



Incident Management Policy

VERSION: 4.0

EFFECTIVE DATE: 8/7/2023

APPROVER: Lisa John, Chief Compliance Officer

SIGNATURE: *Lisa John*

1. PURPOSE

The purpose for reporting, investigating, reviewing, and monitoring certain events is to enhance the quality of services provided to members, to protect members from harm, and to ensure that members are free from abuse and neglect. Prompt reporting ensures immediate steps are taken to protect members. This policy in part outlines the process for investigating, reviewing, and monitoring incidents and events reported at Care Design NY (CDNY).

As per NYS OPWDD Part 624.5, 624.7 regulations, every agency must have one or more incident review committees to review and monitor reportable incidents and notable occurrences that occur to people receiving services from the agency. This document also details the policy and procedures for the structure and responsibilities of the CDNY Incident Review Committee (IRC). Additionally, it is imperative that each member and family understands the role of the CCO and the member's Care Manager in reporting and/or investigating both reportable incidents and events/situations that come to our attention. All employees, applicable associates, and board members will be trained in Incident Management and this policy is required to be provided when beginning employment and reviewed annually thereafter.

2. SCOPE

The scope of this document encompasses the CDNY procedures for investigating, reviewing, and monitoring incidents and events including the responsibility of the IRC to review reportable incidents and notable occurrences to ascertain that they are reported, managed, investigated, and documented consistent with the provisions of NYS OPWDD Part 624 and 625 regulations and with agency policies and procedures. Included in this is the agency's responsibility to ensure that each member and family knows what to expect when an incident or event/situation takes place involving the member. Record retention and confidentiality of records are addressed as well.

3. DEFINITIONS

Custodian: A director, operator, employee, or volunteer of an agency; or a consultant or an employee or volunteer of a corporation, partnership, organization, or governmental entity that provides goods or services to an agency pursuant to contract of other arrangement that permits such party to have regular and substantial contact with individuals receiving services; or a family care provider; or a family care respite/substitute provider.

IRMA -- Incident Reporting Management Application utilized by OPWDD Incident Management Unit for tracking and monitoring incidents.



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Mandated Reporter- defined as a “custodian” or “human service professional” as defined in Social Services Law Section 488 that are required to report reportable incidents pursuant to the requirements of Part 624, as well as some human service professionals bound by occupational or professional licensing requirements to report abuse and neglect. Mandated reporters have an individual duty to report known or suspected abuse or neglect relating to children, elders, or vulnerable adults. Care Management staff are mandated reporters.

625 Event Situations Not Under Agency Auspices		
PART 625 Form 150	1	Physical Abuse
	2	Sexual Abuse
	3	Emotional Abuse
	4	Active, Passive, or Self Neglect
	5	Financial Exploitation
	6	Death
	7	Other

625 Event Situation Definitions Not under the auspice of an Agency

1. Physical Abuse: The non-accidental use of force that results in bodily injury, pain, or impairment, including but not limited to, being slapped, burned, cut, bruised, or improperly physically restrained.
2. Sexual Abuse: Non-consensual sexual contact of any kind, including but not limited to, forcing sexual contact, or forcing sex with a third party.
3. Emotional Abuse: The willful infliction of mental or emotional anguish by threat, humiliation, intimidation, or other abusive conduct, including but not limited to, frightening, or isolating a person.
4. Active Neglect: The willful failure by the caregiver to fulfill the care-taking functions and responsibilities assumed by the caregiver, including but not limited to, abandonment, willful deprivation of food, water, heat, clean clothing and bedding, eyeglasses or denture, or health related services.
Passive Neglect: The non-willful failure of a caregiver to fulfill care-taking functions and responsibilities assumed by the caregiver, including but not limited to, abandonment or denial of food or health related services because of inadequate caregiver knowledge, infirmity, or disputing the value of prescribed services.



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Self-Neglect - An adult's inability, due to physical and/or mental impairments, to perform tasks essential to caring for oneself, including but not limited to, providing essential food, clothing, shelter, and medical care; obtaining goods and services necessary to maintain physical health, mental health, emotional well-being, and general safety; or managing financial affairs.

5. Financial Exploitation - The use of an adult's funds, property, or resources by another individual, including but not limited to, fraud, false pretenses, embezzlement, conspiracy, forgery, falsifying records, coerced property transfers, or denial of access to assets.
6. Death: The end of life, expected or unexpected, regardless of cause.
7. Other: May include sensitive issues which need to be brought to the attention of OPWDD. Examples may include but are not limited to: Missing Person, Crime/Charges pressed/Person arrested.

624 Incidents Under the Auspices of an Agency		
	Category	Classification
624 Incidents Form 147	Reportable Incidents of Abuse & Neglect	1. Physical Abuse
		2. Sexual Abuse
		3. Psychological Abuse
		4. Deliberate inappropriate use of restraints
		5. Use of aversive conditioning
		6. Obstruction of reports or reportable incidents
		7. Unlawful use or administration of a controlled substance
		8. Neglect
	Reportable Significant Incidents	1. Conduct between people receiving services
		2. Mistreatment
		3. Seclusion
		4. Unauthorized use of time-out
		5. Medication error with adverse effect
		6. Inappropriate use of restraints
		7. Missing person
		8. Unauthorized absence
		9. Self-abusive behavior with injury



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		10. Choking, with known risk
		11. Choking, with no known risk
		12. Injury with hospitalization
		13. Theft or Financial Exploitation > \$100
		14. Other Significant Incident
	Serious Notable Occurrences	1. Death
		2. Sensitive Situation
	Minor Notable Occurrences	1. Injury, more than first aid
		2. Theft or Financial Exploitation \$15-\$100

624 Incident Definitions

Reportable Incidents of Abuse and Neglect

1. **Physical Abuse** - Conducted 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 slapping, hitting, kicking, biting, choking, smothering, shoving, dragging, throwing, punching, shaking, burning, cutting, or the use of corporal punishment.
2. **Sexual Abuse** - Any sexual contact by an employee. Sexual contact is defined as touching, fondling of the sexual parts of others for the purpose of gratifying sexual desire.
3. **Psychological Abuse**- Any verbal or nonverbal conduct that may cause significant emotional distress to an individual receiving service. 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 for infliction of pain or injury, in a manner that constitutes a threat of physical pain or injury. 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 master social worker or licensed mental health counselor.
4. **Deliberate Inappropriate Use of Restraint** - 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



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inconsistent with an individual's plan of services, or behavior support plan, generally accepted practices, and/or applicable federal or state laws.

5. Use of Aversive Conditioning - The application of a physical stimulus that is intended to induce pain or discomfort in order to modify or change the behavior of a person receiving services. Aversive conditioning may include the use of physical stimuli such as noxious odors, noxious tastes, blindfolds, and the withholding of meals and the provision of substitute foods in an unpalatable form. The use of aversive conditioning is prohibited by OPWDD.
6. Obstruction of Reports of Reportable Incidents - Conduct by a custodian that impedes the discovery, reporting, or investigation of the treatment of a service recipient by falsifying records related to the safety, treatment, or supervision of an individual receiving services.
7. Unlawful Use or administration of a Controlled Substance - Any administration by a custodian to a service recipient of a controlled substance as defined by the public health law, without a prescription, or other medication not approved for any use by the federal food and drug administration.
8. Neglect - Any action, inaction, or lack of attention that breaches a custodian's duty and that results in or is likely to result in physical injury or serious or protracted impairment of the physical, mental, or emotional condition of a service recipient. Neglect includes failure to provide proper supervision, adequate food, clothing, shelter, or medical care.

Reportable Significant Incidents

1. Conduct between Individuals Receiving Services - Conduct that would constitute abuse if committed by a custodian, except sexual activity involving adults who are capable of consenting and consent to the activity. A Behavior Support Plan in place for the aggressor affects reporting. Review with Incident Management prior to calling the Justice Center.
2. Mistreatment - Other conduct on the part of a custodian, inconsistent with the individual's plan of services, generally accepted treatment practices, and/or applicable federal or state laws, regulations, or policies, and that impairs or creates a reasonably foreseeable potential to impair the health, safety, or welfare of an individual receiving services.
3. Seclusion - The placement of an individual 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 under Person-Centered Behavioral Intervention.



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4. Unauthorized Use of Time-Out - The use of a procedure in which a person receiving services is removed from regular programming and isolated in a room or area for the convenience of a custodian, for disciplinary purposes, or as a substitute for programming.
5. Medication Error with Adverse Effect - The administration of a prescribed or over-the-counter medication that is inconsistent with a prescription or order issued for a service recipient by a licensed qualified health care practitioner, and that has an adverse effect on an individual receiving services. "Adverse effect" means the unanticipated and undesirable side effect from the administration of a particular medication which unfavorably affects the wellbeing of a person receiving services.
6. Inappropriate Use of Restraints - The use of a restraint when the technique that is used, the amount of force that is used, or the situation in which the restraint is used is inconsistent with an individual's plan of services, generally accepted treatment practices, and/or applicable federal or state laws, regulations, or policies. 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.
7. Missing Person at Risk for Injury - The unexpected absence of an individual receiving services that, based on the person's history and current conditions, exposes him or her to risk of injury.
8. 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 person's habits, deficits, capabilities, health problems, etc. determine when formal search procedures need to be initiated.
9. Self-Abusive Behavior, with Injury - A self-inflicted injury to an individual receiving services that requires medical care beyond first aid.
10. Choking, with Known Risk - The partial or complete blockage of the upper airway by an inhaled or swallowed foreign body, including food, that leads to a partial or complete inability to breathe, involving an individual with a known risk for choking and a written directive addressing that risk.
11. 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 to a partial or complete inability to breathe, other than a choking, with known risk, incident. No known risk is no documented history of choking or aspiration, no modified consistency diet due to a swallowing



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disorder or other documented risk of choking, and no service plan including intervention to address rapid eating or food seeking behavior or other risk of choking.

- 12. Injury, with Hospital Admission - An injury that results in the admission of a service recipient to a hospital for treatment or observation.
- 13. Theft/Financial Exploitation >\$100 - Any suspected theft of a service recipient's personal property (including personal funds or belongings) or financial exploitation, involving a value of more than \$100.00; theft involving a service recipient's credit, debit, or public benefit care (regardless of the amount involved); or a pattern of theft or financial exploitation involving the property of one or more individuals receiving services.
- 14. Other Significant Incident- An incident that occurs under the auspices of an agency, but that does not meet the definition of any other incident described in this subdivision, but that because of its severity or the sensitivity of the situation may result in, or has the reasonably foreseeable potential to result in, harm to the health, safety, or welfare of a person receiving services.

Serious Notable Occurrences

- 1. 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.
- 2. Sensitive Situation - Those situations involving a person receiving services that do not meet the definitions of other incidents in this subdivision, but that may be of a delicate nature to the agency and are reported to ensure awareness of the circumstances.

Minor Notable Occurrences

- 1. Injury - Any suspected or confirmed harm, hurt, or damage to an individual receiving services, caused by an act of that individual or another, whether or not by accident, and whether or not the cause can be identified, that results in an individual requiring medical or dental treatment by a physician, dentist, physician's assistant, or nurse practitioner, and such treatment is more than first aid.
- 2. Theft/Financial Exploitation \$15-\$100- 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.

4. POLICY



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It is the responsibility of CDNY's/facility's management and governing body to ensure that reportable events and incidents are thoroughly investigated and that there is a management system for the overall coordination and timely processing of reportable incidents and serious notable occurrences and that this system is used in its entirety, for each reported event related to persons receiving services required to be reported under Part 624 and Part 625.

The IRC is required to review all reportable incidents and notable occurrences involving persons receiving non-certified services under the auspices of the agency. CDNY's management and governing body have the responsibility to ensure an environment where committee recommendations are positively received, carefully considered, and acted upon in the interest of minimizing future occurrences of incidents. Retaliation for the reporting of incidents is prohibited.

CDNY ensures that members and their families are offered written information regarding incident reporting policies and procedures when beginning services and annually thereafter. The CDNY informational letter *What You Need to Know About Incidents* and OPWDD's *Learning About Incidents Brochure* is distributed in the enrollment packet, and annually thereafter via the member email distribution list. These documents are also posted on the CDNY website for member access at any time. The CDNY informational letter provides information about reporting incidents, contact information for the Incident Management Department, as well as how to request paper copies of the CDNY Incident Management Policy (also posted on the CDNY website.)

The Compliance SharePoint page provides Incident Management resources to internal stakeholders providing reporting guidelines and contact information for the Incident Management dedicated agency inbox and hotline.

5. PROCEDURE

Review and Classification of Reported Incidents:

1. The Incident Management Coordinator and/or designee monitors the Incidents@CareDesignNY.org inbox and hotline for reports of incidents/events and determine the classification of the incident. The Incident Hotline phone number is 518-912-4007.
2. The Incident Management Coordinator ensures that appropriate notifications are made within regulatory timeframes.
3. Reporting updates requested by IMU are entered into IRMA.



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Investigation of Part 625 Events:

625 Event Responsible Party Grid for Filing 150	
If more than one agency is providing services to the individual, there must be a responsible agency that is designated to intervene in events or situations that meet the definition of a 625 event. The agency responsible for intervening must be the provider or the services to the individual in the order stated below:	
1	Residential facility, including family care home
2	Certified day program (If the individual is receiving services from more than one certified day program; the responsible agency shall be the agency that provides the greater duration of services on a regular basis)
3	Care Coordinator or PCSS
4	HCBS Waiver services, including respite services provided at a free-standing respite or under the Care at Home Waiver
5	FSS, ISS and/or Article 16 clinic services
6	Any other service certified, operated, or funded by OPWDD
*If the discovering agency is not the responsible agency, the discovering agency must notify the responsible agency of the event or situation.	

Part 625 events not under the auspices of an outside agency will be investigated by CDNY for members who live in the community and do not receive any services certified by OPWDD (Residential or Certified Day Program).

Part 625 events will be entered in IRMA and followed up in collaboration between the Incident Management Coordinator who may advise on immediate protections and notifications to be made (i.e., APS/CPS/Law Enforcement etc.) and Care Management. Mandated Reporter responsibilities must be fulfilled in instances of abuse/neglect. (e.g., mandated reporters are required to report suspected child abuse to the Statewide Central Register of Child Abuse and Maltreatment Mandated Reporter Hotline at 1-800-635-1522; incidents occurring under the auspices of a school or hospital are required by Part 625 to be reported to management of the school or hospital.) Failure to report will result in disciplinary action, up to and including termination, and may include criminal charges.

- Events that may occur outside the auspices of an agency include Physical Abuse, Sexual Abuse, Emotional Abuse, Active/Passive/Self Neglect, Financial Exploitation, Death, and Other.
- Based on initial reporting, the Incident Management Department will classify the event situation in IRMA. Additional information may warrant a reclassification of an event/situation in IRMA.
- Incident Management will enter the event in IRMA and provide updates at least every 30 days until all appropriate corrective actions have been implemented and the event is resolved, at which time the event will be closed.



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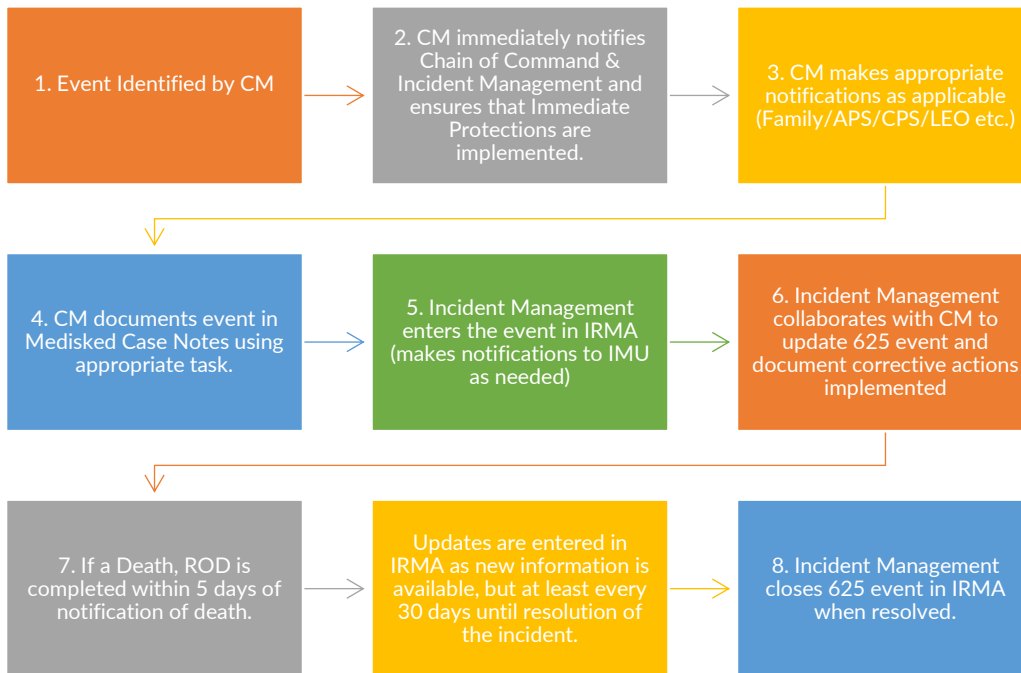
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- OPWDD notification for 625 events can be made via IRMA. Death events must be called in to IMU immediately and then entered in IRMA. The telephone notification to IMU shall be documented in IRMA on the investigation tab indicating the date, time and who was notified. (Only State-Operated and Voluntary Operated Certified Programs are required to call Deaths in to the Justice Center)
- In IRMA, only the details, Individual, Investigation, and Corrective Measures tabs are required.
- All incidents, demographic information, and corrective actions are tracked internally.

Filing a Part 625 Event Workflow



- All deaths of any individual who received service operated or certified by OPWDD within 30 days preceding their death shall be reported to the Justice Center. This reporting is required regardless of whether the death did or did not occur under the auspices of an agency. Deaths must be reported to the Justice Center within 24 hours to the Death Reporting Line: 1-855-373-2124 of occurrence or discovery. Subsequent submission of required information is required within 5 business days via IRMA.
- Examples of events/situations that may be reported in “Other” are:



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- It is reported to an agency that a young man receiving services who lives at home with his parents physically assaulted a child at a local park and was arrested by local police.
 - A parent reports to an agency that an individual receiving services is missing from the family home and is a risk to themselves or to others in the community.
 - It is reported to an agency that an individual receiving services, who lives independently, is sexually assaulted on the subway and as a result is hospitalized. (This may be an event/situation and is not a Part 624 incident because the assault was a member of the general public.)
- It should be noted that the definitions of events/situations and some classifications in Part 625 are different than those found in Part 624. An injury that would be classified as a minor notable occurrence in Part 624 would most likely not meet the definition to be reported under Part 625. An example would be if an individual cut his foot while at the beach with his brother, and the injury required stitches and an antibiotic.
 - “Other” is not intended to be a catch-all for events that are perceived as not fitting neatly into categories under Part 625. If the event/situation meets the definition of another category, it is to be reported under that category only.
 - “Other” may also include sensitive issues which, in the judgment of the Chief Executive Officer/designee, need to be brought to the attention of OPWDD.
 - All Intermediate Care Facilities (ICFs) must also comply with the requirements of 42 CFR Part 483. Events and situations involving ICF residents that meet the definitions of abuse and other violations under the federal regulation, but do not occur under the auspices of the ICF, must be reported and thoroughly investigated to comply with federal requirements.
 - For incidents involving Willowbrook Class members, CDNY must comply with the incident reporting requirements of the Willowbrook Permanent Injunction.

Notification Timeframes for 625 Incidents	
Chain of Command	Immediately
Incident Management	Immediately
OPWDD	Immediately, but no later than 24 hours from occurrence/discovery
Police	Ensure as appropriate *Crimes must always be reported to law enforcement and if the member is in immediate jeopardy requiring an emergency response by law enforcement. The Law Enforcement contact information and follow-up should be provided to Incident Management for entry into IRMA.



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*Incident Management reports any CM late reported incidents to Care Management Operations (CMO) on a weekly basis for accountability, to determine root cause, for supervisory follow-up, and disciplinary action if appropriate. CMO maintains a database of follow-up.

625 Event Notification Grid

Part 625 Event/Situations	Chain of Command (up to CEO/designee)	Incident Management	OPWDD IMU	Jonathan's Law	Police
Physical Abuse	YES	YES	YES	NO	YES
Sexual Abuse	YES	YES	YES	NO	YES
Emotional Abuse	YES	YES	YES	NO	NO
Active/Passive/Self-Neglect	YES	YES	YES	NO	NO
Financial Exploitation	YES	YES	YES	NO	YES
Death	YES	YES	YES	NO	NO
Other	YES	YES	YES	NO	NO

If the person receiving services is under the age of 18, the NYS Child Abuse and Maltreatment Reporting Center also needs to be notified via the Mandated Reporter Hotline 1-800-635-1522 for physical or sexual abuse reports. Per OCFS, Mandated Reporters must file, within 48 hours of an oral report, a signed written report, Report of Suspected Child Abuse or Maltreatment (LDSS-2221A). This written report is to be filed with the appropriate local CPS.

Mandated reporters may request the address of the investigative district from the SCR's child protective specialist at the time of the oral report to the SCR. LDSS-2221A is available in 8 languages at <https://ocfs.ny.gov/programs/cps/>

Investigation of Part 624 Incidents

CDNY is not a Certified Program under the auspices of the NYS Justice Center and as such is not required to report incidents to NYSJC. Any allegations made re: CDNY Care Managers/personnel that fall under Part 624 regulations must be reported to OPWDD, investigated, and monitored per all applicable regulations. (For an individual that resides in a facility certified or operated by OPWDD, MHLS is notified within three working days of all reportable incidents of abuse or neglect.)



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Procedures for Care Management to follow in reporting and documenting Part 624 Incidents occurring under the auspices of a provider agency are outlined in *SOP Incident Management Process 624 Incidents*.

Part 624 events occurring at the CCCO will be entered in IRMA and followed up in collaboration between the Incident Management Coordinator who will coordinate with the respective IMU Representative and advise on immediate protections and notifications to be made (i.e., APS/CPS/Law Enforcement etc.) and Care Management.

- Per the Part 624 Handbook, all reports of physical and sexual abuse, OPWDD considers it **always** appropriate to remove target staff from contact with all individuals receiving services during the investigation.
- For targets of Abuse/Neglect Investigations, the Incident Management Coordinator will complete the NYS Justice Center Statewide Central Register (SCR) Check (For Agency Use Only to Investigate Allegations of Abuse of Neglect) Form and email the form to: subjectsearchs@justicecenter.ny.gov. This form must be completed for each case of alleged abuse or neglect that involves one or more subjects/suspects as soon as the information required is known or discovered.
- CDNY has a zero-tolerance policy for substantiated cases of abuse and neglect by CDNY employees.



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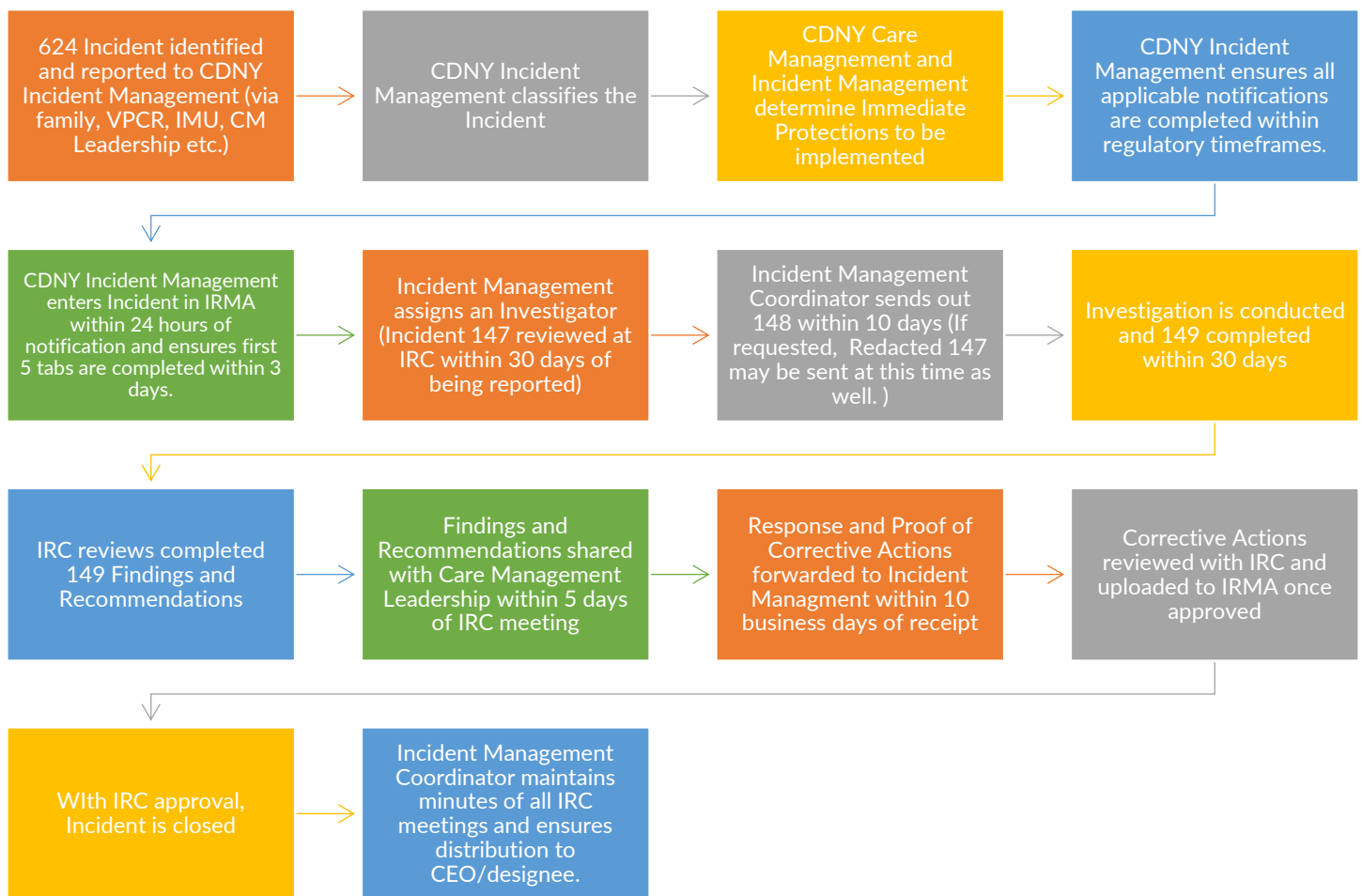
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Filing a Part 624 Investigation Workflow:





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624 Incident Notification Grid

Part 624 Incidents		Chain of Command (up to CEO/designee)	Incident Management	OPWDD IMU	Jonathan's Law	Police	MHLS
Reportable Incidents of Abuse and Neglect	Physical Abuse	YES	YES	YES	YES	YES	YES
	Sexual Abuse	YES	YES	YES	YES	YES	YES
	Psychological Abuse	YES	YES	YES	YES	NO	YES
	Deliberate Inappropriate Use of Restraint	YES	YES	YES	YES	NO	YES
	Use of Aversive Conditioning	YES	YES	YES	YES	NO	YES
	Obstruction	YES	YES	YES	YES	NO	YES
	Unlawful Admin of Controlled Substance	YES	YES	YES	YES	YES	YES
	Neglect	YES	YES	YES	YES	NO	YES
Reportable Significant Incidents	Conduct Between Individuals	YES	YES	YES	YES	NO	NO
	Mistreatment	YES	YES	YES	YES	NO	NO
	Unauthorized Seclusion	YES	YES	YES	YES	NO	NO
	Unauthorized Use of Time Out	YES	YES	YES	YES	NO	NO
	Med Error w/ Adverse Effect	YES	YES	YES	YES	NO	NO
	Inappropriate Use of Restraints	YES	YES	YES	YES	NO	NO
	Missing Person	YES	YES	YES	YES	YES	NO
	Choking Known Risk	YES	YES	YES	YES	NO	NO
	Choking No Known Risk	YES	YES	YES	YES	NO	NO
	Injury with Hospitalization	YES	YES	YES	YES	NO	NO
	Unauthorized Absence	YES	YES	YES	YES	YES	NO
	Theft / Financial Exploitation >\$100	YES	YES	YES	YES	YES	NO
	Other significant incident	YES	YES	YES	YES	NO	NO
Serious Notable Occurrences	Death	YES	YES	YES	YES	NO	NO
	Sensitive Situation	YES	YES	YES	YES	NO	NO
Minor Notable Occurrences	Theft / Financial Exploitation \$15-100	YES	YES	YES	YES	YES	NO



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Notification Timeframes for 624 Incidents	
Chain of Command	Immediately
Incident Management	Immediately
OPWDD	Immediately, but no later than 24 hours from occurrence/discovery
Jonathan's Law	No later than 24 hours from occurrence/discovery. <i>See Guidance on Jonathan's Law Notification, Requests for Meetings & Investigation Information for further details.</i>
OPWDD	Immediately, but no later than 24 hours from occurrence/discovery
Police	Immediately (for Physical and Sexual Abuse and Theft greater than \$100)
<p>*Incident Management reports any Care Manager late reported incidents to Care Management Operations (CMO) on a weekly basis for accountability, to determine root cause, for supervisory follow-up, and disciplinary action if appropriate. CMO maintains a database of follow-up.</p>	

Guidance on Jonathan's Law Notification, Requests for Meetings & Redacted Reports
<p>*Please Note: A "qualified party" for notifications under Jonathan's Law is individual receiving services, guardian, parent, spouse, adult child, and adult sibling.</p> <p>Inform the qualified party that they may request information on the status and/or resolution of 624 Incidents, unless the person is a capable adult and objects to such information being provided.</p> <p>The 148 indicating classification of the incident and immediate protections will always be mailed to the qualified party within 10 days of filing the incident in IRMA.</p> <p>The 147 Incident Notification of Qualified Person-Jonathan's Law Script may be utilized to document this notification. Offer a meeting with the CEO/Designee to further discuss the 624 incidents.</p> <ul style="list-style-type: none"> • When a meeting is requested, Care Management will notify Incident Coordinator via email at Incidents@CareDesignNY.org. • If a Compliance Department Representative or Incident Management Coordinator (IMC) is present at the meeting, they will be responsible for completing the minutes. If Compliance Department Rep. or IMC is not present at the meeting, Administrative staff will be responsible for completing the minutes AND forwarding the minutes to Incident Management via email to the Incidents@CareDesignNY.org. The minutes will be saved by the Incident Management Coordinator electronically in the electronic file folder for the investigation and uploaded to IRMA. <p>Offer to provide information on the status and/or finding of the 624 incidents.</p> <p>Requests for the 147 from qualified parties only:</p> <ul style="list-style-type: none"> • Incident Management Coordinator will redact the 147. The redacted 147, along with a letter explaining that the 624 incident is still under investigation, will be sent to the qualified party making the request.



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Requests for the 149 from qualified parties only:

- If a 149 is requested, the request must be made in writing and mailed to the attention of the Incident Management Coordinator or Designee.
- The redacted 149 along with all records and documents will be provided within 21 days of closure by the Incident Review Committee. Compliance will redact the 149 and send it to the qualified party making the request.

Immediate Protections for 624 Incidents

Immediate Protections must be implemented to stop the abuse.

If an **injury**, contact 911 immediately for all life-threatening emergencies.

Contact the Chain of Command. Contact Incident Coordinator.

Incident Management Coordinator will review actions taken to protect the person's safety and take additional actions necessary based on the seriousness of the situation, when indicated:

- Removal, reassignment, relocation, or suspension of the staff involved.
- Increasing the degree of supervision of the staff involved (to be described specifically per incident)
- Provision of training to the staff involved.
- Provision of comfort/counsel to the victim

If **injury**, ask the individual for permission to take photos. Photos should be sent via email to Incidents@caredesignny.org. *No photos will be taken of private areas of the body and once photos are forwarded to Incident Management Coordinator they should be deleted.*

If **physical evidence** related to an incident, the evidence should be preserved and secured. If physical evidence is an **illegal substance**, the police should be notified to determine the next course of action.

If **sexual assault/rape** is alleged, ensure the individual is offered the opportunity to be examined at the hospital for evaluation prior to hygiene care or change of clothing and police are notified.

If **death** occurred, the coroner/medical examiner is notified if the death was a suicide, homicide, accidental death, or death due to suspicious, unusual, or unnatural circumstances. In NYC, the NYC police are also notified.

Timeframes for Completion of 624 Investigations

*Timeframes identified below are for investigations **completed by CDNY ONLY.***

Administrative Leave

- Per CDNY Policy, in the event staff was placed on paid or unpaid administrative leave the investigation every effort will be made by the investigator to complete the investigation within five days, unless presented with extraordinary circumstances.
- It is the responsibility of the Care Management Leadership team to ensure that all staff make every effort to cooperate in a timely manner - granting interviews,



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	<p>written statements, etc. so that the investigator can obtain all information needed to complete the report within the timeframe. It is the investigator's responsibility to notify the CM Leadership if staff are not cooperating with requests for information and/or interviews.</p> <ul style="list-style-type: none"> • Investigator will include as the first recommendation that CM Leadership and Human Resources together review the administrative leave status. • CM Leadership will provide a response to the recommendation.
All other 624 Incidents	Per 624 regulations, the investigation will be completed within 30 calendar days, unless presented with extraordinary circumstances (i.e., police involvement).

Recommendation Responses for Completed Investigations
<ul style="list-style-type: none"> • Upon completion of investigation, the investigation report (149) with recommendations will be reviewed by IRC. • After IRC review and agree, a report of investigation findings and recommendations will be emailed to the appropriate member of the CM Leadership Team. • Within 10 business days upon receipt of the findings and recommendations, Leadership will respond to recommendations via email to Incidents@CareDesignNY.org. Recommendation responses must contain the name (first & last) and title of the person responsible for completing the follow up. Recommendation responses MUST include the date the follow up was completed or anticipated date of completion. • Leadership MUST be able to demonstrate completion of recommendation follow-up by having proof. (Example of proof: Supervisory Meeting Minutes, training certificate, Administrative Disciplinary Action, Plan of Improvement etc.).

Organization and membership of the IRC:

CDNY's IRC is established to meet the organizational needs on an agency-wide basis. Committee members must be appointed by the Chief Executive Officer or designee.

Membership of the IRC must include:

- A member of the governing body;
- At least two professional staff, including but not limited to, licensed clinicians, such as occupational, physical, and speech therapists, social workers, psychologists, and nurses;); and others with primary responsibility for developing and/or monitoring individuals' plans of care, such as developmental and habilitation specialists or a QIDP. At least one of the professional staff must be a licensed health care practitioner (e.g., physician, physician's assistant, nurse practitioner, or registered nurse);
- Other staff, including administrative staff, as deemed necessary by the agency to achieve the purposes of the committee pursuant to this section.



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- At least one individual receiving services;
- At least one representative of advocacy organizations (e.g., self-advocacy, family, or other advocacy organizations); and
- The participation of a psychologist on the committee (recommended).

***If CDNY is unable to obtain the members as listed above, periodic efforts to obtain the specified members will be documented in IRC minutes.**

Membership limitations.

- The Chief Executive Officer of CDNY must not serve as a member of the Committee but may be consulted by the committee in its deliberations.
- The administrator of a class or classes of facilities or a group or groups of services may be designated as a member only if the Committee is an agency-wide or multi-departmental committee. If they are not a member, an administrator may be consulted by the committee in its deliberations.

Case-specific requirements.

- There must be representation by someone from or with knowledge of the service within the agency where the event under discussion occurred or by someone who is familiar with the person(s) involved.
- Any Committee member who recognizes a potential conflict of interest in his or her assignment must report this information to the Committee and recuse him or herself from participating in the Committee review of the incident or occurrence in question.
- No Committee member may participate in the review of any reportable incident or notable occurrence in which he or she was directly involved, in which his or her testimony is incorporated, in which his or her spouse, domestic partner, or other immediate family member was directly involved, or which he or she investigated or participated in the investigation. Such members may, however, participate in committee deliberation regarding appropriate corrective, preventive, or remedial action.
- For reportable incidents and serious notable occurrences, no Committee member may participate in the review of an investigation in which his or her spouse, domestic partner, or immediate family member provides supervision to the department from which the incident took place or supervised directly involved parties.
- No Committee member may participate in the review of a reportable incident or serious notable occurrence, if such Committee member is the immediate supervisor of staff directly involved in the event or situation. Such members may, however, participate in Committee deliberation regarding appropriate corrective, preventive, or remedial action.
- Members of the Committee should not routinely conduct or participate in investigations within CDNY.



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- If a member of the Committee conducts an investigation, they should not take any role in the Committee's review and evaluation of the incident and its investigation. That person could, however, participate in making recommendations and other functions of the committee. All recusals shall be documented in IRC minutes.

Training of Committee Members: Members of the IRC must be trained in confidentiality laws and regulations and shall comply with Section 74 of the Public Officer's Law. The Incident Management Coordinator will ensure new members are trained prior to their participation in the Committee, and annually thereafter.

Meeting Minutes: The Chairperson of the IRC must ensure that minutes are kept for all meetings.

- For reportable incidents and serious notable occurrences, the portion of the minutes that discuss matters concerning the specific event or situation must be entered into IRMA within three weeks of the meeting.
- Minutes addressing the review of specific reportable incidents and/or serious notable occurrences must clearly state the filing number or identification code of the report, the person's full name and identification number (if used), and provide a brief summary of the situation (including date, location, and type) that caused the report to be generated, the Committee findings (including reclassification of event, if applicable), and recommendations and actions taken on the part of the agency as a result of such recommendations. Full names of all parties involved must be recorded (not initials).
- IRC Findings and Recommendations should be shared with the CEO within two weeks of the meeting.
- Minutes should be entered into IRMA within 3 weeks of the meeting.

Incident Review Committee Responsibilities

The IRC must review and monitor reportable incidents, minor notable occurrence, and serious notable occurrences to:

- Ascertain that reportable incidents and notable occurrences were reported, managed, investigated, and documented consistent with the provisions of Part 624.7 regulations and with agency policies and procedures, and to make written recommendations to the appropriate staff and/or the Chief Executive Officer to correct, improve, or eliminate inconsistencies.
- Ascertain that necessary and appropriate corrective, preventive, remedial, and/or disciplinary action has been taken to protect persons receiving services from further harm, to safeguard against the recurrence of similar reportable incidents and notable occurrences, and to make written recommendations to the Chief Executive Officer or his designee to correct, improve, or eliminate inconsistencies.
- Ascertain if further investigation or if additional corrective, preventive, remedial, and/or disciplinary action is necessary, and if so, to make appropriate written recommendations to the chief executive



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officer relative to the reportable incident or notable occurrence. The IRC may request that further investigative tasks be completed if the agency conducted the investigation.

- Identify trends in reportable incidents and notable occurrences (e.g., by type, person, site, employee involvement, time, date, circumstances, etc.), and to recommend appropriate corrective, preventive, remedial, and/or disciplinary action to the Chief Executive Officer to safeguard against such recurring situations or reportable incidents and notable occurrences.
- Ascertain and ensure the adequacy of CDNY's reporting and review practices, including the monitoring of the implementation of approved recommendations for corrective, preventive, and remedial action.
- Review and monitor all reportable incidents and/or minor and serious notable occurrences that are reported.
- Review and monitor investigatory procedures but shall not perform the routine investigation of reportable incidents or notable occurrences; this includes critical assessment as to whether appropriate investigatory procedures are followed when the investigation is completed by the agency; ensuring the investigator reviewed all appropriate documentation, interviewed all pertinent witnesses, and thoroughly examined all evidence. If the Committee finds the investigation to be inadequate, the Committee should request that it be re-opened. The investigation should remain open until an acceptable investigation is completed.

Frequency of Meetings

- CDNY's IRC will meet on at least a quarterly basis, but always within one month of the report of a reportable incident or serious notable occurrence, or sooner should the circumstances so warrant.

Trending and Reporting

- The Chief Compliance Officer or designee has the advisory responsibility to the Chief Executive Officer and other administrative staff they designate. Findings will be shared with the Chief Executive Officer within two weeks of the meeting.
- The CDNY's IRC must review and monitor all minor notable occurrences that are reported, which may be done by individual assignment to a member of the IRC and maintain a record of such incident/occurrence review, recommendations, and/or actions taken in such a manner as to provide for tracking and trending. Trends of other events or situations attributable to a person receiving services which may be potentially harmful, but do not meet the definition for being a reportable incident or notable occurrence will be monitored as well. The findings and recommendations of the review will be shared with the full Committee. Statistics should be maintained for all minor notable occurrences, events/situations which can then be used to develop trend information.
- The Committee will provide documentation via inclusion in the committee minutes that all reports of reportable incidents and serious notable occurrences have been reviewed by the committee and that



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results and recommendations have been conveyed to appropriate agency executives and others with a need to know. The confidentiality of those whose names appear in the minutes needs to be considered.

- The IRC will monitor that actions are taken on all recommendations made and advise the Chief Executive Officer when there is a problem. IRC minutes will document the IRC review of corrective actions taken in lieu of IRC recommendations prior to closing an investigation in IRMA.
- The IRC will report to the Chief Executive Officer, chief agency executives, and the governing body on a quarterly basis, the total number of reports of allegations of abuse/neglect, all significant incidents, and all notable occurrences.
- The IRC will report at minimum annually, concerning the Committee's general monitoring functions; general identified trends in reportable incidents and notable occurrences; and corrective, preventive, remedial and/or disciplinary action pertaining to identified trends. This report shall include aggregated data (not case specifics). At minimum, the report will include the general identified trends in reportable incidents and notable occurrences for the time period the report covers, an analysis of the trends identified, and a summary of the types of corrective actions which have been developed and taken by the agency to avoid circumstances known to have resulted in reportable incidents and notable occurrences.
- The IRC must interact with the governing body and comply with the policies in relation to the review and monitoring of all reportable incidents and notable occurrences.

Role of CDNY IRC when investigation is conducted by Central Office of OPWDD:

- The IRC role is limited to matters involving compliance with the reporting and notification requirements of Part 624 regulations, protective and remedial actions taken, operational concerns, and the quality of services provided.
- The finding (of the report of abuse or neglect) of substantiated or unsubstantiated must be made by the Central Office of OPWDD.
- The CDNY IRC must monitor all actions taken to implement recommendations made by the Central Office of OPWDD and document in IRC minutes.

Record Retention and Statistics

In line with the CDNY Record Retention Policy, records will be retained for 10 years from the date that the incident or occurrence is closed. However, when there is a pending audit or litigation concerning an incident or occurrence, the organization will retain pertinent records during the pendency of the audit or litigation.

Records to be retained include but are not limited to evidence and materials obtained or accessed during the investigative process, copies of all documents generated in accordance with the requirements of Part 624, and documentation regarding compliance with Part 624 regulations.



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Records are saved such that they are retrievable by name and Master Incident Number, particularly when there is an incident or report involving more than one individual. From a statistical point of view, the situation is considered as one event and is recorded as such per Part 624 regulations.

Confidentiality of Records

All records generated in accordance with the requirements of fulfilling Part 624/Part 625 regulations must be kept confidential and must not be disclosed except as otherwise authorized by law or regulation. Records of reportable incidents are kept confidential pursuant to section 496 of the Social Services Law.

6. RESPONSIBILITIES

Incident Management Team: Ensures reporting timeframes and guidelines set forth in the Part 624/Part 625 Handbook are fulfilled.

It is the role of all CDNY employees, the governing body, stakeholders, and the IRC to ensure that the regulations governing Incident Management are adhered to at the organization, quality services are delivered, and members are protected from harm.

Role of the Care Manager:

During the investigation of a Reportable Incident (Part 624), it is the responsibility of the Care Manager to follow the [Care Design NY Incident Management: Reportable Incidents Policy and associated SOPs](#).

In the event of a 625 Event/Situation, it is the responsibility of the Care Manager to:

- Report upon discovery to Incidents@caredesignny.org and to his/her supervisor any incident which takes place involving a service recipient during which time no agency or provider agency staff is present or should be present.
- Document in Medisked all notifications, discovery, and activities performed for the immediate protection of the member and all supports offered and provided to prevent future similar events from recurring.
- Ensure local or state police have been notified of any event involving:
 - physical or sexual abuse
 - a crime committed against the member.
 - a member is in imminent danger (e.g., missing person)
- Ensure in the event of the death of a service recipient where the death was a suicide, homicide, accidental death, or death due to suspicious, unusual, or unnatural circumstances that the coroner/medical examiner is notified. In NYC, the NYC police are also notified.



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Role of Care Management for the Member/Family:

- In concert with other agency efforts, it is the responsibility of Care Management to ensure that members and families are offered written information regarding Care Design NY incident reporting policies and procedures upon enrollment and annually thereafter. This will include the *Learning About Incidents* brochure created by OPWDD and the Care Design NY “What You Need to Know about Incidents” information page.
- It is the responsibility of Care Management to maintain documentation in the Medisked record which demonstrates that families and members are offered the above materials upon enrollment and annually thereafter.

REFERENCE DOCUMENTS

List of applicable reference documents including, associated Regulations, Policies, SOPs, Standards, Monitoring Records, etc.

Document Name	Document Number
	NYS OPWDD Part 624 and 625 Handbook (12.01.2022)
	CDNY Incident Management Policy
NYCLS Pub 0; 74(2008)	Public Officer’s Law; Article 4. Powers and Duties of Public Officers
	OPWDD Incident Report and Management Application (IRMA) Training 1/8/2020
	Jonathan’s Law Phone Script
	Care Design NY Policy: Incident Management: Reportable Incidents
	Learning About Incidents, OPWDD
	“What You Need to Know About Incidents,” Care Design NY
	Statewide Central Register (SCR) Check Form NYS Justice Center For Agency Use Only to Investigate Allegations of Abuse or Neglect

REVISION HISTORY

List of previous versions of this policy.

Date	Author	Revision Summary	Previous Version Number
5/3/2021	C. Jensen	Content from the Incident Management: Reportable Incidents Policy V2 were merged into creation of this Policy	2.0
3/4/2023	C. Jensen	Updated language to be in line with transition to Compliance Department. Updated to current CDNY policy template	3.0
7/21/2023	C. Jensen	Modified format for clarity on classifications; added procedure for providing member/families incident management information and contacts upon enrollment	4.0



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		<p>and annually thereafter; added that telephone notifications of deaths to IMU will be documented in IRMA on the investigation tab with date, time and who was contacted; added Responsible party for Filing Grid; added 625 Notification Grid with SCR contact Phone #s and parameters for contacts; added Record Retention/Statistical and Confidentiality Section; emphasized the monitoring of incidents every 30 days and ensuring closure at resolutions; added Abuse/Neglect prevention/remediation; retaliation for reporting of incidents is prohibited. Added reference statement to IM SOP for guidance on Process for Part 624s under the auspice of provider agencies. Added Late reporting protocol.</p>	
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