

Policy & Procedure

Department: Quality Management

Policy: Management of Incidents

Applicability: All Programs Certified and Non-Certified by the Office of People with Developmental Disabilities (OPWDD)

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Policy

Each individual served has the right to receive care and treatment that is suited to his or her needs that is skillfully, safely and humanely administered with full respect for his or her dignity and personal integrity. Should an accident, injury or other untoward event occur, the event shall immediately be reported, documented and thoroughly investigated. The purpose for reporting, documenting and investigating incidents is to enhance the quality of care provided to persons with developmental disabilities who receive services within our facilities and programs, to protect them from harm and to ensure that they are free from abuse and neglect. Any employee who fails to provide humane treatment and/or jeopardizes an individual's well-being, shall be subject to immediate suspension and may be subject to termination and/or prosecution to the fullest extent of the law. The prompt reporting of these types of events and situations can ensure that immediate steps are taken to protect other persons receiving services from being exposed to the same or similar risk.

All employees, interns, volunteers, consultants and contractors who work in Constructive Partnerships Unlimited (CP Unlimited) facilities and programs certified by New York State Office for People with Developmental Disabilities (OPWDD) are deemed "custodians" as defined in the Protection of People with Special Needs Act (PPSNA). Custodians are mandated reporters and therefore have the responsibility to first ensure an individual is safe from harm in the event that he or she discovers or witnesses an incident and then reports the incident to his or her direct supervisor so that any additional safeguards needed are implemented. Annually, the PPSNA requires that a Code of Conduct be read and signed by anyone who will have regular and substantial contact with any person who is receiving services or supports from certified facilities or programs. With this being said, all employees of CP Unlimited who are employed within certified or non-certified facilities and programs are required to read and sign the Code of Conduct annually. All employees are obligated to cooperate fully with investigations conducted by the agency or by outside investigating entities and failure to do so, may result in disciplinary action, up to and including termination and prosecution under the fullest extent of the law.

All incidents shall be reported, documented, and investigated by designated agency personnel depending upon the incident classification. Investigations will be conducted to determine how an incident occurred and to identify any systemic issues contributing to the occurrence of the incident. Recommendations will be made by the designated investigator to prevent recurrence of a similar type of incident in the future.

All individuals receiving services and their parents, guardians or primary correspondents, as well as the agency's governing body (Board of Directors), employees, interns, volunteers, consultants and contractors will be made aware of the agency's policies and procedures governing the reporting, recording and investigation of incidents.

Incident records shall be maintained in accordance with regulatory requirements. When records are requested by outside investigators, records may be released only with the signed authorization of a designated agency administrator. The release of information shall be governed by the provisions of this Policy and Procedure pertaining to confidentiality and in accordance with OPWDD regulations and the New York State Justice Center for the Protection of People with Special Needs Act (Justice Center PPSNA) along with HIPAA standards and Freedom of Information Law (FOIL).

An Incident Review Committee shall exist to ensure that all Reportable Abuse and Neglect, Significant Incidents, and Notable (Serious and Minor) Occurrences are reported, recorded, investigated, reviewed and monitored. The committee will ascertain and ensure the adequacy of the agency's reporting and review practices and ensure that investigations are complete and comprehensive in scope. The Committee will also ensure that protective, corrective, and remedial actions are taken to minimize the potential for recurrence of the same or similar events in the future.

All agency policies and procedures regarding the reporting, recording and investigation of incidents shall be subject to the approval of CP Unlimited governing body and shall be in compliance with 14 NYCRR Part 624 including the Protection of People with Special Needs Act (PPSNA) and Part 625. CP Unlimited will strictly adhere with all regulations set forth by the Policy and Planning Office of OPWDD.

The following procedures apply to all programs and services certified, authorized and/or funded through contracts by OPWDD which include: HCBS Waiver Services, Day Programs, Residential Programs and Article 16 Clinics. Non-certified programs and services shall be in compliance with 14 NYCRR Part 624. Regulations and guidelines concerning the Protection of People with Special Needs Act (PPSNA) does not apply to non-certified settings.

DEFINITIONS OF INCIDENTS BY CATEGORY:

REPORTABLE ABUSE AND NEGLECT:

Physical Abuse:

Physical abuse shall mean 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 the individual receiving services, or causing the likelihood of such injury or impairment. Such conduct may include, but shall not be limited to: slapping, hitting, kicking, biting, choking, smothering, shoving, dragging, throwing, punching, shaking, burning, cutting, or the use of corporal punishment. Physical abuse shall not include reasonable emergency interventions necessary to protect the safety of any party.

Sexual Abuse:

Sexual Abuse shall include any conduct by a custodian that subjects a person receiving services to any offense defined in article 130 or section 255.25, 255.26 or 255.27 of the penal law, or any conduct or communication by such custodian that allows, permits, uses, or encourages a person receiving services to engage in any act described in articles 230 or 263 of the penal law. Examples of offenses within these sections are: sexual misconduct, prostitution, rape, criminal sexual act, sexual performance by a child, forcible touching, and voyeurism, etc. For purposes of this paragraph only, a person with a developmental disability who is or was receiving services and is also an employee or volunteer of an agency is not considered a custodian if, he or she has sexual contact with another individual receiving services who is a consenting adult who has consented to such contact.

Psychological Abuse:

Psychological Abuse shall include any verbal or nonverbal conduct that may cause significant emotional distress to any individual receiving services. This includes, but is not limited to, taunts, derogatory comments or ridicule, intimidation, threats, or the display of a weapon or other object that could reasonably be perceived by an individual receiving services as a means for infliction of pain or injury, in a manner that constitutes a threat of physical pain or injury. In order for a case of psychological abuse to be substantiated after it has been reported and investigated, the conduct must be shown to intentionally or recklessly cause, or be likely to cause, a substantial diminution of the emotional, social or behavioral development or condition of the individual receiving services. Evidence of such an effect must be supported by a clinical assessment

performed by a physician, psychologist, psychiatric nurse practitioner, licensed clinical or master social worker or licensed mental health counselor.

Deliberate Inappropriate Use of Restraints:

The use of a restraint when the technique that is used, the amount of force that is used, or the situation in which the restraint is used is deliberately inconsistent with an individual’s plan of service (e.g. individualized service plan (ISP), habilitation plan), or behavior support plan, generally accepted treatment practices, and/or applicable federal or state laws, regulations, or policies, except when the restraint is used as a reasonable emergency intervention to prevent imminent risk of harm to a person receiving services or to any other party. For purposes of this paragraph, a restraint includes the 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.

Use of Aversive Conditioning:

Aversive Conditioning is defined as 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. Aversive conditioning may include, but is not limited to, the use of physical stimuli such as noxious odors, noxious tastes, blindfolds, and the withholding of meals and the provision of substitute foods in an unpalatable form. The use of aversive conditioning is prohibited by OPWDD.

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 related to the safety, treatment, or supervision of an individual receives services; actively persuading a custodian or other mandated reporter from making a report of a reportable incident to the Statewide Vulnerable Persons’ Central Register (VPCR) or OPWDD with the intent to suppress the reporting or 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 OPWDD regulations, policies or procedures; or for a custodian, failing to report a reportable incident upon discovery is prohibited.

Unlawful Use or Administration of a Controlled Substance:

Any administration of a controlled substance by a custodian to a service recipient that is done without a prescription or other medication not approved for any use by the federal food and drug administration (FDA) is prohibited. It also shall include a custodian unlawfully using or distributing a controlled substance at the workplace or while on duty.

Neglect:

Neglect is defined as 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: 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. The definition also includes the failure to provide adequate food, clothing, shelter, or medical care provided that the agency has reasonable access to the provisions of such services and that necessary consents to any such medical treatment have been sought and obtained from the appropriate parties. 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 65 of the education law and/or the individual’s individualized education program, is also included within the definition of neglect.

REPORTABLE SIGNIFICANT INCIDENT:

A reportable significant incident shall mean an incident, other than an incident of abuse or neglect, that because of its severity or the sensitivity of the situation may result in, or has the reasonably foreseeable potential to result in, harm to the health, safety, or welfare of a person receiving services, and shall include but shall not be limited to:

Conduct Between Persons Receiving Services:

Included in this definition are incidents that would constitute abuse if committed by a custodian, except sexual activity involving adults who are capable of consenting and consent to the activity; or conduct on the part of a custodian, that is inconsistent with the individual's plan of services, generally accepted treatment practices, and/or applicable federal or state laws, regulations or policies, and which impairs or creates a reasonably foreseeable potential to impair the health, safety, or welfare of an individual receiving services, including:

Seclusion:

The placement of an individual receiving services in a room or area from which he or she cannot, or perceives that he or she cannot leave at will, is considered seclusion and is prohibited.

Unauthorized Use of Time-Out:

The use of a procedure in which a person receiving services is removed from regular programming and isolated in a room or area for the convenience of a custodian, or as a substitute for programming that is inconsistent with a prescription or order issued for a service recipient is considered unauthorized use of time-out.

Medication Error with Adverse Effect:

Administration of a prescribed or over-the-counter medication, which is inconsistent with a prescription or order issued for a service recipient by a licensed, qualified health care practitioner, and which has an adverse effect on an individual receiving services is considered a medication error with adverse effect. For purposes of this clause, "adverse effect" shall mean the unanticipated and undesirable side effect from the administration of a particular medication which unfavorably affects the well-being of a person receiving services

Inappropriate Use of Restraints:

The use of a restraint when the technique that is used, the amount of force that is used, or the situation in which the restraint is used is inconsistent with an individual's plan of services (including a behavior support plan), generally accepted treatment practices, and/or regulations or policies is considered inappropriate use of restraints. A restraint shall include the 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.

Mistreatment

Other conduct on the part of a custodian, that is inconsistent with the individual's plan of services, generally accepted treatment practices, and/or applicable federal or state laws, regulations or policies, and which impairs or creates a reasonably foreseeable potential to impair the health, safety, or welfare of an individual receiving services is considered mistreatment.

Missing Person at Risk for Injury:

The unexpected absence of individual receiving services that based on the person's history and current condition exposes him or her to risk of injury is considered a missing person at risk for injury.

Unauthorized Absence:

The unexpected or unauthorized absence of a person after formal search procedures have been initiated by the agency is considered an unauthorized absence. Reasoned judgments, taking into consideration the person's habits, deficits, capabilities, health problems, etc., shall determine when formal search procedures need to be implemented. It is required that formal search procedures must be initiated immediately upon discovery of the absence involving a person whose absence constitutes a recognized potential danger to the well-being of themselves or others.

Choking, with Known Risk:

The partial or complete blockage of the upper airway by an inhaled or swallowed foreign body, including food, which leads to a partial or complete inability to breathe, involving an individual with a known risk for choking is considered choking, with known risk.

Choking, with No Known Risk:

Partial or complete blockage of the upper airway by an inhaled or swallowed foreign body, including food that leads to a partial or complete inability to breathe incident for those who do not have a known risk of choking is considered choking, with no known risk.

Self-Abusive Behavior, with Injury:

A self-inflicted injury to an individual receiving services that requires medical care beyond first aid is considered self-abusive behavior with injury.

Injury, with Hospital Admission:

Any injury that results in the admission of a person into a hospital for treatment or observation because of the injury is considered an injury with hospital admission.

Theft and Financial Exploitation:

Any suspected theft of a service recipient's personal property (including personal funds or belongings) or financial exploitation, involving a value of more than \$100.00; theft involving a service recipient's credit, debit, or public benefit card (regardless of the amount involved); or a pattern of theft or financial exploitation involving the property of one or more individuals receiving services is considered theft and financial exploitation.

Other Significant Incident:

Situations that occur under the auspices of an agency, but that does not involve conduct on the part of a custodian, and does not meet the definition of any other incident described within other classifications under Reportable Significant incidents, but that because of its severity or the sensitivity of the situation may result in, or has the reasonably foreseeable potential to result in, harm to the health, safety, or welfare of a person receiving services is considered an Other Significant Incident.

SERIOUS NOTABLE OCCURRENCE**Death:**

The death of any person receiving services, regardless of the cause of death is considered a Serious Notable Occurrence. This includes all deaths of individuals who live in residential facilities operated or certified by OPWDD and other deaths that occur under the auspices of an agency.

Sensitive Situations:

Those situations involving a person receiving services that may be of a delicate nature to the agency, and are reported to ensure awareness of the circumstances that does not meet the classification or category of other incidents are considered serious notable occurrence sensitive situations. They may include possible criminal acts committed by individuals' receiving services.

MINOR NOTABLE OCCURRENCE**Injury:**

Any suspected or confirmed harm, hurt or damage to an individual receiving services, caused by an act of that individual or another, whether or not by accident, and whether or not the cause can be identified that results in an individual requiring medical or dental treatment by a physician, dentist, physician's assistant, or nurse practitioner and such treatment is more than first aid is considered a minor notable occurrence injury. Illness in itself shall not be reported as an injury or any other type of incident or occurrence.

Theft and Financial Exploitation:

Any suspected theft of a service recipient's personal property (including personal funds or belongings) or financial exploitation, involving values of more than \$15.00 and less than or equal to \$100.00, that does not

involve a credit, debit, or public benefit card, and that is an isolated event is considered a minor notable occurrence theft and financial exploitation.

INTERNAL OCCURRENCE

Injury:

Any injury which is treated with basic first aid is considered an internal occurrence injury.

Behavioral:

Any episode of maladaptive behavior that is aggressive in nature is considered an internal occurrence behavior.

Medication Error:

Error that results in a person not receiving the right medicine, right dose, right time, and/or right route are considered internal occurrence medication errors.

Sensitive Situation:

Any situation that is sensitive in nature that should be reported, documented and investigated that is not deemed an injury, behavioral or medication error is considered an internal occurrence sensitive situation.

I. CLASSIFICATION OF INCIDENTS

REPORTABLE ABUSE AND NEGLECT INCIDENTS

The following incidents will be classified as **Reportable Abuse and Neglect**, which are defined as:

Any alleged maltreatment or mishandling which endangers the physical or emotional well-being of an individual receiving services through the action or inaction on the part of any employee, intern, consultant, contractor, visitor, volunteer, or other persons whether or not the individual is or appears to be injured or harmed. This includes:

- Physical Abuse
- Sexual Abuse
- Psychological Abuse
- Deliberate Inappropriate Use of Restraints
- Use of Aversive Conditioning
- Obstruction of Reports of Reportable Incidents
- Unlawful Use or Administration of a Controlled Substance
- Neglect

SIGNIFICANT INCIDENTS

The following incidents will be classified as **Reportable Significant Incidents** which are defined as:

An incident, other than an incident of abuse or neglect that because of its severity or the sensitivity of the situation may result in, or has the reasonably foreseeable potential to result in, harm to health, safety, or welfare of a person receiving services. This includes:

- Conduct Between Individuals Receiving Services
- Seclusion
- Unauthorized Use of Time Out
- Medication Error with Adverse Effect
- Inappropriate Use of Restraints
- Mistreatment
- Missing Person
- Unauthorized Absence
- Choking, with Known Risk
- Choking, with No Known Risk
- Self-Abusive Behavior with Injury
- Theft or Financial Exploitation
- Injury with Hospital Admission

- Other Significant Incident

SERIOUS NOTABLE OCCURRENCES

The following incidents will be classified as **Serious Notable Occurrences**:

- Death
- Any “sensitive situation” which, in the judgment of the Chief Executive Officer, needs to be brought to the attention of OPWDD, through the Development Disabilities State Operating Office (DDSOO)

MINOR NOTABLE OCCURRENCES

The following incidents will be classified as **Minor Notable Occurrences**:

- Any injury which **does not** require hospitalization but requires medical treatment or dental treatment beyond first aid
- Theft or financial exploitation

INTERNAL OCCURRENCE

The following incidents will be classified as **Internal Occurrences**:

- Any injury that **does not** require medical treatment beyond basic first aid.
- Any medication error which **does not** result in a marked adverse effect or jeopardy to an individual's health or welfare and an error with a person not receiving medication as ordered.
- Behavioral incidents where an individual exhibits behavior(s) that may result in harm to him/herself or others that may result in receiving basic first aid treatment.

II. REPORTING PROCEDURES FOR REPORTABLE ABUSE AND NEGLECT, SIGNIFICANT INCIDENT, SERIOUS AND MINOR OCCURRENCES

For all incidents classified as **Reportable Abuse and Neglect, Significant Incidents, Serious and Minor Notable Occurrences**, the following procedures must be implemented:

1. As appropriate to the situation, immediately provide assistance or intervene on behalf of the individual and obtain emergency medical assistance, if needed.
2. Immediately notify the Vice President /Administrator of Program Services or designee of the identified incident.
3. The person discovering the incident will complete a standardized incident report form.
4. For all **Reportable Abuse and Neglect or Significant Incidents**, the person(s) who discovers or directly witnesses the event is required to notify the Justice Center’s Vulnerable Persons Central Register (VPCR) hotline and provide their name, title, description of the incident and contact information of every person known to have the same information concerning the reportable incident.
5. When the Justice Center makes the determination that an incident is classified as a Reportable Abuse or Neglect, the Vice President/Administrator of Program Services or designee will notify the victim and/or witnesses that they may be interviewed concerning the incident. Documentation of this notification will be placed on OPWDD Form 163 form and available within the investigative record.
6. If a subject of an investigation (employee, intern, volunteer, consultant, or contractor alleged to have abused or neglected a person receiving services) is identified in an investigation into a Reportable Abuse and Neglect incident, then the following must occur:
 - When appropriate, the subject will be removed from direct contact with, or responsibility for, all persons receiving services from the agency.
 - The subject will receive a letter indicating that he or she has been made the subject of a report of abuse or neglect. The letter describes the Justice Center’s process regarding substantiated and unsubstantiated investigative reports and consequences for substantiated findings and the subject’s right to request information regarding the investigative report.
 - Subject will be informed that the Statewide Central Register (SCR) will be checked to determine if they have been involved in any substantiated child abuse or neglect cases. **If a substantiated abuse or neglect case is identified then the Agency will complete a risk*

assessment to determine whether the subject can maintain employment. If there is no match, the SCR check becomes part of the investigative record.

7. The reporting of **Reportable Incidents** to the VPCR is not limited only to incidents that occur in programs operated by CP Unlimited that are certified by OPWDD. If a mandated reporter becomes aware of a situation in which an individual may have been abused or neglected at a certified facility or program not under the auspices of CP Unlimited, the reporter has an obligation to report the incident to the VPCR.
8. Any CP Unlimited employee, intern, volunteer, consultant, and contractor who has knowledge of an event or situation that is classified as an incident is required, as a mandated reporter, to report the information to their immediate supervisor. Any person that is found to be obstructing or withholding information concerning an incident will receive disciplinary action up to and including termination of employment.
9. On a case by case basis an employee, intern, volunteer, consultant or contractor may be suspended pending the results of an incident classified as a Serious or Minor Notable Occurrence depending on the severity of the incident.
10. After ensuring the safety and well-being of the individual, the Vice President/Administrator of Program Services or designee will ensure that all other appropriate notifications are made. (Refer to Section III Part IV of the Policy)
11. Documentation of all notifications will be maintained including the offer to meet with the qualified person and the date the meeting was held, if requested. If a meeting is requested, it will be held after the investigation is completed and minutes will be recorded and maintained.
12. For all **Reportable Abuse and Neglect, Significant Incidents or Serious Notable Occurrences**, the OPWDD 147 incident reporting form will be completed and all appropriate information will be entered into the OPWDD Incident Reporting Management Application (IRMA) by designated agency staff immediately or as soon as possible (no later than 24 hours) from the discovery of the incident.
13. For **Serious Notable Occurrence: Death** in which an autopsy was performed, CP Unlimited will forward the results to the Justice Center within 60 working days from the death or at the time of receipt.
14. If during the course of an investigation into a **Serious Notable Occurrence Death**, it is determined that the cause of the death meets the definition of **Reportable Abuse and Neglect**, the incident will be reclassified and all additional notifications made as required, including a notification to the VPCR by phone.
15. For all **Minor Notable Occurrences**, the OPWDD 147 incident reporting form will be completed and entered into IRMA by a designated agency staff within 48 hours of the incident.
16. A "Report on Actions Taken" (OPWDD Form 148) will be sent to the qualified person who was notified of the **Reportable Abuse and Neglect, Significant, Serious or Minor Notable Occurrence Incident**. The report will include immediate steps taken in response to the incident or suspected abuse to safeguard the health or safety of the individual receiving services, and a general description of any initial medical, dental treatment or counseling provided to the person. This report will be sent within 10 days of completion of the OPWDD Form 147 unless the agency has written advice from a parent, guardian, adult child, correspondent or advocate (qualified person) that he/she does not wish to receive this report, the involved individual is a capable adult and objects to the qualified person receiving the report or if the qualified person is the suspected subject. This report will not include the names of others involved in the incident/allegation or any information which may identify an involved party.

17. Upon written request, a redacted copy of the OPWDD 147 will be sent to the person receiving services or the qualified person. The requested OPWDD 147 will be forwarded to eligible requestors as soon as reasonable, but in no event more than 10 days after the request.

The Vice President/Administrator of Program Services or designee will ensure that any other agency the individual is associated with is notified of the incident if the incident has resulted in an injury, may be of concern to another agency, or may have an impact upon programming or activities elsewhere.

18. If there is a reason to believe that a crime may have occurred in a facility or program of any other service provider licensed, certified, funded or operated by a State Oversight Agency, the Chief Executive Officer or designee of such other provider of services will be notified within three working days unless that Chief Executive Officer is alleged to have committed the crime.

III. REPORTING PROCEDURES FOR INTERNAL OCCURRENCES

For all incidents classified as an **Internal Occurrences**, the following procedures will be implemented as follows:

1. In the case of an injury that requires only basic first aid, the staff member observing or discovering the injury will notify the nurse and supervisor to seek the appropriate steps/measures to follow.
2. In the case of a medication related error, the staff member discovering the error will report the error to the nurse and supervisor to seek the appropriate steps/measures to follow.
3. In the case of a behavioral incident, the staff member observing the event will report to the supervisor and Behavior Intervention Specialist (BIS) to seek the appropriate steps/measures to follow.
4. A standardized occurrence reporting form will be completed by the staff person observing/discovering the incident.
5. All incidents will be reviewed by the Vice President/Program Administrator or designee to ensure the completeness of the report, including the investigation report and corrective measures implemented based on the findings of the investigation.
6. Upon completion of the investigation, the standardized incident form, investigation report into the incident and any additional documentation related to the incident will be sent to the:
 - a. Vice President/ Program Administrator within 30 days of the occurrence
7. All incidents classified as **Internal Occurrences** will be monitored through an internal system at the Borough program level.

IV. REPORTING NOTIFICATION REQUIREMENTS

Notifications (Telephone and Fax) for incidents classified as **Reportable Abuse and Neglect, Significant Serious and Minor Notable Occurrences** are to be completed by the Vice President/Administrator of Program Services or designee as follows:

REPORTABLE ABUSE AND NEGLECT, SIGNIFICANT INCIDENTS

TELEPHONE NOTIFICATIONS

Immediately

- Executive Vice President/Chief Operating Officer or designee
- OPWDD Incident Management Unit (IMU) Representative
- Law Enforcement (if it appears a crime may have been committed against an individual receiving services including but not limited to allegations of physical abuse and sexual abuse)
- OPWDD Counsel (when incidents involve law enforcement agencies) (for all Willowbrook Class Members)

- Vulnerable Persons Central Register (VPCR) hotline

As Soon As Possible (No later than 24 Hours of incident)

- Qualified Person (person's advocate or correspondent)
- Consumer Advisory Board (CAB) Representative (Willowbrook Class Members who are fully or co-represented)
- CAB main office (for all Willowbrook Class Members)
- Qualified Intellectual Disability Professional (QIDP)
- Medicaid Service Coordinator (MSC) or Care Coordinator
- OPWDD Statewide Willowbrook Liaison (for all Willowbrook Class Members)
- MHLS Representative (for all Willowbrook Class Members)
- DDRO Willowbrook Liaison (for all Willowbrook Class Members)
- Agency Administrator of Incident Management

Notifications made to a qualified person and/or CAB within 24 hours will include:

- A description of the event/situation and a description of immediate protections taken
- An offer to hold a meeting to discuss the incident
- An offer to provide information on the status/resolution of the investigation
- For cases of abuse/neglect, the qualified person will be informed that the service recipient will be interviewed for the investigation, offered the opportunity to be present for the meeting so long as no confidential information is discussed, and asked how to best communicate with the service recipient

Exceptions: Notifications to qualified persons will not be made if there is written advice from the qualified person that he/she does not want to be notified, the involved individual is a capable adult and objects to such notification, or if the person who would otherwise be notified is the alleged subject.

FAX NOTIFICATIONS:

Within 24 Hours

Copies of a written incident report documented on OPWDD Form 147 will be faxed to:

- Willowbrook Attorney (NYCLU) (for all Willowbrook Class Members)

SECURE EMAIL:

Copies of a written incident report documented on OPWDD Form 147 will be sent by secure email to:

- CAB (for all Willowbrook Class Members whether or not they are fully or co-represented by CAB)

SERIOUS NOTABLE OCCURRENCE

TELEPHONE NOTIFICATIONS (Within 24 Hours)

- Executive Vice President/Chief Operating Officer or designee
- OPWDD IMU Representative
- Qualified Person
- CAB Representative (for Willowbrook Class Members)
- CAB main office (for Willowbrook Class Members)
- MHLS Representative (for Willowbrook Class Members)
- DDRO Willowbrook Liaison (for Willowbrook Class Members)
- OPWDD Statewide Willowbrook Liaison (for Willowbrook Class Members)
- MSC or Care Coordinator
- Agency Administrator of Incident Management

Telephone Notifications to a qualified person and CAB (within 24 hours) will include:

- A description of the event/situation and a description of initial actions taken
- An offer to hold a meeting to discuss the incident or abuse allegation
- An offer to provide information on the status/resolution of the investigation

TELEPHONE NOTIFICATIONS FOR DEATH (within 24 hours)

In addition to all the notifications listed above the following notifications are required:

- Death Reporting Line

- Coroner/Medical Examiner (all suicides, homicides, accidental deaths) **If deaths are determined to be due to Abuse or Neglect must be called into VPCR hotline*
- Law Enforcement if the death is deemed to be due to homicide or suicide
- OPWDD Counsel (when incidents involve law enforcement agencies) (for all Willowbrook Class Members)

Exceptions: Notifications to qualified persons will not be made if there is written advice from the qualified person that he/she does not want to be notified or if the involved individual is a capable adult and objects to such notification.

FAX NOTIFICATIONS (Within 24 Hours)

Copies of a written incident report documented on OPWDD Form 147 will be faxed to:

- Willowbrook Attorney (New York Lawyers for Public Interest) - Deaths Only

SECURE EMAIL:

Copies of a written incident report documented on OPWDD Form 147 will be sent by secure email to:

- CAB (for all Willowbrook Class Members whether or not they are fully or co-represented by CAB)
- DDRO Willowbrook Liaison (for all Willowbrook Class Members)
- OPWDD Statewide Willowbrook Liaison (for all Willowbrook Class Members)

MINOR NOTABLE OCCURRENCES

TELEPHONE NOTIFICATIONS (Within 24 Hours)

- Executive Vice President/Chief Operating Officer or designee
- Qualified Person
- CAB Representative (for Willowbrook Class Members)
- CAB main office (for Willowbrook Class Members)
- MHLS Representative (for Willowbrook Class Members)
- OPWDD Statewide Willowbrook Liaison (for Willowbrook Class Members)
- MSC or Care Coordinator
- Agency Administrator of Incident Management
- OPWDD IMU Representative only if the incident involves theft or financial exploitation
- Local Law Enforcement if the incident involves theft or financial exploitation
- OPWDD Counsel (when incidents involve law enforcement agencies) (for all Willowbrook Class Members)

FAX NOTIFICATIONS (Within 24 Hours)

Copies of a written incident report documented on OPWDD Form 147 will be faxed to:

- Willowbrook Attorney (NYCLU) (for all Willowbrook Class Members)

SECURE EMAIL:

Copies of a written incident report documented on OPWDD Form 147 will be sent by secure email to:

- CAB (for all Willowbrook Class Members whether or not they are fully or co-represented by CAB)

ICF NOTIFICATIONS

The described notifications below are in addition to the notifications detailed above. For all individuals who reside in an agency ICF, the Qualified Intellectual Disabilities Professional (QIDP) and the Willowbrook Case Service Coordinator (WCSC), if applicable, will be notified for all reportable incidents and occurrences. The QIDP and WCSC will be provided with subsequent information related to the investigation. If the QIDP or WCSC is identified as the alleged abuser, or is a witness to an incident or alleged abuse, the required notifications and subsequent information must be provided to the QIDP's or WCSC's supervisor.

V. INVESTIGATIONS

1. Upon observation or discovery of an incident, the Vice President/Administrator Residential Services or designee will ensure that a preliminary investigation is initiated immediately. All reportable and serious

notable occurrences will be investigated by a CP Unlimited centralized special investigator. All internal and minor notable occurrences will be investigated at the facility or program level.

2. The Special Investigator, as assigned by Administrator of Investigations, will conduct a thorough investigation for all incidents classified as **Reportable Abuse and Neglect, Significant Incidents and Serious Notable Occurrences**. All investigations will be conducted immediately or subsequent to preliminary findings, with further investigative actions taken corresponding with the seriousness and circumstances of the situation.
3. If the investigation has initially been assigned to the Justice Center for completion, the Justice Center will conduct a *72 Hour Assessment* to determine whether or not they will investigate or assign the case to the Agency, OPWDD, or Police. If the Justice Center, OPWDD or the Police will assume responsibility for conducting an investigation into an incident, actions taken by the agency will be restricted to:
 - a. Securing and/or documenting the scene as appropriate
 - b. Collecting and securing physical evidence
 - c. Taking preliminary statements from witness and involved parties
4. Once the agency is informed that the investigation will be delegated to the Justice Center, OPWDD or to the Police, all information that has been collected will be turned over by the Administrator of Incident Management. The agency will comply with any and all requests made within appropriate timeframes.
5. Once the agency is informed that the investigation will be delegated back to the agency, the investigation will begin from that date. The timeframe for completion will be based upon the date the investigation is delegated back to the agency.
6. For any Reportable Abuse and Neglect and Significant Incident cases filed, if an employee leaves employment prior to the conclusion of the pending investigation the Justice Center will be made aware of this information via the investigative report. The investigation shall continue until it is completed and a finding is made of substantiated or unsubstantiated.
7. For every incident of abuse or neglect investigated, a disposition shall be determined. The disposition will be based on the preponderance of evidence and shall indicate whether or not the incident was substantiated or unsubstantiated. In conjunction with the possible findings, a concurrent finding may be made that a systemic problem caused or contributed to the occurrence of the incident. The findings and the investigative recommendations will be documented within a report.
8. When the agency is responsible for the investigation the following timeframes for the completion of the investigative report shall be followed:
 - Minor Notable Occurrences - 30 days
 - Serious Notable Occurrences - 30 days
 - Reportable Abuse and Neglect, Significant Incidents - 30 days

*Please note that for an ICF the investigation must be complete within 5 days. If unable to complete in 5 days then a 5-Day investigative report will be generated to provide details of what investigative process has been completed and what remains outstanding. At the conclusion of the investigation a full investigative report will be completed.

9. Upon completion of an investigation, the final report will be entered into IRMA and copies of all final investigative reports will be forwarded to:
 - Administrator of Incident Management
 - Vice President/Administrator of Program Services
 - MHLS (for all Reportable Abuse/Neglect, Significant Incidents)
 - CAB

The investigative conclusion and recommendations will be sent to the individual's MSC or Care Coordinator within 10 days of completion, unless the MSC or Care Coordinator is identified as the subject, in which case the documentation will be sent to the MSC or Care Coordinator's supervisor.

10. For all Reportable Abuse and Neglect incidents, in which the disposition is substantiated, a Corrective Action Plan (CAP) must be written. The CAP includes steps the agency will take to assure the continued health, safety, and welfare of individuals receiving services and to provide for the prevention of future acts of reportable incidents.
 - Subjects for **substantiated** Physical, Sexual and/or Financial Exploitation/Theft incidents will be immediately terminated from employment with CP Unlimited.
 - Subjects for **substantiated** Neglect or other Reportable Abuse classification of incidents will be subject to disciplinary action up to and including termination.
 - Subjects that are identified in multiple cases of Reportable Abuse and Reportable Significant incidents and found to be **substantiated** or **founded** through the investigative process will be subject to disciplinary action up to and including termination.
11. All investigations regardless of the disposition or classification may require corrective actions in response to the investigative recommendations. Corrective Actions for Reportable Abuse and Neglect; Reportable Significant and Serious Notable Occurrence will be sent submitted to Incident Management Department for review and final approval. Supporting documentation will be uploaded into IRMA as well as maintained at the program level with the investigative record.
12. For all Reportable Abuse and Neglect incidents reported to the VPCR, CP Unlimited will electronically transmit the full investigative record (statements, photographs, documentation, etc.) to OPWDD through the Web Submission Investigative Record (WSIR) system within 50 days of the date the incident was reported.
13. For all Significant Occurrences, CP Unlimited will electronically transmit the full investigative record (statements, photographs, documentation, etc.) to OPWDD through IRMA within 30 days of the date the incident was reported.
14. Significant and Serious Notable Occurrences are considered closed when the Agency's Incident Review Committee has ascertained that no further investigation is necessary.
15. Reportable Abuse and Neglect incidents are considered closed when the agency receives a Letter of Determination from the Justice Center and documentation confirming that the corrective actions have been appropriately addressed.
16. If the investigation is completed by OPWDD or the Justice Center the closure occurs when the agency receives a Letter of Determination from the Justice Center.
17. The Justice Center will review all Reportable Abuse and Neglect investigative records. The Justice Center will make the final determination for all Allegations of Abuse or Neglect that the agency investigates. The agency will receive a Letter of Determination from the Justice Center. If the disposition of the investigation is substantiated the notice will also provide an indication of the category (1, 2 or 3) that the subject(s) will fall into. The notice will indicate based on the category whether the subject(s) name will be placed on the Vulnerable Persons Central Register Staff Exclusion List (SEL). Category 4 will be utilized for those incidents that the target was unknown or when the agency is determined to be culpable. Once the agency receives the Letter of Determination from the Justice Center the Incident Review Committee will review and close the incident.

*Note: For any CP Unlimited employee, past or present, who applies for a position with an agency that falls under the Auspice of the Justice Center, a MHL 16.34 check will be completed.
18. CAPs are required to be completed and submitted with all supporting documentation to OPWDD within 65 days of receiving the Letter of Determination concerning all Reportable Abuse and Neglect incidents through IRMA.
19. CAPs are required to be completed and submitted with all supporting documentation for all Significant Occurrences to OPWDD through IRMA within 30 days of completion of the final report.
20. The agency has established a dedicated mailbox for incident notifications (CPAincidents@cpofnys.org). This mailbox will be utilized to receive incident notifications in order to act on issues, including requests

from OPWDDD in a timely manner. The mailbox has also been established to receive documentation to support corrective actions from investigative reports submitted by borough Administrators.

VI. REPORTING UPDATE REQUIREMENTS

For all incidents classified as **Reportable Abuse and Neglect** or **Significant Incidents**:

1. On at least a monthly basis, a reporting update will be entered into IRMA as to the progress or results of investigations.
2. If the agency is not responsible for conducting the investigation (i.e., the investigation was completed by the Justice Center, law enforcement, or OPWDD), the agency shall complete the required fields to the extent possible given information provided to the agency.

VII. REQUESTS FOR RECORDS RE: REPORTABLE INCIDENTS ABUSE AND NEGLECT

1. If requested, information on the status/resolution of the **Reportable Abuse and Neglect Incident** will be provided to the individual and/or the qualified person either verbally or in writing unless the individual receiving services is a capable adult and objects to the provision of this information or if the qualified person is the alleged abuser. In providing such information, the agency will ensure the privacy rights of other parties.
2. Qualified persons including parents, guardians, spouses and adult children (as defined by Mental Hygiene Law 33.25) are eligible to request and receive documents and records pertaining to allegations and investigations into abuse. All requests must be in writing and specify the documents and or records being requested.
3. Agency personnel authorized to receive requests and to release the documents and or records related to allegations of abuse include: the President and CEO, the Executive VP/Chief Operating Officer, Executive Vice President and Chief Legal Officer, Vice Presidents and Administrator of Incident Management.
4. If a written request is made by a qualified person requesting documents and/or records the following procedures will be implemented:
 - Documents and records which are released will be redacted (names of employees, other individuals and any other identifying information will be deleted)
 - Documents and records will be sent to the qualified party within 21 days of the closure of the incident or within 21 days of the request if the allegation was previously closed
 - Documents and records will be sent with a cover letter to the qualified person which states with whom this information can be shared
 - In the event that the qualified person requesting the release of records is the alleged abuser, such requestors will not be able to receive records and/or documents pertaining to the specific allegation or investigation of the event or situation in which he or she was the subjected alleged abuser, regardless of the conclusion of the investigation
 - If the individual receiving services or who formerly received services is a capable adult and objects to the release of documents and/or records to an otherwise eligible requestor, such requestor will be denied access to those documents or records
 - The written request for the release of records will be maintained with a notation entered documenting the date the request was received
 - A copy of the redacted records that were released will be maintained and the date the records were sent will be documented

VIII. MAINTENANCE OF RECORDS

- A. The following records will be maintained for Reportable Abuse and Neglect, Significant Incident, and Serious Notable Occurrences:
 1. OPWDD Form 147 and notifications

2. OPWDD Form 148 and cover letter
3. Documentation of the offer to the family member/correspondent for a meeting to discuss the incident
4. Documentation of the report made to VPCR
5. SCR check for all identified targets
6. Letter to target of a Reportable Abuse and Neglect incident
7. Final Investigative Report
8. Supporting documentation of all that was reviewed for the completion of the investigative report
9. Incident Review Committee Minutes
10. Corrective Action Plan
11. Documentation of Corrective Actions

B. The following records will be maintained for Minor Notable Occurrence incidents:

1. OPWDD Form 147 and notifications
2. OPWDD Form 148 and cover letter
3. Documentation of the offer to the family member/correspondent for a meeting to discuss the incident
4. Occurrence Reporting Form and supportive documentation
5. Documentation of Corrective Actions

C. The following records will be maintained for Internal Occurrence incidents:

1. Occurrence Reporting Form and supportive documentation

All incident reports and subsequent reports or documentation of investigations will be maintained so as to protect the privacy of individuals receiving services or anyone else involved in the incident. All incident reports will be retrievable by the Master Incident Number.

All records will be maintained for a minimum period of seven years from the date that the incident or occurrence is closed. However, when there is a pending audit or litigation concerning an incident or occurrence, agencies must retain the pertinent records during the pendency of the audit or litigation.

All Minor Notable and Internal Occurrences will be investigated and maintained at the program level.

IX. INCIDENTS CLASSIFIED UNDER PART 625 OF NYCRR

1. If a Reportable Abuse and Neglect, Significant Incident, Serious or Minor Notable Occurrence occurs while an individual is directly under the auspices of CP Unlimited supervision, but is not physically at a CP Unlimited facility or location (e.g., in a restaurant, at the doctor, visiting family, in school, on a vacation, at camp, receiving non-certified services at a non-certified location) then it will be filed under Part 625:
 - The agency shall enter an initial report into IRMA and provide initial information within 24 hours of the occurrence or discovery or by close of the next working day.
 - Investigation and follow-up will be made to the extent possible, and available community resources will be utilized (e.g., law enforcement authorities, department of social services child and adult protective services).
 - CP Unlimited shall provide updates in IRMA on a monthly basis or more frequently as requested by OPWDD until resolved.

X. STAFF TRAINING REQUIREMENTS

1. During initial orientation training, all new employees, volunteers and interns will receive training in:
 - Abuse Prevention, Identification, Reporting, and Processing of Allegations of Abuse and Neglect
 - Justice Center Code of Conduct
 - Laws, Regulations, and Policies and Procedures Governing Protection From Abuse

- Incident and Abuse Reporting and Processing
 - Laws and Regulations pertaining to Confidentiality and Access to Records
 - Promoting Positive Relationships and Safe Environments for People with Developmental Disabilities
2. Each Vice President/Program Administrator or designee will insure that ongoing training is provided on at least an annual basis to all employees in the protection of individuals from abuse including a review of all applicable policies and procedures so that each employee is able to effectively, efficiently and competently perform his/her duties.
- Any employee determined to be in need of further training will be referred to the Department of Training who will provide the appropriate retraining.
3. All members of the Board of Directors will receive annual training in incident management and confidentiality on an annual basis.
4. All custodians employed by CP Unlimited agency are required to sign Justice Center Code of Conduct annually. A copy will be maintained in each employee's record.

Policy and Procedures

Department: Quality Management

Policy: Incident Review Committee

Applicability: All Programs Certified and Non-Certified by OPWDD

Effective Date: 1/1/1989
04/01/2019

Revised Date:

POLICY STATEMENT:

Constructive Partnerships Unlimited (CP Unlimited) will establish and maintain an Incident Review Committee (IRC) in order to ensure that all accidents, injuries, untoward incidents involving individuals receiving services or any situations which involve employees, interns, volunteers, consultants or contractors are immediately reported, recorded, thoroughly investigated, reviewed and monitored. This will be in accordance with 14 NYCRR Part 624 including the Protection of People with Special Needs Act and Part 625. The committee will ascertain and ensure the adequacy of the agency's reporting and review practices in all programs and services provided by Metro Services.

This agency-wide committee will include a stable membership of supervisory and professional personnel including but not limited to: Administrators of Program Services, Nursing Directors, Nursing Supervisors who are appointed by the Chief Executive Officer and represent each program and service provided by Metro Services. A member of the Board of Directors, an individual who receives services and a Direct Support Professional will also serve as committee members. Agency supervisors and professional staff, who are not members of the committee, may be consulted by the committee in its deliberations. In addition, a physician will act as a consultant to this committee. The Chief Executive Officer will not serve as a member of the committee, but may be consulted by the committee in its deliberations. All incidents classified as "Reportable Abuse and Neglect and Significant Incident", "Serious Notable Occurrences," will be reviewed and monitored by this committee.

PROCEDURES:

1. The Incident Review Committee (IRC) will meet within one month of the occurrence of incidents classified as Reportable Abuse and Neglect and Significant Incidents, Serious and Minor Notable Occurrences, or sooner should the circumstances warrant.
2. The IRC will receive, review and monitor all investigative reports and procedures. The committee will not perform the routine investigation of Reportable Abuse and Neglect and Significant Incidents, Serious and Minor Notable Occurrences.
3. No committee member will participate in the review of any Reportable Abuse and Neglect and Significant Incident, Serious and Minor Notable Occurrence in which: he or she was directly involved; his or her testimony is incorporated; his/her spouse or other immediate family member was involved; or which he/she investigated or participated in the investigation process. Such members may participate in the committee's deliberation regarding appropriate corrective or preventive action.
4. The IRC will:
 - a. Ascertain that Reportable Abuse and Neglect, Significant Incidents, Serious and Minor Notable Occurrences were reported, managed, investigated and documented consistent with Part 624 regulations and will make written recommendations to the appropriate staff and/or Chief Executive Officer to correct, improve or eliminate inconsistencies;
 - b. Ascertain that necessary and appropriate corrective, preventive and/or disciplinary action has been taken to protect individuals from further harm and to safeguard against the recurrence of similar serious reportable incidents, reportable incidents or abuse and to make written recommendations to the Chief Executive Officer to correct, improve or eliminate inconsistencies;
 - c. Ascertain if further investigation or if additional corrective, preventive, and/or disciplinary action is necessary, and if so, to make appropriate written recommendations to the Chief Executive Officer relative to the Reportable Abuse and Neglect, Significant Incidents, Serious and Minor Notable Occurrences;
 - d. Identify trends in Reportable Abuse and Neglect, Significant Incidents, Serious and Minor Notable Occurrences and recommend appropriate corrective, preventive, and/or disciplinary action to the Chief Executive Officer to safeguard against recurrence of such incidents;
 - e. On at least an annual basis, review all incidents of injuries which upon investigation are determined to be of unknown origin and analyzes any trends and make recommendations for corrective measures, as appropriate
 - f. Monitors trends of other events or situations attributable to an individual receiving services which may be potentially harmful, but do not meet the definition of being a reportable event.
5. Minutes of each meeting will include: attendees, date and time of the meeting, brief summaries of incidents (including date and type), individual's full name, summary of investigative procedures and findings, the committee's recommendations and follow-up actions taken as a result of such recommendations.
6. The minutes of each meeting will provide documentation that all reports of Reportable Abuse and Neglect, Significant Incidents and Serious Notable Occurrences were reviewed by the committee. Results of the committee's review findings and recommendations will be forwarded to all appropriate agency executives (Executive VP/Chief Operating Officer, Vice Presidents of Program Services, Vice President of Quality Management, Vice President of Health Services, and Program Administrators).
7. The appropriate Incident Management Unit (IMU) Representative will be kept informed on at least a

monthly basis of the progress or results of investigations of Reportable Abuse and Neglect, Significant Incidents and Serious and Minor Notable Occurrences.

8. The IRC will report periodically, but at least annually, to the Board of Directors, President, and Chief Executive Officer; Executive VP/Chief Operating Officer, Vice President of Quality Management, Vice Presidents of Program Services, Program Administrators and IMU concerning the committee's general monitoring function. This report will include general identification of trends in serious reportable/ reportable incidents and allegations of abuse. The committee will recommend as appropriate, corrective, preventive and/or disciplinary actions pertaining to identified trends and revision(s) to agency policies and procedures, if indicated.
9. Confidentiality will be maintained at all times except when disclosure is mandated by law. Incident Reports will not be filed in the individual's program or service record, but will be maintained on site in a separate incident file.

Policy and Procedures

Department: Quality Management

Policy: Incident Review Subcommittees

Applicability: All Programs Certified and Non-Certified by OPWDD

Effective Date: 1/1/1989
04/01/19

Revised Date:

POLICY STATEMENT:

Constructive Partnerships Unlimited (CP Unlimited) will establish and maintain subcommittees of the Incident Review Committee for the purpose of reviewing, monitoring investigative reports and procedures for all incidents. The Central Incident Review Subcommittee will be chaired by the Administrator of Incident Management and include a stable membership of professional and supervisory personnel who represent each area under the direction of CP Unlimited Metro Services. The Central Incident Review Subcommittee will be responsible in reviewing and monitoring investigative reports of all Reportable Abuse, Reportable Significant and Serious Notable Occurrences. The Borough Program Incident Review Subcommittee will be chaired by the Residential Administrator and/or Director of Program Services and include a stable membership of professional and supervisory personnel. The Borough Program Incident Review Committee will be responsible in reviewing and monitoring investigative reports of all Minor Notable and Internal Occurrences.

PROCEDURES:

1. The Central Incident Review Subcommittee will meet on at least a monthly basis.
2. Incidents classified as Reportable Abuse and Neglect, Reportable - Significant, and Serious Notable Occurrence, the Central Incident Review Subcommittee's discussions, comments, and questions will be presented to the full Incident Review Committee and documented in monthly minutes for the incident in IRMA.
3. The Central Incident Review Subcommittee will make recommendations to appropriate agency staff regarding corrective or preventive action to be taken.

4. Incidents classified as Internal Occurrences will be reviewed at the program level at Monthly Clinical Meetings. Clinical Meeting Minutes will reflect discussion and corrective actions.
5. The Borough Program Incident Review Subcommittee will meet on at least a monthly basis.
6. Incidents classified as Internal and Minor Notable Occurrences, the Borough Program Incident Review Subcommittee's discussions, comments, and questions will be documented in monthly minutes. Meeting minutes will reflect discussion and corrective actions until closure.
7. Borough Program Incident Review Subcommittee meeting minutes will be monitored by the Administrator of Incident Management.
8. Confidentiality will be maintained at all times except when disclosure is mandated by law. Incident Reports will not be filed in the individual's record, but will be maintained on site in the Incident Management Record.