Protecting Vulnerable Adults

Policies & Procedures: Guidelines

OVERVIEW

Policies & Procedures provide an important element of an effective Safety System designed to protect Vulnerable Adults from sexual abuse and other forms of misconduct.

Keep in mind:

There is no one-size-fits-all disability description.
There is no one-size-fits-all disability Program.
There is no one-size-fits-all Policy template.

Given the wide variety of Programs and facilities providing services for individuals with disabilities, it is not possible to create a *one-size-fits-all* Policies & Procedures template or sample form. It IS valuable, however, to review topics that MUST be addressed, as well as errors to avoid. Some policy topics clearly apply to a specific service context; others do not. These Guidelines provide assistance in evaluating *current* Policy expressions, with recommendations related to additional policy issues that should be addressed or more closely defined.

CULTURE

Written Policies & Procedures are indispensable, but necessarily operate within a *culture.* Well-tailored Policies are ineffective if operating within a culture where little effort is expended to implement or enforce them.

Remember this truism: *Policies are what you DO ... not what you SAY you do.*

An organization serving Vulnerable Adults may claim to have 'zero tolerance for abuse', but the organization's *culture* may undermine this policy expression. Creating a preventative culture requires intentional measures by organizational leaders, including the following steps.

First Step: PRIORITIZING Protection of Vulnerable Adults
When the protection of Vulnerable Adults is clearly prioritized, the organization's culture will plainly reflect this posture. Preventative protocols must be clearly defined and communicated to all stakeholders.

Next Steps
Next steps include:
-Understanding unique risks to the populations served and programming offered
-Understanding the elements of an effective Safety System for unique Program offerings
-Implementing appropriate Safety System elements given unique 'Avenues of Risk'
-Requiring all staff members and volunteers to complete Awareness Training
-Establishing *and documenting* internal and external communication plans
-Creating tailored Policies & Procedures that fit the organization's programming
-Enforcing Policies and addressing violations (e.g. accountability)

AVENUES OF RISK

Policies & Procedures must be related to Avenues of Risk unique to each Program, which are more fully described in PVA's *Risk Management Training*. The primary purpose of Policies & Procedures is the safety and security of Program participants. As outlined in *Risk Management Training,* various forms of relationship create access to Program participants, which thereby give rise to *risk* (see **Risk Matrix** diagram below).

VULNERABLE ADULT RISK MATRIX
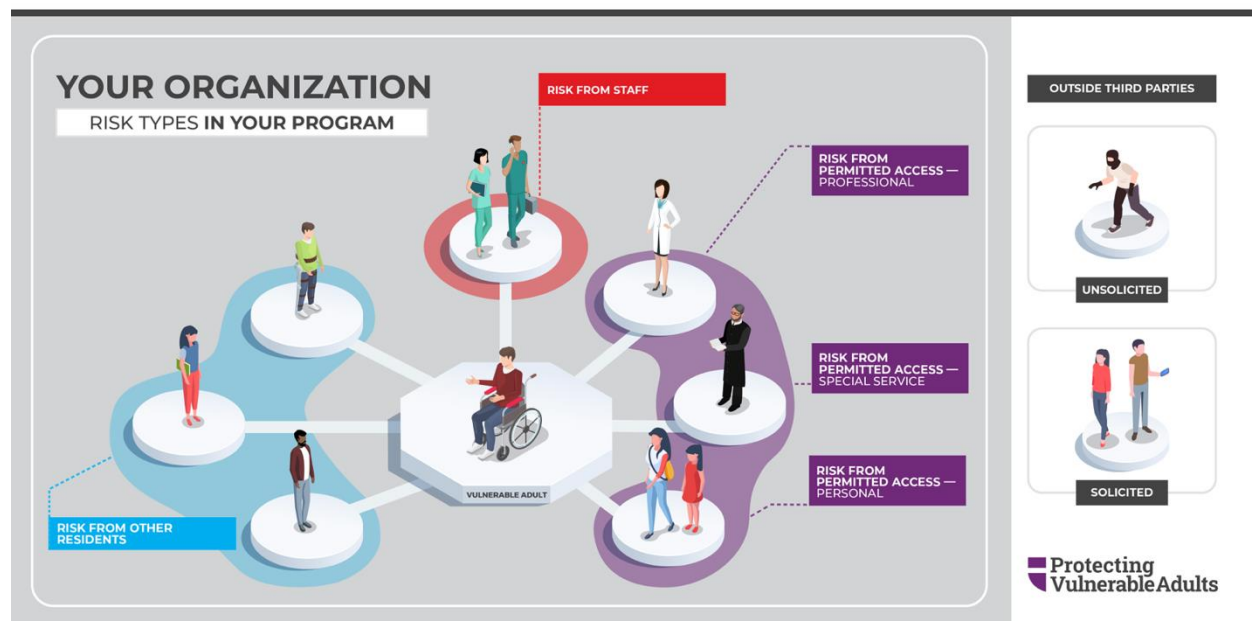
Each Avenue of Risk is governed by various Safety System elements – including Policies & Procedures.

Depending on the Program, separate Policies & Procedures must be created consistent with various Avenues of Risk. As an example, ALL Programs should have Policies related to the conduct of paid staff members and volunteers (if utilized). SOME Programs may require Policy expressions related to the conduct of visiting professionals, transport representatives, family members and others, depending upon existing Avenues of Risk within the Program.

Staff training associated with various Avenues of Risk should be consistent and recurring.

STRIKING A BALANCE

Every Program must strike a balance between a Program participant's:
-independence and autonomy vs. safety and supervision;
-privacy and dignity vs. hygiene and healthcare;
-relationships and intimacy vs. abuse and exploitation.

In every Program, the independence and dignity of each Program participant must be balanced with the participant's disability and ongoing continuity of care. This balancing is challenging, and may require reevaluation given changes in the participant's abilities, capacity and circumstances. An additional challenge is presented in attempting to strike this balance while providing care for *multiple* Program participants who coexist in the same facility or Program space.

Every Program must create and clearly communicate the Program's Philosophy, describing Program goals and the rights and protection of participants. Policies & Procedures must be consistent with the Program's Philosophy, providing clear guidance to staff members.

Where intimate relationships are concerned, the Program's Philosophy must strike a balance between independence and appropriate supervision and care (see below).

ENFORCEABILITY

Policies & Procedures must be meaningful, measurable and enforceable.

Clear Expressions
Policy provisions must be tailored to the Program and clearly expressed: specific, meaningful and understandable. Avoid vague or irrelevant Policy expressions. When Policies are *borrowed* from another Program or created from a template, they must be modified or edited for relevance.

Policies must be *Program-specific* and *facility-specific.*

Culture
For *enforceable* Policy expressions to exist, the Program must establish and maintain a culture of accountability. Well-crafted Policies & Procedures lack value if the organization gives 'lip service' to Policy expressions, using them to simply 'check the box'. Remember: Policies are what you DO ... not what you *SAY* YOU DO.

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POLICY PRINCIPLES

In general, Policies & Procedures are the written expression of Program requirements; what *is* or *is not* permissible or prohibited. Never assume that expected behavior is simply *common sense*, native to anyone falling under your Program umbrella. Instead, define expectations with precision.

In Writing
Policies must be written, and encompass content beyond the simple (yet inadequate) proclamation that the Program has a 'zero tolerance for abuse'.

Prioritize Safety and Respect
Policies & Procedures must clearly prioritize the safety and dignity of Program participants, as well as staff members.

Statement of Acknowledgement
Written Policies must be provided to each staff member and volunteer during the onboarding process, and each staff member or volunteer must sign and return a Statement of Acknowledgment and Agreement. Where feasible, a Statement of Acknowledgement and Agreement should be secured from those with *Permitted Access – Professional* (see *Risk Management Training*.)

Available to Stakeholders
Policies should be made available to other stakeholders, including Program participants and their family members.

Importance of Training
Without effective training, Policies & Procedures often become a sterile list of *dos* and *don'ts*. Effective Training provides the WHY, while Policies & Procedures provide the WHAT. Staff members and volunteers working to protect Program participants from abuse must first understand *how abuse is likely to unfold,* followed by Policies that describe what *is* and *is not* permissible behavior. Training related to risk and Policy compliance must be routine and recurring.

Retaliation
Policies & Procedures must clearly express a commitment to protect all staff members and volunteers from retaliation for following internal or external communication processes – *particularly those related to reports of abuse and neglect*.

Gift-Giving
Policies & Procedures must clearly describe what, if any, gift-giving may occur between staff members or volunteers and Program participants (i.e., seasonal, anniversary or birthday gifts). If permitted, Policies must clearly prohibit circumstances allowing a staff member to show favoritism through gift-giving. Remember, gift-giving is a common *grooming behavior,* and inappropriate favoritism may create an appearance of this behavior. Instead, consider seasonal celebrations or special events organized to involve *all* staff members and Program participants.

Boundaries

Policies & Procedures must clearly describe appropriate boundaries between staff members or volunteers and Program participants, as well as those *between* Program participants. Policies must address physical, verbal, emotional and relational boundaries, including intimacy and sexual interaction between participants, if permitted. In addition, Policies must address personal space and permitted forms of physical affection and interaction, *clearly defining* permitted and prohibited forms of touch and physical contact.

Policies and Procedures must define appropriate verbal interaction and communication *between* staff members, as well as communication with Program participants. Policies must clearly delineate appropriate dress in the Program environment.

Clearly expressed Policies have little value when not ENFORCED. Policies must include clear accountability and redirection should boundary violations occur, and require written documentation of Policy violations.

Policies do not create Culture. Instead, culture is created when staff members and volunteers recognize and respect clearly expressed boundaries, and are willing to 'call out' Policy violations.

Intoxicants

Policies & Procedures must prohibit the consumption of intoxicants by staff members within Program parameters or with Program participants.

Nudity

Policies & Procedures must prohibit nudity or any state of undress in the presence of Program participants. Any Program context requiring changing of clothing should be clearly identified and addressed.

Verbal Interactions – Staff Member to Staff Member or Volunteer

Policies & Procedures must create clear expectations that verbal interaction between staff members or volunteers should create and maintain a culture of respect. All inappropriate verbal interaction must be prohibited, including: sexually inappropriate or explicit comments or conversations, sarcasm, racial remarks, discriminatory statements and any other communication reasonably deemed offensive.

Verbal Interactions – Staff Member or Volunteer to Program Participant

Policies & Procedures must create clear expectations that verbal interaction between staff members or volunteers should create and maintain a culture of respect. All inappropriate verbal interaction with Program participants must be prohibited, including: sexually inappropriate or explicit comments or conversations, sarcasm, racial remarks, discriminatory statements and any other communication reasonably deemed offensive. In addition, Policies must prohibit harsh, demeaning, disrespectful or humiliating verbal interaction with Program participants.

<u>One-to-One Interaction</u>
When possible, one-to-one interaction with Program participants should occur in a location visible to others: inappropriate behaviors are less likely to occur in areas easily seen by others. To the extent possible, avoid interaction with Program participants in an area less easily observed by others.

When one-to-one unsupervised interaction is necessary, Program directors must minimize risk and create transparency in every possible context.

When possible, avoid transport resulting in one-to-one interaction with a single Program participant. When one-to-one transport is necessary, consider additional measures to minimize risk and create transparency (i.e., mileage and time documentation, verbal phone or radio check-ins, in-vehicle separation, video cameras or GPS tracking).

REPORTING

Creating a culture of communication requires clearly expressed Policy related to internal and external communication. Policies must clearly express *when, how and to whom* required communications must occur.

<u>Internal Communication</u>
All individuals interacting within the context of the Program (i.e., staff members, volunteers, Program participants, family members) must receive clear instruction concerning internal communication, including:
-REQUIRED communication with the Program leader or director, including suspicions of abuse and Policy or boundary violations;
-*How* and *when* information must be communicated;
-Documentation of internal communication; and
-Information that requires follow-up, investigation or reporting to external authorities.

*The scope of information communicated *internally* is considerably broader than the scope of that reported to appropriate *external* authorities; matters communicated internally do not necessarily rise to the level of a mandatory report of abuse or neglect to external authorities. As an example, a Policy violation– which should be reported internally– does not necessarily require *external* communication.

<u>External Communication</u>
Every Program must create a clearly communicated Abuse or Neglect Reporting Process requiring staff members and volunteers to report suspicions of abuse or neglect to relevant licensure or law enforcement officials. Every staff member and volunteer must understand and comply with the written Reporting Process.

<u>Consequences for Violation</u>
To facilitate staff commitment to internal and external reporting requirements, Policies & Procedures must delineate clear consequences for failure to report misconduct or Policy violations.

<u>Post-Report Response</u>
Policies & Procedures should outline appropriate Procedures following a report of misconduct or Policy violation, which may include verbal or written redirection, notification to a Program participant's guardian, administrative action or other consequences.

PERIODICALLY REFRESH
Policies & Procedures must be periodically refreshed. Programs change due to Program growth, licensure or legislative requirements, facility modifications and staffing challenges. Policies must be periodically reevaluated to ensure continued relevance or need for adjustment, to ensure that all Avenues of Risk within the population and physical plant are addressed.

RECORD RETENTION
All records related to Policies & Procedures must be preserved <u>indefinitely</u>, preserving all past Policy variations with clear notations regarding dates of relevance, as well as signed Statements of Acknowledgement associated with employee and personnel records. Allegations and claims related to sexual abuse and other forms of misconduct may be initiated *years* after the alleged occurrence, and the Program must be prepared to demonstrate *in the future* the Safety System elements in place at the time of the alleged violation.

INTIMATE RELATIONSHIPS
Notwithstanding a disability, Program participants may pursue relationships with others, which may include various forms of intimacy.

Intimate relationships between a Program participant and staff member, service provider or volunteer are NEVER appropriate. Policies & Procedures must clearly forbid intimate interaction between staff members or service providers and Program participants.

<u>Philosophy</u>
Striking a balance between Patient Rights and Patient Protection creates a unique challenge. Humans are sexual creatures – a truism notwithstanding any intellectual or developmental disability. The existence of a disability, however, may present additional challenges related to consent, sexuality, appropriate forms of touch, personal boundaries, manipulation, when and how to say 'no', and other considerations.

Because there is no one-size-fits-all disability, there is no one-size-fits-all Philosophy providing guidance concerning relationships and intimacy. Instead, each Program must establish its own Philosophy based on the population served, because issues involving intimate relationships and sexual expression are unavoidable. The creation of an *Intimate Relationship Philosophy* should be followed by a *Decision-Making Framework.*

If intimate relationships between Program participants are permitted (in accord with the Program's Philosophy), a clear *Decision-Making Framework* must be utilized rather than making decisions in an *ad hoc* manner as Program participants engage in intimate behaviors.

Decision-Making Framework
The Program's *Decision-Making Framework* must outline permissible forms of relationship and intimacy between Program participants, in accordance with the Program's Philosophy.

The *Decision-Making Framework* must address the following issues, memorializing each as written Policy expressions:
-*Whether* physical intimacy is permitted
-*When* physical intimacy is permitted
-*How* physical intimacy is permitted
-*With whom* physical intimacy is permitted
-Issues of *consent*
-Documentation requirements
-Supervisory requirements
-Other issues specific to the population served (i.e. mobility issues)

Consent
Consent forms a central concept. Consent encompasses the active – *and ongoing* – process of clarifying and respecting the boundaries of other individuals, including physical, verbal and emotional boundaries, personal space, forms of affection, as well as boundaries related to relationships, intimacy and sexual interaction.
Many individuals with disabilities have difficulty voicing or clarifying boundaries, making it difficult for them to consent to sexual acts.

It is not enough for *one* of the individuals to have capacity to consent; if *either* party lacks capacity to consent, the sexual behavior is *nonconsensual,* and nonconsensual sexual behavior is problematic. As well, where some types of disabilities are concerned, it's not whether an individual communicates 'no', but an inability to say 'yes'.

CONSENT must be clearly addressed in the *Decision-Making Framework,* because *If consent is not clear, the sexual interaction may constitute **sexual abuse** subject to mandatory reporting requirements.*

The *Decision-Making Framework,* once established, governs sexual behavior between Program participants. Remember: one individual's right to sexual expression may be experienced by another as *sexual abuse.*

Policies
Policies & Procedures must address intimate relationships between Program participants, consistent with the Program's Philosophy and *Decision-Making Framework.*