

Section 5: Rights and Responsibilities

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Agency Policy: Incident Management

The Warren, Washington & Albany Counties ARC (WWAARC) is committed to protecting the health, safety and well-being people supported through the implementation of a comprehensive incident management system that ensures the accurate and timely reporting, investigation, review and monitoring of untoward significant events or situations, as defined in current state laws and regulations. To that end, it is required that all employees, interns, consultants, contractors, and volunteers of WWAARC contact both OPWDD and the Justice Center if he/she has reasonable cause to suspect abuse, neglect, or a significant incident has occurred.

Overview

A primary function of reporting certain events or situations is to enable the Board of Directors, administrators and all other appropriate parties to become aware of problems, to take corrective measures, and to minimize the potential for reoccurrence of the same event or situation

For all programs that are certified, sponsored, or funded by NYS OPWDD, “incidents” that occur while a person supported is under the auspices of the above program are classified as either:

- **reportable incidents**, which are those situations that must be reported immediately to the Justice Center; or
- **notable occurrences**, which are those events that do not rise to the level of a reportable incident and do not need to be reported to the Justice Center.

Requirements for these incidents are located in 14 NYCRR 624. It is WWAARC’s belief that people supported by our agency must also report incidents. The same procedures within this policy will be followed regardless of who reports an incident.

The procedures in the section “Procedures for Reporting Situations Occurring Under the Auspices of Warren, Washington & Albany Counties ARC (WWAARC)” (see glossary) identify the steps necessary to assure quality of care, protection from harm, and freedom from abuse for all persons receiving services from WWAARC, as well as providing a mechanism for WWAARC to prevent similar incidents in the future. One component of a safe environment for all people

supported is an administrative commitment to non-retaliation for those who report situations to the Justice Center in good faith.

Requirements for events and situations that are *not* under the auspices of an agency (see glossary) are found in 14 NYCRR 625 and on page 30 of this policy. Situations “not under the auspices” of an agency include, but are not limited to instances where a person supported is in a situation that is subject to the oversight of a state agency other than OPWDD, such as a school, hospital, etc.; in a private home, such as his/her family or friend; situations that *exclusively* involve family, friends, employers, or co-workers of a supported person, or situations where WWAARC personnel is acting under the supervision of a state agency other than OPWDD, such as a staff person having a second job at a hospital, bus company, etc. The section entitled “Procedures for Situations Occurring Not Under the Auspices of Warren, Washington & Albany Counties ARC (WWAARC)” provides the steps necessary for staff to take to assure the safety and quality of care of all persons supported from Warren, Washington & Albany Counties ARC (WWAARC).

Upon admission, and annually thereafter, WWAARC will offer to make available written information, developed by OPWDD in collaboration with the Justice Center, and a copy of the agency's policies and procedures, to people supported who have the capacity to understand the information and to their parents, guardians, correspondents, or advocates, unless a supported person is a capable adult who objects to their notification.

The Incident Management Policy/Procedures or an overview (when appropriate) shall be available to all agency employees, interns, volunteers, consultants, and contractors, with initial employment and thereafter annually.

If a staff person is ever in doubt as to whether or not a situation is an incident and a supervisor is unavailable for clarification, an incident summary form should be filled out and the process described in the "Procedure" section of this document followed.

Definitions of Reportable Incidents

Abuse and Neglect:

Abuse and neglect are actions *by a custodian* (see glossary) toward a person supported while under the auspices of an OPWDD-certified, contracted, and/or funded agency. All abuse and neglect must be immediately reported to the Justice Center for People with Special Needs (from here on, referred to as Justice Center).

Physical Abuse

Intentional or reckless physical contact that causes, or is likely to cause, the serious or protracted impairment of the physical, mental, or emotional condition of the person supported is considered physical abuse and is prohibited. Such conduct may include, but is not limited to, actions such as

hitting, choking, smothering, burning, slapping, pinching, kicking, hurling, strangling, shoving, or the use of corporal punishment. Reasonable emergency interventions that are necessary to protect the safety of any party are not considered physical abuse.

Sexual Abuse

Any sexual contact between a person supported and a “custodian” of an agency is considered to be sexual abuse and is prohibited. This shall not include those situations in which a person supported with a developmental disability who is/was a person supported becomes an employee or volunteer of a service provider organization and already has a relationship with another supported person of the same or another service provider organization who is a consenting adult and has consented to such contact: in such a situation, this shall be noted in the supported person's service plan and the relationship shall not be considered "sexual abuse" unless there is reason to believe that there is harassment, coercion, exploitation, etc. involved. Sexual contact is defined as the touching or fondling of the sexual or other intimate parts of a supported person, not married to the actor, for the purpose of gratifying the sexual desire of either party, whether directly or through clothing. Sexual contact also includes causing a supported person to touch anyone else for the purpose of arousing or gratifying personal sexual desires.

Psychological Abuse

Any verbal or non-verbal conduct that may cause significant emotional distress to a person supported is considered psychological abuse and is prohibited. Examples include, but are 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 a supported person as a means for infliction of pain or injury, in a manner that constitutes a threat of physical pain or injury. In order to substantiate a report of psychological abuse, a clinical assessment must support that the conduct was shown to cause intentionally or recklessly, or be likely to cause, a substantial diminution of the emotional, social or behavioral development or condition of the person supported. Clinical assessment must be performed by a physician, psychologist, psychiatric nurse practitioner, licensed clinical or master social worker, or licensed mental health counselor.

Deliberate Inappropriate Use of Restraint

The use of a restraint when the technique that is used, the amount of force used, or the situation in which it is used is deliberately inconsistent with a supported person's plan of services, habilitation plan, 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 any party. The use of any manual, pharmacological, or mechanical measure or device to immobilize or limit the ability of a person supported to freely move his/her arms, legs, or body is considered a restraint.

Use of 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 supported is aversive conditioning and is **prohibited by OPWDD**. Examples include, but are not limited to, the use of noxious odors or tastes, blindfolds, the withholding of meals, and the provision of substitute food in an unpalatable form.

Obstruction of Reports of Reportable Incidents

Conduct by a custodian that impedes the discovery, reporting, or investigation of the treatment of a supported person is considered obstruction and must be reported to the Justice Center. Such actions as falsifying records related to the safety, treatment, or supervision of a person supported; actively persuading a custodian or other mandated reporter from making a report of a reportable incident 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 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 constitute obstruction.

Unlawful use or administration of a controlled substance

The administration by a custodian to a person supported of a controlled substance without a prescription, or other medication not approved for any use by the federal food and drug administration is unlawful and must be reported. Additionally, the unlawful use or distribution of a controlled substance by a custodian at the workplace or while on duty must be reported.

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 person supported is considered neglect. Examples include, but are in no way limited to, failure to provide proper supervision to people supported that results in conduct between supported persons that would constitute abuse as described above, if one of the parties had been a custodian; failure to provide adequate food, clothing, shelter, or medical, dental, optometric or surgical care, consistent with state and federal regulations, provided that the agency has reasonable access to the provision of those services and necessary consents have been obtained; and failure to provide access to educational instruction by those custodians required by law to do so.

Significant Incidents:

While not classified as abuse or neglect, a significant incident, 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 supported. Though not all-inclusive, the following are some of the more common incidents:

Conduct Between Individuals Receiving Services

Conduct between persons supported that, *if one of the parties had been a custodian*, would constitute abuse as described above. It does not include sexual activity involving consenting adult persons supported who consent to the contact.

Physical conduct between people supported that does not result in injury requiring more than first aid will be reported as an internal incident (see definition under internal incidents).

Seclusion

The placement of a person supported in a room or area from which he/she cannot or perceives that he/she cannot leave at will, is seclusion. ***OPWDD prohibits the use of seclusion, except when included in a formal behavior support plan and implemented in accordance with the conditions and limits set forth in 14NYCRR633.16.***

Unauthorized Use of Time-Out

Time-out is the use of a procedure in which a person supported 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 Administration Error With an Adverse Effect

An over the counter or prescribed medication that is administered in a manner inconsistent with an order or prescription for a person supported and which has an adverse effect (i.e., an unanticipated and undesired side effect from the administration of a medication which unfavorably affects the wellbeing of a supported person).

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 a supported person's plan of services (including behavior support plan), generally accepted treatment practices, and/or applicable federal or state laws, regulations or policies. The use of any manual, pharmacological, or mechanical measure or device to immobilize or limit the ability of a person supported to freely move his/her arms, legs, or body is considered a restraint.

Mistreatment

Other conduct on the part of a custodian that is inconsistent with the supported person'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 person supported, except the other examples listed in 1-4 above.

Missing Person

The unexplained absence of a supported person that, based on the supported person's history and current condition, **exposes him/her to risk of injury.**

Choking, with Known Risk

A choking situation (blockage of an upper airway by an inhaled or swallowed foreign body, including food, which leads to a partial or complete inability to breath), involving a supported person that has been identified to be at risk and has a written directive addressing that risk.

Choking with no Known Risk

For the purposes of this paragraph, 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, other than a *choking, with known risk*, incident (see clause (e) of this subparagraph), involving a supported person with a known risk for choking and a written directive addressing that risk.

Self-Abusive Behavior, with Injury

A self-inflicted injury by a person supported that requires medical care beyond first aid.

Unauthorized Absence

The unexpected or unauthorized absence of a supported person after formal search procedures have been initiated by the agency. Reasoned judgments, taking into consideration the supported person's habits, deficits, capabilities, health problems, etc., determine when formal search procedures need to be implemented. It is required that formal search procedures must be initiated immediately upon discovery of an absence involving a supported person whose absence constitutes a recognized potential danger, except as defined in clause (c) of this subparagraph, to the wellbeing of the supported person or others.

Injury, with hospital admission

An injury that results in the admission of a person supported to a hospital for treatment or observation, except as defined in clause (10) of this subparagraph.

Theft and financial exploitation

Any suspected theft of a supported person's personal property (including personal funds or belongings) or financial exploitation, involving a value of more than \$100.00; theft involving a supported person'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 people supported.

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 supported person.

Definitions of Notable Occurrences

Notable occurrences are those occurrences which do not meet the definitions of reportable incidents (listed above) but do meet the definitions below:

Serious Notable Occurrences:

Death

The death of any person supported, regardless of the cause of death, that occurs while under the auspices of Warren, Washington & Albany Counties ARC (WWAARC). In this case, "under

the auspices” includes any person supported who has died within 30 days of discharge from a Warren, Washington & Albany Counties ARC (WWAARC) certified residential program, died as a result of an incident at a certified Warren, Washington & Albany Counties ARC (WWAARC) program, or died while the supported person was receiving non-residential Warren, Washington & Albany Counties ARC (WWAARC) services. If the circumstances warrant it, a reportable incident should **also** be filed, reported, and investigated as required.

Sensitive Situations

Those situations involving a supported person that do not meet the criteria of abuse, neglect, significant incidents, or the above categories of notable occurrences which may be of a delicate nature to the agency and are reported to ensure awareness of the circumstances. Warren, Washington & Albany Counties ARC (WWAARC) has defined sensitive situations to include, but not be limited to possible criminal acts committed by a person supported and conduct on the part of a custodian that is contrary to the agency code of conduct.

Minor Notable Occurrences:

Theft or financial exploitation

Any suspected theft of a supported person’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; and

Injury

Any suspected or confirmed harm, hurt or damage to a person supported, caused by an act of that supported person or another, whether or not by accident and whether or not the cause can be identified, that results in person supported requiring medical or dental treatment by a physician, dentist, physician’s assistant, or nurse practitioner, and such treatment is more than first aid.

Definitions of Internal Incidents

Internal incidents are those situations that do not meet any of the above definitions but should be reported to agency administration for the purposes of tracking, investigation, follow-up, etc. This category would apply to instances of conduct that are prohibited by Warren, Washington & Albany Counties ARC (WWAARC) but do not rise to the level of a reportable incident or notable occurrence. The following are situations that must be reported but the list is not limited to these examples:

Suspicious Injury of Unknown Origin

Any injury (bruise, laceration, swelling, symptoms of injuries, etc.) to a person supported that was previously unknown and is suspicious in nature. Suspicion may be raised because of location, type and/or frequency of similar injuries. Whenever possible, a photograph should be

taken immediately of any injury of unknown origin to preserve a record in case of suspected abuse. Detailed notes should be completed immediately.

Medication Error with No Adverse Effects

Any deviation from the 5 rights of medication administration that does not result in an adverse effect.

Physical Intervention

Any physical intervention that does not meet any of the definitions above, including any use of SCIP-R physical intervention(s). If the intervention is part of a Behavior Support Plan it should be noted on the Incident Summary Form as well as in behavior data.

Unplanned Hospitalizations for Illness

Only unplanned hospitalizations unrelated to injuries are to be reported as an internal incident.

Missing Money

If a supported person's funds/property of any amount is determined to be missing and does not fit the categories listed above, it should be reported as an internal incident.

Physical conduct between Individuals

Any intentional physical interaction between persons supported which does not rise to the level of a reportable, significant incident. The interaction must not be addressed as part of a supported person's behavior plan, the interaction should have been an intentional act to harm a person supported and the aggressor must have an understanding of the consequences of his/her actions. If all exceptions apply and there is an injury that does not require more than first aid, it should be reported as an internal incident.

Procedures for Reporting Situations Occurring Under the Auspices of Warren, Washington & Albany Counties ARC (WWAARC)

A. Procedure for Reportable Incidents (Allegations of abuse/neglect or significant incidents)

All reportable incidents must be reported to the Manager/Program Director immediately. The Justice Center (if the situation occurs in a certified program) and OPWDD must be notified immediately (but no later than end of the shift) after occurrence or discovery of the incident.

Staff on Duty

- Intervene immediately to ensure the well-being of all supported persons involved.
- Assess the situation to determine the need for immediate assistance, support the person as they may show effects from the abuse or other action and follow through. For example, contact 911, nursing staff, whatever is needed.
- Contact your supervisor to report the situation ASAP and clarify any further actions needed.
- Complete all regular documentation required (i.e., med notes, behavior notes, etc.)

- Document the information regarding the incident on a Warren, Washington & Albany Counties ARC (WWAARC) Incident Summary Form ASAP or before completing shift and place the form in a designated area that ensures confidentiality, for review by the program manager/supervisor.
- **All** who witnessed or discovered the situation, and the immediate supervisor who was notified of the incident, must immediately contact the Justice Center to report the incident, unless:
 - He/she knows that the report has already been made by another mandated reporter; and
 - That he/she has been named in that report as a person with knowledge of the incident.

Manager (Residential & Workshop)/Asst. Director (Day Hab)

- Take such action as is necessary to ensure the continued safety and welfare of the supported person(s). In the case of an allegation of abuse, for the immediate protection of the supported person and pending the outcome of the investigation, the employee alleged to have abused the supported person shall be either removed, relocated or placed on administrative leave, when appropriate.
- The method of ensuring the immediate protection of the person supported will be determined by the Administrative team with the inclusion of at least one member of QA. The exception to this is when a clinical plan to address false allegations is in place for a particular person supported, which documents the occurrence and affords alternate protection to the person supported.
- Ensure ALL who witnessed or discovered the situation notified the Justice Center unless he/she knows that all witnesses are named as having knowledge of the situation by the original caller.
- Ensure that proper notifications are made, immediately, to family/advocate, CEO, OPWDD, Care Manager, CAB, MHLS, Police and the Justice Center, *as assigned by the Program Director*.
- Review the completed Incident Summary Form and complete all necessary follow-up as assigned by the Program Director, sign and date the form.
- Forward the Incident Summary Form to the Program Director immediately, but no later than 24 hours of the occurrence or discovery of the incident.

Program Director

- If possible, immediately secure preliminary evidence, such as witness statements, photos, pertinent documentation, etc.
- Review Incident Summary Forms for accuracy and completeness (including appropriate classification), sign and date them, give copy to QA as soon as possible.
- Ensure ALL who witnessed or discovered the situation notified the Justice Center unless he/she knows that all witnesses are named as having knowledge of the situation by the original caller.
- Verify and ensure that all necessary notifications have been completed and documented.

- As requested/needed input the incident in the Incident Report Management Application (IRMA) within 24 hours of occurrence or discovery of the incident (or by close of the next working day, whichever is later).
- After all parties have reviewed the Incident Summary Form, forward to QA for review and follow up as necessary, for input into IRMA.
- Ensure Forms 147 and 148 are completed and distributed within required timeframes. Note: Form 148 (aka, Ten Day Letter) must be completed and distributed within 10 days of the incident.
- Only for allegations of abuse/neglect, fax a copy of Form 147 to MHLS within 3 working days of the incident.
- After completion of an investigation ensure that all recommendations are addressed.

Quality Assurance

- Immediately upon receipt of a report of an incident, review available information and assign a trained investigator immediately to any reportable incident, unless the investigation has been designated to the Justice Center or OPWDD. If it has, ensure initial statements are documented and all available documentation/items pertaining to the incident are secured.
- Ensure ALL who witnessed or discovered the situation notified the Justice Center unless he/she knows that all witnesses are named as having knowledge of the situation by the original caller.
- Ensure that all required information is entered into IRMA as it comes available but no later than the fifth working day after the action is taken or by the close of the next day, with the exception of immediate protections, which shall be entered within 24 hours of action taken.
- If the incident involves a person supported with a clinical plan to address his/her pattern of making false allegations, and the incident fits the pattern, QA will assign an investigator within one hour of receipt of the report.
- If the report is an allegation of abuse or neglect, ensure that an SCR check is initiated for each suspect of the incident and notification letter to the suspect(s) is sent immediately.
- Ensure the trained investigator completes the investigative report (149) within required timeframes.
- After the investigative report is finished, ensure that the entire investigative report (149), with all required documents (put in the order as directed by OPWDD) is electronically forwarded to the Justice Center, via OPWDD (WSIR).
- Review all Incident Summary Forms, log and monitor them as needed.
- Secure further information if necessary
- Review documents for each incident to ensure all necessary signatures are obtained and notifications are made and documented, including Forms 147 and 148.
- Maintain all incidents in a manner that ensures confidentiality.
- Ensure that all required incidents are reviewed by the Incident Review Committee within one month and follow up is monitored as needed.

- Within 10 days of completion of the investigation, send the CM written information identifying investigative conclusions and recommendations pertaining to the supported person's care, protection, and treatment.
- For those people supported residing in an OPWDD-certified residence, at the closure of the allegation of abuse/neglect incident, forward completed report to MHLS.

B. Procedure for Occurrences (not reportable to the Justice Center)

All occurrences must be reported to the Manager/ Program Director within 24 hours of their occurrence or discovery.

Staff on Duty

- Intervene immediately to ensure the wellbeing of all persons supported involved.
- Assess the situation to determine the need for immediate assistance, support the person as they may show effects from the incident, or other actions and follow through. For example, contact 911, nursing staff, etc.
- Contact your supervisor to report the situation ASAP and clarify any further actions needed.
- Complete all regularly required documentation (i.e., med notes, behavior notes, etc.)
- Document information regarding the incident on the Warren, Washington & Albany Counties ARC (WWAARC) Incident Summary Form ASAP or before completing shift and place the form in a designated area that ensures confidentiality, for review by the program manager/supervisor.

Manager (residences & workshop)/Asst. Director (day hab)

- Review the completed Incident Summary Form and complete all necessary follow up, (including notifications), as assigned by the Program Director, sign and date the form.
- Forward the Incident Summary Form to the Program Director immediately.
- Ensure that proper notifications are made, immediately, to family/advocate, CEO, OPWDD, Care Manager, MHLS, and CAB, as assigned by the Program Director.
- After completion of an investigation ensure that all recommendations are addressed.

Program Director

- Review all Incident Summary Forms for accuracy and completeness (including appropriate classification), sign and date them, give copy to QA immediately.
- Verify and ensure that all necessary notifications have been completed and documented.
- As requested/needed input the incident in the Incident Report Management Application (IRMA) within 24 hours of occurrence or discovery of the incident (or by close of the next working day, whichever is later).
- After all parties have reviewed the Incident Summary Form, it is to be given to QA for review and follow up, as necessary.

- Ensure Forms 147 and 148 are completed and distributed within required timeframes. Note: Form 148 (aka, Ten Day Letter) must be completed and distributed within 10 days of the incident.
- After completion of an investigation ensure that all recommendations are addressed.

Quality Assurance

- Immediately upon receipt of a report of an incident, review available information and assign a trained investigator as needed.
- Secure further information if necessary and ensure that all required information is entered into IRMA as it comes available but no later than the fifth working day after the action is taken or by the close of the next working day, with the exception of immediate protections, which shall be entered within 24 hours of action taken.
- Ensure all necessary signatures and notifications obtained and documented.
- Log all incidents and monitor as needed.
- Maintain all incidents in a manner that ensures confidentiality.
- Ensure that all required incidents are reviewed by the Incident Review Committee within specified timeframes and follow up is monitored as needed.
- Review all Incident Summary Forms, log and monitor them as needed.
- Secure further information if necessary. Ensure all necessary signatures are obtained and notifications are made and documented, including Forms 147 and 148. Maintain all incidents in a manner that ensures confidentiality.
- Ensure that all required incidents are reviewed by the Incident Review Committee within specified timeframes and follow up is monitored as needed.
- Enter investigative report (149) into IRMA.
- Within 10 days of completion of the investigation, send the CM written information identifying investigative conclusions and recommendations pertaining to the supported person's care, protection, and treatment.

C. Procedure for Internal Incidents

Staff on duty

- Intervene immediately to ensure the well-being of all supported persons involved.
- Assess the situation to determine the need for immediate assistance, support the person as they may show effects from the incidents, or other actions and follow through. For example, contact 911, nursing staff, etc.
- Contact your supervisor to report the situation ASAP and clarify any further actions needed.
- Complete all required regular documentation (med notes, etc.).
- Document information regarding the incident on the Warren, Washington & Albany Counties ARC (WWAARC) Incident Summary Form before completing your shift and place the form in a designated area that ensures confidentiality, for review by the program manager/supervisor.

Manager/Supervisor

- Review the completed Incident Summary Form for and complete all necessary follow up, (including notifications), as assigned by the Program Director, sign and date the form.
- Forward the Incident Summary Form to the Program Director immediately, but no later than 24 hours of the occurrence or discovery of the incident.

Program Director

- Review all Incident Summary Forms for accuracy and completeness (including appropriate classification), sign and date them, give copy to QA as soon as possible.
- Ensure that all incidents have been investigated and proper action taken, as appropriate.
- Ensure that all necessary notifications have been made and documented as needed
- After all appropriate parties have reviewed the Incident Summary Form, submit to QA.
- After completion of an investigation ensure that all recommendations are addressed.

Quality Assurance

- Review all Incident Summary Forms, assign an investigator if needed, log and monitor as needed.
- Review results of investigations and verify that appropriate actions were taken.
- Maintain all incidents in a manner that ensures confidentiality.

D. Procedure for reporting events/situations under the auspices of another agency

- If a reportable incident or notable occurrence is alleged to have occurred while a person supported was under the auspices of another agency (for example, a Warren, Washington & Albany Counties ARC (WWAARC) supported person alleges a situation occurred at an outside day hab), discovering agency (Warren, Washington & Albany Counties ARC (WWAARC)) shall document the situation and report the situation to the agency under whose auspices the event or situation occurred.
- **NOTE:** mandated reporters are still required to report to the Justice Center upon the discovery of the situation at another program or facility.
- It shall be the responsibility of the agency under whose auspices the situation is alleged to have occurred to report, investigate, review, correct, and monitor the situation.
- If Warren, Washington & Albany Counties ARC (WWAARC) is the reporting agency suspecting or alleging the incident or occurrence is not satisfied that the situation will be or is being investigated or handled appropriately, it shall bring the situation to the attention of the Warren, Washington & Albany Counties ARC (WWAARC) QA, who will, in turn, notify OPWDD.

Notifications (See Attachment 1)

All reportable incidents and notable occurrences

- Within 24 hours of written initial report or entry into IRMA, telephone notice (or in person) must be given to one of the following: **supported person's guardian, parent, spouse, adult sibling or adult child** unless the person receiving notice has provided written objection to receiving that information; **or** the person supported is a capable adult and objects to notification being made; **or** the person receiving notice is the alleged abuser. Immediate notification may be made by another method at the request of the party receiving the notice.

- Telephone notice must include:
 1. A description of the event or situation and a description of initial actions taken to address the incident or occurrence (i.e., protections put into place), if any;
 2. An offer to meet with the chief executive officer (or designee) to further discuss the incident or occurrence; and
 3. For allegations of abuse and neglect, an offer to provide information on the status and/or finding of the report. Requested information shall be provided verbally or in writing, unless the supported person is a capable adult and objects to the provision of this information. In providing such information, the agency shall protect the privacy rights of other parties.
 4. Staff providing telephone notice will complete Reportable Incidents/Notable Occurrences Notification Form, documenting response to the above questions and submit to QA for inclusion in the incident documentation
 5. **For allegations of abuse and neglect**, any person supported (and their personal representative) who is a subject, or a witness of an allegation of abuse or neglect will be notified by the program representative that they will be interviewed as part of the investigation. During such notification, the supported person or their personal representative will be asked if he/she has any additional information not known to Warren, Washington & Albany Counties ARC (WWAARC) concerning the most effective ways to communicate with the person supported in order to support the interview process. Such notification must be documented in writing on the OPWDD form 163, that notice was given or that a diligent effort to make such a notification was made. This form will be placed with the investigative record. If an alleged victim or witness does not have a personal representative, then this requirement is not necessary.

- If the person supported does not have a guardian, parent, spouse, adult sibling or adult child, or if none are reasonably available or have given written advice that he/she does not want to receive notification, notice shall be given to the person supported if he/she is a capable adult or to the supported person's advocate or correspondent, if one exists.

- A copy of the written initial incident/occurrence report may be requested by the person supported, guardian, parent(s), adult sibling or correspondent/advocate either written or verbally (properly documented) and shall be provided no more than 10 days after the request, unless the requestor is the alleged abuser. The copy of the report provided must be redacted of all names of employees involved in the incident, all who are interviewed as part of the investigation, people supported and any information that may tend to identify such supported persons. A statement that indicates that the contents are preliminary and have not been substantiated shall accompany the report.
- Within 10 days of the written initial report a report on initial actions taken in response to the incident/occurrence (i.e., Form 148) shall be provided by the program director to the person(s) who received the notification, with a copy retained for the investigative file. Information should include immediate steps taken to safeguard the health and safety of the person supported and a general description of any initial medical or dental treatment or counseling provided to the person supported.
- The **care manager** (unless he/she is the alleged abuser/neglector or a witness) of the person supported must be notified of an incident/occurrence and a description of the immediate protections provided within 24 hours of the completion of the written report or entry into IRMA, whichever is earlier, and provided with the following subsequent information:
 1. Within 10 days of completion of the investigation, written information identifying investigative conclusions and recommendations pertaining to the supported person's care, protection, and treatment. Information provided will exclude information that directly or indirectly identifies agency employees, consultants, contractors, volunteers, or other persons supported.
 2. Within 3 weeks of IRC review, any additional findings, conclusions, or recommendations identified at the meetings.
 3. Further information requested by the care manager will be addressed in accordance with 14NYCRR624.6 (h)(2)(iii).
- If the care manager is precluded from receiving the above notice, his/her supervisor or the administrator of the agency providing service coordination will receive the notice.
- If the person supported is a Willowbrook Class Member, please follow Attachment 2 (guidelines for Willowbrook Incident Reporting) pertaining to notifications and follow up. This attachment can be found at the end of this policy.

Special Notifications

- **Mental Hygiene Legal Service (MHLS)** shall be notified within 3 working days of an allegation of abuse or neglect involving any person supported

residing in an OPWDD-certified residence, with a follow up at the conclusion of the investigation to provide the results.

- **MHLS** shall also be notified of all reportable incidents and notable occurrences that involve Willowbrook Class Members, in accordance with Attachment 2 of this policy.
- In the case of any incidents where a crime may have been committed, it is the responsibility of the Program Director to notify **law enforcement officials** as practicable, but no later than **24** hours after occurrence or discovery.
- If the subject of a report of abuse or neglect in a certified program resigns or is terminated from his/her position while under investigation, QA must promptly notify the Justice Center of that information.
- **Deaths**
 1. All deaths shall be reported to the **Justice Center Death Reporting Line** (1-855-373-2124), by the agency's CEO or designee. If there is reason to suspect that the death was the result of abuse/neglect, a second call to the VPCR at the Justice Center should be made, to report the incident as such, and the procedure for a reportable incident must be followed.
 2. All deaths must be reported to **OPWDD**, in addition to the Justice Center, immediately upon discovery. If it occurred under the auspices of Warren, Washington & Albany Counties ARC (WWAARC) the procedure for a serious notable occurrence shall be followed.
 3. In the case of death, the Justice Center requires the Report of Death form to be completed and submitted. In addition, the following documentation must be completed:
 - ✓ All residential facilities are to complete the Report of Death form (within 5 working days of the discovery of death) through the Incident Reporting Management System which in turn automatically submits it to the Justice Center upon the death of a person supported whether he/she died at the facility or elsewhere.
 - ✓ QA will submit the completed investigative record which includes the completed 149 form and all supporting documentation into IRMA, in the order requested by OPWDD.
 - ✓ The sponsoring agency is responsible for completing the Report of Death form upon the death of a person supported, who lives in a family care home.
 - ✓ Non-residential facilities should complete a Report of Death form upon the death of a person supported who attends the program but does not reside in an OPWDD-operated or certified facility. The form is to be completed to the best of the non-residential program's ability, incorporating facts that are

known to staff. It is not necessary for the agency to intrude on a family's period of mourning to gather anything more than basic information.

- ✓ All suicides, homicides, accidental deaths, or deaths due to suspicious, unusual or unnatural circumstances, must be reported immediately by the Program Director by telephone, and later in writing, to the coroner/medical examiner.
- ✓ If an autopsy was completed and results received by Warren, Washington & Albany Counties ARC (WWAARC), submit the report to both the Justice Center and OPWDD Incident Management Unit within 60 days of death or as soon after as it is received.
- ✓ A copy of the Report of Death must be forwarded to the Arc of New York State office within 5 business days of the discovery of the death of a person supported.

Investigation

- **As soon as possible, but within 24 hours**, the Program Director or designee will forward the **original** OPWDD 147 form for all reportable and notable occurrences to QA with any other information available.
- QA will review IRMA to determine which entity (Justice Center, OPWDD, or Warren, Washington & Albany Counties ARC (WWAARC)) will investigate the reportable incident or serious notable occurrence, as well as the final classification of the incident by the Justice Center. In the absence of a definite assignment to either Justice Center or OPWDD a trained investigator will be assigned immediately, after verifying that there would be no apparent conflict of interest (see Section B below for restrictions). If it can be reasonably anticipated that either OPWDD or Justice Center is likely to investigate, Warren, Washington & Albany Counties ARC (WWAARC) actions are restricted to:
 1. Securing and documenting (e.g., photographing) the scene as appropriate
 2. Collecting and securing physical evidence
 3. Taking preliminary statements from witnesses and involved parties and
 4. Performing such other actions as specified by the Justice Center or OPWDD
- If law enforcement directs that Warren, Washington & Albany Counties ARC (WWAARC) forego any of the above actions, staff will do so as soon as notified by QA.
- If the Justice Center or OPWDD is responsible for the investigation, Warren, Washington & Albany Counties ARC (WWAARC) staff will fully cooperate with the assigned investigator but shall not conduct an independent investigation.
- In the case of a death, the investigator may use the assistance of our Medical Director.

- **Regardless of which agency is responsible for the investigation of an incident or occurrence, Warren, Washington & Albany Counties ARC (WWAARC) staff, volunteers, consultants, contractors, and interns are expected to fully cooperate with investigators.**
- If the incident is an allegation of abuse or neglect, QA will notify the target of the allegation, in writing, that he/she is the suspect of an allegation, using the letter specified by the Justice Center. This notification should not occur if notifying the subject of the report would impede the investigation. Notification or the reason a notification was not made should be reported to OPWDD as part of the investigative report. At the same time, QA will ensure that a State Central Register (SCR) request for the suspect(s) of the allegation is submitted per the investigative report to the Justice Center.
- As a result of the SCR check, Warren, Washington & Albany Counties ARC (WWAARC) may receive information that one or more indicated reports exist concerning the subject of the report. At that time appropriate action will occur.
- Warren, Washington & Albany Counties ARC (WWAARC) QA staff will monitor IRMA to ascertain whether the Justice Center, OPWDD or Warren, Washington & Albany Counties ARC (WWAARC) is responsible for the investigation. Additionally, in the event that an incident is reclassified in IRMA, QA staff will ensure all additional reports and notifications are made as may be warranted by the reclassification.

A. Investigation requirements

- Investigation will begin immediately, be thoroughly investigated, and completed within 30 days, including submission of the investigative report (149) to QA.
- Investigations will incorporate the following:
 1. If a person supported is physically injured, an appropriate medical examination of the injured supported person shall be obtained. The name of the examiner shall be recorded and his or her written findings shall be retained.
 2. Witnesses to the incident or occurrence shall be identified and shall be interviewed in as private an environment as possible.
 3. Interviews should be conducted separately by qualified, objective parties. Interviews of people supported should be conducted by parties with an understanding of the supported persons' unique needs and/or capabilities.
 4. Pertinent information shall be reviewed (e.g., records, photos, observations of incident scene, expert assessments).

5. Physical evidence, if any, shall be identified and appropriate steps shall be taken to safeguard and preserve physical evidence.
 6. If additional information is identified that may warrant the reclassification of an incident, the investigator will notify QA, who will report it to the Justice Center and OPWDD.
- For all reportable incidents and notable occurrences, investigative reports shall be in the form and format specified by OPWDD or in a similar format approved by the Central Office of OPWDD (149). At a minimum, the report shall contain the following information:
 1. identifying data, such as the name(s) of person(s) supported involved in the incident or occurrence; the date the incident/occurrence was reported and/or discovered; the classification of the incident; and the incident/occurrence number. For incidents/occurrences entered into IRMA, this includes the master incident number assigned by IRMA;
 2. a description of the incident or notable occurrence;
 3. immediate protections provided to person(s) supported;
 4. investigatory question(s);
 5. a description of the investigative process and specific evidence obtained;
 6. a summary of the evidence obtained in the investigation;
 7. conclusions, including the findings (see subdivision (i) of this section) in the case of a report of abuse or neglect; and
 8. recommendations, including recommendations for remedial actions.
 - For reportable incidents, and all occurrences investigated by Warren, Washington & Albany Counties ARC (WWAARC), the full text of the investigative report (149) shall be entered into IRMA.
 - **The investigation shall continue through completion regardless of whether an employee or other custodian who is directly involved leaves employment (or contact with persons supported) before the investigation is complete.**
 - Warren, Washington & Albany Counties ARC (WWAARC) shall maintain the confidentiality of information regarding the identities of reporters, witnesses, and subjects of reportable incidents and notable occurrences, and limit access to such information to parties who need to know, including, but not limited to, personnel administrators and assigned investigators.

B. Restrictions on situations that may compromise the independence of investigators

- Any party who has been assigned to investigate a reportable incident, or notable occurrence in which he or she recognizes a potential conflict of interest in the assignment, shall report this information to the agency. QA shall relieve the assigned investigator of

the duty to investigate if it is determined that there is a conflict of interest in the assignment.

- No one may conduct an investigation of any reportable incident or serious notable occurrence in which he or she was directly involved, in which his or her testimony is incorporated, or in which a spouse, domestic partner, or immediate family member was directly involved.
- No one may conduct an investigation in which his or her spouse, domestic partner, or immediate family member provides supervision to the program where the incident took place or provides supervision to directly involved parties.
- Members of the incident review committee (IRC) shall not routinely be assigned the responsibility of investigating incidents or occurrences. In the event that an IRC member conducts an investigation of an incident or occurrence, the agency shall comply with subparagraph 14NYCRR624.7 (d)(7)(ii).
- No party in the direct line of supervision of staff who are directly involved in the reportable incident or serious notable occurrence may conduct the investigation of such an incident or occurrence, except for the chief executive officer.
- Although the chief executive officer is in the direct line of supervision of all staff, the chief executive officer (not a designee) may conduct the investigation of a reportable incident or serious notable occurrence unless he or she is the immediate supervisor of any staff who are directly involved in the reportable incident or serious notable occurrence.

C. Findings of Reports of Abuse or Neglect

- For every report of abuse or neglect a finding **must** be made, based on a preponderance of evidence. The finding shall indicate whether:
 1. the report of abuse or neglect is *substantiated* because it is determined that the incident occurred and the subject of the report was responsible or, if no subject can be identified and an incident occurred, that the agency was responsible; **or**
 2. the report of abuse or neglect is *unsubstantiated* because it is determined not to have occurred or the subject of the report was not responsible, or because it cannot be determined that the incident occurred or that the subject of the report was responsible.
 3. **Note:** In order for a case of **psychological abuse** to be substantiated after it has been investigated, the conduct must be shown to cause intentionally or recklessly, 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.

4. If there is more than one subject identified, a separate finding must be noted for each subject in the investigative report (149).

- In conjunction with the findings of substantiated or unsubstantiated, a concurrent finding may be made that a systemic problem caused or contributed to the occurrence of the incident. This finding must be noted in the investigative report (149).

D. Completion of an investigation

- Once the investigation is completed, investigator must complete an investigative report (149) sign and date it, and submit it to QA, with all supporting documentation included.
- The IRC will review the incident as indicated in the IRC section of this procedure.
- Timeframe for completion of the investigation of a Warren, Washington & Albany Counties ARC (WWAARC) incident (reportable or notable occurrence) is no later than 30 days after the incident/occurrence was reported to the Justice Center and/or OPWDD.
- An investigation shall be considered complete upon completion of the investigative report (149).

Reporting Updates

- QA will enter reporting updates in IRMA at least monthly for all incidents not yet closed, indicating the reason for the delay and other actions taken.
- Warren, Washington & Albany Counties ARC (WWAARC) may extend the timeframe for completion of a specific investigation beyond 30 days if there is adequate justification to do so. Warren, Washington & Albany Counties ARC (WWAARC) must document its justification for the extension. Circumstances that may justify an extension include (but are not limited to):
 - whether a related investigation is being conducted by an outside entity (e.g., law enforcement) that has requested the agency to delay necessary investigatory actions; and
 - whether there are delays in obtaining necessary evidence that are beyond the control of the agency (e.g., an essential witness is temporarily unavailable to be interviewed and/or provide a written statement).

Closure of an incident

- An incident or occurrence shall be considered closed:

1. For incidents and occurrences that are not subject to Justice Center review prior to closure (i.e., reportable incidents other than abuse/neglect, notable occurrences, internal incidents, and incidents/occurrences in programs that are not certified or operated by OPWDD) when the IRC determines that no further investigation or follow up is needed.
2. For allegations of abuse/neglect:
 - if Warren, Washington & Albany Counties ARC (WWAARC) conducts the investigation, when the Justice Center notifies the agency (via a Letter of Determination) that it has accepted the results of the investigation
 - if the Central Office of OPWDD conducts the investigation, when the Justice Center notifies Warren, Washington & Albany Counties ARC (WWAARC) (via the Letter of Determination) that it has accepted the results of the investigation
 - if the Justice Center conducts the investigation, when the Justice Center notifies Warren, Washington & Albany Counties ARC (WWAARC) (via the Letter of Determination) that the incident is closed.

Final reports to the Justice Center

- QA shall submit a final investigative report (149) to OPWDD for all allegations of abuse and neglect that were accepted by the Justice Center.
 1. Reports shall be submitted electronically and within 50 days of VPCR accepting a report of abuse or neglect. (WSIR).
 2. Investigation records for Warren, Washington & Albany Counties ARC (WWAARC)-investigated reports of abuse or neglect must be submitted in their entirety to OPWDD, electronically, at one time.
 3. For reports of abuse or neglect that were reported to the Justice Center, the agency must enter the entirety of the investigative record in the Justice Center's Web Submission of Investigation Report (WSIR) application; or
 4. For reports of abuse and neglect that are not required to be reported to the Justice Center and for the death of any individual that occurs under the auspices of an agency, the agency must enter/upload the entirety of the investigative record in IRMA.
 5. Notwithstanding the timeframe specified in this subdivision, the agency may take additional time to submit the investigative record provided, however, that the reasons for any delay must be for good cause and must be documented. The record must be submitted as soon thereafter as practicably possible.
 6. Notwithstanding the requirements in paragraphs (1) – (5) of this subdivision, in the event that the Justice Center or OPWDD conducts the investigation instead of the agency, the agency is not required to submit the investigative record to the Justice Center and/or OPWDD. In the event that OPWDD conducts the investigation, OPWDD will submit the investigative record to the Justice Center.

However, agencies must provide information as requested by the Justice Center and/or OPWDD that may be deemed necessary to complete the record.

Plans for prevention and remediation for substantiated reports of abuse/neglect

- Within 10 days of the completion of an investigation into an allegation of abuse/neglect, the Program Director will develop and implement a plan of prevention and remediation to be taken to assure the continued health, safety, and welfare of persons supported and to provide for the prevention of future acts of reportable incidents. This plan shall:
 1. Include the written endorsement by the Executive Director or his/her designee, (DED, and or AED-QA)
 2. Specify by title agency staff who are responsible for monitoring the implementation of each remedial action identified and for assessing the efficacy of the remedial action.
 3. Be entered into IRMA by QA by the close of the fifth working day after the development of the plan. OPWDD will then inform the Justice Center of the plans developed.

Corrective Action Plans

- Warren, Washington & Albany Counties ARC (WWAARC) will provide a written response to any findings/recommendations regarding an allegation of abuse/neglect. The written response and supporting documents will identify actions taken in response to each recommendation within the final report. This CAP will be submitted to OPWDD within 60 days after receipt of the Letter of Determination by the Justice Center, via IRMA. This document must be endorsed by the Executive Director or their designee. (Designee is DED, and AED-QA,). All other incident recommendations will be added to the CAP via IRMA without the requirement of uploading supporting documents.

E. Training for Investigators

The Agency investigators receive training through OPWDD in the techniques of investigations. Investigators also have to take the Justice Center Required Investigative Training; this allows them to investigate all incidents. There may be times that other agency personnel investigate occurrences and internal incidents. All investigators will receive direction from staff in the QA department.

Incident Review Committee (IRC)

Purpose

The Incident Review Committee (IRC) is a standing committee of the agency with all members appointed by the chief executive officer. The Incident Review Committee shall review and monitor all Reportable Incidents and Notable Occurrences that involve persons supported

and/or all facilities and services operated, certified, authorized or funded through contract with OPWDD.

Responsibilities

- Ascertain that Reportable Incidents and Notable Occurrences are reported, managed, investigated and documented consistent with the provisions of this part and with agency/program policies and procedures; and will make written recommendations to the Executive Director.
- Ascertain that necessary and appropriate corrective, preventive and/or disciplinary action has been taken to protect the person supported from further potential harm and to safeguard against the reoccurrence of similar incidents and will make written recommendations to the appropriate staff or Executive Director to correct, improve or eliminate inconsistencies.
- Ascertain if further investigation or additional corrective, preventive, and/or disciplinary action is necessary; and if so, to make appropriate written recommendations to the Executive Director.
- Identify trends in Reportable Incidents and Notable Occurrences (by type, person, site, employee involvement, time, date, circumstances, etc.) and recommend appropriate corrective, preventive and/or disciplinary actions to the Executive Director to safeguard against such reoccurring situations.
- Ascertain and ensure the adequacy of Warren, Washington & Albany Counties ARC (WWAARC)'s reporting and review practices, including the monitoring of the implementation of approved recommendations for corrective and preventive action, including those made by OPWDD and the Justice Center.
- When an investigation has been conducted by the Central Office of OPWDD or the Justice Center, the role of the IRC in reviewing and monitoring the particular incident/occurrence is limited to matters involving compliance with the reporting and notification requirements of regulations, law, and agency policies, protective and remedial actions taken, operational concerns, and the quality of services provided.
- Regardless of which entity investigated an allegation of abuse/neglect, the ultimate finding of substantiated or unsubstantiated shall be made by the Justice Center.

Committee shall:

- Meet at least monthly, but no less frequently than on a quarterly basis and always within one month of the report of a reportable incident or serious notable occurrence, or sooner should the circumstances so warrant.
- Review and monitor reportable incidents, all notable occurrences, and those events that occur to people supported while not under the auspices of Warren, Washington & Albany Counties ARC (WWAARC).
- Review and monitor investigatory procedures.
- Make written recommendations to appropriate staff to eliminate or minimize similar incidents in the future and/or to improve investigatory or other procedures.

- Make written recommendations to the Executive Director on changes in agency policy or procedures and to improve conditions contributing to incidents reviewed.
- Forward findings and recommendations to the Executive Director within 2 weeks of the meeting.
- Provide documentation that all reports of reportable incidents and notable occurrences have been reviewed by the committee and that the results and recommendations have been conveyed to appropriate agency staff and others with a need to know.
- Monitor actions taken on any and all recommendations made and advise the Executive Director when there is a problem
- At least annually, compile a trend analysis of events or situations involving persons supported (regardless of classification), which may be potentially harmful.
- Interact with the governing body and comply with the policies in relation to the review and monitoring of all reportable incidents and notable occurrences.
- At least annually, report to the chief executive officer, chief agency executives, the governing body and OPWDD concerning the committee's general monitoring functions; general identified trends in reportable incidents and notable occurrences; and corrective, preventive, remedial and/or disciplinary action pertaining to identified trends.
- On a quarterly basis, the IRC shall review clinical plans addressing false allegations of abuse, the types of reports made by the person supported, conclusions from the investigative reports, the supportive person's response to the behavior support plan (BSP) for false reporting and the efficacy of the plan.

Organization and Membership

- There shall be two Incident Review Committees; one at each location.
- Membership of each Incident Review Committee shall include:
 1. A member of the Warren, Washington & Albany Counties ARC (WWAARC) Board of Directors
 2. At least two professional staff (including, but not limited to, licensed clinicians, such as occupation, physical, and speech therapists, social workers, psychologists, nurses, behavioral intervention specialist, and others with primary responsibility for developing and/or monitoring supported person's plans of care) At least one of the professional staff must be a licensed health care practitioner.
 3. At least one direct support professional
 4. At least one person supported, although it isn't necessary to be receiving services from Warren, Washington & Albany Counties ARC (WWAARC)
 5. At least one representative of an advocacy organization (e.g., self-advocacy, family or other advocacy organizations)
 6. Other staff deemed necessary by Warren, Washington & Albany Counties ARC (WWAARC) to achieve the purposes of the committee

- If the agency is unable to obtain members representing all categories required, periodic efforts to obtain those missing representatives will be made and documented in IRC minutes.
- A member of the committee may represent more than one membership category listed above.
- As needed, additional staff may attend a meeting of the IRC, to serve as a resource to the IRC members when reviewing a situation but shall not be voting members of the committee.

Membership Specifics

- The Executive Director shall not serve as a member of the Committee but may be consulted by the Committee in its deliberations.
- All members shall be appointed by the chief executive officer.
- All members shall be trained in confidentiality laws and regulations and shall comply with section 74 of the Public Officers Law.

Case-Specific Requirements

- At IRC meetings, there shall be representation by a person from, or with knowledge of, the agency's own organizational entity where the event under discussion occurred, or by someone who is familiar with the supported person involved. These representatives shall not be considered as IRC members, nor will they have a vote on issues.
- Any committee member who recognizes a potential conflict of interest in his/her assignment shall report this information to the committee and recuse him/herself from participating in committee review of the incident or occurrence in question.
- No committee member may participate in the review of any reportable Incident or notable occurrence in which he/she was directly involved, in which his/her spouse, domestic partner, or other immediate family member was directly involved, in which he/she investigated or participated in the investigation, in which his/her testimony is incorporated, or if he/she is the immediate supervisor of staff directly involved in the event or situation. However, he/she may participate in committee deliberation regarding appropriate corrective, preventive, or remedial action.
- No committee member may participate in the review of a reportable incident or a notable occurrence, if such committee member is the immediate supervisor of staff directly involved in the event or situation. Such member may, however, participate in committee deliberation regarding appropriate corrective, preventive or remedial action.

- For all allegations of abuse/neglect investigated by OPWDD or the Justice Center, the IRC role is limited to matters involving compliance with the reporting and notification requirements of regulations, protective and remedial actions taken, operational concerns and the quality of services provided. In those instances, the finding of substantiated or unsubstantiated will be made by the Justice Center.

Minutes

- The Chairperson of the Incident Review Committee shall ensure that minutes are kept for all meetings.
- Minutes addressing the review of specific reportable incidents and notable occurrences shall clearly state:
 1. The supported person's full name
 2. Master Incident number
 3. A brief summary of the situation (including date, location, and type) that caused the report to be generated
 4. Committee findings (including reclassification of the report, if applicable)
 5. Recommendations and actions taken on the part of the agency as a result of such recommendations
 6. Full names of all parties (rather than initials) are to be recorded.
- An incident will remain in the "**OPEN**" status until all investigations and preventive measures are completed and will be documented as "**CLOSED**" when all information is received satisfactorily, in the opinion of the committee. Allegations of abuse/neglect may reflect closure in IRC minutes but will be held open until a determination by the Justice Center is received by Warren, Washington & Albany Counties ARC (WWAARC).
- The portion of IRC meeting minutes that relate to specific incidents/occurrences shall be entered into IRMA within three (3) weeks of the meeting.
- Minutes will to be maintained by QA in a manner that ensures confidentiality.

Records and Statistics

- QA will ensure that all documents, materials, etc. obtained/accessed during the investigative process will be retained as per agency policy or longer if needed because of an audit or litigation.
- Records will be maintained to ensure confidentiality, retrievable, and disclosed only in accordance with regulations and agency policies.

- In the event that an incident or occurrence reported involves more than one person supported, for statistical purposes it will be considered a single event.

Release of Records Pertaining to Allegations and Investigations

Request for release of records

Upon written request to QA by an eligible requestor (see glossary), not to include advocates/correspondents, the Assistant Executive Director of Quality Assurance or his/her designee will release records and documents pertaining to reportable incidents into abuse of persons supported only, including the investigative report (149). Please note that files related to all other types of Incidents, e.g., significant incidents, occurrences, medication errors, deaths, internal incidents, etc. will not be released.

For records subject to release concerning reports of abuse that occurred prior to June 30, 2013, Warren, Washington & Albany Counties ARC (WWAARC) will release records and documents pertaining to allegations of abuse which occurred or were discovered on or after May 5, 2007, regardless of the date of the submission of the written request. Release of records and documents pertaining to allegation of abuse which occurred or were discovered on or after January 1, 2003, but prior to May 5, 2008, if the written request is submitted on or before December 31, 2012.

Information shall be made available within 21 days of the closure of the investigation, i.e., 21 days from the closure of the incident by the Justice Center or should a request for documentation be made subsequent to the closure of the incident, the information shall be made available within 21 days from the request date.

The Assistant Executive Director of QA or his/her designee shall redact the investigation record of the names and other information tending to identify employees, persons supported, and reporters/persons supported actively involved in the report of abuse, unless said person(s) authorize disclosure and said information will not identify another supported person who has not authorized disclosure. If the record identifies a party as having made a child abuse or maltreatment report to, or contacted or cooperated with, the Statewide Central Register of Child Abuse and Maltreatment (SCR), that party shall be redacted.

The release of records to recipients must be in accordance with the following:

- The release of records must be accompanied by a cover letter to the recipient which includes the following statement: "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 the report with:
 - A health care provider;
 - A behavioral health care provider;
 - Law enforcement, if you believe a crime has been committed; or
 - An attorney

Pursuant to New York State law, the recipient, parties with whom the recipient shared records, or the person supported may use records and documents released in accordance with this section in any legal action or proceeding brought by or on behalf of the person supported.

The written request for the release of record must be maintained and the time the request was received must be documented. A copy of the redacted records that were released must be maintained and the time the records were provided must be documented.

Administrative appeal to denial of records release

When Warren, Washington & Albany Counties ARC (WWAARC) denies, in whole or in part, a request for records made by a qualified person, QA will inform the requestor in writing of the opportunity to appeal such denial to the OPWDD Incident Records Appeal Officer.

The agency will inform the requestor of the opportunity to send his or her written appeal to the OPWDD Incident Records Appeals Officer, Office of Counsel, 44 Holland Avenue, Albany, NY 12229.

Upon receipt, the Incident Records Appeals Officer shall notify the agency of the appeal and request the agency to submit all relevant information concerning the denial within 10 business days of the request. The Incident Record Appeals Officer may request additional information necessary to resolve the appeal from the requestor.

The Incident Records Appeals Officer will render a determination within 10 business days of the receipt of complete information, or within 20 business days of making the request for information to the agency if the agency does not respond to the Officer's request within 10 business days.

The Incident Appeals Officer will provide the requestor and the agency with a written determination about whether the records denied by the agency should be released and include an explanation of the reasons for such determination. If directed by the Incident Records Appeals Officer, Warren, Washington & Albany Counties ARC (WWAARC) shall provide the requested records to the requestor.

Procedures for Situations Occurring Not Under the Auspices of Warren, Washington & Albany Counties ARC (WWAARC)

As identified in the overview at the beginning of the incident management policy and procedures, this section applies to situations that occur with person's supported to whom Warren, Washington & Albany Counties ARC (WWAARC) provides services, but while the person(s) is (are) not under the auspices of Warren, Washington & Albany Counties ARC (WWAARC). Regulatory requirements are to be found in 14NYCRR625. Here are some examples:

- An event that *exclusively* involves the family, friends, employers, co-workers of supported person whether or not in the presence of agency personnel or at a certified site, such as: some friends of Herman (resident of a Warren, Washington & Albany Counties ARC (WWAARC) IRA) come over to sit around with him on the porch, with no staff supervision, and a mandated reporter observe one of his friends burning Herman with his cigarette.
- A situation that directly involves a Warren, Washington & Albany Counties ARC (WWAARC) staff during the time the staff was acting under the supervision of a state agency other than OPWDD, such as: Karen (staff at a Warren, Washington & Albany Counties ARC (WWAARC) SLP) has a second job as a triage nurse at the hospital and Herman arrives at the ER for treatment and Karen is involved in a negative situation with Herman.
- A situation or event that occurs in the context of the provision of services that are subject to the oversight of a State agency other than OPWDD (e.g., school, hospital, article 28 clinic, etc.), whether or not in the presence of Warren, Washington & Albany Counties ARC (WWAARC) personnel.
- Any report of neglect that is based on conditions in a private home (excluding family care homes).
- Death of person supported who received OPWDD-operated, certified or funded services, except for those deaths that occur “under the auspices” of an agency.

Classifications of applicable situations and events

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: A supported person'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 a supported person'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.

Other: Any events that are not identified above, that involve people supported and would rise to the level of a reportable incident or occurrence.

Procedure if Warren, Washington & Albany Counties ARC (WWAARC) staff becomes aware of an event/situation that is questionable

- First, intervene if supported person's health, safety or welfare is in immediate danger.
- Determine if the situation is under the auspices of Warren, Washington & Albany Counties ARC (WWAARC) or another OPWDD-related agency or not. If it is under the auspices of Warren, Washington & Albany Counties ARC (WWAARC) or another OPWDD-related agency, follow procedures located on pages 8-13.
- If not under the auspices of Warren, Washington & Albany Counties ARC (WWAARC) or another OPWDD-related agency, contact supervisor to report the situation and follow directions.
- Complete an agency Incident Summary Form and submit to supervisor within 24 hours.

Possible actions by Warren, Washington & Albany Counties ARC (WWAARC)

- In an event/situation that meets any of the above definitions of abuse/neglect/financial exploitation, Warren, Washington & Albany Counties ARC (WWAARC) may take actions to protect the person supported. Some examples of appropriate actions include:
 1. notifying an appropriate party that may be in a position to address the event or situation (e.g., Statewide Central Register of Child Abuse and Maltreatment, Adult Protective Services, law enforcement officials, family members, school, hospital, or the Office of Professional Discipline)
 2. offering to make referrals to appropriate service providers, clinicians, State agencies, or any other appropriate parties;
 3. interviewing the involved supported person and/or witnesses;
 4. assessing and monitoring the person supported;
 5. reviewing records and other relevant documentation; and

6. educating the supported person about his or her choices and options regarding the matter
- The above actions should also be implemented, as needed, in the situation of an adult supported person who is experiencing one of the above abuse/neglect/financial exploitation events during a time when he/she is not under the auspices of any OPWDD-related agency, if he/she meets the following criteria:
 1. the supported person resides in a residence certified or operated by OPWDD (or a family care home);
 2. the supported person receives day program services certified or operated by OPWDD;
 3. the supported person receives Care Coordination authorized by OPWDD; and/or
 4. the supported person receives Home and Community Based Services (HCBS) waiver services authorized by OPWDD.
 - WWAARC shall intervene by notifying Adult Protective Services of any event or situation that meets the definition of physical, sexual or emotional abuse; active, passive, or self-neglect; or financial exploitation, when it involves an adult person supported who meets the following criteria:
 1. the supported person is only receiving family support services (FSS), individual support services (ISS), or Article 16 clinic services; and/or
 2. the supported person is not available to the agency or sponsoring agency; and/or
 3. the supported person is in need of protective services that the agency cannot provide.
 - Mandated reporters who are required to report cases of suspected child abuse or maltreatment shall report to the Statewide Central Register of Child Abuse and Maltreatment. Phone number is: 1-800-342-3720.

Responsibility for Intervention when not under the auspices of Warren, Washington & Albany Counties ARC (WWAARC)

The agency responsible for intervening in situations that meet the definitions of physical, sexual, or emotional abuse; active, passive, or self-neglect; or financial exploitation is the one providing the following service, in order of responsibility:

- Residential facility
- Certified day program

- Care Coordination
- HCBS Waiver services, including free standing respite or Care at Home Waiver
- FSS, ISS and/or Article 16 Clinic
- Any other service certified, operated or funded by OPWDD

If Warren, Washington & Albany Counties ARC (WWAARC) discovers the situation, the responsible agency of the event or situation should be notified.

Reporting to OPWDD

If actions were taken as indicated above, QA shall enter the event or situation into IRMA within 24 hours of occurrence or discovery or by the close of the next working day, whichever is later.

Information shall identify all actions taken by the agency, including initial actions taken to protect the involved supported person, if any.

Updates should be included in IRMA and shall include the resolution of the event/situation.

Investigation by OPWDD

In the event that OPWDD investigates the situation, Warren, Washington & Albany Counties ARC (WWAARC) will cooperate fully by providing whatever information is available.

If OPWDD makes recommendations as a result of an investigation, Warren, Washington & Albany Counties ARC (WWAARC) will either implement the recommendation(s) in a timely manner, identify alternative actions that will be/were undertaken, or explain why no action is needed.

Warren, Washington & Albany Counties ARC (WWAARC), Justice Center and OPWDD involvement in deaths *not* under the auspices of Warren, Washington & Albany Counties ARC (WWAARC)

The death of any person supported who had received services operated or certified by OPWDD, within thirty days preceding his or her death, and the death did not occur under the auspices of any agency, shall be reported as follows:

- The initial report shall be submitted, by the Warren, Washington & Albany Counties ARC (WWAARC)'s chief executive officer or designee, through a statewide, toll-free telephone number to the Justice Center and OPWDD immediately upon discovery and in no case more than 24 hours after discovery
- Subsequent information shall be submitted to the Justice Center, on a Report of Death, within five working days of discovery of the death.

NOTE: This section does not apply to those persons supported who received only OPWDD-funded services (supported employment, community habilitation, etc.), nor anyone who resided in a Warren, Washington & Albany Counties ARC (WWAARC) certified home or when the death occurred under the auspices of any OPWDD-related agency.

Glossary

The glossary is arranged so that the last word in a title or phrase is the key word to look up. Those words are listed alphabetically and are used as they relate to regulations governing incident management.

Abuse or neglect Those reportable incidents defined in 14NYCRR 624.3(b)(1)-(8) and the definition section of this policy & procedure.

Administrator, program Someone designated by the governing body and/or the chief executive officer to be responsible and accountable for the daily operation of one or more types services provided by an agency (e.g., Community residence program, residential habilitation program, respite program, family support program).

Adult, capable A supported person 18 years of age or older who is able to understand the nature and implication of an issue. The assessment of capability in relation to each issue as it arises will be made by the supported person's program planning team (see glossary). Capability, as stipulated by this definition, does not mean legal competency; nor does it necessarily relate to a supported person's capability to independently handle his or her own financial affairs; nor does it relate to the supported person's capacity to understand appropriate disclosures regarding proposed professional medical treatment. Whenever there is doubt on the part of any other party interested in the welfare of the supported person as to that supported person's ability to make decisions, as ascertained by the program planning team or others called upon by an agency, a determination of capability for a specific issue or issues may be made by a Capability Review Board (see glossary) designated by the commissioner. A capable adult supported person cannot override the authority granted a guardian pursuant to article 81 of the Mental Hygiene Law or of a conservator or a committee; or the authority granted a guardian in accordance with the Surrogate Court Procedure Act.

Advocate Someone who has volunteered to help a supported person apply for HCBS waiver services who gives advice and support, who helps the supported person make informed choices, and who acts on behalf of the supported person when that supported person is unable to do so by himself or herself. While an advocate plays an active role in promoting self-advocacy and in assisting with service planning, implementation, and monitoring, he or she has no legal authority over a supported person's affairs unless designated as the legal guardian.

Agency The operator of a facility, program or service operated, certified, authorized or funded through contract by OPWDD

Agency, State A New York State governmental unit created for the management/delivery of services to the citizens of the State.

Allegation (of abuse or neglect) The implication that abuse or neglect of a supported person may have occurred, based upon the report of a witness, upon a supported person's own account, or upon physical evidence of probable abuse or neglect.

Application, Incident Report and Management (IRMA) A secure web-based statewide database for incident reporting which is used by providers in the OPWDD system.

Auspices, under the An event or situation in which the agency is providing services to a supported person. The event or situation can occur whether or not the supported person is physically at a site owned, leased, or operated by the agency or family care provider. Events or situations that are not under the auspices of an agency include:

- Any event or situation that directly involves or may have involved agency personnel or a family care provider (or respite/substitute provider) during the time he or she was acting under the supervision of a State agency other than OPWDD (*e.g.*, an agency employee has a second job at a hospital and an incident occurred while he or she was providing care to an individual receiving services during the individual's hospitalization).
- Any event or situation that exclusively involves the family, friends, employers, or co-workers of an individual receiving services (other than a custodian or another individual receiving services), whether or not in the presence of agency personnel or a family care provider or at a certified site.
- Any event or situation that occurs in the context of the provision of services that are subject to the oversight of a State agency other than OPWDD (*e.g.*, special education, article 28 clinic, hospital, physician's office), whether or not in the presence of agency personnel or a family care provider.
- Any report of neglect that is based on conditions in a private home (excluding a family care home).
- The death of an individual who received OPWDD operated, certified, or funded services, except deaths that occurred under the auspices of an agency as specified in paragraph (1) of this subdivision.

Board, capability review Those designated by OPWDD to review the ability of a supported person to consent to a particular situation when there is a dispute as to that supported person's ability.

Body, governing The overall policy-making authority, whether an individual or a group, that exercises general direction over the affairs of an agency and establishes policies concerning its operation for the welfare of the supported persons it serves.

Contact, sexual As specified in Penal Law section 130.00(3), the touching or fondling of the sexual or other intimate parts of a supported person not married to the actor for the purpose of

gratifying the sexual desire of either party, whether directly or through clothing. It also includes causing a supported person to touch anyone else for the purpose of arousing or gratifying supported personal sexual desires.

Correspondent Someone (not on the staff of the facility) who assists a supported person in obtaining necessary services, who participates in the supported person's program planning process and who receives notification of certain significant events in the life of the supported person. The fact that a correspondent is providing advocacy for a supported person as a correspondent does not endow that individual with any legal authority over a supported person's affairs.

Crime An act that is forbidden by law that makes the offender liable to punishment pursuant to that law. In New York State, the Penal Law defines a crime as a misdemeanor or a felony but does not include a traffic infraction.

Custodian A party that meets one of the following criteria:

- a director, operator, employee, or volunteer of an agency; or
- a consultant or an employee or volunteer of a corporation, partnership, organization, or governmental entity that provides goods or services to an agency pursuant to contract or other arrangement that permits such party to have regular and substantial contact with supported persons; or
- a family care provider; or
- a family care respite/substitute provider.

Disability, developmental A disability of a supported person which:

- attributable to mental retardation, cerebral palsy, epilepsy, neurological impairment, familial dysautonomia or autism; **or**
 - is attributable to any other condition of a supported person found to be closely related to mental retardation because such condition results in similar impairment of general intellectual functioning or adaptive behavior to that of supported persons with mental retardation or requires treatment and services similar to those required for such supported persons; **or**
 - c. is attributable to dyslexia resulting from a disability described in subparagraph above;
- and:**
- originates before such supported person attains age 22; **and**
 - has continued or can be expected to continue indefinitely; **and**
 - constitutes a substantial handicap to such supported person's ability to function normally in society.

Facility Unless otherwise defined or modified, facility means a developmental center or any other site certified by OPWDD either residential or non-residential services are provided to supported persons with developmental disabilities (e.g., community residence including an

individualized residential alternative [IRA], intermediate care facility [ICF/DD], day treatment, workshop, clinic, family care home, or a day habilitation site).

Injury, physical and "impairment of physical condition" Any confirmed harm, hurt or damage resulting in a significant worsening or diminution of a supported person's physical condition.

Intentionally This term shall have the same meaning as provided in subdivision one of section 15.05 of the penal law which states: "A person acts intentionally with respect to a result or to conduct described by a statute defining an offense when his conscious objective is to cause such result or to engage in such conduct."

Investigate/investigation That systematic process whereby information about the circumstances surrounding an event/situation are examined and scrutinized, whether by a chief executive officer, designated staff, or a trained investigator (see glossary). The intensity of any investigation is decided by the event/situation under study.

Investigator That party or parties, designated by the chief executive officer (or designee), by the central office of OPWDD, or by the Justice Center, responsible for collecting information to establish the facts relative to an event/situation, whether immediately following or subsequent to that event/situation. Investigators may be required to have training as specified by OPWDD or the Justice Center.

Justice Center for the Protection of People with Special Needs (Justice Center) An entity established by article 20 of the Executive Law for the protection of people supported who are vulnerable because of their reliance on professional caregivers to help them overcome physical, cognitive, and other challenges. The Justice Center contains the Vulnerable Supported persons' Central Register (VPCR) as established by article 11 of the Social Services Law and receives requests for criminal history record checks pursuant to section 16.33 of the Mental Hygiene Law.

Officer, Chief Executive Someone (by whatever name or title known) designated by the governing body (see glossary) with overall and ultimate responsibility for the operation of one or more classes of facility, for the delivery of other services to supported persons with developmental disabilities, and with control over any and all equipment used in the care and treatment of such supported persons; or a designee with specific responsibilities as specified in agency policy/procedure.

Supported person/supported persons A child or adult with a developmental disability, who has been or is receiving services which are operated, certified, sponsored, or funded by OPWDD.

Procedures, formal search A systematic process involving employees with specific responsibilities (e.g., security personnel), law enforcement agencies, and any others designated by agency policy, and which is initiated for the purpose of locating a supported person who has not been found in response to an informal search.

Recklessly This term shall have the same meaning as provided in subdivision three of section 15.05 of the Penal Law, which states: "A person acts recklessly with respect to a result or to a circumstance described by a statute defining an offense when he is aware of and consciously disregards a substantial and unjustifiable risk that such result will occur or that such circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. A person who creates such a risk but is unaware thereof solely by reason of voluntary intoxication also acts recklessly with respect thereto."

Report, investigative A comprehensive written record of a completed investigation of an event or situation. The purpose of this report is to formalize an investigator's methodology, findings, conclusions, and recommendations upon the completion of an investigation. Identified as "149".

Report, written initial incident/occurrence The document that records initial information about a reportable incident or notable occurrence.

Requestor, eligible A person entitled to request the release of records concerning reportable incidents. The following parties are eligible: supported persons, supported persons who formerly received services, and guardians, parents, spouses, siblings, and adult children of such supported persons.

Service, Mental Hygiene Legal (MHLS) A service of the appellate division of the State Supreme Court established pursuant to article 47 of the Mental Hygiene Law. (Formerly, Mental Health Information Service - MHIS.)

Services, plan of An individualized record system, by whatever name known, which documents the process of developing, implementing, coordinating, reviewing, and modifying supported person's total plan of care, including, but not limited to, health care, clinical, and habilitation services (as applicable) to address the supported person's needs.

Subject (of a report) A custodian who is reported to the VPCR for the alleged abuse or neglect of a supported person.

Substantiated A finding concerning alleged abuse or neglect based on a preponderance of the evidence. The alleged abuse or neglect is substantiated when it is determined that the incident occurred and the subject of the report was responsible or, if no subject can be identified and an incident occurred, that, the facility or provider agency was responsible.

Team, program planning. Those, by whatever name known, acting as a unit, responsible for identifying a supported person's needs for developing, implementing, and evaluating the plan of services for that supported person; and ensuring that the current setting and/or services currently being received continue to be appropriate. Regulations for a specific class of facility are to be referenced for specific details. For those enrolled in the Home and Community-Based waiver (HCBS), the program planning team is defined as the supported person and the waiver care

manager, and the advocate (if appropriate) as well as any other party or parties considered, at any given time, as being appropriate for participation by that group.

Treatment, requiring medical or dental. That situation whereby a supported person who, by virtue of his or her condition as a result of a reportable incident or serious reportable incident, must see a physician, dentist, physician's assistant, or nurse practitioner to have the condition controlled and/or attended to with more than first-aid procedures. While individual agency policy/procedure may direct that a supported person who is in anyway injured or has suffered any ill effects is to see a medical professional even though first-aid has adequately addressed the situation, this does not always constitute requiring medical or dental treatment in terms of defining a reportable incident or serious reportable incident. If a supported person is retained in a hospital overnight for observation, this would be a situation that required medical treatment, and be reported as a serious reportable incident.

Unsubstantiated A finding concerning alleged abuse or neglect based on a preponderance of the evidence. The alleged abuse or neglect is unsubstantiated because it is determined not to have occurred or the subject of the report was not responsible, or because it cannot be determined that the incident occurred or that the subject of the report was responsible.

Vulnerable Supported persons' Central Register (VPCR) An entity established in the Justice Center by section 492 of the Social Services Law. The VPCR shall:

- receive reports of allegations of reportable incidents involving supported persons in programs operated or certified by OPWDD (and specified programs subject to the oversight of other State agencies);
- as warranted, refer reports alleging crimes to appropriate law enforcement authorities;
- notify appropriate parties and officials of received and accepted reports; and
- maintain an electronic database of each report and the finding associated with each report

Incident Management Policy & Procedure

Attachment 1

Warren, Washington, and Albany Counties Chapter, NYSARC, Inc.

Incident Notifications: When & By Whom

<p>Incident Classification</p> <p>In accordance with Parts 624 & 625, eff. 6/30/2013</p> <p><i>Time frame to call</i></p>	<p>Justice Center 1-855-373-2122</p> <p><i>Immediately</i></p>	<p>Supervisor</p> <p><i>Immediately</i></p>	<p>OPWDD</p> <p>518-473-9511 or 518-925-9360 Sulay Lora (8:30 – 4:30)</p> <p>1-888-479-6763 (after 4:40pm/weekend hours)</p> <p>Provide info on immediate protections</p> <p><i>Immediately</i></p>	<p>Care Manager</p> <p>Provide info on immediate protections</p> <p><i>Within 24 hours</i></p>	<p>Family or Advocate & also CAB, if applicable</p> <p>See separate Willowbrook Incident Notification sheet</p> <p><i>Immediately</i></p>	<p>CEO</p> <p><i>Immediately</i></p>	<p>MHLS</p> <p><i>Within 3 business days Fax: 518-451-8730 attn: Julie Friedman</i></p>
<p>Reportable – abuse/neglect</p> <ul style="list-style-type: none"> • Physical abuse • Sexual abuse • Psychological abuse • Deliberate inappropriate use of restraints • Aversive conditioning • Obstruction of reports of reportable incidents • Controlled substances • Neglect 	<p>All mandated reporters who have witnessed or discovered a situation unless he/she knows the report has already been made by a mandated reporter and that he/she has been named in the report as a person with knowledge of the incident. FIRST, SAFEGUARD PERSON(S)</p> <p>Callers should be given a case number.</p>	<p>Staff who witness or discover a situation</p>	<p>Program Director or designee</p>	<p>Manager or Designee</p>	<p>Manager or Designee</p>	<p>Program Director or designee</p>	<p>Program Director or designee</p>

<i>Incident Classification</i>	<i>Justice Center</i>	<i>Supervisor</i>	<i>OPWDD</i>	<i>Care Manager</i>	<i>Family Advocate & CAB, if applicable</i>	<i>CEO</i>	<i>MHLS</i>
Reportable – significant incidents <ul style="list-style-type: none"> • Conduct between individuals receiving services • Seclusion • Unauthorized use of time-out • Med error – adverse effect • Inappropriate use of restraints • Mistreatment • Missing persons • Choking, with known risk • SIB with injury • Choking with no known risk • Unauthorized absence • Injury with hospital admission • Theft/financial exploitation • Other significant incident 	<p>All mandated reporters who have witnessed or discovered a situation unless he/she knows the report has already been made by a mandated reporter and that he/she has been named in the report as a person with knowledge of the incident. FIRST, SAFEGUARD PERSON(S)</p> <p>Callers should be given a case number.</p>	<p>Staff who witness or discover a situation.</p>	<p>Program Director or designee</p>	<p>Manager or Designee</p>	<p>Manager or Designee</p>	<p>Program Director or designee</p>	<p>None</p>
Notable Occurrences -- Serious N.O. <ul style="list-style-type: none"> • Sensitive situation • Death <p>Note: if circumstances warrant it, a second call to the Justice Center for an allegation of abuse or neglect should be made.</p>	<p>None</p> <p>CEO or designee to call J.C, to report death 1-855-373-2124</p>	<p>Staff who witness or discover a situation.</p> <p>FIRST, SAFEGUARD PERSON(S)</p>	<p>Program Director or designee</p> <p>Enter into IRMA</p>	<p>Manager or designee</p>	<p>Manager or designee</p>	<p>Program Director or designee</p>	<p>None</p>

<i>Incident Classification</i>	<i>Justice Center</i>	<i>Supervisor</i>	<i>OPWDD</i>	<i>Care Manager</i>	<i>Family Advocate & CAB, if applicable</i>	<i>CEO</i>	<i>MHLS</i>
Minor N.O. <ul style="list-style-type: none"> • Injury • Theft/financial exploitation 	None	Staff who witness or discover a situation. FIRST, SAFE-GUARD PERSON(S)	Enter into IRMA	Manager or designee	Manager or designee	Program Director or designee	None
Incidents/situations occurring <u>NOT</u> under agency auspices (Part 625) <ul style="list-style-type: none"> • Active Neglect • Emotional abuse • Financial exploitation • Passive neglect • Physical abuse • Self neglect • Sexual abuse • Other 	None	Staff who witness or discover a situation	Program Director or designee IF actions were taken & enter into IRMA	Manager or designee	None	Program Director or designee	None

Note: If a crime may have been committed against a person supported by a custodian, law enforcement **must** be notified within 24 hours. All mandated reporters **must** also report situations witnessed/discovered at other OPWDD-certified/funded programs. If person supported is under 18 years of age, in cases of abuse/neglect also notify CPS: 1-800-343-3720.

(8/1/17)

Incident Management Policy & Procedure

Attachment 2

Guidelines for Willowbrook Incident Reporting



Required Willowbrook Incident Notifications

The Consumer Advisory Board receives notice of all incidents involving all class members

(In addition to other Part 624 notification requirements)

Incident Type	Willowbrook Notifications	Person to be notified	Initial Notification must be via phone & within 24 hours	Secondary Notification must be via email and within 24 hours of completion of form
Reportable Abuse/Neglect	Correspondent/ Consumer Advisory Board (CAB) Executive Director	Antonia Ferguson	Phone (718) 477-8800	Send the following to: opwdd.cabincidents@opwdd.ny.gov <ul style="list-style-type: none"> • OPWDD 147 • OPWDD 148 • Copies of IRC minutes • Copies of 30 Day Updates must also be sent within 24 hours of the required entry into IRMA
	OPWDD Statewide WB Liaison	Angie Francis	Phone (518) 473-6026	147 to: angie.x.francis@opwdd.ny.gov
	NYCLU (Plaintiff Counsel)	Beth Haroules	Phone (212) 607-3300	147 to: bharoules@nyclu.org
Reportable Significant	Correspondent/CAB Executive Director	Antonia Ferguson	Phone (718) 477-8800	147 and 148 to: opwdd.sm.cab.incidents@opwdd.ny.gov
	OPWDD Statewide Liaison	Angie Francis	Phone (518) 473-6026	147 to: angie.x.francis@opwdd.ny.gov
	NYCLU (Plaintiff Counsel)	Beth Haroules	Phone (212) 607-3300	147 to: bharoules@nyclu.org
Serious Notable Occurrences (Death and Sensitive Situations)	Correspondent/CAB Executive Director	Antonia Ferguson	Phone (718) 477-8800	147 and 148 to: opwdd.cabincidents@opwdd.ny.gov *For all deaths the Report of Death must also be provided to opwdd.cabincidents@opwdd.ny.gov
	OPWDD Statewide Liaison	Angie Francis	Phone (518) 473-6026	147 to: angie.x.francis@opwdd.ny.gov
	NYCLU (Plaintiff Counsel) *Not for deaths	Beth Haroules	Phone (212) 607-3300	147 to: bharoules@nyclu.org
	NYLPI (Plaintiff Counsel) **For Deaths only	Roberta Mueller	Phone (212) 244-4664	147 and Report of Death to: rmueller@nylpi.org
Minor Notable Occurrences	Correspondent/CAB Executive Director	Antonia Ferguson	Phone (718) 477-8800	147 and 148 to: opwdd.cabincidents@opwdd.ny.gov
	OPWDD Statewide Liaison	Angie Francis	Phone (518) 473-6026	147 to: angie.x.francis@opwdd.ny.gov
	NYCLU (Plaintiff Counsel)	Beth Haroules	Phone (212) 607-3300	147 to: bharoules@nyclu.org
<u>DDRO Willowbrook Liaisons must be notified for all incidents.</u>				
<u>The current listing of all DDRO Willowbrook Liaisons can be found at the following address:</u> https://opwdd.ny.gov/sites/default/files/documents/opwdd_WBLiaison_contacts_12_3.pdf				
Ronnie Cohn, Willowbrook Independent evaluator, must be advised of all incidents for class members who are on Attachment 1 monitoring status and for class members on Appendix C at Ronnie.Cohn@opwdd.ny.gov				
For the purposes of Jonathan’s Law, the CAB is considered to be a Qualified Party				
When a person resides in a certified residential program, MHLS must be notified of all incidents.				