

October 2, 2020

GENERAL LETTER NO. 3-B-13

ISSUED BY: Division of Mental Health and Disability Services (MHDS) - Facilities

SUBJECT: Employees' Manual, Title 3, Chapter B, **State Resource Centers**, Contents Page 3, Page 1, 11, 12, 38, 65, 67, 68, 69, 70, 71, 72, 73, 74, 75, and 76, revised.

Summary

This chapter is revised to:

- ◆ Revise manual to bring policy and procedures up-to-date with a focus on Abuse and Incident Management.

Effective Date

October 2, 2020.

Material Superseded

Remove the following pages from Employees' Manual, Title 3, Chapter B, and destroy them, replacing the affected pages with the revised pages listed above:

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1	October 25, 2019
11	April 4, 2014
12, 38	October 25, 2019
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70	May 14, 2010
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Additional Information

Refer questions about this general letter to Wendy DePhillips of MHDS.

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Overview

The purpose of each state resource center is to provide individuals with intellectual disabilities opportunities to live and develop independent living skills in a safe and humane environment where the individual's rights are protected with the end goal of assisting the individual to return to and live in the community.

This is best achieved when the resource center works to develop competency-based trained staff who work cooperatively with the individual to develop an individual support plan based on an assessment of the individual's preferences, strengths to build on, and needed supports. The plan also assesses the diverse risk issues affecting the individual's quality of life and develops supports to minimize the impact risks have on the individual.

The individual's served by the resource center usually have many medical needs that require the services of professional clinical staff who are committed to providing treatment services in the most integrated manner possible to maximize good health and well-being.

To assure that services comply with current professional standards and are maintained, it is essential that an ongoing process be in place to evaluate clinical judgment against practice standards along with the implementation of processes that continuously seek to improve the quality of the services provided.

In November 2004, the state of Iowa entered into a settlement agreement with the United States Department of Justice relating to the state resource centers. Effective October 1, 2004, the Iowa Department of Human Services and the state resource centers agreed to the Iowa State Resource Centers Plan. The policies in this chapter are part of the state's good-faith effort to implement the provisions of the agreement and the plan.

Each resource center shall establish, maintain, and adhere to written policies and procedures that comply with applicable federal and state law, policy, regulations, and ensure that policies and procedures reflect a commitment to quality through integrated teamwork. Each facility's policy shall be subject to the review and approval of the division administrator.

“Immediate clinical review” means a review initiated by a treatment program manager or QMRP by the end of the next business day from when a problem is identified to address:

- ◆ Whether appropriate treatment and supports were in place, and
- ◆ What changes are needed to appropriately address the problem.

The clinician or a group of clinicians appropriate to evaluate the cause of the problem shall conduct the review. The treatment program manager or QMRP shall determine the participation of other members of the individual’s interdisciplinary team based on the individual and the problem involved.

“Immediately reporting” means as soon as possible but no later than 2 hours after staff become aware of an allegation of abuse or Type 1 Incident.

“Incident” means any action, situation, behavior, or occurrence that is not consistent with the care, treatment, or habilitation plan of an individual or that may affect the health or safety of the individual.

“Incident review committee” means the committee responsible for the overall monitoring, reviewing, and determining the effectiveness of a resource center’s implementation of incident management policies and corrective actions. At a minimum, the committee shall include the superintendent, the persons directly responsible for the program and treatment services, representatives from psychology and nursing, and the director of quality management.

“Independent physician” means a licensed physician who is not an employee of the resource center and who has no personal or professional connections to the individual who died.

“Individual” means any minor or dependent adult residing at and receiving services from a resource center. For the policies on human rights and abuse, it also includes any minor or dependent adult not residing at but receiving services from a resource center.

“Individual education plan” or **“IEP”** means the primary document outlining an individual’s educational needs and the services and supports required for the individual to receive a free appropriate public education in the least restrictive environment.

“Individual support plan” or **“ISP”** means the plan of treatment, education, and support services developed for each individual to address the individual’s identified needs.

“Informed consent” means an agreement to participate in an activity by an individual or the individual’s parent, guardian, or legal representative based upon an understanding of:

- ◆ A full explanation of the procedures to be followed, including an identification of those that are experimental.
- ◆ A description of the attendant discomforts and risks.
- ◆ A description of the benefits to be expected.
- ◆ A disclosure of appropriate alternative procedures that would be advantageous for the individual.
- ◆ Assurance that the consent is given freely and voluntarily without fear of retribution or withdrawal of services.

“Injury of unknown origin” means an injury whose source was not observed by any person or cannot be explained by the individual and which is suspicious because of:

- ◆ The extent of the injury,
- ◆ The location of the injury (e.g., the injury is located in an area not generally vulnerable to trauma),
- ◆ The number of injuries observed at one particular point in time, or
- ◆ The incidence of injuries over time.

“Intellectual disability” means a disability of children and adults, who as a result of inadequately developed intelligence have a significant impairment in ability to learn or to adapt to the demands of society, and, if a diagnosis is required, “intellectual disability” means a diagnosis of a developmental condition that is characterized by significant deficits in both intellectual functioning and adaptive behavior, including conceptual, social, and practical skills (DSM-5, 2013).

“Interdisciplinary team” or **“IDT”** means a collection of people with varied professional backgrounds who develop one plan of care to meet an individual’s need for services.

“Leave” means any status where the individual is not physically present in the resource center but has not been discharged and the resource center retains some responsibility for the care, oversight, or treatment of the individual.

Response to Report

Resource center written policies and procedures shall assure that:

- ◆ Notification of grievances filed shall be provided to the Treatment Program Administrator, the Director of Quality Management, and the human rights committee.
- ◆ All allegations and rights violation allegations shall be immediately reported to the Superintendent or the Superintendent's designee.
- ◆ The Superintendent or the Superintendent's designee shall provide a monthly report of rights violations to the division administrator as outlined in the [Reporting Requirements on Rights Data](#) section of this policy.

Allegations of Abuse

Resource center written policies and procedures shall assure that:

- ◆ All allegations of a rights violation that also meets the definition of abuse shall be investigated under the policies governing abuse investigations.
- ◆ If an allegation of a rights violation does not meet the definition of abuse, it shall be investigated in a timely manner per facility policies.

Grievance Filing Process

Resource center written rights violation process policies and procedures shall assure that:

- ◆ A grievance filing process is developed and implemented for use by an individual who believes one or more of the individual's rights have been violated or has any other complaint. The process shall:
 - Specify the right for an individual or the individual's parent, guardian, legal representative, or family to file a written or oral grievance;
 - Provide assistance in filling out the grievance if needed by the individual;
 - Specify whom the grievance may be filed with; and
 - Provide written notification to the individual's parent, guardian, legal representative, or family of the grievance and the investigation outcome.
- ◆ Retaliation shall not occur for good faith reporting.

Policy on Abuse and Incident Management

It is the policy of the Department that individuals served by the resource centers shall be provided opportunities to develop independent skills in a safe humane environment.

The resource centers must develop and implement systems that protect clients from all forms of abuse, neglect, punishment, and mistreatment. All incidents directly involving the care, treatment, or habilitation of an individual shall be identified and tracked for the purpose of scrutiny and investigation, prevention of future harm, and to assure the maximum safety and protection of the individuals served.

Federal and state laws have been enacted to recognize and protect the civil rights of individuals with developmental disabilities, prohibiting the abuse of these individuals. These rights are specified in the [Policy on Human Rights](#).

Incident Management Principles

- ◆ Abuse shall not be tolerated the Department has zero tolerance for all forms of abuse, neglect, or mistreatment of clients.
- ◆ Allegations of abuse shall be:
 - ◆ Reported timely (per state and federal requirements)
 - ◆ Investigated thoroughly
 - ◆ Conclusions summarized
 - ◆ Recommendations made for action both to safeguard all the clients during the investigation and after the completion of the investigation report.
- ◆ Notification of the proper individuals shall occur timely.
- ◆ There are consequences for persons who commit abuse.
- ◆ A safe environment provides the basis to accomplish the resource center mission of providing quality treatment and habilitation services to enable individuals to fully achieve their maximum potential.
- ◆ All staff, contractors, and volunteers have a responsibility to assure individual safety and protection from harm and therefore shall report all incidents immediately.
- ◆ In order to carry out these responsibilities effectively, staff, contractors, and volunteers must be adequately trained to recognize abuse and other incidents and what to do to protect the individuals served.

- ◆ The resource center shall follow up on any information it receives that indicates that an employee, volunteer, or contractor has not reported any allegation or founding of abuse or arrest, charge, or conviction for any felony or misdemeanor.
- ◆ Any employee, contractor, or volunteer who fails to report any allegation of abuse or arrest, charge, or conviction for any felony or misdemeanor against the person arising from the person's actions outside the work place within 24 hours or on the next scheduled business day shall be subject to sanctions, up to and including dismissal or termination of contract.
- ◆ Any employee, volunteer, or contractor who has been found to have contributed to adult or child abuse, to have committed adult or child abuse, to have been convicted of child or adult abuse, denial of critical care, or to have committed mistreatment shall be subject to sanctions, up to and including dismissal or termination of contract.
- ◆ All decisions on type and severity of disciplinary actions taken against employees shall be done timely and shall be based on an evaluation of the type and severity of the incident based on the evidence in the incident report, prior personnel actions taken with the employee, and other components of just cause.

General Abuse and Incident Management

Resource center written policies and procedures shall assure that:

- ◆ No employee, contractor, or volunteer shall behave in an abusive or neglectful manner toward individuals. No employee, contractor or volunteer shall violate the Iowa Code provisions related to:
 - Child abuse. (See Iowa Code section 232.68(2) and 441 IAC 175.21(232, 235A).)
 - Abuse or neglect of dependent adults. (See Iowa Code section 235B.2(5) and 441 IAC 176.1(235B).)
 - Sexual abuse. (See Iowa Code Chapter 709.)

NOTE: The Department's policy defines abuse more broadly than does the Iowa Code. Employee, contractor, or volunteer actions that meet the Department's definition of abuse in this chapter will be in violation of this policy and are strictly prohibited.

- ◆ All employees, contractors, and volunteers who have regular contact with individuals shall be trained to:
 - Identify and report abuse and other incidents; and

- Respond to incidents threatening the health and safety of individuals as defined by this policy.
- ◆ Employees, contractors, or volunteers who fail to report incidents as required; who give false, misleading, or incomplete information; or who otherwise do not participate in the investigation or review process as outlined shall be in violation of this policy and shall be subject to:
 - Discipline or termination of services, whichever is applicable; and
 - Where appropriate, criminal prosecution.
- ◆ Employees who retaliate against any individual, employee, contractor, or volunteer for that person's involvement in the reporting and investigation process as a reporter or witness or in any other capacity shall be in violation of this policy and shall be subject to discipline, and where appropriate, criminal prosecution.
- ◆ Individuals shall be encouraged and educated to assert the legal and civil rights they share with all United States citizens, including the right to a dignified, self-directed existence in a safe and humane environment, free from abuse or harm.
- ◆ All incidents involving the care, treatment or habilitation of an individual that occur at the resource centers shall be identified and tracked for the purpose of scrutiny and investigation, in the interest of preventing future harm, and ultimately to assure maximum safety and protection of the individuals served.
- ◆ An electronic system that is uniform across both resource centers shall be developed and implemented to track reported incidents with the data listed in the performance improvement section of this policy.
- ◆ Incidents shall be monitored and evaluated to determine if any policy, procedure, training, or operational changes are needed to minimize the future risk to individuals.

Individual Safety

Resource center written policies and procedures shall assure that:

- ◆ The health and safety needs of an individual involved in an allegation of abuse or any other incident shall be an immediate priority.
- ◆ All employees, volunteers, and contractors shall take immediate steps to assure that an individual involved in an incident receives needed appropriate treatment and protection from further harm. Such actions shall include but are not limited to:
 - Providing first aid,
 - Calling for emergency medical services,
 - Removing the individual from an environment that threatens further harm,
 - Removing an aggressor from further contact with the individual,
 - Immediately removing a caretaker from contact with the individual when the caretaker has allegedly abused the individual,
 - Maintaining the separation until the Department of Inspections and Appeals (DIA) determines an investigation will not be completed,
 - A DIA investigation has been completed and the abuse determination made,
 - For a child abuse allegation, the Department of Human Services Intake Unit has notified the Resource Center, DHS has rejected the intake or an assessment determined the abuse was not confirmed, or
 - Any other appropriate action.
- ◆ The supervisor responding to the incident shall document the health and safety needs that the individual had because of the incident and the actions taken in response to those identified needs.

Elopement

Resource center written policies and procedures shall assure that:

- ◆ When an employee responsible for the supervision of an individual determines that the individual's location is unknown, either on campus or off campus, the employee shall immediately notify a supervisor on duty and initiate a search for the individual.

- ◆ If the individual is not found within 15 minutes the supervisor shall immediately notify the administrative officer of the day, the doctor on call, and the superintendent or the superintendent's designee.
- ◆ The superintendent or the superintendent's designee shall implement an organized, extended search.
- ◆ Law enforcement shall be contacted for assistance in accordance with locally established agreements when the individual:
 - Is involuntarily committed and is known to be or may be off campus, or
 - Is on campus or off campus and presents a danger to self or others, or
 - Has not been located within 45 minutes of the initiation of the extended search.
- ◆ The superintendent or the superintendent's designee shall determine when to end the organized, extended search.

Elopement Reporting

Resource center policy and procedures shall assure that:

- ◆ When an extended search has been initiated upon an elopement, the superintendent or the superintendent's designee shall report to the division administrator by direct phone contact within two hours of the initial report of the elopement.
- ◆ The superintendent or the superintendent's designee shall report to the division administrator by direct phone contact within two hours of receipt of a report that during the elopement, the individual:
 - Has sustained a serious injury,
 - Has seriously threatened to harm or harmed anyone,
 - Is alleged to have committed a crime, or
 - Has engaged in high-risk behavior.
- ◆ Reports shall be made during business days, evenings, weekends, and holidays.
- ◆ The superintendent or the superintendent's designee shall submit to the division administrator a written report of the event no later than 12 p.m. of the next business day.

Abuse and Incident Reporting and Tracking

Resource center written policies and procedures shall assure that:

- ◆ A system shall be developed that individuals, employees, contractors, or volunteers use to report incidents timely per state and federal guidelines.
- ◆ A uniform electronic system shall be developed and implemented to track reported incidents with the data list in performance improvement section of this policy.
- ◆ Incidents shall be monitored and evaluated to determine if any policy, procedure, training, or operational changes are needed to minimize the future risk to individuals.
- ◆ The following incidents involving an individual shall be reported and tracked:
 - Accidents on or off campus resulting in injury
 - Adverse drug reaction
 - Alleged abuse
 - Aspiration pneumonia
 - Assault to employees by individuals
 - Assault to peers by individuals
 - Bowel obstruction
 - Choking
 - Death (natural cause, other)
 - Elopement
 - Falls
 - Injuries of unknown origin
 - Injuries resulting from restraint
 - Medical emergency
 - Medication variances
 - New onset seizure
 - Pica
 - Self-injuries
 - Significant weight change
 - Site infection (G-tube, tracheotomy, etc.)
 - Skin breakdown
 - Status epilepticus
 - Suicide attempt or gestures
 - Suspension or termination at work, school, etc.

Employee Reporting Requirements

Resource center written policies and procedures shall assure that:

- ◆ An employee shall immediately report all incidents verbally to the employee's direct line supervisor or supervisor on duty. This includes incidents that may be reported to the employee by a contractor or volunteer. If the incident is an allegation of abuse and involves the supervisor, the report shall be made to the supervisor's supervisor.
- ◆ When an employee suspects, has knowledge of, or receives a report of abuse that may have been caused by a person other than a resource center employee, contractor, or volunteer, the employee shall also verbally report this information to the supervisor. In the case of suspected abuse the verbal report shall occur within 2 hours of knowledge of the incident or sooner when possible.
- ◆ All mandatory reporters shall report alleged abuse to the Department of Inspection and Appeals within 24 hours after knowledge of the incident using the Department of Inspections and Appeal's reporting system.
- ◆ All employees shall immediately report to their direct-line supervisor or covering supervisor all calls to law enforcement pertaining to incidents or other activities occurring at the resource center, whether the call was made by an individual or made by the employee personally.

Reporting Requirements for Volunteers and Contractors

Resource Center written policies and procedures shall assure that:

- ◆ Volunteers and contractors shall immediately report all incidents verbally to the employee who is their designated facility contact.
- ◆ All contractors or volunteers who receive a report of or have knowledge of abuse or suspected abuse that may have been caused by a person other than an employee, contractor, or volunteer shall immediately report the allegation to their designated facility contact.
- ◆ All information pertaining to any allegation or report and subsequent investigation of an incident shall be kept confidential, including the name and position of the person making the report.
- ◆ All volunteers and contractors shall immediately report to their designated facility contact all calls to law enforcement, made by individuals or made personally, pertaining to incidents or other activities occurring at the resource center.

Supervisor Reporting Requirements

Resource center written policies and procedures shall assure that all supervisors receiving an incident report from an employee shall immediately report to the superintendent or the superintendent's designee:

- ◆ All allegations of abuse,
- ◆ All deaths,
- ◆ All serious injuries,
- ◆ All medical emergencies,
- ◆ All sexual assaults by individuals on peers or caretakers,
- ◆ All elopements,
- ◆ All attempted suicides,
- ◆ All injuries of unknown origin, and
- ◆ All calls made to law enforcement by individuals or caretakers.

Superintendent or Designee Reporting Requirements

Resource center written policies and procedures shall assure that the superintendent or the superintendent's designee shall report incidents to the division administrator or the division administrator's designee as follows:

- ◆ The following incidents shall be reported by direct phone contact with the division administrator within two hours of receipt of initial incident report during the business days, evenings, holidays, or weekends:
 - All allegations of abuse resulting in serious injury.
 - All allegations of sexual abuse.
 - All allegations of neglect involving elopement that results in a call to DIA or law enforcement or lack of supervision that results in sexual contact between individuals or peer-to-peer assault with serious injury.
 - All deaths caused by abuse or which are suspicious or unexplained.
 - All serious injuries of unknown origin.
 - All medical emergencies resulting in hospitalization.
 - All attempted suicides.
 - All calls made to law enforcement.
- ◆ All other serious injuries or allegations of abuse shall be reported to the division administrator by e-mail no later than 12 p.m. on the next business day.

Reports to Law Enforcement

Resource center written policies and procedures shall assure that the following shall be reported to law enforcement authorities:

- ◆ All allegations of sexual abuse shall be reported within two hours of receiving notification.
- ◆ All abuse investigatory findings that lead to the suspicion of a criminal act having been committed shall be reported as soon as identified.
- ◆ Any other reports or information identified in jointly developed agreements with local law enforcement authorities shall be reported.

Reports to Guardians and Families

Resource center written policies and procedures shall assure that the following shall be reported to guardians, legal representatives, parents, and families:

- ◆ Incidents requiring a Type 1 investigation shall be reported within 24 hours from the time staff is aware an incident occurred.
- ◆ All other incidents shall be reported in a timely manner as defined in the facilities policy.

Incident Investigation

Resource center written policies and procedures shall assure that:

- ◆ All incidents shall be investigated or reviewed timely.
- ◆ Incidents shall be categorized into types for purposes of distinguishing the specifics of the investigatory review process.
- ◆ All persons who perform investigations or reviews shall be trained and competent in carrying out these duties.
- ◆ All employees, volunteers, or contractors involved in the investigative process shall cooperate with the investigators and shall be apprised of the following:
 - Any incidents of “witness tampering,” such as threats, intimidation, or coercion of employees, volunteers, contractors, or individuals involved in the investigation, shall be examined and, if confirmed, shall be regarded and addressed as violence in the work place.

- All verbal and written statements shall be presented with truthfulness and made without discussion or collaboration with other persons.
- Employees shall maintain confidentiality at all times during the investigation, including not discussing or disclosing any information pertaining to the investigation except as requested by the investigator. Failure to maintain confidentiality may result in disciplinary action up to and including termination.

Type 1 Incident Investigations

Resource center written policies and procedures shall assure that:

- ◆ Type 1 investigations shall be done for:
 - All allegations of abuse.
 - All serious injuries.
 - All suspicious or unexpected deaths, and all deaths allegedly caused by abuse.
 - All allegations of sexual abuse.
 - All suspicious injuries including those of unknown origin.
 - All injuries resulting from restraint.
 - All suicide attempts.
 - All individual sexual assaults of another individual.
 - All physical assaults resulting in serious injury.
 - Any physical assault when in the professional judgment of the treatment program manager, treatment program administrator or other authority, a type 1 review is deemed appropriate based on:
 - ◇ The nature of the incident,
 - ◇ The potential of harm from the incident, or
 - ◇ The prior incident frequency or history of the individuals involved.
 - Other incidents as assigned by the superintendent or division administrator.
 - All other incidents in which an initial type 2 incident review or clinical or interdisciplinary team review indicates a potential allegation of abuse.

- ◆ All type 1 investigations shall be conducted by a qualified investigator who:
 - Holds the position or classification of investigator II, investigator III, director of quality management, investigations coordinator, assistant superintendent, or superintendent;
 - Is supervised by a person that is independent of program operations;
 - Has successfully completed competency-based training on current professional standards for conducting investigations; and
 - Is able to work collaboratively with law enforcement officials when needed.
- ◆ All type 1 investigations shall commence within 4 hours of the report of the incident unless otherwise assigned by the director of quality management or designee, but never later than 24 hours after the report of the incident. Waiver of four-hour initiation shall not apply to allegations of:
 - Physical abuse with injury,
 - Sexual abuse,
 - Incidents of serious injury,
 - Unexpected or suspicious deaths,
 - Attempted suicides,
 - Cases where law enforcement is involved, or
 - Neglect that involves elopement requiring DIA notification, sexual contact between individuals, or serious injury due to peer-to-peer aggression.

When four-hour commencement of investigation is waived, the director of quality management or designee must document the reasons, including the steps taken to ensure safety of all individuals and the integrity of the investigation.

- ◆ Type 1 investigations shall be completed within five business days of the reporting of the incident.
- ◆ Investigation written reports shall be made using form 470-4366, *Incident Investigation Report*.