

## IDAPA 15 – OFFICE OF THE GOVERNOR

### IDAHO COMMISSION ON AGING

#### 15.01.02 – Rules Governing Adult Protective Services Programs

##### **Who does this rule apply to?**

*Area Agency on Aging (AAA), ICOA contractors and providers, and AAA contractors and providers.*

##### **What is the purpose of this rule?**

*The rule describes the requirements for providers administering Adult Protective Services in Idaho.*

##### **What is the legal authority for the agency to promulgate this rule?**

*This rule implements the following statutes passed by the Idaho Legislature:*

State Government and State Affairs -

Commission on Aging:

- [Section 67-5003, Idaho Code](#) – Power and Duties of Commission

Health and Safety -

Adult Abuse, Neglect and Exploitation Act:

- [Section 39-5312, Idaho Code](#) – Rules

##### **Who do I contact for more information on this rule?**

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# Table of Contents

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## 15.01.02 – Rules Governing Adult Protective Services Programs

000. Authority. ....	2
001. Title And Scope. ....	2
002. -- 009. (Reserved) ....	2
010. Definitions. ....	2
011. -- 019. (Reserved) ....	2
020. Policy Statement. ....	2
021. Administrative Requirements. ....	2
022. Provision Of Service Requirements. ....	2
023. -- 030. (Reserved) ....	2
031. Investigative Requirements. ....	3
032. Case Closure. ....	4
033. -- 999. (Reserved) ....	4

## 15.01.02 – RULES GOVERNING ADULT PROTECTIVE SERVICES PROGRAMS

### 000. AUTHORITY.

Under authority of Sections 67-5003 and 39-5312, Idaho Code, the ICOA adopts the following rules. (3-31-22)

### 001. TITLE AND SCOPE.

**01. Title.** These rules are titled IDAPA 15.01.02, “Rules Governing Adult Protective Services Programs.” (3-31-22)

**02. Scope.** These rules relate to the authority and responsibilities of Providers to administer adult protective services. (3-31-22)

### 002. -- 009. (RESERVED)

### 010. DEFINITIONS.

Any item not specifically defined below has the same meaning as those defined in Idaho Code or IDAPA 15.01.01, “15.01.01, “Rules Governing Senior Services and Older Americans Act Programs.” (3-31-22)

**01. Adult Protective Services (APS).** Statutory protections safeguarding vulnerable adults through investigations of reports alleging abuse, neglect, self-neglect or exploitation, and arrangements for the provision of emergency or supportive services necessary to reduce or eliminate risk of harm. (3-31-22)

**02. Legal Representative.** A person with documented legal authority to act on behalf of another individual. (3-31-22)

**03. Protective Action Plan (PAP).** An individual plan addressing the remedial, social, legal, medical, educational, mental health or other services available to reduce or eliminate the risk of harm to a vulnerable adult. (3-31-22)

**04. Provider.** An Area Agency on Aging or a person or entity capable of providing APS under a formal contractual arrangement including duly authorized agents and employees. (3-31-22)

### 011. -- 019. (RESERVED)

### 020. POLICY STATEMENT.

The ICOA is charged by statute to provide APS services to ensure the vulnerable adult population in Idaho is protected from abuse, neglect, and exploitation. Protective services will be provided that are the least restrictive to personal freedom and ensure the maximum independence of individuals served. In protecting the vulnerable adult population, APS is also intended to provide assistance to care giving families experiencing difficulties in maintaining functionally impaired relatives in the household. (3-31-22)

### 021. ADMINISTRATIVE REQUIREMENTS.

In accordance with Section 67-5011, Idaho Code, the ICOA will administer APS through contracts with Area Agencies on Aging. (3-31-22)

### 022. PROVISION OF SERVICE REQUIREMENTS.

In accordance with Section 67-5011, Idaho Code, each Provider assumes all responsibilities cited in Title 39, Chapter 53, Idaho Code. (3-31-22)

**01. Direct Provision of Service.** Area Agencies on Aging will administer APS as a direct service or may subcontract the service to another Provider at the sole discretion of the Administrator. (3-31-22)

**02. Contracts.** Each Provider must administer APS pursuant to contracts delineating the duties and obligations of each APS program. (3-31-22)

**03. Court Visitors.** APS staff shall not serve as a court appointed visitor in a guardianship or conservatorship proceeding involving a proposed ward who is or has been the alleged victim in an APS investigation. (3-31-22)

### 023. -- 030. (RESERVED)

**031. INVESTIGATIVE REQUIREMENTS.**

**01. Review of Allegations.** Upon receipt of a report of abuse, neglect, or exploitation the Provider shall conduct a review of the allegations of such report to determine whether: (3-31-22)

**a.** The report was required to be made to ICOA or its contractors pursuant to Section 39-5303, Idaho Code; (3-31-22)

**b.** An emergency exists; and (3-31-22)

**c.** In cases involving resident-to-resident contact reported pursuant to Section 39-5303(A), Idaho Code, determine whether the case involves the sexual abuse, death, or serious physical injury jeopardizing the life, health, or safety of a vulnerable adult, or involves repeated physical or verbal altercations between residents, not resulting in observable physical or mental injury, but constituting an ongoing pattern of resident behavior that a facility's staff is unable to remedy through reasonable efforts. (3-31-22)

**02. Need for Investigation.** If, based on its review, the Provider determines that a report involves a nursing facility defined in Section 39-1301(b), Idaho Code, and was required to be made to the Department pursuant to Section 39-5303, Idaho Code, the Provider shall immediately refer the report to the Department. If, based on its review, the Provider determines that a report involving resident-to-resident contact was exempted from reporting by Section 39-5303A, Idaho Code, no further investigation need be conducted on such report. The Provider shall investigate all other reports. (3-31-22)

**03. Vulnerability Determination.** Upon investigating a report, the Provider shall determine whether an alleged victim is vulnerable as defined in Section 39-5302, Idaho Code. If the alleged victim is determined to be vulnerable as defined in Section 39-5302, Idaho Code, the Provider shall continue the investigation. If the alleged victim is not vulnerable as defined in Section 39-5302, Idaho Code, the case shall be closed; however, the Provider may refer the complaint to Information and Assistance, Case Management, the Ombudsman, law enforcement or other appropriate entity for investigation and resolution. (3-31-22)

**04. Assessment of Alleged Victim.** An alleged victim's vulnerability and associated risk factors shall be determined through the ICOA-approved standardized assessment forms. Initial interviews and assessments of an alleged victim shall be conducted by the Provider. (3-31-22)

**05. Investigative Determinations.** The Provider shall make one (1) of two (2) investigative determinations upon completion of an APS investigation: (3-31-22)

**a.** Substantiated. A report of abuse, neglect, or exploitation of a vulnerable adult by another individual is deemed substantiated when, based upon limited investigation and review, the Provider perceives the report to be credible. A substantiated report shall be referred immediately to law enforcement for further investigation and action. Additionally, the name of the individual against whom a substantiated report was filed shall be forwarded to the Department pursuant to Sections 39-5304(5) and 39-5308(2), Idaho Code, for further investigation. In substantiated cases of self-neglect, the Provider shall initiate appropriate referrals for supportive services with the consent of the vulnerable adult or his legal representative. (3-31-22)

**b.** Unsubstantiated. The Provider shall close the case if a report of abuse, neglect, or exploitation is not substantiated. If a report is unsubstantiated, but the Provider determines that the vulnerable adult has unmet service needs, the Provider shall initiate appropriate referrals for supportive services with consent of the vulnerable adult or their legal representative. (3-31-22)

**06. Protective Action Plan.** Upon substantiating a report of abuse, neglect, or exploitation of a vulnerable adult, the Provider shall develop and implement a Protective Action Plan. (3-31-22)

**07. Caretaker Neglect.** In investigating a report of caretaker neglect, the Provider shall take into account any deterioration of the mental or physical health of the caregiver resulting from the pressures associated with care giving responsibilities that may have contributed to the neglect of the vulnerable adult. In such cases, the Provider shall make every effort to assist the primary caregiver in accessing program services necessary to reduce the

risk to the vulnerable adult. In APS cases, in which family members are experiencing difficulties in providing twenty-four (24) hour care for a functionally impaired relative, the Provider shall make appropriate referrals to available community services to provide needed assistance. (3-31-22)

**08. Adult Protective Services and Ombudsman Coordination.** Providers shall ensure that APS and the Ombudsman program maintain a written agreement establishing local cooperative protocols in the investigation of complaints. (3-31-22)

**09. Confidentiality.** All records relating to a vulnerable adult and held by a Provider are confidential and shall only be divulged as permitted pursuant to Sections 39-5307, 39-5304(5), and 39-5308, Idaho Code. (3-31-22)

**032. CASE CLOSURE.**

**01. Case Closure.** The Provider shall close a case under the following circumstances: (3-31-22)

**a.** The Provider shall close a substantiated case upon a determination that an initiated PAP or law enforcement involvement has successfully reduced the risk to the vulnerable adult. (3-31-22)

**b.** The Provider may close a substantiated case when the vulnerable adult refuses to consent to receive services, or upon a determination that the Provider has implemented all measures available to reduce risk but has been unable to reduce risk. (3-31-22)

**c.** A case will be closed if the Provider determines that an allegation has been made in bad faith or for a malicious purpose. (3-31-22)

**02. Suspense File.** Closed cases will be maintained in a suspense file until formal action is completed by law enforcement and/or the courts in the following instances: (3-31-22)

**a.** Cases referred by the Provider to law enforcement for criminal investigation and prosecution as determined necessary by the law enforcement agency. (3-31-22)

**b.** Cases referred by the Provider for guardianship/conservatorship proceedings. (3-31-22)

**033. -- 999. (RESERVED)**