

Department of County Human Services

POLICY TITLE:	Adult Abuse Investigations Policy		
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CHAPTER:	n/a	REPLACES:	n/a
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SIGNED BY:	Jody Michaelson, Division Director	DATE SIGNED:	2/8/2019

I. PURPOSE:

This policy and procedure is designed to provide guidelines for Abuse Reporting and Protective Service referral, processing, Abuse Investigations and the monitoring of related required actions.

II. POLICY:

This policy is authorized by and conforms with ORS [430.731 through 430.768](#) regarding Mandatory Abuse Reporting, with ORS [443.705 through 443.825](#) regarding foster care, and with the following Oregon Administrative Rules:

- OAR [407-045-0250 through 407-045-0370](#) Abuse Reporting and Protective Services in Community Programs and Community Facilities
- OAR [411-320-0010 through 411-320-0200](#) Community Developmental Disability Programs
- OAR [411-325-0010 through 411-325-0480](#) 24-hour Residential Programs and Settings for Children and Adults Intellectual or Developmental Disabilities
- OAR [411-340-0010 through 411-340-0150](#) Support Service Brokerages for Adults Intellectual or Developmental Disabilities
- OAR [411-328-0550 through 411-328-0790](#) Supported Living Programs for Adults with Intellectual or Developmental Disabilities
- OAR [411-345-0010 through 411-345-0170](#) Employment Services for Individuals with Intellectual or Developmental Disabilities
- OAR [411-323-0010 through 411-323-0070](#) Agency Certification and Endorsement to Provide Developmental Disabilities Services in Community-Based Settings

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III. SCOPE:

1. IDDSD conducts abuse investigations for individuals 18 years of age or older who currently receive services from IDDSD or those not enrolled currently but eligible for services as an adult and who are the alleged abuse victim. (OAR [407-045-0260\(3\)\(a\)\(b\)\(c\)](#))
2. Reporters, in the following situations, should be referred to the appropriate agency:
3. If a person is suspected of having an intellectual and/or developmental disability, but is not currently served by IDDSD and is 60 years or older, ADVSD conducts the abuse investigation. (Exception to this rule is when an individual was previously determined eligible for services as an adult by a community developmental disability program; and not subsequently deemed ineligible. Under this circumstance, the IDDSD conducts the investigation.)
4. If a person is under the age of 18, DHS – Child Welfare conducts the abuse investigation even if the IDDSD serves the child/family. If the child with developmental disabilities lives in a 24-hour residential program licensed by DHS ODDS, child welfare may refer the case to OTIS for investigation.
5. Per Senate Bill 243 and ODDS Transmittal APD-PT-18-026, If the person is between the ages of 18-21 and currently resides in an ODDS-certified children’s foster home; ODDS-licensed children’s residential setting; DHS Child Welfare certified foster home; or a Child Caring Agencies as defined in ORS 419.205, Child Welfare conducts the abuse investigation.
6. If both IDDSD and MHAS serve an individual, a determination of investigatory responsibility is made at the time of screening.
7. If IDDSD and ADVSD both serve an individual, the investigation will be conducted by IDDSD.
8. When an individual is served in a nursing facility funded through ADVSD, all complaints must be referred immediately to the APD NFSU (NF.Complaints@dhsosha.state.or.us) for screening, triage, and Facility investigation. NFSU will refer any concerns regarding external parties (e.g. family members) back to IDDSD for screening and potential investigation.
9. If an individual is served in the state ODDS operated 24-hour/residential program, OTIS conducts the investigation.
10. All Multnomah County IDDSD employees are required to receive annual training and complete an annual Mandatory Abuse Reporting Notice for Children and Adults for their role as mandatory abuse reporters, as described in ORS 430.765. To ensure all employees receive annual Mandatory Abuse Reporting training occurs the following will be implemented:
 - a. Abuse Investigation Team Supervisor/Manager will send via email online Mandatory Abuse Reporting training options twice annually.
 - b. Abuse Investigation Team Supervisor/Manager will coordinate and offer a minimum of two in person Mandatory Abuse Reporting training annually.

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- c. Abuse Investigation Team Supervisor/Manager will manage tracking for all staff to ensure all staff complete Mandatory Abuse Reporting training annually.

IV. PREREQUISITES

“Abuse investigation and protective services” means an investigation as required by OAR [407-045-0250 through 407-045-0370](#) and any subsequent services or supports necessary to prevent further abuse.

Allegations of abuse include as defined by ORS ORS 430.731-430.768 and OAR 407-045-0250 to 407-045-0370: abandonment, involuntary seclusion, wrongful restraint, sexual abuse, physical abuse, neglect, financial exploitation, and verbal abuse. When an allegation involves a death of an individual, an investigation may be completed. A determination for further investigatory requirements will be made in conjunction with the ODDS Health Services Unit Manager and the OTIS. For more information on reporting a death, see procedure 3.1 Death Reporting Procedure.

V. DEFINITIONS:

AIT - Adult Abuse Investigation Team

LEA - Law Enforcement Agency

OAR - Oregon Administrative Rule

ORS - Oregon Revised Statutes

OTIS - Office of Training, Investigations and Safety

DHS - Department of Human Services

ODDS - Office of Developmental Disability Services

IDDDSD - Intellectual and Developmental Disabilities Services Division

SERT - Serious Event Reporting Team

SI - Serious Incident

DCHS - Department of County Human Services

ADVSD - Aging, Disability and Veterans Services Division

APS - Adult Protective Services

NFSU - Nursing Facility Survey Unit

MHAS - Mental Health and Addiction Services

VI. ROLES AND RESPONSIBILITIES

- Adult Abuse Investigator
- Adult Abuse Investigator - Screener
- Service Coordinator
- ADVSD
- Program Manager - Adult Abuse Investigations
- AIT Office Assistant

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- DHS - Child Welfare
- ODDS Health Services Unit Manager

VII. PROCEDURE:

Conducting and Completing the Investigation:

1. OTIS may conduct an investigation instead of or in addition to the IDSD, if determined necessary or appropriate, at any time. (OAR 407-045-0360) The IDSD may not investigate allegations of abuse made against employees of the community program.
2. Once assigned to an investigator, the investigation will begin immediately or at least within one working day of receiving the case. An exception to the timeline is that an investigation will commence IMMEDIATELY (within 2 hours) if the allegation(s) is that an individual is currently at risk of losing his or her life or in immediate danger of severe and irreparable harm.
3. Investigation of abuse shall be thorough and unbiased. The abuse investigation shall be completed in accordance with the Investigation Checklist (See Addendum). In conducting an abuse investigation, the investigator must:
 - a. Make in-person contact with the adult (victim). If necessary, photograph the adult consistent with forensic guidelines, or arrange for the adult to be photographed, to preserve evidence of the alleged abuse and of the adult's physical condition at the time of the investigation unless the adult knowingly refuses.
 - b. Interview the adult, witnesses, the person alleged to have committed the abuse, and other individuals who may have knowledge of the facts of the abuse allegation or related circumstances. Interviews must be conducted in-person where practicable. The investigator must attempt to elicit the date of birth for each individual interviewed and shall obtain the date of birth of any accused person to have committed the alleged abuse. The investigator must inquire and document in investigative progress notes whether or not the accused individual is an employee or volunteer with the Oregon Department of Human Services (DHS) or Personal Support Worker (PSW);
 - c. Review all evidence relevant and material to the complaint.
4. If new allegations emerge during the course of the investigation, they may be investigated as part of the original investigation or in a subsequent investigation. A separate SI must be completed and screened regarding any allegations resulting in a new investigation.

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5. If a report is forwarded to a LEA for investigation and they do not complete a criminal investigation or their investigation does not address all allegations of abuse, if timely investigation is not probable, or there is potential for action by a licensing or certifying agency, IDSD may also perform its own investigation as long as it does not interfere with the LEA investigation. (407-045-0300 (4)(a) – (c))

6. At any point during the investigation, the investigator may issue follow-up recommended action(s) to the appropriate staff to be completed concurrently with the investigation. Any incomplete tasks will also be noted in the final report with the deadlines for completion of actions (typically 30 days, but more immediate if urgent). 407-045-0320(1)(g)

7. At any point during the investigation, the investigator may contact their supervisor or OTIS for technical assistance, to request assistance with an investigation, to access OTIS consultants (e.g., forensic nurse), to review and comment on a draft report or for any other reason necessary to complete an investigation.

8. At the close of the investigation, the investigator shall make an abuse finding (See Appendix A for definitions) and issue required actions, if needed. Investigators are to complete their report using the format provided by OTIS. The draft (final) report shall be sent to OTIS leaving sufficient time to make any changes/respond to recommendations and complete signatures within 60 days (55 days + 5 days for OTIS review).

9. In cases where, for good cause shown, the abuse investigator cannot complete the report within 55 days, the investigator shall submit a request for time extension to OTIS. An extension may be granted for good cause shown which includes: a) When law enforcement is conducting an investigation; b) A material party or witness is temporarily unavailable; c) New evidence is discovered leading to additional allegations. The investigator shall notify the provider agency, brokerage/case manager, guardian if applicable, and alleged perpetrator when an extension is granted and advise them of the new report due date.

10. Abuse investigation findings are sent out according to the release policy at the completion of the written report.

If the Finding is Substantiated or Not Substantiated, OTIS provides notification of findings(s) to: Agency/facility, Licensing (ODDS or Adult Care Home Program), the Investigator, and the Accused Person.

When the Finding is Substantiated or Not Substantiated, the investigator “may assure” the finding is provided to the Alleged Victim and guardian by the case manager/personal agent.

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If the finding is Closed Without Abuse Determination (CWAD), the investigator is responsible for notifying people or entities (CME, agency, guardian) notified of the open investigation. Notification to the Accused Person (AP) is only needed if AP was notified when the case was opened.

The assigned investigator may verbally or electronically notify providers, brokerages /case managers and guardians, victims, and law enforcement of the investigative finding after OTIS has approved the report. Review of findings may also be provided to relevant IDSD staff and licensing agency staff. However, no notifications to the Accused Person's shall be made by the investigator for Substantiated allegations.

11. Per OAR 407-045-0320, an abuse investigation and protective services report shall be completed WITHIN 55 CALENDAR DAYS of the date of assignment for investigation. Any time there are delays that prevent the investigator from completing the investigation, the investigator will note the extension request in the investigative process section of the report and also document the reason for the delay in the abuse investigation file progress notes. The final report will reflect all the allegations (including new allegations), documents reviewed, investigation summary, conclusions, protective service action(s) taken by the IDSD service coordinator or brokerage, and recommended action(s) issued by the Abuse Investigator.

12. The investigator will send the final version of their draft report to OTIS electronically. The investigator will check for errors and typos prior to submitting the report to the state.

13. Once reviewed by the OTIS coordinator, the final report is forwarded to the Abuse Investigation Team Supervisor/Manager for their review and signature.

14. The AIT support staff forwards the final copy to the OTIS Coordinator for signature.

The Final Report: What Happens:

After the final report is reviewed and signed, these are the following steps:

1. When applicable according to the investigative findings, the Investigator notifies agency/brokerage of the finding and related recommended action(s); documents actions taken in case progress notes.
2. When applicable according to the investigative findings, the investigator sends notification of finding letter to AP; documents actions taken. (Investigator may also verbally inform AP of investigative findings.)
3. When applicable according to the investigative findings, the investigator sends LEA notification of finding email or letter; documents actions taken.
4. When applicable according to the investigative findings, the investigator determines how AV notification will be made in collaboration with SC, PA, and/or other relevant parties such as guardians; documents actions taken.

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5. When applicable according to the investigative findings, the investigator notifies guardian of finding; documents actions taken.
6. When applicable according to the investigative findings, the investigator notifies the reporting witness of finding when specifically requested; documents actions taken.
Investigator updates VELMA to reflect closure:
 - a. Adds closed date (date approved report sent to OTIS)
 - b. Updates AP information (full name/address/DOB/phone)
 - c. Updates SI Status (PSI Closed: RA/No RA/County Review, etc.)
 - d. Updates criminal outcome field when applicable
 - e. Adds final date of the report (same as closed date)
 - f. Adds Disposition date (same as closed and final date), Disposition finding, Disposition type, Disposition comment (allegation)
 - g. Adds recommended actions; assigns to specific IDSD staff by name and adds to RA tracking spreadsheet (on Google drive)
 - h. Adds recommended action due date
 - i. Writes closing progress note in Velma including Investigation # (P-19-XXX), finding, and recommended action; sends review notification to PS/Sup as applicable, place copy of p-note in investigation case file.
 - j. Organizes case file, putting materials in appropriate section
 - k. Forwards the case file to support staff within 2 working days of receiving signature page from OTIS.
7. Support staff closes case out in SERT online and prepares/performs redaction.
8. Support staff sends redacted report to OTIS due process and to supervisor/manager; a full report will be sent to Multnomah County Adult Adult Care Program (ACHP) when applicable. The report distribution will occur within 10 days of receiving the signature page from OTIS.

INVESTIGATION GUIDELINES

Records Kept During an Investigation:

A detailed written record of all aspects of the investigation will be maintained. Progress notes will be documented in the abuse investigation file as a record of actions taken during the investigation. Interview notes shall also be kept in the case file. Whenever relevant, written documentation (relevant supporting records such as log notes, medical record, etc) will be sought to evaluate the credibility of statements made in interviews; copies will be made for the investigative file. All relevant documents will be included as Exhibits in the investigative report.

Injuries shall be recorded in detail, noting the date and time of injury, location, shape, size, and color. Photographs shall be taken of injuries and the location (on the body) of reported injuries in a timely manner to preserve evidence.

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Copies of medical, police and emergency response reports will be obtained when relevant.

When actions are taken or requested of others, the investigator shall record these actions in detailed progress notes located in the investigation case file. Commitments to take action that are made by other agencies and people, as well as the time frames in which they agree to act, are important to record.

Interviewing Reporter (Confidentiality):

In most cases, an investigation will begin with an in-depth interview of the person making the report. The investigator will ensure the confidentiality of the reporter of abuse to the extent required and permissible under the law.

Notification of Agency Implicated in Incident:

Whenever an agency is implicated in an alleged abuse incident either because an agency's staff is accused of an abusive action or because the alleged incident occurred on agency premises, the investigator will inform the designated contact at the agency of the allegation(s) and document the steps that the agency administration will take to ensure the safety of the individual (and others as needed) pending the results of the investigation.

Notification of Guardian:

Guardianship Laws do not allow for the guardian to prohibit an abuse investigation, but if the alleged victim has a guardian, notification of the abuse allegation or serious injury should be attempted, unless the notification would jeopardize the safety, health or best interest of the alleged victim (i.e. the accused individual is also the guardian) or otherwise significantly compromise the integrity of the investigation. In such cases, the guardian / conservator should be notified as soon as possible. Per 411-325-0190, a parent who is not a guardian, next of kin or other significant person may also be notified in the case of individuals who live in 24 hour residential programs.

Authorization Forms:

Authorizations will be signed for the appropriate police department or the Medicaid Fraud Unit if the alleged victim (or guardian) wants to pursue criminal charges in the case. IDSD file room will release documentation as authorized. Per County Counsel's direction, we can release any pertinent information on the victim to these authorities and/or discuss the cases with them on a "need to know" basis without written consent. Information regarding an alleged perpetrator that is also a client will require that client or guardian's authorization, subpoena, search warrant or court order.

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Interviews with Alleged Victims:

Once the details of the allegation are understood, the alleged victim shall be interviewed as soon as possible.

Interviews with the alleged victim shall always be conducted in person and in private unless an interpreter is needed, the alleged victim requests the presence of another person, or unless there is a need for a witness to be present based on the professional judgment of the investigator.

If the alleged victim confirms the allegations, the investigator (in coordination with the service coordinator or personal agent) will explain his or her rights and choices as applicable: to go to the police, to file a grievance against an agency, to move, or whatever else may be applicable given the circumstances of the case. Alleged victims shall be encouraged to pursue police action whenever a crime appears to have been committed, and are informed of the law dictating IDSD staff's obligation to file a police report if it is believed a crime has been committed. (See "Interactions with Outside Agencies, including Law Enforcement," below). Alleged victims will be offered assistance with general protective services, counseling, accessing medical care, victim's assistance, etc. These supports are primarily the role of the assigned Service Coordinator/ Personal Agent.

Interviews with Other Knowledgeable Parties:

In the course of the investigation, parties with knowledge of the facts of the abuse or related circumstances shall be interviewed in person where practicable. Documentation and statements will be sought to understand and explain the significant case elements and facts.

Interviews with Accused Individuals:

Accused individuals are not required to speak with investigators, unless they are current agency staff (then it is a part of their mandatory reporting obligation). In order to obtain all relevant information and make an objective determination, it is important to interview the accused individual in person. The investigator will make a minimum of three attempts to reach the Accused Person by phone and email contact. If the investigator requests an interview and the accused individual does not respond or refuses, the investigator will send a letter by certified and regular USPS requesting contact to schedule an interview within a specific timeframe. Attempt to contact the accused at their place of residence or other locales they are known to frequent may also be made.

Third parties requested by the accused staff may be present during an interview. It is solely the responsibility of the accused individual to ensure that the third party they

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request is present. Generally, third parties are limited to people who have a right to the information because they represent the accused such as an attorney or union representative; or, who already have access to the protected information such as an agency manager. Attendance by 3rd parties is limited by HIPAA and the abuse statute. Protected health information cannot be shared without a release and the abuse statute protects the confidentiality of the alleged victim, witnesses and the reporting person.

The investigator must notify their supervisor in cases in which the accused individual will have an attorney present so that county counsel can be notified; county counsel may want to attend the interview. Attorneys representing the accused individual, union representatives and agency staff must sign the release form designated by the state.

Safety Precautions:

An investigator may involve the police for protection if there a credible concern of danger to the investigator in conducting any interview, in getting access to the alleged victim, or in obtaining the alleged victim's personal belongings, etc.

Interactions with Outside Agencies, Including Law Enforcement:

There is an interagency agreement between IDSD and all police agencies in Multnomah County (Portland Police, Gresham Police, Portland Public Schools Police, Troutdale Police, and Multnomah County Sheriff's Office) about the procedure for involving the police on cases. The Medicaid Fraud Unit of the State Attorney General's Office may be asked to investigate and prosecute criminal charges when it involves facilities or individuals receiving Medicaid funds. Both police and Medicaid Fraud should be involved as quickly as possible so that valuable evidence is not lost. Consultation with County Counsel is recommended on cases where there is a question about jurisdiction over a criminal case. Cases may also be staffed at the monthly Law Enforcement MDT.

If a referral is received by the Abuse Investigation Team, which indicates current law enforcement involvement, the case will be assigned and the investigator will contact the police entity in efforts to communicate and assist with the law enforcement investigation. If a referral is received by the AIT and criminal activity is alleged (without any apparent law enforcement involvement), the investigator will review legal options with the alleged victim and/or their legal guardian including assistance in pressing charges. If criminal activity is reported, the alleged victim and/or guardian are informed of IDSD staff obligation to ensure a police report is filed when it is believed a crime has been committed against an individual served by IDSD (or currently eligible but not enrolled).

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DDSD staff must file a police report directly unless they are able to confirm that contract agency staff or brokerage staff have done so.

The investigator will obtain a copy of the written police report. If a report is taken but no further law enforcement investigation takes place, the abuse investigator shall conduct an investigation and ensure that protective service steps are taken by IDSD or brokerage staff to assist the alleged victim.

When an allegation is reported involving staff or employees of Tri-Met, Tri-Met's sub-contract companies or schools, the assigned investigator will inform the agency's administration of the allegation and enlist their cooperation in completing the investigation. If the entity interviews their own staff/employees, the investigator will request written documentation of the interviews and compile all relevant information in order to complete the final report and make follow-up recommendations.

Investigator Objectivity/ Conflict of Interest:

Objectivity and lack of bias are essential components of a competent investigation. Without them, a fair investigation is not possible. If an investigator begins to question his or her impartiality or ability to remain objective and unbiased on a given case, he or she should talk with the Abuse Investigation Team Supervisor/Manager to determine whether the case should be reassigned.

If IDSD staff is implicated in an abuse allegation or investigation, the investigator should consult with the unit manager/supervisor.

Emergency Medical Treatment & Other Actions Taken During Investigation:

It is sometimes necessary to take immediate protective actions during the course of an investigation. Actions may include, but are not limited to, the following:
Asking a program to make decisions on actions they will take to safeguard individuals during an investigation, Seeking emergency medical treatment for an alleged victim, Involving police or the Medicaid Fraud Unit, Locating emergency housing and ensuring that the individual is moved.

In cases of rape, the alleged victim may be examined at the police-designated medical facility where staff has been specially trained to document rape evidence for the DA to use in prosecuting the case. This resource is only available through a Police referral. The CARES program may also be a resource for examination and interview.

A copy of the resulting report will be acquired.

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Guardianship Issues:

There are only two agencies that may assist the Multnomah County IDSD in establishing guardianship - the Multnomah County Public Guardian's Office and The Arc GAPS program. When deemed appropriate, investigators and/or SC/PA may initiate a referral for the individual for this service through the Division designee.

Service Coordinator Involvement During the Investigation:

Once a case is referred to the Abuse Investigation Team, Service Coordinators do not participate in, nor release information about, the investigation. However, the SC does continue to provide services in other aspects of the individual's life. When an SC is asked questions about the abuse investigation, the person with the questions should be referred to the abuse investigator assigned to the case.

In some situations, an SC may, prior to the conclusion of the investigation, be asked to assist in some aspect of the case or resolution of problems arising from it. Absent such a request, the investigation will be handled exclusively by the Abuse Investigation Team from the time the unit receives the referral until the time the unit issues its final report.

Protective Services Provided in regards to Abuse Investigations:

Protective services are generally the responsibility of the assigned Service Coordinator or Personal Agent. The assigned investigator may assist in assessing service needs and development of a plan for resolution. The investigator documents that immediate health and safety is addressed.

The abuse investigation is the sole responsibility of the assigned investigator.

Protective services may include: Arranging for housing, medical care, counseling, legal services or other resources. Advocating for guardianship or other supports needed to mitigate future abuse.

VIII. REGULATIONS:

[ORS 418.205 Definition of Child Welfare Certified foster home or Child Caring Agency.](#)

[ORS 430.731-430.768 Mandatory Abuse Reporting Rules](#)

[ORS 443.705-443.805 Foster Care.](#)

[Oregon Senate Bill 243](#)

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IX. POLICY STATUS (DRAFT, ACTIVE, ARCHIVED, OR EXPIRED):

Active

X. OTHER REFERENCES:

[ODDS Transmittal APD-PT-18-026](#)

[APD-PT-18-045 ADVS Policy Transmittal Procedure for Nursing Facility Complaint Allegations.](#)