



Policy

It is the agency's responsibility to report those related events or situations which endanger an individual's well-being and to investigate, review and execute whatever protective, corrective and remedial actions are necessary to ensure the individual's protection from being exposed to the same or a similar risk.

The purposes for reporting, investigating, reviewing, correcting, and/or monitoring certain events or situations are to enhance the quality of care provided to individuals with developmental disabilities, to protect them (to the extent possible) from harm, and to ensure that such individual is free from abuse and neglect.

Applicability

Agency Wide

Procedure

All mandated reporters (custodians [employees, volunteers, directors, and operators of covered facilities and programs {i.e. OPWDD, etc.}] and Human Services Professionals [i.e. Licensed Mental Health Counselor, etc.]) have an obligation to report in person or over the phone any reportable incident or notable occurrence **immediately** following agency emergency calling procedures. The Executive Director/or designee (associate director, director, AOD, etc.) shall be informed **immediately** by the residence/program manager or designee in person or over the phone of any reportable incident or serious notable occurrence and within 48 hours for minor notable occurrence. The residence/program manager, associate, AOD, etc. will notify the OPWDD's Incident Management Unit (IMU) immediately by telephone of any reportable incident or serious notable occurrence.

All custodians/mandated reporters shall also report via phone or via the Justice Center WEB Intake Incident Form any reportable incident that occurs in a certified setting to the Justice Center/Vulnerable person Central Registry (VPCR) **immediately** upon discovery of the reportable incident, unless they know that the report has already been made by another mandated reporter; and that they have been named in that report as a person with knowledge of the incident.

For any suspected abuse, maltreatment or neglect of an individual under the age of 18, it is the responsibility of the staff (mandated reporter) to make the required reports of child abuse or maltreatment directly, themselves, by telephone notification to the Central Registry/NYS Child Abuse and Maltreatment Reporting Center via the hotline number 1-800-342-3720 (chapter 193). It is then the responsibility of the staff/mandated reporter to **immediately** notify the



residence/program manager or designee in person or over the phone to complete additional follow up/notifications (following agency emergency calling procedures). Failure to follow the above-mentioned process is a misdemeanor in accordance with Article Six, Title 6 of Social Services Law - Child Protective Services.

All reportable incidents and notable occurrences shall be documented on the OPWDD 147 incident form. It is the responsibility of the site manager/associate director/director to ensure that an OPWDD 147 form is completed in accordance with policy and procedure. All OPWDD 147 incident forms must be filed with the Executive Director or designee (Director of Quality Advancement or their designee) within 24 hours of the occurrence or discovery of a reportable incident or serious notable occurrence and within 48 hours of the occurrence or discovery of a minor notable occurrence.

The incident details (completed 147) of any reportable incident or serious notable occurrence shall either be entered into OPWDD's IRMA (Incident Record Management Application) database by Director of Quality Advancement (DQA) or designee within 24 hours of discovery or occurrence of incident or if unable to enter details into IRMA within this time frame (i.e. weekend) then the 147 form must be entered into IRMA by the end of close next business day, whichever is later. A minor notable occurrence must be entered as indicated above within 48 hours of occurrence or discovery or by close of the next business day, whichever is later. Subsequent information shall be reported in IRMA within required time frames (i.e. Report of Death form within five working days).

If filing abuse/neglect on behalf of an individual that lives in a certified residential setting, the OPWDD 147 incident form must be mailed or faxed to appropriate Mental Hygiene Legal Services Information Officer within three business days.

All reportable incidents and notable occurrences will be fully investigated. Employees who are involved in the incident/occurrence will participate fully and provide assistance as needed in the investigation. If an employee is not willing to participate or provide assistance with the investigation, it will be considered insubordination, which may result in disciplinary action. If an employee leaves employment (terminated or resigns) prior to the conclusion of a pending investigation, the investigation will continue until it is completed (for any target/subject of an abuse investigation in a certified setting this will also be reported to the Justice Center). This will include a finding of substantiated or unsubstantiated for abuse/neglect investigations.

All deaths shall be reported to the Justice Center for any individual who had received services operated or certified by OPWDD within 30 days preceding his or her death. This is required regardless of whether the death did or did not occur under the auspices of an agency (if more than one agency provided services to the individual, there shall be one responsible agency that is designated to report the death of the individual to the Justice Center and/or OPWDD, refer to



624.5 (d) (5)). The initial report shall be submitted immediately upon discovery by the CEO or their designee (DQA/Associate Director of QA) over the phone (via the VPCR death reporting line) and in no case more than 24 hours after discovery. Subsequent information will be provided via the Report of Death form and submitted within five working days of discovery of death. All suicides, homicides, accidental deaths, or deaths due to suspicious, unusual or unnatural circumstances must be reported immediately by telephone, and later in writing, to the coroner/medical examiner. The results of an autopsy, if performed and if available, will be submitted to the Justice Center within 60 working days of the discovery of death.

In the event that emergency response by law enforcement is needed, the appropriate law enforcement agency must be contacted immediately. If there is an incident where a crime may have been committed against an individual by a custodian (i.e. staff, volunteer, contractor, etc.) a report to the appropriate law enforcement agency shall be made as soon as practical, but in no event later than 24 hours after occurrence or discovery. Notification will be recorded on OPWDD's 147 incident form and entered into IRMA.

Telephone notification must be made to a qualified person (qualified person refers to person receiving services, person's parent, guardian, spouse, adult child adult sibling or correspondent/advocate) of any reportable incident or notable occurrence as soon as reasonably possible, but no later than 24 hours after completion of the written initial incident report (notice may be provided in person rather than by telephone or by other methods at the written request of the party receiving the notice). If they can't be reached within 24 hours the program director and DQA/designee will be notified to determine appropriate action to ensure notification. Exceptions to this are if the qualified person(s) has specifically noted, in writing, that they do not wish to be informed of such, or if the individual is a capable adult and states that they do not want one or all of the qualified person(s) notified or if the person who would otherwise be notified is the alleged abuser.

All required notifications will be recorded on OPWDD's 147 incident form and entered into IRMA. Initial notification must include description of event or situation and a description of initial actions taken to address the incident or alleged abuse (prevent a reoccurrence). The telephone notice shall also include an offer to meet with the CEO or designee (site manager, associate, etc.) to further discuss the incident/safeguards, inform them of receiving 148 letter in the mail (see paragraph below) and offer a copy of OPWDD's 147 incident form (unless the person is a capable adult and objects to this provision of information). The complete telephone notice may include more than one call, if the initial call includes a description of the event or situation/safeguards and is within the required period of time. Follow-up calls with the additional required information will be made within a reasonable timeframe after the initial call. For reportable incidents (abuse/neglect and significant incidents) an offer to provide information on the status and/or finding of the report, i.e. copy of the full investigation (this information if requested can be provided to them verbally or in writing [unless the person is a capable adult and objects to this



provision of information] – see below for more information about request for anything in writing). The outcome of the offer for a meeting, copy of 147 incident form and more information on status for abuse/neglect, will be recorded on the investigation summary cover sheet by the site manager or designee, and will be included within the investigative report.

In addition to the above for all reportable incidents and notable occurrences the qualified person(s) must be sent a written report (Form OPWDD 148 or similar form developed by agency) on the actions taken in response to the reportable incident/notable occurrence to safeguard the health or safety of the person, and a general description of any initial medical/dental treatment or counseling provided. This report must be sent within 10 business days of the completion of the OPWDD 147 incident form.

If copy of initial incident/abuse report (copy of OPWDD 147 Incident Form) and/or records/documents pertaining to a reportable incident investigation are requested these requests must be sent in writing (can be hard copy via mail or email) to the Executive Director or designee. Written requests received by Executive Director/designee will be forwarded to the Director of Quality Advancement for authorization to release (DQA will date stamp/initial confirmation of receipt). All written requests shall specify the records that are requested. Documentation will be maintained as part of an investigation regarding request when received. Authorized requests for copy of initial incident report will be provided no later than 10 business days after the request is received. Authorized requests for copy of a reportable incident (abuse/neglect or significant incident) report and/or documents/records pertaining to a reportable incident (abuse/neglect or significant incident) investigation will be provided/released 21 days after the closure of the reportable incident (alleged abuse/significant incident) or 21 days after the request if received, if the request is made after closure (reportable incident case will be considered closed when the incident review committee has ascertained that no further investigation is necessary and a conclusion is reached). Copy of the redacted records/documentation provided will be maintained with the investigation along with the date provided. Information will not be provided if the individual is a capable adult and objects to such information being provided or the alleged abuser is one of the aforementioned. In providing such information, as is requested, the agency shall ensure the privacy rights of all parties by redacting all records prior to release per redaction outlined in 624.6 (f) (7) (ii). Release of records will be accompanied by a cover letter to the receipt with includes statement as referenced in MHL 33.25 and states that records may not be redisclosed/further disseminated, except to share the report with: a health care provider, a behavior health care provider, law enforcement if believed a crime has been committed or attorney (refer to 624.8 (g) (1)).

If a requestor is denied access to initial incident report, report on actions taken or denied access to records/documents pertaining to abuse/neglect investigations, the requestor may appeal in writing such denial to the incident Records Appeals Officer designated by the Commissioner of



OPWDD. Any denial of records and opportunity to appeal to OPWDD will be sent to requestor in writing. For more information refer to 624.6 (j) (1) (2) (3).

The individual's care manager/coordinator will be notified in person or via the telephone of any reportable incident or notable occurrence within 24 hours of the completion of the OPWDD 147 incident form. Notification must include description of immediate protections. Additional information that may be needed to update an individual's plan of services and to monitor protective, corrective, and other actions taken will be provided once the investigation is complete. The care manager/coordinator will be provided with written information identifying investigative conclusions (including findings of a report of abuse/neglect) and recommendations pertaining to the individual's care, protection and treatment. This information must be redacted and provided to them within 10 days after completion of the investigation if completed by the agency or 10 days after the agency receives notice of the results of the investigation conducted by OPWDD's Central Office or the Justice Center (refer to 624.6 (h) (1) (2) (i) (ii) (iii) (iv)).

The residence/program manager/Director of Customized Services or designee will notify in person or via the telephone any other program with which the individual is associated with within 24 hours of completion of the OPWDD 147 incident form if the reportable incident/notable occurrence has resulted in visible evidence of injury to the individual, may be of concern to another program, or may impact programming or activities elsewhere provided by the other agency.

Notification will be made to a member of the Board of Directors for all reportable incidents/notable occurrences through either the President/Chief Executive Director and/or the Incident Review Committee.

Heritage Christian Services has established a dedicated electronic mailbox for incident notifications in order to act on issues, including requests from OPWDD, in a timely manner.

The Incident Review Chairperson/designee and/or the Director of Quality Advancement will update the VPCR/Justice Center, OPWDD and the Mental Hygiene Legal Services (Abuse/Neglect only for individuals living in a certified residential programs) every 30 days. When completed, the results of the investigation will be forwarded by the Incident Committee Chairperson. Please refer to separate policy under Individual Protection regarding the role and responsibility of the Incident Review Committee.

Please refer to policy and procedure under Individual Protection regarding events or situations that are not under the auspices of the agency (part 625).

Notification of Policies and Procedures:



Upon commencement of service provision, and annually thereafter, will offer to make available written information developed by OPWDD in collaboration with the Justice Center for the Protection of People with Special Needs (Incidents and Investigations Brochure) and a copy of the agency's policies and procedures to persons receiving services and/or to their parents, guardians, correspondents or advocates, unless a person is a capable adult who objects to their notification. Will also offer to make available a copy of OPWDD's Part 624/625 regulations, refer to The Part 624 and Part 625 Handbook.

The above will be completed by each service provider by offering this information during initial intake (hard copy or how to access electronically). At intake they will also be informed that this information will be available electronically on agency web site at any time (hard copy can be provided at any time upon written request), refer to Notice to Individual, Family, Guardian...re Incident Information. In order to satisfy this requirement, the agency will:

- Provide instructions on how to access such information in electronic format and;
- Upon written request, provide paper copies of such information.

All employees are educated on their access to agency incident policies and procedures upon hire. Employees have access to these policies through the agency's computer network. Interns and volunteers are informed initially of these policies/procedures and their access to them through the agency website or by requesting a written copy. For consultants and contractors this information is included within the business associate's agreement.

Source Reference

- Article Six, Title 6 of Social Services Law - Child Protective Services
- Central Registry/NYS Child Abuse and Maltreatment Reporting Center
- Justice Center WEB Intake Incident Form
- Incidents and Investigations Brochure
- OPWDD ADM 2017-02 re 624 Handbook
- OPWDD Administrative Appeals Process
- The Part 624 and Part 625 Handbook

Related Documents

- Categories and Classifications of Reportable Incidents
- Incident Review Committee
- Notice to Individual, Family, Guardian...re Incident Information