

<b>PATHWAYS, INC. DD SERVICES</b>	<b>DATE ISSUED</b> 10/92	<b>DATE REVISED</b> 5/13 10/14	<b>PAGES</b> 1 of 3	<b>TOPIC NO.</b> 2.130
<b>POLICIES AND PROCEDURES MANUAL</b>	<b>FUNCTION:</b> INCIDENT REPORTING/REVIEW PROCESS			
<b>SOURCE/REFERENCE:</b> Quality Assurance	<b>SUBJECT:</b> Glossary of Terms Used in Part 625			
	<b>TOPIC:</b> Glossary			

**Glossary**

The following is a Glossary of Terms used in Part 624 and applicable to the Policy and Procedure.

**Adult, capable.**

For purposes of this Part, a person 18 years of age or older who is able to understand the nature and implication of an issue. The assessment of capability in relation to each issue as it arises will be made by the person's program planning team (see glossary). Capability, as stipulated by this definition, does not mean legal competency; nor does it necessarily relate to a person's capability to independently handle his or her own financial affairs; nor does it relate to the person's capacity to understand appropriate disclosures regarding proposed professional medical treatment. Whenever there is doubt on the part of any other party interested in the welfare of the person as to that person's ability to make decisions, as ascertained by the program planning team or others called upon by and agency, a determination of capability for a specific issue or issues may be made by a Capability Review board (see. Glossary) designated by the commissioner except that in an ICF/MR facility the requirements of section 681.13 of this Title may apply. A capable adult person cannot override the authority granted a guardian pursuant to article 81 or the Mental Hygiene Law or of a conservator or a committee; or the authority granted a guardian in accordance with the Surrogate Court Procedure Act.

**Application, Incident Report and Management (IRMA).**

A secure web-based statewide database for incident reporting that is used by providers in the OPWDD system.

**Auspices, under the.**

For the purposes of this Part and Part 625 of this Title, an event or situation in which the agency or family care provider is providing services to a person. The event or situation can occur whether or not the person is physically at a site owned, leased, or operated by the agency or family care provider.

**Events or situations that are not under the auspices of an agency include:**

- (i) Any event or situation that directly involves or may have involved agency personnel or a family care provider (or respite/substitute provider) during the time he or she was acting under the supervision of a State agency other than OPWDD (e.g. an agency employee has a second job at a hospital and an incident occurred while he or she was providing care to an individual receiving services during the individual's hospitalization).
- (ii) Any event or situation that exclusively involves the family, friends, employers, or co-workers of an individual receiving services (other than a custodian or another individual receiving services), whether or not in the presence of agency personnel or a family care provider or at a certified site.
- (iii) Any event or situation that occurs in the context of the provision of services that are subject to the oversight of a State agency other than OPWDD (e.g. special education, article 28 clinic, hospital, physician's office), whether or not in the presence of agency personnel or a family care provider.
- (iv) Any report of neglect that is based on conditions in a private home (excluding a family care home).
- (v) The death of an individual who received OPWDD operated, certified, or funded services, except deaths that occurred under the auspices of an agency as specified in paragraph (1) of this subdivision.

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**Contact, sexual.**

As specified in Penal Law §130.00(3), the touching or fondling of the sexual or other intimate parts of a person not married to the actor for the purpose of gratifying the sexual desire of either party, whether directly or through clothing. It also includes causing a person to touch anyone else for the purpose of arousing or gratifying personal sexual desires.

**Crime.**

An act that is forbidden by law that makes the offender liable to punishment pursuant to that law. In New York State, the Penal Law defines a crime as a misdemeanor or a felony, but does not include a traffic infraction.

**Custodian.**

A party that meets one of the following criteria:

- (1) A director, operator, employee, or volunteer of an agency; or
- (2) A consultant or an employee or volunteer of a corporation, partnership, organization, or governmental entity that provides goods or services to an agency pursuant to contract or other arrangement that permits such party to have regular and substantial contact with individuals receiving services; or
- (3) A family care provider; or
- (4) A family care respite/substitute provider.

**Recklessly.**

This term shall have the same meaning as provided in subdivision three of section 15.05 of the penal law, which states: "A person acts recklessly with respect to a result or to a circumstance described by a statute defining an offense when he is aware of and consciously disregards a substantial and unjustifiable risk that such result will occur or that such circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. A person who creates such a risk but is unaware thereof solely by reason of voluntary intoxication also acts recklessly with respect thereto."

**Subject (of a report).**

A custodian who is reported to the VPCR for the alleged abuse or neglect of a person receiving services.

**Substantiated.**

A finding concerning a report of abuse or neglect based on a preponderance of the evidence. The report of abuse or neglect is *substantiated* when it is determined that the incident occurred and the subject of the report was responsible or, if no subject can be identified and an incident occurred, that, the facility or provider agency was responsible.

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**Unsubstantiated.**

A finding concerning a report of abuse or neglect based on a preponderance of the evidence. The report of abuse or neglect is *unsubstantiated* because it is determined not to have occurred or the subject of the report was not responsible, or because it cannot be determined that the incident occurred or that the subject of the report was responsible.

Section 625.2 Definitions.

**Emotional Abuse.**

The willful infliction of mental or emotional anguish by threat, humiliation, intimidation, or other abusive conduct, including but not limited to, frightening or isolating an adult.

**Active Neglect.**

The willful failure by the caregiver to fulfill the care-taking functions and responsibilities assumed by the caregiver, including but not limited to, abandonment, willful deprivation of food, water, heat, clean clothing and bedding, eyeglasses or dentures, or health related services.

**Passive Neglect.**

The non-willful failure of a caregiver to fulfill care-taking functions and responsibilities assumed by the caregiver, including but not limited to, abandonment or denial of food or health related services because of inadequate caregiver knowledge, infirmity, or disputing the value of prescribed services.

**Self-Neglect.**

An adult's inability, due to physical and/or mental impairments, to perform tasks essential to caring for oneself, including but not limited to, providing essential food, clothing, shelter, and medical care; obtaining goods and services necessary to maintain physical health, mental health, emotional well-being, and general safety; or managing financial affairs.

**Financial Exploitation.**

The use of an adult's funds, property, or resources by another individual, including but not limited to, fraud, false pretenses, embezzlement, conspiracy, forgery, falsifying records, coerced property transfers, or denial of access to assets.