Protecting Our Service Recipients

Information and Resources for Parents

Eden II Programs
SERVICE. SCIENCE. PASSION.
Our organization takes many steps to ensure the safety and well-being of our service recipients. At Eden II, we understand that each individual has the fundamental right to receive quality services, treatment, and care in a safe environment. The individuals we serve also have the right to be treated with dignity and respect, and to be free from mistreatment and discrimination. This handbook provides you with an overview of the many systems at Eden II that are in place to protect your child or adult family member. If you have any questions or would like additional information, please do not hesitate to contact the director of the department through which your child or adult family member receives services. You may also contact other senior administrators with your questions or concerns, including the Executive Director and the Director of Quality Assurance.

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EMPLOYEE SCREENING

Applicants for employment must provide professional reference checks that are verified by our Human Resources Department. Further, Mental Hygiene Law, Social Services Law, and Education Law mandate a number of additional background checks for all prospective employees of Eden II, including those working in administrative support positions, and others (e.g. interns, and certain volunteers, consultants, and contractors):

- Prospective employees and others are fingerprinted by respective state oversight authorities to determine if they have a criminal history or pending criminal charge. Those who are cleared to start employment are monitored on an ongoing basis thereafter.
- The Office of the Medicaid Inspector General requires checks of three government databases for all prospective employees and others (including board members and vendors) to ensure there is no history of fraud and theft.
- Before being authorized to drive for Eden II, employees are first screened through the NY LENS (License Event Notification System) if they hold a New York license, and are then monitored on an ongoing basis. Those who hold a license in another state must provide proof of their driving history via a report from the DMV (Department of Motor Vehicles).

Employees are provided with a comprehensive overview of participant protection policies prior to working with service recipients. Those policies are summarized in a handbook known as the Participant Protection Packet (feel free to contact your director to request a copy). No one is permitted to work with a service recipient unless they have received this training. Employees also receive an overview of
blood-borne pathogen exposure control and universal precaution protocols prior to working with service recipients and many of our staff are also certified in First Aid and CPR. All staff working in OPWDD programs must be trained in OPWDD’s choking prevention curriculum. In order to safely and effectively manage behavioral crises which might arise, our employees are also trained in behavior management and crisis intervention strategies up to and including the use of approved physical restraint procedures if needed.

New hire orientation training is provided within three months and includes, but is not limited to, a review of professionalism, participant rights, ethics and compliance, occurrence identification & documentation, reporting and prevention of abuse & neglect, incident response and reporting, vehicle safety, community safety, and guidelines for the provision of vigilant supervision. We provide additional orientation training for employees who are hired or promoted into supervisory positions. Follow-up training in participant protection and abuse prevention is provided annually for all staff at departmental staff development days and training opportunities are available for all staff on an on-going basis.

**LAWS, REGULATIONS, AGENCY POLICIES & PROCEDURES**

Many laws and regulations govern Eden II operations and some are specific to the treatment, care, and protection of the individuals we serve. The most stringent regulations in terms of protection of service recipients are OPWDD’s (Offices for People with Developmental Disabilities) 633, 624, 625, and 635 regulations, which are based on Mental Hygiene Law. OPWDD is a state oversight agency that governs many of our programs. Eden II agency-wide policies and procedures reflect those regulatory mandates, which cover the following areas:
OPWDD 633 Regulations: Protection of Individuals Receiving Services in Facilities Operated and/or Certified by OPWDD. Areas Include:

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

OPWDD 624 and 625 Regulations: Protection of Individuals, and Reporting and Management of Incidents and Abuse or Neglect Allegations. Areas Include:

- Mandatory reporting of abuse and significant incidents
- Care and protection of people with developmental disabilities involved in an incident or report of mistreatment, abuse, or neglect
- Investigation and correction of incidents and abuse
- Regulations for operations of agency Incident Review Committees to ensure comprehensive review of specific incidents and reports of abuse or neglect, and examination of trends/patterns

OPWDD 635 Regulations: General Quality Control and Administrative Requirements. Areas Include:

- Environmental requirements
- General health and fire safety requirements

Organizational policies and procedures are in place to ensure implementation of these regulations. Examples of other agency policies, procedures, and guidelines that are in place to protect our participants include (but are not limited to): Seizure Management Guidelines, Bloodborne Pathogen Exposure Control Plan, Flu Prevention and Response Plan, Vehicle Safety Policies, and Guidelines for Allergies and Use of Epi-Pens. Additionally, each department has program-specific policies and practices, including emergency management plans and site security plans.
Employees are required to report and document any event or situation that may potentially result in harm to an individual receiving services. For example: injuries, falls and bumps (even with no apparent injury), aggression, attempts to run away, wandering, attempts to eat nonedible items, vehicle accidents, etc. New employees receive in-depth training in occurrence documentation. Each occurrence report is reviewed by a supervisor within 24 hours to ensure that necessary follow-up actions occur. Department directors or their designees also review occurrence reports on a regular basis and are required to ensure the completion of an annual ‘trend report’ which is an analysis and summary of all occurrences and which identifies any unusual patterns or problems. Steps that are taken to address any problems are also outlined in the trend report. The Quality Assurance Department summarizes all department trend reports on an annual basis and also submits a concise report of findings to the Executive Team, the Board of Trustees, and OPWDD.
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 Eden II to report abuse, mistreatment, neglect, and other reportable incidents immediately to a supervisor, management, or other senior administrator. Under certain circumstances employees are also mandated by the State of New York to immediately report these events to one of two state hotlines: the NY Justice Center’s Vulnerable Persons Central Register (VPCR) or the Child Abuse State Central Register (SCR). Failure to report abuse or neglect may result in termination from employment, placement on a lifetime exclusion list, and in some cases, criminal prosecution.

FIRST ACTIONS & PROTECTIONS

When someone in charge observes or receives notification of an incident or report of abuse or neglect, his or her first priority is always to protect the individual from further harm. This may involve seeking medical evaluation, conducting an injury assessment, declaring an area off-limits, and/or immediate removal of staff alleged to have committed acts of mistreatment, abuse, or neglect. Administrators are required to implement safeguards 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 consult with agency leadership and make notifications within required timeframes. This always includes parents, the Eden II QA Department, executive staff, and your child’s care manager if he or she has one. Depending upon the specific circumstances, other mandated notifications might include:

- Other Eden II 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, the Department of Education, or the Department of Health
- Mental Hygiene Legal Services
- Law Enforcement
INVESTIGATION

All incidents and reports of staff misconduct involving individuals served must be investigated. The most egregious incidents and reports of abuse or neglect may be investigated by state oversight agencies or law enforcement, while other significant incidents and reports of abuse are investigated by specially trained Eden II incident investigators. Less serious events are investigated by program administrators. Investigations are comprehensive and written in a specific format. Every effort is made to complete all investigations within two weeks of discovery of the event, sooner if possible. The department director may then take additional actions based on the investigative findings.

THE EDEN II INCIDENT REVIEW COMMITTEE

Our Incident Review Committee (IRC) meets at least once every month, often twice. 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 include direct support staff, Facilities Department staff, nurses, behavior intervention specialists, a parent, a board member, and a service recipient.

Investigative reports 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 our agency’s Incident Management Coordinator 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 summary of investigative findings and corrective actions related to occurrences, incidents, and allegations. In some cases, parents are legally entitled to a copy of the investigative report and other documents, with information that identifies employees and other service recipients redacted. All requests for information should be submitted to the Eden II Quality Assurance Department. Eden II will release documents only when authorized by law to do so.
Training on abuse prevention and reporting is conducted on an ongoing basis in all departments. Some additional abuse-prevention activities include:

- Regular unannounced visits by Quality Assurance staff to all sites.
- A Participant Protection Forum with representatives from all departments to review current systems and determine whether improvements can be made.
- Abuse prevention focus groups held at all sites. These groups are led by direct support employees under the guidance of the Quality Assurance Department. The purpose of these focus groups is to provide an opportunity for direct support staff to discuss the factors that contribute to abuse, abuse prevention strategies, and make suggestions for improving agency abuse-prevention systems.

Eden II has a Risk Management Committee that identifies the highest areas of risk to service recipients, staff, and to the organization. Members identify current measures that are taken to prevent each risk and recommends strategies for improvement to fill in any gaps. Some examples of systems that have been developed to further mitigate risk include:

- The development of a standardized form for assessing risks during the intake process and the creation of ongoing risk assessment guidelines for management.
- Stringent fire-prevention strategies that are closely overseen at all sites.
- The development of detailed emergency management and safety plans for each Eden II site.
- The development of detailed guidelines for addressing and managing pica-like behavior.
- Program-specific protocols for the development of Individualized Plans for Oversight & Protection (IPOP)—the IPOP emphasizes key risks and related safeguards for each individual and is a useful tool for quick communication of this important information (specifically for staff who may be unfamiliar with the individual).
ENVIRONMENTAL SAFETY

Our sites are certified for operations by oversight authorities and all facilities are in compliance with NY building code. In addition to routine checks by management, the Eden II Facilities and Quality Assurance departments do routine physical plant checks at all sites, and concerns are immediately addressed by department directors.

EMERGENCY MANAGEMENT

The Eden II Quality Assurance Director oversees the creation & implementation of our agency’s emergency management plans with help from other key staff. Our emergency management team has identified natural, man-made, and accidental hazards that pose the biggest risk to our organization and we take steps to mitigate the risks associated with those hazards and prepare for emergencies and disasters. Our emergency management plans identify internal and external stakeholders and resources, ensure interoperable communications in the event of an emergency, identify emergency supplies and other needs, and outline emergency response and recovery actions.

HIPAA CONFIDENTIALITY & RECORDS ACCESS LAWS

If your child attends one of our schools, 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 designed to protect all potentially identifying information about your child that relates to services received at Eden II. HIPAA law also ensures that you and other authorized parties can access your child’s records and restricts access by non-authorized parties. All Eden II employees receive comprehensive training in confidentiality laws.

PROTECTED HEALTH INFORMATION

During the normal course of business and service provision, Eden II receives,
HIPAA CONFIDENTIALITY & RECORDS ACCESS LAWS (CONT’D)

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, Eden II employees often have to share your child or adult family member’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. Eden II 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 about a service recipient. 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 educational records and PHI and receive copies (subject to fees for office costs). 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 the approval of the Eden II HIPAA Officer, based on reference to the law.

If you believe that a privacy right has been violated, you can contact the Eden II HIPAA Officer at hipaa@eden2.org and/or file a complaint via the Department of Health and Human Services Office for Civil Rights Complaint Portal at: https://ocrportal.hhs.gov/ocr/cp/complaint_frontpage.jsf
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 Eden II 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.

Eden II does not arbitrarily deny any rights but may place limitations on individual rights for a specific period of time, for clinical purposes, and only on an individual basis. All rights restrictions that are necessary because of a behavioral issue require approval from the Eden II Behavior Management and Human Rights Committees are monitored on an ongoing basis.

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.

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 use of his or her personal money and property, including regular notice of his or her financial status and the provision of assistance in the use of his or her resources, as appropriate.

A balanced and nutritious diet, served at appropriate times and in as normal
a manner as possible, and which is not altered or totally denied for behavior management or disciplinary (punishment) purposes.

- Individually owned clothing which fits properly, is maintained properly, and is appropriate for age, season and activity; and the opportunity to be involved in the selection of that clothing.

- Adequate, individually owned, grooming and personal hygiene supplies.

- A reasonable degree of privacy in sleeping, bathing and toileting areas.

- A reasonable amount of safe, individual, accessible storage space for clothing and other personal belongings used on a day-to-day basis.

- The opportunity to request an alternative residential setting, whether a new residence or change of room, and involvement in the decisions regarding such changes.

- 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 Eden II; the commissioner of OPWDD; and the Justice Center for the Protection of People with Special Needs.

- The opportunity to receive visitors at reasonable times; to have privacy when visited, provided such visits avoid infringement on the rights of others, and to communicate freely with anyone within or outside the facility.

- The opportunity to make, or have made on his or her behalf, an informed decision regarding cardiopulmonary resuscitation in accordance with the provisions of Public Health Law.

- The opportunity, if the person is residing in an OPWDD operated or certified facility, to create a health care proxy in accordance with OPWDD 633 regulations.

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 department director. If the issue cannot be resolved to your satisfaction, you have the right to express a grievance to the executive director and/or report your concerns to oversight authorities. (Contact information is provided on the last page).
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 and explain the problem. If you are still not satisfied, please contact our executive director 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 or you can contact OPWDD at (518) 474-3625 for further information.

If you believe that Eden II 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 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. Examples of individuals and organizations that may be able to assist are listed on the following page.
Helpful Resources

Eden II’s Executive Director
Joanne Gerenser
jgerenser@eden2.org
(718) 816-1422, ext 1006

Eden II’s Director of Quality Assurance
Shirley Dunn
sdunn@eden2.org
(718) 816-1422, ext 1021

Eden II’s HIPAA Officer
Shari Schatzman
hipaa@eden2.org
(718) 816-1422, ext 225

Developmental Disabilities Office (DDSO)
Staten Island  Brooklyn  Long Island
(718) 983-5200  (718) 642-6000  (631) 493-1700
(718) 983-1705  (718) 642-6214  (631) 434-6073

Offices for People with Developmental Disabilities (OPWDD)
Division of Quality Improvement
(518) 474-3625

The Justice Center for the Protection of People with Special Needs
(800) 624-4143
(800) 373-2122

Mental Hygiene Legal Services
Administrative Offices
(585) 530-3050

The NY State Education Department
(518) 474-3852

The Committee on Special Education
Staten Island  Long Island
(718) 351-3557  Depends on district - contact your
department director for information.