

AUTISM SERVICES, INC.



Incident Management Policy and Procedure Part 2: Investigating, Record Retention, Special Review Committee, Release of Records

Date Created: August 14, 2018

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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 policy and procedure was developed in accordance with OPWDD Part 624 and 491 of the Social Services Law. This policy applies to all OPWDD certified and non-certified programs.

I. RESPONSIBILITIES:

1. QI Department:
 - a. Ensure a thorough investigation is completed in a timely manner and reviewed by the agency's Special Review Committee sub-committee for approval
 - b. Ensure investigation report and casefile is submitted to OPWDD and/or Justice Center within specified timeframe
 - c. Ensure casefile is kept secure and confidential
 - d. Communicate changes to incident reporting regulations to necessary staff and update forms, checklists, policies as needed
2. Special Review Sub-Committee:
 - a. Review investigation reports for thoroughness
 - b. Ensure outcome of investigation is supported by evidence
 - c. Make recommendations based on findings and ensures recommendations are designed to prevent reoccurrence
3. Special Review Committee
 - a. Ensure membership is consistent with this policy
 - b. Ensures recommendations are carried out as intended

- c. Reviews incident trend reports, analyzes incident trends and makes recommendations for prevention of future incidents.

II. GENERAL INVESTIGATORY REQUIREMENTS:

1. Any report of a reportable incident or notable occurrence (both serious and minor) shall be thoroughly investigated by ASI, unless OPWDD or the Justice Center advises the Chief Executive Officer that the incident or occurrence will be investigated by OPWDD or the Justice Center and specifically relieves ASI of the obligation to investigate.
 - a. When assigned to ASI by the Justice Center or OPWDD, QI Department staff will investigate allegations of reportable incidents, serious notable occurrences and minor notable occurrences unless otherwise determined by the CEO/designee.
 - b. Investigation shall commence immediately unless law enforcement or the Justice Center directs the agency otherwise.
 - c. ASI's QI Department is responsible for monitoring IRMA to ascertain whether the Justice Center, the Central Office of OPWDD, or the agency itself is responsible for the investigation.
2. Investigations conducted by Autism Services, Inc. shall incorporate the following:
 - a. If a person is physically injured, an appropriate medical examination of the injured person shall be obtained. For assessments completed internally by nursing staff, the nurse shall complete a physical assessment form. If outside medical attention is completed then the program shall attempt to obtain written documentation from the visit.
 - b. Witnesses to the incident or occurrence shall be identified and shall be interviewed in as private an environment as possible.
 - c. Interviews should be conducted separately by qualified, objective parties. Interviews of individuals receiving services should be conducted by parties with an understanding of the persons' unique needs and/or capabilities.
 - d. Pertinent information shall be reviewed (e.g., records, photos, observations of incident scene, expert assessments).
 - e. Documentary evidence shall be obtained (e.g. duty rosters, plans of care, T logs, GERs, medical documentation, etc.)
 - f. Physical evidence, if any, shall be identified and appropriate steps shall be taken to safeguard and preserve physical evidence.
3. ASI staff may become aware of additional information concerning an incident that may warrant its reclassification.
 - a. If the incident was originally reported to the Justice Center, ASI's QI Department shall report the additional information to the Justice Center. At its discretion, the Justice Center may reclassify the incident based on the additional information.
 - b. In the event that the incident is reclassified, the Program Director/Administrator or designee in which the incident occurred shall make all additional reports and notifications that may be warranted by the reclassification. The agency's QI department will be responsible for entering reclassification and notifications in IRMA and sending a revised 147 report to MHLS if indicated.
 - c. In other cases (e.g. incidents in non-certified programs), if reclassification is warranted, QI Department staff will notify the Incident Compliance Officer at OPWDD Incident Management Unit and enter reclassification in IRMA. The Program Director/Administrator or designee in which the incident occurred shall

make all additional reports and notifications that may be warranted by the reclassification. The QI department will enter any applicable notifications into IRMA.

4. When Autism Services, Inc. is responsible for the investigation, the investigation shall be documented. Such documentation shall include an investigative report.
 - a. For reportable incidents and serious notable occurrences, the full text of the investigative report shall be entered into IRMA.
 - b. The investigation shall continue through completion regardless of whether an employee or other custodian who is directly involved leaves employment before the investigation is complete.
 - c. If the employee separates from employment during the course of the investigation (for allegations of abuse in certified programs) the investigator will inform the Justice Center.
 - d. To the extent possible, Autism Services, Inc. shall make every effort to 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.
5. There are restrictions on situations that may compromise the independence of investigators.
 - a. Any party who has been assigned to an investigation in which he or she recognizes a potential conflict of interest in the assignment, shall report this information to Autism Services, Inc.'s QI Director or Chief Quality Officer.
 - b. 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.
 - c. 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.
 - d. Members of the Special Review Committee shall not routinely be assigned the responsibility of investigating incidents or occurrences.
 - e. ASI shall assign a QI Investigator whose work function is at arm's length from staff who are directly involved in the reportable incident or notable occurrence. The requirements identified below reflect the minimum expectation regarding independence concerning the investigator's work function.
 - i. No party in the direct line of supervision of staff who are directly involved in incident/occurrence may conduct the investigation, except for the Chief Executive Officer.
 - ii. 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 unless he or she is the immediate supervisor of any staff directly involved.
6. Additional investigation requirements for allegations of abuse/neglect in OPWDD certified programs:
 - a. The Program Director or Administrator or designee shall notify each subject of the report that an investigation is being conducted, unless notifying the subject of the report would impede the investigation. The reason a notification was not made shall be documented in the investigation report.

- b. A notice in writing will be given to each staff identified as the subject of the report by the QI Investigator.
 - c. The QI Investigator shall submit a request for a check of the Statewide Central Register of Child Abuse and Maltreatment (SCR) concerning each subject of the report. The SCR form is uploaded to WSIR (Web Submission of the Investigative Record) with the investigation report.
7. Review/investigation by OPWDD and/or the Justice Center.
- a. OPWDD and the Justice Center have the right to review and/or investigate any reportable incident and/or notable occurrence regardless of the source of the information. As such, relevant documents may be made available to reviewers or investigators. Persons receiving services, staff, and any other relevant parties may be interviewed in pursuit of any such review or investigation.
 - b. When an incident or occurrence is investigated or reviewed by OPWDD and OPWDD makes recommendations to ASI concerning any matter related to the incident or occurrence (except during survey activities), ASI shall either:
 - i. Implement each recommendation in a timely fashion and submit documentation of the implementation to OPWDD; or
 - ii. Submit written justification to OPWDD, within a month after the recommendation is made, and identify the alternative means that will be undertaken to address the issue, or explain why no action is needed.
 - c. When the Justice Center makes findings concerning matters referred to its attention and the Justice Center issues a report and recommendations to ASI regarding such matters, ASI shall make a written response, within 65 days of receipt of such report, of action taken regarding each of the recommendations in the report. The proof that the recommendations were completed is uploaded to the Corrective Action Plan section in IRMA.
8. Findings of reports of abuse or neglect: For every report of abuse or neglect, a finding shall be made. ASI's QI Investigator shall make the finding or, in the event that the Central Office of OPWDD or the Justice Center conducted the investigation, the Central Office of OPWDD or the Justice Center shall make the finding. A finding shall be based on a preponderance of the evidence and shall indicate whether:
- a. 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
 - b. 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.
 - c. Concurrent finding: In conjunction with the possible findings identified above, a concurrent finding may be made that a systemic problem caused or contributed to the occurrence of the incident.
9. Plans for prevention and remediation for substantiated reports of abuse or neglect when the investigation is conducted by Autism Services, Inc. or OPWDD.
- a. Within 10 days of the completion of the investigation, Autism Services, Inc. shall develop and implement a plan of prevention and remediation to be taken to assure the continued health, safety, and welfare of individuals receiving services and to provide for the prevention of future acts of reportable incidents.

- b. The plan/recommendations shall identify projected implementation dates and 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.
- c. The recommendations made as a result of the investigation shall be entered into IRMA by the close of the fifth working day after the development of the recommendations by QI department staff.

10. Reporting Updates:

- a. The QI Administrator or Administrative Assistant will ensure that all required fields in IRMA for the reporting update are completed. Among other required information, the reporting update shall include:
 - i. a brief review of additions to the summary of evidence and specific investigatory actions taken since the last update was entered into IRMA, if any; and
 - ii. If there have been no additions to the summary of evidence or investigatory actions taken since the last report, an explanation of why no progress has been made.
 - iii. For reportable incidents and serious notable occurrences, the QI Administrator shall enter reporting updates into IRMA on at least a monthly basis or more frequently as requested by OPWDD, until closure of the incident or occurrence.
- b. If ASI is not responsible for conducting the investigation, QI Administrator or Administrative Assistant will ensure the required fields are completed to the extent possible given information provided to the agency.
- c. If ASI is responsible for conducting the investigation and if the investigation has not been completed within the timeframe specified in this section, the QI Administrator shall inform OPWDD of the reason for extending the timeframe of the investigation and shall continue to keep OPWDD informed on at least a monthly basis of the progress of the investigation and other actions taken.

11. Timeframe for completion of the investigation:

- a. When ASI is responsible for the investigation:
 - i. The investigation shall be completed no later than 30 days after the incident or notable occurrence is reported to the Justice Center and/or OPWDD. An investigation shall be considered complete when the report is reviewed and approved by the agency's Special Review Committee Sub-Committee.
 - ii. The QI Department may extend the timeframe for completion of a specific investigation beyond 30 days if there is adequate justification to do so. The QI Investigator shall document its justification for the extension within the report.
 - 1. Circumstances that may justify an extension include (but are not limited to):
 - a. A related investigation is being conducted by an outside entity (e.g. law enforcement) that has requested that the agency delay necessary investigatory actions; and
 - b. 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).

- iii. For investigations filed on behalf of a person that resides in an ICF (Intermediate Care Facility), whether or not the incident occurred at the ICF, the QI Investigator will complete the investigation in 5 working days.

12. Closure of an incident or occurrence investigation:

- a. In Non-Certified OPWDD programs:
 - i. If ASI conducts the investigation, the investigation is considered closed when ASI's Special Review Sub-Committee has ascertained that no further investigation is necessary; or
 - ii. If conducted by the Central Office of OPWDD, the investigation is considered closed when the Central Office of OPWDD notifies ASI of the results of the investigation.
- b. In Certified OPWDD programs under the jurisdiction of the NYS Justice Center, (for reportable incidents of abuse and neglect):
 - i. If conducted by ASI or the Central Office of OPWDD, the investigation is considered closed when the agency receives the notice of determination letter from the Justice Center.
 - ii. If the Justice Center conducts the investigation, when the Justice Center provides written notice to ASI that the investigation is closed.
- c. In Certified OPWDD programs (for significant incidents and notable occurrences):
 - i. If ASI conducts the investigation, the investigation is considered closed when ASI's Special Review Sub-Committee has ascertained that no further investigation is necessary; or
 - ii. If conducted by the Central Office of OPWDD, the investigation is considered closed when the Central Office of OPWDD notifies ASI of the results of the investigation.
 - iii. If the Justice Center conducts the investigation, when the Justice Center provides written notice to ASI that the investigation is closed.

13. Submission of investigation records:

- a. For allegations of abuse/neglect or the death of an individual, in certified programs, the final report and all investigative documents are submitted to OPWDD and the Justice Center through the web based application WSIR (Web Submission of the Investigative Record). The QI department will complete the upload to WSIR within 50 days of initial report of the incident to the Justice Center.
- b. For allegations of abuse/neglect or the death of an individual in a non-certified program, the final report and all investigative documents are submitted to OPWDD through IRMA. The QI Department will complete the upload to IRMA within 50 days from when the incident was reported to OPWDD.
- c. Notwithstanding the timeframes specified in this policy, the QI Department may take additional time to submit its final report provided, however, that the reasons for any delay must be for good cause and must be documented. The report must be submitted as soon thereafter as practicably possible.
- d. Note: Final information on significant incidents is automatically available to the Justice Center through IRMA.

14. Notice of findings involving employees or agents of contractors:

- a. When Autism Services, Inc. receives a written notice of findings from the Justice Center regarding a report of abuse or neglect, and the subject of such notice is an employee or agent of a contractor, Autism Services, Inc. shall notify OPWDD IMU of these circumstances within two weeks of such notice.

III. RECORDS AND STATISTICS:

1. Record retention:
 - a. Autism Services, Inc.'s QI Department shall retain records pertaining to incidents and occurrences as follows:
 - i. Records that must be retained include but are not limited to evidence and materials obtained or accessed during the investigative process, copies of all documents generated as part of the investigation.
 - ii. Records shall be retained for a minimum period of seven years from the date that the incident or occurrence is closed. However, when there is a pending audit or litigation concerning an incident or occurrence, Autism Services, Inc. shall retain the pertinent records during the pendency of the audit or litigation.
 - iii. Records, reports, and documentation shall be retrievable by the person's name and OPWDD Master Incident Number (MIN) or agency incident number. The closed case file is placed in an envelope and labeled with the person's name, site where the incident occurred, date of incident, MIN (if applicable) and agency incident number.
2. Confidentiality of records:
 - a. All records generated in accordance with the requirements of Part 624 shall be kept confidential and shall not be disclosed except as otherwise authorized by law or regulation. Records of reportable incidents that are reported to the Justice Center are to be kept confidential pursuant to section 496 of the Social Services Law.
3. Statistics:
 - a. When there is an incident or occurrence reported involving more than one person receiving services:
 - i. The incident will be filed for all persons involved. For statistical practices, the incident will be counted as one incident, regardless of the number of individuals filed for. The case will be retrievable by the person whose last name comes first alphabetically and the term "et al" is used after that person's name to identify that the incident was filed for more than one person (i.e. John Allen et al).

IV. SPECIAL REVIEW COMMITTEE

ASI has a Special Review Sub-Committee (SRSC) and Special Review Committee (SRC) to review and monitor reportable incidents and notable occurrences that occur to people receiving services from ASI.

1. ASI's Special Review Sub-Committee shall:

- a. Meet when the Investigator has completed the investigation and is prepared to present their investigation report to the sub-committee.
 - b. Ascertain that reportable incidents and notable occurrences were reported, managed, investigated, and documented consistent with the provisions of the 624 regulations and with ASI's policies and procedures. Sub-committee will ensure that a thorough investigation was completed and that the evidence in the report supports the outcome of the investigation.
 - c. Ensure recommendations made by the investigator are appropriate corrective and preventative measures. Recommendations are communicated to the Program Director, Senior Director of Programs, CEO and other parties as appropriate.
2. ASI's Special Review Committee shall:
- a. Meet at least once per month, and more frequently as needed to meet the timeframes established by OPWDD.
 - b. Ensure that necessary and appropriate corrective, preventive, remedial, and/or disciplinary action has been taken to protect persons receiving services from further harm, to safeguard against the recurrence of similar reportable incidents and notable occurrences. The SRC will review each recommendation to ensure that it has been completed and there is documentation showing its completion.
 - c. Identify trends in reportable incidents and notable occurrences (e.g., by type, person, site, employee involvement, time, date, circumstances, etc.), and to recommend appropriate corrective, preventive, remedial, and/or disciplinary action to the Chief Executive Officer to safeguard against such recurring situations or reportable incidents and notable occurrences; and ascertain and ensure the adequacy of the agency's reporting and review practices, including the monitoring of the implementation of approved recommendations for corrective, preventive, and remedial action.
 - d. Review and monitor all reportable incidents and/or serious and minor notable occurrences that are reported
 - e. Review and monitor investigatory procedures, but shall not perform the routine investigation of reportable incidents or notable occurrences;
 - f. Make written recommendations to appropriate staff to eliminate or minimize similar reportable incidents and/or notable occurrences in the future, and/or to improve investigatory or other procedures;
 - g. Make written recommendations to the CEO on changes in agency policy or procedures and to improve conditions contributing to the reportable incidents and/or notable occurrences reviewed;
 - h. Forward findings and recommendations to the CEO within two weeks of meeting;
 - i. Provide documentation that all reports of reportable incidents and serious notable occurrences have been reviewed by the committee and that results and recommendations have been conveyed to appropriate agency executives and others with a need to know;
 - j. Monitor actions taken on any and all recommendations made and advise the CEO when there is a problem;
 - k. Monitor trends of other events or situations attributable to a person receiving services which may be potentially harmful, but do not meet the definition of being a reportable incident or notable occurrence. This may be done by the full committee or a member of a subcommittee reporting to the full committee;

- l. In accordance with agency policy, report periodically, but at least annually, to the CEO, 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; and
 - m. Interact with the governing body and comply with the policies in relation to the review and monitoring of all reportable incidents and notable occurrences.
3. For reportable incidents of abuse and neglect in programs certified by OWPDD:
 - a. An incident shall not be considered closed by the Special Review Sub Committee or Special Review Committee until ASI receives the notice of determination letter from the Justice Center. If the Justice Center conducted the investigation, when the Justice Center notifies the agency that the incident is closed.
 - b. Note: The Justice Center may amend findings made by an agency or OPWDD. Findings made by the Justice Center are considered final.
 4. Role of the SRC and SRC sub-committee when investigations are conducted by the Central Office of OPWDD or the Justice Center:
 - a. The SRC and SRC sub committee's role in reviewing and monitoring the particular incident or occurrence is limited to matters involving compliance with the reporting and notification requirements, protective and remedial actions taken, operational concerns, and the quality of services provided.
 - b. The finding (of the report of abuse or neglect) of substantiated or unsubstantiated shall be made by the Central Office of OPWDD or the Justice Center.
 5. Organization and membership of the Special Review Committee:
 - a. Committee members shall be appointed by the Chief Executive Officer.
 - b. SRC may have other responsibilities in addition to specified responsibilities related to reportable incidents and notable occurrences.
 - c. Membership of an SRC shall include:
 - i. A member of the governing body;
 - ii. at least two professional staff, including but not limited to, licensed clinicians, such as occupational, physical, and speech therapists, social workers, psychologists, and nurses; a behavioral intervention specialist (BIS, see subdivision 633.16(b)); and others with primary responsibility for developing and/or monitoring individuals' plans of care, such as developmental and habilitation specialists or a QIDP. At least one of the professional staff must be a licensed health care practitioner (e.g. physician, physician's assistant, nurse practitioner or registered nurse).
 - iii. other staff, including [professional, direct care or] administrative staff, as deemed necessary by the agency to achieve the purposes of the committee pursuant to this section;
 - iv. at least one direct support professional (except for agencies that do not have direct support professionals);
 - v. at least one individual receiving services;
 - vi. at least one representative of advocacy organizations (e.g. self-advocacy, family or other advocacy organizations); and
 - vii. The participation of a psychologist on the committee is recommended.
 - viii. In the event that an agency is unable to obtain the members required, the agency shall document its periodic efforts to obtain the specified members.

- d. Membership limitations: The ASI Chief Executive Officer shall not serve as a member of the committee, but may be consulted by the committee in its deliberations.
 - e. The administrator of a class or classes of facilities or a group or groups of services may be designated as a member only if the committee is an agency-wide or multi-program committee. If he or she is not a member, an administrator may be consulted by the committee in its deliberations.
 - f. Case-specific requirements: There shall be representation from the Program where the event under discussion occurred.
 - g. Restrictions on review of specific incidents or allegations of abuse:
 - i. Any committee member who recognizes a potential conflict of interest in his or her assignment shall report this information to the committee and recuse him or herself from participating in committee review of the incident or occurrence in question.
 - ii. No committee member may participate in the review of any reportable incident or notable occurrence in which he or she was directly involved, in which his or her testimony is incorporated, in which his or her spouse, domestic partner, or other immediate family member was directly involved, or which he or she investigated or participated in the investigation. Such members may, however, participate in committee deliberation regarding appropriate corrective, preventive, or remedial action.
 - iii. For reportable incidents and serious notable occurrences, no committee member may participate in the review of 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 supervised directly involved parties.
 - iv. No committee member may participate in the review of a reportable incident or serious 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.
 - h. Members of the committee shall be trained in confidentiality laws and regulations, and shall comply with section 74 of the public officer's law.
6. Special Review Committee Minutes:
- a. The Chief Quality Officer and QI Director, who are co-chairs of the Special Review Committee, shall ensure that minutes are kept for all meetings.
 - b. For reportable incidents and serious notable occurrences, the portion of the minutes that discuss matters concerning the specific event or situation shall be entered into IRMA within three weeks of the meeting.
 - c. Minutes addressing the review of specific reportable incidents and/or serious notable occurrences shall clearly state the filing number or agency incident number, the person's full name, and provide a brief summary of the situation (including date, location and type) that caused the report to be generated, committee findings (including reclassification of event, if applicable), and recommendations and actions taken on the part of the agency as a result of such recommendations. Full names of all parties involved are to be recorded (not initials).

V. RELEASE OF RECORDS

1. ASI is required to release all records and documents pertaining to allegations and investigations into abuse as defined in applicable OPWDD regulations in effect at the time the allegation occurred under the auspices (see section 624.20) of ASI or sponsoring agency to eligible requestors who make a request in accordance with the provisions of this section.
2. Requests for the records related to Reportable Incidents, Significant Incidents and Serious and Minor Notable Occurrences must be made in writing to ASI's Chief Executive Officer. It is the responsibility of the QI Department to respond to said requests and who are authorized to release records. Requests for the release of other documents are addressed by the Program Director.
 - a. If the request is made prior to the closure of the incident, ASI's QI Department shall provide the requested records no later than 21 days after the closure of the incident.
 - b. If the request is made at or subsequent to the closure of the incident, ASI's QI Department shall provide the requested records no later than 21 days after the request is made. The written request shall specify the records that are requested.
 - c. The written request for the release of records shall be maintained and the date the request was received shall be documented.
3. Eligible requestors: Persons receiving services or who formerly received services, and guardians, parents, spouses, and adult children of such persons, pursuant to paragraph (a)(6) of section 33.16 of the Mental Hygiene Law, are eligible to request the release of records pertaining to incidents, subject to the following restrictions:
 - a. In the event that an otherwise eligible requestor is an alleged abuser, such requestor is not eligible to receive any records or documents pertaining to the specific allegation or investigation of the event or situation in which he or she was the targeted alleged abuser, regardless of the conclusion.
 - b. If the person receiving services or who formerly received services is a capable adult and objects to the provision of records and/or documents to an otherwise eligible requestor, such requestor is not eligible to receive those records or documents.
4. Redaction of records:
 - a. Prior to the release of records, ASI shall redact the names of employees who are involved in the incident or the investigation or who are interviewed as a part of the investigation, persons receiving services (or who formerly received services), and any information tending to identify such employees or persons. Redaction shall be waived if the employee or person authorizes disclosure, unless redaction of the specific information is necessary because it tends to identify another employee or person who has not authorized disclosure or for another reason specified in this subdivision.
 - b. In addition, if any records which are subject to release identify a particular party as having made a child abuse or maltreatment report to the Statewide Central Register of Child Abuse and Maltreatment (SCR), contacted the SCR, or otherwise cooperated in a child abuse/maltreatment investigation, that name as well as any information tending to identify the party shall be redacted.
 - c. A copy of the redacted records that were released shall be maintained and the date the records were provided shall be documented.

5. Cover letter and dissemination restrictions: The release of records to recipients shall be in accordance with the following:
 - a. The release of records shall 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:
 - i. a health care provider;
 - ii. a behavioral health care provider;
 - iii. Law enforcement, if you believe a crime has been committed; or your attorney."
 - b. Pursuant to New York State law, the recipient, parties with whom the recipient shared records or the individual receiving services may use records and documents released in accordance with this section in any legal action or proceeding brought by or on behalf of the individual receiving services.
6. Administrative appeal process- denial of requested records/documents: A requestor denied access to the records and documents requested pursuant to this section may appeal, in writing, such denial to the incident records appeals officer designated by OPWDD.
 - a. Upon receipt of the appeal, the agency issuing the denial will be notified of the appeal and given an opportunity to submit relevant information to the incident records appeals officer, including the reasons for denial, within 10 business days of the receipt of such appeal. The incident records appeals officer may also request additional information from the requestor as may be necessary to resolve the appeal.
 - b. Within 10 business days of the receipt of complete information, the incident records appeals officer will make a determination about whether the requested records and/or documents should be released. The incident records appeals officer will issue his or her determination with an explanation of the reasons for the determination to the requestor and the agency. If so directed by the incident records appeals officer, the agency shall provide the requested records and/or documents to the requestor.

VI. GLOSSARY

For Glossary see OPWDD part 624 regulations: 624.20