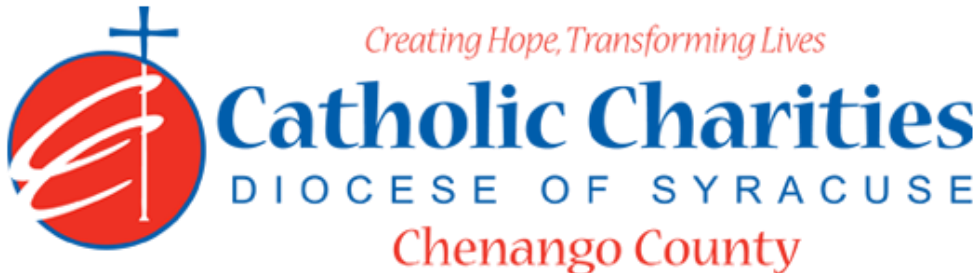


# 624/625 Incident Reporting



# Reportable Incidents



Reportable Incidents are events or situations that meet the definitions under part 624/625 and occur under the auspices of an agency.

# Reportable Incidents

- 1. Physical Abuse** shall mean conduct by a custodian 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. 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 person.

# Reportable Incidents

## 2. **Sexual abuse** shall mean:

- 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 service recipient to engage in any act described in articles 230 or 263 of the penal law; and/or
- ii. Any sexual contact between and 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. However, if the individual 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 the agency shall not be considered a custodian if he or she has sexual contact with another individual receiving services who is a consenting adult and who has consented to such contact.

# Reportable Incidents

3. ***Psychological abuse*** includes any verbal or nonverbal conduct that may cause significant emotional distress to an individual receiving services.
  - i. 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 of infliction of pain or injury, in a manner that constitutes a threat of physical pain or injury.
  - ii. 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 masters social worker or licensed mental health counselor.

# Reportable Incidents

- 4. *Deliberate inappropriate use of restraints*** 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 or behavior support plan, generally accepted treatment practices and/or applicable federal and 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 hers arms, legs or body.

# Reportable Incidents

- 5. *Use of aversive conditioning*** shall mean the application of a physical stimulus that is intended to induce pain or discomfort 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, the withholding of meals and the provision of substitute foods in an unpalatable form. The use of aversive conditioning is prohibited by OPWDD.

# Reportable Incidents

- ***Unlawful use or administration of a controlled substance***, which shall mean any administration by a custodian to a service recipient of: a controlled substance as defined by article thirty-three of the public health law, without a prescription; or other medication not approved for any use by the Federal Food and Drug Administration (FDA). 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.



# Reportable Incidents

- 8. *Neglect*** shall mean any action, inaction, or lack of attention that breaches a custodians 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:
- i. 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) of this subdivision if committed by a custodian;
  - ii. Failure to provide adequate food, clothing, shelter, medical, dental, optometric or surgical care, consistent with parts 633, 635, and 686 of this Title, 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

# Reportable Incidents

## ***Neglect Cont.***

- iii. 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.

# Reportable Incidents

All Reportable Abuse/Neglect Incidents (1-8 listed previously) MUST be reported to:

Justice Center: EVERY direct witness and the first-line supervisor must report. This report may be completed one of two ways:

- By phone: 1-855-373-2122
- Electronically: <https://vpcr.justicecenter.ny.gov/wi>

Be sure to document the JC Identifier # and give this information to the Incident Management Staff

# Reportable Incidents

All Reportable Abuse/Neglect Incidents **MUST** also be reported to the Catholic Charities Incident Management Line immediately upon discovery:

- By phone : Call 607-244-8489

A Catholic Charities Incident Report form should be completed immediately after notification. Attach detailed statements from all witnesses of any incident to the report forms when submitting them to the Incident Management Office.

# Reportable Incidents

## *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 but not be limited to the following:

# Reportable Incidents

## ***Significant Incidents***

(a) *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; or*

# Reportable Incidents

## *Significant Incidents*

*(b) 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 that impairs or creates a reasonably foreseeable potential to impair the health, safety, or welfare of an individual receiving services*

# Reportable Incidents

## ***Significant Incidents (b)***

1. *Seclusion* – 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.



# Reportable Incidents

## *Significant Incident (b)*

2. *Unauthorized use of time-out* – For the purposes of this subclause only, means 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;

# Reportable Incidents

## ***Significant Incidents (b)***

3. Except as provided for in paragraph (7) of this subdivision; *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 effects the well being of a person receiving services.

# Reportable Incidents

## ***Significant Incidents (b)***

4. *Inappropriate use of restraints* – The use of a restraint, when the technique 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 his or her arms, legs or body;

# Reportable Incidents

## ***Significant Incidents (b)***

5. *Mistreatment* – Other conduct on the part of the custodian, inconsistent with the individuals 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.

# Reportable Incidents

## ***Significant Incidents***

(c) *Missing person at risk of injury* – The unexpected absence of an individual receiving services that based on the persons history and current condition exposes him or her to risk of injury.

# Reportable Incidents

## *Significant Incidents*

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

# Reportable Incidents

## *Significant Incidents*

(e) *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 the partial or complete inability to breathe, involving an individual with a known risk of choking and a written directive addressing that risk.

# Reportable Incidents

## ***Significant Incidents***

(f) *Choking, with no known risk* – For the purposes of this paragraph, partial or complete blockage of the upper airway by an inhaled or swallowed foreign body, including food, that leads that leads to the partial or complete inability to breath, other than “*choking, with known risk*” incident, involving and individual with a known risk for choking and a written directive addressing that risk;



# Reportable Incidents

## ***Significant Incidents***

(g) *Self-abusive behavior, with injury* – A self inflicted injury to an individual receiving services that requires medical care beyond first aid;

# Reportable Incidents

## ***Significant Incidents***

(h) *Injury, with hospital admission* – An injury that results in the admission of a service recipient to a hospital for treatment or observation, except as defined in clause (g) of this paragraph;

# Reportable Incidents

## ***Significant Incidents***

(i) *Theft and 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 recipients credit, debit, or public benefit card (regardless of amount involved); or a pattern of theft or financial exploitation involving the property of one or more individuals receiving services;

# Reportable Incidents

## ***Significant Incidents***

(j) *Other significant incident* – An incident that occurs under the auspices of an 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 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.

# Reportable Incidents

All Reportable Incidents (#9 listed previously) MUST be reported to:

Justice Center: EVERY direct witness and the first-line supervisor must report. This report may be completed one of two ways:

- By phone: 1-855-373-2122
- Electronically:  
<https://vpcr.justicecenter.ny.gov/wi>

Be sure to document the JC Identifier # and give this information to the Incident Management Staff

# Reportable Incidents

All Reportable Abuse/Neglect Incidents MUST also be reported to the Catholic Charities Incident Management Line immediately upon discovery:

- By phone : Call 607-244-8489

A Catholic Charities Incident Report form should be completed immediately after notification. Attach detailed statements from all witnesses of any incident to the report forms when submitting them to the Incident Management Office.

# Reportable Incidents

**All other required notifications to state oversight agencies will be made by the Incident Manager after classifying the incident.**

# Reportable Incidents

***ALL* notifications listed on the Catholic Charities incident report form must be made, and documented on the form immediately following a call to the Incident Reporting Line.**



# Notable Occurrences

**Notable Occurrences are events of situations that meet the definitions in this section and occur under the auspices of an agency. Serious Notable and Minor Notable Occurrences must be reported to Incident Manager Immediately. Serious and Minor Notable Occurrences are defined and categorized as follows;**

**(i) Serious Notable Occurrences**  
(a) *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. When death also meets the definition of a reportable incident it must be reported as both a reportable incident and as a notable occurrence.

- (i) **Serious Notable Occurrences**
- (b) *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.

## (ii) Minor Notable Occurrences

(a) *Theft or financial exploitation, minor notable occurrence* – Any suspected theft of a service recipients 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;

## (ii) Minor Notable Occurrences

(b) *Injury, minor notable occurrence* – 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, physicians assistant, or nurse practitioner, and such treatment is more than first aid.

# Reporting Deaths

Special considerations for reporting deaths:

Deaths of individuals who receive services from an agency operated or certified by OPWDD at the time of death or within 30 days of death must be reported to the Justice Center. Reporting is required for both deaths that are under the auspices of the agency and deaths that are not under the auspices of the agency.

# Reporting Deaths

The Justice Center requires that deaths be reported to the (VPCR) Death Reporting Line at **1-855-373-2124**, which is a distinct reporting line and is separate from the VPCR Hotline to report abuse, neglect, and significant incidents. Only the agency Director, or his or her designee, is authorized to report deaths to the Justice Center.

**An Employee who becomes aware of a death should immediately report the death to his/her supervisor and immediately call the agency's Incident Management Reporting Number.**

# REMEMBER

If you witness or discover a reportable incident, possible abuse/neglect, or notable occurrence, you are expected to take the following actions:

- **IMMEDIATELY INTERVENE** to stop the abuse (if applicable)
- **PROTECT** the individual from further harm and get medical help if needed
- **IMMEDIATELY REPORT** the incident to your supervisor and the Incident Reporting Line.



# REMEMBER

- Be honest and truthful when reporting
- Maintain information confidentiality
- Cooperate fully with investigations
- Work to repair damaged relationships with individuals following an incident
- **Remember that failure to take action may in and itself be considered abuse!**

# Notification of Incidents

Information Sharing

# Notification of Incidents and Information Sharing

Notification requirements have been established to assure that the appropriate people are notified when an incident occurs. Reporting requirements are tied to the level and type of the incident or situation.

Notification requirements and guidance regarding responsible personnel are available and well documented on the OPWDD website on the Incident Management webpage at the link below:

[http://www.opwdd.ny.gov/opwdd\\_resources/incident\\_management/justice\\_center](http://www.opwdd.ny.gov/opwdd_resources/incident_management/justice_center)

# Information Sharing and Confidentiality

OPWDD takes its responsibility to support staff that follow policies and procedures very seriously. It is expected that staff will be honest and accurate when providing information within the context of an investigation. It is important also, that staff avoid breaching confidentiality by refraining from discussing the incident with coworkers, friends or people outside of work. Even a casual mention in a text message, in the parking lot, at a restaurant, or on Facebook or other social media, must be avoided.

# Jonathan's Law

Jonathan's Law was put into place to govern the way in which information and reports of investigations are shared, and with whom. You may be asked for information by family members or advocates about the investigation progress or your involvement. You should refer the person requesting information to your supervisor so that only the appropriate people share information with those with a right to know.

# Notification Process Overview

Once an incident has been reported, the process for notifying the appropriate people who need to know comes into play. Depending on your job responsibilities, you may have a role in making notifications beyond your supervisor. ***EVERY WITNESS, as well as the first-line supervisor, to a reportable incident is required to report to the Justice Center. This needs to be done AS SOON AS PRACTICABLE.*** All calls to the Justice Center are recorded. All notifications to the IMU (OPWDD Incident Management Unit) will be made by the agency Incident Manager.

# Notification Process Overview

Additional persons that may need to be reported to:

- Family/Guardian/Advocate
- DDSOO/DDRO Director/Designee
- Local Law Enforcement
- Medicaid Service Coordinator (MSC)
- Mental Hygiene Legal Services (MHLS)

# Part 625





## Part 625 - Events and Situations that are not under the auspices of an agency

Part 625 is a new regulation which directs how OPWDD will intervene in events or situations which are NOT “under the auspices” of an agency. “Not under the auspices” basically means that the individual receiving services is not directly under the supervision of the agency staff at the time of the event.

## Part 625 - Events and Situations that are not under the auspices of an agency

Definitions in part 625 are different from those in part 624. Additionally, there are different requirements for responding to a Part 625 event.

Part 625 requires that if an agency becomes aware of an event or situation that occurred in a facility or service setting subject to the oversight of another State Agency (e.g., school, hospital, doctor's office) the agency must notify the management of the facility or service setting.

## Part 625 - Events and Situations that are not under the auspices of an agency

If the event or situation occurred in a facility or program in the OPWDD system, the agency must notify the facility or program.

**IMPORTANT** – if the facility or program is certified or operated by OPWDD, an employee who becomes aware of a reportable incident must also report the incident to the Justice Center.

## Part 625 - Events and Situations that are not under the auspices of an agency

Per Part 625, the agency shall intervene in an event or situation that meets the definition of physical, sexual, or emotional abuse; active, passive or self neglect; or financial exploitation by taking actions to protect the involved individual with developmental disabilities. Such actions, as appropriate, may include but not be limited to:

## Part 625 - Events and Situations that are not under the auspices of an agency

1. Notifying an appropriate party that may be in a position to address the event or situation (e.g. Statewide Central Register of Child Abuse and Maltreatment, Adult Protective Services, law enforcement officials, family members, school, hospital, or the Office of Professional Discipline);
2. Offering to make referrals to appropriate service providers. Clinicians, State Agencies, or other appropriate parties;
3. Interviewing the involved individual and/or witnesses;
4. Assessing or monitoring the individual;
5. Reviewing records and other relevant documentation; and
6. Educating the individual about his or her choices and options concerning the matter.