

OACB TRAINING CENTER » COURSE 105

# Major Unusual Incidents & Unusual Incidents

ADDRESSING MAJOR UNUSUAL INCIDENTS AND UNUSUAL  
INCIDENTS TO ENSURE HEALTH, WELFARE, AND CONTINUOUS  
QUALITY IMPROVEMENT

Ohio Association of County Boards  
Serving People with Developmental Disabilities

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## Introduction

This two-hour course is based on requirements set forth by the Ohio Department of Developmental Disabilities in Ohio Administrative Code section 5123:2-17-02 addressing major unusual incidents (MUI) and unusual incidents (UI) to ensure health, welfare, and continuous quality improvement.

The course provides information on major unusual incidents, which are incidents adversely affecting the health and safety of individuals with developmental disabilities. Some of the topics covered in this course include the definition of an MUI, types and examples of MUIs including: misappropriation, sexual & verbal abuse, missing person, medical emergency, unplanned/unscheduled hospital admission, injury, behavior support implemented in a manner prohibited by rules, rights violation, death, neglect, attempted suicide, and unusual incidents that may have

an impact on the health and safety. The course also covers MUI notification and reporting requirements as well as the basic steps of an MUI investigation. Finally this course will cover common causes of MUIs, trends and patterns associated with MUIs, requirements associated with the review of MUIs and UIs, and the prevention of abuse.

The course contains a narrative section and reading assignments. All must be completed prior to taking the quiz. Links to reading assignments are located in the body of the narrative. This competency-based training requires the student to take and pass a multiple-choice quiz at the end of the course—100% accuracy is required. The student will be allowed two attempts to take and pass the quiz. The quiz contains questions from all resources provided in the course including the course narrative and all required reading resources.

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# Major Unusual Incidents (MUIs)

The Ohio Administrative Code 5123:2-17-02 “establishes the requirements for addressing major unusual incidents and unusual incidents” in the developmental disabilities field in Ohio. This statute is commonly referred to as the MUI rule. In the MUI rule a major unusual incident is defined as “the alleged, suspected, or actual occurrence of an incident when there is reason to believe the health or safety of an person may be adversely affected or an person may be placed at a the likely risk of harm, if the person is receiving services through the Developmental Disability (DD) service delivery system or will be receiving such services as a result of the incident” (OAC 5123:2-17-02). There are 19 types of

incidents that are listed in the MUI rule that are considered major unusual incidents. All MUIs that occur in the developmental disabilities field require that fast action be taken to protect individuals with developmental disabilities from harm or further harm, that an investigation occur to determine the cause of the incident and factors that contributed to the incident, and that a prevention plan be created to reduce the likelihood of future occurrences of the incident (OAC 5123:2-17-02). The MUI Rule also establishes the protocol for addressing MUIs and UIs and implements a “continuous quality improvement process in order to prevent or reduce the risk of harm to individuals” (OAC 5123:2-17-02).

**19**  
*The number of incidents that are listed in the MUI rule that are considered major unusual incidents.*

# Categories and types of MUIs

There are three categories of major unusual incidents, and these categories correspond to three administrative investigation requirements and procedures. The first category, Category A, includes incidents that constitute an alleged crime against a person with a developmental disability. These include accidental or suspicious death, exploitation, failure to report, misappropriation, neglect, peer-to-peer acts, physical abuse, prohibited sexual relations, sexual abuse, and verbal abuse (OAC 5123:2-17-02).

## Category A

*includes incidents that constitute an alleged crime against a person with a developmental disability*

## Category A

### Accidental or suspicious death

“Accidental or suspicious death” means the death of an individual resulting from an accident or suspicious circumstances (OAC 5123:2-17-02).

### Exploitation

“Exploitation” means the unlawful or improper act of using an individual or an individual’s resources for monetary or personal benefit, profit, or gain (OAC 5123:2-17-02). Every year the Ohio Department of Developmental Disabilities (DODD) publishes a report that evaluates the occurrence of MUIs in Ohio. This report is called the MUI Abuser Registry Unit Annual Report. The DODD MUI Report reported that there were 128 allegations of exploitation reported in 2014, which represented little change from the previous year.<sup>1</sup>

### Failure to report

“Failure to report” means that a person who is required to report a UI or MUI does not do so despite having reason to “believe that an individual has suffered or faces a substantial risk of suffering any wound, injury, disability, or condition of such a nature as to reasonably indicate abuse, misappropriation, or exploitation

that results in a risk to the health and welfare or neglect of that individual” (OAC 5123:2-17-02). A person not immediately reporting such information to a law enforcement agency, county board, or, in the case of an individual living in a developmental center, either to law enforcement or DODD, results in a Failure to Report MUI (OAC 5123:2-17-02). This report is made to the Department and the county board when the incident involves an act or omission of an employee of a county board (pursuant to division (C)(1) of section 5123.61 of the Revised Code).

### Misappropriation

“Misappropriation” means “depriving, defrauding, or otherwise obtaining the real or personal property of an individual by any means prohibited by the Revised Code (including chapters 2911 and 2913)” (OAC 5123:2-17-02). According to DODD records, the majority of substantiated cases of misappropriation involve the theft of money and property from a person with a developmental disability.<sup>1</sup> Other examples of misappropriation include the theft of medications, checkbooks, food stamps, and personal information leading to identify theft. Money and property are the most commonly stolen possessions in misappropriation cases.

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### Neglect

“Neglect” means “failing to provide an individual with any treatment, care, goods, supervision, or services necessary to maintain the health or welfare of that individual” (OAC 5123:2-17-02). The person engaging in neglectful behavior must have a duty to provide care in order for a neglect MUI to have taken place. An injury need not have occurred in order for an incident to count as a neglect MUI, but it must be demonstrated that the neglectful behavior led to a reasonable risk of harm for the person receiving care. According to the 2014 DODD MUI Report, communication barriers between service providers and staffing issues were strong causal factors in neglect MUIs in 2014.<sup>i</sup>

### Peer-to-peer act

A “peer-to-peer act” may refer to one of the following incidents involving two individuals served:

- **Exploitation** means “the unlawful or improper act of using an individual or an individual’s resources for monetary or personal benefit, profit, or gain” (OAC 5123:2-17-02).
- **Theft** means “intentionally depriving another individual of real or personal property valued at twenty dollars or more, or property of significant personal value to the individual” (OAC 5123:2-17-02).
- **A physical act** refers to an act that occurs “when one individual is targeting or is firmly fixed on another individual, such that the act is not accidental or random, and that the act results in an injury that is treated by a physician,

physician assistant, or nurse practitioner” (OAC 5123:2-17-02). For example, allegations of one individual choking another or the presence of “any head or neck injuries such as a bloody nose, a bloody lip, a black eye, or other injury to the eye, shall be considered major unusual incidents. Minor injuries such as scratches or reddened areas not involving the head or neck shall be considered unusual incidents and shall require immediate action” (OAC 5123:2-17-02) with a review to uncover possible causes/ contributing factors, and prevention measures.

- **A sexual act** means “sexual conduct and/or contact for the purposes of sexual gratification without the consent of the other individual” (OAC 5123:2-17-02).
- **A verbal act** means “the use of words, gestures, or other communicative means to purposefully threaten, coerce, or intimidate the other individual when there is the opportunity and ability to carry out the threat” (OAC 5123:2-17-02).

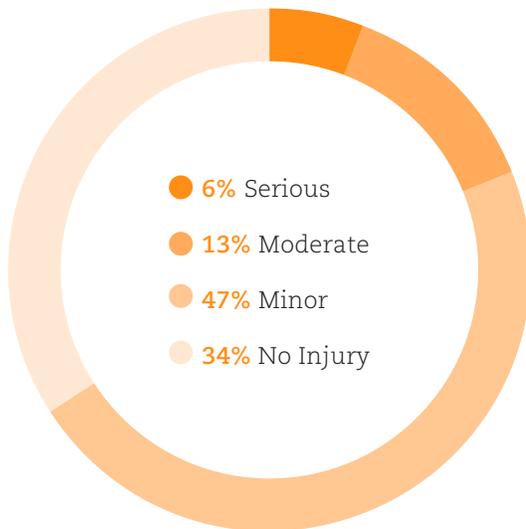
### Physical abuse

“Physical abuse” means the “use of physical force that can reasonably be expected to result in physical harm or serious physical harm” (per ORC section 2901.01). Such force may include but is not limited to “hitting, slapping, pushing, or throwing objects at an individual” (OAC 5123:2-17-02). The 2014 DODD MUI Report identified staff who are not equipped, trained, or supported to handle a situation or to properly care for a person as contributing factors for physical abuse.<sup>i</sup>

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### 2014 Physical Abuse MUIs by Level of Injury Sustained



Source: MUI Abuser Registry Unit 2014 Annual Report, A Review of Health and Welfare Systems for Ohioans with Developmental Disabilities

### Prohibited sexual relations

“Prohibited sexual relations” means “a developmental disabilities employee engaging in consensual sexual conduct or having consensual sexual contact with an individual who is not the employee’s spouse, and for whom the developmental disabilities employee was employed or under contract to provide care or supervise the provision of care at the time of the incident” (OAC 5123:2-17-02). According to DODD, contributing factors to sexual relations MUIs include a lack of professional boundaries, a lack of a clear code of conduct for agency employees, drug and alcohol use, and a lack of staff oversight. <sup>i</sup>

### Rights code violation

“Rights code violation” means “any violation of the rights enumerated in section 5123.62 of the Revised Code that creates a likely risk of harm to the health or welfare of an individual” (OAC 5123:2-17-02).

### Sexual abuse

“Sexual abuse” means “unlawful sexual conduct or sexual contact as those terms are defined in section 2907.01 of the Revised Code and the commission of any act prohibited by Chapter 2907 of the Revised Code (e.g., public indecency, importuning, and voyeurism)” (OAC 5123:2-17-02).

There are three types of sexual abuse MUI allegations, including conduct, contact, and other. “Conduct” is the most egregious and would include any type of rape, oral sex, or penetration. “Contact” is touching breasts or genitalia either over or under clothing. “Other” would include voyeurism, taking pictures of the individual, promoting prostitution, and anything else that would not fit the categories of conduct or contact.

### Verbal abuse

“Verbal abuse” means the use of words, gestures, or other communicative means to purposefully threaten, coerce, intimidate, harass, or humiliate an individual” (OAC 5123:2-17-02). According to the DODD 2014 MUI Report, more than half of the incidents of verbal abuse that year were committed by staff. In many cases, these MUIs resulted from support staff trying to control individuals with developmental disabilities or having unrealistic expectations of the people receiving services. <sup>i</sup>

## Follow-up and closure of Category A MUIs

All Category A MUIs require an administrative investigation that meets the requirements outlined in the MUI and UI rule. For specific information about the steps and requirements of this investigation, read Appendix A of the MUI Rule. Findings in administrative investigations of major unusual incidents in category A will be based upon a preponderance of evidence standard. “Preponderance of evidence” means that credible evidence indicates that it is more probable than not that the incident occurred.

There are three possible findings of a category A administrative investigation. An MUI will fall into one of the following categories: substantiated, unsubstantiated/insufficient evidence, or unsubstantiated/unfounded. “Substantiated” means there is a preponderance of evidence that the alleged incident occurred. A finding of “unsubstantiated/insufficient evidence” means there is insufficient evidence to substantiate the allegation. “Insufficient evidence” means there is not a preponderance of evidence to support the allegation or there is conflicting evidence that is inconclusive. “Unsubstantiated/unfounded” means the allegation is unfounded. “Unfounded” means the evidence supports a finding that the alleged incident did not or could not have occurred (per OAC 5123:2-17-02).

### The Abuser Registry

Procedures set forth guiding the development of an abuser registry are found in OAC 5123:2-17-03. The abuser registry is a list of employees that DODD has determined have committed one of the following acts against an individual with developmental disabilities (see below). From this point forward, the term “registry” will apply the list of abusers established under section 5123.52 of the Ohio Revised Code. The list includes DD employees who have been found to have committed abuse, neglect, misappropriation, a failure to report, or engaged in prohibited sexual relations. Placement on the abuser registry bars that person from employment in the developmental disability field in Ohio. New background check laws enacted in 2012 and made effective in January 2013 expanded the reach of the registry. More employers now have to conduct database reviews (of which the registry will must be a part) as part of their hiring and retention of employees.

Registry offenses include physical abuse, sexual abuse, verbal abuse, misappropriation, neglect, prohibited sexual relations, and failure to report. Placement on the abuser registry requires clear and convincing evidence. Seventy-nine names were added to the registry in 2014 for a total of 588 names listed at the end of calendar year 2014. The registry is available to everyone on the Internet. Anyone can subscribe to have registry updates emailed with new placement names. Each year, employees receive an annual notice describing all of the potential registry offenses (per ORC 5123:2-17-03).

### Possible findings of an administrative investigation

An MUI will fall into one of the following categories: substantiated, unsubstantiated/insufficient evidence, or unsubstantiated/unfounded

## Category B

Category B MUIs are less severe incidents than Category A MUIs and generally do not constitute a crime against a person served.

### Attempted suicide

“Attempted suicide” means a “physical attempt by an individual that results in emergency room treatment, in-patient observation, or hospital admission” (OAC 5123:2-17-02). The 2014 DODD MUI Report notes that 106 individuals attempted suicide that year, though none were successful. The report noted that people between the ages of 20 and 24 and males make up the largest number of suicide attempts. <sup>i</sup>

### Death other than accidental or suspicious death

“Death other than accidental or suspicious death” means the death of an individual by natural cause without suspicious circumstances” (OAC 5123:2-17-02).

### Medical emergency

A “medical emergency” means there is an incident where emergency medical intervention is “required to save an individual’s life (e.g., choking relief techniques such as back blows or cardiopulmonary resuscitation, epinephrine auto injector usage, or intravenous fluids for dehydration)” (OAC 5123:2-17-02). The most common medical emergencies were those

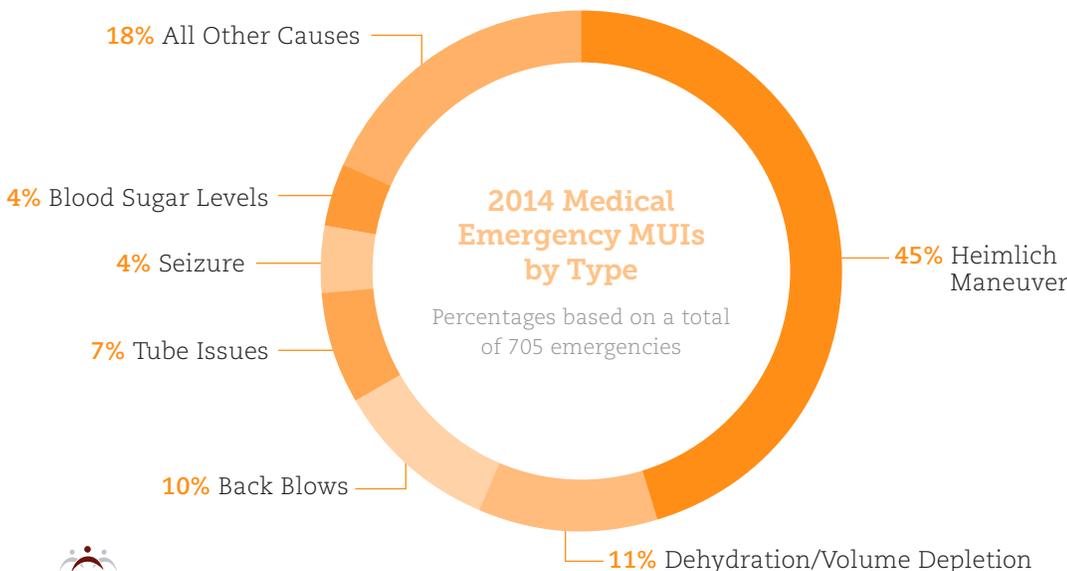
that involved choking and thus required the use of back blows or the Heimlich maneuver.

### Missing individual

A “missing individual” MUI means there is an incident that is not considered neglect wherein an “individual’s whereabouts, after immediate measures are taken to locate the person, are unknown and the individual is believed to be at or pose an imminent risk of harm to self or others.” An incident in which an individual’s whereabouts are unknown for longer than the period of time specified in his or her individual service plan that does not result in imminent risk of harm to self or others is considered an unusual incident and not an MUI, according to OAC section 5123:2-17-02.

### Significant injury

“Significant injury” means an injury of “known or unknown cause that is not considered abuse or neglect, and that results in concussion, broken bone(s), dislocation, second or third degree burns, or that requires immobilization, casting, or five or more sutures” (OAC 5123:2-17-02). When reporting significant injuries, the designation in the incident tracking system should be as either “known” or “unknown” cause. The 2014 DODD MUI report found that falls are the most common cause of significant injuries to people with developmental disabilities in Ohio. <sup>i</sup>



Source: MUI Abuser Registry Unit 2014 Annual Report A Review of Health and Welfare Systems for Ohioans with Developmental Disabilities

## Follow-up and closure for Category B MUIs

### Investigation requirements for category B MUIs

All Category B MUIs (attempted suicide, death other than accidental or suspicious death, medical emergency, missing individual, and significant injury) require an administrative investigation that meets the requirements outlined in Appendix B of the MUI Rule.

Steps for investigating major unusual incidents in Category B by a county board of DD's investigative agent are:

*Determine* that the major unusual incident is properly coded.

*Review* relevant documents which may include recent medical history, individual service plan, progress notes, nursing notes, hospital records, police report, and behavior support documentation.

*Interview witnesses* as necessary to determine the cause or resolve conflicting information.

*Interview others* with relevant information as necessary.

*Maintain a summary* of each interview conducted.

*Identify the causes* and contributing factors to the incident.

*Review past related incidents* as appropriate, including but not limited to: prior immediate health, welfare measures taken, and other preventive measures.

*Verify that preventive measures* have been implemented. (OAC 5123:2-17-02, appendix B).

# Category C

Category C MUIs are less severe incidents than Categories A and B. In this category are the following types of MUI: Law enforcement, unapproved behavior support, and unscheduled hospitalization.

## Law enforcement

“Law enforcement” means “any incident that results in the individual served being arrested, charged, or incarcerated” (OAC 5123:2-17-02). In 2014, there were 970 MUIs filed for law enforcement events with individuals served. <sup>i</sup>

## Unapproved behavior support

“Unapproved behavior support” means the use of “an aversive strategy or intervention prohibited by paragraph (J) of OAC 5123:2-2-06 or an aversive strategy implemented without approval by the human rights committee or behavior support committee, or without informed consent, that results in a likely risk to the individual’s health and welfare.” An aversive strategy or intervention that does not pose a likely risk to health and welfare should be investigated as an unusual

incident and not an MUI, according to OAC 5123:2-17-02. Ohio’s new behavior support rule, which went into effect on January 1, 2015, emphasizes that restrictive measures are only to be used to keep people safe and that efforts should be directed at creating opportunities for individuals to exercise choice in matters that affect their daily lives.

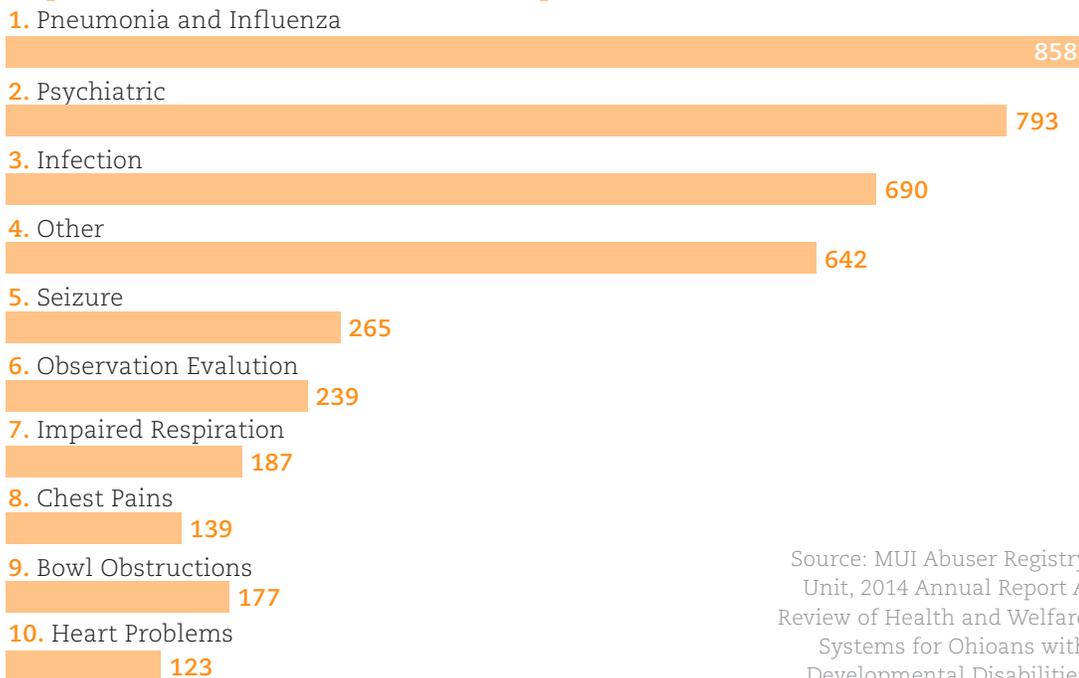
## Unscheduled hospitalization

“Unscheduled hospitalization” means any hospital admission “that is not scheduled unless the hospital admission is due to a pre-existing condition that is specified in the individual service plan indicating the specific symptoms and criteria that require hospitalization” (OAC 5123:2-17-02).

## Investigation Requirements for Category C MUIs

As with categories A and B, all category C MUIs require an administrative investigation. Category C MUIs must be investigated in a manner that conforms to the requirements outlined in Appendix C of the MUI and UI rule.

## Top 10 Reasons for Unscheduled Hospitalizations in 2014



Source: MUI Abuser Registry Unit, 2014 Annual Report A Review of Health and Welfare Systems for Ohioans with Developmental Disabilities

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# Reporting, Notification, Follow-up, & Closure of MUIs

All three categories of MUIs described in the previous sections are reported to protect people with developmental disabilities and to ensure health and welfare. By reporting every MUI, the causes of and factors and trends leading to MUIs can more easily be identified. Plans and safeguards can be established or revised to prevent future incidents. MUIs are reported to the local county board of DD, which then reports the information to the Ohio Department of DD. County boards are responsible to take immediate action, investigate the incident, and enter into prevention planning for each incident. The Department's Major Unusual Incident and Registry Unit reviews all initial

MUIs to ensure immediate actions are taken and that appropriate notifications have been made.

In addition to review, the Department provides technical assistance to providers and counties and will regularly assess of each county board and developmental center's system for ensuring health and safety. The Department also conducts separate investigations. Any alleged incident of a criminal nature is turned over to law enforcement for investigation. This process is in place to safeguard the health, safety, and rights of citizens with developmental disabilities (per OAC 5123:2-17-02).

*The Department's Major Unusual Incident and Registry Unit reviews all initial MUIs to ensure immediate actions are taken and that appropriate notifications have been made.*

## Response and Reporting Requirements

Immediately upon identification or notification of an MUI, a service provider shall, first and foremost, take all reasonable measures to ensure the health and safety of individuals who are at risk. These measures may include, if appropriate, immediate and ongoing medical attention, the removal of an employee from direct contact with any at-risk individual when the employee is alleged to have been involved in abuse or neglect until such time as the provider has reasonably determined that such removal is no longer necessary, and other necessary measures to protect the health and welfare of at-risk individuals (per OAC 5123:2-17-02).

The provider and county board will discuss any disagreements regarding reasonable measures to protect the health and safety of individuals affected by MUIs in order to resolve these disagreements. If the provider and county board are unable to agree, the Department will make the determination as to what reasonable measures will occur. Immediately upon receiving notification of a MUI allegation, the county board shall ensure that all reasonable measures needed to protect the health and welfare of individuals affected by MUIs have been taken, determine if additional measures are needed, and notify the Department if the circumstances surrounding the MUI require a Department-directed administrative investigation. This notification must take place on the first working day the county board becomes aware of the incident (per OAC 5123:2-17-02).

When law enforcement has been notified of an alleged crime, the Department “may provide notification of the incident to any other provider, developmental center, or county board for whom the primary person involved works, for the purpose of ensuring the health and welfare of any at-risk individual” (OAC 5123:2-17-02). The notified

provider or county board are then expected to take the steps that are necessary to address the health and welfare needs of individuals affected by the incident (per OAC 5123:2-17-02). The Department will subsequently inform any of the entities that were notified as to whether the incident is substantiated. Providers, developmental centers, or county boards employing a person suspected in an alleged MUI will notify the Department when they are aware that the person involved works for another provider (per OAC 5123:2-17-02).

### Mandatory Reporters of MUIs

Any person who provides any type of service to a person with developmental disabilities is required to report MUIs to the appropriate county board. These people include but are not limited to:

- Direct Support Staff (residential & workshop)
- Service and Support Administrators
- Bus Drivers/Monitors
- Job Coaches
- Work Supervisors
- Nurses
- Volunteers

Also required to report MUIs are all providers who are contracted, certified, or licensed to serve persons with developmental disabilities, including all county board and developmental disabilities staff and contractors and anyone providing Medicaid waiver services. Nothing in the MUI rule negates or diminishes the responsibility of mandatory reporters of immediately reporting their knowledge or suspicion of mistreatment, neglect, or abuse.

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*Notification must take place on the first working day the county board becomes aware of the incident.*

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### When an MUI Must Be Reported

Immediate to Four-Hour Reporting:  
Alleged Crime Against a Person with a  
Developmental Disability.

The provider (or county board as a provider) will immediately but no later than four hours after the discovery or notification of the incident notify the county board of the following incidents or allegations of:

- Accidental or suspicious death
- Exploitation
- Misappropriation
- Neglect
- Peer-to-peer act
- Physical abuse
- Sexual abuse
- Verbal abuse

When the provider has received an inquiry from the media regarding a major unusual incident (per OAC 5123:2-17-02)

Concerning neglected or abused children, all allegations of abuse or neglect as defined in ORC sections 2151.03 and 2151.031 of a “person under the age of 21 years shall be immediately reported to the local public children’s services agency. The notification may be made by the provider or the county board. The county board shall ensure that the notification has been made” (OAC 5123:2-17-02).

### Written reporting

For all categories of MUIs, all providers of specialized services must provide a written incident report to the county board contact or the county board designee no later than 3 p.m. the next working day following the initial knowledge of a potential or proven MUI. This report shall be submitted in a format prescribed or approved by the Department. “Reports regarding all major unusual incidents involving an individual

who resides in an intermediate care facility or who receives round-the-clock waiver services shall be filed and the requirements of this rule followed regardless of where the incident occurred” (OAC 5123:2-17-02).

Incident reports regarding the following MUIs shall be filed and the requirements of this rule followed regardless of where the incident occurred:

- Accidental or suspicious death
- Attempted suicide
- Death other than accidental or suspicious death
- Exploitation
- Failure to report
- Law enforcement
- Misappropriation
- Missing individual
- Neglect
- Peer-to-peer act
- Physical abuse
- Prohibited sexual relations
- Sexual abuse
- Verbal abuse (per OAC 5123:2-17-02)

Reports concerning the following types of MUIs must be filed and the other requirements the MUI rule followed only when the incident occurs in a program operated by a county board or when the individual is being served by a licensed or certified provider:

- Medical emergency
- Rights code violation
- Significant injury
- Unapproved behavior support

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- Unscheduled hospitalization. (per OAC 5123:2-17-02).

### Other reporting requirements

Other types of MUIs must be reported according to the MUI rule when the incident occurs in a program operated by a county board or contractor or the county board or when the person is being served by a licensed or certified provider. The mandatory reporter must immediately report to the law enforcement entity having jurisdiction of the location where the incident occurred, any allegation of exploitation, failure to report, misappropriation, neglect, peer-to-peer act, physical abuse, sexual abuse, or verbal abuse which may constitute a criminal act. The provider shall document the time, date, and name of person notified of the alleged criminal act. The county board will ensure that this notification has been made. All incidents of possible abuse, neglect, misappropriation or death must be reported to local law enforcement and the county board or to the public children's service agency, when applicable, no matter where the incident occurred (per OAC 5123:2-17-02).

### Notifying other parties

The provider shall make the following notifications, as applicable, when the MUI or the discovery of the MUI occurs when that provider has responsibility for the individual. The notification shall be made on the same day the MUI or discovery of the MUI occurs and include information about the immediate actions that were taken (OAC 5123:2-17-02). The following people will be notified:

- Guardian or other person whom the individual has identified
- Service and support administrator serving the individual
- Licensed or certified residential provider

- Staff or family living at the individual's residence who are responsible for the individual's care

- Support broker for an individual enrolled in the self-empowered life funding (SELF) waiver

The MUI rule requires that all notifications or efforts to notify be documented. The county board will ensure that all required notifications have been made. "Notification shall not be made if the person to be notified is the primary person involved, the spouse of the primary person involved, or the significant other of the primary person involved. Notification shall be made to the individuals, individuals' guardians, and other persons whom the individual has identified in a peer-to-peer act unless such notification could jeopardize the health and welfare of an individual involved" (OAC 5123:2-17-02). It is not required that notification to a person occurs when the report comes from that person or in the case of a death of an individual when the family is already aware of the death. A support broker for an individual enrolled in the SELF waiver shall be notified of MUIs as well (per OAC 5123:2-17-02).

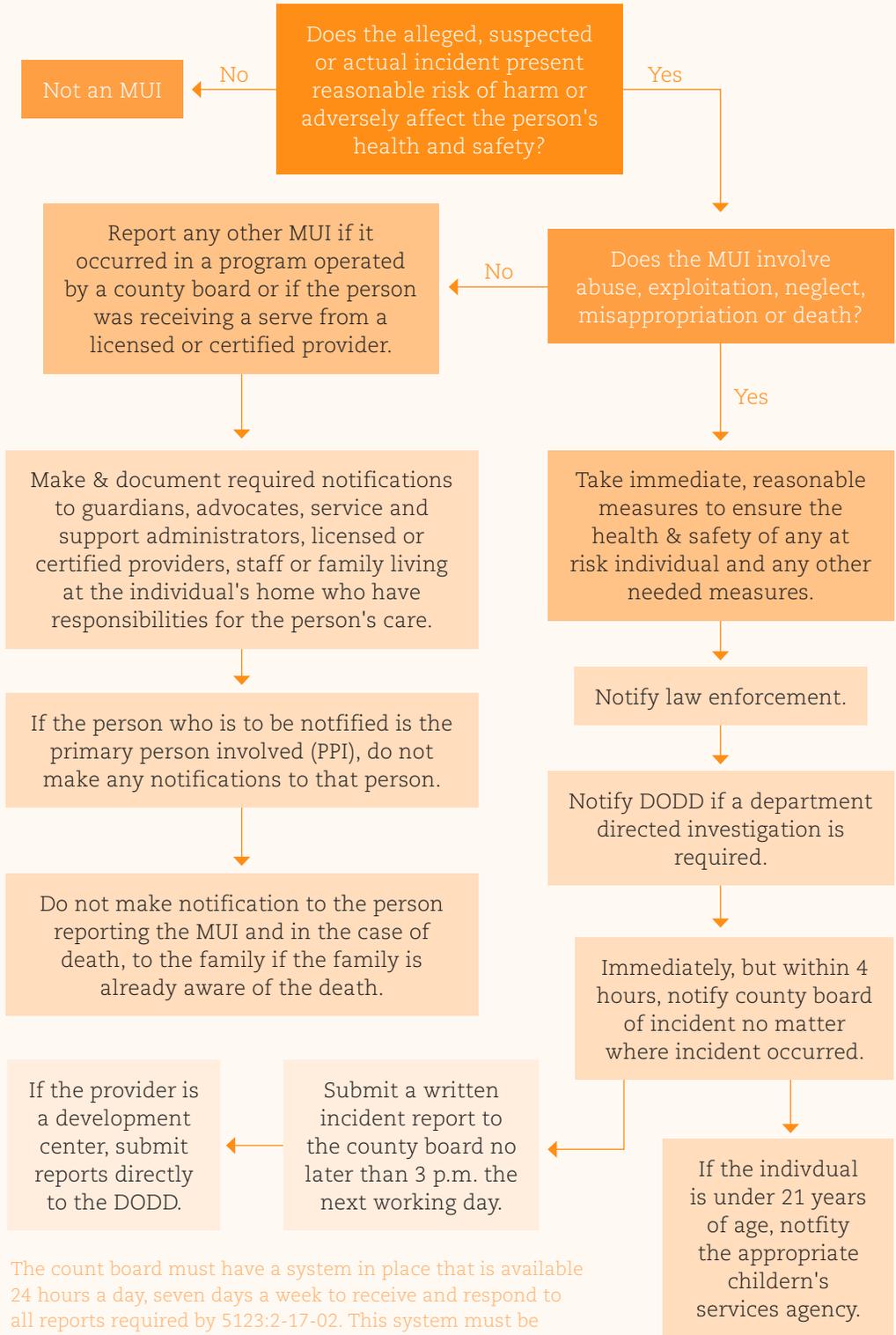
The county board or the Department, as applicable, must keep the applicable provider informed of the status of the administrative investigation so that the provider can resume normal operations as soon as possible while protecting the health and welfare of at-risk individuals. The provider must notify the county board or Department of any changes regarding protective actions taken. If the provider is a developmental center, all reports required by this rule shall be made directly to the Department. The county board must have an MUI/UI reporting system that is available 24 hours a day, seven days a week. The county board must communicate this system in writing to all providers in the county as well as to the Department (per OAC 5123:2-17-02).

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*The county board must have an MUI/UI reporting system that is available 24 hours a day, seven days a week. The county board must communicate this system in writing to all providers in the county as well as to the Department*

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### MUI Reporting Requirements



Source: Information from the Ohio Department of Developmental Disabilities

## Investigation closure

Each of Ohio's 88 county boards of DD contract for services or employ an investigative agent (IA). The IA is required to investigate all reported MUIs. These investigations include the identification of causes and contributing factors as well as prevention plans to help reduce the likelihood of re-occurrence. For all category A and B administrative investigations, a written summary must be submitted five calendar days after a recommendation is made that the report be closed. This must include:

- Allegations
- Facts & findings
- Whether or not the case was substantiated
- Preventive measures required, if applicable

The summary is to be provided to "the individual, individual's guardian, or other person whom the individual has identified, as applicable. In the case of a peer-to-peer act, both individuals, individuals' guardians, or other persons whom the individuals have identified, as applicable, shall receive the

written summary. The licensed or certified provider and provider at the time of the major unusual incident, and the individual's service and support administrator and support broker, as applicable" (OAC 5123:2-17-02), shall also receive a written summary.

In the case of death, the written summary is to be given to the family only upon request by the family. The summary is *not* to be given to the primary person involved ("PPI), the PPI's spouse, or the PPI's significant other. No later than five working days following the closure of a case, the county board shall make a reasonable attempt to notify the PPI as to whether the major unusual incident has been substantiated" (OAC 5123:2-17-02), whether the incident has been found to be unsubstantiated, or that there is insufficient evidence, or that the incident has been unsubstantiated or unfounded. If no SSA is assigned to the individual, a county board designee is to be assigned responsibility for ensuring any preventive measures in the summary are implemented. Any findings in the report may be disputed according to the guidelines found in the MUI rule.

## Review of MUIs

County boards and agency providers must have written procedures in place for internal reviews of all MUIs and for reasonable steps to prevent MUIs. An individual's team is required to collaborate to develop preventive measures for future MUIs. DODD has the responsibility to review and close reports submitted by the county board or developmental center for such incidents as abuse, death, neglect, and others as required by rule 5123:2-17-02. The county board has the responsibility to review and close reports for incidents such as attempted suicide, medical emergencies, and others as required by the MUI rule.

The Department and the county board follow the same criteria when determining whether or not to close a case. These criteria include:

- Have sufficient measures been taken to protect the health, safety, and welfare of any at-risk individual?
- Has a complete and thorough investigation been conducted consistent with the standards set forth in the rule?
- Has the team collaborated on developing preventive measures to address the causes and contributing factors of the MUI?
- Has the county board ensured that the preventive measures have been implemented to prevent reoccurrence?
- Is the incident part of a pattern or trend? Does it require some additional action?
- Have all requirements in rule been satisfied? (per OAC 5123:2-17-02)

# Analysis of MUI trends and patterns

## Provider Responsibilities

Providers must produce a semi-annual and annual report of MUI trends and patterns and send this report to the county board. The county board reviews providers' reports semi-annually. The semi-annual and annual reports must contain elements that include the identification of specific

individuals involved in trends and patterns; a breakdown of specific trends by residence, region, or program; previously identified trends and patterns; and action plans and preventive measures to address identified trends and patterns (per OAC 5123:2-17-02).

## County Board and Department Responsibilities

According to the standards set forth in the MUI rule, county boards must conduct an analysis of MUIs and implement appropriate follow-up actions for all programs operated by the county board. The county board must send this analysis to the Department. The Department will then review the analysis to ensure that all issues have been reasonably addressed to prevent a recurrence of identified MUIs. The county board shall review providers' reports of trends and patterns to ensure that all issues have been reasonably addressed to prevent recurrence. The county board shall keep the analyses and follow-up actions on file and make them available to the Department when requested. The county board will also ensure that trends and patterns of major unusual incidents are included and addressed in the individual service plan of each individual affected. Each county board or as applicable, each council of governments to which county boards belong, shall have a committee that reviews trends and patterns of major

unusual incidents. The committee must be made up of a reasonable representation of the county board(s), providers, individuals who receive services and their families, and other stakeholders deemed appropriate by the committee (per OAC 5123:2-17-02).

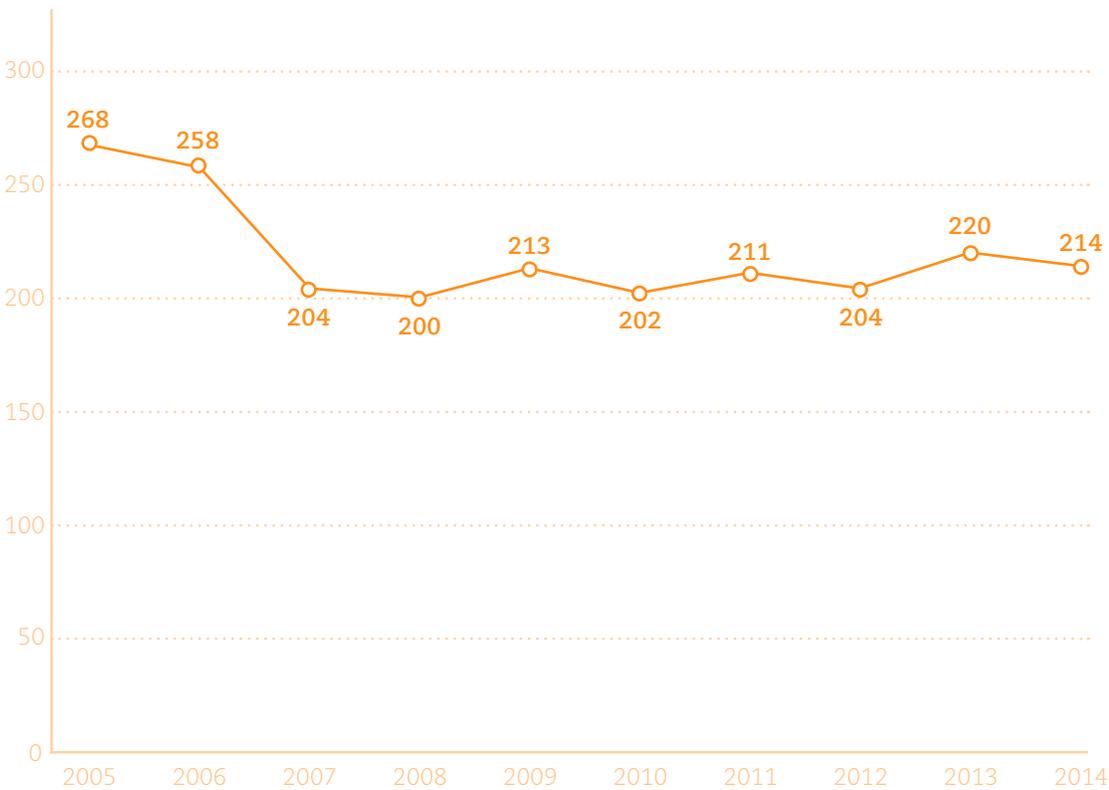
The MUI rule requires that the Department also prepare a report on trends and patterns identified by the systematic review of MUIs. The Department will, at least semi-annually, review this trends and patterns report with a committee appointed by the director of the Department. This committee must consist of at least six members who represent various stakeholder groups, including Disability Rights Ohio and the Ohio Department of Medicaid. The committee will make recommendations to the Department regarding whether they determine that appropriate actions have been taken ensure the health and welfare of people served. The committee may request that the Department obtain additional information in order to make their recommendations.

# The Department's Analysis of Ohio's MUI Trends and Patterns

In the most recent annual DODD MUI report, it was determined that 19,545 MUIs were reported in 2014. It was reported in that document that 41% of MUIs investigated were category A cases. Category B cases made up 19% of all MUIs. The remaining 40% of all MUIs fell into category C.

## Annual MUI Reporting Rates per 1,000

Reporting rates per 1,000



Source: MUI Abuser Registry Unit 2014 Annual Report, A Review of Health and Welfare Systems for Ohioans with Developmental Disabilities

**2014 reporting**  
Breakdown of MUIs investigated fell into the following categories.



# Unusual Incidents

The MUI rule defines an Unusual Incident (UI) as “an event or occurrence involving an individual that is not consistent with routine operations, policies and procedures, or the individual’s care or service plan, but is not a major unusual incident.” Unusual incidents include but are not limited to: dental injuries; falls; non-significant injuries; medication errors without a likely risk to health and welfare; overnight relocation of an individual due to a fire, natural disasters; or mechanical failure; an incident involving two individuals served that is not a peer-to-peer act major unusual incident; and “rights code violations or unapproved behavior supports without a likely risk to health and welfare as defined in the MUI rule” (OAC 5123:2-17-02).

## Rule Requirements Regarding Unusual Incidents

State rules require that each provider agency and county board develops and implements a policy and procedure that identifies what is to be reported as a UI. This policy and procedure must require anyone who becomes aware of a UI to report it to the appropriate designated person who can initiate proper action. The policy and procedure must also require that the report be made no later than twenty-four hours after the incident occurs. The policy must require that appropriate actions be taken to protect the health and welfare of all at-risk individuals. If the unusual incident occurs at a site operated by or contracted

with the county board, the county board or contract entity will notify the licensed provider or staff, guardian, or other person whom the individual has identified at the individual’s residence. The notification shall be made on the same day the unusual incident is discovered. The rule also requires that independent providers complete an incident report, notify the individual’s guardian or other person the individual has identified, and forward the incident report to the service and support administrator or county board designee on the same day the unusual incident is discovered (per OAC 5123:2-17-02).

## Review of Incident Reports

Each agency provider and independent provider must review all unusual incidents as often as necessary (but no less than monthly) to make sure that preventive measures have been implemented and that trends and patterns have been identified and addressed as appropriate. Each agency provider and independent provider shall “maintain a log of all unusual incidents. The log shall include, but is not limited to, the name of the individual, a brief description of the unusual incident, any injuries, time, date, location, and preventive measures” (OAC 5123:2-17-02). These logs are to be reviewed at least monthly by the appropriate agency according to the

MUI and UI rule guidelines. UI reports, documentation of identified trends and patterns, and corrective action must be made available to the county board and Department upon request.

The county board must review a representative sample of provider logs on at least a quarterly basis, including logs where the county board is a provider, to ensure that major unusual incidents have been correctly identified and reported, preventive measures have been implemented, and that trends and patterns have been identified and addressed. When the county board is a provider, the Department shall review the county board logs in the same manner.

# MUI/UI Records Management and Confidentiality

Reports made under section 5123.61 of the Ohio Revised Code (reporting abuse, neglect, and other major unusual incidents) and the MUI rule are not public records as defined in section 149.43 of the Revised Code (availability of public records for inspection and copying). Records may be provided only to parties authorized to receive them in accordance with sections 5123.613 (right to report and related records) and 5126.044 (confidentiality) of the Revised Code. That can include “any governmental entity authorized to investigate the circumstances of the alleged abuse, neglect,

misappropriation, or exploitation, and to any party to the extent that release of a record is necessary for the health or welfare of an individual” (OAC 5123:2-17-02). The county board or Department is not permitted, by rule, to review, copy, or include in any report required by the rule a provider’s personnel records that are confidential under state or federal statutes or rules. The provider must redact any confidential information contained in a record before copies are provided to the county board or to the Department (per OAC 5123:2-17-02).

*The county board or Department is not permitted, by rule, to review, copy, or include in any report required by the rule a provider’s personnel records that are confidential under state or federal statutes or rules.*

# Training Regarding MUIs and UIs

Agency providers and county boards must ensure that all staff members employed in direct services positions are trained on the requirements of the MUI and UI rule prior to direct contact with any person served. After this initial training, staff employed in direct service positions must receive annual training on the requirements of the MUI rule. This training must include a review of the health and welfare alerts issued by the Department since the previous year’s training. Agency providers and county boards must ensure that staff employed in positions other than direct services positions are trained on the requirements of the MUI rule at the time of employment

or no later than ninety days from date of hire. Thereafter, staff employed in positions other than direct services positions shall receive annual training on the requirements of this rule including a review of the health and welfare alerts issued by the Department since the previous year’s training. Independent providers shall also be trained on the requirements of this rule prior to application for initial certification (Per OAC 5123:2-2-01) and shall receive annual training on the requirements of the MUI rule including a review of health and welfare alerts issued by the Department since the previous year (OAC 5123:2-17-02).

# Summary

MUIs and UIs are reported to protect people with developmental disabilities and to help ensure their health and safety. By reporting every MUI and UI, the causes of, contributing factors to, and trends indicating incidents can more easily be identified and addressed. Plans and safeguards can then be established or revised to prevent future incidents. It is the responsibility of all staff who work with individuals with developmental disabilities to be able to recognize and identify MUIs and UIs and to know what actions they are required to follow to report such incidents. All employees of a county board or provider agency should carefully review their agency's policies and procedures regarding MUIs and UIs and become familiar with reporting procedures and forms.

## Required Reading

Click each of these links now to read each section.

[MUI Rule](#)

[Behavior Support Strategies Rule](#)

[Rights of People with Developmental Disabilities](#)

## General Investigation Requirements

[Appendix A of 5123:2-17-02](#)

[Appendix B of 5123:2-17-02](#)

[Appendix C of 5123:2-17-02](#)

## Index

[i: MUI Abuser Registry Unit 2014 Annual Report, A Review of Health and Welfare Systems for Ohioans with Developmental Disabilities](#)

## Quiz

If you have completed reading the narrative and all the required reading assignments, click the link below to take the quiz.

[I have read/reviewed all materials and am ready to test on the subject matter.](#)