

SECTION 1004 – Guiding Principles in Adult Protective Services

<p>SUMMARY STATEMENT:</p>	<p>Adult Protective Services is client focused, individualized, and based on the social work model of problem solving.</p>
<p>BASIC CONSIDERATIONS</p>	<p>The following principles, values and beliefs outline APS philosophy regarding clients in Georgia and nationally.</p>
<p>Each person/each case is unique</p>	<p>These principles guide the practice and intervention by APS to protect the rights and wellbeing of with a disability and elder persons. These guiding principles must be well understood by APS practitioners to reinforce respect and the cooperative relationship that must exist between the client, case manager and community partners. APS practice calls for the APS case manager to frequently re-visit these guiding principles and take the time to interpret and educate others:</p> <p>Each case will have a comprehensive investigation and assessment that is unique to the individual and his/her circumstances. Intervention efforts to ensure protection, reduce risk and help improve a client’s situation must be planned, purposeful and specific to the client’s identified needs.</p>
<p>Autonomy</p>	<p>The right to autonomy is constitutionally guaranteed and has been reaffirmed by the courts. Autonomy means that the values and lifestyle of any adult takes precedence over community norms, agency policies and case manager concerns. The adult is the primary client and not the community or the family. Adults are free to live as they choose, no matter how contrary to the established norm or how self-destructive the individual’s lifestyle, as long as the adult understands the consequences of his/her actions, and does not harm others. APS will advocate on the client’s behalf in line with this commitment.</p>

**BASIC
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Self-Determination

In APS, vulnerable adults have the right to decide what is in their best interest and is in control of decision making. Further, adults have the right to refuse medical treatment without which they may die. Adults have the right to live according to a lifestyle others may find disagreeable, even harmful, without interference from others. Vulnerable adults have the right to refuse social services that case managers and/or others believe will improve quality of life.

APS clients should participate in defining their strengths, problem(s) and need(s), and should help decide the most appropriate outcome and course of action. APS case managers will solicit and encourage participation in case decisions to the extent of the vulnerable adult's capabilities.

Consent

Consent is required for on-going protective services and an adult is considered to be capable of making his/her own decisions unless the court has ruled otherwise.

The adult or court appointed guardian's consent is required for on-going APS services.

Every adult has the right to informed consent. This means they have the right to receive information about choices and options regarding their mental and physical health, living arrangements, financial assets, and their overall well-being. APS staff shall present information in a manner which the client can understand. Client's shall have an opportunity to ask questions and have those questions answered in a way that best meets the communication needs of the client. This includes but is not limited to interpreter services, translated documents and the use of terminology that is consistent with the client's education and intellectual level. Information should never be withheld from the client. The purpose of informed consent is to protect the adult's right to self-determination, to plan his/her own future, and to decide

**BASIC
CONSIDERATIONS,
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where and how he or she will live. This principle assumes that consent is fully and freely given after the adult has been made aware of all the information necessary to understand the implications of his/her consent.

Laws honor privacy by prohibiting unwarranted intrusions into a person's way of living and residence. Because APS services are, by their very nature, intrusive, ethical practice dictates that services be provided or altered only with the informed consent of the protected adult, and that this consent is given voluntarily, free of coercion or intimidation.

In Georgia, on-going APS services cannot be delivered to an adult without that person's consent. The only exception is when a court has ruled the individual 'incapacitated and in need of a court appointed guardian'. Yet even when a guardian is appointed by the court, it is the guardian's responsibility to follow the wishes of the Person Under Guardianship to the degree they can be determined.

Refusing Services

The refusal of services that others believe are important is not an indication that the adult lacks capacity.

Competency should not be based on an assessment of the choices an individual makes. While others may believe the adult's decisions to be inappropriate or even wrong, this does not mean the client is incompetent.

Adults have the right to make bad, foolish and/or eccentric decisions. Adults have the right to accept or refuse treatment options others believe he/she needs, and adults have the right to accept or refuse services others think are in his/her best interest.

Personal priorities are private issues. Individual values guide the decisions of protective service clients

BASIC CONSIDERATIONS, cont.

regardless of age, disability or income status. APS respects the decisions of adults at risk. APS will advocate for the client’s ability to exercise his/her right to make decisions even when choices may be different from what we, the community or family would choose or want for them.

Capacity

Each client is presumed to be “mentally competent”. The assumption of capacity is honored unless deemed otherwise by the court. The incapacity of an adult cannot be legally determined by doctors or medical personnel, law enforcement, family members etc. without the due process of the court. The burden of proof that an individual lacks sufficient capacity to make informed decisions rests with those who believe that to be the case. This evidence would be brought to the probate court for the legal determination of capacity.

Substituted Judgement

If possible, when a client lacks capacity, APS shall use **Substituted Judgement** based on prior knowledge of the adults expressed wishes or preferences. This means that APS will make, and advocate for others to make, decisions for the client based on the decisions that the client would have made if they had capacity. The adult may have expressed their wishes with a family member, friend, medical professional or to the APS case manager. Preferences can also be gleaned from the adult’s prior actions, religious affiliation or written records created by the adult.

If the client’s expressed wished are unknown regarding their health, safety, living arrangements or finances APS shall act in their Best Interest. This means that decisions will be based on what a reasonable person would do after considering all the options and alternatives and their potential risk, side effects and dangers.

For example, if using **Substituted Judgement** a client who is in need of medical treatment that is in conflict with

**BASIC
CONSIDERATIONS,
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their religious practices would not be pressured to receive such treatment. On the other hand, when acting in the Best Interest of an adult, a reasonable action might be to defer to the advice of medical professional(s).

**Least Restrictive
Services**

Services will be the least restrictive possible for the client; more intrusive interventions, such as guardianship, will be a last resort and will include due process.

When there is the need for social or legal intervention with an adult, the least restrictive alternative must be determined and pursued. This is the provision of services with the least possible intrusion into the life of the person. Any actions taken to protect adults must employ methods that guard against unnecessary infringement upon their personal liberty. Any APS social service intervention necessitates caution and restraint and must be limited to those areas where an individual is unable to care for or protect him or herself.

APS uses strategies that protect the individual while promoting personal autonomy to the fullest degree possible. This means finding methods that protect the individual while maximizing his/her freedom. For example, a vulnerable adult lives alone and manages his/her activities of daily living (i.e., cooking, cleaning, bathing) but allows bills to pile up. This adult lacks the capacity to manage his/her finances and retains the capacity to care for his/her basic needs. The least restrictive alternative in this case would be to find a representative payee rather than the appointment of a guardian.

Right to be Protected

An adult also has the right under the law to be protected when he or she is unable to protect him or herself by reason of physical or mental status.

**BASIC
CONSIDERATIONS,
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Legal intervention may be indicated when an individual's actions constitute an imminent danger or threat to themselves or others.

It is important to seek the course of action that affords the needed protection while at the same time encroaches the least upon an individual's personal freedom.

Protective services can only be provided within the law, unless the individual consents to services.

**Professional
Boundaries**

APS staff shall maintain a professional relationship with the clients, caretakers and community partners. Personal feelings shall be kept out of the case and shall not be discussed with anyone involved in the case.

This is especially true as it relates to the client / case manager relationship. While it is important to build rapport with the client and get to know them at a level that goes beyond the superficial, it is equally important to establish limits that allow for a safe connection. APS staff will be friendly, not friends, and will clearly communicate to the client the limits and responsibilities of the APS.

Confidentiality

The Adult Protective Services Program must protect the sensitive and confidentiality of information it obtains regarding Adult Protective Services cases. The confidentiality of records are protected. This includes protected healthcare information as described in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and follows all regulation as provided for under this act. Georgia law specifically protects the confidentiality of records. The Disabled Adults and Elder Persons Protection Act states:

“All records pertaining to the abuse, neglect or exploitation of disabled adults and elder persons **in the custody of the department** shall be

**BASIC
CONSIDERATIONS,
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confidential; and access thereto by persons other than the department, the director, or the district attorney shall only be by valid subpoena or order of any court of competent jurisdiction". (O.C.G.A § 30-5-7)

Confidentiality is holding in secret or in private information obtained about the client and his/her circumstances during professional service. Nothing which could cause embarrassment or other personal damage should be revealed to a third party without the client's informed consent.

**Multi-Disciplinary
Approach**

The law does allow agencies participating in joint investigations at the request of and with Adult Protective Services, or conducting separate investigations of abuse, neglect, or exploitation within an agency's scope of authority, or law enforcement personnel who are investigating any criminal offense in which a disabled adult or elder person is a victim to have access to APS records. Furthermore, agencies working under the auspices of an Adult Abuse, Neglect, and Exploitation Multidisciplinary Team' established under the authority of a judicial circuit's district attorney office shall also have reasonable access to APS records.

Guidance on specific topics such as record requests, subpoenas, collaborations and regarding sharing information and the 'need to know' are addressed in Chapter 2, 2002.3 entitled 'Confidentiality of the Reporter and APS Records'.

It is critical that APS staff have sound working relationships with other agencies and professional organizations, especially at the local level. It is from these entities that most reports of abuse, neglect and exploitation come; so, a good understanding of what APS can do and cannot do is very important. These are the agencies that often turn to APS for intervention and help with their client's needs, so a 'direct line' and continuing partnerships between agencies is essential.

BASIC CONSIDERATIONS, cont.

APS encourages and supports developing and participating in multi-disciplinary teams at local, regional and state levels, and recognize their importance in fulfilling the responsibilities of the Adult Protective Services Program in Georgia. This level of cooperation includes but is not limited to the Aging and Disability Resource Connection.

Family and Informal Supports cont.

When in the best interest of the adult, APS staff will use family and informal supports. It the mission of APS to support independence and self-reliance of adults, their families and caregivers. Recognizing the adult and their support system as viable, strong and with much to offer, acts to bolster their support team and mitigate long term risk for the client.

Care and support should be client directed. APS staff will work with the client to identify members of their support team whom they trust to provide assistance and to work with them to reduce risk. These informal supports often come free of cost, without waitlist and they have a vested interest in the client's overall outcome. Even family who have been shown to be unreliable in the past can still be valuable resources under certain circumstances. For example, a family member who has been accused of mishandling the client's finances, can still provide the client with transportation, meal preparation or assistance with bathing, so long as there is someone else managing the finances.

The "wrong" intervention may be worse than none at all

Every case, like every person, is unique. Because each case is unique, no step-by-step solution or intervention can be rigidly imposed on every case. Client circumstances, the context in which he/she lives, the range of formal and informal resources available, the client's values and priorities all affect the unique situation and intervention options. It is important for case

managers not to assume too much or to generalize about needs and services. Case managers should take care to conscientiously separate their own personal biases from professional assessments and the client's values. Case managers must be direct in discussing the situation and the alternatives.

Interventions should be well-planned to reduce the risk to the client. Effective APS intervention begins, with

- 1) **identifying** the areas of risk and then
- 2) **prioritizing** needs to
- 3) **offer assistance** in making the necessary change(s) to minimize further risk.

Change, even for the better, can be very intimidating. Success in change comes by prioritizing what is meaningful to the client.

REFERENCES

[*Health Insurance Portability and Accountability Act of 1996 \(HIPAA\)*](#)

[*Disabled Adult and Elder Person Protection Act \(DAEPPA\) \(O.C.G.A § 30-5-7\)*](#)