



DIDD Protection From Harm Protocol

Exception Requests

Investigations Unit

Purpose: This protocol describes the processing by DIDD of a request for an exception to the requirement that a staff person against whom an allegation of physical or sexual abuse has been made be placed on leave or reassigned to duties not involving direct care or supervision of persons supported or other direct care staff, pending completion of the investigation.

Effective Date: 8/15/14

A. Requests by Community Providers

1. A request for exception is submitted by the Executive Director of the agency, or his or her designee, via email to the DIDD.Investigation@tn.gov production mailbox. When the request is made by a designee, the Executive Director must be copied on the email. In the event that the Executive Director is a subject of the investigation, the request may be submitted by the DIDD Regional Director, or his or her designee. The PFH Administrative Assistant will follow the steps below.
2. Print the request and documentation and review to verify that the person submitting the request was authorized to do so. If not, notify the provider that the request is denied but that it may be resubmitted by an authorized person.
3. Review the request to ensure that all required information (name of person supported, investigation number, staff person under investigation with job title and description of duties, reasons for request and a description of safety measures that will be put in place if the exception is approved) is provided. Signed and dated statements from the legal representatives/family members of all persons supported with whom the staff person is to work, indicating (1) understanding that an investigation of allegations of physical or sexual abuse against the staff person is pending and (2) agreement that the staff person may resume working with and be in contact with the person(s) supported, must be included with the request. If the person supported is legally competent, a letter from the ISC is adequate.
 - a. Verify that the required information and documents are complete, signed and dated.
 - b. If not, notify the provider by email that the required information was not received and that a request containing the required information may be resubmitted.

4. Print the Initial Notification for that investigation and review to verify that the names of the person(s) supported and the staff person are consistent with those in the request. If there are inconsistencies, contact the requesting party, or designee, to attempt to resolve the inconsistencies. However, if the provider has furnished incorrect information, the request must be resubmitted.
5. Call the assigned Investigator to obtain a recommendation based on information he/she has collected. Document the date and the Investigator's response on the Initial Notification. Note: before giving a recommendation, the Investigator must have conducted interview(s) with material witness(es), including the victim.
6. Submit the request and the documents referred to above to the Director of Investigations, or designee, for review.
7. The Director of Investigations, or designee, will approve or deny the request, and the person submitting the request will be notified of that decision.
 - a. If the request is approved, the Administrative Assistant will use the email template for approval (located at H:/DIDD_Investigations/Exception Requests/Template responses) to notify the requesting party.
 - b. If the request is denied, the Administrative Assistant will use the email template for denials to notify the requesting party.
 - c. A copy of the email response should also be sent to any other persons copied on the original request.
 - d. Copies of the response email shall also be sent to the assigned Investigator and the appropriate Exceptions Group, comprised of the Regional Director, the Investigations Coordinator and members of the Regional Office investigations follow-up team, as well as the Director of Protection from Harm and Director of Investigations.
 - e. The subject line of the response email should include "Denied" or "Approved" Exception Request, the investigation case number and the agency name (e.g., Denied Exception Request, #M12xxxx, Agency name).
8. The Administrative Assistant will update the Exception Requests Log located at H:/DIDD_Investigations/Exception Requests/EXCEPTION REQUEST [EAST, MIDDLE, WEST].xls by entering the information below on the appropriate regional page:
 - a. The name of the entity which submitted the exception request;
 - b. The name of the identified alleged perpetrator;
 - c. The investigation case number;
 - d. The date of the request;
 - e. The date of the approval or denial; and
 - f. The category of allegation.

9. The Administrative Assistant will scan the exception request documentation after approval or denial and email these documents to the assigned Investigator for permanent storage in the investigative file.
10. The Administrative Assistant will maintain the paper copies of the exception request documentation while the investigation is pending. When the investigation is closed, the date of closure and the outcome shall be noted in handwriting on the request. The documentation shall then be filed and kept for one year, after which it is to be shredded.
11. After the investigation is closed, the Exception Request Log shall be updated with the outcome of the investigation, by marking the "Substantiated" or "Unsubstantiated" column as appropriate. If substantiated, the category and name of the perpetrator will also be recorded.

B. Requests by Legal Representative or Family Member

1. A request for an exception may also be submitted by a legal representative or family member. The provider and/or ISC shall, upon request, provide assistance in making the request.
2. The request shall contain the name of the person(s) supported, the investigation case number, the name of the staff person who is the subject of the request with a description of the nature of the work performed by the staff person, reasons for the request and, if available, the names of other persons supported who could come in contact with the staff person if the exception is granted.
3. A signed and dated statement that the legal representative or family member making the request (1) understands that an investigation of allegations of physical or sexual abuse against the staff person is pending and (2) agrees that the staff person may resume working with and be in contact with the person supported must be included in the request or attached as a supporting document.
4. The written request and documentation may be mailed, faxed or emailed to the Director of Investigations or designee. The Director of Investigations or designee shall contact and notify the provider of the person supported that the request has been received and request that provider personnel contact the legal representatives or family members for other persons supported who may come in contact with the staff person who is the subject of the request to obtain signed and dated documentation indicating (1) understanding that an investigation of allegations of physical or sexual abuse against the staff person is pending and (2) agreement that the staff person may resume working with and be in contact with the person(s) supported.
5. If the provider does not agree with or endorse the exception request, management shall advise the Director of Investigations via email of the reason(s) for the provider's disagreement.
6. The Director of Investigations or designee shall confer with the assigned Investigator to obtain a recommendation based on initial interview(s) with material witness(es), including the victim. The recommendation shall be documented in writing and kept with the request.

7. The Director of Investigations or designee shall inform the provider by email of the approval or denial of the request. The email will be in the form described in paragraph A. 7. e. above. Copies of the email shall also be sent to the assigned Investigator, the appropriate Exceptions Group, comprised of the Regional Director, the Investigations Coordinator and members of the Regional Office investigations follow-up team, as well as the Director of Protection from Harm and Director of Investigations.
8. The provider shall inform the requesting party of the decision within one (1) business day of receipt of the email notification.
9. The Administrative Assistant shall follow the steps described in sections A. 8 through 11 above.


Commissioner Debra K. Payne

5-30-14
Date