

POLICY STATEMENT: Abuse and Neglect of Persons Served

Adopted by the Board of Directors 04/30/2015

It is the policy of Open Options UCP that all forms of abuse or neglect of a person served including but not limited to those listed below are prohibited. This policy applies to employees, volunteers, and other persons working on behalf of the agency over whom we have functional control. Any employee, volunteer, or other person working on behalf of the agency observing, suspecting or receiving information about abuse and neglect potentially committed by (including but not limited to) employees or agents of this organization, consultants, employees of other agencies serving individuals, outside caregivers such as healthcare professionals, family members or legal guardians shall make a report in accordance with these procedures.

Physical Abuse is defined as

- a. Purposefully beating, striking, wounding or injuring any person served; or
- b. In any manner whatsoever, mistreating or maltreating a person served in a brutal or inhumane manner. Physical abuse includes handling a person served with any more force than is reasonable for a person served's safety, treatment or management. Other examples are slapping, pushing, kicking, and pinching.

Verbal Abuse is defined as use of profanity or speaking in a demeaning, non-therapeutic, undignified, threatening or derogatory manner to a person served or about a person served in the presence of a person served.

Sexual Abuse is defined as any touching, directly or through clothing by an employee of a person served for sexual purposes or in a sexual manner. This includes but is not limited to:

- Kissing
- Touching of the genitals, buttocks or breasts,
- Causing a person served to touch the employee for sexual purposes;
- Promoting or observing for sexual purpose any activity or performance involving persons served including any play, motion picture, photography, dance, or other visual or written representation,
- Failing to intervene or attempt to stop or encouraging inappropriate sexual activity or performance between persons served,
- Encouraging inappropriate sexual activity or performance between persons served.

Misuse of Funds/Property is defined as the misappropriation or conversion for any purpose of a person served's funds or property with or without the consent of the person served.

Neglect is defined as (a) failure of an employee to provide reasonable and necessary services to maintain the physical and mental health of any person served when that failure presents either imminent danger to the health safety or welfare of a person served or a substantial probability that death or physical injury would result, and / or (b) failure of an employee to provide reasonable and necessary services to a person served according to the individualized treatment or habilitation plan, if feasible, or according to acceptable standards of care. This includes action or behavior which may cause psychological harm to a person served due to intimidating, causing fear, or otherwise creating undue anxiety.

The actions defined herein are prohibited with or without a person served's consent. The above definitions are consistent with Missouri Revised Statutes and the Missouri Code of State Regulations. Should a conflict exist between the above definitions and current or forthcoming State definitions, the applicable State definitions shall prevail.

Any form of abuse or neglect, as defined in this policy, may be against the law and when it is suspected appropriate actions are required. Procedures shall be set forth to designate appropriate notifications and employees responsible. Those who fail to report incidents or suspected incidents are subject to disciplinary action or criminal prosecution, or both. There shall be no reprisal against any employee who in good faith makes an appropriate and reasonable report of abuse or neglect when it is suspected.

ABUSE AND NEGLECT PREVENTION

PROCEDURE - All Programs

Training for Employees and Persons served: Training will be provided to staff members regarding individual rights of persons served, positive interactions, and definitions, prevention, detection and reporting of abuse and neglect situations.

Individuals receiving services will have an opportunity at least annually to review and discuss their rights in the program and as a citizen, and to review the organization's complaint

procedures. Additional training of self-advocacy skills will be provided to persons served who express the need.

Pre-Employment Screening: All persons considered for employment shall be screened according to state statute through processes to detect criminal convictions and allegations or findings of abuse or neglect of vulnerable persons.

Employee Handbook: This policy is reviewed with employees upon hire and is also contained in the Employee Handbook.

Sexual Abuse Prevention: In order to prevent sexual abuse and molestation, and prevent the perception of or false allegations of sexual abuse and molestation, staff and volunteers shall abide by these procedures.

- a. A male employee may not participate or assist in the personal care of female persons served without the direct and constant physical presence of a female employee. In addition, a male employee may not assist in personal care without signed written acknowledgment of the person served and her guardian. When assisting with personal care, all employees will maintain appropriate physical boundaries. Personal care includes bathing, dressing, lifting, transferring, and toileting.
- b. When possible, employees will be assigned taking into account the gender preferences of persons served and their guardian. In extenuating circumstances, however, employees may be scheduled against this preference to ensure a safe employee to person served ratio is maintained.
- c. Whenever reasonable, the “three person rule” applies to both male and female employees: no person served is left alone with one employee but rather there are always at least three people present (including employees, persons served, and/or volunteers.)

ABUSE AND NEGLECT REPORTING

PROCEDURE - All Programs

Anyone reasonably suspecting abuse or neglect, or receiving a report of alleged abuse or neglect, shall immediately report the alleged violation through one of the indicated reporting

procedures. Reporting procedures include:

- A direct verbal or written report to your supervisor or a member of agency management
- A written summary of the event submitted to agency management
- A voice mail on the Open Options UCP Hotline at 816-983-2255
- A phone call to the Support Coordinator for the persons served
- A phone call to the Kansas City Regional Office at 816-889-3400
- A phone call to the Department of Mental Health Office of Consumer Affairs at 1-800-364-9687

Notification must occur whether the alleged incident occurs in or out of the organization's care. According to state statute, all employees of our organization are mandated to report suspected abuse and neglect and are subject to criminal charges for failing to make a report. Any supervisor receiving a report shall notify the Director of Community Living. The Director of Community Living will ensure that an event report is completed, and a report to the appropriate state agency has been filed in compliance with state statutes. If for any reason the Director of Community Living is not the appropriate person to receive the initial report or is unavailable, it shall be reported to the President/CEO.

In certain cases the Director of Community Living or President/CEO shall notify law enforcement. As defined by State guidelines, local law enforcement shall immediately be notified of any alleged or suspected:

- sexual abuse,
- abuse or neglect which results in physical injury,
- abuse, neglect or misuse of funds or property which may result in a criminal charge
- the absence or potential theft of a controlled substance.

An event report shall be completed for all allegations of abuse, neglect, or misappropriation of the funds of persons served. If the person initially reporting the allegation fails to complete an event report within 24 hours, then the person(s) receiving or investigating the report shall submit an event report describing the allegation as reported. All notifications of the allegation shall be documented.

ABUSE AND NEGLECT INVESTIGATION

PROCEDURE - All Programs

The Director of Quality Enhancement, or an alternate designee as directed by the President/CEO, shall be responsible for investigating allegations of abuse and neglect (or events that may involve abuse or neglect but are not clearly alleged as such) and for informing the following parties of the allegation and the results of the internal investigation: appropriate state agency, Support Coordinator, and legal guardian of persons served named. Parents and guardians shall not be informed of the names of involved employees/volunteers.

If a reported event involves or potentially involves any of the following, the Director of Quality Enhancement or designee will complete an initial “inquiry” to ensure accurate, factual, and consistent information has been reported:

- Abuse or neglect per the definitions in policy
- Employee Misconduct
- Theft
- Falsification of Records/Documentation
- Violation of Policy/Procedure
- Violation of Persons Served Rights
- Inappropriate Verbal Behavior
- Inappropriate Physical Behavior

This inquiry must begin within 24 hours of the report or within the next business day of the report. If sufficient information has already been collected at this point, the inquiry data and initial event report are submitted to the Director of Community Living to complete any necessary follow-up (corrective action, employee termination, retraining, etc.).

If after completion of the initial inquiry, further information is still needed, an internal investigation may be warranted and initiated by the Director of Quality Enhancement or designee. At this time, the Director of Quality Enhancement will designate the “Lead Investigator” (most typically the Director of Quality Enhancement) and he/she then assigns a “Second Investigator” to assist with the investigation. The Director of Community Living or a Division Director may serve as either the Lead Investigator or Second Investigator, except in instances where the alleged incident has occurred within that specific Division Director’s division. For incidents involving Human Resource specific issues (such as sexual harassment, discrimination, etc.), the Director of Human Resources will act as the “Lead Investigator” and may assign a “Second Investigator” to assist with the investigation. In these instances, the

Second Investigator may be the Human Resources Assistant, Director of Community Living, or Director of Quality Enhancement.

An internal investigation may be delayed or forgone in deference to a police investigation. The President/CEO may instruct employees to suspend internal procedures in this section in order to allow the police investigation and state investigation to proceed without overlapping activities.

The internal investigation and full investigation report will be completed and submitted to the President/CEO within 10 business days of the alleged incident or initial report. If the report extends beyond this timeline, a status report will be given to the President/CEO with a revised target date of completion.

The internal investigation shall include the following:

- a. The specific details of the alleged incident, including date, location, and a brief description. If an injury is evident or if the allegation involves physical abuse, sexual abuse, the person served shall be promptly examined by the appropriate physician. If applicable, the injury shall be photographed.
- b. Actions Taken to Preserve the Safety of Persons Served While Investigation is Being Conducted: The Lead Investigator and Director of Community Living will determine what steps are necessary to protect persons served during the investigation, including administrative leave or reassignment of employee(s)-involved.
- c. Interviews: The Lead or Second Investigator, shall interview the person(s) served, employee(s) and/or volunteer(s) involved. Documented evidence, including signed statements, should be obtained whenever possible.
- d. Findings: The findings consist of what is the conclusion of the investigation. It is answering the question, "Based on the information gathered over the course of this investigation, did the alleged perpetrator engage in the alleged action?" If the answer to that question is no but other information was identified, this should also be indicated.
- e. Additional Information to be Considered (Recommendations, Noted Concerns, Follow-up Needed): This section consists of the investigator's recommendations based on what was found in the course of the investigation, their noted concerns, and what they believe would be the appropriate follow-up needed to address all the noted concerns.

At the conclusion of the internal investigation, the Lead Investigator submits the completed Incident Investigation and Investigation Checklist to the President/CEO. At this time, further information may be requested or corrections may be made to the investigation document. The investigation findings and recommendations are reviewed with the Director of Community Living and, if applicable, the alleged perpetrator's supervisor. The President/CEO and Director of Community Living determine the course of action to be taken based on the investigation report, recommendations, and noted concerns, and follow-up should all be addressed and documented. Employment actions may include: termination, suspension, transfer of job assignment, disciplinary action, additional training, or dismissing the allegation.

The President/CEO, and/or Director of Community Living will ensure total ~~staff~~ employee cooperation with subsequent outside investigations of any allegation, and that the appropriate response is made when the investigation is completed. Failure to cooperate with an internal or external investigation may result in disciplinary action up to and including termination. Additionally, there shall be no act of reprisal or retaliation against any person who makes a report of abuse or neglect in good faith. Any employee who engages in retaliation shall be subject to disciplinary action, up to and including immediate termination.

Appropriate State Agencies include, but are not limited to the following:

- For alleged abuse of an adult in Missouri, notify the Kansas City Regional Office, Division of Developmental Disabilities, 816-889-3400, or DMH Office of Consumer Affairs 1-800-364-9687, or Missouri Division of Aging, 1-800-392-0210.
- For alleged abuse of a child, notify Missouri Division of Family Services, 1-800-392-3738.
- For alleged abuse of any adult or child in the State of Kansas, notify SRS, 1-800-922-5330