

TITLE 59: MENTAL HEALTH
CHAPTER I: DEPARTMENT OF HUMAN SERVICES

PART 50

OFFICE OF INSPECTOR GENERAL
INVESTIGATIONS OF ALLEGED ABUSE, NEGLECT, OR FINANCIAL EXPLOITATION
IN STATE-OPERATED FACILITIES AND COMMUNITY AGENCIES

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25 AUTHORITY: Implementing and authorized by Section 1-17 of the Department of Human
26 Services Act [20 ILCS 1305].

27
28 SOURCE: Adopted at 22 Ill. Reg. 19334, effective October 19, 1998; emergency amendment at
29 23 Ill. Reg. 4513, effective April 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg.
30 10812, effective August 23, 1999; emergency amendment at 26 Ill. Reg. 484, effective January
31 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 8352, effective May 24, 2002;
32 amended at 32 Ill. Reg. 8132, effective May 16, 2008; emergency amendment at 33 Ill. Reg.
33 13489, effective September 10, 2009, for a maximum of 150 days; emergency expired February
34 6, 2010; amended at 34 Ill. Reg. 5239, effective March 25, 2010; emergency amendment at 38
35 Ill. Reg. 18242, effective August 13, 2014, for a maximum of 150 days; amended at 38 Ill. Reg.
36 19152, effective September 10, 2014; amended at 38 Ill. Reg. 22642, effective November 20,
37 2014; emergency amendment at 39 Ill. Reg. 13271, effective September 18, 2015, for a
38 maximum of 150 days; amended at 39 Ill. Reg. 15134, effective November 6, 2015; amended at
39 40 Ill. Reg. 1824, effective January 5, 2016; amended at 41 Ill. Reg. 6516, effective May 26,
40 2017; amended at 42 Ill. Reg. 15437, effective July 26, 2018; amended at 43 Ill. Reg. 3878,
41 effective March 15, 2019; amended at 47 Ill. Reg. 5663, effective April 4, 2023; amended at 48
42 Ill. Reg. 14653, effective September 27, 2024; amended at 50 Ill. Reg. _____, effective
43 _____.

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Section 50.10 Definitions

For the purposes of this Part, the following terms are defined:

"Abuse". See definitions for "Physical Abuse, Sexual Abuse, and Mental Abuse".

"Access". Admission to a community agency or facility for the purpose of conducting imminent risk assessments, conducting investigations, monitoring compliance with a written response, or completing any other statutorily assigned duty, such as annual unannounced site visits, including but not limited to conducting interviews and obtaining and reviewing any documents or records that the Office of Inspector General (OIG) believes to be pertinent to an investigation.

"Act". The Department of Human Services Act [20 ILCS 1305].

"Administrative Action". An action taken by the community agency or the facility in response to an OIG report, an intake referral, or the direction of the DHS Secretary (see 20 ILCS 1305/1-17(p) & (q)) that protects individuals from abuse, neglect, ~~or~~ financial exploitation, [material obstruction of an investigation](#), or prevents recurrences of such abuse, neglect, ~~or~~ financial exploitation, [or material obstruction of an investigation](#).

"Agency". See the definition for community agency.

"Aggravating Circumstance". A factor that is attendant to a finding and that tends to compound or increase the culpability of the accused employee/facility/agency.

"Allegation". An assertion, complaint, suspicion, or incident involving any of the following conduct by an employee, facility, or agency against an individual or individuals: mental abuse, physical abuse, sexual abuse, neglect, ~~or~~ financial exploitation, [or material obstruction of an investigation](#).

"Authorized Representative". The administrative head or executive director of a community agency appointed by the community agency's governing body with overall responsibility for fiscal and programmatic management, or the facility director or hospital administrator of a Department facility. If this person is implicated in an investigation, the governing body of the community agency or the Secretary of the Department shall be deemed the authorized representative for that investigation.

"Bodily Harm". Any injury, damage, or impairment to an individual's physical condition, or making physical contact of an insulting or provoking nature with an

87 individual.

88

89 "Community Agency" or "Agency". A community agency licensed, funded, or
90 certified by the Department, but not licensed or certified by any other human
91 services agency of the State, to provide mental health service or developmental
92 disabilities service, or a program licensed, funded, or certified by the Department,
93 but not licensed or certified by any other human services agency of the State, to
94 provide mental health service or developmental disability service.

95

96 "Complainant". The person who reports a death or an allegation of abuse,
97 neglect, [financial exploitation, or material obstruction of an investigation](#)~~or~~
98 ~~Financial Exploitation~~ directly to OIG and is not the required reporter.

99

100 "Complaint". A report of a death or an allegation of abuse, neglect, ~~or~~ financial
101 exploitation, [or material obstruction of an investigation](#) reported directly to the
102 OIG Hotline.

103

104 "Completed Investigative Report". An investigative report approved for
105 distribution by the Inspector General that summarizes the evidence obtained
106 during the course of the investigation and that indicates whether the allegation of
107 abuse, neglect, [material obstruction of an investigation](#) or financial exploitation is
108 substantiated, unsubstantiated, or unfounded.

109

110 "Credible Evidence". Any evidence that relates to the allegation or incident and
111 that is considered believable and reliable.

112

113 "Day". Working day, unless otherwise specified.

114

115 "Deflection". A situation in which an individual is presented for admission to a
116 facility or agency and the facility staff or agency staff do not admit that
117 individual. Deflection includes triage, redirection, and denial of admission.

118

119 "Department". The Department of Human Services.

120

121 "Egregious Neglect". A finding of neglect as determined by the Inspector General
122 that represents a gross failure to adequately provide for, or a callous indifference
123 to, the health, safety, or medical needs of an individual and results in an
124 individual's death or other serious deterioration of an individual's physical
125 condition or mental condition. See also "Neglect" definition.

126

127 "Employee". Any person who provides services at the facility or the [community](#)
128 ~~agency~~ ~~Community Agency~~ on or off site. The service relationship can be with
129 the individual, the facility or agency. Also, "employee" includes any employee or

130 contractual agent of the Department of Human Services or the [community](#)
131 [agency](#) ~~Community Agency~~ involved in providing or monitoring or administering
132 mental health or developmental disability services. This includes but is not
133 limited to, owners, operators, payroll personnel, contractors, subcontractors, and
134 volunteers. For purposes of this Part, "employee" also includes someone who is
135 no longer working for an agency or facility but is the subject of an ongoing
136 investigation for which OIG has jurisdiction.

137
138 "Facility" or "State-operated facility". A mental health facility or developmental
139 disabilities center operated by the Department.

140
141 "Final Investigative Report ". The version of the investigative report that is in
142 place after the reconsideration and response period has ended.

143
144 "Financial Exploitation". Taking unjust advantage of an individual's assets,
145 property or financial resources through deception, intimidation, or conversion for
146 the employee's, facility's or agency's own advantage or benefit.

147
148 "Finding". The Office of Inspector General's determination regarding whether an
149 allegation is substantiated, unsubstantiated or unfounded.

150
151 "Health Care Worker Registry" or "Registry". The Illinois Department of Public
152 Health's Health Care Worker Registry created by the Nursing Home Care Act
153 [210 ILCS 45].

154
155 "IDPH". The Illinois Department of Public Health.

156
157 "Imminent Danger". A preliminary determination of immediate, threatened, or
158 impending risk of illness, mental injury, or physical injury or deterioration to an
159 individual's health that requires immediate action.

160
161 "Individual". Any person receiving mental health services, developmental
162 disabilities services, or both from a facility or agency, while either on-site or off-
163 site.

164
165 "Insulting or provoking". Contact that offends a reasonable sense of personal
166 dignity.

167
168 "Material Obstruction of an Investigation". The purposeful interference with an
169 investigation of physical abuse, sexual abuse, neglect, or financial exploitation
170 and includes, but is not limited to, the withholding or altering of documentation or
171 recorded evidence; influencing, threatening, or impeding witness testimony;
172 presenting untruthful information during an interview; failing to cooperate with an

173 investigation conducted by OIG. If an employee, following a criminal
174 investigation of physical abuse, sexual abuse, neglect, or financial exploitation, is
175 convicted of an offense that is factually predicated on the employee presenting
176 untruthful information during the course of the investigation, that offense
177 constitutes material obstruction of an investigation. Material obstruction of an
178 investigation does not include: an employee's lawful exercising of their
179 constitutional right against self-incrimination, an employee invoking their lawful
180 rights to union representation as provided by a collective bargaining agreement or
181 the Illinois Public Labor Relations Act [5 ILCS 315], or a union representative's
182 lawful activities providing representation under a collective bargaining agreement
183 or the Illinois Public Labor Relations Act. Obstruction of an investigation is
184 considered material when it could significantly impair an investigator's ability to
185 gather all relevant facts. An employee shall not be placed on the Health Care
186 Worker Registry for material obstruction of an investigation for presenting
187 untruthful information during an interview conducted by the OIG, unless, prior to
188 the interview, the employee was provided with any previous signed statements
189 they made during the course of the investigation.

190
191 "Mental Abuse". The use of demeaning, intimidating or threatening words, signs,
192 gestures, or other actions by an employee about an individual and in the presence
193 of an individual or individuals that results in emotional distress or maladaptive
194 behavior, or could have resulted in emotional distress or maladaptive behavior,
195 for any individual present.

196
197 "Mitigating Circumstance". A condition that is attendant to a finding and does not
198 excuse or justify the conduct in question but may be considered in evaluating the
199 severity of the conduct, the culpability of the accused, or both the severity of the
200 conduct and the culpability of the accused employee/facility/agency.

201
202 "Neglect". An employee's, agency's, or facility's failure to provide adequate
203 medical care, personal care, or maintenance, and that, as a consequence, causes an
204 individual pain, injury, or emotional distress, results in either an individual's
205 maladaptive behavior or the deterioration of an individual's physical condition or
206 mental condition, or places an individual's health or safety at substantial risk of
207 possible injury, harm, or death. See also "Egregious Neglect" definition.

208
209 "OIG". The Office of Inspector General of the Department.

210
211 "OIG Liaison". The community agency or facility staff who has been appointed
212 to act as OIG's investigative point of contact and who is responsible for
213 coordinating the agency's or facility's initial incident response (see 59 Ill. Adm.
214 Code 50.30(f)).

215

216 "Physical Abuse". An employee's non-accidental (i.e., occurring with volition or
217 consciousness; not occurring by chance) and inappropriate contact with an
218 individual that causes bodily harm. "Physical Abuse" includes actions that cause
219 bodily harm as a result of an employee/facility/agency directing an individual or
220 person to physically abuse another individual.

221
222 "Preponderance of the Evidence". Proof sufficient to persuade the finder of fact
223 that a fact sought to be proved is more likely true than not true.

224
225 "Program". Any DHS-licensed, DHS-funded, or DHS-certified service provided
226 to persons with either mental illness or developmental disabilities by a community
227 agency or by a State-operated facility. Program includes, but is not limited to,
228 day training, employment and workshop opportunities, and transportation
229 services.

230
231 "Recommendation". An admonition rendered by OIG, separate from a finding,
232 that requires action by the facility, agency, or Department to correct a systemic
233 issue, problem, or deficiency identified during an investigation.

234
235 "Referral". OIG directing an OIG-received complaint to another entity for
236 possible investigation or administrative action.

237
238 "Required Reporter". Any employee/facility/agency who suspects, witnesses, or
239 is informed of an allegation of any one or more of the following: mental abuse,
240 physical abuse, sexual abuse, neglect, ~~or~~ financial exploitation, or material
241 obstruction of an investigation.

242
243 "Routine Programmatic Operations". Refers to services provided as part of the
244 individual's habilitation plan, treatment plan or as a regular or ongoing component
245 of the community agency's or facility's general services or practices.

246
247 "Secretary". The leader of the Department.

248
249 "Sexual Abuse". Any sexual contact or intimate physical contact between an
250 employee and an individual, including an employee's coercion or encouragement
251 of an individual to engage in sexual behavior that results in sexual contact,
252 intimate physical contact, sexual behavior, or intimate physical behavior. "Sexual
253 Abuse" also includes:

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255 an employee's actions that result in the sending or showing of sexually
256 explicit images to an individual via computer, cellular phone, electronic
257 mail, portable electronic device, or other media, with or without contact
258 with the individual; or

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an employee's posting of sexually explicit images of an individual online or elsewhere, whether or not there is contact with the individual. Sexual Abuse does not include allowing individuals to, of their volition, view movies or images of a sexual nature or read text containing sexual content unless the individual's guardian prohibits the viewing of those movies or images or reading of that material.

"Sexual Contact". Inappropriate sexual contact between an employee and an individual involving either an employee's genital area, anus, buttocks, or breasts or an individual's genital area, anus, buttocks, or breasts. "Sexual Contact" also includes sexual contact between individuals that is coerced or encouraged by an employee.

"Sexually Explicit Images". Includes, but is not limited to, any material that depicts nudity, sexual conduct, or sadomasochistic abuse, or that contains explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct, or sadomasochistic abuse. This does not include those images contained in sex education materials used by employees to educate individuals.

"Substantiated". A preponderance of the evidence supports the allegation.

"Unfounded". No credible evidence supports the allegation.

"Unsubstantiated". There is credible evidence, but less than a preponderance of the evidence, to support the allegation.

"Victim". An individual who has been subjected to alleged abuse, neglect, ~~or~~ financial exploitation, or material obstruction of an investigation.

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 50.20 Reporting an Allegation of Abuse, Neglect, ~~or~~ Financial Exploitation, or Material Obstruction of an Investigation and Death Reports

- a) Reporting – by a Facility, Community Agency, or Employee
 - 1) If an employee witnesses, is told of, or suspects an incident of physical abuse, sexual abuse, mental abuse, financial exploitation, neglect, material obstruction of an investigation, or a death has occurred, the employee, community agency, or facility shall report the allegation to the OIG Hotline according to the community agency's or facility's procedures. The employee, community agency, or facility shall report the allegation

302 immediately, but no later than the time frames specified in subsections
303 (a)(2) and (3). Such an employee or representative of a community agency
304 or facility shall be deemed the "Required Reporter" for purposes of this
305 Part. Such reporting shall additionally meet any requirements of 59 Ill.
306 Adm. Code 115, 119 and 132 and Department administrative directives, as
307 applicable.

- 308
- 309 2) Within four hours after the initial discovery of an incident of alleged
310 physical abuse, sexual abuse, mental abuse, financial exploitation, ~~or~~
311 neglect, or material obstruction of an investigation, the required reporter
312 shall report the following allegations by phone to the OIG Hotline:
313
- 314 A) Any allegation of abuse by an employee;
 - 315
 - 316 B) Any allegation of neglect by an employee, community agency, or
317 facility;
 - 318
 - 319 C) Any allegation of financial exploitation by an employee,
320 community agency, or facility; ~~and~~
 - 321
 - 322 D) Any allegation of material obstruction by an employee; and
 - 323
 - 324 ED) Any injury or death of an individual that occurs within a facility or
325 community agency program when abuse or neglect may be
326 suspected.
 - 327
 - 328 FE) At a minimum, required reporters to the OIG Hotline shall provide
329 details concerning:
330
 - 331 i) Information about the victim, including name, date of birth,
332 sex, disability, identification number, and/or social security
333 number (if known);
 - 334
 - 335 ii) Information about the incident, including what happened,
336 when it happened, where it happened, how it happened, and
337 the identification of all witnesses;
 - 338
 - 339 iii) Information about the accused employee (if known),
340 including name, contact information, and if the accused
341 employee/facility/agency is presently working with or will
342 be working with the victim; and
 - 343
 - 344 iv) Information about the person initiating the complaint,

- 345 including name, contact information, relationship to the
346 victim, and the need for anonymity (if applicable).
347
- 348 3) Within 24 hours after initial discovery of a death, the required reporter
349 shall call the OIG Hotline and report (as described in Section 50.30):
350
- 351 A) Any death occurring within 14 calendar days after discharge or
352 transfer of an individual from an agency residential program or
353 facility;
354
- 355 B) Any death of an individual occurring within 24 hours after
356 deflection from an agency residential program or facility;
357
- 358 C) Any other death of an individual occurring within an agency
359 residential program or facility or at any other site licensed, funded,
360 or certified by the Department even though not alleged to be a
361 result of abuse or neglect.
362
- 363 4) Screening, delaying, or withholding reports of incidents or allegations of
364 abuse, ~~or~~ neglect, financial exploitation, or material obstruction of an
365 investigation from OIG is strictly prohibited. Failure to report incidents or
366 allegations of abuse, ~~or~~ neglect, financial exploitation, or material
367 obstruction of an investigation to OIG within the required timeframe is a
368 Class A misdemeanor (see 20 ILCS 1305/1-17(k)(1)).
369
- 370 5) Retaliation
371 It is a violation of Section 1-17(k)(3) of the Act for any employee or
372 administrator of an agency or facility to take retaliatory action against an
373 employee who acts in good faith in conformance with the employee's
374 duties as a required reporter.
375
- 376 6) Other Community Agency and Facility Requirements
377
- 378 A) Reporting to OIG shall not relieve the community agency or
379 facility from any statutory or regulatory reporting requirements
380 applicable to the community agency or facility. Authorized
381 representatives are therefore not restricted or prohibited from
382 taking action to protect residents or patients in accordance with or
383 as required by IDPH to ensure compliance with Intermediate Care
384 Facility Providers for Developmental Disability (ICF/DD)
385 standards, including, but not limited to:
386
- 387 i) 42 CFR 483.420, Condition of participation: Client

431 telephoning the OIG Hotline, or in writing by fax or other electronic
432 reporting system offered by OIG to the OIG Hotline or mail at:

433
434 Department of Human Services
435 Office of Inspector General
436 901 Southwind Road
437 Springfield, Illinois 62703
438

439 2) Notifications

440
441 A) Within three working days after receipt of an allegation, OIG shall
442 notify the authorized representative of the community agency or
443 facility or their designee that an allegation has been received unless
444 such notification compromises the integrity of the investigation,
445 such as, an allegation involving the authorized representative or
446 their designee.
447

448 B) Within 24 hours after notification of an allegation by their own
449 staff or by OIG, the authorized representative of the community
450 agency or facility shall notify the victim or guardian (if applicable)
451 and the accused employee that an allegation has been received. All
452 attempted and actual contacts by phone or in person shall be
453 documented. In addition to the phone or in person notification,
454 within 24 hours (or 72 hours if notified of the allegation on a
455 Friday or Saturday or holiday) the community agency or facility
456 shall also mail the victim or guardian and accused a written letter
457 of notification. If the victim no longer receives services at the
458 community or facility, the letter should be mailed to the victim's
459 new address, if known, or to the guardian's last known address. If
460 the accused is no longer employed at the facility or agency, the
461 letter should be mailed to the accused's last known address. A
462 copy of the letters shall be maintained by the community agency or
463 facility. ~~If the authorized representative or designee is unable to~~
464 ~~reach the guardian by phone, a letter of notification shall be sent~~
465 ~~within 24 hours.~~
466

467 C) Immediately, but no later than within three working days after
468 receipt of an allegation, OIG shall also contact the complainant
469 regarding the allegation.
470

471 e) Training and Technical Assistance

472
473 1) Agencies and facilities shall have a policy detailing procedures for

474 reporting allegations of abuse, neglect, financial exploitation, [material](#)
475 [obstruction of an investigation](#), and deaths as set forth in Sections 50.10
476 and 50.20.

- 477
- 478 2) All employees, as defined in Section 50.10, shall be trained in Part 50
479 requirements upon being hired and at least biennially thereafter.
- 480
- 481 3) Each facility and community agency is required to have an employee who
482 is designated as the OIG Liaison.
- 483
- 484 4) Community agency or facility employees designated as OIG Liaisons or
485 whose duties include completing the initial incident response as set forth
486 in Section 50.30(f) are required to take OIG's Section 50.30(f) training.
- 487
- 488 5) Any employee, community agency, or facility may request training or
489 technical assistance from OIG in identifying, reporting, investigating, and
490 preventing abuse, neglect, financial exploitation, [material obstruction of](#)
491 [an investigation](#), reporting of deaths, or participation in applicable OIG-
492 sponsored training as referenced in Section 1-17(h) of the Act.

493

494 f) Misleading Reports
495 Nothing in this Part protects persons who knowingly make false or misleading
496 reports from disciplinary and other actions available to either the community
497 agency or facility. Nothing in this Part prohibits OIG, other enforcement
498 authorities, or any employee jeopardized by such reporting from pursuing any and
499 all allowable remedies.

500
501 (Source: Amended at 50 Ill. Reg. _____, effective _____)
502

503 **Section 50.30 Responsibilities of OIG for Intake Assessment**
504

- 505 a) Availability of OIG
506 OIG shall be available 24 hours a day to assess reports of allegations of abuse,
507 neglect, financial exploitation, [material obstruction of an investigation](#), or the
508 death of an individual and provide any technical assistance with making the
509 report.
- 510
- 511 b) Responsibility of OIG for receiving the report
512 OIG staff receiving the report of the allegation are responsible for assessing,
513 based on the information received at intake, whether the allegation could
514 constitute abuse, neglect, ~~or~~ financial exploitation, [or material obstruction of an](#)
515 [investigation](#), and whether OIG has the authority to investigate in accordance with
516 the Act. Absent extenuating circumstances, OIG shall make these assessments

517 within one day after receiving the report.

518

519 c) Reports involving routine programmatic, licensure or certification matters

520

521 1) OIG shall have no supervision over or involvement in routine
522 programmatic, licensure, or certification operations of the department.
523 (Section 1-17(f) of the Act)

524

525 2) If the reported allegation relates to licensure or certification standards or
526 routine programmatic operations and is deemed not to be abuse, neglect,
527 ~~or~~ financial exploitation, [or material obstruction of an investigation](#), OIG
528 shall refer the allegation to the appropriate agency or unit of government.

529

530 d) Investigations by two or more State agencies

531 When two or more State agencies could investigate an allegation of abuse or
532 neglect at a community agency or facility, OIG shall not conduct an investigation
533 that is redundant to an investigation conducted by another State agency (see
534 Section 1-17(f) of the Act) unless requested in writing by another State agency in
535 accordance with Section 1-17(e) of the Act.

536

537 e) Referrals to the Illinois State Police/Local Law Enforcement

538 In certain instances, it is appropriate or required for OIG to refer allegations to
539 other entities.

540

541 1) Section 1-17(l) of the Act requires OIG to refer an allegation to the Illinois
542 State Police or ensure that notification is made to the respective local law
543 enforcement entity for investigation within 24 hours after determining that
544 there is credible evidence indicating that a criminal act may have been
545 committed in connection with an allegation of abuse, neglect, financial
546 exploitation, [material obstruction of an investigation](#), or death of an
547 individual served by a facility or agency.

548

549 2) When an allegation concerns the actions of a community agency or facility
550 employee, but the described conduct does not rise to the level of a
551 reportable offense (e.g., an allegation that an employee was late to work),
552 where appropriate, OIG shall forward the allegation to the appropriate
553 authorized representative.

554

555 3) When an allegation does not concern the actions of either a community
556 agency or facility employee, the intake investigator shall transfer or refer
557 the caller to the appropriate local, State, or federal agency or organization,
558 as appropriate.

559

- 560 4) When OIG has jurisdiction over an allegation, it may make a referral of
561 that allegation to the involved facility or agency where, among other
562 factors:
563
- 564 A) The primary facts relevant to the allegation have already been
565 identified and additional investigative work by OIG would be of
566 minimal value;
 - 567
 - 568 B) The agency or facility is better positioned to immediately address
569 the allegation;
 - 570
 - 571 C) The allegation, if true, would be unlikely to result in a report to the
572 Registry (e.g., mental abuse, non-egregious neglect); or
 - 573
 - 574 D) The allegation does not indicate an emergency situation or that an
575 individual is in imminent danger.
 - 576

577 f) Authorized Representative

578 If the allegation of abuse, neglect, material obstruction of an investigation, or
579 financial exploitation is within the jurisdiction of OIG, the authorized
580 representative of the involved community agency or facility or their designee
581 shall:

- 582
- 583 1) Ensure the immediate health and safety of involved individuals and
584 employees, including ordering medical examinations and healthcare, when
585 applicable, and immediately contacting victim services, when applicable
586 (a listing of victim services is available by contacting the OIG hotline);
587 and
- 588
- 589 2) Remove accused employees from having contact with individuals at the
590 facility or agency when there is credible evidence supporting the
591 allegation of physical abuse, sexual abuse, financial exploitation when
592 totaling a cumulate value of equal to or greater than \$20, egregious
593 neglect, or material obstruction of an investigation, pending the outcome
594 of ~~the OIG any further~~ investigation, ~~prosecution, or disciplinary action~~
595 against the employee or until OIG independently determines that the
596 allegation against the employee will be unsubstantiated or unfounded in
597 OIG's final investigative report.
- 598
- 599 A) When, based upon credible evidence, an initial investigation of a
600 reported allegation of abuse or neglect of a recipient of services
601 indicates that it is reasonable to believe that an employee at a
602 community agency or facility is the perpetrator of, at most, neglect,

603 de minimis financial exploitation (such as financial exploitation
604 totaling a cumulative value of less than \$20), or mental abuse, the
605 community agency or Department (for the facility) shall determine
606 what appropriate steps should be taken as to the employee while
607 the investigation of the Department of Human Services Office of
608 Inspector General is pending. These steps by the community
609 agency or Department (for the facility) may include, but not be
610 limited to:

- 611
- 612 i) Training;
- 613
- 614 ii) Re-assignment away from and a bar from contact with the
615 alleged victim;
- 616
- 617 iii) Being barred from any further contact with recipients of
618 services of the community agency or facility; or
- 619
- 620 iv) Pursuing discipline for known conduct.
- 621

622 B) If further investigation reveals that the conduct rose to the level of
623 physical abuse, sexual abuse, non-de minimis financial
624 exploitation, egregious neglect, or material obstruction of an
625 investigation, then the employee shall be barred from contact with
626 recipients of services and shall remain barred, subject to the
627 conditions detailed in this paragraph. (See 405 ILCS 5/3-210);
628 ~~and~~

629

630 3) Ensure OIG is notified; and

631

632 4) Unless otherwise directed by OIG, initiate the preliminary steps of the
633 investigation by a Section 50.30(f)-trained OIG liaison. The OIG liaison
634 may not have a substantiated OIG finding in the last three years and may
635 not be a witness or subject to the allegation for which they are performing
636 preliminary steps. This may include the need to:

- 637
- 638 A) Secure the scene of the incident and preserve evidence, if
639 applicable;
- 640
- 641 B) Identify and separate potential witnesses, and take initial
642 statements immediately, but no longer than 72 hours from
643 discovery of the incident~~when applicable~~;
- 644
- 645 C) Identify and record the names of all persons at the scene at the time

646 of the incident and, when relevant, those who had entered the
647 scene prior to the scene being secured;

648
649 D) Secure all relevant documents and physical evidence, such as
650 clothing, if applicable; and

651
652 E) Photograph the scene of the incident and the individual's injury,
653 when applicable.

654
655 5) Employees taking initial statements pursuant to Section 50.30(f)(4)(B)
656 shall not have a conflict of interest in the investigation. Initial statements
657 shall be taken of all individuals having knowledge of the incident.

658
659 A) At facilities, initial statements are an interview process where the
660 OIG approved investigator asks the witness questions (and
661 additional clarifying questions, as necessary), the answers to which
662 are documented on a designated interview statement form.

663
664 B) At community agencies, the witness shall be directed to
665 memorialize what happened during an incident, in their own
666 words, and from their own on a dedicated form. OIG will provide
667 a model dedicated form that may be used. The employee shall
668 conduct follow-up questioning as necessary to clarify the witness's
669 statement.

670
671 g) OIG may determine what further action, if any, is necessary to protect the safety
672 of any individual, secure the scene of the alleged incident, preserve the evidence,
673 and maintain the integrity of the investigation. Such action may include
674 immediate emergency referrals (such as medical or housing services), the
675 notification of law enforcement officials, requesting hospital services or
676 contacting the Department or other State agencies for assistance.

677
678 (Source: Amended at 50 Ill. Reg. _____, effective _____)

679
680 **Section 50.40 General Responsibilities**

681
682 a) OIG shall notify the Authorized Representative when OIG opens an investigation
683 and the Authorized Representative will then notify the victim or guardian (if
684 applicable) and the accused employee, in writing, when an investigation will be
685 opened.

686
687 b) If an OIG investigation results in a substantiated finding of physical abuse, sexual
688 abuse, egregious neglect, material obstruction of an investigation, or financial

689 ~~exploitation~~ ~~Physical Abuse, Sexual Abuse, Egregious Neglect, or Financial~~
690 ~~Exploitation~~ by an employee, it shall result in the accused employee's identity and
691 the OIG finding being reported to the Registry in accordance with Section 50.90.
692

- 693 c) OIG investigations may include, but are not limited to, site visits, telephone
694 contacts, requests for written statements and responses from the community
695 ~~agency~~ ~~Community Agency~~ or the facility.
696
- 697 d) Nothing in this Part precludes a community agency ~~Community Agency~~ or facility
698 from taking immediate action that may include protecting the individuals from
699 danger or harm, notifying appropriate law enforcement officials, or taking any
700 other Administrative Action deemed necessary by the community
701 ~~agency~~ ~~Community Agency~~ or facility, unless otherwise directed by OIG. The
702 agency shall request approval from OIG prior to conducting its own full
703 investigation beyond what is outlined in Section 50.30(f)(4).
704
- 705 e) Each community agency must provide OIG with a valid (in working order) email
706 which shall serve as the email address of record to receive confidential
707 information securely transmitted to the community agency from OIG. Email
708 transmitted by OIG is considered received by the community agency on the day it
709 is transmitted. The community agency may receive intake information, reportable
710 referred intakes, communications from the investigative bureaus, completed
711 investigative reports, and written responses. Each community agency will
712 provide OIG a current email address within 60 days of adoption of this rule.
713 Thereafter, the community agency will provide OIG with 10 business days
714 advance notice of an email address change. The community agency email address
715 (and subsequent changes) should be emailed to DHS.OIG.Protocols@illinois.gov.
716

717 (Source: Amended at 50 Ill. Reg. _____, effective _____)
718

719 **Section 50.70 Completed Investigations**

- 720
- 721 a) OIG's investigation shall be considered final 30 calendar days after OIG provides
722 notice to the facility or agency as required in Section 50.60(a)(3)(A), except
723 where OIG has granted a request for clarification or reconsideration.
724
- 725 b) Distribution of Completed Investigative Reports
726
- 727 1) *Within 10 calendar days after the transmittal of a completed investigative*
728 *report substantiating an allegation, finding an allegation is*
729 *unsubstantiated, or if a recommendation is made, OIG shall provide the*
730 *investigative report to the Secretary and to the director of the facility or*
731 *agency where the abuse, neglect, financial exploitation, or material*

- 732 *obstruction of an investigation occurred. The director of the facility or*
733 *agency shall be responsible for maintaining the confidentiality of the*
734 *investigative report consistent with State and federal law. (Section 1-*
735 *17(m) of the Act)*
736
- 737 2) OIG shall provide copies of all completed investigative reports within 10
738 calendar days to the federally-mandated Protection and Advocacy System
739 for the State of Illinois, and the Illinois Guardianship and Advocacy
740 Commission.
- 741
- 742 3) OIG shall provide a completed investigative report of all substantiated
743 cases from Department facilities serving individuals with developmental
744 disabilities within 10 calendar days to IDPH and the Department's
745 Division of Developmental Disabilities.
- 746
- 747 4) OIG shall provide a completed investigative report of all substantiated
748 cases from Department facilities serving individuals with mental illness
749 within 10 calendar days to the Department's Division of Mental Health.
- 750
- 751 5) If OIG substantiates abuse, neglect, financial exploitation, or material
752 obstruction of an investigation at a community agency serving individuals
753 with developmental disabilities or recommends administrative action, the
754 completed investigative report shall be provided to the Department's
755 Division of Developmental Disabilities within 10 calendar days.
- 756
- 757 6) If OIG substantiates abuse, neglect, financial exploitation, or material
758 obstruction of an investigation at a community agency serving individuals
759 with mental illness or recommends administrative action, the completed
760 investigative report shall be provided to the Department's Division of
761 Mental Health within 10 calendar days.
- 762
- 763 7) OIG shall provide a completed investigative report of all cases of abuse,
764 neglect, financial exploitation, or material obstruction of an investigation
765 in community agencies within 10 calendar days after closure to the
766 Department's Bureau of Accreditation, Licensure and Certification.
- 767
- 768 8) OIG shall provide a completed investigative report in all cases
769 substantiating abuse, neglect, financial exploitation, or material
770 obstruction of an investigation against a Department employee within 10
771 calendar days to the Department's Bureau of Labor Relations.
- 772
- 773 9) OIG shall provide a completed investigative report substantiating abuse,
774 neglect, financial exploitation, or material obstruction of an investigation

775 within 10 calendar days to the Department's Office of General Counsel.
776

777 10) When an accused employee in a substantiated case is licensed by the
778 Department of Financial and Professional Regulation, OIG shall provide a
779 copy of the completed investigative report to that agency.
780

781 c) OIG shall inform the accused employee of the results of a reconsideration or
782 clarification request or of any changes in the finding that resulted from such a
783 request within 15 calendar days.
784

785 d) If the finding substantiates physical abuse, sexual abuse, egregious neglect,
786 financial exploitation, or material obstruction of an investigation, OIG shall report
787 the identity of the accused employee and its finding to IDPH's Registry. OIG
788 shall notify the accused employee of the right to appeal the action that will report
789 OIG's finding to the Registry as described in Section 50.90.
790

791 e) Release of Investigative Reports
792

793 1) *All investigative reports prepared by OIG shall be considered confidential*
794 *and shall not be released except as provided by the law of this State or as*
795 *required under applicable federal law. (Section 1-17(m) of the Act)*
796

797 2) Substantiated findings shall be released in accordance with the Act, the
798 Mental Health and Developmental Disabilities Confidentiality Act [740
799 ILCS 110] and the Freedom of Information Act [5 ILCS 140].
800

801 3) *Unsubstantiated and unfounded investigative reports shall not be*
802 *disclosed except as allowed pursuant to Section 6 of the Abused and*
803 *Neglected Long Term Care Facility Residents Reporting Act [210 ILCS*
804 *30] or pursuant to a valid court order. (Section 1-17(m) of the Act)*
805

806 4) The identity of any person as a complainant shall remain confidential in
807 accordance with the Freedom of Information Act [5 ILCS 140], or unless
808 authorized by the complainant in writing. The identity of a required
809 reporter shall only remain confidential under certain circumstances as
810 determined by OIG on a case-by-case basis.
811

812 f) Release of Death Reports

813 Death reports where there was no allegation of abuse or neglect shall only be
814 released to the Secretary, or the Secretary's designee, and to the director of the
815 facility or agency when a recommendation is made and pursuant to applicable
816 State or federal law or a valid court order. [20 ILCS 1305/1-17(m)]
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gf) Release of Unredacted Investigative Reports and Raw Data

- 1) *Unredacted investigative reports, as well as raw data, may be shared, upon written request, with local law enforcement, state's attorney's offices, and coroner's offices.* [20 ILCS 1305/1-17(m)];
- 2) *Unredacted investigative reports, as well as raw data, may be shared with the Department of Financial and Professional Regulation when there is a substantiated finding against a person licensed by the Department of Financial and Professional Regulation who is within the Office of the Inspector General's jurisdiction, upon written request. If, during its investigation, the Office of the Inspector General found credible evidence of neglect by a person licensed by the Department of Financial and Professional Regulation who is not within the Office's jurisdiction, the Office may provide an unfounded or unsubstantiated investigative report or death report, as well as raw data, with the Department of Financial and Professional Regulation, upon written request. [20 ILCS 1305/1-17(m)]*

hg) Recommendations for Sanctions

- 1) The Inspector General may recommend to the Secretary of the Department of Human Services that sanctions be imposed against facilities or community agencies to protect residents, including:
 - A) *appointment of on-site monitors or receivers;*
 - B) *transfer or relocation of an individual or individuals;*
 - C) *closure of units; and*
 - D) *termination of any one or more of the following:*
 - i) *Department licensing;*
 - ii) *Department funding; or*
 - iii) *Department certification.*
- 2) *The Inspector General may seek the assistance of the Attorney General of Illinois or the State's Attorney for imposing sanctions listed in subsection (g)(1). [20 ILCS 1305/1-17(r)]*

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 50.80 Written Responses

There are multiple circumstances where OIG requires community agencies or facilities to provide a written response to an investigative report or referral:

- a) If OIG substantiates abuse, neglect, financial exploitation, or material obstruction of an investigation, or makes one or more recommendations in its investigative report, the community agency or facility is required to submit a written response on a prescribed form to the respective DHS program division. The prescribed form will be sent to the community agency or facility.
 - 1) The written response shall address the actions that it will take or has taken to protect individuals from abuse, neglect, financial exploitation, or material obstruction of an investigation, prevent recurrence, and eliminate problems. Each substantiated finding or recommendation shall be addressed separately.
 - 2) The written response shall include the following information:
 - A) Investigative findings and/or recommendations by OIG;
 - B) Specific actions for each finding or recommendation, identifying the persons the actions address, if any;
 - C) Persons responsible for implementing each action;
 - D) For each action, the actual or anticipated completion date; and
 - E) Signature of the authorized representative or, if the authorized representative is named in the investigation, the President of the Board of Directors.
 - 3) The written response shall be submitted to the respective Department program division within 30 calendar days after receiving the investigative report.
 - 4) If a reconsideration request is received by OIG, the written response is due within 15 calendar days after the following:
 - A) The date the community agency or facility is notified that the reconsideration is denied;

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- B) The date the community agency or facility receives a revised cover letter based on a granted reconsideration indicating the finding remains substantiated, or there are recommendations.
- 5) If a reconsideration request is granted and the revised cover letter indicates the finding is unsubstantiated or unfounded and there are no recommendations, a written response is no longer required.
- b) With respect to allegations within OIG's jurisdiction that OIG refers to a community agency or facility, the community agency or facility shall submit a written response on a prescribed form to ~~OIG and~~ the respective DHS program division within 45 calendar days of receipt of the referral~~after the community agency or facility has completed its inquiry~~. The prescribed form will be sent to the community agency or facility. The written response shall address any action that the community agency or facility took or will take to protect individuals from abuse, neglect, financial exploitation, or material obstruction of an investigation.
- c) Division Responsibilities
 - 1) The respective DHS program division shall promptly review the submitted written response and may require the community agency or facility to plan or take additional administrative actions in response to the findings and/or recommendations.
 - 2) When the division agrees with the written response, the division's director, or designee, shall approve the written response by signing and dating the form. The actions listed on the written response do not need to be completed for the division to approve it.
 - 3) To ensure timely implementation of identified actions, the division shall promptly do the following:
 - A) Notify the community agency, facility, and OIG of the approval; and
 - B) Send to OIG the approved written response and any documentation received that confirms implementation of the designated actions.
- d) Implementation Status Reports
 - 1) Community Agency or Facility

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- A) If the actions listed in a written response to an OIG investigative report have not been completed by the time the division notifies the community agency or facility that the written response is approved, the authorized representative shall send OIG an implementation status report within 30 calendar days of the date the written response was approved.
 - B) The implementation status report shall detail the status of each administrative action taken or planned, including the actual or anticipated completion date.
 - C) An updated implementation status report must be sent to OIG every 60 calendar days thereafter until all administrative actions have been completed.
 - D) Upon completion of actions for which at least one implementation status report was submitted, the community agency or facility shall promptly do the following:
 - i) Notify OIG in writing of the completion date and the names of any persons who were the subject of the action; and
 - ii) Submit to OIG documentation confirming implementation of each of those actions.
- 2) OIG may review approved written responses and notify any community agency or facility when an implementation status report is overdue. Failure of the community agency or facility to comply with implementation status reports is a violation of the statute. [20 ILCS 1305/1-17(i)]
- e) Compliance Reviews
- 1) OIG shall conduct a review of the following:
 - A) Any written response in which an action takes more than 120 calendar days after approval to complete;
 - B) A random sample of written responses to OIG investigative reports that have been approved by the division. The sample shall be chosen at least quarterly, shall be at least 10% of all written responses approved during that time period, and shall be proportionate by community agency and facility cases among the

990 approved written responses; and

991
992 C) A random sample of written responses to OIG referrals that have
993 been approved by the division. The sample shall be chosen at least
994 quarterly, shall be at least 10% of all written responses approved
995 during that time period, and shall be proportionate to the respective
996 number of community agency and facility cases among the
997 approved written responses.

998
999 2) OIG shall determine compliance with the completed action as approved,
1000 which may include, but not be limited to, written and verbal requests for
1001 documentation, phone contacts or site visits.

1002
1003 3) Community agencies and facilities shall fully cooperate with OIG during
1004 these compliance reviews, including providing access as defined in
1005 Section 50.10. Cooperation with compliance reviews additionally
1006 includes the following:

1007
1008 A) Arranging for interviews as requested and providing copies of any
1009 personnel action taken as a result of the findings or
1010 recommendations; and

1011
1012 B) Responding promptly to OIG requests for documentation and
1013 related information.

1014
1015 (Source: Amended at 50 Ill. Reg. _____, effective _____)