

Erie County Board of Developmental Disabilities

Reporting Abuse, Neglect and Major Unusual Incidents

May 2004

MAJOR UNUSUAL INCIDENT (MUI) POLICY

I. Purpose

This policy will establish a system to report, investigate, review, remedy, and analyze incidents adversely affecting the health and safety of individuals eligible for services through the Erie County Board of Developmental Disabilities. The policy will encompass all reporting regulations, as stated in section 5123:2-17-02 of the Ohio Revised Code, set forth by the Ohio Department of Developmental Disabilities. The policy will outline procedures that allow the Erie County Board of Developmental Disabilities to monitor preventative actions taken to protect the health and safety of eligible individuals and act as a means to track patterns and trends to improve quality of services.

This policy will apply to all Erie County Board of Developmental Disabilities employees, developmental centers, providers, and any person providing services to individuals with developmental disabilities irrespective of the setting. It is not intended to find fault with employee/agency performance but rather will improve the overall service delivery system. Nothing stated in this policy shall relieve any person of the responsibility to comply with section 5123.61 of the Revised Code.

II. Definitions

Agency Provider: A provider, certified or licensed by the department, that employs staff to deliver services to individuals and who may subcontract the delivery of services.

At-Risk Individual: An individual whose health and safety is adversely affected or whose health or safety may reasonably be considered to be in danger of being adversely affected.

County Board as a provider: The county board when acting as the provider to the individual who is the subject of the incident.

Department: The Ohio Department of Developmental Disabilities.

DJFS: Department of Jobs and Family Services-formerly Children Services; investigates allegations of abuse/neglect involving individuals under twenty-one years of age

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ECBDD: Erie County Board of Developmental Disabilities

Incident: an event or occurrence involving an eligible individual that is not consistent with routine operations, policies, procedures, or the Individual Support Agreement, but are not abuse, neglect, a Major Unusual Incident or a Service Exception; an IRF form is completed and appropriate follow-up may be requested

Individual: A person with a developmental disability.

Individual Provider: A provider certified by the department who is self-employed and not an agency and who personally delivers services to individuals and who may not subcontract the delivery of services.

Investigation Report: the written report and plan of correction that is completed in response to all MUI's and Service Exceptions; required by ECBDD submitted to MUI Coordinator for appropriate follow-up and approval

IRF: Incident Reporting Form- ECBDD/ODODD standardized written document used by all county board staff and contract providers to report incidents involving eligible individuals. All abuse, neglect, Major Unusual Incidents, Service Exceptions and Incidents will be documented using this form.

ISA: Individual Support Agreement- ECBDD written document stating the services and supports an eligible individual has asked to receive; serves as an addendum to the main contract for all county board staff and contract providers as to how services are to be provided specific to each individual

ITS: Incident Tracking System- The department's online system for reporting major unusual incidents.

DD: Developmental Disability

DD Employee – means any of the following: an employee of the department, an employee of a county board, or an employee in a position that includes providing specialized services to an individual.

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MUI: Major Unusual Incident – means the alleged, suspected, or actual occurrence of an incident when there is reason to believe the health and safety of an individual may be adversely affected or an individual may be placed at a reasonable risk of harm, if such individual is receiving services through the DD service delivery system or will be receiving such services as a result of the incident.

Major Unusual Incidents include, but are not limited to, the following:

1. **Abuse.** “Abuse” means any of the following when directed toward an individual:
 - A. ***Physical Abuse.*** “Physical abuse” means the use of physical force that can be reasonably expected to result in physical harm or serious physical harm as those terms are defined in section 2901.01 of the Revised Code. Such force includes, but is not limited to, hitting, slapping, pushing, or throwing objects at an individual.
 - B. ***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 section 2907.09 of the Revised Code (e.g., public indecency, importuning, and voyeurism).
 - C. ***Verbal Abuse.*** “Verbal abuse” means purposely using words to threaten, coerce, intimidate, harass, or humiliate an eligible individual.
2. **Attempted Suicide.** “Attempted suicide” means a physical attempt by an individual that result in emergency room treatment, in-patient observation, or hospital admission.
3. **Death.** “Death” means the death of an individual.
4. **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.
5. **Failure to Report.** “Failure to report” means that a person/agency who, is required to report pursuant to section 5123.61 of the Revised Code 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

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to reasonably indicate abuse (including misappropriation) or neglect of that individual, and such person does not immediately report such information to a law enforcement agency or the ECBDD.

6. **Known Injury.** “Known Injury” means an injury from a known cause that is not considered abuse or neglect and that requires immobilization, casting, five or more sutures or the equivalent, second or third degree burns, dental injuries, or any injury that prohibits the individual from participating in routine daily tasks for more than two consecutive days.
7. **Law Enforcement.** “Law Enforcement” means any incident that results in the individual being charged, incarcerated, or arrested.
8. **Medical Emergency.** “Medical Emergency” means an incident emergency medical intervention is required to save an individual’s life (e.g., Heimlich maneuver, cardiopulmonary resuscitation, intravenous for dehydration).
9. **Misappropriation.** “Misappropriation” means depriving, defrauding, or otherwise obtaining the real or personal property of an eligible individual by any means prohibited by the Revised Code, including chapters 2911 and 2913.
10. **Missing individual.** “Missing individual” means an incident that is not considered neglect and the individual cannot be located for a period of time longer than specified in the individual’s service plan and the individual cannot be located after actions specified in the individual service plan and the individual cannot be located in a search of the immediate surrounding area; circumstances indicate that the individual may be in immediate jeopardy, or law enforcement has been called to assist in the search for the individual.
11. **Neglect.** “Neglect” means, when there is a duty to do so, failing to provide an individual with any treatment, care, goods, supervision, or services necessary to maintain the health and safety of the individual.
12. **Peer-to-peer acts.** “Peer-to peer acts” means acts committed by one individual against another when there is physical abuse with intent to harm verbal abuse with intent to intimidate, harass, or humiliate; any sexual abuse; any exploitation; or intentional misappropriation of property of significant value.

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- 13. Prohibited sexual relations.** “Prohibited sexual relations” means an 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 at the time of the incident and includes persons in the employee’s supervisory chain of command.
- 14. Rights code violation.** “Rights code violation” means any violation of the rights enumerated in section 5123.62 of the Revised Code that creates a reasonable risk of harm to the health and safety of an individual.
- 15. Unapproved behavior support.** “Unapproved behavior support” means the use of any aversive strategy or intervention implemented without approval by the human rights committee or behavior support committee or without informed consent.
- 16. Unknown Injury.** “Unknown injury” means an injury of an unknown cause that is not considered possible abuse or neglect and that requires treatment that only a physician, physician assistant, or nurse practitioner can provide..
- 17. Unscheduled Hospitalization.** “Unscheduled hospitalization” means any hospital admission that is not scheduled unless the hospital admission is due to a condition that is specified in the individual service plan or nursing care plan indicating the specific symptoms and criteria that require hospitalization.

MUI Coordinator: an investigative agent that is either employed by or under contract with ECBDD who is certified by ODODD to conduct investigations; receives and manages receipt of all reports as required for cases involving Abuse, Neglect, Major Unusual Incidents, Service Exceptions, and Incidents; determines level of incident and required follow-up actions; reports as required to ODODD; may participate in investigations; shall ensure that a system exists whereby providers may make reports as required, and that this system is communicated to providers.

ODODD: Ohio Department of Developmental Disabilities; may also be referred to as the Department

ORC: **Ohio Revised Code**-state law/regulations; section 5123:2-17-02 addresses abuse, neglect, and Major Unusual Incidents

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PPI: Primary Person Involved – The person alleged to have committed or to have been responsible for the abuse, exploitation, failure to report, misappropriation, neglect, prohibited sexual relations, rights code violation, or suspicious or accidental death.

Provider: persons and entities that provide specialized services to eligible individuals regardless of source of payment; includes certified respite care providers, licensed providers, providers approved to provide Medicaid services under home and community-based waivers administered by the Department, and county boards when providing the services or county board contracting entities. “Provider” includes a county board providing services and a county board contracting entity.

SE: Service Exception – a serious incident that does not meet MUI criteria; requires an ECBDD investigation and plan of correction

UI: Unusual Incident - an event or occurrence involving an eligible individual that is not consistent with routine operations, policies, procedures, or the care and habilitation plan of the individual but are not a Major Unusual Incident as defined in rule 5123:2-17-02 of the Revised Code. Unusual incidents include, but are not limited to, medication errors; falls; peer-to-peer incidents that are not Major Unusual Incidents; overnight relocation of an individual due to fire, natural disaster, or mechanical failure; and any injury to an individual that is not an Major Unusual Incident.

Working Day: “Working Day” means Monday, Tuesday, Wednesday, Thursday, or Friday, except when that day is a holiday as defined in Section 1.14 of the Revised Code.

III. Notification and Reporting Requirements for Major Unusual Incidents

- A. All incidents of possible abuse, including misappropriation, or neglect, of any individual shall be reported to the local law enforcement entity with jurisdiction and the ECBDD or to DJFS and ECBDD. ECBDD shall report these incidents on ITS and indicate the entity or entities notified.
- B. Reports of Major Unusual Incidents involving abuse, neglect, exploitation, misappropriation, or death shall be filed in all cases regardless of where the incident occurred, and all requirements of this policy shall be followed. Reports regarding the remaining categories of Major Unusual Incidents shall be filed and the requirements of this policy followed only when the

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incident occurs in a program operated by the ECBDD or when the individual is being served by a licensed or certified provider.

- C. Immediately upon identification or notification of a Major Unusual Incident, the provider or ECBDD, when acting as a provider for the individual, shall take all reasonable measures to ensure the health and safety of all individuals served. The provider and county board shall discuss any disagreements regarding reasonable measures in order to resolve them. If the provider and ECBDD are unable to reach an agreement, ODODD shall make the determination. Reasonable measures shall include:
 1. Immediate and ongoing medical attention as appropriate.
 2. Removal of an employee from direct contact when the employee is alleged to have been involved in abuse or neglect until such time as the provider has sufficiently determined that such removal is no longer necessary.
 3. Other measures to protect the health and safety of the individual as necessary.
- D. Immediately upon identification or notification of a Major Unusual Incident, the ECBDD shall:
 1. Ensure that all reasonable measures necessary to protect the health and safety of all individuals have been taken;
 2. Determine if additional measures are needed;
 3. Notify the Department if the circumstances of the incident require a department-directed investigation. Such notification shall take place on the first working day the ECBDD becomes aware of the incident.
- E. The provider or ECBDD shall **immediately** notify the county board by telephone or other electronic means identified by the county board under any of the following circumstances:
 1. Abuse.
 2. Exploitation.
 3. Misappropriation.
 4. Neglect.
 5. Suspicious or accidental death.
 2. When the provider has received inquiries from the media regarding a Major Unusual Incident
- F. The provider shall submit a written incident report to ECBDD **by 3:00pm the next working day** following the provider's initial knowledge of any Major Unusual Incident. This report shall be in the ECBDD and ODODD

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prescribed format. Individual providers shall make the notification to the ECBDD the contact person designated to receive or manage these reports, no later than three p.m. the next working day following initial knowledge of a potential or determined MUI.

- G. The provider or the ECBDD, as a provider, shall immediately notify the following parties:
1. The law enforcement agency having jurisdiction over the location at which the incident occurred if the MUI includes conduct that would constitute a possible criminal act, including abuse, misappropriation, or neglect. ***This report shall be made immediately upon notification that the incident has occurred.***
 2. The local public children services agency (DJFS) and municipal or county peace officer in the county in which the individual resides, if the individual is under (21) twenty-one years of age and meets the definition of an abused or neglected child as defined in sections 2151.03 and 2151.031 of the Revised Code.
 3. The guardian or advocate selected by the individual or other person whom the individual has identified.
 4. The Service and Support Administrator unless that person is the primary person involved that forms the basis for the reported incident.
 5. The licensed or certified provider, including the ECBDD, as a provider, when an incident occurs when such provider has responsibility for the individual. The notification shall be made on the same day the incident or discovery of the incident occurs and include immediate actions taken. However, ECBDD reserves the right to withhold a notification if it is determined that notification may jeopardize a criminal investigation.
 6. Staff or family living at the individual's home who have responsibility for the individual's care.
 7. All notifications or efforts to notify shall be documented. The ECBDD shall ensure that all required notifications have been made.

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8. The ECBDD shall ensure that all required notifications have been made, unless the person to be notified is the PPI, the PPI's spouse, or the PPI's significant other. Notification 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.
- H. **By Three P.M. (3:00pm) on the working day immediately following receipt of the written report** submitted by the provider, **ECBDD shall submit a written report to ODODD**. ECBDD shall enter preliminary information regarding the incident through the online system (ITS) established by the Department.
- I. When a provider has placed an employee on leave or otherwise taken protective action pending the outcome of the investigation, the ECBDD or department, 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 safety of all individuals.
- J. If the provider is a Developmental Center, all reports required shall be made directly to ODODD or as specified by ODODD.
- K. The ECBDD 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. The ECBDD shall communicate this system in writing to all providers in the county and to the department.
- L. In any case where law enforcement has been notified of an alleged crime, the department 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 and safety of all individuals. The notified provider or county board shall take such steps necessary to address the health and safety needs of any individuals and may consult the department. The department shall inform any notified entity as to whether the incident is substantiated. Providers, developmental centers, or county boards employing a PPI shall notify the department when they are aware that the PPI works for another provider.

IV. Investigating Major Unusual Incidents

- A. Immediately upon receipt of a report regarding a MUI situation, ECBDD shall review the incident to ensure the provider has taken all reasonable measures necessary to protect the health and safety of the individual (s),

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and determine whether any additional actions must be taken. ECBDD may request that this review be conducted by another county board, a regional COG, ODODD, or any other government entity authorized to conduct investigations.

- B. Except when law enforcement or DJFS has been notified and is considering conducting an investigation, ECBDD shall immediately, but no later than twenty-four hours after discovery of any incidents listed below, commence an investigation, using the ODODD investigation protocol, appendix A, (attached) as appropriate, if the Major Unusual Incident involves any of the following:
 - 1. Abuse, Exploitation, Neglect, or Misappropriation
 - 2. Prohibited sexual relations
 - 3. Right code violation
 - 4. Suspicious or accidental death
 - 5. Any other MUI ECBDD determines should be investigated based on a review of the incident
- C. For all other MUIs, the ECBDD shall commence an investigation within a reasonable amount of time based upon the initial information received or obtained and consistent with the health and safety of all at-risk individuals, but no later than three working days from notification or identification by the ECBDD.
- D. ECBDD staff may assist the MUI Coordinator by gathering documents or entering information into the ITS or other administrative or clerical duties that are not specific to the MUI Coordinator role.
- E. When an agency provider 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 documents, to the ECBDD within fourteen calendar days of the agency becoming aware of the incident.
- F. All DD employees shall cooperate with investigations conducted by entities authorized to conduct investigations. Providers and ECBDD shall respond to requests for information within the timeframe requested.
- G. The MUI Coordinator shall complete a report in the format prescribed by the department of the investigation and submit it for closure on ITS within thirty working days unless the department grants an extension.

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Extensions of the time period for submission of the report may be requested at the department's discretion.

H. ODODD may conduct a separate review or investigation of a Major Unusual Incident or may request one be conducted by another county board, COG, or any other government entity authorized to conduct such investigations. Separate investigations shall be completed within 30 days unless it is being conducted by law enforcement or the local children services agency (DJFS). A separate investigation shall be conducted if the MUI includes an allegation that the person responsible for the incident is:

1. The superintendent of ECBDD or the executive director of a regional council of government (COG).
2. A ECBDD management employee
3. A current member of the ECBDD Board
4. An Investigative Agent
5. Service and Support Administrator
6. A person having any known relationship with any of the persons specified

A separate investigation shall also be conducted if the following circumstances are present:

1. The MUI includes an allegation that an ECBDD employee is responsible for the death of an individual, has committed sexual abuse against an individual, or has committed any other abuse or neglect against an individual that has resulted in an emergency room visit or hospitalization.
2. ECBDD has requested that ODODD conduct a separate investigation and the Department has determined that there is reasonable basis for the request.
3. An individual, advocate selected by the individual, the legal guardian, or provider has made a complaint to ODODD regarding an investigation conducted by ECBDD and the Department has determined that there is reasonable basis for the complaint.

I. If the MUI involves an individual who resides in an ICF/MR, including a developmental center, and the incident occurs at a program operated by the County Board, it is the responsibility of the ICF/MR to complete an

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investigation and assure the investigation complies with federal guidelines. The MUI Coordinator may utilize information from the ICF/MR investigation to meet the requirements of this rule or conduct a separate investigation. Copies of the full investigation shall be provided to the ICF/MR and the County Board.

V. ECBDD Incident Review Process

- A. ***All*** incidents that occur involving an individual will be documented on a written ECBDD/ODODD **Incident Reporting Form (IRF)** (attached) and will be completed by the county board or licensed/certified service provider(s) who was involved, witnessed, and/or discovered the occurrence. This person's immediate supervisor will review and sign the completed report to ensure that immediate action has been taken to protect the health and safety of the individual(s) as appropriate. ***The report will be submitted to the MUI Coordinator in person or via fax by 3:00pm on the working day immediately following initial discovery of the occurrence.***
- B. Incidents occurring when the individual is receiving services from the county board or a site operated by an entity with which the ECBDD contracts, the ECBDD or the contract entity shall notify the licensed provider, staff, or family at the individual's home. This notification shall be made the same day of discovery.
- C. Individual providers shall make reports to the person designated by the ECBDD on the day the unusual incident is discovered.
- D. The ECBDD **and all agency providers** shall designate a person responsible for logging these incidents. 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, and preventive measures.
 1. ~~The Adult & Family Services Director or designee shall ensure that the log is maintained for all incidents discovered during services provided by day habilitation.~~
 2. The Early Intervention Administrator or designee shall ensure that the log is maintained for all incidents discovered through the services provided by Early Intervention.
 3. ~~The Educational Services Director or designee shall ensure that the log is maintained for all incidents occurring through services provided during any school programming.~~
 4. The Transportation Supervisor or designee shall ensure that the log is maintained for all incidents discovered through services provided by the transportation department.

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- E. The agency provider or ECBDD as a provider shall ensure that all staff is trained and knowledgeable regarding the policy and procedure.
- F. All agency providers and the ECBDD as a provider shall review all unusual incidents as necessary, but no less than monthly, to ensure appropriate preventive measures have been implemented and trends and patterns identified and addressed as appropriate. The unusual reports, documentation of identified trends and patterns, and corrective action shall be made available to the ECBDD and department upon request.
- G. The ECBDD shall review, on a monthly basis, a representative sampling of provider logs, individual provider log(s), and logs where the ECBDD is a provider for the purpose of ensuring that all major unusual incidents required to be reported have been reported and that trends and patterns have been identified and addressed.
- H. The agency provider and the ECBDD as a provider shall ensure that trends and patterns of unusual incidents are included and addressed in each individual's service plan.
- I. The department shall review, on a monthly basis, a representative sampling of County Board logs. The County Board shall submit the specified logs to the department upon request. The department shall review the logs to ensure all MUIs have been reported and trends and patterns have been identified and addressed.

The MUI Coordinator will complete an initial review of all reports upon receipt and will determine if the occurrence is a **Major Unusual Incident, Service Exception**, or an **Incident**. The following will occur based on type of occurrence:

A. Protocol for IRF reports that are Major Unusual Incidents

Once the MUI Coordinator determines the occurrence is a Major Unusual Incident, the following will occur:

1. Ensure that all appropriate notifications including, but not limited to, law enforcement and the children services agency (DJFS) have been made.
2. The MUI Coordinator will enter an initial report of the incident into ITS by 3:00pm the working day immediately following written notification of the incident. This report will include all information requested by ITS in addition to the name and address of the certified or licensed provider.
3. The MUI Coordinator may contact the provider to request a separate, internal investigation be started immediately. The provider will submit a copy of its written investigation report, including statements and

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- documents, to the MUI Coordinator **within 14 working days** of becoming aware that the incident is a MUI.
4. The provider shall cooperate with all investigations conducted by other entities, and shall respond to all requests for additional information made by ODODD , ECBDD, or any investigating entity as soon as practicable but **within 5 working days** of receipt of the request.
 5. The ECBDD MUI Coordinator shall submit a report on the investigation to ODODD within **(30) thirty working days** of the receipt of a report of a MUI. The report shall be submitted through the online system established by the Department (ITS).
 6. ECBDD may request reasonable extensions of the time period for submission of the report. ODODD shall grant such extensions for good cause. If any extension is granted, ODODD may require submission of interim reports, and shall identify alternative actions that may assist with the timely conclusion of the report.
 7. A provider may request a reasonable extension of the time period for the submission of the internal investigation report. The ECBDD MUI Coordinator shall grant such extensions for good cause.
 8. The ECBDD MUI Coordinator shall provide a written summary of the investigation findings to the individual, advocate selected by the individual, legal guardian, and the provider and service and support administrator serving the individual or other person selected by the individual to coordinate services no later than (5) five calendar days following submission of the report to ODODD pursuant to paragraph (J) (1) of rule 5123:2-17-02. The written summary shall be provided in format prescribed by the department, as appropriate, and include a statement of the facts and findings of the investigation, including all preventative measures implemented in response to the incident. ECBDD shall notify the individual, advocate selected by the individual, legal guardian, of the right to submit written comments to ECBDD regarding the investigation's conclusion and any preventative measures implemented in response to the incident. Any written comments received by ECBDD shall be submitted to ODODD. Any person who has received a written summary may dispute the finding by following the procedures set forth in Rules 5123:2-1-12 and 5123:2-17-01 of the Administrative Code.
 9. The Superintendent or designee shall consider the written comments, 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 are reconsidered.

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10. In cases where the written comments have 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 the department within fifteen calendar days of the County Board determination. The director will issue a decision with thirty calendar days.
11. 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.
12. The written summary shall not be provided to the PPI, the PPI's spouse, or the PPI's significant other. No later than five working days following the closure of a case, the county board shall make a reasonable attempt to notify the PPI as to whether the MUI has been substantiated, unsubstantiated/insufficient evidence, or unsubstantiated/unfounded.
13. The provider shall develop and implement a written procedure for the internal review of all MUI's. The provider shall be responsible for taking all reasonable steps necessary to prevent the reoccurrence of MUI's.
14. ECBDD and the provider shall jointly determine what constitutes reasonable steps necessary to prevent the reoccurrence of an MUI. If ECBDD and the provider are unable to reach agreement, ODODD shall make the determination.
15. If ECBDD or the provider lacks sufficient resources to take such steps, either may make a written request for assistance from ODODD.
16. Except for an ICF/MR, if a service and support administrator is not assigned, an ECBDD designee shall be responsible for ensuring the preventive measures are implemented based upon the written summary.
17. ODODD shall determine when to close cases of abuse, neglect, exploitation, failure to report, missing individual, misappropriation, death, peer-to-peer acts, prohibited sexual relations, rights code violation, unapproved behavior support, unknown injury, an incident that is the subject of a director's alert, and any cases investigated by the Department.
18. ECBDD shall determine when to close cases other than those specified above. ECBDD may close cases that have been referred to the local public children services agency (DJFS) or law enforcement as long as appropriate preventative measures were taken. When determining that a case should be closed, ODODD or ECBDD shall consider the following criteria:
 - a. Whether all reasonable measures have been taken to ensure the health and safety of the eligible individual

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- b. Whether a thorough investigation of the incident has been conducted.
 - c. Whether the incident is part of a pattern or trend requiring some additional action.
 - d. Whether appropriate measures have been implemented to prevent recurrence.
 - e. Whether all requirements set forth in statute or rule have been satisfied.
15. ECBDD shall be responsible for notifying the provider when a case is closed using an **IRF Follow-Up Report** form (attached).

B. Protocol for IRF reports that are Service Exceptions

A Service Exception is an occurrence that does not meet Major Unusual Incident criteria but is a situation that ECBDD deems serious enough to warrant an investigation and plan of correction. These occurrences are locally monitored and tracked.

Service Exceptions include, but are not limited to, the following:

1. **Medication Errors**- the administration of incorrect medication or failure to administer medication as prescribed.
2. **Behavioral Issues**- an eligible individual does not have a behavior support plan when one is needed, a behavior support plan is not current or updated to meet current needs, crisis intervention limits are exceeded or a behavior support plan was not implemented as written.
3. **Suicidal Threats**- verbalizations or behaviors that indicate an eligible individual may want to cause harm to self.
4. **Mental Health Issues**- the onset or increase in mental health problems/symptoms that indicate an individual may need to seek or upgrade level of professional psychiatric and/or psychological assistance.
5. **Patterns**- a series of less serious incidences involving an individual that occur repeatedly; plan of correction has not been implemented or is not effective.
6. **Inappropriate Behavior by Staff**-any action by staff that jeopardizes an individual's placement, reputation, community access, or community acceptance.
7. **Service System Failure**- any failure of agencies or individuals who have statutory or contractual requirements to provide supports to the an eligible individual and whose action or inaction fails to meet the individual's needs; any failure of staff/providers to perform duties

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according to policy, training, or the Individual Support Agreement (ISA); any act or omission by a support provider that creates a negative view of the individual or the service system by a member of the general community.

8. **Failure to Repair**- any staff member or contract service provider who fails to take appropriate corrective action, or who fails to comply with an approved plan of correction, shall have failed to repair; additional investigation of the person/agency by the ECBDD may be conducted; possible termination of employment/contract may result.

C. Protocol for IRF reports that are Incidents

The MUI Coordinator will review and forward all reports that involve a *minor* occurrence to a designated member of the Case Management Department. This person will complete a thorough review of the incident detailed in the IRF and send a follow-up report to the author of the IRF, relevant team members, and the Service and Support Administrator when appropriate. The follow-up report will either indicate the incident is closed or will request additional information and/or documentation be submitted to ECBDD for review. If additional information/documentation is requested, the designee will send a final follow-up report to the author/agency representative closing the incident once this information is received.

VI. Investigation Reports

All incidences that are determined to be a Major Unusual Incident or a Service Exception will require the service provider to submit a written investigation report to the MUI Coordinator within **fourteen (14) working days** of the incident. **The report must include the following information:**

- A. **The facts of the incident:** Who was involved, what happened, where it happened, when it happened, why it happened, and how it happened? **Describe what measures were taken immediately to protect the health and safety of the eligible individual.**
- B. **Administrative actions taken:** The names of staff and eligible individuals who were interviewed and a summary of each person's statement (the MUI Coordinator may assist with this portion of the investigation), what documentation was reviewed and the findings, what agencies were notified of the situation, any staff disciplinary actions taken, etc.

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- C. **Policies and procedures regarding the incident:** Were there policies and procedures in place to prevent the incident? Was staff trained on them? Did staff follow them (if not, explain why); did the staff person/provider anticipate such an incident could occur? What preventative measures were in place? Were there any extenuating circumstances that weren't expected or any mitigating events that caused the incident?
- D. **Plan of correction:** How will the service provider ensure this type of incident will not re-occur? Recommendations are:
- 1.) Clarification of policy, instructions, or practices
 - 2.) Training, increased supervision, or changes in operations
 - 3.) Disciplinary actions to ensure staff comply with instructions, training, supervision, and agency requirements
 - 4.) Change Individual Support Agreements and services for the individual to better meet his/her needs

The investigation report should detail any corrective action that was taken. Training should be described and include the date and in what forum it is scheduled to/did take place. Any training should take place as soon as possible after the incident occurs. Documentation stating the content of the training and staff signatures must be submitted to the MUI Coordinator before the case will be closed.

If the investigation report is NOT acceptable to the MUI Coordinator, individual/family/guardian, the service provider will be asked to make necessary changes and provide further information as necessary. If there is disagreement between the MUI Coordinator, the service provider, or the subject of the investigation and/or their family, then any party may request a review and action by the Director of Case Management, the Superintendent or the Board. The case may be forwarded to ODODD if resolution cannot be obtained locally.

VII. Records Access

- A. All investigative reports and materials made under 5123.61 of the Revised Code shall not be deemed public record as defined in Section 149.43 of the Revised Code.
- B. **ECBDD shall not review, copy, or include in any required reports personnel records of an employee that are confidential under state or federal statutes or rules, including medical and insurance records,**

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worker's compensation records, immigration status forms (I-9), and Social Security numbers.

- C. ECBDD *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 drivers records, professional licenses, and criminal records checks. ECBDD may include in reports required by ODODD information about the results of the review of personnel records specified in this paragraph.
- D. ECBMRDD may review and copy personnel records prepared in connection with the provider's daily operations, such as training records, timesheets, and work schedules.
- E. Upon the department's request, the provider shall provide to the department copies of personnel records that are not confidential.
- F. The provider shall redact any confidential information contained in a record that is copied before the copies are provided to either ECBDD or ODODD.
- G. Any party entitled to receive any report required in this policy may waive receipt of the report. Any waiver of receipt of a report shall be made in writing.

VIII. Analyzing Major Unusual Incidents, Service Exceptions, and Incidents to Identify Patterns and Trends

- A. ECBDD and the provider shall use guidelines developed by ODODD to review and analyze MUI's to identify patterns and trends. Service Exceptions and Incidents will be reviewed in a similar manner as determined by ECBDD.
- B. All providers, including ECBDD, shall each conduct a semi-annual and annual review (July 31st and January 31st) and analyze the data for the year to identify patterns and trends, and take corrective action where needed.
- C. ECBMRDD shall conduct an analysis and follow-up actions to the county board for all programs operated in the county by August 31st for the semi-annual review and by February 28th for the annual review. The county board shall keep the analysis and follow-up actions on file and make them available to the department upon request.

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- D. All providers shall send its analysis and follow-up actions to the ECBMRDD for all programs operated in the county by August 31st for the semi-annual review and by February 28th for the annual review. The county board shall keep the analysis and follow-up actions on file and make them available to the department upon request.
- E. ECBDD shall ensure that each provider has completed a thorough analysis and corrective measures have been implemented to address concerns raised through the analysis.
- F. ECBDD shall ensure that patterns and trends of MUI's, Service Exceptions, and Incidents are included and addressed in the eligible individual's ISA.
- G. The County Board 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, provider agencies, families, and other stakeholders deemed appropriate by the committee.
- H. The committee shall meet each September to review and analyze data for the first six months of the calendar year and each March to review and analyze data for the preceding calendar year. The County Board shall send the aggregate data prepared for the meeting to all participants ten calendar days in advance of the meeting.
- I. The County Board 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.

IX. Oversight of Major Unusual Incidents, Service Exceptions, and Incidents

ECBDD shall conduct an annual assessment of each provider's system for compliance with the requirements of MUI rule 5123:2-17-02.

ECBDD shall conduct an annual assessment of each provider's system for compliance with ECBDD requirements for Service Exceptions and Incidents.

X. Training and Technical Assistance

All ECBDD staff and providers will receive training on the requirements of the MUI rule and this policy at the time of initial employment by their respective employers prior to unsupervised contact with any individual and in all cases, no later than thirty (30) calendar days after employment. The training shall include

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the review of health and safety alerts released since the previous calendar year's training. Record of this training will be kept in each person(s) personnel file.

All ECBDD staff and providers will attend a **mandatory** training annually that will review this policy and the MUI rule. Record of attendance will be kept by the MUI Coordinator on dated sign-in sheets.

ECBDD will ensure that the MUI Coordinator/Investigative Agent will receive annual, ODODD approved training.

XI. Additional Information

- A. Any person having knowledge of suspected abuse or neglect involving a child or adult with a developmental disability is required by law to report it to the appropriate investigative agency (law enforcement, DJFS, and Council for Older Adults). If there is a failure to do so, possible disciplinary and/or legal actions may occur.
- B. No punitive or prohibitive action will ever be taken towards a person who reports an incident involving an eligible individual.
- C. All ECBDD staff and contract service providers are to report concerns regarding eligible individuals as outlined in this policy.
- D. Any ECBDD employee found interfering with an investigation, which includes discussing situations outside of this protocol, giving false information, withholding information, or conducting an investigation without authorization is subject to disciplinary action up to including termination.
- E. Any authorized personnel conducting an investigation as part of their official duties does not need to have a release of information for purposes of the review.
- F. No ECBDD employee, contract service provider, or eligible individual will be granted immunity/confidentiality when providing information related to an investigation.
- G. If an occurrence happens outside the scope of an ECBDD provided or contracted service, it is the responsibility of the MUI Coordinator to conduct the investigation and prepare the follow-up report.

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H. ECBDD may contract with a private investigator when deemed appropriate.