

**Coarc OPWDD Programs
Incident Reporting and Management**

Approved by/Date:

Coarc Board of Directors / 1/22/2018

Minor updates for reporting procedures

Carolynn Anklam, CQO / 1.23.2020

Coarc Incident Reporting and Management Policy

The Board of Directors establishes the Incident Reporting and Management Policy for Coarc and approves any significant modifications in the document. It is the responsibility of all staff and interns, volunteers, consultants and contractors to review this Policy and make every effort to prevent incidents from occurring. When an incident does occur, the immediate priorities are to avoid further injury and provide necessary safeguards or supports. Following these steps, all incidents are reported, investigated and reviewed.

Coarc is Council on Quality and Leadership (CQL) accredited. This Policy takes into consideration the CQL Basic Assurances, specifically Factor Four "Protection from Abuse, Neglect, Mistreatment and Exploitation". This Policy defines and prohibits abuse, neglect, mistreatment and exploitation.

This Policy is available to all individuals, staff, and other stakeholders upon request. Additionally, Coarc makes available the "*Learning About Incidents*" pamphlet via the Coarc website: www.coarc.org. This document presents the incident reporting and management practices in a concise manner for the individuals and their families.

This policy applies to the following programs:

All OPWDD Programs

This policy applies to all events or situations that fall under the auspices of the agency.

Auspices for the purposes of this Part and Part 625, is an event or situation in which the agency is providing services to a person. The event or situation can occur whether or not the person is physically at a site owned, leased, or operated by the agency. Specific examples can be found in the Part 624 Handbook issued by OPWDD.

Recognition of Incidents: All forms of abuse, neglect, mistreatment and exploitation are strictly prohibited at Coarc. Employees receive initial training during their probationary period about abuse prevention and incident reporting requirements. This training teaches them how to prevent, detect and report allegations of abuse, neglect, mistreatment and exploitation. This is repeated annually and additional competency-based training is provided per program request. Consultants and contracted agents receive training as needed and upon request.

Coarc expects that all staff intervenes on behalf of the individuals we serve in an effort to ensure safety, reduce further harm and stop abuse. All staff is expected to promptly report any unusual situations or events to their supervisor immediately, regardless of whether they understand the situation's classification, after everyone's wellbeing is ensured. Definitions and circumstances surrounding what events should be considered as incidents and what events should not frequently change. Coarc's management staff is responsible for appropriately classifying incidents. Resources from the Justice Center and OPWDD are available online to assist with classification. In some cases the Justice Center may classify the event directly. For comprehensive information regarding each category of incident type, please refer to the 624 regulations and corresponding handbook.

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NOTE: the word "individual" used in this Policy refers to a person receiving services or a person with an intellectual/developmental disability.

Procedures

Procedures for each aspect of this Policy are outlined below. The Table of Contents identifies major components of the Policy and the location in this document.

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CLASSIFICATION OF INCIDENTS

Reportable Incidents

1. Abuse/Neglect

The following types of events require the mandated reporter to report the event to the Vulnerable Persons' Central Register (VPCR) and to OPWDD.

NOTE: For a voluntary provider (such as Coarc), the requirement to contact the VPCR is limited to those situations involving an OPWDD certified setting/service. Example: a Reportable Incident involving an MSC is not reported to the Justice Center via the VPCR as this is not a certified service. It is however reported to OPWDD.

As referenced NYS Penal Law Definitions:

Intentionally: A person acts intentionally with respect to a result or to conduct described by a statute defining an offense when his conscious objective is to cause such result or to engage in such conduct.

Recklessly: A person acts recklessly with respect to a result or to a circumstance described by a statute defining an offense when he is aware of and consciously disregards a substantial and unjustifiable risk that such result will occur or that such circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. A person who creates such a risk but is unaware thereof solely by reason of voluntary intoxication also acts recklessly with respect thereto.

- *Physical abuse*, meaning 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 an individual or causing the likelihood of such injury or impairment. Such conduct may include, but is 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 does not include reasonable emergency interventions necessary to protect the safety of any person.
- *Sexual abuse*, meaning any conduct by a custodian that subjects an individual receiving services to any offense defined in article one hundred thirty 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 an individual to engage in any act described in articles two hundred thirty or two hundred sixty-three of the penal law. For purposes of this paragraph only, an individual who is or was receiving services and is also an employee or volunteer of a service provider is not considered a custodian if he or she has sexual contact with another individual receiving services who is a consenting adult who has consented to such contact.

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CLASSIFICATION OF INCIDENTS (cont.)

Reportable Incidents (cont.)

1. Abuse/Neglect (cont.)

- *Psychological abuse*, meaning conduct by a custodian intentionally or recklessly causing, by verbal or non-verbal conduct, a substantial diminution of an individual's emotional, social or behavioral development or condition, supported by a clinical assessment performed by a physician, psychologist, psychiatric nurse practitioner, licensed clinical or master social worker or licensed mental health counselor, or causing the likelihood of such diminution. Such conduct may include but is not be limited to intimidation, threats, the display of a weapon or other object that could reasonably be perceived by an individual as a means for infliction of pain or injury, in a manner that constitutes a threat of physical pain or injury, taunts, derogatory comments or ridicule.
NOTE: A "Clinical Assessment of Substantial Diminution" must be completed by a qualified clinician and provided to the investigator(s) in order to determine substantiation of psychological abuse.
- *Deliberate inappropriate use of restraints*, meaning 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 treatment plan or behavior support plan, generally accepted treatment practices and/or applicable federal or state laws, regulations or policies, except when the restraint is used as a reasonable emergency intervention to prevent imminent risk of harm to an individual receiving services or to any other person. For 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 an individual to freely move his or her arms, legs or body.
- *Use of aversive conditioning*, meaning the application of a physical stimulus that is intended to induce pain or discomfort in order to modify or change the behavior of an individual. 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.
- *Obstruction of reports of reportable incidents*, meaning conduct by a custodian that impedes the discovery, reporting, or investigation of the treatment of an individual by falsifying records related to the safety, treatment, or supervision of an individual; actively persuading a mandated reporter from making a report of a reportable incident to the VPCR 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 governing state agency regulations, policies or procedures; or, for a mandated reporter who is a custodian as defined in Part 624, failing to report a reportable incident upon discovery.

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CLASSIFICATION OF INCIDENTS (cont.)

Reportable Incidents (cont.)

1. Abuse/Neglect (cont.)

- *Unlawful use or administration of a controlled substance*, meaning any administration by a custodian to an individual 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. It also includes a custodian unlawfully using or distributing a controlled substance as defined by article thirty-three of the public health law, at the workplace or while on duty.
- *Neglect*, meaning 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 an individual. Neglect includes, but is not limited to:
 - failure to provide proper supervision, including a lack of proper supervision that results in conduct between individuals that would constitute abuse as described in this Policy if committed by a custodian;
 - failure to provide adequate food, clothing, shelter, medical, dental, optometric or surgical care, consistent with the rules or regulations promulgated by the state agency operating, certifying or supervising the facility or provider agency, provided that the facility or provider 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 individuals; OR
 - 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 sixty-five of the education law and/or the individual's individualized education program.

2. Significant Incidents

The following types of events constitute a Reportable Significant Incident which means 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 that would constitute abuse as described in Policy if committed by a custodian, (this includes intentional actions that cause harm and require treatment beyond basic first aid)*. This is recorded as a group incident; please clarify on a case by case basis how to do this with respect to "victim" vs. "non-victim" with the Quality Services Director (QSD). NOTE: sexual activity involving individuals who are capable of consenting to the activity does not fall into this category.

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CLASSIFICATION OF INCIDENTS (cont.)

Reportable Incidents (cont.)

2. Significant Incidents (cont.)

- *Conduct on the part of a custodian, that is inconsistent with the individual's plan of services, or individualized educational program, generally accepted treatment practices, and/or applicable federal or state laws, regulations or policies, and which impairs or creates a reasonably foreseeable potential to impair the health, safety or welfare of an individual, including but not limited to:*
 - *seclusion, which means the placement of a person 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 promulgated regulations. Unless permitted by Section 633.16, the use of seclusion is prohibited;*
 - *unauthorized use of time-out, meaning the use of a procedure in which an individual 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 but does not include the use of a time-out as an emergency intervention to protect the health or safety of the individual or other persons;*
 - *except as provided for elsewhere in this policy, the administration of a prescribed or over-the-counter medication, which is inconsistent with a prescription or order issued for an individual by a licensed, qualified health care practitioner, and which has an adverse effect on the individual. For purposes of this paragraph, "adverse effect" means the unanticipated and undesirable side effect from the administration of a particular medication which unfavorably affects the well-being of a service recipient;*
 - *inappropriate use of restraints, meaning 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 an individual to freely move his or her arms, legs or body; OR*
 - *mistreatment, meaning other 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 which impairs or creates a reasonably foreseeable potential to impair the health, safety, or welfare of an individual, except as described in elsewhere in this Policy.*
- *Missing person, meaning the unexpected absence of an individual that based on the individual's history and current condition exposes him or her to risk of injury.*

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CLASSIFICATION OF INCIDENTS (cont.)

Reportable Incidents (cont.)

2. Significant Incidents (cont.)

- *Unauthorized absence, meaning the unexpected or unauthorized absence of a person after formal search procedures have been initiated and which reasoned judgements, taking into consideration the person's habits, deficits, capabilities, health problems, etc., determine when 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 whose absence constitutes a recognized potential danger, except as defined in above "Missing person" clause, to the wellbeing of others.*
- *Choking, with known risk, meaning 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, with no known risk, meaning 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 as noted above "Choking, with known risk".*
- *Self-abusive behavior, with injury, meaning a self-inflicted injury to an individual that requires medical care beyond first aid.*
- *Injury, with hospital admission, meaning an injury that results in admission of an individual to a hospital for treatment or observation because of the injury, except as defined in "Self-abusive behavior, with injury" above;
NOTE: if the injury is suspected to have been caused by abuse, the abuse must be reported as a reportable incident in accordance with this Policy.*
- *Theft and financial exploitation, meaning any suspected theft of an individual's personal property (including person funds or belongings) or financial exploitation, involving a value of more than \$100.00; theft involving an individual's credit, debit or public benefit card (regardless of the amount involved); or a pattern of theft or financial exploitation involving the property of one or more individuals receiving services.*
- *Other significant incident, meaning an incident that occurs under the auspices of Coarc, but that does not involve conduct on the part of a custodian and does not meet the definition of any other "Reportable Incident" type, 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 an individual.*

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Notable Occurrences

Notable Occurrences are events or situations that occur under the auspices of Coarc, of the types listed below, but that does not include events and situations that meet the definition of a "Reportable Incident".

EXCEPTION: Any death of an individual that meets the definition of a "Reportable Incident" must be reported as BOTH a "Reportable Incident" AND a "Notable Occurrence".

1. Serious Notable Occurrences:

- *Death*, meaning the death of any individual, regardless of the cause of death and includes deaths of all individuals living in residential facilities operated or certified by OPWDD and other deaths that occur under the auspices of Coarc.
- *Sensitive Situations*, meaning those situations involving an individual that do not meet the definitions of other incidents, but which may be of a delicate nature to Coarc, and are reported to ensure awareness of the circumstances. These situations include but are not limited to; actions by individuals which are or appear to be a crime under New York State or Federal Law. ***Additionally sensitive situations include those which in the judgment of the Chief Executive Officer (CEO) need to be brought to the attention of OPWDD, through the DDRO, as expeditiously as possible.*** Coarc has determined that some specific examples of sensitive situations include:
 - *accidents with vehicles that are of a significant nature (individuals need treatment, ticketed employee);*
 - *employees speeding/receipt of a moving violation ticket while providing services or supports to individuals (many factors must be reviewed such as drugs or alcohol use, texting driver recklessness or inattention, the speed at which the staff was driving in violation of the law, etc. and depending on the severity of these factors, the event may be reclassified as abuse or neglect);*
 - *emergencies with relocations (displacement of individuals due to fire, etc.);*
 - *HIPAA/HITECH violations; and/or*
 - *crimes committed by an individual.*

2. Minor Notable Occurrences

- *Theft or financial exploitation*, meaning any suspected theft of an individual'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 card and that is an isolated event.
- *Injury*, meaning any suspected or confirmed harm, hurt or damage to an individual, caused by that individual or by 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, physician's assistant or nurse practitioner, and such treatment is more than first aid (if x ray is done, positive results constitute injury); *if a physician prescribes medication only available by prescription for pain it is considered "more than first aid" and/or if an individual sustains an injury and does not require treatment beyond first aid, but later the individual develops an infection an infection and is prescribed an antibiotic.*

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Part 625 Events/Situations

Part 625 Events/Situations are those that occur when the individual is not under the auspices of Coarc. This includes individuals utilizing “alone time in the community,” on a home visit with family or admitted to another facility such as a hospital. This applies when there is no staff present and no expectation of staff to be present.

- *Physical abuse*, meaning non-accidental use of force resulting in bodily injury, pain, or impairment. This includes, but is not limited to, being slapped, burned, cut, bruised or improperly physically restrained.
- *Sexual abuse*, meaning non-consensual sexual contact of any kind. This includes, but is not limited to, forcing sexual contact with self or forcing sexual contact with a third person.
- *Emotional abuse*, meaning the willful infliction of mental or emotional anguish by threat, humiliation, intimidation or other abusive conduct. This includes, but is not limited to, isolating or frightening an individual.
- *Active neglect*, the willful failure by a caregiver to fulfill 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.
- *Passive neglect*, the non-willful failure by 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.
- *Self neglect*, meaning the individual's inability, due to physical and/or mental impairments, to perform tasks essential to caring for oneself, which includes but is 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.
- *Financial exploitation*, meaning the use of an adult individual'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.
- *Death*, meaning the end of life, expected or unexpected, regardless of cause.
- *Other*, meaning sensitive situations that do not fall into any previously defined category but which the CEO or his designee believe should be reported to OPWDD (see Appendix A Reporting Checklist for examples).

NOTE: Part 625 Events/Situations are not required to be reviewed by the Incident Review Committee; however they are maintained in the record in accordance with record retention requirements. Coarc's IRC does review Part 625 events as part of their regularly scheduled meetings.

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INCIDENT REPORTING REQUIREMENTS

The purpose of reporting incidents is to prevent their recurrence, to inform relevant personnel, to take corrective measures and to ascertain if further investigation, corrective, preventive and/or disciplinary action is necessary. Staff, program individuals, caretakers or other interested persons may report Incidents.

Failure of an employee to report an incident is considered grounds for disciplinary action, up to an including termination, except as follows:

Where multiple reports to the VPCR would be made regarding the same incident, a mandated reporter is not required to report the allegation to the VPCR when both of the following conditions are met:

1. the mandated reporter has actual knowledge that the incident was already reported to the VPCR; and
2. the mandated reporter has actual knowledge that he or she was named in the report as a person with knowledge of the incident.

“actual knowledge” is defined as the mandated reporter having direct and clear awareness that the report was made, such as witnessing, reading or overhearing the report being made to the VPCR.

If the mandated reporter maintains any doubts as to whether the report was made, or whether he or she was named in the report that was made, the mandated reporter should report the incident also.

The VPCR “confirmation number” received by the initial caller, is then documented in the electronic record.

All incidents are documented. Descriptive information concerning the Incident and its follow up are included in the incident report.

1. **Notifications:** As soon as it is determined that an incident has occurred notifications must begin. Notifications can vary greatly depending on the type of incident that has occurred. Please see the Reporting Checklists (Appendix A) for guidance on specific reporting requirements.

For all incidents the program chain of command must be made aware of the incident per the Reporting Checklist process. The CEO, CQO and QSD are made aware of the situation via the entry of the electronic incident record, which activates a notification email.

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INCIDENT REPORTING REQUIREMENTS (cont.)

1. Notifications (cont.)

There are certain types of incidents that require additional and unique notifications. These notifications are also outlined on the Reporting Checklists (Appendix A).

- **Jonathan's Law:** All classifications of incidents require Jonathan's Law notifications, which are an immediate telephone notification to the identified Jonathan's Law contact; the notification must include an offer to meet regarding the incident.
 - if the person to whom the Jonathan's Law notification is made requests an initial incident report a *copy of OPWDD form 147* must be sent to the contact.
 - A *Statement of Protections* (Appendix C) must be sent to the identified Jonathan's Law contact within ten business days. **NOTE: If the Jonathan's law contact is the person accused of an allegation of abuse, no Statement of Protections is sent.**
- **Interview notification for abuse/neglect investigations (Form 163):** for incidents accepted by the Justice Center, notification that interviews may take place must be made to the personal representative of the individual(s) who are alleged victim(s) or witness(es) within 24 hours or by close of the next business day (whichever is later).
 - If circumstances do not allow notification in the required timeframe, the interview with the alleged victim still occurs based on the investigation time line.
 - Specific instructions for completing the Form 163 are included in Appendix D.
 - If **additional** alleged victims or witnesses are identified during investigation documented verbal notice is made.
 - Circumstances where notice is not made include the following:
 - If the individual objects to the notification to the personal representative where the individual has been determined capable of consenting to this or to the notice;
 - would compromise the investigation;
 - would violate confidentiality laws;
 - would be contrary to a court order;
 - would otherwise be contrary to the best interests of the alleged victim; or
 - if the person lacks a personal representative; however efforts to identify a personal representative for future notice is made by the Program Planning Team including the individual and their MSC.
 - The Form 163 is scanned and attached to the electronic record of the incident by the end of the next business day and email notification is then sent to the QSD to confirm completion.
 - Original documented notices are included with the original evidence sent to the CQO who includes them in the final investigative report to the Justice Center
- **Law Enforcement:** All events that are suspected crimes committed against individuals must be reported to law enforcement. **EXCEPTION:** theft of an item determined to be valued at less than \$15.00.
 - **Allegations of physical abuse** must be reported to law enforcement. **EXCEPTION:** if the physical abuse is related to a restrictive physical intervention being performed appropriately by non-certified staff.
 - **Allegations of sexual abuse** must be reported to law enforcement.

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INCIDENT REPORTING REQUIREMENTS (cont.)

1. Notifications (cont.)

- **Willowbrook Class Members:** Willowbrook Class Members require specific notifications to the Consumer Advisory Board (CAB) as it relates to their status as previous residents of the Willowbrook State 'School'. See *The Reporting Checklist (Appendix A)* for the current specific names and contact information for each recipient noted below:
 - CAB Executive Director
 - Litigation Support
 - OPWDD Plaintiff's Counsel
 - CAB Plaintiff's Counsel 1
 - CAB Plaintiff's Counsel 2
 - *Jonathan's law notifications* must be made to the CAB Executive Director. A copy of OPW 147 must be faxed as it has been permanently requested in writing by the CAB for all future incidents. A Statement of Protections must also be sent to the CAB.
 - Mental Hygiene Legal Services (MHLS): for a report of abuse or neglect involving an individual, when under the auspices of Coarc and *who resides in a facility certified or operated by OPWDD*, the QSD (or designee) must fax the written initial incident/occurrence report (Form 147) to the MHLS designated contact within three working days (72 hours) of the occurrence or its discovery.

2. Documentation: Coarc maintains an electronic database for record keeping purposes. (See Appendix E). Incidents are documented electronically in this database. An incident should be entered into the database as soon as possible upon discovery and no later than 24 hours from the time of discovery.

- **Incident Report Management Application (IRMA):** In addition to the Coarc database all incidents must be documented in the New York State database, IRMA as follows:
 - no later than 24 hours (from discovery) or by the end of the next business day, whichever is sooner, for a *Reportable or Serious Notable Occurrence*, and
 - within 48 hours (from discovery) or by the end of the next business day, whichever is sooner, for a *Minor Notable Occurrence*.
 - Often times the Justice Center creates the incident in IRMA.
 - Managers and the QSD (or designee) review the information in IRMA for accuracy, completeness and to finalize the incident information.
 - The QSD (or designee) has the responsibility for closing incidents in IRMA based on final review and reporting requirements.

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INCIDENT INVESTIGATION AND MANAGEMENT

Any event that is a reportable incident or notable occurrence (both serious and minor) is thoroughly investigated by the QSD on behalf of the CEO. The QSD is responsible to assign Coarc investigators unless OPWDD or the Justice Center advises Coarc that the incident or occurrence will be investigated by OPWDD or the Justice Center and specifically relieves Coarc of the obligation to investigate. The QSD is the primary liaison for Coarc during investigation conducted by OPWDD or the Justice Center.

A formal investigation record is maintained for all investigations. Coarc investigators are assigned at the direction of the QSD who in turn reports back to the CEO and/or their designee(s). Staff accused of abuse cannot have contact with any individuals or anyone employed by Coarc except for the Chief Operating Officer (COO), QSD or Chief Human Resources Officer (CHRO). Coarc reserves the right to utilize investigations conducted by law enforcement agency staff in the place of an internal investigation.

NOTE: Coarc maintains a separate Investigation Policy and Procedures document that contains specific requirements for investigations.

All Incidents are tracked internally and are reviewed by various management staff once the investigation is finalized.

1. **Program of Record:** The following information is used to determine which program is responsible for the investigation and management of an incident.
 - If an individual receives IRA services the IRA program is responsible for the incident unless the event occurred while the individual was directly under the auspices of another service. Examples include clocked into a Day Habilitation service or clocked into work while receiving Supported Employment.
 - Day Services are responsible for incidents that occur while the individual is directly receiving the service. This includes transportation to and from the service.
 - Coarc MSC is responsible for incidents that involve individuals who receive Coarc MSC services and who live in the community and were not receiving another OPWDD service at the time of the incident.
 - If the individual receives non-Coarc MSC services and lives in the community the Day Service is responsible for the incident in the following order: Day Habilitation, Prevocational (Site-Based or Community-Based) and Supported Employment.
2. **Incident Management:** The Program Manager of the "Program of Record" is responsible for ensuring all reporting requirements and standards for incident management are met.

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INCIDENT INVESTIGATION AND MANAGEMENT (cont.)

- 3. Investigation:** Coarc ensures objective, prompt and thorough investigations of each allegation of abuse, neglect, mistreatment and exploitation and each injury, including injuries of unknown origin. Investigations may be conducted by the Justice Center, OPWDD or Coarc. This assignment is identified through review of OPWDD's Incident Report and Management Application (IRMA).
- *The Justice Center conducted investigations:* special considerations apply regarding staff involvement as the Justice Center investigators have the authority to make arrests.
 - Because a Justice Center investigation may, depending on the facts and circumstances, turn into a criminal matter, employees have the right to request to have their legal counsel, who is not personally involved in the matter (collectively "representative") present during any interviews or interrogations.
 - An employee has the right to request counsel/representation of their own choosing and at their own cost. Coarc is not responsible for assistance with selection or cost of representation.
 - An employee's refusal to be interviewed by the Justice Center or other law enforcement agency staff (e.g. Attorney General, local or state police department, etc.), without a representative present is not in and of itself viewed as a refusal to cooperate in an investigation and does not automatically result in disciplinary action.
 - *OPWDD and Coarc conducted investigations:* Employee cooperation is expected at all times.
 - Failure to participate in an investigation is a violation of the Coarc Rules of Conduct.
 - Employees who refuse to participate are subject to disciplinary action up to and including termination of employment.
 - As these investigations are conducted via administrative review, employees' right to legal counsel does not apply.
 - *Reportable Incidents:* Upon assignment to Coarc, these incidents are investigated by staff designated by the QSD.
 - A formal investigatory report is completed in the electronic record by the assigned investigators. This report is provided to the required state oversight agencies including OPWDD and the Justice Center, in the form and format specified by regulation, for Reportable Incidents - Abuse/Neglect only.
 - The QSD assigns investigators that are at arm's length of supervision of staff and individuals directly involved in the incident.
 - Arm's length is defined as not being in the direct chain of command of staff or individuals that are involved in the incident. This is to preserve the integrity of the investigation as well as allow for objectivity at the time of administrative review.

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INCIDENT INVESTIGATION AND MANAGEMENT (cont.)

3. Investigation (cont.):

- *Notable Occurrence Incidents:*
 - for serious notable occurrences, the QSD assigns staff to investigate that is at arm's length of supervision of staff and individuals directly involved in the incident;
 - for minor notable occurrences, QSD may assign staff to investigate that directly oversees the staff and the individuals involved in the incident;
 - should an investigation of a minor notable occurrence require reclassification to anything higher than a minor notable occurrence, the investigation is then reassigned to investigators that are at arm's length.
- *All Categories:* Investigations are completed within ten business days. If this time frame cannot be met the specific reason is documented as part of the investigation record.
- *Incident Upgrade/Additional Incidents:* If during the investigation process it is discovered that the incident must be upgraded, the QSD is notified immediately for review/discussion. Additionally if it is discovered during the course of an investigation that additional events should be reported as incidents, the investigator(s) must immediately contact the QSD, who reviews the events and contacts applicable program management staff to initiate reporting of the new event(s).
- *Administrative Review:* Upon conclusion of the investigation the QSD reviews the report to ensure that the investigation is ready for administrative review. The QSD then notifies the Program Manager or Director of the "Program of Record". This staff then begins the administrative review and is responsible for identifying any specific or systemic issues related to the incident as well as identifying any appropriate specific and/or systemic corrective action(s) related to program operations or employee performance. Upon completion of the review the next level of administrative review is notified and continues through the chain noted below:
 - Director of Residential Services (when the program of record is a supervised IRA), then the
 - Chief Operating Officer (as it relates to the identified chain of command for the program), then the
 - Quality Services Director, then the
 - Chief Quality Officer as identified for overall Incident Management oversight, then the
 - Chief Executive Officer and the
 - Chief Human Resources Officer (when disciplinary action for an employee has been recommended during the administrative review).

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4. Corrective Actions: Coarc expects that all incidents and issues identified by the investigation receive thorough, appropriate and prompt responses. These responses are defined as corrective actions. Corrective actions are identified by the administrative review process in response to investigation findings and recommendations.

- *Corrective Action Plans (CAPs):* All incidents result in a definitive CAP, prepared by the QSD (or designee) in conjunction with management staff. The CAP is reviewed by the CEO and the CQO prior to submission; once approved, for all allegations of abuse/neglect the CAP is submitted within **65** days of receipt of the Justice Center Letter of Determination. For all significant incidents and notable occurrences, the CAP is submitted within **50** days of the IRC closure of the incident. CAPs remain filed with the original investigative record.
- *Mitigation of reportable allegations of abuse/neglect:* In an effort to support the individuals subject to any report of an allegation of abuse/neglect, program management staff follows up upon closure of the incident within a timeframe of three business days to verify if the individual requests any additional support to mitigate any effects as a result of the incident. This is consistent with Coarc and CQL Basic Assurances expectations. This includes, but is not be limited to the following:
 - review of the incident if the individual desires;
 - discussion of the outcome of the incident if the individual requests this information;
 - offering support services such as counseling as requested; and/or
 - formal discussion with applicable parties, that the individual requests, be involved (program management, MSC, Circle of Support, other staff).

NOTE: All standards for disclosure regarding information in the incident/investigation are followed in accordance with this Policy.

5. Incident Review Committee (IRC): The IRC is comprised of members of the Board of Directors, the Director of Day and Residential Services and staff who are elected to a two year term by their program. At minimum the IRC must have a medical professional, a Board member, an individual receiving service, a member of a self-advocacy organization and a direct support professional. One person may fulfill more than one of these role requirements. The IRC ensures all regulatory requirements have been met and reviews recommendations from the administrative review process. The QSD is responsible to ensure the IRC recommendations are responded to and the IRC reserves the right to make additional recommendations.

- *Meeting Schedule:* The IRC meets every month. This ensures that all reportable incidents and serious notable occurrences are reviewed within thirty days of the date of discovery.
- *MHLS Notification:* The QSD or designee must fax *an extract* of the IRC Meeting Minutes for any incidents of abuse or neglect for an individual residing in a facility certified by OPWDD and under the auspices of Coarc to the MHLS contact person after the IRC Meeting at which the incident is reviewed. The extract must contain the date of the IRC Meeting, the attending Committee members and only the minutes relative to the specific individual in question, with signature/date of the QSD.

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INCIDENT INVESTIGATION AND MANAGEMENT (cont.)

5. Incident Review Committee (IRC) (cont.)

- **Trend Analysis:** On an annual basis, the QSD in conjunction with program management completes a trend analysis on the prior year's incidents, events/situations, inquiries into injury of unknown origin and deaths. This is in an effort to review and analyze trends, potential risks and sentinel events. Additionally the trend analysis evaluates potential underreporting and screening of allegations of abuse, neglect, mistreatment and exploitation. The "*Annual Trend Analysis Report*" is reviewed by the IRC as well as the Board of Directors and sent to OPWDD's Incident Management Unit.

6. False Reporting of Incidents and Behavior Support Plans (BSPs): Coarc adheres to the OPWDD guidelines for "Frequent False Reporting of Abuse, Neglect, or Mistreatment". All reports of these events by individuals are investigated to protect the rights of individuals and ensure appropriate and therapeutic response. At the same time false reporting can negatively impact an individual's daily life and a false reporting protocol may be necessary to include in a Behavior Support Plan. The development of the BSP is in accordance with Part 633.16 and the Coarc Behavior Services Policy. *Please see the Behavior Services Policy for more information about BSP development.*

- *To establish a pattern of false reporting* the following steps must occur:
 - there must be at least three similar unsubstantiated or false reports of abuse, neglect, or mistreatment made within the most recent six months. A full investigation in accordance with Part 624 and the Coarc Incident Investigation Policy must occur for each occurrence;
 - the QSD must review all reports and consider similarities including reporting by the same person, similar setting, circumstances, time of day, day of week and/or type of event. A pattern must be identified to establish any False Reporting Protocol in a BSP and
 - the Program Planning Team must follow all required steps as outlined in the Coarc Behavior Services Policy regarding False Reporting Protocols.
- **Expedited Investigation:** Should a report be made by an individual with a *False Reporting Protocol* an expedited investigation by the QSD or by the CEO established designee occurs.
 - notification to the QSD or designee must occur within one hour following the individual's report;
 - this investigation must commence immediately upon report and be completed within 24 hours;
 - a written report is completed by the QSD or designee;

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INCIDENT INVESTIGATION AND MANAGEMENT (cont.)

6. False Reporting of Incidents and Behavior Support Plans (BSPs) (cont.):

- *Expedited Investigation (cont.):*
 - the QSD and CEO review the written report within 24 hours of receipt;
 - if the written report indicates no reasonable cause to suspect that the event occurred then no report is made to the Justice Center or OPWDD.
 - Notification of the finding is sent to:
 - the individual (if a capable adult),
 - the Program Planning Team, Program Manager and Medicaid Service Coordinator,
 - involved employees (via the Program Manager) and
 - any person involved in providing consent for the plan (HRC Chair, guardians, etc.).
 - Report to the VPCR by all mandated reporters present and the QSD, or designee is made when:
 - the written report finds reasonable cause to believe the report is true OR the findings are inconclusive.
 - the QSD, designee, CEO or IRC disagree with the conclusion.
 - the expedited investigation cannot be completed within 24 hours.
 - the expedited review initially determines no reasonable cause but subsequent information suggests that there is reasonable cause to believe the report to be true.
- *Incident Review Committee and False Reporting Protocols:* All BSPs with a *False Reporting Protocol* are reviewed by the IRC every three months with a focus on:
 - review of types of reports made;
 - conclusion from investigation;
 - review of the individual's response to the *False Reporting Protocol*;
 - continued need for the *False Reporting Protocol*;
 - the IRC approves or denies continuation of the BSP that contains the *False Reporting Protocol*. This is documented in IRC meeting minutes.

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RECORDS RETENTION AND RELEASE

Records related to incident reporting are maintained for a period of no less than six years plus the current year from the date the incident was discovered. Any authorized request of information is honored by Coarc. Coarc reserves the right to make appropriate redactions to personally identifying information contained within the records prior to releasing them to an authorized party. Coarc ensures all requests are authorized prior to fulfilling them.

- *Release of Records in Reportable Allegations of Abuse/Neglect:* Social Services Law section 496 contains specific language outlining the disclosure of incident records and associated investigation documentation. Coarc discloses records in accordance with these provisions.
 - *Substantiated allegations of abuse/neglect:* The incident record and associated investigation documents remain unsealed and all associated disclosure provisions apply.
 - *Unsubstantiated allegations of abuse/neglect:* The incident record and associated investigation documents become sealed immediately and all associated disclosure provisions apply.
 - Specifically the record may be disclosed to:
 - The subject of the report;
 - Persons named in the report, which includes, but is not limited to, the individual's parent, guardian or other person legally responsible for such person; provided, however, that the names and other personally identifying information of custodians and other individuals are not included unless such custodians and individuals authorize disclosure.
 - Specifically the record may not be disclosed to the Department of Labor in any unemployment hearing.