

Topic: Reportable Incidents – Abuse and Neglect	Department: All programs and services
Original effective date: 7/2013	Last revision date: 5/9/2023
Owner: Incident Manager	Frequency of reviews: As needed
Internal/Regulatory Reference(s) (all that apply): OPWDD Regulation-Part 624	
Related documents/Links: OPWDD Form 147, Instructions for completing form OPWDD 147, Event Report, Preliminary Assessment, Supplemental Notification Form, Notification Form, Witness Notification Form, OPWDD 163	

Policy

People are free from abuse and neglect.

Additional Information

As mandated by OPWDD Regulation-Part624 and the NYS Justice Center, the following situations shall be filed as 147- Reportable – Abuse and Neglect Incidents per the procedure below:

- **Physical Abuse:** conduct by a custodian intentionally or recklessly causing, by physical contact, physical injury or serious or protracted impairment of the physical, mental or emotional condition of a service recipient or causing the likelihood of such injury or impairment. Physical abuse shall not include reasonable emergency interventions necessary to protect the safety of any person. The Police must be notified and body check initiated.
- **Sexual Abuse:** conduct or communication by a custodian that allows, permits, uses or encourages a service recipient to engage in sexual contact or sexual acts of an illegal nature. In addition, any sexual contact between a custodian that provides services to an individual and that individual is always considered sexual abuse. Police must be notified and body check initiated.
- **Psychological Abuse:** conduct by a custodian intentionally or recklessly causing, by verbal or non-verbal conduct, a substantial diminution of a service recipient's emotional, social or behavioral development or condition, or causing the likelihood of such diminution.
- **Deliberate inappropriate use of restraints:** the deliberate use of any manual, pharmacological or mechanical measure or device to immobilize or limit the ability of a person receiving services to freely move his or her arms, legs or body, for the convenience of staff, as a substitute for programming.
- **Aversive Conditioning:** The application of a physical stimulus that is intended to induce pain or discomfort in order to modify or change the behavior of a person receiving services (e.g. the use of physical stimuli such as noxious odors, noxious tastes, blindfolds, the withholding of meals and the provision of substitute foods in an unpalatable form and movement limitations used as punishment, including but not limited to helmets and mechanical restraint devices).
- **Obstruction of reports of reportable incidents:** conduct by a custodian that impedes the discovery, reporting or investigation of the treatment of a service recipient by falsifying records, actively persuading a mandated reporter from making a report of a reportable incident to the statewide

vulnerable persons' central register with the intent to suppress the reporting of the investigation of such incident, intentionally making a false statement or intentionally withholding material information during an investigation into such a report; intentional failure of a supervisor or manager to act upon such a report in accordance with governing state agency regulations, policies or procedures; or, for a mandated reporter who is a custodian as defined in subdivision two of this section, failing to report a reportable incident upon discovery.

- **Unlawful use or administration of a controlled substance:** any administration by a custodian to a service recipient of: a controlled substance without a prescription; or other medication not approved for any use by the federal food and drug administration. It also shall include a custodian unlawfully using or distributing a controlled substance at the workplace or while on duty.
- **Neglect:** any action, inaction or lack of attention that breaches a custodian's duty and that results in or is likely to result in physical injury or serious or protracted impairment of the physical, mental or emotional condition of a service recipient. Neglect shall include, but is not limited to: (i) failure to provide proper supervision, including a lack of proper supervision that results in conduct between persons receiving services that would constitute abuse if committed by a custodian; (ii) failure to provide adequate food, clothing, shelter, medical, dental, optometric or surgical care, provided that the facility or provider agency has reasonable access to the provision of such services; or (iii) failure to provide access to educational instruction, by a custodian with a duty to ensure that an individual receives access to such instruction in accordance with the provisions of part one of article sixty-five of the education law and/or the individual's individualized education program.

*** Requires contact with The Justice Center (for certified programs) and contact with OPWDD***
The Justice Center will initiate the entry into IRMA for the filing manager’s review/revision
Fax packet to MHLS upon completion

Procedure	
Task:	Responsible party:
Must step in to ensure the safety of people supported and evaluate the need to contact emergency personnel.	Staff person who becomes aware of the event
Contacts supervisor, manager, program director/designee, or if unavailable, the Incident Management department immediately.	Staff person who becomes aware of the event
Contacts the Justice Center to report their first-hand knowledge of the incident.	Staff person who becomes aware of the event
Documents the incident immediately: - Via an Event Report form (for all programs except ArcWorks and Health Homes; for these programs, a progress note must be completed) - Via the chart of the person supported or within a progress note that a 150 incident has occurred.	Staff person who becomes aware of the event
Submits completed event report to supervisor, program director, or designee.	Staff person who becomes aware

	of the event
Ensure that the people supported are safe and that any medical and/or emotional support has been provided to the individual as needed.	Supervisor / Site Manager
Secures any possible evidence therein at least until the preliminary assessment can be conducted.	Site Manager / Designee
Conducts preliminary assessment and documents this on the Preliminary Assessment form (see related policy).	Site Manager / Designee
Request of any staff member involved that they not discuss the event in question among themselves or with anyone except their supervisor or the investigator.	Site Manager / Designee
Contacts the Justice Center and OPWDD to discuss filing of the incident and safeguarding measures that have been put in place.	Site Manager / Designee
<p>Completes the 147.</p> <ul style="list-style-type: none"> - Enters the incident into the IRMA system. - If more than one person supported is involved, the 147 is completed on behalf of the person whose last name is alphabetically first with “et al” written after his/her name. - The notification form must be completed. If more than one person is involved, separate notification forms must be done for each person (see related policy). - Notification forms must be completed for both those involved and who witnessed (witness not form and OPWDD 163) . If more than one person is involved, separate notification forms must be done for each person. - Puts the event report (or progress note, for ArcWorks), 147, preliminary assessment form, supplemental notification form and the notification form together and submits them to supervisor for review and sign-off. 	Site Manager / Designee
<p>Reviews and approves the 147 packet and IRMA entry.</p> <ul style="list-style-type: none"> - Reviews the event report, 147, preliminary assessment, supplemental notification form and the notification form for accuracy and thorough completion. - Signs the 147 form as the person/party completing the review. - Submits to Incident Management department within 24 hours of incident discovery, or by the end of the next business day. 	Director / Designee
<p>Processes the 147 packet.</p> <ul style="list-style-type: none"> - Reviews all forms and IRMA entry for accuracy, thorough completion, and appropriateness. - Assigns the incident a number and enters it into the database. - Informs programs (or confirms with them) of the necessary follow-up information needed in response to the incident. - Submits request to HR for notification letter to the involved staff member. - Provides a copy of the incident paperwork to the assigned investigator. 	Incident Coordinator
Obtains, reviews, and submits (via scan/e-mail) all requested/required follow-up information in response to the incident to the Incident Coordinator.	Director / Designee
<p>Receives, reviews and processes all follow-up information.</p> <ul style="list-style-type: none"> - Requests any clarification or additional follow-up information, as necessary. - Attaches the follow-up information to the incident packet. 	Incident Coordinator

How To Make Contact

OPWDD:

Phone – normal business hours (7:30 am – 4 pm M-F): 518-388-3816 (Gina Winkler).

Speak to them directly for Reportable Incidents and Serious Notable Occurrences.

Phone – after hours/weekends: 1-888-479-6763 (IMU = Incident Management Unit)

Via database entry

Justice Center:

Vulnerable Persons' Central Registry (VPCR)

- 1-855-373-2122
- 1-855-373-2123 (TTY)

Deaths: 1-855-373-2124

If a death is related to abuse, both numbers must be called.

Mental Hygiene Legal Services (MHLS):

Fax – ATTN. DESIGNEE: 530-3079

Mandated Reporting

- All employees, volunteers, and consultants with regular and substantial contact with individuals of the Arc are mandated reporters.
- Who calls the Justice Center: Every mandated reporter who witnessed or have a reasonable cause to suspect abuse, neglect, or a significant event may have occurred (in a certified programs). This report can also be made via the web site, using the reporting form. <https://vpcr.justicecenter.ny.gov/WI/>
- When to call: Immediately upon discovery Required information:
 - Reporting may be delayed only to prevent harm (e.g. provided needed supervision and or emergency care)
 - End of shift or going off duty does not justify a reporting delay
 - Under all circumstances the report must be made within 24 hours
- Required information:
 - Details regarding the victim, involved employee, and witnesses
 - Details of the incident, including the date, time, location, event description, and injury/impact to the victim
 - State agency responsible for oversight (OPWDD)
 - Name and address of the agency and/or program
 - Confirmation that immediate protections are in place for the victim
 - Any other information that may assist with the investigation and/or review of the event
- Mandated reporters are required to report to the hotline even if they may not know all of the information listed above.
- Failure to report is a serious matter and possible consequences include administrative discipline, termination, civil liability, and criminal prosecution

Document revision record:

Revision Date	Release Date	Reason for change	Approver
2/10/2020	2/10/2020	Clarified timeline for completion and submission of paperwork.	Deanna Crosser
7/19/2022	7/19/2022	Removed prompt for SCR check.	Deanna Crosser
7/21/2022	7/21/2022	Updated OPWDD contact information.	Deanna Crosser
8/9/2022	8/9/2022	Added letter to involved staff member.	Deanna Crosser
12/5/2022	12/5/2022	Updated OPWDD contact information.	Deanna Crosser
5/9/2023	5/9/2023	Updated OPWDD contact information.	Deanna Crosser