Important Policies to Note
Updated 10.7.26

Services provided at an employee's home

Work conducted at an employee's home is prohibited without prior authorization from the agency. Authorization can only be given if the employee is a family member of the person receiving services.

Conduct with People We Support

- Employees cannot bring family members and/or friends to work while supporting an individual we serve
- Employees cannot bring animals to work while supporting an individual we serve. An exception may be made if there is a request for a reasonable accommodation for a service animal.
- Employees are prohibited from engaging in romantic, intimate, sexual, or otherwise inappropriate personal relationships with any person supported by Advocates Incorporated. Employees must maintain professional boundaries at all times and avoid any relationship that could impair professional judgment, create a conflict of interest, exploit a position of trust, or compromise the health, safety, rights, or well-being of a person supported by Advocates Incorporated.

Service Transportation Provided by a Non-Mentor

Prior authorization is required for a non-mentor driver to provide service-related transportation. A mentor is prohibited from providing services (as a passenger in the vehicle) while a non-mentor driver is providing service-related transportation unless the non-mentor driver has received prior authorization from the agency. The non-mentor driver must submit a copy of their driver's license and proof of automobile liability insurance from their automobile insurance policy to Advocates' Human Resources as part of the authorization process prior to providing service-related transportation

Guidance for when an Individual is admitted to a Hospital, Emergency Room, Residential School, or Other Institution

Medicaid or State funded services ***may not*** be provided by Advocates employees, including but not limited to, mentor supports for Community Habilitation and/or Respite, while an individual is admitted to a hospital, emergency room, nursing home/skilled nursing facility, residential school, or other institutional setting; to do so is considered a duplication of service.

Services may be provided before the time of *admission to the hospital, ER or facility on the day of admission and may resume after the time of **discharge from the hospital, ER or facility on the day of discharge.

*Admission to a hospital/ER is defined as when a medical bracelet is placed on the individual by hospital/ER personnel. Admission to other facilities is defined as when a medical bracelet is placed on the individual and/or when the facility officially "takes custody" of the individual and/or defines the individual as admitted.
** Discharge from a hospital/ER or other facility is defined as when the facility officially defines the individual as discharged and no longer in the facility's care/custody.

Participation in Hazardous Activities

During service hours, Mentors are prohibited from supporting individuals to participate in hazardous activities. Hazardous activities are defined as activities that create a substantial risk of injury. Mentors are prohibited from supporting individuals to sign liability waivers. If an individual signs a liability waiver independently or with the support of their family/guardian, Mentors must obtain guidance from their agency supervisor to assess the risk

involved in any activity prior to supporting an individual to participate. **If participation in an activity requires the Mentor to sign a liability waiver, Mentors are prohibited from supporting individuals to participate in the activity without the approval of their agency supervisor.** Mentors may not support an individual to participate in the activity if the risk of injury is substantial.

Hazardous activities that are prohibited during service hours include, but are not limited to:

- Operating or riding on high-speed motorized vehicles, including but not limited to all-terrain vehicles, snowmobiles, jet skis and go karts.
- Use of weapons, including but not limited to firearms, BB guns and paintball guns.
- Mentors can support people with hobbies like woodworking and building furniture during CH time, but cannot use or support the individual to use power tools due to safety/liability concerns.
- Driving without a driver's license, with the exception of supporting an individual to participate in driving lessons from a driving school or from a professionally licensed instructor. When supporting an individual to take driving lessons, Mentor's vehicle may not be utilized.
- Any activity that creates a substantial risk of injury.

Injury

- As the people that we serve continue to lead increasingly active lives in the community the possibility of injury unfortunately increases. The following policy is in place to help ensure that in the event of an injury, the person's injury is not inadvertently made worse:
- **In the event of an injury, employees must follow these instructions: if a person is not ambulatory (able to walk) on their own, they should not be moved. The person's parent/guardian/circle of support designee should be contacted and informed of the situation. Unless the parent/guardian/circle of support designee instructs otherwise, 911 should be called. If the parent/guardian/circle of support designee is unreachable, 911 should be called.**

Situations Involving a Motor Vehicle When the Individual Is In The Vehicle

If you are providing transportation for someone receiving services from Advocates and the vehicle you are driving/in comes into contact with any other object regardless of damage or injury you must:

1. Call 911 to access emergency medical attention if needed. If the individual is injured notify designee immediately.
2. Notify the police regarding the accident
3. Remain on the scene until the police arrive to take a report
4. Notify the Support Broker or Coordinator
5. Notify Human Resources
6. Notify Compliance/Incident Management
7. Notify the circle of support designee

NOTE: Auto accidents and/or moving violations may be considered an OPWDD Reportable Incident depending on the circumstances of the situation and/or if the event results in injury or significant risk to the health/safety of an individual receiving services.

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Purchase or Use of Alcohol and/or Cannabis

This provides clear guidance to mentors on how to respond when an individual supported under Self-Direction expresses a desire to purchase or use alcohol or cannabis, while maintaining compliance with OPWDD regulations, Medicaid funding rules, and health and safety requirements.

- Individuals receiving self-directed services have the right to make personal choices, including those related to legal substances, as long as those choices do not violate law, Advocates guidance, or health and safety standards.
- Mentors may not purchase, transport, or handle alcohol or cannabis for the individual supported.
- If the individual wishes to purchase or use alcohol or cannabis, it must be done using their own personal money and in compliance with New York State law and Advocates guidance. Mentors will maintain professional boundaries and not participate in substance use.
- The mentor will guide the individual to understand that engaging in activities related to alcohol or cannabis is not an appropriate or productive use of Community Habilitation time. Instead, this time should be dedicated to building skills, fostering independence, promoting community inclusion, and supporting health and safety.
- If the individual's request or use presents a health, behavioral, or safety concern, the mentor must follow the person's Safeguards and notify appropriate team members of their concern.
- In New York State, individuals must be 21 and older to use alcohol or cannabis. Cannabis consumption is prohibited in vehicles, schools, workplaces, public transportation facilities, state parks, beaches, playgrounds, and on federal property. Local municipalities may impose additional restrictions, so individuals must comply with local ordinances. Alcohol consumption in public places, including streets, sidewalks, and parks is generally illegal unless a special permit or designated drinking zone is in place. Open container laws apply statewide, and violations may result in fines. Mentors will remind individuals that substance use in public spaces can lead to legal consequences and is not appropriate during Community Habilitation time. If an individual chooses to consume substances legally, it should occur in a private setting that complies with state and local laws.

Services provided to school age individuals

Medicaid and/or NY State Funded services cannot be provided at the same time as academic instruction or other services provided/funded by the NYSED/school district regardless of service delivery location; this includes mentor supports. Mentors cannot be clocked into either direct or indirect time during academic instruction or other services provided/funded by the NYSED/school district.

Medicaid Funded services cannot be provided during hours when NYSED/school district services are usually scheduled but unexpectedly cancelled (ex: bad weather, power outage, water main break, computer system shutdown, etc.) or when a student is unable to attend due to illness or other activity (ex: doctor or dental appointment). This includes mentor supports. Mentors cannot be clocked into either direct or indirect time. *Note: State Funded Family Reimbursed Respite through FSS or a Self-Direction Budget can be used when school is cancelled, a student is sick or has an appointment.*

Medication Administration

As per NY State, Advocates' employees cannot administer medication. If the person receiving services cannot administer their own medication and a family member or natural support is not available to administer

medication, the person receiving services/designee should work with their Care Manager to identify a service that can administer medication outside of Advocates' service hours.

The only exception to this may be emergency life-saving medication such as an epi-pen, with training and oversight by a medical professional.

Hiring Family Members

As per the OPWDD Guidance, there are specific restrictions regarding hiring family members as self-hired staff.

- The family member is at least 18 years of age.
- The family member is not the parent (natural, adoptive, step or parent-in-law), legal guardian, spouse, or adult child (natural, adoptive, step or child-in-law)) of the person receiving services.
- The service is a function not ordinarily performed by a family member and is necessary, authorized and would otherwise be provided by another qualified provider of waiver services.
- The family member does not reside in the same residence as the person receiving services.
- A family member may not be hired to provide Live-In Caregiver or Paid Neighbor services.

NOTE:

- Family members are defined as those related to the individual by blood or marriage including siblings (natural, adoptive, step or siblings-in-law), aunt, uncle, cousin, grandparent or grandchild and spouses of aunts, uncles, cousins, grandparents or grandchildren.
- Same Residence is defined as an address/home recognized by the municipality (city, town, village, etc.) as a single-family dwelling. For a residence to be considered a different residence the address/home must be recognized by the municipality as a multi-family or separate dwelling.
- Family members hired as Mentors and/or Individuals/Circles must report any changes in the status of a family member hired as a Mentor that impacts the mentor's eligibility to work with their family member to the Agency Broker, Community Habilitation/SD/FI Coordinator, Human Resources and/or Compliance immediately upon discovery of the change.

Securing PHI (vaccination status *IS* PHI)

- All paper documentation must be secured at all times.
- Electronic devices, containing and/or used for service documentation, must be password protected and secured at all times.
- Do NOT share your username/password with others.
- Do NOT email or text information about an individual using non-encrypted systems.
- Do NOT post PHI to social media, the My Choice Google Group or other public forums
- All property belonging to the organization must be returned upon termination or separation of employment. This includes but is not limited to the employee handbook, building keys/fobs and agency related documents and files; both hard and electronic copies are to be considered property of Advocates. If not returned, the company may take action to recoup the replacement costs/and or seek the return of the property through appropriate actions.

NOTE: See included HIPAA/HITECH – Privacy & Security Basics informational sheet for further details

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Social Media and HIPAA

- Photos can be taken only with the permission of the person being photographed (or their parent/guardian if under 18 years of age).
- When possible, photos of and for the person receiving services should be taken using the camera, phone or device of the person receiving services.
- If a person receiving services would like to post photos on Social media (for example, Facebook, Instagram, Twitter), the person receiving services can be supported to post them on their own Social Media.
- It is NOT recommended that employees post photos of the individuals they support on their (the employee's) personal Social Media account.

NOTE: Posting a photo of an individual on an employee's social media account can result in a HIPAA violation. A person's likeness is considered individual identifying information. A simple reference such as "a great day with my client" could be considered a HIPAA violation especially if additional information like the agency name or any reference to the type of services provided are also included.

Recording/Monitoring Disclosure and Consent of Mentors

- Audio and/or video recording/monitoring devices may not be used by individuals/designees receiving services provided by Advocates during service hours, when the use of such devices may result in the recording/monitoring of an Advocates' employee, without the written consent of the employee.
- Prior to using a recording/monitoring device for any purpose during service hours, the individual/designee must notify Advocates by contacting the FI Coordinator (SDS w/Budget) or Coordinator (ASCH) at the phone number and/or email address provided on the *Recording/Monitoring Disclosure and Consent Policy Statement*.
- Once notified, the FI Coordinator will inform the individual's Broker or SD Coordinator of the planned use of a recording/monitoring device during service hours. The Broker, SD Coordinator or Coordinator will contact any affected employee(s). The employee(s) will be given the option to consent or decline to be recorded/monitored during service hours. Employee consent or non-consent will be documented in writing on the *Employee Consent for Recording/Monitoring* form, to be signed and dated by the employee, the individual/designee and an agency representative.
- If an employee declines to be recorded/monitored and the individual still wants to use a recording/monitoring device during service hours, a different employee may need to be hired. That new employee must sign the *Employee Consent for Recording/Monitoring* form before beginning work. Any additional employees hired once a recording/monitoring device is in use during service hours must sign the *Employee Consent for Recording/Monitoring* form.

Note: Ring doorbell, driveway cameras, Smart Home devices do not require consent. Alexa and similar devices do not require consent unless the device is specifically programmed to record/monitor during service hours.

Prohibition on Gifts, Loans, Contracts, Agreements and Arrangements Between Employees and People Receiving Services.

Advocates is committed to providing high-quality, person-centered services to individuals with developmental disabilities in an atmosphere of the utmost trust, honesty, and integrity. To this end Advocates' employees,

contractors, corporate officers, and Board members may not accept purchased gifts, gratuities, and/or loans of any kind from a service recipient or enter into contracts, agreements and/or arrangements, whether financial or for goods/services, with a service recipient, family member or guardian of a service recipient other than those contracts and agreements required/authorized by regulations for the provision of authorized services. The limited exception to these prohibitions is if the employee, contractor, corporate officer, or Board member is an immediate family member or guardian of the service recipient and the otherwise prohibited activity takes place outside of service hours. Immediate family member is defined as service recipient's spouse/partner, natural/adoptive parent, child, or sibling, stepparent, stepchild, stepsibling, parent-in-law; child-in-law; sibling-in-law; grandparent or grandchild, spouse of a grandparent or grandchild, aunts, uncles, cousins, or guardian.

Request to Accompany During Community Habilitation Time Guidance:

1:2 (Group) Services

What is it? One Mentor provides Community Habilitation services to two people who both receive services from Advocates at the same time.

- Requests must be submitted at least two weeks in advance.
- Both individuals must receive services from Advocates, either both through Agency Supported or both through Self-Hired and agree to 1:2 (Group) service.
- Advocates must review safeguards to ensure support can be provided safely.
- The Mentor must agree to provide services to both individuals.
- Your Coordinator or Broker will submit the approval request.

Request for Someone to Accompany During Services

What is it? An additional person is present during Community Habilitation services but is not receiving services and creates no additional responsibility for the Mentor.

- Requests must be submitted at least two weeks in advance.
- The accompanying person is not receiving services.
- The Mentor remains responsible only for the person receiving services.
- The accompanying person must be at least 18 years old, and a family member or legal guardian.
- If approved, an agreement must be signed.
- Your Coordinator or Broker will submit the approval request.

Exception: The Child of an Individual Receiving Support

No approval is needed when a person receiving Community Habilitation services has their own child present, provided that:

- The mentor is never responsible for the child.
- The mentor is never left alone with the child.
- The parent remains fully responsible for the child at all times.
- Services remain focused on the person receiving services.

Respite Services:

In-Home Respite: Overnights for respite are limited to 42 nights from January 1st through June 30th and 42 nights from July 1st through December 31st.

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Community Classes

Advocates requires that community classes be provided by adults 18 years or older. Advocates reserves the right to make payment directly to the provider for community classes in lieu of reimbursement to the individual/family. If payment is made directly to the provider a W-9 form must be submitted to Advocates.

Medicaid Compliance Reminder:

Self-Hired and Agency Supported Self-Directed Community Habilitation as well as Self-Hired Respite, Support Broker, Fiscal Intermediary Services (FI), Individual Directed Goods and Services (IDGS), Live-In Caregiver and Paid Neighbor are funded by **Medicaid.** All Information submitted regarding these services must be complete, accurate and truthful. ***Submitting and/or signing false information may lead to a charge of Medicaid fraud.***

If you have questions on any policy, please contact Advocates for clarification, we are here to help!

(315) 469-9931; teamwork@advocatesincorporated.org