

**Reporting of Abuse and Neglect
And
Notice of Conduct for placement on the Abuse Registry**

I. Purpose

The purpose of this policy is to advise persons employed by the Erie County Board of Mental Retardation and Developmental Disabilities (the Board) and other employees in the mental retardation and developmental disabilities field of the requirements contained in Ohio Revised Code (ORC) 5123.61 and 5123.99 with respect to the reporting of abuse and neglect.

It is the policy of the Board that it will not employ any individual who has been convicted any of the offenses listed in the ORC 5126.28.

It is the policy of the Board that at least annually all Board employees shall receive an annual written notice, prescribed by the Department, explaining the conduct that may result in placement on the Abuser Registry.

II. Definitions:

Abuse means all of the following:

- The use of physical force that can reasonably be expected to result in physical harm; (may include but is not limited to: hitting, slapping, pushing or throwing objects at an individual) or serious physical harm (includes any injury that creates a substantial risk of death; an injury that causes permanent disfigurement or temporary serious disfigurement or prolonged pain).
- *Sexual Abuse* is unlawful *sexual contact (touching the erogenous zone of another for the sexual arousing or gratification of either party)* or unlawful *sexual conduct (intercourse or other sexual penetration)*.
- *Verbal abuse* is purposefully using words to threaten, coerce, intimidate, harass or humiliate an individual.
- *Misappropriation* is depriving, defrauding or otherwise obtaining the real or personal property of an individual by any means prohibited by law including, but not limited to, theft, forgery and misuse of a credit card.
- *Neglect* is when there is a duty to do so, failing to provide an individual with any treatment, care, goods or services that are necessary to maintain the health and safety of the individual.

The above definitions continue to be the basis for reporting MUIs and have not changed. Refer to the MUI Policy for reporting MUIs.

III. Procedure:

A. Reporting requirements:

If an employee of the Board or any agent with who the Board contracts for services has reason to believe that a person with mental retardation and/or a developmental disability has suffered or faces a substantial risk (a strong possibility) of suffering any wound, injury, disability or condition of such a nature as to reasonably indicate abuse or neglect of that person, that employee shall immediately report or cause reports to be made to the Board's investigative agent or the appropriate law enforcement.

If the report concerns a person in a developmental center or other state operated facility the employee shall notify the Ohio State Highway Patrol or the Ohio Department of Mental Retardation and Developmental Disabilities (ODMR/DD).

B. Reporting incidents of abuse, neglect and exploitation involving employees of County Boards of Mental Retardation and Developmental Disabilities.

If an employee of the Board or any agent with who the Board contracts for services has reason to believe that a person with mental retardation and/or a developmental disability has suffered or faces a substantial risk (a strong possibility) of abuse or neglect, physical or mental, due to any act or omission of an employee of the Board, that employee shall make a report to the investigative agent of the Board.

The investigative agent shall make a report to the Department.

REPORTING CHART	
Allegation	Report Made To:
1. Person with MR/DD served in the community	1. County board and/or law enforcement
2. Person with MR/DD served in a developmental center	2. Developmental Center and/or ODMR/DD and the Ohio State Highway Patrol
3. Act of omission by county board employee	3. ODMR/DD and county board and/or law enforcement
4. Person with MR/DD who are inmates in the custody of a state correctional facility.	4. Ohio State Highway Patrol
5. Children with MR/DD	5. Children's Services Board or law enforcement and county board of MR/DD

C. Information to be included in a report:

Reports of abuse, neglect or exploitation are to be made by telephone or in person, followed by a written report. The report must contain all of the following:

1. The name and address of the individual with MR/DD and the individual's guardian, if known.
2. The age of the individual with MR/DD.
3. Any other information that would assist in the investigation of the report.

D. Penalties for failure to report abuse, neglect, and exploitation.

An employee of the Board or an employee in a program or service designed and operated to primarily service individuals with MR/DD, including programs and services provided by an entity licensed or certified by the ODMR/DD) who fails to report abuse or neglect, is eligible for inclusion on the Abuser Registry.

Incidences of failure to report, failure to fully cooperate with an investigation, withholding information during an investigation, or interfering with an investigation in any way, and/or of employee abuse or neglect shall be forwarded to the prosecutor's office. (Note: Failure to report

abuse or neglect is a crime. It is a misdemeanor of the fourth degree. However, if the abuse or neglect constitutes a felony offense, failure to report is a misdemeanor of the second degree.)

E. Record Check Requirement

The ORC 5126.28 states that a county board shall not employ an individual who has been convicted of any of the offenses listed in that statute. Included I that statute is a criminal offense, entitled "Patient Endangerment." *It is "patient endangerment" when an "MR/DD caretaker" creates a substantial risk to the health or safety of an individual with mental retardation or a developmental disability. An "MR/DD caretaker" is any person who assumes a duty to provide care or protection to an individual with MR/DD either voluntarily, as a paid caretaker, by order of a court, or as a result of a family relationship to the individual.*

"MR/DD caretaker" includes employees of the Board and other provider agency employees.

An "MR/DD caretaker" is not guilty of patient endangerment if ordered to commit the conduct by a person with supervisory authority or authority pursuant to a contract for service provision.

A contracting entity of a county board shall not employ an individual in a direct services position if the individual has a conviction for an offense listed in ORC 5126.28.

F. Annual Written Notice of Registry Conduct Required

The Board shall provide its employees with an *annual written notice*, prescribed by the Department, explaining the conduct that may result in placement on the Abuser Registry.

Each contracting entity with the Board shall provide its employees with an *annual written notice*, prescribed by the Department, explaining the conduct that may result in placement on the Abuser Registry.

The fact that an MR/DD employee does not receive the required notice does not exempt the employee from inclusion on the Abuser Registry.

ABUSER REGISTRY ANNUAL NOTICE

The Ohio Department of Mental Retardation and Developmental Disabilities (“Department”) maintains an Abuser Registry which is a list of MR/DD employees who the Department has determined have abused, neglected, had sexual contact with, stolen property from, or did not report the abuse or neglect of an individual with MR/DD. If your name is placed on the Abuser Registry you are barred from employment as an MR/DD employee in this state for a minimum of 5 years.

- **Employees whose names may be placed on the Abuser Registry.** The name of any “MR/DD employee” may be placed on the Abuser Registry. MR/DD employee includes any Department employee, any employee of a county board of MR/DD, and any employee providing specialized services to an individual with MR/DD. A specialized service is a program or service designed to primarily serve individuals with MR/DD including services by an entity licensed or certified by the Department.
- **Abuser Registry Offenses.** The Department may place the name of an MR/DD employee on the Abuser Registry if it determines that the employee has committed any of the below offenses against an individual with MR/DD.
 - **Abuse**
 - Abuse includes the use of any physical force that could reasonably be expected to result in physical harm.
 - Abuse includes unlawful sexual conduct (unprivileged intercourse or other sexual penetration) and unlawful sexual contact (unprivileged touching of another’s erogenous zone).
 - Abuse includes verbal abuse. Verbal abuse means purposely using words to threaten, coerce, intimidate, harass or humiliate an individual.
 - **Sexual Contact.** Sexual contact means the touching of an erogenous zone for sexual gratification, whether or not consensual, by an MR/DD employee of an individual in the employee’s care who is not the employee’s spouse.
 - **Neglect.** Neglect means, when there is a duty to do so, failing to provide an individual with any treatment, care, goods or services necessary to maintain the health or safety of the individual.
 - **Misappropriation (theft).** This means obtaining the property of an individual or individuals, without consent, with an aggregate (combined) value of at least \$100. Theft of any check, credit card, ATM card and the like are also Abuser Registry offenses.
 - **Failure to Report Abuse, Neglect or Misappropriation.** An MR/DD employee may be placed on the Abuser Registry if the employee unreasonably does not report abuse, neglect or misappropriation of the property of an individual with MR/DD, or the substantial risk to such an individual of abuse, neglect or misappropriation, when the employee should know that his/her non-reporting will result in a substantial risk of harm to such individual.

ORC 5123.542 requires the Department, each county MR/DD board, each entity providing specialized services under contract with an MR/DD board, and each owner, operator or administrator of a residential facility as defined in ORC 5123.19 or of a program certified by the Department to provide supported living services to annually provide written notice to each of its MR/DD employees explaining the conduct for which an MR/DD employee may be placed on the Abuser Registry. More information about the Abuser Registry is on the Department’s website at <http://odmrdd.state.oh.us/CountyBoardsDoc/BoardsInfo.htm> or may be obtained by calling (614) 995-3810.