

Cathy Cooper
Authorized Signature

Number: SPD-AR-10-017
Issue Date: 3/23/2010

Topic: Developmental Disabilities

Due Date:

Subject: Changes to SERT Database due to Implementation of HB 2442

Applies to (check all that apply):

- | | |
|--|--|
| <input type="checkbox"/> All DHS employees | <input type="checkbox"/> County Mental Health Directors |
| <input type="checkbox"/> Area Agencies on Aging | <input type="checkbox"/> Health Services |
| <input type="checkbox"/> Children, Adults and Families | <input checked="" type="checkbox"/> Seniors and People with Disabilities |
| <input checked="" type="checkbox"/> County DD Program Managers | <input checked="" type="checkbox"/> Other (please specify): DD QA
Coordinators, DD SERT Coordinators,
Office of Investigations and Training
(OIT) |

Action Required: Please begin using the updated "Type of Incidents" on the SERT Reporting Form when entering serious events into the SERT database.

Reason for Action: Due to the January 1, 2010 implementation of HB 2442, changes to the "Type of Incidents" on the SERT Reporting Form were required. An updated Matrix for Reporting Serious Events is attached to this Action Request. The new "Type of Incidents" are underlined below and their definitions are:

- **Abandonment-**
desertion by a caregiver or other individual.
- **Death-**
of an adult caused by other than accidental or natural means or occurring in unusual circumstances.
- **Financial Exploitation-**
 - (A) Wrongfully taking the assets, funds, or property belonging to or intended for the use of a person with a developmental disability.
 - (B) Alarming a person with a developmental disability by conveying a threat to wrongfully take or appropriate money or property of the person if the person would reasonably believe that the threat conveyed would be carried out.
 - (C) Misappropriating, misusing, or transferring without authorization any money from any account held jointly or singly by a person with a developmental disability.

(D) Failing to use the income or assets of a person with a developmental disability effectively for the support and maintenance of the person.

“Effectively” means use of income or assets for the benefit of the person.

□ **Neglect-**

(A) Withholding services necessary to maintain the health and well-being of an adult which leads to physical harm or significant mental injury to an adult. “Services” include but are not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene, or any other services essential to the well-being of an adult.

(B) Failure to provide the care, supervision, or services necessary to maintain the physical and mental health of a person with a developmental disability that results in actual harm or creates a significant risk of physical harm or significant emotional harm to the person with a developmental disability. Such failure may occur whether due to passive or active neglect, or through negligent omission or negligent treatment.

(C) Failure of a caregiver to make a reasonable effort to protect a person with a developmental disability from abuse.

□ **Physical abuse-**

(A) Any physical injury by other than accidental means or that appears to be at variance with the explanation given for the injury.

(B) Willful infliction of physical pain or injury.

□ **Restraint-**

(A) A wrongful use of a physical or chemical restraint upon a person with a developmental disability, excluding an act of restraint prescribed by a licensed physician and any treatment team activities that are consistent with an approved treatment plan or in connection with a court order.

(B) Involuntary seclusion of a person with a developmental disability for the convenience of a caregiver or to discipline the person. Involuntary seclusion includes placing restrictions on an individual's freedom of movement by restriction to an area of the facility, residence, or program, or restriction from access to ordinarily accessible areas of the facility, residence, or program, unless agreed to by the Individual Support Plan (ISP) team and included in an approved Behavior Support Plan (BSP). Involuntary seclusion may also include confinement in a home setting.

□ **Sexual Abuse-**

(A) Sexual contact with a non-consenting adult or with an adult considered incapable of consenting to a sexual act under ORS 163.315.

(B) Sexual harassment, sexual exploitation, or inappropriate exposure to sexually explicit material or language. Sexual harassment or exploitation includes but is not limited to any sexual contact between an employee of a community facility or community program, provider, or other caregiver and an adult. For situations other than those involving an employee, provider, or other caregiver and an adult, sexual harassment or exploitation means

unwelcome physical sexual contact including requests for sexual favors and other physical conduct directed toward an adult.

(C) Any sexual contact between an employee of a facility or paid caregiver and an adult served by the facility or caregiver. Sexual abuse does not mean consensual sexual contact between an adult and a paid caregiver who is the spouse or partner of the adult.

(D) Any sexual contact that is achieved through force, trickery, threat, or coercion.

(E) Any sexual contact between a person with a developmental disability and a relative of the person with a developmental disability other than a spouse or partner. "Relative" means a parent, grandparent, children, brother, sister, uncle, aunt, niece, nephew, half brother, half sister, stepparent, or stepchild.

(F) As defined in ORS 163.305, "sexual contact" means any touching of the sexual or other intimate parts of a person or causing such person to touch the sexual or other intimate parts of the actor for the purpose of arousing or gratifying the sexual desire of either party.

□ **Verbal Abuse-**

Verbal abuse means to threaten significant physical or emotional harm to a person with a developmental disability through the use of:

(A) Derogatory or inappropriate names, insults, verbal assaults, profanity, or ridicule;

(B) Harassment, coercion, threats, intimidation, humiliation, mental cruelty, or inappropriate sexual comments; or

(C) A threat to withhold services or supports, including an implied or direct threat of termination of services. "Services" include but are not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene, or any other services essential to the well-being of an adult.

(D) For purposes of this section, verbal conduct includes but is not limited to the use of oral, written, or gestured communication that is directed to a person with a developmental disability or within their hearing distance, regardless of their ability to comprehend.

(E) The emotional harm that can result from verbal abuse may include but is not limited to anguish, distress, or fear.

(F) In a facility setting, verbal abuse includes but is not limited to direct or implied threats of harm, punishment, or deprivation directed toward the person.

If the CDDP receives notification of an allegation of abuse that occurred prior to January 1, 2010, falling under the previous abuse rule definition, the incident must be entered into SERT under the new incident type that most closely defines the type of allegation. The date of the abuse allegation (if prior to 01-01-10), an explanation of the definition under which the incident falls and the actions required under that definition

must be entered into the "Description of Incident" field on the SERT Reporting form.

Field/Stakeholder review: Yes No

If yes, reviewed by: OIT, Washington CDDP QA, Linn CDDP QA, SPD
Central Office Staff.

If you have any questions about this action request, contact:

Contact(s):	Dana Hittle		
Phone:	503-945-5810	Fax:	503-947-7274
E-mail:	dana.hittle@state.or.us		

SERT Table 2.1.3 Matrix for Reporting Serious Events

A symbol in the box under the type of serious event means the event must be entered in SERT if it involves an individual in the type of service indication.

Type of DD Service	Entered By	Abandonment	Death	Financial Exploitation	Neglect	Physical Abuse	Restraint/Involuntary Seclusion	Sexual Abuse	Verbal Abuse	Medical Hospitalization	Emergency Room Visit	Psychiatric Hospitalization	Police, Fire or Ambulance	Criminal Referral Made
Adult 24-Hour Residential	CDDP	√	√	√	√	√	√	√	√	√	√	√	√	√
Adult Foster Care	CDDP	√	√	√	√	√	√	√	√	√	√	√	√	√
Children Living at Home (Family Support)	CDDP	√	√		√	√	√	√	√					
Children Living at Home (CIIS)**	SPD	√	√		√	√	√	√	√	√	√	√	√	√
Children's Foster Care	CDDP	√	√	√	√	√	√	√	√	√	√	√	√	√
Children's Proctor Care – State Direct Contract	SPD	√	√	√	√	√	√	√	√	√	√	√	√	√
Children's 24-Hour Residential – State Direct Contract*	SPD	√	√	√	√	√	√	√	√	√	√	√	√	√
Children's 24-Hour Residential – CDDP Direct Contract	CDDP	√	√	√	√	√	√	√	√	√	√	√	√	√
DD-Eligible Adult w/Services Coordination Only	CDDP	√	√	√	√	√	√	√	√					
DD-Eligible Adults Previously Found Eligible for DD Services	CDDP	√	√	√	√	√	√	√	√					
Employment/Alternative to Employment	CDDP	√	√	√	√	√	√	√	√	√	√	√	√	√
Adults in Support Services or Comp. In-Home Support	CDDP	√	√	√	√	√	√	√	√					
Supported Living	CDDP	√	√	√	√	√	√	√	√	√	√	√	√	√

*CDDP staff who learn about a serious event involving a child in these services must contact the SPD Residential Services Coordinator assigned to the program. SPD staff will enter incident information into SERT.

**If you learn about any of these serious events involving a child living at home, receiving Children's Intensive In-Home Services (CIIS), notify the DHS division providing child protection services and CIIS for entry into SERT.