

State Operated Community Program  
**SOCP Policy Memorandum**

<b>Topic:</b>	<b>Mandatory Abuse Reporter Notice</b>	<b>Issue date:</b>	09/29/10
<b>Related policy:</b>	2.007 Abuse		
<b>Policy Memorandums</b> - should be considered high priority, and processed immediately. They are used to disseminate new federal, state, and program policies or <u>administrative rules</u> , <u>changes in existing policy or administrative rules</u> , <b>policy clarifications</b> and manual updates.			

**Applies to:**  
*(check all that apply)*

- |   |   |   |
|---|---|---|
| <input checked="" type="checkbox"/> All employees includes: | <input checked="" type="checkbox"/> Prog. Managers    | <input checked="" type="checkbox"/> Site Managers |
| <input checked="" type="checkbox"/> Nurses                  | <input checked="" type="checkbox"/> BVS1s             | <input checked="" type="checkbox"/> BVS2s         |
| <input checked="" type="checkbox"/> Cent. Office staff      | <input checked="" type="checkbox"/> Direct care staff | <input checked="" type="checkbox"/> Trainers      |
| <input checked="" type="checkbox"/> HR                      |   |   |

**Implementation date:** 09/29/10

**FROM:** Deanna Bathke, SOCP Director 

**SUBJECT:** Mandatory Abuse Reporter Notice (Adult and Children with DD)

On July 1, 2010 the **Community Abuse Rule** became permanent. Though changes were few, all the Mandatory Abuse Reporting notices and cards have to be changed to reflect the new definition. This has required revamping the wording on both the notices and the cards.

Attached you will find the updated **Mandatory Abuse Reporting Notice** to be signed by each mandatory reporter stating they have received the most current information and training.

OIT is aware that at the end of each notice it asks for the person's signature stating that they received the Mandatory Abuse Reporting card and that they need to sign on that line when they receive the card. At this time, OIT is working on getting updated cards printed.

The updated notices are being distributed and signed by New Employee's entering SOCP and all current employees will received the updated notice/form in their **Annual Mandatory Forms packet** in January.

**Attachments:** Mandatory Reporter of Abuse updated notice

**If you have questions about this information, contact:**

<b>Contact(s):</b>	Deanna Bathke	Terri Millsap
<b>Phone:</b>	503 378-5952 ext. 241	503 378-5952 ext. 238
<b>Email:</b>	Deanna.Bathke@state.or.us	Terri.Millsap@state.or.us



# Oregon

Theodore R. Kulongoski, Governor

Department of Human Services

Director's Office

Office of Investigations and Training

2575 Bittern Street NE

PO Box 14250

Salem, OR 97309-0740

503-945-9495

Fax 503-945-9893

TTY Relay 800-735-2900

## MANDATORY ABUSE REPORTING NOTICE FOR CHILDREN WITH DEVELOPMENTAL DISABILITIES RECEIVING 24-HOUR CARE IN LICENSED FACILITIES AND PROCTOR FOSTER CARE

As an employee or volunteer of \_\_\_\_\_ an agency serving children who are developmentally disabled, you are a **Mandatory Reporter** according to Oregon law. According to the law, if you have reasonable cause to believe that a child who is developmentally disabled has suffered abuse, or that any person with whom you come in contact in your job has abused such a child, you must immediately report the abuse to the local child welfare office and to a local law enforcement agency. You should also follow your agency's policies and procedures so that immediate steps are taken to protect the victim of the abuse.

Child abuse is defined as:

1. Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child which has been caused by other than accidental means, including any injury which appears to be at variance with the explanation given of the injury.
2. Any mental injury to a child, which shall include only observable and substantial impairment of the child's mental or psychological ability to function caused by cruelty to the child, with due regard to the culture of the child.
3. Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual penetration and incest, as those acts are defined in ORS chapter 163.
4. Sexual abuse, as defined in ORS chapter 163.
5. Sexual exploitation, including but not limited to:

Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage in the performing for people to observe or the photographing, filming, tape recording or other exhibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not including any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or which is designed to serve educational or other legitimate purposes; and

Allowing, permitting, encouraging or hiring a child to engage in prostitution, as

*"Assisting People to Become Independent, Healthy and Safe"*  
An Equal Opportunity Employer



## Children with Developmental Disabilities

Page 2 of 6

defined in ORS chapter 167.

6. Negligent treatment or maltreatment of a child, including but not limited to the failure to provide adequate food, clothing, shelter or medical care that is likely to endanger the health or welfare of the child.
7. Threatened harm to a child, which means subjecting a child to a substantial risk of harm to the child's health or welfare.
8. Buying or selling a person under 18 years of age as described in ORS 163.537.
9. Permitting a person under 18 years of age to enter or remain in or upon premises where methamphetamines are being manufactured.
10. Unlawful exposure to a controlled substance, as defined in ORS 475.005, that subjects a child to a substantial risk of harm to the child's health or safety.

In addition to the statutory definition of abuse that applies to children, there are additional definitions of abuse set forth in the Oregon Administrative Rules for children living in homes or facilities licensed to provide 24-hour residential services and agencies licensed or certified to provide proctor foster care for children with developmental disabilities. These rules require a report to child welfare if you have reasonable cause to believe that a child who is developmentally disabled is subject to abuse you must immediately notify local DHS child welfare and follow your agency policies and procedures to ensure the victim's safety.

Abuse of an adult with developmental disabilities means:

1. Abandonment including desertion or willful forsaking by a person who has assumed responsibility for providing care, when that desertion or forsaking results in harm or places the adult at risk of serious harm.
2. Death of an adult caused by other than accidental or natural means or occurring in unusual circumstances.
3. Financial exploitation including:

Wrongfully taking the assets, funds, or property belonging to or intended for the use of an adult.

Alarming an adult by conveying a threat to wrongfully take or appropriate money or property of the adult if the adult would reasonably believe that the threat conveyed would be carried out.

Misappropriating, misusing, or transferring without authorization any money from any account held jointly or singly by an adult.

Failing to use the income or assets of an adult effectively for the support and maintenance of the adult. "Effectively" means use of income or assets for the benefit of the adult.

4. Involuntary seclusion means the involuntary seclusion of an adult for the convenience of a caregiver or to discipline the adult. Involuntary seclusion may include placing restrictions on an adult's freedom of movement by restriction to his or her room or a specific area, or restriction from access to ordinarily accessible areas of the facility, residence, or program, unless agreed to by the Individual Support Plan (ISP) team included in an approved Behavior Support Plan (BSP) or included in a brokerage plan's specialized support. Restriction may be permitted on an emergency or short term basis when an adult's presence would pose a risk to health or safety.

5. Neglect including:

Active or passive failure to provide the care, supervision, or services necessary to maintain the physical and mental health of an adult that creates a risk of significant harm or results in actual harm 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 the adult

Failure of a caregiver to make a reasonable effort to protect an adult from abuse.

6. Physical abuse means:

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

Willful infliction of physical pain or injury.

Physical abuse is presumed to cause physical injury, including pain, to adults otherwise incapable of expressing pain.

7. Sexual abuse" including:

Sexual contact with a nonconsenting adult or with an adult considered incapable of consenting to a sexual act under ORS 163.315.

Sexual harassment, sexual exploitation, or inappropriate exposure to sexually explicit material or language including requests for sexual favors. Sexual harassment or exploitation includes but is not limited to any sexual contact or failure to discourage 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 and other physical conduct directed toward an adult.

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.

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

Any sexual contact between an adult 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.

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.

8. Wrongful restraint means:

A wrongful use of a physical or chemical restraint, excluding an act of restraint prescribed by a licensed physician, by any adult support team approved plan, or in connection with a court order.

Wrongful restraint does not include physical emergency restraint to prevent immediate injury to an adult who is in danger of physically harming himself or herself or others, provided only that the degree of force reasonably necessary for protection is used for the least amount of time necessary.

9. Verbal abuse includes threatening significant physical harm or causing emotional harm to an adult through the use of:

## Children with Developmental Disabilities

Page 5 of 6

Derogatory or inappropriate names, insults, verbal assaults, profanity, or ridicule;

Harassment, coercion, punishment, deprivation, threats, implied threats, intimidation, humiliation, mental cruelty, or inappropriate sexual comments;

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.

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 an adult or within their hearing distance, or sight if gestured, regardless of their ability to comprehend. In this circumstance the assessment of the conduct is based on a reasonable person standard.

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

10. An adult who in good faith is voluntarily under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner shall for this reason alone not be considered subjected to abuse.

Pursuant to the law, your identity as the person making the report is confidential. Further, the law protects you from retaliation from a community facility, community program or individual when you make a report in good faith. You may not be discharged or transferred from one location of an agency to another, terminated from your job, demoted or have your pay lowered, or denied contact with the facility or its residents because you made a good faith report of suspected abuse. If you feel you have been retaliated against, you have the right to seek private legal action. Any agency, program or individual who retaliates against someone because of a good faith report of suspected abuse may be liable to that person for actual damages.

By signing this form, you are saying you understand the State's mandatory abuse reporting requirements concerning children with developmental disabilities. If you do not understand the mandatory abuse reporting requirements, ask to have them explained to you before you sign this form. You will be asked to sign this form every year you work for the agency and the signed form will become a part of your personnel record.

---

**Employee Acknowledgement**

I have received training by this agency about my mandatory abuse reporting obligations. I was trained on \_\_\_\_\_

DATE

I have received a copy of a card explaining I am a mandatory reporter and providing information as to who to call if I suspect abuse.

I received the card on \_\_\_\_\_

DATE

---

Print, then sign your name

Today's Date

---

DD Children 24 Res-PFC  
07/2010

**PLEASE RETURN THIS FORM TO YOUR EMPLOYER**



# Oregon

Theodore R. Kulongoski, Governor

Department of Human Services

Director's Office

Office of Investigations and Training

2575 Bittern Street NE

PO Box 14250

Salem, OR 97309-0740

503-945-9495

Fax 503-945-9893

TTY Relay 800-735-2900

## MANDATORY ABUSE REPORTING NOTICE FOR ADULTS WITH DEVELOPMENTAL DISABILITIES

As an employee or volunteer of \_\_\_\_\_ serving adult(s) who are developmentally disabled, you are a **Mandatory Reporter** according to Oregon law (ORS 430.765). According to the law, if you have reasonable cause to believe that an adult who is developmentally disabled has been abused, or that any person with whom you come in contact in your job has abused such an adult, you must immediately report the abuse to the community developmental disability program and to a local law enforcement agency when there is reason to believe a crime has been committed. You should also follow your agency or brokerage policies and procedures so that immediate steps are taken to protect the victim of the abuse.

Abuse of an adult with developmental disabilities means:

1. Abandonment including desertion or willful forsaking by a person who has assumed responsibility for providing care, when that desertion or forsaking results in harm or places the adult at risk of serious harm.
2. Death of an adult caused by other than accidental or natural means or occurring in unusual circumstances.
3. Financial exploitation including:

Wrongfully taking the assets, funds, or property belonging to or intended for the use of an adult.

Alarming an adult by conveying a threat to wrongfully take or appropriate money or property of the adult if the adult would reasonably believe that the threat conveyed would be carried out.

Misappropriating, misusing, or transferring without authorization any money from any account held jointly or singly by an adult.

Failing to use the income or assets of an adult effectively for the support and maintenance of the adult. "Effectively" means use of income or assets for the benefit of the adult.



4. Involuntary seclusion means the involuntary seclusion of an adult for the convenience of a caregiver or to discipline the adult. Involuntary seclusion may include placing restrictions on an adult's freedom of movement by restriction to his or her room or a specific area, or restriction from access to ordinarily accessible areas of the facility, residence, or program, unless agreed to by the Individual Support Plan (ISP) team included in an approved Behavior Support Plan (BSP) or included in a brokerage plan's specialized support. Restriction may be permitted on an emergency or short term basis when an adult's presence would pose a risk to health or safety.

5. Neglect including:

Active or passive failure to provide the care, supervision, or services necessary to maintain the physical and mental health of an adult that creates a risk of significant harm or results in actual harm 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 the adult

Failure of a caregiver to make a reasonable effort to protect an adult from abuse.

6. Physical abuse means:

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

Willful infliction of physical pain or injury.

Physical abuse is presumed to cause physical injury, including pain, to adults otherwise incapable of expressing pain.

7. Sexual abuse including:

Sexual contact with a nonconsenting adult or with an adult considered incapable of consenting to a sexual act under ORS 163.315.

Sexual harassment, sexual exploitation, or inappropriate exposure to sexually explicit material or language including requests for sexual favors. Sexual harassment or exploitation includes but is not limited to any sexual contact or failure to discourage 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 and other physical conduct directed toward an adult.

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.

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

Any sexual contact between an adult 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.

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.

8. Wrongful restraint means:

A wrongful use of a physical or chemical restraint, excluding an act of restraint prescribed by a licensed physician, by any adult support team approved plan, or in connection with a court order.

Wrongful restraint does not include physical emergency restraint to prevent immediate injury to an adult who is in danger of physically harming himself or herself or others, provided only that the degree of force reasonably necessary for protection is used for the least amount of time necessary.

9. Verbal abuse includes threatening significant physical harm or causing emotional harm to an adult through the use of:

Derogatory or inappropriate names, insults, verbal assaults, profanity, or ridicule;

Harassment, coercion, punishment, deprivation, threats, implied threats, intimidation, humiliation, mental cruelty, or inappropriate sexual comments;

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.

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 an adult or within their hearing distance, or sight if gestured, regardless of their ability to comprehend. In this circumstance the assessment of the conduct is based on a reasonable person standard.

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

10. An adult who in good faith is voluntarily under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner shall for this reason alone not be considered subjected to abuse.

Pursuant to the law, your identity as the person making the report is confidential. Further, the law protects you from retaliation from a community facility, community program or individual when you make a report in good faith. You may not be discharged or transferred from one location of an agency to another, terminated from your job, demoted or have your pay lowered, or denied contact with the facility or its residents because you made a good faith report of suspected abuse. If you feel you have been retaliated against, you have the right to seek private legal action. Any agency, program or individual who retaliates against someone because of a good faith report of suspected abuse may be liable to that person for actual damages.

By signing this form, you are saying you understand the State's mandatory abuse reporting requirements concerning adults with developmentally disabilities. If you do not understand the mandatory abuse reporting requirements, ask to have them explained to you before you sign this form. You will be asked to sign this form every year you work for the agency and the signed form will become a part of your official file including any personnel record.

---

**Employee Acknowledgement**

I have received training about my mandatory abuse reporting obligations. I was trained on \_\_\_\_\_

DATE

I have received a copy of a card explaining I am a mandatory reporter and providing information about who to call if I suspect abuse.

I received the card on \_\_\_\_\_

DATE

---

Print, then sign your name

Today's Date

---

Adults with DD  
DD & Brokerages  
Revised: 07/2010

**PLEASE RETURN THIS FORM TO THE EMPLOYER**