



Incident Reporting and Management Policy and Procedure – (OPWDD)

PURPOSE

To establish a policy and procedure in accordance with the Office for People With Developmental Disabilities (OPWDD) Part 624 and 625 regulations regarding incident reporting and management. It is the intent of this policy to outline the expectations of incident reporting and management including but not limited to reporting, recording, investigation, review, and monitoring of incidents.

POLICY

Applicable RCIL Employees, Interns, Volunteers, Consultants, and Contractors are required to report any incident to RCIL's Compliance Department as soon as immediately possible (Immediately means as soon as the Participant has been given medical and/or other attention and is safe).

Below are the types of incident categories that are to be reported and the definitions of each incident:

1. Part 624 Incidents including Abuse and or Neglect, Reportable Significant Incidents, Serious Notable Occurrences, and Minor Notable Occurrences.
2. Part 625 Events
3. Internal Incidents

Definitions

1. **Part 624** - Events or situations that occur under the auspices of an Agency (individuals are receiving services at the time of the incident):

Reportable Incidents of Abuse and Neglect

Physical Abuse – Conduct by a custodian (worker, volunteer, or consultant) 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.



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Sexual Abuse – 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.

Psychological Abuse – Any verbal or nonverbal conduct that may cause significant emotional distress to an individual receiving services.

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 services, or behavior support plan, generally accepted treatment practices, and/or applicable federal or state laws, regulations, or policies. The exception is 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 their arms, legs, or body.

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. 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 receiving services; actively persuading a custodian or other mandated reporter (as defined in Section 488 of the Social Services Law) 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 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 OPWDD regulations, policies, or procedures; or, for a custodian, failing to report a reportable incident upon discovery.



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Unlawful Use of Administration of a Controlled Substance – Any administration by a custodian to a service recipient of a controlled substance as defined by Article 33 of the Public Health Law, 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 as defined by Article 33 of the Public Health Law, 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.

Reportable Significant Incidents

Conduct between individuals receiving services - Conduct between persons receiving services that would constitute abuse as described in paragraphs (1) through (7) of this Subdivision if committed by a custodian, except sexual activity involving adults who are capable of consenting and consent to the activity.

Seclusion – The placement of an individual receiving services in a room or area from which they cannot, or perceive that they cannot, leave at will, except when such placement is specifically permitted by Section 633.16 of this Title. Unless permitted by Section 633.16, the use of seclusion 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, for disciplinary purposes, or as a substitute for programming.

Medication Error With Adverse Effect – the administration of a prescribed or over-the-counter medication that is inconsistent with a prescription or order issued for a service recipient by a licensed qualified health care practitioner, and that has an adverse effect on an individual receiving services. For purposes of this clause, "adverse effect" means the unanticipated and undesirable side effect from the administration of a particular medication which unfavorably affects the wellbeing 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



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inconsistent with an individual's plan of services (including a behavior support plan), generally accepted treatment practices, and/or applicable Federal or State laws, regulations, or policies. For the purposes of this Subdivision, 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 their arms, legs, or body.

Mistreatment – Other conduct on the part of a custodian, inconsistent with the individual's plan of services, generally accepted treatment practices, and/or applicable Federal or State Laws, regulations, or policies, and that impairs or creates a reasonably foreseeable potential to impair the health, safety, or welfare of an individual receiving services, except as described in any other provision of this Subdivision.

Missing Person – The unexpected absence of an individual receiving services and based on the person's history and current condition exposes them to the risk of injury.

Unauthorized Absence – The unexpected or unauthorized absence of a person after formal search procedures have been initiated by the Agency. Reasoned judgments, taking into consideration the person's habits, deficits, capabilities, health problems, etc., determine when formal search procedures need to be implemented.

Choking, With Known Risk – The 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, involving an individual with a known risk for choking and a written directive addressing that risk.

Choking, No Known Risk – The 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, other than an individual with a known risk for choking and a written directive addressing that risk.

Self-Abusive Behavior with Injury – A self-inflicted injury to an individual receiving services that requires medical care beyond first aid.

Injury with Hospital Admission – An injury that results in the admission of a service recipient to a hospital for treatment or observation.

Theft or Financial Exploitation – Any suspected theft of a service recipient's personal property (including personal funds or belongings) or financial exploitation, involving a



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value of more than \$100.00; theft involving a service recipient's credit, debit, or public benefit cards (regardless of the amount involved); or a pattern of theft or financial exploitation involving the property of one or more individual's receiving services.

Other Significant Incident – An incident that occurs 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 in this Subdivision, 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.

Serious Notable Occurrences

Death – The death of any person receiving services, regardless of the cause of death. 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 do not meet the definitions of other incidents in Section 624.3 of this Part or in this Subdivision, but that may be of a delicate nature to the Agency and are reported to ensure awareness of the circumstances. Sensitive situations must be defined in Agency policies and procedures, and include, but not be limited to, possible criminal acts committed by an individual receiving services.

Minor Notable Occurrences

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 (see glossary, section 624.20) by a physician, dentist, physician's assistant, or nurse practitioner, and such treatment is more than first aid.

Theft or 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 cards, and that is an isolated event.



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2. **Part 625** - Events or situations that are not under the auspices of an Agency (individuals are not receiving services at the time of the incident):

Physical Abuse – The non-accidental use of force that results in bodily injury, pain, or impairment, including, but not limited to, being slapped, burned, cut, bruised, or improperly physically restrained.

Sexual Abuse – Non-consensual sexual contact of any kind, including, but not limited to, forcing sexual contact or forcing sex with a third party.

Emotional Abuse – The willful infliction of mental or emotional anguish by threat, humiliation, intimidation, or other abusive conduct, including, but not limited to, frightening or isolating an adult.

Active Neglect – The willful failure by the caregiver to fulfill the care-taking functions and responsibilities assumed by the caregiver, including, but not limited to, abandonment, willful deprivation of food, water, heat, clean clothing and bedding, eyeglasses or dentures, or health related services.

Passive Neglect – The non-willful failure of a caregiver to fulfill care-taking functions and responsibilities assumed by the caregiver, including, but not limited to, abandonment or denial of food or health related services because of inadequate caregiver knowledge, infirmity, or disputing the value of prescribed services.

Self-Neglect – An adult's inability, due to physical and/or mental impairments, to perform tasks essential to caring for oneself, including, but not limited to, providing essential food, clothing, shelter, and medical care; obtaining goods and services necessary to maintain physical health, mental health, emotional well-being, and general safety; or managing financial affairs.

Financial Exploitation – The use of an adult's funds, property, or resources by another individual, including but not limited to, fraud, false pretenses, embezzlement, conspiracy, forgery, falsifying records, coerced property transfers, or denial of access to assets.

Death – The end of life, expected or unexpected, regardless of cause.



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Other – Any other sensitive situations which have a significant impact on the service recipient.

- 3. Internal Incidents** – Any incidents that do not rise to the level of a reportable incident or are already reported to OPWDD by another Agency. These incidents are tracked internally.

Incident Reporting Process

RCIL follows all steps outlined in OPWDD Part 624 and Part 625 Handbook. Below is a brief summary of RCIL’s Investigation Process:

I. Reporting

- All Applicable RCIL Employees, Interns, Volunteers, Consultants, and Contractors, should immediately, upon discovery, and once the individual is safe, notify RCIL’s Compliance Department of the potential incident.

RCIL’s Compliance Department contact information:

Confidential Compliance Hotline: 315-272-2905

Email address: Compliance@rcil.com

- RCIL’s Compliance Department will review information provided to determine if this is an incident and how incident should be classified.
- Any events that do not rise to the level of a reportable incident or notable occurrence will be documented as an agency internal occurrence.

II. Recording/Notification

- Upon notification of an incident, RCIL’s Compliance Department will immediately, but no later than 24 hours after discovery, report any incidents classified under Part 624 regulations to OPWDD by phone and through IMRA. For any incidents classified under Part 625 regulations, OPWDD will be notified via IRMA. Agency internal occurrences do not require OPWDD notification.
- RCIL’s Many Hearts’ Program, which is a certified OPWDD setting, will follow allow reporting requirement outlined in Part 624 regulations for a certified OPWDD setting,



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including but not limited to the New York State Justice Center -Vulnerable Persons Central Registry.

- Designated RCIL Compliance Staff will identify immediate protections to safeguard the Participant and will take further corrective action as needed to prevent reoccurrence. When reporting incident to OPWDD and the Justice Center, immediate protections identified for Participant will be provided with notification.
- Upon notification of a 624 or 625 incident, RCIL's Compliance Department will immediately, but no later than 24 hours after discovery, provide notification to RCIL's CEO.
- All other notifications outlined by OPWDD Jonathon's Law Requirements will occur including but not limited to notification to the Participant, Qualified Party, Care Manager, and other entities as applicable such as Law Enforcement, Adult Protective Services or Child Protective Services.
- All other recording and notification steps outlined by Jonathon's Law Requirements in OPWDD Part 624 Handbook will be adhered to.

III. Investigation

- The assigned RCIL Investigator will complete a thorough investigation following all steps outline in OPWDD Part 624 and Part 625 Handbook.
- Investigations will be completed no later than 30 days after the incident is reported to OPWDD (this timeframe will only be extended if there is adequate justification to do so, which is outline in OPWDD Part 624 Handbook).

IV. Review and Correction

- For all 624 Incidents, the investigative report will be reviewed by RCIL's Incident Review Committee (IRC) to ascertain that reportable incidents were reported, managed, investigated, and documented consistent with OPWDD guidelines and with agency policies and procedures.



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- RCIL’s IRC adheres to all regulations identified in Part 624 Handbook and in part will make recommendations to the appropriate staff and/or the CEO to correct, improve, or eliminate inconsistencies.

V. Monitoring

- A quarterly trend analysis report will be presented by RCIL’s Compliance Department to the CEO, Chief Agency Executives, and the Governing Body.
- An annual trend analysis report will be submitted by RCIL’s Compliance Department to OPWDD.
- The reports will include the general identified trends in reportable incidents and notable occurrences for the time period which the report covers; an analysis of the trends identified; and any corrective action(s) developed to avoid circumstances known to have resulted in reportable incidents and notable occurrences.

Jonathan’s Law

RCIL follows all regulations outlined in OPWDD Part 624 Handbook related to Jonathan’s Law including but not limited to incident notification as stated above under Incident Reporting Process and record requests related to Reportable 624 incidents.

- Under Jonathan’s Law, a qualified party has the right to request a copy of the redacted investigative report and other documents related to the incident including but not limited to OPWDD Form 147. This request should be submitted in writing to RCIL’s Compliance Department.

RCIL’s Compliance Department contact information:

Confidential Compliance Hotline: 315-272-2905

Email address: Compliance@rcil.com

- A qualified party is the individual receiving services who is the subject of a Reportable 624 Incident and may also include the identified Guardian, Parent, Spouse, Adult Child or Adult Sibling. Unless the person receiving services is a capable adult who objects to such, or if the eligible requestor is the alleged abuser.



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- Designated RCIL Compliance Staff will provide such records in accordance with Jonathan’s Law if a request in writing for such records is received. The redacted report will be disclosed to the Qualified Party within twenty one (21) days of the request or the closure of the incident (whichever is later) and OPWDD Form 147 will be disclosed to the Qualified Party as soon as reasonable, but no later than ten (10) days after the request is made.
- All incident records will be provided using a cover letter, stating in part, pursuant to section 33.25 of the Mental Hygiene Law, the enclosed records and reports shall not be further disseminated except that you may share this report with:
 - Health Care Provider
 - Behavior Specialist
 - Law Enforcement if you believe a crime was committed
 - Your Attorney

Other

- Participants and or their Designated Representative have the right to request copies of RCIL’s Incident Reporting and Management Policy and Procedure, a copy of the Part 624/625 OPWDD regulations, and the OPWDD brochure titled, “Learning about Incidents”. Therefore, initially when services begin and annually thereafter, RCIL provides Participants and or their Designated Representatives that this information can be accessed through RCIL’s website, rcil.com.

If a Participant would prefer a paper copy they can request this from RCIL’s Compliance Department at:

Mailing Address: RCIL, PO BOX 210, Utica, NY 13503

Email Address: Compliance@rcil.com

Phone Number: 315-272-2905

- Applicable Employees will be trained initially and annually thereafter. As part of this training, employees will be provided with notice that all reportable incidents, including reports of abuse and neglect, must be investigated and if an employee leaves RCIL prior to the conclusion of a pending investigation, the investigation must continue until it is completed and (for reports of abuse and neglect) a finding is made of substantiated or unsubstantiated.



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- RCIL follows all applicable regulations outlined in OPWDD Part 624 and Part 625 Handbook.

Regulatory References

- OPWDD’s Part 624 and Part 625 Handbook (Part 624 – Reportable Incidents and Notable Occurrences and Part 625 Events and Situations):
https://opwdd.ny.gov/system/files/documents/2023/02/final-part-624-handbook-updated-with-memo-2_16_23.pdf
- Jonathan’s Law:
https://opwdd.ny.gov/system/files/documents/2020/02/jonathans_law_requirements_08_27_2017.pdf