

Stark County Board of Developmental Disabilities

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SUPPORTING SAFE AND HEALTHY LIVES FOR PEOPLE SERVED

POLICY

The Stark County Board of Developmental Disabilities recognizes its responsibilities to provide a safe and healthy environment for individuals eligible for services from the Board. To that end the Board is committed to allocating the resources required to accomplish all delegated and assigned responsibilities pursuant to rules adopted under section 5123.61 of the Ohio Revised Code (ORC) and section 5123-17-02 of the Ohio Administrative Code (OAC).

A Major Unusual Incident (MUI) refers to situations where an individual's health or safety may be adversely affected or face a reasonable risk of harm due to alleged, suspected, or actual incidents. Individuals impacted by such incidents who are likely to require services from the Board are considered to be receiving services.

A process shall be implemented and maintained to effectively manage incidents that adversely affect the health and safety of individuals. Through its Investigative Services Unit, the Board will:

- Define and establish a system to report, investigate, review, remedy and analyze such incidents
- Monitor and verify the implementation of immediate, corrective and preventative actions taken to ensure the health and safety of individuals served.

Throughout the process the Board will work with families, guardians, advocates, providers and other appropriate parties to monitor and verify that necessary actions have been taken to ensure individuals are maintained in safe and healthy environments.

Providers across the developmental disabilities services system are primarily responsible for managing incidents that do not meet the MUI criteria, referred to as Unusual Incidents. A provider will, upon request by the department or a county board, provide any and all information and documentation regarding an unusual incident and investigation of the unusual incident as well as unusual incident reports, documentation of identified trends and patterns, and the prevention plan if and when needed to ensure a person's health and safety. Proactively addressing Unusual Incidents contributes to deterring more serious incidents and provides better outcomes for individuals with developmental disabilities.

The Board ensures all agency employees are trained and demonstrate competency in identifying and reporting incidents, as required by the OAC (commonly known as the "MUI Rule"). In particular, this training must assure staff competency pursuant to the identification and timely reporting of incidents. (See the provider certification requirements detailed in OAC 5123:2-2-01.) Training also includes:

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- Pre-service training prior to working with any individual.
- Regularly scheduled training sessions to maintain competency.

This commitment extends to administrative employees, interns, contractors, and volunteers.

Investigative Agents, assigned to the Investigative Services Unit, shall be certified as such by the Ohio Department of Developmental Disabilities pursuant to rules adopted under section 5126.25 of the ORC.

Nothing in this policy and its related procedure shall relieve any person of the responsibility to comply with Section 5123.61 of the ORC or Section 5123-17-02 of the OAC.

The Superintendent will develop procedures to implement this policy.

Historical Resolution Information		Reviewer(s): Manager of MUI & Investigative Services
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PROCEDURE

This procedure establishes how Stark County Board of Developmental Disabilities (SCBDD) will comply with its mandated responsibilities for addressing reported incidents, identifying those that are properly established as Major Unusual Incidents (MUIs), conducting investigations of those established as MUIs, managing the responsibilities assigned to County Boards pertinent to all incidents regardless of whether they are established as MUIs, and implementing a continuous quality improvement process in order to prevent or reduce the risk of harm to individuals.

1. Application:

This rule applies to SCBDD, and all providers contracting with the SCBDD.

2. Definitions

- a) "Administrative investigation" means gather information and analysis of information related to an MUI so that appropriate action can be taken to address any harm or risk of harm to prevent future occurrences. There are two administrative investigation procedures (category A: set forth in appendix A to this rule and category B set forth in appendix B to this rule) that correspond to two categories of major unusual incidents.
- b) NEW: "Administrative review" means the gathering and analysis of information related to a major unusual incident in category C as described in paragraph (C) (16) (c) of this rule, using an administrative review form submitted by an individual's provider and completed by an investigative agent in collaboration with the individual's team, so that a prevention plan can be developed and implemented.
 - 1. The administrative review form varies based on the specific type of major unusual incident:
 - a. "Law enforcement" will be completed using the administrative review form contained in appendix C to this rule.
 - b. "Unanticipated hospitalization" will be completed using the administrative review form contained in appendix D to this rule.
 - c. "Unapproved behavioral support" will be completed using the administrative review form contained in appendix E to this rule.
 - 2. The county board will initiate the administrative review form for a law enforcement major unusual incident when the individual is not being served by a provider at the time of the major unusual incident.

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- c) "Agency provider" means a provider, certified or licensed by the department, that employs staff to deliver services to individuals and that may subcontract the delivery of services. "Agency provider" includes a developmental center and 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 considered to be in danger of being adversely affected.
- e) "Incident report" means documentation that contains details about a major unusual incident or an unusual incident and will include, but is not limited to:
 - 1. Individual's name;
 - 2. Individual's address;
 - 3. Date and time of incident;
 - 4. Location of incident;
 - 5. Description of incident that answers the questions, "who? What? When? And where?"
 - 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 that person's 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.
- f) "Ohio Incident Tracking and Monitoring System" (OITMS) means DODD's online web-based system for reporting MUIs.
- g) "Independent Provider" means a self-employed person or a common law employee who provides services for which the person is certified in accordance with rules promulgated by the department and does not employ, either directly or through contract, anyone else to provide the services.
- h) "Major unusual incident" means the alleged, suspected, or actual occurrence of an incident described in paragraph (C) (16) (a), (C) (16) (b), or (C) (16) (c) of this rule

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when there is reason to believe the incident has occurred. There are three categories of major unusual incidents.

- i) "Primary Person Involved" means the person alleged to have committed or to have been responsible for the emotional abuse, exploitation, failure to report, misappropriation, neglect, physical abuse, prohibited sexual relations, rights code violations, or sexual abuse.
- j) "Provider" means an agency provider or an independent provider.
- k) "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 the department.
- l) "Unusual Incident" means an event or occurrence involving an individual that is not consistent with routine operations, policies and procedures, or the individual service plan, but is not a major unusual incident. "Unusual incident" includes, but is not limited to: Dental injury that does not require treatment by a dentist, fall, injury that is not a significant injury, medication error 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 but does involve: A physical altercation; or The use of actions, words, gestures, or other communicative means to purposefully threaten, coerce, or intimidate when there is the opportunity and ability to carry out the threat. Rights code violation or unapproved behavioral support without a likely risk to health and welfare. Emergency room or urgent care treatment center visit. An unplanned hospital admission or hospital stay that is not a major unusual incident as defined in paragraph (C) (16) (c) (ii) of this rule. A situation where 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 the individual or others and is not a major unusual incident as defined in paragraph (C)(16)(b)(iv) or (C)(16)(c)(i) of this rule. Program implementation incident.

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3. MUI Categories

a) Category A

1. *Emotional abuse.* "Emotional abuse" means the use of actions, words, gestures, or other communicative means to purposefully threaten, coerce, intimidate, harass, or humiliate an individual or a pattern of behavior that creates a hostile environment.
2. *Exploitation.* "Exploitation" means the unlawful or improper act of using an individual or an individual's resources for monetary or personal benefit, profit, or gain.
3. *Failure to report.* "Failure to report" means that a developmental disabilities employee does not immediately report the alleged, suspected, or actual occurrence of an individual suffering or facing a substantial risk of suffering any wound, injury, disability, or condition of such a nature as to reasonably indicate emotional abuse, exploitation, misappropriation, neglect, physical abuse, or sexual abuse to the agency provider, county board, or department.
4. *Misappropriation.* "Misappropriation" means depriving, defrauding, or otherwise obtaining the real or personal property of an individual by any means prohibited by the Revised Code or the Administrative Code.
5. *Neglect.* "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 death or 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.
6. *Physical abuse.* "Physical abuse" means the use of physical force that can reasonably be expected to result in physical harm to an individual. Such physical force may include, but is not limited to, hitting, slapping, pushing, or throwing objects at an individual.
7. *Prohibited sexual relations.* "Prohibited sexual relations" means a developmental disabilities employee engaging in consensual sexual conduct or having consensual sexual contact with an individual who is not the developmental disabilities employee's spouse, and for whom the developmental disabilities employee was employed or under contract to provide care or supervise the provision of care at the time of the incident.
8. *Rights code violation.* "Rights code violation" means any violation of the rights enumerated in section 5123.62 of the Revised Code that creates a likely risk of harm to the health or welfare of an individual.
9. *Sexual abuse.* "Sexual abuse" means unlawful "sexual conduct" or "sexual contact" as those terms are defined in section 2907.01 of the Revised Code and the commission of any act prohibited by Chapter 2907. Of the Revised Code (e.g.,

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public indecency, importuning, and voyeurism) when the sexual conduct, sexual contact, or act involves an individual.

10. *Unexplained or unanticipated death.* "Unexplained or unanticipated death" means the death of an individual resulting from an accident or that was otherwise unexpected.

b) Category B

1. *Attempted suicide.* "Attempted suicide" means a physical attempt by an individual that results in emergency room treatment, in-patient observation, or hospital admission.
2. *Death other than unexplained or unanticipated death.* "Death other than unexplained or unanticipated death" means the death of an individual by natural cause.
3. *Medical emergency.* "Medical emergency" means an incident where emergency medical intervention by a developmental disabilities employee is required to save an individual's life (e.g., choking relief techniques, cardiopulmonary resuscitation, use of an automated external defibrillator, or administration of overdose reversal medication such as "Narcan").
4. *Missing individual.* "Missing individual" means law enforcement has been contacted because an individual's whereabouts are unknown and the individual is believed to be at or pose an imminent risk of harm to self or others.
5. *Peer-to-peer act.* "Peer-to-peer act" means any of the following incidents involving two individuals:
 - a. Exploitation which means the unlawful or improper act of using another individual or another individual's resources for monetary or personal benefit, profit, or gain.
 - b. Theft which 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.
 - c. Physical act which means a physical altercation that:
 - i. Results in examination or treatment by a physician, physician assistant, or nurse practitioner; or
 - ii. Involves strangulation, a bloody nose, a bloody lip, a black eye, a concussion, or biting which causes breaking of the skin; or
 - iii. Results in an individual being arrested, incarcerated, or the subject of criminal charges.
 - d. Sexual act which means sexual conduct and/or contact for the purposes of sexual gratification without the consent of the other individual.
6. *Significant injury.* "Significant injury" means an injury to an individual of known cause or unknown cause that results in a dental injury that requires treatment by a dentist, concussion, broken bone, dislocation, or second or third degree

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burns or that requires immobilization, casting, or five or more sutures. A significant injury will be designated in the Ohio incident tracking and monitoring system as either known cause or unknown cause.

c) Category C

1. *Law enforcement*. "Law enforcement" means any incident that results in an individual being tased, arrested, charged, or incarcerated.
2. *Unanticipated hospitalization*. "Unanticipated hospitalization" means:
 - a. A hospital admission lasting forty-eight hours or longer that:
 - i. Is not associated with planned evaluations, scheduled procedures, or routine diagnostic tests that are part of ongoing medical care, including the diagnosis of conditions; and
 - ii. Is due to one or more of the following diagnoses:
 1. Aspiration pneumonia;
 2. Bowel obstruction;
 3. Dehydration;
 4. Medication error;
 5. Seizure; or
 6. Sepsis.
 - b. A hospital re-admission lasting forty-eight hours or longer that:
 - i. Is not associated with planned evaluations, scheduled procedures, or routine diagnostic tests that are part of ongoing medical care, including the diagnosis of conditions; and
 - ii. Is due to any diagnosis that is the same diagnosis as a prior hospital admission lasting forty-eight hours or longer within the past thirty calendar days.
3. *Unapproved behavioral support*. "Unapproved behavioral support" means the use by a developmental disabilities employee of a prohibited measure as defined in rule 5123-2-06 of the Administrative Code or the use of a 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 rule 5123-2-06 of the Administrative Code, when use of the prohibited measure or 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 will be investigated as an unusual incident.

4. Reporting requirements for major unusual incidents

- a) **NEW:** A developmental disabilities employee will immediately report the alleged, suspected, or actual occurrence of a major unusual incident to the designated

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person at the agency provider (if employed by an agency provider), the county board system described in paragraph (D)(10) of this rule, or the department's abuse and neglect hotline.

- b) Reports regarding all major unusual incidents involving an individual who resides in an intermediate care facility for individuals with intellectual disabilities or who receives round-the-clock waiver services will be filed and the requirements of this rule followed regardless of where the incident occurred.
- c) Reports regarding the following major unusual incidents will be filed and the requirements of this rule followed regardless of where the incident occurred:
 - 1. Attempted suicide;
 - 2. Death other than unexplained or unanticipated death;
 - 3. Emotional abuse;
 - 4. Exploitation;
 - 5. Failure to report;
 - 6. Law enforcement;
 - 7. Misappropriation;
 - 8. Missing individual;
 - 9. Neglect;
 - 10. Peer-to-peer act;
 - 11. Physical abuse;
 - 12. (l) Prohibited sexual relations;
 - 13. (m) Sexual abuse; and
 - 14. (n) Unexplained or unanticipated death.
- d) Reports regarding the following major unusual incidents will be filed and the requirements of this rule followed only when the incident occurs in a program operated by a county board or when the individual is being served by a provider at the time of the incident:
 - 1. Medical emergency;
 - 2. Rights code violation;
 - 3. Significant injury;
 - 4. Unanticipated hospitalization; and
 - 5. Unapproved behavioral support.
- e) Immediately upon identification or notification of a major unusual incident, a provider will take all reasonable measures to ensure the health and welfare of at-risk individuals. Reasonable measures include, but are not limited to, securing immediate and ongoing medical attention and removal of a developmental

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disabilities employee from direct contact with any individual when the developmental disabilities employee is alleged to have been involved in physical abuse or sexual abuse. The provider will document reasonable measures taken and by whom in the incident report. The provider and county board will 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 at-risk individuals, the department will make the determination.

- f) Immediately upon receipt of a report or notification of an allegation of a major unusual incident, the county board will:
 - 1. Ensure all reasonable measures necessary to protect the health and welfare of at-risk individuals have been taken;
 - 2. Determine if additional measures are needed; and
 - 3. Notify the department if the circumstances in paragraph (J) (1) of this rule that require a department-directed administrative investigation are present. Such notification will take place on the first working day the county board becomes aware of the incident.
- g) A provider other than a developmental center will, as soon as possible but no later than four hours following discovery of a major unusual incident, notify the county board through means identified by the county board of the following incidents or allegations:
 - 1. Emotional abuse;
 - 2. Exploitation;
 - 3. Misappropriation;
 - 4. Neglect;
 - 5. Peer-to-peer act;
 - 6. Physical abuse;
 - 7. Prohibited sexual relations;
 - 8. Sexual abuse;
 - 9. Unexplained or unanticipated death; and
 - 10. When the provider has received an inquiry from the media regarding a major unusual incident.
- h) All providers shall submit a written incident report to SCBDD no later than 3:00 p.m. the next working day following initial knowledge of a potential or determined MUI. Reports internal to SCBDD may be submitted through Brittco per the agreed upon site-specific reporting procedures. Upon review and determination by SCBDD program management that an incident may constitute a reportable MUI, that

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incident report/composite will be forwarded to the Investigative Services Unit via email address: MUIreport@starkdd.org.

- i) SCBDD shall enter preliminary information regarding the major unusual incident in the Ohio Incident Tracking and Monitoring System (OITMS) and in the manner prescribed by the department by five p.m. on the first working day following the day the county board receives notification from the provider or otherwise becomes aware of the major unusual incident.
- j) When a provider has placed an employee on leave, or otherwise taken protective action pending the outcome of the administrative investigation, SCBDD shall keep the provider apprised of the status of the administrative investigation so that the provider can resume normal operations as soon as possible consistent with the health, safety or welfare of any at-risk individuals. The provider shall notify SCBDD of any changes to the protective action.
- k) SCBDD maintains a system that is available twenty-four hours a day, seven days a week, to receive and respond to all reports. All providers and DODD are informed about this system.
- l) The provider or County Board shall immediately report to law enforcement any allegation of physical abuse, sexual abuse, emotional abuse, misappropriation, exploitation, neglect, failure to report, or peer-to-peer act which may constitute a criminal act. The provider shall document the time, date, and name of the law enforcement representative notified of the alleged criminal act. SCBDD will ensure that the notification has been made.
- m) All allegations of abuse or neglect of an individual under the age of twenty-one years shall be immediately reported to the local public children's services agency. The notification may be made by the provider or the County Board. SCBDD will ensure that the notification has been made.
- n) The provider shall make the following notifications, as applicable, when the major unusual incident or discovery of the major unusual incident occurs when such provider has responsibility for the individual. The notification shall be made on the same day the major unusual incident or discovery of the major unusual incident occurs and include immediate actions taken.
 - 1. Guardian or other person whom the individual has identified.
 - 2. Service and Support Administrator (SSA) serving the individual.

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3. Other providers of services as necessary to ensure continuity of care and support for the individual.
4. Staff or family living at the individual's residence who have responsibility for the individual's care.

5. Notification Requirements

- a) All notifications or efforts to notify shall be documented. The County Board will ensure that all required notifications have been made.
- b) Notification will not be made if the person to be notified is the PPI, the spouse of the PPI, or the significant other of the PPI.
- c) Notification will be made to the individuals, individuals' guardians, and other persons whom the individuals have identified in a peer-to-peer act unless such notification could jeopardize the health, safety or welfare of an individual involved.
- d) Notification to a person is not required when the report comes from such person or in the case of a death when the family is already aware of the death.
- e) In any case where law enforcement has been notified of an alleged crime, and there is reason to believe that the PPI may be employed by a provider other than the provider/employer wherein the alleged incident occurred, DODD will be notified by SCBDD so they may provide notification of the incident to any other provider, developmental center, or County Board for whom the PPI works, for the purpose of ensuring the health, safety or welfare of any at-risk individual.

6. General Administrative Investigation Requirements

- a) SCBDD shall employ at least one Investigative Agent (IA) or contract with a person or governmental entity for the services of an IA. An IA shall be certified by the department in accordance with rule 5123:2-5-07 of the OAC.
- b) All MUIs will receive an administrative investigation and be documented in the form of an investigation report by an IA.
- c) SCBDD may elect to follow the administrative investigation procedure for Category A for any established MUI.
- d) SCBDD may elect to follow the administrative investigation procedure for Category A for any established MUI.

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- e) 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 major unusual incident.
- f) MUIs that involve an active criminal investigation may be closed as soon as the County Board ensures that the MUI is properly coded, the history of the PPI has been reviewed, the cause and contributing factors are determined, a finding is made, and prevention measures have been implemented. Information needed for closure of the MUI may be obtained from the criminal investigation.
- g) County Board staff may assist the IA by gathering documents, entering information into the Ohio Incident Tracking and Monitoring System (OITMS), fulfilling Category C administrative investigation requirements, or performing other administrative or clerical duties that are not specific to the IA role.
- h) Except when law enforcement or the public children services agency is conducting the investigation, the investigative agent will conduct all interviews for major unusual incidents in category A or category B. For a major unusual incident occurring at an intermediate care facility for individuals with intellectual disabilities, the investigative agent may utilize interviews conducted by the intermediate care facility for individuals with intellectual disabilities or personally conduct the interviews. If the investigative agent determines the information is reliable, the investigative agent may utilize other information received from law enforcement, the public children services agency, or providers in order to meet the requirements of this rule.
- i) If the MUI involves an individual who resides in an ICF and the incident occurs at a program operated by the County Board, it is the responsibility of the ICF to complete an administrative investigation and assure that the administrative investigation complies with federal guidelines. The IA may utilize information from the ICF's administrative investigation to meet the requirements of the MUI rule or conduct a separate administrative investigation. Copies of the full administrative investigation will be provided to the ICF and the County Board.
- j) When an agency provider, excluding a developmental center or an ICF, conducts an internal review of an incident for which an MUI has been filed, the agency shall submit the results of its internal review of the incident, including statements and

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documents, to SCBDD within fourteen calendar days of the agency provider becoming aware of the incident.

- k) All developmental disabilities employees will cooperate with administrative investigations and administrative reviews conducted in accordance with this rule. Providers and county boards will respond to requests for information within the time frame requested. The time frames identified will be reasonable.
- l) The investigative agent will complete a report in the format prescribed by the department of each administrative investigation or administrative review and submit it for closure in the Ohio incident tracking and monitoring system within forty-five working days from submission of the incident report unless the county board requests and the department grants an extension for good cause. If an extension is granted, the department may require submission of interim reports and may identify alternative actions to assist with the timely conclusion of the report.
- m) Except when law enforcement or the public children services agency is conducting an investigation, the investigative agent will 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 working days. When it is not possible for the investigative agent to reach a preliminary finding regarding an allegation of physical abuse or sexual abuse within fourteen working days, the investigative agent will instead notify the individual or individual's guardian and provider of the status of the investigation every seven working days thereafter.
- n) Investigation reports shall follow the format prescribed by DODD. The report shall include documentation of the initial allegation, a list of persons interviewed, 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.

7. Department-Directed Administrative Investigations

- a) The department shall conduct the administrative investigation when the MUI includes an allegation against any of the following:
 - 1. The superintendent of a County Board or developmental center
 - 2. A management employee who reports directly to the Superintendent of the County Board
 - 3. An IA
 - 4. An SSA

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5. An MUI contact or designee employed by a County Board
 6. A current member of a County Board
 7. A person having any known relationship with any of the aforementioned persons when such relationship may present a conflict of interest or the appearance of a conflict of interest
 8. An employee of a County Board when it is alleged that the employee is responsible for an individual's death, has committed sexual abuse, engaged in prohibited sexual activity, or committed physical abuse or neglect resulting in emergency room treatment or hospitalization.
- b) A department-directed administrative investigation or administrative investigation review may be conducted following the receipt of a request from the County Board if DODD determines that there is a reasonable basis for the request.
- c) DODD may conduct a review or administrative investigation of any MUI or may request that a review or administrative investigation be conducted by another County Board, a regional council of governments, or any other governmental entity authorized to conduct an investigation.

8. Written Summaries

- a) No later than five working days following recommendation by SCBDD or DODD via the Ohio Incident Tracking and Monitoring System (OITMS) that the report be closed, the County Board will provide a written summary of the administrative investigation of each Category A or Category B MUI. Such summary will include the allegations; the facts and findings, including (as applicable) whether the case was substantiated or unsubstantiated; and preventive measures implemented in response to the incident. The summary will be distributed to the following, unless the information in the written summary has already been communicated.
1. The individual, individual's guardian, or individual's chosen representative
 2. In the case of a peer-to-peer act, both individuals and their guardians
 3. The licensed or certified provider at the time of the incident
 4. The individual's SSA
 5. Any other person selected by the individual to coordinate services for the individual and the support broker, as applicable.
- b) 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.
- c) The written summary shall not be provided to the PPI, the spouse of the PPI, or the significant other of the PPI.

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- d) No later than five working days following the closure of a case, SCBDD shall make a reasonable attempt to notify the PPI as to whether the MUI has been substantiated, unsubstantiated due to insufficient evidence, or unsubstantiated as unfounded.
- e) If an SSA is not assigned, a County Board designee shall be responsible for ensuring the preventive measures are implemented based upon the written summary.

9. Disputed Findings

- a) An individual, individual's guardian, individual's chosen representative or other person whom the individual has identified, or provider may dispute the findings by submitting a letter of dispute and supporting documentation to the SCBDD Superintendent, or to the Director of DODD, if DODD conducted the administrative investigation. Such letter must be submitted within fifteen calendar days following receipt of the finding. An individual may receive assistance from any person selected by the individual to prepare a letter and provide supporting documentation.
- b) The County Board Superintendent or designee or the DODD Director or designee, as applicable, shall consider the letter of dispute, the supporting documentation, and any other relevant information and issue a determination within thirty 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.
- c) In cases where the letter of dispute has been filed with the County Board, the disputant may dispute the final findings made by the County Board by filing those findings and any documentation contesting such findings as are disputed with the Director of DODD within fifteen calendar days of the County Board determination. The Director will issue a decision within thirty calendar days.

10. Review, prevention, and closure of MUIs

- a) SCBDD and agency providers shall implement a written procedure for the internal review of all MUIs and shall be responsible for taking all reasonable steps necessary to prevent the reoccurrence of MUIs.
- b) The individual's team, including the County Board and provider, will collaborate on the development of preventive measures to address the causes and contributing factors to the incident. The team members shall jointly determine what constitutes reasonable steps necessary to prevent the reoccurrence of MUIs. If the individual

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does not have an SSA, individual team, Qualified Intellectual Disability Professional, or agency provider, a County Board designee will ensure that preventive measures as are reasonably possible are fully implemented.

- c) The department shall review and close reports regarding the following types of MUIs:
 - 1. Attempted Suicide
 - 2. Death other than unexplained or unanticipated
 - 3. Exploitation
 - 4. Failure to Report
 - 5. Medical Emergency
 - 6. Misappropriation
 - 7. Neglect
 - 8. Physical Abuse
 - 9. Prohibited Sexual Relations
 - 10. Sexual Abuse
 - 11. Significant injury when the cause is unknown
 - 12. Emotional Abuse
 - 13. Unexplained or unanticipated death
 - 14. Any major unusual incident that is the subject of a director's alert; and
 - 15. Any major unusual incident investigated by the department.
- d) The County Board shall review and close reports regarding the following types of MUIs:
 - 1. Law enforcement
 - 2. Missing Individual
 - 3. Peer-to-Peer Act
 - 4. Rights code violation
 - 5. Significant injury when cause is known
 - 6. Unanticipated hospitalization
 - 7. Unapproved behavioral support
- e) DODD may review any case to ensure it has been properly closed and shall conduct sample reviews to ensure proper closure by the County Board. DODD may reopen any administrative investigation that does not meet the requirements of OAC. SCBDD will provide any information deemed necessary by DODD to close a case.

11. Analysis of MUI Trends and Patterns

- a) By January thirty-first of each year a provider, including SCBDD as a provider, shall conduct an in-depth review and analysis of trends and patterns of major unusual

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incidents occurring during the preceding calendar year and compile an annual report which contains:

1. Date of review
2. Name of person completing review
3. Time period of review
4. Comparison of data for previous three years
5. Explanation of data
6. Data for review by MUI category type
7. Specific individuals involved in established trends and patterns (i.e., five MUIs of any kind within six months, ten MUIs of any kind within a year, or other pattern identified by the individual's team)
8. Specific trends by residence, region, or program
9. Previously identified trends and patterns
10. Action plans and preventive measures to address noted trends and patterns

- b) SCBDD shall send the annual report to the department for all programs operated by the county board by February twenty-eighth of each year. The department shall review the annual report to ensure that all issues have been reasonably addressed to prevent recurrence of major unusual incidents
- c) Each agency provider shall complete and send its analysis and follow-up actions to the County Board for all programs it operates in the county by February twenty-eighth of each year. The County Board shall review the annual report to ensure that all issues have been reasonably addressed to prevent reoccurrence. The county board will keep the annual report on file and make it available to DODD upon request.
- d) The County Board and DODD will review the analyses to ensure that all issues have been reasonably addressed to prevent reoccurrence.
- e) The County Board will ensure that trends and patterns of MUIs are included and addressed in the affected individuals' service plans.
- f) The County Board will have a committee that reviews trends and patterns of MUIs. The committee shall be made up of a reasonable representation of the County Board, providers, families, and other stakeholders deemed appropriate by the committee. The role of the committee will be to review and share the county's aggregate data to identify trends, patterns, or areas for improving the quality of life for individuals supported in the county. The committee shall meet each March to review and analyze data for the preceding calendar year.

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- g) The County Board will send the aggregate data prepared for the meeting to all participants ten calendar days in advance of the meeting.
- h) The County Board will 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.
- i) The County Board will ensure follow-up actions identified by the committee have been implemented.

12. Requirements for unusual incidents

- a) Unusual incidents will be reported and investigated by the provider.
- b) Each agency provider will:
 - 1. Develop and implement a written unusual incident policy and procedure that:
 - a. Identifies what is to be reported as an unusual incident which will include unusual incidents as defined in this rule;
 - b. Requires an employee who becomes aware of an unusual incident to report it to the person designated by the agency provider who can initiate proper action;
 - c. Requires the report to be made no later than twenty-four hours following the occurrence of the unusual incident; and
 - d. Requires the agency provider to investigate unusual incidents, identify the causes and contributing factors when applicable, and develop a prevention plan to protect the health and welfare of any at-risk individuals.
 - 2. Ensure all staff are trained and knowledgeable regarding the unusual incident policy and procedure.
 - 3. If a UI occurs at a site operated by SCBDD, or at a site operated by an entity with which the County Board contracts, the County Board or contract entity shall notify the licensed provider or staff, guardian, or chosen representative or other person whom the individual has identified, as applicable, at the individual's residence. The notification shall be made the same day that the incident is discovered. Independent providers shall complete an incident report, notify the individual's guardian or chosen representative or other person whom the individual has identified, as applicable, and forward the incident report to the SSA or County Board designee on the day a UI is discovered.
 - 4. Each provider will review its log of all unusual incidents as necessary, but no less than monthly, to ensure appropriate prevention plans have been implemented and identified trends and patterns have been addressed as appropriate. When no

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unusual incidents occur during a calendar month, the provider will make a notation to that effect on its log of unusual incidents.

5. Each provider will maintain a log of all unusual incidents. The log will contain only unusual incidents as defined in paragraph (C) (27) of this rule and will include, but is not limited to, the name of the individual, a brief description of the unusual incident, any injuries, date, time, location, causes and contributing factors, and prevention plan.
6. Members of an individual's team shall ensure that risks associated with unusual incidents are addressed in the individual plan or individual service plan of each individual affected. When the unusual incident involves a hospital stay, the provider and the individual's team will review what preceded the hospital stay and consider what could have been done differently to prevent the hospital stay.
7. **NEW:** A provider will, upon request by the department or a county board, provide any and all information and documentation regarding an unusual incident and investigation of the unusual incident as well as unusual incident reports, documentation of identified trends and patterns, and the prevention plan.

13. Oversight

- a) **NEW:** The department will conduct reviews of county boards and providers as necessary to ensure the health and welfare of individuals and compliance with this rule. Failure to comply with this rule may be considered by the department in any regulatory capacity, including certification, licensure, and accreditation.
- b) **NEW:** The **department** will review and take any action appropriate when a complaint is received about how an administrative investigation or administrative review is conducted.

14. Access to Records

- a) Reports made under section 5123.61 of ORC are not public records as defined in section 149.43 of ORC. Records may be provided to parties authorized to receive them in accordance with sections 5123.613 and 5126.044 of the ORC, to any governmental entity authorized to investigate the circumstances of alleged abuse or neglect, misappropriation, or exploitation and to any party to the extent that release of a record is necessary to ensure the health, safety or welfare of an individual.
- b) SCBDD will not review, copy, or include in any report required by OAC a provider's personnel **records** of an employee that are confidential under state or federal statutes or rules, including medical and insurance records, workers compensation

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records, employment eligibility verification (I-9) forms, and social security numbers. The provider should redact any confidential information contained in a record before copies are provided to the County Board. A provider shall make all other records available upon request by the County Board or DODD.

- c) SCBDD may review and copy personnel records prepared in connection with a provider's daily **operations**, such as training records, timesheets, and work schedules. The provider may redact any confidential information contained in a record before the copies are provided to the County Board.

15. Training

- a) SCBDD will ensure that staff employed in direct services positions are trained on the requirements of incident management prior to direct contact with any individual. Thereafter, all **staff** employed in direct services positions will receive annual training on these requirements including a review of Health and Safety Alerts issued by DODD since the previous year's training.
- b) SCBDD shall ensure staff employed in positions other than direct services positions are trained on the requirements of incident management no later than ninety days from the date of hire. **Thereafter**, staff employed in positions other than direct services positions will receive annual training on these requirements including a review of Health and Safety Alerts issued by DODD since the previous year's training