

CHAPTER 18

PROTECTION FROM HARM

Introduction

Assuring the protection and safety of service recipients is a primary mission of the Department of Intellectual and Developmental Disabilities (DIDD) and all DIDD providers. This chapter identifies specific provider requirements intended to achieve the protection and safety of DIDD service recipients. Protection from harm is more than developing and implementing policies, plans and responses to incidents that have already occurred. Protection from harm is a legal and moral commitment to support, respect and value the dignity and worth of a person. It is an opportunity for all of us who have responsibility as partners in the service delivery system to strive toward achieving the goal of knowing that the people we support and serve feel safe enough to be able to enjoy their lives.

DIDD and provider agencies exist solely for the purpose of enhancing the quality of life of service recipients. Leadership at all levels of the system must foster an internal culture that supports individual respect. Respect for others is the first step in ensuring their safety and well-being. A combination of fostering respect for service recipients, planning to ensure safety and protection and responding to incidents appropriately, including careful analysis of the incidents that do occur will go far in achieving the mission of protection from harm.

Components of the Protection from Harm System

Complaint Resolution System	See Section 18.1.
Incident Management System	See Section 18.2.
Response to Abuse, Neglect and Exploitation	See Section 18.3.
Policy Requirements	See Section 18.4.

18.1 Complaint Resolution System

Complaint resolution is an integral component of a system that protects and prevents harm. Providers are expected to establish a complaint resolution system to which a service recipient, a family/guardian and/or a legal representative has knowledge of and easy access when seeking assistance and answers for concerns and questions about the care being provided. When the complaint cannot be rectified by the Provider agency, DIDD provides assistance to help resolve outstanding issues.

Providers must record complaints, take action to appropriately resolve the complaints presented and document complaint resolutions achieved.

All providers should establish a Complaint Resolution System which includes but is not limited to:

- 1) Designation of a staff member as the complaint contact person;
- 2) Maintenance of a complaint contact log; and
- 3) Documentation/trending of complaint activity.

Upon admission and periodically, providers should notify each service recipient, family/guardian and/or legal representative of their Complaint Resolution System, its purpose and the steps involved to access it. Providers should attempt to resolve all complaints in a timely manner within 30 days of the date that the complaint was filed.

In the event that service recipients, families/guardians and/or legal representatives do not agree with a provider's proposed solution to a complaint, they may contact the DIDD Regional Complaint Resolution Coordinator for assistance. The DIDD Regional Complaint Resolution Coordinator will subsequently contact the provider(s) and/or other party(ies) involved to discuss potential resolutions to the complaint. These could include formal mediation or intervention meetings. All efforts are made to reach a satisfactory result for the complainant.

The provider's Complaint Resolution System will be reviewed for appropriateness during the provider's DIDD Quality Assurance survey.

18.2 Incident Management System

In collaboration with providers, families/guardians, legal representatives and other stakeholders, DIDD has defined events and incidents that must be reported. All providers must develop and implement a system that provides for appropriate and timely reporting of reportable incidents, as well as appropriate and timely response to these incidents. Incident reporting provides both the provider agency and DIDD information to make adjustments and improvements in the services and care of service recipients.

18.2.a. Reportable Incidents: Defined incidents must be **submitted to DIDD** on the ***DIDD Reportable Incident Form*** (RIF) . The following categories of incidents must be documented and submitted:

- 1) **Deaths of service recipients** regardless of the cause or the location where the death occurred;
- 2) **Allegations of abuse based on TCA §33-2-402 (1), neglect based on TCA §33-2-402 (9) and exploitation based on TCA §33-2-402 (8) (referred to as misappropriation of property in TCA)** in accordance with definitions below:

a) **Abuse:** the knowing infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

DIDD considers the three specific subcategories of abuse:

1) **Emotional/Psychological Abuse**: Actions including, but not limited to:

- humiliation,
- harassment,
- threats of punishment or deprivation,
- intimidation towards service recipients, or
- the use of oral, written, or gestured language either directed to the service recipient or within eyesight or audible range of the service recipient that is demeaning or derogatory to persons with intellectual disabilities.

Emotional/psychological abuse may cause the service recipient physical harm, pain, or mental anguish (To determine mental anguish the following question should be considered, “Would a member of the general public react negatively to the alleged incident of emotional/psychological abuse?”).

2) **Physical Abuse**: Actions including, but not limited to:

- any physical motion or action (e.g. hitting, slapping, punching, kicking, pinching,) by which physical harm, pain or mental anguish may occur to a service recipient;
- the use of corporal punishment;
- the use of any restrictive, intrusive procedure to control challenging behavior or for purposes of punishment; or takedowns or prone restraint of any duration.

3) **Sexual Abuse**: Any type of sexual activity between a service recipient and a staff person or anyone affiliated through DIDD as a contracted entity or volunteer is prohibited. Prohibited sexual activity includes, but is not limited to actions whereby a service recipient:

- is forced, tricked, threatened, or otherwise coerced into sexual activity;
- is exposed to sexually explicit material or language unless otherwise specified in a plan,
- has any contact with sexual intent.

Sexual abuse occurs whether or not a service recipient is able to give consent to such activities.

(TCA §39-13-527 (a)(3)(A): Sexual battery by an authority figure is unlawful sexual contact with a victim by the defendant or the defendant by a victim accompanied by the following circumstances: the defendant was at the time of the offense in a position of trust, or had supervisory or disciplinary power over the victim by virtue of the defendant’s legal, professional or occupational status and used the position of trust or power to accomplish the sexual contact. (b) Sexual battery by an authority figure is a Class C felony.

b) **Neglect**: Failure to provide goods or services necessary to avoid physical harm, mental anguish or mental illness, which results in injury or probable risk of serious harm.

Neglect towards a service recipient includes being on duty while impaired or under the influence of illegal substances or prescription drugs without a valid current prescription for the drug. If a staff person has a valid current prescription for a drug and is impaired while on duty from the prescription drug, this too shall be considered neglect.

c) **Exploitation**: Actions including but not limited to the deliberate misplacement, misappropriation or wrongful, temporary or permanent use of belongings or money with or without the recipient's consent. DIDD also considers it exploitation to illegally or improperly use a person or person's resources for another's profit or advantage.

DIDD will investigate allegations of exploitation involving an amount of \$50 or more per incident, allegations of exploitation involving individual amounts totaling \$50 or more within a sixty (60) calendar day period or exploitation involving significant risk or serious adverse consequences to a service recipient. (See the Reportable Staff Misconduct definition for further clarification.)

The provider is required to reimburse the service recipient regardless of the amount of money involved.

3) **Serious Injury**: Physical harm to a service recipient:

- whether the injury is self-inflicted or inflicted by another person,
- whether the injury is accidental or not, and
- whether the cause of the injury is known or unknown, and
- requiring assessment and treatment (beyond basic first aid that could be administered by a lay person):
 - in a hospital,
 - in a hospital emergency room,
 - in an urgent care center, or
 - from a physician, nurse practitioner or physician's assistant.

Serious injury includes, but is not limited to, one or more of the following:

- Fracture,
- dislocation,
- traumatic brain injury (concussion),
- laceration requiring sutures (or Dermabond when used in place of sutures/staples),
- torn ligaments,
- second and third degree burns,
- loss of consciousness.

Other types of injuries such as bruises, abrasions, sprains and muscle strains can rise to the level of serious injury if they are diagnosed as serious or severe, or require treatment beyond first aid that could be administered by a lay person.

- 4) **Suspicious Injury:** Injury (whether minor or serious) to a service recipient possibly involving or resulting from abuse or neglect. This would also include an injury that does not coincide with the explanation given for the injury. Not knowing how an injury occurred is not reason enough to say the injury is suspicious. There must be further reason to believe the injury may have resulted from abuse or neglect.
- 5) **Reportable Behavioral Incident:** Any behavioral incident (physical aggression, self-injurious behavior, swallowing inedible substance, etc) resulting in one or more of the following:
- Serious injury to a service recipient or others;
 - Use of mechanical or manual restraint;
 - Takedowns or prone restraint of any duration for any reason are reportable and prohibited;
 - Administration of psychotropic medication as a response to the incident;
 - Property destruction over \$100;
 - Assessment or treatment by emergency medical technicians/paramedics or in a hospital emergency room;
 - In person involvement of law enforcement (police) or a Mental Health Mobile Crisis Team; or
 - Psychiatric hospital admission.
- 6) **Reportable Medical Incident:** Any medical incident (illness, accident, etc.) resulting in one or more of the following:
- medical illness that results in emergency medical interventions; i.e; cardiopulmonary resuscitation (CPR) x-ray to rule out a fracture or the Heimlich Maneuver/abdominal thrust;
 - assessment or treatment by emergency medical technicians or paramedics, or by personnel in a hospital emergency room;
 - medical hospital admission.
- 7) **Service recipients missing for longer than fifteen (15) minutes,** unless the Individual Support Plan (ISP) specifies that unsupervised periods of time longer than 15 minutes does not present a risk of harm to the service recipient or others;
- 8) **Acts of sexual aggression by a person receiving services toward another person supported, a staff person, or another community member;**
- 9) **Criminal Conduct or Probable Criminal Conduct** involving a service recipient including, but not limited to, arrest or incarceration of a service recipient;
- 10) **Reportable Staff Misconduct:** Actions or inactions contrary to sound judgment and/or training, related to the provision of services and/or the safeguarding of the service recipient's health, safety, general welfare and/or individual rights. Staff misconduct does not rise to the level of abuse, neglect or exploitation, in that there is no resulting injury or adverse effect, and the risk for harm is minimal.

Exploitation involving amounts lesser than \$50 per incident or less than \$50 total in 60 calendar days that are not indicative of serious risk or adverse consequences will be addressed by the provider as reportable staff misconduct. The provider is required to reimburse the service recipient regardless of the amount of money involved.

18.2.b. Time Frames Applicable to Reporting Incidents

Table 18.2. Provides a summary of DIDD reporting requirements, including the time frames for reporting and where the report is to be directed.

TYPE OF INCIDENT / EVENT	NOTIFY AS SOON AS POSSIBLE AND NO LATER THAN <u>FOUR</u> HOURS	NOTIFY AS SOON AS POSSIBLE AND NO LATER THAN <u>TWENTY-FOUR</u> HOURS	NEXT BUSINESS DAY
Death	Regional Office Administrator on Duty (AOD) for all deaths DIDD Investigations Hotline (If death is suspicious, (abuse or neglect involved), or if unexpected or unexplained)	Legal Representative (document all attempts)	RIF to DIDD Central Office Notice of Death Form and RIF to Regional Director RIF to ISC Agency/Support Coordinator
Alleged or suspected abuse, neglect, or exploitation	DIDD Investigations Hotline Department of Human Services (DHS) Adult Protective Services or Department of Children's Services (DCS) Child Protective Services If criminal activity: Law Enforcement	Legal Representative (document all attempts)	RIF to DIDD Central Office RIF to ISC Agency/Support Coordinator
Serious Injury of Known/Unknown Cause	If unknown, DIDD Investigations Hotline DHS Adult Protective Services or DCS Child Protective Services	Legal Representative (document all attempts)	RIF to DIDD Central Office RIF to ISC Agency/Support Coordinator
Suspicious Injury (i.e suspicious as caused by abuse or neglect)	DIDD Investigations Hotline DHS Adult Protective Services or DCS Child Protective Services	Legal Representative (document all attempts)	RIF to DIDD Central Office RIF to ISC Agency/Support

TYPE OF INCIDENT / EVENT	NOTIFY AS SOON AS POSSIBLE AND NO LATER THAN FOUR HOURS	NOTIFY AS SOON AS POSSIBLE AND NO LATER THAN TWENTY-FOUR HOURS	NEXT BUSINESS DAY
			Coordinator
Reportable Medical Incident	Regional AOD if: <ul style="list-style-type: none"> Unplanned Hospitalization 	As defined by Legal Representative	RIF to DIDD Central Office RIF to ISC Agency/Support Coordinator
Reportable Behavioral Incident Missing Person Sexual Aggression Criminal Conduct	Regional AOD for: <ul style="list-style-type: none"> Any hospitalization resulting from a behavior or psychiatric incident, or any behavioral incident with Law Enforcement or Mental Health Mobile Crisis Team involvement at the scene or in person Any incarceration 	As defined by Legal Representative	RIF to DIDD Central Office RIF to ISC Agency/Support Coordinator
Reportable Staff Misconduct Incident		As defined by Legal Representative	RIF to DIDD Central Office RIF to ISC Agency/Support Coordinator
Request for Emergency Service Approval outside of regular DIDD business hours	Regional AOD		

1. Submission of Reportable Incident Forms: The front page of the *DIDD Reportable Incident Form* must be reviewed by the agency Incident Management Coordinator and then securely submitted to the DIDD Central Office and the ISC Agency/Support Coordinator within one (1) business day of the time the incident occurred or was discovered.

- DIDD recognizes that on occasion two or more provider agencies may witness a Reportable Incident. The provider with primary responsibility for the person receiving

services at the time of the incident has the obligation to report. Provider policy should include a provision for obtaining written confirmation that the primary provider has filed an incident report with DIDD.

- When support coordinators/case managers or other non-primary providers are the initial reporter of an incident, a copy of the ***DIDD Reportable Incident Form*** is sent to the service recipient's primary provider as soon as possible and in all cases, within one (1) business day.

2. Immediate Notification Via the DIDD Investigation Hotline: Providers are required to notify immediately, via the DIDD Investigation Hotline all reports of alleged or suspected abuse, neglect, exploitation and serious injury of unknown cause. Service recipient deaths that are questionable or suspicious and appear to be a result of abuse or neglect need to be called into the hotline as well. "Immediate" means as soon as possible (ASAP) and in all cases, within four hours of the incident or its discovery. In instances when provider staff is uncertain if an incident qualifies for immediate notification to the DIDD Investigation Hotline, it is expected that the provider will contact the hotline in order to consult with an investigator.

3. Additional Notification Requirements: In addition to filing Reportable Incidents with DIDD, providers must ensure that:

- Service recipients' legal representatives must always be notified within twenty four hours once the decision is made to investigate an incident for alleged abuse, neglect, or exploitation;
- Service recipients' legal representatives are notified within 24 hours of all Reportable Incidents; notice is documented on the Reportable Incident Form, unless the legal representative indicates in writing that notification is to be provided only in limited circumstances;
- If, despite diligent efforts, legal representative notification is not achieved within twenty-four (24) hours, documentation reflects efforts made and the date/time of notification and method whereby notification was achieved;
- Service recipient support coordination providers/DIDD case managers receive copies of filed ***DIDD Reportable Incident Forms*** as soon as possible, and in all cases within one (1) business day;
- Law enforcement officials are notified as soon as possible, but in all cases within (4) four hours, of Reportable Incidents when there is reason to believe a crime may have been committed (if uncertain as to whether law enforcement officials should be notified, consultation with the DIDD Director of Investigations or designee may be initiated);
- Provider staff are considered mandated reporters, therefore, The Department of Children's Services (DCS), Division of Child Protective Services is notified as soon as possible, but no later than four (4) hours following the incident or discovery of the incident when service recipients under the age of eighteen (18) are alleged to have been the victim of abuse, neglect or exploitation (§TCA 37-1-403 & 37-1-605); and
- Provider staff are considered mandated reporters, therefore, The Department of Human Services (DHS), Division of Adult Protective Services is notified as soon as possible, but no later than four (4) hours following the incident or discovery of the incident when

service recipients eighteen (18) years of age or older are alleged to have been the victim of abuse, neglect or exploitation (§TCA 71-6-103 (b) (1) & §TCA 71-6-103 (2) (c)).

It should be noted that the definitions of abuse, neglect or exploitation used by other state agencies and organizations, as well as timeframes for reporting, may be different from those used by DIDD.

18.2.c Incident Review and Corrective/Preventive Action Requirements

1. Designation of an Incident Management Coordinator: Providers must designate a management staff person to serve as the Incident Management Coordinator. The Incident Management Coordinator will have primary responsibility for ensuring provider compliance with this chapter. Specific responsibilities of the Incident Management Coordinator include:

- Reviewing incidents for timely and appropriate response;
- Ensuring that incidents have been reported or referred to the DIDD Investigation Hotline as required;
- Ensuring that Reportable Incident forms have been made legible (typed) and are complete and submitted to DIDD Central Office as required;
- Ensuring that documentation of the submission of Reportable incident forms is maintained;
- Ensuring that recommendations associated with Reportable Incidents and DIDD investigations are addressed;
- Serving as chair of the Incident Review Committee; and
- Completing or ensuring the completion of trend studies of Reportable Incidents.

2. Incident Review Committee: Residential, day and personal assistance providers must establish an Incident Review Committee with a defined membership and meeting schedule. The Incident Review Committee may be an independent committee or a sub-committee of another operational provider committee. Independent providers and very small providers, including microboards, may elect to share an Incident Review Committee with another provider(s) if appropriate steps are taken to maintain confidentiality, such as obtaining signed confidentiality agreements from each Committee member or redacting information provided to the committee.

3. Incident Review Committee Membership: DIDD requires inclusion of at least two (2) provider management personnel. DIDD also requires inclusion of supervisory and direct support staff. Beyond these requirements, the provider has discretion in determining the appropriate membership of the Incident Review Committee; however, larger provider agencies should consider members who are service recipients, service recipient family members or legal representatives and members who serve on the provider board of directors/advisory committee.

4. Incident Review Committee Functions: Incident Review Committee functions include:

- Monitoring to ensure appropriate reporting of incidents;

- Reviewing and providing recommendations as necessary regarding provider incident reports, DIDD completed investigation reports and provider incident reviews, including reportable staff misconduct incidents;
- Ensuring implementation of corrective actions and recommendations pertaining to Reportable Incidents;
- Identifying trends regarding reportable incidents;
- Identify individual risk issues for prevention of harm.

5. Incident Review Committee Meeting Schedule: The Incident Review Committee is expected to meet at least every other week. Meetings of the Incident Review Committee may be deferred in the event that there is no pending business before the Committee. Because recommendations are followed to closure, pending business is not limited to recently filed Reportable Incident Forms. Independent providers and very small providers may request to be exempted from the scheduled meeting requirement by requesting such exemption in writing to the Regional Director, who will forward the request to the Commissioner for consideration. This exemption must be approved annually. However, in all cases, regardless of any exemption, there should be evidence that all required incident review and follow-up activities are completed in a timely and appropriate manner.

6. Trend Analyses of Reportable Incidents: Provider Incident Review Committees are responsible for reviewing trends and patterns related to Reportable Incidents, including substantiated reports of abuse, neglect and exploitation. Providers must implement procedures for the completion of an annual written analysis of the trends and patterns related to Reportable Incidents, including substantiated reports of abuse, neglect, and exploitation. The written annual trend report must be available to DIDD staff who may request the report. This report must be sufficient in detail to provide a minimum of the following:

- Increasing and decreasing incidence rates of specific types of Reportable Incidents (including abuse, neglect and exploitation);
- Increasing and decreasing incidence rates of Reportable Incidents that resulted in serious injuries;
- Service recipients having higher than average numbers or multiple cases (of similar type allegations) of Reportable Incidents and/or substantiated reports of abuse, neglect and exploitation;
- Programs and homes (as applicable) having higher than average numbers or multiple cases (of similar type allegations) of Reportable Incidents and/or substantiated reports of abuse, neglect and exploitation;
- Individual direct support staff and program/home supervisors (as applicable) having been involved in higher than average numbers or multiple cases (of similar type allegations) of Reportable Incidents and/or substantiated reports of abuse, neglect, and exploitation.

7. Incident Review Committee Minutes: Incident Review Committee meeting minutes describing committee discussion, recommendations, determinations and actions must be recorded and kept on file by the provider. Minutes must also reflect the date and time of the meeting, the meeting agenda and the members present. The provider agency has discretion regarding the format of Incident Review Committee minutes, but must ensure that the minutes

contain the required elements. Final determinations and actions taken regarding Reportable Incidents are to be documented on or as an addendum to the *DIDD Reportable Incident Form*.

18.3. Investigation of Abuse, Neglect and Exploitation Allegations

Incidents of alleged abuse, neglect and exploitation, as well as serious injuries of unknown cause and injuries or deaths suspicious of having been a result of abuse or neglect must be reported to DIDD per the timelines in Table 18.2.b "Time Frames Applicable in Reporting Incidents" in order to provide a means of safety and protection both to the alleged victim, as well as to other potential victims. All providers must develop and implement a system for timely reporting and responding to allegations of abuse, neglect and exploitation.

18.3.a. Responsibility for Conducting Investigations:

1. DIDD investigators are responsible for conducting investigations into allegations of abuse, neglect, and exploitation towards service recipients which involve DIDD employees, contracted employees, volunteers, or others affiliated with service recipients through DIDD. DIDD investigators also investigate serious injuries of unknown cause, suspicious injuries, and suspicious deaths (i.e. those possibly involving abuse, or neglect).
2. Incidents beyond DIDD jurisdiction shall be referred to the appropriate entity; i.e. Adult or Child Protective Services, Health Related Boards or local or state law enforcement.
3. DIDD may conduct investigations into failure to report incidents in a timely manner, as outlined in this chapter.
4. Except for the incidents described above, provider agency staff shall conduct all other reviews of reportable incidents; however, DIDD reserves the right to conduct an investigation into any incident.

18.3.b. Requirements for Investigation of Allegations Involving the Provider Executive Director/Chief Executive Officer or Other Provider Management Staff:

In cases where DIDD investigates the Executive Director/Chief Executive Officer or other Provider Management staff, the *DIDD Investigation Report* and *DIDD Summary of Investigation Report* will be sent to the Board Chair for not-for-profit providers and to the owner or corporate executive responsible for supervision of the local CEO of for-profit providers. The Board Chair or owner/corporate executive will be required to respond to final investigation reports that are substantiated.

18.3.c. Administrative Staffing Actions During Active Investigations: If there is an allegation of physical or sexual abuse, the provider is required to place any and all staff whose conduct may have contributed to the alleged abuse, on leave or assign such employees duties that do not involve direct care of service recipients, direct supervision of service recipients or supervision of other direct care staff, pending the completion of the DIDD investigation. If the provider believes that any involved staff should not be placed on leave, or reassigned, the provider agency may file

a written request for waiver of this requirement to the DIDD Central Office Director of Investigations or designee. Nevertheless, as stated above, if there is an allegation of physical or sexual abuse involved staff must be placed on leave or reassigned duties that do not involve direct care of service recipients until a decision on the waiver request is received from DIDD.

For allegations other than those described in the previous paragraph, the provider's policy will guide all administrative staffing actions during the investigative process. While the provider is not required to place the staff on administrative leave, the provider shall ensure that adequate steps are taken to assure the protection and safety of the alleged victim and other service recipients. For added assurance that people are protected, the provider's policy will be reviewed during the investigative process.

Regardless of the staff leave/reassignment, the provider should instruct all staff that the circumstances of the allegation are not to be discussed with anyone except the assigned DIDD investigator.

18.3.d. DIDD Distribution of Investigation Reports and Summary of Investigation Reports:

1. DIDD will send a final *DIDD Investigation Report*, as well as, a *DIDD Summary of Investigation Report* to the provider(s) responsible for the service recipient(s) involved.
2. The *DIDD Summary of Investigation Report* will be sent to the support coordination provider/DIDD case manager for all service recipients involved in the incident.
3. The provider will be expected to document reasonable attempts to notify alleged perpetrator(s) of the outcome of the investigation.
4. Within five (5) business days of receipt of the *DIDD Summary of Investigation Report*, the summary shall be discussed with the service recipient(s) involved to the extent possible (if a legal representative has been appointed, the legal representative shall be invited to participate), with such discussion conducted by a representative of the provider who supports the service recipient. The provider will document the date and time of this discussion.

18.3.e. Requesting a Review of DIDD Final Investigation Report: Providers (including support coordinators/case managers) and service recipients or legal representatives may request a review of the DIDD Final Investigation Report by:

- filing a written request for review with the DIDD Central Office Director of Investigations, or designee;
- filing within fifteen (15) business days of receipt of the DIDD Final Investigation Report (requests will not be considered outside this timeframe);
- filing on the *DIDD Review of Investigation Form* and include all referenced information; and
- filing by mail, fax or secure e-mail.

The review process is not an appeal; however, it is a process to review the accuracy of a Final Investigation Report when there is a disagreement with the conclusion or a question that the integrity of an investigation may have been compromised.

A disagreement with the conclusion or question of integrity must be based on new or additional evidence not addressed in the DIDD Final Investigation Report. A DIDD Final Investigation Report shall not be reviewed without evidence submitted to support the disagreement with the conclusion or evidence submitted to support the questioned integrity.

DIDD will respond in writing to requests to review investigations with a final decision within thirty (30) days of receipt of the request to review the investigation, unless it is determined that further investigation is warranted. If further investigation is warranted, an interim response will be issued, notifying the complainant or entity requesting review that further investigation is underway. A final decision will be issued upon completion of the additional investigation. In most cases this will occur within forty-five (45) days.

18.3.f. Provider Response to DIDD Final Investigation Reports: Regardless of any pending request for review of a DIDD investigation, the provider agency is required to respond to any DIDD Final Investigations where there is a substantiated allegation in writing (via mail or e-mail) within fourteen (14) days. Upon receipt of the substantiated DIDD Final Investigation Report, the provider will review the report and develop a plan of correction relevant to the incident(s) investigated and substantiated. The response to the investigated incidents shall include, but is not limited to:

- what has been done to safeguard the person;
- what procedures, if any, have been developed and implemented for protecting people from further abuse, neglect, or exploitation;
- if the incident was reported to DIDD in an untimely manner what has been done to address late reporting;
- copies of any staff disciplinary actions; and
- copies of the notifications of the outcome of the investigation sent to staff allegedly involved in the incident.

Provider response to a substantiated investigation will be reviewed and additional information may be requested of the provider if the follow-up is incomplete.

For unsubstantiated investigations: No plan of correction is required, but the agency is responsible for notifying staff allegedly involved in the incident of the outcome of the investigation and for addressing any additional incident information.

In the case of any investigation, DIDD staff will conduct follow-up to ensure that all appropriate actions have been taken.

18.3.g. Corrective/Preventive and Disciplinary Actions: Providers must ensure that appropriate actions are taken to achieve correction and/or prevention of issues identified as a result of Reportable Incidents, investigations and risk assessments, including questions, requests and recommendations from the Abuse/Neglect Prevention Committees (ANPC). Recommendations are to be acted upon and necessary corrective/preventive actions are to be taken in a timely manner. Provider documentation must be sufficient to describe any recommendations for corrective/preventive actions made by provider staff or committees and any actions taken to address recommendations provided by internal or external sources. Providers shall maintain and make available for DIDD review, evidence of response to all investigations including any follow-up on incidental information.

18.4. Provider Policy Requirements Pertaining to Protection from Harm

All providers are expected to develop Protection from Harm policies that address the various health, safety and welfare systems for the persons receiving services. Policies required include, but are not limited to:

1. Provider personnel policy must include a description of progressive disciplinary actions that will occur when substantiated reports of abuse, neglect and exploitation identify provider staff as perpetrators or when other types of staff misconduct occur (*DIDD Personnel Disciplinary Guidelines* are available to providers for use in developing appropriate disciplinary procedures and standards).

2. Requirements for Provider Reportable Incident and Abuse, Neglect and Exploitation Policy: Provider policy should ensure that when Reportable Incidents occur and involve service recipients, the agency has effective procedures for addressing the situation promptly and appropriately and for minimizing the future risk of a similar incident or event. Although policy for different providers may vary in certain respects, all such policies must be compliant with DIDD requirements in the eight basic areas listed below:

- Incidents that are defined as Reportable Incidents that must be reported to the DIDD Central Office;
- Reportable Incidents that must be reported immediately (within four hours) to the DIDD Investigation Hotline;
- Review, follow-up and closure of Reportable Incidents;
- Requirements for notification of entities external to the provider organization and DIDD of the occurrence of Reportable Incidents and of pending DIDD investigations;
- Timely response to Reportable Incidents and DIDD investigations;
- Trend studies of Reportable Incidents and substantiated reports of abuse, neglect, and exploitation;
- Risk assessments/reviews of service recipients, community homes/programs or other situations/circumstances which trend studies identify as presenting high protection and safety risks; and
- Immediate Response to Safety and Health Risks Associated with Reportable Incidents: Providers must implement policy to ensure immediate response to the safety and health

risks of service recipients, staff and others associated with each reportable incident. Such actions may include, but are not limited to:

1. Obtaining needed medical attention for service recipients, staff or others who are or could be injured or harmed
2. Immediately correcting any physical hazard that may have contributed to the incident;
3. Immediately attending to staff conduct that may have contributed to the incident;
4. Notifying the service recipient's support coordinator/case manager of the incident, including the need to obtain approval for additional services or supports or the need for funding to complete physical plant or adaptive equipment repairs, adaptations or replacement, as warranted; and
5. Consulting with the support coordinator/case manager regarding initiating planning to arrange for any counseling or psychiatric care that may be needed by the service recipient due to the trauma of being the victim of an incident (e.g., rape counseling).

3. Provider policy may require direct support staff to contact a supervisor prior to contacting the DIDD Investigation Hotline. If initial supervisory contact is required, the policy must also specify that no staff will suffer any adverse consequence if he/she chooses to report directly to the DIDD Investigation Hotline. It should also be noted that providers will be held accountable for any delays in filing reports to the DIDD Investigation Hotline that result from provider internal procedures.

4. Provider policy should specify the responsibilities of all staff in regard to reporting incidents timely and accurately, cooperating with DIDD investigators, including providing requested information timely, ensuring accurate documentation of Reportable Incidents and investigations and documenting corrective/preventive actions.

5. Provider policy must specify that the falsification of incident reports and/or related documentation, the filing of false allegations, the provision of false or misleading information during an investigation or the withholding of information during an investigation by any staff person may be cause for severe disciplinary actions, including legal or other administrative measures as appropriate.

6. Provider policy must specifically state that: "Any person subject to this policy who retaliates against another person for his or her involvement as a reporter, witness or in any other capacity related to incident management and/or investigations of abuse, neglect and exploitation shall be subject to disciplinary action, including possible termination. Such actions may also result in legal or other administrative measures as appropriate."

7. Provider Policy: All providers are required to develop **and implement** an internal written policy that addresses how administrative staffing actions are handled with regard to investigations. This includes alleged perpetrators identified initially as well as those identified at any point during the investigative process.

Staff alleged to have committed physical or sexual abuse are required to be placed on leave or be assigned duties that do not involve direct care of persons served, direct supervision of persons served or supervision of other direct care staff pending the outcome of the investigation.

For all other allegations of abuse, neglect and exploitation, the provider policy must outline specific provider actions to be taken to ensure the protection and safety of **the alleged victim and all people receiving services** who may come in contact with the alleged perpetrator.

8. Providers policy must ensure the confidentiality of the following:

- ***DIDD Reportable Incident Form;***
- incident follow-up and review documentation; and
- DIDD investigation reports.

Confidentiality of this information must be ensured through secure storage of documents and reports in a location separate from service recipient records.

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