

# Abuse & Mandatory Reporting

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# Definition of Abuse

Abuse includes, but is not limited to:

- (a) Any assault as defined in ORS chapter 163, of a child and any physical injury to a child which has been caused by any other than accidental means, including any injury which appears to be at variance with the explanation of the given injury
- (b) Any mental injury to a child, which shall include any observable and substantial impairment of the child's mental or psychological ability to function caused by cruelty to the child, with due regard to the culture of the child
- (c) Rape of a child
- (d) Sexual abuse, as defined in ORS chapter 163
- (e) Sexual exploitation
- (f) Negligent treatment or maltreatment of a child
  - Failure to perform duties or failure to take action required to protect the child's health or welfare
  - Any action toward a child which carries a risk of harm to the child's physical, emotional, behavioral, or mental health or welfare
- (g) Threatened harm to a child
- (h) Buying or selling an individual under 18 years of age
- (i) Permitting an individual under 18 years of age [to be] where methamphetamines are being manufactured
- (j) Unlawful exposure to a controlled substance that subjects a child to a substantial risk of harm to the child's health or safety

# Who are Mandatory Reporters?

Any public or private official having reasonable cause to believe that any child whom the official comes in contact has suffered abuse or that any person with whom the official comes in contact has abused a child shall immediately report in the manner required

ORS 419B.005 - 050

“Reasonable Cause to Believe”

For purposes of reporting, the belief need only be a reasonable suspicion, and does not need to rise to the level of probable cause

# Who are Mandatory Reporters?

- Public and private officials, including but not limited to:
  - Doctors
  - Clergy
  - School Employees
  - Government Employees
  - Emergency Responders
  - Licensed child-caring agencies
- **As an ACAP employee, you are a mandatory reporter**

# Reporting Abuse

- You are immune from civil or criminal liability when you make good faith reports
- Your name will be kept confidential
- Initial report made to local DHS child welfare office (the Child Abuse Hotline)
- No person, including a child who reports suspected abuse, shall be subject to retaliatory action by a CCP

# Responsibilities of Children's Care Providers

- CCPs shall immediately assess the safety of the child and take any action necessary to remove the child from danger and keep the child safe
- CCPs shall cooperate with OAAPI in establishing a safety plan for the child who is the subject of the report, and for other children who may be at risk of abuse or neglect

# Protective Services

- Immediate, e.g. placing staff on leave
- Assess child's capacity to protect self
- Coordinate evaluations to determine child's physical and mental status
- Assist in arranging appropriate services or alternate living arrangements
- Assist with medical or other necessary services to prevent further abuse

# Crime vs. Abuse

- If you think it's a crime, then you must call the local law enforcement
- Also report the incident to the local child abuse reporting hotline
- OAAPI will coordinate the investigation with law enforcement

# If you are interviewed

- Mandatory reporters will be included in investigative interviews
- All interviews and relevant evidence will be included in the final report
- Provide as much information as you can
- It is okay to say “I don’t know”
- It is okay to ask for a break
- It is preferable not to talk to others about the case (stick to what you know)
- OAAPI policy is for investigators to review the interview notes for accuracy
- Contact the investigator if you have further information
- The investigator may contact you for a follow up interview

# The Final Report

- The report and underlying investigatory documents are confidential and not available for public inspection
- Providers will receive information about the outcome of every investigation

# Reporting Abuse at ACAP

- You do not need permission to report abuse
- Please notify your Site Supervisor if you are going to make a report so that they can provide you with camper personal information and support
  - This also gives ACAP a heads up of what calls from DHS we should be prepared to receive
- Calling to reporting abuse can be an emotional and daunting task. If you would like support, the Site Supervisors and Program Director are available to assist you in making the call

# Adult Abuse & Mandatory Reporting

# Adult Definition:

- 18 years or older
- The alleged abuse victim
- And...
  - Developmental disabilities
  - Mental health

# Who must report abuse or neglect of these populations?

- Public and private officials, including but not limited to:
  - Doctors
  - Clergy
  - School Employees
  - Government Employees
  - Emergency Responders
  - Licensed agencies providing care
- **As an ACAP employee, you are a mandatory reporter**

# Who may be held responsible for abuse or neglect?

- Caregivers
- Providers
- Residential facilities/agencies
- CDDP/CMHP
- Any person involved in a *trust* relationship with an adult
  - Does the person provide care to the adult?
  - What is the amount and level of contact?
  - Is the contact ongoing and abuse likely to reoccur?

# Definition of Abuse

- Developmental Disabilities OAR 407-045-0250 through 0370
  - Abandonment
  - Death of an Adult
  - Financial Exploitation
  - Involuntary Seclusion
  - Neglect
  - Services
  - Physical Abuse

# Definition of Abuse

- Developmental Disabilities OAR 407-045-0250 through 0370
  - Sexual Abuse
  - Sexual Contact
  - Wrongful restraint
  - Verbal abuse
  - Spiritual exception
    - An adult who in good faith is voluntarily under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner shall for this reason alone not be considered subjected to abuse

# Definition of Abuse

- Mental Health OAR 943-045-0250 through 0370
  - Death of an adult
    - “Caused by other than accidental or natural means or occurring in unusual circumstances”
  - Neglect
  - Physical Abuse
  - Sexual Abuse
  - Sexual Contact
  - Spiritual exception
    - An adult who in good faith is voluntarily under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner shall for this reason alone not be considered subjected to abuse

# Abuse Definitions

- OAR 943-045-0260(15)
- “Mistreatment means mistreatment as defined in OAR 390-035-0105, OAR 309-035-0260 and OAR 309-040-0305
- Expanded mistreatment definitions for adults receiving services for mental illness from:
  - 309-035-0100: Residential Treatment Facilities
  - 309-035-0250: Residential Treatment Homes
  - 309-040-0300: Adult Foster Homes

# Mistreatment Definitions

- Abandonment
- Financial Exploitation
- Involuntary Restriction
- Neglect
- Verbal Mistreatment
- Wrongful Restraint
  - (exception) “does not include physical emergency restraint to prevent immediate injury to an individual who is in danger of injuring him/herself or others, provided that only the degree of force reasonably necessary for protection is used for the least amount of time necessary”

# Where & How to Report Abuse

- Contact law enforcement if there is reasonable cause to believe a crime has been committed
- Contact service provider (if any)
- Contact your Community Program (CMHP/CDDP)

# Where & How to Report Abuse

The following information will be sought when a report is made:

- Name, age, location of the adult
- Individuals, programs, and facilities responsible for care of the adult
- Nature of abuse

Reporting abuse or neglect to the community program:

- Date
- Time

# Reporting

A community facility, community program, or individual shall not retaliate against any individual who reports suspected abuse in good faith”

OAR 407-045-0340 (1)

## **Your report is confidential**

The program must notify OAAPI of the report’s receipt, screen the report, provide protective services (alt. Living arrangements, phys. & mental status eval, med services, legal services, fin. Services, advocacy services, counseling, assistance programs, other), notify law enforcement

Report is screened out if report does not match definitions or the alleged victim is not protected under rule definitions.

# Interviews during an investigation

- Mandatory reporters' obligations include being interviewed
- All interviews and evidence will be included in the final report
- Investigators must conduct in-person interviews, where practicable

## If you are interviewed

- Provide as much info as you can
- It is preferable not to talk to others about the case (stick to what you know)
- Investigators can get a clearer picture of the facts if you refrain from discussing the investigation with others until the investigation is complete
- Investigators review notes for accuracy
  - Contact if you have further information

# Interviews during an investigation

- You may be contacted for a follow up

# The Final Report

- Notice of the outcome shall be provided to an abuse reporter upon the reporter's request
- Notices of the outcome must be made within 5 working days after the date the case is completed and approved by OAAPI
- Redacted report prepared and given to the provider or brokerage
- Unredacted copies may be made available to:
  - Disability Rights Oregon
  - Appropriate licensing agencies
  - Law enforcement
- Anyone can request (in writing) a report from the community program or OAAPI
  - They will receive a redacted copy

# The Final Report

- The final report is confidential
- Some of the information may be disclosed
- Other information is removed (redacted)
  - Redaction is done to shield personal information and other legally protected information such as:
    - Names
    - Clinical/medical records or summaries
    - Personal health information

# Provider Responsibilities

- Ensure medical care is provided if an individual is injured or reports sexual abuse
- Contact law enforcement if reason to believe a crime was committed
- Ensure that alleged victim is protected from further abuse
- Adjust procedures
- Gather requested information
- Document injuries if possible