Note: The Model MOU below has been signed by all DDSOs and Local Social Services Districts. DDSOs should put up their fully executed (signed) MOUs on their website as well.

OMRDD-DDSO / OCFS-PSA MEMORANDUM OF UNDERSTANDING

I. PURPOSE

This agreement is between _____ Developmental Disabilities Services Office (DDSO) and the _____ County/Local Department of Social Services (LDSS). The agreement sets forth the joint responsibilities of the DDSO and the LDSS pertaining to the abuse reporting for individuals with mental retardation or developmental disabilities. The DDSO provides services to such persons as defined in Section 1.03(22) of the Mental Hygiene Law (MHL). The LDSS through its Protective Services for Adults program (PSA) provides protective services to impaired individuals over 18 years of age as defined in Article 9-B of the Social Services Law (SSL). Pursuant to Chapter 536 of the Laws of 2005, which amended Section 16.19 MHL, each DDSO and LDSS must enter into a Memorandum of Understanding (MOU) to ensure the appropriate reporting and investigation of suspected cases of abuse of adults with mental retardation or developmental disabilities.

Both entities recognize that each has a unique role in service provision to adults with mental retardation or developmental disabilities. Both entities also recognize that the needs and interests of said adults will be better served with a clear delineation of the roles and responsibilities of each entity with regard to such adults who are subjected to abuse, neglect or exploitation. Both the DDSO and the LDSS/PSA enter into this agreement in a spirit of interagency collaboration to facilitate the coordination of appropriate and necessary services to adults with mental retardation or developmental disabilities.

II. PSA ELIGIBILITY CRITERIA AND SERVICES

All adults 18 years of age or older who meet all of the following three criteria are eligible for intervention:

1. are incapable of meeting their own basic needs or protecting themselves from harm due to mental and/or physical incapacity; and

2. are in need of protection from actual or threatened harm, neglect or hazardous conditions caused by the action or inaction of either themselves or other individuals; and

3. have no one else available who is willing and able to assist them responsibly.

Services available under PSA include counseling, locating social services, medical care and other resources in the community, advocacy, homemaker, housekeeper/chore services, money management, assistance in finding alternative living arrangements, and pursuing appropriate actions on behalf of adults with mental retardation or developmental disabilities who require involuntary intervention. These actions may include pursuing court orders to: (1) obtain access to the person in accordance with SSL 473-c; (2) provide short-term involuntary protective services in accordance with SSL 473-a; (3) request the appointment of a guardian; (4) obtain an Order of Protection under Article 8, Family Court Act.

III. OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES (OMRDD) ELIGIBILITY CRITERIA AND SERVICES

OMRDD provides services to persons with diagnoses of developmental disabilities. Developmental disability is defined in Article 1, Section 1.03(22) of the Mental Hygiene Law as a disability of a person which:

1. is attributable to mental retardation, cerebral palsy, epilepsy, neurological impairment, familial dysautonomia or autism;

2. is attributable to any other condition of a person found to be closely related to mental retardation because such condition results in similar impairment of general intellectual functioning or adaptive behavior to that of persons with mental retardation or requires treatment and services similar to those required for such persons; or

3. is attributable to dyslexia resulting from a disability described in subparagraph (1) or (2) of this paragraph; and

4. originates before such person attains age twenty-two; and

5. has continued or can be expected to continue indefinitely; and

6. constitutes a substantial handicap to such person's ability to function normally in society.

Services provided by OMRDD directly or via an authorized or certified OMRDD voluntary provider include various day and residential services, service coordination and clinical services.

IV. REFERRAL PROCESS

A. DDSO to LDSS/PSA

When a report of suspected abuse of an adult who may have mental retardation or developmental disabilities is made to the DDSO, the DDSO shall determine by whatever means it may have available, if OMRDD or one of its voluntary providers has, as of January 1, 2005 or later: (1) provided residential or day program services to the person; or (2) if the person has received medicaid service coordination or home and community-based waiver services. If the DDSO cannot reasonably determine that such person has received services from OMRDD or one of its duly authorized providers then the DDSO shall immediately, or as soon as practicable, make a referral to LDSS/PSA of the suspected adult abuse case.

If the DDSO finds that either (1) or (2) above are met, then the DDSO or the voluntary provider shall investigate the reported case pursuant to OMRDD regulations at 14 NYCRR Part 624. If the DDSO or the voluntary provider, after making reasonable efforts, cannot gain access to the adult to investigate and/or finds that the adult needs protective services that the DDSO or voluntary provider cannot provide, then the DDSO or the voluntary provider shall make a referral to the LDSS/PSA unit responsible for Intake. The DDSO or voluntary provider will clearly state the reasons for the referral and outline the risks to the adult in his/her situation. The phone referral will be followed-up by the DDSO or voluntary provider giving LDSS/PSA any available relevant written or oral information that the DDSO or its voluntary providers may have regarding the individual's developmental and psychosocial history. The DDSO or the voluntary provider shall assist in the preparation of the affidavit establishing the factual basis for pursuing any necessary order by providing all relevant and available documentation in support that it may have as required by the County Attorney. The County Attorney that represents the LDSS/PSA shall determine if there are sufficient grounds to proceed with the order. If granted, the DDSO or the voluntary provider shall accompany LDSS/PSA upon execution of the order. The DDSO must forward reports of the suspected adult abuse case to the Commission on Quality of Care and Advocacy for Persons with Disabilities within 48 hours of receipt and indicate if such report was referred to LDSS/PSA.

Upon receipt of a PSA referral from the DDSO, the LDSS/PSA will determine whether to accept or reject the case for a PSA assessment or request additional information as needed. If additional information is needed which is pertinent to the person's potential eligibility for PSA, the LDSS/PSA will request information from appropriate sources to enable a decision to be made as to whether the case will be accepted for a PSA assessment. In any case, a decision will be made whether to accept the case for assessment within 24 hours after the referral is received. If, on the basis of information supplied by the DDSO or voluntary provider and any additional information obtained by the LDSS/PSA, it appears that the person may be eligible for PSA, the case must be accepted for assessment.

A case will be rejected for assessment only if PSA eligibility can be conclusively ruled out. If any doubt remains about a person's PSA eligibility, the case will be accepted for

assessment. LDSS/PSA will notify the DDSO or the voluntary provider of its decision to accept or reject a case immediately.

Upon acceptance of a referral for PSA assessment, the assigned LDSS/PSA caseworker will visit the referred individual within three working days of the referral (or 24 hours if the situation is life threatening) in accordance with the regulations set forth at 18 NYCRR Section 457.1 (c) (2). Either agency will perform joint visits when requested by the other agency.

B. LDSS/PSA ASSESSMENT PROCESS

During the 60 day period between the acceptance of a referral and the determination of PSA eligibility, LDSS/PSA will assess the person's needs and provide or arrange for services, as indicated in 18 NYCRR Section 457.1 (c) to meet the consumer's needs which have been identified in the assessment/investigation process.

As soon as reasonably possible, but no later than 60 calendar days after the referral date, a determination will be made whether the case will be opened for PSA beyond the assessment period. Cases which do not meet the "PSA Client Characteristics" will not be opened for ongoing PSA services (i.e. cases in which the identified risk factors have been resolved during the 60 day assessment process or cases in which there is no indication of abuse, neglect or exploitation, or the adult has a responsible person(s) or entity(ies) willing and able to meet their needs). Upon making such a decision LDSS/PSA will inform the DDSO within 7 days. For those cases which will be opened for PSA beyond the 60 day assessment period, the DDSO and LDSS/PSA will work collaboratively, as necessary, on a written case plan which outlines service goals, services to be rendered, the role of each agency and a schedule of treatment conferences including frequency, site and participants. The written case plan will be made part of the case record of each agency.

C. PSA TO DDSO

Based upon information obtained at referral or any subsequent investigation of a suspected adult abuse case conducted by LDSS/PSA, it will refer adults with mental retardation or developmental disabilities who may need services to the appropriate DDSO. However, a referral by LDSS/PSA to a DDSO does not negate LDSS/PSA's responsibilities on behalf of persons who are eligible for PSA as specified in this agreement and in 18 NYCRR Section 457.1 (b). For those cases which require PSA involvement beyond the 60 day assessment period, within two weeks of receipt of a referral from LDSS/PSA, the DDSO and LDSS/PSA will participate in joint case management visit by both agencies with the client. The visit will be arranged and coordinated by LDSS/PSA in cooperation with the DDSO. The DDSO will, within 7 days of the joint visit or as soon as possible thereafter, advise LDSS/PSA as to whether or

not the adult referred is eligible for OMRDD services, whether or not the DDSO can provide or arrange for services to the individual, and the nature of such services to be provided.

For persons with mental retardation or developmental disabilities who are not eligible for PSA services, the DDSO will assume responsibility for providing or arranging for the provision of necessary services to these individuals. Upon receipt of a referral from LDSS/PSA, the DDSO will assess the nature and extent of the person's disabilities, their need for services, and, if found eligible by the DDSO, will plan for services that are appropriate and available.

In cases of dually diagnosed individuals (developmental disability and mental illness) in which there is uncertainty about which service system (OMRDD or OMH) has primary responsibility, OMRDD will work with the Office of Mental Health to ascertain the primary diagnosis of the adult. OMRDD will notify LDSS/PSA as to which agency (OMRDD or OMH) is assuming primary responsibility for the case.

Within 30 days of acceptance of a case by the DDSO in which LDSS/PSA will be involved beyond the 60 day assessment period, both agencies will jointly develop a written case plan which will outline service goals, services to be rendered, the specific service provider, the anticipated date services will begin, and the roles of each agency, including which agency will act as primary case manager. The primary case manager will be determined on a case by case basis, depending on the needs of the person. To the extent possible, the joint case plan shall be consistent with the PSA service plan which must be completed within 60 days of the PSA referral date in accordance with 18 NYCRR Section 457.2(b)(4). The written plan must be made part of the individual's record at each agency.

D. SERVICE DELIVERY

In mutually served cases where both LDSS/PSA and OMRDD are involved, each agency will take responsibility for those activities assigned to them in the written case plan.

When a need is identified for placement specifically within the OMRDD system, particularly emergency placement of a person with mental retardation or developmental disabilities, the DDSO will be responsible for seeking a placement within their system.

Each agency will notify the other of significant changes in the shared case's condition or situation (e.g., changes in medical status, living situation, loss of benefits) as soon as practicable after a change is identified.

Any activity or decision by either agency which would have the effect of discontinuing services or otherwise significantly changing the service plan must be communicated in writing to the other agency at least 30 days prior to the changes or as soon as

practicable if 30 days' notification is not possible. Verbal communication may appropriately preface the written communication.

Each agency may at any point call a case conference involving both agencies and other service providers if it is felt that a conference is needed to review significant changes in the person's situation or to devise an appropriate service plan.

V. PROCEDURES FOR INVESTIGATING ABUSE, NEGLECT OR EXPLOITATION

A. PERSONS WHO THE DDSO REASONABLY BELIEVES HAVE MENTAL RETARDATION OR DEVELOPMENTAL DISABILITIES AND WHO HAVE RECEIVED SERVICES FROM OMRDD CERTIFIED, AUTHORIZED OR FUNDED PROGRAMS

The investigation of alleged abuse or neglect of consumers while under the auspices of an OMRDD certified, authorized or funded program is the responsibility of the agency staff (the DDSO is the "agency" for state-operated programs). Requirements concerning the review and reporting of incidents of alleged abuse or neglect by OMRDD certified or authorized programs are stated in OMRDD regulations at 14 NYCRR Part 624. Agencies are also required to take such action as is necessary to protect the safety and welfare of the consumer and develop recommendations for protective/corrective actions of the alleged abuse or neglect.

The agency is also responsible for intervening when abuse or neglect is suspected when the consumer is not under the auspices of the agency (e.g., at home) or involves people who are not affiliated with the agency. The agency may also make a referral to LDSS/PSA when the remedies of the agency are insufficient. The agency may request a joint visit with LDSS/PSA staff or other specific PSA involvement, such as assistance in obtaining a court order to access the person. LDSS/PSA will accept the referral in accordance with its standard procedures and will collaborate with the agency as needed.

B. PERSONS WHO THE DDSO REASONABLY BELIEVES DO NOT HAVE MENTAL RETARDATION OR DEVELOPMENTAL DISABILITIES

In the event that a report is made to the DDSO or to one of its voluntary providers alleging abuse, neglect or exploitation concerning such a person, the DDSO or the voluntary provider shall make a referral to LDSS/PSA. The DDSO or the voluntary provider shall provide any relevant information it may have available regarding the person's developmental and psychosocial history to LDSS/PSA. LDSS/PSA will accept the referral in accordance with its standard procedures, and will assume initial responsibility for the investigation of such reports and intervention in the situation.

If during the investigation of the referral, LDSS/PSA becomes aware that the person may have a developmental disability and that resolution of the abuse may be facilitated by the provision of services through OMRDD, LDSS/PSA may make a referral to the DDSO for an eligibility determination and assessment for potential services. The DDSO will utilize its standard intake procedures upon receiving the referral. Either agency will perform joint visits when requested by the other agency.

C. HIGH RISK CASES

The following protocol will be followed by the DDSO and LDSS/PSA in cases identified by either agency to be a high risk situation (imminent risk to the person's health, safety or stability of living arrangement).

Existing Cases Being Mutually Served by LDSS/PSA/DDSO

In cases already being mutually served by both agencies, the agency which first identifies the high risk situation will immediately notify the other agency. The purpose of the notification will be to arrive at an immediate plan to address the crisis situation using the resources available to both agencies. If joint consultation is not possible, the agency which identified the high risk situation must take action to resolve the crisis and notify the other agency after the fact.

The primary focus in high risk cases is the resolution of the crisis. When determined feasible, LDSS/PSA and the DDSO will make every effort to arrange a joint home visit as soon as possible to assess the crisis situation (within 24 hours if the situation is life threatening) but no later than three (3) working days following the identification of the situation.

If determined necessary, either agency may call an immediate case conference to devise a plan to address the crisis situation. The plan will come from the meeting and will specify services to be provided and the role of each agency.

New Cases

In new cases, the supervisor of the agency which identifies the high risk situation will notify, when possible, the supervisor of the other agency by telephone if it is felt that the assistance of the other agency is necessary and appropriate to address the situation. The referring agency will clearly explain the high risk factors in the person's situation and the need for priority attention. When determined feasible, LDSS/PSA and the DDSO will make every effort to arrange a joint home visit as soon as possible to assess and resolve the crisis situation (within 24 hours if the situation is life threatening) but no later than three (3) working days following the identification of the situation.

D. NOTIFICATION TO LAW ENFORCEMENT

In cases of alleged abuse, neglect or exploitation in which it is suspected that a crime has been committed, both parties recognize that law enforcement must be involved and will cooperate in this process. OMRDD regulations at 14 NYCRR Sec. 624.6 (d) require that in the case of any reportable incident or allegation of consumer abuse where a crime may have been committed, it is the responsibility of the program administrator or designee of an OMRDD operated or certified program to notify law enforcement officials. For abuse occurring in the community in which it is suspected that a crime has been committed, a referral must be made to law enforcement. Additionally, the LDSS/PSA is mandated to report to law enforcement pursuant to Section 473-5 SSL when they have reason to believe a criminal offense has been committed against a client. Such notification may be made by the individual, LDSS/PSA or OMRDD/program staff, preferably through consultation of all three parties and it shall be documented in the individual's case record at each agency.

VI. INFORMATION SHARING

Both agencies agree to share that information concerning the referred or mutually served person which is necessary to develop and implement service plans, to the extent permitted by applicable laws and regulations including Title 18 NYCRR Part 357 and Section 33.13 MHL. Information may be disclosed where such disclosure is reasonably necessary to assess an individual or to provide protective services to an individual. Pursuant to Chapter 536 of the Laws of 2005, the DDSO shall be deemed a provider of services for the purposes of access to adult protective records under Section 473-e SSL.

Both agencies agree to orient their staffs concerning the implementation of this agreement. Both agencies agree to participate in training of each other’s staff regarding the mission and operation of each program.

VII. CONFLICT RESOLUTION

The DDSO and LDSS/PSA each retain responsibility for making eligibility decisions regarding their own programs and/or services and determining the type, duration and scope of services they will provide to eligible persons. However, in order to promote coordination and collaboration, each entity shall seek to resolve any conflicts in accordance with the process described below.

In cases of disagreement between the DDSO or its voluntary providers and LDSS/PSA staff about a person’s eligibility for services or the appropriateness of a services plan, every effort shall be made to resolve the conflict at the staff/practitioner level. If resolution cannot be achieved at that level, supervisory staff in each agency will confer

to reach an acceptable resolution. If a dispute cannot be resolved at the supervisory level, the dispute will be referred to the administrative level at each agency (i.e., the DDSO Director or his/her designee and the Commissioner of the Local Dept. of Social Services or his/her designee) for resolution. Both parties agree to make every effort to resolve disputes through the internal conflict resolution process discussed above. If a dispute cannot be resolved by the two parties, each party reserves the right to pursue an equitable resolution of the matter, including requesting guidance from OCFS or OMRDD administrative staff.

VIII. TERMS OF AGREEMENT

OMRDD and OCFS will review the terms of this agreement at least annually. Changes to the agreement may be made at any time by mutual consent.

Nothing in this agreement shall substitute, or represent a change in, either agency's legally mandated responsibilities.

_____ _____

COMMISSIONER_____ County DATE
Department of Social Services

_____ _____

DIRECTOR OF _____ DATE
DDSO

1/24/07