federal expense.</p>	

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	<p><b>3. Implementing New Policies and Procedures</b></p>	<p>The proposed rule requires several changes in APS practice which may represent a cost to States.</p> <p><i>Cost to implement a two-tiered, immediate vs. non immediate risk, response system:</i> Forty-nine States currently have a two-tiered (or higher) system. Forty-nine States currently respond to immediate need intakes within 24 hours. After consulting former APS administrators, we have determined that we cannot fully quantify how much it would cost a State to develop and implement a new two tiered system. However, given that most States currently already maintain such a system, we anticipate it would be a very minor on-going cost in total.</p> <p><i>Cost to implement mandatory staff to client ratios:</i> The provision requiring States to establish a minimum staffing ratio is intended to better enable States to ensure long-term continuity of programs. We anticipate that this will be an on-going, cost neutral provision; States have the discretion to set minimum staffing ratios consistent with current practice, and therefore currently available resources. We do not anticipate that States would commit to increasing staffing ratios without a commensurate increase in Federal or other funding. Consequently, we anticipate that this provision will not result in increased cost to APS programs. We invite comment as to whether our analysis of the potential financial burden of this proposal is accurate.</p> <p><i>Cost to implement a mandatory reporter feedback loop:</i> According to 2021 ACL Evaluation survey and NAMRS data, of all reports nationally which resulted in an investigation, 255,395 (59 percent) were made by professionals. However, not all professionals are mandated reporters and who is a mandated reporter varies by State. For example, a home and community-based service provider or other social service provider would be considered a professional but may not be a mandated reporter. For this reason, we assume 75 percent of reports resulting in an investigation made by professionals were made by mandated reporters (191,546). One such response an APS program could make to a mandated reporter is to send an email. If for each report leading to an investigation received by a mandatory reporter, an APS program sends an email in response, we anticipate a Social and Human Service Assistants (Occupation code 21–1093) at a cost of \$19.45 per hour unadjusted hourly wage, and \$38.90 adjusted for non-wage benefits and indirect costs would spend ten (10) minutes sending the email. We monetize the on-going cost for all 56 systems to send an email for each report of maltreatment from a mandatory reporter to be \$1,241,856.57 annually.</p>	

Citation	Title	Proposed Rule Language	Comment
		<p>81 percent APS programs do not currently require a feedback loop for mandatory reporters. To bring all States into compliance (.81 × \$1,241,856.57) with the proposed rules would amount to \$1,005,903.82 annually.</p>	
		<p><i>Cost to implement data sharing agreements:</i>  Anecdotally we know very few States currently have data sharing agreements with other maltreatment investigatory entities in place. We have estimated 50 APS systems currently have no data use agreements in place while six may have one or more. For illustrative purposes we assume each State without a data sharing agreement will establish three (3) MOUs (with, for example, the Medicaid agency, the Long-term care ombudsman, and the Protection and Advocacy System). Each MOU will take one mid-level manager equivalent to a first-line supervisor (Occupation code 43–1011), at a cost of \$30.47 per hour unadjusted hourly wage, \$60.94 after adjusting for nonwage benefits and indirect costs three (3) hours to draft (3 × \$60.94). It will take a privacy officer equivalent to a lawyer (Occupation code 23–1011) at a cost of \$78.74 unadjusted hourly wage, \$156.80 per hour adjusted for non-wage benefits and indirect costs one (1) hour to review and approve (1 × \$156.80). It will take an executive staff equivalent to a general and operations manager (Occupation code 11–1021), at a cost of \$55.41 unadjusted hourly wage, \$110.82 per hour adjusted for non-wage benefits and indirect costs two (2) hours (2 × \$110.82) to review and approve. We monetize the cost for one (1) State APS system to develop one (1) MOU to be \$561.26. For a State APS system to establish three (3) MOUs, we monetize the cost to be \$1,683.78. For fifty (50) State APS systems to develop one MOUs we monetize the cost to be \$84,189. We likewise assume that each of the three (3) entities the APS entity is entering into an MOU with will incur substantially similar costs. We monetize the expense of three (3) entities in fifty (50) states to enter into MOUs with the APS system in their State at \$84,189. We monetize the one-time total cost of establishing data sharing agreements to be \$168,378.</p>	

Citation	Title	Proposed Rule Language	Comment
		<p><i>Cost to inform individuals of their rights under State law:</i> We do not currently have data on the number of States informing individuals of their rights under State law. We know anecdotally some States offer potential clients a paper brochure informing them of their rights. We anticipate costs of producing and distributing such brochures to be one new pamphlet per State system or 56 pamphlets total. It will require three (3) hours of staff time by a Social and Human Service Assistants (Occupation code 21–1093) at a cost of \$19.45 per hour unadjusted hourly wage, and \$38.90 adjusted for non-wage benefits and indirect costs (3 × \$38.90) and one (1) hour for a first-line supervisor (Occupation code 43–1011), at a cost of \$30.47 per hour unadjusted hourly wage, \$60.94 to review and approve (1 × \$60.94) for a total of \$177.64 per State in staff time to develop each pamphlet. We monetize the one-time staff cost for 56 State systems to develop a pamphlet (56 × \$177.64) at \$9,947.84. According to our NAMRS data, 806,219 client investigations were performed in FFY 2022. Each pamphlet will cost 23 cents to print and produce. Assuming a pamphlet is provided for every new client at the initiation of an investigation (806,219 × .23) it would cost \$185,430.37 annually to produce and distribute pamphlets nationwide. In total, to develop a new pamphlet in all 56 States and distribute them at the beginning of all investigations would cost \$195,378.21 in staff time and materials the first year the policy is in place. Subsequently, States would incur \$185,430.37 annually to implement this provision.</p>	
	<p><b>Data Reporting to ACL</b></p>	<p>In our proposed regulations, we require States to collect and report specific data to ACL. As in our NAMRS data collection system, this data collection uses existing State administrative information systems. Therefore, States will not incur new data collection costs as the result of this rulemaking. Most of the data collected are standard data used by the agency. Operating costs of the information systems are part of State agency operations and would not maintained solely for the purpose of submitting data in compliance with the proposed rules. For data reporting from the State to ACL under the proposed regulations, we anticipate a similar system as NAMRS case component data currently reported voluntarily by States. We performed a burden estimate prior to launching this reporting system. We estimated for 35 States staff cost would be a total annual burden of 675 hours at \$46.00 per hour (675 × \$46.00) for a total of \$31,050. IT staff total annual burden was estimated at 3,075 hours at \$69.00 (3,075 × \$69.00) per hour for a total of \$212,175. Using this measure as a proxy, we estimate the proposed rule’s data reporting</p>	

Citation	Title	Proposed Rule Language	Comment
		requirements will cost a total of \$339,480 annually for all 56 State entities.	
	<b>Record Retention</b>	The proposed rule imposes a new requirement that APS programs retain case data for five years. Many, but not all, programs currently retain case data for a number of years, but comprehensive information does not exist on State retention policies. We can extrapolate from data reporting in the NAMRS that most States retain case data for an average of two years. NAMRS is a comprehensive, voluntary, national reporting system for APS programs. It collects quantitative and qualitative data on APS practices and policies, and the outcomes of investigations into the maltreatment of older adults and adults with disabilities from every State and Territory. All but one State currently maintains an IT infrastructure that supports the retention of electronic APS data and maintains it for one year. For this reason, the cost to further store it for five years will create a de minimis cost for APS.	
	<b>State plans and NAMRS</b>	This will be the first times State entities are required to develop and submit State plans under section 2042 of the Elder Justice Act, 42 U.S.C. 1397m-1(b). However, States develop spending plans under 45 CFR 75.206(d) every three to five years and, based on our extensive experience working with APS systems and OAA grantees on their State plans, we do not anticipate a significantly greater level of detail for the development of State plans. We anticipate for each State the equivalent of two (2) hour of executive staff equivalent to a general and operations manager (Occupation code 11-1021), at a cost of \$55.41 per hour unadjusted adjusted hourly wage, \$110.82 adjusted for non-wage benefits and indirect costs (2 × \$110.82), and four (4) hours of a first-line supervisor (Occupation code 43-1011), at a cost of \$30.47 per hour unadjusted hourly wage, \$60.94 adjusting for non-wage benefits and indirect costs (4 × \$60.94). State plans will be updated every three to five years. We monetize the cost of drafting one State plan at \$465.40. We monetize 56 State plans at \$26,062.40.	

**One-Time Costs**

Item of cost: Policies and Procedures Update .....	\$1,221,108.80	
Policies and Procedures Implementation .....	State .....	Federal
Training .....	\$550,981.16 .....	\$25,625.40
Policies and Procedures Implementation: Data Sharing Agreements .....	\$168,378.00	
Policies and Procedures: Informing Individuals of Their Rights Under State Law .....	\$9,947.84	
Total .....	\$1,976,041.20	



Citation	Title	Proposed Rule Language	Comment
Ongoing Costs (Annual)			
Item of Cost:			
Policies and Procedures Implementation:			
	Two-Tiered Response System .....		\$0
Policies and Procedures Implementation:			
	Staff to Client Ratios .....		0
Policies and Procedures Implementation:			
	Mandatory Reporter Feedback Loop .....		1,005,903.82
Policies and Procedures Implementation:			
	Informing Individuals of Their Rights Under State Law .....		185,430.37
	Data reporting to ACL .....		339,480.00
	Record Retention .....		0
	State plan .....		26,062.40
	(renewed every three to five years)		
	Total .....		1,556,876.59