NORTH DAKOTA DEPARTMENT OF HUMAN SERVICES
Developmental Disabilities Division

POLICY ISSUANCE

TO: Licensed DD Service Providers
Regional DD Program Administrators
ND Protection & Advocacy Project (P&A)
ND Department of Health, Health Facilities Division
Children and Family Services, Child Protection Services
ND Association of Community Providers (NDACP)

FROM: Tina Bay, Division Director
Developmental Disabilities Division

DATE: 5/1/2022

SUBJECT: Abuse, Neglect, or Exploitation Policy (Formerly known as DDD-PI-006, DDD-PI-10-16, PI 18-04)

EFFECTIVE DATE OF POLICY:

PI-18-04 has been revised. Please discard all former versions this policy, as well as any accompanying attachments.

Effective **5/1/2022** the following Abuse, Neglect, and Exploitation (A/N/E) policy is in effect for any person receiving DD licensed services and supports authorized by the Department of Human Services, Developmental Disabilities Division (DD Division), which includes participants of Medicaid Home and Community-Based Services (HCBS) waivers for people with an intellectual or developmental disabilities and Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID) state plan services.

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Background

The 1989 State Legislature enacted North Dakota Century Code Chapter 25-01.3 regarding the definitions and reporting of abuse, neglect, or exploitation of persons with an intellectual or developmental disability or a mental illness. This statute authorized the Department of Human Services to develop rules for implementation. Administrative Code Chapters 75-04-01 and 75-04-02, 42 Code of Federal Regulations 483.420 (conditions for participation of ICFs/ID for Federal Financial Participation - Medicaid), 42 Code of Federal Regulations 441.302 (a) (Home and Community-Based Services: Waiver Requirements), and current standards of The Council on Quality and Leadership in Supports to People with Disabilities pertaining to abuse, neglect, or exploitation are incorporated into this policy issuance.

Click on the following link to view **NDCC 25-01.3-01 - Definitions of Abuse/Neglect/Exploitation:**
http://www.legis.nd.gov/cencode/t25c01-3.pdf?20150512132204

The State of North Dakota has an overriding obligation to ensure that people receiving publicly financed developmental disabilities services are treated with dignity and respect, receive services, and supports designed to meet their individual needs, and are able to live safe and secure lives in their respective communities.

The elements of an effective quality assurance and state-monitoring program consist of, at a minimum, the following:

A. Investigation of Abuse, Neglect, and Exploitation

1. A proactive risk management strategy for people receiving services and supports. A fundamental element of this strategy is the systematic identification of health and safety risks facing each person receiving community services and supports, and as part of the person-centered planning process, the development of specific safeguards, on a person-by-person basis, to minimize such risks. The resulting safeguard should balance individual safety and security against the risks inherent in being a fully participating member of the community. A workable risk management strategy also entails that service providers have the capabilities, and/or the external quality management supports necessary to safeguard the health and safety of people receiving services.

2. Administrative policies and procedures for reporting and investigating alleged incidents of abuse, neglect, and exploitation involving people receiving services**.** These policies/procedures specify the reporting/investigative time frames, as well as the steps that must be taken to protect people receiving services from possible further harm or retribution while the investigation is being conducted. Within such policies/procedures, the entity(ies) responsible for conducting investigations and following up to ensure that any necessary corrective actions are completed in a prompt and effective manner, must be identified.

3. A description of the range of corrective actions a state may order as well as the penalties and sanctions it may impose in confirmed cases of abuse, neglect, and exploitation. These actions, including penalties and sanctions, must encompass both individual perpetrators of the abuse, neglect, or exploitation as well as the agency that employs them (where negligence on the part of the agency has been established during the course of the investigation).

4. Provider agreements that obligate all agencies and individuals furnishing community DD services to report Serious Events and alleged incidents of abuse, neglect, and exploitation in accordance with policies promulgated by the state. These State policies clearly delineate the parties (including direct support professionals) who are required to report, the procedures for doing so, and the time frames such reports must be filed and required follow up actions completed.

    a. A description of the steps that will be taken to ensure that all responsible staff members of the licensed/certified provider agencies are notified, in writing, of their obligation to report Serious Events and incidents of abuse**,** neglect, and exploitation. Steps should also be taken to ensure that all such employees receive training in identifying and properly reporting Serious Events and incidents of abuse, neglect, and exploitation upon hire and at least annually thereafter, as per DD Training Policy.

    b. A description of the steps that will be taken to ensure that all Serious Events and abuse**,** neglect, and exploitation reports are promptly and effectively investigated, including the plan for assuring that responsible provider agency personnel are trained to conduct thorough investigations and summarize their findings in writing.

    c. A requirement that each person receiving services (and his/her legal guardian, where appropriate) is notified, in a medium and manner understandable to the person involved, of how to report Serious Events and alleged incidents of abuse, neglect, and exploitation.

B. Completion of periodic, in-depth reviews of the services and support furnished to persons with intellectual disabilities and related disabilities by the responsible program management agency. These reviews will include on-site observations to determine the appropriateness of the services and supports being furnished to people with disabilities and families. Reports summarizing the findings should identify any follow-up corrective actions that need to be pursued, the responsible parties and the required timelines for completing such actions.

C. All reports and findings submitted to the DD Division for serious events and all other incidents reported as abuse, neglect, and exploitation are entered into an incident management data base maintained by the DD Division.

D. The policies and procedures that will be followed in soliciting, investigating, and resolving complaints from people receiving services and others concerning the appropriateness and

quality of the services provided (including allegations of mistreatment).

The various components of the state's quality improvement system will be properly synchronized to achieve their stated objectives. It is critical that all stakeholders within the state's service delivery system fully appreciate the importance the state places on protecting vulnerable people from harm as well as their respective responsibilities for assuring that this goal is achieved. A quality assurance system will be judged on its effectiveness in keeping vulnerable people out of harm's way, assuring that the services and supports provided to people are appropriate and effective, and identifying and swiftly rectifying Serious Events and incidents of abuse, neglect, exploitation, and sub-standard care when they occur.

Abuse, neglect, and exploitation cannot co-exist with provision of quality services and support. Incidents that have the capacity to cause harm or injury to a person receiving services create an atmosphere of intolerance or hostility, or cause actual injury or death, must be reported. Reporting of Serious Events; abuse, neglect, and exploitation; and implementing changes to minimize the recurrence is an integral part of the larger function of quality assurance and quality improvement. The system should not be punished for finding deficiencies, but for failing to correct them.

II. Reporting Requirements

A. Who Must Report Suspected Abuse, Neglect, or Exploitation?

All licensed provider staff are Mandatory Reporters* and are required to report Serious Events and incidents that meet the Reporting Determination Guidelines, internally or directly to P&A, 24 hours a day, seven (7) days a week. This will ensure that prompt risk management steps are taken. Agency policy and procedure must ensure that State Law and this policy are complied with.

(*hyperlink to mandatory reporter definition: https://www.nd.gov/dhs/info/pubs/docs/aging/fact-sheet-mandatory-reporting.pdf)

B. Good Faith Reports

Any reporter/witness providing information pertaining to a good faith report (reports given accurately, describing only what the reporter/witness saw/heard, an honest portrayal of what occurred) are provided immunity from civil or criminal liability which may otherwise arise from making the report.

C. Employer Retaliation

Employers may not retaliate against employees or people with disabilities, due to the reporting of possible abuse, neglect, or exploitation. Employers who do so are guilty of a Class B Misdemeanor. Employees who believe their employer is retaliating against them for reporting should contact their States Attorney's office for investigation of the employee's allegation of retaliation.

D. Provider Responsibilities

All Serious Events or incidents meeting the Reporting Determination Guidelines must be reported. It is the provider's responsibility to:

1. Implement risk management steps (see Appendix 1); and
2. Assess; and
3. Take corrective action to minimize the probability of the incident re-occurring; and
4. Report the allegation to P&A and Child Protective Services (CPS) (if the person is under age 18), Regional DD Program Management, the DD Division, the person's guardian (if appropriate), the Chief Executive Officer or designee, and the Human Rights Committee (if appropriate).

Provider failure to report any suspected incidents of abuse, neglect, or exploitation may result in a formal investigation by the DD Division, Regional DD Program Management, and**/**or P&A. Applicable corrective action may include but is not limited to notification of Health Facilities for Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IIDs); notification of any accrediting or licensing bodies; licensure sanctions; and/or revocation of the provider's license**.** The intent is not to assign guilt for an incident but to

rectify the conditions that caused it. Failure to report is a violation of state law and will be considered a serious violation of licensure.

If the incident appears to be of criminal intent or of a criminal nature, the provider must contact law enforcement immediately and follow their directives for preserving evidence. Following contact with law enforcement, the provider should proceed with the aforementioned steps 1- 4, which include notification of the incident to the DD Division, Regional DD Program Management, P&A, Child Protective Services (if appropriate), and the guardian (if appropriate). The person receiving services and guardian must be informed of their right to file a complaint with law enforcement as well. Law enforcement will then take the lead in further investigation of the incident.

The provider must assure that immediate risk management steps are taken, but the provider will not take further action beyond notification to law enforcement, P&A, DD Program Management, the DD Division, Child Protective Services, and the guardian until law enforcement has concluded their investigation or requests the provider to assist them in their investigation. The provider and/or P&A will maintain contact with law enforcement during the police investigation process and provide updates to DD Program Management and the DD Division, as needed. Once law enforcement has concluded their investigation, P&A will then proceed with further follow-up and/or investigation and issue formal findings, if appropriate. DD Program Management, the DD Division, the provider, and P&A will determine if additional follow-up or action within the DD system is needed.

III. Serious Events – Requirements for Reporting and Follow Up Procedures

(For the definition of Serious Events, see Appendix 3)

1) Serious Events Reporting Process

A. The provider MUST assure that **immediate** risk management steps have been taken to assure the health and safety of the person(s) involved. P&A staff is available to provide technical assistance with risk management 24 hours a day.

B. A verbal report must be made to P&A within twenty-four (24) hours of the serious event occurring, or upon knowledge of the event occurring.

C. The guardian/legal decision maker and DDPM/DDPA must be notified within one (1) working day of the event, or sooner if requested in the person's plan. This must be documented in the General Event Report (GER) when contact has been made to the guardian/legal decision maker.

D. Within one (1) working day of the verbal report to P&A, a written report of the incident (General Events Report) must be **approved** at a **HIGH** level. By approving the report, it allows access to:

- P&A
- Regional DD Program Management
- DD Division

For Serious Events, the Reporting Determination Guidelines (RDG's) are not utilized to determine whether they are reportable. If an incident meets the definition for Serious Event, it must be reported to P&A. The investigation is not to be initiated by the provider. The provider is responsible to assure that immediate risk management has been addressed. P&A will screen all Serious Event reports and will provide a comment in the GER within 2 working days of the verbal report that notifies the provider if an investigation is required and who is responsible for that investigation.

E. For children under 18 years of age:

Reports of Serious Events will be made to ICPS/CPS and P&A if child abuse or neglect is suspected [see Appendix 12 for the Child Abuse and Neglect (CAN) Reference Guide]. If it meets the definitions of CAN, the reporter will call Child Protective Services as well as completing and submitting SFN 960 - Report of Suspected Child Abuse or Neglect. SFN 960 can be accessed by clicking on the following link: http://www.nd.gov/eforms/Doc/sfn00960.pdf.

- Individuals who suspect a child is being abused or neglected in North Dakota should immediately call 833-958-3500, 8 a.m. – 5 p.m. Central Time *(7 a.m. – 4 p.m. Mountain Time)* Monday - Friday, to make a report.
- If a child is in immediate danger, people should call 9-1-1.

If the provider has not contacted ICPS/CPS before talking with P&A, P&A may assist in

assessing if abuse or neglect is suspected for children based on the serious event report.

- P&A will follow-up with ICPS/CPS to determine if ICPS/CPS will be conducting an investigation. If ICPS/CPS is investigating, P&A will screen the report to identify that this will be handled by CPS. If CPS is not investigating, P&A will then screen the report and determine whether it meets the criteria according to DD policy and determine if an investigation is needed and, if so, who will conduct the investigation. P&A will screen the report within two working days and place a comment in the Review and Follow-up section of the GER noting who is responsible to conduct the investigation, if required.

2) Risk Management

Immediately following an incident or event, risk management steps must be taken. This may include, but is not limited to:

- Assuring the person's safety.
- Assuring the safety of others.
- Providing the necessary medical and emotional support.
- Notifying law enforcement if criminal in nature.

Providers will need to gather enough information to assess the situation so that appropriate risk management steps, including any necessary personnel action**,** can be taken. Providers should describe all risk management steps that were taken in the initial written incident report. **DO NOT** begin an investigation until instructed to do so.

3) Follow Up

A. Within 2 working days of receiving the written, **approved** report (GER), P&A will screen the report and will determine whether:

- ICPS/CPS will investigate; or
- P&A will conduct a primary investigation; or
- P&A will conduct a collaborative investigation with the provider; or
- P&A will direct the provider to investigate & submit a report to P&A, DDPA/DDPM and the DD Division.

B. If a primary investigation is conducted by P&A, the investigation will be completed in accordance with P&A policies (see P&A website to review the Protective Services Policy) with a Letter of Findings to follow.

The P&A advocate may ask for an extension from supervisory staff at P&A. If this has been requested, the advocate will enter a comment in the GER follow-up/comment section, if one has been generated, alerting the provider, the DDPA/DDPM and DD Division of the request and approval of an extension along with a timeline for completion. The provider must assure that risk management steps are in place until the investigation is completed.

C. If the provider is doing the primary investigation, a written report of findings and recommendations must be submitted within ten (10) working days of receiving the screening from P&A. The provider's investigation summary should be attached to the incident report (GER), sent via s-comm or secure mail, if the provider is not able to attach it to a GER. The provider should send an s-comm to the DDPM, P&A, and the DD Division to alert them that the information is completed and available for review in the web-based management system. See Appendix 4.

D. If the Provider is unable to complete their investigation within the 10 working days from the date the screening was completed, the provider must request an extension from the DD Division. In this request, the provider must state what risk management steps have been implemented, what risk management steps will remain throughout the investigation, and include the date they expect to complete the investigation. If the extension is approved, the DD Division representative will place a comment in the GER noting the approval and the date the extension is approved through. The provider will inform the DDPA/DDPM and P&A of the request and approval of the extension.

E. If any recommendations were made related to the person's plans, the provider will follow up with the DD Program Manager, the person receiving services and/or legal decision maker, and the person's team to determine if it is necessary to modify the person's current plan, supports, and services.

F. Once the Letter of Findings has been issued and recommendations finalized, the provider will send verification of consideration and/or completion to DDPA, DD Division, and P&A. This will be done by attaching documentation to the GER and/or providing comments, including dates of completion, in the GER with notification to the appropriate entities.

G. The DD Program Manager will assure and verify that all recommendations and action steps developed to minimize the chance or reoccurrence have been implemented. This will be documented in the GER and progress notes, which will be addressed and reviewed in the Quality Enhancement Review (QER) that occurs at least every 6 months.

H. The DD Division will determine if follow up is needed relative to the licensing standards.

4) <u>Death Reports</u>

When verbally reporting a death, the caller should be prepared to provide the following information to P&A during the initial call (within 24 hours):

- name and date of birth of the deceased; and
- date and estimated time of death; and
- whether the person had a legal decision-maker (e.g., guardian); and
- where the person was when death occurred; and
- whether death was expected and the cause, if known; and
- who, if anyone, was present at time of death; and

- others who have been notified (family, law enforcement, etc.).

A persons' death must also be **verbally** reported to the guardian/legal decision maker and the DDPA/DDPM within one working day. The report must be approved within one working day of the verbal report. The written, **approved** report in the web-based incident management system will be the notification to the DD Division. The **"ND P&A Request for Information Regarding Deaths"** form must be completed and attached to the GER in the incident management system within ten (10) working days.

Follow-up for death reports will occur after P&A receives the following from the provider or the Department of Health:

- ND P&A Death Notification form
- Death certificate

Once received, P&A's internal review committee will review the death report. P&A will complete the screening review and will notify the provider when this is available*. (*please note that this may take time depending on the nature of the death, waiting on death certificate, or other formal review processes that may be taking place).

If a person is not currently admitted to any DD licensed providers or is not receiving any DD authorized services, the DDPM/DDPA is responsible for notifying P&A of the death and completing the ND P&A Request for Information regarding Deaths form. This must also be submitted to the DD Division and P&A by e-mail or s-comm.

IV. Incidents Meeting the Reporting Determination Guidelines - Requirements for Reporting and Follow-Up Procedures (see Appendix 2)

Those incidents not meeting the criteria for Serious Events must then be reviewed by applying the Reporting Determination Guidelines (RDGs) to determine if the incident meets the criteria for the reporting of alleged abuse, neglect, and exploitation (A/N/E). Not all incidents will meet the reporting guidelines for A/N/E. However, if any of the criteria is met, a report must be made. Timelines for reporting the incident will begin when a mandated reporter has knowledge of, or reasonable cause to suspect that an incident of suspected A/N/E may have occurred. If the incident does not meet the reporting guidelines for A/N/E, the provider will proceed within agency policy regarding personnel action, administrative or quality assurance protocol.

When the incident meets the Reporting Determination Guidelines:

1. If the person is under 18 years of age, Institutional Child Protective Services and/or Child Protective Services (ICPS/CPS) **must** be notified as soon as possible. **Individuals who suspect a child is being abused or neglected in North Dakota should call 833-958-3500**, 8 a.m. – 5 p.m. Central Time *(7 a.m. – 4 p.m. Mountain Time)* Monday - Friday, **to make a report.** This can be done by completing the SFN 960: Child Abuse and Neglect Reporting Form at: http://www.nd.gov/eforms/Doc/sfn00960.pdf.

2. **Within 24 hours of the incident, P&A must be verbally notified**. **DO NOT begin an investigation if the child is under 18** until ICPS/CPS has determined if they will investigate or not. The provider MUST assure that risk management steps are in place until CPS has completed their review and assessment of the event.

3. The guardian/legal decision maker and DDPA/DDPM must be notified* within one (1) working day of the event, or sooner if requested in the person's plan. This must be documented in the GER when contact has been made to the guardian/legal decision maker.

   Consider **who the alleged perpetrator is. If the allegation identifies the parent or guardian or some other family member as the alleged perpetrator, Child Protective Services, and P&A should be contacted and a determination made as to whether the guardian or parent should be contacted.*

4. Within one (1) working day of the verbal report to P&A, a written report of the incident (General Events Report in Therap) must be **approved** at a **HIGH** level. By approving the report, it allows access to:
   - P&A
   - Regional DD Program Management
   - DD Division

5. Investigation Activities:
   a) If the person is under the age of 18, P&A will follow-up with ICPS/CPS to determine if ICPS/CPS will be investigating. If ICPS/CPS determines that they will investigate, the provider will assure that appropriate risk management steps have been taken. Once the investigation by ICPS/CPS is complete, the provider will complete any recommendations as it pertains to the person. If ICPS/CPS is not investigating, P&A will determine, in conjunction

with the provider, who will conduct the investigation.

b) If the incident meets an RDG and requires investigation, the provider will conduct the primary investigation into the incident. The providers' investigation summary must be attached to the GER if one was created or sent via s-comm or secure mail if not able to attach it to the GER within ten (10) working days from the verbal report. The provider must send an s-comm to P&A, the DDPM/DDPA, and the DD Division to alert them that the information is complete and available for review in the web-based management system. See Appendix 4

If the provider is unable to conduct the investigation, they must confer with P&A to assure that P&A is able to assist. The provider must provide all necessary resources for the investigation, if P&A moves forward with the investigation. The provider will enter a comment on the GER regarding this contact, along with an indication as to who will be investigating.

Reporting of Incidents Involving another Agency

It is critical that incidents involving suspected abuse, neglect, and/or exploitation are reported immediately, so that appropriate risk management steps can be taken.

If Agency "A" has knowledge of or reasonable cause to suspect that a person with a disability may be or may have been abused, neglected, and/or exploited by Agency "B":

1. Agency "A" will report the incident to Agency "B" and P&A's Centralized Intake or On Call Advocate. Agency A will generate a GER, submit and approve it, attaching any supporting documentation, i.e., including notification of who they specifically notified at Agency B, photos, documentation, etc., to Agency "B" and P&A Centralized Intake. If Agency "B" is responsible for the investigation and final report, they will send the investigation results and findings to P&A. Agency "B" will send the investigation findings, via s-comm, to the DDPA and the DD Division for their review and follow-up. If there is a need for investigative activities involving more than one agency, then P&A will conduct the primary investigation.

2. If, for any reason, Agency "A" is not able/willing to follow the above outlined procedure, Agency "A" must notify P&A Centralized Intake of the incident and explain why they are not reporting to Agency "B". P&A will then follow-up with Agency B to ensure risk management and follow-up on the report. P&A will assure that a GER will be generated by the appropriate agency. Agency B will obtain as much information as possible and will notify the guardian/legal decision maker of the possible ANE.

3. In the case of multiple agency involvement and Agency "A" does not know who the alleged agency is, Agency "A" will make a verbal report to P&A Centralized Intake. The reporting agency will generate and approve a GER with as much information as possible and level this as a HIGH so that P&A and the DDPM are notified. P&A will initiate appropriate follow-up.

If any issues arise during the course of the investigation that would affect or have the potential of

affecting the person across environments, the agency(ies) will notify the person's team members from other involved agencies so that, as a team, issues can be addressed in a timely manner in the best interest of the person. Any respective letter of findings will be sent to the agency who is the subject of the investigation. Recommendations should be reviewed by the agency and the DDPM. If these recommendations need to be reviewed across all settings the person is receiving services in, a team meeting should be held so that all agencies are implementing the plan as written.

Reporting of Incidents Involving Non-Facility People

If a provider has knowledge of, or reasonable cause to suspect a person with an intellectual or developmental disability may be or may have been abused, neglected, and/or exploited by a person other than agency staff, (e.g., family members or members of the community), the provider will implement whatever risk management steps they are capable of implementing, and notify **P&A Centralized Intake** or the **On-Call Advocate** immediately of the incident. P&A is responsible to take the lead in conducting follow-up. Provider staff may be asked to provide assistance in gathering information, interviewing the person receiving services, etc., at the request of P&A.

If the incident falls under "Emergency" or "Imminent Danger" Levels the provider will notify **P&A Central Intake**.

If the confidentiality of the reporting source could be compromised, a GER may not be generated. If a GER is not generated, P&A will notify the DDPM/DDPA and the DD Division that a report was made, and they will complete the investigation and a letter of findings will follow.

V. Determination of Quality Assurance Responses

**Applies to Serious Events that require an investigation and ANE reports.*

The provider's investigation report must indicate whether the incident occurred. The provider should **not** state in their investigation whether or not the incident is substantiated or not substantiated as abuse, neglect, or exploitation. P&A will determine the substantiation or non-substantiation of the incident in their Letter of Findings.

The provider, along with P&A central intake will assess each report and determine what the response will be. The definitions can be found in the appendix. The three responses are:

Agency Action
Corrective Action
Investigation Action

If the Chief Executive Officer of the provider is the subject of an allegation of abuse, neglect, or exploitation, or has a conflict of interest identified (i.e., the CEO is the person who allegedly abused, neglected, or exploited the person) it is the responsibility of the provider's board to fulfill the reporting and investigation/follow up requirements of this policy. The Board has the option to participate in the investigation with P&A, or they can request P&A to complete the investigation independently.

If P&A indicates that they will complete the primary investigation, P&A staff has access, by statute, to providers, facilities, and staff, the person's records and other people deemed to be relevant to an investigation. Pursuant to ND Administrative Code, "Providers are required to make reasonable accommodation to the P&A Project so as to permit them to promptly complete their investigation."

Note: The documentation submitted for the provider's internal investigation report must include the Investigative Action Level Checklist (See Appendix 4). These should be listed under Provider Responsibilities.

Notification to the Human Rights Committee

All incidents involving rights violations and/or restrictions **MUST** be reported to the Human Rights Committee (HRC). If the incident does not involve a rights violation or restriction, the provider is not required to report the incident to the HRC. The quality assurance team will be responsible to review the incident and report according to the requirements of this policy.

Providers must document whether the incident was reported to the HRC and the date of notification. This can be accomplished by noting it on the Quality Assurance Checklist, documenting it in the GER, and the internal investigation report.

The HRC may, upon request, have access to provider reports, investigations, and findings related to incidents of abuse, neglect, and exploitation. If during their reviews they have reason to believe there may be patterns of rights violations or systemic issues that need to be examined and analyzed, the committee will contact the agency who is responsible for notifying the team to mitigate the review. Provider agencies, P&A, and DD Program Management may also ask the HRC to review a report. If necessary, an emergency approval must be obtained when the committee is not scheduled to meet and

it's essential that the plan must be implemented to ensure the individuals' health and safety. Plans cannot be implemented until all three levels have been approved (Individual/ legal decision maker, the individual's team, Behavior Intervention Review Committees/BIRC and HRC).

Guardian Notification

The provider must notify the guardian regarding the provider's completion of the investigation stating whether or not it happened. Name(s) of other people receiving services and/or staff involved in the incident, and/or other confidential information, should not be included in contacts or correspondence with the guardian.

DD Program Management/DDD Responsibilities

1. The DDPM and the DD Division staff will review all serious events, suspected ANE reports, and findings completed for the individual by the provider. The DDPMs follow-up activities must be documented in the web-based incident management system that address the person's plan, health, and safety, as well as ensuring risk management steps are being taken and implemented. If the DDPM places a check mark in the box in the GER without a comment (it states: [I have approved this report]), it is assumed that the reviewer is in agreement with the action plan contained in the GER that the agency has completed.

2. The DDPM will follow up on alleged incidents of abuse, neglect, and exploitation through the quality enhancement review (QER) process, to determine if the provider's recommendations and plan to prevent recurrence was implemented as stated in the Letter of Findings issued by P&A. DDPM will review the incident and findings with the person receiving services and guardian, during the QER process to address any additional areas of concern. The DDPM's follow-up will focus on the health, safety, person's plan, and the quality of life for the person.

3. Repeat incidents or outstanding issues of a systemic nature may be identified by DDPM/DDPA, P&A or the DD Division. When these occur, collaboration between the DDPA/DDPM, DD Division, and P&A and the provider CEO or designee will address the issues as it relates to quality assurance.

4. For those incidents where **no harm was evident**, which includes the medical/medication errors (section C from the RDGs) and or from the general review section (D) from the RDGs, P&A will place a comment in the GER noting that follow-up activities will be completed by the DD Program Management.

Approval and acceptance of provider plans to resolve identified problems and implement changes to prevent future incidences, rests with the DD Division as the licensing entity in consultation with Regional DD Program Management. There may be situations when the DD regional and state staff, P&A, and/or Health Facilities will conduct a joint review relative to complaints received and/or alleged incidents of abuse, neglect, and exploitation.

Non-concurring Conclusions/Findings

If P&A has questions related to the provider's investigation, P&A may request additional information and/or conduct an additional investigation.

If the provider does not concur with P&A's Letter of Findings, the findings will be reviewed by the provider and P&A. If requested, staff from Regional DD Program Management and/or the DD Division may participate. If agreement is not reached through this process, the final determination will be made by P&A relative to the substantiation or non-substantiation of the allegation. A public inquiry procedure is available to the person receiving services, guardian, and provider, through P&A. If the letter of findings does change, P&A will issue a revised letter to the initial letter of findings. Approval and acceptance of provider plans to resolve identified problems and implement changes to prevent future incidents, rests with the DD Division as the licensing entity, in consultation with Regional DD Program Management.

VI. Quality Assurance Response

Description and Purpose

The Quality assurance response process is mandatory for all licensed DD providers. Providers must comply with state law, regulations, and policies for reporting and investigating suspected reports of abuse, neglect, and exploitation. The provider has also completed additional training with P&A, Regional DD Program Management, and the DD Division).

Should concerns arise at any point in time, the agency will receive notification that a more in-depth monitoring of an agency's compliance will be completed. Depending on the outcome of the review, the agency may be put on a conditional status. If this occurs, a formal meeting and additional training will be held to bring the provider back into compliance.

Indicators that will trigger a review of the providers status:

- Title XIX or HCBS surveys where immediate jeopardy concerns are cited; or
- Patterns of investigations or allegations where the provider fails to implement corrective actions steps; or
- Demonstrated pattern of not implementing DD Policies; or
- Issues are identified as a result of the monitoring.

If services are being expanded by the DD Provider, the provider must notify the DD Division and P&A so that additional training can be conducted to review the new services and/or locations.

If the DD Provider currently provides services state-wide or in multiple locations, then all pertinent personnel will be required to complete the training and review process.

The provider will need to assure that the staff responsible for completing the ANE investigations has received training from P&A and the DD Division within the past year in the areas of: A/N/E, conducting investigations, risk management, response planning, and the use of the RDGs. If agency staff has not participated in this training with P&A and the DD Division within the past year, the agency needs to identify who will conduct the investigations in the interim while they arrange for the staff to complete this training within the next year.

IMPLEMENTATION OF QUALITY ASSURANCE RESPONSE PROCEDURES:

Providers will complete a self-assessment of their current process to determine when they will be ready to review, conduct, and implement the quality assurance response system. Once the providers have been identified, implementation will begin using a staggered approach based on the responses received from the providers self-assessment, concurrence from P&A, the regional DDPA, and the DD Division.

Offsite file reviews will take place with each licensed DD provider to determine current compliance with objectively assessing, recording, and reporting of incidents to assure that the providers are following current policy and procedures. After this review, P&A and the DD Division will schedule an onsite file review visit to review current files to assure compliance. Training will include assuring the application of the RDGs, risk management, possible investigations training, and follow-up corrective action activities. This process will be facilitated by the DD Division and P&A.

The Historical Review Process will entail meetings by the provider, regional DD Program Management staff, DD Division, and P&A, to review a sample of the provider's past year's Incident Reports. This review will include the following process:

- Review General Event Reports; and
- Assess Risk Management; and
- Apply Reporting Determination Guidelines.

  Note: The "Historical Review Process" is a process to help ensure a common understanding, through the review of actual incidents, of risk management, and the application of the Reporting Determination Guidelines. The intent is not to find fault with a provider's reporting process or to identify a failure to report.
- The DD provider, P&A, and the DD Division will begin training on the process flow to determine which quality assurance response will apply (Agency, Corrective, or Investigative actions) to the incident reports. This will help to assure understanding and compliance with the changes to the provider responses.

APPENDIX 1
Risk Management Procedures

Immediately following an incident or event, risk management steps must be taken. This may include, but is not limited to:

- Assuring the person's safety.
- Assuring the safety of others.
- Providing the necessary medical and emotional support.
- Notifying law enforcement if criminal in nature.

Providers must gather enough information to assess the situation so that appropriate risk management, including any necessary personnel action**,** can be taken. Providers will describe what risk management steps were taken in the initial written incident report. **DO NOT** begin an investigation until instructed to do so.

Immediately assess the risk level of the alleged victim and, as necessary, develop the appropriate responsive actions.

Risk Levels:

1) Emergency - there is a current and immediate threat to the safety of the person receiving services, e.g., the alleged victim is currently being threatened; there is a medical emergency;
2) Imminent danger - there is reason to believe there is impending risk of harm to the alleged victim, e.g., alleged victim is receiving services/care from the alleged perpetrator; the alleged perpetrator has access to the alleged victim;
3) Non-emergency - the alleged victim is not in need of emergency services and imminent danger is not present.

Responsive Actions:

1) Emergency intervention - priority focus is on the life/safety of the alleged victim; involve necessary services to accomplish this such as law enforcement, medical/mental health, case management, person's guardian, CPS, Protection & Advocacy, etc. (Provider may remove alleged perpetrator from direct client care; access medical/emergency room services; rape/crisis intervention);

2) Imminent danger - priority focus is on the protection of the alleged victim, and other potential victims, through the involvement of services such as those mentioned above, as well as through the implementation of protections within the providers authority (e.g., removal of the alleged perpetrator from direct client care, increase staff to client ratio, increase supervision, etc.);

3) Non-emergency - priority is to focus on remedying any abuse/neglect/exploitation and to prevent any further occurrences. Once Emergency and Imminent Danger situations have been resolved, those cases may then be re-assessed under this level. Determine responsibilities and cooperative efforts between P&A and the Provider (and any other entities) in conducting the investigation.

In determining Responsive Actions, one must take into account the alleged victim's ability to consent, their right to self-determination, their right to refuse services, and their right to risk.

APPENDIX 2
Reporting Determination Guidelines

Determine which category is applicable to the incident and apply those criteria. Utilize the General Review section only when the incident under review does not fall into one of the other categories.

Category A: Bruises/Injury Review

NOTE – All bruises/injuries will be documented and reviewed by the consumer's QDDP/Team/Nursing Services to ensure that possible causes are assessed, and the safety of the consumer is assured. (Title XIX, accrediting or licensing entities)
If one of the following applies, **GO TO E**.

1) ___ Adequate safety precautions are not in place to reduce the likelihood of bruises/injuries for a consumer that has a documented history of similar bruises/injuries due to a medical condition, medications, or self-injurious tendencies.

2) ___ There is no documentation regarding how the bruise/injury occurred (i.e., restraint implemented, consumer returns from a substitute caregiver with a bruise/injury, consumer fell, etc.) and a reasonable person would suspect it is a result of possible abuse or neglect.

   To assess for possible abuse/neglect:
   - Look at type of bruise (i.e., finger/nail marks; nail scratches; teeth marks; imprint of possible weapon; bruise from a "twisting motion," etc.)
   - Look at location of bruise (i.e., face; neck; "private parts"; areas the individual could not reach; etc.)

3) ___ There is a pattern of unknown bruises/injuries for this consumer, or in this setting, and it is not being addressed by the team/facility.

4) ___ Professional Judgment indicates a need for review (i.e., repeated bruises due to restraints; unauthorized restraint implemented, etc.)

Category B: Consumer to Consumer Review

NOTE – Focus is on the **facility's** responsibility versus holding a consumer accountable. If one of the following applies, **GO TO E.**

1) ___ Incident occurred because staff failed to follow a consumer's program, facility policy, staffing levels, etc. The consumer whose program, etc., was not followed would be the focus of the incident for reporting, review, and investigation.

2) ___ This is a repeat occurrence of a similar incident within **6 months** and the team has not addressed the issue.

3) ___ This is a first occurrence of an incident, but staff could have foreseen and prevented the incident.

4) ___ Professional Judgment indicates a need for review (i.e., severity of the incident; response from consumers/staff; etc.)

Category C: Medical/Medication Error Review

NOTE – Harm and risk of harm is assessed by the consumer's physician, nurse, and/or pharmacist (preferably a medical person with knowledge of the consumer). If one of the following applies, **GO TO E.**

1) ___ A medication was not administered according to doctor's orders and the consumer was harmed or placed at risk of harm (including having to repeat medical treatment or medication).

2) ___ A medical procedure was not administered or completed according to doctor's orders and the consumer was harmed or placed at risk of harm.

3) ___ A controlled substance is missing.

4) ___ Professional Judgment indicates a need for review (i.e., procedural, or pattern of procedural, errors where there is harm or risk of harm; pattern of errors in a setting and/or by a staff, including falsification of documentation/MAR; repeated errors for a particular consumer; non-medication certified staff passing medications; error indicates possible systems issues, etc.)

Category D: General Review

NOTE – Used **ONLY** when the incident under review does not fall into one of the above categories.
If one of the following applies, **GO TO E.**

1) ___ The consumer's plan, behavior support plan (etc.) was not implemented correctly with the result of a ***negative, or potentially negative impact*** on the consumer.

2) ___ The issue related to the incident ***had been identified as a need/concern*** but has not been addressed within the consumer's programs.

3) ___ Staff ***failed to follow*** agency policies, regulations, or standards, resulting in a ***negative or potentially negative impact*** on the consumer.

4) ___ Staff ***failed to provide appropriate intervention***, resulting in a ***negative or potentially negative impact*** on the consumer.

5) ___ Professional Judgment indicates a need for review (i.e., - multiple concerns; serious nature of the report; consumer report; common sense, etc.)

Section E: Verify the Following

1) ___ The incident could have occurred as reported (must apply)

2) ___ If the consumer is under the age of 18, contact Child Protective Services

3) ___ The incident may fall within the parameters of one or more of the statutory definitions of Abuse, Neglect, and Exploitation according to NDCC 25-01.3 (must apply if the consumer is over the age of 18 years of age)

APPENDIX 3
Serious Events

Serious events (critical events per CMS) that occur and are severe in nature are to be reported immediately. The categories for serious events that DD providers are required to report in the State of North Dakota are:

- Serious injuries and medical treatment sought for physical or mental health where **treatment is beyond first aid** (not diagnostic in nature).
- Unauthorized restraints or physical interventions (chemical, mechanical, or physical), including the use of intervention or restraint on an emergency basis.
- Prohibited procedures as defined in DD Policy.
- Alleged sexual abuse or inappropriate sexual contact involving a person with a disability.
- Death.

Serious injuries and medical treatment sought for physical or mental health where **treatment is beyond first aid** (not diagnostic in nature) may include but are not limited to:

- Fractures
- Sutures, staples, or glue
- Dislocation
- Burns, including sunburn where medical treatment beyond 1st aid is required
- Heat Exhaustion or Heat Stroke
- Frostbite
- Ingestion of harmful substances
- Internal bleeding
- Puncture wounds
- Dental emergencies
- Bites that break the skin
- Cardiac arrest
- Renal failure
- CPR
- IVs

Events that are serious in nature but may not require treatment beyond 1st aid, may include but are not limited to:

- Fractures
- Concussions
- Abdominal thrusts
- Self-injurious behaviors and suicide attempts
- Heat Exhaustion or Heat Stroke
- Unplanned hospitalizations, including psychiatric hospitalizations

Exceptions – All incidents meeting the exception guidelines must be reviewed using the Reporting Determination Guidelines to determine if it is reportable.

- Treatment or hospitalization of individuals with chronic medical conditions which result in treatment that is consistent with the individual's medical plan of care. The chronic condition must be specifically identified in the risk assessment and planned for in the individual's medical care plan and the person-centered plan. It must result in treatment that is consistent with the person. (i.e., planned psychiatric hospitalization for medication adjustment, treatment consistent with plan for seizure disorders, chronic UTI, G-tube replacement, etc.)
- Receiving a prescription for minor illness alone (cold, flu, UTI etc.)
- Routine diagnostic testing such as x-rays, lab work, CT scans, etc.

When an agency provides services to people (child or adult) in the family home, the agency should report incidents that meet the definition of a serious event even if the incident occurred under the care of the family. However, there is still a responsibility as a mandated reporter to report abuse or neglect that is suspected.

Unauthorized restraints or physical interventions (chemical, mechanical, or physical), including the use of an intervention on an emergency basis.

Unauthorized restraint/physical interventions (chemical, mechanical, or physical interventions)

- "**Authorized**" means that the use of the interventions/restraint is written into the person's plan and has been approved by the Human Rights and Behavior Support Committees ***prior*** to implementation.
- The implementation or use of any intervention/restraint that is **not authorized** or is **not implemented** consistent with the person's plan needs to be reported as a serious event.

The use of interventions or restraints on an emergency basis and during medical or dental procedures

- The use of any intervention/restraint in an emergency situation is a serious event (unless it meets the definition of "authorized" as cited above).
- Interventions/restraints implemented by provider staff during a medical/dental procedure or exam, even if ordered by a physician or dentist, which is not authorized per the person's plan, needs to be reported as a serious event.

Prohibited Procedures per DD Policy (refer to the seclusion and restraint policy)

Alleged sexual abuse or inappropriate sexual contact involving a person with a disability

Any alleged sexual abuse or sexual contact involving a non-consenting person who has a disability must be reported as a serious event. This includes "sexting", snapchat videos, Facebook or use of other electronic communication modes that one may be using. If the person with the disability is not able to consent, their plans (OSP, RMAP etc.) need to identify any concerns that may have come up and how you are to assure their health and safety.

When an incident of alleged sexual abuse or inappropriate sexual contact occurs involving two individuals who receive services the serious event definitions apply to the alleged victim. Reporting Determination Guidelines (RDGs) must be applied to the alleged perpetrator.

Death

All deaths, even if expected, must be verbally reported as a serious event.

- A GER must be **completed and approved** within one working day of the verbal report (just as with any other serious event)
- Submit or attach the "P&A Request for Information regarding Deaths" form to the GER within 10 working days. It is important to provide information in as much detail as possible. The following areas are particularly important:
    - All diagnoses present at the time of death; and
    - Cause of death, if known; and
    - Indication of whether the death was expected; and
    - Advanced directives in place (including a change in code level prior to death); and
    - Knowledge of whether an autopsy was performed.
- Submit or attach a copy of the client's face sheet to the GER.
- Provide as much information as you have at the time. If additional information is gathered later, it should be entered into the GER in the review and follow-up section and provided to P&A when obtained.
- If medical records are available regarding the death or diagnosis just prior to death (i.e., if the person was hospitalized for a few days prior to the death occurring), copies of those records should be provided to P&A if the reporter has access to them. Likewise, death certificate, and/or autopsy information should be included if it has been provided to the reporter.

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*If it is not clear if an incident meets the definition of a serious event, contact P&A Centralized Intake for technical assistance.

APPENDIX 4

Investigative Action Checklist

(Serious event reports and those ANE reports meeting the RDGs)

Provider Responsibilities (enter date completed on the line):

_____An initial verbal report must be made to ICPS/CPS (if applicable) and P&A prior to submitting a written report.

_____ Within one (1) working day, guardian/legal decision maker must be notified, unless sooner as noted in the person's plan.

_____ Within one (1) working day of the verbal report to P&A, a written, approved report (GER) must be completed so that the following entities have access to review the report:

___ ND Protection and Advocacy Project
___ Regional DD Program Management
___ Developmental Disabilities Division

****IF CPS/ICPS has been contacted due to the age of the person, DO NOT start an investigation until you know if CPS/ICPS will be investigating or not!**

_____ Within ten (10) working days from the serious event screening or determination that the agency will be conducting the investigation, the agency will submit***** a copy of the completed investigation report to:

___ Protection and Advocacy (attach the individual data form as well as the guardianship papers to the GER)
___ Regional DD Program Management
___ Developmental Disabilities Division

***If you are attaching the results/investigation to the GER, you MUST notify the above parties that this is attached (via s-comm for DDPM/DDPA and DDD, or via e-mail for P&A)**

This internal report must include the following:

1. **The provider's investigation report must include a thorough summary of the following and submitted to P&A, DDPA/DDPM and DD Division**:
   a. Name of the alleged victim(s); date and time of alleged incident
   b. Summarize, in detail, the events that occurred, from beginning to end.
   c. What immediate risk management steps were taken to assure the health and safety of the person receiving services, the safety of the environment, and others?
   d. Why the incident happened, i.e., consider, could the incident have been prevented? If so, how? Was the necessary training provided to staff? Were agency policies and procedures followed? If not, why not? Was the person's plan followed?
   e. Agency's role, if any, in the incident occurring
   f. Steps taken **by the agency to assure the incident is not repeated**. **The response must indicate:**
      1. Who is responsible for implementing the plan or the recommendations; and
      2. When it will be completed; and
      3. Who is responsible for follow-up; and
      4. Once the plan is implemented, the provider must provide documentation that it was in fact completed and available to the DD Program Manager. This must be completed by placing a statement in the GER to alert them it is done.
   g. Date and document that the following parties were promptly notified of the incident AND the findings:
      1. the governing body; and
      2. the chief executive officer or designee; and

3. the chairperson of the provider's Human Rights Committee; and
4. the alleged victim's guardian (if one has been appointed and the issue is within the guardian's area of authority.); and
5. the person receiving services.

2. **The following should be attached to the investigation report and submitted to P&A:**
   a. **Signed** and dated statement from the person receiving services (alleged victim(s)). If the person cannot participate in an interview, or sign the statement, this must be documented within the report.
   b. **Signed** and dated statements from each staff person of the organization involved in the alleged incident as to what happened, when it happened, precipitating factors to the alleged incident, and the individual staff person's involvement.

3. **Supporting documents, should include, but not limited to:**
   a. Client's OSP, Behavior Plan, Risk Assessment, Psychological Evaluation, etc.
   b. Progress notes or documentation regarding the implementation of the client's plan.
   c. Medication Administration Records
   d. Relevant agency policies and procedures
   e. Training records for the staff who may have been involved in the incident.
   f. Other relevant GER's if the incident is a repeated incident.

_____If applicable, indicate if an extension (additional time to complete the report) was requested by the provider and that the request was granted.

If applicable, note the date when HRC/BSC was notified:

_____ Human Rights (note date and person talked to)
Committee member(s): _____
Committee member(s): _____

_____ Behavior Management (note date and person(s) talked to)
Committee member(s): _____
Committee member(s): _____

Document all follow-up and recommendations completed on ALL reports, substantiated or not:

_____ Recommendation # and date (note completion date and person completing the recommendation)
Person(s) Responsible: _____
(continue this process until all recommendations have been completed)

The agency MUST maintain all documentation for verification (meeting minutes, training/retraining, staff sign in sheets etc.).

Appendix 4A

AGENCY ACTION RESPONSE

Quality Assurance Response System

Date:
Consumer Name(s):
Consumer Address:

Alleged Incident:

Attach Incident Report and Consumer Face/Data Sheet

Risk Management Steps Taken:

What RDG was applied? _____
Incident could have occurred: Yes _____ No _____
Under the age of 18? Yes ____ No____
Meets an ANE definition:

- Abuse _____
- Neglect _____
- Exploitation _____

Verification of Level:

_____a. Suspected A/N/E
_____b. **AND** No Harm or Risk of Harm to Consumer is Evident
_____c. **AND** First Time Occurrence

Steps Taken to Assure Incident is Not Repeated:

Appendix 4B

CORRECTIVE ACTION RESPONSE

Quality Assurance Response System

Date:
Consumer Name(s):
Consumer Address:

Alleged Incident:

Attach Incident Report and Consumer Face/Data Sheet

Risk Management Steps Taken:

What RDG was applied? _____
Incident could have occurred: Yes _____ No _____
Under the age of 18? Yes ____ No____
Meets an ANE definition:

- Abuse _____
- Neglect _____
- Exploitation _____

Verification of Level:

_____a. Suspected A/N/E
_____b. **AND** No Harm to Consumer is Evident
_____c. **AND** Repeat Occurrence/Consumer Not at Risk of Harm
_____d. **OR** First Time Occurrence/Consumer Placed at Risk of Harm
_____e. **OR** Inadequate Response to Agency Action

Steps Taken to Assure Incident is Not Repeated:

Each response must include:

WHO is responsible for implementation; and
WHEN it will be completed; and
WHO is responsible for the follow-up.

Signature of CEO/Designee

APPENDIX 5
Definitions

The following definitions apply to this policy:

"Active Treatment" refers to aggressive, consistent implementation of a program of specialized and generic training, treatment, and health services. Active treatment does not include services to maintain generally independent clients who are able to function with little supervision or in the absence of a continuous active treatment program.

"**Agency Action Response**" This response will be used when no harm is evident, when there is not a risk of harm, and this is not a repeat occurrence. The agency and corrective action follow-up do not need to include staff statements. Document the response in the web-based incident management system.

"Alleged Perpetrator" is the person who allegedly abused, neglected, and/or exploited the person with a developmental or intellectual disability or mental illness.

"Alleged Victim" is the person(s) with a developmental or intellectual disability who allegedly was or is being abused, neglected, and/or exploited.

"At Risk of Harm" means there is a likelihood that, if the action were allowed to continue, harm would be evident.

"Behavior Support Committee" is the committee responsible to review individual programs designed to eliminate maladaptive behavior and replace them with behaviors and skills that are adaptive and socially productive. Programs that call for any restrictive procedures must be submitted to the behavior support committee for review prior to implementation to ensure that the proposed intervention is likely to produce the desired effect, and that any risks to the person receiving services are outweighed by the risks of the behavior. Once approval from the BSC is obtained, the staff must receive training on the plan prior to implementation.

"Calming Area/Separation (non-restrictive)"
A calming area or separation from an environment is the use of an area where a person may <u>voluntarily</u> go to calm, where they have the option of coming and going. This may include others who are voluntarily leaving an area to allow someone the time to calm in their present space. Staff may offer the person the opportunity to choose their own area to do this.

"Caretaker" is a person, organization, association, or facility who has assumed legal responsibility or a contractual obligation for the care of a person with a developmental disability or mental illness, or parent, spouse, sibling, other relative, or person who has voluntarily assumed responsibility for the person's care (NDCC 25-01.3-01).

"Collateral Contact" is a person who may have knowledge about the allegation and/or the person(s) receiving services involved.

"Consent" means an act of reason, accompanied by deliberation, the mind weighing as in a balance the good/bad, pros/cons, information obtained on each side. It means voluntary agreement by a person in the possession and exercise of, sufficient mental capacity to make an intelligent choice to do something proposed by another or by themselves. It supposes a physical power to act, a moral power of acting and a serious, determined, and free use of these powers. It is an act unclouded by fraud, duress, or sometimes-even mistake.

> **Information** – all the information (i.e., facts, data, options, choice available, and the pros and cons of each) the person needs to make a decision, given in a manner in which the person can comprehend.
> **Capacity** – the ability to understand the nature and consequences of a specified matter, to process the information received, to weigh out the information.
> **Voluntariness** – the ability to exercise free power of choice without force, duress, undue influence, or

external persuasion.

Many times, we feel "forced" into doing something. There can still be consent as long as we know and understand and relay back the pressure that others may be applying.

"**Corrective Action Level**" This response will be used when no harm is evident, there is identified to be a risk of harm, or this is a repeat occurrence. The agency and corrective action follow-up do not need to include staff statements. Document the response in the web-based incident management system.

"Deemed Status" means the licensed DD provider has completed all requirements and has received a letter from the DD Division that allows the provider to implement the Protective Services Level System.

"Developmental Disabilities Division" (DDD or DD Division) is the division of the North Dakota Department of Human Services that is responsible for administering monies for specified disabilities, licensure of DD providers, and overall quality assurance regarding the policies, regulations, and administrative code sections that would apply.

"Dignity of Risk" means expressing one's individuality by consenting to expose oneself to a possible or a known risk connected with an activity. To assist a person to exercise their right to risk, a provider must: 1) Assess the person for their current knowledge or skills involved with the desired activity. 2) Provide information/training needed to engage in the activity. 3) Ensure the person understands the potential risks. 4). Ensure the person is voluntarily exposing themselves to the risk.

"Emergency" is any situation that could have an immediate and severe or substantially detrimental impact upon a person's physical or mental health and safety.

"**Emergency Procedures**" are to be used only when an individual's behavior becomes severely aggressive or so destructive that the behavior places the individual or others in imminent danger of physical harm or major property destruction is likely to occur, when those reasonably could not have been anticipated. The behavior is at a point where the team member is no longer able to deal effectively/safely with the situation. The situation is one in which: 1) the individual is endangering himself and/or others and not just a situation of individual non-compliance; or 2) significant property damage is occurring or in real danger of occurring.

"Essential Services" are those social, medical, psychiatric, psychological, or legal services necessary to safeguard the individual's rights and resources, and to maintain the physical and mental wellbeing of the person.

"Evidence" is any information collected in the course of the investigation that has the potential to assist in establishing the truth or falsehood of the allegation.

Testimonial – All information which is given orally or in an equivalent manner, such as sign language, touch talker, Braille, etc.
Documentary – Information, which is gained from documents such as policy statements, correspondence, medication logs, program plans, and progress notes. Documentary evidence may exist on paper, cell phone, videotape, on computer or other such medium.
Demonstrative –Items such as pictures, diagrams, or maps, which may be created or become relevant during an investigation.
Physical/Real- any evidence that is tangible, such as a bruise, cut, injury, weapon etc.

"General Events Report (GER)" is the universal incident report form on the web-based incident management system which constitutes a written report (incident report) of a Serious Event or alleged abuse, neglect, or exploitation. At minimum, information entered into a GER must include a thorough description of the incident, risk management steps taken, decision making process that led to identification of type of report (i.e., What led the provider to determine it was a serious event, or what RDG was used to determine an incident was a reportable ANE issue). This documentation used by the provider to report and/or communicate issues which may include but

are not limited to alleged abuse, neglect, and/or exploitation; failure to implement programs; medication errors; critical events involving personal injury; unknown bruising; restraint; consumer to consumer mistreatment etc. For providers who are on the Level System, a description of the determination regarding level of response must also be included.

"General Events Report Resolution (GERR)" is a module in the web-based incident management system which is linked to the written report (GER) of a Serious Event or alleged abuse, neglect, or exploitation. The resolution is a way of documenting the investigation details, housing the documents that the provider used to complete their findings, summarizing the event, and placing recommendations in this response document.

"Guardian/Legal Decision Maker" for the purposes of this policy, "Guardian" is used to describe the decision-makers that may have the responsibility to assist with and/or make decisions on behalf of a person. The types of decision-makers are:

Parent(s) – Parents, barring any circumstances such as certain divorce decrees or termination of parental rights, have broad authority to make decisions on behalf of their minor children until the children reach the age of 18.
Legal custodian – A juvenile court may appoint a legal custodian who, along with parental input can make decisions regarding the minor's care. Or a court may determine that a parent/parents will not be able to provide adequate parenting as needed by the child and terminate the rights of the parent/parents. In such a case, the legal custodian will make all of the care decisions without input from a parent. Legal custodians are normally appointed for a period of time, which does not exceed 18 months.
Guardian of a minor – A guardian may be appointed for a minor solely because of minority. Like parents, and legal custodians, guardians of minors do not have authority to continue their decision-making once the person becomes an adult.
Guardian of an Incapacitated Person – Minors or adults who lack the full capacity to make their own decisions may have a court appoint a full or limited "guardian of an incapacitated person". A "limited guardian" is appointed to assist with and/or make decisions in one or more areas of the person's life if that person has some capacity, but not full capacity for making decisions. A "full guardian" (sometimes referred to as a "general guardian") is appointed to make decisions in most areas of a person's life when that person is considered to have no capacity for making decisions. Guardianships of incapacitated persons do not expire on the person's 18th birthday.
Conservator – North Dakota law also provides for the possibility of conservatorship as a means of protecting the estate of one who is unable to manage his or her finances. In this state, the term conservatorship only refers to assistance in the financial area. A person can have both a conservator and a guardian.

"Guidelines" are the Reporting Determination Guidelines that must be applied to an incident to assist in determining whether a particular incident is reportable as possible abuse, neglect, or exploitation. These are merely "guidelines" – each situation should also be scrutinized with "professional judgment" utilizing the totality of knowledge regarding the clientele, the staff, the facility, their mission, and the community.

"Harm" is the existence of a loss or detriment of any kind resulting from the incident:

Emotional – (i.e., that which negatively affects an individual's emotional well-being and state of mind).
Psychological – (i.e., humiliation, harassment, threats of punishment or deprivation, name calling, sexual coercion, intimidation).
Physical – (i.e., any physical motion or action such as striking, pinching, kicking, punching, pushing, etc.)
Financial – (i.e., that which affects a person's state of financial affairs).

"Harm is Evident" is a loss or detriment of any kind which is noticeable or apparent to observation:

Emotional – i.e., crying, unusual behaviors for that person, behaviors associated with a person when upset such as pacing, self-injury, etc.

Psychological – i.e., person becomes passive, withdrawn, aggressive, fearful of people, places, objects, etc.
Physical – i.e., bruise marks, injuries, individual display's defensive reaction to an imaginary threat, etc.
Financial – failing to complete required forms for assistance programs/benefits; failing to complete transactions as requested by the person/guardian; person's money not being used for their own well-being; overdrafts not reimbursed by the responsible party, etc.
Title XIX Guidelines – since many persons residing in ICFs are unable to communicate feelings of fear, humiliation, etc., the assumption must be made that any actions that would usually be viewed as psychologically or verbally abusive by a member of the general public, is also viewed as abusive by the person residing in the ICF, regardless of that person's perceived ability to comprehend the nature of the incident.

"Health Facilities" is a division of the North Dakota Department of Health responsible to complete annual Medicaid certification of Intermediate Care Facilities (ICF). The Division of Health Facilities is also responsible to investigate complaints involving the ICF and service recipients.

"Human Rights Committee" is the entity responsible for assuring that individual rights are supported and protected. Each provider agency may have its own HRC or may participate in a system wide HRC. The committee includes people served and/or their representatives and at least one-third of the committee's members are not affiliated with the agency. All instances of alleged abuse, neglect, or exploitation of people served are reported to the Chairperson of the Human Rights Committee in accordance with agency policy, state law, and provisions of this policy.

"**Institutional Child Protective Services (ICPS)"** means situations of known or suspected child abuse or neglect in a public or private school, a residential facility or setting either licensed, certified, or approved by the department, a residential facility, or a setting that receives funding from the department. Facilities excluded include correctional, medical, home and community-based residential rehabilitation, early childcare facilities (day cares), foster homes, and educational boarding care settings.

"Individualized habilitation or education plan" Any institution, facility, agency, or organization that provides services for persons with a developmental disability shall have a written, individualized habilitation plan developed and put into effect for each person for whom that institution, facility, or organization is primarily responsible for the delivery, or coordinating the delivery, or services. A school must have an individual educational plan for each of its students who are eligible for services under IDEA.

A plan under this section must:

1. Be developed and put into effect within thirty days following admission of the person.
2. Be reviewed and updated from time to time, but no less than annually.
3. Include a statement of the long-term habilitation or education goals for the person and the intermediate objectives relating to the attainment of those goals. The objectives must be stated specifically, in sequence and in behavioral or other terms that provide measurable indices of progress.
4. State objective criteria and an evaluation procedure and schedule for determining whether the objectives and goals are being achieved.
5. Describe personnel necessary for the provision of the services described in the plan.
6. Specify the date of initiation and the anticipated duration of each service to be provided.
7. State whether the person with a developmental disability appears to need a guardian and determine the protection needed by the person based on the person's actual mental and adaptive limitations and other conditions, which may warrant appointment of a guardian. Any member of the individual habilitation plan team may petition or notify any interested person of the need to petition, for a finding of incapacity and appointment of a guardian. (NDCC 25-01.2-14).

"Insufficient response" is a determination made by the Protection and Advocacy Project and/or DD Division that the provider's response to the allegation of abuse, neglect, and/or exploitation is not adequate or satisfactory. A determination of insufficient response may be made if: a) information required by the Level used is not contained

within the provider's response; b) steps to prevent recurrence are believed to not adequately address the issues contained within the allegation; c) some issues raised by the review are not addressed within the provider's response.

"Intent" is that which is designed, willful, aimed, and purposeful. The definitions of abuse, neglect, and exploitation must be reviewed carefully to determine if "intent" is a required element as it is not a required element of each definition.

"Investigation" is a systematic collection of information (facts) to describe and explain an event or series of events relative to the report. An investigation is required for all allegations of abuse, neglect, and exploitation that meet the level of Investigative Action.

"Investigative Action response" This response will be used when harm is evident, or professional judgment indicates the need to elevate the response.

"Mandatory reporter" (defined by law) Every medical, mental health, or developmental disabilities professional, educational professional, police or law enforcement officer, or caretaker having knowledge of or reasonable cause to suspect that an adult with developmental disabilities or mental illness coming before the individual providing services in that individual's official or professional capacity is abused, neglected, or exploited shall report the circumstances of that abuse, neglect, or exploitation to the project.

"Medication Errors" are defined as staff not complying with the 6 R's (rights): giving the medication to the RIGHT person, giving the RIGHT medication, RIGHT dose, RIGHT documentation, RIGHT route, or the RIGHT time.

Wrong medication (i.e., – the wrong pill container is grabbed and given)
Wrong dose (i.e., – too much or too little of a medication given)
Wrong time (medication given at a time other than that identified in doctors' orders/on the MAR – error is outside the 1-hour window for giving the med)
Wrong route (i.e., – eye drops are given in the ear)
Wrong person (i.e., – another person's medications are grabbed and given)
Wrong documentation (i.e., no documentation or no follow-up on the medication outcome)

"Negative Impact" is a fact, situation, or experience that is negative, unpleasant, or depressing applying the "reasonable person standard".

"Notification" means the requirement of the provider to notify the appropriate entities of the allegation of A/N/E within the required timelines.

"PI-10-16, PI-006, or PI 18-04" are the former names of the North Dakota Department of Human Services policy that described the responsibilities of licensed providers of DD services to report and investigate alleged incidents of abuse, neglect, or exploitation involving service recipients.

"Potentially Negative Impact" is a fact, situation, or experience that has the potential to be negative, unpleasant, or depressing applying the "reasonable person standard".

"Preponderance of Evidence" means evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; evidence which shows that the fact sought to be proved is more probable than not. Preponderance of Evidence may be determined by the greater weight of all evidence, which does not necessarily mean the greater number of witnesses, but opportunity for knowledge, information possessed, environmental factors, supporting documentation, and physical evidence.

"Professional Judgment" is a decision reached through the application of specialized knowledge. Each situation/incident is reviewed and scrutinized utilizing the totality of knowledge regarding the clientele, the facility, their mission, and the community. Professional Judgment is one of the criteria applied in the Reporting Determination Guidelines.

"Provider" is an entity licensed by the Department of Human Services under North Dakota Administrative Code (NDAC) 75-04-01 to provide services to eligible people.

"Reasonable Person Standard" Since many individuals with disabilities are unable to communicate feelings associated with actions that may be abusive or neglectful by a member of the general public, it can be determined that the actions may also be viewed as abusive or neglect. This can be done regardless of the individual's perceived ability to comprehend the nature of the incident. (i.e., it can be assumed that if a reasonable person would be harmed as a result of the incident, it can be determined that a person with a disability would react in the same manner).

"Record" means all records including those identifying specific clients, including staff notes and logs maintained by a facility; all individual records of treatment or care facilities including reports prepared by any staff of a facility rendering care or treatment; reports by an agency investigating incidents of A/N/E and injury occurring at such facility; discharge planning records; hospital, psychiatric, psychological, medical care records; school or education records; and records otherwise maintained by facilities regarding general care of clients, including facility policies and regulations, staff ratios, staff training records, and employee records (NDCC 65-5-01-02-01).

"Repeat Occurrence" is a current incident similar in nature to an incident that previously occurred within a 6-month time frame and was addressed through recommendations, instructions, reminders, etc. The reminders, recommendations, instructions, re-training, etc., are intended to ensure the incident does not occur again. Staff across programs within a provider must be informed of any recommendations, instructions, reminders, etc., which may pertain to them in their job or working with a particular person(s). If a facility fails to do so, they may be neglectful. If staff across programs are informed, then it would be a repeat occurrence no matter where (what home/program) the new incident occurred.

> Example 1: Staff in Program A was involved in an incident, and it was addressed with Program A staff only, as they are only staff to work with the involved person, and the recommendations were all person specific. An incident of the same nature occurs in Program B, with a different person and different staff. This would not be a repeat occurrence.
>
> Example 2: Staff in Program A was involved in an incident, and it was addressed with Program B staff as well, as they also work with the person. If a similar incident occurred in Program B after they were informed of the recommendations, then it would be a repeat occurrence, even though this was the first time the incident occurred with Program B.

"Report" is a verbal or written communication, including anonymous communication, alleging abuse, neglect, or exploitation of a person with a developmental disability or mental illness.

"Reportable" is an incident that has met the criteria to be reported as possible abuse, neglect, and /or exploitation per the Reporting Determination Guidelines. An incident that is reportable is more than mere suspicion, but not established fact. A reportable incident exists when facts, circumstances, and reasonably trustworthy information provides "knowledge of or reasonable cause to suspect" abuse, neglect, and/or exploitation.

"Reporter" is the person(s), known or anonymous, who communicates or provides information about the report (allegation). The reporter's name is confidential information.

"Risk Management" is the process to ensure the safety and well-being of the person(s) with disabilities when there is an allegation of abuse, neglect, or exploitation, mainly geared to ensure the person(s) is/are not at continued risk while the allegation is being reviewed/investigated.

"Risk of Harm" exists when there is a strong likelihood that if the action were allowed to continue, a person receiving services would be harmed.

"Seclusion" is defined as the involuntary confinement of an individual alone in a room or an area from which the individual is physically prevented from having contact with others or leaving.

"Serious events" are critical events or incidents that need to be reported immediately and are severe in nature. The categories for serious events that DD providers are required to report in the State of North Dakota are**:**

- Serious injuries and medical treatment sought for physical or mental health where **treatment is beyond first aid** (not diagnostic in nature).
- Unauthorized restraints or physical interventions (chemical, mechanical, or physical), including the use of interventions or restraint on an emergency basis.
- Prohibited procedures as defined in DD Policy.
- Alleged sexual abuse or inappropriate sexual contact involving a person with a disability.
- Death.

"Substantiated Report" is a report in which the resulting investigation produces a "preponderance of evidence" that abuse, neglect, or exploitation has occurred. A determination of substantiation is only made under Investigative Action.

"Technical Assistance" is assistance provided to the provider by the Developmental Disabilities Division, regional DD Program Management, and/or the regional Protection and Advocacy Project regarding questions or concerns related to abuse, neglect, and/or exploitation; the process of review/investigation; rights; or other issues.

"Therap" is a web-based data system utilized by all DD service providers in North Dakota and is the designated means by which **all** incident reports, including written reports of Serious Events and alleged abuse, neglect, or exploitation, are entered here and are able to be reviewed by P&A, the DD Division, and DD Program Administrators.

"Time Out" is a technique in which a child is allowed to move away from an activity and may sit alone for a few minutes in order to calm. If any physical intervention is used to separate the child from the activity, this is restrictive in nature. A time-out is to be used solely for ages 3-12, age-appropriate, and the time to be used during the time out is 1 minute for every year the child is (if a child is 4, the timeout amount is 4 minutes). Time out should not be used as seclusion where a child is placed in an environment and is unable to leave on his/her own accord (i.e., taken to their bedroom and the door is shut and the child is unable to open this). This technique may **only** be used as part of an **approved** plan (i.e., not to be used on an emergency basis). All Federal Health Facilities for ICF/ID rules apply.

"Unsubstantiated Report" is a report in which the resulting investigation does not produce a "preponderance of evidence" that abuse, neglect, or exploitation has occurred.

APPENDIX 6

Monitoring and Training procedures

Monitoring and training is comprised of the following four components:

- **Desk audit of incident reports**
- **Monitoring**
- **Training of agency personnel**
- **Follow-up**

Component 1 – Desk Audit:

The DD Division and P&A will monitor the GER's in a random quarter within the year previous to the date of audit. Providers will be monitored based on previous reviews and demonstration of quality assurance system within their protective services processes, and as needed, to assure health and safety of the people served. The review must not exceed three years.

The desk audit will be a review of up to 10% of GER's in the identified quarter, with a minimum of 25 GER's reviewed. If there are less than 25 GERs in the identified quarter, the review of GERs may be expanded to include all GER's within the year prior to the date of monitoring. The focus on the monitoring will be on the **low and medium incident reports** to assure that the agency is leveling them correctly, screening each incident for serious events or RDGs, and assuring that appropriate follow-up is completed.

The audit will also consist of reviewing a minimum of 20 high level GERs to determine if all appropriate action steps and responses have been completed.

Component 2 - Monitoring may include but is not limited to:

- Agency policies and procedures for incident reporting, serious events and ANE need to be available to the monitoring team for review.
- Review of master files, program books, T-logs, nurse notes, daily logs, or staff communication logs. If there are agency specific items that are not recorded in the web-based program, the monitoring may include the information that is found based on where documentation occurs and where staff are able to provide and complete follow-up.
- Through the monitoring process, the monitoring team may review GERs where there is question as to whether or not a plan was implemented correctly. Depending on the outcome of the additional information reviewed, there may be a recommendation in regard to the implementation of a plan.
- Assure that recommendations were completed and implemented after an investigation was completed.
- Onsite monitoring

Component 3 - Training

Based on information gathered throughout the monitoring process, training will be adapted to meet the needs that are occurring in the State or through findings within the monitoring process.

The Regional DDPA/DDPMs will be encouraged to attend the agency training.

Agency Participants

People who complete the review of the reports and investigations to assure the overall quality of an agency should be part of the training and monitoring process. This may include, but is not limited to, the CEO, Quality Assurance staff, QDDPs, nurses, and residential managers/supervisors.

> Please Note: If the training for an agency is for multiple regions or the whole state, then either the provider needs to schedule a polycom or have the individuals listed above attend the training.

Schedule of Training and Monitoring

Providers participate in training and monitoring as scheduled; however, this process may occur outside the regularly scheduled training if:

- There is staff turnover in the agency's QA and investigative staff. The providers must notify the P&A or DD Division representatives so training and monitoring can be provided as soon as possible.
- A DDPM/DDPA, P&A, Health Facilities, or the DD Division starts to notice patterns or trends, they will notify the DD Division to set up a monitoring session, and if needed, training, for that provider.

Completion of Training & Monitoring:

The DD Division and P&A will complete a brief synopsis of the agency's results and will review this with the providers after completion of the Monitoring and Training. These results will include data of the GERs, and records reviewed. There may be recommendations as a result of the process. The provider agency will work with DD Division and P&A to remediate any recommendations to complete the process.

Appendix 7

Reporting timelines

	Initial notification to:		Written, approved report to:	Investigation findings if DD Provider is primary investigator
	ICPS/CPS and P&A*	**DDPM/DDPA, & OTHERS AS APPLICABLE (GUARDIAN)**	**P&A, DDD, DDPA, & OTHERS AS APPLICABLE (GUARDIAN, ICPS/CPS)**	**P&A, DD Division, DDPA, & OTHERS AS APPLICABLE**
Serious Events	***ICPS/CPS–ASAP (If Child abuse/neglect suspected) Verbal report to P&A within 24 hours	1 working day	1 working day from the verbal report to P&A	10 working days **from screening completed** by P&A (If extension is needed, contact DD Division)
Deaths	***ICPS/CPS–ASAP (If Child abuse/neglect suspected) Verbal report to P&A within 24 hours	1 working day	1 working day from the verbal report to P&A. (ND P&A form attached within 10 working days)	
RDG's (ANE)	***ICPS/CPS–ASAP (If child abuse/neglect suspected) Verbal report to P&A within 24 hours	1 working day	1 working day from the verbal report to P&A	10 working days from the verbal report

*** Initial notification to P&A is verbal. Notification to the DD Division is by the approved GER in the web-based program.**

****DO NOT START AN INVESTIGATION IF ICPS/CPS IS ASSESSING AND INVESTIGATING!**

***If the individual is under 18 years of age and for serious event reports, ICPS/CPS will be notified only if child abuse or neglect is suspected.

Providers should contact P&A during normal business hours, 8a to 5p Monday-Friday, if possible. You have 24 hours to call this information in, so contacting Centralized Intake during these hours would be the best option, unless it is a weekend or holiday, then P&A emergency on-call should be utilized.

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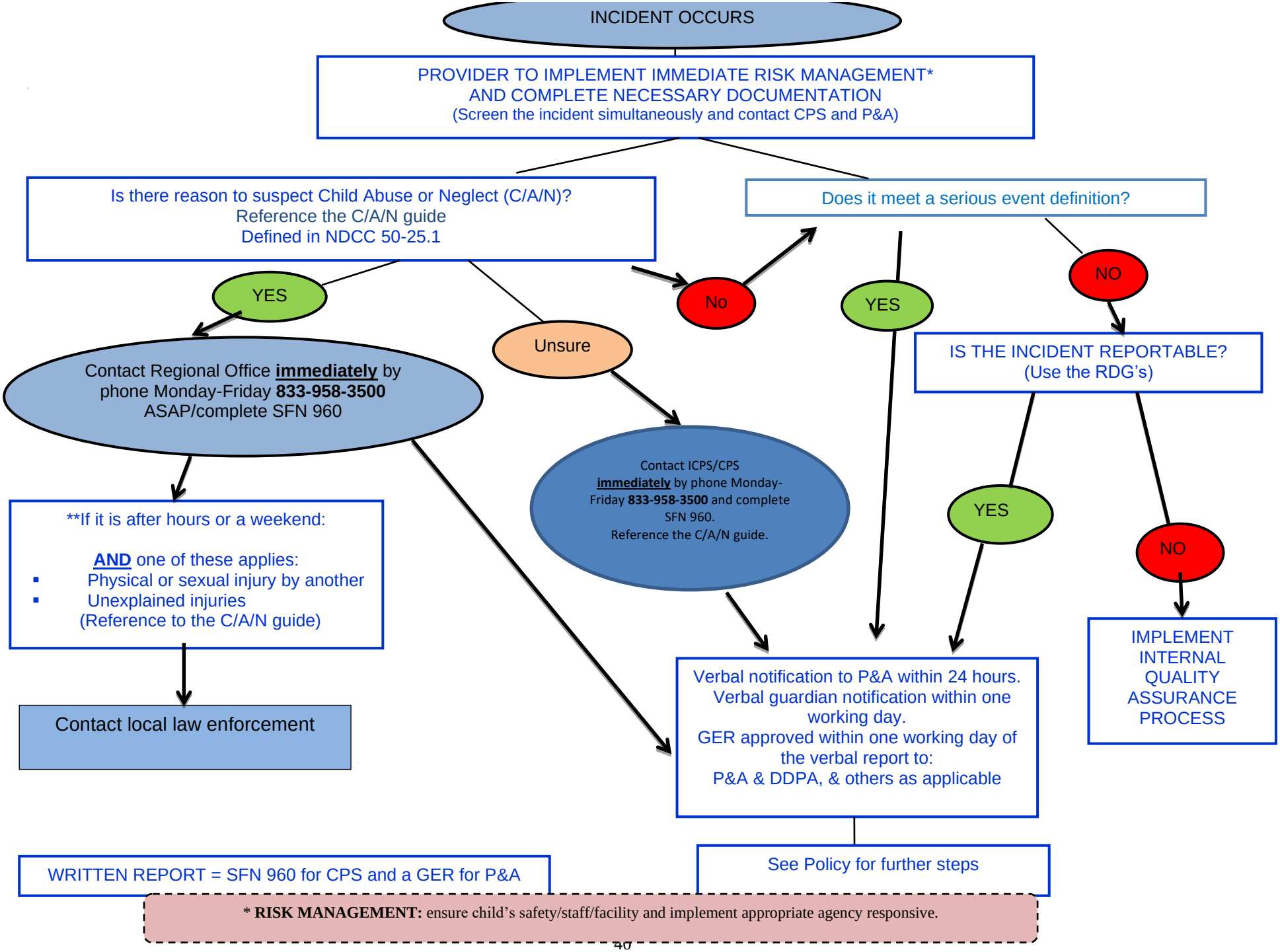
Appendix 8: DD/IID CPS FLOW CHART FOR INCIDENT REPORTS (for those under 18 years of age)



Appendix 9: Child Abuse and Neglect Reference Guide

Types of Maltreatment	Report Timelines
Physical Abuse: • Injury by another (staff or resident) • Unexplained bruises/injury (reference RDG) • Injury as a result of a restraint (regardless of plan) • Forced ingestion of a noxious substance (ex. soap, tabasco)	1.Contact Regional Office immediately Name and phone number • 833-958-3500 8a-5p M-F 2. AND submit a written 960 3. Verbally report to P&A within 24 hrs. If there is a physical injury, a sexual assault/injury, or an unexplained injury to a youth and the Regional Office is not available due it being after-hours/or weekend leave a detailed message of the suspected maltreatment and plan for immediate youth safety. Then contact local law enforcement for immediate response. Follow up with Regional Office on the next business day.
Sexual Abuse: • Youth is forced or encouraged to engage in sexual activity with another youth or staff • Staff exposing their genitals or to youth • Staff allowing a youth to touch staff genitals • Engage in inappropriate physical boundaries • Youth is encouraged or allowed to act, model, view, or in any other way participate in, or be photographed for, the production, presentation, dissemination, or advertisement of any material or performance that is obscene or involves exploitation.	
Neglect: Psychological Maltreatment: • Staff ridicules and/or degrades a child or their family • Staff criticizes, threatens, or ignores a child • Staff demonstrates favoritism for one child over another • Staff initiates inappropriate consequences or punishments such as but not limited to denying the youth a meal, denying the youth bedding, taping the youth's mouth, locking the child in their room or out of the living unit Inadequate Supervision: • Elopement • A youth is injured/assaulted by another child when they are left unattended or when there is inadequate staffing or impaired staff • Youth is placed in an isolation room and is not adequately monitored resulting in the child harming himself/herself Medical Neglect: • Medication errors resulting in physical or emotional impact on the youth • Suicide attempt or self-injurious behaviors that results in treatment beyond first aid	1.Contact Regional Office immediately Name and phone number • 833-958-3500 8a-5p M-F 2. AND submit a written 960 3. Verbally report to P&A within 24 hrs.
Death	1.Contact Emergency Medical Service (911) 2.Contact Regional Office 833-958-3500 8a-5p M-F 3.Contact P&A within 24 hrs.

Appendix 10: QUALITY ASSURANCE RESPONSES AND DUTIES OF STAKEHOLDERS

Level	Criteria	Provider	P&A	DDPA/DDPM
No A/N/E	Not reportable as determined by reviewing the RDGs	• May review with P&A • Create GER and level according to GER reference guide • Handle through other systems/processes	Provide TA to provider Document in GER	Review only
Agency Action	a) Suspected ANE b) AND no harm or risk of harm to consumer is evident c) And this is not a repeat occurrence of similar incident within 6 months (first time incident).	• Assess immediate risk mgmt. • Verbally report to P&A within 24 hours. • Notify DDPA within one working day • Complete written response in the GER. • Notify the DDPM within 5 working days • Notify guardian of findings and follow-up.	Assess initial risk management. Provide TA to provider. Review documentation, if needed.	Review documentation DDPM follow-up in GER and in the QER process Provide TA as requested DD Division-review and provide TA, prn
Corrective Action	a) Suspected ANE b) And no harm to consumer is evident (risk of harm may be present) c) And this is a repeat occurrence within 6 months d) Or this is not a repeat and consumer was placed at risk of harm. e) Or insufficient response to Agency Action (determined by DD Division or P&A)	• Assess immediate risk management • Verbally report to P&A within 24 hours. • Notify guardian, and DDPA/DDPM within one working day. • Complete the written incident report and approve this within one working day. • Complete the Corrective Action response within 5 working days which includes a time specific response plan to prevent recurrence. • Attach documentation to the GER and alert the DDPM/DDPA of the completion. • Notify guardian upon completion.	Assess initial risk management. Provide TA to the provider. Option to request investigative action.	Review GER and documentation to assure that risk management steps are in place long term Respond if needed DDPM follow-up in the QER process DD Division-review and provide TA, prn
Investigative Action	a) Suspected ANE b) And harm is evident c) Or this is a repeat occurrence of a similar incident within 6 months, and they were placed at risk of harm, d) Or insufficient response to Corrective action (determined by DD Division or P&A) e) Or Professional judgment	• Assess immediate risk management • Verbally report to P&A within 24 hours. • Notify guardian and DDPA/DDPM within one working day (or sooner if requested by guardian) • Comply with all the protocols for investigative action.	Assess initial risk management. Provide TA to provider. Follow-up in GER. Review the findings and recommendations if P&A is responsible.	Review report with completed findings and recommendations. Follow-up with consumer and guardian as appropriate. Follow-up through the QER process, depending on the incident. DD Division-review report and documentation. Follow-up after LOF received, if appropriate

Allegations that would otherwise fall under the AA or CA Levels may be upgraded to Investigative Action at the discretion of the facility CEO or designee.

Appendix 11 Flow Sheet