

DEPARTMENT OF HEALTH AND HUMAN SERVICES AGING AND DISABILITY SERVICES DIVISION POLICY MANUAL				
POLICY #	REVISED	TITLE	EFFECTIVE DATE	PAGE
44 - 1	9/15/2017	Prevention Recognition and Reporting of Mistreatment of Individuals Receiving Services	8/1/2017	1 of 9

POLICY

Nevada Developmental Services (DS) Regional Centers expressly prohibits the mistreatment of individuals receiving services. Mistreatment includes but is not limited to abuse, abandonment, exploitation, isolation, neglect, and serious injury of unknown origin of any individual receiving services.

PURPOSE

The purpose of this policy is to: Define mistreatment of individuals receiving services from Developmental Services Regional Centers; including abuse, abandonment, exploitation, isolation, neglect and serious injury of unknown origin. Provide direction and strategies to DS staff and contracted providers for the prevention and recognition of mistreatment of individuals receiving services from Developmental Services Regional Centers. Provide clear expectations to DS staff and contracted community providers on procedures for reporting, acting upon, and investigating allegations of mistreatment of individuals receiving services.

REFERENCES

- [42 CFR 483.420\(c\)\(6\)-\(d\)\(4\)](#)
- [NAC 435](#)
- [NAC 449](#)
- [NEVADA MEDICAID MANUAL CHAPTER 2100](#)
- [NRS 200.5092](#)
- [NRS 435.331](#)
- [NRS 435.3315](#)
- [NRS 435.332](#)
- [NRS 435.333](#)
- [NRS 435.3335](#)
- [NRS 435.334](#)
- [ADSD Policy 2-2](#)
- [ADSD Policy 39-3](#)

DEFINITIONS

Abuse: is any willful and unjustified infliction of pain, injury, or mental anguish upon an individual. This includes but is not limited to:

Sexual Abuse: The rape, sexual assault, or sexual exploitation of an individual served by DS Regional Center. Examples include, but are not limited to: sexual molestation; attempts to engage a person in sexual conduct; sexual touching or fondling; encouraging a person served to sexually touch a staff, a peer, or other person, or him/herself; encouraging an individual to solicit for, or engage in, prostitution; exposing one's sexual parts to a person

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
AGING AND DISABILITY SERVICES DIVISION
POLICY MANUAL**

POLICY #	REVISED	TITLE	EFFECTIVE DATE	PAGE
44 - 1	9/15/2017	Prevention Recognition and Reporting of Mistreatment of Individuals Receiving Services	8/1/2017	2 of 9

served; encouraging a person served to expose his/her sexual parts to a staff, a peer, or other person; encouraging the viewing of obscene or pornographic material; using sexually degrading language or gestures toward an individual served.

Physical Abuse: Any act that intentionally causes physical pain, discomfort, or injury to the individual, whether or not the action results in observable injury. Examples include, but are not limited to: slapping; hitting; pinching; punching; kicking; pushing; shoving; scratching; bruising; cutting; burning; hair pulling; use of arm bars or other holds to inflict pain and unnecessary physical coercion of an individual.

Verbal or Mental Abuse: Verbal or mental intimidation or coercion of an individual. This includes, but is not limited to, actions or utterances which cause mental/emotional/psychological distress, such as: threatening an individual served with any kind of harm or with deprivation of any right, privilege, or benefit; sexual coercion; making hostile, offensive or obscene gestures to the individual served; name calling, cursing, mocking, ridiculing, taunting; any action, word or gesture that frightens, humiliates, harasses, intimidates, threatens, or insults the individual (whether or not the individual understands the meaning of the words, gestures, or actions). Any use of language (oral, written, gestures) that is obscene or profane.

Excessive Force: The use of excessive force, to include unnecessary, unwarranted and/or unapproved technique, when placing an individual in physical restraint or in seclusion.

Restraint: The use of physical, mechanical or chemical restraints in violation of State or Federal law.

Aversive Interventions: Includes any interventions used to punish an individual for purposes of eliminating, reducing or discouraging socially inappropriate or harmful behavior that includes but not limited to: use of noxious odors or tastes; blasts of air; corporal punishment; verbal and mental abuse; use of electric shock; requiring the person to perform exercise under forced conditions; any intervention, technique or procedure that deprives an individual of the use of one or more senses regardless of the length of deprivation, including, without limitation, the use of sensory screens; and the deprivation of necessities needed to sustain the health of an individual regardless of the length of the deprivation, including, without limitation, the denial or unreasonable delay in the provision of medication, healthcare treatment, food or liquid, at a time that it is customarily provided.

Abandonment: Any act of desertion of an individual in an unsafe manner or withdrawal of necessary assistance owed to an individual, by a person with legal duty or obligation to provide care, support or services. This includes, but not limited to: leaving person who requires staff supervision alone at home, work, in a vehicle or at a community location which places them in an unsafe situation i.e. left to sit in a van when the temperature outside it 100 degrees.

Exploitation: Any selfish or unethical act of using the individual, or their possessions, property or money, for personal gain or advantage. Examples include, but are not limited to: borrowing an individual's money; using a social security number to obtain a benefit or other financial gain for a person other than the individual served; accepting or coercing gifts from individuals; taking an individual's medication; having individuals do work (i.e. wash car) with or without compensation; having individuals pay for items and activities that are for the benefit of staff;

DEPARTMENT OF HEALTH AND HUMAN SERVICES AGING AND DISABILITY SERVICES DIVISION POLICY MANUAL				
POLICY #	REVISED	TITLE	EFFECTIVE DATE	PAGE
44 - 1	9/15/2017	Prevention Recognition and Reporting of Mistreatment of Individuals Receiving Services	8/1/2017	3 of 9

abuse/improper use of individuals' social security funds or other funds in the persons trust account; misuse of an individual's Medicaid or other health insurance benefits.

Isolation: Any act that willfully, maliciously and intentionally prevents an individual from having contact with friends, family, and associates by restricting or preventing visitation, phone calls, and any other form of contact and communication.

Neglect: Any act, or omission to act, which causes injury or mental anguish or which places the individual at risk of injury whether due to indifference, carelessness or intention. This includes, but is not limited to: failure to provide the degree of care or other service to an individual served that a person is legally required or contractually obligated to provide; failure to establish or carry out an appropriate plan of treatment in which the individual has consented; failure to provide adequate nutrition, hydration, clothing, personal hygiene, shelter, supervision, education, or appropriate and timely health/medical care, including treatment and medication; failure to provide a safe environment; failure to respond to aggression between people served, or to individuals engaging in self-abusive behavior; failure to act to prevent another person from abusing or neglecting an individual served; failure to follow the policies of Aging and Disability Services Division (ADSD) and DS Regional Centers for the care and treatment of individuals.

Serious Injury of Unknown Origin: Injuries which are suspicious based on the nature or circumstance of the injury that cannot be correlated to the functional or medical status of the individual. Examples include, but are not limited to: a series, or pattern of injury such as bruising or scratching; unusual bruising or marks such as on inner thighs and inner arms, clustered bruises, bruises/marks shaped similarly to objects or finger/hand prints; bruising or marks that do not match details of the reported accident/incident; burns or friction burns; bite marks; bone breaks, fractures, sprains.

Five Business Days: Is described as Monday through Friday, excluding State and Federal holidays.

Individuals Served: A person who has met eligibility requirements for Developmental Services and has an open case with the Regional Center.

Vulnerable Person: Means a person 18 year of age or older who:

- Suffers from a condition of physical or mental incapacitation because of a developmental disability, organic brain damage or mental illness; or
- Has one or more physical or mental limitations that restrict the ability of the person to perform the normal activities of daily living.

PROCEDURES

A. PREVENTION AND RECOGNITION OF MISTREATMENT OF INDIVIDUALS SERVED WHICH INCLUDES BUT IS NOT LIMITED TO ABUSE, ABANDONMENT, EXPLOITATION, ISOLATION, NEGLECT AND SERIOUS INJURY OF UNKNOWN ORIGIN

1. All DS Regional Center and contracted community provider employees, volunteers, sub-contractors and interns must have three positive references on file prior to hire, or as applicable to volunteers and interns prior to initiation of duties, with no more than

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
AGING AND DISABILITY SERVICES DIVISION
POLICY MANUAL**

POLICY #	REVISED	TITLE	EFFECTIVE DATE	PAGE
44 - 1	9/15/2017	Prevention Recognition and Reporting of Mistreatment of Individuals Receiving Services	8/1/2017	4 of 9

one being a personal reference unless waived for cause by an Agency Manager/ Clinical Program Manager or designee. DS Regional Centers and Contracted Community Providers will incorporate the “Employee Application Supplemental Questions” (DS-QA-30), which screens for current or history of involvement in allegations or suspicions of mistreatment of a vulnerable person i.e. abuse, neglect or exploitation, within their application and hiring process.

2. Within 7 days of hire or contract signature, two complete sets of fingerprints will be taken and submitted for State and FBI criminal clearance checks. All DS Regional Center ICF/IID Staff including Support Staff (i.e. maintenance, business office) and contracted community provider employees, volunteers and sub-contractors will complete criminal clearance checks every 5 years.
3. For those agencies submitting fingerprints under [NRS 449.123](#), the Department of Public Safety (DPS) Central Repository for Nevada Records of Criminal History shall determine whether the applicant has been convicted of a crime listed in [NRS 449.174](#). DPS will immediately notify the DS Regional Center and the Division of Public and Behavioral Health - Health Care Quality and Compliance of positive findings.
4. For those agencies not eligible for submission of fingerprints under [NRS 449.123](#), employees, subcontractors and volunteers will be required to submit fingerprint cards to the Department of Public Safety for State and FBI criminal clearance through accounts set up under the National Child Protection Act.
5. All DS Regional Center and contracted community provider employees, sub-contractors, volunteers and interns must have “negative” or “clear” criminal clearance findings evidencing no convictions in disqualifying offenses as listed in [NRS 449.174](#), or as listed in DS-QA- 37, in order to work with individuals served. Those who have positive background checks indicating convictions in disqualifying offenses as listed in [NRS 449.174](#) and in DS-QA- 37, including pending charges and/or unknown disposition status in disqualifying offenses, are not allowed to provide direct support or have direct contact with individuals served by DS Regional Centers. Those employees who wish to contest the findings of the background checks may do so within 5 days and may be offered reasonable opportunity, but not more than 60 days, to provide corrected information. However, the employee must be re-assigned to a position where there will be no direct contact with individuals served or be placed on administrative leave pending receipt of corrected or cleared background check from the Department of Public Safety (DPS) Central Repository for Nevada Records of Criminal History for those checks run under a 449. 123 accounts with DPS. For checks run under the National Child Protection Act, the employee must provide a certified court document or other certified legal document verifying that the charge(s) has been dismissed or has been acquitted. These legal documents must remain on file with the original findings.
6. Employees will be informed of disqualifying offenses and sign an acknowledgment of responsibility to self disclose convictions related to disqualifying offenses as identified in DS-QA- 37. Employees shall sign self-declarations regarding criminal convictions on an annual basis. Employees will report any arrests within 3 business days to their agency human resource department.
7. Prior to hire or contractual relationship, DS Regional Centers and community providers will check the Office of Inspector General (OIG) List of Excluded Individuals and Entities at <http://exclusions.oig.hhs.gov/>. Those individual’s or entities appearing on the OIG

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
AGING AND DISABILITY SERVICES DIVISION
POLICY MANUAL**

POLICY #	REVISED	TITLE	EFFECTIVE DATE	PAGE
44 - 1	9/15/2017	Prevention Recognition and Reporting of Mistreatment of Individuals Receiving Services	8/1/2017	5 of 9

Exclusion List are ineligible to work with individuals served by Developmental Services. OIG rechecks must be completed no less than annually with findings maintained on file.

8. All DS Regional Center and contracted community provider employees, sub-contractors, volunteers and interns shall be trained in this policy within 24 hours of hire and prior to working independently with individuals served by DS Regional Centers.
9. All DS Regional Center and contracted community provider employees, sub-contractors, volunteers and interns shall receive orientation and annual training in: prevention; risk factors; signs and symptoms of mistreatment; reporting requirements; and strategies to support people in recognizing and reporting mistreatment of individuals served.
10. Individuals served by DS Regional Centers, and their family/guardians shall be apprised of the Regional Center's policies on mistreatment of individuals served and provided with specific information on how to report suspected mistreatment. Information and training will be provided as needed to help individuals recognize and prevent acts of mistreatment.
11. All DS Regional Center and contracted community provider employees, sub-contractors, volunteers and interns against whom allegations of mistreatment have been made, will be immediately placed on administrative leave or re-assigned to a position where there will be no direct contact with individuals served, in all places of employment where individuals are served by DS Regional Centers. The accused will remain on reassignment or administrative leave pending the outcome of the investigation and decision by DS Regional Center Administrative staff on the eligibility to return to positions of direct contact and support of individuals served. For DS Regional Center employees, administrative leave must be pre-approved. DS Regional Centers will take immediate action to ensure the safety of individual(s), including relocation to an alternate living situation, pending outcome of an investigation for incidents in which any provider is implicated in an alleged or suspected mistreatment.
12. DS Regional Centers will notify contracted community provider(s) administration upon receiving knowledge that the provider has employed a person who has been formerly terminated for substantiated mistreatment by another contracted community provider. If the Provider Administration chooses to employ this person to work or interact with individuals served, they must create a Plan of Action to ensure that individuals served are free from Mistreatment. The Plan of Action should include details on the required training to staff about mistreatment, strategies for supervision of employees and mechanisms for identifying and reporting mistreatment. This Plan of Action may be reviewed during Quality Assurance surveys and reviews.
13. When other strategies are insufficient to eliminate mistreatment, individuals served shall be provided with options for alternative environments as necessary to ensure freedom from mistreatment.
14. DS and Community Providers will have procedures in place for the establishment of staff schedules which support individuals' specific needs and aids in the prevention of mistreatment through limiting an individual staff member's overtime usage.
15. DS Regional Center Quality Assurance Departments will monitor and track incident/investigation reports to identify trends and patterns and will facilitate development of corrective action plans to reduce or eliminate repeat occurrences. The

DEPARTMENT OF HEALTH AND HUMAN SERVICES AGING AND DISABILITY SERVICES DIVISION POLICY MANUAL				
POLICY #	REVISED	TITLE	EFFECTIVE DATE	PAGE
44 - 1	9/15/2017	Prevention Recognition and Reporting of Mistreatment of Individuals Receiving Services	8/1/2017	6 of 9

Quality Assurance Department will report these findings to the appropriate DS Management Staff i.e. QA Deputy, Agency Manager, Clinical Program Director, ICF/IDD Administrator or designee, and contracted community providers.

B. PROCEDURES FOR REPORTING AND INVESTIGATING MISTREATMENT OF INDIVIDUALS SERVED WHICH INCLUDES BUT IS NOT LIMITED TO ABUSE, ABANDONMENT, EXPLOITATION, ISOLATION, NEGLECT AND SERIOUS INJURY OF UNKNOWN ORIGIN

1. Any DS staff, contract agency staff, volunteer, intern or contracted community provider employee, sub-contractor, volunteer or intern upon observing, hearing of, or suspecting mistreatment of individual served will immediately (no longer than one hour) report the information as specified in agency or organization policy. A verbal report must be made, within one hour, to a Regional Center Service Coordinator, a Regional Center Supervisor, ICF/IDD Administrator or designee, or via the Regional Center emergency contact procedures as applicable.
 - a. The report must be made through person-to-person contact; voice messages, texts and emails do not meet the reporting requirements. The person witnessing or suspecting the mistreatment (which may include abuse, abandonment, exploitation, isolation, neglect, and serious injury of unknown origin), will complete and submit a DS Incident Report to the DS Regional Center Service Coordinator within 24 hrs. of the initial discovery.
 - b. All allegations of mistreatment (which may include abuse, abandonment, exploitation, isolation, neglect, and serious injury of unknown origin), whether current or past, will be acted upon, reported, and investigated, regardless of the individual's history of making false allegations, and of the alleged perpetrator's relationship to the individual, i.e. staff, family, friend, stranger, etc.
2. Any employee of DS Regional Center, contracted community provider, subcontractor, volunteer or intern who:
 - a. Reports mistreatment of individual served shall not be disciplined for making such a report and shall be protected from retaliation;
 - b. Failure to report suspected mistreatment of individual served shall be subject to disciplinary action up to and including dismissal.
3. The contracted community provider will ensure the immediate notification of an individual's parents (if a minor) or legal guardian (if one has been appointed). The DS Regional Center Service Coordinator or Program Coordinator, will make the notification for incidents involving individuals not served by contracted community providers or for individuals beings served in the Regional Center ICF/IDD.
4. The contracted community provider will notify the local law enforcement agency having jurisdiction within 24 hours (to include Child Protective Services, Aging and Disability Services Division - Elder Protection) following reporting requirements as identified in [NRS 200.5091-200.50995](#). The DS Regional Center Service Coordinator or Program Coordinator, will make the notification to local law enforcement for incidents involving

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
AGING AND DISABILITY SERVICES DIVISION
POLICY MANUAL**

POLICY #	REVISED	TITLE	EFFECTIVE DATE	PAGE
44 - 1	9/15/2017	Prevention Recognition and Reporting of Mistreatment of Individuals Receiving Services	8/1/2017	7 of 9

individuals not served by contracted community providers or for individuals beings served in the Regional Center ICF/IID.

5. For allegations of mistreatment involving individuals not served by contract community providers, but who live with a relative or guardian, DS Regional Centers will take immediate action to collaborate closely with law enforcement to ensure the safety for individual(s) including a recommendation to relocate the service recipient to an alternate emergency living situation pending outcome of an investigation.
6. Upon notification of an allegation or mistreatment of individual served, the contracted community provider or the DS Regional Center Agency Manager (or designee) or the ICF/IID Administrator or designee, will immediately reassign the staff involved to a position where there will be no direct contact with individuals served, pending the outcome of the investigation. If the alleged perpetrator is someone other than DS Regional Center staff or contracted community provider staff, steps will be taken to ensure the protection of the individual (i.e. supervised or restricted visits, etc.).
7. All incidents shall be reported by the DS Regional Center to the ADSD via Serious Occurrence Reporting.
8. DS Regional Centers, ICF/IID and the contracted community provider will:
 - a. Assure the victim has received prompt and appropriate medical treatment and follow up;
 - b. Take prompt action to assure the victim is made safe from mistreatment;
 - c. Cooperate with any investigation made by law enforcement, as applicable.
9. ADSD or DS Regional Center Administration may assign an investigation team.
10. The contracted community provider will initiate an internal investigation immediately, unless otherwise directed by DS Regional Center Administration, local law enforcement, CPS, or EPS. The community provider will document using the Provider Investigation Report Template form (DS-QA-20ai) (or with prior approval of DS Regional Center, Investigation Summary Report Template (DS-QA-20bi) or Additional Provider Information). The investigative report will include all information as identified in the Investigation Template Guidelines (DS-QA-20a or DS-QA-20b). For incidents involving DS Regional Center employees, the Regional Center or ADSD will assign an investigation team.
 - a. Immediately secure and review available video recordings (when available i.e. ICF/IID and JDT Providers) encompassing the area(s) of the alleged incident. Ensure the secure storage of the video data until such time the assigned investigators have fully reviewed the video data.
 - 1) Access to video/audio or use of such must be limited to those on a need to know bases;
 - 2) Must ensure all staff with viewing privileges are properly trained in the policies and the protection of individual's rights;
 - 3) Must ensure adherence to policies must be monitored and that risks or breeches of the policies are promptly addressed.

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
AGING AND DISABILITY SERVICES DIVISION
POLICY MANUAL**

POLICY #	REVISED	TITLE	EFFECTIVE DATE	PAGE
44 - 1	9/15/2017	Prevention Recognition and Reporting of Mistreatment of Individuals Receiving Services	8/1/2017	8 of 9

11. ICF/IID Internal Investigations will occur for all individuals receiving ICF/IID services to include the individual's JDT location. The results of the ICF/IID Internal Investigations must be reported to the ICF/IID Administrator or designee, or to other officials in accordance with State law, **within five working days** of the incident Per Policy 39-03 Desert Regional Center ICF/IID Five Day Investigation Policy
12. Contracted community provider and DS Regional Center investigation reports for individuals served in community locations are to be submitted to the DS Regional Center Quality Assurance Department (QA) within 10 days of discovery of the incident. For individuals receiving ICF/IID services (including their JDT locations as applicable) investigation reports are to be submitted to the ICF/IDD Administrator or Designee within 5 working days of discovery. Investigation Reports completed by ADSD assigned investigators will be directly submitted to ADSD Administrator or designee.
13. DS staff and Community providers may not assign staff back to positions having direct contact with people served until approved by the DS Regional Center Agency Manager/ Clinical Program Manager, QA Director or designee.
14. DS staff and Providers may not return staff to positions having direct contact with people served if there is an open law enforcement investigation, and/or investigations by law enforcement other legal authorities, i.e. Child Protective Services, Aging and Disability Services Division - Elder Protection etc. DS Regional Center must receive proof of the outcome of the investigation in order to make a determination on approval for the staff's return to work with individuals served.

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
AGING AND DISABILITY SERVICES DIVISION
POLICY MANUAL**

POLICY #	REVISED	TITLE	EFFECTIVE DATE	PAGE
44 - 1	9/15/2017	Prevention Recognition and Reporting of Mistreatment of Individuals Receiving Services	8/1/2017	9 of 9

ATTACHMENTS (CLICK BELOW)

- Attachment A – [DS-QA-30 \(a\)](#)
- Attachment B – [DS-QA-37](#)
- Attachment C – [Provider Investigation Guideline Template](#) (DS-QA-20a)
- Attachment D – [Provider Investigation Template](#) (DS-QA-20ai)
- Attachment E – [Provider Investigative Summary Guidelines](#) (DS-QA-20b)
- Attachment F – [Provider Summary Template](#) (DS-QA-20bi)
- Attachment G – [DS 39-A](#)
- Attachment H – [DS 39-B](#)

Approved By		
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