

Bergen County Special Services

Final Policy

Section: Adults

Number: 1000

Title: Complaint Investigations in Community Programs

The Board of Education recognizes the need for procedures for responding to allegations or suspicions of abuse, neglect and exploitation of individuals with developmental disabilities.

DEFINITION

For the purposes of this policy, the words and terms listed shall have the following meanings:

“Individual with developmental disabilities” will be interchangeable with individual receiving service.

“Abuse” means wrongfully inflicting or allowing to be inflicted on an individual receiving service, physical abuse, sexual abuse or verbal or psychological abuse or mistreatment by a staff member upon an individual.

“Exploitation” means the act or process of a staff member using an individual receiving service or his or her resources for another person’s profit or advantage.

“Neglect” means the failure to ensure the health, safety and welfare of the individual receiving service. Failure to provide services and supports necessary to ensure wellbeing may or may not be defined in the individual’s plan or otherwise required by law and regulation. This includes acts that are intentional, unintentional or careless regardless of the incidence of harm. Examples include, but are not limited to, the failure to provide needed care such as shelter, medical care, protection from safety hazards and supervision.

PURPOSE OF THIS POLICY

It shall be the main concern of all District staff members to ensure the safety, health, welfare and freedom from exploitation for individuals receiving services. BCSS staff members will cooperate with an investigation and adhere to requirements outlined in Division Circular #15: Complaint Investigations in Community Programs.

SAFETY REQUIREMENTS

BCSS and Division components will collaborate in assessing risk to an individual receiving services and implement protective services immediately following an incident or allegation of abuse, neglect or exploitation. This remains true even if another party assumes jurisdiction of the investigation. Additionally, any and all protective measures before, during and following an investigation must be documented for the client record. When the party conducting the investigation identifies the need for additional protective services, that party shall be responsible for prompt referral to ensure such services.

INVESTIGATION: The investigation is a systemic inquiry of the factors that may have contributed to an allegation, incident or complaint. An investigation may range from a brief examination of records to a comprehensive set of interviews and the collection and analysis of all pertinent evidence.

INVESTIGATION REQUIREMENTS

Internal investigations shall be conducted and completed by Workshop Managers, Rehab Counselor, Nurses and/or Program Coordinator. All staff members responsible for reporting requirements, investigations and/or closing requirements shall perform these responsibilities in accordance with Division Circular # 15: Complaint Investigations in Community Programs.

1. The investigation shall be conducted by staff that is impartial and not directly involved with the incident under investigation.
2. All pertinent evidence shall be preserved when possible.
3. The identity of individuals who provide information and wish to remain anonymous shall be protected to the extent possible.
4. Any additional incidents that emerge during an investigation shall be reported accordingly by a Workshop Manager, Rehab Counselor, Nurse and/or Program Coordinator.
5. Information that is confusing or contradictory shall be reconciled to the extent possible in order to reach a definitive conclusion.
6. Site selection and scheduling of interviews will be arranged by the investigator and the interviewee in a manner that does not compromise the integrity of the interview or impeded the investigation.
7. A report of the investigation shall be developed by Workshop Managers, Rehab Counselor and/or Program Coordinator. Report of the internal investigation will follow guidelines as detailed in Division Circular #15. Same report will be submitted to the Division's Northern Regional Office and Special Response Unit (SRU).
8. Investigative conclusions can be one of five standard conclusions: unfounded, unsubstantiated, unsubstantiated with concerns, unsubstantiated with mitigating factors and substantiated.

CLOSING UNUSUAL INCIDENTS

When the SRU assumes responsibility for investigating, reviewing or monitoring an incident involving allegations of abuse, neglect or exploitation, the SRU shall close the incident using the Divisions incident Follow-Up Report.

All other incidents that do not fall under the purview of the SRU shall be closed by provider agencies or Division components.

CORRECTIVE ACTION AND FOLLOW UP

Provider agencies may take corrective action at any time during the course of their investigation to fulfill their obligation to protect an individual's health, welfare or safety.

The SRU is responsible for reviewing investigation reports generated by provider agencies such as BCSS. The SRU will notify an agency when it concurs with the conclusion of that agency's investigation. The SRU may disagree with the final conclusion of a provider agency's investigation. If, after further discussion, investigation and review, agreement cannot be reached, the SRU may document a different conclusion. Provider agencies will be notified of such actions by the SRU and advised of the reasons a different conclusion was reached.

SRU findings shall be disseminated as per pages 14 and 15 in Division Circular #15.

Following an SRU investigation or review of a provider agency the SRU will notify the provider agency in writing of its findings, concerns, and conclusions. A copy of this report is forwarded to the DDD Office of Quality Improvement and Northern Regional Office.

The provider agency shall develop a correction plan and forward to the Office of Quality Improvement and Northern Regional Office.

Persons working with individuals receiving services who fail to report an act of abuse, neglect or exploitation against an individual receiving services while having reasonable cause to believe that such action has been committed, will be deemed to have committed a disorderly person's offense and will be subject to legal penalties appropriate to such behavior.

A person making a report, in good faith, shall be immune from any civil or criminal liability that might otherwise be incurred or imposed. Such a person shall have the same immunity with respect to testimony given any judicial proceeding resulting from the report.

A person who, in good faith, reports or causes a report to be made of an allegation of abuse, neglect or exploitation, and, as a result of such a report, is discharged from employment or is in any manner discriminated against with respect to compensation, hire, tenure or terms, conditions of privileges of employment, contract or licensure, may file a cause of action for appropriate relief. If the allegations are

determined to be true, the person may be granted reinstatement of employment with back pay or other legal or equitable relief.

Abuse – Examples

The allegations of the types of injuries, risks or harm that may constitute abuse of an individual receiving service and that shall be reported include, but are not limited to:

1. Acts that demean, intimidate or humiliate;
2. Use of unapproved restraints;
3. Sexual molestation;
4. Sexual exploitation;
5. Sexual penetration;
6. Substantial risk of sexual injury.

Neglect – Examples

The allegations of the types of injuries, risks or harm that may constitute neglect of an individual receiving service and that shall be reported include, but are not limited to:

1. Inadequate supervision;
2. Abandonment or desertion;
3. Inadequate food;
4. Inadequate shelter;
5. Medical neglect.

Exploitation – Examples

The allegations of the types of conduct that may constitute acts of exploitation of an individual receiving service and that shall be reported include, but are not limited to:

1. Theft or use of an individual receiving service' property or private funds;
2. Misappropriation of an individual receiving services' identity; or
3. Having an individual receiving service perform labor for which he or she is not compensated.