POLICY	
Department on Disability Services	Subject: Incident Management and Enforcement
Responsible Program or Office: Developmental Disabilities Administration and Quality Assurance and Performance Management Administration	Policy Number: 2024-DDA-POL02
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Supersedes Policy (Dated): Incident Management and Enforcement Policy, 2016-DDA-QMD-POL-01 (March 23, 2016)	
Cross References, Related Policies and Procedures, and Related Documents: Incident Management and Enforcement Procedure; Time Frames for IMEU Recommendations; Immediate Response Committee Policy and Procedure; Mortality Reporting Procedure; Mortality Review Committee Policy and Procedure; Abuse and Neglect Fact Sheet; DDS/DDA Investigation Quality Review Rating Scale; Provider Certification Review Policy and Procedure; Imposition of Sanctions Policy and Procedure; Enhanced Monitoring Policy and Procedure; and Imposition of Adaptive Equipment Sanctions Procedure	

1. PURPOSE

The purpose of this policy is to establish the standards by which the Department on Disability Services ("DDS") will govern the design and implementation of the incident management system and reporting process. Incident management and reporting is necessary to protect the health and safety of people with intellectual and/or developmental disabilities and to improve the overall quality of services and supports. Incident investigation, analysis and improvement are part of DDS's overall quality management strategy.

2. APPLICABILITY

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

3. AUTHORITY

The authority for this policy is established in the Department on Disability Services as set forth in D.C. Law 16-264, the "Department on Disability Services Establishment Act of

2006," effective March 14, 2007 (D.C. Official Code § 7-761.01 *et seq*.); and D.C. Law 2-137, the "Citizens with Intellectual Disabilities Constitutional Rights and Dignity Act of 1978," effective March 3, 1979 (D.C. Official Code § 7-1301.01 *et seq*.).

4. DEFINITIONS

Reportable Incidents

A Reportable Incident ("RI") is an event or situation involving a risk or threat to a person's health or safety that includes, but is not limited to:

COVID-19 (Person Supported Tested Positive): The person supported has tested positive for COVID-19.

Emergency relocation: The need to relocate a person to an alternate location, other than the person's primary residence, for 24 hours or more;

Medical emergency room or urgent care visit: A visit to an emergency room or urgent care facility that does not result in hospital admission and was not the result of a serious physical injury;

Behavioral emergency room or urgent care visit: A visit to an emergency room or urgent care facility that does not result in hospital admission and was not the result of a serious physical injury;

Fire: Any fire requiring an emergency fire response to a person's place of residence or day/vocational program setting even where no injury was sustained by the person. Also includes any incident reported to/or requiring the services of the fire department;

Homicidal threat: A supported person's verbal, nonverbal, or written threat to kill a person receiving services with DDA, unless such threats are addressed in the person's Behavioral Support Plan ("BSP");

Incidents involving the police: All interactions, as the result of an event involving or witnessed by a person, with the police, regardless of whether a report was taken;

Medication error: Any medication error that does not require professional medical attention as a result of the error, other than a routine nursing assessment by a RN. Examples include but are not limited to: missed dose related to staff failure or error; medication administered by unauthorized and/or improperly trained staff; medication administered at the wrong time (early or late); error in recording the administration of medication; or failure to follow agency procedures or physician or pharmacy directions for medication administration. Medication

refusal, properly documented on a Medication Administration Record ("MAR") is not a medication error;

One-time use of medical sedation: A physician's order prescribing a dose of sedating medication to be given only once, at a specific time prior to an identified non-recurring medical appointment, then discontinued. A one-time use of medical sedation does not require a BSP;

Physical injury: Harm to a person's body which does not require medical attention outside of a provider nurse assessment and first aid. This category includes witnessed minor accidents or injuries where, given the person's present medical condition, the event does not give rise to a concern that there is a larger, unobservable injury requiring medical treatment. Examples may include repeated minor physical injuries or a minor injury of unknown origin. Contemplated injuries include, but are not limited to, those resulting from a fall; a small laceration, cut, etc.; abrasions and bruises less than one (1) inch in diameter or bruise patterns, no matter the size; blisters, muscle strains or sprains; first-degree burns (including sunburns); head bumps without apparent injury; and/or skin breakdown;

Property destruction: Any damage to property regardless of dollar amount;

Suicide threat: A person's verbal, nonverbal, or written threat to kill themselves;

Vehicle accident: Any vehicular accident involving a person that does not result in a serious physical injury. Examples include, but are not limited to, tapping or being tapped by another vehicle from behind or the side and accidents occurring while the vehicle is in a parked position. An incident should be reported for all people who receive support from DDA who are passengers or drivers in the vehicle; and

Other incident: Any incident not otherwise defined in this policy that has the potential to impact the health, safety or well-being of the person that is the result of conduct by a provider or DDS employee or contractor. Depending on the seriousness of the incident, this could be an RI or a Serious Reportable Incident ("SRI").

Serious Reportable Incidents

An SRI is an event or situation involving a serious risk or threat to a person's health or safety that includes, but is not limited to:

Abuse: The knowing infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain, or mental anguish by a provider or DDS employee or contractor. There are three subcategories of abuse:

Emotional/Psychological Abuse: Actions including, but not limited to, humiliation, harassment, threats of punishment or deprivation, and intimidation (verbal, written, or gesturing) directed at the person;

Physical Abuse: Actions including, but not limited to, any physical motion or action by which physical harm or pain is inflicted or caused; and

Sexual Abuse includes the following[1]:

- Proposing or engaging in sexual activity of any kind with a person supported by DDS whom one met within the context of a professional role. Examples may include but are not limited to:
  - A person to whom one is providing, coordinating, supervising, planning or otherwise involved in the provision of direct services;
  - A person residing with or otherwise associated with a person to whom one is providing, coordinating, supervising, planning or otherwise involved in the provision of direct services; and/or,
  - A person for whom one has access to DDS service records or other sensitive information.
- Engaging in unwanted sexual activity with a person supported by DDS; or
- Engaging in conduct of a sexual nature directed at a person supported by DDS that could reasonably be expected to cause humiliation or offense on the part of a person in the same situation which may include, but is not limited to:
  - Displaying, requesting or transmitting images or videos of a sexual nature in any format;
  - Sending sexually suggestive communications in any format;
  - Sharing sexual or lewd anecdotes or jokes;
  - Making inappropriate sexual gestures, such as pelvic thrusts;
  - Unwelcome touching, including pinching, patting, rubbing, or purposely brushing up against a person supported, and
  - Staring in a sexually suggestive manner.

COVID-19 (Person Supported – EIH): The person supported is hospitalized due to COVID-19, in that they have tested positive for COVID-19 and are hospitalized because of COVID-19;

Death: The death of a person DDA supports;

Exploitation: The illegal or improper act or process of a provider or DDS employee or contractor using the resources, identity, or personal information of a person supported for their own monetary or personal benefit or gain. This may also include, but is not limited to:

[1] Recognizing that there is no exhaustive list of potential scenarios or exceptions in this category, DDS retains the right to review allegations and determine whether an investigation is warranted.

intimidation, threats, coercion or manipulation of a person to spend their own personal funds for something the person may not choose or desire; the soliciting of gifts, funds, labor, or favors; and any intentional taking of a person's property or funds;

Use of physical restraint: The use of CPI, MANDT, or another DDS approved physical restraint by a provider or DDS employee or contractor, regardless of whether the restraint results in injury to the person;

Use of approved restraint consistent with a person's BSP (no injury): The correct use of a physical intervention that is approved as part of a person's BSP or ordered by a physician that does not result in injury.

Use of approved restraint consistent with a person's BSP (injury): The correct use of a physical intervention that is approved as part of a person's BSP or ordered by a physician that results in injury.

Inappropriate use of approved restraints (no injury): The use of a physical intervention that is approved as part of a person's BSP or ordered by a physician and that does not result in injury; however, the device/intervention is not implemented according to the plan.

Inappropriate use of approved restraints that results in injury: The use of a mechanical device or physical intervention that is approved as part of a person's BSP or ordered by a physician; however, the device/intervention is not implemented according to the plan that results in injury of any level to the person.

Repeated use of emergency restraints: The use of a mechanical device or physical intervention used in an emergency situation to briefly control behaviors that pose a risk of harm to the individual or others, or to prevent the serious destruction of property, in a situation when those behaviors were not anticipated and where there is no approved BSP that incorporates the planned use of restraint or other restrictive techniques, when used more than two times in a 30-day period or four times in a six-month period.

Missing Person: The unexpected absence of the person beyond unsupervised time as written in the Individual Support Plan ("ISP") or BSP, according to the approved supported living staffing pattern worksheet ("staffing ratio"), during which the person's staff is unaware of the person's whereabouts;

Neglect: The failure, on the part of DDS or provider employees or contractors to provide support, supervision or attention to the person served, posing a risk to the person's health, safety, or well-being. This includes the failure to provide necessities such as food, clothing, essential medical treatment, adequate supervision, shelter, or a safe environment. The failure to exercise one's duty to intercede on behalf of the person who is at risk of abuse or neglect also constitutes neglect. There are six subcategories of neglect:

Environmental Neglect: Exposure of a person to uncomfortable or unsafe conditions that pose a risk to the person's health, safety, or well-being, including: prolonged exposure to rain, snow, wind, bitter cold, or extreme heat or humidity; exposure to environmental contaminants that endanger a person's health in the amount to which the person is exposed; and exposure to environments which interfere with a person's sleep or rest;

Inadequate Staffing: Staffing that is inconsistent with the person's staffing pattern as described in the ISP, plan of care, and/or BSP or the relevant regulatory authority;

Medical Neglect: Any healthcare delivery act or omission that deviates from a defined standard of care, jeopardizes the safety of the person, injures the person, or poses a serious risk of injury or death to the person;

Nutritional Neglect: The denial of food or hydration of a quantity and character adequate to meet a person's nutritional and medical needs, including: the provision of food or hydration of an inappropriate texture; the denial, in ordinary circumstances, of a regularly scheduled meal or snack; and the provision of food or hydration in a manner inconsistent with a person's ISP or BSP;

Staff Incompetence: The failure of employees or contractors to, in pertinent part: exercise appropriate supervision of a person supported; exercise the required oversight of the finances of a person supported; train other employees or contractors in the manner, or to the degree, required by DDS, when that lack of training results in harm to a person supported; and non-compliance with COVID-19 protocols;

Neglect (Other): Staff or contractor activity or inactivity that gives rise to an incident corresponding to the definition of "neglect" generally, but which does not correspond to any of the above subcategories.

Serious medication error: Any medication error by a clinician or trained medication employee ("TME") that causes or may cause harm or that requires observation or treatment by a physician, physician's assistant, or nurse practitioner in a hospital, emergency room, or treatment center, or three instances of medication errors within 60 calendar days;

Serious physical injury: Any bodily injury requiring treatment other than a nursing assessment or minor first aid and not covered in the above examples of an RI physical injury. Examples include, but are not limited to: animal bites (including poisonous insects); choking; fractures; dislocations; bruises larger than one inch in diameter; second- or third-degree burns; electric shock; loss or tearing of a body part; all eye emergencies; ingestion of toxic substances or sharp or dangerous objects; lacerations requiring stitches, staples or sutures to close; any injury with loss of consciousness; and head trauma/injuries from accidents, falls, or blows;

Suicide attempt: A person's effort to kill themself involving a definite risk to health or life;

Medical unplanned or emergency inpatient hospitalization: A medical emergency room visit resulting in hospitalization or any other unplanned hospitalization not solely for observation;

Behavioral unplanned or emergency inpatient hospitalization: A behavioral emergency room visit resulting in hospitalization or any other unplanned hospitalization not solely for observation; and

Other incident: Any incident not otherwise defined in this policy that impacts the health, safety, and well-being of the person that is the result of conduct by a provider or DDS employee or contractor. Depending on the seriousness of the incident, this could be an RI or SRI.

5. POLICY

It is the policy of DDS to:

A. Ensure that people with intellectual and/or developmental disabilities who receive support through the DDA service delivery system receive high-quality supports and are free from any unnecessary risk of harm, balanced with people's desire to assume risk in creating a life that is meaningful to them;

B. Mandate reporting by DDS staff and DDA providers of Reportable Incidents and Serious Reportable Incidents; and

C. Investigate Reportable Incidents and Serious Reportable Incidents, including alleged improper acts or failures to act, by DDS, DDS providers, or DDS provider staff.

6. RESPONSIBILITY

The responsibility for this policy is vested in the DDS Director. Implementation of this policy is the dual responsibility of the Deputy Directors for DDA and QAPMA.

7. STANDARDS

A. DDS shall maintain a system of reporting, monitoring, investigating, and taking corrective action for all reportable and serious reportable incidents, including the critical areas of abuse, neglect, exploitation, and serious physical injury, with tracking and trending of data to identify and intervene where people may be at increased risk of harm.

B. The scope of DDS's investigatory authority extends to alleged improper acts by DDS or DDA provider staff reported as incidents. Where incidents reported to DDS take place that are outside of this scope of authority, DDS will refer the matters to the proper

agencies, officials, or authorities (for example, Adult Protective Services, the Office of the Attorney General, or the police), and document those referrals in MCIS.

C. For all incidents, the first priority is ensuring the health, safety and well-being of the person involved and of other people who are supported in the same location and/or by the same staff.

D. The District of Columbia requires mandatory reporting of suspected cases of abuse, neglect, and exploitation of an adult by the following: conservators; court-appointed intellectual disabilities advocates; guardians; health-care administrators; licensed health professionals as defined in D.C. Official Code § 3-1202.01 *et seq*.; police officers; humane officers of any agency charged with the enforcement of animal cruelty laws; bank managers; financial managers; and social workers. DDS requires mandatory reporting in cases of suspected abuse, neglect, and exploitation of adults with intellectual and/or developmental disabilities who receive DDA supports and services from DDS employees, subcontractors, providers/vendors, consultants, volunteers, and governmental agencies that provide services and supports to people with intellectual and/or developmental disabilities through the DDA service delivery system funded by DDA and/or DHCF.

E. DDS shall have a rating system for provider investigations, and based upon the rating scores, deem providers qualified to conduct certain types of SRI investigations independently.

F. DDS's Incident Management and Enforcement Unit ("IMEU") shall conduct all investigations into allegations of neglect, abuse, exploitation and serious physical injury reported as SRIs. Providers shall not investigate these SRIs unless otherwise required by law or regulations.

G. Providers shall have an incident management system to prevent, identify, report, review and, where appropriate, investigate, incidents, that mitigates the possibility of retaliation against any person participating in incident reporting and/or investigation.

H. Providers shall prominently display DDS's "See Something, Say Something" poster in all common areas of their facilities, including corporate offices, Day Programs, and Employment Readiness, Day Habilitation, and Supported Employment facilities. The posters should not be displayed in residential settings, meaning people's homes.

I. Providers shall, through their Quality Assurance and Improvement Systems, incorporate DDS's "See Something, Say Something" campaign to provide direction on the detection, recognition, and reporting of behaviors consistent with, and indicators of, the abuse, neglect, and exploitation of people with disabilities. The purpose of this campaign is to create a culture where incidents are reported and where provider staff, families, people receiving services, and others may report without fear of retaliation.

J. DDS shall share information about the "See Something, Say Something" campaign on the DDS website.

K. Providers shall have a system for regularly tracking and reviewing data to identify trends, systemic deficiencies, and the presence of dangerous conditions or practices, and to intervene where people may be at increased risk.

L. Providers shall have a continuous quality assurance and improvement system aimed at ensuring that all incidents are reported, reporting occurs on time, potential underreporting is evaluated, and, where appropriate, incidents are properly investigated.

M. Providers are required to implement a system for competency-based training. This system shall include an evaluation/measure of the effectiveness of staff training to ensure that all staff members, volunteers, contractors, consultants and interns demonstrate the skills necessary to consistently recognize, prevent, and report concerns around abuse, neglect, exploitation, and other reportable incidents on a timely basis.

N. Providers shall implement a system to educate the people that they support and their family members, substitute decision-makers, and others in their circle of support, on how to recognize, report and prevent abuse, neglect, and exploitation, including how to safely report concerns.

O. The person, and the person's guardian, if applicable, shall be informed of the occurrence of all SRIs and the outcomes of all SRI investigations. Additional notification will be made consistent with the ISP and, if applicable, the Supported Decision Making Agreement.

P. All incidents shall be entered into MCIS.

Q. Service coordinators ("SC") shall be notified of all incidents involving the persons they support. SCs shall conduct and document SRI follow-up to ascertain whether the provider or services need to be changed or health care or other appointments scheduled within two business days and in accordance with Desk Guide protocols. If a person's SC is implicated in the incident, a different SC shall be assigned to conduct the follow-up. The purpose of the SC's follow-up in either situation is to determine whether present services are adequate, or whether additional services should be considered (*e.g.*, transition-related care if the person is hospitalized, medical appointments, or a move to or from respite care, etc.). The SC should not initiate questioning about the alleged incident as that is the role of the assigned IMEU investigator.

R. All provider and DDS investigators must be trained and certified through a DDS-approved trainer.

S. Providers with deficient performance related to incident management shall be

required to have a goal added to their Continuous Improvement Plan. QAPMA shall provide technical assistance to the provider to assist with systemic changes as needed.

T. DDS may sanction providers who do not comply with the incident management and enforcement process, including the requirements of this policy and its related procedures.

Andrew P. Reese, Director

11/1/24
Date