§ 16.29 Abuse, neglect, and significant incidents involving vulnerable persons.

(a) The commissioner, in consultation with the executive director of the justice center for the protection of people with special needs, shall promulgate regulations establishing standards for the protection of service recipients in the care of facilities and provider agencies operated, licensed or certified by the office from reportable incidents pursuant to article eleven of the social services law, including procedures for:

(1) consistent with appropriate collective bargaining agreements and applicable provisions of the civil service law, assisting the justice center for the protection of people with special needs with its review and evaluation of criminal background checks of prospective employees, as set forth in subdivision five of section five hundred fifty-three of the executive law;

(2) establishing minimal experiential and educational qualifications for employees that are consistent with appropriate collective bargaining agreements and applicable provisions of the civil service law;

(3) assuring adequate and appropriate supervision of employees, volunteers and consultants;

(4) demonstrating that appropriate action is taken to assure the safety of a service recipient as well as other persons in care, immediately upon notification that a reportable incident has been made in accordance with article eleven of the social services law;

(4-a) consistent with applicable collective bargaining agreements, assuring that an individual who has committed a category one offense, as defined in paragraph (a) of subdivision four of section four hundred ninety-three of the social services law, that is included on the vulnerable persons' central register is not hired or otherwise used in any position in which such individual would have regular and substantial contact with a service recipient in any program operated, licensed or certified by the office;

(5) removing a service recipient when it is determined that there is a risk to such person if he or she continues to remain in a facility or service program; and

(6) taking appropriate preventive and remedial action, including legal action, consistent with appropriate collective bargaining agreements and

applicable provisions of the civil service law. The commissioner shall adopt standards as established by the justice center for the protection of people with special needs, that:

(i) administrators, employees, volunteers and consultants receive training in at least the following: abuse prevention and identification, safety and security procedures, the principles of child development, the characteristics of persons in care and techniques of group management including crisis intervention, the laws, regulations and procedures governing the protection of vulnerable persons from reportable incidents, and other appropriate topics provided, however, that the office may exempt administrators and consultants from such requirements upon demonstration of substantially equivalent knowledge or experience; and

(ii) service recipients receive instruction consistent with their age, needs and circumstances as well as the needs and circumstances within the facility or program, in techniques and procedures which will enable them to advocate and protect themselves from reportable incidents.

The commissioner, in consultation with the executive director of the justice center for the protection of people with special needs, shall take all reasonable and necessary actions to assure that employees, volunteers and consultants in facilities operated or overseen by the office are kept apprised on a current basis of all policies and procedures of the office relating to the protection of vulnerable persons, and shall monitor and supervise the provision of training to such administrators, employees, volunteers, children and consultants. Standards developed pursuant to this subdivision shall, to the extent possible, be consistent with those promulgated by other state agencies for such purposes.

(b) The commissioner shall provide necessary assistance to the justice center for the protection of people with special needs in the conduct of investigations pursuant to article eleven of the executive law, shall consider its recommendations for appropriate preventive and remedial action including legal actions, and shall provide or direct a residential facility licensed or operated by the office for people with developmental disabilities to provide written reports thereon to the justice center as to the implementation of plans of prevention and

remediation approved by such office.

(c) The commissioner shall provide for the development and implementation of a plan of prevention and remediation with respect to a substantiated report of a reportable incident. Such action shall include:

(i) within ten days of receipt of a substantiated report of a reportable incident, development and implementation of a plan of prevention and remediation to be taken to assure the continued health, safety and welfare of service recipients and to provide for the prevention of future acts of reportable incidents; and

(ii) development and implementation of a plan of prevention and remediation, in the event an investigation of a report of an alleged reportable incident exists and such reportable incident may be attributed in whole or in part to noncompliance by the facility or provider of services with the provisions of this chapter or regulations of the office applicable to the operation of such facility or provider of services. Any plan of prevention and remediation required to be developed pursuant to this subdivision by a facility supervised by the office shall be submitted to and approved by such office in accordance with time limits established by regulations of such office. Implementation of the plan shall be monitored by such office. In reviewing the continued qualifications of a residential facility or provider of services or program for an operating certificate, the office shall evaluate such facility's or provider of service's compliance with plans of prevention and remediation developed and implemented pursuant to this subdivision.