

MAJOR UNUSUAL INCIDENT (MUI) REPORTING POLICY

This policy establishes a system of reporting, investigating, reviewing, analyzing and remediating incidents that adversely affect the health and welfare of individuals and to monitor preventative actions taken to ensure health and welfare for the Erie County Board of Developmental Disabilities (Board). This policy and procedures does not relieve any person of the responsibility to comply with Ohio Revised Code (ORC) 5123:61.

The Board shall contract with the Clearwater Council of Governments (COG) for Investigative Agent services. The Investigative Agent (IA) shall be an employee of the Clearwater Council of Governments and will follow the COG's procedure for the investigation of all Major Unusual Incident's (MUI).

The Superintendent shall establish, revise and keep current the procedures to be utilized in the implementation of this policy. The Superintendent/designee shall ensure compliance with these procedures. All revisions or changes will be shared with the Board when made.

Superintendent Signature: _____



Date: _____

10/19/23

Implemented: 05/04

Board Approval: 6/21/12, 5/18/17, 4/18/19, 3/18/21, 7/15/21, 10/28/21

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Revised: 03/07, 06/09, 12/10, 6/5/12, 07/14, 5/18/17, 4/9/19, 3/18/21, 7/15/21, 10/28/21

Cross Reference: Ohio Revised Code (ORC) 5123.61, Ohio Revised Code (ORC) 5124.01, Ohio Revised Code (ORC) 5126, Administrative Code 5123-17-02, Administrative Code 5123-9-32; Code of Federal Regulations (CFR) 483.430; Code of Federal Regulations (CFR) 483.440

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I. DEFINITIONS

As used in this policy the following definitions shall apply:

- A. 'Major Unusual Incident (MUI)' means the alleged, suspected, or actual occurrence of an incident (described in I (A)(1), I(A)(2), I(A)(3) of this policy when there is reason to believe the incident has occurred. There are three categories of MUI as listed in this paragraph that correspond to three (3) administrative investigation procedures delineated in Appendix A, Appendix B and Appendix C per rule 5123-17-02.
1. Category A:
 - a.) 'Accidental or suspicious death' means the death of an individual resulting from an accidental or suspicious circumstance.
 - b.) 'Exploitation' means the unlawful or improper act of using an individual or an individual's resources for monetary or personal benefit, profit, or gain.
 - c.) 'Failure to report' means that a person, who is required to report pursuant to section 5123.61 of the Ohio Revised Code (ORC), has reason to believe that an individual has suffered or faces a substantial risk of suffering any wound, injury, disability, or condition of such a nature as to reasonably indicate abuse, neglect, misappropriation, or exploitation that results in a risk to health and welfare of the individual and such person does not immediately report such information to a law enforcement agency, a county board, or, in the case of an individual living in a developmental center, either to law enforcement or DODD. Pursuant to ORC 5123.61, section (C) (1), such report shall be made to DODD and the county board when the incident involves an act or omission of an employee of a county board.
 - d.) 'Misappropriation' means depriving, defrauding, or otherwise obtaining the real or personal property of an individual by any means prohibited by ORC 2911 and 2913.
 - e.) 'Neglect' means when there is a duty to do so, failing to provide an individual with medical care, personal care, or other support that consequently results in serious injury or places an individual or another person at risk of serious injury. Serious injury means an injury that results in treatment by a physician, physician assistant, or nurse practitioner.
 - f.) 'Physical abuse' means the use of physical force that can reasonably be expected to result in physical harm to an individual. Such physical force can include, but is not limited to, hitting, slapping, pushing, or throwing objects at an individual.
 - g.) 'Prohibited sexual relations' means a developmental disabilities (DD) employee engaging in consensual sexual conduct or having consensual sexual contact with an individual who is not the employee's spouse, and for whom the DD employee was employed or under contract to provide care or supervise the provision of care at the time of the incident.
 - h.) 'Rights code violation' means any violation of the rights enumerated in ORC 5123.62 that creates a likely risk of harm to the health or welfare of an individual.

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- i.) 'Sexual abuse' means unlawful sexual conduct or sexual contact as those terms are defined in ORC 2907.01 and the commission of any act prohibited by section 2907 of the Ohio Revised Code (i.e., public indecency, importuning, and voyeurism) when the sexual conduct, sexual contact, or act involves an individual.
 - j.) 'Verbal abuse' means the use of words, gestures or other communicative means to purposely threaten, coerce, intimidate, harass, or humiliate an individual.
2. Category B:
- a.) 'Attempted suicide' means a physical attempt by an individual that results in emergency room treatment, in-patient observation, or hospital admission.
 - b.) 'Death other than accidental or suspicious death' means the death of an individual by natural cause without suspicious circumstances.
 - c.) 'Medical emergency' means an incident where emergency medical intervention is required to save an individual's life (e.g., choking relief techniques such as back blows or cardiopulmonary resuscitation, use of an automated external defibrillator or use of an epinephrine auto injector usage).
 - d.) 'Missing individual' means an incident that is not considered neglect and an individual's whereabouts, after immediate measures taken, are unknown and the individual is believed to be at or pose an imminent risk of harm to self or others. An incident when an individual's whereabouts are unknown for longer than the period of time specified in the individual service plan that does not result in imminent risk of harm to self or others shall be investigated as an unusual incident.
 - e.) 'Significant injury' means an injury to an individual of known or unknown cause that is not considered abuse or neglect and that results in concussion, broken bone, dislocation, second or third degree burns or that requires immobilization, casting, five or more sutures. Significant injuries shall be designated in the incident tracking system as either known or unknown cause.
 - f.) 'Peer-to-peer acts' means any of the following incidents involving two individuals:
 - i) 'Exploitation' means the unlawful or improper act of using another individual or another individual's resources for monetary or personal benefit, profit, or gain.
 - ii) 'Theft' means intentionally depriving another individual of real or personal property valued at twenty dollars or more or property of significant personal value to the individual.
 - iii) 'Physical act' means a physical altercation that:
 - (a) Results in examination or treatment by a physician, physician assistant, or nurse practitioner; or
 - (b) Involves strangulation, a bloody nose, a bloody lip, a black eye, a concussion, or biting which causes breaking of the skin; or
 - (c) Results in an individual being arrested, incarcerated, or the subject of criminal charges.

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- iv) 'Sexual act' means sexual conduct and/or contact for the purpose of sexual gratification without the consent of the other individual.
 - v) 'Verbal act' means the use of words, gestures, or other communicative means to purposefully threaten, coerce, or intimidate the other individual when there is the opportunity and ability to carry out the threat.
3. Category C:
- a.) 'Law enforcement' means any incident that results in the individual served being tased, arrested, charged, or incarcerated.
 - b.) 'Unapproved behavioral support' means the use of a prohibited measure as defined in Ohio Administrative Code (ORC) 5123-2-06 or the use of restrictive measure implemented without approval of the human rights committee or without informed consent of the individual or the individual's guardian in accordance with ORC 5123-2-06 when use of the prohibited measure of restrictive measure results in risk to the individual's health or welfare. When use of the prohibited measure or restrictive measure does not result in risk to the individual's health or welfare, the incident shall be investigated as an unusual incident.
 - c.) 'Unanticipated hospitalization' means any hospital admission or hospital stay over twenty-four (24) hours that is not pre-scheduled or planned. A hospital admission associated a planned treatment or pre-existing condition that is specified in the individual service plan indicating the specific symptoms and criteria that require hospitalization need not be reported.
- B. 'Administrative investigation' means the gathering and analysis of information related to a major unusual incident so that appropriate action can be taken to address any harm or risk of harm and prevent recurrence. There are three administrative investigation procedures (category A, category B, and category C) that correspond to the three categories of MUIs.
- C. 'Agency Provider' means a provider, certified or licensed by the department that employs staff to deliver services to individuals and who may subcontract the delivery of services. Agency provider includes a county board while the county board is providing specialized services.
- D. 'At-Risk individual' means an individual whose health or welfare is adversely affected or whose health or welfare may reasonably be conserved to be in danger of being adversely affected.
- E. 'Common law employee' has the same meaning as in rule 5123-9-32 of the Administrative Code.
- F. 'County board' (Board) means a county board of developmental disabilities as established under Chapter 5126. of the Revised Code or a regional council of governments as established under Chapter 167. of the Revised Code when it includes at least one county board.
- G. 'Developmental center' means an intermediate care facility for individuals with intellectual disabilities under the managing responsibility of the department.
- H. 'Developmental disabilities (DD) employee' means any of the following:
- 1. An employee of DODD;
 - 2. A superintendent, board member, or employee of a county board;

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3. An administrator, board member, or employee of a residential facility licensed under ORC 5123.19;
 4. An administrator, board member, or employee of any other public or private provider of services to an individual with a developmental disability;
 5. An independent provider; or a
 6. Common law provider.
- I. 'Department' means the Ohio Department of Developmental Disabilities (DODD).
- J. 'Incident report' means documentation that contains details about a major unusual incident or an unusual incident and shall include, but is not limited to:
1. Individual's name;
 2. Individual's address;
 3. Date of incident;
 4. Location of incident;
 5. Description of incident;
 6. Type and location of injuries;
 7. Immediate actions taken to ensure health and welfare of individual involved and any at-risk individuals;
 8. Name of primary person involved and his or her relationship to the individual;
 9. Names of witnesses;
 10. Statements completed by persons who witnessed or have personal knowledge of the incident;
 11. Notifications with name, title, and time and date of notice;
 12. Further medical follow-up; and
 13. Name and signature of person completing the incident report. ORC 5123-17-02.
- K. 'Incident tracking system' means the department's web-based system for reporting major unusual incidents.
- L. 'Independent provider' means a self-employed person or a common law employee who provides services for which he or she must be certified in accordance with rules promulgated by the department and does not employ, either directly or through contract, anyone else to provide the services.
- M. 'Individual' means a person with a developmental disability.
- N. 'Individual served' means an individual who receives specialized services.
- O. 'Intermediate care facility for individuals with intellectual disabilities' has the same meaning as in section 5124.01 of the Revised Code.
- P. 'Investigative agent' means an employee of a county board or a person under contract with a county board who is certified by the department to conduct administrative investigations of major unusual incidents.
- Q. Physical harm" means any injury, illness, or other physiological impairment, regardless of its gravity or duration.
- R. 'Primary person involved' (PPI) means the person alleged to have committed or to have been responsible for the accidental or suspicious death, exploitation, failure to report, misappropriation, neglect, physical abuse, prohibited sexual relations, rights code violation, sexual abuse or verbal abuse.
- S. 'Program implementation incident' means an unusual incident involving the failure to carry out a person-centered plan when such failure causes minimal risk or no risk. Examples include, but are not limited to, failing to provide supervision

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for short periods of time, automobile accidents without harm, and self-reported incidents with minimal risk.

- T. 'Provider' means an agency provider or independent provider.
- U. 'Qualified intellectual disability professional' has the same meaning as in 42 C.F.R. 483.430 as in effect on the effective date of Administrative Code 5123:17-02.
- V. 'Specialized services' means any program or service designed and operated to serve primarily individuals, including a program or service provided by an entity licensed or certified by DODD.
- W. 'System issue' means a substantiated major unusual incident (MUI) attributed to multiple variables.
- X. 'Team' means, as applicable: (a) The group of persons chosen by an individual with the core responsibility to support the individual in directing development of his or her individual service plan. The team includes the individual's guardian or adult whom the individual has identified, as applicable, the service and support administrator, direct support staff, providers, licensed or certified professionals, and any other persons chosen by the individual to help the individual consider possibilities and make decisions; or (b) An interdisciplinary team as that term is used in 42 C.F.R. 483.440 as in effect on the effective date of Administrative Code 5123:17-02.
- Y. 'Unusual Incident (UI)' means an event or occurrence involving an individual that is not consistent with routine operations, policies and procedures, or the individual's care or individual service plan, but is not a MUI. UI includes, but is not limited to, dental injuries, falls, an injury that is not a significant injury, medication errors without a likely risk to health and welfare, overnight relocation of an individual due to a fire, natural disaster, or mechanical failure, an incident involving two individuals served that is not a peer-to-peer act major unusual incident; rights code violations or unapproved behavior supports without a likely risk to health and welfare; emergency room or urgent care treatment center visits; and program implementation incidents.
- Z. 'Working day' means Monday, Tuesday, Wednesday, Thursday, or Friday except when that day is a holiday as defined in section ORC 1.14.

II. REPORTING AND NOTIFICATION REQUIREMENTS FOR UI/MUI'S

- A. The Board shall have a system that is available twenty-four (24) hours a day, seven (7) days a week, to receive and respond to all reports as required by Administrative Rule 5123-17-02. The Board shall communicate this system in writing to all individuals receiving services in the county or their guardians as applicable, providers in the county, and to the department.
- B. The Board shall designate the contact person/designee to receive and manage receipt of all reports required in this policy and shall, in conjunction with the Clearwater Council of Governments (COG), ensure that a system exists whereby providers make all reports required by this policy, and that this system is communicated to providers.
 - 1. If the provider is a developmental center, all reports required in ORC 5123:17-02 shall be made directly to DODD.
- C. Those required to report UI/MUI's are:
 - 1. Any DD employee as defined in section (I.) (H.) of this policy.

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- D. All UI's written by independent providers or county board personnel shall be reported to the Board contact person. Any UI shall be reported within twenty-four (24) hours following knowledge of the occurrence.
- E. All MUI incidents shall be reported to the Board contact person.
1. MUI's are to be reported on the same day the incident or discovery of the incident occurs and includes immediate actions taken. Unless the allegation is one of the following, then must be reported no later than four (4) hours after discovery of the incident:
 - a) Misappropriation;
 - b) Abuse (physical, verbal or sexual);
 - c) Prohibited sexual relations;
 - d) Neglect;
 - e) Exploitation;
 - f) Accidental or suspicious death;
 - g) Peer to peer act;
 - h) When the provider has received an inquiry from the media regarding a MUI.
 2. If any of the above incidents are suspected or have occurred, verbal notification to the Board contact person/ designee (during normal business hours) or the on-call Service and Support Administrator (SSA) (during non-business hours). This report can be done via telephone; however a written incident report must follow as soon as possible, but no later than 3:00 p.m. on the first working day following the day the provider became aware the potential or determined MUI.
 - a) The county board as a provider must submit a written report to the Board contact person/designee by the end of same working day the incident occurs or is discovered.
 3. The Board contact person/designee shall review the incident and render it either an UI or a MUI.
 - a) Should the Board contact person/designee be unclear whether to classify the incident as a MUI/UI, they shall discuss the incident with the Investigative Agent (IA).
 - b) Should the IA be unclear whether to classify as a MUI/UI, the incident shall be discussed with DODD and make the final determination.
 4. Reports regarding all MUI involving an individual who resides in an intermediate care facility for individuals with intellectual disabilities or who receives round-the-clock waiver services shall be filed and the requirements of this rule followed regardless of where the incident occurred.
 5. Reports regarding the following major unusual incidents shall be filed and the requirements of this rule followed regardless of where the incident occurred:
 - a) Accidental or suspicious death;
 - b) Attempted suicide;
 - c) Death other than accidental or suspicious death;
 - d) Exploitation;
 - e) Failure to report;
 - f) Law enforcement;
 - g) Misappropriation;

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- h) Missing individual;
 - i) Neglect;
 - j) Peer-to-peer act;
 - k) Physical abuse;
 - l) Prohibited sexual relations;
 - m) Sexual abuse; and
 - n) Verbal abuse.
6. Reports regarding the following MUI shall be filed and the requirements of this policy followed only when the incident occurs in a program operated by a county board or when the individual is being served by a licensed or certified provider:
- a) Medical emergency;
 - b) Rights code violation;
 - c) Significant injury;
 - d) Unanticipated hospitalization; and
 - e) Unapproved behavioral support.
7. If notification is received by the Board contact person/designee, the Board contact person/designee shall notify and send copy of the report to the assigned SSA. The IA will assure that notification be made to the appropriate authorities. The appropriate authorities may include law enforcement agency, as defined in ORC 5123.61, having jurisdiction over the location at which the incident occurred. If the MUI includes conduct that would constitute a possible criminal act, including abuse or neglect by the local public children services agency and municipal or county peace officer in which the individual resides as defined in ORC 2151.421 rules adopted pursuant to that section will be applied. If the individual is under twenty-one (21) years of age and meets the definition of an abused or neglected child as defined in ORC 2151.03 and 2151.031, rules adopted in this section will be applied.
8. The SSA will also ensure the immediate health and welfare of the individual and ensure same day notification to the guardian or other person whom the individual has identified, staff or family living at the individual's residence who has responsibility for the individual's care, other providers of services as necessary to ensure continuity of care and support for the individual, is made at this time if the incident occurred at a county-operated program.
9. If the MUI occurs at a private provider agency site, the Board contact will notify the provider and the provider will notify the guardian or other person whom the individual has identified, staff or family living at the individual's residence who has responsibility for the individual's care, other providers of services as necessary to ensure continuity of care and support for the individual, and document accordingly.
10. If notification is received by the on-call SSA, the on-call SSA will contact the Investigative Agent (IA) and the provider shall notify the appropriate authorities under the direction of the on-call SSA. The IA as defined in (III.) (A.) of this policy and ensure the immediate health and welfare of the individual. Same day notification to the guardian or other person whom the individual has identified, staff or family living at the individual's residence who has responsibility for the individual's care, other providers of services as necessary to ensure continuity of care and support for the

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individual, is also to be made at this time if the incident occurred at a county-operated program.

11. Notification shall not be made:
 - a) If the person to be notified is the primary person involved, the spouse of the primary person involved or the significant other of the primary person involved;
 - b) When such notification could jeopardize the health and welfare of an individual involved;
 - c) In case of a death when the family is already aware of the death.
12. Once the determination is made that an incident is a MUI, the Board contact person/designee shall notify the IA via email within the same business day of the agency provider's notification whenever possible. If the MUI occurs at the Board or is discovered by the Board, the Board contact person/designee shall notify the IA as soon as possible, preferably within the same business day in order to maintain DODD timelines. If the Board is closed, the written incident report shall be emailed the following business day.
13. By 5:00 p.m. on the first working day immediately following receipt of the written incident report submitted by the provider pursuant to section (II.) (D.) of this policy, the Clearwater Council of Governments shall enter preliminary information regarding the incident through the online system established by DODD.
14. Upon receipt of a MUI report, the IA/designee shall commence an investigation within 24 hours for Appendix A and no later than 3 working days for Appendix B and C as required by ORC 5123-17-02 by utilizing the investigation protocol as developed and outlined as an appendix to the rule.
15. When a provider has placed an employee on leave or otherwise taken protective action pending the outcome of the investigation, the Board or DODD, as applicable, shall keep the provider apprised of the status of the investigation so that the provider can resume normal operations as soon as possible consistent with the health and welfare of any at-risk individuals.
16. In any case where law enforcement has been notified of an alleged crime, DODD may provide notification of the incident to any other provider, developmental center, or the Board for whom the primary person involved (PPI) works, for the purpose of ensuring the health and welfare of any at-risk individual. The notified provider or county board shall take such steps necessary to address the health and welfare needs of any at-risk individual and may consult DODD in this regard. DODD shall inform any notified entity as to whether the incident is substantiated. Providers, developmental centers, or the Board employing a PPI shall notify DODD when they are aware that the PPI works for another provider.

III. INVESTIGATING MUI'S

- A. Immediately upon identification or notification of a MUI, the provider shall take all reasonable measures necessary to protect the health and welfare of the individual(s).
- B. Immediately upon receipt of a report of a MUI, the Board contact person/designee shall review the incident to ensure that the provider has taken

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all reasonable measures necessary to protect the health and welfare of the at-risk individual(s) have been taken and determine whether any additional actions must be taken. The provider and county board shall discuss any disagreements regarding reasonable measures in order to resolve them. If the provider and county board are unable to agree on reasonable measures to ensure the health and welfare of the individual(s), the department shall make the determination. Such measures shall include:

1. Immediate and ongoing medical attention, as appropriate;
 2. Removal of an employee from direct contact with any individual when the employee is alleged to have been involved in physical abuse or sexual abuse until such time as the provider has reasonably determined that such removal is no longer necessary;
 3. Other necessary measures to protect the health and welfare of individual(s).
- C. All MUIs require an administrative investigation meeting the applicable administrative investigation procedure in appendix A, appendix B, or appendix C of Administrative Rule 5123-17-02 unless it is not possible or relevant to the administrative investigation to meet a requirement under Administrative Rule 5123-17-02, in which case the reason shall be documented. Administrative investigations shall be conducted and reviewed by investigative agents.
1. The department or the Board may elect to follow the administrative investigation procedure for category A MUIs for any MUI.
 2. Based on the facts discovered during administrative investigation of the MUI, the category may change or additional categories may be added to the record. If a major unusual incident changes category, the reason for the change shall be documented and the new applicable category administrative investigation procedure shall be followed to investigate the MUI.
 3. MUIs that involve an active criminal investigation may be closed as soon as the Board ensures that the MUI is properly coded, the history of the primary person involved has been reviewed, cause and contributing factors are determined, a finding is made, and prevention measures implemented. Information needed for closure of the MUI may be obtained from the criminal investigation.
- D. The Board may request that this review be conducted by another county board, a Regional Council of Government, DODD or any other government entity authorized to conduct a review if any of the circumstances specified in section (III.) (B.) of this policy, are present.
- E. The Board shall contract with the Clearwater Council of Governments (COG) for an Investigative Agent (IA), who will conduct all investigations of MUI's for the Board.
1. The IA, employed by the (COG), shall maintain appropriate certification, issued by DODD in accordance with OAC 5123:-5-07.
 2. The IA shall comply with the procedures of the COG for investigations.
 3. Board staff may assist the investigative agent by gathering documents or entering information into the Investigative Tracking System (ITS) or other administrative or clerical duties that are not specific to the IA role.
- F. The COG IA shall immediately commence an investigation using the investigation protocol outlined by the COG, if the MUI involves any of the following:

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1. Abuse, neglect or misappropriation;
 2. Any injury of an unknown or suspicious origin;
 3. Suspicious or accidental death;
 4. The individual cannot be located;
 5. Any other MUI the Board determines should be investigated based on a review of the incident conducted.
- G. The Board is aware that DODD may conduct a separate review or investigation of any MUI, or may request that a separate review or investigation be conducted by another county board, a Regional Council of Government or any other entity authorized to conduct such investigations. If a separate investigation is conducted, the investigation shall be completed within thirty days, unless the investigation is being conducted by a law enforcement agency or local public children services agency.
- H. The Board will notify the department on the first working day the county board becomes aware of the incident if a department-directed administrative investigation needs to be conducted if the following circumstances are present:
1. The MUI includes an allegation that the person responsible for the incident is:
 - a) The Board Superintendent or the Executive Director of the Clearwater Council of Government (COG);
 - b) A Board management employee who reports directly to the Superintendent of the Board or the Executive Director of the COG;
 - c) An investigative agent (IA);
 - d) A service and support administrator;
 - e) The Board contact person;
 - f) A current Board member appointed pursuant to ORC 5126.02;
 - g) A person having any known relationship with any of the persons specified in section (D.) (1.) of this policy.
 2. The MUI includes an allegation that an employee of the Board is responsible for: the death of an individual, has committed sexual abuse or engaged in prohibited sexual activity, against an individual, or has committed physical abuse or neglect against an individual that has resulted in an emergency room treatment or hospitalization.
 3. The Board has requested that DODD conduct a separate investigation, and DODD has determined that there is a reasonable basis for the request.
 4. An individual, advocate selected by the individual, the legal guardian, as applicable, or provider has made a complaint to DODD regarding an investigation conducted by the Board and DODD has determined that there is a reasonable basis for the complaint.
- I. County board staff may assist the investigative agent by gathering documents, entering information into the incident tracking system, fulfilling category C administrative investigation requirements, or performing other administrative or clerical duties that are not specific to the investigative agent role.
- J. Except when law enforcement or the public children's services agency is conducting the investigation, the investigative agent shall conduct all interviews for major unusual incidents unless the investigative agent determines the need for assistance with interviewing an individual. For a MUI occurring at an

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- intermediate care facility for individuals with intellectual disabilities, the investigative agent may utilize interviews conducted by the intermediate care facility for individuals with intellectual 5123-17-02 14 disabilities or conduct his or her own interviews. If the investigative agent determines the information is reliable, the investigative agent may utilize other information received from law enforcement, the public children's services agency, or providers in order to meet the requirements of this rule.
- K. Except when law enforcement or the public children's services agency has been notified and is considering conducting an investigation, the Board shall commence an administrative investigation. If law enforcement or the public children's services agency notifies the county board that it has declined to investigate, the Board shall commence the administrative investigation within a reasonable amount of time based on the initial information received or obtained and consistent with the health and welfare of all at-risk individuals, but no later than twenty-four (24) hours for a MUI in category A or no later than three (3) working days for a MUI in category B or category C.
- L. An intermediate care facility for individuals with intellectual disabilities shall conduct an investigation that complies with applicable federal regulations, including 42 C.F.R. 483.420 as in effect on the effective date of this rule, for any UI or MUI involving a resident of the facility, regardless of where the UI or MUI occurs. The intermediate care facility for individuals with intellectual disabilities shall provide a copy of its full report of an administrative investigation of a MUI to the county board. The investigative agent may utilize information from the administrative investigation conducted by the intermediate care facility for individuals with intellectual disabilities to meet the requirements of this Administrative Code 5123-17-02 or conduct a separate administrative investigation. The Board shall provide a copy of its full report of the administrative investigation to the intermediate care facility for individuals with intellectual disabilities. DODD shall resolve any conflicts that arise.
- M. When an agency provider, excluding an intermediate care facility for individuals with intellectual disabilities, conducts an internal review of an incident for which a MUI has been filed, the agency provider shall submit the results of its internal review of the incident, including statements and documents, to the Board within fourteen (14) calendar days of the agency provider becoming aware of the incident.
- N. The provider shall cooperate with all investigations conducted by other entities and shall respond to all requests for additional information made by DODD, the Board, or any investigating entity within the time frame requested. The time frames identified shall be reasonable.
- O. Except when law enforcement or the public children's service agency is conducting an investigation, the investigative agent shall endeavor to reach a preliminary finding regarding allegations of physical abuse or sexual abuse and notify the individual or individual's guardian and provider of the preliminary finding within fourteen (14) working days. When it is not possible for the investigative agent to reach a preliminary finding within fourteen (14) working days, he or she shall instead notify the individual or individual's guardian and provider of the status of the investigation.
- P. The IA shall submit a report on the investigation to DODD within thirty (30)

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working days of the receipt of a report of a MUI. The report shall be submitted through the online system established by DODD.

1. The report shall follow the format prescribed by DODO. The investigative agent shall include the initial allegation, a list of persons interviewed and documents reviewed, a summary of each interview and document reviewed, and a findings and conclusions section which shall include the cause and contributing factors to the incident and the facts that support the findings and conclusions.
- Q. The IA may request reasonable extensions of the time period for submission of the report. DODD shall grant such extensions for good cause. If any extension is granted, DODD may require submission of interim reports and shall identify alternative actions that may assist with the timely conclusion of the report.
- R. The Board contact person/ designee shall provide a written summary of the investigation findings for each category A or category B MUI, to the individual or legal guardian, the advocate selected by the individual, as applicable, the provider, SSA, and support broker, as applicable no later than five (5) working days after to submission of the report to DODD. In the case of a peer-to-peer act, both individuals, individuals' guardians, or other persons whom the individual have identified, as applicable, shall receive the written summary. The written summary shall be provided in a format prescribed by DODD and include a statement of all the allegations, the facts and findings of the investigation, including, if applicable, whether the case was substantiated or unsubstantiated, the preventive measures implemented in response to the incident. The written summary shall not be provided to the PPI, the PPI's spouse, or the PPI's significant other.
1. The Board shall notify the individual, advocate selected by the individual, or the legal guardian, as applicable, and the provider of the right to submit written comments to the Superintendent regarding the investigation's conclusion and any preventative measures implemented in response to the incident. Any written comments received by Board shall be submitted to DODD.
 2. An individual, individual's guardian, individual's advocate, or provider may dispute the findings by submitting a letter of dispute and supporting documentation to the Board Superintendent, or to the DODD Director if DODD has conducted the investigation, within fifteen (15) calendar days following receipt of the summary. An individual may receive assistance from any person selected by the individual to prepare a letter and provide supporting documentation. In the case of an individual's death, the written summary shall be provided to the individual's family, only upon request by the individual's family.
 3. The Superintendent/designee or the DODD Director/designee, as applicable, shall consider the letter of dispute, the supporting documentation, and any other relevant information and issue a determination within thirty (30) calendar days of such submission and take action consistent with such determination, including confirming or modifying the findings or directing that more information be gathered and the findings be reconsidered.

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4. In cases where the letter of dispute has been filed with the Board, the disputant may dispute the final findings made by the Board by filing those findings and any documentation contesting such findings as are disputed with the director of the DODD within fifteen (15) calendar days of the Board determination. The Director will issue a decision within thirty (30) calendar days.
- S. When the primary person involved is a developmental disabilities employee or a guardian, the county board shall, no later than five (5) working days following recommended closure of a case, the Board shall make a reasonable attempt to provide written notice to the PPI as to whether the MUI has been substantiated, unsubstantiated/insufficient evidence, or unsubstantiated/unfounded.

IV. REVIEW, PREVENTION AND CLOSURE OF MUI'S

- A. Each agency provider shall develop and implement a written procedure for their internal review of all MUI's, this includes the Board as a provider. All providers shall be responsible for taking all reasonable steps to prevent the reoccurrence of MUI.
- B. The Board and other providers shall inform their senior management of a potential or determined MUI involving misappropriation, neglect, physical abuse or sexual abuse within two (2) working days following the day staff became aware of the incident.
- C. Members of an individual's team shall ensure that risks associated with MUIs are addressed in the individual plan or individual service plan of each individual affected and collaborate on the development of preventive measures to address the causes and contributing factors to the MUI. The Board and other providers shall jointly determine what constitutes reasonable steps necessary to prevent the reoccurrence of the MUI. If the Board and another provider are unable to reach agreement, DODD shall make the determination. If the Board or provider lacks sufficient resources to take such steps, the Board or provider may make a written request for assistance from DODD. DODD shall consider requests for assistance made and shall ensure that all actions necessary to protect the health and welfare of individuals served are taken.
 1. Once the investigation is completed, the IA will notify the assigned SSA and request plan of prevention via email. The designated SSA in coordination with the interdisciplinary team will develop prevention plans and forward this plan to the Board contact person/designee and the IA/designee.
 2. The SSA will monitor the services of the individual to ensure the health and welfare of the individual and ensure that all plans of correction/prevention plans are implemented and that written verification of such is incorporated into the MUI file.
 - a) If a service and support administrator is not assigned, a county board designee shall be responsible for ensuring the preventive measures are implemented based upon the written summary.
 3. The completed recommendations for the prevention plan will be given within seven (7) days of the final report to the Board contact

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- person/designee for tracking purposes and assist the IA to answer questions on ITS that have been posted by DODD.
- D. DODD may review reports submitted by the Board. DODD may obtain additional information necessary to conduct this review, including copies of all investigation reports that have been prepared. Such additional information shall be provided within the time period specified by DODD.
 - E. DODD shall determine when to close cases of accidental or suspicious death, death other than accidental or suspicious death, abuse (physical, verbal, or sexual), neglect, misappropriation, exploitation, medical emergency, peer to peer acts, prohibited sexual relations, significant injury when cause is unknown, any case subject to the Director's alert and any cases investigated by DODD. DODD shall solicit input from the Board prior to making this determination.
 - F. The Board contact person/designee shall determine when to close cases other than those specified above in section (IV.) (E.) of this policy.
 - G. When determining that a case should be closed, DODD or the Board shall consider the following criteria:
 - 1. Whether all reasonable measures have been taken to ensure the health and welfare of the individual;
 - 2. Whether a thorough investigation of the incident has been conducted;
 - 3. Whether the team, including the Board and provider, collaborated on developing preventive measures to address the causes and contributing factors;
 - 4. Whether the incident is part of a pattern or trend, as flagged through the incident tracking system, requiring some additional action;
 - 5. Whether appropriate measures have been implemented to prevent recurrence;
 - 6. Whether all requirements set forth in statute have been satisfied;
 - H. The Board contact person/designee shall be responsible for notifying the team when a case is closed.

V. UNUSUAL INCIDENTS (UI's)

- A. Each provider, including the Board, shall require anyone who becomes aware of a UI to report it to the person designated by the provider who can initiate proper action. The Board guidelines are:
 - 1. If you see it, write an incident report and report it to your supervisor; and
 - 2. If you hear about it, write an incident report and report it to your supervisor. Reports must be made no later than twenty-four (24) hours after becoming aware of the incident.
- B. Each agency provider and Board as a provider shall:
 - 1. Identify what is to be reported as a UI, which shall include UIs as defined by this rule;
 - 2. Require an employee who becomes aware of a UI to report it to the person designated by the provider who can initiate proper action;
 - 3. Require the report to be made no later than twenty-four (24) hours after the discovery of the incident;
 - 4. Require appropriate actions be taken to protect the health and welfare of any at-risk individuals;

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5. Require agency provider to investigate the UI, identify the cause and contributing factors, and develop a prevention plan to protect the health and welfare of any at-risk individuals.
- C. The agency provider and Board, as a provider, shall ensure that all staff are trained and knowledgeable regarding the policy and procedure.
- D. The provider providing services when a UI occurs, shall notify other providers of services as necessary to ensure continuity of care and support for the individual.
- E. Independent providers shall complete and send the report to the person designated by the Board on the first working day following the day of the incident being discovered; and notify the individual's guardian or other person whom the individual has identified, as applicable.
- F. Each agency provider, independent provider and county board as a provider shall maintain a log of all UIs. The log shall include, but not be limited to, the name of the individual, a brief description of the incident, any injuries, time, date, location, causes and contributing factors, and preventive measures.
- G. Each agency provider, independent provider and Board as a provider shall review and analyze all UI's at least monthly, to ensure appropriate preventive measures have been implemented and trends and patterns are identified and addressed as appropriate.
- H. The UI reports, documentation of identified trends and patterns, and corrective action shall be made available to the Board and DODD upon request.
- I. The Board shall review, on a quarterly basis, a representative sampling of provider logs, individual provider log(s), and logs where the Board is a provider for the purpose of ensuring that all MUIs required to be reported have been reported, preventive measures have been implemented and that trends and patterns have been identified and addressed. The sample shall be made available to DODD for review upon request.
- J. When the Board is a provider, DODD shall review, on a monthly basis, a representative sampling of county board logs to ensure that MUIs have been reported, preventive measure have been implemented and that trends and patterns have been identified and addressed. The Board shall submit the specified logs to DODD upon request.
- K. Members of an individual's team shall ensure that risks associated with UI are addressed in the individual service plan of each individual affected.

VI. ANALYZING MUI'S TO IDENTIFY PATTERNS AND TRENDS

- A. Annual Analysis
 1. All waiver providers, including the Board as a provider, shall complete an annual report by January 31st each year, regarding MUI trends and patterns. The annual review shall be cumulative for all four (4) quarters of the past year and include an in-depth analysis and the preventive measures taken to address the trends and patterns. The report will contain:
 - a) Date of review;
 - b) Name of person completing review;
 - c) Time period of review;
 - d) Comparison of data for previous three (3) years;
 - e) Explanation of data;
 - f) Data for review by MUI category type;

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- g) Specific individuals involved in established trends and patterns (i.e. five(4) MUI of any kind within six (6) months, ten (10) MUIs of any kind within a year or other pattern identified by the individual's team;
 - h) Specific trends by residence, region or program;
 - i) Previously identified trends and patterns; and
 - j) Action plans and preventive measures implemented to address noted trends and patterns.
1. A provider shall send the annual report for all programs operated in the county to the Board by February 28th of each year.
 2. Boards shall conduct the analysis and follow-up for all entities operated by the Board and for all individual providers. The Board shall send its analysis and follow-up actions to DODD by February 28th for the annual review.
 3. Each waiver agency and independent provider shall conduct the analysis, implement follow-up actions and send annual analysis and follow-up actions to the county board for all programs operated in the county by February 28th for the annual review. The Board shall keep the analysis and follow-up actions on file and make them available to DODD upon request.
 4. The Board and DODD shall review the annual report to ensure that all issues have been reasonably addressed to prevent reoccurrence.
 5. The Board shall ensure that trends and patterns of MUIs are included and addressed in the affected individual's service plan.
 6. The Board shall keep the annual report on file and make it available to DODD upon request.
 7. Each Board or as applicable, each council of governments to which the Board belongs, shall have a committee that reviews trends and patterns of MUIs. The committee shall be made up of a reasonable representation of the county board(s), providers, individuals who receive services and their families, and other stakeholders deemed appropriate by the committee.
 - i. The role of the committee shall be to review and share the county or council of government's aggregate data prepared by the Board or council of governments to identify trends, patterns, or areas for improving the quality of life for individuals supported in the county or counties.
 - ii. The committee shall meet each March to review and analyze data for the preceding calendar year. The Board or council of governments shall send the aggregate data prepared for the meeting to all participants ten (10) calendar days in advance of the meeting.
 - iii. The Board or council of governments shall record and maintain minutes of each meeting, distribute the minutes to members of the committee, and make the minutes available to any person upon request.
 - a) The Board shall ensure follow-up actions identified by the committee have been implemented.
 8. DODD shall prepare a report on trends and patterns identified through the process of reviewing MUIs. DODD shall periodically, but at least semi-annually, review this report with a committee appointed by the Director of DODD which shall consist of at least six (6) members who represent various stakeholder groups, including Disability Rights Ohio and the Ohio Department of Medicaid. The committee shall make recommendations to DODD

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regarding whether appropriate actions to ensure the health and welfare of individuals served have been taken. The committee may request that DODD obtain additional information as may be necessary to make recommendations.

VII. OVERSIGHT

- A. Quarterly Reviews
 - 1. The Board shall review, on at least a quarterly basis, a representative sample of provider UI logs, including logs where the Board is a provider, to ensure that MUIs have been reported, preventive measures have been implemented, and that trends and patterns have been identified and addressed in accordance with this rule. The sample shall be made available to the department for review upon request.
 - 2. When the Board is a provider, DODD shall review, on a monthly basis, a representative sample of Board logs to ensure that MUIs have been reported, preventive measures have been implemented, and that trends and patterns have been identified and addressed in accordance with this rule. The Board shall submit the specified logs to the department upon request.
- B. DODD shall conduct such reviews of the Board and providers as necessary to ensure the health and welfare of individuals and compliance with the requirements of this rule. Failure to comply with the requirements of this rule may be considered by DODD in any regulatory capacity, including certification, licensure, and accreditation.
- C. DODD shall provide access to the ITS, to the Ohio Department of Jobs and Family Services and Ohio legal rights service in accordance with ORC 5123.604.

VIII. ACCESS TO RECORDS

- A. Reports made under Ohio Revised Code (ORC) 5123.61 and 5123-17-02 are not public records as defined in ORC 149.43. Records may be provided to parties authorized to receive them in accordance with ORC 5123.613 and 5126.044.
 - 1. The Board/COG shall not review, copy or include in any reports required by this rule personnel records of an employee that are confidential under state or federal statutes or rules, including medical and insurance records, worker's compensation records, immigration status forms (I-9), and social security numbers.
 - 2. The Board/COG may review, but not copy, personnel records that include confidential information about an employee including, but not limited to, payroll records, performance evaluations, disciplinary records, correspondence to employees regarding status of employment, motor vehicle driver records, professional licenses and criminal records checks. IA staff may include in reports required by this rule information about the results of the review of personnel records specified in this paragraph.
 - 3. Board/COG personnel may review and copy personnel records prepared in connection with the provider's daily operations, such as training records, time sheets and work schedules.
 - 4. Upon DODD request, the provider shall provide copies of personnel records that are not confidential to DODD.
 - 5. The provider shall redact any confidential information contained in a

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record that is copied before the copies are provided to either the Board or DODD.

6. The provider shall not be able to enter or alter any information contained on the online system.
7. Any party entitled to receive any report required by this policy may waive receipt of the report. Any waiver of receipt of a report shall be made in writing.

IX. TRAINING AND TECHNICAL ASSISTANCE

- A. All agency providers and Board shall ensure their staff employed in direct services positions are trained on the requirements of this rule regarding the identification and reporting of MUIs and UIs prior to direct contact with any individual and in all cases, no later than ninety (90) calendar days after date of hire. Thereafter, all employees shall receive training during each calendar year, which shall include a review of health and welfare alerts released since the previous calendar year's training.
- B. All individual providers shall follow the requirements for initial training on the provisions of this rule according to their certification requirements and shall receive annual training from the date of certification on identification and reporting of MUIs and UIs and health and welfare alerts released since the previous calendar year's training.
- C. All agency providers and Board shall ensure that all staff responsible for administrative compliance with this rule receives training on all applicable requirements of this rule at the time of employment or no later than ninety (90) calendar days from the time of employment and each calendar year thereafter. The training shall include the review of health and welfare alerts released since the previous calendar year's training.
- D. The COG shall ensure that staff responsible for conducting investigations receive initial and annual department-approved training.
- E. DODD shall provide technical assistance and training to providers and the Board as necessary. DODD shall periodically monitor compliance with the provisions of this rule.