THE BUREAU OF DISABILITIES SERVICES

ABUSE, NEGLECT, AND EXPLOITATION FREQUENTLY ASKED QUESTONS

ACRONYMNS/DEFINITIONS

Abuse: *Per 460 IAC 6-3-2, "Abuse" means the following: (1) Intentional or willful infliction of physical injury. (2) Unnecessary physical or chemical restraints or isolation. (3) Punishment with resulting physical harm or pain. (4) Sexual molestation, rape, sexual misconduct, sexual coercion, and sexual exploitation. (5) Verbal or demonstrative harm caused by oral or written language, or gestures with disparaging or derogatory implications. (6) Psychological, mental, or emotional harm caused by unreasonable confinement, intimidation, humiliation, harassment, threats of punishment, or deprivation.*

ANE: *Abuse, Neglect, and Exploitation*

APS: *Adult Protective Services* CMO: *Case Management Organization*

CPS: *Child Protective Services (within the Department of Child Services)*

DCS: *Department of Child Services*

DSP: *Direct Support Professional*

Exploitation: *Per 460 IAC 6-3-24, "Exploitation" means: (1) unauthorized use of the personal services, the property, or the identity of an individual; or (2) any other type of criminal exploitation, including exploitation under IC 35-46-1-1; for one's own profit or advantage or for the profit or advantage of another.*

IR: Incident report

IST: *Individualized Support Team*

Neglect: *Per 460 IAC 6-3-36, "Neglect" means failure to provide supervision, training, appropriate care, food, medical care, or medical supervision to an individual.*

Provider: *An entity approved by the BDS to provide services and supports to an individual.*

GENERAL FAQs

1. A barrier to helping those who have trauma caused by abuse is that typical therapy is beyond their comprehension. What services are or could be provided to help with the healing process?

The Indiana Disability Justice & Violence Prevention Resource Hub (https://indisabilityjustice.org/) has statewide resources to assist.

2. Are there plans to update the IR reporting system and/or integrate it further with the BDS Portal?
   As part of our system consolidation project, we are reviewing options for improving the IR reporting system.

3. Can you provide a list of APS/CPS for the whole state?
   The APS Unit Map is available here.

4. Should a police report be filed against employees if staff commits abuse, and it is confirmed through an investigation by the agency?
   Absolutely.

5. What are the stipulations for filing a police report?
   If a crime is suspected, a police report should be filed.

6. Does the case manager have to do the follow up on an incident report, or can the provider that filed the IR complete the follow up?
   For the CIH and FSW, the case manager is responsible for filing the follow-up report for an incident report. However, the provider can complete a follow-up report if desired.

7. Which is correct, QDDP or QIDP? Shouldn't this be consistent across all entities?
   The correct term is Qualified Intellectual Disabilities Professional (QIDP).

8. Are behavior clinicians required to file incident reports?
   Yes. All providers and provider staff, regardless of service type, are mandated reporters. The entity having first knowledge of the incident is responsible for filing the incident report. If a provider discovers an incident was not reported as required, the provider is required to file the incident regardless of who had the first knowledge of such. Providers who repeatedly disregard their duty should be reported to the BDS.

9. Is there a way providers can obtain the investigation reports from APS once they come out to do an investigation after an ANE event? As a provider, we feel there is a disconnect between APS / DCS and providers in which providers are required to report to APS but cannot get any follow ups or reports on the investigation.
   Providers are encouraged to ask APS or CPS/DCS about obtaining follow-up reports to ensure the care provided to an individual and their family is appropriate. The BDS will also share this concern with APS/CPS.

10. Could investigations be done by the state or APS? Some providers seem to be focused on protecting staff due to shortages.

APS has statutory requirements for investigations. The BDS may also conduct investigations. The BDS will review this as part of the DSP registry development.

11. For example, a staff can be suspected of ANE and found not substantiated by the provider, but APS finds the incident substantiated. How can these two findings be reconciled? In addition, this same staff with substantiated findings from APS will go work at another provider and commits another ANE and again may not be substantiated by the provider and so on. But APS may have a long list of issues on the staff that none of the providers will ever know about which we think is not efficient for operations and safety of the individual.

    APS codes are different than those governing the BDS providers. APS investigations may also result in criminal charges. However, the BDS will be reviewing investigations as part of the DSP registry development.

12. Some providers only file internal incident reports. Shouldn't they be also submitting an IR through the BDS?

    Providers may have internal reporting procedures that do not rise to a reportable incident with the BDS. If the reportable incident criteria with the BDS is met, then the provider is mandated to file the incident in the online system.

13. We encounter situations where, for example, a child receiving waiver supports living in the family home gets something like a bruise/scrape from falling off their bike but technically needs an IR due to size of bruise/injury from fall. Families of younger children/those living in the family home have become defensive and concerned, often not understanding why certain situations like common illnesses/injuries still need to be reported. Can you speak to your perspective on this? Any plans to differentiate between some of these types of circumstances in the codes/policies?

    The BDS is working on rewriting 460 IAC 6 and subsequent policies that more accurately reflect the current population and program.

14. What are the plans for further monitoring staff that are terminated due to ANE, but then get hired by another agency?

    The BDS will review this as part of the DSP registry development.

15. When a staff is suspended due to allegations, can the provider move the staff to another house?

    Per 460 IAC 6-9-5, staff must be suspended pending an investigation when there is an allegation of abuse, neglect or exploitation. Suspension means the staff is not working with any individual receiving services from the BDS. Providers should have an emergency staff plan in place. Each individual should also have an emergency plan outlined in their PCISP.

16. When you notice that a person with disabilities is not tending to their own needs and neglecting themselves or completely unable to care for themselves, should we still report

this as neglect? Outside of the care they receive I mean. For context, if you go into an individual's home and assist them to improve their quality of life and keep them home, yet you return to the home and they are not able to bathe themselves, not wanting to seek medical treatment, etc., what would we do?

If self-neglect is occurring, the incident should be reported. Additionally, the IST should convene to discuss how best to support the individual. Anyone can also file a report with APS.

17. We utilize a paper copy incident report for our DSPs to file to administration. DSPs are trained on what is reportable to the state and are also trained on "if in doubt, fill it out." Is it appropriate to have one or two administrators file the official incident to the state or do all DSPs need to be trained on how to utilize the BQIS Incident Report online?

    Providers may have an internal process for incident reporting such as this. However, DSPs should be aware of the online reporting system should they choose to file an IR on their own.

18. Do Case Managers have a right to the provider's full investigations?

    Yes. Case managers are required to follow up on incident reports and monitor the health, welfare, and safety of the individuals in services.

19. What if an individual refuses to bathe and change clothes, which is consider neglect? With the person-centered plan, which is allows them to make choices, how do you redirect them without causing them to get agitated?

    If self-neglect is occurring, an incident report should be filed with the BDS. Additionally, the IST should convene to discuss how best to support the individual. Anyone can also file a report with APS.

20. With staff shortages, at what point does staffing below recommended level become neglect? What is an agency supposed to do when there are not enough staff in a home?

    If an individual is unserved/unsupported per the level of supervision identified as appropriate for the individual in their PCISP then it becomes a reportable incident. Additionally, if the issue is ongoing, the IST should convene to discuss alternatives to supporting the individual. Providers should have an emergency staff plan in place. Each individual should also have an emergency plan outlined in their PCISP.

21. Should staff shortages be reported for 24/7 waiver services or for all services?

    If an individual is unserved/unsupported per the level of supervision identified as appropriate for the individual in their PCISP then it becomes a reportable incident. Additionally, if the issue is ongoing, the IST should convene to discuss alternatives to supporting the individual. Providers should have an emergency staff plan in place. Each individual should also have an emergency plan outlined in their PCISP.

22. Do we file an IR for records purposes?

    Incident reports should only be filed with the BDS if the reportable incident criteria is met. Providers should have an internal process for records purposes.

23. When filing an Incident Report, we are to notify the BDS Representative. Is there a website that is consistently updated or a way to know when that rep changes for each district?

    Unfortunately, the website does not list the BDS district staff. When filing an incident report, even if the incorrect BDS representative is entered, the District Manager will also receive the IR once it is processed by the BDS.

24. A few years ago, I had an individual who had blinded herself in one eye by hitting herself in the eye. She sometimes hit herself in the other eye and she was in danger of losing sight as well. Asking her not to hit herself generally worked. Is that now considered inappropriate?

    Staff supporting an individual should continually educate and provide reminders to individuals regarding their actions to prevent harm. Additionally, self-harm should be addressed in the individual's BSP.

25. Is getting bullied at school considered abuse? If so, what is the best way of handling this situation?

    Being bullied is a form of abuse. Insource (insource.org) is able to assist families in school-related issues. Additionally, a great resource is stopbullying.gov.

26. Is there an updated resident rights we should be providing our individual?

    The IST should have open, regular discussions with individuals on their rights. In addition, an Abuse, Neglect, and Exploitation fact sheet for individuals is in development.

27. Is it considered neglect if staff aren't following the Diabetic diet prescribed by a physician? Staff have referred to the Final Rule and state the individual can make their own choices and have a right to make poor choices like everyone else.

    The settings rule states that an individual has a right to access food at any time. Modifications regarding this may occur if the requirements under the settings rule are followed. Additional information is available within the prior webinar on modifications under the settings rule is available here.

28. Is a Rights Violation a reportable incident? 460 says to investigate?

    A rights violation is not a specific reportable incident. However, if a rights violation may result in an immediate risk or a health and safety concern for an individual then the rights violation is a reportable incident. Providers have a responsibility to ensure individual rights are guaranteed and promoted. Providers regularly discuss rights with individuals and have systems in place to protect rights. Any violation of rights should

be investigated by the provider. Additionally, individuals should be made aware of rights under the settings rule.

29. How does the BDS respond to IRs that are submitted regarding allegations of ANE? Particularly when it is the same company that very similar allegations are being made against by multiple providers.

    The BDS monitors trends with incident reporting in a multitude of ways. If BDS identifies a trend, then further action may be taken, including, but not limited to, a complaint investigation.

30. Due to the statistics of abuse, exploitation, and neglect, would this not validate that individuals have abuse, exploitation, and neglect as a high risk in their PCISP? It looks as though this is a standard idea and not needed to have as concrete policies that are documented in the PCISP. We have case managers stating that this tryp of risk is excessive and not needed in the PCISP. The elimination of this type of risk documentation does include the minors and non-verbal individuals.

    All individuals have the right to exercise Dignity of Risk. Managing any risk begins with learning what is important to them and what is important for them and helping to find a good balance. Risk assessments should be individualized and identify the nature of the risk, the likelihood of occurrence, the severity of consequences from the risk and then determine if a risk mitigation plan is warranted. The goal is not to remove all risks that may exist in everyday life but to support the individual in navigating risk to reduce negative outcomes.

31. We have conflict amongst case managers, some stating that Providers are responsible for risks and others that Case managers are responsible. We are under the impression that Providers are responsible for writing risks. Case managers are also stating that life and death risks are the only ones that can be applied to Risks. As a provider we have exploitation as a risk because of the statistics of exploitation and community safety. Our insurance requires it as well.

    ISTs are required to discuss and document an individual's risk in the PCISP. However, all individuals have the right to exercise Dignity of Risk. Managing any risk begins with learning what is important to them and what is important for them and helping to find a good balance. Risk assessments should be individualized and identify the nature of the risk, the likelihood of occurrence, the severity of consequences from the risk and then determine if a risk mitigation plan is warranted. The goal is not to remove all risks that may exist in everyday life but to support the individual in navigating risk to reduce negative outcomes. Risk assessment tools are available on the BDS Quality Assurance website (here). As a reminder, Providers are responsible to adopt policies and procedures that prohibit ANE but also prohibit violation of individual rights.

32. Could you please verify if we are to use the risk assessment tools on the BDS quality website or the LifeCourse risk assessment?

    Both are tools to assist individuals and their ISTs in discussing and documenting an individual's risk. However, the tools are not required but highly recommended to ensure the IST is reviewing risk consistently.

33. Who is required to make the police report? The individual/family member or the agency such as a home health agency?

    If you know or suspect a crime has occurred, you should contact the police. It can be helpful to explain to individuals/families why you filed a police report. It is their right to decline to press charges or participate in any subsequent investigation.

34. I have noticed that many providers and behaviorists fail to report incidents when they are the initial contact and a mandated reporter.

    All providers and provider staff, regardless of service type, are mandated reporters. The entity having first knowledge of the incident is responsible for filing the incident report. If a provider discovers an incident was not reported as required, the provider is required to file the incident regardless of who had the first knowledge of such. Providers who repeatedly disregard their duty should be reported to the BDS.