

Part 624 Reportable Incidents

In accordance with Part 624.3, 624.4 and 625.2, PLUS Group Homes shall identify incidents that meet the definition for Reportable Incidents (Allegations of Abuse and Significant Incidents), Notable Occurrences (Serious and Minor), Defined and Part 625 Event/Situations not under the Auspices of an Agency, Defined.

Policy:

1. 624.3, Reportable Incidents are events or situations that meet the definitions below and occur under the auspices of an agency. Reportable Incidents are composed of Allegations of Abuse and Significant Incidents.

A. Definitions of **Allegations of Abuse** as per 624.3:

- (1) **Physical Abuse:** Conduct by a custodian intentionally or recklessly causing, by physical contact, physical injury or serious or protracted impairment of the physical, mental, or emotional condition of the individual receiving services, or causing the likelihood of such injury or impairment. Such conduct may include, but is not 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 party.
- (2) **Sexual Abuse:** Any conduct by a custodian that subjects a person receiving services to any offense defined in article 130 or section 255.25, 255.26, or 255.27 of the penal law, or any conduct or communication by such custodian that allows, permits, uses, or encourages a person receiving services to engage in any act described in articles 230 or 263 of the penal law. For purposes of this paragraph only, a person with a developmental disability who is or was receiving services and is also an employee or volunteer of an agency 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.
- (3) **Psychological Abuse:** Any verbal or nonverbal conduct that may cause significant emotional distress to an individual receiving services. (i) Examples include, but are not limited to taunts, derogatory comments or ridicule, intimidation, threats, or the display of a weapon or other object that could reasonably be perceived by an individual receiving services as a means for infliction of pain or injury, in a manner that constitutes a threat of physical pain or injury. (ii) In order for a case of psychological abuse to be substantiated after it has been reported, the conduct must be shown to intentionally or recklessly cause, or be likely to cause, a substantial diminution of the emotional, social, or behavioral development or condition of the individual receiving services. Evidence of such an effect must be supported by a clinical assessment performed by a physician, psychologist, psychiatric nurse practitioner, licensed clinical or 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 inconsistent with an individual's plan of services (e.g., individualized service plan (ISP) or a habilitation 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 a person receiving services or to any other party. For purposes of this paragraph, 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.
- (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, but is not limited to, 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; actively persuading a custodian or other mandated reporter from making a report of a reportable incident to the statewide vulnerable persons' central register (VPCR) or OPWDD 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 OPWDD regulations, policies, or procedures; or, for a custodian, failing to report a reportable incident upon discovery.
- (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 article 33 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 shall include a custodian unlawfully using or distributing a controlled substance as defined by article 33 of the public health law, at the workplace or while on duty.
- (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, but is not limited to:

- (i) Failure to provide proper supervision, including a lack of proper supervision that results in conduct between persons receiving services that would constitute abuse as described in paragraphs (1) through (7) of this subdivision if committed by a custodian;
- (ii) Failure to provide adequate food, clothing, shelter, or medical, dental, optometric, or surgical care, consistent with Parts 633, 635, and 686 (and 42 CFR Part 483, applicable to Intermediate Care Facilities), and provided that the agency has reasonable access to the provision of such services and that necessary consents to any such medical, dental, optometric, or surgical treatment have been sought and obtained from the appropriate parties; or
- (iii) Failure to provide access to educational instruction, by a custodian with a duty to ensure that an individual receives access to such instruction in accordance with the provisions of part one of article 65 of the education law and/or the individual's individualized education program.

B. Definitions of **Significant Incidents** as per 624.3:

Significant Incident: 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:

- (1) **Conduct between persons receiving services** that would constitute abuse as in the above paragraphs (1) through (7) of this subdivision if committed by a custodian, except sexual activity involving adults who are capable of consenting and consent to the activity; or
- (2) **Conduct on the part of a custodian**, that is inconsistent with the individual's plan of services, generally accepted treatment practices, and/or applicable federal or state laws, regulations, or policies, and that impairs or creates a reasonably foreseeable potential to impair the health, safety, or welfare of an individual receiving services; including:
 - (i) **Seclusion:** The placement of an individual receiving services in a room or area from which he or she cannot, or perceives that he or she cannot, leave at will, except when such placement is specifically permitted by section 633.16. Unless permitted by Section 633.16, the use of seclusion is

prohibited; Note: Section 633.16 (Person-Centered Behavioral Intervention) identifies a form of "exclusionary time out," which prevents egress from a time out room by a custodian's direct and continuous action and requires constant visual and auditory monitoring. Use of exclusionary time out may be included in a formal behavior support plan and implemented in accordance with the conditions and limits set forth in paragraph 633.16(j)(3) of this Title. The use of exclusionary time out in the absence of an approved behavior support plan that incorporates the use of exclusionary time-out, or a failure to implement such a plan as designed, is considered to be "seclusion" and is prohibited.

- (ii) **Unauthorized Use of Time-Out:** For the purposes of this sub clause only, means the use of a procedure in which a person receiving services is removed from regular programming and isolated in a room or area for the convenience of a custodian, for disciplinary purposes, or as a substitute for programming; Note: For the purposes of this provision "unauthorized use of timeout" includes any use of time out that is inconsistent with an individual's plan of services except as noted in sub clause (i) of this clause.
 - (iii) **Medication Error with Adverse Effect:** except as provided for in paragraph (7) of this subdivision, the administration of a prescribed or over-the-counter medication that is inconsistent with a prescription or order issued for a service recipient by a licensed qualified health care practitioner, and that has an adverse effect on an individual receiving services. For purposes of this clause, "adverse effect" means the unanticipated and undesirable side effect from the administration of a particular medication which unfavorably affects the wellbeing of a person receiving services;
 - (iv) **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 (including a behavior support plan), generally accepted treatment practices, and/or applicable federal or state laws, regulations, or policies. For the purposes of this subdivision, a "restraint" includes the use of any manual, pharmacological, or mechanical measure or device to immobilize or limit the ability of a person receiving services to freely move his or her arms, legs, or body; and
 - (v) **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, except as described in any other provision of this subdivision.
- (3) **Missing Person at risk for injury:** The unexpected absence of an individual receiving services that based on the person's history and current condition exposes him or her to risk of injury.
- (4) **Unauthorized absence:** The unexpected or unauthorized absence of a person after formal search procedures have been initiated by the agency. Reasoned judgments, taking into consideration the person's habits, deficits, capabilities, health problems, etc., determine when formal search procedures need to be implemented. It is required that formal search procedures must be initiated immediately upon discovery of an absence involving a person whose absence constitutes a recognized potential danger, except as defined in

clause (3) of this subparagraph, to the wellbeing of the person or others.

- (5) **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.
- (6) **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, involving an individual with a known risk for choking and a written directive addressing that risk.
- (7) **Self-abusive Behavior, with Injury:** A self-inflicted injury to an individual receiving services that requires medical care beyond first aid.
- (8) **Injury, with Hospital Admission:** An injury that results in the admission of a service recipient to a hospital for treatment or observation, except as defined in clause (7) of this subparagraph.
- (9) **Theft and Financial Exploitation:** Any suspected theft of a service recipient's personal property (including personal funds or belongings) or financial exploitation, involving a value of more than \$100.00; theft involving a service recipient'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.
- (10) **Other Significant Incident:** An incident that occurs under the auspices of an agency, but that does not involve conduct on the part of a custodian, and does not meet the definition of any other incident described in this subdivision, but 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.

2. **624.4 Notable Occurrences**, defined:

- A. Notable Occurrences are events or situations that meet the definitions below of this section and occur under the auspices of an agency.
- B. Notable Occurrences do not include events and situations that meet the definition of a Reportable Incident in section 624.3 of this Part even if the event or situation otherwise meets the definition of one of the categories in this section. An exception is that a death that also meets the definition of a reportable incident must be reported both as the Reportable Incident and as a Notable Occurrence.
- C. Serious and Minor Notable Occurrences are defined and categorized as follows:

(1) Serious Notable Occurrences:

- (i) **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.
- (ii) **Sensitive Situations:** Those situations involving a person receiving services that do not meet the definitions of other incidents in section

624.3 of this Part or in this subdivision, but that may be of a delicate

nature to the agency and are reported to ensure awareness of the circumstances. Sensitive Situations include, but are not be limited to, possible criminal acts committed by an individual receiving services. PLUS Group Homes will evaluate classifying incidents as Sensitive Situations on a case by case basis. When necessary, PLUS Group Homes will seek guidance from OPWDD's Incident Management Unit.

(2) Minor Notable Occurrences:

- (i) **Theft or Financial Exploitation, Minor Notable Occurrence:** Any suspected theft of a service recipient'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.
 - (ii) **Injury, Minor Notable Occurrence:** Any suspected or confirmed harm, hurt, or damage to an individual receiving services, caused by an act of that individual or another, whether or not by accident, and whether or not the cause can be identified, that results in an individual requiring medical or dental treatment by a physician, dentist, physician's assistant, or nurse practitioner, and such treatment is more than first aid.
3. **Part 625 Events/Situations Not under the Auspices of an Agency:** When an Event or Situation occurs that is not under the auspices of an agency, Part 625 regulations will be followed. Events or situations that are not under the auspices of an agency include:
- A. Any event or situation that directly involves or may have involved agency personnel or a family care provider (or respite/substitute provider) during the time he or she was acting under the supervision of a State agency other than OPWDD (e.g. an agency employee has a second job at a hospital and an incident occurred while he or she was providing care to an individual receiving services during the individual's hospitalization).
 - B. Any event or situation that exclusively involves the family, friends, employers, or co-workers of an individual receiving services (other than a custodian or another individual receiving services), whether or not in the presence of agency personnel or a family care provider or at a certified site.
 - C. Any event or situation that occurs in the context of the provision of services that are subject to the oversight of a State agency other than OPWDD (e.g. special education, article 28 clinic, hospital, physician's office), whether or not in the presence of agency personnel or a family care provider.
 - D. Any report of neglect that is based on conditions in a private home (excluding a family care home).
 - E. The death of an individual who received OPWDD operated, certified, or funded services, except deaths that occurred under the auspices of an agency.
 - F. The following classifications are included in Part 625:
 - (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 an adult.
- (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 dentures, or health related services.
- (5) **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.
- (6) **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.
- (7) **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.
- (8) **Death:** The end of life, expected, regardless of cause

Reporting, Recording and Investigation

In accordance with Part 624.5, 624.6, 625.2, 625.3, PLUS Group Homes shall ensure appropriate reporting, recording, investigation, review and monitoring Reportable Incidents, Notable Occurrences, and Part 625 Events/Situations.

Procedure:

1. PLUS Group Homes develops and maintains incident/abuse policies and procedures that are in conformance with this part to ensure:
 - A. Reporting, recording, investigation, review and monitoring
 - B. Identification of reporting responsibilities of employees and consultants.
 - C. Providing notice to all employees which state that all Reportable Incidents must be investigated and if an employee leaves employment prior to the conclusion of a pending investigation, the investigation must continue until it is completed and (for reports of abuse and neglect) a finding is made of substantiated or unsubstantiated. This information is provided to employees during the PLUS Group Homes' Orientation training.
2. PLUS' Policies and Procedures whether newly developed or representing change from previously approved policies, shall be subject to approval by PLUS' governing body and shall follow 14 NYCRR.
3. PLUS Group Homes shall make available information, developed by OPWDD in collaboration with the Justice Center including Part 624 regulations, and PLUS' Policies and Procedures to persons receiving services who have the capacity to understand the information and to their parents, guardians, correspondents or advocates, unless a person is a capable adult who objects to their notification. This shall be completed upon commencement of service provision and annually thereafter. PLUS Group Home shall provide instructions on how to access such information in electronic format and upon written request, provide paper copies of such information.
4. Reporting Requirements
 - A. Any Reportable Incident (Allegation of Abuse and Significant Incident) and Notable Occurrence (Serious and Minor) shall be reported to the Vice President of Operations immediately but no later than 24 hours.
 - B. Any Reportable Incident (Allegation of Abuse and Significant Incident) shall be reported immediately to the Justice Center (Justice Center notification applies to Residential Habilitation and Day Habilitation programs only) and OPWDD (applies to all programs) by telephone. Serious Notable Occurrences shall be reported immediately to OPWDD by telephone. Immediate entry of initial information must be made into the OPWDD Incident Report and Management Application (IRMA) and an OPWDD 147 form shall be generated and maintained on file.
 - C. Any Allegation of Abuse involving a person who resides in a residential facility certified or operated by OPWDD. The agency under those auspices the event occurred and/or that is responsible for the person requires that the OPWDD 147 form be sent to the Mental Hygiene Legal Service (MHLS) within three working days of occurrence or discovery.
 - D. Any Reportable Incident (Allegation of Abuse and Significant Incident) and Notable Occurrence (Serious and Minor) shall be reported to the person's parent(s), guardian or correspondent/advocate as soon as reasonably possible, but no later than 24 hours unless there is written advice from the parent or guardian that he or she does not want to be notified; unless the involved person is a capable adult and objects to such notification being made; or if the alleged abuser is one of the aforementioned parties. The telephone notice must include:

- (i) A description of the event or situation and a description of initial actions taken to address the incident or occurrence, if any;
 - (ii) An offer to meet with the Assistant to the Executive Director, Program Director, or designee to further discuss the incident or occurrence, such meeting requests must be made in writing by the personal representative. The meeting must take place after the Incident Review Committee makes a determination. Personal Representatives shall be informed at the meeting that the determination is not final until a Letter of Determination (LOD) has been issued by the Justice Center (if applicable); and
 - (iii) For reports of Abuse and Neglect, an offer to provide information on the status and/or finding of the report. Requested information shall be provided verbally or in writing, unless the person is a capable adult and objects to the provision of this information. In providing such information, the agency must protect the privacy rights of other parties.
- E. The Report on Actions Taken OPWDD 148 form specifying any immediate steps taken in response to the incident or occurrence to safeguard the health and safety of the person receiving services and a general description of any medical or dental treatment or counseling provided to the person in response to the incident or occurrence will be provided to the personal representative within 10 days of the completion of the OPWDD 147 form. The report that is provided shall not include names of anyone who is involved in the incident or occurrence or the investigation, or who is interviewed as a part of the investigation, or any information tending to identify such parties. Names of any such parties as well as any information tending to identify those parties must be excluded or redacted.
- F. Any Reportable Incident (Allegation of Abuse and Significant Incident) and Notable Occurrence (Serious and Minor) shall be reported to the person's Care Coordination Organization Care Manager (CM). If the person resides in an Immediate Care Facility (ICF), the Qualified Intellectual Disabilities Professional (QIDP) shall be notified in lieu of the CM.
- G. The Subject/Target of an Allegation of Abuse shall receive a letter notifying them that they are the subject of an Allegation of Abuse. If notifying the subject of the report would impede the investigation, OPWDD must be notified. A Statewide Central Register of Child Abuse and Maltreatment (SCR) form shall be completed for each Subject/Target of an Allegation of Abuse and shall be provided to the Justice Center via the Web Submission Investigation Report (WSIR) application.
- H. In the case of any Reportable Incident (Allegation of Abuse and Significant Incident) and Notable Occurrence (Serious and Minor) where a crime may have been committed, it is the responsibility of the Program Director or designee to notify law enforcement officials. Law Enforcement shall be notified for all Allegations of Physical and Sexual Abuse as well as Thefts, both significant and minor.
- I. All suicides, homicides, accidental deaths or deaths due to suspicious, unusual or unnatural circumstances must be reported immediately by telephone, and later in writing, to the coroner/medical examiner. The police must also be notified.
- J. For children under 18 years of age, notification of alleged abuse must immediately be made to the Child Protective Services.
- K. It is the responsibility of the Program Director or designee where a report of a Reportable Incident (Allegation of Abuse and Significant Incident) and Notable Occurrence (Serious and Minor) is received or made, to notify any other agency with which the person is associated if it has resulted in visible evidence of injury to the person, may be of concern to another agency, or may have an impact upon programming or activities elsewhere.

5. Immediate Protections

- A. A person's safety shall be the primary concern of the Assistant to the Executive Director, Program Director, and designees. Necessary and reasonable steps shall be taken to ensure that a person receiving services who has been harmed receives any necessary treatment or care and, to the extent possible, take reasonable and prudent measures to immediately protect individuals receiving services from harm and abuse.
- B. When appropriate, an employee, intern, volunteer, consultant, or contractor alleged to have abused or neglected a person must be removed from direct contact with, or responsibility for, all persons receiving services from the agency. As per the Part 624 Handbook, PLUS Group Homes shall remove target staff from contact with all individuals receiving services during the investigation unless otherwise approved by OPWDD for all Allegations of Physical and Sexual Abuse. For all other incidents, PLUS Group Homes shall determine the removal of target staff as appropriate. This determination shall be made on a case by case basis and based upon an evaluation of risk of the health and safety of the individuals receiving services.
- C. When appropriate, an individual receiving services must be removed from a facility when it is determined that there is a risk to such individual if he or she continues to remain in the facility.
- D. If a person is physically injured, an appropriate medical examination of the injured person must be obtained. The name of the examiner must be recorded and his or her written findings must be retained.

6. Investigation, Follow-Up, and Records Maintenance

- A. Reportable Incidents (Allegation of Abuse and Significant Incident) and Notable Occurrences (Serious and Minor) are to be thoroughly investigated by an investigator designated by the Assistant to the Executive Director, unless OPWDD or the Justice Center advises that the incident or occurrence will be investigated by OPWDD or the Justice Center. A full investigation shall take place immediately, with further investigation undertaken commensurate with the seriousness and circumstances of the situation. All such investigations shall be documented on the OPWDD 149 form. Investigations must be completed within thirty (30) days from the occurrence or discovery date for all of PLUS Group Homes programs with the exception of the Intermediate Care Facility (ICF) which shall be completed within five (5) working days. Investigation results for the ICF must be reported to the Assistant to the Executive Director and Program Director within 5 working days. In the event that an investigation cannot be completed within the required time frame due to circumstances beyond the investigator's control, an Investigative Report must be completed and signed by the due date and subsequent findings to be added on an additional OPWDD 149 form or on an Addendum. OPWDD shall be informed regarding the reason for extending the timeframe of the investigation.
- B. When an investigation for an Allegation of Abuse which is reportable to the Justice Center is conducted by an agency or by OPWDD, findings made by the agency or OPWDD are not considered final until they are reviewed by the Justice Center. The Justice Center may amend findings made by an agency or OPWDD. Findings made by the Justice Center are considered final. For all other incidents

i.e. Allegations of Abuse not reported to the Justice Center, Significant Incidents, and Notable Occurrences, the determination is not final until it has been reviewed by the Incident Review Committee.

- C. A finding for an Allegation of Abuse shall either be Substantiated or Unsubstantiated. The report is Substantiated when it is determined that the incident occurred and the subject of the report was responsible or, if no subject can be identified and an incident occurred, that the agency was responsible. The report is Unsubstantiated when it is determined not to have occurred, or the subject of the report was not responsible, or because it cannot be determined that the incident occurred, or that the subject of the report was responsible.
- D. A Concurrent Finding may be made when a systemic problem caused or contributed to the occurrence of an incident.
- E. No one may participate in the investigation of any Reportable Incident (Allegation of Abuse and Significant Incident) and Notable Occurrence (Serious and Minor) in which he or she was directly involved, in which his or her testimony is incorporated, or in which a spouse or immediate family member was directly involved. No one shall investigate an incident in which there is a potential conflict of interest. An investigator must report if any of these conflicts exist at which point another Investigator shall be assigned. When a Reportable Incident (Allegation of Abuse and Significant Incident) or a Serious Notable Occurrence is to be investigated, the Investigator must be at arm's length and not in the direct line of supervision of staff directly involved in the incident. Those who are members of a standing committee to review and monitor Reportable Incidents and Notable Occurrences shall not routinely be assigned the responsibility of investigating such events.
- F. Unless deemed necessary by OPWDD and/or the Justice Center, multiple independent investigations of a single situation are not required.
- G. For Allegations of Abuse reportable to the Justice Center, a Corrective Action Plan (OPWDD 161 form) shall be submitted to OPWDD within 60 days from date indicated on the Justice Center's Letter of Determination (LOD). Corrective actions for all Reportable Incidents and Notable Occurrences shall be monitored monthly by the Incident Review Committee.
- H. Reportable Incidents (Allegations of Abuse and Significant Incidents), and Notable Occurrences (Serious and Minor) and subsequent reports or documentation of investigations shall be maintained so as to protect the privacy of persons receiving services, anyone else involved, or others whose names may appear in the report. Such reports shall be retrievable by the person's name, Master Incident Number, or Agency Incident Number.

7. Irregular Situations

- A. A Reportable Incident (Allegation of Abuse and Significant Incident) and Notable Occurrence (Serious and Minor) that occurs while a person is still directly under

the auspices of PLUS Group Homes, but is not physically at the facility (e.g., in a restaurant, at the doctor, visiting family, in school, on a vacation trip, at camp, etc.), the process to be followed shall be the same as would be followed had the situation happened in the facility.

- B. A Reportable Incident (Allegation of Abuse and Significant Incident) and Notable Occurrence (Serious and Minor) is alleged by a facility to have occurred while a person was under the supervision of another agency's facility:
 - (i) The discovering agency shall report the incident to OPWDD and the Justice Center (when applicable).
 - (ii) The agency in whose facility or under whose auspices the incident is alleged to have occurred shall be notified.
 - (iii) It shall be the responsibility of the agency under whose auspices the situation is alleged to have occurred to report, investigate, review, correct, and monitor the situation.
 - (iv) If the agency suspecting or alleging the incident or abuse is not satisfied that the situation will be or is being investigated or handled appropriately, it shall bring the situation to the attention of OPWDD.
 - C. When there is a Reportable Incident (Allegation of Abuse and Significant Incident) and Notable Occurrence (Serious and Minor) reported involving more than one person receiving services:
 - (i) From a statistical point of view, the situation shall be considered as one event.
 - (ii) The Incident Review Committee will assure that the matter is retrievable as one event, in addition to being retrieved by a person's name.
8. Reporting Updates
- A. OPWDD shall be kept informed on at least a monthly basis of the progress or results of investigations of Reportable Incidents (Allegation of Abuse and Significant Incident) and Notable Occurrences (Serious and Minor).
 - B. Such information will be made available monthly on the OPWDD Incident Report and Management Application (IRMA).
9. Part 625 Events/Situations Not Under the Auspices of an Agency
- A. When an Event or Situation occurs that is not under the auspices of PLUS Group Homes:
 - (i) The information shall be evaluated, and a determination made as to the appropriate course of action to be taken immediately and/or subsequently

to protect the individual.

(ii) OPWDD shall be notified as soon as possible.

(iii) Follow-up shall be made to the extent possible, and available community resources utilized (e.g., law enforcement authorities, child and adult protective services). Other interventions include, referrals to appropriate service providers, interviewing the involved individual and/or witness, assessing and monitoring the individual, reviewing records and other relevant documentation, and educating the individual regarding his or her choices and options regarding the matter.

(iv) All relevant information will be entered into the OPWDD Incident Report and Management Application (IRMA).

B. Part 625 incidents are not required to be reviewed by the Incident Review Committee.



Mandated Reporting of Reportable Incidents to the Justice Center's Vulnerable Persons' Central Register (VPCR)

In accordance with Part 624.5(d), PLUS Group Homes shall ensure Reportable Incidents (Allegation of Abuse and Significant Incidents) are reported to the Justice Center's Vulnerable Persons' Central Register (VPCR).

Policy:

All custodians in facilities or programs operated or certified by OPWDD are "mandated reporters" and are required to report Reportable Incidents to the Justice Center's VPCR unless:

1. He or she knows that the report has already been made by another mandated reporter; and
2. That he or she has been named in that report as a person with knowledge of the incident.

PLUS Group Homes shall ensure that reports involving multiple mandated reporters are properly made and documented.

Procedure:

1. All PLUS Group Homes staff members are required to report all Reportable Incidents to the VPCR and to the Program Director or designee.
2. Upon learning of a Reportable Incident, the Program Director or designee shall evaluate whether the Reportable Incident was already reported to the VPCR. Although a mandated reporter is not required to report an incident that has already been made by another mandated reporter or if he or she has been named in that report as a person with knowledge of the incident, the Program Director or designee shall determine and designate one or more mandated reporters when necessary to notify the VPCR for all Reportable Incidents. The Program Director or designee shall determine who will report to the VPCR based on a variety of factors. These factors include however are not limited to the following: staff members who may have the most knowledge of the incident, supervisors who have knowledge of both the incident and immediate protections that have been implemented, and a nurse who can describe in detail any medical conditions associated with an incident.

Release of Records

In accordance with Part 624.6 and 624.8, PLUS Group Homes shall release records concerning eligible requestors upon written request.

Procedure:

Release of Records for Reportable Incidents that occurred on or after June 30, 2013:

1. Eligible requestors must submit a request in writing to one of the following authorized agency staff: Executive Director, Assistant to the Executive Director, Director of Quality Management, Program Director, or Residential Coordinator.
2. Once a written request is received by an eligible requestor, it shall be submitted to the Director of Quality Management for processing. The written request must specify the records that are requested.
3. Persons receiving services or who formerly received services, and guardians, parents, spouses, and adult children of such persons, pursuant to paragraph (a)(6) of section 33.16 of the Mental Hygiene Law, are eligible to request the release of records as established by this section, subject to the following restrictions:
 - A. In the event that an otherwise eligible requestor is an alleged abuser, such requestor is not eligible to receive any records or documents pertaining to the specific allegation or investigation of the event or situation in which he or she was the targeted alleged abuser, regardless of the conclusion.
 - B. If the person receiving services or who formerly received services is a capable adult and objects to the provision of records and/or documents to an otherwise eligible requestor, such requestor is not eligible to receive those records or documents.
4. If the request is made prior to the closure of the incident, the Director of Quality Management shall provide the requested records no later than 21 days after the closure of the incident. For Allegations of Abuse that are reportable to the Justice Center, an incident is not considered closed until a Letter of Determination (LOD) has been issued by the Justice Center. For all other incidents, i.e. Allegations of Abuse not reported to the Justice Center, Significant Incidents, and Notable Occurrences, the determination is not final until it has been reviewed by the Incident Review Committee. If the request is made at or subsequent to the closure of the incident, the requested records shall be provided no later than 21 days after the request is made.
5. All records shall be redacted as per 624.8. Prior to the release of records, agencies must redact the names of employees who are involved in the incident or the investigation or who are interviewed as a part of the investigation, persons receiving services (or who formerly received services), and any information tending to identify such employees or persons. Redaction may be waived if the employee or person authorizes disclosure, unless redaction of the specific information is necessary because it tends to identify another employee or person who has not authorized disclosure or for another reason specified in this subdivision. In addition, if any records that are subject to release identify a particular party as having made a child abuse or maltreatment report to the Statewide Central Register of Child Abuse and Maltreatment (SCR), contacted the SCR, or otherwise cooperated in a child abuse/maltreatment investigation, that name as well as any information tending to identify the party must be redacted.

6. The release of records shall be accompanied by a cover letter to the recipient which includes the following statement: "pursuant to section 33.25 of the Mental Hygiene Law, the enclosed records and reports shall not be further disseminated, except that you may share the report with: (i) a health care provider; (ii) a behavioral health care provider; (iii) law enforcement, if you believe a crime has been committed; or (iv) your attorney." Pursuant to New York State law, the recipient, parties with whom the recipient shared records, or the individual receiving services may use records and documents released in accordance with this section in any legal action or proceeding brought by or on behalf of the individual receiving services.
7. The written request for the release of records shall be maintained and the time the request was received shall be documented. A copy of the redacted records that were released must be maintained and the time the records were provided must be documented.
8. Administrative appeal process for the denial of requested records/documents:
 - A. A requestor denied access to the records and documents requested pursuant to this section may appeal, in writing, such denial to the incident records appeals officer designated by OPWDD.
 - B. Upon receipt of the appeal, the agency issuing the denial will be notified of the appeal and given an opportunity to submit relevant information to the incident records appeals officer, including the reasons for denial, within 10 business days of the receipt of such appeal. The incident records appeals officer may also request additional information from the requestor as may be necessary to resolve the appeal.
 - C. Within 10 business days of the receipt of complete information, the incident records appeals officer will make a determination about whether the requested records and/or documents should be released. The incident records appeals officer will issue his or her determination with an explanation of the reasons for the determination to the requestor and the agency. If so, directed by the incident records appeals officer, the agency must provide the requested records and/or documents to the requestor.
9. Note that records maintained by the agency may also be available under section 496 of the social services law to "other persons named in the report" as defined in section 488 of the social services law.
10. For records subject to release concerning reports of abuse that occurred **prior to June 30, 2013**.
 - A. Agencies are required to release all records and documents pertaining to allegations and investigations into abuse as defined in applicable OPWDD regulations in effect at the time the allegation occurred under the auspices (see section 624.20) of the agency or sponsoring agency to eligible requestors who make a request in accordance with the provisions of this section.
 - B. Agencies are required to release records and documents pertaining to allegations of abuse which occurred or were discovered on or after May 5, 2007, regardless of the date of the submission of the written request.
 - C. Agencies are required to release records and documents pertaining to allegations of abuse which occurred or were discovered on or after January 1, 2003 but prior to May 5, 2007, if the written request is submitted on or before December 31, 2012.

Release of Initial Incident/ Occurrence Report for Reportable Incidents and Notable Occurrences:

1. Requests for the initial incident/occurrence report shall be made in writing by the eligible requestor for Reportable Incidents and Notable Occurrences.
2. If the individual receiving services is a capable adult and objects, the provision of the initial incident/occurrence report must not be provided to the requestor.
3. A copy of the OPWDD 147 will be provided as the initial incident/occurrence report to the eligible requestor within 10 days of the request.
4. The copy of the OPWDD 147 shall incorporate the redaction of names of the employees who are involved in the incident or occurrence or the investigation or who are interviewed as a part of the investigation; persons receiving services (or who formerly received services); and any information tending to identify such employees or persons. Redaction may be waived if the employee or person authorizes disclosure, unless redaction of the specific information is necessary because it tends to identify another employee or person who has not authorized disclosure or for another reason specified in this subparagraph. In addition, if the report identifies a particular party as having made a child abuse or maltreatment report to the Statewide Central Register of Child Abuse and Maltreatment (SCR), contacted the SCR, or otherwise cooperated in a child abuse/maltreatment investigation, that name as well as any information tending to identify the party must be redacted.
5. The copy of the initial incident/occurrence report must be accompanied by a statement that all contents are preliminary and have not been substantiated.



Standing Committee to Review and Monitoring Reportable Incidents

In accordance with Part 624.7, PLUS Group Homes shall ensure the Incident Review Committee meets regularly to review Reportable Incidents (Allegations of Abuse and Significant Incidents) and Notable Occurrences (Serious and Minor) in order to make meaningful determinations and recommendations to prevent future occurrences.

Procedure:

1. PLUS Group Homes has one Incident Review Committee to review and monitor Reportable Incidents (Allegations of Abuse and Significant Incidents) and Notable Occurrences (Serious and Minor) that occur to people in its facilities; or to review situations which involve any of its employees, interns, volunteers, consultants or contractors.
2. PLUS Group Homes' Incident Review Committee shall review Reportable Incidents (Allegations of Abuse and Significant Incidents) and Notable Occurrences (Serious and Minor) to:
 - A. Ascertain that Reportable Incidents and Notable Occurrences were reported, managed, investigated, and documented consistent with the provisions of Part 624 and with agency policies and procedures, and to make written recommendations to the appropriate staff and/or the Executive Director to correct, improve, or eliminate inconsistencies.
 - B. 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 Executive Director to correct, improve, or eliminate inconsistencies.
 - C. 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 Executive Director relative to the Reportable Incident or Notable Occurrence.
 - D. Identify trends in Reportable Incidents and Notable Occurrences and to recommend appropriate corrective, preventive, remedial, and/or disciplinary action to the Executive Director to safeguard against such recurring situations or reportable incidents and notable occurrences.
 - E. Ascertain and ensure the adequacy of the agency's reporting and review practices, including the monitoring of the implementation of approved recommendations for corrective, preventive, and remedial action.
3. PLUS Group Homes' Incident Review Committee shall:
 - A. Meet monthly, but no less frequently than on a quarterly basis and always within one month of the report of a Reportable Incident or Serious Notable Occurrence, or sooner should the circumstances so warrant. The IRC shall meet as necessary to meet the timeframes established for submission of a final report to the Justice Center for Reportable Incidents, if required.
 - B. Review and monitor all Minor Notable Occurrences that are reported 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.

- C. Review and monitor all Reportable Incidents and/or Serious Notable Occurrences that are reported.
 - D. Review and monitor investigatory procedures but shall not perform the routine investigation of Reportable Incidents or Notable Occurrences.
 - E. Make written recommendations to appropriate staff to eliminate or minimize similar Reportable Incidents and/or Notable Occurrences in the future, and/or to improve investigatory or other procedures.
 - F. Make written recommendations to the Executive Director on changes in agency policy or procedures and to improve conditions contributing to the reportable incidents and/or notable occurrences reviewed.
 - G. Forward findings and recommendations to the Executive Director within two weeks of meeting.
 - H. Provide documentation that all reports of Reportable Incidents and Serious Notable occurrences have been reviewed by the committee and that results, and recommendations have been conveyed to appropriate agency executives and others with a need to know.
 - I. Monitor actions taken on any and all recommendations made and advise the Executive Director when there is a problem.
 - J. In accordance with agency policy, report periodically, but at least annually, to the Executive Director, the governing body, and OPWDD 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.
 - K. Interact with the governing body and comply with the policies in relation to the review and monitoring of all Reportable Incidents and Notable Occurrences.
4. For Reportable Incidents of Abuse and Neglect in facilities and programs that are certified or operated by OPWDD, an incident will not be considered closed by an IRC until the agency receives written notification from the Justice Center which specifies that it has accepted an investigation conducted by the agency (or by OPWDD) or, if the Justice Center conducted the investigation, when the Justice Center notifies the agency that the incident is closed. The Justice Center may amend findings made by an agency or OPWDD. Findings made by the Justice Center are considered final.
5. Role of the IRC when investigations are conducted by the Central Office of OPWDD or the Justice Center. When an investigation of an incident or occurrence is conducted by the Central Office of OPWDD or the Justice Center:
- A. The IRC role in reviewing and monitoring the particular incident or occurrence is limited to matters involving compliance with the reporting and notification requirements of Part 624, protective and remedial actions taken (except disciplinary actions concerning services operated by OPWDD), operational concerns, and the quality of services provided.
 - B. The finding (of the report of abuse or neglect) of substantiated or

unsubstantiated must be made by the Central Office of OPWDD or the Justice Center.

- C. Concerning services operated by OPWDD and facilities and programs that are not operated by OPWDD, including non-certified programs and programs certified under 16.03 of the Mental Hygiene Law, the IRC must monitor all actions taken to implement recommendations made by the Central Office of OPWDD or the Justice Center, except recommendations for disciplinary action.

6. Organization and membership of the Incident Review Committee:

- A. PLUS Group Homes' Incident Review Committee is organized on an agency-wide basis with members appointed by the Executive Director.
- B. As per Part 624, membership of an IRC must include: a member of the governing body, at least two professional staff, other staff, including administrative staff, as deemed necessary by the agency to achieve the purposes of the committee, at least one Direct Support Professional, at least one Individual Receiving Services, at least one representative of advocacy organizations, and the participation of a Psychologist on the committee is recommended.
- C. PLUS Group Homes' Incident Review Committee Membership consists of the following: Registered Nurse, Director of Psychology, Licensed Clinical Social Worker, Program Director, Residential Coordinators, Human Resources Representative, Day Habilitation Manager, Direct Support Professional, Individual Receiving Services, and Parent Advocate. Currently, a member of the governing body is not present at the Incident Review Committee meeting however they are available for consultation. Incident Review Committee Meeting Minutes are distributed to the Board of Directors on a quarterly basis. Additionally the Director of Quality Management meets with the Board of Directors on a quarterly basis.
- D. Membership limitations:
 - (i) The Executive Director of PLUS Group Homes does not serve as a member of the committee but may be consulted by the committee in its deliberations.
 - (ii) The Program Director(s) are designated as members as the committee is agency-wide and based on multiple programs. If the Program Director is not a member, an administrator may be consulted by the committee in its deliberations.
- E. Case-specific requirements:
 - (i) There shall be representation by someone from or with knowledge of the program or service within the agency where the event under discussion occurred, or by someone who is familiar with the person(s) involved.
 - (ii) Restrictions on review of specific incidents or allegations of abuse:
 - a) 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 committee review of the incident or occurrence in question.

- b) 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.
- c) 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 program where the incident took place or supervised directly involved parties.
- d) 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 member may, however, participate in committee deliberation regarding appropriate corrective, preventive, or remedial action.

F. Members of the committee shall be trained in confidentiality.

- 7. Minutes: The Chairperson of the Incident Review Committee shall ensure that minutes are kept for all meetings.
 - A. 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.
 - B. Minutes addressing the review of specific Reportable Incidents and/or Serious Notable Occurrences shall clearly state the Master Incident Number and Agency Incident Number, the person's full name, and a brief summary of the situation (including date, location, and type) that caused the report to be generated, 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. Initials shall not be utilized.

Documentation of Nonreportable Incidents

PLUS Group Homes will document incidents which occur and are situations which do not need meet the requirement for a Reportable Incident (Allegations of Abuse and Significant Incident) or Notable Occurrence (Serious and Minor). These situations, as defined below, will be filed on a Nonreportable Incident Report and reviewed by each Program Administrator.

PROCEDURE:

When to file a Nonreportable Incident Report:

1. Any injury to an individual requiring only first aid or no treatment should be recorded on a Nonreportable Incident Report. Any fall or impact that may result in a bruise (even if no bruise is initially found). All marks (bumps, bruises, scratches, rashes, etc.) whether observed or discovered.
2. PICA behavior (i.e., eating inedible objects) is reported on a Nonreportable Incident Report if no medical intervention is required.
3. Self-abuse requiring only first aid or no treatment.
4. Agitated behavior requiring only first aid or no treatment for an individual or staff member.
5. Vehicle accidents requiring only first aid or no treatment.
6. Nonreportable incidents will be classified according to the following categories: behavior related, seizure related, fall not seizure related, accidental injury, injury of unknown origin, and other.
7. Nonreportable Incidents are reviewed by a subcommittee on the programmatic level. Subcommittee members are comprised of the Program Director, Management, and Nursing. The subcommittee reviews each incident, monitors for trends, and makes recommendations when necessary.

Follow-up of Nonreportable Incident Reports:

1. The Nonreportable Incident Report is to be filed and submitted to the immediate Supervisor as soon as possible. The Manager is responsible to ensure the incident report is completed correctly and the incident described is appropriate for the form used. If the Manager is uncertain of the correct form for the incident report (classification of incident), he/she is to contact the Residential Coordinator. The Director of Residential must be notified immediately for all injuries of unknown origin as soon as discovered.
2. The Manager is responsible for documenting appropriate follow-up, including but not limited to, as applicable:
 - i. Ensuring timely medical assessment of injuries
 - ii. Initiating investigatory measures for all injuries of unknown origin
 - iii. Family notification
 - iv. Notification of other parties as applicable (BIS, RN, Care Manager/QIDP, etc.)



3. The Incident Review Committee of each program will meet at least monthly for review of the Nonreportable incidents. This committee consists of a Supervisor, Nurse and, if possible, at least one Direct Support Professional staff and an BIS. The committee will complete minutes of these meetings which include recommendations to implement in order to prevent recurrence.
4. A copy of both the minutes and Nonreportable Incident Reports are to be sent to the Managers by the Director of Residential Services or designee.
5. The Director of Residential Services or designee will “flag” those Nonreportable Incidents which require review by the agency-wide Incident Review Committee.