



SPOTLIGHT ON PREVENTION

Partnering to protect people
with special needs

Corrective Action Plan Guidance

The Justice Center, in collaboration with the Office for People with Developmental Disabilities, the Office of Mental Health, the Office of Children and Family Services, the Office of Addiction Services and Supports and the State Education Department created this toolkit to assist providers in developing and implementing corrective action plans that reduce the likelihood of similar incidents and safeguard people receiving services from abuse or neglect.



Justice Center for the
Protection of People
with Special Needs

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What is a Corrective Action Plan?

A corrective action plan (CAP) is a written plan that is developed by a facility or provider agency in response to incidents reported to the Justice Center. The CAP provides the road map to improve the circumstances or conditions that contributed to the incident. The development of a CAP also provides an opportunity to look for additional areas in need of improvement at a facility or provider agency to protect people receiving services from harm.

Common Types of Corrective Actions

- Training
- Personnel
- Discipline
- Policy creation or revision
- Environmental modifications
- Treatment plan revisions
- Counseling/coaching
- Sanctions/fines

What is a Corrective Action Plan Audit?

The Justice Center has the authority and responsibility to make recommendations on improving the quality of care at facilities or provider agencies under its jurisdiction. This is done through reviews and audits of corrective action plans and can include visits to and inspections of facilities or provider agencies.

Audit Process

The Justice Center audit process begins with a review of issues of concern revealed during the investigation and/or identified during the agency's subsequent review of the incident, including the investigative summary report and determination letters. When the Justice Center completes the audit, a letter is sent to the facility or provider agency with audit findings and recommendations. The state agency that operates, licenses, or certifies the facility or provider agency receives a copy of the audit findings and recommendations. Facilities and provider agencies are not required to respond to the Justice Center's audit.

What to Expect During an Audit

The Justice Center contacts facilities and provider agencies at the beginning of the audit and provides an overview of the audit process. Documents that demonstrate implementation of the CAP will be requested. The Justice Center will assess all CAP-related documentation to determine if the corrective actions were **timely** and **sufficient**. Most of this work is done by the Justice Center remotely; however, the Justice Center may visit facilities and provider agencies to complete this work.

What happens during a site visit?

Justice Center staff may conduct an announced or unannounced visit. The first step a provider agency or facility should take is to request photo identification of Justice Center staff and contact a supervisor or Administrator on Duty to alert them of the visit. The Justice Center will explain why the visit is occurring and request a tour of the program. The Justice Center will request to review certain documentation and may conduct interviews with staff and people receiving services. The visit will conclude with an exit conference where any preliminary findings of concern will be shared. Within two business days of the visit, provider agencies and facilities will receive a letter memorializing the exit conference, and the audit letter and findings will be shared upon completion.

In this toolkit...

- ▶ Frequently asked questions from providers regarding the CAP and CAP audit process
- ▶ Checklist of questions to consider during the lifecycle of an incident
- ▶ Reference guide for documentation to maintain that will help support implementation of corrective actions
- ▶ Case studies that can be used as training opportunities for agencies
- ▶ Resources for success provided by the state oversight agencies
- ▶ Attachments
 - CAP Audit Findings Letter Template
 - Memo from State Education Department

Frequently Asked Questions

When is my CAP due?

The Justice Center requires that your CAP is approved by your state oversight agency (e.g. Office of Mental Health, Office for People With Developmental Disabilities) within 100 days from the date of the determination letter sent by the Justice Center. You should refer to the specific timeframes set forth by your state oversight agency or other regulatory body as they may require a different timeframe.

The Justice Center determined the case was unsubstantiated, does my agency need to submit a corrective action plan?

In short, probably! You should review the letter of determination and investigation summary report to identify areas of concern. An unsubstantiated determination by itself does not mean that corrective actions are not needed. In most cases, a corrective action plan is beneficial because it assists facilities and provider agencies in identifying ways to prevent incidents of abuse and neglect.

The Justice Center did not note any areas of concern in the investigation report, so how do I know what to put in a corrective action plan?

You should review all investigative materials to determine areas in need of improvement. Your Incident Review Committee or Special Review Committee may also make recommendations.

Why does the Justice Center follow up on my program's corrective action plan when the state oversight agency already approved the plan?

The Justice Center has the authority and responsibility to make recommendations to improve the quality of care at facilities and provider agencies under its jurisdiction. This is done through reviews and audits of corrective action plans. This important audit function allows the Justice Center to make recommendations to facilities and provider agencies so that they can improve the quality of care and prevent incidents of abuse and neglect.

Is termination of staff considered a corrective action?

Yes, termination is considered a corrective action. However, this action alone may not be enough to prevent a similar incident from occurring and you should consider other areas in need of improvement, such as training or policy changes.

What steps should my agency take while an investigation is underway?

The most important thing to do while an investigation is underway is ensure the safety of the people in care and of staff. This often includes taking immediate steps to safeguard people, like seeking medical care and, if warranted, separating subject staff from victims, fixing any environmental issues, and providing enhanced oversight of the program. If the Justice Center or state oversight agency is conducting the investigation, you should not conduct any investigative activities, such as taking written statements and conducting interviews, unless explicitly directed to do so by the Justice Center, your state oversight agency, or as required by other regulatory bodies.

The subject is appealing the substantiated finding, should my agency wait until the appeal process is complete to develop corrective actions?

An appeal does not alleviate an agency's requirement to complete a CAP, so you should not wait until the appeal process is complete to develop and implement corrective actions. The appeals process is a separate process from the corrective action planning process so a CAP should still be developed.

The authorized person in my agency already submitted information to the Administrative Action Reporting Mechanism (AARM). Do we still need to develop a CAP?

Yes, AARM submission and CAP development are two different processes. While the AARM requires that your agency submit information about actions taken with staff after a substantiated report of abuse or neglect, the CAP process includes a more robust review of the agency's policies, trainings, and practices to implement corrective actions that may help prevent future incidents of abuse and neglect.

What types of documentation do I need to keep as part of my CAP?

Any documentation that supports implementation of your corrective actions should be maintained. A list of documents frequently used to demonstrate implementation can be found in this toolkit.

Developing a Corrective Action Plan: Actions Taken During the Lifecycle of the Incident

This checklist can be used to help facilities and provider agencies identify the steps needed to safeguard people receiving services and staff following an incident in their program.

FOLLOWING THE INCIDENT:

- Are all people receiving services and staff safe and/or do they need medical treatment?
- Were proper notifications made?
 - Law enforcement if applicable?
 - Justice Center?
 - State oversight agency?
 - Legal guardian or personal representative if applicable?
- Have any environmental issues been corrected and documented?
- If necessary, was action taken to protect people receiving services from the subject of the investigation?
- If necessary, have staff been removed from contact with the person receiving services? From contact with anyone else receiving services?
- Were these actions documented?
- If necessary, have people receiving services been separated from each other?
- If applicable, have safety plans been developed in the timeframe required by your state oversight agency?
- Was retraining provided to any staff? Was it documented? Would the training be applicable or beneficial to staff at other sites?
- If necessary, was a team meeting scheduled to review concerns?
- Have service plans for people receiving services been updated to reflect any additional necessary safeguards? Were staff trained on the changes and was the training documented?

FOLLOWING COMPLETION OF THE INVESTIGATION AND RECEIPT OF THE JUSTICE CENTER'S LETTER OF DETERMINATION:

- Have all issues identified in the investigation and determination letter been addressed?
- Have any recommendations from the Incident Review Committee or Special Review Committee, if applicable, been addressed?
- Have any coaching or counselling conversations with employees been documented, and signed by both the employee and the supervisor?
- Were any policy or procedure revisions required? If so, were staff trained on changes and was training documented?
- Have all employees who were substantiated for abuse or neglect received training, retraining, disciplinary follow up or any other follow up? Was this documented?
- For any new process, policy, procedure or training initiative implemented as a corrective action, is there a mechanism to ensure that training continues?

- How will employees hired after the implementation of any new process, policy, procedure or training initiative receive this information?
- Would any other sites or locations benefit from this training or procedural change?
- Have all corrective actions been implemented in a timely manner?
- Are any new training opportunities for staff interactive to enable staff to ask questions and trainers to ensure understanding? Is there a system for storage of training documentation?
- If training is included in the CAP, was it provided as soon as possible and then incorporated into annual training if appropriate?
- Is there a mechanism in place to ensure that ALL staff, including per diem, temp and float staff, receive training, including those who were absent on the day training was provided?
- If environmental issues were identified in the incident, are there mechanisms to ensure ongoing support for maintenance issues?
- Have any necessary changes been made to service plans for people receiving services? Are staff trained on the plans?
- Are staff patterns appropriate to support any identified supervision issues or changes in supervision?

OTHER:

Quick Reference Guide: Documentation to Support Implementation of Corrective Actions

This guide can be used to help agencies identify the type of documentation to submit along with the corrective action plan, to demonstrate implementation of the corrective action. Please note, this list is not inclusive of all types of corrective actions or the documentation that may be requested.

Corrective Action Type	Documentation
Immediate Protections/Safety Plan: actions taken immediately following an incident or identification of a subject to ensure adequate safeguards are in place	Reassignment notice, staff schedule, staff assignment sheets, documented instruction
Employee discipline/personnel: actions taken with individual employees <ul style="list-style-type: none"> • Resignation • Termination • Suspension • Fines • Counseling 	Referral to employee relations, suspension notice/time sheet, termination notice, resignation letter, counseling/supervision memo, fines/sanctions documentation, administrative leave
Training: actions taken to help staff better perform their duties	Attendance records, curriculum/agenda/meeting minutes, master staff rosters, staff roster for specific program, training records, certifications
Policy/procedure creation or revisions: actions taken to create or improve policies	Copy of original and revised policy/procedure. Both should have effective dates on them. If policies and procedures are not final, include the draft and the planned implementation date.
Physical plant/environmental: actions taken related to the environment that will help improve conditions	Work orders, completion of work order, receipts, pictures, floor plan
Services/treatment: actions taken that will help improve the quality of care provided to people receiving services	Revisions to service plans, medical records, admission/discharge paperwork, records of transfer of services, clinical assessments, enhanced supervision documentation (plans, doctor's orders, etc.), supervision definitions, staff assignment sheets, treatment plans, behavior support plans, plans of nursing care, medication administration records
Incident management: changes made to incident management processes	Signed Justice Center Code of Conduct forms, revisions to incident management documentation, Incident Review Committee minutes
Person's rights: actions taken to ensure a person's rights are being adhered to	Money ledgers, clothing receipts, copies of orders of protection, documentation of rights restrictions
Other	Job descriptions

Case Studies

These case studies represent a collection of facts identified from Justice Center investigations. They are used for illustrative purposes only to aid in developing a corrective action plan.

Case #1

Jessie, an individual receiving services, informed her residence counselor that the maintenance person asked for her telephone number, told her she was pretty and asked her out to dinner. Jessie stated she felt a little uncomfortable but did not share her phone number with the maintenance person and did not accept his invitation for dinner. The residence counselor thought that because the maintenance person was not working directly with Jessie that she did not need to report this to anyone. A few days later, Jessie needed a new light bulb in her bedroom, and the maintenance person said he would replace it if Jessie would share her phone number with him. Jessie gave her phone number to him and over the course of the next few weeks, he sent Jessie inappropriate pictures and requested that Jessie send him pictures. Jessie moved out of the group home because she was afraid of the maintenance person. Jessie stopped taking her medications and was admitted to a psychiatric unit in a hospital. Jessie told the admissions counselor at the hospital about what happened with the maintenance person. The admissions counselor at the hospital reported the incident to the Justice Center.

Issues of concern:

- ▶ The maintenance person requested Jessie's phone number.
- ▶ The residence counselor did not report Jessie's allegation to anyone.
- ▶ The agency did not take immediate actions to protect Jessie and other people receiving services because the allegations were not reported.

Considerations for areas in need of corrective action:

- ▶ How are maintenance staff informed of their role as a custodian?
- ▶ Incident management – are staff aware of the definitions of reportable incidents? Does the agency's incident management policy provide clear guidance on reporting requirements?
- ▶ Agency policy – what is the agency's policy on professional boundaries? How are staff trained on the requirement not to pursue a personal relationship with people receiving services?
- ▶ Discipline – what follow-up happened with the residence counselor and maintenance person?
- ▶ Maintenance requests – how are they handled, and could that process be more formalized?

What types of documentation should you maintain as supporting evidence of implementation of your corrective actions?

- ▶ Training records and Justice Center Code of Conduct forms for staff
- ▶ Incident management policy and maintenance policy; staff training on policies
- ▶ Counseling memo, re-training, disciplinary actions taken against the maintenance person and the residence counselor

Case #2

Theo, a youth receiving services, told the manager of his residential center that Donnie, a direct support professional, punched him in the face during a physical restraint. The manager asked Donnie what happened and while Donnie denied punching Theo, Donnie was moved to another unit at the facility, away from Theo. No other safeguards were put into place and this allegation was not reported to anyone else. Two nights later, during a physical restraint with another youth, a staff person observed Donnie slap the youth in the side of the face. Donnie was placed on leave and eventually terminated from the program.

Issues of concern:

- ▶ The manager of the residential center did not report Theo's allegation to anyone.
- ▶ Donnie was moved to another unit where he still had access to youth receiving services and engaged in another act of physical abuse.
- ▶ Theo did not receive any medical follow-up related to his allegation.

Considerations for areas in need of corrective action:

- ▶ Incident management – how does this program determine immediate safeguards?
- ▶ Incident management – are staff aware of the definitions of reportable incidents? Does the agency's incident management policy provide clear guidance on reporting requirements?
- ▶ Post restraint – what is the agency's policy on what should happen following a restraint?
- ▶ Post restraint – what type of de-briefing occurred with Theo to ensure he felt safe after the incident?
- ▶ Discipline – what follow-up happened with the manager?

What types of documentation should you maintain as supporting evidence of implementation of your corrective actions?

- ▶ Termination paperwork for Donnie
- ▶ Revised incident management policy documentation of the training provided to staff on revised policy
- ▶ Counseling memo, re-training, disciplinary actions taken against the manager
- ▶ Restraint policy

Case #3

Courtney, a person receiving services at a residence for people with intellectual disabilities, began choking on her food during breakfast. Tyler, Shawn, and Erin were all scheduled to work during breakfast, but Tyler was running late so the program was understaffed. Management was not contacted to alert them that there were not enough staff on duty. Shawn was new to the program and Erin usually worked the overnight shift. Neither Shawn nor Erin was aware that Courtney's toast was to be cut into ¼ sized bites, per her dietary plan. Shawn had his back to Courtney when she started choking and Erin was giving out medications. Another person receiving services began yelling in response to Courtney's medical emergency and Shawn turned around and began back blows to Courtney's back, at which time she coughed up the toast. Emergency medical services were called, and Courtney was transferred to the hospital for an evaluation. Shawn made all appropriate notifications, including reporting the incident to the Justice Center.

Issues of concern:

- ▶ The program did not have adequate staffing to complete necessary morning tasks.
- ▶ Staff did not contact administration to let them know the program was understaffed.
- ▶ Staff did not prepare Courtney's food in accordance with her dietary plan.

Considerations for areas in need of corrective action:

- ▶ Time and attendance policy – how are call-outs or other staff scheduling changes communicated?
- ▶ Plans of care – how are staff trained on plans of care, including dietary plans?
- ▶ Supervision during meal-time – how and where should staff be positioned?
- ▶ Staff assignments – how are staff made aware of who's responsible for various tasks during shifts?
- ▶ Discipline – what follow-up happened with Tyler? What about Shawn and Erin?
- ▶ Were staff given support due to potential trauma from incident? Was there an opportunity for staff to de-brief after the incident?

What types of documentation should you maintain as supporting evidence of implementation of your corrective actions?

- ▶ Dietary plan for Courtney and training documentation demonstrating staff have been trained
- ▶ Training on time and attendance policy
- ▶ Counseling memo, re-training, disciplinary actions taken against Tyler and Shawn and Erin, if applicable
- ▶ Staff assignment sheets, staff schedule, house plan of protective oversight to ensure all responsibilities can be completed with staffing plan

Resources for Success

The following list contains links to resources provided by state oversight agencies that may contain helpful information for agencies as they develop corrective action plans.

Office for People with Developmental Disabilities (OPWDD)

Directions for Form OPWDD 161 – Corrective Action Plan (CAP) Submission Form

https://opwdd.ny.gov/system/files/documents/2020/03/opwdd_161-directions_for_corrective_action_plan_cap_submission_form_re.pdf

Corrective Action Plan (CAP) Submission Form

https://opwdd.ny.gov/system/files/documents/2020/01/opwdd_161-corrective_action_plan_cap_submission_form-rev.2017-10.pdf

Corrective Action Plan (CAP) Submission Form Continuation Page

https://opwdd.ny.gov/system/files/documents/2020/01/opwdd_161a-corrective_action_plan_cap_submission_form_continuation_pag.pdf

Corrective Action Plan Module WebEx

https://youtu.be/5V5w_XEfAVs.

Office of Mental Health

Documentation of Corrective Action Plan (CAPS) Training for OMH Psychiatric Centers

<https://omh.ny.gov/omhweb/dqm/jc/training-aids/caps-training-presentation.pdf>

Incident Management webpage

https://omh.ny.gov/omhweb/dqm/bqi/incident_management.html

Incident Management Field Guide

https://omh.ny.gov/omhweb/dqm/bqi/nimrs/regulations/inciden_management_field_guide.pdf

Office of Addiction Services and Supports

Oversight and Monitoring webpage

<https://oasas.ny.gov/providers/oversight-and-monitoring>

Oversight and Monitoring Corrective Action Plan

<https://oasas.ny.gov/system/files/documents/2019/11/sqa-55-11.19.pdf>

Learning Thursdays: Justice Center Oversight and Monitoring

<https://youtu.be/-fj76OxKP00>

State Education Department

Please see attachments section