

MAJOR UNUSUAL INCIDENT (MUI) REPORTING POLICY

This policy establishes a system of reporting, investigating, reviewing, analyzing, and remedying incidents that adversely affect the health and welfare of individuals and to monitor preventative actions taken to ensure health and welfare for the Erie County Board of Developmental Disabilities (Board). This policy and procedures does not relieve any person of the responsibility to comply with Ohio Revised Code (ORC) 5123.61.

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

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

Superintendent Signature: _____

Carrie Beien

Date: 6/26/25

Implemented: 05/04

Board Approval: 6/21/12, 5/18/17, 4/18/19, 3/18/21, 7/15/21, 10/28/21, 6/26/25

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

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I. DEFINITIONS

As used in this policy the following definitions shall apply:

- A. 'Major Unusual Incident (MUI)' means the alleged, suspected, or actual occurrence of an incident (described in I(A)(1), I(A)(2), I(A)(3)) of this policy when there is reason to believe the incident has occurred. There are three categories of MUI as listed in this paragraph that correspond to three (3) administrative investigation procedures delineated in Appendix A, Appendix B and Appendix C per rule OAC 5123-17-02.
1. Category A:
 - a.) 'Unexplained or unanticipated death' means the death of an individual resulting from an accidental or that was otherwise unexpected.
 - b.) 'Exploitation' means the unlawful or improper act of using an individual or an individual's resources for monetary or personal benefit, profit, or gain.
 - c.) 'Failure to report' means that a developmental disabilities employee does not immediately report the alleged, suspected or actual occurrence of an individual suffering or facing substantial risk of suffering any wound, injury, disability, or condition of such a nature as to reasonably indicate emotional abuse, physical abuse, sexual abuse, neglect, misappropriation, or exploitation to the agency provider, county board or department.
 - d.) 'Misappropriation' means depriving, defrauding, or otherwise obtaining the real or personal property of an individual by any means prohibited by the ORC or the OAC. .
 - e.) 'Neglect' means when there is a duty to do so, failing to provide an individual with medical care, personal care, or other support that consequently results in 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.
 - f.) 'Physical abuse' means the use of physical force that can reasonably be expected to result in physical harm to an individual. Such physical force can include, but is not limited to, hitting, slapping, pushing, or throwing objects at an individual.
 - g.) 'Prohibited sexual relations' means a developmental disabilities (DD) employee engaging in consensual sexual conduct or having consensual sexual contact with an individual who is not the employee's spouse, and for whom the DD employee was employed or under contract to provide care or supervise the provision of care at the time of the incident.
 - h.) 'Rights code violation' means any violation of the rights enumerated in ORC 5123.62 that creates a likely risk of harm to the health or welfare of an individual.
 - i.) 'Sexual abuse' means unlawful sexual conduct or sexual contact as those terms are defined in ORC 2907.01 and the commission of any act prohibited by section 2907 of the Ohio Revised Code (i.e., public indecency, importuning, and voyeurism) when the sexual conduct, sexual contact, or act involves an individual.

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- j.) 'Emotional abuse' means the use of words, gestures or other communicative means to purposefully threaten, coerce, intimidate, harass, or humiliate an individual.
- 2. Category B:
 - a.) 'Attempted suicide' means a physical attempt by an individual that results in emergency room treatment, in-patient observation, or hospital admission.
 - b.) 'Death other than unexplained or unanticipated death' means the death of an individual by natural causes.
 - c.) 'Medical emergency' means an incident where emergency medical intervention by a DD 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).
 - d.) 'Missing individual' means an incident that is not considered neglect and an individual's whereabouts, after immediate measures taken, are unknown and the individual is believed to be at or pose an imminent risk of harm to self or others. An incident when an individual's whereabouts are unknown for longer than the period of time specified in the individual service plan that does not result in imminent risk of harm to self or others shall be investigated as an unusual incident.
 - e.) 'Significant injury' means an injury to an individual of known or unknown cause that is not considered abuse or neglect and that results in concussion, broken bone, dislocation, second or third degree burns or that requires immobilization, casting, five or more sutures. Significant injuries shall be designated in the incident tracking system as either known or unknown cause.
 - f.) 'Peer-to-peer acts' means any of the following incidents involving two individuals:
 - i) 'Exploitation' means the unlawful or improper act of using another individual or another individual's resources for monetary or personal benefit, profit, or gain.
 - ii) 'Theft' means intentionally depriving another individual of real or personal property valued at twenty dollars or more or property of significant personal value to the individual.
 - iii) 'Physical act' means a physical altercation that:
 - (a) Results in examination or treatment by a physician, physician assistant, or nurse practitioner; or
 - (b) Involves strangulation, a bloody nose, a bloody lip, a black eye, a concussion, or biting which causes breaking of the skin; or
 - (c) Results in an individual being arrested, incarcerated, or the subject of criminal charges.
 - iv) 'Sexual act' means sexual conduct and/or contact for the purpose of sexual gratification without the consent of the other individual.
- 3. Category C:
 - a.) 'Law enforcement' means any incident that results in the individual served being tased, arrested, charged, or incarcerated.

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- b.) 'Unapproved behavioral support' means the use by a DD employee of a prohibited measure as defined in OAC 5123-2-06 or the use of restrictive measure implemented without approval of the human rights committee or without informed consent of the individual or the individual's guardian in accordance with OAC 5123-2-06 when use of the prohibited measure of restrictive measure results in risk to the individual's health or welfare. When use of the prohibited measure or restrictive measure does not result in risk to the individual's health or welfare, the incident shall be investigated as an unusual incident.
 - c.) 'Unanticipated hospitalization' means:
 - i.) A hospital admission lasting forty-eight (48) hours or longer and:
 - (a) Is not associated with planned evaluations, scheduled procedures or routine diagnostic test that are part of ongoing medical care, including the diagnosis of conditions; and
 - (b) Is due to one or more of the following diagnoses (aspiration pneumonia, bowel obstruction, dehydration, medication error, seizure or sepsis).
OR
 - ii.) A hospital re-admission lasting forty-eight (48) hours or longer that:
 - (a) Is not associated with planned evaluations, scheduled procedures or routine diagnostic test that are part of ongoing medical care, including the diagnosis of conditions; and
 - (b) Is due to any diagnosis that is the same diagnosis as a prior hospital admission lasting forty-eight (48) hours or longer within the past thirty (30) calendar days.
- B. 'Administrative investigation' means the gathering and analysis of information related to a major unusual incident in category A and B conducted by an investigative agent so that a prevention plan can be developed and implemented. There are two administrative investigation procedures (category A and category B) that correspond to the two categories of MUIs.
- C. 'Administrative review' means the gathering and analysis of information related to an MUI in category C 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 MUI:
 - a.) 'Law enforcement' will be completed using the administrative review Appendix C per rule 5123-17-02.
 - b.) 'Unanticipated hospitalization' will be complete using the administrative review Appendix D per rule 5123-17-02.
 - c.) 'Unapproved behavioral support' will be complete using the administrative review Appendix E per rule 5123-17-02.

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2. The county board will initiate the administrative review form for a law enforcement MUI when the individual is not being served by a provider at the time of the MUI.
- D. 'Agency Provider' means a provider, certified or licensed by the department or contracted by the county board that employs staff to deliver services to individuals and who may subcontract the delivery of services. Agency provider includes a county board while the county board is providing specialized services.
- E. '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.
- F. 'Common law employee' has the same meaning as in rule 5123-9-32 of the OAC.
- G. 'County Board (Board)' means a county board of developmental disabilities as established under Chapter 5126 of the ORC or a regional council of governments as established under Chapter 167 of the Revised Code when it includes at least one county board.
- H. 'Developmental center' means an intermediate care facility for individuals with intellectual disabilities under the managing responsibility of the department.
- I. 'Developmental disabilities (DD)' employee means any of the following:
 1. An employee of DODD;
 2. A superintendent, board member, or employee of a county board;
 3. An administrator, board member, or employee of a residential facility licensed under ORC 5123.19;
 4. An administrator, board member, or employee of any other public or private provider of services to an individual with a developmental disability;
 5. An independent provider.
- J. 'Department' means the Ohio Department of Developmental Disabilities (DODD).
- K. 'Incident report' means documentation that contains details about a major unusual incident or an unusual incident and shall include, but is not limited to:
 1. Individual's name;
 2. Individual's address;
 3. Date 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;
 13. Name and signature of person completing the incident report.
- L. '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.

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- M. 'Individual' means a person with a developmental disability.
- N. 'Individual service plan' means the written description of services, supports, and activities to be provided to an individual and includes an 'individual program plan'.
- O. 'Intermediate care facility for individuals with intellectual disabilities' has the same meaning as in section 5124.01 of the ORC.
- P. 'Investigative agent (IA)' means an employee of a county board or a person under contract with a county board who is certified by the department to conduct administrative investigations of major unusual incidents.
- Q. 'Major unusual incident (MUI)' means the alleged, suspected, or actual occurrence of an incident described in Section I(A)(1), I(A)(2) and I(A)(3).
- R. 'Physical harm' means any injury, illness, or other physiological impairment, regardless of its gravity or duration.
- S. 'Primary person involved (PPI)' means the person alleged to have committed or to have been responsible for exploitation, failure to report, misappropriation, neglect, physical abuse, prohibited sexual relations, rights code violation, sexual abuse or emotional abuse.
- T. 'Program implementation incident' means an unusual incident involving the failure to carry out a person-centered plan when such failure causes minimal risk or no risk. Examples include, but are not limited to, failing to provide supervision for short periods of time, automobile accidents without harm, an individual's whereabouts are unknown for longer than the period of time specified in the ISP that does not result in imminent risk of harm to self or others and self-reported incidents with minimal risk.
- U. 'Provider' means an agency provider or independent provider.
- V. 'Qualified intellectual disability professional' has the same meaning as in 42 CFR 483.430 as in effect on the effective date of OAC 5123-17-02.
- W. 'Specialized services' means any program or service designed and operated to serve primarily individuals, including a program or service provided by an entity licensed or certified by DODD.
- X. 'Systems issue' means underlying circumstances (such as the physical environment, staffing levels, training provided to staff or supervisors, supervisory support for staff, previous awareness of potential event, adequacy of processes and procedures or availability of resources and equipment) beyond the action or inaction of the primary person involved in a substantiated major unusual incident (MUI) of neglect, that contributed to the situation or outcome.
- Y. 'Team' means, as applicable:
 - 1. The group of persons chosen by an individual with the core responsibility to support the individual in directing development of his or her individual service plan. The team includes the individual's guardian or adult whom the individual has identified, as applicable, the service and support administrator, direct support staff, providers, licensed or certified professionals, and any other persons chosen by the individual to help the individual consider possibilities and make decisions; or
 - 2. An interdisciplinary team as that term is used in 42 CFR 483.440 as in effect on the effective date of OAC 5123-17-02.
- Z. 'Unusual Incident (UI)' means an event or occurrence involving an individual that is not consistent with routine operations, policies and procedures, or the individual's care or individual service plan, but is not a MUI. UI includes, but is not limited to, the events and occurrences:

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1. Dental injuries;
 2. Falls;
 3. An injury that is not a significant injury;
 4. Medication errors without a likely risk to health and welfare;
 5. Overnight relocation of an individual due to a fire, natural disaster, or mechanical failure;
 6. An incident involving two individuals served that is not a peer-to-peer act major unusual incident;
 7. Rights code violations or unapproved behavior supports without a likely risk to health and welfare;
 8. Emergency room or urgent care treatment center visits;
 9. An unplanned hospital admission or hospital stay that is not an MUI;
 10. A situation where an individual's whereabouts are unknown for longer than the period of time specified in the OhioISP that does not result in imminent risk of harm to the individual or others and is not a MUI;
 11. Program implementation incidents.
- AA. 'Working day' means Monday, Tuesday, Wednesday, Thursday, or Friday except when that day is a holiday as defined in section ORC 1.14.

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

- A. The Board shall have a system that is available twenty-four (24) hours a day, seven (7) days a week, to receive and respond to all reports as required by OAC 5123-17-02. The Board shall communicate this system in writing to all individuals receiving services in the county or their guardians as applicable, providers in the county, and to the department.
- B. The Board will designate the contact person/designee to receive and manage receipt of all reports required in this policy and shall, in conjunction with the Clearwater Council of Governments (COG), ensure that a system exists whereby providers make all reports required by this policy, and that this system is communicated to providers.
 1. If the provider is a developmental center, all reports required in ORC 5123-17-02 shall be made directly to DODD.
- C. Those required to report UI/MUI's are:
 1. Any DD employee as defined in section (I.) of this policy.
- D. All UI's written by independent providers or county board personnel will be reported to the Board contact person. Any UI will be reported within twenty-four (24) hours following knowledge of the occurrence. All UI's written by an agency provider will be reported to their designee within twenty-four (24) hours following knowledge of the occurrence.
- E. All alleged, suspected or actual occurrence of MUI incidents shall be reported to the Board contact person.
 1. MUI's are to be reported on the same day the incident or discovery of the incident occurs and includes immediate actions taken. Unless the allegation is one of the following, then it must be reported no later than four (4) hours after discovery of the incident:
 - a) Emotional abuse;
 - b) Misappropriation;
 - c) Abuse (physical or sexual);
 - d) Prohibited sexual relations;
 - e) Neglect;

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- f) Exploitation;
 - g) Unexplained or unanticipated death;
 - h) Peer to peer act;
 - i) When the provider has received an inquiry from the media regarding a MUI.
- 2. If any of the above incidents are suspected or have occurred, verbal notification to the Board contact person/designee (during normal business hours) or the on-call Service and Support Administrator (SSA) (during non-business hours). This report can be done via telephone; however a written incident report must follow as soon as possible, but no later than 3:00 p.m. on the first working day following the day the provider became aware the potential or determined MUI.
 - a) The county board as a provider must submit a written report to the Board contact person/designee by the end of same working day the incident occurs or is discovered.
 - b) The written report will be submitted in the format described by DODD.
 - i.) For MUIs in category C, the provider will also submit the applicable administrative review form. The provider will submit the incident report and the administrative review form at the same time.
 - ii.) When an individual is hospitalized, the provider is responsible for following up with the hospital so that a diagnosis is determined as soon possible after 48 hours, an incident report made to the county board and the administrative review form is submitted when the situation meets the definition of unanticipated hospitalization in paragraph (l)(3)(c).
- 3. The Board contact person/designee shall review the incident and render it either an UI or a MUI.
 - a) Should the Board contact person/designee be unclear whether to classify the incident as a MUI/UI, they shall discuss the incident with the Investigative Agent (IA).
 - b) Should the IA be unclear whether to classify as a MUI/UI, the incident shall be discussed with DODD and make the final determination.
- 4. Reports regarding all MUIs involving an individual who resides in an intermediate care facility for individuals with intellectual disabilities or who receives round-the-clock waiver services shall be filed and the requirements of this rule followed regardless of where the incident occurred.
- 5. Reports regarding the following major unusual incidents shall be filed and the requirements of this rule followed regardless of where the incident occurred:
 - a) Unexplained or unanticipated death;
 - b) Attempted suicide;
 - c) Death other than accidental or suspicious death;
 - d) Exploitation;
 - e) Failure to report;
 - f) Law enforcement;

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

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residence who has responsibility for the individual's care, other providers of services as necessary to ensure continuity of care and support for the individual, is also to be made at this time if the incident occurred at a county-operated program and will document accordingly.

11. Notification shall not be made:
 - a) If the person to be notified is the primary person involved, the spouse of the primary person involved or the significant other of the primary person involved;
 - b) When such notification could jeopardize the health and welfare of an individual involved;
 - c) In case of a death when the family is already aware of the death.
12. Once the determination is made that an incident is a MUI, the Board contact person/designee will notify the IA via email within the same business day of the agency provider's notification whenever possible. If the MUI occurs at the Board or is discovered by the Board, the Board contact person/designee will notify the IA as soon as possible, preferably within the same business day in order to maintain DODD timelines. If the Board is closed, the written incident report shall be emailed the following business day.
13. By 5:00 p.m. on the first working day immediately following receipt of the written incident report submitted by the provider pursuant to section (II.) (D.) of this policy, the COG shall enter preliminary information regarding the incident through the online system established by DODD.
14. Upon receipt of an MUI report, the IA/designee shall commence an investigation within twenty-four (24) hours for Appendix A and no later than three (3) working days for Appendix B as required by ORC 5123-17-02 by utilizing the investigation protocol as developed and outlined as an appendix to the rule. If, however, law enforcement or a public children services agency has opened an investigation and asks the investigative agent to postpone initiating an investigation, the investigative agent may do so for the time period mutually agreed upon.
15. All MUIs in category C require an administrative review using the application administrative review form. The applicable administrative review form will be submitted by the provider and completed by an IA in collaboration with the individual's team. An IA will initiate an administrative review no later than three working days following submission of the administrative review form. The IA will ensure the MUI was properly coded, resolve any outstanding questions or concerns with the individual's provider and/or team, identify the causes and contributing factors to the incident and address the prevention plan.
16. An agency provider will remove a DD employee from direct contact with any individual when the DD employee is alleged to have been involved in physical abuse or sexual abuse until such time as the agency provider has reasonably determined that removal is no longer necessary. When an agency provider removes a DD employee from direct contact with an individual:
 - a) The agency provider will inform the DD employee of the alleged MUI category and provide the DD employee with the name of a person employed by the agency provider to whom the DD employee may direct questions.

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- b) The Board or DODD, as applicable, shall keep the provider apprised of the status of the investigation so that the provider can resume normal operations as soon as possible consistent with the health and welfare of individuals.
 - c) The agency provider will notify the Board or DODD, as applicable, when the DD employee returns to work.
- 17. In conjunction with DODD, the Board has authority to remove an independent provider from direct contact with any individual when the independent provider is alleged to have been involved in physical abuse or sexual abuse until such time as the Board has reasonably determined that removal is no longer necessary. When the Board removes an independent provider direct contact with an individual:
 - a) The Board will inform the independent provider of the alleged MUI category and provide the independent provider with the name of a person employed by the Board to whom the independent provider may direct questions.
 - b) The Board or DODD, as applicable, shall keep the independent provider apprised of the status of the investigation so that the independent provider can resume normal operations as soon as possible consistent with the health and welfare of individuals.

III. INVESTIGATING MUI'S

- A. Immediately upon identification or notification of a MUI, the provider shall take all reasonable measures necessary to protect the health and welfare of the individual(s).
- B. Immediately upon receipt of a report of an MUI, the Board contact person/designee will review the incident to ensure that the provider has taken all reasonable measures necessary to protect the health and welfare of the at-risk individual(s) have been taken and determine whether any additional actions must be taken. The provider and county board 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 the individual(s), the department shall make the determination. Such measures shall include:
 - 1. Immediate and ongoing medical attention, as appropriate;
 - 2. Removal of an employee from direct contact with any individual when the employee is alleged to have been involved in physical abuse or sexual;
 - 3. Other necessary measures to protect the health and welfare of individual(s).
- C. All MUIs in Category A and B require an administrative investigation meeting the applicable administrative investigation procedure in appendix A, or appendix B, OAC 5123-17-02. Administrative investigations will be conducted and reviewed by investigative agents no later than twenty-four (24) hours following submissions of the incident report for MUIs in category A and no later than three (3) working days following submission of the incident report for MUIs in category B. If however, law enforcement or a public children's services agency has opened an investigation and asks the IA to postpone initiating an investigation, the IA may do so for the time period mutually agreed upon.
- D. All MUIs in Category C require an administrative review using the applicable administrative review form in appendix C, or appendix D, or appendix E in the

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OAC 5123-17-02. The applicable administrative review form will be submitted by the individual's provider and completed by the IA in collaboration with the individual's team. The IA will initiate an administrative review no later than three (3) working days following submission of the administrative review form. The IA will ensure the MUI was properly coded, resolved and outstanding questions or concerns with the individual's provider and/or the individual's team, identify the causes and contribute factors to the incident and address the prevention plan.

- E. Based on the facts discovered during administrative investigation or administrative reviews 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 will be documented and the new applicable category procedure will be followed.
- F. MUIs that involve an active criminal investigation may be closed as soon as the Board ensures that the MUI is properly coded, the history of the primary person involved has been reviewed, cause and contributing factors are determined, a finding is made, and a prevention plan is implemented. Information needed for closure of the MUI may be obtained from the criminal investigation.
- G. The Board may request that this review be conducted by another county board, a Regional Council of Government, DODD or any other government entity authorized to conduct a review if any of the circumstances specified in section (III.) (B.) of this policy, are present.
- H. The Board shall contract with COG for an Investigative Agent (IA), who will conduct all investigations of MUI's for the Board.
 - 1. The IA, employed by the (COG), shall maintain appropriate certification, issued by DODD in accordance with OAC 5123-5-07.
 - 2. The IA shall comply with the procedures of the COG for investigations.
 - 3. Board staff and agency providers may assist the investigative agent by gathering documents or entering information into the Ohio incident tracking and monitoring system, fulfilling category C administrative review or other administrative or clerical duties that are not specific to the IA role.
- I. The Board is aware that DODD may conduct an investigation or administrative review of any MUI or request that a separate review an investigation or administrative review be conducted by another county board, a Regional Council of Government or any other entity authorized to conduct such investigations.
- J. The Board will notify the department on the first working day the county board becomes aware of the incident if a department-directed administrative investigation needs to be conducted if the following circumstances are present:
 - 1. The MUI includes an allegation that the person responsible for the incident is:
 - a) The Board Superintendent or the Executive Director of the COG;
 - b) A Board management employee who reports directly to the Superintendent of the Board or the Executive Director of the COG;
 - c) An investigative agent (IA);
 - d) A service and support administrator;
 - e) The Board contact person;
 - f) A major unusual incident contact or designee employed by a county board;
 - g) A current Board member appointed pursuant to ORC 5126.02;
 - h) A person having a relationship with any of the persons specified in

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- section (D.) (1.) of this policy;
 - i) The MUI includes an allegation that an employee of the Board is responsible for: the death of an individual, has committed sexual abuse or engaged in prohibited sexual relations, or has committed physical abuse or neglect resulting in an emergency room treatment or hospital admission.
- K. Except when law enforcement or the public children's services agency is conducting the investigation, the investigative agent shall conduct all interviews for major unusual incidents in category A or category B. For an MUI 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 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's services agency, or providers in order to meet the requirements of this rule.
- L. Except when law enforcement or the public children's services agency has been notified and is considering conducting an investigation, the Board shall commence an administrative investigation. If law enforcement or the public children's services agency notifies the county board that it has declined to investigate, the Board shall commence the administrative investigation within a reasonable amount of time based on the initial information received or obtained and consistent with the health and welfare of all at-risk individuals, but no later than twenty-four (24) hours for a MUI in category A or no later than three (3) working days for a MUI in category B or category C.
- M. When the public children services agency notifies the Board that it has declined to investigate, the Board will initiate the administrative investigation or administrative review within a reasonable amount of time based on the initial information received or obtained and consistent with the health and welfare of all at-risk individuals.
- N. An intermediate care facility for individuals with intellectual disabilities will conduct an investigation that complies with applicable federal regulations, including 42 CFR 483.420 as in effect on the effective date of this rule, for any UI or MUI involving a resident of the facility, regardless of where the UI or MUI occurs. The intermediate care facility for individuals with intellectual disabilities will provide a copy of its full report of an administrative investigation of a MUI to the county board.
- O. All developmental disabilities employees will cooperate with administrative investigations and administrative reviews conducted in accordance to OAC 5123-17-02 and shall respond to all requests for additional information made within the time frame requested. The time frames identified will be reasonable.
- P. Except when law enforcement or the public children service agency is conducting an investigation, the investigative agent shall endeavor to reach a preliminary finding regarding allegations of physical abuse or sexual abuse and notify the individual or individual's guardian and provider of the preliminary finding within fourteen (14) working days. When it is not possible for the investigative agent to reach a preliminary finding within fourteen (14) working days, the investigative agent will instead notify the individual or individual's guardian and provider of the status of the investigation every seven (7) working days thereafter.

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- Q. The IA will complete a report in the format prescribed by DODD of each administrative investigation or administrative review within forty five (45) working days from submission of the incident report or the receipt of a report of a MUI. The report shall be submitted through the online system established by DODD.
 - 1. The report shall follow the format prescribed by DODO. The investigative agent shall include the initial allegation, a list of persons interviewed and documents reviewed, a summary of each interview and document reviewed, and a findings and conclusions section which will include the cause and contributing factors to the incident and the facts that support the findings and conclusions.
- R. The IA may request extensions for submission of the report for good cause. If any extension is granted, DODD may require submission of interim reports and may identify alternative actions that may assist with the timely conclusion of the report.

IV. WRITTEN SUMMARIES OF MUI'S IN CATEGORY A OR CATEGORY B

- A. The Board contact person/designee will provide a written summary of the investigation findings for each category A or category B MUI, no later than five (5) working days after the recommendation of closure in the Ohio incident tracking and monitoring system to the following:
 - 1. The individual and individual's guardian, or other person whom the individual has identified as applicable;
 - 2. The residential provider, and provider at the time of the MUI;
 - 3. SSA;
 - 4. Support broker, as applicable;
 - 5. In the case of a peer-to-peer act, both individuals, individuals' guardians, or other persons whom the individual have identified, as applicable, shall receive the written summary.
- B. In the case of an individual's death, the written summary will be provided to the individual family only upon request by the individual's family.
- C. The written summary shall be provided in a format prescribed by DODD and include a statement of all the allegations, the facts and findings of the investigation, including, if applicable, whether the case was substantiated or unsubstantiated, the preventive plan. The written summary shall not be provided to the PPI, the PPI's spouse, or the PPI's significant other.
- D. When the primary person involved is a DD employee or a guardian, the county board shall, no later than five (5) working days following recommended closure of a case, the Board shall make a reasonable attempt to provide written notice to the PPI as to whether the MUI has been substantiated, unsubstantiated/insufficient evidence, or unsubstantiated/unfounded.

V. DISPUTING THE FINDINGS OF A WRITTEN SUMMARY

- A. An individual, individual's guardian, other person whom the individual has identified or provider (except when the primary person involved is the independent provider or the owner, director of operations or administrator of the agency provider) may dispute the finding of a written summary of an administrative investigation described in paragraph (IV)(A) by submitting a letter of dispute and supporting

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documentation to the Boards Superintendent or to the Director of DODD if DODD conducted the administrative investigation within fifteen (15) calendar days following receipt of the findings.

- B. The Superintendent/designee or the DODD Director/designee, as applicable, will consider the letter of dispute, the supporting documentation, and any other relevant information and issue a determination within thirty (30) calendar days of such submission and take action consistent with such determination, including confirming or modifying the findings or directing that more information be gathered and the findings be reconsidered.
- C. In cases where the letter of dispute has been filed with the Board, the disputant may dispute the final findings made by the Board by filing those findings and any documentation contesting such findings as are disputed with the Director of the DODD within fifteen (15) calendar days of the Board determination. The Director will issue a decision within thirty (30) calendar days.

VI. REVIEW, PREVENTION AND CLOSURE OF MUI'S

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

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than unexplained or unanticipated death, abuse (physical, emotional, or sexual), neglect, misappropriation, exploitation, failure to report, medical emergency, prohibited sexual relations, significant injury when cause is unknown, unexplained or unanticipated death, any case subject to the Director's alert and any cases investigated by DODD.

- E. The Board contact person/designee shall determine when to close cases other than those specified above in section (VI.) (E.) of this policy.
- F. DODD may review any MUI to ensure it has been properly closed and will conduct sample reviews to ensure proper closure by the Board. DODD may reopen any administrative investigation or administrative review that does not meet the requirements of OAC 5123-17-02.
- G. When determining that an MUI should be closed, DODD and the Board shall consider the following criteria:
 - 1. Whether all reasonable measures have been taken to ensure the health and welfare of any at-risk individual;
 - 2. Whether a thorough administrative investigation or administrative review of the incident has been conducted;
 - 3. Whether the team, including the Board and provider, collaborated on developing prevention plan to address the causes and contributing factors;
 - 4. Whether the incident is part of a pattern or trend, as flagged through the Ohio incident tracking and monitoring system, requiring some additional action;
 - 5. Whether appropriate measures have been implemented to prevent recurrence;
 - 6. Whether all requirements set forth in statute have been satisfied.

V. UNUSUAL INCIDENTS (UI's)

- A. Each provider, including the Board, shall require anyone who becomes aware of a UI to report it to the person designated by the provider who can initiate proper action. The Board guidelines are:
 - 1. If you see it, write an incident report and report it to your supervisor; and
 - 2. If you hear about it, write an incident report and report it to your supervisor. Reports must be made no later than twenty-four (24) hours after becoming aware of the incident.
- B. Each agency provider and Board as a provider will:
 - 1. Identify what is to be reported as a UI, which shall include UIs as defined by OAC 5123-17-02;
 - 2. Require an employee who becomes aware of a UI to report it to the person designated by the provider who can initiate proper action;
 - 3. Require the report to be made no later than twenty-four (24) hours after the discovery of the incident;
 - 4. Require appropriate actions be taken to protect the health and welfare of any at-risk individuals;
 - 5. Require agency provider to investigate the UI, identify the cause and contributing factors, and develop a prevention plan to protect the health and welfare of any at-risk individuals.
- C. The agency provider and Board, as a provider, will ensure that all staff are trained and knowledgeable regarding the policy and procedure.

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- D. The provider delivering services when a UI occurs, will notify other providers of services as necessary to ensure continuity of care and support for the individual.
- E. Independent providers will complete a UI report and send the report to the person designated by the Board on the first working day following the day of the incident being discovered; and notify the individual's guardian or other person whom the individual has identified, as applicable.
- F. Each agency provider, independent provider and county board as a provider will maintain a log of all UIs. The log shall include, but not be limited to, the name of the individual, a brief description of the incident, any injuries, time, date, location, causes and contributing factors, and preventive plan.
- G. Each agency provider, independent provider and Board as a provider will review and analyze all UI's at least monthly, to ensure appropriate preventive plans have been implemented and identified trends and patterns are addressed as appropriate.
- H. Members of an individual's team will ensure risks associated with UI are addressed in the individual service plan of each individual affected. When the UI involves a hospital stay, the provider and the individual's team will review what proceed the hospital stay and consider what could have been done differently to prevent the hospital stay.
- I. A provider will, upon request by DODD or the Board, provide any and all information and documentation regarding an UI and investigation of the UI as well as UI report, documentation of identified trends and pattern and the prevention plan.

VI. ANALYZING MUI'S TO IDENTIFY PATTERNS AND TRENDS

- A. Annual Analysis
 - 1. Waiver agency providers, including the Board as a provider, will complete an annual report by January 31st each year, regarding MUI trends and patterns. The annual review shall be cumulative for all four (4) quarters of the past year and include an in-depth analysis and the preventive measures taken to address the trends and patterns. The report will contain:
 - a) Date of review;
 - b) Name of person completing review;
 - c) Time period of review;
 - d) Comparison of data for previous three (3) years;
 - e) Explanation of data;
 - f) Data for review by MUI category type;
 - g) Specific individuals involved in established trends and patterns (i.e. five (5) MUIs of any kind within six (6) months, ten (10) MUIs of any kind within a year or other pattern identified by the individual's team;
 - h) Specific trends by residence, region or program;
 - i) Previously identified trends and patterns; and
 - j) Action plans and preventive measures implemented to address noted trends and patterns.
 - 2. Waiver agency providers will send the annual report for all programs operated in the county to the Board by February 28th of each year.

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3. Boards will conduct the analysis and follow-up for all entities operated by the Board. The Board will send its analysis and follow-up actions to DODD by February 28th for the annual review.
4. Each waiver agency provider will conduct the analysis, implement follow-up actions and send annual analysis and follow-up actions to the county board for all programs operated in the county by February 28th for the annual review. The Board will keep the analysis and follow-up actions on file and make them available to DODD upon request.
5. The Board and DODD will review the annual report to ensure that all issues have been reasonably addressed to prevent recurrence.
6. The Board will ensure that trends and patterns of MUIs are included and addressed in the affected individual's service plan.
7. The Board will keep the annual report on file and make it available to DODD upon request.
8. Each Board or as applicable, each council of governments to which the Board belongs, will have a committee that reviews trends and patterns of MUIs. The committee will be made up of a reasonable representation of the county board(s), providers, individuals who receive services and their families, and other stakeholders deemed appropriate by the committee.
 - a) The role of the committee is to review and share the Board or council of government's aggregate data prepared by the Board or council of governments to identify trends, patterns, or areas for improving the quality of life for individuals supported in the county or counties.
 - b) The committee will meet each March to review and analyze data for the preceding calendar year. The Board or council of governments will send the aggregate data prepared for the meeting to all participants ten (10) calendar days in advance of the meeting.
 - c) The Board or council of governments 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.
 - d) The Board will ensure follow-up actions identified by the committee have been implemented.
9. DODD will prepare a report on trends and patterns identified through the process of reviewing MUIs. DODD will periodically, but at least semi-annually, review this report with a committee appointed by the Director of DODD which will consist of at least six (6) members who represent various stakeholder groups, including Disability Rights Ohio and the Ohio Department of Medicaid. The committee will make recommendations to DODD regarding whether appropriate actions to ensure the health and welfare of individuals served have been taken. The committee may request that DODD obtain additional information necessary to make recommendations.

VII. OVERSIGHT

- A. DODD will conduct reviews of the Board and providers as necessary to ensure the health and welfare of individuals and compliance with the requirements of OAC 5123-17-02. Failure to comply with the requirements of this rule may be

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considered by DODD in any regulatory capacity, including certification, licensure, and accreditation.

- B. DODD will review and take any appropriate action when a complaint is received about how an administrative investigation or administrative review is conducted.
- C. DODD shall provide access to the ITS, to the Ohio Department of Jobs and Family Services and Ohio legal rights service in accordance with ORC 5123.604.

VIII. ACCESS TO RECORDS

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

IX. TRAINING

- A. All agency providers and Board will ensure their staff employed in direct services positions are trained on the requirements of rule ORC 5123-17-02 regarding the identification and reporting of MUIs and UIs prior to direct contact with any individual and in all other cases, no later than ninety (90) calendar days after date of hire. Thereafter, all employees shall receive training annually, which shall include a review of health and welfare alerts released since the previous calendar years training.
- B. All independent providers will follow the requirements for initial training on the provisions of according to their certification requirements in OAC 5123-2-09.

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Thereafter, shall receive annual training on the requirements and health and welfare alerts released since the previous calendar year's training.

- C. Board members will be trained on the requirements of rule ORC 5123-17-02 no later than ninety calendar days following the date of appointment to the board.
- D. The COG shall ensure that staff responsible for conducting investigations receive initial and annual department-approved training.