

Neglect

POLICY STATEMENT: Abuse and Neglect, and Misuse of Funds/Property of Persons Served

Adopted by the Board of Directors 02/23/2017

Open Options is committed to a culture wherein all persons served feel safe and are free from any inappropriate behaviors of others that could result in physical or emotional harm. All forms of abuse or neglect of a person served including but not limited to those defined below are prohibited. This policy applies to employees, volunteers, and other persons working on behalf of the organization over whom we have functional control. Any employee, volunteer, or other person working on behalf of the organization 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.

ABUSE, NEGLECT, AND MISUSE OF FUNDS/PROPERTY DEFINITIONS

Physical Abuse is defined as:

- An employee purposefully beating, striking, wounding or injuring any individual;
- In any manner whatsoever, an employee mistreating or maltreating an individual in a brutal or inhumane manner;
or
- An employee handling an individual with any more force than is reasonable for an individual's proper control, treatment or management.

Verbal Abuse is defined as an employee making a threat of physical violence to an individual, when such threats are made directly to an individual or about an individual in the presence of an individual.

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 an individual's funds or property by an employee or employees with or without the consent of the individual, or the purchase of property or services from an individual in which the purchase price substantially varies from the market value.

Neglect is defined as the failure of an employee to provide reasonable or necessary services to maintain the physical and mental health of any individual when that failure presents either imminent danger to the health, safety or welfare of an individual, or a substantial probability that death or physical injury would result. This would include, but is not limited to, failure to provide adequate supervision during an event in which one individual causes serious injury to another.

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, neglect, or misuse of funds/property 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 up to and including termination and/or criminal prosecution. 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 employees 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: To prevent sexual abuse and molestation, and prevent the perception of or false allegations of sexual abuse and molestation, employees 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 (as documented in the Individual Support Plan). 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 considering 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.

ABUSE AND NEGLECT INTERVENTION AND REPORTING

PROCEDURE - All Programs

Immediate Intervention – Anyone observing someone engaging in behavior that is inappropriate and potentially abuse, neglect, misuse of funds/property, must immediately intervene to stop the behavior from occurring. This may involve:

- Saying something privately to the employee or volunteer, telling them exactly what you are concerned about while maintaining their dignity
- Intervening directly and immediately to take over for them so they may leave the work area
- Ask the employee to remove themselves from the situation

In all situations, employees are responsible for ensuring the person served is safe, and providing any support or attention that is needed. Failure to immediately address any behavior that leaves a person served in imminent danger or at risk for serious harm may result in disciplinary action up to and including termination. Disciplinary action may involve the employee observing the behavior, the employee receiving the report, and/or employees responsible for the supervision and administration of the location.

Reporting – Anyone who has observed or received a report of behavior that is inappropriate and potentially abuse, neglect, misuse of funds/property shall immediately report the alleged violation through one of the indicated reporting procedures. Direct reporting methods include:

- A direct verbal, written, or electronic 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 Anonymous Reporting Line at 816-983-2255

Although direct reporting to Open Options is strongly advised so that immediate action can be taken and, potentially, an internal investigation initiated, per Missouri law employees have the right to make a report confidentially and anonymously. Making a report of any kind does not remove the responsibility of the employee(s) observing or receiving the report to immediately intervene as indicated above. Reporting should still be done immediately after observing or receiving a report of the behavior, and may be done through the following methods:

- Contacting the person served's Support Coordination provider by phone or email
 - Eitas: (816) 363-2000
 - Kansas City Regional Office at 816-889-3400
- Contacting the Department of Mental Health Office of Constituent Services
 - Phone: 1-800-364-9687
 - Email: constituentsvcs@dmh.mo.gov

Reporting must occur whether the alleged behavior 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 the program. For Community Living, this is the Director of Community Living. The Director of the program 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 the program 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 the program 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 events where there is a report, allegation, or suspicion that a person served has been subjected to misuse of funds/property, neglect, physical abuse, sexual abuse, or verbal abuse (Missouri CSR 10-5.200). 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 and Training and Compliance Officer (or an alternate designee as directed by the President/CEO) shall be responsible for investigating reported events potentially involving one or more of the following:

1. Abuse or neglect per the definitions in policy
2. Employee Misconduct
3. Theft
4. Falsification of Records/Documentation
5. Violation of Policy/Procedure
6. Violation of Persons Served Rights
7. Inappropriate Verbal Behavior
8. Inappropriate Physical Behavior

This investigation must begin within 24 hours of the initial report (whether verbal, written, or electronic) or within the next business day of the report. For all investigations not meeting the HR-specific criteria indicated below, the Director of Quality Enhancement will serve as the “Lead Investigator,” the Training and Compliance Officer will serve as the “Second Investigator” to assist with the investigation. In the Director of Quality Enhancement’s absence, the Training and Compliance Officer will serve as the Lead Investigator and the Director of Community Living or a Division Director may serve as 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 Vice President, 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, Director of Quality Enhancement, or Training and Compliance Officer.

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 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 5 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.

Information to be included in the internal investigation report shall include but not limited to the following:

- a. The specific details of the alleged incident, including date, location, and a brief description.
- b. Specific actions taken to preserve the safety of person(s) served while the investigation is being conducted.
- c. All relevant evidence gathered, which may include: interview written statements, documentation, and photos (if applicable).
- d. The conclusion or findings of the investigation.
- e. Additional information to be considered. This section consists of the investigators' recommendations based on what was found during the investigation, their noted concerns, and what they believe would be the appropriate follow-up needed to address all the noted concerns.

Note: in both the Findings and Additional Information to be Considered, the investigator(s) may recommend "disciplinary action up to and including termination." However, the final determination of specific employment action or the type of disciplinary action is determined by Vice President, Human Resources and the Director of the program.

After the internal investigation, the Lead Investigator submits the completed Incident Investigation, corresponding evidence gathered, and Investigation Checklist to the President/CEO. At this time, further information may be requested or corrections may be made to the investigation document. Once the President/CEO has reviewed the finalized investigation document, the Director of Quality Enhancement reviews the investigation findings and recommendations with the Director of the program and, if applicable, the supervisor of the employee under investigation. The Vice President, Human Resources and Director of the program determine the course of action to be taken based on the investigation report, recommendations, and noted concerns, and actions taken should be 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 the program will ensure total 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, or DMH Office of Consumer Affairs, or Missouri Division of Aging.
- For alleged abuse of a child, notify Missouri Division of Family Services.
- For alleged abuse of any adult or child in the State of Kansas, notify KDADS.