

# AUTISM SERVICES, INC.



## Policies & Procedures

### **Incident Management Policy and Procedure Part 1: Training, Definitions, Reporting and Notifications Requirements, Immediate Protections**

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**Author:** Donna Martiny, Chief Quality Officer, Julie Silverstein Quality Improvement Director

#### **Applies to:**

All ASI OPWDD Programs

#### **Policy:**

Autism Services, Inc. endeavors to protect service recipients from untoward harm, abuse and neglect, by training staff on prevention of such. However, events or situations which endanger or have the potential to endanger individual's well-being must be clearly defined, documented, investigated and corrected.

The following policies and procedures were developed in accordance with OPWDD Part 624 and 625 regulations and 491 of the Social Services Law. This policy applies to all OPWDD certified and non-certified programs.

All departments within AUTISM SERVICES, INC. must document other events or situations impacting an individual served (or in some cases, a staff person) that do not meet the definitions Reportable Significant Incidents, Minor Notable or Serious Notable Occurrences, in a standardized manner to further ensure the welfare of safety of participants. Such incidents shall be documented on a GER (General Event Report) in Therap.

#### **I. RESPONSIBILITIES:**

##### **1. All Staff**

- a. Receive training on abuse prevention, identification and reporting
- b. Immediately intervene and stop abuse or untoward event from continuing.
- c. Provide medical attention and/or other needed safeguards to victim
- d. Report all incidents immediately to supervisor or chain of command.
- e. For incidents of alleged abuse, neglect and/or significant incidents in certified OPWDD programs (Day Hab Program and Residential Program): Immediately report to Justice Center.
- f. Complete appropriate incident reporting documentation.
- g. Maintain confidentiality during the course of the investigation if it is determined that reasonable grounds exist that may compromise the integrity of the investigation.
- h. Fully cooperate in any investigation

2. Supervisors
  - a. Ensure staff are trained on abuse prevention, identification and reporting
  - b. Ensure victim is provided with immediate care as needed.
  - c. Ensure immediate safeguards to prevent abuse or untoward event from continuing or reoccurring
  - d. Preserve evidence as needed
  - e. Make all required notifications
  - f. Ensure necessary psychological assessments are completed as needed
  - g. Complete documentation and submit to the QI Department within specified timeframe  
Managers should refer to Incident Management Checklists, documentation and guidance documents needed
  - h. Follow-through with recommendations made as a result of investigation.
3. Nursing Staff
  - a. Ensure proper medical evaluation and/or treatment immediately
  - b. Complete physical assessment as soon as possible but within 24 hours. Submit completed form to the QI Department as soon as possible but within 24 hours.
4. QI Department
  - a. Ensure investigator has proper training to conduct investigation
  - b. Ensure initial report is entered into IRMA within 24 hours of occurrence or discovery or by close of the next working day, whichever is later.
  - c. Immediately start investigation

## **II. TRAINING**

1. Upon employment or initial volunteer, contract, or sponsorship arrangements, and annually thereafter, (if required) ASI shall make the agency's policies and procedures on incident management known to agency employees, interns, volunteers, consultants and contractors.
2. ASI staff with regular and direct contact with people receiving services in OPWDD certified programs, shall be provided with the code of conduct adopted by the Justice Center upon hire and annually thereafter. Signed copies shall be maintained in the Training Department records.

## **III. REPORTABLE INCIDENTS AND NOTABLE OCCURRENCES**

1. The requirements of this policy apply to events and situations that are under the auspices of Autism Services, Inc. Note that requirements concerning events and situations that are not under the auspices of ASI are found in the Part 625 Events Policy.
2. The purpose for reporting, investigating, reviewing, correcting, and/or monitoring certain events or situations are to enhance the quality of care provided to persons with developmental disabilities, to protect them (to the extent possible) from harm, and to ensure that such persons are free from abuse and neglect.
3. A primary function of the reporting of certain events or situations is to enable ASI's governing body, Chief Executive Officer, directors, administrators, and supervisors to become aware of problems; to take corrective measures; and to minimize the potential for recurrence of the same or similar events or situations. The prompt reporting of these events and situations can ensure that immediate steps are taken to protect persons receiving services from being exposed to the same or similar risk.
4. The reporting of certain events or situations in an orderly and uniform manner facilitates identification of trends, whether within a facility or class of facilities, which ultimately allows for the development and implementation of preventive strategies.
5. It is not the intent of this policy to mandate that every potentially harmful event or situation attributable to or involving a person receiving services while under the auspices of ASI, such as an aggressive behavior problem (including the need for psychiatric services elsewhere),

illness, medication problem, inappropriate living arrangement or conditions, or inappropriate social behavior, be recorded as a reportable incident or notable occurrence in accordance with this policy.

6. Events or situations involving persons receiving services that are under the auspices of ASI other than reportable incidents and notable occurrences are to be documented on a GER (General Event Report) and processed, corrected (including corrective actions to be taken for the protection and/or safety of all those exposed to potential harm), monitored, and analyzed for trends through the GER Committee.
7. In certified OPWDD programs, custodians with regular and direct contact with persons receiving services are required to adhere to a code of conduct developed by the NYS Justice Center in accordance with section 633.7 of Title 14 NYCRR.
8. ASI's governing body will ensure the effectiveness of the identification, recording, investigation, review, and corrective actions with regard to events or situations involving persons receiving services referenced within this policy. This shall be achieved through the establishment of the governing body's own protocol, which may include, but shall not be limited to, regular review of the minutes of the incident review committee and periodic attendance at that committee's meetings.
9. ASI's governing body and the Chief Executive Officer are responsible for the management of incidents. However, the CEO has designated the Quality Improvement Department to assume specified responsibilities to facilitate the day to day process.
10. Any changes to incident management policies and procedures, whether newly developed or representing change from previously approved policies, shall be subject to approval by the ASI's governing body.

#### **IV. REPORTABLE INCIDENTS CLASSIFICATIONS AND DEFINITIONS**

Reportable Incidents consist of two main categories: Abuse/Neglect and Significant Incidents. These two categories are further broken down into classifications. Reportable incidents are events or situations occurring under the auspices of ASI that endanger a person's well-being as defined below.

##### **1. Abuse and Neglect Classifications and Definitions**

###### **a. Physical Abuse:**

- i. Shall mean conduct by a custodian (see glossary, section 624.20) intentionally (see glossary, section 624.20) or recklessly (see glossary, section 624.20) causing, by physical contact, physical injury (see glossary, section 624.20) or serious or protracted impairment of the physical, mental, or emotional condition of the individual receiving services, or causing the likelihood of such injury or impairment. Such conduct may include, but shall not be limited to: slapping, hitting, kicking, biting, choking, smothering, shoving, dragging, throwing, punching, shaking, burning, cutting, or the use of corporal punishment. Physical abuse shall not include reasonable emergency interventions necessary to protect the safety of any party.

###### **b. Sexual Abuse:**

- i. Any conduct by a custodian that subjects a person receiving services to any offense defined in article 130 or section 255.25, 255.26, or 255.27 of the penal law, or any conduct or communication by such custodian that allows, permits, uses, or encourages a person receiving services to engage in any act described in articles 230 or 263 of the penal law; and/or any sexual contact between an individual receiving services and a custodian of the program or facility which provides services to that individual whether or not the sexual contact would constitute a crime (see especially section 130.05(i) of the penal law). However, if

the individual receiving services is married to the custodian the sexual contact shall not be considered sexual abuse. Further, for purposes of this subparagraph only, a person with a developmental disability who is or was receiving services and is also an employee or volunteer of an agency shall not be considered a custodian if he or she has sexual contact with another individual receiving services who is a consenting adult who has consented to such contact.

- c. Psychological Abuse:
  - i. Includes any verbal or nonverbal conduct that may cause significant emotional distress to an individual receiving service.
  - ii. 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 an individual receiving services as a means for infliction of pain or injury, in a manner that constitutes a threat of physical pain or injury.
  - iii. In order for a case of psychological abuse to be substantiated after it has been reported, the conduct must be shown to intentionally or recklessly cause, or be likely to cause, a substantial diminution of the emotional, social or behavioral development or condition of the individual receiving services. Evidence of such an effect must be supported by a clinical assessment performed by a physician, psychologist, psychiatric nurse practitioner, licensed clinical or master social worker or licensed mental health counselor.
- d. Deliberate Inappropriate Use of Restraints:
  - i. Shall mean the use of a restraint when the technique that is used, the amount of force that is used, or the situation in which the restraint is used is deliberately inconsistent with an individual's plan of services (e.g. individualized service plan (ISP) or a habilitation plan), or behavior support plan, generally accepted treatment practices, and/or applicable federal or state laws, regulations or policies, except when the restraint is used as a reasonable emergency intervention to prevent imminent risk of harm to a person receiving services or to any other party. For purposes of this paragraph, a restraint shall include the use of any manual, pharmacological, or mechanical measure or device to immobilize or limit the ability of a person receiving services to freely move his or her arms, legs or body.
- e. Use of Aversive Conditioning:
  - i. Shall mean the application of a physical stimulus that is intended to induce pain or discomfort in order to modify or change the behavior of a person receiving services. Aversive conditioning may include, but is not limited to, the use of physical stimuli such as noxious odors, noxious tastes, blindfolds, and the withholding of meals and the provision of substitute foods in an unpalatable form. The use of aversive conditioning is prohibited by OPWDD.
- f. Obstruction of Reports of Reportable Incidents:
  - i. Shall mean conduct by a custodian that impedes the discovery, reporting, or investigation of the treatment of a service recipient by falsifying records related to the safety, treatment, or supervision of an individual receiving services; actively persuading a custodian or other mandated reporter (as defined in section 488 of the Social Services Law) from making a report of a reportable incident to the statewide vulnerable persons' central register (VPCR) or OPWDD with the intent to suppress the reporting of the investigation of such incident; intentionally making a false statement, or intentionally withholding material information during an investigation into such a report; intentional failure of a supervisor or manager

to act upon such a report in accordance with OPWDD regulations, policies or procedures; or, for a custodian, failing to report a reportable incident upon discovery.

g. Unlawful Use or Administration of a Controlled Substance:

i. Shall mean any administration by a custodian to a service recipient of a controlled substance as defined by article 33 of the public health law, without a prescription, or other medication not approved for any use by the federal food and drug administration. It also shall include a custodian unlawfully using or distributing a controlled substance as defined by article 33 of the public health law, at the workplace or while on duty.

h. Neglect:

i. Shall mean any action, inaction, or lack of attention that breaches a custodian's duty and that results in or is likely to result in physical injury or serious or protracted impairment of the physical, mental, or emotional condition of a service recipient. Neglect shall include, but is not limited to:

1. Failure to provide proper supervision, including a lack of proper supervision that results in conduct between persons receiving services that would constitute abuse as described in paragraphs (1) through (7) (a) through (h) of this subdivision if committed by a custodian;
2. Failure to provide adequate food, clothing, shelter, or medical, dental, optometric or surgical care, consistent with Parts 633, 635, and 686, of this Title (and 42 CFR Part 483, applicable to Intermediate Care Facilities), and provided that the agency has reasonable access to the provision of such services and that necessary consents to any such medical, dental, optometric, or surgical treatment have been sought and obtained from the appropriate parties; or
3. Failure to provide access to educational instruction, by a custodian with a duty to ensure that an individual receives access to such instruction in accordance with the provisions of part one of article 65 of the education law and/or the individual's individualized education program.

2. Significant Incident Classifications and Definitions

a. Reportable Significant Incidents shall mean an incident, other than an incident of abuse or neglect, that because of its severity or the sensitivity of the situation may result in, or has the reasonably foreseeable potential to result in, harm to the health, safety, or welfare of a person receiving services, and shall include:

b. Conduct between persons receiving services:

i. that would constitute abuse as described in paragraphs (a) through (h) of this subdivision IV 1 of this policy, if committed by a custodian, except sexual activity involving adults who are capable of consenting and consent to the activity; or

c. Seclusion:

i. Shall mean the placement of an individual receiving services in a room or area from which he or she cannot, or perceives that he or she cannot, leave at will except when such placement is specifically permitted by section 633.16 of this Title. Unless permitted by Section 633.16, the use of seclusion is prohibited;

ii. Note: Section 633.16 of this Title (Person-Centered Behavioral Intervention) identifies a form of "exclusionary time out," which prevents egress from a time out room by a custodian's direct and continuous action, and requires constant visual and auditory monitoring. Use of exclusionary time out may be included in a formal behavior support plan and implemented in accordance with the conditions and limits set forth in paragraph 633.16(j)(3) of this Title. The use of exclusionary

time out in the absence of an approved behavior support plan that incorporates the use of exclusionary time-out, or a failure to implement such a plan as designed, is considered to be "seclusion" and is prohibited.

- d. Unauthorized Use of Time-Out:
  - i. Which (for the purposes of this clause only) shall mean the use of a procedure in which a person receiving services is removed from regular programming and isolated in a room or area for the convenience of a custodian, for disciplinary purposes, or as a substitute for programming; Note: For the purposes of this provision "unauthorized use of time out" includes any use of time out that is inconsistent with an individual's plan of services
- e. Medication with adverse effect:
  - i. Administration of a prescribed or over-the-counter medication, which is inconsistent with a prescription or order issued for a service recipient by a licensed, qualified health care practitioner, and which has an adverse effect on an individual receiving services. For purposes of this clause, "adverse effect" shall mean the unanticipated and undesirable side effect from the administration of a particular medication which unfavorably affects the wellbeing of a person receiving services.
- f. Inappropriate Use of Restraints:
  - i. Which shall mean the use of a restraint when the technique that is used, the amount of force that is used, or the situation in which the restraint is used is inconsistent with an individual's plan of services (including a behavior support plan), generally accepted treatment practices, and/or applicable federal or state laws, regulations or policies. For the purposes of this subdivision, a "restraint" shall include the use of any manual, pharmacological or mechanical measure or device to immobilize or limit the ability of a person receiving services to freely move his or her arms, legs or body
- g. Mistreatment:
  - i. Which shall mean other conduct on the part of a custodian, that is inconsistent with the individual's plan of services, generally accepted treatment practices, and/or applicable federal or state laws, regulations or policies, and which impairs or creates a reasonably foreseeable potential to impair the health, safety, or welfare of an individual receiving services, except as described in any other provision of this subdivision.
- h. Missing Person:
  - i. Which shall mean the unexpected absence of an individual receiving services that based on the person's history and current condition exposes him or her to risk of injury.
- i. Unauthorized absence:
  - i. The unexpected or unauthorized absence of a person after formal search procedures have been initiated by the agency. Reasoned judgments, taking into consideration the person's habits, deficits, capabilities, health problems, etc., shall 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 person whose absence constitutes a recognized potential danger to the wellbeing of the person or others.
- j. Choking, With Known Risk:
  - i. Which shall mean partial or complete blockage of the upper airway by an inhaled or swallowed foreign body, including food, that leads to a partial or complete

- inability to breathe, involving an individual with a known risk for choking and a written directive addressing that risk.
- k. Choking, with no known risk:
    - i. For the purposes of this paragraph, partial or complete blockage of the upper airway by an inhaled or swallowed foreign body, including food, that leads to a partial or complete inability to breathe.
  - l. Self-Abusive Behavior, With Injury:
    - i. Which shall mean a self-inflicted injury to an individual receiving services that requires medical care beyond first aid.
  - m. Injury with hospital admission
    - i. of a person for treatment or observation because of injury. Note: An injury due to self-injurious behavior that requires medical care beyond first aid is a “reportable incident.”
  - n. Theft/Financial Exploitation:
    - i. Suspected theft of a service recipient's personal property (including personal funds or belongings) or financial exploitation, involving a value of more than \$100.00; theft involving a service recipient's credit, debit, or public benefit card (regardless of the amount involved); or a pattern of theft or financial exploitation involving the property of one or more individuals receiving services.
  - o. Other Significant Incident:
    - i. An incident that occurs under the auspices of the agency, but does not involve conduct on the part of a custodian, and does not meet the definition of any other incident described in this subdivision, but that because of its severity or the sensitivity of the situation may result in, or has the reasonably foreseeable potential to result in, harm to the health, safety, or welfare of a person receiving services.

## V. NOTABLE OCCURENCES

Notable occurrences consist of two categories: Serious Notable Occurrences and Minor Notable Occurrences. These two categories are further broken down into classifications. Notable occurrences are events or situations that meet the definitions in this section and occur under the auspices of Autism Services, Inc.

### 1. Serious Notable Occurrence Classifications and Definitions

#### a. Death:

- i. The death of any person receiving services, regardless of the cause of death, is a serious notable occurrence. This includes all deaths of individuals who live in residential facilities operated or certified by OPWDD and other deaths that occur under the auspices of an agency.
- ii. Note: See also Reporting Deaths section of this policy for more information.

#### b. Sensitive situations:

- i. Those situations involving a person receiving services that do not meet the criteria of the definitions of this subdivision or the definitions of reportable incidents as defined in section 624.3 of this Part, that may be of a delicate nature to the agency, and are reported to ensure awareness of the circumstances. Sensitive situations shall be defined in agency policies and procedures, and shall include, but not be limited to, possible criminal acts committed by an individual receiving services. Sensitive situations are serious notable occurrences.

### 2. Minor Notable Occurrence Classifications and Definition

#### a. Injury requiring more than first aid:

- i. Any suspected or confirmed harm, hurt, or damage to an individual receiving services, caused by an act of that individual or another, whether or not by accident, and whether or not the cause can be identified, that results in an individual requiring medical or dental treatment by a physician, dentist, physician's assistant, or nurse practitioner, and such treatment is more than first aid. Illness in itself shall not be reported as an injury or any other type of incident or occurrence.
- b. Theft/Financial Exploitation:
  - i. Any suspected theft of a service recipient's personal property (including personal funds or belongings) or financial exploitation, involving values of more than \$15.00 and less than or equal to \$100.00, that does not involve a credit, debit, or public benefit card, and that is an isolated event.

## **VI. AGENCY MINOR INCIDENTS**

Agency minor incidents are events that are under the auspices of ASI that do not rise to the level of a reportable incident or a notable occurrence as defined in this policy. Agency minor incidents are not reported to OPWDD or to the Justice Center. Agency minor incidents are documented on a GER (General Event Report) in Therap and are followed up by the program supervisor and nursing, as applicable, to ensure the person's welfare and safety. Trends in agency minor incidents are discussed monthly at departmental GER committee meetings.

### **1. Classifications and Definitions**

- a. Injuries of known or unknown origin:
  - i. Injury to the person which may or may not require basic first aide. For Injuries of Unknown Origin see Injuries of Unknown Origin Policy.
- b. Theft:
  - i. Theft of a person's money or item with a value of less than \$15.00
- c. Property Damage:
  - i. Damage to agency property, person's property.
- d. Fire:
  - i. on site or involving agency property
- e. Auto accident:
  - i. with persons present (see employee handbook for all auto accidents)
- f. Medical concerns/illnesses:
  - i. when instructed by Nursing

## **VII. NOTIFICATION OF POLICIES AND POCEDURES:**

- 1. Upon commencement of service provision, and annually thereafter, ASI shall offer to make available written information, pertaining to incident reporting to persons receiving services who have the capacity to understand the information and to their parents, guardians, correspondents or advocates, unless a person is a capable adult who objects to their notification. ASI shall also:
  - a. post its incident management policy on the ASI website
  - b. post a link to the OPWDD Part 624 Regulations on its website
  - c. upon request, provide a written copy of such information

## **VIII. REPORTING, RECORDING OF ALL INCIDENTS:**

- 1. Required Internal and External Notifications
  - a. Immediate Internal agency reporting:



- i. All minor notable occurrences shall be reported to ASI's Chief Executive Officer (or designee) within 24 hours per agency standard, but no later than 48 hours per OPWDD Part 624 regulation upon occurrence or discovery.
  - ii. All reportable incidents and serious notable occurrences shall be reported to ASI's Chief Executive Officer (or designee) immediately upon occurrence or discovery, but no later than 24 hours.
  - iii. Phone notification is to be made to the immediate supervisor by the end of shift for all medium and high GERs. Low GERs do not require phone notification.
- b. Immediate reporting to OPWDD:
  - i. All reportable incidents and serious notable occurrences shall be reported immediately to OPWDD. Program Director/Administrator must make phone notification to the OPWDD Incident Management Unit, Incident Compliance Officer within 24 hours of occurrence or discovery. Immediate entry of initial information into the OPWDD Incident Report and Management Application (IRMA) shall not be sufficient to satisfy this requirement.
  - ii. For purposes of this policy, "discovery" occurs when the mandated reporter witnesses a suspected reportable incident or when another party, including an individual receiving services, comes before the mandated reporter in the mandated reporter's professional or official capacity and provides the mandated reporter with reasonable cause to suspect that the individual has been subjected to a reportable incident.
- c. Immediate Reporting of Reportable Incidents to the Justice Center:
  - i. All custodians (employees, volunteers, directors and operators) in Autism Services, Inc. programs certified by OPWDD are mandated reporters and are required to report reportable incidents to the VPCR (Vulnerable Persons Central Registry) hotline, commonly referred to as the Justice Center hotline, immediately upon discovery of the reportable incident.
  - ii. Non-certified OPWDD programs are not required to report to the Justice Center.
  - iii. Only reportable incidents are required to be reported to the Justice Center.
  - iv. All witnesses to the incident must contact the Justice Center.
- d. All suicides, homicides, accidental deaths, or deaths due to suspicious, unusual, or unnatural circumstances must be reported immediately by telephone, and later in writing, to the coroner/ medical examiner.
- e. Reporting to law enforcement:
  - i. An appropriate law enforcement official must be contacted immediately in the event that an emergency response by law enforcement is needed.
  - ii. The Program Director/Administrator or designee in which the incident is alleged to have occurred shall report to an appropriate law enforcement official anytime a crime may have been committed against an individual by a custodian. Law enforcement must be contacted any time there is an allegation of physical or sexual abuse. This is in addition to reporting to the Justice Center when the event or situation is a reportable incident (if the services are certified or operated by OPWDD).
  - iii. The report to the appropriate law enforcement official shall be made as soon as possible, but in no event later than 24 hours after occurrence or discovery.
  - iv. Information about the report to the appropriate law enforcement official shall be entered into IRMA within 24 hours of the report being made by the QI department.

- f. Notification to other programs:
  - i. is the responsibility of the Program Director/Administrator (or designee) where a report on a reportable incident or notable occurrence is received or made out, to notify any other agency where the person receives services of that reportable incident or notable occurrence if the incident or occurrence resulted in visible evidence of injury to the person, may be of concern to another agency, or may have an impact upon programming or activities provided by another agency.
- g. Notification to Mental Hygiene Legal Services:
  - i. ASI's QI Department shall send a written initial incident/occurrence report to Mental Hygiene Legal Service (MHLS) within 3 working days of occurrence or discovery when a report of abuse or neglect involves a person who resides in a facility certified or operated by OPWDD. The agency under whose auspices the event occurred and/or that is responsible for the person must send the initial occurrence report to MHLS. The 147 report is sent to MHLS regardless of if the event occurs at the residence or not (i.e. event occurs while the person is at their day habilitation program). The QI Department shall inform MHLS of the results of the investigation.
- h. Notification to Parent/guardian/Advocate:
  - i. For all reportable incidents and notable occurrences, the Program Director/Administrator or designee in which the incident is alleged to have occurred, shall provide telephone notice to one of the following: a person's guardian, parent, spouse or adult child.
  - ii. However, Autism Services, Inc. shall not provide such notice to a party in the following situations:
    - 1. there is written advice from the guardian, parent, spouse or adult child that he or she objects to such notification to himself or herself (notice shall then be provided to another party who is a guardian, parent, spouse or adult child, if one exists) or if the person receiving services is a capable adult who objects to such notification being made. If the capable adult objects to notification of all parties who are a guardian, parent, spouse or adult child, the capable adult shall not be provided the notice described in this subdivision or if the guardian, parent, spouse or adult child is the alleged abuser.
  - iii. The telephone notice shall be provided as soon as reasonably possible, but no later than 24 hours after completion of the written initial incident/occurrence report (for minor notable occurrences) or entry of initial information in IRMA by the agency.
  - iv. The telephone notice shall include:
    - 1. description of the event or situation and a description of initial actions taken to address the incident or occurrence, and
    - 2. an offer to meet with the CEO (or designee) to further discuss the incident or occurrence and
    - 3. for reports 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 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 and

4. For reports of abuse and neglect, if it is determined that the person receiving services is to be interviewed for the investigation, inform the family that we will make every effort to ensure that the person is supported appropriately during the interview. Inform them of the ways that we will support their family member and then confirm with them if that sounds appropriate. Document the notification and their response on the OPW 163 form.
- v. Methods of notification:
  1. The complete telephone notice may be comprised of more than one call, so long as the initial call includes a description of the event or situation and is within the required period of time or is attempted within the required period of time. Follow-up calls with the additional required information shall be made within a reasonable timeframe after the initial call.
  2. Notice may be made in person instead of by telephone.
  3. Notice may be provided by other methods at the request of the party receiving the notice.
- vi. If the person does not have a guardian, parent, spouse or adult child, or if such parties are not reasonably available, or if there is written advice that such parties do not want to be notified; ASI shall provide notice to the following parties in the manner (and subject to the same limitations) specified in this subdivision:
  1. the person receiving services, if the person is a capable adult; and
  2. the person's advocate or correspondent (if one exists).
- vii. Report on actions taken:
  1. The ASI Program Director/Administrator or designee) of the program in which the reportable incident or notable occurrence was alleged to have occurred shall provide a report on initial actions taken to address the incident or notable occurrence. Such report shall include:
    - a. any immediate steps taken in response to the incident or occurrence to safeguard the health or safety of the person receiving services; and
    - b. a general description of any initial medical or dental treatment or counseling provided to the person in response to the incident or occurrence.
  2. The Program Director/Administrator or designee shall provide the report on actions taken to any party specified in Methods of Notification section.
  3. The 148 report (report on actions taken) shall be completed and mailed to the parent/guardian/advocate within 10 days of filing the reportable incident or notable occurrence.
  4. The report that is provided shall not include names of anyone who is involved in the incident or occurrence or the investigation, or who is interviewed as a part of the investigation, or any information tending to identify such parties. Names of any such parties as well as any information tending to identify those parties shall be excluded or redacted.
- i. Notification to the Medicaid Service Coordinator:

- i. The individual's service coordinator (e.g. a Medicaid Service Coordinator or Plan of Care Support Services Service Coordinator, or Willowbrook Service Coordinator) must be notified by the Program Director/Administrator or designee of all reportable incidents and notable occurrences involving any individual receiving non-ICF services that are certified, funded, or operated by OPWDD and must be provided with subsequent information, as follows:
- ii. The service coordinator must be notified within 24 hours of the completion of the written initial incident/occurrence report (for minor notable occurrences) or entry of initial information in IRMA. The notification must include a description of immediate protections.
- iii. The service coordinator must be provided with subsequent information that may be needed to update an individual's plan of services and to monitor protective, corrective, and other actions taken following a reportable incident or occurrence. Specifically:
  1. The service coordinator must be provided with written information identifying investigative conclusions (including the findings of a report of abuse or neglect) and recommendations pertaining to the individual's care, protection, and treatment. The information provided must exclude information that directly or indirectly identifies agency employees, consultants, contractors, volunteers, or other individuals receiving services.
  2. This information must be provided to the service coordinator within:
    - a. 10 days after completion of the investigation if the investigation was completed by the agency; or
    - b. 10 days after the agency receives notice of the results of an investigation conducted by the Central Office of OPWDD or the Justice Center.
  3. If the Special Review Committee review results in additional findings, conclusions, or recommendations regarding the individual's care, protection, and/or treatment, this information must be provided to the service coordinator, in written form, within 3 weeks after committee review.
  4. If the Justice Center's review of an investigation conducted by ASI or by the Central Office of OPWDD results in additional findings, conclusions, or recommendations regarding the individual's care, protection, and/or treatment, this information must be provided to the service coordinator, in written form, within 10 days after the agency's receipt of the information.
  5. The service coordinator may request additional information concerning the incident or occurrence in order to monitor protective, corrective, and/or other actions taken. In the event that ASI receives a request for this information from a service coordinator, ASI shall provide information that it deems appropriate. In providing this information, ASI must exclude information that directly or indirectly identifies agency employees, consultants, contractors, volunteers, and other individuals receiving services. If ASI determines that it would be inappropriate to disclose specific information requested, ASI must advise the service coordinator of this determination and its justification, in writing, within 10 days after the request. If the agency does not have specific information requested by the service coordinator (e.g. if the

Justice Center conducted the investigation and it has not provided that information to the agency) ASI shall advise the service coordinator that it does not have the requested information.

6. Note: A service coordinator may be permitted to access information related to substantiated reports in accordance with section 496(2)(n) of the Social Services Law.
  7. If the service coordinator is identified as the subject of a report of abuse or neglect or as a witness to a reportable incident or occurrence, ASI shall not provide information to that party. In such a case, notifications and written information must be provided to the service coordinator's supervisor or the administrator of the agency providing service coordination in lieu of the service coordinator.
- j. Notification to QIDP for person's living in and ICF:
- i. The individual's Qualified Intellectual Disabilities Professional (QIDP) and (if the person is a Willowbrook class member), the Willowbrook Case Services Coordinator (WCSC) must also be notified by ASI of all reportable incidents and occurrences involving any individual who resides in an Intermediate Care Facility that is operated or certified by OPWDD. The QIDP and WCSC must also be provided with subsequent information. Information to the QIDP and WCSC shall be provided in the same manner that the information is provided to the Non-ICF service coordinator. If the QIDP or WCSC is identified as the alleged abuser, or is a witness to an incident or alleged abuse, the required notifications and subsequent information must be provided to the QIDP's or WCSC's supervisor or the administrator of the agency providing the residential or WCSC services, in lieu of the QIDP or WCSC.
  - ii. Note: A service coordinator (including a QIDP performing that function) may be permitted to access information related to substantiated reports in accordance with Section 496(2)(n) of the Social Services Law.
2. Recording: The following documentation shall be maintained in the investigation case file:
- a. It is the responsibility of the Program Director/Administrator or designee in which the incident was alleged to have occurred to provide the QI Department with the required documentation.
  - b. The telephone notice and responses received, including the identity and position of the party providing the notice, the name of the party receiving the notice, the time of the original call or attempted call, the time of subsequent attempted calls if the initial call was not successful and the time of follow up calls if the notice occurred in more than one call;
  - c. any requests for a meeting or the written initial incident/occurrence report;
  - d. meetings held in response to the request, and those present;
  - e. when the report on actions taken and any requested written initial incident/occurrence report was provided;
  - f. a copy of the report on actions taken and any written initial incident/occurrence report (with redaction) that was provided; and advice that a particular party does not want to receive notifications or that the capable adult receiving services objects to notice or objects to the provision of documents/ information.
3. When a person receives two or more services from ASI, and one program discovers an incident that is alleged to have occurred under the supervision of another program operated by ASI, the discovering program must document the situation and report it to the program where the situation or event is alleged to have occurred. The program where the incident is

alleged to have occurred is responsible for reporting and managing the incident, in accordance with agency policy.

4. Duty to report events or situations under the auspices of another agency:
  - a. If a reportable incident or notable occurrence is alleged to have occurred while a person was under the auspices of another agency (e.g., day habilitation staff allege that a situation occurred at a residence), ASI shall document the situation and shall report the situation to the agency under whose auspices the event or situation occurred.
  - b. Note that mandated reporters (e.g. custodians) are required to make reports to the Justice Center hotline pursuant to section 491 of the social services law. This means that mandated reporters at ASI must report to the Justice Center hotline upon discovery of a reportable incident that occurred in another program or facility which is certified or operated by OPWDD.
  - c. 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.
  - d. If ASI is not satisfied that the situation will be or is being investigated or handled appropriately by another agency, it shall bring the situation to the attention of OPWDD.
5. Notwithstanding any other provision in this Part, reports of Obstruction of reports of reportable incidents (see paragraph 624.3(b)(6)) that are reported to the Justice Center and/or OPWDD are not subject to the notification requirements in this section.
6. Notification to the Justice Center if the subject resigns or is terminated while under investigation:
  - a. In a case where a subject of a report of abuse or neglect in an Autism Services, Inc. program certified by OPWDD resigns from his or her position or is terminated while under investigation, Autism Services, Inc. shall promptly report such resignation or termination to the Justice Center.

## **IX. REPORTING DEATHS**

(see also ASI's Emergency Policy and Procedure Death of a Resident policy) (See Death reporting checklist)

1. In accordance with New York State Law and guidance issued by the Justice Center, the death of any individual who had received services operated or certified by OPWDD, within thirty days preceding his or her death, shall be reported to the Justice Center. This reporting is required regardless of whether the death did or did not occur under the auspices of ASI. Specifics of the reporting requirement are as follows:
  - a. The initial report shall be submitted, by ASI's CEO or designee, through a statewide, toll-free telephone number (1-855-373-2124), in a manner specified by the Justice Center.
  - b. If the death is due to abuse or neglect, the Justice Center abuse reporting hotline number must also be called by the person who witnessed/reported the abuse/neglect.
  - c. The initial report shall be submitted no more than twenty-four hours after discovery.
  - d. Subsequent information shall be submitted to the Justice Center within five working days of discovery of the death.
  - e. The results of an autopsy, if performed and if available to the agency, shall be submitted to the Justice Center within sixty working days of discovery of the death. (The Justice Center may extend the timeframe for good cause.)
  - f. All deaths that are reported to the Justice Center shall also be reported to OPWDD.

2. A death that occurred under the auspices of ASI shall be reported as a serious notable occurrence.
3. A death that did not occur under the auspices of ASI (e.g., the death of a person who received certified day habilitation services, but died at his or her private home of causes not associated with the day services) shall be reported in accordance with Part 625.
4. The death of any individual who had received services certified, operated, or funded by OPWDD, and the death occurred under the auspices of ASI shall be classified as a serious notable occurrence, and reported and managed as such.
5. A death is considered to have occurred under the auspices of ASI if:
  - a. the individual was living in an Autism Services, Inc. residential facility certified by OPWDD at the time of his or her death, or if the death occurred up to thirty days after the individual was discharged from the residential facility (unless the person was admitted to a different residential facility in the OPWDD system in the meantime);
  - b. the individual's death caused by a reportable incident or notable occurrence that occurred at the facility within thirty days of discovery of the death; or
  - c. the individual had received non-residential services operated, certified, or funded by OPWDD, and
  - d. the death occurred while the individual was receiving services; or the death was caused by a reportable incident or notable occurrence that occurred during the provision of services within thirty days of discovery of the death.
6. If more than one agency provided services to the individual, there shall be one responsible agency that is designated to report the death of the individual to the Justice Center and/or OPWDD. The agency responsible for reporting in accordance with this paragraph shall be the provider of the services to the individual (or sponsoring agency) in the order stated:
  - a. OPWDD certified residential facility, including a family care home, but not a free-standing respite facility;
  - b. OPWDD certified free standing respite facility, if the death occurred during the individual's stay at the facility, or was caused by a reportable incident or notable occurrence that occurred during a stay at the facility within thirty days of discovery of the death;
  - c. OPWDD certified day program (if the individual received services from more than one certified day program, the responsible agency shall be the agency that provided the greater duration of service on a regular basis);
  - d. MSC or PCSS (only OPWDD operated services report to the Justice Center);
  - e. HCBS Waiver services (only OPWDD operated services report to the Justice Center);
  - f. Care at Home Waiver services (only OPWDD operated services report to the Justice Center);
  - g. Article 16 clinic services;
  - h. FSS or ISS (only OPWDD operated services report to the Justice Center).
  - i. Any other services operated by OPWDD.
  - j. Notwithstanding any other requirement in this paragraph, there may be circumstances in which the death of an individual who resided at a certified residential facility, was staying at a certified free-standing respite facility, or attended a certified day program was caused by a reportable incident or notable occurrence that occurred under the auspices of another OPWDD certified, operated, or funded program or service within thirty days of discovery of the death; under these circumstances the provider of services where the incident or occurrence happened shall be responsible for reporting the death to the Justice Center (as applicable) and/or to OPWDD.

## **X. REPORTING TO OPWDD - REQUIRED REPORTING FORMATS:**

1. Reporting using the OPWDD Incident Report and Management Application (IRMA).
  - a. Information shall be entered into IRMA by ASI's QI Department based on an agency incident report and OPWDD 147 Report completed by the Program Director/Administrator or designee.
  - b. When a report of a reportable incident or a serious notable occurrence is made to the Justice Center hotline, initial information is automatically entered into IRMA; however, ASI's QI Department is required to review the information within 24 hours of occurrence or discovery of the incident or by close of the next working day, whichever is later, and to report missing or discrepant information to OPWDD.
  - c. When a report of a reportable incident or a serious notable occurrence is not made to the Justice Center hotline, initial information shall be entered into IRMA within 24 hours of occurrence or discovery or by close of the next working day, whichever is later by ASI's QI Department based on information provided by the Program Director/Administrator or designee.
  - d. Written initial report for Minor notable occurrences:
    - i. Within 48 hours of occurrence or discovery or by close of the next working day, whichever is later, the Program Director/Administrator or designee shall complete an OPWDD 147 Report.
  - e. Reporting subsequent information to IRMA:
    - i. Subsequent information is information concerning the incident or occurrence that is not included in the initial information entered in IRMA. This includes, but is not limited to, information about required notifications that was not reported as part of the initial information and any updates to information related to deaths (e.g. autopsy reports).
    - ii. Subsequent information shall be entered by the close of the fifth working day after the action is taken or the information becomes available, except as follows:
    - iii. Subsequent information about immediate protections shall be entered into IRMA within 24 hours after the action is taken or by the close of the next working day, whichever is later.
    - iv. Subsequent information about a death shall be entered in IRMA within five working days of the discovery of the death
    - v. If another provision of Part 624 identifies a different timeframe for the entry of specific information, ASI must comply with that timeframe requirement instead. Specific timeframes are identified in provisions concerning:
      1. reporting updates;
      2. notification of law enforcement officials;
      3. and minutes of Incident Review Committee (IRC) Meetings.
    - vi. Autism Services, Inc. QI Department is not required to enter information about investigatory activities into IRMA until the investigative report is completed. For reports of abuse and neglect occurring in Autism Services, Inc. programs certified by OPWDD, subsequent information shall include findings and recommendations made by the Justice Center.
    - vii. Autism Services, Inc. shall comply with all requests by OPWDD for the entry of specific subsequent information.

## **XI. IMMEDIATE PROTECTIONS:**

1. When a reportable incident, serious notable or minor notable occurrence is filed, evidence is preserved and appropriate actions taken, which includes investigation by a trained investigator. During the course of the investigation, staff will attempt to ensure minimal disruption possible



to the daily routine of the participants, yet, simultaneously, providing for health and safety. Consistent with the demands of the situation, one or more of the following actions may be considered and implemented with Chief Executive Officer (or designee) approval while an incident is being investigated:

2. Provision of immediate medical care and treatment to the victim as appropriate. Provision of counseling to the person and to other individuals in the program if deemed appropriate: completion of the agency's "Guide to Evaluating Emotional Harm" should be completed for allegation of psychological abuse. In other cases, linkage and referral to sexuality counseling, grief counseling etc. may be in the best interest of the participant.
3. Increasing supervision and providing additional support to restore a secure environment to the affected staff/individual(s): the supervisor will ensure an interim plan of protection for the duration of the investigation.
4. Provision of increased training to staff pertinent to the prevention and remediation of individual abuse: the director of the program will ensure training is provided by qualified management and/or clinical personnel with the appropriate level of knowledge and expertise to ensure comprehensive and effective learning. Training is to be completed as soon as possible, ideally prior to the start of staff(s) next shift.
5. Increasing the degree of supervision of the alleged suspect if they are not placed on administrative leave: a supervisor must be on site and/or conduct frequent random observations of the staff in question. The frequency of observation must ensure the safety and protection of all participants that come in contact with said staff and must continue for the duration of the investigation. If an increase in supervision requires a change in the staff's schedule, it must be based on the needs of the program.
6. Removal, reassignment, or relocation of the alleged suspect for the duration of the investigation. For all cases of physical or sexual abuse, the alleged suspect will be placed on unpaid administrative leave for the duration of the investigation.
7. Removal or relocation of the participant(s), consistent with the developmental needs of the individual (or any court order applicable to the individual) when it is determined that there is a risk to such person if he/she continues to remain in the program: such decisions should involve all members of the treatment team whenever possible
8. Proof of completion of immediate protections is to be sent to the QI department upon completion. If it is an ongoing safeguard proof of completion should be sent on a weekly basis.