



## Policy and Procedure # 303

### Client Abuse, Neglect and Mandated Reporting

Approval: /S/ Daniel Fischer

Effective Date: 9/28/15

#### POLICY:

All clients accepted for residential or employment services by EFI will be provided an environment free from abuse, exploitation, neglect, harassment, intimidation or restraints. All EFI employees are mandatory reporters and must report every incident of observed, reported, or suspected abandonment, abuse, personal or financial exploitation, neglect, or mistreatment of clients as well as injuries of unknown origin. All EFI employees are required to observe and follow all abuse and neglect reporting laws.

REFERENCE: RCW 74.34  
WAC 388-101  
DDA Policy, 6.12 and 6.08

#### PROCEDURE:

1. Applicants being considered for employment in our Residential department, to include volunteers and contractors, who will have unsupervised contact with EFI clients, shall receive clearance through the DSHS/DDA background check central unit (BCCU). Applicants being considered for employment with our Vocational Services Department shall receive clearance through Division of Vocational Rehabilitation (DVR) and Developmental Disabilities Administration (DDA) background inquiry prior to working alone, with, or around clients as outlined in EFI background checks Policy and Procedure. All others, except for the personal friends and family of clients, will be continuously monitored by EFI employees.
2. Each administrator, employee and volunteer will receive training for Mandatory Reporters during the hiring process.
3. Each administrator, employee, contractor and volunteer (except Vocational employees) shall read DDA's Policy 6.12 and sign DSHS 10-403, DDA Residential Services Providers: Mandatory Reporting of Abandonment, Abuse, Neglect, Exploitation or Financial Exploitation of a Child or Vulnerable Adult, at the time of employment and annually thereafter. This is to acknowledge their understanding of this policy and the consequences of abusive actions. Signed copies will be kept in employees' personnel file.
4. Each Vocational Services administrator, employee, contractor and volunteer shall read DDA policy 6.08; Employment and Day Program Mandatory Requirements and sign DSHS 27-081, DDA Employment and Day Program Services Providers: Mandatory Reporting of Abandonment, Abuse, Neglect, Exploitation or Financial Exploitation of a Child or Vulnerable Adult, upon hire and then



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annually. This is to acknowledge their understanding of this policy and the consequences of abusive actions. Signed copies will be kept in employees personnel file and updated annually.

5. For the purpose of this policy, see Attachment A for a complete list of definitions of terms used in this policy and also Attachment B for examples of abuse, neglect, exploitation, and self-neglect.
6. In order to protect clients from suspected abuse, an employee suspected or accused of abuse will be relieved of any duties that would allow any access to the EFI client/clients that were the recipient of the alleged abuse pending an investigation. This may be accomplished by:
  - A. Suspension from regular duties with or without pay or;
  - B. Assignment to duties as double staff or;
  - C. Assignment to duties not allowing client contact.
7. Failure to Report will result in immediate unpaid suspension pending an investigation.
8. The Residential Director and Vocational Director will begin an investigation within 12 working hours of the initial report. A written statement from the claimant and a report from the director(s) will be submitted to the CEO and the DDA Case Manager within 24 hours.
9. If abuse is suspected, employees and clients must follow the reporting procedure as outlined below and per mandatory reporting requirements. Employees and clients will be free from retaliation when reporting observations or suspicions of abuse. The employee or client witnessing or suspecting abuse must personally report the incident to appropriate agencies immediately. Employees must not discuss the incident amongst themselves or with other clients.
10. Client Incident Reporting:
  - A. Report to Adult Protective Services (APS), Child Protective Services (CPS) or the **Complaint Resolution Unit (CRU) (1-800-562-6078)** immediately:
    - i. When there is reasonable cause to believe there has been abuse, improper use of restraint, neglect, self-neglect, personal or financial exploitation, and/or abandonment. It is not necessary to have witnessed an incident to report it.
  - B. Call 911 if the act is in progress.
  - C. Report to Department of Health (DOH): Incidents involving suspected abuse, neglect or exploitation, or related to their license or certification, an individual with a certification or registration through DOH, must also be reported to the State Department of Health (DOH).
  - D. Notify the appropriate Director immediately. If the situation occurs after office hours or on weekends or holidays, employees are to notify their immediate supervisor for their department, which will notify their Director.
  - E. Notify law enforcement for any of the following:
    - i. Sexual assault/abuse: Any alleged or suspected sexual assault/abuse reported by the client or legal guardian, whether it just occurred or may have previously occurred.



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- ii. Physical assault (non-client to client): Any alleged or suspected physical assault as well as any act that causes fear of imminent harm.
  - iii. Physical assault (client to client): Any alleged or suspected physical assault that causes bodily injury requiring more than first aid, or in the event of:
    - a. Injuries (e.g., bruising, scratches, etc.) that appear on the back, face, head, neck, chest, breasts, groin, inner thigh, buttock, genital, or anal areas;
    - b. Fractures;
    - c. Choking attempts;
    - d. Patterns of physical assault between the same vulnerable adults or involving the same vulnerable adults;
    - e. If there is reasonable cause to believe that an act has caused fear of imminent harm; and
    - f. Any client to client assault, regardless of injury, if requested by the client, the client's legal representative, or family member.
  - F. The Residential Director will ensure the following is completed:
    - i. Phone call to the DDA Case Manager within 1 hour.
    - ii. Written incident report sent to the Case Resource Manager (CRM) within 1 business day.
    - iii. Notify the claimant's guardian. Parents or closest family member or advocate can be notified only with written consent of client.
    - iv. Document in client's records: all persons and agencies contacted, dates, times, what they were told and who told them.
11. In the event abuse is suspected of a Vocational Services client you must do the following:
- A. Once an employee becomes aware of an incident of suspected abuse, they must stop any interviewing of the suspected victim and report the incident immediately to all appropriate agencies.
  - B. Call 911 if the act is in progress.
  - C. Notify DSHS Adult Protective Services at 1-866-363-4276 immediately.
  - D. Notify law enforcement
  - E. The Vocational Director will ensure the following is completed:
    - i. If the client is a DDA client,
      - a. Notify Thurston/Mason County Services
      - b. Notify the DDA Case Manager.
    - ii. If the client is a DVR client, notify the DVR counselor.
  - F. Notify the claimant's guardian. Parents or closest family member or advocate can be notified only with written consent of client.
  - G. Document in client records: all persons and agencies contacted, dates, times, what they were told and who told them.



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12. If the suspected abuse includes possible rape or sexual abuse, in addition to contacting all individuals and agencies as outlined above, the reporting employee must also:
  - A. Leave collection of evidence and treatment to the experts.
  - B. Preserve any evidence at the site by:
    - i. Not changing clothes
    - ii. Not bathing or cleaning client
    - iii. Not attempting to clean up the scene
  - C. Request that medical personnel conduct interviews with the alleged victim only in the presence of a DDA Residential Care Services (RCS) representative or by the consultant assigned to the case by DDA.
  - D. Contact the Sexual Assault Advocacy Group for sexual abuse counseling or intervention for the client when appropriate at 1-888-341-7922 and;
  - E. Notify the claimant's guardian, parent or closest family member or advocate if written consent is in place. Document in the client file persons contacted, dates, times, what they were told and who told them.
13. Under some circumstances EFI may request that DDA contract with a specified consultant to conduct the investigation and assist with follow up.
14. If an abusive situation is observed by or is reported to an employee involving the CEO of EFI, an outside investigation must be initiated. All procedures will be followed as outlined in this policy, with the exception that the Board of Directors chairman will replace the CEO in all outlined procedures of this policy.
15. Individuals determined to have abused an EFI client will be subject to immediate dismissal and prosecution pursuant to the law.
16. A follow-up report will be written upon the completion of the investigation summarizing the outcome of the investigation and actions taken. This report will be provided to the CEO of EFI and the DDA Case Manager and in incidents involving Vocational DDA Clients, Mason/Thurston Social Services.



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#### 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 victim.

**Agency** means all service providers identified in the scope.

**CRM** means the Developmental Disabilities Administration Case Resource Manager and/or the Social Worker or Social Service Specialist.

**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** 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



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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.

**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 - 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, 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, who is not also a resident or client, of a 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.



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- **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.12RCW; (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 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.



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





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### ATTACHMENT B

#### 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, financial 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:
  - o Fondling
  - o Intercourse
  - o Oral sex
  - o Rape
  - o Sodomy
- Sexual coercion
- Sexual harassment
- Sexually explicit photographing, filming, or videotaping
- Showing, selling, or otherwise distributing pornographic materials



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##### 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:

- A pattern or 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, 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



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#### DDA INCIDENT REPORTING TIMELINES

Phone call to Regional Office within

One (1) Hour followed by written IR within

One (1) Business Day

(A)

1. Suspicious or unusual death of a client
2. Death of a client served by the SOLA program
3. Natural disaster or other conditions threatening the operations of the program or facility
4. Client is missing
5. Injuries resulting from abuse/neglect or unknown origin resulting in hospital admission
6. Known media interest or litigation must be reported to Regional Administrator within 1 hour. If issue also meets other incident reporting criteria, follow with written IR within 1 working day.
7. Alleged or suspected sexual abuse of a client
8. Client arrested with charges or pending charges for a violent crime
9. Life-threatening medically emergent condition life-threatening conditions that cannot be classified as injuries and that require treatment by emergency personnel or inpatient admission

Written IR within

One (1) Business Day

(B)

1. Death of a client (not suspicious or unusual)
2. Alleged or suspected abuse, improper use of restraint, abandonment, neglect, personal or financial exploitation of a client
3. Alleged or suspected criminal activity perpetrated against a client
4. Alleged or suspected criminal activity by a client
5. Injuries resulting from alleged or suspected client to client abuse requiring medical treatment beyond First Aid
6. Inpatient admission to a state or community psychiatric hospital
7. Injuries to a client resulting from the use of restrictive procedures or physical intervention techniques
8. Injuries of known cause (other than abuse) that required medical treatment beyond First Aid
9. Hospital or nursing facility admission
10. Patterns of client to client abuse
11. Property damage by SL clients
12. Restrictive procedures implemented under emergency guidelines (see Policy 5.15 Definitions)
13. Medication or other nurse delegation errors which causes or is likely to cause injury/harm as assessed by a medical or nursing professional
14. Serious treatment violations
15. Suicide gestures or attempts
16. Suspicious injury of unknown origin (See Procedures, Section 4.b.16)
17. Awareness that a client and/or client's legal representative are contemplating permanent sterilization procedures