

Policy Transmittal Developmental Disabilities Services



Dave Manley, OTIS Director
Lilia Teninty, ODDS Director

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UPDATED

Number: DD-PT-22-054

Issue date: 06/16/2022

Topic: Protective Services

Due date:

Transmitting (check the box that best applies):

- New policy
 Policy change
 Policy clarification
 Executive letter
 Administrative Rule
 Manual update
 Other:

Applies to (check all that apply):

- | | |
|---|---|
| <input type="checkbox"/> All ODHS Employees | <input type="checkbox"/> County Mental Health Directors |
| <input type="checkbox"/> Area Agencies on Aging: {Select type} | <input type="checkbox"/> Health Services |
| <input type="checkbox"/> Aging and People with Disabilities | <input type="checkbox"/> Office of Developmental Disabilities Services (ODDS) |
| <input type="checkbox"/> Self Sufficiency Programs | <input type="checkbox"/> ODDS Children’s Intensive In Home Services |
| <input checked="" type="checkbox"/> County DD Program Managers | <input type="checkbox"/> Stabilization and Crisis Unit (SACU) |
| <input checked="" type="checkbox"/> Support Service Brokerage Directors | <input checked="" type="checkbox"/> Other (please specify): Adult Abuse Investigators - CDDP and OTIS Staff |
| <input type="checkbox"/> ODDS Children’s Residential Services | |
| <input type="checkbox"/> Child Welfare Programs | |

Policy/rule title:	Policy guidance to Community Developmental Disabilities Programs (CDDP) and OTIS staff responsible for completing interviews as part of the investigation process associated with reports of alleged abuse and neglect as required by ORS 430.731 and OAR 407-045-0250(1)(2).		
Policy/rule number(s):	OAR 407-045-0250(1)(2)	Release number:	
Effective date:	September 1, 2022	Expiration date:	
References:	OAR 407-045-0250 (1) and (2) for ODHS adults with developmental disabilities abuse investigation rules.		
Web address:	https://secure.sos.state.or.us/oard/view.action?ruleNumber=407-045-0250		

Discussion/interpretation:

Update: The requirement to audio record interviews becomes effective on September 1, 2022.

The Oregon Department of Human Service, Office of Developmental Disabilities Services (ODDS) and the Office of Training, Investigation and Safety (OTIS) are providing policy guidance to Community Developmental Disabilities Programs (CDDP) and OTIS staff responsible for completing investigations associated with reports of alleged abuse and neglect as required in [ORS 430.731 to 430.765](#).

This policy provides guidance to investigators regarding the requirement to audio record interviews with victims, witnesses, and accused persons. Audio recorded interviews supplement and assist investigators in ensuring the accuracy of the information captured during interviews. Individuals interviewed in abuse investigations come from a variety of backgrounds and environments. To ensure equity in investigations, investigators must consider personal, cultural, and professional aspects when interviewing and recording. These include, but are not limited to language differences, social standards, oppression, trauma, fear, comprehension, medical conditions, and embarrassment when discussing abuse.

Implementation/transition instructions:

Standard Expectations

- The investigator will use a Department approved recording device.
- The investigator may not use a personal recording device.
- As a standard practice, interviews (including telephonic or application based) will be electronically recorded, and participants will be informed the conversation is being recorded.
- The entire interview shall be electronically recorded.
- If the investigator chooses not to record the interview, the reason for not recording must be documented in CAM as a deviation. The deviation from this standard practice requires AIC or supervisor approval.
- Interview recordings must be saved in CAM independently from the recording device.
- Electronically recording an interview does not negate the requirement for the investigator to take handwritten notes.

How to Conduct an Electronically Recorded Interview

- The investigator shall make every effort to ensure the location of the interview is private, is consistent with trauma-informed practices and limits the amount of background noise that may interfere with the recording.
- The investigator shall inform anyone present for the interview the interview will be electronically recorded.
- The investigator shall inform and introduce the subject of recording interviews in a manner consistent with trauma- informed practices.
- The investigator shall present information in a manner recognizing individual differences in the roles of interviewees, i.e., individuals receiving services, professionals, direct support staff, community members.
- The investigator shall provide the interviewee an opportunity to ask questions about recording prior to starting the recording device.
- The investigator shall keep the recording device in plain view where it can be seen during the entire interview.
- The investigator must be open and transparent in recording investigative interviews.
- To the extent practicable, the investigator must not record statements from multiple interviewees on the same audio file.
- When the investigator initiates recording, the investigator shall complete the following steps before beginning the interview:
 - Clearly state their name, the date, time location and names and titles of all persons present and that the interview is being recorded.
 - Ask the interviewee to state their full name and confirm the spelling.
 - Ask the interviewee to state their date of birth.
 - Ask the interviewee to state their relationship to the investigation (title or role).
 - If the interviewee is the accused person, ask if the interviewee is an employee/volunteer of the Oregon Department of Human Services or an Independent Contractor.
 - When another party is present, produce and request they sign appropriate forms, including but not limited to Non-Disclosure Agreements.

- If the investigator or the interviewee uses or refers to a document or other items during the interview, describe the documents or items on the audio recording.
 - Example: “I am showing you a copy of a medical order dated December 23rd, 2022 and signed by Dr. Vasquez.”
- If the interviewee makes a physical demonstration of what happened, verbally describe what they are doing during on the recording. If feasible, the investigator may also photograph the demonstration using a Department approved device.
- If the investigator purposefully stops the recording at any point, the investigator must:
 - State the reason for stopping the recording.
 - State time the recording stopped.
 - State time the recording restarted.
 - State anything that occurred while the recording was stopped.
 - State any relevant statements made while the recording was stopped.
- At the conclusion of the investigator’s questioning, the investigator shall review handwritten notes, allow for additional comments, and seek agreement of the information presented.
- Conclude the recording by stating:
 - The date and time the interview was completed.

Recording Device Malfunctions

- The investigator shall test the recording device and be familiar with its operation prior to an interview. It is advisable to have a back-up device, if available.
- If the recording device malfunctions and there is no back-up device, provide the interviewee with the opportunity to continue with only handwritten notes or to reschedule the interview.
- If the recording device can be restarted restart the recording and:
 - State the time the recording is restarting.
 - State the device malfunctioned.
 - State how long the device was not working (if known).
 - State until the device malfunction was detected the interview continued as reflected in the investigator’s handwritten notes.

- Any device malfunction must be documented in a CAM deviation to include:
 - The time the malfunction was detected.
 - The interview continued or was rescheduled.
 - The period of time the interview was not recorded is reflected in the investigator's handwritten notes.

Adult Witness or Accused Person Declines Recording

- If an adult interviewee decline recording, the investigator should respond to the interviewee's concerns. The investigator must then determine, given the dynamics of the investigation if it is in the best interest of the investigation to proceed with the interview (taking handwritten notes) or if the interview should be cancelled.
- Considerations include but are not limited to: Witness/Accused Person declines to be interviewed unless recorder is off, witness/accused person has been advised by their attorney not to be recorded, or it is unlikely additional opportunities for an interview will take place.
- If the investigator decides not to record an interview, the investigator must document the reason as a deviation in CAM.

Recording the Interview of a Minor

- Under certain circumstances, permission from or notification to a parent, custodial adult, attorney representing the minor, and/or Child Welfare is required to interview a child. The investigator determines who must be informed and how before recording a minor's statement. Document any notification or authorization to record in CAM.
- If the investigator's agency has additional requirements to those in this policy, the investigator must also adhere to the investigator's agency policy.
- If a minor declines to be recorded, the investigator should respond to the interviewee's concerns. The investigator must then determine, given the dynamics of the investigation, if it is in the best interest of the investigation to proceed with the interview (taking handwritten notes) or if the interview should be cancelled.
- Considerations include but are not limited to; the age of the minor, the minor is afraid of retaliation, the minor appears to have a trauma response, the minor refuses to be interviewed unless recorder is off, it is unlikely a second opportunity will arise for the minor to be interviewed.

- If the investigator decides not to record an interview, the investigator must document the reason as a deviation in CAM.

Copying, Preserving or Sharing Electronically Recorded Interviews

- After the recorded interview is complete, upload it from the recording device to CAM.
- After the recorded interview is uploaded into CAM, the investigator must delete the recorded interview from the recording device.
- All electronically recorded interviews must be preserved in accordance with record retention laws and policy.
- If a request (written or oral) for a copy of the electronic recording of the interview is received, follow the program's confidentiality rules and guidelines prior to providing a copy of the recording.

Training/communication plan:

This transmittal will be discussed during the next Monthly Transmittal Review. Please send questions in advance to ODDS.Questions@dhsosha.state.or.us.

The Monthly Transmittal Review is held the second Wednesday of every month at 2 pm using the Zoom platform. Please register in advance for these meetings:

<https://www.zoomgov.com/meeting/register/vJlsc-qvqD8iGURx5OQk8TAdIS6Arg9ZAf4>

After registering, you will receive a confirmation email containing an appointment and information about joining the meeting. American Sign Language (ASL) and live captioning will be provided. To request other accommodations or languages, please send an email to ODDS.Questions@dhsosha.state.or.us at least three business days prior to the meeting.

In addition, this policy will be reviewed at the CDDP Adult Investigator quarterly meeting scheduled in July 2022. OTIS Abuse Investigation Coordinators (AIC) and OTIS Investigations managers will be available for consultation with abuse investigators. Detailed training sessions will be offered. These trainings will include FAQs and other quick reference guide documents.

Local/branch action required:

Managers and AICs will notify abuse investigators of the new policy expectations. AICs and managers will provide coaching to abuse investigators as needed.

Central office action required:

Field/stakeholder review: Yes No

If yes, reviewed by: Engagement and Innovation
Investigations Advisory Group

If you have any questions about this policy, contact:

Contact(s): Jeanette Herron	
Phone: 541-215-3233	Fax:
Email: Jeanette.Herron@dhsosha.state.or.us	