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Access to Completed Investigations Revised: June 30, 2021

Section: Human Rights and Legal Responsibilities Approved:/s/Jordan A. Scheff

Policy Statement

The Department of Developmental Services (DDS) has the statutory obligation to maintain and preserve the health and safety of individuals with intellectual disability or other developmental disabilities and therefore does not tolerate abuse or neglect of any person who has intellectual disability in Connecticut or any person who receives services from the Department of Social Services’ Division of Autism Spectrum Disorder Services. As an agency that offers supports and services through federal Medicaid Waivers, DDS is also responsible for assuring an effective system for assuring the health and welfare of waiver participants. This procedure demonstrates that the department identifies, addresses and seeks to prevent instances of abuse, neglect, exploitation and unexplained death.

The department is committed to the use of prevention best practices intended to minimize potential incidents of abuse or neglect.  The department’s Division of Investigations, DDS Abuse Investigation Division Central Intake, Legal and Government Affairs Division, Internal Audit Unit, and Quality and Systems Improvement Division work together with regional staff and DDS qualified providers to identify any potential for abuse or neglect of a person, promptly report any incidents of suspected abuse or neglect, review and investigate reported allegations of abuse or neglect, and examine the outcomes of investigations to develop best practices to mitigate and to the extent possible, eliminate any further incidents of abuse and neglect.

1. Purpose

This procedure establishes the department’s process for accessing a completed abuse and neglect investigation, its findings and any recommendations, or any information stemming from an investigation into allegations of abuse and neglect as reported by or on behalf of a person who has intellectual disability or a person who receives services from the Department of Social Services’ Division of Autism Spectrum Disorder Services.

1. Applicability

This procedure applies to any person who has intellectual disability, or any person who is receiving services from the Department of Social Services’ Division of Autism Spectrum Disorder Services as per subsection (a) of section 17a-210 of the Connecticut General Statutes.

The procedure applies to all department employees, all employees of DDS qualified providers, all employees of DDS contractors, all DDS Community Companion Home licensees and any professional listed in section 46a-11b of the Connecticut General Statutes and any employee of the Department of Social Services’ Division of Autism Spectrum Disorder Services. Any employee of DDS, a DDS qualified provider, or a DDS contractor, any CCH licensee or any professional listed in section 46a-11b CGS or any employee of the DSS Division of Autism Spectrum Disorder Services, who reports, in good faith, incidents of suspected abuse or neglect shall not be subjected to any penalty or reprisal by administrators or supervisors for making that report.

1. Definitions

Abuse and Neglect Definitions and Examples (also see Attachment A DDS Abuse and Neglect – Definitions and Examples)

1. Implementation
2. The DDS Legal Director, or the Director’s designee, shall notify the Regional or Training School Director if a case that involves alleged or substantiated abuse or neglect is subject to pending litigation. Pending litigation concerning an investigation of alleged or substantiated abuse or neglect; the investigation report; or the report’s findings and any recommendations may impact the ability of the department to share any information concerning the allegations, the investigation, its findings and any recommendations with a requesting party.
3. The individual, who is the victim of the alleged or substantiated abuse or neglect, and the individual’s legal representative, if any, are authorized to review the redacted findings and recommendations pertaining to a completed abuse and neglect investigation pursuant to section 46a-11c(a) of the Connecticut General Statutes*.*
4. If the individual or the individual’s legal representative requests to review information concerning an investigation completed by a DDS DOI or DDS-certified investigatory agency, the request shall be processed as follows:
5. The individual’s case manager shall request that the individual or the individual’s legal representative submit the request in writing to the Regional or Training School Director and shall document the request in the individual’s master record. If a person other than the individual’s case manager receives a request for information from the individual or the individual’s legal representative, that person shall forward the request to the case manager. In a case where there is no assigned case manager, the Regional or Training School Director, or the Director’s designee, may be contacted directly.
   1. The Regional or Training School Director shall designate staff to be responsible for reviewing and redacting the investigation’s findings and recommendations. Such designated staff shall be trained by the DDS Legal Director, or the Legal Director’s designee.
   2. The Regional or Training School Director, or the Director’s designee, may consult with staff of the Legal and Government Affairs Division, the DDS Abuse Investigation Division Supervisor or the Director of Investigations, as needed, regarding whether the release of some, or all, of the investigation information requested by the individual or the individual’s legal representative is appropriate.
   3. A request for investigation information by an individual’s legal representative shall be denied by the Regional or Training School Director in a case where the legal representative is the perpetrator of the alleged or substantiated abuse or neglect or is a person residing with the perpetrator. The Regional or Training School Director may otherwise deny the individual’s or the individual’s legal representative’s request for investigation information based upon the determination of the Regional or Training School Director that the release of some, or all, of the investigation information requested would be inappropriate. (Refer to **I.F.PR.004** Abuse and Neglect/Investigations: Recommendations, Protective Services and Prevention Activities for the implementation of protective services.)

* 1. If the individual’s or the individual’s legal representative’s request for investigation information is denied, the Regional or Training School Director, or the Director’s designee, shall notify the individual or the legal representative of the decision and the reason for the denial. The Regional or Training School Director, or the Director’s designee, may disclose to the legal representative who is the perpetrator of the alleged or substantiated abuse or neglect or is a person residing with the perpetrator whether the investigation has been closed.
  2. The Regional or Training School Director, or the Director’s designee, shall forward the notice of the decision to deny the investigation information request to the regional Abuse and Neglect Liaison, who shall add the notice to the abuse and neglect investigation file.

1. When a determination is made to release the findings and recommendations of an investigation of alleged or substantiated abuse or neglect, the regional Abuse and Neglect Liaison shall forward the documents to the designated regional staff for review and redaction. The regional liaison shall specify whether the reporter is anonymous.
   1. The designated regional staff shall review the investigation’s findings and recommendations.
   2. The designated regional staff shall complete all necessary redactions to maintain the anonymity of the reporter, as applicable, and any other information requiring redaction.

1. Once review and redaction is completed, the designated regional staff shall forward the redacted findings and recommendations to the Regional or Training School Director, or the Director’s designee, for release to the individual or the individual’s legal representative.

1. A copy of the investigation’s redacted findings and recommendations and all correspondence related to the individual’s or the individual’s legal representative’s request shall be forwarded to the regional Abuse and Neglect Liaison by the Regional or Training School Director, or the Director’s designee. Such documents shall be filed by the regional liaison in the abuse and neglect investigation file.
2. If the individual or the individual’s legal representative requests to review information concerning an investigation completed by DDS AID, the person requesting the investigation information shall be referred to the DDS AID Supervisor, and the request shall be processed as follows:
3. The DDS AID Supervisor shall designate staff responsible to review and redact the investigation’s findings and recommendations. Such designated staff shall be trained by the DDS Legal Director, or the Legal Director’s designee.
4. The DDS AID Supervisor may consult with staff of the Legal and Government Affairs Division, the Regional or Training School Director, or the Director of Investigations, as needed, regarding whether the release of some, or all, of the investigation information requested by the individual or the individual’s legal representative is appropriate.
5. A request for investigation information by the individual’s legal representative shall be denied by the DDS AID Supervisor in a case where the legal representative is the perpetrator of the alleged or substantiated abuse or neglect or is a person residing with the perpetrator. The DDS AID Supervisor may otherwise deny the individual’s or the individual’s legal representative’s request for investigation information based upon the determination of DDS AID Supervisor that the release of some, or all, of the investigation information requested would be inappropriate. (Refer to **I.F.PR.004** Abuse and Neglect/Investigations: Recommendations, Protective Services and Prevention Activities for the implementation of protective services.)
6. If the individual’s or the individual’s legal representative’s request for investigation information is denied, the DDS AID Supervisor, or the Supervisor’s designee, shall notify the individual or the legal representative of the decision and the reason for the denial. The DDS AID Supervisor, or the Supervisor’s designee, may disclose to the legal representative who is the perpetrator of the alleged or substantiated abuse or neglect or is a person residing with the perpetrator whether the investigation has been closed.
7. The DDS AID Supervisor, or the Supervisor’s designee, shall forward the notice of the decision to deny the investigation information request to the regional Abuse and Neglect Liaison, who shall add the notice to the abuse or neglect investigation file.
8. When a determination is made to release the findings and recommendations of an investigation of alleged or substantiated abuse or neglect, the designated DDS AID staff shall review and redact the investigation’s findings and recommendations and shall complete all necessary redactions to maintain the anonymity of the reporter, as applicable, and any other information requiring redaction.
9. Once review and redaction is completed, the designated DDS AID staff shall forward the redacted findings and recommendations to the DDS AID Supervisor, or the Supervisor’s designee, for release to the individual or the individual’s legal representative.
10. A copy of the investigation’s redacted findings and recommendations and all correspondence related to the individual’s or the individual’s legal representative’s request shall be forwarded to the regional Abuse and Neglect Liaison by the DDS AID Supervisor, or the Supervisor’s designee. Such documents shall be filed by the regional liaison in the abuse and neglect investigation file.
11. If the individual or the individual’s legal representative requests to review information concerning an investigation completed by the Department of Children and Families (DCF), the Department of Public Health (DPH), or the Department of Social Services (DSS), the person requesting the investigation information shall be referred to the state agency that conducted the investigation.
12. The individual’s case manager or another DDS employee involved in the investigation, if the case manager or the DDS employee has not been implicated in the investigation, may make a written request to view information in person, pertaining to a completed investigation of alleged or substantiated abuse or neglect to the regional Abuse and Neglect Liaison. The written request shall include the reason the request to view the information is being made.
13. The regional liaison may consult with the Regional or Training School Director, or the Director’s designee, as needed, regarding whether the viewing in person of the investigation report, or some, or all, of the investigation information requested by the individual’s case manager or other DDS employee is appropriate.
14. Any such request for investigation information by the individual’s case manager or other DDS employee and any access granted or denied to the information shall be recorded by the regional liaison in the abuse and neglect investigation file.
15. Any investigation information provided to the individual’s case manager or a DDS employee involved in the investigation shall not be shared with any other party.
16. If Disability Rights Connecticut (DRCT), the nonprofit entity designated to serve as the Connecticut protection and advocacy system as per section 46a-10b of the Connecticut General Statutes, requests to review or receive a copy of a completed investigation of alleged or substantiated abuse or neglect, the request shall be processed as follows:

1. DRCT shall send a written request to review or receive a copy of a completed investigation to the DDS Director of Investigations, or the Director’s designee. The written request shall include DRCT’s authority to obtain the requested information. With the written request, DRCT shall include written authorization from the individual who is the victim of the alleged or substantiated abuse or neglect, or the individual’s legal representative. Such written request shall be required except as set forth in subsection (b) of this section.
2. Disability Rights Connecticut (DRCT) is not required to provide a written authorization to the DDS Director of Investigations to receive a copy of an investigation or any records related to an investigation in cases where DRCT has received a complaint concerning an individual with regard to the status of the individual’s treatment, or, as a result of monitoring or other activities; and has probable cause to believe that the individual has been abused or neglected; and:
3. The individual, due to a mental or physical condition, is unable to authorize DRCT to have access, or the individual does not have a legal representative, or the individual’s legal representative is the State; or
4. The individual has a legal representative who fails or refuses to act after being contacted by DRCT with an offer of assistance to resolve the matter.
5. The Director of Investigations shall send DRCT’s written request, if any, or notify the regional Abuse and Neglect Liaison that DRCT requires a copy of an investigation or any records related to an investigation. The regional liaison, or the liaison’s designee, shall make copies of the requested documents and send them to the Director of Investigations, who shall send them to DRCT, with a copy of the correspondence to the regional liaison.
6. The Director of Investigations shall release all requested investigations and records to DRCT within three (3) business days of the date that the request is received, except as set forth in subsection (e) of this section.
7. In cases where Disability Rights Connecticut (DRCT) has probable cause to believe that the health or safety of the individual is in serious and immediate jeopardy, or in any case of the death of a person with intellectual disability or other developmental disability, DRCT shall be provided with the requested investigation and related records within twenty-four (24) hours of the date that the request is received by the DDS Director of Investigations.
8. The DDS Director of Investigations, or the Director’s designee, shall record the date of DRCT’s request for information pertaining to an investigation and the date that the information was sent to DRCT. The Director of Investigations also shall maintain any DRCT requests for information or any correspondence concerning these requests.
9. A DDS qualified provider, state agency, or any other entity that requests information pertaining to a completed abuse or neglect investigation report or a DDS qualified provider that requests information pertaining to a death investigation report of an individual who was the victim of alleged or substantiated abuse or neglect may be granted access to such information pursuant to a subpoena, a valid court order, or approval by the Commissioner of Developmental Services. Any such request shall be processed as follows:
10. Any such request by a DDS qualified provider, state agency or other entity shall be submitted in writing to the DDS Legal Director, or the Director’s designee. The request shall include a rationale for the provider’s, agency’s or entity’s need to review the completed investigation report.
11. The DDS Legal Director, or the Director’s designee, shall consult with the Commissioner of Developmental Services, as appropriate, regarding the request. The request may be denied by the DDS Legal Director, or the Director’s designee, based upon whether the release of information pertaining to a completed investigation report requested by the DDS qualified provider, state agency or other entity is appropriate.
12. If the request for information is denied, the DDS Legal Director, or the Director’s designee shall notify the DDS qualified provider, state agency or other entity that made the request of the decision and the reason for the denial.
13. The DDS Legal Director, or the Director’s designee, shall forward the notice of the decision to deny the investigation information request to the regional Abuse and Neglect Liaison, who shall add the notice to the abuse and neglect investigation file.
14. When a determination is made to release any information pertaining to a completed investigation report of alleged or substantiated abuse or neglect, or an investigation involving the death of an individual who was the victim of alleged or substantiated abuse or neglect, the DDS Legal Director, or the Director’s designee, shall review the documents and shall complete all necessary redactions to maintain the anonymity of the reporter, as applicable, and any other information requiring redaction.
15. Once review and redaction is completed, the DDS Legal Director, or the Director’s designee, shall release the redacted investigation information to the DDS qualified provider, state agency, or other entity that requested the information.
16. A copy of the redacted investigation information and all correspondence related to the DDS qualified provider’s, state agency’s or other entity’s request shall be forwarded to the regional Abuse and Neglect Liaison by the DDS Legal Director, or the Director’s designee. Such documents shall be filed by the regional liaison in the abuse and neglect investigation file.
17. References

DDS Policies and Procedures

I.D.PR.001 Mortality Reporting Deaths of Individuals

I.D.PR.009 Incident Reporting

I.D.PR.009a Incident Reporting for Individuals who live in Own /Family Home & Receive DDS Funded Services

I.F.PR.001 Abuse and Neglect/Allegations: Reporting

I.F.PR.002 Abuse and Neglect/Allegations: Intake and Initial Notification Process

I.F.PR.003 Abuse and Neglect/Investigations: Assignment, Tracking, Review and Closure

I.F.PR.004 Abuse and Neglect/Investigations: Recommendations, Protective Services and Prevention Activities

I.F.PR.006a Abuse and Neglect/DDS Abuse and Neglect Registry

I.F.PR.007a Abuse and Neglect/Access to the DDS Abuse and Neglect Registry

Connecticut General Statutes (CGS)

Section 1-210 CGS: “Access to Public Records. Exempt Records.”

Section 4-33a CGS: “Illegal, irregular or unsafe handling of state or quasi-public agency funds”

Section 17a-101 et seq. CGS: “Abuse of Children”

Section 17a-210 et seq. CGS: “Department and Commissioner of Developmental Services”

Section 17a-238 CGS: “Rights of Persons under Supervision of Commissioner of Developmental Services”

Section 17a-247a – 247e CGS: Statutes Governing the “DDS” Abuse/Neglect Registry

Section 17b-451 CGS: “Protective Services for the Elderly”

Section 29-15a: Qualifications for Private Detective or Private Detective Agency License Appeal.

Section 46a-11a – 11h CGS: “Protection and Advocacy for Persons with Disabilities”

Section 46a-13a CGS: “Requirements for other agencies. Release of client records by other agencies”

Section 53-20 CGS: “Cruelty to Persons”

Section 53a-59a, 53a-60b, 53a-60c, 53a-61a, 53a-65 et seq. CGS: “Penal Code”

Regulations of Connecticut State Agencies

Sections 17a-247e-1 through 17a-247e-9, inclusive, “DDS” Abuse and Neglect Registry

Sections 17a-238-1 through 17a-238-13, inclusive, “Rights of Persons Under the Supervision of the Commissioner of Developmental Disabilities”

Sections 29-161-2, inclusive, “Requirements for Licensing as a Private Detective or Private Detective Agency”

Federal Registry

42 C.F.R. 442.1 through 442.119 – ICF/IID Regulations

1. Attachments

**Abuse and Neglect Procedures Attachments A through L** (Link to all Attachments)

**Attachment A** Department of Developmental Services (DDS) Abuse and Neglect – Definitions and Examples (Link available in Section C, Definitions)

**Attachment B** DDS AID Intake/Investigation Report Form

**Attachment G** Guidelines for Case Managers When Communicating with Legal Representatives

**Attachment H** DDS Investigation Report form

**Attachment I** DDS Abuse/Neglect Investigation Review form