

Incidents

Detecting, Reporting and Protecting



Module One

A Commitment to “Protection from Harm”



The Office for People with Developmental Disabilities (OPWDD), in coordination with the NYS Justice Center for the Protection of People with Special Needs has established requirements and oversight procedures designed to protect people from harm.



The primary regulations that guide all NYS providers in the protection of people receiving services is formally called “Title 14 of New York Codes, Rules and Regulations” (14 NYCRR Part 624).

We often refer to these simply as “624 regulations.”



Module Two

“What is an Incident”



An “incident” is any “untoward event” that affects the well-being of a person receiving supports & services.

An incident can be extremely serious, resulting in significant harm or death or not as serious, resulting in only a slight bruise or maybe just a person we support being upset with another person we support or a caregiver.



Every incident is reviewed at no less than a supervisory level but untoward events or incidents which are classified as “Reportable Incidents” or “Notable Occurrences” have very strict guidelines on the steps that must be taken for their review.



“Reportable Incidents” include:

- Reportable incidents of Abuse & Neglect
- Reportable Significant Incidents



Reportable Incidents of Abuse And Neglect

These incidents include allegations of physical, sexual and psychological abuse, as well as other prohibited conduct such as deliberate, inappropriate use of restraint, and/or neglect, obstruction of reports of reportable incidents, unlawful administration of a controlled substance and aversive conditioning.



Reportable Significant Incidents

This type of incident includes such things as medication errors that result in adverse effects, the use of seclusion, unauthorized use of timeout, inappropriate use of restraints, mistreatment, missing persons, unauthorized absences, choking, self abusive behavior resulting in injury, injury with hospital admission, conduct between people we support requiring more than first aid or sexual in nature, theft or financial exploitation.

“Notable Occurrences” include:

- Serious Notable Occurrences
- Minor Notable Occurrences



Serious Notable Occurrences

This classification of incident includes deaths of people receiving services and sensitive situations which are incidents in which do not fall under any other category.



Minor Notable Occurrences

This type of incident includes injuries that require treatment beyond first aid (such as stitches, casting, and diagnostic findings such as fractures); and instances of theft and financial exploitation (involving \$15 - \$100)



The classification of the incident is made after notification to the Justice Center for all Reportable Incidents, by the Justice Center.

For incidents that do not require Justice Center notification, the classification is determined upon notification of the OPWDD and entry into IRMA



IRMA, which is a database maintained by OPWDD stands for “Incident Review Management Application”. This database is where information on all significant incidents is recorded and reviewed.



Any event that affects the well-being of a person supported by the Arc, whatever the results, is an “incident” and all incidents need to be investigated by either an agency investigator or a Justice Center investigator depending on the incident. The Justice Center will determine who is assigned to investigate.



Module Three

“Reporting”



All staff have a responsibility to report an incident or untoward event immediately after ensuring the safety and care of the person. As members of the board you also have the responsibility to report an incident or untoward event should you become aware or witness it. Based on the nature of the incident the initial report may need to be called into the Justice Center before notifying a supervisor. There may be other reporting requirements which staff must follow through on.

Some incidents must be reported to OPWDD and “Reportable” incidents that happen in facilities certified by OPWDD are reported to the Justice Center as well as OPWDD. The Corporate Compliance Team will notify OPWDD of incidents that need to be reported to them. These are typically 625’s or Minor Notables.



Depending on the type of incident, notifications may also be required to:

- OPWDD Incident Management Unit (IMU)
- Mental Hygiene Legal Services (for Allegations of Abuse in Residential facilities)
- Law enforcement (for any physical or sexual abuse allegations)
- The Qualified Person
- Care Manager
- Other programs in which the person receives services



All employees of The Arc, Oneida-Lewis are considered to be “Mandated Reporters”.

Some incidents require that the staff, in their role as Mandated Reporter call the Justice Center and report the incident.



Mandated reporters have a legal obligation to report all allegations of reportable incidents that occur in certified settings to the Justice Center's Vulnerable Persons' Central Register (VPCR) by calling 1-855-373-2122.

Other types of incidents that occur in certain locations or under certain circumstances may also require reporting to the VPCR hotline

Module Four

“Incident Follow Through”



Staff must report any event or incident that affects the well-being of a person receiving supports & services whether that event is witnessed or discovered.

When an incident is reported a very important series of steps take place.



The very first thing that must happen is that the safety of the person or persons involved is ensured.

The safety of the person is identified as the primary response in the Justice Center's Code of Conduct, the 624 regulations and in our Agency policies. This is often referred to as the protections



As soon as the person safety is ensured, the Justice Center must be notified of the incident. Upon Justice Center Notification the staff may notify their supervisor or designee of the incident if they feel comfortable in doing so.

The supervisor must, after verifying the safety of the person, report the incident to administration.



Administration staff will call for a “Preliminary Incident Review (PIR)” meeting. This meeting is only conducted after the Justice Center has been notified of an incident and the incident has been classified. This PIR meeting brings people together from all programs that serve the person.

The PIR team:

- Reviews the immediate protection needs of the persons involved and ensure the protections have been put in place.
- Ensures an investigator has been assigned to the incident investigation



Module Five

“Investigations”



Every incident needs to be reviewed to determine things such as:

- Did this event impact the safety, security or well being of the person?
- What were the situations that caused or allowed this incident to happen?
- Have the needs of the person changed?
- What could we have done to prevent this incident from occurring?
- What safeguards or supports do we need to put in place to prevent this from happening again?
- How can we support staff to help them keep the person safe?

The investigation of an incident is assigned to an Agency Investigator, who will determine how to proceed with the investigation of an incident.



The Arc has “Agency Investigators” who are routinely assigned to investigate reportable incidents.

The Agency Investigator will often have staff from Human Resources assist in the investigatory process. Especially in interviewing staff who are involved.

For the privacy of all people involved in an incident (including witnesses) the Agency Investigator will often schedule any Investigatory Interview in the Human Resources office.

The Agency Investigator who is considered “arms length” from the situation, unbiased and who has no supervisory authority over the staff involved.



The assignment of an investigation can be changed depending on the seriousness or complexity of the incident. On occasion more than one Agency Investigatory or member of the Corporate Compliance Team may be involved in the investigatory process.



The investigator prepares an investigative summary, called the OPWDD 149. Upon completion of the investigation, this report is reviewed by OPWDD and in situations of abuse, neglect or other significant events is also reviewed by The Justice Center (the JC).

Please note we have 30 days to complete the investigation and OPWDD 149. On occasion extensions will be granted. Most often if law enforcement is involved.

The OPWDD 149 summarizes the Investigator's gathering of "evidence". This evidence may include:

- Interviews with staff and/or people we support
- Documents
- Demonstrative evidence such as photographs
- Physical evidence
- Other reviewed items pertaining to the investigation

All investigations of Reportable and Notable incidents are reviewed by an Agency wide “Incident Review Committee” (IRC)



The IRC Committee is responsible for reviewing:

- The details of the incident
- The investigative facts and conclusions
- The recommendations made by the investigator



Module Six

“Regulations”



“Jonathan’s Law”



Jonathan's Law, is a New York State law which came into effect in May 2007.

Under Jonathan's Law, notification must be given to a "Qualified Person" of any accident or injury that affects the health or safety of a person receiving services – and that notification must happen within 24 hours of the initial report.



“Qualified Persons” include:

- The person’s legal guardian, or involved parent, spouse, sibling or adult child who has authority to provide consent for care or treatment – or –
- The person who is receiving services if he or she does not have any other person to act as a Qualified Person or if he or she is capable of stating they do not want anyone else as a Qualified Person on their behalf



Part 624 regulations also require that a person who does not meet the definition of a “Qualified Person” but who serves as an “Advocate” for the person is to be notified of incidents.



Under Jonathan's Law the Qualified Person must be offered an opportunity to meet with the CEO to discuss the incident within 10 days of the incident being reported.



Jonathan's Law also requires the Agency send a "Report on Actions Taken" to the Qualified Person within 10 days of the incident. The "Report on Actions Taken" must identify what the Agency did to ensure the safety and well being of the person immediately following the incident.



Qualified Persons, advocates, and correspondents may request information about incidents. There is a special procedure that must be followed when these requests are made so always refer the Qualified Person, advocate or correspondent to the Compliance Office if you receive a request for incident information.

Corporate Compliance sends the requests for OPWDD 147 and OPWDD 149 to the Qualified Person with the OPWDD 148. The Qualified Person must return the requests to Corporate Compliance in order for them to send the additional documents.



“624 Regulations”



Part 624 Regulations require that “Qualified Persons” are notified of all incidents. Unless the Qualified Person is the suspect of the investigation.



According to the 624 Regulations:

We must provide immediate care and protect the health, safety and dignity of people with disabilities who are involved in, or affected by, an incident.



We must investigate why incidents, including abuse and injuries happen, and take steps to prevent similar incidents from happening again.



We must have Incident Review Committees whose purpose is to review specific incidents, examine trends, and make recommendations for improvement or corrective actions.



We must develop procedures and provide staff training and oversight to prevent similar incidents in the future.



The Justice Center



The Justice Center became effective on June 30, 2013 as a direct result of Chapter 501 of the Laws of 2012: “Protection of People with Special Needs Act”.

This law changed some of the requirements in the procedures we follow to protect “People with Special Needs”.



The Justice Center became responsible for the oversight and investigation of allegations of serious abuse and neglect of vulnerable persons in State-operated and licensed facilities, including voluntary provider programs such as the Arc, Oneida-Lewis certified programs.



The Justice Center is an “oversight agency” that tracks, investigates and monitors corrective actions in response to allegations of abuse, neglect and significant incidents



The Justice Center maintains a register of individuals who have committed serious acts of abuse (Staff Exclusion List).

The Justice Center has a “Code of Conduct” of ethical standards to which all of us who have regular contact with people with special needs are held accountable to



