



DEVELOPMENTAL DISABILITIES ADMINISTRATION
Olympia, Washington

TITLE: PROTECTION FROM ABUSE: MANDATORY REPORTING POLICY 5.13

Authority: [42 CFR 483.420](#)
Chapters 9A.16, 11.88, 11.92, 18.20, 18.51, 18.130, 26.44, 70.124, 70.127, 70.128, 71A.12, 71A.20, 71.29, 72.36, 74.34 RCW

References: DSHS Administrative Policy 8.02, *Client Abuse*
DSHS Administrative Policy 9.01, *Incident Reporting*
DSHS Administrative Policy 18.62, *Allegations of Employee Criminal Activity*
DSHS/Washington State Patrol Protocol
DSHS/AAG Medicaid Fraud Control Unit Memorandum of Understanding

Resource: [How to Report Child Abuse and Neglect Information for Mandatory Reporters \(Vulnerable Adults\)](#)
DDA Policy 12.01, *Incident Management and Reporting*

BACKGROUND

Several state laws require Department of Social and Health Services (DSHS) employees, volunteers, and contractors to report suspected abuse, improper use of restraint, neglect, self-neglect, personal or financial exploitation, abandonment and/or mistreatment, and neglect of children and vulnerable adults:

- Chapter [26.44 RCW](#) mandates the reporting of any suspected abuse or neglect of a child to either DSHS or law enforcement.
- Chapter [74.34 RCW](#) mandates an immediate report to DSHS of suspected abuse, neglect, abandonment, or personal or financial exploitation of a vulnerable adult. When there is suspected sexual or physical assault of a vulnerable adult, it must be reported to DSHS **and** to law enforcement.
- [RCW 70.124.030](#) mandates the reporting of suspected abuse or neglect of state hospital patients.

Chapter [74.34 RCW](#) divides reporters into two types: mandated and permissive. Mandated reporters include all DSHS employees, service providers, law enforcement officers, social workers, and others (see the [Definitions](#) section of this policy for complete description). Under state law, volunteers at a facility or program providing services to vulnerable adults fall into the permissive category. **However, in order for contractors, volunteers, interns, and work study students to work in regional Field Services offices, Residential Habilitation Centers (RHC), and State Operated Living Alternatives (SOLA), they must agree to follow mandatory reporting requirements.**

PURPOSE

This policy describes the process the Developmental Disabilities Administration (DDA) will use to protect, to the extent possible, the health, safety, and well-being of administration clients, and to ensure that client abandonment, abuse, personal and financial exploitation, neglect and self-neglect is reported, investigated, and resolved; and to ensure that procedures are in place to prevent abuse.

SCOPE

This policy applies to all DDA employees, contractors, volunteers, interns, and work study students. **All DDA employees are mandated reporters.**

Note: Contracted community residential service providers must follow the requirements of DDA Policy 6.12, *Mandatory Reporting Requirements for Residential Providers*. Employment and day program services providers must follow the requirements of DDA Policy 6.08, *Mandatory Reporting Requirements for Employment and Day Program Services Providers*.

DEFINITIONS

See Attachment A for a complete list of definitions of terms used in this policy. Attachment B contains clarifying examples of abuse, neglect, financial exploitation, and self-neglect.

POLICY

- A. Abuse and neglect of children and vulnerable adults is prohibited by law and will not be tolerated. All administration employees, contractors, volunteers, interns, and work study students must report every incident of observed, reported, or suspected abandonment, abuse, financial exploitation, neglect or self-neglect of clients, as well as injuries of unknown origin. DDA shall process allegations in a manner that ensures prompt investigation and resolution.

1. Mandated reporters do not have to witness or have proof that an incident occurred. As long as there is reasonable cause to believe that a child or a vulnerable adult has been abused or neglected, a mandated reporter must make a report.
 2. When a report is made to the “Abuse Hotline,” DDA will recognize the right of a mandatory reporter to remain anonymous, except as permitted by [RCW 74.34.035\(8\)](#) and [RCW 74.34.095\(1\)](#), or except where confidentiality has been waived by the reporter.
 3. A client injury should be reported as an “injury of unknown origin/source” when:
 - a. The injury was not observed directly by the staff person; and
 - b. The injury is not reasonably determined to be related to the client’s condition, diagnosis, known and predictable interaction with surroundings, or related to a known sequence of prior events.
- B. Failure to report can result in disciplinary action. Furthermore, failure to report is a gross misdemeanor under Washington State law ([RCW 74.34.053](#)). Any DDA employee, contractor, or volunteer found to have knowingly failed to report in their capacity as a mandated reporter will be reported to the appropriate law enforcement agency and may be prosecuted to the extent the law allows.
- C. Harassment and/or retaliation towards employees who report in good faith will not be tolerated.
- D. Employees who report in good faith are provided immunity from prosecution and protected from dismissal by state law ([RCW 70.124.060](#)).
- E. False reports made intentionally, maliciously, or in bad faith constitute a misdemeanor under Washington State law ([RCW 74.34.053](#)). Any DDA employee, contractor, or volunteer found to have knowingly made a false report will be reported to the appropriate law enforcement agency and may be prosecuted to the extent the law allows.
- F. A facility/agency may not develop policies or procedures that interfere with the mandatory reporting requirements in state law ([RCW 74.34.035](#)).
- G. In addition to the requirements of this policy, the requirements of DDA Policy 12.01, *Incident Management and Reporting*, must also be met.

PROCEDURES

A. REPORTING

1. When a DDA employee, contractor, volunteer, intern, or work study student in the course of their duties has reasonable cause to believe that any client has been abused, neglected, or exploited, regardless of the source of information, they must call the appropriate DSHS reporting unit (see Section C below) immediately.
 - a. “Immediately” means there should be no delay between staff awareness of the incident/allegation and making the report. Reporting should occur as soon as the safety of all clients is assured and all necessary emergency measures have been taken.
 - b. Reports must be made immediately regardless of employee leave or days off.
2. Mandated reporters calling a DSHS reporting unit should be prepared to provide, to the extent possible, the following information:
 - a. Their name and address;
 - b. The name and address of the child or vulnerable adult, and the name of the agency providing care, if applicable;
 - c. The name and address of the client’s legal representative
 - d. The nature and extent of the abuse, improper use of restraint, neglect, self-neglect, personal or financial exploitation, abandonment and/or mistreatment, or neglect;
 - e. Any known history of previous abuse, improper use of restraint, neglect, self-neglect, personal or financial exploitation, abandonment and/or mistreatment, or neglect;
 - f. The identity of the alleged perpetrator, if known; and
 - g. Other information that may be helpful in establishing the extent of abuse, improper use of restraint, neglect, self-neglect, personal or financial exploitation, abandonment and/or mistreatment, and neglect.

3. If there is reason to suspect that physical or sexual abuse occurred, mandated reporters must also immediately report the incident to the appropriate local law enforcement agency.
4. An employee may want to consult with a supervisor or other professional staff in making a determination of whether there is reasonable cause to believe abuse or neglect occurred. While this is permissible, it does **not** relieve the employee from their mandated reporting responsibilities if they believes abuse or neglect has occurred.

B. NOTIFYING A SUPERVISOR

1. Immediately after calling a DSHS reporting unit, a mandated reporter must also report the incident to their supervisor in the manner specified by the office/facility procedure. If the immediate supervisor is not available, report the incident to the next highest supervisor or management representative so designated by the office/facility.
2. If the suspected perpetrator is the person to whom the mandated reporter would usually report, report the incident to the next highest supervisor or management representative at the office/facility.
3. The office/facility/contractor must make a report to DDA Central Office. See DDA Policy 12.01, *Incident Management and Reporting*, for additional information on timelines and requirements.

C. CONTACT NUMBERS FOR REPORTING

The Departmental reporting entities are as follows:

Reports of abuse, neglect or maltreatment, involving children and youth receiving services in a Licensed Staffed Residential program:

DSHS Child Protective Services statewide number: 1-866-363-4276 (1-866-ENDHARM).

Reports involving adults 18 and over receiving DDA Supported Living (SL), Group Home, and Group Training Home services:

CRU statewide number: 1-800-562-6078; TTY 1-800-737-7931.

Reports involving adults living in Companion Homes, receiving Alternative Living Services or in their own homes without SL services:

DSHS Adult Protective Services (APS) regional numbers:

Region 1:	1-800-459-0421	TTY:	1-509-568-3086
Region 2:	1-866-221-4909	TTY:	1-800-977-5456
Region 3:	1-877-734-6277	TTY:	1-800-672-7091

Or the statewide toll free number: 1-866-363-4276 (1-866-ENDHARM).

Reports involving adult patients at Eastern and Western State Hospitals:

Eastern State Hospital: **509-565-4000**

Western State Hospital: **253-761-7599**

D. OFFICE/FACILITY/AGENCY PROCEDURES

1. All administration offices, facilities, and DDA funded programs and contractors must have written procedures in place to implement this policy and provide training to staff and volunteers on recognizing and reporting suspected client abuse, improper use of restraint, neglect, self-neglect, personal or financial exploitation, abandonment and/or mistreatment, and neglect.
2. DDA offices and facilities shall use this policy as the regional and local facility policy regarding mandatory reporting. Any additional local procedures must have the prior written approval of the Administration's Assistant Secretary or designee.
3. Written procedures and training must be available to all employees, volunteers, interns, and work study students, and include, at a minimum:
 - a. Timelines for reporting suspected abuse, improper use of restraint, neglect, self-neglect, personal or financial exploitation, abandonment and/or mistreatment, and neglect;
 - b. Reference to, or attachments of, relevant state and federal statutes and regulations regarding client abuse and the specific types of programs to which they pertain;
 - c. Current telephone numbers of DSHS reporting units;
 - d. The responsibilities of reporting staff, supervisors, and administrative staff, witnesses, and direct care staff (where applicable);

- e. Instruction on recognizing abuse, improper use of restraint, neglect, self-neglect, personal or financial exploitation, abandonment and/or mistreatment, and neglect;
 - f. Mandatory reporting requirements, including instructions for notifying local law enforcement if there is reason to suspect that sexual or physical assault has occurred;
 - g. Instructions for emergency client protection;
 - h. Instructions for coordinating with an abuse/neglect specialist or a sexual assault center;
 - i. Instructions for evidence preservation and collection;
 - j. Investigation process and procedures, where applicable;
 - k. Implementing preventive measures and corrective action; and
 - l. Instruction on initiating an external review when a report of known or suspected client abuse or neglect involves the acts or omissions of the administrator and/or supervisor(s).
4. Provide each employee, volunteer, intern or work study student a copy of this policy and [DSHS 27-076](#), *Mandatory Reporting of Abandonment, Abuse, Neglect, Exploitation or Financial Exploitation of a Child or Vulnerable Adult*, for the employee to sign and return. File the signed form in the employee's Personnel File.
5. If a DSHS employee is the alleged perpetrator, the appropriate management representative must ensure compliance with *DSHS Administrative Policy 18.62, Allegations of Employee Criminal Activity*, the DSHS/Washington State Patrol Interagency Agreement, any negotiated agreements, and other applicable policies. Appointing Authorities should contact their Human Resources Consultant for advice prior to placing an employee on an alternative work assignment.

EXCEPTIONS

No exceptions to this policy are allowed.

TITLE: PROTECTION FROM ABUSE: MANDATORY REPORTING POLICY 5.13

SUPERSESSSION

DDD Policy 5.13
Issued September 15, 2011

Approved: /s/ Donald L. Clintsman
Deputy Assistant Secretary
Developmental Disabilities Administration

Date: August 1, 2015

Attachment A - *Definitions*

Attachment B - *Clarifying Examples of Abuse, Neglect, Financial Exploitation and Self-Neglect*

ATTACHMENT A

DEFINITIONS - GENERAL

ALTSA means the Aging and Long-Term Support Administration.

Adult Protective Services (APS) means the ALTSA Home and Community Services (HCS) Division office that conducts investigations of reported incidents and may offer protective services to the alleged adult victim.

Agency means all service providers identified in the scope.

Child Protective Services (CPS) means the DSHS Children's Administration unit that takes a report of abuse, neglect, abandonment or exploitation, conducts the investigation, and may offer protective services if the alleged victim is under eighteen (18) years of age.

Client means a person eligible for DDA services.

Complaint Resolution Unit (CRU) means the Residential Care Services (RCS) Division unit that takes a report of abandonment, abuse, neglect, exploitation or financial exploitation when the alleged victim is in Supported Living (SL) Group Home, Group Training Home services or resides in a licensed facility.

Division of Licensed Resources (DLR) means the DSHS Children's Administration division that licenses out-of-home settings. DLR staff is also responsible to investigate reported licensing concerns when there has been a violation or allegation of violation of minimum licensing requirements. This includes group home providers, licensed staffed residential settings, and/or staff working at these facilities.

Good faith means a state of mind indicating honesty and lawfulness of purpose.

Injury of Unknown Origin/Source means an injury that was not observed directly by the staff person and the injury is not reasonably determined to be related to the client's condition, diagnosis, known and predictable interaction with surroundings, or related to a known sequence of prior events.

Mandated reporter means an employee of the department; law enforcement officer; social worker; professional school personnel; individual provider; an employee of a facility; an operator or an employee of a social service, welfare, mental health, adult day health, adult day care, home health, home care, or hospice agency; county coroner or medical examiner; employees of domestic violence programs; Christian Science practitioner; or healthcare provider subject to Chapter 18.130 RCW [RCW 74.34.020]. Refer to [RCW 26.44.030](#) for a list of individuals with a duty to report child abuse or neglect.

Reasonable cause to believe means that the reporter, in making the report of abuse/neglect, acts with good faith intent, judged in light of all the circumstances then present.

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Residential Care Services (RCS) means the AL TSA division responsible for the licensing and oversight of adult family homes, assisted living facilities, nursing facilities, residential habilitation centers, and certified residential programs. RCS conducts provider practice investigations of abandonment, abuse, neglect, exploitation, or financial exploitation.

DEFINITIONS – CHILDREN (RCW 26.44.020)

Child or Children means any person less than eighteen (18) years of age.

Abuse or neglect means sexual abuse, sexual exploitation, or injury of a child by any person under circumstances which cause harm to the child's health, welfare, or safety, excluding conduct permitted under [RCW 9A.16.100](#); **or** the negligent treatment or maltreatment of a child by a person responsible for or providing care to the child.

Sexual exploitation includes: allowing, permitting, or encouraging a child to engage in prostitution by any person; **or** allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child by any person.

Negligent treatment or maltreatment means an act or a failure to act, or the cumulative effects of a pattern of conduct, behavior, or inaction, that evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to a child's health, welfare, or safety, including but not limited to conduct prohibited under [RCW 9A.42.100](#). When considering whether a clear and present danger exists, evidence of a parent's substance abuse as a contributing factor to negligent treatment or maltreatment shall be given great weight. The fact that siblings share a bedroom is not, in and of itself, negligent treatment, or maltreatment. Poverty, homelessness, or exposure to domestic violence as defined in [RCW 26.50.010](#) that is perpetrated against someone other than the child does not constitute negligent treatment or maltreatment in and of itself.

DEFINITIONS - VULNERABLE ADULTS (RCW 74.34.020)

Abandonment means action or inaction by a person or entity with a duty of care for a vulnerable adult that leaves the vulnerable person without the means or ability to obtain necessary food, clothing, shelter, or health care.

Abuse means the willful action or inaction that inflicts injury, unreasonable confinement, intimidation, or punishment on a vulnerable adult. In instances of abuse of a vulnerable adult who is unable to express or demonstrate physical harm, pain, or mental anguish, the abuse is presumed to cause physical harm, pain, or mental anguish. Abuse includes sexual abuse, mental abuse, physical abuse, personal exploitation of a vulnerable adult, and improper use of restraint which have the following meanings:

- **Sexual abuse** means any form of nonconsensual sexual conduct including, but not limited to, unwanted or inappropriate touching, rape, sodomy, sexual coercion, sexually explicit photographing, and sexual harassment. Sexual abuse includes any sexual contact between a staff person, who is not also a resident or client, of a

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facility or a staff person of a program authorized under [Chapter 71A.12 RCW](#), and a vulnerable adult living in that facility or receiving service from a program authorized under [Chapter 71A.12 RCW](#), whether or not it is consensual.

- **Physical abuse** means the willful action of inflicting bodily injury or physical mistreatment. Physical abuse includes, but is not limited to, striking with or without an object, slapping, pinching, choking, kicking, shoving, or prodding.
- **Mental abuse** means any willful verbal or nonverbal action that threatens, humiliates, harasses, coerces, intimidates, isolates, unreasonably confines, or punishes a vulnerable adult. Mental abuse may include ridiculing, intimidating, yelling, or swearing.
- **Personal Exploitation** means an act of forcing, compelling, or exerting undue influence over a vulnerable adult causing the vulnerable adult to act in a way that is inconsistent with relevant past behavior, or causing the vulnerable adult to perform services for the benefit of another.
- **Improper use of Restraint** means or the inappropriate use of chemical, physical, or mechanical restraints for convenience or discipline or in a manner that: (i) Is inconsistent with federal or state licensing or certification requirements for facilities, hospitals, or programs authorized under chapter 71A.12 RCW; (ii) is not medically authorized; or (iii) otherwise constitutes abuse under this section.

Chemical restraint means the administration of any drug to manage a vulnerable adult's behavior in a way that reduces the safety risk to the vulnerable adult or others, has the temporary effect of restricting the vulnerable adult's freedom of movement, and is not standard treatment for the vulnerable adult's medical or psychiatric condition.

Facility means a residence licensed or required to be licensed under Chapter 18.20 RCW, assisted living facilities; Chapter 18.51 RCW, nursing homes; Chapter 70.128 RCW, adult family homes; Chapter 72.36 RCW, soldiers' homes; or Chapter 71A.20 RCW, residential habilitation centers; or any other facility licensed or certified by the department.

Financial exploitation means the illegal or improper use, control over, or withholding of the property, income, resources, or trust funds of the vulnerable adult by another person or entity for any person's or entity's profit or advantage other than the vulnerable adult's profit or advantage. Financial exploitation includes, but is not limited to:

- (a) The use of deception, intimidation, or undue influence by a person or entity in a position of trust and confidence with a vulnerable adult to obtain or use the property, income, resources, or trust funds of the vulnerable adult for the benefit of a person or entity other than the vulnerable adult;
- (b) The breach of a fiduciary duty, including, but not limited to, the misuse of a power of attorney, trust, or a guardianship appointment, that results in the unauthorized appropriation, sale, or transfer of the property, income, resources, or

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trust funds of the vulnerable adult for the benefit of a person or entity other than the vulnerable adult; or

- (c) Obtaining or using a vulnerable adult's property, income, resources, or trust funds without lawful authority, by a person or entity who knows or clearly should know that the vulnerable adult lacks the capacity to consent to the release or use of his or her property, income, resources, or trust funds.

Mechanical restraint means any device attached or adjacent to the vulnerable adult's body that he or she cannot easily remove that restricts freedom of movement or normal access to his or her body. "Mechanical restraint" does not include the use of devices, materials, or equipment that are (a) medically authorized, as required, and (b) used in a manner that is consistent with federal or state licensing or certification requirements for facilities, hospitals, or programs authorized under chapter 71A.12 RCW.

Neglect means (a) a pattern of conduct or inaction by a person or entity with a duty of care that fails to provide the goods and services that maintain physical or mental health of a vulnerable adult, or that fails to avoid or prevent physical or mental harm or pain to a vulnerable adult; **or** (b) an act or omission that demonstrates a serious disregard of consequences of such a magnitude as to constitute a clear and present danger to the vulnerable adult's health, welfare, or safety, including but not limited to conduct prohibited under [RCW 9A.42.100](#).

Physical restraint means the application of physical force without the use of any device, for the purpose of restraining the free movement of a vulnerable adult's body. "Physical restraint" does not include (a) briefly holding without undue force a vulnerable adult in order to calm or comfort him or her, or (b) holding a vulnerable adult's hand to safely escort him or her from one area to another.

Self-neglect means the failure of a vulnerable adult, not living in a facility, to provide for himself or herself the goods and services necessary for the vulnerable adult's physical or mental health, and the absence of which impairs or threatens the vulnerable adult's well-being. This definition may include a vulnerable adult who is receiving services through home health, hospice, or a home care agency, or an individual provider when the neglect is not a result of inaction by that agency or individual provider.

Vulnerable adult means a person eighteen (18) years of age or older who:

- (a) Is sixty years of age or older who has the functional, mental, or physical inability to care for himself or herself; **or**
- (b) Is found incapacitated under [Chapter 11.88 RCW](#); **or**
- (c) Has a developmental disability as defined under [RCW 71A.10.020](#); **or**
- (d) Is admitted to a licensed facility (i.e., boarding home, nursing home, adult family home, soldiers' home, residential habilitation center, or any other facility licensed by DSHS); **or**
- (e) Is receiving services from home health, hospice or home care agencies licensed or required to be licensed under [Chapter 70.127 RCW](#); **or**
- (f) Is receiving services from an individual provider; **or**

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- (g) Self-directs his or her own care and receives services from a personal aide under [Chapter 74.39 RCW](#).

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CLARIFYING EXAMPLES OF ABUSE, NEGLECT, FINANCIAL EXPLOITATION, AND SELF-NEGLECT

The following examples, which are not all-inclusive, are provided to assist staff in identifying suspected or actual abuse, neglect, exploitation, and self-neglect. **While many examples are straightforward, others may be less obvious and need to be considered in a larger context.**

A. Physical Abuse:

- Biting
- Choking
- Kicking
- Pinching
- Pushing
- Shaking (especially a child under three years of age)
- Shoving
- Prodding
- Slapping
- Striking with or without an object
- Twisting limbs (joint torsion)
- Causing or willfully allowing the person to do bodily harm to themselves or
- Causing or willfully allowing another client to physically harm them
- Controlling a person through corporal punishment
- Not allowing the client to eat, drink, or care for physical needs such as elimination
- Retaliation following a physical attack, verbal abuse, or other unwelcome action by a client
- Using excessive force when restraining an agitated client

B. Sexual Abuse:

- Any sexual contact between staff or volunteer of a facility and a client, whether or not it is consensual
- Inappropriate or unwanted sexual touching including but not limited to:
 - Fondling
 - Intercourse
 - Oral sex
 - Rape
 - Sodomy
- Sexual coercion
- Sexual harassment
- Sexually explicit photographing, filming, or videotaping
- Showing, selling, or otherwise distributing pornographic materials

C. Mental Abuse:

- Coercion
- Harassment

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- Inappropriately isolating a vulnerable adult from family, friends, or regular activity
- Making derogatory or disparaging remarks about a person and his/her family in front of the person or within hearing distance of any client
- Oral, written or gestural language threatening harm or intended to frighten clients
- Verbal assault such as ridicule, intimidation, yelling, or swearing

D. Neglect:

- A pattern of conduct or inaction by a person or entity with a duty of care that fails to provide the goods and services that maintain physical or mental health of a vulnerable adult, or that fails to avoid or prevent physical or mental harm or pain to a vulnerable adult; or
- An act or omission by a person or entity with a duty of care that demonstrates a serious disregard of consequences of such a magnitude as to constitute a clear and present danger to the vulnerable adult's health, welfare, or safety, which may include but not limited to:
 - Abandoning a client in situations where other persons, objects or the environment may injure the client
 - Allowing the physical environment to deteriorate to the point that a client is subject to hazardous situations, such as electrical, water, and structural hazards
 - Failure to promptly respond to medical emergencies or requests for medical treatment
 - Failure to follow prescribed treatments Failure to attend to clients in hostile or dangerous situations
 - Failure to supervise which results in a client wandering, missing or running away
 - Willful failure to protect the client from physical abuse by another client or staff
 - Willful failure to protect a child from sexual contact with another child

E. Exploitation (Including Personal and Financial):

- Using clients to perform work that should be done by paid employees
- Using client financial resources for personal gain or for activities not related to client care

F. Self-neglect:

Vulnerable adults who neglect themselves are unwilling or unable to do needed self-care. This can include such things as:

- Not eating enough food to the point of malnourishment
- Living in filthy, unsanitary, or hazardous conditions, refusing urgent medical care or a pattern of declining necessary medical care