

Reportable Event Management Operational Protocol

The following protocol sets forth expectations regarding Reportable Event Management (REM) System processes for people receiving services in CHOICES, Employment and Community First (ECF) CHOICES, Katie Beckett, the 1915(c) waiver programs, and Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID).

I. Background and Objectives

The REM System is one important component of an overall approach for ensuring health, safety, individual freedom, and quality of life for people receiving home and community-based services (HCBS) and ICF/IID services. REM is a partnership between TennCare, the Department of Disability and Aging (DDA), Managed Care Organizations (MCOs), the Fiscal Employer Agent (FEA), and providers of HCBS and/or ICF/IID services and each has an important role in ensuring the system's effectiveness.

The REM Protocol aligns with TennCare's Dignity of Choice Protocol. Dignity of choice is the principle that individuals receiving HCBS have a fundamental right to autonomy and to make well-informed choices that will allow them to grow and learn, including choices to engage in activities that involve potential risks. The Dignity of Choice Protocol outlines philosophies and practices for using comprehensive assessments and the person-centered planning process to identify foreseeable risks and develop mitigation plans, without placing unnecessary restrictions on the person supported. Incorporating dignity of choice into REM requires informing family members and/or natural supports about the importance of assisting individuals to make informed decisions, defining tolerable risks, developing risk mitigation plans, and reporting an event that compromises the person's health, safety, individual freedom, and/or quality of life.

Providers and staff persons who provide HCBS and/or ICF/IID services are responsible for ensuring the individuals they serve are receiving supports in accordance with their person-centered support plan (PCSP), including implementation of identified risk mitigation strategies; however, TennCare and DDA recognize that they should not be held responsible if, despite appropriate provision of supports and implementation risk mitigation strategies, an adverse event occurs.

The purpose of the REM Operational Protocol is to:

1. Differentiate between Reportable Events that must be submitted to DDA and Non-Reportable Events that providers must address internally through their own quality assurance and event management processes;
2. Specify timeframes for reporting and investigating Reportable Events;
3. Outline the responsibilities of provider agencies, direct support staff, Care/Support Coordinators and Case Managers, the FEA, and other relevant entities in reporting and investigating Reportable Events;
4. Specify requirements for providing notification to the person receiving services (and/or their caregiver or legal representative), provider, and other relevant entities regarding the outcome of the investigation or review;
5. Define the processes for requesting a file review of a completed Class 1 substantiation, who may request a review, and timelines applicable to the review process; and

6. Ensure a collaborative process between providers, MCOs, and DDA to identify and define trends in the nature, frequency, and circumstances of all Reportable Events, that can be used to implement systemic improvements aimed at preventing or reducing similar occurrences.

II. Reportable Events and Investigation Requirements

In HCBS and ICF/IID, there are three (3) categories of Reportable Events: Tier 1, Tier 2, and Additional Reportable Events and Interventions.¹ The type of Reportable Event dictates the reporting requirements and process that must be followed by the provider, MCO, FEA, and DDA. DDA is responsible for triaging all events and allegations reported via the Abuse Hotline and/or Reportable Event Form (REF) within two (2) business days (unless pending results of medical assessment, laboratory test, expert opinion, etc.) to determine the need for an investigation. The reporting provider agency's Event Management Coordinator (as required by Section VI of this protocol), or their designee, is responsible for timely submission of all requested documentation and information related to the event and persons involved to ensure the disposition is reached within the required timeframe. Once a disposition is reached, the DDA On-Call Investigator will notify the responsible provider via email.

A. Tier 1 Reportable Events

A Tier 1 Reportable Event is an allegation of wrongful conduct involving acts or omissions of abuse, neglect, exploitation, or misappropriation of money or property, that resulted in one or more of the following consequences to the person supported: death, serious injury, or physical harm; physical or sexual abuse; significant pain, intimidation or mental anguish that required medical intervention, loss of funds or property greater than \$1,000 in value, or missing controlled prescription medication with a replacement value greater than \$1,000.

Note: *Deaths that occurred while the person supported was receiving hospice or palliative care or that occurred outside the provision of services with no allegations of abuse/neglect against a paid caregiver do not need to be reported to the hotline and are appropriately reported via REF. Allegations against non-paid caregivers (i.e., family member, spouse, significant other) are not reportable to DDA as DDA has no jurisdiction. These allegations are to be reported to Adult Protective Services and/or law enforcement.*

1. Reporting Requirements for Tier 1 Reportable Events

- Initial reporting of Tier 1 Reportable Events must be completed by calling the DDA Abuse Hotline (1-888-633-1313) as soon as possible, but no later than four (4) hours after the occurrence, or discovery, of the event. The event shall also be reported to Adult Protective Services (APS), Child Protective Services (CPS), and/or law enforcement, as required by law.
- If a Tier 1 Reportable Event, or any other event that poses an immediate threat to the health and/or safety of a person, occurs while DDA, MCO, FEA, or provider staff are on-site with the person, such staff shall be required to remain with the person until the threat is removed and/or the person receives needed medical treatment.

After reporting a Tier 1 event to the DDA Abuse Hotline, a corresponding REF must be submitted via the Preadmission Evaluations and Referrals and Long-Term Services and

¹ Information about actions taken related to Additional Reportable Events and Interventions can be found in Section IV of this protocol.

Supports (PERLSS) by the provider's Event Management Coordinator, or their designee, within one (1) business day. For reporters with PERLSS access, REFs should be submitted using the [Reporting Link for PERLSS users](#). For reporters without PERLSS access, REFs should be submitted using the [PERLSS Link for External Reporters](#). Providers shall send a copy of the REF to the Independent Support Coordinator (ISC) or DDA Case Manager, as applicable. Providers and MCOs shall not move forward with their own review of an event once it has been reported as a Tier 1 Reportable Event.

2. Triage Requirements for Tier 1 Reportable Events

- DDA Investigators are available 24/7 via the DDA Investigations Abuse Hotline. The DDA On-Call Investigator shall obtain details of the allegation from the reporter and record the information in the REM data management system. The On-Call Investigator shall seek additional information by speaking with the person and/or their legal representative (if applicable), the provider, and/or other individuals, as appropriate, via telephone. These conversations should occur without the presence of provider staff who may have been involved in or witnessed the event (unless otherwise requested by the person) to determine if the allegation requires investigation.
- The MCO shall provide DDA with the PCSP of the person involved in the alleged event. MCOs shall maintain an internal system capable of providing the PCSP within two (2) hours of the On-Call Investigator's request. When reporting unexplained or unexpected deaths, providers must inform the On-Call Investigator and MCO of the person's Do-Not-Resuscitate (DNR) Order (if applicable) and safety plan.
- If an event determined to be Tier 1 occurred recently and there is the potential for loss of evidence, the On-Call Investigator or DDA Investigations Coordinator shall immediately dispatch a DDA Response Investigator to the scene to initiate triage, coordinate with and assist any authorities present (e.g., law enforcement, medical examiner, etc.), interview witnesses and document the scene, and proceed with the collection of evidence (if appropriate).
- The Response Investigator shall also be dispatched if it is determined during the telephonic triage process that a face-to-face interview is needed with the person served to determine Dignity of Choice and/or mitigating risks. The Response Investigator shall obtain a statement from the person and any accessible witnesses, as well as collect any available evidence.
- If a report of an unexpected or unexplained death warrants an in-person response from the Response Investigator, the provider shall secure the home or scene of the event and ensure that staff remain on-site to be interviewed. The scene of any event requiring an in-person response shall not be altered or cleaned, and no items should be removed or thrown away (e.g., the food or meal being eaten when a choking event occurred).
- If additional information is discovered by the event reporter, provider, MCO, or DDA after the initial report, it shall be reported to the DDA Abuse Hotline for review and addition to, or revision of, the allegation, if appropriate. The reporting entity shall also submit a Reportable Event Form to DDA via PERLSS with the additional information within one (1) business day of discovery. For reporters with PERLSS access, REFs should be submitted using the [Reporting Link for PERLSS users](#). For reporters without PERLSS access, REFs should be submitted using

the [PERLSS Link for External Reporters](#). Providers shall send a copy of the REF to the Independent Support Coordinator (ISC) or DDA Case Manager, as applicable.

3. Investigative Process for Tier 1 Reportable Events

- For events determined through the triage process to be Tier 1, DDA shall notify the respective MCO(s) and provider(s) of the intent to investigate within two (2) business days via an Initial Notification email. DDA shall complete a thorough investigation within thirty (30) calendar days of the anchor date, unless a request for extension is approved by the DDA Director of Investigation, or their designee.²
- Providers shall send all investigation-related information to DDA as soon as possible, but no later than one (1) business day, upon request. The MCO is responsible for ensuring providers cooperate with the investigation by sending requested information to DDA within one (1) business day.
- The provider shall instruct all staff that the facts and circumstances being investigated are not to be discussed with anyone except the DDA Investigator, law enforcement officers, and/or other state investigative entities (APS, CPS, Disability Rights TN, etc.), as applicable.
- If the investigation is not completed within thirty (30) calendar days due to circumstances outside the control of the DDA Investigator, an extension request may be submitted to the DDA Director of Investigations, or their designee.³ Extensions may be granted for up to an additional thirty (30) to ninety (90) calendar days. DDA will notify the provider, MCO, and ISC provider (if applicable) and DDA Investigations Follow-Up personnel of each approved extension.
- When an investigation will exceed the thirty (30) calendar day extension due to pending criminal proceedings, the finalization of an autopsy report, law enforcement requests to remain open, or other similar circumstances, the DDA Investigator shall complete all field work and compile the investigative report with all available evidence. The DDA Investigator shall provide investigation status updates every thirty (30) to ninety (90) calendar days, as specified by the DDA Director of Investigations, or their designee. DDA will continue to notify the provider, MCO, ISC provider (if applicable), and DDA Investigations Follow-Up personnel of any subsequent extensions and the projected date of investigation closure.
- Upon completion of an investigation, DDA shall provide a copy of the Final Investigative Report to the appropriate MCO, DDA Regional Office, and provider. The report shall include a statement indicating whether the allegation(s) is substantiated or unsubstantiated. A summary of the report will be provided to ISCs, as applicable.
- In the case of a substantiation for abuse, neglect, or exploitation, the report's conclusion shall state if the evidence was clear and convincing (Class 1 substantiation) or based on a

² The anchor date is the date the event is assigned for investigation, except for investigations involving ICF/IID providers. The anchor date for State and Private ICF/IID investigations is the date the event occurred, or the date of discovery if the event date is unknown.

³ Circumstances outside the control of the DDA Investigator include scenarios such as an ongoing law enforcement investigation of the event or difficulty obtaining hospital documentation. Investigation extensions shall not be granted for staff convenience.

preponderance of the evidence (Class 2 Substantiation).⁴ For Class 1 substantiations, the DDA Investigator shall send the substantiated staff person a letter notifying them of the substantiation(s) and an Election Form that initiates the due process system administered through DDA's Division of Administrative Appeals. The due process system is further detailed in subpart F.2. of this section.

4. Administrative Leave and No Direct Contact Policies During Tier 1 Investigations

- Except when an exception is granted by DDA (as specified below), providers are required to immediately remove any employee or volunteer named in a Tier 1 Reportable Event as an alleged perpetrator of sexual abuse or physical abuse resulting in medical treatment from providing direct supports to any persons until DDA's investigation is completed. The named employee or volunteer may be placed on administrative leave or assigned to work in another position in which they do not have direct contact with persons supported, or supervisory responsibility for staff providing direct supports.
- The provider agency—not the named employee or volunteer—may request an exception to this requirement if the following requirements are met:
 - a. The provider furnishes documented consent from the alleged victim, or their legal representative (if applicable);
 - b. There are no identified risks to any persons supported with whom the employee or volunteer might have unsupervised contact;
 - c. The assigned DDA Investigator has interviewed the alleged victim and eyewitnesses to confirm that there are no identified risks to the person supported or others; and
 - d. Safety measures are implemented, such as increased supervision and unannounced visits to the place of service by provider management. The provider is expected to ensure that adequate steps are taken for the protection and safety of all persons during the investigation process.
- Exception requests are reviewed expeditiously, and approval determinations are made by the DDA Director of Investigations, or their designee.
- If a Tier 1 Event names both a provider/provider management agency and an individual employee or volunteer, and only the allegation against the provider agency is substantiated, the individual is permitted to resume work without restriction while the provider pursues review by the Investigation Review Committee and/or due process.

B. Tier 2 Reportable Events

A Tier 2 Reportable Event is the alleged wrongful conduct involving acts or omissions of abuse, neglect, exploitation, or misappropriation of money or property, that resulted in one or more of the following consequences to the person supported: intimidation or mental anguish; probable risk of serious harm; loss of funds or property between \$250 and \$1,000 in value or controlled prescription medications with a replacement value of less than \$1,000; or, through supervision neglect, harm to a citizen in the community or engagement in criminal acts resulting in arrest and confinement. The

⁴ Additional information about substantiation classes can be found in subpart E of this section.

person did not require medical treatment or intervention and is not at continued risk of serious harm. Allegations that are determined through the DDA triage process to be consistent with the definition of a Tier 2 Reportable Event—with the exception of physical abuse allegations and suspicious injuries—will be referred to the provider agency for investigation, unless the provider is excluded for reasons outlined in Section III of this protocol. All physical abuse and suspicious injury investigations will be conducted by a DDA Investigator, regardless of the reportable event tier. Tier 2 Reportable Events and all allegations of abuse, neglect, and/or exploitation shall also be reported to APS, CPS, and/or law enforcement, as required by law.

1. Reporting Requirements for Tier 2 Reportable Events

- The provider Event Management Coordinator, or their designee, shall submit a REF to DDA via PERLSS within one (1) business day after the occurrence, or discovery of occurrence, of a potential Tier 2 Reportable Event. For reporters with PERLSS access, REFs should be submitted using the [Reporting Link for PERLSS users](#). For reporters without PERLSS access, REFs should be submitted using: [PERLSS Link for External Reporters](#). Providers are required to send a copy of the REF to the Independent Support Coordinator (ISC), or DDA Case Manager, for persons enrolled in a 1915(c) waiver.
- For events reported as potential Tier 2 events, the DDA Investigations Specialist shall review the REF to ensure that is the appropriate classification. If additional information is needed to ensure the appropriate classification, the DDA REM triage process (outlined in Section A.2 above) shall be utilized. DDA shall provide any evidence collected during the triage process to the Provider Investigator if a Tier 2 investigation is assigned.
- MCOs shall provide DDA with additional information, as requested, during the triage process to ensure the event is appropriately classified. In the event a Reportable Event is reclassified, DDA will share the updated REF with the provider.
- DDA will collect and analyze data on the frequency of REFs incorrectly submitted by providers as Tier 2 Reportable Events.⁵ This information will be used to inform REM protocol and training updates, as well as conduct provider-specific training and technical assistance, as needed.

2. Investigative Process for Tier 2 Reportable Events

- A DDA Investigations Specialist will verify that the provider is eligible to conduct Tier 2 investigations and has a DDA-certified Provider Investigator.⁶ If the provider meets these requirements, the Investigations Specialist shall notify the provider via email of the allegation and assignment of the investigation.
- The provider shall provide the Investigations Specialist with the name of the Provider Investigator to be assigned. After verifying the identified investigator's certification status, the Investigations Specialist shall provide them with the investigative report template, as well as

⁵ This includes Tier 2 REFs that were reclassified as Tier 1 or Non-Reportable Events and REFs documenting an occurrence that is not consistent with the definition of Tier 1, Tier 2, or Non-Reportable Events (e.g., staff misconduct).

⁶ Additional information about provider investigator requirements and eligibility to conduct investigations can be found in Section III of this protocol.

any information that may have been collected during DDA's triage process. The date the Provider Investigator receives the investigative report template is the anchor date for the investigation timeline.⁷

- The provider may request an exception to the requirement to conduct a specific investigation, in accordance with the circumstances and process outlined in Section III.B. of this protocol.
- The Provider Investigator shall complete and submit the investigative report and supporting documentation to DDA within twenty-five (25) calendar days of the anchor date. For events involving individuals receiving services in an ICF/IID, the Provider Investigator shall submit the investigative report and supporting documentation to DDA within five (5) business days of the anchor date. Provider Investigators may reach out to DDA's Investigation Specialists during normal business hours for assistance with the investigative process.
- The investigative report shall include a statement indicating whether the allegation is substantiated or unsubstantiated based on a preponderance of evidence. The Provider Investigator shall consider whether the event was the result of either a systemic issue or the actions of an individual. Additionally, the Provider Investigator shall consider dignity of choice and actions taken to mitigate risks.
- A DDA Investigations Specialist will review the submitted investigative report to determine if: 1) any potential evidence (such as a witness statement or documentation) was excluded; 2) the analysis supports the definitions for abuse, neglect, and/or exploitation and; 3) the allegations are supported by a preponderance of evidence.
- The Investigations Specialist shall communicate any advice or assistance to the Provider Investigator within three (3) business days of receipt of the report. The Provider Investigator shall make any revisions to the report deemed appropriate and resubmit the final report to the Investigations Specialist.
- If it is anticipated the investigation will not be completed within twenty-five (25) calendar days due to circumstances outside the Provider Investigator's control, such as law enforcement involvement or difficulties obtaining documentation, they may request an extension for up to thirty (30) additional calendar days. Requests should be submitted via the Extension Request Form, which is located under the Resources heading on [DDA's Reportable Event Management](#) webpage. Extension requests shall be submitted to the DDA Director of Investigations, or their designee, no less than two (2) business days before the investigative report due date. Extensions shall not be granted for staff convenience. DDA will notify the provider, MCO, ISC provider (if applicable), and DDA Investigations Follow-Up personnel when an extension is approved and provide the new investigative report due date.
- When a Tier 2 investigation will exceed the thirty (30) calendar day extension due to pending criminal proceedings, law enforcement requests to remain open, and other similar circumstances, the Provider Investigator shall complete all the field work and compile the investigative report with all available evidence. However, the report and findings will not be released until approval is received from the lead investigative entity. The Provider Investigator shall submit investigation status updates, including the circumstances causing the delay, to

⁷ For ICFs, the anchor date is the date of the event, or the date of discovery if the event date is unknown.

the DDA Director of Investigations, or their designee, every thirty calendar (30) days via the Extension Request Form. DDA will continue to notify the provider, MCO, ISC (if applicable), and DDA Investigations Follow-Up personnel of any subsequent extensions and the projected date of investigation closure. The Director of Investigations, or their designee shall provide TennCare with a monthly report listing all Investigations that exceed their initial closure dates.

- If the Provider Investigator discovers evidence during the course of the investigation that would result in the allegation rising from a Tier 2 to a Tier 1, the Provider Investigator shall immediately stop the investigative process and notify the DDA Investigations Specialist or the DDA Abuse Hotline (if the discovery is made outside of normal business hours). The provider shall then return the investigation, including all evidence collected, to DDA within one (1) business day.

3. Administrative Leave and No Direct Contact Policies During Tier 2 Investigations

- Providers have discretion in determining whether to remove an employee or volunteer from providing direct support until the investigation is complete if they are named as an alleged perpetrator in any Tier 2 allegation. The intent as written is to address Tier 2 allegations of physical abuse; however, the provider may defer to internal policies with regard to administrative leave for any Tier 2 investigation. Determinations shall consider the preference of the person supported and/or their legal representative (if applicable) and be made in accordance with the provider's internal policies.
- If the allegation is substantiated as a Class 2, the employee or volunteer may be terminated or removed until the completion of any action plan (e.g., training) deemed appropriate by the provider. In lieu of removing an employee or volunteer named in a Tier 2 Reportable Event from providing direct supports, the provider may opt to utilize a modified assignment or increased supervision. The provider is expected to ensure that adequate steps are taken for the protection and safety of all persons during the investigation process.

C. Events Reported by a Person Supported and/or Other Non-Provider Person

If DDA, an MCO, or a provider receives information about the occurrence of a Reportable Event from (1) a person supported; (2) the person's caregiver, family member, friend, and/or legal representative; or (3) a friend/other citizen, the entity receiving the information shall follow the reporting procedures for Tier 1 or Tier 2 Reportable Events outlined above, as applicable.

D. Fiscal Employer Agent (FEA) Responsibilities Related to Reportable Events

- All Reportable Events witnessed or discovered during the provision of HCBS services involving a FEA employee or consumer directed (CD) worker must be reported to DDA via the appropriate PERLSS link ([Reporting Link for PERLSS users](#) or [PERLSS Link for External Reporters](#)), in accordance with the Tier 1 and Tier 2 reporting requirements outlined above. A copy of the submitted REF shall be sent to the Employer of Record within two (2) business days.⁸ DDA Investigators are responsible for conducting all Tier 1 and Tier 2 investigations involving the FEA and/or CD workers.

⁸ A copy of the REF will not be sent to the Employer of Record if that individual is named as the alleged perpetrator.

- If the Employer of Record of a person participating in Consumer Direction is named as an alleged perpetrator in a Tier 1 or Tier 2 Reportable Event against the person supported, the Employer of Record shall be immediately removed from this role their pending the outcome of the investigation and the coordinator shall assist the person in identifying a new Employer of Record. If another individual cannot be identified to serve as the Employer of Record—on either an interim or permanent basis—within five (5) business days, and the person is unable to serve as their own Employer of Record, the person’s participation in Consumer Direction shall be suspended and they shall be transitioned to contracted providers.
 - a. If the allegations against the Employer of Record are determined to be unsubstantiated, the Employer of Record may be reinstated in their role, if determined appropriate by the person supported.
 - b. If the allegations against the Employer of Record are substantiated, they are prohibited from resuming their role. If the person supported was unable to identify a replacement Employer of Record at the onset of the investigation and was suspended from participation in CD, the FEA, DDA, and/or the MCO shall work with the person to identify a replacement within ten (10) business days of completion of the investigation. If a new Employer of Record cannot be identified, the person supported shall be disenrolled from Consumer Direction and enrolled in services with a contract provider.

E. Final Investigative Report and Classification

1. Final Investigative Report Elements

The Final Investigative Report for Tier 1 and Tier 2 events shall include the following elements:

- a. The investigative question(s) related to the event;
- b. Details of the investigation, including witnesses interviewed and documents and other evidence collected;
- c. An analysis of the evidence and explanation of how the conclusion was reached;
- d. A conclusion statement indicating whether the allegation(s) are substantiated and—if substantiated—the standard of proof that applies (i.e., clear and convincing evidence or a preponderance of evidence); and
- e. Identification of any applicable policies, rules, guidance, or other systemic or policy issues that may have contributed to the Reportable Event.

2. Substantiation Classifications

- A Class 1 Substantiation is assigned to an event in which the Final Investigative Report documents clear and convincing evidence that the identified staff engaged in wrongful conduct affecting the person that constituted abuse, neglect, exploitation, or misappropriation of money or property, and resulted in one or more of the following consequences to the person: death, serious injury, or physical harm; physical or sexual abuse; significant pain, intimidation or mental anguish; probable risk of serious harm; loss of funds or property greater than \$1,000 in value or prescription controlled medications with a replacement value of greater than \$1000; or, through supervision neglect harming a citizen in the community or engaging in criminal acts resulting in arrest and confinement.

- a. Wrongful conduct in this category is serious enough to call into question whether the offender should be entrusted with the care of a vulnerable person.
 - b. Only Tier 1 and Tier 2 investigations conducted by a DDA Investigator can be substantiated as Class 1.
 - c. Class 1 substantiations will be addressed by the provider and will proceed to due process.
- A Class 2 Substantiation is assigned to an event in which the Final Investigative Report documents a preponderance of evidence that the identified staff engaged in wrongful conduct affecting the person constituted abuse, neglect, exploitation, or misappropriation of money or property, but resulted in minimal or no physical harm or injury, pain, or mental anguish; minimal risk of serious harm; loss of funds or property of up to \$1,000 in value; loss of prescription controlled medication with a replacement value less than \$1,000; or violation of plans of care with minimal or no adverse consequences.⁹
 - a. Wrongful conduct in this category may be reasonably addressed through disciplinary action and/or additional training.
 - b. Any Tier 1 or Tier 2 investigation can be substantiated as Class 2.
 - c. Class 2 substantiations will be addressed by the provider and will not proceed to due process, as staff substantiated at Class 2 will not be placed on the Substantiated Investigation Records Inquiry (SIRI) or the Abuse Registry (AR).

F. Post-Investigation Processes

1. Investigation Review Committee (IRC)

- Any waiver program provider, person supported, legal representative, case manager/support coordinator, MCO, or DDA or TennCare representative may request IRC review of an investigation within fifteen (15) calendar days of the date on which the Final Investigative Report is issued. Requests must:
 - a. Be based on new or additional information or evidence not considered during the investigative process;
 - b. Raise matters that bring into question the integrity of an investigation; and/or
 - c. Provide basis for disputing the investigative conclusion.
- All IRC requests must be submitted in writing using the [Request for Investigation Review](#) available on DDA's Reportable Event Management Webpage. The completed form should describe the reason for the requestor's disagreement with the investigation outcome, as well as new evidence or additional information supporting the disagreement, if applicable. The IRC will not review any investigations for which submitted requests are incomplete or not submitted within the required timeframe.
- The request for review, the additional information or evidence provided, and the investigative report are reviewed by the DDA Director of Investigations, or their designee, within two (2) business days of receipt to determine if there was a critical omission in the investigative process. If an omission is identified, the investigation may be reopened for the inclusion of

⁹ A substantiated event that meets the definition for a Class 2 Substantiation may be classified as a Class 1 Substantiation if the event resulted in a criminal prosecution and/or conviction.

the omitted evidence and its potential impact on the conclusion.

- If the investigation is not reopened, the request will be reviewed by the DDA Director of Event Management within the previously stated two (2) business days. If the Director of Event Management approves the request, it is forwarded to the IRC for review. If the Director of Event Management denies the request, a summary of the decision will be sent to the DDA's General Counsel for final review and disposition. The requestor is notified of DDA's decision regarding IRC review within thirty (30) calendar days of receipt of the request.
- If the requested file review is approved, the IRC will be provided with the investigation file, as well as the submitted Request for Investigation Review Form and any new evidence or additional information, if applicable. Upon completion of its review, the IRC may (1) uphold the investigative conclusion, (2) modify the investigative conclusion, or (3) overturn the investigative conclusion. The IRC's written decision will be provided to the requestor.
- The Final Investigative Report will be amended for all overturned or modified IRC decisions.

2. Due Process for Class 1 Substantiations

- All staff determined to be perpetrators of Class 1 substantiated allegations are eligible to pursue due process through DDA's Division of Administrative Appeals, as the classification may impact their ability to continue providing care to vulnerable persons. DDA's bifurcated due process system allows the substantiated staff person an opportunity for both a file review and a trial.
- Within ten (10) calendar days after an investigation is closed with a Class 1 Substantiation, the DDA Investigator or Administrative Secretary will send a letter to the substantiated staff person informing them of their right to request an Administrative Appeals file review and an Election Form to indicate their choice to pursue the review.
- If an Election Form requesting a file review is not received within fifteen (15) calendar days, or if the individual returns the Election Form indicating they waive the right to a file review, the Division of Administrative Appeals shall conduct an informal preliminary trial and placement review to determine whether the substantiation should be upheld or modified and whether the individual should be referred for placement on the SIRI and/or AR.
 - a. If the Class 1 substantiation(s) is overturned, or reduced to a Class 2 substantiation, the due process procedures are concluded, and the Division of Administrative Appeals shall send a letter to the substantiated staff notifying them of the actions taken.
 - b. If any Class 1 substantiation on the Final Investigative Report is upheld, or revised in a way that still qualifies for due process, the Division of Administrative Appeals will send a letter to the substantiated staff person informing them of their right to a trial prior to placement on the SIRI and/or AR, and an Election Form to indicate their choice to pursue a trial. The staff person has sixty (60) calendar days from the date of the notification letter to request a hearing.
- Upon timely receipt of an Election Form requesting a file review, the Division of Administrative Appeals will submit to the DDA Director of Investigations, or their designee, a copy of the Election Form and any supplemental information remitted by the substantiated staff person. Within three (3) business days, the Director of Investigations will notify the Division of

Administrative Appeals whether the investigation will be reopened.

- a. If the investigation is not reopened, the Division of Administrative Appeals will conduct a file review of the investigation and render a decision letter within thirty (30) calendar days of the initial receipt of the Election Form, unless extended pursuant to Division of Administrative Appeals rules.
 - b. If the investigation is reopened, the Division of Administrative Appeals will provide written notification via USPS to the substantiated staff person, including an anticipated closure date for the follow-up investigation. If the Class 1 substantiation is upheld, the Director of Investigations will notify the Division of Administrative Appeals, which will then have thirty (30) calendar days from the date of notification to complete a file review.
- If the file review results in the original Class 1 substantiation being upheld, or a modified finding that includes a Class 1, the Division of Administrative Appeals shall send a letter to the substantiated staff person notifying them of the decision and their right to request a trial to contest the substantiation(s) and/or placement on the SIRI and/or AR. If the Class 1 substantiation is overturned, or reduced to a Class 2 substantiation, then the due process procedures are concluded, and the Division of Administrative Appeals shall send a letter to the substantiated staff person notifying them of the actions taken.
 - If an Election Form pertaining to a hearing is not received or the right to a hearing is waived, the substantiated staff will be referred for placement on the SIRI and/or AR without further right to appeal. The Division of Administrative Appeals shall notify the DDA Director of Investigations and the substantiated staff person's provider agency of this outcome.
 - a. The Division of Administrative Appeals shall prepare a referral memorandum to have the substantiated staff person's name added to the Abuse Registry and submit it to the TN Department of Health.
 - b. Addition of the substantiated staff person to SIRI will be completed via email notification to the DDA SIRI Coordinator.
 - Upon timely receipt of an Election Form requesting a hearing, the Division of Administrative Appeals shall file a Notice of Charges and commence with litigation. Hearings are conducted pursuant to statute and the rules of the Division of Administrative Appeals and the TN Secretary of State's Administrative Procedures Division. The Division of Administrative Appeals shall notify the Director of Investigations and the provider agency of the hearing's outcome and complete the required steps—as outlined above—to have the substantiated staff person placed on the SIRI and/or AR, if the substantiation(s) is upheld.

3. Investigation Follow-Up and Action Plans

- The DDA Investigations Follow-Up Unit and the MCOs are responsible for reviewing investigative reports submitted by DDA Investigators and Provider Investigators, and determining any follow-up review or actions required by the provider.
- The provider shall submit an action plan to the DDA Investigations Follow-Up unit and the applicable MCO for all Class 1 and Class 2 substantiations, using the [Action Plan Template](#) in

PERLSS.¹⁰, within ten (10) business days. The Action Plan shall address each of the following elements:

- a. Procedures implemented to mitigate future risks to the person and steps take to prevent similar occurrences in the future;
 - b. Actions taken to remediate each of the findings (e.g., disciplinary action, training, reassignment, etc.), including verification that the substantiated staff person(s) received written notification of the investigation outcome;
 - c. Actions taken to address late reporting of the event to DDA (if applicable); and
 - d. Actions taken and/or policies reviewed in response to Informational Findings.
- During this time, the provider will discuss the outcome of the investigation with the person(s) supported and their legal representative and/or primary contact, if applicable.
 - DDA and the applicable MCO will have five (5) calendar days following receipt of the Action Plan to determine if it sufficiently addresses all concerns identified in the Final Investigative Report. If DDA and/or the MCO determine additional information is needed, the provider will have ten (10) calendar days to provide the requested information.
 - The provider must fully implement the Action Plan prior to issuance of the closure letter by DDA, which occurs forty-five (45) calendar days following the date of the Final Investigative Report.
 - Unsubstantiated allegations do not require completion of an Action Plan; however, providers must address any Informational Findings detailed in the Final Investigative Report. DDA may request written documentation of actions taken to address Informational Findings, including late reporting of the event.

III. Provider Investigator Requirements

A. DDA-Certified Provider Investigator

- All provider agencies—unless exempt by provider type or otherwise excluded as described in Section III.C. below—shall ensure that Tier 2 investigations are conducted by a DDA-certified Provider Investigator. A list of [Services Requiring a Provider Investigator and Exempt Providers](#) is available on DDA’s Reportable Event Management webpage.
- In order to be certified, Provider Investigators must complete the [Provider Investigator Training Requirements](#) outlined on DDA’s Reportable Event Management webpage.
- Providers may have multiple DDA-certified Provider Investigators or may contract with a DDA-certified Provider Investigator from another provider agency.

B. Provider Request for Exception to Investigate

- The provider may submit a request not to investigate an allegation using the Exception Request Form, which can be found under Resources heading on the [DDA Reportable Event Management](#)

¹⁰ A template version of the Action Plan is available on DDA’s Reportable Event Management webpage as a resource for the information required; however, this version shall not be accepted if submitted by the provider.

webpage. The provider shall submit the Exception Request Form to the DDA Director of Investigations, or their designee, within two (2) business days of the investigation anchor date that details a reason for the request that relates to one or more of the following:

1. Conflict of interest associated with the investigation;
 2. The complexity of the investigation impedes the provider's ability to investigate; or
 3. The staff named as the alleged perpetrator has three (3) prior substantiations with the agency within a twenty-four (24) rolling month period.
- The Director of Investigations, or their designee, shall notify the DDA Investigations Specialist for the provider's region when an exception is approved. The Investigations Specialist shall reassign the investigation to a DDA Investigator.

C. Providers Not Permitted to Conduct Investigations

- Providers are not permitted to conduct Tier 2 investigations if they:
 - a. Received an overall score lower than "Fair" on the DDA Quality Assurance (QA) annual survey;
 - b. Have a member of the executive staff (Program Director, or equivalent, and above) named as an alleged perpetrator in the reported event;
 - c. Have been in operation for less than a year or have not completed their first DDA QA consultative survey;
 - d. Do not have a DDA-certified Provider Investigator;
 - e. If an ECF CHOICES or CHOICES provider with negative results on a DDA wellness review performed in the last twelve (12) months, resulting in significant findings related to health and safety. The provider would be eligible to conduct their own investigations after their next DDA QA survey that scores fair or above; and/or
 - f. Are an ECF CHOICES or CHOICES provider placed on a moratorium by DDA or an MCO. The provider would be eligible to conduct their own investigations after the moratorium was lifted and they scored fair or above on the following DDA QA survey.
- The DDA Investigations Specialist monitors providers' status based on information provided by the DDA QA unit, DDA Regional Office moratorium notices and wellness reviews, and notification by MCOs.
- In addition to the circumstances outlined above, TennCare and DDA have the authority to assume responsibility for conducting any investigation, at any time, for any reason.

IV. Additional Reportable Events and Interventions

- Providers shall report any event classified under Additional Reportable Events and Interventions to the DDA Event Management Unit using the appropriate PERLSS link ([Reporting Link for PERLSS users](#) or [PERLSS Link for External Reporters](#)) within one (1) business day of occurrence or discovery. Additional Reportable Events and Interventions—which include behavioral, psychiatric, medical, and other events, as well as implementation of specified health and safety interventions, involving the person supported—are defined in the [Reportable Event Management Definitions](#) available on DDA's Reportable Event Management webpage. Providers are required to send a copy of

the REF to the Independent Support Coordinator (ISC), or DDA Case Manager, as applicable to the person supported, for persons supported by a 1915(c)-state funded waiver.

- Providers shall be responsible for performing data collection and analysis for all reportable events and interventions.

V. Non-Reportable Events

- Non-reportable events are events that do not meet the definitions of Tier 1, Tier 2, or Additional Reportable Events and Interventions, and therefore not reportable to DDA or the MCO. An example of a non-reportable event would include staff misconduct that did not result in harm or injury to a person receiving services.
- Providers are expected to document and address these events, as well as conduct trend analysis, to prevent future occurrences and identify opportunities for process improvement. Oversight for provider handling of non-reportable events will be monitored by DDA during annual quality assurance surveys and/or recredentialing, as applicable.

VI. Reportable Event Data Review, Collection, & Analysis

- DDA will maintain a statewide system for data collection and analysis for all Tier 1, Tier 2, and Additional Reportable Events and Interventions for the purposes of identifying opportunities to prevent or reduce similar occurrences on a systemic level.
- DDA will provide TennCare with comprehensive reports for all programs pursuant to the TennCare-DDA Interagency Agreement, as applicable.
- DDA and each MCO shall provide TennCare with a quarterly trend analysis from reportable event data, including a description of how the information was used to identify and implement program and/or process improvements aimed at preventing or reducing similar occurrences.
- Each contracted provider shall have an Event Management Coordinator and develop a Provider Reportable Event Review Team (PRERT).¹¹ The PRERT shall meet at least monthly to review and evaluate the provider's occurrences and trends for Reportable Events (including Additional Reportable Events and Interventions), investigations, and Non-Reportable Events to inform internal prevention and process improvement strategies. Membership and representation on the PRERT are specific to each provider's Event Management policy. PRERT meetings shall be documented and reflect discussion related to events and investigations (if applicable), including causes, actions taken, and recommendations made by the review team.

VII. References

- Contractor Risk Agreement (CRA) Reportable Event Reporting and Management
- TennCare Select Contract Reportable Event Reporting and Management
- TennCare- DDA Interagency Agreement
- DDA-MCO Program Operations Agreement

¹¹ [Provider Reportable Event Response Team \(PRERT\) Guidance](#), available on the Reportable Event Management page of the DDA website, outlines which provider types are required to have a PRERT.

- Reportable Event Management Protocol Definitions Document
- Provider Reportable Event Review Team (PRERT) Guidance Document
- Tenn. Code Ann. References for Reporting Abuse, Neglect, and/or Exploitation
 - a. Tenn. Code Ann. § 71-6-103. Includes reporting requirements for abuse, neglect, and/or exploitation to Adult Protective Services and law enforcement for adults receiving HCBS or ICF/IID services.
 - b. Tenn. Code Ann. §§ 37-1-403 and 605. Includes reporting requirements for abuse, including sexual abuse, and neglect to Department of Children’s Services and law enforcement for children receiving HCBS or ICF/IID services.
 - c. Tenn. Code Ann. References for Abuse, Neglect, and Exploitation definitions Tenn. Code Ann § 52-2-402 (2024)