

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
DEPARTMENT ON DISABILITY SERVICES**



<b>PROCEDURE</b>	
Subject: Incident Investigation	Procedure No.: 2015-DDS-QMD-PR001
Responsible Program or Office:  DDS Quality Management Division	Effective Date: March 2, 2015
	Number of Pages: 10
Supersedes: Incident Management and Enforcement dated 6/1/2013	
Cross References, Related Policies and Procedures, and Related Documents: Incident Management and Enforcement policy, Incident Reporting procedure, Incident Recommendations procedure, Incident Prevention, Management and Quality Improvement procedure, Time Frames for IMEU Recommendations, Immediate Response Committee Policy and Procedures, Mortality Reporting Committee Policy and Procedures, Reportable Incident Definitions, Abuse and Neglect Fact Sheet, DDS/DDA Investigation Quality Review Rating Scale, Provider Certification Review Policy, Imposition of Sanctions Policy, Enhanced Monitoring Procedures, Imposition of Adaptive Equipment Sanctions Procedures, Watch List Procedures	

**1. PURPOSE**

The purpose of this procedure is to delineate Department on Disability Services (“DDS”) and provider responsibilities and establish a standardized process for incident investigation. Incident investigation is an essential part of an incident management system, necessary to protect health and safety, mitigate risk of reoccurrence, and to improve overall the quality of services and supports through incident report investigation, and data tracking, trending and analysis.

**2. APPLICABILITY**

This procedure applies to all DDS employees, subcontractors, providers/vendors, consultants, volunteers, and governmental agencies that provide services and supports to people with disabilities through the Developmental Disabilities Administration (“DDA”) service delivery system, funded by DDA and/ or the Department of Health Care Finance (“DHCF”).

### **3. PROCEDURES**

#### **A. General Provisions (Applies to All Incidents)**

1. There are two types of incidents, Serious Reportable Incidents (“SRIs”) and Reportable Incidents (“RIs”), which have different requirements for investigation. See “Reportable Incidents Definitions,” attached.
2. Service coordinators may also be notified of SRIs via phone call from the person’s provider. Service coordinators are responsible for following up on all incidents and documenting their actions in accordance with protocols in the Service Planning Coordination Desk Guide. Specifically, Service Coordinators are responsible for following up within 1 to 2 business days after notification, to ensure the health, safety and well-being of the person involved, and/ or other people who are supported in the same location or by the same staff. Additionally, Service Coordinators are responsible for documenting the findings, changes required, actions taken and further follow-up required.
3. DDS Duty Officers are notified of SRIs that occur after regular business hours by a phone call from the person’s provider. The DDS Duty Officer is responsible to ensure immediate actions are taken during non-business hours to ensure the health, safety and well- being of all persons involved.
  - a. The provider should ensure that supervisory staff are available to advise, guide and support people who receive services from DDA, the provider’s direct support staff, and any DDA official, during an emergency that may occur outside of the provider’s regular business hours; and that people who receive services from DDA and their support teams are aware of how to request after hours assistance.
4. All DDS and provider investigators must be trained and certified by Labor Relations Alternative or another trainer designated by DDS. Employees who have not achieved certification may assist in investigations only under the direct supervision of a certified investigator. The certified investigator must sign the investigation report and include the date of his or her certification.
5. All investigations must follow the protocols and standards established by DDS/ DDA, including the Rating Scale.
6. Providers must have established and written protocols that govern their investigation process that include requirements for:
  - a. Identification, collection and preservation of all evidence,
  - b. Assessment of the evidence,
  - c. Determination of findings, conclusions and recommendations, and
  - d. Quality assurance follow-up to ensure recommendations have been implemented.

7. DDS, using the Rating System described in Section I, below, shall determine what types of investigation a provider may conduct. A provider may:
  - a. Be required to do SRI investigations jointly with the DDS Incident Management and Enforcement Unit (“IMEU”) (but unless otherwise required by law or regulations, may not conduct investigation into SRIs pertaining to abuse, neglect, exploitation or serious physical injury).
  - b. Be qualified to do some SRI investigations independently (but unless otherwise required by law or regulations, may not conduct investigation into SRIs pertaining to abuse, neglect, exploitation or serious physical injury).
8. DDS may, at its discretion, investigate any RI or SRI, with or without prior notice.
9. Any complaint against DDS staff involving a person receiving services from DDS shall be reported to the IMEU Supervisory Investigator.
  - a. IMEU Supervisory will notify QMD Director and refer to DDS Human Resources.

**B. Right to Access and Information**

1. Investigators shall have full access to information that the investigator deems reasonably necessary and appropriate in performing the investigation, including full access to people affected by the incident and witnesses to the incident, buildings, programs, documents, records and other materials that the investigator deems reasonably necessary and appropriate. Advance notice of any visit is not required. The Investigator may obtain copies of documents, records, and other materials. Providers shall require that their employees, contractors, consultants, volunteers, and interns cooperate with all investigators.
2. Incident report forms and supporting documents for all SRIs and all RIs shall be made available to the DDS Director, the DDS Deputy Director for DDA, and all DDS and DDA employees and contractors who are a part of the Quality Management Division (“QMD”), Provider Resource Management Unit (“PRMU”), Provider Certification Review (“PCR”) Team or Service Planning and Coordination Division (“SPCD”), Quality Trust for Individuals with Disabilities, the *Evans* Court Monitor (for incidents involving *Evans* class members only), Office of Inspector General (“OIG”), and the Department of Health, Health Regulation and Licensing Administration (“DOH/HRLA”) surveyors upon request. At a minimum, the incident report will be kept on site at the person’s residence, or at the person’s day program, as applicable. The rest of the documents associated with the incident may be kept at the Provider’s main office.
3. All investigative reports are confidential and should be shared with authorized

persons only. Request for a copy of the DDS investigative report must be made in writing to the IMEU Supervisory Investigator and include the authorization for receipt, (e.g., a signed authorization of release form by the person; court order; etc.). If an investigation identifies another person who receives receiving supports, that person's name shall be redacted from any investigative report being shared.

### **C. Investigation of RIs.**

Providers shall complete investigations of all RIs within five business days of the date of the incident. The investigation must include collection of sufficient evidence and documentation to allow for analysis and conclusion, a summary of the facts, and recommendations. DDS may request a more detailed investigation of any RI.

### **D. Investigations of Death**

All investigations regarding the death of a person supported by DDA shall be in accordance with DDS's Mortality Reporting Procedure, in addition to any investigation conducted by the provider, DOH/HRLA, and/or OIG.

### **E. All SRIs**

1. The IMEU Supervisory Investigator or his or her designee will automatically receive an email alert of all SRIs that are entered into the MCIS Investigation and Reporting system. The IMEU Supervisory Investigator or his or her designee will triage all SRIs that are entered into the MCIS Investigation and Reporting system during regular business hours to determine whether a rapid response by DDS is needed to secure the evidence and the scene, and start the IMEU investigation.
2. The Duty Officer will receive an automated alert of all SRIs that are entered after regular business hours. The Duty Officer is responsible to triage the incident to determine whether a rapid response to the scene is needed to ensure health and safety, or to secure the evidence and the scene, during non-business hours.
3. If an assigned IMEU investigator observes a health or safety concern, he or she shall take necessary action to resolve the immediate concern, enter a note into the MCIS Investigation and Reporting system, and send notification within one (1) business day to the person's service coordinator and the IMEU Supervisory Investigator.
4. The DDS Immediate Response Committee ("IRC") shall review all incidents on the next business day after the incident was entered into the MCIS Investigation and Reporting system, in accordance with the IRC policy and procedure. The IRC shall also determine if additional actions are needed to ensure the person's health, safety, and well-being, and if so, shall notify the person's provider(s) and service coordinator.

### **F. SRIs involving Abuse, Neglect, Exploitation and Serious Physical Injury**

## 1. Placing Alleged Perpetrators of Abuse, Neglect or Exploitation Off-Duty

- a. Providers shall immediately remove from having any program or direct contact with people receiving supports and services through DDA any employee, consultant, contractor or volunteer alleged to have committed abuse, neglect or exploitation.
- b. Each provider is required to have an operating procedure that requires the employees, consultants, and contractors to notify the provider of any additional employment within the DDA provider network. Upon an allegation of abuse, neglect or exploitation, the provider shall confirm with the staff person, consultant or contractor, which other provider agencies s/he may work for and notify the IMEU Supervisory Investigator. Once the IMEU Supervisory Investigator has this information, he/she or his/her designee must notify those providers within 24 hours that the employee, contractor or consultant shall be immediately removed from any work that includes program or direct contact with people who receive supports through DDA.
- c. The implicated staff person may not return to work that includes program or direct contact with people who receive supports until either IMEU determines the allegation to be inconclusive or unsubstantiated; or, the provider received official notice from the IMEU Supervisory Investigator, based on DDS's preliminary investigation, permitting the employee to return to work while the investigation is pending. Additionally, after an SRI has been substantiated, the employee may be permitted to return to work under certain conditions in accordance with the incident recommendations (for example, after additional training, and/or not with the person who was the subject of the incident investigation).

## 2. Investigations of SRIs involving Abuse, Neglect, Exploitation and Serious Physical Injury

- a. In all instances, the provider is responsible for securing the person's health and safety.
- b. The provider is also responsible for securing the evidence, and the scene, if applicable, until such time the IMEU investigator or DDS Duty Officer collects or releases the evidence. Provider responsibilities may include but are not limited to securing all relevant records, taking pictures of the scene, etc.
- c. Providers shall not investigate SRIs pertaining to abuse, neglect, exploitation or serious physical injury, unless otherwise required by law or regulations. However, the IMEU Supervisory Investigator reserves the right to direct the provider to cease any investigative activity, until IMEU has collected sufficient evidence.
- d. IMEU shall conduct the investigation as follows:

- i. The IMEU Supervisory Investigator or his or her designee shall ensure that DDS responds to the scene within 24 hours of reporting when his or her triage determines that a rapid response by DDS is needed to secure the evidence and the scene, and start the IMEU investigation.
- ii. In all other instances, an assigned IMEU Investigator shall conduct an on-site visit within 72 hours of assignment to ensure people are safe, secure evidence, identify the target(s) of the investigation, and confirm with the provider whether anyone affiliated with the provider must be removed from direct contact with people supported by DDA.
- iii. The IMEU Investigator interviews and takes written statements from the victim(s), witness(es) and target(s) of the alleged incident.
- iv. The IMEU Investigator identifies, collects, preserves and assesses any pertinent evidence and supporting documentation and based upon that evidence, makes findings and conclusions.
- v. The IMEU Investigator makes recommendations to ensure the person's safety and to eliminate the potential for reoccurrence.
- vi. The IMEU Investigator prepares and delivers a report to the IMEU Supervisory Investigator no later than 40 calendar days from the date the incident is assigned. All evidence collected shall be submitted as attachments to the investigative report.
- vii. The IMEU Supervisory Investigator will review the investigation within 5 calendar days, and if approved, close the investigation. If the investigation warrants further investigative activity, then the investigation will remain open until sufficient evidence is collected for closure.

#### **G. Investigation of All Other SRIs**

DDS shall provide oversight of the investigation of all other SRIs.

1. If DDS deems a provider qualified to conduct some SRI investigations independently (i.e., those that do not pertain to abuse, neglect, exploitation, and serious physical injury), the assigned IMEU investigator will be responsible for evaluating the investigation, the conclusion and recommendations.
2. If DDS has not deemed a provider qualified to conduct any independent SRI investigations, the assigned IMEU Investigator will be responsible for providing technical assistance, guidance and direction throughout the investigation, including reviewing the investigation report. The assigned IMEU Investigator will be responsible

for immediately assessing the level of IMEU involvement, including the degree of on-site personal involvement, needed in the investigation. The determination shall be based on the description and circumstances of the incident, the provider's experience and performance in investigating similar incidents, and any other reason based on the Investigator's professional judgment.

3. The investigation shall include the following elements:
  - a. The Provider Investigator will identify, collect, preserve and assess any pertinent evidence and supporting documentation.
  - b. The Provider Investigator will conduct interviews and take written statements from the person and witnesses to the incident.
  - c. Within 15 calendar days from the date the incident is assigned, the Provider Investigator prepares a report that is provided in PDF format to IMEU via the MCIS into the Supporting Documents section. All supporting documents, photographs, evidence must also be submitted via MCIS including any attachments to the investigative report.
  - d. If an extension is required, the provider shall submit a written request at least five (5) business days before the report is due to the IMEU Supervisory Investigator, who will confirm or deny all extensions in writing within two (2) business days of receiving the request.
  - e. Within 21 calendar days, IMEU will review the report, supplement the investigation, if needed, rate the investigation in accordance with the rating scale, close the incident in MCIS, and forward the approved report to the appropriate parties, listed below in Section H.

## **H. Dissemination of Reports**

1. The IMEU Supervisory Investigator will review and either disseminate the reports to the following individuals, as noted below, or return the report to the designated investigator for further action. Distribution of the reports will be electronically mailed.
  - a. The chief executive officer of the provider.
  - b. DDS Director.
  - c. DDS Deputy Director for DDA.
  - d. QMD, Quality Improvement Manager.
  - e. Service Planning and Coordination Division, Program Manager.
  - f. The person's service coordinator.
  - g. DDS Office of General Counsel ("OGC") for incidents involving *Evans* class

members. OGC shall ensure that all incident reports involving *Evans* class members are shared with the *Evans* Court Monitor, parties and stakeholders.

- h. OIG.
  - i. Quality Trust for Individuals with Disabilities.
  - j. DHCF, for people who are supported through the Medicaid Home and Community Based Services Waiver.
2. The responsible provider shall report the outcome of the investigation, including offering a copy of the report, to the person, his or her family, or legal representative within five (5) business days of receiving the approved report. If there is no identified responsible provider, the service coordinator shall be responsible for notifying the person, and his or her family or legal representative. The provider or service coordinator will submit evidence of notification to the compliance specialist via MCIS in the recommendation section for the SRI.

#### **I. Rating System for Provider Investigations & Certification of Providers to Conduct for Independent Investigations**

1. Providers are required to submit all investigations of SRIs to their assigned IMEU Investigator for review and approval using the MCIS Investigation and Reporting system. IMEU Investigators will review provider SRI investigations to evaluate and ensure comprehensiveness and quality standards, using the DDS/DDA Investigation Quality Review Rating Scale (“Rating Scale”) and issue a rating score from one to five.
  - a. A score below three is below expectations.
  - b. A score of three means the investigation meets expectations. To achieve an investigation rating of three, the investigation must be timely (on time or within an approved extension); must have at least 80% of the elements of the investigation rated as a three or better; and must contain no elements rated at one.
  - c. A score of four or higher means the investigation exceeds expectations. To achieve an investigation rating of four, the investigation must be timely (on time or within an approved extension); must have at least 80% of the elements of the investigation rated as a four or better; and must contain no elements rated at one.
  - d. To achieve an investigation rating of five, the investigation must be timely (on time or within an approved extension); and must have all elements of the investigation rated as a five.
2. DDS shall deem a provider qualified to complete independent investigations of SRIs with the exception of abuse, neglect, exploitation, or serious physical injury, after the provider obtains a rating of three or better for 80% of all investigations over a fiscal

year, obtains and maintains an on-time percentage of at least 90%, and has experience with conducting at least five investigations during that year.

3. The provider must continue to submit reports to IMEU for scoring and continue to achieve ratings of three or better to maintain qualification to conduct independent SRI investigations. If a provider who had been previously authorized to conduct independent investigations fails to obtain a rating of three or better for three consecutive investigations, fails to submit timely for three consecutive investigations or 80% of all investigations (for ratings below three or poor on-time percentage) within a twelve month period, the provider will have its authority revoked. In order to regain authorization to complete SRI investigations without DDA oversight, provider investigations would be required to obtain a rating of three or better for five consecutive investigations.
4. Qualified Providers shall have 15 calendar days to submit their report of investigation to IMEU.
5. Request for reconsideration of rating scores:
  - a. A provider may seek reconsideration of an investigation rating score by contacting the assigned IMEU Investigator and discussing the matter within five business days of receipt of the completed investigation report. The IMEU Investigator has authority to change the rating as a result of the conversation and any additional evidence that the provider may share with the Investigator.
  - b. If, after discussing the rating with the IMEU Investigator, the provider is still not satisfied, the provider organization may, within ten business days, submit a written request to the IMEU Supervisory Investigator to reconsider the rating. The ten business days starts to run five business days after the receipt of the completed investigation report (to allow for the required discussion with the IMEU Investigator). The written request to the IMEU Supervisory Investigator must be signed by the organization's Executive Officer/Manager and must provide justification for the reconsideration.
  - c. The IMEU Supervisory Investigator shall respond to all appeal requests, in writing, within thirty (30) calendar days of receiving the request.

## **J. Sanctions**

1. Providers who do not achieve investigation ratings of three or better shall be required to have a goal added to their Continuous Improvement Plan relating to improving the quality of their performance related to incident management, reporting, and/ or investigation.
2. DDS may impose sanctions on providers who do not comply with the IMEU policy or procedures, who falsify investigative reports, or who have deficient performances in

incident investigation, and management, including those who do not achieve investigation ratings of three or better, in accordance with DDS's Sanctions Policy and related procedures.

*Attachments:*

- 1) Reportable Incident Definitions
- 2) IMEU Policy
- 3) Abuse and Neglect Fact Sheet
- 4) DDS/DDA Investigation Quality Review Rating Scale
- 5) Time Frames for IMEU Recommendations