

RCIL Incident Reporting Summary - Office for People With Developmental Disabilities (OPWDD):

What is an Incident?

Events or situations that cause harm or have the potential to cause harm to the individual receiving services.

Types of OPWDD Incidents:

1. **Reportable Incidents of Abuse and Neglect** include, but are not limited to, physical, sexual, and psychological abuse, as well as other prohibited conduct such as deliberate inappropriate use of restraint, and neglect.
2. **Reportable Significant Incidents** include, but are not limited to, medication errors that result in adverse effects, use of seclusion, mistreatment, missing person, and choking events.
3. **Serious Notable Occurrences** include sensitive situations and deaths of people receiving services.
4. **Minor Notable Occurrences** include injuries that require treatment beyond first aid and theft and financial exploitation (involving \$15 to \$100).

Definitions of OPWDD Incidents:

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

1. Reportable Incidents of Abuse and Neglect

Physical Abuse – Conduct by a custodian (worker, volunteer, or consultant) intentionally or recklessly causing, by physical contact; physical injury or serious or protracted impairment of the physical, mental, or emotional condition of the individual receiving services, or causing the likelihood of such injury or impairment.

Sexual Abuse – Any conduct by a custodian that subjects a person receiving services to any offense defined in Article 130 or Section 255.25, 255.26, or 255.27 of the Penal Law, or any conduct or communication by such custodian that allows, permits, uses, or encourages a person receiving services to engage in any act described in Articles 230 or 263 of the Penal Law.

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

Deliberate Inappropriate Use of Restraints – The use of a restraint, when the technique that is used; the amount of force that is used; or the situation in which the restraint is used; is deliberately

inconsistent with an individual's plan of services, or behavior support plan, generally accepted treatment practices, and/or applicable federal or state laws, regulations, or policies. The exception is when the restraint is used as a reasonable emergency intervention to prevent imminent risk of harm to a person receiving services or to any other party. For purposes of this paragraph, a restraint includes the use of any manual, pharmacological, or mechanical measure or device to immobilize or limit the ability of a person receiving services to freely move their arms, legs, or body.

Aversive Conditioning – The application of a physical stimulus that is intended to induce pain or discomfort in order to modify or change the behavior of a person receiving services. Aversive conditioning may include, but is not limited to, the use of physical stimuli such as noxious odors, noxious tastes, blindfolds, and the withholding of meals and the provision of substitute foods in an unpalatable form. The use of aversive conditioning is prohibited by OPWDD.

Obstruction of Reports of Reportable Incidents – Conduct by a custodian that impedes the discovery, reporting, or investigation of the treatment of a service recipient by falsifying records related to the safety, treatment, or supervision of an individual receiving services; actively persuading a custodian or other mandated reporter (as defined in Section 488 of the Social Services Law) from making a report of a reportable incident to the Statewide Vulnerable Persons' Central Register (VPCR) or OPWDD with the intent to suppress the reporting of the investigation of such incident; intentionally making a false statement, or intentionally withholding material information during an investigation into such a report; intentional failure of a supervisor or manager to act upon such a report in accordance with OPWDD regulations, policies, or procedures; or, for a custodian, failing to report a reportable incident upon discovery.

Unlawful Use of Administration of a Controlled Substance – Any administration by a custodian to a service recipient of a controlled substance as defined by Article 33 of the Public Health Law, without a prescription, or other medication not approved for any use by the federal food and drug administration. It also shall include a custodian unlawfully using or distributing a controlled substance as defined by Article 33 of the Public Health Law, at the workplace or while on duty.

Neglect – Any action, inaction, or lack of attention that breaches a custodian's duty and that results in or is likely to result in physical injury or serious or protracted impairment of the physical, mental, or emotional condition of a service recipient.

2. Reportable Significant Incidents

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 includes, but is not limited to:

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

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

Unauthorized Use of Time Out – the use of a procedure in which a person receiving services is removed from regular programming and isolated in a room or area for the convenience of a custodian, for disciplinary purposes, or as a substitute for programming.

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

Inappropriate Use of Restraints – The use of a restraint when the technique that is used, the amount of force that is used, or the situation in which the restraint is used is inconsistent with an individual's plan of services (including a behavior support plan), generally accepted treatment practices, and/or applicable Federal or State laws, regulations, or policies. For the purposes of this Subdivision, a "restraint" includes the use of any manual, pharmacological, or mechanical measure or device to immobilize or limit the ability of a person receiving services to freely move their arms, legs, or body.

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

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

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

Choking, With Known Risk – The partial or complete blockage of the upper airway by an inhaled or swallowed foreign body, including food, that leads to a partial or complete inability to breathe, involving an individual with a known risk for choking and a written directive addressing that risk.

Choking, No Known Risk – The partial or complete blockage of the upper airway by an inhaled or swallowed foreign body, including food, that leads to a partial or complete inability to breathe, other than an individual with a known risk for choking and a written directive addressing that risk.

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

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

Theft or Financial Exploitation – Any suspected theft of a service recipient's personal property (including personal funds or belongings) or financial exploitation, involving a value of more than \$100.00; theft involving a service recipient's credit, debit, or public benefit cards (regardless of the amount involved); or a pattern of theft or financial exploitation involving the property of one or more individual's receiving services.

Other Significant Incident – An incident that occurs under the auspices of an Agency, but that does not involve conduct on the part of a custodian and does not meet the definition of any other incident described in this Subdivision, but that because of its severity or the sensitivity of the situation may result in, or has the reasonably foreseeable potential to result in, harm to the health, safety, or welfare of a person receiving services.

3. Notable Occurrences

Death – The death of any person receiving services, regardless of the cause of death. This includes all deaths of individuals who live in residential facilities operated or certified by OPWDD and other deaths that occur under the auspices of an Agency.

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

4. Minor Notable Occurrences

Injury – Any suspected or confirmed harm, hurt, or damage to an individual receiving services, caused by an act of that individual or another, whether or not by accident, and whether or not the cause can be identified, that results in an individual requiring medical or dental treatment (see glossary, section 624.20) by a physician, dentist, physician's assistant, or nurse practitioner, and such treatment is more than first aid.

Theft or Financial Exploitation – Any suspected theft of a service recipient's personal property (including personal funds or belongings) or financial exploitation, involving values of more than \$15.00 and less than or equal to \$100.00, that does not involve a credit, debit, or public benefit cards, and that is an isolated event.

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

- 1. Physical Abuse** – The non-accidental use of force that results in bodily injury, pain, or impairment, including, but not limited to, being slapped, burned, cut, bruised, or improperly physically restrained.
- 2. Sexual Abuse** – Non-consensual sexual contact of any kind, including, but not limited to, forcing sexual contact or forcing sex with a third party.
- 3. Emotional Abuse** – The willful infliction of mental or emotional anguish by threat, humiliation, intimidation, or other abusive conduct, including, but not limited to, frightening or isolating an adult.
- 4. Active Neglect** – The willful failure by the caregiver to fulfill the care-taking functions and responsibilities assumed by the caregiver, including, but not limited to, abandonment, willful deprivation of food, water, heat, clean clothing and bedding, eyeglasses or dentures, or health related services.
- 5. Passive Neglect** – The non-willful failure of a caregiver to fulfill care-taking functions and responsibilities assumed by the caregiver, including, but not limited to, abandonment or denial of food or health related services because of inadequate caregiver knowledge, infirmity, or disputing the value of prescribed services.
- 6. Self-Neglect** – An adult's inability, due to physical and/or mental impairments, to perform tasks essential to caring for oneself, including, but not limited to, providing essential food, clothing, shelter, and medical care; obtaining goods and services necessary to maintain physical health, mental health, emotional well-being, and general safety; or managing financial affairs.
- 7. Financial Exploitation** – The use of an adult's funds, property, or resources by another individual, including but not limited to, fraud, false pretenses, embezzlement, conspiracy, forgery, falsifying records, coerced property transfers, or denial of access to assets.
- 8. Death** – The end of life, expected or unexpected, regardless of cause.

How does RCIL handle an incident?

RCIL has policies and procedures in place to ensure timely reporting, investigation, and monitoring of all incidents, in order to protect individuals receiving services (to the extent possible) from harm; to ensure that individuals are free from abuse and neglect; and to enhance the quality of their services and care.

How is an Investigation Conducted?

Every incident is thoroughly investigated by a member of RCIL's Compliance Team following regulations set forth by OPWDD. The Investigator will complete all required notifications, gather information from a variety of sources and prepare a report that includes various elements such as a summary of the evidence, conclusions,

and recommendations. Once the investigation is completed, RCIL's Incident Review Committee reviews the investigation. The Committee reviews and monitors investigatory procedures and may make additional recommendations.

Jonathan's Law

Jonathan's Law requires that qualified parties are notified of all incidents. Qualified parties include an individual receiving services or their legal guardian, or an involved parent, spouse, adult child or adult sibling who has authority to provide consent for care. Also, a person who does not meet the definition of a qualified party, but who serves as an advocate or correspondent for a person receiving services, is to be notified of incidents.

A qualified party has the right to request a copy of the redacted investigative report by submitting a request in writing to RCIL's Compliance Department. Unless the person receiving services is a capable adult who objects to such, or if the qualified party is the alleged abuser, RCIL will provide such records in accordance with Jonathan's Law.

The below links will provide you access to written information, developed by OPWDD in collaboration with the Justice Center:

- OPWDD's Part 624 and Part 625 Handbook (Part 624 – Reportable Incidents and Notable Occurrences and Part 625 Events and Situations):

https://opwdd.ny.gov/system/files/documents/2023/02/final-part-624-handbook-updated-with-memo-2_16_23.pdf

- OPWDD Learning about Incidents Brochure:

<https://opwdd.ny.gov/learning-about-incidents-brochure>

Below is a link to RCIL's website, where you can access via electronic format, RCIL's Policy and Procedure on OPWDD Incident Reporting:

<https://rcil.com>

Paper copies of this information will be provided upon request to RCIL's Compliance Department. You can also access each of the above noted documents via electronic format on RCIL's website, <https://rcil.com>, under the Compliance section.

What is RCIL's Compliance Department Contact Information?

Mailing Address: RCIL, PO BOX 210, Utica, NY 13503 Attention – Compliance Department

Email Address: Compliance@rcil.com

Phone Number: 315-272-2905