



DIVISION OF DEVELOPMENTAL DISABILITIES  
Olympia, Washington

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TITLE: PROTECTION FROM ABUSE POLICY 5.13

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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, 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: [Mandatory Reporter Training \(Vulnerable Adults\)](#)

## **BACKGROUND**

Several state laws require Department of Social and Health Services (DSHS) employees, volunteers, and contractors to report suspected abuse, neglect, financial exploitation, and abandonment of vulnerable adults and abuse of children:

- 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 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 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 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 Division of Developmental Disabilities (DDD) will use to protect, to the extent possible, the health, safety and well being of division clients; to ensure that client abuse, neglect, or exploitation is reported, investigated, and resolved; and to ensure that procedures are in place to prevent abuse.

### **SCOPE**

This policy applies to all DDD employees, Contractors, volunteers, interns, and work-study students. **All DDD staff are mandated reporters.**

Note: Certified residential service providers must follow the requirements of DDD Policy 6.12, *Residential Reporting Requirements Including Abuse/Neglect Reporting*.

### **POLICY**

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

Note: 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.

- 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 DDD employee, Contractor, or volunteer found to have knowingly failed to report in his or her 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. Staff who report in good faith are provided immunity from prosecution and protected from dismissal by state law (RCW 70.124.060).

- D. False reports made intentionally, maliciously, or in bad faith constitute a misdemeanor under Washington State law (RCW 74.34.053). Any DDD 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.
- E. A facility/agency may not develop policies or procedures that interfere with the mandatory reporting requirements in state law (RCW 74.34.035).
- F. In addition to the requirements of this policy, the requirements of DDD Policy 12.01, *Incident Management*, must also be met.

## **PROCEDURES**

### **A. REPORTING**

1. When a DDD employee, volunteer, intern, or work study student in the course of his/her duties has reasonable cause to believe that any client has been abused, neglected, or exploited, regardless of the source of information, he/she must call the appropriate DSHS reporting unit (see Section C below) at the earliest opportunity, but not later than 24 hours.
2. Reports must be made within 24 hours of witnessing or learning of suspected abuse, neglect or exploitation, regardless of employee leave or days off.
3. 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 facility providing care, if applicable;
  - c. The name and address of the client's legal representative or alternate decision maker;
  - d. The nature and extent of the abandonment, abuse, financial exploitation, neglect;
  - e. Any known history of previous abandonment, abuse, financial exploitation, neglect;
  - f. The identity of the alleged perpetrator, if known; and

- g. Other information that may be helpful in establishing the extent of abandonment, abuse, financial exploitation, or neglect.
4. 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.
5. 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 his or her mandated reporting responsibilities if he/she believes abuse or neglect occurred.

#### B. NOTIFYING A SUPERVISOR

1. After calling a DSHS reporting unit, a mandated reporter must also report the incident to his/her supervisor in the manner and time specified by the office/facility procedure or within 24 hours, whichever is less. If the immediate supervisor is not available, report the incident to any 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 higher supervisor or management representative at the office/facility.
3. The office/facility must make a report to DDD Central Office within 24 hours. See also DDD Policy 12.01, *Incident Management*, for additional information.

#### C. CONTACT NUMBERS FOR REPORTING

The reporting entities for department employees, interns, volunteers, and work-study students are as follows:

##### **Reports Involving Children**

*Contact the local Child Protective Services (CPS) office. After business hours: DSHS CPS statewide number: 1-800-562-5624*

##### **Reports Involving 18-21 Year Olds in Certified State-Operated Facilities Providing 24 Hour Care for Children**

*DSHS Children's Administration Central Intake: 1-800-562-5624*

**Reports Involving Adults Living In Their Own Homes or Companion Homes***DSHS Adult Protective Services (APS) Regional Numbers:*

Region 1:	<b>1-800-459-0421</b>	TTY: <b>1-509-568-3086</b>
Region 2:	<b>1-877-389-3013</b>	TTY: <b>1-800-973-5456</b>
Region 3:	<b>1-800-487-0416</b>	TTY: <b>1-800-843-8058</b>
Region 4:	<b>1-866-221-4909</b>	TTY: <b>1-800-977-5456</b>
Region 5:		
	Kitsap: <b>1-888-833-4925</b>	TTY: <b>1-800-688-1169</b>
	Pierce: <b>1-800-442-5129</b>	TTY: <b>1-800-688-1165</b>
Region 6:	<b>1-877-734-6277</b>	TTY: <b>1-800-672-7091</b>

**Reports Involving Adults Living in Facilities or Receiving DDD Supported Living Services**

*Complaint Resolution Unit (CRU) statewide number: 1-800-562-6078;*  
 TTY: **1-800-737-7931.**

**Reports Involving Adult Patients at Eastern and Western State Hospitals**

*Eastern State Hospital: 509-299-3121*

*Western State Hospital: 253-761-7599*

**D. OFFICE/FACILITY/AGENCY PROCEDURES**

1. All division offices/facilities and DDD 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, neglect, or exploitation.

These procedures and training must be available to all employees, volunteers, and contractors, and include, at a minimum:

- a. Timelines for reporting suspected client abuse, neglect or exploitation;
- 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, neglect, financial exploitation, and abandonment;

- 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).
2. 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.

### CLARIFYING DEFINITIONS

#### **DEFINITIONS – GENERAL:**

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

**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 health care provider subject to Chapter 18.130 RCW [RCW 74.34.020]. RCW 74.34.030 expanded mandatory reporting to include persons acting in a supervisory capacity with nonprofit or for-profit organizations.

**Permissive reporter** means any person, employee of a financial institution, attorney, or volunteer in a facility or program providing services for vulnerable adults [RCW 74.34.020].

**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.

**DEFINITIONS – CHILDREN:**

**Child or Children** means any person less than eighteen (18) years of age [RCW 26.44.020].

**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 [RCW 26.44.020, effective 1/1/07].

**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 [RCW 26.44.020].

**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. [RCW 26.44.020(15), effective 1/1/07].

**DEFINITIONS - VULNERABLE ADULTS:**

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

- Is functionally, mentally, or physically unable to care for him/herself and is sixty (60) years of age or older; **or**
- Is found to be incapacitated under Chapter 11.88 RCW; **or**
- Has a developmental disability as defined under RCW 71A.10.020; **or**
- Is admitted to a licensed facility (i.e., boarding home, nursing home, adult family home, residential habilitation center, or any other facility licensed by DSHS); **or**
- Is receiving services from a home health, hospice or home care agency licensed or required to be licensed under Chapter 70.127 RCW; **or**
- Is receiving services from an individual provider (RCW 74.34.020); **or**
- Is receiving services from any individual who for compensation serves as a personal aide and provides self-directed care (RCW 74.34.021).

**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 [RCW 74.34.020].

**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, and exploitation of a vulnerable adult, which have the following meanings:

- **Sexual abuse** means any form of nonconsensual sexual contact 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, 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 the use of chemical restraints or physical restraints unless the restraints are consistent with licensing requirements, and includes restraints that are otherwise being used inappropriately.
- **Mental abuse** means any willful action or inaction of mental or verbal abuse. Mental abuse includes, but is not limited to, coercion, harassment, inappropriately isolating a vulnerable adult from family, friends, or regular activity, and verbal assault that includes ridiculing, intimidating, yelling, or swearing.
- **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 [RCW 74.34.020].

**Facility** means a residence licensed or required to be licensed under Chapter 18.20 RCW, boarding homes; 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 by the department.

**Financial exploitation** means the illegal or improper use of property, income, resources, or trust funds of the vulnerable adult by another person for profit or advantage [RCW 74.34.020].



**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 [RCW 74.34.020].

**Permissive reporter** means any person, employee of a financial institution, attorney, or volunteer in a facility or program providing services for vulnerable adults [RCW 74.34.020].

### CLARIFYING EXAMPLES

The following examples, which are not all-inclusive, are provided to assist staff in identifying suspected or actual abuse, neglect, and exploitation. **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
- 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
- Intercourse
- Oral sex

- Rape
- Sexual coercion
- Sexual harassment
- Sexually explicit photographing, filming, or videotaping
- Showing, selling, or otherwise distributing pornographic materials
- Sodomy

**C. Mental Abuse:**

- Coercion
- Harassment
- 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:**

- 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 provide care within acceptable standards
- Failure to promptly respond to medical emergencies or requests for medical treatment
- Failure to follow prescribed treatments or programs
- 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:**

- 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.

**EXCEPTIONS**

No exceptions to this policy are allowed.

**SUPERSESSSION**

DDD Policy 5.13  
Issued October 5, 2007

DDD Policy 5.13  
Issued September 1, 2005

DDD Policy 5.13  
Issued October 15, 2001

DDD Policy 5.13  
Issued January 13, 1999

DDD Policy 5.13  
Issued January 1997

DDD Policy 5.13  
Issued December 1993

Policy Directive 103  
Issued September 1991

Approved: /s/ Linda Rolfe  
Director, Division of Developmental Disabilities

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