



Policy 4-1: Incident Management

Changes from Previous Version: This policy was adapted from elements of previous Advance Care Alliance of New York (ACA/NY) Policies, as follows: Policy 400 Part 624 Incidents and Notable Occurrences, Policy 401 Part 625 Events and Situations and Policy 402 Internal Incidents. It is now a standalone policy. The content has been revised for clarity.

In accordance with Office for People with Developmental Disabilities (OPWDD) Part 624 and 625 regulations, Care Coordination Organization/Health Home (CCO/HH) are required to develop incident reporting and management policies and procedures. A successful incident management process ensures incidents are identified, documented, reported, and reviewed with an emphasis on identification of incident patterns or trends and analysis of incident data. It is the intent of this policy to set forth the expectations for an incident management system, including the reporting, investigation, review, correction, and monitoring of certain events or situations, in order to protect individuals receiving services, (to the extent possible) from harm; ensure that individuals are free from abuse and neglect; and to enhance the quality of their services and care. All employees, volunteers, and board members will be trained in the reporting of such incidents within 3 months of the start of their relationship with ACA/NY.

If an ACA/NY member is also receiving services in a program under the jurisdiction of another State agency (e.g., Office of Mental Health (OMH); Office of Alcoholism and Substance Abuse Services (OASAS); Office for People with Developmental Disabilities (OPWDD); or Office of Children and Family Services (OCFS) which has stated incident, abuse, neglect or maltreatment reporting requirements, this policy does not relieve the obligation to report in accordance with such regulations. Such reporting is the responsibility of the service provider operated, certified, or funded by OPWDD. ACA/NY shall cooperate as necessary with such service providers and comply with their incident management policies in addition to complying with the law.

In addition, the Protection of People with Special Needs Act requires persons who are Mandated Reporters under that Act to report abuse, neglect and significant incidents involving vulnerable persons to the Vulnerable Persons' Central Register (VPCR) operated by the NYS Justice Center for the Protection of People with Special Needs. These reports are to be made by calling 1-855-373-2122. If a staff makes any report to the Justice Center, they must also immediately notify the ACA/NY Incident Management Team.

All ACA/NY staff are mandated reports and required by law to report suspected abuse or maltreatment of any ACA/NY member when they have reasonable cause to suspect abuse or maltreatment. Reasonable cause includes anytime staff have suspicion of



abuse or maltreatment as well as anytime they witness abuse, or it is reported to them by the member and/or their family. If a staff has any suspicion of abuse or neglect of a member, under the age of 18, they are mandated to report by phone, to the Statewide Central Registrar's (SCR) Mandated Reporter hotline at 1-800-635-1522. Failure to report will result in disciplinary action, up to and including termination, and may include criminal charges.

ACA/NY must follow all requirements of the existing 14 NYCRR Part 624 and 625 regulations. At a minimum, ACA/NY must immediately review the facts and circumstances of a reported incident and must ensure the individual's safety and well-being as well as program integrity, overall programmatic expectations, and compliance with ACA/NY's requirements and standards.

ACA/NY must submit to OPWDD, on a quarterly basis, the total number of reports in each of the categories noted below, as well as the status of each incident. These are due by the 15th business day following the end of each quarter.

For incidents involving Willowbrook Class Members, ACA/NY must comply with the incident reporting requirements of the Willowbrook Permanent Injunction.

Incidents are to be reported and recorded according to their definitions. Below are the types of incident categories that are to be reported. All except Internal Incidents will be reported to OPWDD through the IRMA system.

1. Part 624 Incidents
 - a. Abuse and/or Neglect
 - b. Serious Notable Occurrences
 - c. Minor Notable Occurrences
2. Part 625 Events
3. Internal Incidents

Part 624 incident definitions—these are incidents under the auspices of ACA/NY, which means an ACA/NY staff member is accused of committing one of the types of incidents listed below against a member.

Abuse and/or Neglect

1. Physical abuse: Intentional or reckless conduct by an ACA/NY staff member that causes physical injury or impairment resulting from physical conduct, such as hitting, kicking, smothering, shoving, shaking, burning, or other physical conduct. This does not include reasonable emergency interventions necessary to protect the member's immediate safety.
2. Sexual abuse: Any sexual encounter with a member and an ACA/NY staff. This includes physical contact with sexual body parts by a staff, as well as a staff allowing or encouraging prostitution or engaging in sexual activity by a member who receives services.

3. Psychological abuse: Any verbal or nonverbal conduct by an ACA/NY staff that would cause emotional distress to a member. This includes, but is not limited to, taunts, derogatory comments, ridicule, intimidation, and displaying of weapons. 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 restraints: The use of a restraint by an ACA/NY staff (including physical, medical, or any other method that immobilizes or limits the ability of the member to freely move their arms, legs, or body) 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. Life Plan 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. Since ACA/NY staff are not certified to perform restraints, any restraint technique utilized by an ACA/NY staff member, other than an emergency situation, would fit into this category.
5. Use of aversive conditioning: The use of physical stimulus meant to induce pain or discomfort to change behavior of a member by an ACA/NY staff. This includes, but is not limited to, using noxious odors, tastes, sounds, blindfolds, etc. Examples include putting pepper flakes in someone's mouth, using soap in the mouth, withholding food to seek a behavioral change, etc.
6. Obstruction of reports of Reportable Incidents: Conduct by a ACA/NY staff member which impedes the discovery, reporting, or investigation of the treatment of a member by falsifying records related to the safety, treatment, or supervision of an individual receiving services; in which they actively persuade another mandated reporter or custodian from making a report of a reportable incident with the intent to suppress the reporting of the investigation of such incident; in which they intentionally make false statements, withhold material information during an investigation; in which the ACA/NY staff member fails to report an incident upon discovery. This also includes the intentional failure of an ACA/NY supervisor to act upon a report of abuse or neglect in accordance with OPWDD regulations, policies, and procedures.
7. Unlawful use or administration of a controlled substance: The administration of a controlled substance as defined by article 33 of public health law, without a prescription or other medication not approved for any use by the FDA, by an

- ACA/NY staff. It also includes an ACA/NY staff using or distributing drugs (legal or street drugs) while on duty.
8. Neglect: Any action, inaction, or lack of attention by an ACA/NY staff that results in or likely could result in injury or serious impairment. Includes but not limited to failure to make appropriate referrals or provide follow up for health/safety issues, etc.
 9. Conduct Between Persons Receiving Services: Conduct between two or more persons that receive services that would be considered abuse if it were to occur between staff and a person who receives services. This would be a 624 incident if the members were under the supervision of an ACA/NY staff at the time. The exception is sexual activity. If both members are capable of consent, this is not a reportable incident. If the conduct between individuals occurred because the staff were not providing adequate supervision, this would be neglect, not conduct between individuals.
 10. Seclusion: The placement of the member into a room or area from which the member cannot, or perceives they cannot, leave at will, by an ACA/NY staff. If the behavior plan specifies that the member will use a time-out room and not be able to leave without staff approval and the specific constant visual and auditory monitoring occurs, that would not be seclusion. If the member does not have time-out rooms in their behavior plan and it is used, this would be seclusion, even in an emergency. Using any room, other than the specifically identified time-out room, for time-out is considered seclusion.
 11. Unauthorized Use of time-out: This includes placing a member in a time-out room that is inconsistent with a member's plan by an ACA/NY. Examples include a member being in a time-out room for longer than what is prescribed in the behavior plan, using a time-out room for a behavior when time-out is not the intervention described in the behavior plan.
 12. Medication Error w/ Adverse Effect: When an ACA/NY staff gives a member the wrong medication or fails to give medication AND the member had an adverse reaction. Adverse effects would include requiring medical treatment and/or monitoring. If a member simply has a negative reaction to a prescribed medication (such as an allergic reaction), that is not a med error. ACA/NY staff are not permitted to provide medication to members. Doing so would result in a potential 624 incident.
 13. Inappropriate Use of Restraints: The use of a restraint by a ACA/NY staff member (including physical, medical, or other methods which limit the ability of the member to freely move their arms, legs, or body) 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.

14. Mistreatment: Any conduct by an ACA/NY staff member that does not fit within the incident categories that impairs or creates a reasonable potential to impair health, safety, and welfare of a member. Some examples include failure to make referrals for programming, socialization, recreation.
15. Missing Person: 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. This would be a 624 incident if the member were under the supervision of the ACA/NY staff member. This includes when a member 18 or older is considered missing AND the disappearance is possibly not voluntary or a Law Enforcement Agency has issued a Missing Person Entry, OR when a child's (under the age of 18) whereabouts are unknown to the child's parent, guardian, or legally authorized representative.
16. Unauthorized Absence: The unexpected or unauthorized absence of a person after formal search procedures have been initiated by the agency. This would be a 624 incident if the member were under the supervision of the ACA/NY staff member. Reasoned judgments, taking into consideration the person's habits, deficits, capabilities, health problems, etc., shall 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 to the wellbeing of the person or others.
17. Choking with Known Risk: Partial or complete blockage of the upper airway by an inhaled or swallowed foreign body, including food, which 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. This would be a 624 incident if the member were under the supervision of the ACA/NY staff member.
18. 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, which leads to a partial or complete inability to breathe. Any choking with no known risk event is considered a serious notable occurrence. This would be a 624 incident if the member were under the supervision of the ACA/NY staff member.
19. Self-abusive Behavior, with Injury: When a member self-inflicts an injury that requires medical treatment beyond first aid. If the agency seeks medical treatment as part of protocol, but treatment was not required to control the injury, this is not reportable. Stiches, sutures, and staples are all considered more than first aid and reportable. This would be a 624 incident if the member were under the supervision of the ACA/NY staff member.
20. Injury, with Hospital Admission: Any injury which results in an admission to the hospital. Going to the ER does not qualify as reportable unless they were subsequently admitted at the ER visit. If a member has a fall related to a medical condition and is admitted due to the fall, this would be reportable. If they were

admitted only due to the medical condition, but not because of the fall, this is not reportable. This would be a 624 incident if the member were under the supervision of the ACA/NY staff member.

21. Theft and Financial Exploitation: Any suspected theft by an ACA/NY staff member of a member'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.
22. 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. This would be a 624 incident if the member were under the supervision of the ACA/NY staff member.

Serious Notable Occurrences

1. Death: The death of any person receiving services, regardless of the cause of death, is a serious notable occurrence. 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. All known deaths of any individual who received services operated or certified by OPWDD within thirty days preceding death shall be reported to OPWDD and the NYS Justice Center. This reporting is required regardless of whether the death did or did not occur under the auspices of an agency. NYS Justice Center Reporting Line: 1-855-373-2124. This would be a 624 incident if the member were under the supervision of the ACA/NY staff member.
2. Sensitive Situation: Situations involving a member that do not meet the definition of other incidents described above, but that may be of a delicate nature to the agency and are reported to ensure the awareness of the circumstances. At ACA/NY, these include arrests, probation and/or parole violation, and/or when a member is or will be, subject to the requirements of the Sex Offender Registration Act (SORA) or the Sexual Assault Reform Act (SARA). This would be a 624 incident if the member were under the supervision of the ACA/NY staff member.

Minor Notable Occurrences

1. Theft or Financial Exploitation: Any suspected theft by an ACA/NY staff member 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.

2. Injury: Any suspected or confirmed harm, hurt, or damage to an individual receiving services, caused by an act of that individual or another, whether or not by accident, and whether or not the cause can be identified, that results in an individual requiring medical or dental treatment by a physician, dentist, physician's assistant, or nurse practitioner, and such treatment is more than first aid. If the member only goes due to agency protocol, this will not need to be reported under 624 regulations. Illness shall not be reported as an injury or any other type of incident or occurrence. This would be a 624 incident if the member were under the supervision of the ACA/NY staff member.

Part 625 Incident Definitions—These are incidents that do not occur under the auspices of ACA/NY. Rather, these are incidents against a member who resides in the community where the alleged abuser is not an ACA/NY staff.

1. Physical Abuse: The non-accidental use of force that results in bodily injury, pain, or impairment, including but not limited to, things such as slapping, burning, cutting, bruising, and improperly restraining someone.
2. Sexual Abuse: Non-consensual sexual contact of any kind, including but not limited to, forced sexual contact, or forced sexual activity with a third party. Force can be physical force, force by way of threats, implied force or any other manner which causes the person to engage in unwanted sexual activity.
3. Emotional Abuse: The willful infliction of mental or emotional anguish by threat, humiliation, intimidation, or other abuse conducted, including isolating the individual from others.
4. Active Neglect: The willful failure of a caregiver to fulfill the care-taking functions and responsibilities, including, but not limited to, abandonment, willful deprivation of food, water, heat, clean clothing, bedding, eyeglasses, dentures, or health related services. This is basically when the caretaker is choosing not to take care of the member and/or not provide the basic necessities for the member.
5. Passive Neglect: The non-willful failure of a caregiver to fulfill care-taking functions due to inadequate care-taker knowledge, ability, or their understanding of the importance of the services. This is basically when a caregiver is unable to take care of the member.
6. Self-Neglect: An adult member's inability, due to physical and/or mental impairments, to perform the essential tasks of caring for oneself, including but not limited to providing food, clothing, shelter, medical care, obtaining goods and services to maintain physical health, mental health, emotional well-being, general safety, or managing finances.
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. Other—Any other sensitive situations which have a significant impact on the member. If a member is arrested that would fall under this category.
9. Death: The death of a member residing in the community, expected or unexpected, regardless of cause.

Internal Incidents—These are incidents that CCOs track internally that either do not rise to the level of a reportable incident or are already reported to OPWDD or the NYS Justice Center by another agency. These incidents include:

1. Any 624/625 incident reported by another agency. All the categories above apply for incidents that are reported by another agency.
2. Arrest—This would include any arrests of members who reside in a certified setting.
3. Law Enforcement without charges—This would include if law enforcement visits a member who resides in a certified setting, due to a complaint made about the member, where charges could be filed against the member, but no arrests were made at that time.

Incident Reporting Procedures—This is a brief overview of the process and procedures that will be followed by ACA/NY. Please see the other Incident Management Policies for a more detailed description of the full process.

1. For any of the incident categories listed above, staff will immediately upon discovery, notify ACA/NY's Incident Management Team (IM Team) by using the online incident reporting form, located on the bookmarked All Staff Tips/Shortcuts page and all staff work phones. The IM team will, immediately but no later than 24 hours after discovery, report this to OPWDD. For all 624 incidents, the IM staff will report this to the OPWDD IMU Liaison by phone and through IRMA. For all 625 incidents, the IM Staff will report this to OPWDD through IRMA entry.
2. If an incident has occurred in an OPWDD, OMH, OASAS, or OCFS certified or operated service provider, ACA/NY shall notify the DOH, Justice Center Vulnerable Persons Central Registry as required by the Protection of People with Special Needs Act, and notify the service provider who will follow its incident management policies and procedures; and
3. ACA/NY Incident Investigators shall notify other individuals and entities of Part 624 information as required by Jonathan's Law.
4. ACA/NY shall ensure that all appropriate entities are notified of abuse and/or neglect of any member, as required by Part 624/625 Regulations. This includes but is not limited to: Adult Protective Services (APS), Child Protective Services (CPS) Administration for Children's Services (ACS), and Law Enforcement.
5. The IM team will immediately review the facts and circumstances of the current incident along with all pertinent information and incident reports.





6. The IM team will ensure action is taken to safeguard the member and will take further corrective actions to prevent recurrence.
7. The IM team will investigate (for Part 624) or gather facts and outcomes of safeguard implementation (for Part 625) the incident in accordance with ACA/NY's policies and procedures. For all Part 624 incidents, ACA/NY will complete an investigation within 30 days unless presented with extraordinary circumstances.
8. The IM Team will document the investigation in accordance with ACA/NY's policies and procedures.
9. The IM Team will provide oversight and direction to ensure individual safety and well-being, program integrity, overall programmatic expectations, and compliance with Care Coordination /Health Home standards.

All ACA/NY staff will cooperate with OPWDD and/or DOH on any findings related to the incident, and if appropriate, take disciplinary action against any ACA/NY staff for failure to follow incident reporting policies.

Related Standard Operating Procedures:

- SOP 4A: Incident Reporting
- SOP 4B: Incident Classification and Reclassification
- SOP 4C: Responding to IRC Recommendations
- SOP 4D: Forensics Reporting

Approval:

Approved by:	<div style="display: flex; justify-content: space-between;"> DocuSigned by: 3/29/2023 </div> <div style="text-align: center; margin: 5px 0;">  </div> <div style="font-size: small; margin-bottom: 10px;">F47F5CFB5F47484...</div> <p style="text-align: center;">Lauren Albaroni, Senior Vice President of Quality Assurance, Corporate Compliance and Risk Management</p>
Approved by:	<div style="display: flex; justify-content: space-between;"> DocuSigned by: 3/29/2023 </div> <div style="text-align: center; margin: 5px 0;">  </div> <div style="font-size: small; margin-bottom: 10px;">0C6D5DED0C7C4D3...</div> <p style="text-align: center;">John Von Ahn, Executive Vice President and General Counsel</p>