**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 or prevents recurrences of such abuse, neglect, or financial exploitation.

"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.

"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 individual.

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

"Complainant". The person who reports a death or an allegation of abuse, neglect, or Financial Exploitation directly to OIG and is not the required reporter.

"Complaint". A report of a death or an allegation of abuse, neglect, or financial exploitation reported directly to the OIG Hotline.

"Completed Investigative Report". An investigative report approved for distribution by the Inspector General that summarizes the evidence obtained during the course of the investigation and that indicates whether the allegation of abuse, neglect, or financial exploitation is substantiated, unsubstantiated, or unfounded.

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

"Day". Working day, unless otherwise specified.

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

"Department". The Department of Human Services.

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

"Employee". Any person who provides services at the facility or the Community Agency on or off site. The service relationship can be with the individual, the facility or agency. Also, "employee" includes any employee or contractual agent of the Department of Human Services or the Community Agency involved in providing or monitoring or administering mental health or developmental disability services. This includes but is not limited to, owners, operators, payroll personnel, contractors, subcontractors, and volunteers. For purposes of this Part, "employee" also includes someone who is no longer working for an agency or facility but is the subject of an ongoing investigation for which OIG has jurisdiction.

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

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

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

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

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

"IDPH". The Illinois Department of Public Health.

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

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

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

"Material Obstruction of an Investigation". The purposeful interference with an investigation of physical abuse, sexual abuse, neglect, or financial exploitation and includes, but is not limited to, the withholding or altering of documentation or recorded evidence; influencing, threatening, or impeding witness testimony; presenting untruthful information during an interview; failing to cooperate with an investigation conducted by OIG. If an employee, following a criminal investigation of physical abuse, sexual abuse, neglect, or financial exploitation, is convicted of an offense that is factually predicated on the employee presenting untruthful information during the course of the investigation, that offense constitutes material obstruction of an investigation. Material obstruction of an investigation does not include: an employee's lawful exercising of their constitutional right against self-incrimination, an employee invoking their lawful rights to union representation as provided by a collective bargaining agreement or the Illinois Public Labor Relations Act [5 ILCS 315], or a union representative's lawful activities providing representation under a collective bargaining agreement or the Illinois Public Labor Relations Act. Obstruction of an investigation is considered material when it could significantly impair an investigator's ability to gather all relevant facts. An employee shall not be placed on the Health Care Worker Registry for material obstruction of an investigation for presenting untruthful information during an interview conducted by the OIG, unless, prior to the interview, the employee was provided with any previous signed statements they made during the course of the investigation.

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

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

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

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

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

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

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

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

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

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

"Required Reporter". Any employee/facility/agency who suspects, witnesses, or is informed of an allegation of any one or more of the following: mental abuse, physical abuse, sexual abuse, neglect, or financial exploitation.

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

"Secretary". The leader of the Department.

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

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

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.

(Source: Amended at 48 Ill. Reg. 14653, effective September 27, 2024)