

# Licking County Board of Developmental Disabilities

## Administrative Policy Manual

### Incidents Adversely Affecting Health and Safety Procedures

Initial Implementation 12/01  
Revised: 6/03, 7/04, 1/07, 4/07,  
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#### LICKING COUNTY BOARD OF DEVELOPMENTAL DISABILITIES

##### Procedure Reference:

##### **ADDRESSING MAJOR UNUSUAL INCIDENTS AND UNUSUAL INCIDENTS TO ENSURE HEALTH, WELFARE, AND CONTINUOUS QUALITY IMPROVEMENT**

##### Ohio Revised Code (ORC) Citations:

1.14, 149.43, 167, 2151.03, 2151.031, 2151.421, 2903.16, 2907, 2907.01, 2911, 2913, 313.12, 5123.19, 5123.51, 5123.61, 5123.613, 5123.62, 5124.01, 5126, 5126.044, 5126.058, 5126.221, 5126.25, 5126.31, 5126.33, and 5126.61

##### Ohio Administrative Code (OAC) Citations:

5123:2-2-01, 5123:2-2-06, 5123:2-5-07, 5123:2-9-32, 5123:2-17-01; 5123:2-17-03, and 5123-17-02

##### Code of Federal Regulations (CFR) Citations:

42 CFR 483.420, 42 CFR 483.430, and 42 CFR 483.440

## I. PURPOSE

This procedure establishes the requirements for addressing major unusual incidents and unusual incidents in accordance with OAC 5123-17-02, MEORC MUI and Licking County Board of Developmental Disabilities policy and implements a continuous quality improvement process in order to prevent or reduce the risk of harm to individuals.

## II. APPLICATION

This procedure will apply to county boards, councils of government, developmental centers, and providers of services to individuals with developmental disabilities. Information contained in this procedure does not relieve any person of the responsibility to comply with section 5123.61 of the Ohio Revised Code, which requires the reporting of abuse, neglect, or other major unusual incidents.

## III. DEFINITIONS

- A. **“Abuser Registry”** means the registry that was established by Ohio law to prohibit people from working with individuals if they have committed acts of abuse, neglect, misappropriation, failure to report and/or prohibited sexual relations which meet the criteria for placement on the Ohio Department of Developmental Disabilities Abuser Registry.

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- B. **“Administrative Investigation”** means the gathering and analysis of information related to a major unusual incident so that appropriate action can be taken to address any harm or risk of harm and prevent recurrence.
1. There are two administrative investigation procedures that correspond with the major unusual incident categories delineated in the definition section of this procedure:
    - a. Category A – for allegations of unexplained or unanticipated death, exploitation, failure to report, misappropriation, neglect, physical abuse, prohibited sexual relations, rights code violation, sexual abuse, and emotional abuse. Further information regarding Category A investigation procedures is included in Appendix A of this procedure;
    - b. Category B – for allegations of attempted suicide, death other than unexplained or unanticipated death, medical emergency, missing individual, peer to peer act, and significant injury. Further information regarding Category B investigation procedures is included in Appendix B of this procedure; and
- C. **“Administrative Review”** *means the gathering and analysis of information related to a major unusual incident in category C as described in paragraph (C)(16)(c) of this rule, using an administrative review form submitted by an individual's provider and completed by an investigative agent in collaboration with the individual's team, so that a prevention plan can be developed and implemented.*
1. There is one administrative investigation procedure that corresponds with the major unusual incident categories delineated in the definition section of this procedure:
    - a. Category C – for allegations of law enforcement involvement, unanticipated hospitalization, and unapproved behavioral support. Further information regarding Category C investigation procedures is included in Appendix C of this procedure.
- D. **“Agency Provider”** means a provider certified or licensed by the Ohio Department of Developmental Disabilities (DODD) that employs staff to deliver services to individuals and who may subcontract the delivery or services. “Agency provider” also includes a county board while providing specialized services.
- E. **“At-Risk Individual”** means an individual whose health and/or welfare is adversely affected or whose health and/or welfare may reasonably be considered to be in danger of being adversely affected.
- F. **“Common law employee”** has the same meaning as in OAC 5123:2-9-32.

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- G. **“County Board”** means a county board of developmental disabilities as established under Chapter 5126 of the ORC and/or a regional council of governments as established under Chapter 167 of the ORC when it includes at least one county board.
- H. **“Department”** means the Ohio Department of Developmental Disabilities and referred to as **“DODD”** in this procedure.
- I. **“Developmental Center”** means an intermediate care facility for individuals with intellectual disabilities under the managing responsibility of the DODD.
- J. **“Developmental Disabilities 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 residential facility licensed under ORC5123.19;
  - 4. An administrator, board member, or employee of any other public or private provider of services to an individual with a developmental disability; or
  - 5. An independent provider.
- K. **“Incident Report”** means documentation that contains details about a major unusual incident or an unusual incident, and will include, but is not limited to:
  - 1. Individual’s name;
  - 2. Individual’s address;
  - 3. Date of incident;
  - 4. Time of incident;
  - 5. Location of incident;
  - 6. Description of incident;
  - 7. Type and location of injuries;
  - 8. Immediate actions taken to ensure health and welfare of individual involved and any at-risk individuals;
  - 9. Name(s) of Primary Person(s) Involved (PPI) and his/her relationship to the individual;
  - 10. Name(s) of witness(es);
  - 11. Statement(s) completed by person(s) who witnessed or have personal knowledge of the incident;
  - 12. Notifications with name, title, and time and date of notice;
  - 13. Further medical follow up;

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14. Name, signature, and title of person completing the incident report;
  15. Cause and contributing factors;
  16. Follow up information; and
  17. Prevention Plan.
- L. **"Ohio Incident Tracking & Monitoring System (OITMS)"** means DODD's web-based system for reporting major unusual incidents.
- M. **"Independent Provider"** means a self-employed person who provides services for which the person must be certified in accordance with rules promulgated by DODD and does not employ, either directly or through contract, anyone else to provide the services.
- N. **"Individual"** means a person with a developmental disability.
- O. **"Individual Service Plan"** means the written description of services, supports, and activities to be provided to an individual and includes an "individual program plan" as that term is used in 42 C.F.R. 483.440 as in effect on the effective date of this rule.
- P. **"Intermediate Care Facility for Individuals with Intellectual Disabilities (ICFID)"** has the same meaning as in ORC 5124.01.
- Q. **"Investigative Agent"** means an employee of a county board or a person under contract with a county board who is certified by DODD to conduct administrative investigations of major unusual incidents.
- R. **"Mid-East Ohio Regional Council (MEORC)"** means a regional council of governments as established under ORC 167 that is under contract to provide services to the county board and functions as a part of the county board when providing said services.
- S. **"Major Unusual Incident (MUI)"** means the alleged, suspected, or actual occurrence of an incident described in OAC 5123-17-02 paragraph (C) (16) (a), (C) (16) (b), or (C) (16) (c) when there is reason to believe the incident has occurred. There are three categories of major unusual incidents that correspond to three administrative investigation procedures delineated in Appendix A, Appendix B, and Appendix C of this procedure:
1. **Category A**
    - a. **"Unexplained or Unanticipated Death"** means the death of an individual resulting from an accident or was otherwise unexpected.

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- b. **“Exploitation”** means the unlawful or improper act of using an individual or an individual’s resources for monetary or personal benefit, profit, and/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 a substantial risk of suffering any wound, injury, disability, or condition of such a nature as to reasonably indicate emotional abuse, exploitation, misappropriation, neglect, physical abuse, or sexual abuse to the agency provider, county board, or department.
- 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 Administrative Code.
- 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 force may include, but is not limited to, hitting, slapping, pushing, or throwing objects at an individual.
- g. **“Prohibited Sexual Relations”** means a developmental disabilities employee engaging in consensual sexual conduct, or having consensual sexual contact with an individual who is not the employee’s spouse, and for whom the developmental disabilities employee was employed or under contract to provide care or supervise the provision of care at the time of the incident.
- 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 and/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 ORC 2907 (e.g. public indecency, importuning, and voyeurism) when the sexual conduct, sexual contact, or act involves an individual.
- j. **“Emotional Abuse”** means the use of actions, words, gestures or other communicative means to purposefully threaten, coerce, intimidate, harass, or humiliate an individual, or a pattern of behavior that creates a hostile environment.

#### 2. **Category B**

- a. **“Attempted Suicide”** means a physical attempt by an individual that results in emergency room treatment, in-patient observation, or hospital admission.

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- b. **“Death Other than Unexplained or Unanticipated Death”** means the death of an individual by natural cause.
- c. **“Medical Emergency”** means an incident where emergency medical intervention by a developmental disabilities employee is required to save an individual’s life (e.g. choking relief techniques, cardiopulmonary resuscitation, use of an automated external defibrillator, administration of overdose reversal medication such as Narcan).
- d. **“Missing Individual”** means law enforcement has been contacted because an individual's of harm to self or others.
- e. **“Peer-to-Peer Act”** means one of the following incidents involving two or more individuals:
  - i. **“Peer-to-Peer Exploitation”** means the unlawful or improper act of using another individual or another individual’s resources for monetary or person benefit, profit, or gain;
  - ii. **“Peer-to-Peer Theft”** means intentionally depriving another individual or real or personal property valued at twenty dollars (\$20) or more, or property of significant personal value to the individual;
  - iii. **“Peer-to-Peer 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. **“Peer-to-Peer Sexual Act”** means sexual conduct and/or contact for the purposes of sexual gratification without the consent of the other individual;
- f. **“Significant Injury”** means an injury to an individual of known cause or unknown cause that results in a dental injury that requires treatment by a dentist, concussion, broken bone, dislocation, or second or third degree burns or that requires immobilization, casting, or five or more sutures. A significant injury will be designated in the Ohio incident tracking and monitoring system as either known cause or unknown cause

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#### 3. Category C

a. **“Law Enforcement”** means any incident that results in an individual being tased, arrested, charged or incarcerated.

b. **“Unanticipated Hospitalization”** means:

(i). A hospital admission lasting forty-eight hours or longer that:

- a. Is not associated with planned evaluations, scheduled procedures, or routine diagnostic tests that are part of ongoing medical care, including the diagnosis of conditions; and
- b. Is due to one or more of the following diagnoses:

(A) Aspiration pneumonia;

(B) Bowel obstruction;

(C) Dehydration;

(D) Medication error;

(E) Seizure; or

(F) Sepsis.

i. A hospital re-admission lasting forty-eight hours or longer that:

a. Is not associated with planned evaluations, scheduled procedures, or routine diagnostic 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 hours or longer within the past thirty calendar days.

c. **“Unapproved Behavioral Support”** means the use by a developmental disabilities employee of prohibited measure as defined in OAC 5123:2-2-06 or use of a restrictive measure implemented without approval of the human rights committee or without informed consent of the individual or the individual’s guardian in accordance with OAC 5123:2-2-06 when use of the prohibited measure or restrictive measure results in risk to the individual’s health or welfare. When use of the prohibited measure or restrictive measure does not result in risk to the individual’s health or welfare, the incident will be investigated as an unusual incident.

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- T. **"Ohio Administrative Code (OAC)"** means rules passed by the various State of Ohio administrative agencies.
- U. **"Ohio Department of Developmental Disabilities (DODD)"** means the entity within the State of Ohio that is responsible for oversight of the statewide system of supportive services for individuals that focus on assuring health and safety, supporting access to community participation, and increasing opportunities for meaningful employment.
- V. **"Ohio Department of Medicaid Services (ODM)"** means the entity within the State of Ohio that is responsible for administering the Medicaid Program.
- W. **"Ohio Revised Code (ORC)"** means statutes/laws passed by the legislature of the State of Ohio.
- X. **"Physical Harm"** means any injury, or other physiological impairment, regardless of its gravity or duration.
- Y. **"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, and/or emotional abuse.
- Z. **"Program Implementation Incident"** means an unusual incident involving 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, and self-reported incidents with minimal risk, or 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, and self-reported incidents with minimal risk.
- AA. **"Provider"** means an agency provider or independent provider.
- BB. **"Qualified Intellectual Disability Professional (QIDP)"** has the same meaning as in 42 CFR 483.430 as in effect on the effective date of OAC 5123-17-02.
- CC. **"Service and Support Administrator"** means a person, regardless of title, employed by or under contract with a county board to perform the functions of service and support administration and who holds the appropriate certification in accordance with rule 5123-5-02 of the Administrative Code.
- DD. **"Specialized Services"** means any program or service designed and operated to serve primarily individuals, including a program or service provided by an entity licensed or certified by the DODD.
- EE. **"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 a potential event, adequacy of processes and procedures, or availability of resources and equipment) beyond the action or



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inaction of the primary person involved in a substantiated major unusual incident of neglect, that contributed to the situation or outcome.

FF. **"Team"** means, as applicable:

1. The group of persons chosen by an individual with the core responsibility to support the individuals in directing development of that person 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.

GG. **"Unusual Incident (UI)"** means an event or occurrence involving an individual that is not consistent with routine operations, policies and procedures, or the individual service plan, but is not a major unusual incident (MUI). Unusual incident includes but is not limited to the events and occurrences described in appendix f to this rule.

HH. **"Working Day"** means Monday, Tuesday, Wednesday, Thursday, or Friday, except when that day is a holiday as defined in ORC 1.14.

#### IV. REPORTING REQUIREMENTS FOR MAJOR UNUSUAL INCIDENTS

- A. Developmental disabilities employee will immediately report the alleged, suspected, or actual occurrence of a major unusual incident to the designated person at the agency provider (if employed by an agency provider), the county board system described in paragraph (D)(10) of this rule, or the department's abuse and neglect hotline.
- B. Reports regarding all major unusual incidents involving an individual who resides in an intermediate care facility or who receives round-the-clock waiver services will be filed and the requirements of this procedure followed regardless of where the incident occurred.
- C. Reports regarding the following major unusual incidents will be filed and the requirements of this procedure followed regardless of where the incident occurred:
  1. Attempted suicide;
  2. Death other than unexplained or unanticipated death;
  3. Exploitation;
  4. Failure to report;
  5. Law enforcement;

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6. Misappropriation;
  7. Missing individual;
  8. Neglect;
  9. Peer-to-peer act;
  10. Physical abuse;
  11. Prohibited sexual relations;
  12. Sexual abuse; and
  13. Emotional abuse
  14. Unexplained or Unanticipated Death
- D. Reports regarding the following major unusual incidents will be filed and the requirements of this procedure followed only when the incident occurs in a program operated by a county board or when the individual is being served by a provider at the time of the incident:
1. Medical emergency;
  2. Rights code violation;
  3. Significant injury;
  4. Unanticipated hospitalization; and
  5. Unapproved behavioral support.
- E. Immediately upon identification or notification of a major unusual incident, a provider will take all reasonable measures to ensure the health and welfare of at-risk individuals. Reasonable measures include, but are not limited to, securing immediate and ongoing medical attention and removal of a developmental disabilities employee from direct contact with any individual when the developmental disabilities employee is alleged to have been involved in physical abuse or sexual abuse. The provider will document reasonable measures taken and by whom in the incident report. The provider and county board will discuss any disagreements regarding reasonable measures in order to resolve them. If the provider and county board are unable to agree on reasonable measures to ensure the health and welfare of at-risk individuals, the department will make the determination.
- F. Immediately upon receipt of a report or notification of an allegation, the county board will:
1. Ensure that all reasonable measures necessary to protect the health and welfare of at-risk individuals have been taken;
  2. Determine if additional measures are needed; and
  3. Notify DODD if circumstances in section (J)(1) of this procedure that requires a DODD-directed administrative investigation are present. Such notification will take place on the first working day the county board becomes aware of the incident.

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- G. A provider other than a developmental center will as soon as possible but no later than four hours following the discovery of the incident, notify the county board through means identified by the county board of the following incidents or allegations (please refer to Appendix D of this procedure)
1. Unexplained or Unanticipated death;
  2. Exploitation;
  3. Misappropriation;
  4. Neglect;
  5. Peer-to-peer act;
  6. Physical abuse;
  7. Prohibited sexual relations;
  8. Sexual abuse;
  9. Emotional abuse; and
  10. When the provider has received an inquiry from the media regarding a major unusual incident.
- H. **For all major unusual incidents, a provider other than a developmental center will submit an incident report** to the county board contact or designee no later than three p.m. (3:00 p.m.) on the first working day following the day the provider becomes aware of a potential or determined major unusual incident. The incident report will be submitted in a format prescribed by DODD.
- a) For a major unusual incident in category C, the provider will also submit the applicable administrative review form contained in appendix C, appendix D, or appendix E to this rule. The provider will submit the incident report and the administrative review form at the same time.
  - b) When an individual is hospitalized, the provider is responsible for following up with the hospital so that a diagnosis is determined as soon as possible after forty-eight hours, an incident report made to the county board, and the administrative review form in appendix D to this rule submitted when the situation meets the definition of unanticipated hospitalization in paragraph (C)(16)(c)(ii) of this rule.
- I. MEORC will enter preliminary information regarding the incident in the OITMS, and in the manner prescribed by DODD by five p.m. (5:00 p.m.) on the first working day following the day the county board receives notification from the provider or otherwise becomes aware of the major unusual incident.
- J. The county board will have a system that is available twenty-four (24) hours a day, seven (7) days per week, to receive and respond to all reports required by this procedure. The county board will communicate this system in writing to all individuals receiving services in the county, or their guardians as applicable, providers in the county and the department.
- K.

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#### **L. Removal of a developmental disabilities employee**

(1) An agency provider will remove a developmental disabilities employee from direct contact with any individual when the developmental disabilities employee is alleged to have been involved in physical abuse or sexual abuse until such time as the agency provider has reasonably determined that removal is no longer necessary. When an agency provider removes a developmental disabilities employee from direct contact with an individual:

(a) The agency provider will inform the developmental disabilities employee of the alleged major unusual incident category and provide the developmental disabilities employee with the name of a person employed by the agency provider to whom the developmental disabilities employee may direct questions.

(b) The county board or department, as applicable, will keep the agency provider apprised of the status of the administrative investigation so that the agency provider can resume normal operations as soon as possible consistent with the health and welfare of individuals. The agency provider will notify the county board or department, as applicable, when the developmental disabilities employee returns to work.

(2) In conjunction with the department, a county 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 county board has reasonably determined that removal is no longer necessary. When a county board removes an independent provider from direct contact with an individual:

(a) The county board will inform the independent provider of the alleged major unusual incident category and provide the independent provider with the name of a person employed by the county board to whom the independent provider may direct questions.

(b) The county board will keep the independent provider apprised of the status of the administrative investigation so that the independent provider can resume normal operations as soon as possible consistent with the health and welfare of individuals.

#### **L. REPORTING OF ALLEGED CRIMINAL ACTS**

A. When a provider has reason to believe a criminal act has occurred, the provider will immediately report to the law enforcement entity having jurisdiction of the location where the incident occurred, The provider will document the time, date, and name of the person notified of the alleged criminal act. The county board will ensure the notification has been made.

B. DODD will immediately report to the Ohio State Highway Patrol any allegation of a criminal act occurring at a developmental center. DODD will document the time, date, and name of the person notified of the alleged criminal act.

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#### **M. ABUSED OR NEGLECTED CHILDREN**

- A. All allegations of abuse or neglect as defined in ORC 2151.03 and 2151.031 of an individual under the age of twenty-one (21) will be immediately reported to the local public children services agency. The notification may be made by the provider or the county board. The county board will ensure that the notification has been made.
- B. When a public children services agency is conducting an investigation, the investigative agent will submit a report to the Ohio incident tracking and monitoring system with a brief description of the allegation and immediate steps taken to protect the health and welfare of the individual. Upon notification of case closure by the public children services agency, the investigative agent will record the results in the Ohio incident tracking and monitoring system and ensure a prevention plan to address causes and contributing factors is implemented.

#### **V. NOTIFICATION REQUIREMENTS FOR MAJOR UNUSUAL INCIDENTS**

- A. The provider will make notifications when a major unusual incident or discovery of a major unusual incident occurs when such provider has responsibility for the individual.
  - a. The provider will notify as applicable:
    - 1. Guardian or another person whom the individual has identified;
    - 2. Service and Support Administrator serving the individual;
    - 3. Other providers of services as necessary to ensure continuity of care and support for the individual;
    - 4. Staff or family living at the individual's residence who have responsibility for the individual's care;
  - b. The provider will make notification on the same day the major unusual incident or discovery of the major unusual incident occurs.
  - c. The notification will include immediate actions taken.
  - d. The provider will document all notifications or efforts to notify.
  - e. The provider will not make notifications:
    - i. If the person to be notified is the primary person involved, the significant other of the primary person involved, or the significant other of the primary person involved;
    - ii. or When such notification could jeopardize the health and welfare of an individual involved.

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### **Incidents Adversely Affecting Health and Safety Procedures**

**Initial Implementation 12/01**  
**Revised: 6/03, 7/04, 1/07, 4/07,**  
**6/14, 3/19, 5/21, 6/25**  
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f. Notification to a person is not required when the report comes from such person, or in the case of a death, when the family is already aware of the death.

- B. Staff of an agency provider will inform the director of operations or administrator of the agency provider within one working day following the day staff become aware of a potential or determined major unusual incident involving misappropriation, neglect, physical abuse, or sexual abuse.
- C. The county board will ensure notifications required by paragraph (H)(1) of this rule have been made.
- D. In any case where law enforcement is conducting an investigation or pursuing charges related to an alleged criminal act, DODD may provide notification of the incident to any other provider, developmental center, or county board for whom the developmental disabilities employee involved works, for the purpose of ensuring the health and welfare of any at-risk individual. The notified provider or county board will take such steps necessary to address the health and welfare needs of any at-risk individual and may consult DODD in this regard. DODD will inform any notified entity as to whether the incident is substantiated. Providers, developmental centers, or county boards employing developmental disabilities employee will notify DODD when they are aware that the developmental disabilities employee works for another provider.

#### **VI. GENERAL REQUIREMENTS FOR ADMINISTRATIVE INVESTIGATION AND ADMINSTRATIVE REVIEW**

- A. Each county board shall employ at least one investigative agent or contract with a person or governmental entity for the services of an investigative agent. An investigative agent shall be certified by DODD in accordance with OAC 5123:2-5-07. Employees of DODD who are designated investigators are considered certified investigative agents for the purpose of this procedure.
1. The county board has entered into a contract with MEORC for provision of investigative agent services.
- B. All major unusual incidents in Category A or Category B require an administrative investigation meeting the applicable administrative investigation procedure in Appendix A or Appendix B, to this rule. Administrative investigations will be conducted and reviewed by investigative agents. An investigative agent will initiate an administrative investigation no later than twenty-four hours following submission of the incident report for a major unusual incident in category A and no later than three working days following submission of the incident report for a major unusual incident in category B. 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. "Initiate an administrative investigation" means any of the following:
- (a) Interviewing the reporter of the incident.
  - (b) Gathering relevant documents such as nursing notes, progress notes, or incident report.

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- (c) Notifying law enforcement when there is reason to believe a criminal act has occurred or the public children services agency when there is an allegation of abuse or neglect of an individual under the age of twenty one and documenting the date, time, and name of the person notified.
- (d) Initiating interviews with witnesses or victims.

- C. All major unusual incidents in category C require an administrative review using the applicable administrative review form in appendix C, appendix D, or appendix E to this rule. The applicable administrative review form will be submitted by an individual's provider and completed by an investigative agent in collaboration with the individual's team. An investigative agent will initiate an administrative review no later than three working days following submission of the administrative review form. The investigative agent will ensure the major unusual incident was properly coded, resolve any outstanding questions or concerns with the individual's provider and/or the individual's team, identify the causes and contributing factors to the incident, and address the prevention plan.
- D. Based on the facts discovered during administrative investigation or administrative review of the major unusual incident, 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.
- E. Major unusual incidents that involve an active criminal investigation may be closed as soon as the county board and MEORC ensure that the major unusual incident is properly coded, the history of the primary person involved has been reviewed, cause and contributing factors are determined, a finding is made, a prevention plan is implemented. Information needed for closure of the major unusual incident may be obtained from criminal investigation.
- F. Staff of County Boards or agency providers may assist the investigative agent by gathering documents, entering information into the OITMS, fulfilling Category C administrative review requirements, or performing other administrative or clerical duties that are not specific to the investigative agent role.
- G. Except when law enforcement or the public children services agency is conducting the investigation, the investigative agent will conduct all interviews for major unusual incidents in Category A or Category B. For a major unusual incident occurring at an intermediate care facility for individuals with intellectual disabilities, the investigative agent may utilize interviews conducted by the intermediate care facility for individuals with intellectual disabilities personally conduct the interviews. If the investigative agent determines the information is reliable, the investigative agent may utilize other information received from law enforcement, the public children services agency, or providers in order to meet the requirements of this procedure.
- H. When the public children services agency notifies the county board that it has declined to investigate, MEORC 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.

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- I. An intermediate care facility for individuals with intellectual disabilities will conduct an investigation that complies with applicable federal regulations, including CFR 483.420 as in effect on the effective date of OAC 5123-17-02, for any unusual incident or major unusual incident involving a resident of the facility, regardless of where the unusual incident or major unusual incident occurs. The intermediate care facility for individuals with intellectual disabilities will provide a copy of its full report of an investigation of a major unusual incident to the county board/MEORC.
- J. All developmental disabilities employees will cooperate with administrative investigations and administrative reviews conducted in accordance with this rule. Providers and county boards will respond to requests for information within the time frame requested. The time frames identified will be reasonable.
- K. Except when law enforcement or the public children service agency is conducting an investigation, the investigative agent will endeavor to reach a preliminary finding regarding allegations of physical abuse or sexual abuse and notify the individual, or individuals' guardian, and provider of the preliminary finding within fourteen working days. When it is not possible for the investigative agent to reach a preliminary finding regarding an allegation of physical abuse or sexual abuse within fourteen working days, the investigative agent will instead notify the individual, or individual's guardian, and provider of the status of the investigation every seven working days thereafter.
- L. The investigative agent will complete a report in the format prescribed by the department of each administrative investigation or administrative review and submit it for closure in the OITMS within forty-five (45) working days from submission of the incident report unless the county board (MEORC) requests and DODD grants an extension for good cause. If an extension is granted, DODD may require submission of interim reports, and may identify alternative actions to assist with the timely conclusion of the report.

#### **VII. DEPARTMENT-DIRECTED ADMINISTRATIVE INVESTIGATIONS OF MAJOR UNUSUAL INCIDENTS**

- A. DODD will conduct the administrative investigation or administrative review when the major unusual incident includes an allegation against:
  - 1. The superintendent of a county board or developmental center;
  - 2. The executive director or equivalent of a regional council of governments;
  - 3. A management employee who reports directly to the superintendent of the county board, the superintendent of a developmental center, or executive director or equivalent of a regional council of governments;



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4. An investigative agent;
5. A service and support administrator;
6. A major unusual incident contact or designee employed by a county board;
7. A current member of a county board;
8. A person having a relationship with any of the persons specified in paragraphs (P)(A)(1) to (P)(A)(8) of this procedure when such relationship may present a conflict of interest or the appearance of a conflict of interest; or
9. An employee of a county board when it is alleged that the employee is responsible for an individual's death, has committed sexual abuse, engage in prohibited sexual relations, or committed physical abuse or neglect resulting in emergency room treatment or hospitalization admission.

- B. DODD may conduct an administrative investigation or review and administrative investigation following the receipt of a request from a county board, developmental center, provider, individual, or guardian if DODD determines there is a reasonable basis for the request.
- C. DODD may conduct an administrative investigation or review an administrative investigation of any major unusual incident or request that an administrative investigation be conducted by another county board, a regional council of governments, or any other governmental entity authorized to conduct an investigation.

#### **VIII. WRITTEN SUMMARIES OF MAJOR UNUSUAL INCIDENTS IN CATEGORY A OR CATEGORY B**

- A. No later than five (5) working days following the recommendation for closure via the OITMS by the county board, developmental center, or DODD, as applicable will provide a written summary of the administrative investigation of each Category A or Category B major unusual incident, including the allegations, the facts and findings, including whether the MUI was substantiated or unsubstantiated, and the preventive plan implemented in response to the major unusual incident to:
  1. The individual, individual's guardian, or other person whom the individual has identified, as applicable. In the case of a peer-to-peer act, both individuals, individuals' guardians, or, applicable, other persons whom the individuals have identified, will receive a written summary;
  2. The residential provider and provider at the time of the major unusual incident;
  3. The individual's service and support administrator and support broker, as applicable.

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- B. In the case of an individual's death, the written summary will be provided to the individual's family only upon request by the individual's family.
  - C. The written summary will not be provided to the primary person involved, the spouse of the primary person involved, or the significant other of the primary person involved.
  - D. When the primary person involved is a developmental disabilities employee or a guardian, the county board will, no later than five working days following recommendation for closure via the OITMS, provide written notice to the primary person involved as to whether the major unusual incident was substantiated, unsubstantiated due to insufficient evidence, or unsubstantiated as the case was unfounded.
  - E. If a service and support administrator is not assigned, a county board designee shall be responsible for ensuring the preventive measures are implemented based upon the written summary.

#### **IX. 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 findings of a written summary of an administrative investigation described in paragraph (K)(1) of this rule by submitting a letter of dispute and supporting documentation to the county board superintendent, or to the director of the department if the department conducted the administrative investigation, within fifteen calendar days following receipt of the findings.
- B. The superintendent of the county board or the superintendent's designee, or the director of the department or the director's 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 county board, the disputant may dispute the final findings made by the county board by filing those findings and any documentation contesting such findings as are disputed with the director of DODD within fifteen (15) calendar days of the county board determination. The director will issue a decision within thirty (30) calendar days.

#### **X. REVIEW, PREVENTION, AND CLOSURE OF MAJOR UNUSUAL INCIDENTS**

- A. Agency providers will implement a written procedure for the internal review of all major unusual incidents and are responsible for taking all reasonable steps necessary to prevent the recurrence of major unusual incidents.

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- B. Members of an individual's team will ensure that risks associated with major unusual incidents are addressed in the individual service plan of each individual affected and collaborate on the development of a preventive plan to address the causes and contributing factors to the major unusual incident. The team members will jointly determine what constitutes reasonable steps necessary to prevent the recurrence of major unusual incidents.
- C. DODD will review and close the following major unusual incidents:
  - 1. Unexplained or Unanticipated death;
  - 2. Death other than Unexplained or Unanticipated;
  - 3. Exploitation;
  - 4. Medical emergency;
  - 5. Misappropriation;
  - 6. Neglect;
  - 7. Failure to report;
  - 8. Physical abuse;
  - 9. Prohibited sexual relations;
  - 10. Sexual abuse;
  - 11. Significant injury when cause is unknown;
  - 12. Emotional abuse;
  - 13. Attempted Suicide;
  - 14. Any major unusual incident that is the subject of a director's alert; and
  - 15. Any major unusual incident investigated by the department.
- D. The county board/MEORC will review and close major unusual incidents:
  - 1. Peer-to-Peer Act;
  - 2. Law enforcement;
  - 3. Missing individual;
  - 4. Rights code violation
  - 5. Significant injury when cause is known;
  - 6. Unanticipated hospitalization; and
  - 7. Unapproved behavioral support
- E. DODD may review any MUI to ensure it has been properly closed and will conduct sample reviews to ensure proper closure by the county board. DODD may reopen any administrative investigation or administrative review that does not meet the requirements of the rule.

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- F. DODD, the county board, and MEORC will consider the following criteria when determining if an MUI should be closed:
1. Whether sufficient 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 has been conducted consistent with the standards set forth in OAC 5123-17-02;
  3. Whether the team, including the county board and provider, collaborated on developing a preventive plan to address the causes and contributing factors;
  4. Whether the county board has ensured that the preventive plan was implemented to prevent recurrence;
  5. Whether the incident is part of a pattern or trend as flagged through the OITMS requiring some additional action; and
  6. Whether all requirements set forth in statute or rule have been satisfied.

#### **XI. ANALYSIS OF MAJOR UNUSUAL INCIDENT TRENDS AND PATTERNS**

- A. An agency provider will conduct for each county in which the agency provider delivers services, an in-depth review and analysis of trends and patterns of major unusual incidents occurring during the preceding calendar year, and compile an annual report which contains:
1. Date of review;
  2. Name of person(s) completing review;
  3. Time period of review;
  4. Comparison of data for previous three (3) years;
  5. Explanation of data;
  6. Data or review by major unusual incident category type;
  7. Specific individual involved in established trends and patterns (i.e. five (5) major unusual incidents of any kind within six months, ten (10) major unusual incidents of any kind within a year, or other pattern identified by the individual's team);
  8. Specific trends by residence, region, or program;
  9. Previously identified trends and patterns; and
  10. Action plans and prevention plans to address noted trends and patterns.

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- B. An agency provider other than a county board will send the annual report to the county board for all programs operated in the county by February twenty-eighth of each year. The county board will review the annual report to ensure that all issues have been reasonably addressed to prevent recurrence of major unusual incidents. The county board will keep the annual report on file and make it available to DODD upon request.
- C. If the county board provides specialized services, the county board, in conjunction with MEORC, will conduct the analysis according to paragraph XII A of this procedure for all programs operated by the county board. The county board will send its analysis and follow-up actions to DODD by February twenty-eighth of each year for the annual review. DODD will review the analysis to ensure that all issues have been reasonably addressed to prevent recurrence.
- D. The county board, in conjunction with MEORC, will have a stakeholder committee that reviews trend and patterns of major unusual incidents. The stakeholder committee will be made up of a reasonable representation of the county board, providers, individuals who receive services and their families, MEORC, and other stakeholders deemed appropriate by the stakeholder committee.
  - 1. The role of the stakeholder committee is to review and share the county board or MEORC aggregate data prepared by the county board or MEORC to identify overall/aggregate trends, patterns, or areas for improving the quality of life for individuals served in the county;
  - 2. The stakeholder committee will meet to review and analyze the aggregate data for the preceding calendar year prior to March 31<sup>st</sup> of each year;
  - 3. The county board, in conjunction with MEORC, will send the aggregate data prepared for the meeting to all participants at least ten calendar days in advance of the meeting;
  - 4. The county board, in conjunction with MEORC, will record and maintain minutes of each meeting, distribute the minutes to stakeholder committee members, and make the minutes available to any person upon request; and
  - 5. The county board will ensure follow-up actions identified by the stakeholder committee have been implemented.
- E. DODD will prepare a report on trends and patterns identified through the process of reviewing major unusual incidents. 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 or not appropriate actions have been taken to

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ensure the health and welfare of individuals served. The committee may request that DODD obtain additional information as may be necessary to make recommendations.

#### **XII. REQUIREMENTS FOR UNUSUAL INCIDENTS**

- A. Unusual incidents will be reported and investigated by the provider.
- B. Each agency provider will:
  - 1. Develop and implement a written unusual incident policy and procedure that;
    - I. identifies what is to be reported as an unusual incident which will include unusual incidents as defined in OAC 5123-17-02;
    - II. requires an employee who becomes aware of an unusual incident to report it to the person designated by the agency provider or the county board as provider who can initiate the proper action;
    - III. Requires the report to be made no later than twenty-four (24) hours following the occurrence of the unusual incident; and
    - IV. Requires the agency provider or the county board as provider to investigate unusual incidents, identify the cause and contributing factors when applicable, and develop a prevention plan to protect the health and welfare of any at-risk individuals.
  - 2. Ensure all staff are trained and knowledgeable regarding the unusual incident policy and procedure.
  - 3. The provider delivering services when an unusual incident occurs will notify other providers of services as necessary to ensure continuity of care and support for the individual.
  - 4. Each Independent provider will complete an incident report, notify the individual's guardian or other person whom the individual has identified, as applicable, and forward the incident report to the service and support administrator or county board designee on the first working day following the day the unusual incident is discovered.
  - 5. Each provider will maintain a log of all unusual incidents. The log will contain only unusual incidents defined in this rule and will include, but not limited to, the name of the individual, a brief description of the incident, any injuries, date, time, location, cause and contributing factors, and prevention plan.
  - 6. Each provider will review all unusual incidents as necessary, but no less than monthly, to ensure appropriate prevention plans have been implemented, and identified trends and patterns have been

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addressed as appropriate. When no unusual incidents occur within a calendar month, the provider will make a notation to that effect on its log of unusual incidents.

- C. Members of an individual's team will ensure the risk associated with unusual incidents are addressed in the individual service plan in each individual effected. When the unusual incident involves a hospital stay, the provider and individual's team will review what preceded the hospital stay and consider what could have been done differently to prevent a hospital stay.
- D. A provider will, upon request by DODD or a county board, provide any and all information and documentation regarding an unusual incident and investigation of the unusual incident as well as unusual incident reports, documentation of identified trends and patterns, and the prevention plan.

#### XIII. **OVERSIGHT**

- A. DODD will conduct reviews of county boards and providers as necessary to ensure the health and welfare of individuals and compliance with OAC 5123-17-02. Failure to comply with OAC 5123-17-02 may be considered by DODD in any regulatory capacity, including certification, licensure, and accreditation.
- B. DODD will review and take any action appropriate when a complaint is received regarding how an administrative investigation or administrative review is conducted.

#### XIV. **ACCESS TO RECORDS**

- A. Reports made under ORC 5123.61 and OAC 5123-17-02 are not public records as defined in ORC 149.43. Records may be provided to parties authorized to receive such in accordance with ORC 5123.613 and ORC 5126.044 to any governmental entity authorized to investigate the circumstances of the alleged abuse, neglect, misappropriation, or exploitation, and to any party to the extent that release of a record is necessary for the health or welfare of an individual.
- B. The county board, MEORC, or DODD will not review, copy, or include in any report required by OAC 5123-17-02, a provider's personnel records that are confidential under state or federal statutes or rules, including medical and insurance records, workers' compensation records, employment eligibility verification (I-9) forms, and social security numbers. The provider will redact any confidential information contained in a record before copies are provided to the county board or DODD. A provider will make all other records available upon request by the county board or DODD. A provider will provide confidential information, including the date of birth and social security number, when requested by DODD as part of the abuser registry process in accordance with OAC 5123:2-17-03.

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- C. Any party entitled to receive a report required by OAC 5123-17-02 may waive receipt of the report. A party waiving receipt of a report will do so in writing.

#### **XV. TRAINING**

- A. Agency providers and county boards will ensure:
- a. Staff employed in direct services positions are trained on the requirements of this rule prior to direct contact with any individual. Thereafter, staff employed in direct services positions will receive annual training on the requirements of this rule, including a review of health and welfare alerts issued by the department since the previous year's training.
  - b. Staff employed in positions other than direct services positions are trained on the requirements of this rule no later than ninety calendar days following the date of hire. Thereafter, staff employed in positions other than direct services positions will receive annual training on the requirements of this rule, including a review of health and welfare alerts issued by the department since the previous year's training.
  - c. Board members are trained on the requirements of this rule no later than ninety calendar days following the date of appointment to the board.
- B. Independent providers will be trained on the requirements of this rule prior to application for initial certification in accordance with rule 5123-2-09 of the Administrative Code. Thereafter, independent providers will receive annual training on the requirements of this rule, including a review of health and welfare alerts issued by the department since the previous year's training

#### **XVI. MID-EAST OHIO REGIONAL COUNCIL POLICY AND PROCEDURES**

- A. Policy and procedures developed by the Mid-East Ohio Regional Council – Major Unusual Incident Advisory Council serve as an addendum to county board policy and procedures to ensure the continuum of major unusual incident services and reporting systems coordination services.

#### **XVII. MEMORANDUM OF UNDERSTANDING**

- A. The county board will have a Memorandum of Understanding (MOU) in place. The legal mandate for this memorandum is ORC 5126.058 which calls for mandated subscribers to enter into an MOU concerning the handling and coordinating of reports of abuse, neglect, and exploitation of individual with disabilities.
- B. The MOU will assist in setting forth normal operating procedures for the reporting and investigation of reports of abuse, neglect and exploitation as described in OAC 5123-17-02. The MOU will exist to assist legal professionals and organizations concerned with the health and welfare of individuals and outline the responsibilities of the mandated reporters and cooperation required between entities.



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- C. The purpose of the MOU is to effectively address the need to report and investigate reports of abuse, neglect, and exploitation, and to define the issues and concerns involved in doing so. These purposes assist the participants/subscribers to work cooperatively to achieve the following:
  - 1. Establishment of normal operating procedures to be employed by all concerned officials in the execution of their respective responsibilities under ORC sections 313.12, 2151.421, 2903.16, 5126.058, 5126.31, and 5126.33.
  - 2. Assurance of the prompt and proper reporting of incidents of suspected or actual abuse, neglect, and exploitation.
  - 3. Timely and thorough investigations of abuse, neglect, and exploitation, expediting referrals in order to protect the individual with developmental disabilities while eliminating unnecessary interviews of a person who is the subject of a report of abuse and/or neglect and/or exploitation.
  - 4. Protection of the individual and family from further trauma by elimination of duplicated efforts by all professionals involved, elimination of gaps by all professionals involved, and the provision of protection, aid, and treatment.
  - 5. Rapid prosecution and/or treatment of the perpetrators of abuse, neglect, and exploitation; and
  - 6. Definition of the responsibilities and interrelationship among participating agencies for the handling, coordination, investigation, prosecution, and treatment, and to define responsibilities in a criminal and an administrative investigation.
- D. The following parties are mandated subscribers to the MOU per ORC 5126.058:
  - 1. The county board of developmental disabilities;
  - 2. The probate judge or representative;
  - 3. The county peace officer;
  - 4. All chief municipal peace officers within the county;
  - 5. Other law enforcement officers handling abuse, neglect, and exploitation of persons with developmental disabilities;
  - 6. The prosecuting attorney for the county;
  - 7. The children's services agency; and
  - 8. The county coroner/medical examiner.

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#### **XVIII. FAILURE TO REPORT**

- A. Reporting requirements are set forth to ensure that mandated reporters are provided with a process for reporting allegations, suspicions, and actual occurrences of abuse, neglect, and theft. Failure to notify the appropriate entity constitutes “failure to report” by the mandated reporter.
- B. Failure to report encompasses the following definitions/standards:
  - 1. General definition:
    - a. Per ORC 5123.61, any person considered a required/mandated reporter having reason to believe that a person with developmental disabilities has suffered, or faces a substantial risk of suffering, any wound, injury, disability, or condition of such a nature as to reasonably indicate abuse or neglect of that person, will immediately report the information to the specified entity.
  - 2. Criminal standard includes three (3) categories of failure to report, all of which require notification to law enforcement:
    - a. When the required/mandated reporter fails to report under ORC 5123.61;
    - b. When a physician performing services fails to report under ORC 5123.61 (C) (2); or
    - c. When the superintendent or designee of a county board fails to notify law enforcement of an incident that may constitute a crime under ORC 5123.61 (G) (3).
  - 3. Registry Standard
    - a. A developmental disabilities employee unreasonably fails to make a report pursuant to ORC 5123.61 when said employee knew, or should have known, that the failure to report would result in a substantial risk of harm to an individual with developmental disabilities per ORC 5123.51 I (3) (a) (ix).
- C. A failure to report major unusual incident is filed when one of the following elements has been met:
  - 1. An individual has suffered a wound, injury, disability, or condition of such a nature as to reasonably indicate abuse or neglect, and a mandated reporter does not make the required report to the appropriate entity; or

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2. An individual faces a substantial risk of suffering any wound, injury, disability or condition of such a nature as to reasonably indicate abuse or neglect, and a mandated reporter does not make the required report to the appropriate entity.

#### **XIX. PROVISION OF ANNUAL WRITTEN NOTICE OF DODD ABUSER REGISTRY CONDUCT**

- A. The county board, each contracting entity of the county board, each owner, operator, or administrator of a licensed facility as defined in ORC 5123.19, and each owner, operator, or administrator of a program certified by DODD to provide supported living will provide developmental disabilities employees with an annual written notice, prescribed by DODD, which defines and explains the conduct that may result in placement of a developmental disabilities employee on the DODD Abuser Registry.
  1. The required notice will include all necessary information as outlined by DODD.
- B. If a developmental disabilities employee fails to receive the required notice, said notification failure does not exempt the employee from inclusion on the DODD Abuser Registry.
- C. The county board will implement the requirements of ORC 5123.19 in a manner which demonstrates that each of its developmental disabilities employees has received the required annual written notice.

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#### PROCEDURE REFERENCE:

#### ***ADDRESSING MAJOR UNUSUAL INCIDENTS AND UNUSUAL INCIDENTS TO ENSURE HEALTH, WELFARE, AND CONTINUOUS QUALITY IMPROVEMENT***

### **APPENDIX A**

#### ***Administrative Investigation Procedure for Major Unusual Incidents in Category A***

**(Unexplained or Unanticipated Death, Exploitation, Failure to Report, Misappropriation, Neglect, Physical Abuse, Prohibited Sexual Relations, Rights Code Violation, Sexual Abuse, and Emotional Abuse)**

- Findings in administrative investigations of major unusual incidents in Category A shall be based upon a preponderance of evidence standard. **“Preponderance of evidence”** means that credible evidence indicates that it is more probable than not that the incident occurred.
- There are three (3) possible findings of a Category A administrative investigation:
  - **“Substantiated”** means there is a preponderance of evidence that the alleged incident occurred;
  - **“Unsubstantiated/Insufficient Evidence”** means there is insufficient evidence to substantiate the allegation. **“Insufficient evidence”** means there is not a preponderance of evidence to support the allegation, or there is conflicting evidence that is inconclusive;
  - **“Unsubstantiated/Unfounded”** means the allegation is unfounded. **“Unfounded”** means the evidence supports a finding that the alleged incident did not, or could not have, occurred.

#### **Steps for Investigating Major Unusual Incidents in Category A**

#### **FOR ALL CATEGORY A INVESTIGATIONS:**

When it is not possible or relevant to the administrative investigation to meet a requirement of this appendix, the investigative agent will document the reason.

#### Steps for Investigating Major Unusual Incidents in Category A

1. Interview the victim no later than three working days following notification of the major unusual incident and document the results. Exceptions to this requirement are when the individual is unable to provide any

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information or the investigative agent determines that the circumstances warrant interviewing the individual later in the administrative investigation.

2. Visit the scene of the incident.

3. Secure physical evidence. Take photographs of injuries, as applicable. Secure and sketch and/or photograph the scene of the incident. Provide a detailed description of any injury that may have resulted from the incident, including the shape, color, and size. Take a photograph of any injury that may have resulted from the incident; record the name of the person who took the photograph and the date and time the photograph was taken. Provide a written description of the physical evidence along with the date, time, and location of the gathering of evidence. Photograph and/or describe materials or objects that played a part in the incident. Provide a written description, sketch, or photograph of the area where the incident occurred. Note environmental factors that may have caused or contributed to any injury.

4. Follow-up with law enforcement. Include a copy of the police report, as applicable.

5. Review all relevant documents relating to the primary person involved that form the basis for the reported incident and the relevant documents relating to the individual who is the alleged victim.

6. Interview persons who have relevant information about the incident and document the interviews. Interviews may be documented and statements taken via videotape, audiotape, or other means as appropriate. Gather written statements from all relevant witnesses. Note the date and time of each interview and the name of the person who conducted the interview.

7. Interview medical professionals as to the possible cause/age of physical injuries and document the interviews. Include a statement from a qualified medical professional as to whether or not the injury is consistent with the description of the incident, including the apparent age of the injury and probable force necessary to cause the injury. Include a description of treatment received or ordered. Qualified medical professionals include, but are not limited to, physicians, nurses, and emergency medical technicians working within the scope of their licenses.

8. Conduct follow-up interviews if needed.

9. Evaluate all witnesses and documentary evidence in a clear, complete, and non-ambiguous manner.

10. Evaluate the relative credibility of the witnesses. Factors to be considered in judging the credibility of a witness include:

- a. Whether the witness's statements are logical, internally consistent, and consistent with other credible statements and known facts (e.g., does the witness appear to leave out or not know about information that the witness should know about?);
- b. Whether the witness was in a position to hear or see what is claimed;
- c. Whether the witness has a history of being reliable and honest when reporting incidents or making statements regarding incidents;
- d. Whether the witness has a special interest or motive for making a false statement (e.g., is there a possible bias of the witness?);
- e. The relevant disciplinary history of the primary person involved, such as involvement in similar past allegations;

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- f. The witness's demeanor during the interview (e.g., did the witness appear evasive or not forthcoming?); and
  - g. Whether the witness did other things that might affect the witness's credibility.
11. Complete a written report that:
- a. Includes a clear statement of the allegation;
  - b. Includes a succinct and well-reasoned analysis of the evidence;
  - c. Includes a clearly stated conclusion that identifies which allegations were and were not substantiated;
  - d. Identifies the causes and contributing factors to the incident; and
  - e. Addresses the prevention plan that has been implemented.

#### Incident Specific Requirements – Emotional Abuse

- 1. Provide a statement of the exact actions, words, gestures, or other communicative means used to threaten, coerce, intimidate, harass, or humiliate the individual or the pattern of behavior that created a hostile environment and the context in which these were used.
- 2. Provide a description of the reaction of the individual to the words, gestures, or communicative means, including any words or vocalizations which will be taken into account but not serve as the basis for not substantiating a major unusual incident.
- 3. Describe the volume used, including such description as loud, soft, and tone of voice, and where the primary person involved was located in relation to the individual.
- 4. Describe the history of interactions between the primary person involved and the individual.

#### Incident Specific Requirements – Exploitation or Misappropriation

When five or more people had access to the individual's property and the value of the property is fifty dollars or less, detailed questionnaires may be substituted for initial interviews. Follow-up interviews will be conducted as indicated based on information included or omitted in responses to the detailed questionnaires.

- 1. Document that there was an unlawful or improper act of using an individual or an individual's resources for monetary or personal benefit or gain of the primary person involved.
- 2. Document the depriving, defrauding, or otherwise obtaining the real or personal property of an individual by means prohibited by the Revised Code or the Administrative Code. Include any indication of the intent of the primary person involved.
- 3. Describe any items taken from the individual or anything received by the primary person involved as a result of the exploitation or misappropriation.
- 4. Gather copies of all financial records related to the incident, including cancelled checks.
- 5. Document the date, time, and officer's name for law enforcement agency notification.
- 6. Include an indication of whether or not the individual may have consented to the taking of the individual's property or to the exploitation.
- 7. Verify that the property belonged to the individual.

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8. Provide a description of how the improper act occurred.
9. Obtain the outcome of a criminal case, if resolved.
10. When applicable, ensure an individual's personal funds are restored in accordance with rule 5123-2-07 of the Administrative Code.

#### **Incident Specific Requirements – Failure to Report**

1. Provide a statement indicating the emotional abuse, exploitation, misappropriation, neglect, physical abuse, or sexual abuse the primary person involved did not report, including when and how it occurred.
2. Provide a statement indicating that the primary person involved was aware of the emotional abuse, exploitation, misappropriation, neglect, physical abuse, or sexual abuse, including when and how the primary person involved became aware.
3. Provide a statement of how the failure to report the emotional abuse, exploitation, misappropriation, neglect, physical abuse, or sexual abuse by the primary person involved caused physical harm or a substantial risk of harm to the individual; be specific regarding any wound, injury, or increased risk of harm to which the individual was exposed as a result of the failure to report.
4. Explain why the primary person involved knew or should have known that the failure to report would result in a substantial risk of harm to the individual.
5. Provide a written description of any injury.
6. Provide an explanation from the primary person involved of why that person failed to report.
7. Provide a statement of any reasons or circumstances explaining the failure to report by the primary person involved.

#### **Incident Specific Requirements – Neglect**

1. Verify and document the duty of the primary person involved to provide care to the individual.
2. Document the medical care, personal care, or other support required but not provided by the primary person involved that consequently resulted in serious injury or placed the individual or another person at risk of serious injury. Include the time period of the alleged neglect.
3. Verify and document the primary person involved had knowledge that the withheld medical care, personal care, or other support was needed by the individual. Such documentation might include the individual service plan, medical information available to the primary person involved, statements made by others to the primary person involved, statements made by the primary person involved, or training received by the primary person involved.
4. Verify that the action or inaction of the primary person involved resulted in serious injury or placed the individual or another person at risk of serious injury.
5. Specifically describe the serious injury or risk of serious injury caused by the action or inaction by the primary person involved.
6. Consider whether a systems issue contributed to the situation or outcome.

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#### **Incident Specific Requirements – Physical Abuse**

1. Provide written statements that include a description of the amount of physical force used which may include, but is not limited to, speed of the force, range of motion, open or closed hand (fist), the sound made by impact, texture of surface if the individual was dragged or pulled, and the distance the individual was dragged, pulled, or shoved.
2. Provide a description of the individual's reaction to the physical force used (e.g., the individual fell backward or the individual's head or other body part jerked backward) and any indication of pain or discomfort experienced by the individual which may include words, vocalizations, or body movements.
3. Include comments made during the incident by the primary person involved.
4. Document how the harm to the individual is linked to the physical force used by the primary person involved.

#### **Incident Specific Requirements – Prohibited Sexual Relations**

1. Describe and document the type of sexual conduct or sexual contact.
2. Document whether or not the incident was consensual. (Note: Consent does not excuse sexual contact by a caregiver with an individual when the caregiver is paid to care for the individual.)
3. Verify and document that the primary person involved was providing paid care to the individual.
4. Verify and document that the primary person involved was not married to the individual.
5. Provide a statement of any known, long-term, personal relationship the primary person involved has with the individual or other circumstances relevant to the sexual conduct or sexual contact.

#### **Incident Specific Requirements – Rights Code Violation**

1. Indicate the specific right or rights of the individual violated by the primary person involved and describe how each right was violated, including any information or circumstances relevant to the incident.
2. Describe the harm or risk of harm caused to the individual as a result of the rights code violation by the primary person involved.

#### **Incident Specific Requirements – Sexual Abuse**

1. Document that the sexual activity was unwanted or the individual was unwilling.
2. Document that the primary person involved engaged in importuning, voyeurism, public indecency, pandering, or prostitution with regard to an individual.
3. Document the individual's capacity to consent.



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4. Document any touching of an erogenous zone for the apparent sexual arousal or gratification of either person.
5. Describe the sexual conduct or sexual contact, including any penetration of the individual.
6. Include the results of any physical assessment conducted by a medical professional.
7. Include the results of any human sexuality assessment.
8. Provide a copy of the police report.
9. Include all medical information related to the incident.
10. Document the date, time, and officer's name for law enforcement agency notification.

#### **Incident Specific Requirements – Unexplained or Unanticipated Death**

1. Provide a statement explaining why the death is considered unexplained or unanticipated.
2. Document relevant medical interventions, treatment, or care received by the individual.
3. Include a copy of the police and/or coroner's investigation report.
4. Complete the required questions following deaths as specified by the department.

#### **PROCEDURE REFERENCE:**

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## **APPENDIX B**

### ***Administrative Investigation Procedure for Major Unusual Incidents in Category B***

(Attempted Suicide, Death Other than unexplained or unanticipated Death, Medical Emergency, Missing Individual,  
Peer-to-Peer Act, and Significant Injury)

### **Steps for Investigating Major Unusual Incidents in Category B**

When it is not possible or relevant to the administrative investigation to meet a requirement of this appendix, the investigative agent will document the reason.

1. Determine that the major unusual incident is properly coded.
2. Review relevant documents which may include recent medical history, individual service plan, progress notes, nursing notes, hospital records, police report, and behavioral support documentation.
3. Interview witnesses as necessary to determine the cause or resolve conflicting information.
4. Interview others with relevant information as necessary.
5. Maintain a summary of each interview conducted.
6. Identify the causes and contributing factors to the incident.
7. Review past related incidents as appropriate, including but not limited to, prior immediate health and welfare measures taken and other prevention plans.
8. Verify that the prevention plan has been implemented.

#### Incident Specific Requirements – Attempted Suicide

1. Review the individual's involvement with mental health services and supports at the time of the incident, including but not limited to, physician appointments, prescribed medications, counseling, accessing crisis services (including walk-in, community-based crisis teams, and contacting the 988 Suicide and Crisis Lifeline).
2. Review the individual's participation in the identified mental health services and supports.
3. Review the individual's level of supervision and support.
4. Provide a detailed description of the incident.
5. Document the individual's history of suicide attempts, self-injurious behavior, hospital admissions, and outpatient services.
6. Ensure the prevention plan includes information on planned involvement with mental health services and supports, including but not limited to, physician appointments, prescribed medications, counseling, accessing crisis services (including walk-in, community-based crisis teams, and contacting the 988 Suicide and Crisis Lifeline), and other support options (e.g., warm lines, peer centers, or support groups).

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#### **Incident Specific Requirements – Medical Emergency Involving Choking**

1. Provide a detailed description of the choking incident including the type, texture, dimension, consistency, preparation, and amount of the item or items upon which the individual choked.
2. Determine the source of the item or items and how obtained by the individual.
3. Provide a detailed description of the individual's dietary requirements, supervision, and meal preparation supports.
4. Provide a detailed accounting of what happened before, during, and after the choking incident.
5. Describe any prior history of choking or prevention measures implemented.

#### **Incident Specific Requirements – Peer-to-Peer Physical Act or Peer-to-Peer Sexual Act**

1. Interview the individuals within three working days.
2. Review the individuals' level of supervision and support.
3. Provide a detailed description of the incident.

#### **Incident Specific Requirements – Significant Injury Involving a Fall**

1. Provide a detailed description of the individual's requirements, if any, for supervision, supports, or aid at the time of the incident.
2. Document the individual's past history of falls.
3. Provide a detailed accounting of the time period before, during, and after the fall and include, if any, relevant environmental factors that may have contributed to the incident.

#### **PROCEDURE REFERENCE:**

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### **APPENDIX C**

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### *Administrative Review Procedure for Law Enforcement*

The Provider and/or County Board will complete the header portion and Part 1 of the Law Enforcement form. The Investigative Agent will complete part two of the Law Enforcement form. To include the following information:

Individual's Name, Date of Law Enforcement, Major Unusual Incident Number, Date Form Initiated, Name of Person Initiating Form, Title of Person Initiating For, Contact Information for Person Initiating Form, Provider Name:

#### PART 1 - TO BE COMPLETED BY THE INDIVIDUAL'S PROVIDER

DESCRIPTION - Describe the incident in detail.

HISTORY/ANTECEDENTS - Explain what led to the individual being tased, arrested, charged, or incarcerated. Provide a history of law enforcement involvement.

#### CRIMINAL CASE INFORMATION

Law Enforcement Entity:

Contact Information for Arresting Officer:

Incarceration Location:

SUPERVISION LEVEL - Did the individual have a supervision requirement? If so, describe the supervision level.

INJURIES/MEDICAL NEEDS - Were there any injuries to the individual or anyone else involved in the law enforcement major unusual incident? Did the individual receive timely medical attention? Are the individual's medical needs (e.g., medications, special diet, or assistive equipment) known and addressed, especially if the individual is incarcerated?

#### PART 2 - TO BE COMPLETED BY THE INVESTIGATIVE AGENT IN COLLABORATION WITH THE INDIVIDUAL'S TEAM CAUSES AND CONTRIBUTING FACTORS

Supervision not met, Peer aggression, Peer or other outside influence, Control issues - staff/family/peers, Medication change/refusal, Individual service plan/behavioral support strategy not followed, Domestic dispute, Lack of resources led to shoplifting or theft, Unmet health needs, Substance abuse, Other:

#### ADMINISTRATIVE REVIEW SUMMARY AND CONCLUSION

PREVENTION PLAN - Describe the prevention plan being implemented to address causes and contributing factors (e.g., environmental change, staff training, medication changes, or level of supervision).

Name of Investigative Agent Completing Form:

Date Form Completed:

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#### PROCEDURE REFERENCE:

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### **APPENDIX D**

#### ***Administrative Review Procedure for Unanticipated Hospitalization***

The Provider and/or County Board will complete the header portion and Part 1 of the Unanticipated Hospitalization form.

The Investigative Agent will complete part two of the Law Enforcement form.

To include the following information:

Individual's Name, Date of Unanticipated Hospitalization, Major Unusual Incident Number, Date Form Initiated, Name of Person Initiating Form, Title of Person Initiating Form, Contact Information for Person Initiating Form, Provider Name

#### **PART 1 - TO BE COMPLETED BY THE INDIVIDUAL'S PROVIDER**

**DESCRIPTION** - Indicate which situation applies.

Hospital admission lasting 48 hours or longer due to one or more of the specified diagnoses (i.e., aspiration pneumonia, bowel obstruction, dehydration, medication error, seizure, or sepsis)

**OR**

Hospital re-admission lasting 48 hours or longer due to any diagnosis that is the same diagnosis as a prior hospital admission lasting 48 hours or longer within the past 30 calendar days

**HISTORY/ANTECEDENTS** - Explain what led to the unanticipated hospitalization. Describe the medical history of the individual. Have there been recent similar illnesses? What was the health of the individual in the 72 hours leading up to the hospitalization? Did the individual complain of feeling unwell or deviate from routine (e.g., change in behavior, eating, sleeping, or bathroom habits)?

**SYMPTOMS AND RESPONSE** - What were the individual's symptoms (e.g., fever, rash, bloody stool, or trouble breathing) and over what length of time? What actions did the provider take to address the symptoms?

#### **PART 2 - TO BE COMPLETED BY THE INVESTIGATIVE AGENT IN COLLABORATION WITH THE INDIVIDUAL'S TEAM**

#### **DETAILS OF HOSPITALIZATION**

Date of admission and Date of discharge

**WHEN UNANTICIPATED HOSPITALIZATION IS BASED ON A HOSPITAL ADMISSION LASTING 48 HOURS OR LONGER DUE TO ONE OR MORE OF THE FOLLOWING DIAGNOSES:** Indicate which apply - Aspiration Pneumonia, Bowel Obstruction, Dehydration, Medication Error, Seizure, or Sepsis

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WHEN UNANTICIPATED HOSPITALIZATION IS BASED ON A HOSPITAL RE-ADMISSION LASTING 48 HOURS OR LONGER DUE TO ANY DIAGNOSIS THAT IS THE SAME DIAGNOSIS AS A PRIOR HOSPITAL ADMISSION LASTING 48 HOURS OR LONGER WITHIN THE PAST 30 CALENDAR DAYS: Indicate the diagnosis of the hospitalizations, provide the dates of the prior hospital admission and discharge.

DISCHARGE SUMMARY - Attach discharge summary.

FOLLOW-UP APPOINTMENTS/CHANGES TO MEDICATION/ CONTINUING CARE - List the changes and the continuing needs of the individual along with the person responsible for these. Confirm follow-up appointments have been made.

CAUSES AND CONTRIBUTING FACTORS: Medication change, Medication error, Aspiration due to improper diet texture, Refusal to follow diet, Insufficient fluid intake, Failure to monitor input/output of fluids, Failure to follow bowel protocol, Failure to monitor urination and/or bowel movements, Failure to provide timely medical care, Chronic medical diagnosis that places individual at higher risk, Refusal of staff assistance, Lack of health care coordination, Other.

**ADMINISTRATIVE REVIEW SUMMARY AND CONCLUSION**

PREVENTION PLAN - Describe the prevention plan being implemented to address causes and contributing factors (e.g., environmental change, staff training, medication changes, or diet change).

Name of Investigative Agent Completing Form:

Date Form Completed:

**PROCEDURE REFERENCE:**

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### *CONTINUOUS QUALITY IMPROVEMENT*

### **APPENDIX E**

#### ***Administrative Review Procedure for Unapproved Behavior Support***

The Provider and/or County Board will complete the header portion and Part 1 of the Unapproved Behavior Support form.

The Investigative Agent will complete part two of the Law Enforcement form.

To include the following information:

Individual's Name, Date of Unapproved Behavioral Support, Major Unusual Incident Number, Date Form Initiated, Name of Person Initiating Form, Title of Person Initiating Form, Contact Information for Person Initiating Form, Provider Name:

#### **PART 1 - TO BE COMPLETED BY THE INDIVIDUAL'S PROVIDER**

**DESCRIPTION** - Describe the intervention/support in detail and the reason used. How was the intervention/support necessary for the health and welfare of the individual or other individuals? List the staff involved.

How many times was the intervention/support used?

How long (total) was the individual restrained?

**HISTORY/ANTECEDENTS** - Does the individual have a history of the behavior? If so, describe history.

#### **TYPE OF UNAPPROVED BEHAVIORAL SUPPORT**

Physical Restraint (Basket Hold, Multiple Person Carry, Multiple Person Escort, One Person Carry, One Person Escort, Physically Prompted Hands Down With Resistance, Prone, Restraint of Multiple Appendages, Restraint of One Appendage, Seated Restraint, Side Restraint, Standing Restraint, Supine, Time-Out, Other), Chemical Restraint (Anti-Anxiety, Anticonvulsant, Antidepressant, Antipsychotic, Mood Stabilizer, Other), Mechanical Restraint (Full Body - Papoose Board Wrap, Full Body - Seated Position, Full Body - Supine Position, Gait Belt, Helmet, Locked Seatbelt/Vest - During Transportation, Locked Seatbelt/Vest - Not During Transportation, Mitts, Splints or Tethers, Wheelchair Controls Disabled, Wheelchair for Individual Who Does Not Use Normally, Other)

**BEHAVIORAL SUPPORT STRATEGIES** - Did the individual's service plan outline behavioral support strategies? Did the staff know about the behavioral support strategies? Were staff trained on implementation of the behavioral support strategies?

**INJURIES** - Were there any injuries to the individual or anyone else involved in the unapproved behavioral support? Did the individual receive timely medical attention?



**Licking County Board of Developmental Disabilities**

**Administrative Policy Manual**

**Incidents Adversely Affecting  
Health and Safety Procedures**

**Initial Implementation 12/01**  
**Revised: 6/03, 7/04, 1/07, 4/07,**  
**6/14, 3/19, 5/21, 6/25**  
**Reviewed: 06/10, 5/17, 5/22**  
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PART 2 - TO BE COMPLETED BY THE INVESTIGATIVE AGENT IN COLLABORATION WITH THE INDIVIDUAL'S TEAM

**CAUSES AND CONTRIBUTING FACTORS**

Supervision not met, Staff ratio was not appropriate, 1:1 attention unavailable, Change in routine or schedule, Excessive sensory input, Control issues - staff/family/peers, Medication change, Illness, Loss of important relationship, Individual service plan/behavioral support strategy not followed, Engaging in self-harm, Initiating harm to other, Other.

**ADMINISTRATIVE REVIEW SUMMARY AND CONCLUSION**

**PREVENTION PLAN** - Describe the prevention plan being implemented to address causes and contributing factors (e.g., environmental change, staff training, medication changes, or level of supervision).

Name of Investigative Agent Completing Form:

Date Form Completed:

# **Licking County Board of Developmental Disabilities**

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#### **PROCEDURE REFERENCE:**

***ADDRESSING MAJOR UNUSUAL INCIDENTS AND UNUSUAL INCIDENTS TO  
ENSURE HEALTH, WELFARE, AND  
CONTINUOUS QUALITY IMPROVEMENT***

### **APPENDIX F**

#### ***County Board Contact Information***

As referenced in Sections IV (F) and IV (K) of this procedure, the county board will have a system that is available twenty-four (24) hours a day, seven (7) days per week, to receive and respond to all reports required by OAC 5123-17-02. During normal business hours, notification will be made by calling (740)349-6588. After hours, and on weekends or holidays, notification should be made by calling (800) 544-1601 or (740)345-HELP(4357). Written incident reports will be submitted no later than 3:00 p.m. the next working day following the discovery of the incident. Said reports should be emailed to [potentialmui@meorc.com](mailto:potentialmui@meorc.com) and the assigned service coordinator.