



# Kulanu Parent/Guardian Handbook

Kulanu takes many steps to ensure the safety and wellbeing of the individuals we serve. Kulanu understands that each individual has the fundamental right to receive quality services, treatment, and care in a safe environment. Our individuals also have the right to be treated with dignity and respect, and to be free from abuse and discrimination.

The intent of this handbook is to provide an overview of the systems at Kulanu that are in place to protect your family member. If you have any questions or would like additional information, please do not hesitate to contact the Quality Assurance Specialist or the Corporate Compliance Officer.

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## EMPLOYEE SCREENING

To ensure that individuals who join Kulanu are well qualified and have a strong potential to be productive and successful, it is our policy to check the employment references of all applicants.

All new staff hired by Kulanu must be screened by the Agency's criminal background checking process prior to employment. The criminal background checking program is conducted by the Human Resources Manager.

An applicant's refusal to sign a background search consent form will disqualify the individual from employment with Kulanu.

As part of its comprehensive effort to protect the health and safety of the individuals we support, Kulanu complies with NYS and OPWDD regulations by fingerprinting everyone in agency positions who have *regular and substantial unsupervised or unrestricted physical contact* with the individuals we support in OPWDD and Medicaid funded programs.

This section provides New York State OPWDD-specific policies and procedures for fingerprinting. These OPWDD specific procedures do not apply to the following groups of employees who work in programs not under OPWDD jurisdiction:

- Employees of the Education department
- Sunday Respite Program
- Holiday/Summer Respite Programs
- Torah L'Kulanu
- Administrative and Support Staff

For these groups of employees the Program Departments are responsible for complying with regulatory and Kulanu Agency policies concerning background checks.

Before being authorized to drive for Kulanu, employees are screened through the NY LENS (License Event Notification System) and are then monitored on an ongoing basis.

## LAWS, REGULATIONS, AND AGENCY POLICIES AND PROCEDURES

OPWDD (Offices for People with Developmental Disabilities) is a state oversight agency that governs many of our programs. The most stringent regulations in terms of protection of individuals are OPWDD's 624, 625, 633, and 635 regulations, which are based on Mental Hygiene Law. Kulanu's agency-wide policies and procedures reflect those regulatory mandates, which cover the following areas:

Part 624 and 625: Protection of individuals, and reporting and management of incidents and abuse or neglect allegations.

- Mandatory reporting of abuse and significant incidents
- Care and protection of individuals with developmental disabilities involved in an incident or report of abuse or neglect
- Investigation and plans for corrective action of incidents and abuse
- Regulations for operations of Agency Incident Review Committee to ensure comprehensive review of specific incidents and allegations, and examination of trends/patterns

Part 633: Protection of individuals receiving services in facilities operated and/or certified by OPWDD.

- Conduct training and background checks, including criminal history checks of staff
- Participant rights and responsibilities
- Minimal standards for care and treatment
- Medical treatment and medication administration
- Behavioral interventions and research

Part 635: General quality control and administrative requirements.

- Environmental requirements
- General health and safety requirements

Agency policies and procedures are in place to ensure the implementation of these regulations. Other Agency policies, procedures, and guidelines that are in place to protect our participants include, but are not limited to, Vehicle Safety Policies, Emergency Management Plans, and Site Security Plans.



# INCIDENT & ABUSE MANAGEMENT PROCESSES

Occurrences which are especially serious may be classified as reportable incidents. Some reportable incidents may be considered to be reports of abuse or neglect depending upon whether they meet legal, regulatory, and organizational classification standards. While these events are rare, we have stringent protocols in place in the event they do occur.

## **Mandatory Reporting**

All employees are mandated by Kulanu to report abuse, mistreatment, neglect, and other reportable incidents immediately to a supervisor or administrator. Failure to report abuse may result in termination from employment, placement on a lifetime exclusion list, and in some cases, criminal prosecution.

## **First Actions & Protections**

When an administrator observes or receives notification of an incident or allegation of abuse, his or her first priority is always to protect the individual from further harm. This may involve seeking medical evaluation, declaring an area off-limits, and/or immediate removal of staff alleged to have committed acts of abuse. Administrators are required to take such actions under all circumstances, whether or not the participant appears to be harmed or if it initially seems that staff may not have been at fault.

## **Notifications**

The next step is to make notifications within required timeframes. This always includes parents, the Quality Assurance Specialist, Corporate Compliance Officer, Executive staff, and your child's Medicaid Service Coordinator if he or she has one. Depending upon the specific circumstances, other mandated contacts might include:

- Other Kulanu department directors and/or other provider agencies
- Child Protective Services or Adult Protective Services
- The NY Justice Center for the Protection of People with Special Needs
- OPWDD
- Mental Hygiene Legal Services
- The Police

## **Investigation**

All incidents, allegations, and reports of staff misconduct involving individuals served must be investigated. The most egregious incidents and allegations may be investigated by the police or OPWDD while other significant incidents and allegations of abuse are investigated by specially trained Kulanu incident investigators. Less serious events are investigated by program administrators. Investigations are comprehensive and must follow a specific format. Every effort is made to complete all investigations within two weeks of discovery of the event, sooner if possible.

## **Kulanu Incident Review Committee**

The Incident Review Committee (IRC) meets at least quarterly or within one month of any serious incident. This committee is comprised mainly of department administrators who have been trained in applicable regulations and laws, including stringent confidentiality requirements. Other members serving on the committee may include direct service staff, psychologist, medical professional, etc. Investigations are reviewed by IRC members, who determine whether the report is comprehensive and whether additional investigation is necessary. Corrective actions taken by department directors are also reviewed. The IRC makes additional recommendations for corrections when necessary to further protect individuals served. All corrective actions and recommendations are followed up for evidence of implementation by the Quality Assurance Specialist and in some cases are also followed up by state oversight agencies.

## **Your Right to Access Incident & Abuse Records**

All parents have a right to a detailed summary of investigative findings involving their child, as well as corrective actions related to occurrences, incidents, and allegations. In most cases, parents are legally entitled to access a copy of the investigative report and other documents, with identifying information redacted. All such requests should be submitted to the Quality Assurance Specialist. Kulanu will release documents only when authorized by law to do so.

## **Abuse Prevention Activities**

Training on abuse prevention and reporting is conducted on an ongoing basis in all departments. The Quality Assurance Specialist and other administrators conduct unannounced visits to all programs.

## EMERGENCY MANAGEMENT

It is Kulanu's policy to take all reasonable steps to provide a safe and healthful environment for the individuals we serve. Its health and safety practices and regulations comply with federal, state and local laws. Staff must immediately report any unsafe condition to the Division Leader and/or designee. Staff who violate safety standards, cause hazardous or dangerous situations, fail to report or, where appropriate, remedy such situations, may be subject to disciplinary action, up to and including termination of employment. Kulanu conducts ongoing training regarding the Emergency Management Plans.



## HIPAA CONFIDENTIALITY & RECORDS ACCESS LAWS

If your child attends our school program, his or her educational records are protected by the Family Educational Rights and Privacy Act (FERPA). This law is superseded by HIPAA (the Health Insurance Portability and Accountability Act), which is a more stringent law that applies to all of our service recipients. HIPAA is a federal law designed to protect medical records and other personal health information. It applies to Kulanu service recipients because the services they receive are based on a clinical diagnosis. All Kulanu employees are trained in HIPAA law and its confidentiality requirements.

### **PROTECTED HEALTH INFORMATION**

During the normal course of business and service provision, Kulanu receives, discloses and utilizes Protected Health Information (PHI) of individuals served for a variety of reasons. PHI is any information relating to past, present or future physical or mental health of an individual; the provision of health care; or the payment for health care, which also contains information that may be used to identify the individual. Examples of materials which may contain PHI include skill assessments, individualized plans, medical records, photographs & videotapes, clinical meeting notes, and clinical evaluations. PHI may be in electronic form or hard copy form.

### **CONFIDENTIALITY**

In the course of their regular job duties, Kulanu employees often have to share your child's PHI with each other, or with other providers. Our organization must receive authorization from parents or guardians to disclose PHI to other providers or entities. Kulanu employees are informed that they must only provide the minimum amount of PHI necessary. Our employees are also informed that they must exercise care at all times when discussing confidential, sensitive, or personal health information. Measures are always taken to ensure that your child or adult family member's PHI is not accessible to anyone who is not authorized to see it. Paper documents must be kept in a secure, locked area, and procedures are in place to protect electronic PHI.

### **ACCESSING YOUR CHILD OR ADULT FAMILY MEMBER'S PHI**

As an authorized party, you are entitled to see your child's PHI and receive copies. You can also request changes to your child's PHI, ask to see a list of disclosures, establish who has access to your child's PHI, and request restrictions on the use and disclosure of your child's PHI. Please note that all such requests must be made in writing and are subject to approval, based on reference to the law. If you believe that a privacy right has been violated you can contact the Corporate Compliance Officer and/ or file a complaint via the Department of Health and Human Services Office for Civil Rights Complaint Portal.

## PARTICIPANT RIGHTS & RESPONSIBILITIES

Your child or adult family member has the same legal, human, and civil rights as others regardless of the fact that he or she has a developmental disability. All individuals served at Kulanu shall be given the respect and dignity that is extended to others regardless of race; religion; national origin; creed; age; gender; ethnic background; sexual orientation; other handicap; or health condition, including being tested for or diagnosed as having an HIV infection. In addition, there shall be no discrimination for those or any other reasons.

The following rights and responsibilities are based on Mental Hygiene Law and outlined in OPWDD 633 regulations. These rights were intended to establish a living and/or program environment that protect service recipients and contribute to providing a setting in keeping with the community at large, to the extent possible, given the degree of disability of individuals served.

No person shall be denied:

- A safe and sanitary environment
- Freedom from physical or psychological abuse
- Freedom from corporal punishment
- Freedom from unnecessary use of mechanical restraining devices
- Freedom from unnecessary or excessive medication
- Protection from commercial or other exploitation
- Confidentiality with regard to all information contained in the individual's record and access to this information, subject to law. In addition, confidentiality of HIV-related information must be maintained in accordance with Public Health Law.
- A written individualized plan of services which has as its goal the maximization of an individual's abilities to cope with his or her environment, fosters social competency (which includes meaningful recreation and community programs and contact with others who are not disabled), and which enables him or her to live as independently as possible. Such right also includes:
  - The opportunity to participate in the development and modification of an individualized plan of services, unless constrained by the individual's ability to do so;
  - The opportunity to object to any provision within an individualized plan of services, and the opportunity to appeal any decision with which the individual disagrees, made in relation to his or her objection to the plan; and
  - The provision for meaningful and productive activities within the individual's capacity although some risk may be involved, and which take into account his or her interests;
- Services, including assistance and guidance, from staff who are trained to administer services adequately, skillfully, safely and humanely, with full respect for the individual's dignity and personal integrity;
- Appropriate and humane health care and the opportunity, to the extent possible, to have input either personally or through parent(s), or guardian(s), or correspondent to participate in the choice of physician and dentist; or the opportunity to obtain a second medical opinion;

- Access to clinically sound instructions on the topic of sexuality and family planning services and information about the existence of these services, including access to medication or devices to regulate conception, when clinically indicated. This right includes:
  - Freedom to express sexuality as limited by one’s consensual ability to do so provided such expressions do not infringe on the rights of others.
  - The right to make decisions regarding conception and pregnancy pursuant to the mandates of applicable State and Federal law.
  - The right of facilities to reasonably limit the expression of sexuality, including time and location thereof, in accordance with a plan for effective facility management.
- Observance and participation in the religion of his or her choice, through the means of his or her choice, including the right of choice not to participate;
- The opportunity to register and vote and the opportunity to participate in activities that educate him or her in civic responsibilities;
- Freedom from discrimination, abuse or any adverse action based on his or her status as one who is the subject of an HIV-related test or who has been diagnosed as having HIV infection, AIDS or HIV-related illness;
- The receipt of information on or prior to admission, regarding the supplies and services that the facility will provide or for which additional charges will be made, and timely notification of any changes thereafter;
- The opportunity, either personally or through parent(s), guardian(s) or correspondent to express without fear of reprisal, grievances, concerns and suggestions to the Executive Director of Kulanu; the commissioner of OPWDD; and the Justice Center for the Protection of People with Special Needs.

Implementation of many of the above rights entails inherent risks. Individuals assume responsibility for those risks typically associated with participation in normal activities; to the extent, the person’s abilities permit such participation.

If you feel that your son or daughter’s rights have been violated, or if you have any other concerns regarding the care and treatment of your son or daughter, please bring these concerns to the immediate attention of your Division Leader. If the issue cannot be resolved to your satisfaction, you have the right to express a grievance to the Corporate Compliance Officer and Quality Assurance Specialist and/or report your concerns to oversight authorities.

## GRIEVANCE PROCEDURES

If you have concerns or questions about your child's treatment and/or care, we encourage you to try to resolve problems informally at first by speaking to teaching staff and/or administrative staff. If no satisfactory resolution is reached at this level, you should contact your program director in writing explaining the problem (via email or paper mail). If you are still not satisfied, contact the Corporate Compliance Officer and Quality Assurance Specialist in writing and/or request a meeting.

OPWDD 633 Regulations provide a formal process for specific objections related to Home and Community Based Services waiver services and other programs/services certified/regulated by OPWDD. You can find these regulations on the OPWDD website at [OPWDD.ny.gov](http://OPWDD.ny.gov) or you can contact OPWDD at (518) 474-3625 for further information.

If you believe that Kulanu has violated a requirement of Part B of the Individuals with Disabilities Education Act (IDEA) or State law/regulation related to the education of students with disabilities, you may submit a written, signed complaint to the New York State Education Department at [NYSED.gov](http://NYSED.gov) or by contacting SED at (518) 474-3852

If at any time you believe that your child's health, welfare, or safety is at risk, you have the right to contact any other organization or individual who may be influential in ensuring that your grievance is heard and acted upon.