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# **MADISON COUNTY BOARD OF DEVELOPMENTAL DISABILITIES POLICY MANUAL**

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## **Chapter 2: Board Policy**



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## **200. Authority for Establishing Policies**

This Board Policy Manual is adopted by the Madison County Board Developmental Disabilities (hereinafter referred to as Board) under authority granted it by statutes of the State of Ohio, which enumerate among its duties: *"The Board shall adopt rules for the conduct of its business and a record shall be kept of Board proceedings, which shall be open for public inspection."* (Section 5126.022 of the Ohio Revised Code) and *"the county board of mental retardation and developmental disabilities ... shall establish policies for their administration and operation."* (Section 5126.05(A)(1) of the Revised Code).

## **201. Member**

### **201.1 Qualifications**

Excerpt from Section 5126.02 of the Revised Code: *"The membership of the board shall, as nearly as possible, reflect the composition of the population of the county."*

All board members shall be persons interested and knowledgeable in the field of mental retardation and other allied fields. All board members shall be citizens of the United States. Of the members appointed by the board of county commissioners, at least two shall be relatives of persons eligible for services provided by the county board of developmental disabilities, and, whenever possible, one shall be a relative of a person eligible for adult services, and the other shall be a relative of a person eligible for early intervention services or services for pre-school or school-age children. Of the two members appointed by the probate judge, at least one shall be a relative of a person eligible for residential or supported living services.

Both the board of county commissioners and the probate judge shall appoint under this section, to the maximum extent possible, members who fulfill any applicable requirements of this section for appointment and who also have professional training and experience in business management, finance, law, health care practice, personnel administration, or government service."

Excerpt from 5126.021 of the Revised Code:

- A. The following individuals shall not serve as members of county boards of developmental disabilities: As defined in this section "immediate family" means parents, brothers, sisters, spouses, sons, daughters, and mothers, fathers, brothers, sisters, sons, and daughters-in laws.
  - 1) Elected public officials, except for township trustees, township clerks and those excluded from the definition of public official or employee in division (B) of section 102.01 of the Revised Code;
  - 2) Members of the immediate family of another board member;
  - 3) Board employees and members of the immediate family of board employees;
  - 4) Former board employees within one calendar year of the termination of employment with the board on which the former employee would serve.
- B. A person may not serve as a member of a county board of mental retardation and developmental disabilities when either the person or a member of the person's immediate family is a board member of a contract agency of that county board unless there is no conflict of interest. In no circumstance shall a member of a county board vote on any matter before the board concerning a contract agency of which the member or a member of the

member's immediate family is also a board member or an employee. All questions relating to the existence of a conflict of interest shall be submitted to the local prosecuting attorney and the Ohio ethics commission for resolution.

- C. No employee of an agency contracting with a county board of developmental disabilities or member of the immediate family of such an employee shall serve as a board member or an employee of the county board except that a county board may, pursuant to a resolution adopted by the board, employ a member of the immediate family of an employee of an agency contracting with the board.
- D. No person shall serve as a member or employee of a county board of developmental disabilities if a member of the person's immediate family serves as a county commissioner of the county served by the board unless the person was a member or employee prior to October 31, 1980.
- E. A county board of developmental disabilities shall not contract with an agency whose board includes a county commissioner of the county served by the county board or an employee of the same county board."

### **201.2 Appointments**

Revised Code Section 5126.02(A)(1): *"There is hereby created in each county a county board of mental retardation and developmental disabilities consisting of seven members, five of whom shall be appointed by the board of county commissioners of the county, and two of whom shall be appointed by the probate judge of the county. Each member shall be a resident of the county."*

### **201.3 Term**

Revised Code Section 5126.02(A)(2),(3): *"All appointments shall be for terms of four (4) years. The membership of a person appointed as the relative of a recipient of services shall not be terminated because the services are no longer received. ... A member who has served during each of three consecutive terms shall not be reappointed for a subsequent term until two years after ceasing to be a member of the Board, except that a member who has served for ten (10) years or less within three consecutive terms may be reappointed for a subsequent term before becoming ineligible for reappointment for two years."*

### **201.4 Vacancies**

Revised Code Section 5126.02(A)(4): *"Within sixty days after a vacancy occurs, it shall be filled by the appointing authority for the unexpired term. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. Appointment other than appointment to fill a vacancy shall be made no later than the last day of November of each year, and the term of office shall commence on the date of the stated annual organizational meeting in January."*

### **201.5 Removal**

Revised Code Section 5126.022: *"A board member shall be removed from the board by the appointing authority for neglect of duty, misconduct, malfeasance, failure to attend at least one in-service training session each year, a violation of section 5126.021 of the Revised Code, or upon the absence of a member within one year from either four regularly scheduled board meetings or from two regularly scheduled board meetings if the member gave no prior notice of the member's absence. This removal provision does not apply to absences from special meetings or work*

*sessions. The board shall supply the board member and the member's appointing authority with written notice of the charges against the member. The appointing authority shall afford the member an opportunity for a hearing, in accordance with procedures it adopts, and shall, upon determining that the charges are accurate, remove the member and appoint another person to complete the member's term."*

#### **201.6 Oath of Office**

Each new Board member shall take an oath of office. The oath may be given by any elected county official, any elected state official, any judge, or any state legislator. The following oath of office shall be administered to all new Board members: *"Do you solemnly swear that you will support the Constitution of the United States and the Constitution of the State of Ohio; and that you will faithfully and impartially discharge your duties as a member of the County Board of Mental Retardation and Developmental Disabilities to the best of your ability, and in accordance with the laws and rules and regulations of the Board now in effect and hereafter to be enacted, during your continuance in said office, and until your successor is appointed?"*

If so, the answer is: "I do." You are now recognized as an official member of this Board.

### **202. Annual Organizational Meeting**

Revised Code Section 5126.022: *"Each county board of mental retardation and developmental disabilities shall hold an organizational meeting no later than the thirty-first day of January of each year and shall elect its officers, which shall include a president, vice-president and recording secretary."*

Other business may be conducted at the organizational meeting as necessary. The organizational meeting shall be held and conducted in accordance with the rules and regulations applicable to all Board meetings as contained in this article.

#### **202.1 Organization and Procedures**

Per Section 5126.022 of the Revised Code, the Board shall:

- A. *"...elect its officers which shall include a president, vice-president, and recording secretary..."*
- B. *"...adopt rules for the conduct of its business..."*
- C. *"...meet at least ten times annually..."*
- D. *"...meet in such manner and at such times as prescribed by rules adopted by the Board..."*

### **203. Officers**

#### **203.1 Election of Officers**

Per Section 5126.022 of the Revised Code, the election of officers shall be at the annual organizational meeting. There shall be elected a president, vice-president and recording secretary

who shall be elected for one year and shall serve until their successors are elected. No member shall hold more than one office.

The Board may elect any other officers determined to be necessary or expedient to conduct its business.

Nominations for the new officers may be brought to the Board by the nominating committee appointed by the chairman and/or by nominations from the floor. The election may be by ballot or by voice vote.

### **203.2 President**

The President of the Board shall be elected from among the members of the Board for one year and shall serve until a successor is elected.

The duties of the President shall be:

- A. To preside at all meetings of the Board.
- B. To appoint committees.
- C. To represent the Board as spokesperson on all public matters relating to the county Board. This function may be delegated to another person by the President. If this function is delegated, it must be in writing.
- D. To perform such other duties as may be prescribed by law or by action of the Board.

### **203.3 Vice-President**

The Vice-President of the Board shall be elected from among its members for one year and shall serve until a successor is elected.

The duties of the Vice-President shall be:

- A. To preside in the absence of the President.
- B. To perform the duties of the President in the President's absence.
- C. To perform such other duties designated by the President.

### **203.4 Recording Secretary**

The recording secretary of the Board shall be elected from among its members for one year and shall serve until a successor is elected.

The duties of the recording secretary shall be to:

- A. Keep a complete and correct record of all resolutions and meetings of the Board, including a complete statement of approved expenditures and resolutions acted upon.
- B. File a certified copy of the Board minutes in the office of the superintendent as a repository.
- C. Provide each member of the Board with a copy of the minutes including a complete statement of approved expenditures and resolutions acted upon.
- D. Perform such other duties as may be delegated either by the President of the Board or assigned by the Board.

## **204. Meetings**

The Board shall comply with all provisions of Ohio's Open Meetings Law -- Revised Code Section 121.22. In the event any of the Board's policies exceed the requirements of R.C. 121.22, the Board shall attempt to comply with such policies but failure to comply shall not affect in any way the validity of any actions taken by the Board.

### **204.1 Date, Time and Place of Regular Meetings**

Section 5126.022. *"... the board shall meet in such manner and at such times as prescribed by rules adopted by the board, but the board shall meet at least ten times annually in regularly scheduled sessions in accordance with Section 121.22 of the Revised Code, not including inservice training sessions."* Date, time and place of regular meetings shall be decided annually at the organizational meeting. A majority of the Board constitutes a quorum. The Board shall adopt rules for the conduct of its business and a record shall be kept of Board proceedings, which shall be open for public inspection. A regular meeting of the Board may be changed by the superintendent with the knowledge and approval of the President, by the President, or by a quorum of the Board.

### **204.2 Special Meetings: Board Committees and Sub-Committees**

A special meeting of the Board may be called by the President, or the superintendent with the knowledge and approval of the President, or by any two members by serving notice of the date and place and subject matter of such meeting upon each member of the Board and news media at least 24 hours prior to the date of such meeting. Such notice shall be signed by the official or members calling the meeting. Rules governing notification to the public and news media must be followed.

"Special meeting" means a meeting which is neither a regular meeting nor an adjournment of a regular (or special) meeting to another time or day to consider items specifically stated on the original agenda of such regular (or special) meeting. No other business than that listed in the notification may be conducted at special meetings.

Special meetings shall be held and conducted in accordance with the rules and regulations applicable to all Board meetings.

The Board may establish various committees and sub-committees of the Board with one or more Board members as members of such committee or subcommittee. Such committees or sub-committees shall comply with the open meeting provisions of Section 121.22 of the Revised Code. The Board President shall appoint all members to committees or sub-committees and shall within the official minutes of the Board record such appointments.

## **205. Public Notice**

### **205.1 Regular and Organization Meetings**

Public notice of all meetings of the Board shall be given in accordance with Section 121.22 of the Ohio Revised Code.



Notice of all meetings shall be posted at each Board facility and in conspicuous places in areas accessible to the public during usual business hours.

The superintendent shall post a statement of the time(s) and place(s) of regular meetings of the Board for each regular meeting (other than the organizational meeting) of the calendar year of the Board. The superintendent shall check at reasonable intervals to ensure that such statement remains so posted during such calendar year. If at any time during the calendar year, the time or place of regular meetings or of any regular meeting is changed on a permanent or temporary basis, a statement of the time and place of such changed regular meetings shall be so posted by the superintendent at least 24 hours before the time of the first changed regular meeting.

The superintendent shall post a statement of the time and place of the organizational meeting of the Board at least 24 hours before the time of such organizational meeting.

Upon the adjournment of any regular or special meeting to another day, the superintendent shall promptly post notice of the time and place of such adjourned meeting.

### **205.2 Notices to the Public of Special Meetings**

Except in the case of an emergency, the superintendent shall, no later than 24 hours before the time of a special meeting of the Board, post a statement of the time, place and purpose of such special meeting.

The posting of notice of special meeting shall state such specific or general purposes then known to the superintendent to be intended to be considered at such special meeting.

All postings for special meetings shall be done in the same place as those postings for the regular and organizational meeting.

In addition to the postings required, the superintendent shall cause to be published once, no later than 24 hours prior to the time of a special meeting of the Board, a statement of the time, place and purposes of such special meeting. Such publication shall be done in a newspaper of general circulation as defined by Ohio Revised Code Section 7.12.

### **205.3 Notices to News Media of Special Meetings**

Any news medium organization that desires to be given advance notification of special meetings including meetings of committees and sub-committees of the Board shall file with the superintendent a written request thereof.

*“A public body shall not hold a special meeting, or a committee or sub-committee meeting unless it gives at least twenty-four hours advance notice to the news media that have requested notification, except in the event of an emergency requiring immediate official action. In the event of an emergency, the member or members calling the meeting shall notify the news media that have requested notification immediately of the time, place, and purpose of the meeting.”* Revised Code 121.22(F)

News media requests for such advance notification of special meetings or a committee or sub-committee meeting shall specify: the name of the medium, the name and address of the person to whom written notifications to the medium may be mailed, sent by facsimile (faxed) or delivered (and) the names, addresses and telephone numbers (including addresses and telephone numbers at which notifications may be given either during or outside of business hours) of at least two persons to either one of whom oral notifications to the medium may be given or at least one telephone number which their request identifies as being manned and which can be called at any hour for the purpose of giving oral notification to such medium.

Any such request shall be effective for one year from the date of filing with the superintendent or until the superintendent receives written notice from such medium canceling or modifying such request, whichever is earlier. Each requesting news medium shall be informed of such period of effectiveness at the time it files its request. Such requests may be modified or extended only by filing a complete new request with the superintendent. A request shall not be deemed to be made unless it is complete in all respects. Such request may be conclusively relied on by the Board and the superintendent.

The contents of written notification under this section may be a copy of the agenda of the meeting. Written notification under this section may be accomplished by giving advance written notification, by copies of agendas, of all meetings of the Board.

#### **205.4 Notification of Discussion of Specific Types of Public Business at Regular and Organizational Meetings**

*Revised Code Section 121.22 (F): "... any person, upon request and payment of a reasonable fee, may obtain reasonable advance notification of all meetings at which any specific type of public business is to be discussed. Provisions for advance notification may include, but are not limited to, mailing the agenda of meetings to all subscribers on a mailing list or mailing notices in self-addressed, stamped envelopes provided by the person."*

Such person must file a written request with the superintendent specifying: the person's name, the address and telephone number at or through which the person can be reached during and outside of business hours, and may require the person to pay a reasonable fee and/or that the person supply the Board with a sufficient number of self-addressed stamped envelopes.

Such request shall be valid for a 12-month period at which time a new request must be made. Such requests may be modified or extended only by filing a complete new request with the superintendent. A request shall not be deemed to be made unless it is complete in all respects and such request may be conclusively relied on by the Board and the superintendent.

The contents of written notification under this section may be a copy of the agenda of the meeting. Written notification under this section may be accomplished by giving advance written notification, by copies of agendas, of all meetings of the Board.

## **205.5 Notification of Discussion of Specific Types of Public**

### **Business at Special Meetings**

Per Section 121.22 (F) of the Revised Code, in the event that a person desires to be notified of specific business to be conducted at a special meeting, such person must file a request stating the specific type of business of which they desire to be notified. A reasonable fee may be charged.

Notification shall be made by the superintendent to the requesting party in writing when time permits or by telephone at least 24 hours in advance of the special meeting except in case of an emergency when notification can be made within a 24 hour period of the meeting.

Said request shall be valid for a 12-month period at which time a new request must be made.

## **205.6 Miscellaneous Rules Pertaining to Notification Procedures**

Any person may visit or telephone the Board office, 500 Elm Street London, Ohio 41340 phone 740-852-7050, during that office's regular office hours (8:00A.M to 4:00P.M. Monday through Friday) to determine, based on information available at that office: the time and place of regular meetings; the time, place and purposes of any then known special meetings and whether the available agenda of any such future meetings states that any specific type of public business, identified by such person, is to be discussed at such meeting.

Any notification provided herein to be given by the superintendent may be given by any person acting on behalf of or under the authority of the superintendent.

A reasonable attempt at notification shall constitute notification in compliance with these rules.

The superintendent/designee shall maintain a record of the date and manner, and time if pertinent under these rules, of all actions taken with regard to notices and notifications and shall retain copies of proofs of publication of any notifications or notices published thereunder.

## **206. Quorum**

A majority of the Board shall constitute a quorum for the transaction of business and approval of a motion or resolution. The President may vote on all matters.

Where a quorum is present, several members' refusal to vote is not sufficient, even if a majority, to defeat the action of those actually voting. Members present, including the President, are obligated to vote, unless they wish to be regarded as assenting to the decision of the voluble majority. EXCEPTION: If a Board member does not vote because of a conflict of interest, the absence of a vote cannot be counted as affirmative.

## **207. Open Meetings**

Under the Ohio Revised Code, all meetings of the Board, including meetings of committees and sub-committees of the Board, are open to the public.

All regular, organizational and special meetings of the Board shall be open to the public.

## **208. Executive Sessions, Procedure for Calling**

The Board shall be permitted to hold an executive session at any regular, organizational or special meeting as allowed by Section 121.22(G) of the Ohio Revised Code.

The President or any member may make a motion to conduct an executive session. The Board shall:

- A. Take a roll call vote of the Board members present.
- B. Specify the purpose(s) for which the executive session is being called. The purpose must be specified in both the motion and vote to go into executive session.
- C. If the specified purpose pertains to personnel matters under R. C. 121.22 (G)(1), the motion and vote must also specify which of the particular personnel matters listed in subdivision (G)(1) will be discussed in the executive session, but need not include the name of any person to be considered at the meeting.

The members of a public body may hold an executive session only at a regular or special meeting for the sole purpose of the consideration of any of the following matters (the following paragraphs are taken verbatim from Section 121.22 (G) of the Ohio Revised Code):

- A. "To consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official, or the investigation of charges or complaints against a public employee, official, licensee, or regulated individual, unless the public employee, official, licensee, or regulated individual requests a public hearing. Except as otherwise provided by law, no public body shall hold an executive session for the discipline of an elected official for conduct related to the performance of the elected official's official duties or for the elected official's removal from office. If a public body holds an executive session pursuant to division (G)(1) of this section, the motion and vote to hold that executive session shall state which one or more of the approved purposes listed in division (G)(1) of this section are the purposes for which the executive session is to be held, but need not include the name of any person to be considered at the meeting.
- B. To consider the purchase of property for public purposes, or for the sale of property at competitive bidding, if premature disclosure of information would give an unfair competitive or bargaining advantage to a person whose personal, private interest is adverse to the general public interest. No member of a public body shall use division (G) (2) of this section as a subterfuge for providing covert information to prospective buyers or sellers. A purchase or sale of public property is void if the seller or buyer of the public property has received covert information from a member of a public body that has not been disclosed to the general public in sufficient time for other prospective buyers and sellers to prepare and submit offers. If the minutes of the public body show that all meetings and deliberations of the public body have been conducted in compliance with this section, any instrument executed by the public body purporting to convey, lease, or otherwise dispose of any right, title, or interest in any public property shall be conclusively presumed to have been executed in compliance with this section insofar as title or other interest of any bona fide purchasers, lessees, or transferees of the property is concerned.
- C. Conferences with an attorney for the public body concerning disputes involving the public body that are the subject of pending or imminent court action;

- D. Preparing for, conducting, or reviewing negotiations or bargaining sessions with public employees concerning their compensation or other terms and conditions of their employment;
- E. Matters required to be kept confidential by federal law or regulations or state statutes;
- F. Specialized details of security arrangements if disclosure of the matters discussed might reveal information that could be used for the purpose of committing, or avoiding prosecution for, a violation of the law."

## **209. Participation by Citizens**

The President of the Board or a majority of the members may extend to visitors the privilege of addressing the Board and the order of business at any meeting may include an opportunity for members of the public to address the Board, provided, however, that the Board does not obligate itself to consider any request or proposal unless submitted to the President, in writing, at least seven (7) days before the meeting, exclusive of Sundays and holidays.

The Board endorses the principle of open communication between the public and the Board and between the superintendent and staff and free communication of all personnel with the program's organization through recognized channels of communication. Any individual or group may address the Board concerning any subject that lies within the Board's jurisdiction except that employees of the Board may not address the Board regarding personnel issues pertaining to that employee and not of general concern to the public unless such is permitted pursuant to a grievance procedure adopted by the Board. Such employee personnel issues may be presented to the Board President in a writing signed by the affected employee with a copy also delivered to the Superintendent.

Questions are to be directed to the Board as a whole and may not be put to any individual member of the Board or the administrative staff. Any matter upon which the Board may be requested to act must be submitted in writing to the Board not less than seven (7) days, excluding Sunday and holidays, prior to the date of the meeting at which the subject is to be discussed.

It shall be in order for members of the Board to interrupt a speaker at any time to ask questions or make comments in order to clarify the discussion.

Not more than ten (10) minutes shall be allotted to each speaker and no more than thirty (30) minutes to each subject under discussion, except with the consent of the Board.

No person shall present orally at any meeting of the Board, a complaint against an individual employee of the Board. Such charge or complaint shall be presented to the Board in writing and shall be signed by the person(s) making the charge or complaint.

## **210. Recess of Meeting**

The Board may recess a meeting to such a time and place as it deems advisable. The public shall be given adequate information as to where and when such meeting will reconvene.

## **211. Agenda**

The superintendent shall prepare and deliver a copy of the agenda to the members of the Board and to the media three days prior to any regular Board meeting. Such agenda is subject to change. The superintendent in consultation with the Board President shall prepare a final agenda for each meeting of the Board. The order of business at each meeting shall be:

- A. Call to Order
- B. Roll Call
- C. Minutes of Previous Meetings
- D. Financial Reports
- E. Committee Reports
- F. Comments from visitors relative to agenda
- G. Old Business
- H. New Business
- I. Communications
- J. Comments from Board Members
- K. Comments from visitors relative to other items

## **212. Rules of Order**

The Board shall observe Robert's Rules of Order Revised, except as otherwise provided by this policy or by statute or regulation.

## **213. Minutes of Proceedings**

### **213.1 Preparation**

All resolutions of the Board shall be taken from the minutes and the original certificate of resolution shall be retained in the superintendent's office. The Board secretary shall certify the original copy as being true, correct, and exact. The Board's minutes are open to public inspection.

### **213.2 Distribution**

Copies of the minutes shall be prepared promptly after each meeting and shall be distributed to the superintendent and to the Board members. Copies of all Board documents (except those which are properly confidential) may be obtained by any individual at a charge established by the Board which shall not exceed the cost to the Board of furnishing said document.

### **213.3 Approval**

The minutes of the preceding meeting(s), with any changes made by a motion properly made and carried, or as directed by the President without objection, shall be approved by the Board and signed by the secretary as the first act of each regular meeting.

### **213.4 Custody and Availability**

The official minutes and related documents of the Board shall be permanently filed in the superintendent's office, and shall be made available to any citizen desiring to examine them during normal work hours.

## **214. Committees**

### **214.1 Special Committees**

The Board shall authorize such special committees as are deemed necessary and the members of such committees shall be appointed by the President. A committee may be assigned general or specific duties to study, investigate, consult and make recommendations to the Board. A committee shall report its recommendations to the Board for appropriate action.

### **214.2 Ad Hoc Committees**

Members of the Board may be appointed to ad hoc committees which include citizens, administrators or other governmental officials when it is deemed beneficial to the Board or to the community.

## **215. Transaction of Business**

### **215.1 Method of Voting**

Voting will be by roll call. The yeas and nays shall be taken and entered in the records of the proceedings of the Board.

### **215.2 Authority of Board Members**

The Board acts only as a body, at public meetings, in decisions openly arrived at and formally recorded. Board members have authority only when acting as a Board legally in session.

The President of the Board shall be the spokesperson on all public matters relating to the county Board. No other Board member shall have authority to speak or act on behalf of the Board without express permission of the Board. The Board shall not be bound in any way by any statement or action on the part of any individual Board member or employee, except when such statement or action is in pursuance of specific instruction by the Board.

## **216. Power and Duties**

### **POWERS AND DUTIES; GIFT, GRANT, DEVISE OR BEQUEST**

- A. Subject to the rules established by the director of developmental disabilities pursuant to Chapter 119. of the Revised Code for programs and services offered pursuant to this chapter, and subject to the rules established by the state board of education pursuant to Chapter 119. of the Revised Code for programs and services offered pursuant to Chapter 3323. of the Revised Code, the county board of developmental disabilities shall:
  - 1) Administer and operate facilities, programs, and services as provided by this chapter and Chapter 3323. of the Revised Code and establish policies for their administration and operation;
  - 2) Coordinate, monitor, and evaluate existing services and facilities available to individuals with mental retardation and developmental disabilities;

- 3) Provide early childhood services, supportive home services, and adult services, according to the plan and priorities developed under section 5126.04 of the Revised Code;
  - 4) Provide or contract for special education services pursuant to Chapters 3317. and 3323. of the Revised Code and ensure that related services, as defined in section 3323.01 of the Revised Code, are available according to the plan and priorities developed under section 5126.04 of the Revised Code;
  - 5) Adopt a budget, authorize expenditures for the purposes specified in this chapter and do so in accordance with section 319.16 of the Revised Code, approve attendance of board members and employees at professional meetings and approve expenditures for attendance, and exercise such powers and duties as are prescribed by the director;
  - 6) Employ a qualified superintendent as defined by the rules of the director who shall serve under contract with the Board for a term of employment not less than one and not more than five years. At the expiration of his current term of employment, the superintendent shall be reemployed for a term of one year by the Board, unless the Board, on or before ninety calendar days prior to his current contract expiration date, either reemploys the superintendent, for a succeeding term or gives the superintendent written notification of its intention not to reemploy him. However, the Board shall give a superintendent in his first year of employment with the Board written notification sixty days prior to his current contract expiration date if the contract is for one year of its intention to reemploy or not reemploy him. If the superintendent is reemployed the Board may, by resolution, designate that he is to continue for a term not to exceed five years. The superintendent shall have no voting privileges on the Board. The Board shall prescribe the duties of the superintendent, review his performance, and fix his compensation. In addition to such compensation, the superintendent shall be reimbursed for actual and necessary expenses.
  - 7) The superintendent may be removed, suspended, or demoted for cause pursuant to section 5126.23 of the Revised Code.
  - 8) Submit annual reports of its work and expenditures, pursuant to sections 3323.09 and 5126.12 of the Revised Code, to the director, the superintendent of public instruction, and the board of county commissioners at the close of the fiscal year and at such other times as may reasonably be requested;
  - 9) Authorize all positions of employment, establish compensation, including but not limited to salary schedules and fringe benefits for all board employees, approve contracts of employment for management employees that are for a term of more than one year, employ legal counsel under section 309.10 of the Revised Code, and contract for employee benefits;
  - 10) Provide service and support administration, as defined in rules adopted by the director of developmental disabilities, in accordance with section 5126.08 of the Revised Code;
  - 11) Certify respite care homes pursuant to rules adopted under section 5123.171 of the Revised Code by the director of developmental disabilities.
- B. To the extent that rules adopted under this section apply to the identification and placement of handicapped children under Chapter 3323. of the Revised Code, they shall be consistent



with the standards and procedures established under sections 3323.03 to 3323.05 of the Revised Code.

- C. Any county board may enter into contracts with other such boards and with public or private, nonprofit, or profit-making agencies or organizations of the same or another county, to provide the facilities, programs, and services authorized or required, upon such terms as may be agreeable, and in accordance with this chapter and Chapter 3323. of the Revised Code and rules adopted thereunder and in accordance with sections 307.86 and 5126.071 of the Revised Code.
- D. A county board may combine transportation for children and adults enrolled in programs and services offered under section 5126.12 with transportation for children enrolled in units approved under section 3317.05 of the Revised Code.
- E. A county board may purchase all necessary insurance policies, may purchase equipment and supplies through the department of administrative services or from other sources, and may enter into agreements with public agencies or nonprofit organizations for cooperative purchasing arrangements.
- F. A county board may receive by gift, grant, devise, or bequest any moneys, lands, or property for the benefit of the purposes for which the board is established and hold, apply, and dispose of the moneys, lands, and property according to the terms of the gift, grant, devise, or bequest. All money received by gift, grant, bequest, or disposition of lands or property received by gift, grant, devise, or bequest shall be deposited in the county treasury to the credit of such board and shall be available for use by the board for purposes determined or stated by the donor or grantor, but may not be used for personal expenses of the board members. Any interest or earnings accruing from such gift, grant, devise, or bequest shall be treated in the same manner and subject to the same provisions as such gift, grant, devise, or bequest.
- G. The board of county commissioners shall levy taxes and make appropriations sufficient to enable the county board of mental retardation and developmental disabilities to perform its functions and duties, and may utilize any available local, state, and federal funds for such purpose.

In addition to this section of code, Board members should routinely review all sections of Chapter 5126 of the Revised Code for other mandatory and permissive authorities and responsibilities of the Board and its employees. Board members should also review any sections of code that are cross referenced within this chapter for their applicability to the board and its operations. Board policy based on the Ohio Revised Code must be updated in conformance with changes in the code.

### **216.1 Ethical Conduct**

Members shall abide by ethical rules of conduct appropriate to public officials of the State of Ohio. No Board member shall seek special privileges, criticize employees publicly, disclose confidential information or individually consider a complaint by or against an employee, service or program of the Board. All matters of interpretation of this section shall be handled by the Board with consultation from appropriate legal counsel.

### **216.2 Conflicts of Interest**

No member shall have an unlawful interest in a contract for the purchase of property, supplies or insurance for the use of the Board or out of its contracted services. No Board member shall use the

member's influence to benefit a family member or business associate. Board members shall not accept anything of value that might influence the Board member's judgment on Board matters. The Board is specifically forbidden to expend public funds to prepare and distribute material for the purpose of promoting a bond issue or tax levy, or promoting or opposing any candidate for political office. The Board shall not expend public funds for the purposes prohibited by the laws of the State of Ohio. All questions relating to the existence of a conflict of interest shall be referred to the prosecuting attorney and/or The Ohio Ethics Commission for resolution.

## **217. Compensation: Expenses of Board Members**

Per Section 5126.02(A)(5) of the Revised Code, *"Board members shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the conduct of board business, including those incurred within the county of residence."*

## **218. Superintendent, Duties and Responsibilities**

The superintendent shall be the chief executive officer for the Board for the administration of the program components in conformance with policies adopted by the Board. The superintendent may delegate responsibility to appropriate members of the administrative or supervisory staff, but he/she shall be responsible to the Board for the total operations of the Board.

Pursuant to section 5126.024 of the Revised Code, the superintendent shall:

- A. Administer the work of the board, subject to the board's rules;
- B. Recommend to the board the changes necessary to increase the effectiveness of the programs and services offered pursuant to Chapters 3323. and 5126. of the Revised Code;
- C. Employ persons for all positions authorized by the board, approve contracts of employment for management employees that are for a term of one year or less, and approve personnel actions that involve employees in the classified civil service as may be necessary for the work of the board;
- D. Approve compensation for employees within the limits set by the salary schedule and budget set by the board and in accordance with section 5126.26 of the Revised Code, and ensure that all employees and consultants are properly reimbursed for actual and necessary expenses incurred in the performance of official duties;
- E. Provide consultation to public agencies as defined in division (C) of section 102.01 of the Revised Code, including other county boards of developmental disabilities, and to individuals, agencies, or organizations providing services supported by the board.

The superintendent may authorize the payment of board obligations by the county auditor."

Other duties and responsibilities of the superintendent may be authorized by the Board in accordance with all applicable laws and rules.

## **219. Nondiscrimination in Board Operations**

The Board is an Equal Opportunity Employer. No Board member, employee, entity under contract with the Board, or anyone representing the Board in any capacity shall discriminate against any

person based on race, color, religion, sex, national origin, age, handicap or any other prohibited criteria in decisions or other actions related to any Board operation.

## **220. Ethics Council**

### **PURPOSE**

Based on the provisions of Section 5126.041(E) of the Revised Code, membership of a person on or employment of a person by the County Board of DD does not affect the eligibility of any member of the person's family for services provided by the Board or by any entity under contract with the Board. Therefore, the Madison County Board of DD has created an Ethics Council to review all direct services contracts. Direct service contracts are (Revised Code 5126.03(A), "(A)

The intent of this Policy is to outline procedures to be utilized by the Madison County Board Ethics Council to review and award applicable direct services contracts in a fair, uniform, non-discriminatory and non-arbitrary manner. This Policy shall encompass all services where direct payment is made to an individual or agency for direct services and defined in Section 5126.032 of the Ohio Revised Code.

### **DEFINITIONS**

- A. **"Direct services contract"** means any legally enforceable agreement with an individual, agency, or other entity that, pursuant to its terms or operation, may result in a payment from a county board of developmental disabilities to an eligible person or to a member of the immediate family of an eligible person for services rendered to the eligible person. "Direct services contract" includes a contract for supported living pursuant to sections 5126.40 to 5126.47 of the Revised Code, family support services under section 5126.11 of the Revised Code, and reimbursement for transportation expenses."
- B. **"Eligible person"** means a person eligible to receive services from a County Board or from an entity under contract with a County Board.
- C. **"Former Board Member"** means a person whose service on the County Board ended less than one year prior to commencement of services under a direct services contract.
- D. **"Former Employee"** means a person whose employment by the County Board ended less than one year prior to the commencement of services under a direct services contract.
- E. **"Immediate Family"** has the same meaning as in section 5126.021 of the Ohio Revised Code.

### **POLICY**

- A. Annually at the Board's organization meeting, the President of the Board shall appoint three members of the Board to an Ethics Council to review all direct service contracts. The Chairperson may be one of those appointed and the Superintendent shall be a non-voting member of the Council. The President shall not appoint a Board Member to the Ethics Council if the member, or any member of their immediate family, will have any interest in any direct services contract under review by the Council while the member serves on the Council or during the twelve month period after completion of their Council service. If a Council Member or a member of the Council Member's immediate family has or will have such an interest, the Chairperson shall replace the member by appointing another Board Member to the Council.

- B. The role of the Ethics Council shall be to review all direct service contracts which may result in direct payment to an eligible person or to a member of the eligible person's family according to this policy and approve or disapprove each contract in accordance with the standards in section 5126.033 of the Ohio Revised Code. The Council shall develop, in consultation with the prosecuting attorney, and recommend to the Board ethical standards, contract audit procedures and grievance procedures with respect to the award and reconciliation of the direct services contract.
- C. The Ethics Council shall meet monthly or as needed prior to Board meetings to perform its functions. Any action taken by the Ethics Council shall be in public to afford the affected party the opportunity to meet with the Ethics Council on matters related to the direct services contract or any action taken by the Council. Official minutes will be taken at all Ethics Council meetings and shall be part of the Public Records of the County Board. The Ethics Council shall comply with the Open Meetings Law -- R.C. 121.22.
- D. All contracts and information provided to the Ethics Council shall be sent by the superintendent or the superintendent's designee with appropriate certification that the contracts are within available resources and appropriations made by the county DD Board. A copy of each proposed contract or contract renewal will be presented to the Council at a reasonable time before the contract would take effect if entered into or renewed. The Ethics Council, during its regular meeting, shall determine whether the amount to be paid under the contract is appropriate based on actual expenses or reasonable and allowable projections. The Ethics Council shall also determine whether the eligible person who would receive services under the contract stands to receive any preferential treatment or any unfair advantage over other eligible persons. The Ethics Council shall also determine whether any Board employees will be employed under a Board direct service contract and, if so, whether such Board employees meet the conditions set forth in Ohio Revised Code 5126.033(C).
- E. If the amount to be paid is not acceptable or the contract would result in preferential treatment or unfair advantage, or if any Board employees employed under a Board direct service contract do not meet the conditions set forth in Ohio Revised Code 5126.033 the Ethics Council shall recommend that the Board not enter into a contract or shall suggest acceptable, specific revisions. The superintendent shall provide all the information the Council needs to make its determinations. The Council shall certify to the board its recommendation with regard to each contract. The Board shall not enter into any contract that is not recommended by the Ethics Council or enter into any contract to which revisions are suggested if the contract does not include the specified revisions.
- F. The Board, by resolution, shall enter into each direct services contract that the Ethics Council recommends or recommends with specified revisions. The Board may request the prosecuting attorney to prepare a legal review of recommended direct services contract to determine the legality of the contract in accordance with applicable state or federal law. The Board shall enter into only those contracts submitted for review that are determined by the prosecuting attorney to be in compliance with state law.
- G. The Ethics Council shall in no way allow a member or employee of the Madison County Board of DD to authorize or use the authority of his office or employment to secure authorization of a direct services contract that they may benefit from in any way.
- H. This policy shall be in full compliance with the mandates of Sections 5126.033 of the Ohio Revised Code.

## **221. Retention of Board Records**

In accordance with the Ohio County Records Manual prepared by the Archives-Library Division of the Ohio Historical Society with revisions appropriate for changes mandated legislatively, or by rule of the Ohio Department of DD, the State Board of Education, or any other licensing entity having appropriate and authorized jurisdiction, the County Board of Developmental Disabilities shall maintain records in accordance to the following guidelines:

- A. ACCIDENT REPORTS - Shall be maintained in alphabetically arranged enrollee files for a retention period of two (2) years.
- B. ANNUAL BUDGETS - Shall be arranged chronologically and retained permanently for all departments.
- C. ANNUAL COST REPORTS – Shall be arranged chronologically and retained permanently for all departments.
- D. APPLICATIONS FOR EMPLOYMENT - Shall be maintained in active status for one (1) year and retained for years (2) for EEO compliance. Applications for persons hired shall be maintained in the employee's personnel file.
- E. AUDIT REPORTS - Shall be arranged chronologically and permanently retained.
- F. BANK DEPOSIT SLIPS AND STATEMENTS - Shall be chronologically arranged with statements indicating status of special purpose and internal fund audits. Shall be retained for a period of three (3) years after audit.
- G. BIDS - Shall be arranged chronologically with copies of bids to provide supplies and materials to the Board. Shall be retained for two (2) years after letting of contract.
- H. BUS DRIVER RECORDS - Shall be arranged alphabetically by driver in the drivers' personnel file including the physical examination and driver's abstracts. Shall be retained for a period of two (2) years after termination of driver.
- I. CANCELED CHECKS - Shall be arranged by check number and retained for three (3) years after audit.
- J. CASE MANAGEMENT RECORDS - Shall be alphabetically arranged by enrollee and include case work records of services rendered to enrollees and their families including evaluations, contact notes, recommendations, social histories, Individual Service Plans, and abstracts. Subject to Destruction of Records Policy.
- K. CASH BOOKS - Shall be arranged in chronological order with ledgers showing details of receipts and disbursements of internal funds. Shall be retained for ten (10) years after audit.
- L. CERTIFICATION FILES - Shall be contained in employee files in alphabetical order. Shall be retained for a period of two (2) years after employee termination.
- M. HOME TRAINING REPORTS - Shall be arranged alphabetically by enrollee. Shall be retained for a period of two (2) years after audit.
- N. INDIVIDUAL ATTENDANCE RECORDS - Attendance records of enrollees shall be chronologically arranged with daily report of each enrollee's attendance. Shall be retained for a period of one (1) year after compilation of report.
- O. INSURANCE POLICIES - Shall be alphabetically arranged by type of insurance. Shall be retained for a period of two (2) years after expiration or when all claims have been settled.
- P. INVENTORIES OF COUNTY PROPERTY - Shall be alphabetically arranged by category in various departments. Shall be retained for a period of three (3) years after audit.
- Q. INVOICES PAID - Shall be alphabetically arranged by suppliers and include copies of itemized statements of merchandise shipped and purchased with payment noted. Shall be retained for a period of three (3) years after audit.

- R. LEAVE REQUESTS - Shall be in alphabetically arranged employee file showing vacation and sick leave earned and taken. Shall be retained for a period of three (3) years after audit.
- S. MEAL PROGRAM RECORDS - Shall be chronologically arranged with tabulation of meals served and ordered for food program of the Board. Shall be retained for a period of one (1) year after audit.
- T. MINUTES - Shall be chronologically arranged showing members present, record of personnel appointments, resignations, terminations, review of grant proposals, approval of contracts for services, financial reports. Shall be retained permanently.
- U. OFFICE FILES - Shall be arranged alphabetically, therein chronologically relating to the action and activities of the Board. Shall be retained for a period of five (5) years.
- V. PAYROLL RECORDS - Shall be chronologically arranged with worksheets and related material to show for each salary, withholding, and other deductions. Shall be retained for a period of three (3) years after audit.
- W. PERSONNEL FILES - Shall be arranged alphabetically by employee including a record of personnel actions: appointments, promotion, reclassification, personal history data, performance evaluation, position descriptions and classification questionnaires, incident reports, accident reports, etc. Retention shall be permanent.
- X. PSYCHOLOGY REPORTS - Shall be retained in enrollee's file that is alphabetically arranged. Shall be retained for a period of three (3) years.
- Y. PURCHASE ORDERS AND REQUISITIONS - Shall be arranged alphabetically showing department, item requested, delivery date, order number, quarter, fund, year, bill, program, account chargeable and signatures. Shall be retained for a period of three (3) years after audit.
- Z. PROGRAM CALENDARS - Shall be arranged alphabetically by location indicating the number of required days of operation. Shall be retained for a period of three (3) months after audit.
- AA. STUDENTS' FILES - Shall be alphabetically arranged and include case files of dates of attendance, achievement level, test scores, teacher objective observations, valid placement, name, date of birth, parents' names. Shall be retained permanently.
- BB. TIME SHEETS - Shall be chronologically arranged, therein alphabetically by employee showing the presence or absence of the employee on the job each day. Shall be retained three (3) years after audit.
- CC. TRANSPORTATION REPORTS - Arranged chronologically, includes number of buses, bus routes in use, mileage/bus, maintenance and repair costs. Retain for one year after filing.
- DD. TRAVEL EXPENSE REPORTS - Shall be alphabetically arranged by employee. Applications for reimbursement for travel and related expenses for employee engaged on Board business. Shall be retained for a period of three (3) years after audit.
- EE. VOUCHERS - Shall be arranged chronologically by month, therein alphabetically by vendor. Shall be retained for a period of three (3) years after audit.
- FF. VOUCHER REGISTERS - Shall be arranged chronologically with a listing of all vouchers that are transmitted at a particular time for issuance of warrants. Should show date, vendor, number, amount, account chargeable, adjustments, date and number of warrants. Shall be retained for a period of three (3) years after audit.

## **222. Annual Board Policy Review, Revisions and Updates with Changes in Applicable Laws and Rules**

This Board policy shall be reviewed by the Board members at least annually with necessary revisions adopted based on the consent of the Board and in accordance with applicable laws and rules in effect and as amended from time to time. The Board may amend any section of the policy without amending the entire policy. If any Board policy is inconsistent with any controlling law or regulation, the Board shall follow such law or regulation and not the provisions of Board policy.

## **223. Use of Board Facilities**

The Madison County Board of DD believes that the grounds and facilities of this program should be made available for community purposes, provided that such use does not infringe on the original and necessary purpose of the property or interfere with the services provided by the program.

The Board will permit the use of program grounds and facilities when such permission has been requested in writing by a responsible organization or a group of citizens and has been approved by the Superintendent.

Program grounds and facilities shall be available for the below-listed uses. When there are competing interests, approval will be given according to the following priorities:

- A. uses directly related to the program and the operations of the provided services
- B. uses and groups indirectly related to the program
- C. departments or agencies of the municipal government
- D. community organizations formed for charitable, civic, social, religious, or educational purposes
- E. commercial or profit-making organizations or individuals offering services for profit

Facilities shall also be made available to any certified candidate for public office and any recognized, political party or organization for the purpose of conducting public discussions of public questions and issues. The facilities shall be free of charge and available only after regular hours. Users shall abide by all guidelines and rules regarding the use of program grounds and facilities and be liable for any damage incurred. Under no circumstances shall the grounds or facilities be used to raise funds for political purposes.

The use of program grounds and facilities shall be not granted for private social functions.

Should all or any part of the Board's community be struck by a disaster, the Board shall make program grounds and/or facilities available, at no charge, for the housing, feeding, and care of victims or potential victims when requested by local, State, or Federal authorities. The Superintendent should meet with the County Disaster Coordinator and the Red Cross to establish a disaster preparedness plan in order to ensure that proper procedures are established to minimize confusion, inefficiency, and disruption of the program services.

The Superintendent shall develop administrative guidelines for the granting of permission to use program facilities including a schedule of fees which, together with the costs used to determine such fees, must be approved by the Board. Such guidelines are to include the following:

- A. Each user may be required to present evidence of individual or organizational liability insurance.
- B. Use of program equipment in conjunction with the use of program facilities must be specifically requested in writing, and may be granted by the procedure by which permission to use facilities is granted. The users of program equipment must accept liability for any damage or loss to such equipment that occurs while it is in their use. Where rules so specify, no item of equipment may be used except by a qualified operator.
- C. Users shall be financially liable for damage to the facilities and for proper supervision.

No liability shall attach to this Board, or any of its employees and officers, specifically as a consequence of permitting access to these facilities.

### **223.1 Administrative Guidelines**

#### **Use of Program Facilities Applications**

- A. Requests for the use of program facilities by an individual and/or group, including employees of the Board must be scheduled through the Superintendent and/or designee via written application at least seven (7) calendar days before the scheduled date(s).
- B. The following is the priority which building usage will be approved:
  - 1) Category 1 -- Activities from recognized groups within the requested program building.
  - 2) Category 2 -- Activities from recognized groups from other program buildings or services.
  - 3) Category 3 -- Activities from program related groups (example, the Friends of Fairhaven, MATCO Employee Council, advocacy groups, etc.
  - 4) Category 4 -- Activities from local civic groups.
  - 5) Category 5 -- Activities from other local agencies, community groups or individuals.
- C. The right to disapprove or cancel at any time is reserved by the Superintendent or his/her designee. Applicants have the right to appeal disapproval to the Superintendent and/or Board.
- D. Days when a building/facility is scheduled for routine and/or emergency maintenance may not be requested.
- E. All scheduled activities, regardless of priority, will AUTOMATICALLY be canceled when the facility is temporarily closed for adverse weather conditions during or on that day.
- F. A Board employee or recognized collaborative employee MUST be in the facility/building when the facility/building is being used.
- G. The loaning and/or transferring of building/facility keys is prohibited.
- H. Use of some special equipment owned by the Board can be arranged at the time the application is filed.



- 1) Appropriate per hour charges will be assessed for the rental and/or use of equipment and/or personnel who operate equipment
- I. The Board reserves the right to demand sufficient time for full investigation, notice, and arrangements of all requests for the use of facilities and reserves first claim to the use of its own property. Cancellations may be issued by the Superintendent with or without due notice. All approvals are to be granted with this understanding.
- J. In no case will those who have been granted permits assign, transfer, sublet, or charge a fee to others for the use of Board property.

**Fees: Personnel and Facilities**

- A. No fees will be charged for users or groups directly related to Board programs.
- B. During the hours that Board personnel are normally assigned to duties, no personnel fees will be charged.
- C. When an admission to an activity or series of activities is charged the Board may charge an additional rental fee based on a rate of \$12.00 per hour for the use of the building/facility.
- D. Any part of an hour beyond the scheduled time will be considered an additional hour in the fee charged.
- E. Facility rental fees on a per hour basis:
  - 1) Fairhaven Gymnasium \$25.00
  - 2) Fairhaven Multi-purpose room \$12.00
  - 3) MATCO Multi-purpose room \$12.00
  - 4) Meeting room \$12.00
  - 5) Kitchen and Equipment \$12.00
- F. Equipment rental fees on a \$5.00 per day basis per item. No equipment will be transported from one building to another.
- G. Personnel fees:
  - 1) Personnel \$16.00 (per hour per individual)
- H. The fee(s) charged for the use of the program buildings/facilities will be billed to the person and/or group who signed the "Use of Facilities Request Form."

**Responsibilities**

- A. The sponsoring organization assumes all responsibility for the facilities requested, and is responsible for all who enter the building attracted by the activity.
- B. Any damage, theft, or loss of supplies and equipment will be charged against the applicant and may cause cancellation of any further use of the facilities by the applicant or the organization.
- C. The Board assumes no responsibility for any liability that may result from the use of Board's buildings, grounds, equipment, and/or facilities.

**Ineligible Users**

Groups or persons will not be granted permits when the request is for activities that are in conflict or competition with Board programs or not authorized by Board policy.

### **Regulations**

- A. Users must take reasonable steps to ensure orderly behavior and will be responsible for paying for all damage associated with their use of the facility or equipment.
- B. The Board reserves the right to request payment of estimated fees in advance.
- C. Use of tobacco is prohibited except in designated outside areas. All users are responsible for complying with this regulation.
- D. Alcoholic beverages and controlled substances will not be permitted on Board property at any time.
- E. Uses of furniture, and equipment must be arranged for in advance. Set-up and clean-up may be performed by members of the group using the facility, provided the responsible persons are listed on the application. Additional custodial services required for work not done satisfactorily will be paid for by the using group. Arrangements must be made for use of any special or extra equipment. Extra compensation paid to employees for moving, operating, or supervising special or extra equipment will be charged to the using group.
- F. Use during summer vacation, on holidays, or during other vacation periods shall not conflict with building cleaning and renovating programs and will depend on the availability of building service personnel for supervision.
- G. Responsibility for enforcement of rules and regulations concerning use of facilities rests with the user group, and any infractions of the above regulations may be grounds for refusing to grant subsequent requests for the use of facilities.
- H. The Board will not be responsible for any loss of valuables or personal property.

### **224. Purpose**

The Board requires the Superintendent to follow all appropriate rules, regulations, or policies governing program purchases. Such purchases shall be consistent with practices of sound fiscal management.

### **225. Purchase Authority**

The Superintendent has purchase authority up to \$25,000.00 for all services and products.

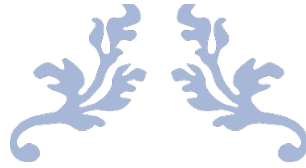
- A. Exceptions to the \$25,000.00 limit are monthly bills for Life Insurance, Fuel, Utilities, and Healthcare which require prompt payment for discounts. In addition, when any demonstrable emergency purchase arises the Superintendent has authority to spend up to \$25,000.00. Emergency procurement shall be limited to those supplies and services necessary to meet the emergency. A record of each emergency procurement shall be made and shall set forth the basis of the emergency and identify any contract and particular contractor selected. A summary of bills paid using the Superintendent's bill paying authority will continue to be provided to the Board on a regular basis for their after the fact review.
- B. The Superintendent may delegate to the Directors approval authority up to specific limits for purchases up to a \$5,000.00 limit.

### **225.1 Competitive Bidding**

Purchases in excess of \$50,000.00 must be bid in accordance with the state bid process specified in Ohio Revised Code 307.86 and related changes specified in HB 509 Sec. 307.86 and 307.861.

### **225.2 Exceptions**

This policy does not apply to contracts and payments made for the provision of residential services through Supported Living. Reference section 222 Ethics Council as applicable.



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# MADISON COUNTY BOARD OF DEVELOPMENTAL DISABILITIES POLICY MANUAL

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## Chapter 3: Service and Support Administration



**Originally Board Adopted as Case Management Policy: January 11, 1990**

**Revised: August 15, 2002**

**Board Adopted as Service and Support Administration Policy: October 20, 2005**

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### **300 Purpose**

The purpose of this policy is to define the responsibilities of the Madison County Board of Developmental Disabilities herein known as the Board, for service and support administration and to establish a process for individuals who receive service and support administration to have an identified service and support administrator who is the primary point of coordination. The Board will maintain compliance with all applicable rules and laws.

### **301 Definitions**

- A. “Alternative Services” has the same meaning as in rule 5123:2-1-08 of the Administrative Code.
- B. “Assessment” means the individual process of gathering comprehensive information concerning the individual’s preferences, desired outcomes, needs, interests, abilities, health status, and other available supports.
- C. “Budget for Services” means the projected cost of implementing the individual service plan regardless of funding source.
- D. “County Board” means a county board of developmental disabilities.
- E. “Department” means the Ohio department of developmental disabilities.
- F. “Home and Community-based Services Waiver” means a Medicaid waiver administered by the department in accordance with section 5166.21 of the Revised Code.
- G. “Individual” means a person with a developmental disability.
- H. “Individual Service Plan” means the written description of services, supports, and activities to be provided to an individual.
- I. “Intermediate Care Facility” means an intermediate care facility for individuals with intellectual disabilities as defined in rule 5123:2-7-01 of the Administrative Code.
- J. “Natural Supports” means the personal associations and relationships typically developed in the community that enhance the quality of life for individuals. Natural supports may include family members, friends, neighbors, and others in the community or organizations that serve the general public who provide voluntary support to help an individual achieve agreed upon outcomes through the individual service plan development.
- K. “Person-centered Planning” means an ongoing process directed by an individual and others chosen by the individual to identify the individual’s unique strengths, interests, abilities, preferences, resources, and desired outcomes as they relate to the individual’s support needs.
- L. “Primary point of coordination” means the identified service and support administrator who is responsible to an individual for the effective development, implementation, and coordination of the individual service plan.
- M. “Service and Support Administration” means the duties performed by a service and support administrator pursuant to section 5126.15 of the Revised Code.
- N. “Team” means the group of persons chosen by the individual with the core responsibility to support the individual in directing development of his or her individual service plan. The team includes the individual’s guardian or adult whom the individual has identified, as applicable, the service and support administrator, direct support staff, providers, licensed or certified professionals, and any other persons chosen by the individual to help the individual consider possibilities and make decisions.

### **302 Decision-Making Responsibility**

- A. Individuals, including individuals who have been adjudicated incompetent pursuant to Chapter 2111. Of the Revised Code, have the right to participate in decisions that affect their lives and to have their needs, desires, and preferences considered.
- B. An individual for whom a guardian has not been appointed shall make decisions regarding receipt of a service or support or participation in a program provided for or funded under Chapter 5123. or 5126. of the Revised Code. The individual may obtain support and guidance from another person; doing so does not affect the right of the individual to make decisions.
- C. An individual for whom a guardian has not been appointed may, in accordance with section 5126.043 of the Revised Code, authorize an adult (who may be referred to as a “chosen representative”) to make a decision described in paragraph 302-2 above on behalf of the individual as long as the adult does not have a financial interest in the decision. The authorization shall be made in writing.
- D. When a guardian has been appointed for an individual, the guardian shall make a decision described in paragraph 302-2 above of this policy on behalf of the individual within the scope of the guardian’s authority. This paragraph shall not be construed to require appointment of a guardian.
- E. An adult or guardian who makes a decision pursuant to paragraph 302-3 or 302-4 of this policy shall make a decision that is in the best interest of the individual on whose behalf the decision is made and that is consistent with the individual’s needs, desires, and preferences.

### **303 Provision of Service and Support Administration**

- A. The county board shall provide service and support administration to:
  - 1) An individual, regardless of age or eligibility for county board services, who is applying for or enrolled in a home and community-based services waiver.
  - 2) An individual three years of age or older who is eligible for county board services and request, or a person on the individuals behalf requests pursuant to section 302 of this policy, service and support administration; and
  - 3) An individual residing in an intermediate care facility who requests, or a person on the individual’s behalf requests pursuant to 302 of this policy, assistance to move from the intermediate care facility to a community setting.
- B. A county board shall provide service and support administration in accordance with the requirements of section 5126.15 of the Revised Code.
- C. An individual who is eligible for service and support administration in the accordance with paragraph 303(1) of this policy and requests, or a person on the individual’s behalf requests pursuant to paragraph 302 of this policy, service and support administration shall receive service and support administration and shall not be placed on a waiting list for service and support administration.

### **304 Determination of Eligibility for County Board Services**

Service and support administrators shall, in accordance with rules adopted by the department, determine individual's eligibility for county board services. A county board may assign responsibility for eligibility determination to a service and support administrator who does not perform other service and support administration functions; in such a case, results of the eligibility determination shall be shared with the service and support administrator who is the primary point of coordination for the individual in order to ensure coordination of services and supports. Results of the eligibility determination shall be shared in a timely manner with the individual and the individual's guardian, and/or the adult whom the individual has identified, as applicable.

### **305 Primary Point of Coordination**

- A. A county board shall identify a service and support administrator for each individual receiving service and support administration who shall be the primary point of coordination for the individual. An individual shall be given the opportunity to request a different service and support administrator from the county board.
- B. With the active participation of the individual and members of the team, the service and support administrator shall perform the following duties.
  - 1) Initially, and at least every twelve months thereafter, coordinate assessment of the individual.
    - i. The assessment shall take into consideration:
      - 1. What is important to the individual to promote satisfaction and achievement of desired outcomes;
      - 2. What is important for the individual to maintain health and welfare;
      - 3. Known and likely risks;
      - 4. The individual's place on the path to community employment; and
      - 5. What is working and not working in the individual's life.
    - ii. The assessment shall identify supports that promote the individual's:
      - 1. Rights (e.g., equality, citizenship, access, due process, and responsibility);
      - 2. Self-determination (e.g., choices, opportunities, personal control, and self-advocacy);
      - 3. Physical well-being (e.g.; routine and preventative health care and daily living skills appropriate to age);
      - 4. Emotional well-being (e.g., self-worth self-esteem, satisfaction with life, and spirituality);
      - 5. Material well-being (e.g., employment, money, education, and housing);
      - 6. Personal development (e.g., achievement, success, and personal competence);
      - 7. Interpersonal relationships (e.g.; social contacts, relationships, and emotional supports); and
      - 8. Social inclusion (e.g., community participation and social supports).
  - 2) Using person-centered planning, develops, review, and revise the individual service plan and ensure that the individual service plan;
    - i. Reflects results of the assessment.



- ii. Includes services and supports that;
    - 1. Ensure health and welfare.
    - 2. Assist the individual to engage in meaningful and productive activities.
    - 3. Support community connections and networking with persons or groups including persons with disabilities and others;
    - 4. Assist the individual to improve self-advocacy skills and increase the individual's opportunities to participate in advocacy activities, to the extent desired by the individual;
    - 5. Ensure achievement of outcomes that are important to the individual and outcomes that are important for the individual and address the balance of and any conflicts between what is important to the individual and what is important for the individual;
    - 6. Address identified risks and include supports to prevent or minimize risks;
  - iii. Integrates all sources of services and supports, including natural supports and alternative services, available to meet the individuals needs and desired outcomes;
  - iv. Reflects services and supports that are consistent with efficiency, economy, and quality of care; and
  - v. Is updated throughout the year.
- 3) Establish a recommendation for and obtain approval of the budget for services based on the individual's assessed needs and preferred ways of meeting those needs.
- 4) Through objective facilitation, assist the individual in choosing providers by:
  - i. Ensuring that the individual is given the opportunity to select providers from all willing and qualified providers in accordance with applicable federal and state laws and regulations including rule 5123:2-9-11 of the Administrative Code; and
  - ii. Assisting the individual as necessary to work with providers to resolve concerns involving a provider or direct support staff who are assigned to work with the individual.
- 5) Secure commitments from providers to support the individual in achievement of his or her desired outcomes.
- 6) Verify by signature and date that prior to implementation each individual service plan:
  - i. Indicates the provider, frequency, and funding source for each service and support; and
  - ii. Specifies which provider will deliver each service or support across all settings.
- 7) Establish and maintain contact with providers as frequently as necessary to ensure that each provider is trained on the individual service plan and has a clear understanding of the expectations and desired outcomes of supports being provided.

- 8) Establish and maintain contact with natural supports as frequently as necessary to ensure that natural supports are available and meeting desired outcomes as indicated in the individual service plan.
- 9) Facilitate effective communication and coordination among the individual and members of the team by ensuring that the individual and each member of the team has a copy of the current individual service plan unless otherwise directed by the individual, the individual's guardian, or the adult whom the individual has identified, as applicable. The individual and his or her providers shall receive a copy of the individual service plan at least fifteen calendar days in advance of implementation unless extenuating circumstances make fifteen-day advance copy impractical and with agreement by the individual and his or her providers.
  - i. A member of the team who becomes aware that revisions to the individual service plan are indicated shall notify the service and support administrator.
  - ii. A member of the team may disagree with any provisions in the individual service plan at any time. All dissenting opinions shall be specifically noted in writing and attached to the individual service plan.
- 10) Provide ongoing individual service plan coordination to ensure services and supports are provided in accordance with the individual service plan and to the benefit and satisfaction of the individual. Ongoing individual service plan coordination shall;
  - i. Occur with the active participation of the individual and members of the team.
  - ii. Focus on achievement of the desired outcomes of the individual;
  - iii. Balance what is important to the individual and what is important for the individual;
  - iv. Examine service satisfaction (i.e., what is working for the individual and what is not working);and
  - v. Use the individual service plan as the fundamental tool to ensure the health and welfare of the individual.
- 11) Review and revise the individual service plan at least every twelve months and more frequently under the following circumstances:
  - i. At the request of the individual or a member of the team, in which case revisions to the individual service plan shall occur within thirty calendar days of the request;
  - ii. Whenever the individuals assessed needs, situation, circumstances, or status change;
  - iii. If the individual chooses a new provider or type of service or support;
  - iv. As a result of reviews conducted in accordance with paragraph 305-2-q of this policy;
  - v. Identified trends and patterns of unusual incidents or major unusual incidents; and
  - vi. When services are reduced, denied, or terminated by the department or the Ohio department of Medicaid.
- 12) Take the following actions with regard to Medicaid services:
  - i. Explain to the individual, in conjunction with the process of recommending eligibility and/or assisting the individual in making application for

- enrollment in a home and community-based services waiver or any other Medicaid service, and in accordance with rules adopted by the department:
    - 1. Alternative services available to the individual;
    - 2. The individual's due process and appeal rights; and
    - 3. The individual's right to choose any qualified and willing provider.
  - ii. Explain to the individual, at the time the individual is being recommended for enrollment in a home and community-based services waiver:
    - 1. Choice of enrollment in a home and community-based services waiver as an alternative to intermediate care facility placement; and
    - 2. Services and supports funded by a home and community-based services waiver.
  - iii. Provide an individual with written notification and explanation of the individual's right to a Medicaid state hearing if the individual service plan process results in a recommendation for the approval, reduction, denial, or termination of services funded by a home and community-based services waiver. Notice shall be provided in accordance with section 5101.35 of the Revised Code.
  - iv. Make a recommendation to the Ohio department of Medicaid or its designee, in accordance with rule 5101:3-3-15.3 of the Administrative Code, as to whether the individual meets the criteria for an intermediate care facility level of care in accordance with rule 5101:3-3-07 of the Administrative Code.
  - v. Explain to an individual whose individual service plan includes services funded by a home and community-based services waiver or other Medicaid services that the services are subject to approval by the department and the Ohio department of Medicaid. If the department or the Ohio department of Medicaid approves, reduces, denies, or terminates services funded by a home and community-based services waiver or other Medicaid services included in an individual service plan, the service and support administrator shall communicate with the individual about this action.
- 13) Provide an individual with written notification and explanation of the individual's right to use the administrative resolution of complaint process set forth in rule 5123:2-1-12 of the Administrative Code if the individual service plan process results in the reduction, denial, or termination of a service other than a service funded by a home and community-based services waiver or targeted case management services. Such written notice and explanation shall also be provided to an individual if the individual service plan process results in an approved service that the individual does not want to receive, but is necessary to ensure the individual's health, safety, and welfare. Notice shall be provided in accordance with rule 5123:2-1-12 of the Administrative Code.
- 14) Advise members of the team of their right to file a complaint in accordance with rule 5123:2-1-12 of the Administrative Code.
- 15) Retain responsibility for all decision-making regarding service and support administration functions and the communication of any such decisions to the individual.

- 16) Take actions necessary to remediate any immediate concerns regarding the individual's health and welfare.
- 17) Implement a continuous review process to ensure that individual service plans are developed and implemented in accordance with the rule.
  - i. The continuous review process shall be tailored to the individual and based on information provided by the individual and the team.
  - ii. The scope, type, and frequency of reviews shall be specified in the individual service plan and shall include, but are not limited to:
    1. Face-to-face visits, occurring at a time and place convenient for the individual, at least annually or more frequently as needed by the individual; and
    2. Contact via phone, email, or other appropriate means as needed.
  - iii. The frequency of reviews may be increased when:
    1. The individual has intensive behavioral or medical needs;
    2. The individual has an interruption of services of more than thirty calendar days;
    3. The individual encounters a crisis or multiple less serious but destabilizing events within a three-month period;
    4. The individual has transitioned from an intermediate care facility to a community setting within the past twelve months;
    5. The individual has transitioned to a new provider of homemaker/personal care within the past twelve months;
    6. The individual receives services from a provider that has been notified of the department's intent to suspend or revoke the provider's certification or license; or
    7. Requested by the individual, the individual's guardian, or the adult whom the individual has identified, as applicable.
  - iv. The service and support administrator shall share results of reviews in a timely manner with the individual, the individual's guardian, and/or the adult whom the individual has identified, as applicable, and the individual's providers, as appropriate.
  - v. If the continuous review process indicates areas of non-compliance with standards for providers of services, funded by a home and community-based services waiver, the county board shall conduct a provider compliance review in accordance with rule 5123:2-2-04 of the Administrative Code.

### **306 Emergency Response System**

The county board shall, in coordination with the provision of service and support administration make an on-call emergency response system available twenty-four-hours per day, seven days per week to provide immediate response to an unanticipated event that requires an immediate change in an individual's existing situation and/or individual service plan to ensure health and safety. Persons who are available for the on-call emergency response system shall:

- A. Provide emergency response directly or through immediate linkage with the service and support administrator who is the primary point of coordination for the individual or with the primary provider;

- B. Be trained and have the skills to identify the problem, determine what immediate response is needed to alleviate the emergency and ensure health and welfare, and identify and contact persons to take the needed action;
- C. Notify the providers and the service and support administrator who is the primary point of coordination for the individual to ensure adequate follow-up;
- D. Notify the county board's investigative agent as determined necessary by the nature of the emergency; and
- E. Document the emergency in accordance with county board procedures.

### **307 Records**

- A. Paper or electronic records shall be maintained for individual's receiving services and support administration and shall include, at a minimum;
  - 1) Identifying data;
  - 2) Information identifying guardianship, other adult whom the individual has identified, trusteeship, or protectorship;
  - 3) Date of request for services from the county board;
  - 4) Evidence of eligibility for county board services;
  - 5) Assessment information relevant for services and the individual service plan process for supports and services;
  - 6) Current individual service plan;
  - 7) Current budget for services;
  - 8) Documentation that the individual exercised freedom of choice in the provider selection process.
  - 9) Documentation of unusual incidents;
  - 10) Major unusual incident investigation summary reports;
  - 11) The name of the service and support administrator;
  - 12) Emergency information;
  - 13) Personal financial information, when appropriate;
  - 14) Release of information and consent forms;
  - 15) Case notes which include coordination of services and supports and continuous review process activities; and
  - 16) Documentation that the individual was afforded due process in accordance with section 308 of this policy, including but not limited to, appropriate prior notice of any action to deny, reduce, or terminate services and an opportunity for a hearing.
- B. When the county board uses electronic record keeping and electronic signatures, the county board shall establish policies and procedures for verifying and maintaining such records.

### **308 Due Process**

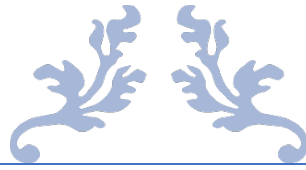
Due process shall be afforded to each individual receiving service and support administration pursuant to section 5101.35 of the Revised Code for services funded by a home and community-based services waiver and targeted case management services or pursuant to rule 5123:2-1-12 of the Administrative Code for services other than services funded by a home and community-based services waiver and targeted case management services.

### **309 Department Monitoring and Technical Assistance**

The department shall monitor compliance with this rule by county boards. Technical assistance, as determined necessary by the department, shall be provided upon request and through regional and statewide trainings.

### **310 Ohio Department of Medicaid Monitoring of Targeted Case Management Services**

The Ohio department of Medicaid retains final authority to monitor the provision of targeted case management services in accordance with rule 5101:3-48-01 of the Administrative Code.



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# MADISON COUNTY BOARD OF DEVELOPMENTAL DISABILITIES POLICY MANUAL

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## Chapter 4: Enrollee Policy



**Originally Adopted: January 11, 1990**  
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## **400. Purpose and Philosophy and Miscellaneous Provisions**

### **Instruction and Habilitation**

The central purposes of instruction and habilitation are to assist each child, student and adult to (1) grow as vital members of society and (2) to help equip them for becoming a member of society. Evaluation of the *programs and services provided either directly by the Board or through contractual agreement* and the course of instruction and habilitation shall be judged finally by how well they serve these two related aims.

The primary indicators that such processes are serving their central purposes are these:

- A. Individual differences among individuals are understood so keenly by the staff that each person acquires indispensable basic skills and knowledge.
- B. Each person is able to communicate.
- C. Each person is able to live in satisfactory relationships with others.
- D. Each person is able to use time in meaningful and rewarding ways.
- E. Each person can understand and accept him/herself.
- F. Each person can accept responsibilities for him/herself.
- G. The instructional program offers training in:
  - 1) Ability to communicate.
  - 2) Managing one's body.
  - 3) Understanding self and others.
  - 4) Home and work responsibilities.
  - 5) Ability to travel.
  - 6) Developing leisure time alternatives.

*Development of appropriate behaviors that will lead to positive interactions with others.*

### **Programs**

Each program operated by the board *or through a contractual agreement with the Board* shall have on file written procedures to determine eligibility for services and shall disseminate these to agencies and individuals upon request. These procedures will be reviewed annually. The board shall inform school districts and other potential referring sources of these policies and procedures. Information about the mission, programs and services of the Board will be provided to the individual requesting services and, if appropriate family and friends, in a format that can be easily understood by the individual. No applicant will be denied services on the basis of race, creed, ethnic origin, color or sex. Placement into programs operated by the board *or through contractual agreement with the Board* shall be determined by an interdisciplinary team through a comprehensive evaluation of the individual. For individuals being considered for Early Childhood or Supportive Home Services, this evaluation shall include an assessment of parent and family needs. If the individual is of school age, the recommendation for placement shall be made through the IEP process in accordance with rule 3301-51-02 of the Administrative Code.

## **Ancillary Services**

Ancillary Services shall be available according to the county board comprehensive plan. Ancillary Services are specialized services intended to improve and preserve one's ability to function independently and, to the extent possible, prevent progressive disabilities. These services may be delivered in school or other community settings by a specialist who is an integral part of the interdisciplinary team.

Ancillary Services provided to an individual shall be based on assessment of the individual and, based upon the needs indicated in the assessment, made part of the IEP/IFSP. Services shall be provided in accordance with Rule 3301-51-05 of the Administrative Code.

Ancillary Services may include:

- A. Communication Skills;
- B. Physical Development;
- C. Physical Therapy;
- D. Occupational Therapy;
- E. Psychological Services;
- F. Health Education;
- G. Supplemental Services such as art and music, mobility, sign language, behavior support, social services.

## **Research**

All staff and persons external to the program wishing to utilize the enrollees, residents, staff, and/or facilities of the county board program for research purposes, should direct a formal research proposal to the superintendent. Such proposals shall include a detailed description of the intended research, including:

- A. A statement of purpose, indicating the anticipated contribution to current knowledge in the field of developmental disabilities.
- B. A description of all procedures and methodology pertaining to direct or indirect contact with program clients.
- C. Criteria for selection of subject population: age range, disability qualifications, levels of functioning, preferred location, etc.
- D. Specification of the time involvement of each staff member, enrollee, and/or resident participating in the research.
- E. Specification of provision for enrollee/resident's rights regarding confidentiality and informed consent to participate.
- F. An indication of any college or university course number for which credit hours will be accumulated as a result of the project.
- G. Parental/guardian permission and/or self-signed adult permission forms, which must be completed for all enrollees/residents prior to their participation.
- H. Recommendations from the University Human Subjects Committee if the proposal originated at the university level.

The superintendent will critically review the research proposal. All proposals will be evaluated for their assurance of participant's rights, feasibility of implementation, value to the board's programs, and contribution to the field of mental retardation and developmental disabilities. The proposal shall be presented to the Madison County Board of Developmental Disabilities for approval or denial of the research to be conducted.

The researcher may be requested to make status/progress reports to the superintendent, which will be reported to the Madison County Board of Developmental Disabilities.

A brief abstract of the project's final report summarizing the research finding shall be submitted to the superintendent. In some cases, a copy of the entire final report from the project may be requested.

### **Program Ceremonies and Observances/Patriotic Exercises**

The Madison County Board of Developmental Disabilities does not require the daily recitation of the Pledge of Allegiance. However, the Board encourages reciting of the Pledge on a regular basis as determined by the classroom instructors and/or building authority. The Board recognizes that beliefs of some persons prohibit participation in the Pledge, the salute to the flag or other opening exercise and therefore are excused.

LEGAL REFS.: U.S. CONST. amend. I, Establishment C1.;Speech C1. ORC 5.23 3313.602; 3313.63; 3313.80

## **401. Title XX**

### **Purpose**

The purpose is to assure compliance with the Federal Title XX Assistance Program.

### **Policy**

The Madison County Board of Developmental Disabilities (known as "The Board") elects to participate in the Federal Title XX Federal Assistance Program through a contract agreement with the Ohio Department of Developmental Disabilities (known as "The Department") and thereby agrees to the terms and conditions set forth in the contract/grant agreement and respective attachments.

The Board and the Department agree to work together to carry out the grant program objectives for employment services to maximize use of the Title XX Federal Assistance Program, and to ensure services to individuals that are eligible for Board services.

Administration of the Title XX contract shall include compliance with all aspects of the signed agreement between the Board and the Department including documentation for billing and reporting, which shall incorporate records for each recipient showing the number of units provided for the delivery of services under the grant.

The Title XX reimbursement program will be used for clients ineligible for the Medicaid or other federal funding programs.

## **General Procedures**

The Madison County Board of Developmental Disabilities will consider and authorize as presented by the Superintendent and/or his designee, the applications for any State and Federal Grants for which it deems itself eligible. The evaluation of the federal and state funded programs including their requirements, regulations, reporting, and benefits to those consumers enrolled in the programs will be provided by said Board. Upon applying for and accepting the reference grant funds, the Board agrees to comply with all requirements of the grant in regards to planning, application processes, the receipt and expenditure of funds, and the reporting of such as outlined in the guidelines of the grant.

## **Services**

Title XX services provided by the Madison County Board of DD to eligible individuals are per the Title XX Services Profile and are:

- Recreation 708.01
- Transportation 754.01

## **Eligibility for Services**

Individual eligibility for participation in the Federal Title XX program will follow those specific processes and procedures set forth in 5123:2-1-02 of the Ohio Administrative Code regarding the use of the Ohio Eligibility Determination Instrument (OEDI), which is the same process utilized by the Madison County Board of Developmental Disabilities for program eligibility. Individuals determined eligible under this process shall be “without regard to income” in accordance with Title XX eligibility criteria.

Redetermination of eligibility for Title XX services will be completed when an individual’s need for Title XX services change, as indicated by the individual’s service plan, or if a change to the Title XX profile occurs, signifying a change in services provided.

The Madison County Board of DD will provide Title XX funded services without regard to income. Eligibility for Title XX funded services shall be determined using the process identified in 5123:2-1-02 of the Ohio Administrative Code for determining eligibility for County Board of DD services. Redetermination of eligibility for Title XX funded services shall be completed no less than annually through the Individual Plan review process.

### **NOTICE**

The MCBDD shall make a copy of this policy available upon request to all persons.

## **Record Keeping and Reporting**

Records for documenting the eligibility of individuals and the delivery and billing of services under the Title XX program shall be maintained in an orderly and systematic manner in respective facility storage areas.

Records pertaining to the application for and renewal of Title XX funding, including unit of service rate computation worksheets, documentation of direct and indirect costs, and the signed/approved Title XX

contract shall be maintained in the Administrative Offices of the Madison County Board of Developmental Disabilities. All costs reported in the Title XX rate computation worksheets shall be derived from official records of the Madison County Auditor's Office, which shall be in accordance with generally accepted accounting principles.

All records shall be maintained for a period of at least seven (7) years following the end of the respective Title XX contract/grant period.

### **Audit**

Upon request, the Madison County Board of Developmental Disabilities shall respond to any and all requests from external auditors for the Title XX documentation and data regarding expenditures, eligibility, billing and/or other areas relating to the administration and operation of the Title XX program. Subsequent to providing such documentation, the Board agrees to receive, reply, and/or comply with any audit exception discovered in an audit of the Title XX program and to develop a written plan of corrective action to resolve such audit exceptions within the time frame allowed by the Auditors and/or the Department.

## **402. Early Intervention**

### **Purpose**

- A. The purpose of this policy is to direct the agency in the provision of services and supports to infants and toddlers birth through age two with developmental delays or disabilities and their families. Board Early Intervention shall be a part of a comprehensive, collaborative, coordinated, and family-centered system. Early intervention services are designed to meet the needs of the family related to enhancing the child's development and to meet the developmental needs of young children.

The mission statement jointly developed between the Madison County Board of DD and Madison County Department of Family and Children is as follows: *Madison County EI and HMG work as a collaborative team to empower families in their natural environments. We will work with families to develop skills and strategies they can use in their everyday routines and experiences that will support and enhance their child's growth and development.*

- B. The Board shall be an integral part of the county Early Intervention system and collaborate with county agencies and the Family and Children First Council to provide a comprehensive early intervention system of services and supports to birth through age two and their families.
  - 1) The Board may provide funded services through contractual arrangements with the Family and Children's First Council as designed to meet Help Me Grow (HMG) requirements.
  - 2) The Board will provide specialized services to children birth through age two with developmental disabilities as part of the service system of HMG. Services shall include:
    - a. Public awareness/child find in conjunction with other local agencies;

- b. Evaluation to determine eligibility;
  - c. Child and family assessment;
  - d. Early intervention services (including Physical Therapy, Occupational Therapy, Speech Therapy, and Developmental Specialist who use primary service provider approach and family coaching) in everyday routines, activities and places as developed through the individualized family services plan development process;
  - e. Assurances for procedural safeguards required by Part C of the Individuals with Disabilities Education Act, 20 U.S. C. 1431 through 1445, 34 C.F.R. Part 303, Subpart E, and rules promulgated by the Ohio Department of Health.
- 3) Early intervention services shall be designed to meet the needs of the family related to enhancing the child's development and participation in family life. The county board shall participate in the development of individual family service plan outcomes for children and families that promote engagement, independence, and full community participation.
- C. Personnel qualifications
  - 1) Employees of the Board who are hired to work as developmental specialists or supervisors shall hold applicable registration or certification in accordance with rule 5123:2-5-05 of the Administrative Code.
- D. Eligibility for children with developmental delays or disabilities
  - 1) The Board will provide services and supports to children under three years of age with developmental disabilities and their families. To be eligible for HMG Early Intervention services and supports provided by the Board, an infant or toddler shall: have a developmental disability as defined in HMG Rule of the O. A. C., have a diagnosed physical or mental condition that has a high probability of resulting in a developmental delay or disability, **OR** have already been determined to be Part C eligible in the state of Ohio.
  - 2) The Board participates in the local Part C eligibility and determination of need by providing qualified evaluators/assessors (Developmental Specialist, Physical Therapist, Occupational Therapist, and/or Speech and Language Pathologist) to the Evaluation and Assessment team per the Help Me Grow evaluation/assessment rule.
  - 3) If the Board is not involved in the evaluation to determine eligibility for HMG as described in paragraph (D) (2) of this policy the Board shall request a copy of the written evaluation report for the child's record and shall maintain documentation that a request was made if the information is not available.
- E. Ongoing family and child assessment
  - 1) Children who are eligible for HMG services and supports and their families shall receive ongoing family and child assessments. Within forty-five calendar days of the initial referral to the system, the family directed assessment shall be completed, with consent from the family, to gather information on the strengths, needs and choices of the child and family for the purpose of program planning.
  - 2) Ongoing assessments for program planning must be completed at least annually before the annual individualized family service plan meeting due date by qualified personnel. The family shall be provided every opportunity to take an active role in the assessment process.
- F. Child records



- 1) For each child birth through two years of age enrolled in the Board to receive early intervention services and supports from the Board, the following information shall be compiled and kept on file:
  - a. Documentation verifying the date of referral to services in the HMG system and the date of request for the County Board to assist in the initial evaluation/assessment process when the county board participates in the early intervention child and family evaluation and assessment;
  - b. Documentation of eligibility;
  - c. Current IFSP;
  - d. Consent forms;
  - e. Correspondence with the family;
  - f. Case notes which include documentation of the date, frequency, duration, and intensity of services delivered;
  - g. Documentation of records requested and date the documents were shared or released;
  - h. Documents developed by the county board including evaluations, assessments, and progress reports;
  - i. Unusual incident and major unusual incident forms;
  - j. Documentation that a request for a copy of any required information was made, but the information was not available;
  - k. Documentation demonstrating that early intervention services provided or arranged by the county board meet the requirements of Part C of the Individuals with Disabilities Education Act, 20 U. S. C. 1431 through 1445, as in effect, and rules promulgated by the Ohio Department of Health with regards to parents' rights and procedural safeguards.

G. IFSP process

- 1) Board providers of services and supports to eligible children and their families shall participate in the development, implementation, review, and monitoring of the IFSP and its timelines in accordance with Help Me Grow rule.

H. Exiting Board Early Intervention services

- 1) Exit from Board Early Intervention services may occur in accordance with HMG rule **OR**
- 2) The Board may choose to exit a child from the voluntary early Intervention services for the following reasons:
  - a. The family is not at home or is unavailable for three (3) consecutive visits without notification of cancellation **OR**
  - b. The service provider has made three (3) documented attempts (2 via phone, text, and/or email and the final attempt by mail) to contact the family to schedule/reschedule a visit and the family has not responded. The family shall be given a 10 work day deadline to respond to the letter prior to being exited from the Board's Early Intervention program.

I. Procedural Safeguards

- 1) For all Part C eligible infants and toddlers served by the Board, the Board shall:
  - a. Comply with the Ohio Department of Health's "Ohio Procedural Safeguards" policy;

- b. Ensure parents are afforded all requirements under section 5123.63 of the Revised Code, distribution of the “Bill of Rights.”
  - c. In conjunction with the Madison County Department of Family and Children comprehensive year-round HMG system, the Board will provide Early Intervention services and supports on a year-round basis for a minimum of two hundred forty days subject to availability of funds.
- J. Implementation
- 1) The policy and procedures outlined in this directive are to be uniformly administered to all.
  - 2) This policy rescinds all previous directives and memoranda on the subject of Early Intervention and becomes effective immediately.

## **403. Preschool Services**

### **Preschool Eligibility**

Eligibility factors include:

- A. Differentiated referral procedures shall be implemented to determine whether a referred child is in need of non-special education intervention, or a multi-factored evaluation to determine the existence of a disability.
- B. A Preschool child with a disability is a child who:
  - 1) Is at least three years of age, but not of compulsory school age; and
  - 2) Has a disability as demonstrated by a significant documented deficit in one or more areas of development which has an adverse effect upon normal development and functioning per the Ohio Department of Education (ODE) Rule;
  - 3) Has been placed by his/her Local Education Agency (LEA) for educational programming.
- C. In the case of a suspected disability, a multi-factored and multidisciplinary evaluation shall be conducted by the child’s LEA as follows:
  - 1) Use of all of the following assessment procedures to confirm a documented deficit as required in item E. of this section and use any of the following procedures to assess the areas outlined in item C 2 below:
    - a. Structured interview with persons knowledgeable about the child’s functioning including the parent or primary caregiver;
    - b. Structured observations over multiple settings and activities;
    - c. Standardized norm-referenced tests (where published); and
    - d. Criterion-referenced/curriculum based assessment.
  - 2) Assessment in the following areas:
    - a. Adaptive behavior
    - b. Background information including developmental, family, medical, and educational histories when appropriate
    - c. Cognitive ability
    - d. Communication skills
    - e. Hearing

- f. Pre-academic skills
- g. Sensorimotor functioning
- h. Social-emotional/behavioral functioning and
- i. Vision

3) The following specialized evaluations:

- a. A physical examination completed by a licensed doctor of medicine or doctor of osteopathy in cases where the disability is primarily the result of a congenital or acquired physical disability,
- b. A visual examination conducted by an eye care specialist in cases where the disability is primarily the result of a visual impairment, and
- c. An audiological examination completed by a certified or licensed audiologist in cases where the disability is primarily the result of a hearing impairment.

D. A child shall be determined eligible when one of the following applies:

- 1) There is a significant documented deficit in one or more of the following areas:
  - a. Communication skills (form, content, and use of language)
  - b. Hearing abilities
  - c. Motor functioning
  - d. Social-emotional/behavioral functioning, or
  - e. Vision, or
- 2) There is a significant documented deficit in cognitive ability as determined by a licensed psychologist or certified school psychologist, and also a documented deficit in
  - a. One or more of the areas listed in item D 1 of this section, or
  - b. A documented deficit in adaptive behavior; or
- 3) There is a documented deficit in adaptive behavior and a documented deficit in one or more of the areas listed in item D 1 of this section.

E. A documented deficit

- 1) Except in the areas of hearing and vision shall be determined by:
  - a. A score of two standard deviations below the mean in one area, or scores of one and one-half standard deviations below the mean in two areas outlined in item D of this section as measured by norm-referenced test, and
  - b. Data obtained through structured interview, structured observation, and criterion-referenced/curriculum-based assessment confirming the reliability of standard scores and the existence of an adverse effect on normal development or functioning.
- 2) In the area of hearing a deficit shall be determined by
  - a. An average pure tone hearing loss of fifty decibels or greater, according to the American National Standards Institutes (ANSI) 1969, for the frequencies of five-hundred, one thousand and two thousand hertz in the better ear;
  - b. An average pure tone hearing loss of twenty five decibels or greater ANSI for the frequencies five hundred, one thousand and two thousand hertz

in the better ear, which has an adverse effect upon normal development and functioning related to documented evidence of:

- i. A more severe hearing loss during the developmental years than is currently measured,
  - ii. A history of chronic medical problems that have resulted in fluctuating hearing, presently or in the past, or
  - iii. A delay in diagnosis, provision of amplification, and/or initiation of special programming; or
- c. A hearing loss in excess of twenty five decibels (ANSI) for the frequencies one thousand hertz through eight thousand hertz in the better ear, resulting in such poor auditory discrimination that it has an adverse effect upon normal development and functioning, or

3) In the area of vision a deficit shall be determined by:

- a. A visual impairment, not primarily perceptual in nature, resulting in a measured visual acuity of 20/70 or poorer in the better eye with correction; or
- b. A physical eye condition that affects visual functioning to the extent that special education placement, materials, and/or services are required in an educational setting.

F. Procedures relating to due process and procedural safeguards shall be followed in accordance with Rule 3301-51-02 of the Administrative Code except paragraphs (E)(4)(f), (E)(4)(h), and (E)(13) of said rule.

G. Medical consultation shall be encouraged on a continuing basis, especially when school authorities feel that there has been a change in the child's behavior or educational functioning or when new symptoms are detected.

H. The multi-factored evaluation team report shall include the following components:

- 1) Documentation of assessment dates, procedures, and results as required in section C above;
- 2) Educationally relevant medical information, if any;
- 3) Documentation of the existence of the documented deficit(s) as required in sections D 1-3 and E 1-3 above including the four assessment procedures required in sections C 1 a-d above;
- 4) Description of observed behavior in the area(s) of deficit as compared to typical behavior of same age peers;
- 5) Conclusion that there is an adverse effect upon normal development and functioning;
- 6) Conclusion that the disability is not solely the result of environmental, cultural, or economic factors; and
- 7) Team members' signatures indicating agreement that the results of the multi-factored evaluation indicate that a disability exists, or attached statement(s) if there is a disagreement.

I. Preschool children with disabilities who are five years old on or before the first day of August may be served in a school-age special education program.

### **Preschool Enrollment**

- A. The IEP conference shall be held as soon as possible, and in any event not more than ninety (90) days after parental consent for multi-factored evaluation has been received, or within one hundred twenty (120) days after the initial referral as a child that may have a disability, whichever comes first, except where a greater time span is mutually agreed to in writing by the parent and the local school district. If placed by the LEA, Rule 3301-51-02 of the Administrative Code shall be followed.
- B. An IEP shall be based on the comprehensive evaluation and developed for each child in accordance with Rule 3301-51-02 and Rule 3301-51-04 of the Administrative Code.
- C. The IEP shall be written with parental input. The plan shall specify strengths and needs of the child, present level of functioning, long-term goals and short-term objectives, evaluative criteria and procedures, behavioral objectives for programming as required, frequency of attendance, transportation assistance needs, and provisions for periodic reevaluation and review at least three times during the school year.

### **Preschool Enrollee Records**

The following information shall be maintained for each Preschool enrollee:

- A. Application for enrollment;
- B. Verification of birth;
- C. The multi-factored evaluation and IEP must be completed prior to commencing programming;
- D. A medical evaluation current within 45 days of enrollment and updated as determined necessary by the team. Any person with Down syndrome who participates in physical development activities shall be examined by a physician for atlantoaxial dislocation. Such examination must be documented.
- E. A record of immunizations in accordance with the guidelines specified within the Ohio Revised Code sections 3701.13 and 3313.671. The Board will insure that a current list of the immunization requirements is available to parents and families.

Exceptions to the enforcement of this policy shall be made only in cases where medical contraindication is presented in a written statement by a physician or where written certification is presented attesting to objection on philosophical or religious grounds.

Students deemed "in process" of obtaining required immunizations, must meet the standards outlined in Ohio Revised Code section 3313.671. Students must continue to meet the "in process" requirement as defined within section 3313.671 in order to continue to remain in school.

- F. Emergency Care Card which must include names, addresses and telephone numbers for two persons to contact in an emergency and a phone number for a physician and a dentist;
- G. Accident or unusual incident reports;
- H. IEP current within one year and correspondence relating to the IEP process;

- I. Reports of progress on IEP goals and objectives which shall be updated at least three times during the school year;
- J. Behavioral program plans and data summaries per IEP;
- K. Data noting other services, such as counseling with parents and referral services to other professional services and community agencies.
- L. The Madison County Board of DD shall prepare a parent roster listing the names, addresses and telephone numbers of parents, custodians or guardians and children enrolled in the program. Any person who requests their name(s) or telephone number not be listed will not be listed on the roster. Rosters will be furnished to each parent, custodian, or guardian upon request. The roster shall not be distributed to any person other than a parent, custodian, and/or guardian of a child who attends the preschool program.
- M. Each parent, custodian or guardian shall provide the Madison County Board of DD with a signed statement indicating to whom their child may be released.
- N. Record of native language.
- O. Separate written permission to participate in swimming activities.

The following information may be requested and included:

- A. Previous programmatic and instructional records;
- B. Current family and child data;
- C. Information to determine or substantiate eligibility for other services such as supplemental security income, Medicaid, etc.; and
- D. Any additional information necessary to complete the placement process.

### **Preschool Programming Content**

Preschool programs shall include individual, small group and classroom instruction which are developmentally and chronologically age-appropriate, functional and facilitate the attainment of individualized goals and objectives on the IEP.

- A. The education program shall:
  - 1) Be designed to align with the ODE Preschool content standards addressing the areas of:
    - a. Language arts;
    - b. Mathematics and Science; and
    - c. Social Studies
  - 2) Include the following developmental domains:
    - a. adaptive,
    - b. physical development; fine and gross motor,
    - c. cognitive,
    - d. communication,
    - e. sensorimotor,
    - f. social-emotional; and
    - g. parent education:

- i. To increase parents' and families acceptance and understanding of the nature of the disability.
  - ii. To increase the ability of the parents and families to teach the child.
  - iii. To encourage and assist the family to acquire and maintain skills to enable them to cope more effectively with the needs and demands associated with a child who has a developmental delay or intellectual disability.
  - iv. To provide information to parents concerning their role and their rights in regard to the education of their child.
- 3) Include parent involvement.
- B. The data from the child's multi-factored evaluation (MFE) and individualized education program (IEP) shall be available to and used by the preschool special education teacher and therapists in the planning and coordination of the child's program.
- C. In addition to their primary instructional responsibilities, preschool special education teachers may provide the following:
  - 1) Instruction to nondisabled children in an integrated setting,
  - 2) Assessment and consultation, and
  - 3) Activities related to parent involvement.
  - 4) With parent permission, collaborative programming with other providers (i.e. Head Start, Madison Health Speech Therapy Clinic, etc.)
- D. Activities for parent involvement may include, but are not necessarily limited to:
  - 1) Education,
  - 2) Family support services,
  - 3) Linkage with other resources, and
  - 4) Transition planning,
  - 5) Participation in school activities such as field trips, family picnic, etc.
- E. One preschool special class teacher shall serve eight preschool children with disabilities.
- F. Up to eight age-eligible typically developing children may be enrolled in a special class for the purpose of establishing an integrated class setting. In such cases, class size shall not exceed sixteen children at any one time unless a waiver is granted by O.D.E..
- G. In addition to the preschool special class teacher, at least one responsible individual shall be present at all times when seven or more children are in attendance in a special class setting unless children are napping.
- H. A minimum of ten hours of services per week shall be provided for each child receiving special class services.
- I. Activities shall be conducted that address the transition of preschool children with disabilities and their families between and within service delivery systems, with written parental permission. Related activities may include, but are not necessarily limited to:
  - 1) Development of interagency agreements to clarify transition options;
  - 2) Development of forms and procedures for sharing pertinent information among agency personnel and parents;
  - 3) Transfer of personally identifiable information prior to the age at which children may be eligible for preschool or school-age services;
  - 4) Provision of information for parents regarding service options, and

- 5) Provision of an individual planning conference and/or written transition plan for each child and family at the discretion of the child's local education agency (LEA).
- J. Housing, facilities, materials, and equipment shall be maintained in accordance with Rule 3301-37-06 of the Administrative Code, except paragraph (F) of said rule, and Rule 3301-37-07 of the Administrative Code, except paragraph (F) of said rule. In addition the following shall apply:
  - 1) The indoor and outdoor physical environment shall be accessible and appropriate to the needs of the preschool children with disabilities;
  - 2) Evaluation instruments, instruction materials and equipment as well as adaptive equipment shall be appropriate for the age, developmental ability and disability of each preschool child.
- K. Rules 3301-37-02, 3301-37-04, 3301-37-05, 3301-37-09, 3301-37-10, and 3301-37-11 of the Administrative Code shall be followed in the provision of programs for preschool children with disabilities.
- L. Related services may be provided for preschool children with disabilities in accordance with Rule 3301-51-05 of the Administrative Code, except paragraph (N)(1) of said rule, may:
  - 1) Include consultative, indirect, and direct services;
  - 2) Be provided in alternative settings as outlined in paragraph C of this rule; and
  - 3) Be considered a special education program if they provide specially designed instruction to meet the unique needs of a preschool child with a disability and no other special education program is currently being provided to that child.
- M. Program evaluation activities shall be conducted for the purpose of making decisions regarding program maintenance and improvement.
- N. Experimental special education programs or related services for preschool children with disabilities may be approved outside these rules by the Department of Education, Division of Early Childhood Education, to evaluate new methodology and/or alternative procedures in accordance with a request for proposal issued by the Division of Early Childhood Education. A recommendation for the design and issuance of a request for proposal may be submitted to the Division of Early Childhood Education.

### **Preschool Calendar**

The Preschool program shall be scheduled for instruction a minimum of 10 hours of instruction per week, for a minimum of 36 weeks per academic year or 360 hours per school year. Hours missed, below the minimum, must be made up.

### **Preschool Attendance**

- A. Preschoolers may attend the program for an entire official school day for four days per week or a prorated portion of a day or week, with minimum of 10 hours weekly.
- B. The interdisciplinary team shall determine the frequency of attendance which shall be indicated on the IEP. This determination shall be based on the individual child's age, emotional needs, physical stamina, and habilitative needs. The procedures as outlined in rule 3301-51-02 of the Administrative Code shall be followed.



- C. When unexplained or unexcused absences of ten days occur during the program year, the LEA will be notified. A record of such communication shall be recorded in the child's permanent record file.
- D. For children of compulsory school age who are placed by the LEA, attendance is mandatory. Unexplained or unexcused absences shall be reported to the attendance officer of the LEA.
- E. If patterns of irregular attendance emerge, the Children Services Director will be notified and contact will be made with the home to discuss any problems. Further action may be taken through the LEA pursuant to the Ohio Revised Code.

### **Preschool Program Facility**

- A. Preschool classrooms shall contain a minimum of fifty square feet per pupil exclusive of space used for office, storage or utilities.
- B. Playground areas shall be provided for Preschool programs. Playground equipment design shall be age-appropriate and reflect functional abilities and safety needs of the children.

### **Preschool Education Services for Typically Developing Children**

Preschool Services include a planned program of education designed to meet the needs of a child who has not attained compulsory school age and who is eligible for such services. Both the child and the family are eligible for services. In accordance with applicable ODE rules, a preschool unit may be approved on the basis of eight children with disabilities enrolled. Up to eight additional age-eligible children may also be served providing the agency maintain adequate staff to child ratios. The Madison County Board of DD may serve up to eight additional age-eligible children in each preschool unit based upon approved policy and procedures. Typically developing enrollees attending full day or partial day sessions shall be assessed a fee for supply and/or transportation costs. Costs for supplies and/or transportation of typically developing students shall be determined annually by the Board. Payment shall be made regardless of the number of days the child attends. Payment shall be in advance and paid by the first day of the month.

### **Preschool Eligibility Typically Developing Children**

Eligibility factors include:

- A. Ages 3 through 5 years of age, cannot have reached their fifth birthday by the 1<sup>st</sup> day of August
- B. Placement of typically developing children shall be solely upon the availability of space and typically developing children may be displaced from a unit should the need arise to place additional children with disabilities.
- C. Eligibility factors for selection of a typically developing child to be served in the Madison County Program shall be determined by the following rank order:
  - 1) Up to 10 children from each age group (i.e., 3 and 4) shall be selected to go through the screening process, which includes: a developmental screen, self-help and social-emotional screen and a play group observation.

- 2) Children selected to go through screening process will be chosen by the date the program received notification from the parents of their interest in the program in rank of earliest to latest.
- 3) Placement in the program shall be based on screening results and staff knowledge and professional discretion.
- D. Parents shall be provided an agreement of understanding that the enrollment as a typically developing student is strictly a temporary placement and does not automatically mean that a child can be served in the Madison County Program for an extended period of time. Typically developing children enrollments shall be reviewed on a periodic basis.
- E. Should the determination be made to terminate a typically developing student, parents shall be contacted at least 2 weeks prior to the effective date of such a decision. All decisions in reference to the displacement of a typically developing child shall be at the sole discretion of the Madison County Board of Developmental Disabilities.

### **Preschool Enrollee Records-Typically Developing Children**

The following information shall be maintained for each typically developing Preschool enrollee:

- A. Application for enrollment;
- B. Verification of birth;
- C. A medical evaluation current within 45 days of enrollment;
- D. A record of immunizations in accordance with the guidelines specified within the Ohio Revised Code sections 3701.13 and 3313.671. The Board will insure that a current list of the immunization requirements is available to parents and families.

Exceptions to the enforcement of this policy shall be made only in cases where medical contraindication is presented in a written statement by a physician or where written certification is presented attesting to objection on philosophical or religious grounds.

Students deemed “in process” of obtaining required immunizations, must meet the standards outlined in Ohio Revised Code section 3313.671. Students must continue to meet the “in process” requirement as defined within section 3313.671 in order to continue to remain in school.

- E. Emergency Care Card which must include names, addresses and telephone numbers for two persons to contact in an emergency and a phone number for a physician and a dentist;
- F. Accident or unusual incident reports;
- G. Each parent, custodian or guardian shall provide the Madison County Board of DD with a signed statement indicating to whom their child may be released.

The following information may be requested and included:

- 1. Previous programmatic and instructional records;
- 2. Current family and child data;

3. Information to determine or substantiate eligibility for other services such as supplemental security income, Medicaid, etc.; and
4. Any additional information necessary to complete the placement process.

### **Preschool Programming Content-Typically Developing**

Preschool programs shall include individual, small group and classroom instruction which is aligned with the ODE Preschool content standards addressing the areas of Language and Literacy, Social-Emotional, Cognition and Physical Well-Being and Motor.

The Preschool program will include the following developmental domains:

- A. Communication Skills;
- B. Self-Help Skills;
- C. Physical development; fine and gross motor skills;
- D. Social-emotional development;
- E. Cognitive development;
- F. Parent education: To provide information to parents concerning their role and their rights in regard to the education of their child.
- G. Children may be afforded related services based on availability.

### **Preschool Calendar-Typically Developing**

The Preschool program shall be scheduled for instruction a minimum of 10 hours of instruction per week, for a minimum of 36 weeks per academic year or 360 hours per school year. Hours missed, below the minimum, must be made up.

### **Preschool Attendance-Typically Developing**

- A. Preschoolers may attend the program for an entire official school day for four days per week or any prorated portion of a day or week.
- B. The Children Services Supervisor in conjunction with the parents and instructors shall determine the frequency of attendance. This determination shall be based on the individual child's age, emotional needs, physical stamina, and needs.

## **404. School Age Services**

### **School-Age**

The School-Age Program serves individuals who have moderate, severe or profound cognitive disabilities, multiple disabilities or other substantial developmental disability.

To be eligible for admission to the School-Age Program, an individual shall be:

- A. At least six and not yet twenty-two years of age by September 30 of the current program year, except that a five-year-old is eligible for admission to the school program, if such placement is deemed appropriate through the IEP process.

- B. Recommended for placement in the program as the least restrictive environment by the school district of residence in accordance with the Rule 3301-51-02 of the Administrative Code.
- C. All recommended placements are accepted at the Board's discretion based on current class size, the individual child's needs and the Board's ability to serve the student.

### **Development of the IEP**

Each individual shall have an IEP developed and reviewed in accordance with Rule 3301-51-02 of the Administrative Code. The IEP shall include educational, therapeutic, and transportation assistance needs. The LEA of residence for the enrolled individual is responsible for the development of the IEP in conjunction with the Madison County Board of DD.

### **School Age Program**

ODE Content Standards-Extended shall be the basis of all instruction. Curriculum developed and approved by the Madison County Board of Developmental Disabilities shall be utilized.

### **Reporting Student Progress to Parents**

Student progress shall be reported to parents on a quarterly basis by parent conferences, written reports or a combination thereof. Staff shall be available upon parental request to discuss progress as needed. All pupil achievement shall be monitored on a regular basis.

### **School Age Enrollee Records**

The following information shall be maintained for each school-age enrollee:

- A. Application for enrollment;
- B. Verification of birth;
- C. A multi-factored evaluation and IEP must be completed prior to commencing programming;
- D. A medical evaluation current within 6 months of enrollment and updated every three years. Any person with Down syndrome who participates in physical development activities shall be examined by a physician for atlantoaxial dislocation. Such examination must be documented;
- E. A record of immunizations in accordance with the guidelines specified within the Ohio Revised Code sections 3701.13 and 3313.671. The Board will insure that a current list of the immunization requirements is available to parents and families.

Exceptions to the enforcement of this policy shall be made only in cases where medical contraindication is presented in a written statement by a physician or where written certification is presented attesting to objection on philosophical or religious grounds.

Students deemed “in process” of obtaining required immunizations, must meet the standards outlined in Ohio Revised Code section 3313.671. Students must continue to meet the “in process” requirement as defined within section 3313.671 in order to continue to remain in school.

- F. Emergency contact sheet;
- G. Accident or unusual incident reports;
- H. IEP current within one year and correspondence relating to the IEP process;
- I. Reports of progress on IEP goals and objectives;
- J. Behavioral program plans and data summaries as required;
- K. Data noting other services, such as counseling with parents and referral services to other professional services and community agencies.

The following information may be requested and included:

- L. Previous programmatic and instructional records;
- M. Current family and child data;
- N. Information to determine or substantiate eligibility for other services such as supplemental security income, Medicaid, etc.; and
- O. Any additional information necessary to complete the placement process.

### **School Age Attendance**

If patterns of irregular attendance emerge, the Children Services Supervisor will be notified and contact will be made with the home to discuss any problems. Further action may be taken through the Local Education Agency pursuant to the Ohio Revised Code.

### **School Age Calendar**

The school age program shall be scheduled for instruction during an academic year the following minimum number of hours:

- A. 910 hours for students in full-day kindergarten through grade 6;
- B. 1,001 hours for students in grades 7-12.

## **405. General Policies Pertaining to Early Intervention, Preschool and School Age Services**

### **Special Education**

The Madison County Board of Developmental Disabilities, as an expression of its commitment to provide a free appropriate public education for children with disabilities in accordance with state and federal laws, rules, and regulations, does hereby resolve to implement the following policies:

- A. Child Identification -- It shall be the policy of this county board of developmental disabilities that will cooperate with the school district of residence in ongoing efforts to identify, locate, and evaluate children below 22 years of age, who attend the county board of developmental disabilities and have a confirmed or suspected disability in accordance with all federal regulations and state standards.
- B. Procedural Safeguards-- It shall be the policy of this county board of developmental disabilities that it will cooperate with the school district of residence to ensure that a child with a disability who attends this county board of developmental disabilities and his/her parent shall be provided with safeguards, as required by law, throughout the identification, evaluation, and placement process, and the provision of a free appropriate public education to the child.
- C. Multifactorial Evaluation -- It shall be the policy of this county board of developmental disabilities to cooperate with the school district of residence in the provision of a multifactorial evaluation for children with disabilities to ensure that children are assessed in their native language or other mode of communication; tests are used for their validated purposes; children are evaluated in all areas related to their suspected disability, testing is conducted by a multidisciplinary team; testing materials and procedures are not racially or culturally biased, tests are administered by trained personnel qualified in accordance with all federal regulations and state standards; tests are administered in conformance with the instructions provided by the producer; and, that medical evaluation, when required as part of the multifactorial evaluation, shall be provided at no costs to the parent by a licensed physician designated by the superintendent of the school district of residence or his/her designee, when other no-cost resources are not available.
- D. Individualized Education Plan -- It shall be the policy of this county board of developmental disabilities to cooperate with the school district of residence in the development of an individualized education plan (IEP) for each child with a disability who needs special education. The IEP shall be designed to meet the unique educational needs of the child and parents of the child shall be strongly encouraged to participate in the development. The IEP shall be reviewed and revised as often as necessary, but at least annually.
- E. Least Restrictive Environment -- It shall be the policy of this county board of developmental disabilities to cooperate with the school district of residence in that the education of children with disabilities shall occur in the least restrictive environment; special education programs and services shall be appropriate and designed to meet the unique needs of each child with a disability, to the maximum extent appropriate.
- F. Confidentiality of Data -- This county board follows all federal regulations and state standards related to the confidentiality of data. REFERENCE: Chapter 19 HIPAA Policy.
- G. Due Process -- It shall be the policy of this county board of developmental disabilities to cooperate with the school district of residence in the utilization of procedures that allow differences of opinion between parent(s) and the school district(s) or between agencies and the school district(s), to be aired and resolved; and that the procedures shall provide for utilization of case conferences, administrative reviews, impartial due process hearing, and state level appeals and appeals to the courts that involve the district's/district's

proposal or refusal to initiate or change the identification, evaluation, or educational placement of the child, or the provision of FAPE (Free Appropriate Public Education) to the child. Furthermore, the rights of children with disabilities shall be protected when the parents cannot be identified or located, when the child is a ward of the state, or when the child is without a formally declared legal representative. REFERENCE Chapter 12 Administrative Resolution of Complaints and Chapter 16 Medicaid Due Process.

- H. Surrogate Parent -- It shall be the policy of this county board of developmental disabilities to notify the school district whenever the parent(s) or guardian(s) of the child with a disability are not known or cannot be located, or when the child is a ward of the state. In order to protect the rights of the child when the parents of the child are unknown or unavailable, or when the child is a ward of the state, the following guidelines are established:
  - 1) The Madison County Board of Developmental Disabilities will follow the LEA policy of the child's residence/placement. Copies of each of the involved LEA's policies on Parent Surrogates in the county shall be requested and kept on file in the administrative office.
  - 2) The Madison County Board of Developmental Disabilities will work with the appropriate LEA when it is determined that a parent surrogate is needed for a particular individual.
- I. Testing Programs -- It shall be the policy of this county board of developmental disabilities that students with disabilities, enrolled in county programs, shall participate in local and statewide testing programs to the maximum extent appropriate. Alternate assessments shall be determined only during an IEP conference.
- J. The superintendent shall administer the local implementation of these state procedures, in accordance with state and federal laws, rules, and regulations, which will ensure fulfillment of the policies contained herein.

### **Missing Child Policy**

At the time of initial enrollment of a child or children in the Madison County Board of Developmental Disabilities Early Intervention, Pre-School or School Age Programs, the parents or legal guardian of the child(ren) shall present to the building authority or designee a copy of the child's original Certificate of Birth and any information provided by the school that he/she most recently attended. The Madison County Board of Developmental Disabilities will, within 2 days, contact the sending school to request the student's official records. Records must be received by the Madison County Board of Developmental Disabilities within 14 calendar days of the student's admission to the school. If the sending school, upon contact, indicates no record of the student, or no records are received by the end of the 14 day waiting period, the building authority will notify the law enforcement agency having jurisdiction in the area where the pupil resides of this fact and of the possibility that the pupil may be a missing child, as this term is defined in Section 2901.30 of the Ohio Revised Code.

The building authority shall provide access to the student's records to the law enforcement

officials who are conducting the investigation.

### **Parent Surrogate**

In order to protect the rights of the child when the parents of the child are unknown or unavailable, or when the child is a ward of the state, the following guidelines are established:

The Madison County Board of Developmental Disabilities will follow the LEA policy of the child's residence/placement. Copies of each of the involved LEA's policies on Parent Surrogates in the county shall be requested and kept on file in the administrative office.

The Madison County Board of Developmental Disabilities will work with the appropriate LEA when it is determined that a parent surrogate is needed for a particular individual.

### **Admission of Homeless Students**

- A. The Board believes that all school-aged students, including homeless students, have a basic right to equal educational opportunities. The Local Education Agency (LEA) must enroll each homeless student in the District in the school determined to be in the student's best interest. A homeless student or individual is defined as an individual who lacks fixed, regular and adequate nighttime residence and who has a primary nighttime residence that is:
  - 1) a supervised, publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters and transitional housing for the mentally ill);
  - 2) an institution that provides a temporary residence for individuals intended to be institutionalized;
  - 3) a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;
  - 4) a motel, car, campground or
  - 5) a "doubling up" with another family because of inability to afford housing otherwise.
- B. In compliance with the McKinney-Vento Homeless Assistance Act, it is the responsibility of the LEA to make school placement determinations on the basis of the best interest of the student. To the extent feasible, homeless students are kept in the school of origin unless doing so is contrary to the wishes of the student's parent or guardian.
- C. The Board will work with the LEA to ensure that all state, local and federal requirements are met.
- D. The LEA is responsible for ensuring:
  - 1) it reviews and revises School Board policies and regulations to eliminate barriers to the enrollment, retention and success in school of homeless students;
  - 2) the District does not segregate homeless students into separate schools or separate programs within a school based on the student's status as homeless;
  - 3) it appoints a District liaison who ensures that homeless students enroll and succeed in school and



- 4) homeless students are provided with transportation services that are at least comparable to the service provided to nonhomeless students.

The liaison ensures compliance with the subgrant and coordinates services for homeless students with local social service agencies and programs, including those funded under the Runaway and Homeless Youth Act.

To the extent feasible, the District complies with the request made by a parent(s) regarding school placement regardless of whether the student lives with the homeless parent(s) or is temporarily residing elsewhere.

A student who ceases to be homeless may continue to receive services until the end of the period of time for which the service was originally intended to be provided, which may be the end of the school year or the end of a program cycle.

The District/LEA and the Board complies with the Ohio Department of Education's Plan and State and Federal laws for the education of homeless children and youth.

LEGAL REFS.: The Elementary and Secondary Education Act; 20 USC 1221 et seq.

42 USC Sections 11431 et seq.

ORC 9.60 – 9.62; 3313.64(F)(13)

OAC 3301-35-02; 3301-35-04; 3301-35-06

CROSS REFS.: AC, Nondiscrimination

JB, Equal Educational Opportunities

JECB, Admission of Nonresident Students

### **Due Process For Individuals Placed by LEAs**

The Madison County Board of Developmental Disabilities shall request from each LEA placing individuals into the Madison County Board of Developmental Disabilities programs their respective Due Process Procedures. The appropriate LEA policies and procedures shall be followed according to the individual involved. CHILDREN AGES 3 THROUGH 21 ARE COVERED BY LEA'S POLICIES

## **406. Community Inclusion**

### **Purpose**

The Madison County Board of Developmental Disabilities does not directly provide Adult Services. These services are provided through private providers and payment for these services is described in County Board Policy Chapter 21. The Board is committed to ensuring that each

individual has the opportunity to achieve his or her maximum potential through community experience including employment in the community.

### **Employment First**

- A. The Madison County Board of Developmental Disabilities (MCBDD) will insure that all requirements outlined in OAC 5123:2-2-05 Employment First rule are met. Employment services will be directed at community employment and will assume that individuals with developmental disabilities are capable of community employment. Community employment will be the preferred first option explored by the individual and Team with consideration towards health, safety, and quality of life.
- B. Definitions:
  - 1) “Community employment” means competitive employment that takes place in an integrated setting and encompasses full-time and part-time work and is at or above minimum wage and not less than what is customary for similar work performed by people without disabilities
  - 2) “Integrated setting” means a setting in the community where individuals interact with persons who do not have disabilities to the same extent as persons without disabilities do in comparable positions including employment settings in which employees interact with the community through technology.
  - 3) “Prevocational services” are services that provide learning and work experiences from which an individual can develop nonspecific strengths and skills but contribute to employability in community employment, supported work at community-based sites, or self-employment. Prevocational services also includes vocational habilitation funded in whole or in part by a DODD administered waiver and will be provided in accordance with each individual’s plan with specific outcomes being sought.
  - 4) “Supported employment services” means vocational assessment, job training and coaching, job development and placement, work site accessibility, and other services related to employment outside a sheltered workshop and includes the training and support individuals receive to attain and retain employment outside a sheltered workshop.
  - 5) “Working age” means at least 18 years of age.

### **Person Centered Planning**

- A. Each individual of working age and each individual approaching completion of a program or service will participate in an individualized person-centered planning process to identify the individual’s unique strengths, interests, abilities, preferences, resources, and desired outcomes as they relate to community employment.
- B. The person-centered planning process will include:
  - 1) The individual’s place on the path to community employment;
  - 2) The individual’s desired community employment outcome;

- 3) Clearly defined activities, services, and supports necessary for the individual to achieve or maintain community employment, job improvement, or career advancement; and
  - 4) Individuals who receive public assistance will be encouraged to obtain a benefits analysis regarding employment. Available resources to obtain a benefits analysis will be identified for the individual prior to job development.
- C. The results of the person-centered planning process, including the individual's desired outcomes as they relate to community employment will be integrated into the Individual Plan (IP).
- D. The results of the person-centered planning process will be reviewed at least once every twelve months and whenever a significant change in employment, training, continuing education, services, or supports occurs or is proposed. Any decisions not to consider employment in the community for specific individuals is to be re-evaluated on at least an annual basis, with the reasons and rationale for these decisions fully documented and addressed in service plans.
- E. For students, the Board will work with school district personnel, students, families, and other applicable entities to draft Individualized Education Programs (IEP's) and Transition Plans that consider the ultimate outcome of integrated employment as the preferred option and shall work cooperatively to attain career goals. Any decision by the student and/or family to not pursue career planning activities as part of a Transition Plan OR to not consider employment in the community upon graduation from a school program shall be documented, with reasons and rationale provided.

### **Strategies and Benchmarks**

- A. The MCBDD will incorporate employment first strategies and benchmarks for increasing the number of individuals participating in community employment.
- B. The MCBDD will collaborate with county workforce development agencies, vocational rehabilitation agencies, and mental health agencies to support individuals to obtain community employment.
- C. The MCBDD will collaborate with school districts in the county to ensure a framework exists to support students with developmental disabilities to obtain community employment and reduce any duplication of effort.
- D. The MCBDD will disseminate resource information to individuals served, families, schools, community partners, employers, and providers of services that facilitate community employment.
- E. The MCBDD will collect and submit to the department individual-specific information regarding the cost of non-Medicaid employment services, employment outcomes for individuals who receive non-Medicaid employment services, and employment outcomes for individuals who do not receive paid employment services but who are engaged in competitive employment or community employment.
- F. The MCBDD will incorporate strategies and benchmarks for increasing the number of individuals of working age participating in community employment services into its strategic plan and will update it periodically.

## **Provider Requirements**

Providers of employment services will submit a written progress report at least once every 12 months to the individuals' team. Each provider of employment services will also collect and submit individual specific employment data to the Ohio Department of Developmental Disabilities and will disseminate aggregate data regarding employment services and employment outcomes.

### **407. Safety**

#### **Purpose**

The Madison County Board of Developmental Disabilities is committed to providing services to individuals in a manner that will insure health and safety. The Board will conduct daily operations in facilities to insure a safe healthy environment. The Board will assemble a Health and Safety Committee, which will meet regularly to monitor the Board's practical application of the following policy with an emphasis on prevention of unsafe conditions. Techniques described below including drills will be conducted for the purpose of training/educating staff, enrollees, and volunteers to safely respond to emergencies.

#### **Operating Requirements**

- A. Each program facility owned, leased, or operated by the Madison County Board of DD shall include design and maintenance of program facilities and equipment in conformance with all applicable laws, including the Americans with Disabilities Act and Section 504 – Rehabilitation Act of 1973 and any reauthorization of these acts by the federal government.
- B. Each program will insure an adequate number of staff who are trained in physical crisis intervention techniques. Staff will respond in a manner that utilizes a hierarchy of interventions starting with least intrusive (positive) first. Emergencies may dictate use of restraints as a crisis resolution and staff must respond in a manner that keeps individuals safe. Restraints are only to be used in accordance with physical crisis intervention training and as outlined in Chapter 7.
- C. Each program facility owned, leased, or operated by the Madison County Board of DD shall be inspected annually by the local fire marshal or designee to ensure compliance with fire safety practices.
- D. The Madison County Board of DD swimming program shall provide a person present during all activities who has a current water safety instructor certificate, or a senior lifesaving certificate, or an adapted aquatics certificate.
- E. All programs providing food service shall:
  - 1) Have on file in the administrative office, written evidence of an annual inspection of food preparation, storage, and serving areas by the local department of health; and
  - 2) Have on display all required permits in keeping with state department of health regulations and shall employ food handlers who meet all state and local health requirements.

## **Building Emergency Plans**

- A. Each facility operated by or serving enrollees of the MCBDD by contractual agreement will have written procedures for dealing with bomb threats, medical emergencies, power failures, natural disasters, fire, tornado, and other emergencies. These building emergency plans will be available to and communicated in writing to all persons assigned to the facility, including staff and volunteers. The building emergency plans will include/require all of the following:
- 1) Procedures for reporting all accidents or injuries within twenty-four hours of the occurrence. Such report will include recommendations for prevention at a future time.
  - 2) Information concerning health and special job considerations shall be communicated to appropriate supervisory personnel.
  - 3) Procedures for emergency closing of all program components operated in county board facilities as well as notification of families receiving home-based services and persons in other sites receiving or providing services.
  - 4) Evacuation plans for fire and tornado drills and other emergencies will be posted in strategic locations throughout each facility including each room. Emergency numbers shall be posted by each telephone. For any emergency, persons shall utilize the emergency number of 911.
  - 5) Fire drills shall be conducted at least monthly in each building and be recorded.
  - 6) Tornado drills will be conducted at least monthly during the months of March (required for settings governed by ODE), April, May, June and July and results recorded.
  - 7) A written analysis of the conduct and effectiveness of each facility's fire and tornado drills will be prepared by each building authority for review by the Superintendent or designee.
  - 8) Each program facility owned, leased, or operated by the Madison County Board of DD shall have fire extinguishers, fire gongs, and alarms that shall be properly located, identified, and kept in good working order.
  - 9) Each program facility owned, leased, or operated by the Madison County Board of DD shall have storage areas for combustible or flammable materials that are effectively separated from all rooms and work areas in such a way as to minimize and inhibit the spread of fire.
  - 10) All hallways, entrances, ramps and corridors shall be kept clear and unobstructed at all times.
  - 11) Each program facility owned, leased, or operated by the Madison County Board of DD, which contains power equipment, fixed or portable, shall include operating safeguards as required by the Division of Safety and Hygiene, Bureau of Worker's Compensation.
  - 12) Each program facility owned, leased, or operated by the Madison County Board of DD shall employ at least one staff member trained in the techniques of fire suppression training.

## **Emergency Closing of Facilities**

The Superintendent or designee shall have the responsibility of closing the program should it be determined that an emergency condition exists, such as inclement weather, natural disaster, or maintenance problem of a potentially harmful nature.

At the beginning of each program year, the Superintendent shall establish a procedure for notifying enrollees, parents/guardians, and staff of emergency closings. The Superintendent shall communicate these procedures to parents, enrollees, staff, and others as appropriate and necessary for the safe operation of the program.

- A. In cases of departure from the routine schedule, radio and television stations will be contacted to announce the changes. The Board will periodically disseminate a list of stations and channels to individuals, parents, and providers.
- B. In cases where the program has been in operation part of the day and an early dismissal becomes necessary due to emergency conditions, the parent or guardian or other emergency contact person should be notified by telephone if possible of the approximate time the enrollee will be returned home. If the emergency condition necessitates cancellation of home-based services, staff will notify those parents and individuals affected.
- C. Enrollees will be left at locations other than their residence only in accordance with conditions agreed to, in writing, by the parent or legal guardian.

## **Opening and Closing of Buildings**

The Superintendent/designee shall have the responsibility for insuring that the Madison County Board of DD facilities are routinely opened and securely locked as scheduled.

The Superintendent/designee shall ensure that the facilities are opened (unlock doors and turn on lights) and closed (lock doors and turn off lights) each day that the facilities are open in accordance with each location's regular schedule.

- A. The Director of each facility shall request an annual inspection of the facility by the Department of Health, the local Fire Inspector, and any other appropriate investigative agency. Such reports shall be maintained in the office of each facility. Copies of the inspection reports shall be submitted to the Superintendent.
- B. Any condition, which may be hazardous, must be reported immediately to the building authority by the individual observing the condition.
- C. Each program facility owned, leased, or operated by the Madison County Board of DD shall have a procedure for indicating a tornado warning. The tornado-warning signal shall indicate to all persons to move to the designated tornado shelters. Upon the indication of all clear from the tornado warning, persons may return to other areas of the facilities following an authorization by the building authority(ies). In the case of damage or injury

as a result of the tornado appropriate emergency services shall be summoned and first aid procedures implemented. Notification to families, etc. shall be completed after the emergency has been contained. Early dismissal or closure of the facility shall be done in conjunction with section 407.4 of this policy.

- D. Each program facility owned, leased, or operated by the Madison County Board of DD shall have a fire gong for indicating a fire. The fire alarm shall indicate to all persons to evacuate the facility to the designated areas. Appropriate emergency services shall be summoned to the facility. The building authority shall take attendance of all persons following evacuation to ensure all persons have exited the facility. Should anyone not be accounted for, the building authority shall notify emergency services of such upon their arrival. Upon the indication by emergency services, persons may return to the facilities following an authorization by the building authority(ies). In the case of damage or injury as a result of the fire appropriate emergency services shall be summoned and first aid procedures implemented. Notification to families, etc. shall be completed after the emergency has been contained. Early dismissal or closure of the facility shall be done in conjunction with section 407.4 of this policy. For any emergency, persons shall utilize the emergency number of 911.
- E. Each program facility owned, leased, or operated by the Madison County Board of DD shall have a code word for indicating a bomb threat. The announcement of "CODE B" shall indicate to all persons to evacuate the facility to the designated areas. Appropriate emergency services shall be summoned to the facility. The building authority shall take attendance of all persons following evacuation to ensure all persons have exited the facility. Should anyone not be accounted for, the building authority shall notify emergency services of such upon their arrival. Upon the indication by emergency services, persons may return to the facilities following an authorization by the building authority(ies). In the case of damage or injury as a result of the emergency appropriate emergency services shall be summoned and first aid procedures implemented. Notification to families, etc. shall be completed after the emergency has been contained. Early dismissal or closure of the facility shall be done in conjunction with section 407.4 of this policy. For any emergency, persons shall utilize the emergency number of 911.
- F. Each program facility owned, leased, or operated by the Madison County Board of DD shall utilize special announcements for indicating all other emergencies (i.e. chemical spills, etc.). The announcement shall indicate to all persons to evacuate the facility to the designated areas. Appropriate emergency services shall be summoned to the facility. The building authority shall take attendance of all persons following evacuation to ensure all persons have exited the facility. Should anyone not be accounted for, the building authority shall notify emergency services of such upon their arrival. Upon the indication by emergency services, persons may return to the facilities following an authorization by the building authority (ies). In the case of damage or injury as a result of the emergency appropriate emergency services shall be summoned and first aid procedures implemented. Notification to families, etc. shall be completed after the emergency has been contained. Early dismissal or closure of the facility shall be done in conjunction with section 407.4 of this policy. For any emergency, persons shall utilize the emergency number of 911.

- G. Similar procedures shall be utilized for vehicles owned, leased, or operated by the Madison County Board of DD. See Transportation policies.
- H. All accidents and injuries shall be reported in accordance to Board policy.
- I. Each facility owned, leased or operated by the Madison County Board of DD, which houses a preschool program shall meet all Ohio Department of Education licensure requirements to operate the preschool programs in accordance with Rules for Preschool Programs 3301 - 37 O.A.C. and if applicable, Rules for the Education of Preschool Children with Disabilities 3301 - 31 O.A.C.
- J. Equipment in all facilities owned, leased or operated by the Madison County Board of DD shall be inspected regularly to insure its safety.
- K. Cleaning equipment and materials in all facilities owned, leased or operated by the Madison County Board of DD shall be kept in spaces that are not accessible to enrollees and/or children.
- L. Electrical outlets within reach of children in all facilities owned, leased or operated by the Madison County Board of DD shall have appropriate coverings when not in use.
- M. Equipment used by children in all facilities owned, leased or operated by the Madison County Board of DD shall be cleaned at least once a week with an appropriate germicidal agent to minimize the spread of infectious disease.
- N. No child enrollee shall be ever left alone or unsupervised in any facilities owned, leased or operated by the Madison County Board of DD.
- O. Staff in all facilities owned, leased or operated by the Madison County Board of DD shall have immediate access at all times to a working telephone.

## **408. Health**

### **Health Policy**

The Madison County Board of Developmental Disabilities will operate programs and provide services in a manner that will promote the health and well being of persons enrolled for services. These written policies and procedures shall be communicated to all personnel, persons served, parents of a minor guardian, and residential services/supports providers, and shall be available in each county board program facility upon request.

All accidents and incidents will be reported to the parents of a minor or guardian and, when appropriate, other persons having care of the individual including residential services/supports providers and maintaining a record of such incident on file. The accident or incident record shall be initiated within 24 hours of when the accident or incident occurred. The accident or incident record shall be initiated in accordance with policies outlined in Chapter 13: Incidents Adversely Affecting Health and Safety. Training will be provided to county board personnel in the recognition and reporting of abuse and neglect.

Each program will ensure that an appropriate number of registered, certified and licensed staff are trained in first aid and CPR by a person who has a valid training certificate in first aid and CPR. These staff will provide first aid and emergency treatment as necessary. When circumstances



warrant staff will secure medical assistance by contacting the emergency squad or ambulance services or the services of the individual's personal physician. Each program will ensure that each location where services are provided is equipped with suitable first aid facilities, equipment, and supplies and that emergency numbers are posted by each telephone.

An Emergency Care Card (health record) will be on file prior to participation in the following services: Early Intervention (center based if the parent is not present), Preschool, School Age, Transportation, and Recreation for each individual, which contains ongoing pertinent health information, including authorization for emergency medical treatment, a record of current immunizations, a list of any medications, and list of any allergies and treatments.

***Cross Reference Chapter 13: Incidents Adversely Affecting Health and Safety.***

### **Delegated Nursing**

In accordance with the requirements outlined in Chapter 14 Health Services and Medication Administration the Board shall ensure that medications administered in Board operated or contracted programs including but not limited to Early Intervention, Preschool, School Age, and Day Programming meet all components of Delegated Nursing.

The Director within each program shall ensure the following:

- A. That all Delegated Nursing requirements are met.
- B. That all medications are received in
  - 1) A container with an intact pharmacy label – if it is a prescription drug.
  - 2) A container with a manufacturer's intact label – if it is a non-prescription, over-the-counter drug, and/or remedy.
- C. That medications shall be secured in a locked cabinet and removed by designate staff persons.

***Cross Reference Chapter 14: Health Services and Medication Administration***

### **Communicable Diseases Policy**

The Madison County Board of Developmental Disabilities recognizes that employees and participants may come in contact with minor or serious illnesses as a condition of enrollment or working in the board programs. The Board is concerned that infection from a communicable disease can present a significant medical problem. The Board has an obligation to provide a safe work and program environment. The Board desires to protect the health of non-infected employees and participants as well as ensure the right of individuals who may be infected with either a short-term or a life-threatening communicable disease.

Consistent with this health concern, the Board has established the following policies.

- A. **Education:** In order to understand their role in the prevention of communicable diseases or how to work with an individual who has a communicable disease, staff need sensible education based on the best current knowledge. Directors of each facility will ensure that:

- 1) Initial orientation and continuing education shall be scheduled for employees concerning epidemiology, modes of transmission, and prevention of common and uncommon communicable diseases to which they may be exposed during their employment (i.e. Hepatitis B, CMV, AIDS, pediculosis (lice), etc.).
- 2) Education shall be scheduled to review current knowledge of laws, practices and policies regarding communicable disease contact.
- 3) Periodic training will be done for all staff on the need for routine use of universal precautions to control the spread of communicable diseases.
- 4) Provision of equipment and supplies (and appropriate training to use same) necessary to minimize the risk of infection will be available for employees use.
- 5) Infection control and communicable disease education shall meet the standards of all appropriate state and federal agencies as applicable including ODE, DODD, ODH, CDC, etc.

**B. Infection Control:**

- 1) The Madison County Board of Developmental Disabilities recognizes that control of communicable diseases is the legally mandated responsibility of the state and local health authorities. Employees of the Board will cooperate with these health authorities by following current Ohio laws and state and local regulations and orders pertaining to communicable disease control and reporting.
- 2) Adequate immunization is fundamental to communicable disease prevention and control. The Madison County Board of Developmental Disabilities will comply with Ohio laws which require participants be adequately immunized against diphtheria, whooping cough, tetanus, measles (rubeola), rubella, mumps and polio. Records of immunization will be kept in each individual's permanent record.
- 3) Staff will use infection control procedures when working with participants to prevent spread of infection. Although additional precautions may be necessary which are specific to the disease/condition, the following minimal procedures will be used:
  - a. Disposable gloves should be worn when assisting participants with toileting and when changing soiled diapers/undergarments; for situations which require touching blood (i.e. first aid) and body fluids or for handling items or surfaces soiled with blood or body fluids. Gloves should be changed after contact with each participant.
  - b. Hands and other skin surfaces should be washed immediately and thoroughly after changing a participant's soiled diapers/undergarments or if contaminated with blood or other body fluids. Hands should be washed immediately after gloves are removed. Hands should be washed periodically throughout the day using soap and running water. A germicidal soap product may be used. Waterless hand sanitizers can be used as a temporary measure if access to water is limited (the staff member should wash hands with soap and water as soon as possible).
  - c. To prevent saliva transmission and to minimize the need for emergency mouth-to-mouth resuscitation, mouthpieces, resuscitation bags, or other ventilation devices will be available for use. It is expected that emergency techniques be implemented whether or not the emergency device is available. (According to the latest information received by the Ohio Department of Health, saliva without the presence of blood cannot transmit hepatitis or AIDS).

- d. Because many infections, which develop during pregnancy can be transmitted to the infant, pregnant employees should be especially familiar with and strictly adhere to infection control procedures.
- 4) Good sanitation is the obligation of all employees. Attention will be given to facilities, grounds, and surroundings for environmental factors that may affect health. Maintenance/custodial staff will give buildings close scrutiny, including equipment, floors, walls, and ceilings. Routine housekeeping procedures will incorporate the use of disinfectants. The water supply waste disposal system toilets and locker room facilities, and food service operations will be periodically checked. Problems will be brought to the attention of the building authority for resolution.

C. Enrollee Guidelines:

- 1) Each enrollee must have a physical as part of the enrollment process for Early Intervention, Preschool, and School Age in accordance with Sections 402, 403, and 404 of Chapter 4. The physical must be on file prior to the enrollee attending programming. A health record shall be on file for each participant served which contains ongoing pertinent health information.
- 2) Colds, flu and other viral infections are common during the winter months of the year and are easily transmitted. Enrollees who show symptoms of minor communicable diseases may be excluded from programming if they have any of the conditions noted below:
  - a. A fever of 100 degrees or above
  - b. Diarrhea (abnormally frequent loose bowel movements)
  - c. Vomiting as a result of illness
  - d. Untreated, infected skin rashes
  - e. Evidence of pediculosis (lice), scabies, or other parasitic infestation (nits must be completely removed from body)
  - f. Severe coughing resulting in enrollee becoming red/blue in the face or making a “whooping” sound.
  - g. Difficult or rapid breathing
  - h. Yellowish skin or eyes
  - i. Unusually dark urine and/or gray or white stool
  - j. Complaints of a stiff neck
  - k. Conjunctivitis “pink eye”
  - l. Any other illness or injury, which in the interpretation of the building authority may require medical attention.

Persons exhibiting any of the conditions above should be isolated prior to discharge from programming. Staff members monitoring the conditions should complete the accident/illness form and submit a copy to the building authority and to the parent/guardian/advocate.

Any enrollee being excluded from programming for the above reasons, shall have the exclusion approved by the building authority. The building authority may request that an enrollee be fever free for a period of 24 hours prior to return to programming.

Building administrator shall inform the transportation department of any enrollee that is sent home prior to normal dismissal.

- 3) Control of communicable diseases among participants requires careful observation and reporting of symptoms by all personnel and to the local health department. The local health department should be notified of any communicable disease that is reportable by law.
- 4) Enrollees who have any communicable disease or condition as identified on the Communicable Disease Chart for Schools as recommended by the Ohio Department of Health, must be kept at home (examples of conditions are pediculosis (lice), scabies, ringworm, impetigo, chicken pox, measles, mumps, scarlet fever, etc.). The program shall be notified of the illness of the enrollee, especially when contagious, so that other parents/guardians/families may be notified accordingly. Enrollees who have been hospitalized for a condition that has resulted in a limitation, must submit a physician's release when returning to the program.
- 5) Following an illness, communicable disease or condition, an enrollee may be readmitted to the program as stated below:
  - a. The following day provided the temperature has returned to normal
  - b. After all symptoms have disappeared and/or evidence of treatment;
  - c. If a communicable disease, on visible inspection by trained staff and upon written verification by parent/guardian has been appropriately treated and resolved. In the case of Lice or pediculosis the child must be nit free as evidenced by a licensed health care professional's statement, which could be the school nurse or the Health Services Coordinator or their designee. Return to the program from any absence as the result of a communicable disease may require a written excuse accompanying the enrollee.
- 6) The program (nurse, if applicable) will abide by the Communicable Disease Rules from the Ohio Department of Health.
  - a. Enrollees will be excluded if required by the local health department for specific diseases noted above (i.e. lice).
  - b. Employees (nurse, if applicable) will follow instructions given by the public health nurse.
- 7) When incidences of communicable diseases occur, the Superintendent or designee will notify, when appropriate, the parents/guardians/residential providers whose sons/daughters or residents have been exposed to infections. Notifications are given to incidences of chicken pox, measles, mumps, scarlet fever and diseases such as lice (pediculosis) and scabies.
- 8) Certain infections/diseases will be of life-long duration and the enrollee will not be symptom-free (i.e. hepatitis, CMV, AIDS). If there is evidence that the disease cannot be transmitted by normal casual contact in program attendance, he/she should continue in the program. The enrollee should attend unless prevented from doing so by weakness or poor health *or upon restriction from their physician*.
- 9) In cases of diagnosed long-term communicable disease, the decision of informing others of the infection will be made by the Superintendent. The primary program person(s) should know the diagnosis. The sharing of data on infections should be done after careful consideration of other's need to know. The participant maintains a right to privacy. The sharing of information is not a prerequisite for program attendance.
- 10) How to serve persons with specific communicable diseases/conditions will be considered on an individualized basis. In these individual cases, the Interdisciplinary Team shall make the decision of service delivery. This team will be composed of the

Superintendent/designee, Health Services Coordinator, building authority, parent(s)/guardian(s), participant's physician and participant's primary program person(s) as well as other appropriate members of the Interdisciplinary Team. The recommendation may include:

- a. attending program unconditionally,
- b. attending under restrictive conditions, or
- c. receiving services in the home.

The decision will be based upon a consideration of:

- i. the nature of the risk and how the disease is transmitted,
- ii. the duration of the risk and how long the carrier is infectious,
- iii. the severity of the risk and the potential harm to others, and
- iv. the individual's physical condition.

In cases where there is not consensus concerning a decision, the Superintendent makes the final decision. Due process procedures may be followed if there is disagreement with this decision.

- 11) No special consideration will be given beyond normal transfer requests for an employee who feels threatened by working with a participant who has a life-threatening disease.
- 12) Madison County Board of DD staff members shall be trained to recognize the common signs and symptoms of communicable diseases or illnesses and shall observe each enrollee daily as he/she enters the program.

**D. Staff Guidelines:**

- 1) Every staff person will be required to have a physical prior to employment. Record of this physical will be kept in the employee's personnel file.
- 2) Colds, flu, and other viral infections are common and easily transmitted in the work place. It is difficult to effectively contain the spread of these diseases because the individual has spread the disease for several days while in the early stages. Physician's sanction to return to work is usually not necessary for these infections.
- 3) If an employee is suspected of having a communicable disease, the building authority may request the employee seek medical attention. The employee can return to work when the employee's attending physician states that continued presence at work will not pose a threat to the employee, co-workers, or enrollees. The Superintendent reserves the right to require an examination by a medical doctor appointed by the agency.
- 4) An employee who has been diagnosed as having an infectious disease is encouraged to inform his/her supervisor of the condition. An employee's health condition is personal and confidential. Precautions shall be followed to protect information regarding an employee's health condition.
- 5) An employee may have or be a carrier of an infectious disease, which is of life-long duration and he/she will not be symptom-free. If there is evidence that the disease cannot be transmitted by normal, casual contact in the work environment, and the condition is not a threat to self or others, the employee will continue to work in a regular manner. The employee is expected to meet acceptable performance standards and will be treated in a manner consistent with other employees.
- 6) No special consideration will be given beyond normal transfer requests for employees who feel threatened by a co-worker's life-threatening disease.
- 7) The Superintendent will determine the admissibility to the work place by an individual whose condition is in question. The Superintendent will convene a meeting of the

employee, building authority, the employee's physician, and others as the Superintendent deems necessary. Based on evidence presented at the meeting, the Superintendent may decide:

- a. Return the employee to his/her usual place of employment unconditionally,
- b. Place the employee on a work assignment under restrictive conditions, or
- c. Seek to have the employee utilize sick leave and be placed on leave of absence.
- d. In making a recommendation, the Superintendent will consider:
  - i. The nature of the risk and how the disease is transmitted,
  - ii. The duration of the risk and how long the carrier is infectious,
  - iii. The severity of the risk and the potential harm to others, and
  - iv. The individual's physical condition.

E. Isolation: Prior to being discharged an enrollee/employee shall be isolated due to the suspected disease as follows:

- 1) Isolation shall include care in a room or portion of a room not being used for other types of programming.
- 2) The isolation shall be under the supervision of a staff member at all times. No enrollee shall be left alone or unsupervised.
- 3) Enrollee/employee shall be made comfortable. All linens and blankets used by the enrollee shall be laundered before being used by another person. The cot shall be disinfected with an appropriate germicidal agent, or, if soiled with blood, feces, vomitus or other body fluids, the cot shall be cleaned with soap and water and then disinfected with an appropriate germicidal agent.
- 4) Enrollee/staff member shall be closely observed for a worsening condition.
- 5) Enrollee shall be discharged to the parent/guardian/advocate as soon as practicable. Employee shall be released for travel home dependent upon condition or the building authority shall assist the staff member in securing an alternate form of transportation home.

### **Personal Hygiene Assistance**

The Madison County Board of DD shall provide policies for all levels of toileting assistance for enrollees that protects the health and safety of all persons involved. Madison County Board of DD staff members shall utilize universal precautions while providing oversight and assistance during toileting procedures.

- A. Diapering-The changing of diapers/incontinent briefs of enrollees shall be handled in conformity with the following procedures:
- a. The changing of diapers/incontinent briefs for all non-toilet trained/incontinent enrollees shall occur in a private space that contains a hand-washing facility or a waterless soap product.
  - b. If an enrollee's diapers/incontinent brief(s) are to be changed there shall be some separation material between the enrollee and the changing surface. The material should be discarded and replaced after each change;
  - c. The central changing stations shall be disinfected after each use with an appropriate germicidal agent.

- d. Any product used during changing on more than one enrollee shall be used in such a way that the container does not touch the enrollee. Any product obtained from a common container and applied to an enrollee shall be applied in such a manner so as not to contaminate the product or its container. Common containers should be disinfected with an appropriate germicidal agent when soiled;
  - e. Non-prescription topical ointments and creams provided by parents, providers or guardians, shall include written instructions and authorization in accordance to Board Policy on Medication Administration.
- B. Storage of diapers/incontinent briefs- Storing of clean diapers/ incontinent briefs shall be handled in accordance with the following methods:
  - a. A clean supply of diapers/incontinent briefs shall be stored in a designated area available at all times;
  - b. Diapers/incontinent briefs or clothing utilized during changing and brought from the enrollee's home shall be stored in a space designated exclusively for each enrollee's belongings.
- C. Storage of soiled diapers/incontinent briefs- Storage and laundering of soiled items shall be handled in accordance to the following methods:
  - a. All items soiled with fecal matter and/or urine should be placed in a sealed plastic container or bag (double bagged if possible), sealed tightly and stored out of reach of enrollees;
  - b. Soiled items to be disposed of or cleaned by the program shall be placed in a common plastic-lined covered container which shall be emptied, cleaned, and disinfected with an appropriate germicidal agent daily or more frequently as needed
  - c. Items to be laundered at home or by the program shall be held for laundering no longer than one (1) day; and
  - d. Soiled disposable items shall be discarded daily.
- D. Potty Chairs/Portable Commodes -- Potty chairs/portable commodes utilized in Board owned, leased, or rented sites shall not be located in areas used for food preparation or serving or in areas not normally used for changing or toileting. Potty chairs/portable commodes shall be emptied, cleaned, disinfected, and rinsed after each use. The rinsing solution shall be disposed of into a toilet, not a sink. Items used for cleaning the potty chair/disposable commode shall be used once and disposed of in a lined receptacle.

### **DNR (Do Not Resuscitate) ORDERS**

The Madison County Board of Developmental Disabilities shall take all reasonable steps necessary to preserve the life and safety of a person with mental retardation and developmental disabilities. The Madison County Board of Developmental Disabilities shall ensure that any DNR (Do Not Resuscitate) orders or advance directives which are a part of an individual's file will be given to emergency personnel and medical personnel when emergency treatment is required.

#### **A. Definitions:**

- a. "Advance Directives" refers to any type of writing or other evidence, which shows the intent of an individual with respect to resuscitative or life-sustaining medical treatment.

- b. “DNR order” refers to the general category of orders signed by a physician, which, precludes initiation of resuscitative or life-sustaining treatment.
- B. Procedures for DNR Orders
  - a. If an individual enrolled in the Madison County Board of Developmental Disabilities program has executed an advance directive or has a DNR order, the Madison County Board of Developmental Disabilities shall take the following steps:
    - i. The individual or legal guardian shall be notified that the Madison County Board of Developmental Disabilities is obligated to take all steps necessary to preserve life until the individual is under the care of proper medical authorities.
    - ii. All advance directives and DNR orders shall be kept in the individual’s file and updated as necessary.
- C. Procedures In an Emergency
  - a. If an individual enrolled in the Madison County Board of Developmental Disabilities program has a medical emergency, the staff shall take all steps reasonably necessary to obtain emergency assistance and to preserve the individual’s life until the individual can receive emergency assistance.
  - b. The Madison County Board of Developmental Disabilities staff shall ensure that all current advance directive and DNR orders are conveyed to emergency and medical personnel.
  - c. The Madison County Board of Developmental Disabilities staff shall notify next of kin or other designated persons of the emergency and the steps taken to convey the advance directive or DNR order.

## **409. Missing Enrollee**

### **Enrollee Missing from the Program Facility or Activity**

The Madison County Board of Developmental Disabilities shall ensure that all enrollees are accounted for at all times. An individual is considered “missing” when the individual cannot be located for a period of time longer than specified in the individual service plan and the individual cannot be located in a search of the immediate surrounding area; or circumstances indicate that the individual may be in immediate jeopardy; or law enforcement has been called to assist in the search for the individual. In the event that staff discovers that an enrollee is missing, the following procedure will be followed:

#### **Facility Based Services**

The facility director will ensure that assignments are made that clearly establish, by name, staff that are accountable for each individual receiving services. These assignments should take into consideration the intensity of needs of the individuals assigned to insure group sizes are manageable.



- A. When an enrollee is missing from a program facility, the building authority or designee should be contacted immediately, identifying:
  - 1) Enrollee
  - 2) Description of the clothing the enrollee was wearing
  - 3) Approximate time when the enrollee was last seen
  - 4) Location where the enrollee was last seen
- B. All areas of the facility - including closets, mechanical room, laundry, and office area - shall be checked.
- C. A search (checking all areas mentioned above and other areas as appropriate) will be organized/conducted by the building authority or designee.
- D. An on-grounds search that includes the property of the facility and surrounding areas will also be conducted.
- E. All staff involved in the search shall contact the building authority or designee to report on their individual search.
- F. It will be the responsibility of the Superintendent or designee to contact the Police Department after fifteen minutes has elapsed since determining an enrollee is missing. (Contact with the Police Department may occur earlier than fifteen minutes, depending upon the nature and needs of the missing person.) A summary of the missing person's vital statistics, clothing, medical conditions and medications shall be prepared for the police by the building authority or designee.
- G. All staff involved in the search for the missing enrollee should continue searching until the building authority or designee advises them otherwise.
- H. The building authority will immediately notify the Superintendent or his/her designee, the individual's family/legal guardian, and the Board's Investigations Coordinator to notify them of any prolonged absence. An Unusual Incident Report will be filed in accordance with County Board Policy Chapter 13.
- I. It is the responsibility of each staff member on duty to be able to account for those enrollees under his/her supervision.

### **Enrollee Missing from an Activity**

The Board provides and supports a variety of activities in the community in the form of field trips, which may occur during normal program hours as well as recreation/leisure activities, which may occur outside of normal program hours. Each program director/designee shall ensure that staff ratios for these activities are sufficient to maintain the health and safety of the individuals participating. The staff person coordinating the event will insure that each individual that is participating in the activity will be assigned, by name, a county board staff or volunteer that will be responsible for them during the outing.

- A. When an enrollee is discovered missing when on a community outing the person in charge of the outing shall be contacted immediately, identifying:
  - 1) Enrollee

- 2) Description of the clothing the enrollee was wearing
  - 3) Approximate time when the enrollee was last seen
  - 4) Location where the enrollee was last seen
- B. The person in charge of the outing will make a quick assessment of the risk to health and safety that the situation warrants and if determined high risk will proceed directly to step E. outlined below. Factors to consider include:
- 1) Individual's level of independence and supervision per the ISP including pedestrian skills.
  - 2) Any behaviors that would place the individual or others at risk.
  - 3) The location of the event and associated dangers such as traffic, water, etc.
  - 4) Medical condition of the individual
- C. Staff and volunteers will conduct a search as organized by the person in charge of the event. When possible the person in charge of the event will notify appropriate onsite personnel (i.e. security at a ballpark, park ranger, etc.) and provide them with the information in item A. above.
- D. All involved in the search shall keep the person in charge of the activity informed of their progress.
- E. The person in charge of the event will notify the Superintendent or designee if the person is not immediately found. It will be the responsibility of the Superintendent or designee to contact the Police Department after fifteen minutes has elapsed since determining an enrollee is missing. (Contact with the Police Department may occur earlier than fifteen minutes, depending upon the nature and needs of the missing person.) A summary of the missing person's vital statistics, clothing, medical conditions and medications shall be prepared for the police by the building authority or designee.
- F. All staff and volunteers will continue searching until the person in charge of the activity notifies them otherwise.
- G. The person in charge of the event will immediately notify the Superintendent or his/her designee, the individual's family/legal guardian, and the Board's Investigations Coordinator to notify them of any prolonged absence. The County Board after-hours emergency number should be used to report the incident. An Unusual Incident Report will be filed in accordance with County Board Policy Chapter 13.
- H. It is the responsibility of each staff member and volunteers on duty to be able to account for those enrollees under his/her supervision.

## **410. Enrollee Rights and Due Process**

### **Enrollee Rights and Due Process**

The Madison County Board of Developmental Disabilities is committed to insuring that the rights of the individuals we serve are held in the highest regard. The Board promotes staff/enrollee interactions that foster dignity and respect through ongoing staff trainings as well as leadership by example by the Board's management staff.

In addition to this subsection of Chapter 4, the other Board Policies that pertain to individual rights and due process are as follows:

- A. Chapter 4 Section 405 General Policies Pertaining to Early Intervention, Preschool and School Age
- B. Chapter 7 Behavior Support
- C. Chapter 12 Administrative Resolution of Complaints
- D. Chapter 15 Medicaid Due Process

### **Rights**

The following rights are established under Ohio Revised Code (ORC) 5123.62 Rights of Persons with Mental Retardation or Developmental Disabilities.

The rights of persons with mental retardation or a developmental disability include, but are not limited to, the following:

- A. The right to be treated at all times with courtesy and respect and with full recognition of their dignity and individuality;
- B. The right to an appropriate, safe, and sanitary living environment that complies with local, state, and federal standards and recognizes the persons' need for privacy and independence;
- C. The right to food adequate to meet accepted standards of nutrition;
- D. The right to practice the religion of their choice or to abstain from the practice of religion;
- E. The right of timely access to appropriate medical or dental treatment;
- F. The right of access to necessary ancillary services, including, but not limited to, occupational therapy, physical therapy, speech therapy, and behavior modification and other psychological services;
- G. The right to receive appropriate care and treatment in the least intrusive manner;
- H. The right to privacy, including both periods of privacy and places of privacy;
- I. The right to communicate freely with persons of their choice in any reasonable manner they choose;
- J. The right to ownership and use of personal possessions so as to maintain individuality and personal dignity;
- K. The right to social interaction with members of either sex;

- L. The right of access to opportunities that enable individuals to develop their full human potential;
- M. The right to pursue vocational opportunities that will promote and enhance economic independence;
- N. The right to be treated equally as citizens under the law;
- O. The right to be free from emotional, psychological, and physical abuse;
- P. The right to participate in appropriate programs of education, training, social development, and habilitation and in programs of reasonable recreation;
- Q. The right to participate in decisions that affect their lives;
- R. The right to select a parent or advocate to act on their behalf;
- S. The right to manage their personal financial affairs, based on individual ability to do so;
- T. The right to confidential treatment of all information in their personal and medical records, except to the extent that disclosure or release of records is permitted under sections 5123.89 and 5126.044 of the Revised Code;
- U. The right to voice grievances and recommend changes in policies and services without restraint, interference, coercion, discrimination, or reprisal;
- V. The right to be free from unnecessary chemical or physical restraints;
- W. The right to participate in the political process;
- X. The right to refuse to participate in medical, psychological, or other research or experiments.

### **Parent/Guardian/Individual Rights**

In addition to the above bill of rights the Board will insure observance of the following rights as they relate to programs and services.

- A. Right to deny permission for any proposed evaluation activities.
- B. Right to review and inspect all records upon which educational/employment and training placements and decisions are made and to obtain a copy of such records at actual cost of copying, and to request amendments be made to the data.
- C. Right to obtain an independent evaluation of the individual at their own expense and introduce such information into the individual's record.
- D. Right to present complaints with respect to the evaluation or placement.
- E. Right to a due process hearing conducted by an impartial hearing officer including:
  - 1) the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the challenges that may impact and individual with disabilities.
  - 2) the right to present evidence and confront, cross-examine and compel the attendance of witnesses;
  - 3) the right to a written or electronic verbatim record of such hearing;
  - 4) the right to written findings of fact and decisions.
- F. Right to be fully informed in written and oral form of all proposed evaluation, placement and periodic review, activities and decisions in the native language of the home.
- G. Right to obtain a description of the kinds and number of facilities, program options, services and personnel providing education and employment and training by the agency.

- H. Right to have a conference (or communicate in other ways) with any person participating in decisions during the evaluation, placement, and/or periodic review process.

### **Amendment of Records Upon Request**

An individual, parent, or guardian who believes that information in records collected, maintained, or used under this part is inaccurate or misleading or violates the privacy or other rights of the enrollee may request the of the division which maintains the information to amend the information.

- A. For such requests the following procedure will be followed:
  - 1) The Division Director shall direct the request to the Madison County Board of Developmental Disabilities Management Team, which shall decide whether or not to amend the information within 30 days after the Director has received the request.
  - 2) If a decision is made not to amend the information in accordance with the request, the Director of the division to which the request was directed shall inform the requesting party of the refusal and advise them of the right to a records hearing to challenge information in education/habilitation records, to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the enrollee.
- B. If the party requests a records hearing a records hearing will be set up and adhere to the following:
  - 1) The records hearing shall be held within 30 days after the Division Director has received the request, and the requesting party shall be given notice of the date, place, and time, at least 10 days in advance of the hearing.
  - 2) The records hearing may be conducted by any party, as designated by the Superintendent, including an official of the agency, or another agency who does not have a direct interest in the outcome of the hearing.
  - 3) The requesting party shall be afforded a full and fair opportunity to present evidence relevant to the issues and may be assisted or represented by individuals of his or her choice, at his/her own expense, including an attorney. The hearing representative shall make his/her decision in writing to the Superintendent within 10 days after the conclusion of the hearing. The decision shall be based solely upon the evidence presented at the hearing and shall include a summary of the evidence and the reasons for the decision.
- C. Results of the Records Hearing
  - 1) If, as a result of the records hearing, it is decided that this information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the participant, the Division Director shall amend the information accordingly, and so inform the party, in writing.
  - 2) If, as a result of the records hearing, it is decided that the information is not accurate, misleading, or otherwise in violation of the privacy or other rights of the enrollee, the Division Director shall inform the party of the right to place in the records the agency

maintains on the enrollee a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency.

- 3) Any explanation placed in the records of the enrollee under this paragraph shall be maintained by Madison County Board of Developmental Disabilities as part of the records of the enrollee, as long as the record or contested portion is maintained. If the records of the enrollee, or the contested portion are disclosed to any party, the explanation must also be disclosed to the party.

### **Due Process of Individuals Placed by LEAs**

The Board shall request from each Local Education Agency (LEA) placing individuals into the Board's programs their respective Due Process Procedures. The appropriate LEA policies and procedures shall be followed according to the individual involved. Children ages 3 through 21 will be covered by LEA'S Policies.

### **Due Process for Individuals Not Placed by LEAs**

The Madison County Board of Developmental Disabilities shall have:

- A. Written policies and procedures concerning identification, evaluation, placement and periodic review processes.
- B. Written descriptions of available programs and related services;
- C. Written policies and procedures concerning due process and procedural safeguards and provide such to individuals, parents of minors and guardians and residential services/supports providers on an annual basis.
- D. Posted the toll-free number for the Ohio Department of DD and Ohio Legal Rights.

### **Removal**

In an emergency, the Superintendent or designee may remove an enrollee from curricular, the work place or extracurricular activities or the premises if the enrollee poses a continuing danger to himself/herself or others or participates in the destruction of property.

#### **For Individuals Placed by LEAs:**

If the enrollee has been placed by the LEA, such removal shall be reported immediately to the parent and the LEA. A written incident report shall be prepared by the end of the work day. A copy of the incident report shall be forwarded within 24 hours to the school district. Such removal may be accomplished despite an individual's disability, but are subject to the due process procedures of O. R. C. Section 3313.66.

Emergency removal may be a planned component of a behavior support program when the program has been written following the Board's Behavior Support Policy and Procedures Chapter 7 and has been approved by the parents and the LEA.

**For All Other Enrollees:**

For enrollees not placed by the LEA, parents/guardians and residential homes, if appropriate, must be notified immediately.

The Board's Behavior Support Policy and Procedures Chapter 7 must be followed if an individual has behaviors causing removal more frequently than determined a crisis intervention by section 708 of that policy.

Such removals are subject to Due Process procedures.

### **Suspension**

**For Individuals Placed by LEAs:**

If a child repeatedly demonstrates inappropriate behavior, which is not directly attributed to the child's disability, the Superintendent of the County Board may request that suspension proceedings be initiated by the involved LEA. The Superintendent of the County Board shall forward to the school district such written reports and other records as are necessary. County Board personnel shall be released from regular position responsibilities in order to participate in any hearings or review conference committees at the invitation of the school district.

Suspensions shall occur no more than ten days total in any program year. Any accumulation of ten days during the program year shall be considered expulsion and constitutes a change of placement, which necessitates an IEP review for determination of a more appropriate educational or habilitative program. The local LEA is responsible for convening the Interdisciplinary Team. The Due Process rights of the individual are guaranteed

**For Other Enrollees:**

Suspensions are to be implemented only when part of an approved behavior support plan for the involved individual. The Behavior Support Policy and Procedures approved by the County Board must be followed. The Due Process rights of the individual are guaranteed.

### **Expulsions**

**For Individuals placed by LEAs:**

The policies and procedures of the involved LEA must be followed. The Due Process rights of the individual are guaranteed.

**For Other Enrollees:**

The Madison County Board of Developmental Disabilities Policy on Discipline, Due Process, Behavior Support and Service and Support Administration shall be used to determine the most appropriate placement for the individual.

## **411. Confidentiality**

### **Confidentiality**

Purpose: To safeguard each individual participant's right to confidentiality in the receipt of services from the Board.

The provisions of this directive shall apply to all Board members, employees, volunteers/interns, and contract services employees of all divisions of the Board. Policies and procedures concerning confidentiality shall be made known to individuals and/or the parent of a minor or guardian of an adult, as applicable, residential services/supports providers, and other agencies contracted to provide services to enrollees.

#### **Definitions**

- A. Destruction means physical destruction of a record or removal of personal identifiers from information so that the it is no longer personally identifiable.
- B. Directory Information includes the following information relating to a participant: The participant's name, address, telephone number, date and place of division of service, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, and awards received.
- C. Disclosure means permitting access or the release, transfer, or other communication of records of the participant or the personally identifiable information contained therein, orally or in writing, or by electronic means, or by any other means to any party.
- D. Education/Habilitation Records mean those records, which are directly related to a participant and are maintained by the County Board or by a party acting for the agency. The term does not include those records which are excluded under 34 Code of Federal Regulations (CFR), Reg. 909.3.
- E. Parent means either parent. If the parents are separated or divorced, "parent" means the parent with legal custody of the handicapped child. "Parent" also includes a child's guardian, custodian, or parent surrogate. At age eighteen, the participant must act in his or her own behalf, unless he/she has a court-appointed guardian. This term does not include the state, if a child is a ward of the state.
- F. Personally Identifiable Data includes:
  - 1) The name of the enrollee, the enrollee's family member.
  - 2) The address of the enrollee.
  - 3) A personal identifier, such as the enrollee's date of birth, Social Security number, or Medicare number.
  - 4) A list of personal characteristics or other information, which would make it possible to identify the enrollee with reasonable certainty.
- G. Record means any information or data recorded in any medium, including, but not limited to: photographs, handwriting, print, tapes, film, microfilm, microfiche and automated data bank.



## **Philosophy**

Confidentiality is the basis for all personal relationships, as well as for the respect due personal privacy. It involves intimacy, trust, confidence, and is the key to any and all therapeutic relationships.

A breach in confidentiality occurs: when enrollee information is passed along to a second individual without the enrollee's or parent's knowledge, when information can be used against the enrollee's welfare or services, when information draws undue attention to the disability, rather than normalization capabilities.

The goal of all enrollee discussions or information seeking must be to serve the enrollee.

### **A. Confidentiality**

- 1) All information contained in an enrollee's records, including information contained in an automated data bank, shall be considered confidential. The content of these records is never the subject for discussion, except as an official member of a habilitation team.

### **B. Responsible person for ensuring confidentiality of records**

- 1) Each Program Division Director or his/her designee shall act as the confidentiality officer of their particular division to ensure the confidentiality of information of each enrollee receiving services from that division and to secure records against loss or use by unauthorized persons.
- 2) It is the responsibility of the confidentiality officer to see that each enrollee is adequately represented by his/her natural parent(s), parent(s) having legal custody, legal guardian(s) or custodian(s), surrogate parent(s).
- 3) An enrollee of legal age (18) with no court-appointed legal guardian has the right to act in his/her own behalf in all matters related to confidentiality and records access, consent, maintenance, and destruction. Throughout the remainder of this policy, "parent" refers to the enrollee, himself/herself, when acting in his/her own behalf.

### **C. Access Rights**

- 1) The parent has the right to inspect and review any agency record related to his or her minor son or daughter enrolled in any division of the County Board; a court-appointed guardian has the same right, with respect to the records of his/her appointee. The agency shall request a copy of the official document stating the parent does not have the authority, under applicable state law, governing such matters as guardianship, separation, and divorce, if the right to access has been restricted or denied.
- 2) Any program division shall comply with the parents' requests for access to confidential material without unnecessary delay. Requests occurring before an IEP/IHP meeting, or a hearing related to identification, evaluation or placement of the enrollee shall have immediate response. In the case of an enrollee placed by the LEA, the response time shall be no more than forty-five days after the request has been made.
- 3) The County Board may charge a fee for copies of records which are made for the parent under this rule if the fee does not effectively prevent the parent from exercising the right to inspect and review those records.
- 4) The types of records maintained and available in each division shall include but are not limited to the following:
  - a. Application for enrollment;

- b. Verification of age;
- c. Emergency contact sheet;
- d. Enrollment for evaluation information;
  - i. Interdisciplinary team report;
  - ii. Psychological report;
  - iii. Medical report;
  - iv. Substantial developmental disability determination, if applicable;
  - v. Background information; and
  - vi. Evidence of public school graduation or a certificate of completion or valid public school placement data for program eligibility, if applicable
- 5) Medical report: Any person with Down syndrome who participates in physical development activities shall be examined by a physician for atlantoaxial dislocation. Such examination must be documented.
  - a. Comprehensive evaluation reports;
  - b. Specialist reports;
  - c. Special job accommodations;
  - d. A copy of the current IP or IEP;
  - e. Evidence of IP or IEP reviews and revisions;
  - f. Incident reports;
  - g. Accident reports;
  - h. Medication reports; and
  - i. Internal and external service referrals and reports
  - j. Attendance records;
  - k. Individual production and payroll records; and
  - l. Materials no longer needed for current programming.

#### D. Records Access

- 1) An individual's record is removed from a division's jurisdiction and safekeeping only in accordance with a court order, subpoena, or statute. Enrollee records shall not be removed from the premises for any other reason.
- 2) Each division shall develop a list of the types and locations of records collected, maintained, or used by them, and shall provide this list to parents on request.
- 3) Each Division Director or designee shall implement procedures to keep a record of parties obtaining or given access to records collected, maintained, or used (except access by parents and authorized employees of the division or other educational agency). Record of access/disclosure shall be kept on parties reviewing the files and of parties to whom information is sent, including written documentation of:
  - a. Name of the party;
  - b. Date access was given; and
  - c. Purpose for which the party is authorized to use the data.
  - d. Signature authorizing release.
- 4) If any agency record includes information on more than one enrollee, the parents of those enrollees shall have the right to inspect and review only the information relating to their son/daughter or to be informed of that specific information.

#### E. Amendment of Record at Parent's Request

- 1) A parent who believes that information in records collected, maintained, or used under this part is inaccurate or misleading or violates the privacy or other rights of the enrollee may request the division which maintains the information to amend the information.
- 2) The Division Director shall direct the request to the Madison County Board of Developmental Disabilities Management Team, which shall decide whether or not to amend the information within 30 days after the Director has received the request.
- 3) If a decision is made not to amend the information in accordance with the request, the Director of the division to which the request was directed shall inform the parent of the refusal and advise the parent of the right to a records hearing to challenge information in education/habilitation records, to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the enrollee.
- 4) A records hearing shall be set up at a parent's request and will adhere to the following:
  - a. The records hearing shall be held within 30 days after the Division Director has received the request, and the parent shall be given notice of the date, place, and time, at least 10 days in advance of the hearing.
  - b. The records hearing may be conducted by any party, as designated by the Superintendent, including an official of the agency, or another agency who does not have a direct interest in the outcome of the hearing.
  - c. The parent shall be afforded a full and fair opportunity to present evidence relevant to the issues and may be assisted or represented by individuals of his or her choice, at his/her own expense, including an attorney. The hearing representative shall make his/her decision in writing to the Superintendent within 10 days after the conclusion of the hearing. The decision shall be based solely upon the evidence presented at the hearing and shall include a summary of the evidence and the reasons for the decision.

#### F. Results of Records Hearing

- 1) If, as a result of the records hearing, it is decided that this information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the participant, the Division Director shall amend the information accordingly, and so inform the parent, in writing.
- 2) If, as a result of the records hearing, it is decided that the information is not accurate, misleading, or otherwise in violation of the privacy or other rights of the enrollee, the Division Director shall inform the parent of the right to place in the records the agency maintains on the enrollee a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency.
- 3) Any explanation placed in the records of the enrollee under this paragraph shall be maintained by Madison County Board of Developmental Disabilities as part of the records of the enrollee, as long as the record or contested portion is maintained. If the records of the child, or the contested portion are disclosed to any party, the explanation must also be disclosed to the party.

#### G. Safeguards

- 1) All Madison County Board of Developmental Disabilities personnel collecting, maintaining, using, or otherwise having access to personally identifiable data shall be informed of the confidentiality policies and procedures of the agency and are responsible for implementing them.

- 2) Each Division Director shall be assigned the responsibility for assuring the confidentiality of any personally identifiable data.
- 3) Each division shall maintain, for public inspection, a current listing of the names and positions of those employees within the division who may have access to the personally identifiable data.

#### H. Prior Consent for Disclosure

- 1) Personally identifiable information from the habilitation/education records of a participant may be disclosed without the written consent of the parent, if the disclosure is:
  - a. To other staff within the agency who have been determined by the Superintendent or designee to have a legitimate educational/habilitation interest.
- 2) To county board school-age program staff, to officials of another school, school district, or other educational agency in which the student seeks or intends to enroll:
  - a. When the transfer of records is initiated by the parent at the sending school district or other educational agency;
  - b. When the school district or other educational agency includes a notice in its policies and procedures that it forwards education records on request of a school district or other educational agency in which a student seeks or intends to enroll; or
  - c. After a reasonable attempt to notify the parent's last known address, that the transfer of records has been made.
- 3) To Federal and State Officials, in connection with the audit and evaluation of federally supported programs, or in connection with the enforcement of or compliance with the federal legal requirements which relate to these programs.
- 4) Each division shall implement procedures to obtain written consent of the individual and/or parent/guardian prior to releasing information not otherwise authorized including disclosing personally identifiable information from the records of an enrollee, other than directory information, except as provided in paragraph G-1 of this rule. The written consent required by this paragraph must be signed and dated by the parent giving the consent and shall include:
  - a. A specification of the records to be disclosed;
  - b. The purpose or purposes of the disclosure; and
  - c. The party or class of parties to whom the disclosure may be made.
  - d. Time period for which the permission is granted.
- 5) When a disclosure is made pursuant to paragraph H-1 of this rule, a division shall, upon request, provide a copy of the record which is disclosed to the parent.
- 6) Disclosure of information also includes verbal sharing (meetings, telephone conversations, etc.), which requires written parental consent, as outlined above. Record of such disclosure shall be recorded on the access record.
- 7) A release utilized by a division shall not exceed a time period of two years; one year in school age per O.D.E.
- 8) Directory information may be disclosed by a division without prior consent, if the following conditions are met:
  - a. Parents are given an annual notice of categories of personally identifiable information which a division has designated as directory information.

- b. Within 15 days of notification, a parent has the right to refuse to permit the designation of any or all of the categories of personally identifiable information as directory information with respect to his/her son or daughter.
- I. Destruction of Information
- 1) The Division director or designee shall inform the parent when personally identifiable information collected, maintained, or used under this paragraph is no longer needed to provide educational/habilitative services to the enrollee.
  - 2) The personally identifiable information on an enrollee may be retained permanently, unless the parent requests that it be destroyed. The agency should remind the parent that the records may be needed by the enrollee or the parent for Social Security benefits or other purposes.
  - 3) The information shall be destroyed at the request of the parent. However, a permanent record of an enrollee's name, address, phone number, attendance record, program attended, level completed, and year completed may be maintained without limitation.
  - 4) Written permission of the individual/guardian or the parent/guardian of a minor shall be obtained prior to destruction of individual record information. Copies of the county board generated records shall be offered to the individual/guardian or the parent/guardian of a minor.
  - 5) All record information will be maintained for a period of seven years from the date of receipt of payment or for six years after any initiated audit is completed and adjudicated, whichever is longer, and said records will be available for any partial or full review. Records will not be destroyed without the authorization of the Superintendent.

References: The Family Educational Rights and Privacy Act of 1974  
The Education for All Handicapped Act  
Ohio Public Records Act, O. R. C. 149.43  
Amended Substitute House Bill No. 238

## **412. Pre-School Food Services Policy**

### **Purpose**

The Madison County Board of Developmental Disabilities herein known as Board and Fairhaven School are committed to providing nutritional opportunities for children. This policy and procedure provides direction for the food service program, which serves breakfasts and lunches to Pre-School children. This policy applies to all individuals eligible for Pre-School services through the Board.

The Board complies with the National Child Nutrition Programs guidelines when serving meals to individual in the Program.

### **Procedure**

The Board will provide meals and snacks in compliance with the following:

- A. Meals and snacks will meet the nutritional needs of the child as required by the US Department of Agriculture meal patterns. ([www.usda.gov](http://www.usda.gov)).
- B. Food source of vitamin C shall be served daily and vitamin A shall be served 3 times per week.
- C. Milk will be vitamin D fortified. Low-fat, skim milk or dry powdered skim milk will be vitamin A and D fortified. Reconstituted dry powdered milk will be used only for cooking, and shall not be used as a beverage.
- D. Lunch will be served to a child when in attendance through the hours of 11:00 a.m. and 12:30 p.m. inclusively.
- E. Adequate time is provided to eat meals per the National Association of State Boards of Education. A minimum of:
  - 1) 10 minutes for breakfast
  - 2) 20 minutes for lunch
- F. There will be a choice of at least 3 of the 4 groups served for breakfast:
  - 1) Meat/meat equivalent
  - 2) Bread/bread alternatives
  - 3) Milk group
  - 4) Vegetable/fruit
- G. Students will be permitted to bring their lunch from home and to purchase milk or juice from the food service program.
- H. When parents provide snacks for classroom parties or celebrations, they will be provided with information on nutritious snack choices.
- I. Children requiring modified nutritional guidelines for meals and snacks will be provided same with presentation of a medical doctor's written directive.
- J. Free or reduced price meals will be provided to students who cannot afford to pay the full price of meals. Parent documentation will need to be verified.
- K. The food service program will be managed, as appropriate for preschool children, within federal, state and local regulations.
- L. No parent, promotional group, or for profit agency selling food/drink items will be allowed to compete in any manner with the school's established meal schedule or offerings.
- M. No food, other than that prepared in compliance with this policy shall be made available for purchase by any person. All food shall be prepared in accordance with local, state and federal regulations and in compliance with all provisions of this policy. No other sale of food shall be permitted.

The Board will post weekly menus for breakfast and lunch in a conspicuous place. Any substituted foods will be from the same basic food group and will be recorded on the menu.

## **413. Wellness Policy**

### **Purpose**

Madison County Board of Developmental Disabilities and Fairhaven School are committed to providing a school environment that enhances learning and development of lifelong wellness practices.

- A. Child Nutrition Program that complies with federal, state, and local requirements, Child Nutrition Program is accessible to all children.
- B. Age appropriate nutrition education is provided and promoted.
- C. Patterns of meaningful physical activity that are social and noncompetitive connect to student's lives outside of physical education.
- D. All school-based activities are consistent with local wellness policy goals.
- E. All food and beverage made available to students are consistent with the current School Lunch and Breakfast Program guidelines.
- F. All food made available adhere to food safety and security guidelines (AACCP guidelines).
- G. Nutrition education will be provided to school staff, students and family members to promote wellness policy goals.
- H. The school environment is safe, comfortable, pleasing and allows ample time and space for eating meals. Food and/or physical activity is not used as a reward or punishment.
- I. The school will partner with public and private entities at least once a year to promote childhood wellness initiatives.

### **Definitions**

- A. HACCP – Hazard Analysis and Critical Control Points defines plans and guidelines to prevent food illness in schools.
- B. USDA – United States Department of Agriculture sets the current guidelines for daily food requirements for Americans.
- C. OSHN – Office of Safety, Health and Nutrition at the Ohio Department of Education.
- D. Wellness Committee – Committee appointed by the Superintendent to oversee and evaluate the wellness program.

### **Nutrition Education**

- A. Nutrition Education will be integrated into the core curriculum in each classroom.
  - 1) Include nutrition education in planned art projects.
  - 2) Promote nutrition education in music and dance.
- B. Provide adequate training and education to staff who are responsible for nutrition education.
  - 1) Wellness Committee will provide teachers with nutrition education materials.
  - 2) Staff will be encouraged to attend nutrition education seminars when offered in the community (Extension Office, Health Department, Hospital, Child Care Network, etc).
- C. Nutrition education will involve sharing information with family members.

- 1) Monthly menu that is sent home will include tips for good nutrition.
  - 2) Posters/Bulletin board and promotional materials will include healthy eating and healthy lifestyle information.
- D. Students will be encouraged to start each day with a healthy breakfast.
- 1) Breakfast is served when students arrive at school.
  - 2) Teachers will emphasize importance of eating breakfast.

### **Physical Activity**

- A. Physical activity will be integrated across curricula throughout the day.
- B. Children will be given several opportunities for physical activity daily (may include daily recess)
- 1) Outdoor playtime if weather permits daily
  - 2) Supervised play in gym at least once per day.
- C. Physical activity participation will take into consideration the ‘balancing equation’ of food intake and physical activity.
- D. Safe, adequate play equipment is available for all students to participate in physical education.
- E. Information will be provided to families to help them incorporate physical activity into their students lives.
- 1) Physical activity suggestions will be included in newsletters.
  - 2) Monthly printed menus that are sent home will include tips on physical activities.

### **Nutrition Guidelines**

- A. All foods provided in the school will comply with current USDA Dietary Guidelines for Americans.
- B. Nutrition information for all menu products is available upon request by any parent or community representative.
- C. Classroom snacks feature healthy choices.
- D. Nutrition education is provided by teachers and aides during classroom meals and snacks.

### **Eating Equipment**

- A. Adequate time is provided to eat meals per National Association of State Boards of Education. A minimum of:
- 1) 10 minutes for breakfast.
  - 2) 20 minutes for lunch.
- B. Drinking water will be available for students upon request.
- C. Dining area in classroom is clean and provides enough seating for all students.
- D. Food is not used as a reward or punishment for student behaviors unless it is detailed in the Individualized Education Plan (IEP).



### **Child Nutrition Operations**

- A. The child nutrition program will aim to be financially self-supporting. Budget neutrality or profit generation will not take precedence over the nutritional needs of the students.
- B. The child nutritional program will be affordable and will provide nutritious foods that children need to stay healthy and learn well.
- C. A Food Service Coordinator is employed who is properly qualified, certified and/or credentialed according to current professional standards to administer the food service program.
- D. All food service personnel shall have adequate pre-service training in food service operations and food preparation.
- E. Students are encouraged to start each day with a healthy breakfast.

### **Food Safety/Food Security**

- A. Refer to Cafeteria Procedure Manual for procedures on receiving food, storage, preparation, cooking, holding and serving, refusal of prepared foods, and cleaning and sanitizing.
- B. All foods made available in the program comply with the state and local food safety and sanitation regulations.
  - 1) HACCP Guidelines
  - 2) Sanitation assessment and food service permit issued annually by County Health Department
- C. For safety and security of the food and facility, access to the food service operations are limited to Child Nutrition staff and authorized personnel.

### **Food Services**

- A. MCBDD shall provide a cafeteria facility at Fairhaven School and will provide food service for the purchase and consumption of lunch for all students. The Board shall annually encumber the funds needed to operate the program.
- B. The food service program shall comply with Federal and State regulations pertaining to the selection, preparation, consumption and disposal of food and beverages as well as to the fiscal management of the program.
- C. During all times while the food service program is operating and students are being served food, at least one employee shall be present in the area in which the food is being consumed who has received instruction in methods to prevent choking and demonstrated an ability to perform the appropriate first aid.
- D. Lunches sold by the school may be purchased by students and staff members and community residents in accordance with administrative guidelines established by the Superintendent.
- E. The operation and supervision of the food service program shall be the responsibility of the Cafeteria Supervisor.
- F. A periodic review of the food service accounts shall be made by the Fiscal Director. Any surplus funds from the National School Lunch Program shall be used to reduce the cost of the service to students or to purchase cafeteria equipment.

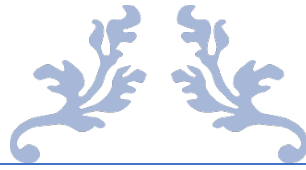
- G. No food or beverages, other than those associated with the District's food service program, are to be sold to students during food service hours. The District shall serve only nutritious food as determined by the Food Service Department. Carbonated beverages, water ices, chewing gums, marshmallow candies, fondant (creamy sugar candy), licorice, spun candy and candy-coated popcorn shall not be served by the food service department. Food and beverages unassociated with the food service program may be vended in accordance with the Local Wellness Policy.
- H. The Superintendent shall implement administrative guidelines for food sales that occur during non-meal hours.

### **Free and Reduced Price Meals**

- A. MCBDD recognizes the importance of good nutrition to each student's education performance.
- B. The Board shall provide children, who meet eligibility guidelines as indicated in letter C below, with breakfast and/or lunch at a reduced rate and/or no charge to the student.
- C. Children, eligible for free or reduced price meals, shall be determined by the criteria established by the Child Nutrition Program and National School Lunch Act. These criteria are issued annually by the Federal government through the Ohio Department of Education.
- D. The Board designates the Cafeteria Supervisor to determine in accordance with Board standards, the eligibility of students for free and reduced price meals.
- E. The school shall annually notify all families of the availability, eligibility requirements and application procedure for free and reduced price meals by distributing an application to the family of each student enrolled in the school and shall seek out and apply for such Federal, state, and local funds as may be applied to the Board's program of free and reduced meal prices.
- F. The Superintendent shall prepare and implement the necessary arrangements and guidelines to ensure proper operation of this program. S/he shall ensure that the appropriate policy attachments for Free and Reduced price meals or free milk are properly completed and submitted for approval to the school food service department of the Ohio Department of Education by the beginning of each school year.

### **Vending Machines**

- A. MCBDD will authorize vending machine use in Board facilities providing that the following conditions are satisfied:
  - 1) The installation, servicing, stocking, and maintenance of each machine is contracted for with a reputable supplier of vending machines and their products.
  - 2) No products are available to students which would conflict with or contradict information or procedures contained in the Board's Wellness Policy.
  - 3) No food or beverages are to be sold or distributed which will compete with the Board's food service program during regular school hours.
- B. The Superintendent and/or designee shall develop and implement administrative guidelines which will ensure these conditions are adhered to on a continuing basis.



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# MADISON COUNTY BOARD OF DEVELOPMENTAL DISABILITIES POLICY MANUAL

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## Chapter 5: Personnel Policy



**Board Adopted: April 16, 1998**  
**Revised: April 24, 2003**  
**Revised: January 21, 2016**  
**Revised: August 17, 2017**  
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## Disclaimer

This personnel policy manual is not an employment contract. It is presented as a matter of information only. The Madison County Board of Developmental Disabilities reserves the right to modify, revoke, suspend, terminate or change these policies and procedures with or without prior notice. In all cases where there is no governing policy, resort will be made to Ohio law, if applicable. Any statements in conflict with these policies made by anyone else are unauthorized, expressly disallowed, and should not be relied upon by anyone.

## Employee Receipt of Manual

I hereby acknowledge that I have reviewed and have access to the personnel policies of the Madison County Board of Developmental Disabilities and understand that it is my responsibility to read them and that if I have any questions about these policies it is my responsibility to seek clarification from management staff of the Board. I further recognize that it is my responsibility to know, understand and comply with the policies and rules of the Board.

Name	Position	Date
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Employees of the Madison County Board of Developmental Disabilities shall be notified of policy additions, amendments and rescissions in a timely manner. It is the responsibility of the employee to read posted or distributed notices. Questions regarding this manual or any policy of the Board are encouraged and should be directed to County Board management staff.

## 500. Introduction

- A. Policies are defined as the basic rules which guide administrative action for accomplishing an organization's objectives. Comprehensive and clearly defined policies, consistently and fairly administered, are essential to the success of any organization.
- B. The policies set forth and adopted within this manual supersede all previous written and unwritten personnel policies of the Madison County Board of Developmental Disabilities. This policy manual is a guide to be utilized by management and supervisory personnel to ensure uniformity and nondiscriminatory application of the conditions of employment. In the event there is a conflict between the contents of this manual and any applicable laws, those applicable laws shall prevail.
- C. The manual is designed as a tool for staff to enable them to know and to understand what to expect from the environment and the organization and to keep staff informed. Questions regarding the interpretation and application of these policies should be directed to your supervisor who will seek clarification through the chain of command. Every effort must be made to ensure that such decisions are made objectively, with the general intent of the policy in mind.
- D. This manual is not a contract either expressed or implied. The Board reserves the right to change any provision without consultation. However, the Board and its management do want to develop and maintain a good relationship with employees. Your input about matters addressed in this handbook is welcome and will always be considered.

- E. As conditions shift within the organization, it may be necessary to add, delete, or revise specific policies affected by such change. Updated policies will be available to all employees.

## **501. Objectives**

- A. The Board recognizes that a personnel system that recruits and retains competent, dependable personnel is indispensable for the effective delivery of services to individuals of the community who have developmental disabilities.
- B. The policies and procedures set forth in this manual are designed to:
- C. Promote high morale and foster good working relationships among employees of the Board by providing uniform personnel policies, equal opportunities for advancement, and consideration of employee needs.
- D. Enhance the attractiveness of employment with the Board and encourage each person to establish a standard of courteous and dependable service to the public and to the consumers enrolled in the programs.
- E. Provide fair and equal opportunity for qualified persons to enter and progress in their employment as determined through objective and practical personnel management methods.
- F. Ensure that all operations and programs are conducted in an ethical and legal manner so as to promote the Board's reputation as an efficient, progressive organization in the community and the state.

## **502. Definitions**

- A. Unless otherwise indicated in these policies, the following definitions shall apply:
- B. ABSENCE, EXCUSED - Being absent from work with the approval of the employer (i.e. vacation, holiday, compensatory time, approved unpaid leave of absence, personal day).
- C. ABSENTEEISM - The practice of an employee failing to report for work for a period of one or more days or failure to report within the prescribed time when he/she has been assigned to or scheduled for work. Misuse or abuse of sick leave is absenteeism.
- D. ABSENT WITHOUT LEAVE - Failure to report for work without authorization from the employer to be absent. The employer may deem an employee to be absent without leave when that employee is tardy, or when the employee departs from the employee's work site during working hours without authorization. These examples are not exhaustive. Also known as unexcused absence.
- E. ACTIVE PAY STATUS - The conditions under which an employee is eligible to receive pay and includes, but is not limited to, vacation leave, sick leave and other compensated time off.
- F. ACTIVE WORK STATUS - Conditions under which an employee is actually in a work status and is eligible to receive pay but does not include vacation pay, sick leave, personal leave and disability leave.
- G. ADMINISTRATION - The Superintendent, Directors, Managers, and Supervisors.
- H. AMERICANS WITH DISABILITIES ACT (ADA) -Federal legislation passed in 1990 which makes it unlawful to discriminate in employment against a qualified



- individual with a disability. The ADA also prohibits discrimination against individuals with disabilities in state and local government services, public accommodations, transportation and telecommunications.
- I. **APPOINTING AUTHORITY** - The Board is the Appointing Authority for the Superintendent. The Superintendent is Appointing Authority for all other positions.
  - J. **BOARD** - The Madison County Board of Developmental Disabilities. The Board, which is created by R.C. §5126.02, is comprised of seven (7) members. The Madison Board of County Commissioners appoints five (5) of these members and the Probate Judge of Madison County appoints two (2) members. Each appointee shall be a resident of Madison County.
  - K. **CLASSIFICATION** - A group of positions that involve similar duties and responsibilities, require similar qualifications, and which are properly designated by a common descriptive title indicating the general nature of the work. A class may include only one position in some circumstances.
  - L. **CLASSIFICATION TITLE** - The title assigned by the Ohio Department of Administrative Services for purposes of civil service compliance or as assigned by the county or county board classification system.
  - M. **CLASSIFIED POSITIONS** - All positions of employment in the county board except those designated as management employees as defined in R.C. §5126.20 or as defined in a collective bargaining agreement pursuant to R.C. §4117.01. (Cross Reference definition of Management Positions)
  - N. **COMPREHENSIVE OMNIBUS RECONCILIATION ACT, 1989 (COBRA)** - Federal legislation and later amendments that establish an employee's right to continue certain health benefits of the agency for a specified period of time after termination of employment at the employee's expense paid at the group rate for the agency.
  - O. **COUNTY** - The county of Madison, State of Ohio.
  - P. **DAYS** - Calendar days, except as otherwise defined in these policies.
  - Q. **DEPARTMENT** - A Board organizational unit directed and controlled by an Appointing Authority and charged with a specific public service function.
  - R. **DEVELOPMENTAL DELAY** - has the meaning established pursuant to OAC 5123:2-1-02(C)(6). Current Ohio Department of Developmental Disabilities (DODD) definition of a developmental delay is that the child has not reached developmental milestones expected for his chronological age as measured by qualified professionals using appropriate diagnostic instruments and/or procedures. The delay may be in any of the following areas: cognitive development (learning); physical development (fine and gross motor skills); language, speech, hearing or communication skills; psychosocial or physical maturation; or self-help skills.
  - S. **DEVELOPMENTAL DISABILITY** - When used for the purpose of defining eligibility for county board services means a severe, chronic disability that is characterized by all of the following: (1) It is attributable to a mental or physical impairment or a combination of mental and physical impairments, other than a mental or physical impairment solely caused by mental illness as defined in O.R.C. §5122.01(A); (2) It is manifested before age twenty-two; (3) It is likely to continue indefinitely; (4) It results in one of the following: (a) In the case of a person under age three, at least one developmental delay; (b) In the case of a person at least age three

- but under age six, at least two developmental delays; (c) In the case of a person age six or older, a substantial functional limitation in at least three of the following areas of major life activity, as appropriate for his age: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and if the person is at least age sixteen, capacity for economic self-sufficiency; and (5) It causes the person to need for an extended period of time a combination and sequence of special interdisciplinary, or other type of care, treatment, or provision of services that is individually planned and coordinated for the person.
- T. **DIRECTOR** – The person having responsibility for a specific program operation.
  - U. **DISHONESTY** - Disposition to lie, cheat or defraud; untrustworthiness; lack of integrity.
  - V. **DRUNKENNESS** - The condition of a person whose mind is affected by the immediate use of intoxicating drinks or controlled substances; the state of one who is "drunk" or "high." The effect produced upon the mind or body by drinking intoxicating liquors or ingesting other intoxicating substances to such an extent that the normal condition of the subject is changed and his/her capacity for rational action and conduct is substantially lessened.
  - W. **DUE PROCESS/DUE PROCESS HEARING (EMPLOYEE)** -- Predisciplinary procedures mandated by a collective bargaining agreement or statute, including O.R.C. §5126.23 and O.R.C 124.34, or the United States Constitution, to assess whether there is probable cause to suspend, reduce or terminate an employee.
  - X. **DUE PROCESS (PARTICIPANT)** - Statutory or administrative provisions (O.A.C. 5123:2-1-02) permitting participants access to a process to appeal denial of services from the Board.
  - Y. **EMPLOYEE** - Any person holding a position subject to appointment, removal, promotion or reduction by an Appointing Authority. The term “employee” does not include volunteers or independent contractors.
  - Z. **EMPLOYEE COUNSELING** - The discussion a supervisor holds with an employee in which the supervisor counsels him/her for his/her conduct and impresses upon him/her the need for improvement. This process can eliminate misunderstandings immediately and set and maintain desired standards of conduct and performance. A notation of the date, time and reason for an employee conference must be kept in the supervisor's files, in the event the conduct of the employee does not improve and subsequent action is required.
  - AA. **EMPLOYER** - The Appointing Authority, or the designee of the Appointing Authority, authorized by law to make appointments to positions.
  - BB. **FAIR LABOR STANDARDS ACT (FLSA)** - The FLSA is federal legislation governing the minimum wage, hours of work, and overtime compensation of most employees (including public employees).
  - CC. **FULL-TIME EMPLOYEE** - Full-time employee means an employee whose regular hours of active duty total thirty to forty (30-40) hours in a seven (7) calendar day week on a year-round basis.
  - DD. **FULL-TIME SEASONAL EMPLOYEE** - An employee whose regular hours of active duty total 30-40 hours in a seven (7) calendar day week where the employee works a certain regular period of the year performing work limited to that period of

- the year. Full-time seasonal employees, for the purposes of this manual, may be referred to as "nine month employees."
- EE. IMMEDIATE FAMILY - Means parents, brothers, sisters, spouses, sons, daughters, mothers-in-law, fathers-in-law, brothers-in-law, sisters-in-law, sons-in-law, and daughters-in-law unless otherwise specified by Board Policy.
  - FF. IMMORAL - Contrary to good morals; inconsistent with the rules and principles of morality; harmful or adverse to public welfare according to the standards of a given community, as expressed in law or otherwise.
  - GG. IMMORAL CONDUCT - Conduct which is willful, flagrant, or shameless, and which shows a moral indifference to the opinions of the good and respectable members of the community.
  - HH. INCOMPETENCY - Lack of ability, legal qualification, or fitness to do things required of an employee.
  - II. INEFFICIENCY - Quality of being incapable or indisposed to do the things required of an employee within reasonable standards.
  - JJ. INSUBORDINATION - State of being unwilling to do the things required of an employee. Refusal to obey an order issued by the employee's immediate supervisor or other staff person having authority to direct the employee.
  - KK. INTERMITTENT EMPLOYEE - A substitute or other employee who works on an irregular schedule which is determined by the fluctuating demands of the work which is not predictable and whose hours are generally less than 1,000 per year.
  - LL. LEAVE OF ABSENCE - Temporary separation from active work status as authorized by the appointing authority.
  - MM. MALFEASANCE - The commission of an act that is unlawful; the doing of an act which is wrongful and unlawful; the doing of an act that a person should not perform.
  - NN. MANAGEMENT EMPLOYEES - Employees who hold the following positions with the Board are management employees: Directors, Managers, or Supervisors and confidential employees as defined in O.R.C. §4117.01, other positions designated by the county board or the Director of the Ohio Department of Developmental Disabilities as having managerial or supervisory responsibilities and duties.
  - OO. MENTAL RETARDATION – A mental impairment manifested during the developmental period characterized by significantly subaverage general intellectual functioning existing concurrently with deficiencies in the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected of the individual's age and cultural group. (O.R.C. §5126.01(N)).
  - PP. MISFEASANCE - The improper performance of some act that a person may lawfully do.
  - QQ. NEGLECT OF DUTY - To omit or fail to do a thing that can be done, or that is required to be done. An absence of care or attention in the doing. An omission of a given act. A designed refusal or unwillingness to perform one's duty.
  - RR. NONFEASANCE - Non-performance of some act that ought to be performed, omission to perform a required duty, or total neglect of duty. "Nonfeasance" means the total omission of an act that a person ought to do.

- SS. PARTICIPANT - Any person who is receiving services from Board programs. Also referred to as enrollee, client or consumer. (The family of a person receiving services may be a consumer but not necessarily a participant).
- TT. PART-TIME EMPLOYEE - An employee whose regular hours of active duty are less than 30 hours per week
- UU. POSITION - Any specific employment, or job calling for the performance of certain duties, and for the exercise of certain duties, and for the exercise of certain responsibilities assigned or delegated by competent authority to be performed by one person.
- VV. PROFESSIONAL EMPLOYEES - Employees who hold the following positions: school personnel certified pursuant to O.R.C. Chapter 3319., early intervention specialist, physical development specialist, placement specialist, psychologist, occupational therapist, language specialist, recreation specialist, behavior management specialist, physical therapist, supportive home services specialist, registered nurse, rehabilitation counselor, doctor of medicine and surgery or of osteopathic medicine and surgery, dentist, service and support administrator, conditional status service and support administrator, other professional positions designated by the county board or the director of developmental disabilities, and any position that is not a management position and for which the standards for certification established by the director of developmental disabilities under O.R.C. §5126.25 require a bachelor's or higher degree.
- WW. PROGRAM YEAR - Coincides with the adoption of program calendars by the Board which comply with the mandated minimums established by the Ohio Department of Developmental Disabilities (DODD) and/or the Department of Education (ODE) for the various programs.
- XX. PUBLIC AGENCY - Includes agencies of the state, county and municipalities and all boards of education within the state of Ohio.
- YY. REDUCTION - A change in classification to one having a lower base pay range or change to a lower step within the pay range for a given classification or any decrease in compensation. If department/division is governed by a union contract, the procedures outlined in the contract shall be followed.
- ZZ. REGISTERED SERVICE EMPLOYEES - Employees who meet the standards of DODD as authorized under O.R.C. §5126.25. These standards do not require a baccalaureate degree.
- AAA. REINSTATEMENT - The act of returning a person to county service following a period of separation or leave of absence, retaining seniority and status. For purposes of layoff, "reinstatement" means the act of selecting from the appointing authority's layoff list individuals to return to active service with the same appointing authority in the same classification series of layoff.
- BBB. REMOVAL - The termination of an employee's employment for the reasons outlined in O.R.C. §124.34 or §5126.23.
- CCC. SICK LEAVE ABUSE - The use of sick leave for any purpose other than as provided by applicable law or these policies. Examples include: calling in sick when the employee is able to work; reporting illness in the immediate family when such illness does not exist; reporting off sick to participate in some other activity or to take care of personal business. Establishing a pattern of reporting off sick on certain days of the

- week such as prior to or following regular days off. Utilizing hours as they are accrued could be patterned use. Repeated failure to follow the rules and regulations regarding use of sick leave and reporting procedures including not timely submitting required documentation.
- DDD. SERB - The State Employment Relations Board.
  - EEE. STATUS - When used in reference to ODAS, it means the type of appointment, such as provisional, intermittent, etc.
  - FFF. SUPERVISOR - The individual who has been authorized by the Superintendent to oversee and direct the work of certain employees on a daily basis and who effectively recommends actions such as hiring, transfers, suspensions, promotions, discharge, rewards, lay off, recall or discipline. If department/division is governed by a union contract, the procedures outlined in the contract shall be followed.
  - GGG. SUSPENSION - Relieving an employee from duty with or without pay.
  - HHH. THEFT - The act of stealing; robbery; larceny. This includes the theft of computer data.
  - III. TRANSFER - The movement of an employee from one position to another where there is no change in level of responsibility, classification or salary.
  - JJJ. UNCLASSIFIED EMPLOYMENT - Those positions exempt from classified service. Management positions. Those positions listed in O.R.C. §5126.22 as management positions. Unclassified employees may actively participate in political activity.
  - KKK. UNEMPLOYMENT COMPENSATION - Benefits authorized by O.R.C. Chapter 4141 and administered by the Ohio Bureau of Employment Services paid to eligible individuals for loss of remuneration due to involuntary total or partial unemployment.
  - LLL. VENDOR - A person, who is not an employee of the Board, providing products/services required by the Board and/or its facilities during the operations of the Board. May also be referred to as a “contractor” or “service provider.”
  - MMM. WORKERS’ COMPENSATION - Benefits authorized by O.R.C. Chapter 4123 and administered by the Bureau of Workers Compensation under regulations established by O.A.C. 4123 paid to employees injured or contracting an illness while performing work related activities.
  - NNN. WRITTEN REPRIMAND - This is a disciplinary action. It is placed in the employee's personnel file and remains part of the employee's record. The reprimand may cease to have force and effect after a certain period of time as may be specified in Board policies.

### **503. General Hiring and Employment Policies**

The Board is an Equal Employment Opportunity (EEO) employer. It is the Board’s policy that all employees and applicants for employment will be recruited, hired, promoted, transferred, demoted, laid off, terminated, suspended, evaluated, or otherwise dealt with in a fair and equitable manner based upon merit and bona fide occupational qualifications for the position. No personnel decisions shall be based upon race, color, religion, sex, national origin, age, military status, disability, genetic information, or other prohibited criteria. Procedures for hiring and employment shall conform to the Americans with Disabilities Act of 1990 (ADA) including reasonable accommodations unless such accommodations cause undue hardship to the agency.

The Appointing Authority shall appoint a person(s) to be responsible for formulating, implementing, coordinating and monitoring all efforts in the area of equal employment opportunity. While overall authority for administering this policy shall be delegated to such person(s), supervisors and division heads shall also maintain responsibility for their actions in regard to providing equal opportunity to each employee or applicant.

The Board shall maintain an Affirmative Action Plan describing the goals and methods for the provision of equal employment opportunities for all persons under its authority. (Reference: R.C. §5126.07). A copy of this plan shall be available in each facility where employees are assigned to work.

Any employee or applicant who feels that he/she has been the victim of discrimination may contact the Equal Employment Opportunity Coordinator to obtain information concerning complaint procedures.

### **503.1 Notification of Available Positions**

All open positions shall be posted in a manner to encourage application from any potential candidate. Such postings shall include notices in program facilities and may include notices to universities, local newspapers, state associations, ODE, and DODD.

Each job posting or notice of vacancy, insofar as practicable, shall specify the title, nature of the job, the required qualifications, and method of application.

\*\* Positions shall be posted for a minimum of two (2) weeks (The Ohio Department of Education will not consider granting temporary certification unless the position has been posted with the Ohio Department of Education for two weeks and no applications from persons with appropriate certification are received).

### **503.2 Applications**

An application must be properly completed and submitted before an applicant will be considered for new employment. Current employees must submit a letter of intent to apply and, as applicable, an updated resume to the Department Director.

Standard application forms will be available in the Administrative Office.

Applications shall be kept in the active file for a period of two (2) years.

Falsification of information on the application will nullify the application and will result in dismissal if falsification is verified after employment.

### **503.3 Citizenship and Naturalization**

To be eligible for employment with the Board, the applicant must be a citizen of the United States or a legal resident with authorization to work in this country.

### **503.4 Evaluation of Applicants/Background Investigations**

Applicants shall be evaluated according to how well their qualifications meet the requirements of the position. Not all applicants will be interviewed for each vacancy. Applicants must submit to reference checks, interviews, background checks, validated performance tests, and/or other job-related screening procedures.

An applicant shall be required to provide any information such as transcripts, licenses and certificates, and undergo any examinations necessary to demonstrate qualification for the position sought, insofar as such information and examination is job-related. All applicants for positions requiring a CDL will be subject to drug testing after a conditional offer of employment.

The Board seeks to hire and keep qualified individuals who have the goals of the agency in their interest. Unless otherwise in accordance with law, the Board will not employ or continue to employ any individual who has been convicted or plead guilty to any offense that relates in any way to the duties of a position authorized by the Board. This policy allows the Board to conduct appropriate background investigations of applicants and employees in furtherance of its goals.

#### **Investigations/Criminal Background Checks**

All applicants for employment with the Board shall undergo an initial background check in order to determine the fitness of the applicant to provide services to the enrollees or perform other duties for the Board. This background check shall include but not be limited to a request for information regarding any prior criminal convictions or pleas of guilty by the applicant. (Reference: O.R.C. §5123.081)

Each individual applying for employment shall be notified at the initial interview that a background check shall be conducted on each individual who is under final consideration, including a set of impressions of the applicant's fingerprints for a criminal records check and a certified abstract of the applicant's record of convictions for violations of motor vehicle laws if the applicant will be required to transport clients or to operate a Board vehicle for any other purpose. At the time of initial application, the Board may notify the applicant that the Board will charge the applicant a fee for the costs incurred by the Board in obtaining a criminal records check, fingerprint impressions, or an abstract and that unless the fee is paid the applicant will not be employed by the Board. The applicant shall be required to sign an authorization for release of information from his present or previous employer(s) and for criminal convictions from law enforcement agencies in any community in which the applicant has resided, the Bureau of Criminal Identification and Investigation (BCII) and any other state or federal agency. In

addition, the Board shall request the Registrar of Motor Vehicles to supply a certified abstract regarding the record of convictions for violations of motor vehicle laws of each applicant who will be required by his employment to transport individuals with developmental disabilities or to operate the Board's vehicles for any other purpose.

When the initial interview is completed and the applicant is under final consideration for final offer of employment, the Superintendent or his designee shall initiate the following procedures for the background check.

- A. Contact the applicant's present or previous employer(s) regarding the individual's work habits and reasons for leaving employment.
- B. Request information pertaining to any criminal convictions or any pleas of guilty by the applicant. This information shall be requested from the law enforcement agency that has jurisdiction in the applicant's current and/or last area of residence and/or from the BCII and any other state or federal agency.
- C. Contact personal references submitted by the applicant for information concerning the individual.
- D. Arrange for the applicant to be fingerprinted by the Madison County Sheriff's Office or by the Board and the fingerprint card forwarded to the BCII, or, at the discretion of the Superintendent, any other state or federal agency. It shall be accompanied with a notarized request authorized by the applicant for a report on the criminal record of the applicant. Information shall not be requested on arrests in those cases where there was no conviction or guilty plea. An applicant's refusal to be fingerprinted or to sign and have notarized the request form shall result in no further consideration of his/her application. If an applicant becomes a Board employee and the employee holds an occupational or professional license or similar credentials, the Superintendent may request that the regulating state or federal agency supply the Board with a written report of any information pertaining to the employee's criminal record that the agency obtains in the course of conducting an investigation or in the process of renewing the employee's license or other credentials.
- E. Request a driving record from the Ohio Bureau of Motor Vehicle for all applicants who will transport individuals with developmental disabilities or operate the Board's vehicles for any other purpose.
- F. Review the six (6) databases identified in Ohio Administrative Code 5123:2-2-02.
- G. Review the findings of the background check(s) and consider them along with other factors in the decision to employ or retain an individual. The applicant shall not be appointed to fill a position in either classified or unclassified service of the Board if the background check discloses information that he or she has:
  - 1) Displayed work performance patterns that, in the judgment of the Superintendent or designee, would prevent him/her from performing the essential functions of the position being filled;
  - 2) Been dismissed for good cause from any branch of public service if the reason for dismissal bears a direct and substantial relationship to the position being filled;
  - 3) A driving record unacceptable to the Board or Board's insurance carrier for those applicants who are seeking a position in which driving is an essential component of the duties of the position,



- 4) In accordance with O.R.C. §§109.572 and 5123.081, and subject to the rules of the Ohio Department of Developmental Disabilities, been convicted of or plead guilty to the violation of any disqualifying offense described in O.R.C. §5123.081 and listed in O.R.C. §109.572.
- H. The Board shall, prior to employing an applicant, require the applicant to submit a statement that the applicant has not been convicted of or pleaded guilty to any disqualifying offenses any disqualifying offense described in O.R.C. §5123.081 and listed in O.R.C. §109.572. All applicants will be required to sign an agreement stating that the applicant will notify the Superintendent within fourteen (14) calendar days if, while employed by the Board, the person is ever formally charged with, convicted of, pleads guilty to, or is found eligible for intervention in lieu of conviction for any disqualifying offense described in O.R.C. §5123.081 and listed in O.R.C. §109.572 and that failure to provide such notification may result in termination from Board employment. (Reference: O.R.C. §5123.081).
- I. The Superintendent and Personnel Office shall be notified of the reasons for hiring or not hiring any applicant. The EEO officer of the Board shall maintain files of this information.
- J. The BCII response (and the response from any other local, state or federal agency contacted) regarding any felony convictions or guilty pleas shall be compared to the information on the application and statement signed by the applicant. If the applicant has been appointed to a position, any falsification on the application or statement, which is discovered by this comparison, shall be cause for removal of the employee from his position.

## **BCII Records**

BCII reports and similar criminal records checks are not public records for purposes of O.R.C. §149.43 and shall not be made available to any person except the applicant, Board members or employees responsible for employment, or any hearing officer in a case denying employment. Such reports will not be maintained in the employee personnel files but will be maintained in a separate file in the Administrative Assistant's office.

## **503.5 Disqualification**

An applicant shall be eliminated from consideration if he/she:

- A. Does not possess the knowledge, skills and abilities necessary to effectively perform, with or without reasonable accommodation, the essential duties of the vacant position;
- B. Does not possess or is not eligible for appropriate licenses, certification, registration, or degrees required for the position.
- C. Has made a false statement of material fact on the application form or supplements thereto;
- D. Has not fully cooperated regarding the Board's background investigation/criminal background check of the applicant or whose background check reveals a disqualifying conviction or plea.

- E. Has committed or attempted to commit a fraudulent act at any stage of the selection process; or
- F. Is an alien not legally permitted to work.

An applicant may be eliminated from consideration upon other reasonable grounds relating to job requirements.

If an applicant is hired and it is subsequently discovered that any of the above disqualifying criteria apply, the employee will be terminated.

### **503.6 Selection Process**

The selection process will be made in accordance with law including the Board's commitment to EEO and the ADA.

Appointments to vacant positions shall be made based solely on the applicant's knowledge, skills and abilities, integrity, work history and other job-related qualifications, as ascertained through fair and practical selection methods. (Reference: R.C. §4112.02)

### **503.7 Certifications/Registrations/Licenses**

For those job classifications requiring certification or registration as defined by the Ohio Department of DD or the Ohio Department of Education, the staff of the Board must meet or exceed such requirements. Each employee's classification specification as adopted by the Board shall include the certification or registration requirements for that classification.

For positions licensed by a state licensing authority, an applicant possessing or eligible for such license shall be deemed eligible for employment.

Employees are responsible for meeting the professional, educational, continuing education and/or experience requirements applying to their position in order to maintain the proper state required certifications, licensures and registrations.

The required fees for certification/registration/license applications, renewals, or for course work related to certification and licensing are the responsibility of individual staff members.

An employee holding a certificate or evidence of registration may have such certificate or evidence of registration denied, suspended or revoked by the Department of DD if the Department determines that such employee is guilty of intemperate, immoral, or other conduct unbecoming to the employee's position, is guilty of incompetence or negligence within the scope of the employee's duties, or the employee has been convicted or plead guilty to any of the offenses listed in O.R.C. §5126.28.

An employee holding a certificate or evidence of registration has a duty to timely report to the superintendent any acts described above. Failure to make such timely report may result in discipline up to and including discharge. Upon receipt of information that an employee holding a certificate or evidence of registration may have committed any of the acts described above, the Superintendent shall make an appropriate notification to the Department. For an employee holding an occupational or professional license or similar credentials, the Superintendent may request that the regulating state or federal agency supply the Board with a written report of any information pertaining to the employee's criminal record that the agency obtains in the course of conducting an investigation or in the process of renewing the employee's license or other credentials.

If a Board employee's required license/certificate/registration is revoked or is not renewed, that person's employment shall be terminated for just cause subject to due process. If a required license/certificate/registration is suspended, the person's employment may be terminated for cause subject to due process.

No person will be employed or compensated by the Board if the person does not hold the certificate, evidence of registration or license required for the position. The Superintendent may employ, at the Superintendent's discretion, an individual pending the issuance of the proper certificate, registry or license if the person has met the requirements for such and has applied for certification, registry or license and the application has not been denied.

Employees who have a change in their educational, certification, or registration status that may have an effect on their salary or wage are responsible for providing the appropriate documentation to the administrative office by August 14th to be effective September 15th or December 15th to be effective January 1st. Employee's failure to comply in a timely manner will result in possible loss of income.

(Reference: R.C. §5126.25; R.C. §5126.26; R.C. §5126.28)

### **503.8 Medical Examinations**

- A. A medical examination by a qualified physician is required of all employees upon employment. The examinations may include such tests as determined for job-related duties of the position.
- B. Bus drivers shall have annual physical examinations in compliance with the rules established by the Ohio Department of Highway Safety and are subject to pre-employment and random drug testing.
- C. The Superintendent may require any employee to submit to a physical examination when that employee is not, as a result of apparent medical problems, performing his/her job in a satisfactory manner. Refusal by the employee to submit to examination or refusal to release the results of examination constitute an admission of no physical or medical impairment justifying substandard work. Fees for medical examinations under this section shall be paid by the Board. (O.A.C. 123:1-30-03)

- D. The cost of mandated medical examinations and mandated drug testing for employment shall be paid by the Board. (O.A.C. 123:1-9-03)
- E. If the results of the medical examinations indicate the otherwise qualified applicant or employee has a disability as defined by the Americans with Disabilities Act, the Board will make reasonable accommodations to allow the individual to perform the essential functions of the employee's job unless such accommodations cause an undue hardship to the Board.

### **503.9 Individuals with Disabilities Non-Discrimination Policy**

It is the policy of the Board to protect qualified individuals with disabilities from employment discrimination. It is unlawful and against the policy of the Board to discriminate against any employee or applicant with respect to hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment due to a disability.

The Americans with Disabilities Act of 1990 (ADA) makes it unlawful to discriminate in employment against a qualified individual with a disability. The ADA defines a person with a disability as an individual who has a physical or mental impairment that substantially limits a major life activity. The ADA also protects individuals who have a record of a substantially limiting impairment, and people who are regarded as having a substantially limiting impairment. A substantial impairment is one that significantly limits or restricts a major life activity such as hearing, seeing, speaking, breathing, performing manual tasks, walking, caring for oneself, learning or working.

All employees are expected to be "fit for duty" at all times. "Fit for duty" means the ability to perform the essential functions of the position as described in the job description in a responsible manner with or without accommodations and to work according to the appropriate Board adopted calendar. An individual with a disability must be qualified to perform the essential functions of the job with or without reasonable accommodation. This means that the applicant or employee must:

- A. Satisfy the job requirements for educational background, employment experience, skills, licenses, and any other qualification standards that are job related; and
- B. Be able to perform those tasks that are essential to the job, with or without reasonable accommodation.

A reasonable accommodation is any change or adjustment to a job or work environment that permits a qualified applicant or employee with a disability to participate in the job application process, to perform the essential functions of a job, or to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities. It is a violation of this Board policy and the ADA to fail to provide reasonable accommodation to the known physical or mental limitations of a qualified individual with a disability, unless to do so would impose an undue hardship on the operation of the Board. Undue hardship means that the accommodation would require significant difficulty or expense.

If otherwise qualified applicants or employees can safely and substantially perform the essential functions of a job with a reasonable accommodation, the Board shall make such a reasonable accommodation so long as it is not an undue hardship to the Board. Decisions regarding reasonable accommodation of a known handicap will be made on a case-by-case basis.

The Superintendent is authorized to establish guidelines to regulate the implementation of this policy.

### **503.10 Physical Ability to Lift, Carry, and Move Students/Clients**

- A. In-service: All staff who hold positions in which they are required to lift, carry, and move students/clients, and/or materials as an essential function of the positions are required to attend an in-service which stresses body mechanics, an introduction to anatomy and physiology, prevention aspects, and safe techniques of lifting, carrying and moving. Substitutes shall receive training and all affected staff will attend a refresher course to be held annually.
  - 1) **EMPLOYEES MAY BE DISCIPLINED FOR FAILURE TO USE PROPER TECHNIQUES IN THE LIFTING, CARRYING OR MOVING OF PARTICIPANTS.**
- B. Job Descriptions: The following statement will be on job descriptions for which an essential function of the positions is the requirement to lift, carry, and move children, adolescents, and adults:
  - 1) **Must be physically capable to lift, carry, and move enrollees, including children, adolescents, and adults in a safe manner, according to in-service training.**
  - 2) The following statement will be on job descriptions for all other staff:
    - a) May be requested to lift, carry, and move enrollees, including children, adolescents, and adults in a safe manner, according to in-service training.
- C. Appropriate Dress: Because of the need for lifting, carrying and moving, the following dress code must be followed by direct care service staff:
  - 1) An employee who is in a class, group or environment where he/she may be expected to lift or be involved in a behavioral intervention, must wear shoes with a flat, wide-base heel.
  - 2) Jewelry of any type could be broken, grabbed or pulled by an enrollee, and/or could inhibit moving clients safely and should be carefully considered before being worn. If any jewelry is broken, it will not be replaced by the Board.
  - 3) Loose clothing, which could be caught in wheel chairs or braces, and tight fitting clothing, which could limit movement, should not be worn.

## **503.11 Drug-Free Workplace**

### **INTENT OF THIS POLICY:**

It is the policy of the Board to provide a workplace free of alcohol and drugs and to take reasonable measures to ensure that employee alcohol or drug abuse does not exist. The Board realizes that a successful policy may combine education, counseling, assistance and/or discipline.

### **PROCEDURES**

#### **A. EDUCATION AND TRAINING**

- 1) The Board will publish a statement notifying employees that it is unlawful to manufacture, distribute, dispense, possess, use or work under the influence of a controlled substance in any of the facilities of the Board. This statement will place employees on notice that disciplinary action may be taken if the Board discovers an employee to be in violation of this policy.
- 2) The Board shall establish a drug-free awareness program and annually inform employees about:
  - a. The dangers of drug/alcohol abuse in the workplace.
  - b. The Board's policy of maintaining a drug-free workplace.
  - c. Any available drug and alcohol counseling rehabilitation and employee assistance programs, and
  - d. The corrective action that the Board may take against employees for violating this policy.

#### **B. CONDITIONS**

- 1) As a condition of employment, each employee shall abide by the terms of the drug-free workplace statement.
- 2) Any employee convicted (for purposes of this policy, pleading guilty has the same effect as a conviction) of violating a criminal drug statute, or convicted of violating a drug/alcohol statute that results in a misdemeanor of the first degree and a felony on subsequent offenses, shall provide written documentation to the personnel department within five (5) working days.
- 3) Within ten (10) days of receiving actual notice that an employee has been convicted of any of the aforementioned, the Board is required by the federal Drug Free Workplace Act to notify the Ohio Department of Developmental Disabilities of this fact. Within thirty (30) days of receipt of such notice, the board shall:
  - a. Terminate the employee with cause if the conviction is for dispensing, trafficking, distributing, or manufacturing.
  - b. Require such employee to satisfactorily complete a drug/alcohol abuse assistance program or rehabilitation program of the Board's choosing if the conviction is for possession, under the influence of, or using.
    - i. Failure to satisfactorily complete the program will result in termination with cause of the employee.
    - ii. As a further condition of employment, the employee must agree to random drug/alcohol testing for a period of twenty-four (24) months upon their successful completion of the program and return to work.
    - iii. Any further convictions will result in termination with cause.

- iv. If the Superintendent, upon the recommendation of the facility director and the director of personnel, has reasonable suspicion that any of the qualifying criteria in {A. 1)} of this policy has been violated by an employee, the Superintendent can require that such an employee undergo drug/alcohol testing.
  - a. If the employee refuses such testing, the employee will immediately be terminated with cause.
  - b. If the employee complies and the test is positive, the terms of {B. 3) b.} will apply.
- v. If an employee has an accident while operating a Board insured vehicle, the employee may be required to submit to a drug/alcohol test depending on the circumstances surrounding the accident. Such test will be within twenty-four (24) hours of the accident and the provisions of {B. 3) b. iv. a.} and {B. 3) b. iv. b.} apply. Failure to comply within the twenty-four (24) hour period may result in corrective action up to and including termination.

## **Drug and Alcohol Testing of Employees with Commercial Drivers Licenses**

### **A. PURPOSE**

- 1) The Board seeks to operate a drug and alcohol-free agency that is in compliance with the federal Department Of Transportation (DOT) and the federal Highway Administration (FHWA) regulations as directed by the Omnibus Transportation Workers Testing Act of 1991. Pursuant to these federal statutes and regulations (hereinafter collectively referred to as “DOT regulations”), all drivers who work for the Board and are required to have a commercial driver’s license (CDL) regulated by the DOT are subject to alcohol and drug use prohibitions and restrictions.
- 2) Furthermore, the Board realizes the adverse effects that the use of illegal drugs and abuse of alcohol can have on its drivers/employees, its products and services, and the organization as a whole. It is also the Board’s obligation and right to maintain a safe, healthy, and efficient work environment for its drivers and other employees and the public and to protect the Board’s property, operations, productivity and public image.

### **B. COVERAGE AND IMPLEMENTATION**

- 1) The policy covers all employees who are required to obtain and maintain a commercial driver’s license (CDL) as a qualification for their position. This includes all positions responsible for the operation of buses that carry more than 16 passengers (including the driver) and vehicles in excess of 26,000 pounds gross weight.

### **C. CONDUCT PROHIBITED BY DOT REGULATIONS**

- 1) The DOT expressly prohibits certain conduct of employees with commercial driver’s licenses (CDLs). Likewise, the DOT regulations mandate specific consequences that will follow any violations of the DOT regulations.
- 2) Employees with CDLs (also referred to as “drivers”) must be aware that the DOT provisions do not replace, but are in addition to, the conduct prohibited and the disciplinary actions set forth under the existing policies of the Board.

**D. DOT PROHIBITIONS REGARDING THE USE OF ALCOHOL:**

- 1) A driver is prohibited from:
- 2) Using alcohol while performing safety-sensitive functions;
- 3) Performing a safety-sensitive function within four (4) hours after using alcohol;
- 4) Reporting to duty or performing a safety-sensitive function with an alcohol concentration of .04 BAC percent or greater;
- 5) Using alcohol eight (8) hours following an accident or until tested when required to be tested;
- 6) Manipulating, switching or committing other misconduct related to a urine, breath, saliva or blood specimen or test;
- 7) Refusing to submit to post-accident, random, reasonable suspicion or follow-up alcohol test(s) when required by the DOT;
- 8) Possessing alcohol, unless the alcohol is manifested and transported as a part of the employee's job duty;
- 9) Disclosing information about an individual's alcohol or drug testing referral, or results of said testing or treatment referrals to anyone without a "need to know".

**E. DOT PROHIBITIONS REGARDING THE USE OF DRUGS:**

- 1) A driver is prohibited from:
  - a. Using or possessing any drug. An exception applies in certain limited circumstances involving authorized use of prescription drugs.
  - b. Testing positive for drugs;
  - c. Manipulating, switching or committing other misconduct related to a urine, breath, or saliva or blood specimen test;
  - d. Refusing to submit to a required drug test;
  - e. Disclosing information about an individual's alcohol or drug testing referral or results of said testing or treatment referrals to anyone without a "need to know";
  - f. Receiving a conviction under any state or federal drug statute for a violation occurring in the workplace or occurring while conducting Board business and failure to notify the Board of such a conviction within five (5) calendar days of the conviction.

**F. TESTING UNDER THE DOT REGULATIONS**

- 1) The DOT regulations authorize employers to use urine, saliva and breath tests to determine the presence of alcohol and/or drugs in the system. Accordingly, to the extent that this policy makes references to blood samples or tests, it contemplates blood testing performed by a separate, authorized agency that provides test results to the Board.
- 2) All urinalysis tests for drugs must use the "split sample" method of collection. The employee will be sent to an approved facility (hospital, urgent care center, etc.) for the drug test. The test will be conducted under the DOT rules.
- 3) Whenever an employee receives notification of a positive, primary specimen test result, the employee may request that the split sample be tested in a different DHHS-certified laboratory. This request must be made within 72 hours after the driver received notification of the positive test result. Any test requested by the employee will be performed at the employee's expense.



- 4) In accordance with the DOT regulations, the Board is required to test for drugs and/or alcohol in the following circumstances.

**G. PRE-EMPLOYMENT DRUG TESTING**

- 1) Pre-employment testing applies to individuals whom the Board intends to hire or use, on a permanent or temporary basis, as CDL drivers. "Applicants" may be prospective employees or current employees who have served in other capacities, with the Board.

**H. REASONABLE SUSPICION OF DRUG AND/OR ALCOHOL USE TESTING**

- 1) A driver shall be required to submit to an alcohol and/or drug test whenever a supervisor or manager has reasonable suspicion to believe that the driver has violated the prohibitions of the DOT regulation, or the driver's behavior and appearance indicated drug use and/or alcohol misuse.

**I. POST-ACCIDENT DRUG AND/OR ALCOHOL TESTING**

- 1) Drivers who are involved in a reportable accident will be subject to an alcohol and/or drug test following the accident whenever the accident involves a fatality, or the driver receives a citation under state and local law for moving traffic violation arising from the accident.
- 2) A driver must submit to an alcohol test within eight (8) hours following the accident, and shall not consume any alcohol for eight (8) hours following the accident or until the driver submits to an alcohol test and is no longer on duty. Likewise, a driver must submit to a drug test within thirty-two (32) hours following the accident.
- 3) Breath or blood tests performed by on-site law enforcement officer or public safety official: The Board may substitute a breath or blood test for the use of alcohol and a urine test for the use of drugs administered by on-site police or public safety officials under separate authority, using procedures required by their jurisdictions.

**J. RANDOM ALCOHOL AND DRUG TESTING:**

- 1) All drivers will be subject to unannounced drug and alcohol testing. All drivers will have equal probability of being selected for testing and will remain in the pool throughout the process.
  - a. Random Alcohol:
    - i. In accordance with DOT regulations the number of tests to be performed annually will be equal to or exceed a number to 25% of the total number of drivers.
  - b. Random Drug:
    - i. In accordance with DOT regulations the number of tests to be performed annually will be equal to or exceed a number of 50% of the total number of drivers.

**K. RETURN TO DUTY ALCOHOL AND DRUG TESTING**

- 1) Return-To-Duty Alcohol Testing:
  - a. A driver who has violated any of the alcohol misuse DOT regulations, who has been evaluated and treated [when recommended by a substance abuse professional (SAP)], and who is permitted by the Board to return to work, will be tested for alcohol. A driver may also be tested for drugs before returning to any safety-sensitive function upon recommendation of the SAP.

- 2) Return to Duty Drug Testing:
  - a. A driver who has violated any of the DOT drug regulations, who has been evaluated and treated (when recommended by the SAP), and who is permitted by the Board to return to work, will be tested for drugs and must have a negative test result before returning to a safety-sensitive function.
- L. FOLLOW-UP DRUG AND/OR ALCOHOL TESTING:
  - 1) All drivers referred by the Board to treatment, who successfully complete a treatment program for drug or alcohol abuse and are permitted by the Board to return to work, will be subject to unannounced drug and alcohol testing for a period of twenty-four (24) months following their return to work.
- M. CONSEQUENCES OF A VIOLATION OF THE DOT ALCOHOL AND DRUG REGULATIONS
  - 1) Whenever a driver engages in prohibited conduct, the driver shall be removed from performing all safety-sensitive functions and shall be evaluated by a SAP who will determine what treatment, if any, the driver needs to resolve his or her problems associated with the alcohol misuse and drug use. (The Board will decide if the employee is eligible for participation in the rehabilitation program.) Before returning to work, the driver must undergo a return-to-duty test.
- N. FAILURE OF A PRE-EMPLOYMENT TEST
  - 1) Applicants or current employees (who are transferring to a CDL position or returning to duty) who fail a pre-employment test will not be permitted to occupy the position. Further, the Board may take additional disciplinary action up to and including termination.
- O. FAILURE OF A PRE-EMPLOYMENT TEST
  - 1) The Board may take disciplinary action for up to and including termination for any driver who has a positive drug test result following a reportable accident involving a fatality.
- P. REFUSAL TO SUBMIT TO A REQUIRED TEST
  - 1) A refusal to submit to a reasonable suspicion, post-accident, random or follow-up test is considered a positive verified drug test or alcohol test greater than .04 BAC.
- Q. ADDITIONAL DISCIPLINARY ACTION
  - 1) The Board has established policies and practices in order to protect our employees and our Board from the effects of substance abuse. When there is a violation of this policy, the violation will serve as a basis for discipline, up to and including termination, even for a first offense. The degree of the action chosen will depend on the circumstances of each case.
  - 2) The Board recognizes that alcoholism is a disease and, based upon the facts of each case, the Board will attempt to reasonably accommodate an employee who has been diagnosed with this illness and who is actively undergoing a program of rehabilitation and treatment.

### **503.12 Promotion**

There are two types of promotions that can take place within the Board.

- A. Position Upgrade of a currently existing position to a level of increased responsibility. This type of promotion does not involve the replacement or hiring of any additional personnel. This type of promotion is at the discretion of the Superintendent. No application process occurs with this type of promotion.
- B. Filling a position available with an employee previously listed on a lower classification of responsibility on the Table of Organization. An employee must submit a Letter of Intent and, as applicable, an updated resume to be considered for the vacant position.

Current employees may receive preference in application and/or consideration to the extent such is permitted by state law.

Factors to be evaluated when considering a current employee for promotion include an employee's completion of required probationary period, required training courses, and the employee's performance evaluation ratings.

### **503.13 Equal Employment Opportunity**

The Board is an Equal Opportunity Employer. All employees and applicants for employment will be recruited, hired, promoted, transferred, demoted, laid off, terminated, suspended, evaluated, and otherwise dealt with in a fair and equitable manner based upon merit, fitness and such qualifications as each individual might possess. No personnel decisions shall be based upon race, color, religion, sex, national origin, age, handicap, or other prohibited criteria.

The Appointing Authority shall appoint a person(s) to be responsible for formulating, implementing, coordinating and monitoring all efforts in the area of equal employment opportunity. While overall authority for administering this policy shall be delegated to such person(s), supervisors and division heads shall also maintain responsibility for their actions in regard to providing equal opportunity to each employee or applicant.

The Board shall maintain an Affirmative Action Plan describing our goals and methods for the provision of equal employment opportunities for all persons under its authority. (Reference: R.C. §5126.07) A copy of this plan shall be available in each facility where employees are assigned to work.

Any employee or applicant who feels that he/she has been the victim of discrimination may contact the Equal Employment Opportunity Coordinator to obtain information concerning complaint procedures.

### **503.14 Anti-Harassment Policy**

- A. The purpose of this policy is to maintain a healthy work environment and to provide procedures for reporting, investigation and resolution of complaints of harassment, sexual or otherwise. The Board does not condone and will not tolerate any harassment. Therefore,

the Superintendent shall take direct and immediate action to prevent such behavior, and to remedy all reported instances of harassment, sexual or otherwise.

- B. No employee shall either explicitly or implicitly ridicule, mock, deride, or belittle any person. Employees shall not make offensive or derogatory comments based on race, color, sex, disability, religion, military status, or national origin either directly or indirectly to another person. Harassment based upon these characteristics is a prohibited form of discrimination under state and federal employment law and is also considered misconduct subject to disciplinary action by the Board.
- C. No employee or vendor providing a service or product to the Board shall sexually harass any other Board employee or client. "Sexual Harassment" includes unwelcome sexual advances, request for sexual favors, and all other verbal or physical conduct with sexual overtones where any of the following conditions are present or implied:
  - 1) Submission by an employee or client is required, either explicitly or implicitly, as a condition of employment or participation on the program;
  - 2) Submission or rejection by an employee or client is the basis for an employment or program related decision;
  - 3) The conduct interferes with an employee's work performance or the program's purpose;
  - 4) The conduct creates an intimidating, hostile, or offensive work environment interfering with job performance or the program's purpose.
  - 5) Such prohibited conduct includes but is not limited to:
    - a. Unwanted physical contact or conduct of any kind;
    - b. Sexual flirtations, touching, advances or propositions;
    - c. Verbal harassment of a sexual nature, such as lewd comments and sexual jokes;
    - d. Demeaning, insulting, intimidating or sexually suggestive comments about an individual's personal appearance;
    - e. Using sexually degrading words to describe an individual;
    - f. Possessing demeaning, insulting, intimidating or sexually suggestive objects or pictures, including nude photographs;
    - g. Possessing demeaning, insulting, intimidating or sexually suggestive written, recorded or electronically transmitted message.
- D. Each employee of the Board is responsible for assisting in the prevention of harassment through the following acts:
  - 1) Refraining from participation in, or encouragement of, actions that could be perceived as harassment;
  - 2) Reporting acts of harassment to a supervisor in writing on the appropriate form; and
  - 3) Encouraging any employee, who confides that he or she is being harassed, to report these acts to a supervisor or Superintendent.
  - 4) Supervisors shall be responsible for assisting in preventing acts of harassment. This responsibility includes:
    - a. Monitoring the work environment on a daily basis for signs that harassment may be occurring;
    - b. Counseling all employees on the types of behavior prohibited and the Board procedures for reporting and resolving complaints of harassment.

- c. Stopping any observed acts that may be considered harassment, and taking appropriate steps to intervene, whether or not the involved employees are under their direct supervision.
  - d. Taking immediate action to limit the work contact between two employees where there has been a complaint of harassment pending investigation.
  - e. All supervisors have the responsibility to assist any employee who comes to that supervisor with a complaint of harassment in the documenting and filing a complaint.
  - f. Failure to take action to stop known harassment shall be grounds for termination.
  - g. Employees encountering harassment shall tell the person engaging in the conduct that their actions are unwelcome and offensive. The employee shall document all incidents of harassment in order to provide the fullest basis for investigation.
- E. Employees are encouraged to follow chain of command beginning with their supervisor, unless circumstances of the complaint would make this unrealistic, prior to moving forward with other avenues outlined within this paragraph. Any employee who believes that he or she is being harassed shall report the incident to his or her supervisor in writing, as soon as possible so that steps may be taken to protect the employee from further harassment and appropriate investigative measures may be initiated. Alternatively, any employee, applicant, or client who feels that he/she has been the victim of harassment shall contact the EEO Coordinator or Superintendent for information concerning complaint procedures and/or refer to the Board Policy for filing a complaint/grievance. An employee may also contact the Board President or County Prosecuting Attorney.
- F. The EEO Coordinator to whom a complaint is given shall meet with the employee and document the incident(s) surrounding the complaint, the person(s) performing or participating in the harassment, and the dates on which it occurred. The EEO Coordinator taking the complaint shall expeditiously deliver the complaint to the Superintendent. The Superintendent shall be responsible for initiating the investigation of any complaint alleging harassment.
- G. There shall be no retaliation against any employee who in good faith, files a harassment complaint, or assists, testifies or participates in the investigation of such a complaint. Employees knowingly filing a false claim of harassment may be subject to disciplinary action.
- H. Violations of this policy will not be tolerated. Any employee guilty of harassment prohibited by this policy will be disciplined in accordance with policies outlined in this manual.
- I. Employees have the right to file a charge with the Ohio Civil Rights Commission under Chapter 4112 of the Ohio Revised Code or the United States Equal Employment Opportunity Commission under Title VII of the Civil Rights Act of 1964 (as amended).

### **503.15 Nondiscriminatory Contracts**

Any individual, agency, or service provider entering into a contract with the Board shall act in a nondiscriminatory manner both as an employer and as a service provider and shall act without

regard to the race, color, national origin, religion, military status, age, genetic information, sex or disability of the employee or program beneficiary. Failure to do so may result in the termination of the contract.

### **503.16 Nepotism Policy**

Members of the immediate families of Board members or the Madison County Commissioners may not be hired to work for the Board. (Reference R.C. §5126.03)

No employee shall occupy any position in which he/she could directly supervise or otherwise influence a decision in favor of or against another member of his/her immediate family.

### **503.17 Seniority**

Seniority for classified employees shall have the meaning ascribed to it by the Ohio Department of Administrative Services or as defined by a current union contract.

### **503.18 Classification Plan**

Specifications have been developed for each classification and are used as a guide in classifying individual jobs. Very few jobs may fit a specification exactly, but an attempt is made to place each one in the classification it fits best. The specifications establish the qualifications that a person would have for work in each classification.

The Board has adopted position descriptions and specifications which are comparable, but not identical to Ohio Department of Administrative Services specifications, and which have been placed on file with DAS and, when applicable, with the State Board of Education.

### **503.19 Probation - Classified Employees**

Each newly hired or promoted employee in a classified position shall serve a probationary period.

The probationary period shall be, at a minimum, one hundred eighty calendar days. The Board, with approval of ODAS, may increase the length of the probationary period but in no case shall such period exceed one (1) year. (Reference: R.C. 124.27; O.A.C. 123:1-19-03)

The length of the probationary period for each classification shall be specified on the position descriptions and on all work agreements.

Time spent on non-paid status approved leaves of absence shall not be counted as part of the probationary period. Probationary periods shall be extended by an equal number of days the employee spent in no-pay status.

Supervisors shall use the probationary period to closely observe and evaluate the employee's performance and aptitude for the job. The employee is encouraged to bring problems to the supervisor for resolution in order to enhance his/her performance. Supervisors have a responsibility to recommend retention of only those employees who meet acceptable work standards during the probationary period.

Probationary employees may be removed at any time during the probationary period if the service is considered unsatisfactory. The removal cannot be effective after the final day of the probationary period.

**A. PROMOTION AND DEMOTION AND LATERAL TRANSFER DURING  
PROBATIONARY PERIOD**

- 1) If an employee's service is found to be unsatisfactory during the probationary period following promotion, a reduction is made to the classification held prior to the promotion. A probationary removal may not be given in this case. However, an order of removal may be issued in accordance with the provision of the O.R.C. §124.34.
- 2) No probationary period is required following a demotion.
- 3) An employee may not be promoted during his original new hire probationary period. If an employee accepts a position in a different, lateral classification during his original probationary period, the employee must resign his current position in order to accept the new position and must serve an original probationary period in the new classification.
- 4) An employee who resigns during a probationary period is not eligible for reinstatement. The employee may be considered for new appointment. A new probationary period must be served if the person is appointed to the position for a second time.
- 5) No lateral transfer of an employee may occur during the employee's probationary period.

**B. PROBATION OF A TRANSFERRED EMPLOYEE**

- 1) The employee will serve a probationary period. The employee will not be removed if his job performance in the new position is found to be unsatisfactory. The employee will, however, be demoted to the former, lower classification.

**503.20 Personnel Records**

Access, duplication, dissemination and destruction of personnel records procedures will comply with the Ohio Department of Developmental Disabilities Rule 5123:2-1-02, the Public Records Act, O.R.C. §149.43, and the Personal Information Systems Act, O.R.C. Chapter 1347.

Procedures that address access, duplication, dissemination and destruction of personnel records will be maintained by the Administrative Assistant. All staff having any responsibility for maintaining personnel information will be informed of these procedures.

A. Personnel records shall include, but not be limited to:

- 1) Name, permanent and current address, phone number.
- 2) Emergency notification information including name, address, home and work phone number.
- 3) Job description, civil service classification (if applicable).
- 4) Record of permanent or temporary certification, registration or license, as applicable.
- 5) Records of sick leave and vacation.
- 6) Record of physical examination, current within one year of date of initial employment, for persons providing direct services to those enrolled in the county board program. (ALL MEDICAL RECORDS, INCLUDING RECORDS OF PHYSICAL EXAMINATIONS, MUST BE MAINTAINED IN A CONFIDENTIAL, SEPARATE FILE)
- 7) Bus driver annual physical examination form, as applicable. (MUST BE MAINTAINED IN A CONFIDENTIAL, SEPARATE FILE).
- 8) Records of in-service training.
- 9) Personnel action forms.
- 10) Annual performance evaluations signed by the immediate supervisor, Superintendent, and the employee indicating the employee's awareness of the evaluation. For classified employees the performance evaluation forms used shall be those provided by or approved by the Department of Administrative Services. Other evaluation methods may be used in addition to the required form. Performance evaluations on unclassified employees shall be based on the requirements of the position.
- 11) Payroll information.
- 12) Retention record requirements.
- 13) Application forms.

An employee shall have a right of reasonable inspection of his or her official file. All personnel files are permanently retained by the Board. An employee who wishes to review his or her personnel file may do so by contacting the Administrative Assistant.

Employees must advise the Administrative Assistant of any change in: name, address, marital status, telephone number, number of withholding allowances claimed for tax purposes, citizenship or emergency contact.

In order to perform daily business transactions for the Board, the following positions shall have access to the personnel files: Superintendent/designee and appropriate Director.



### **503.21 Dissemination of Personnel Records**

Ohio Law requires that all public records be prepared and made available for inspection upon request to any member of the public at all reasonable times during regular business hours. Records shall be reviewed only in the confines of the Administrative Assistant's Office. If copies of materials in a Personnel file are requested, a reasonable fee will be charged.

The public will have access to all records in the employee's personnel file with the following exceptions:

- A. Medical records.
- B. Records pertaining to adoption, probation or parole proceedings.
- C. Trial preparation records.
- D. Confidential law enforcement investigatory records.
- E. Records of which the release is prohibited by State or Federal Law including criminal records checks and an employee's social security number.
- F. Records that do not serve to document official functions or activities.
- G. Home address and telephone numbers of employees.

When an employee's personnel file has been requested to be reviewed by a member of the public, the Board will attempt to notify the employee.

## **504. Performance Standards, Training, and Evaluation**

### **504.1 Performance Evaluation**

#### **OVERVIEW**

Evaluation of an employee's performance is a continuous process based on conferences, discussions, and observations and is a method for increasing the worker's competence and his/her effectiveness with the program. Each new employee shall have a written evaluation from the immediate supervisor at mid-point, and prior to the end of the probationary period. At least once a year thereafter, a written evaluation of each employee shall be prepared. These annual evaluations shall form the basis for promotion, determining work performance, and/ or reference writing. Materials for the evaluations will consist of the position description, program objectives, personal career development plans, compliance with board policy and procedures, written records kept by the employee and the supervisor, and any other material from competent sources which are pertinent. The employee shall have the opportunity to review, discuss, and make written comments of the evaluation.

#### **GENERAL PURPOSE**

The Performance Evaluation Program is intended to be a system of communication between the supervisor and the employee on one hand, and between supervisory personnel and the

administration on the other. If conscientiously applied, a performance evaluation program will enable the employee to have an increased awareness of his/her work and what is expected.

The employee will be evaluated with reference to the requirements of the job as defined in basic form on the position description. The employee will be able to tell in what respect his/her work is most in need of improvement or is worthy of praise and recognition. It will also enable the supervisor to find some of the gaps or limitations in department procedures. An evaluation may also be helpful in suggesting needs for types of training to be provided in in-service programs. The evaluation ratings in themselves may be useful in considering potential candidates for promotion and are used in the process of determining the sequence of employees to be laid off when such action is necessary.

#### A. EVALUATION TOOLS

- 1) The Ohio Department of Administrative Services Performance Evaluation Report appropriate for the position will be used where applicable for all classified employees of the County Board.
- 2) Alternate evaluation formats may be used with classified employees in place of Ohio Department of Administrative Services forms with the approval of the Superintendent. Approval of alternate formats should be approved by DAS if they are to be submitted to DAS.

#### B. WHO WILL EVALUATE

- 1) Each employee will be evaluated by the immediate supervisor to whom he/she is regularly assigned. If an employee has been reassigned to a new supervisor within one month of the evaluation date, the present and former supervisor will cooperate in the evaluation. If an employee receives approximately equal supervision from two persons, the supervisors will cooperate on the evaluation and both will sign the report as raters.

#### C. TYPES OF EVALUATION; The Performance Evaluation Report will be used for three (3) different types of ratings: (1) PROBATIONARY, (2) ANNUAL, and (3) SPECIAL.

##### 1) PROBATIONARY EVALUATIONS

- a. Probationary employees will be evaluated at midpoint and within 10 calendar days prior to the end of their probationary period. Full and appropriate records should be maintained. Should the employee be given a probationary removal within the second half of the probationary period but before the end of the probationary period, the final evaluation will be made at the time of removal. Although the primary purpose of a probationary evaluation is to rate an employee's job performance uniformly and objectively, the evaluation serves several other purposes as well:
  - i. By acting as a means of communication between employee and supervisor, it can reveal conditions that are contributing to poor morale or low productivity.
  - ii. It gives an employee an opportunity to identify and correct specific performance problems of which he/she may not have been aware.
  - iii. It serves as the means of determining job efficiency for probationary removal.

- b. The employee shall sign any evaluation as an acknowledgement that he/she has seen and discussed the document with the supervisor. Employees should always be made aware that the signature does not signify agreement with the evaluation, but is only an acknowledgement that it has been seen and discussed. Any points of disagreement should be expressed in writing by the employee in the space reserved for employee comments. No change in the rating is to be made after the form is signed by the employee. If the employee refuses to sign the evaluation, the supervisor must record the reasons and the employee's refusal should be verified in writing by a witness. If an employee has not been on the job for some time and is, therefore, not available for signature, the supervisor must clearly indicate this absence on the evaluation form. While the employee signs the evaluation after the supervisor's rating, he/she must receive a copy of the rating in its final form after all other reviewers have made their comments.
- c. When making the final probationary evaluation, the supervisor shall indicate on the evaluation whether the employee is to be retained or the employee is not to be retained. This recommendation is to be confirmed by the department director. If a recommendation is approved for retention, the assumption will be made that the probationary period has been satisfactorily completed.

2) ANNUAL EVALUATIONS

- a. All employees who are not on probationary status are to be evaluated once a year. The evaluation will cover the employee's performance since the previous evaluation or during the time elapsed since the completion of the probationary period.

3) SPECIAL EVALUATIONS

- a. Additional use may be made of the evaluation procedure at the discretion of the administration, for example, to document outstanding performance, to document close supervision following an unsatisfactory evaluation, at the request of the employee, or upon employee resignation.

D. THE PERFORMANCE INTERVIEW

- 1) When an evaluation is completed, the employee's performance rating will be reviewed and discussed by the supervisor with the employee during a conference called a Performance Interview. The employee shall sign a copy of the evaluation as verification that such a performance interview was conducted and shall receive a copy of the evaluation.
- 2) The Performance Interview conference is of benefit to both the employee and supervisor. The interview provides excellent opportunity for the employee to express himself/herself and to explain or justify his/her performance. The interview will be closed by summarizing the strengths and areas of needed improvements of the employee's performance and by emphasizing any changes needed to produce further improvement. The employee will be asked to sign the evaluation form thus verifying that he/she has reviewed it with the supervisor. The employee signature does not imply concurrence with the evaluation, only that the employee has seen the evaluation. The employee has the right to submit a statement of explanation or rebuttal, which is to be attached to the evaluation form. If the employee refuses to

sign the evaluation form, the supervisor will call in a witness to verify that the interview was held and to note that the employee refused to sign. Refusal to sign the evaluation form shall constitute a waiver of the employee's right to review the evaluation.

**E. EVALUATION REVIEW**

- 1) If the employee feels the evaluation is not a true reflection of job performance, he/she may request a review of the evaluation by submitting a written request for review of the evaluation to the next higher person in the chain of command for his/her department providing the employee has signed his/her evaluation form. The written request must specify which part(s) of the evaluation the employee is requesting be reviewed and must include specifics related to job performance upon which the request is based. The supervisor/administrator responsible for reviewing the evaluation must meet with the employee within ten days and present the findings to the employee. The employee, if still not satisfied after the initial review conference, may request further reviews through the chain of command. The final review is with the Superintendent, whose decision will be final.

## **504.2 Training**

All personnel employed by or under contract with the Board are encouraged to participate in staff development activities such as formal course work, workshops, clinics, local area meetings, and observations of other programs.

Records of in-service participation shall be maintained in the personnel file of each staff member. It is the staff member's responsibility to submit such records to the Administrative Assistant's Office in a timely manner.

Individuals participating in in-service activities may be given professional leave in accordance with the Board policy on Professional Leave.

Individuals participating in in-service activities during professional leave time may be requested to submit a report or give a presentation concerning their observations and learning experiences. Although an employee may be fully certified, registered and/or licensed for his/her position, the Board may request that additional training or course work be obtained in order to remain abreast of current information, improve upon weaknesses which appear in an employee's performance evaluation, and/or assist the employee in keeping up with the changes within his/her profession.

The Board may require that an employee attend workshops, seminars, and/or in-service training sessions that relate to his/her position.

Regularly scheduled staff meetings will be scheduled within each division/department. Attendance is required for all employees within the division/department. These staff meetings will allow time for discussion of topics of current concern within the program such as new policies, procedures, methods of training, instruction, curriculum, and other matters as needed.

### **504.3 Staff Orientation Outline**

New staff shall complete the orientation program within ninety (90) days of their date of initial employment with the Board. The orientation program shall consist of a minimum of thirty (30) hours of training to include the following areas:

- A. Agency Introduction
  - 1) Board organization/operations
  - 2) Mission and philosophy
  - 3) Role of each program division
  - 4) County Board Rules
  - 5) Funding
  - 6) Medicaid accountability
- B. Overview of Developmental Disabilities
  - 1) Definition
  - 2) Historical Treatment/Perspective
  - 3) Bill of Rights/Confidentiality
  - 4) Abuse/Neglect Reporting and abuser registry
  - 5) Techniques/philosophy of intervention and training
  - 6) Community Resources
  - 7) Residential Issues
- C. Program Division Introduction
  - 1) Eligibility and enrollment
  - 2) The Service Plan (ie: IEP/ISP/IFSP
    - a. team processes
    - b. case coordination
    - c. communication
  - 3) Enrollee policies
  - 4) Behavior and Conflict Management
- D. Position Introduction
  - 1) Table of Organization
  - 2) Position Description
  - 3) Certification, Registration & Licensure
  - 4) Personnel Policies
- E. Safety and Health
  - 1) Fire and tornado drills
  - 2) Bomb threats
  - 3) Other Emergency Evacuation Procedures
  - 4) Lifting
  - 5) Health and Safety Policies

#### **504.4 Staff Ongoing Training**

Training shall occur on an annual basis via staff meetings, in-services, seminars and conferences. All transportation, direct service, professional, and management staff shall complete a minimum of ten (10) hours of training each program year. All staff members shall be required to complete training and professional growth activities necessary for maintenance of his/her required registration, certification or license. In-service training shall be documented by the Superintendent/designee and maintained in the respective employee's personnel file.

Annual staff training shall include the following:

- A. An in-service which stresses body mechanics, an introduction to anatomy and physiology, prevention aspects, and safe suggested means of lifting, carrying and moving.
- B. An overview of Board Policies and Procedures.
- C. Fire suppression.
- D. Assault prevention and intervention.

Annual staff training for ancillary staff (i.e., physical development specialist, language development specialist, occupational therapist, physical therapist, etc.) providing services for children ages birth to age three and supervisors of the early intervention program shall complete a minimum of four (4) clock hours of in-service annually in early intervention.

Annual staff training for early intervention educational aides shall be commensurate with the requirements established in O.A.C. 5123:2-5-05 for the registered program assistant, specialist grades or supervisor grades.

Additional staff training may include the following areas for each department:

- A. Monitoring of Services
  - 1) Internal Mechanisms
    - a. Human Rights Committee
    - b. Safety Committee
    - c. Others
  - 2) External Mechanisms
    - a. Ohio Department of Education
    - b. DODD
    - c. Service Coordination
    - d. Wage/Hour
    - e. Other
- B. Medical Issues
  - 1) Medical/Unusual Incidents
    - a. Handling Seizures
    - b. Accidental Injuries
    - c. Other Medical Problems i.e., diabetes
    - d. DNR policies

- e. Board policies and procedures
- 2) Uses of Medications
  - a. Identify common types
  - b. Identify proper uses
  - c. Identify possible side effects
- 3) Infection Control
  - a. Overview of common types
  - b. Prevention
- 4) Delegated Nursing
  - a. Passing of medications
  - b. Topical applications
  - c. Delegable Tasks
- C. Goal Planning/Skill Development Process
  - 1) Early Intervention
    - a. Family centered programming
    - b. Developing cultural sensitivity
    - c. The Eleven Essential Components of Early Intervention Programming
    - d. Minimizing the future development of disabilities
    - e. Transition to preschool programming
  - 2) Preschool/School Age Population
    - a. Requirements by Law - County, State, Federal, Other
    - b. IEP Process
    - c. Monitoring of Goals
  - 3) Adult Services
    - a. Requirements by Law - County State, Other
    - b. IP Process
    - c. Monitoring of Goals
    - d. Residential Services
    - e. Requirements by Law - County, State, Federal, Other
- D. Intake and Follow-Up for County Board Services
  - 1) Application Process
  - 2) Determination Process
  - 3) Placement into Proper Component
  - 4) Follow-up
    - a. To assure services are delivered
    - b. To assure services are appropriate
    - c. To assure services are needed
- E. Miscellaneous Issues
  - 1) Dignity of Risk
  - 2) Advocacy
  - 3) Family/Significant Other Support or Involvement
  - 4) Introduction to Developmental Disabilities
- F. Normalization Issues
  - 1) Sexuality
  - 2) Appearance
  - 3) Money

- 4) Medical Care
- 5) Use of Community Services
- 6) Recreation Opportunities
- G. Behavior Management
- H. Signing
- I. Program/Community Relations
- J. Facilities Management
- K. Principles of Team Processes

#### **504.5 Outside Employment**

- A. Under no circumstances shall an employee have other employment which conflicts with the policies, objectives or operations of the Board.
- B. Employment "conflicts", under this policy, are defined as an impairment of the employee's ability to perform the duties of his or her position with the Board. Two common employment conflicts that may arise are:
  - 1) Time Conflict - Defined as when the working hours required of a "secondary job" directly conflict with the scheduled working hours of an employee's job with the Board; or when the demands of a secondary job prohibit adequate rest, thereby adversely affecting the quality standard of the employee's job performance with the Board.
  - 2) Interest Conflict - Defined as when an employee engages in outside employment that tends to compromise his or her judgment, actions and/or job performance with the Board or which impairs the Board's reputation in the community. Includes any employment with an agency contracting with the Board and any employment dependent upon Board funding. [See Board Ethics Policy]
- C. Full-time employment with the Board shall be considered the employee's primary occupation, taking precedence over all other occupations.
- D. "Outside" employment, or "moonlighting" shall be a concern to the Superintendent only if it adversely affects the job performance of the employee's duties with the Board or constitutes a conflict of interest.
- E. Should the Board feel that an employee's outside employment is adversely affecting the employee's job performance, the Superintendent may request that the employee refrain from such activity. Any conflict, policy infraction, or other specific offense which is the direct result of an employee's participation in outside employment shall be disciplined in accordance with the policies set forth in this manual.
- F. No employee shall be employed by any entity having a contract with the Board unless the employee notifies the Superintendent and receives written authorization from the Superintendent permitting such employment. (Reference: R.C. 5126.003)
- G. In addition to the foregoing, all employees are subject to the Board's Ethics Policy and Ohio law regarding outside employment. Any outside employment falling within the provisions of O.R.C. §5126.0228 must be approved by the Board's Ethics Council. (Reference: R.C. §§5126.0228, 5126.033).



## **504.6 Employee Attendance**

Staff attendance is a critical element in delivering quality care to individuals served by the Board. Employee absenteeism severely impairs the Board's ability to provide quality care because it destroys continuity of programming and takes money away from areas of programming which must then be spent on substitutes and in payment of sick leave to absent employees.

## **504.7 Employee Schedules**

The Superintendent/designee shall establish daily work schedules and maintain daily employee attendance records.

Break periods shall be considered a privilege and not a right and shall never interfere with the proper performance of the work responsibilities of the department. Such breaks shall be considered as part of the employee's work time. The scheduling and adjustment of break periods shall be the prerogative of the immediate supervisor.

## **504.8 Attendance Standards**

The regular attendance of each staff member is vital to the effectiveness of the agency. Direct care and support services are most effective when performed with the continuity provided by regular staff members as opposed to substitutes.

Use of sick leave: The generous provision of accrual of up to fifteen (15) days per year allows for use only with good reason as set forth in related policies. The absences of an employee that are verified by a physician are not questioned. However, an employee who cannot document medical reasons is expected to have good attendance, missing not more than five (5) or six (6) days per year. Frequent absences of one (1) or two (2) days scattered over a year when reasons are not verifiable as medical is not acceptable. The use of sick leave in a pattern showing many Friday or Monday and/or pre/post holiday will be investigated for abuse of sick leave.

Frequent unpaid absence is as detrimental to programs as excessive use of sick leave. It should not be requested or used except for emergency situations that must be explained to the satisfaction of the Superintendent.

Absence for medically verified reasons and for reasons protected by the Family and Medical Leave Act generally are not held against an employee. For instance, an employee who must take an extended absence for surgery and recuperation is not regarded as having poor attendance provided the employee's record is otherwise good as set forth above. The same principle applies

if the reason(s) for absence is (are) for other allowable purposes or if medical or other reasons necessitate frequent short absences.

Employees are encouraged to make routine medical/dental appointments during non-working hours or early morning/late afternoon. Employees are expected to do personal business during non-working hours.

#### **504.9 504.9 Absence Control**

Absenteeism increases the workload of other employees and thus affects the quality of services. Good attendance habits are encouraged and required.

The following procedure for absence control shall be uniformly applied to all employees.

- A. An absence, as defined for purposes of this policy, is a day absent from work unexcused or for which the payment of available sick leave was denied for just cause. (Example: If an employee is off for three (3) consecutive days for which he/she was not excused, he/she is charged with three (3) absences.). All absences covered under the Family and Medical Leave Act are excused absences. It is important that supervisors counsel employees once the employee is charged with an absence and upon each successive absence thereafter to ensure the employee understands this policy and the consequences of its violation.
- B. Employees will be subject to the following discipline for accrued absences during the period of one contract year:

Number of absences:	Discipline:
One absence	Written reprimand
Two Absences Discipline:	Up to 3 day suspension without pay
Three Absences	Up to 10 day suspension without pay
Four Absences	Possible termination from service

- C. At the beginning of each calendar year, all employees will start at zero.

#### **504.10 Employee Ethics**

All employees are expected to maintain the highest possible ethical and moral standards and to perform within the laws of the State of Ohio and other rules and regulations as may be set forth by their appointing authority.

It is essential that the public maintain confidence in the employees of the Board. For this reason, it is important that Board employees refrain from any action that involves using public office for private gain or giving preferential treatment to any individual, group, or entity.

Employees will at all times adhere to the following standards of conduct:

- A. Employees cannot engage in outside employment that results in a conflict of interest with their duties as Board employees. A conflict of interest exists when an individual's responsibilities in one position are such as to influence, directly or indirectly, the performance of his duties in the other position, thereby subjecting him to influences that may prevent his decisions from being completely objective. From the Board's perspective, a conflict exists even if there is only an appearance of or a potential for improper influence. An employee cannot be subject to conflicting duties or be exposed to the temptation of acting in any manner other than the best interest of the public. A potential conflict of interest exists if the private interests of the employee might interfere with the public interests the employee is required to serve in the exercise of the employee's duties.
- B. Employees cannot solicit or accept anything of economic value from any individual or entity engaged in business dealings or seeking to engage in business dealings with the Board. No employee shall have a pecuniary or fiduciary interest in the profits or benefits of a public contract entered into by the Board, unless otherwise allowed by Ohio law.
- C. Employees cannot use Board property except in the proper performance of the employee's assigned job duties.
- D. Employees cannot accept gifts from enrollees having a value greater than \$5.00 nor more frequently than two times per year.
- E. Employees cannot hire program enrollees for private work except as specified in the Employment of Program Enrollees Policy.
- F. No employee shall have a non-business relationship with program enrollees, except in accordance with 504.12.

Employees should report any apparent violation of this policy to the Superintendent/designee who will investigate and, if the circumstances warrant, take corrective action.

### **Employment with the Board**

- A. The operation of democratic government requires:
  - 1) that actions of public employees be impartial;
  - 2) that public employment not be used for personal gain;
  - 3) that the public have confidence in the integrity of employees of the Board.

All employees are expected to work in accordance with the laws of the State of Ohio and other rules and regulations that are applicable.

- B. Individuals who also work for, or have ownership, hold management positions in an external agency or who have family connections to some agencies must identify such relationships when they are applying for employment with the Board. Employees must also promptly report such relationships when such relationships develop while the employee is employed by the Board. External relationships which must be identified by applicants/employees include when the applicant/employee:
  - 1) Is also an employee of an agency contracting to provide services with the Board.

- 2) Is an immediate family member of an employee of an agency contracting to provide services with the Board.
  - 3) Has an immediate family member who serves as a county commissioner for Madison County.
  - 4) Is employed by, has an ownership interest in, performs or provides administrative duties for, or is a member of the governing board of an entity that provides specialized services to people with disabilities, regardless of whether the entity contracts with the Board to provide specialized services.
- C. If the employee or applicant answers yes to any of the above when they hold or are applying for a position with the County Board, such person can only be employed by the Board and the other individual, agency or other entity at the same time if the following conditions are met and approved according to the Ethics Policy of the Board:
- 1) The applicant/employee is not in a capacity to influence the award of any contract to the other individual or agency.
  - 2) The applicant/employee has not attempted in any manner to secure a contract on behalf of the individual, agency, or other entity.
  - 3) The applicant/employee is not employed through a management contract.
  - 4) The applicant/employee is not employed by the Board as an administrator or supervisor responsible for approving or supervising services under a contract, and the person agrees not to take such a role of developing or supervising a contract for services on behalf of another individual, agency, or other entity, regardless of whether the position with the Board is related to the services provided under the contract.
  - 5) The applicant/employee has not taken any actions on behalf of another person, agency or other entity that creates the need for services to be provided under a contract between the Board and the other individual, agency or other entity.
  - 6) If requested by the individual to provide service to him/her, agency, or other entity, and the request is approved through the Board's Ethics Policy, the person may provide the services to a person with disabilities served by the Board and the other individual, agency or other entity if the person has the expertise and familiarity with the care and condition of such a person, and other individuals with such expertise and familiarity are unavailable. The same may be approved through the Ethics Policy of the Board if an eligible person has requested to have the services provided by the Board's employee.
  - 7) The Board may hire persons who are immediate family members of an employee of an agency contracting with the Board. (O.R.C. §5126.0228). The Board shall abide by the provisions of O.R.C. §5126.0228(B)(2). In situations where the immediate family member of a Board applicant/employee is employed by an agency contracting with the Board, the Board shall adopt a resolution authorizing the applicant/employee's employment with the Board following review/recommendation by the Board's Ethics Council.
- D. An employee of the Board may also be a member of the governing board of a political subdivision, including the board of education, or an agency that does not provide specialized services. The Board may contract with such a board, provided that the employee who is a member of the other board does not vote on any matter before that other

board concerning a contract with the Board, or participate in any debate or discussion regarding such a contract.

- E. Employees may not have financial interests in companies that do business with public agencies and/or profit from public contracts, unless otherwise permissible under Ohio law. Employees who have any doubt concerning possible violations of applicable statutes are advised to consult their own attorney.
- F. An employee shall not use his or her position to secure a contract with the Board benefiting a family member or a business associate.
- G. No employee shall solicit or accept compensation from any person or entity for performing his/her duties on behalf of the Board.
- H. No employee shall represent private interests in any action or proceedings against the interest of the Board in any matter in which the Board is a party.
- I. No employee shall, without proper legal authorization, disclose confidential or proprietary information concerning the property, government or affairs of the county or the Board.

#### **504.11 Employment of Individuals Eligible for Board Services by Board Employees**

Employment as used in this policy means engagement in work for which remuneration is customary (includes, but is not limited to babysitting, lawn mowing, assistance with moving, janitorial/custodial tasks).

This policy shall apply to all Board employees.

It is the intent of this policy to inform Board employees that engagement of the services of individuals as defined above is viewed as employment.

Remuneration at the usual or prevailing wage is expected for individuals who perform work for Board employees.

In order to comply with all applicable federal, state and local regulations, it is required that the Superintendent be informed in writing prior to the individual's employment. Prior to the employment the Ethics Council must review and approve the employment terms to provide assurance for both the individual and employee of compliance with ethical and legal standards.

References: U. S. Department of Labor, Federal Wage & Hour Division, Fair Labor Stds. 29CFR Part 525.

#### **504.12 Staff-Enrollee Relationships**

All enrollees have the right to be treated with courtesy and respect, and with full recognition of their dignity and individuality at all times by staff members. All enrollees have the right of access to opportunities that enable them to develop their full human potential.

Each has the right to be treated equally as citizens under the law. Each has the right to be free from emotional, psychological and physical abuse and to be free from unnecessary chemical and physical restraints.

Each Board employee shall endeavor to protect these rights at all times. As required by Ohio law, staff shall report any suspected abuse or neglect of enrollee rights to their immediate supervisor. Staff shall cooperate in any investigations regarding abuse or neglect.

No staff member shall subject an enrollee to physical, verbal or psychological/emotional abuse. Procedures that cause physical, visual and/or auditory pain are strictly prohibited. Attacks on personal dignity, such as foul language, name-calling, shouting and other types of verbal abuse are forbidden. Actions such as threats, whether founded or unfounded or the use of objects that are frightening to an enrollee constitute psychological/emotional abuse and are forbidden. Each staff member shall comply with the proper procedures for Behavior Support Intervention as adopted by the Board.

No staff members shall subject an enrollee to sexual abuse or take advantage of enrollees by procuring sexual favors either on or off regular work hours.

At no time shall a staff member betray the trust relationship that exists between himself/herself and the student/client. In particular, relationships outside the school/work environment require caution regarding social contacts, financial dealings, or any other activities that would take advantage or appear to take advantage of the trust the enrollee has in the staff member who is working for the well-being of the enrollee.

Cross Reference:   Behavior Support Policy  
                              Incidents Adversely Affecting Health & Safety Policy – Abuse/Neglect

### **504.13 Protection of “Whistleblowers”**

#### **Definitions**

- A. Act Purposely: acts with specific intention to cause a certain result.
- B. Act Knowingly: acts with awareness that the conduct will probably cause a certain result or be of a certain nature and has knowledge of the underlying circumstances.
- C. Act Recklessly: with heedless indifference to consequences, disregards a known risk that the conduct is likely to cause a certain result or is likely to be of a certain nature.
- D. Privacy Violation: use or disclosure of individually identifiable health information in content or format other than that prescribed by Board policy and procedure.
- E. Retaliatory Action: includes, but is not limited to, removing or suspending employee from work; withholding salary increases or employee benefits to which employee is otherwise entitled; denying an employee a promotion that would otherwise have been received; transferring or reassigning an employee that otherwise would not have occurred; reducing the employee in pay or position.
- F. Appropriate ethics commission means the Ohio Ethics Commission.

## **Procedures**

Reports to be made

A. An employee of the Board who learns of the following shall make a report as required by Section B of this policy:

- 1) A violation of local, state or federal statutes, including, but not limited to, Medicaid fraud per the Deficit Reduction Act of 2005, which the Board could correct, and the employee reasonably believes that the violation is a criminal offense that is likely to cause an imminent risk of physical harm to persons or a hazard to public health or safety, a felony, or an improper solicitation for a contribution;
- 2) A violation by a fellow employee of any state or federal statute, any ordinance or regulation of a political subdivision, or any work rule or company policy of the Board, and the employee reasonably believes that the violation is a criminal offense that is likely to cause an imminent risk of physical harm to persons or a hazard to public health or safety, a felony, or an improper solicitation for a contribution;
- 3) A violation of Ohio Revised Code Chapters 3704. (Air Pollution Control Act), 3734. (Solid and Hazardous Wastes Act), 6109. (Safe Drinking Water Act), or 6111. (Water Pollution Control) that is a criminal offense;
- 4) A violation of state or federal statutes, rules, or regulations that the employee reasonably believes is not a criminal offense, which his/her supervisor or the Superintendent could correct;
- 5) The misuse of public resources, which his/her supervisor or the Superintendent could correct; or
- 6) A violation of state or federal statutes, rules, or regulations or misuse of public resources that is also a violation of Ohio Revised Code Chapter 102., section 2921.42, or section 2921.43.

### **B. Reporting Procedures**

- 1) For reports to be made under **A. 1)** and **2)** above, the employee orally shall notify the employee's supervisor, Department Director, or the Superintendent of the violation and subsequently shall file with the supervisor, Department Director, or the Superintendent a written report that provides sufficient detail to identify and describe the violation. The employee is to submit the written report in a timely manner (no later than the end of the next working day). Failure to report within 24 hours will not prohibit the Board from taking action. If the issue to be reported falls within the definition of MUI/UI reporting, the employee must follow those guidelines set forth in Ohio law and Board policy.
- 2) For reports made under **A. 4)** and **5)** above, the employee shall file a written report identifying the violation or misuse with the employee's supervisor, Department Director, or the Superintendent. In addition to or instead of filing a written report with the employee's supervisor, Department Director, or the Superintendent, the employee may file a complaint with the Auditor of State's fraud-reporting system under Ohio Revised Code Section 117.103. The Auditor of the State has an established fraud reporting-system to be used for reporting fraud, including misuse of public money by any public official or office. Employees are able to make anonymous complaints via the fraud hotline (866-372-8364), the Auditor of the State's website ([www.ohioauditor.gov](http://www.ohioauditor.gov)) or through the United States mail (Special Investigations Unit, 88 East Broad Street, Columbus, OH 45215). Moreover, if the

employee believes the violation or misuse is a criminal offense, in addition to or instead of filing a report with the employee's supervisor, Department Director, or the Superintendent, the employee may report it to the Madison County Prosecuting Attorney or a peace officer, such as the Madison County Sheriff or a municipal police officer.

- 3) For reports made under **A. 3)** above, the employee directly may notify, either orally or in writing, any appropriate public official or agency that has regulatory authority over the Board.
- 4) For reports made under **A. 6)** above, in addition to filing a report with the employee's supervisor, Department Director, or the Superintendent, the employee may report the violation or misuse to the appropriate ethics commission.
- 5) Supervisory staff receiving initial reports (oral or in writing) are to immediately relay this information to the Superintendent/designee. If the issue involves a privacy violation under HIPAA, the Privacy Officer shall also be notified by the supervisory staff receiving the initial report. Reports of Medicaid fraud shall also be reported to the Superintendent/designee by the supervisory staff receiving the initial report. The Superintendent will inform the Board President of the allegation and begin an investigation into the matter. Should the matter appear to be criminal in nature, the appropriate authorities shall be informed.

#### **C. Employee Responsibilities**

- 1) It is the employee's responsibility to make a reasonable and good faith effort to accurately report the alleged impropriety to the appropriate authority. There are consequences for purposely, knowingly or recklessly reporting false information. Those consequences may include discipline, up to and including termination. Failure to report may also result in disciplinary action, up to and including termination, subject to due process.
- 2) Reports made in good faith are encouraged and expected. A false complaint is not the same as an unsubstantiated complaint. Employees who file reports in good faith shall not be subject to retaliatory action from supervisors or co-workers. If retaliation occurs, the employee should immediately notify the Superintendent/designee.

#### **D. Board Responsibilities**

- 1) After an employee submits a report, the Superintendent/designee is to notify the employee, in writing, of any effort the Board has taken to correct the alleged violation, hazard, or misuse, or the absence of the alleged violation, hazard, or misuse. The Board is to notify the reporting employee of its efforts/findings within 24 hours after the oral notification was made or the report was received, or by 4:30 p.m. on the next regular business day (Monday-Friday) following the day on which the oral notification was made or the report was received, whichever is later.
- 2) If the Superintendent does not correct the violation or make a reasonable and good faith effort to correct the violation within twenty-four (24) hours after the oral notification or the receipt of the report, whichever is earlier, the employee may file a written report that provides sufficient detail to identify and describe the violation with the Madison County Prosecuting Attorney, a peace officer, such as the Madison County Sheriff or a municipal police officer, or any appropriate public official or agency that has regulatory authority over the Board.



- 3) Neither the Board nor any employee of the Board shall take any disciplinary or retaliatory action against an employee for making any report under this procedure or as a result of the employee having made any inquiry or taken any other action to ensure the accuracy of any information reported under this procedure.

#### **E. Employee Appeal Rights**

- 1) If the Board takes any disciplinary or retaliatory action against an employee as a result of the employee's having filed a report under (A).(1), (2), or (3) of this procedure, the employee may file a civil action for appropriate injunctive relief, or for reinstatement to the same position that the employee held at the time of the disciplinary or retaliatory action and at the same site of employment or to a comparable position at that site, the payment of back wages, full reinstatement of fringe benefits and seniority rights, or any combination of these remedies, within one hundred eighty (180) days after the date the disciplinary or retaliatory action was taken, in a court of common pleas in accordance with the Ohio Rules of Civil Procedure.
- 2) If the Board takes any disciplinary or retaliatory action against an employee as a result of the employee's having filed a report under (A).(4), (5), or (6), the employee's sole and exclusive remedy, notwithstanding any other provision of law, is to file an appeal with the State Personnel Board of Review within thirty (30) days after receiving actual notice of the disciplinary or retaliatory action.

#### **F. Effect of Policy**

- 1) This procedure does not supersede any rights of any employee under a collective bargaining agreement or permit disclosures that would diminish or impair the rights of any person to the continued protection of confidentiality of communications, if a statute or common law provides such protection.

(References: O.R.C. §102.01, et seq.; O.R.C. §124.341; O.R.C. §4113.52; O.R.C. §2901.22; O.R.C. §2921.42; and O.R.C. §2921.43.)

## **505. Disciplinary Policies**

### **505.1 Disciplinary Process - Unclassified Employees**

**[This policy applies to the removal, suspension and demotion of management employees. It does not apply to nonrenewal of management contracts.]**

- A. As used in this section, "employee" means a management employee or superintendent of the Board.
- B. An employee may be removed, suspended, or demoted for violation of written rules set forth by the Board or for incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, or other acts of misfeasance, malfeasance, or nonfeasance.
- C. Prior to the removal, suspension, or demotion of an employee, the employee must be notified in writing of the charges against him. Not later than thirty (30) days after receiving such notification, a pre-disciplinary conference shall be held to provide the employee an

opportunity to refute the charges against him. At least seventy-two (72) hours prior to the conference, the employee shall be given a copy of the charges against him.

- D. If the removal, suspension, or demotion action is directed against a management employee, the conference shall be held by the superintendent, or his/her designee, who shall notify the management employee within fifteen (15) days after the conference of his/her decision with respect to the charges. If the removal, suspension, or demotion action is directed against a superintendent, the conference shall be held by the members of the Board or their designees, and the Board shall notify the superintendent within fifteen (15) days after the conference of its decision with respect to the charges.

Within fifteen (15) days after receiving notification of the results of the predisciplinary conference, an employee may file with the Board a written demand for a hearing before the Board or before a referee, and the Board shall set a time for the hearing which shall be within thirty (30) days for the date of receipt of the written demand, and the Board shall give the employee at least twenty (20) days notice in writing of the time and place of the hearing.

- E. If a referee is demanded by an employee or a Board, the hearing shall be conducted by a referee selected in accordance with paragraph (F); otherwise, it shall be conducted by a majority of the members of the Board and shall be confined to the charges enumerated at the pre-disciplinary conference.
- F. Referees for the hearings required by this section shall be selected from the list of names compiled by the superintendent of public instruction pursuant to O.R.C. §3319.161. The Board and the employee shall attempt to agree upon one of the three referees provided by the superintendent of public instruction. If the Board and the employee are unable to agree upon a choice for referee, the superintendent of public instruction shall appoint one of the designees to serve as referee. The appointment of the referee shall be entered in the minutes of the Board. The referee appointed shall be paid his usual and customary fee for attending the hearing which shall be paid from the general fund of the Board.
- G. The Board shall provide for a complete stenographic record of the proceedings, and a copy of the record shall be furnished to the employee.

Both parties may be present at the hearing, be represented by counsel, require witnesses to be under oath, cross-examine witnesses, take a record of the proceedings, and require the presence of witnesses in their behalf upon subpoena to be issued by the Board. In case of the failure of any person to comply with a subpoena, a judge of the court of common pleas of the county in which the person resides, upon application of any interested party, shall compel attendance of the person by attachment proceedings as for contempt. Any member of the Board or the referee may administer oaths to witnesses. After a hearing by a referee, the referee shall file his report within ten (10) days after the termination of the hearing. After consideration of the referee's report, the Board, by a majority vote, may accept or reject the referee's recommendation. After a hearing by the Board, the Board, by majority vote, may enter its determination upon its minutes. If the decision, after hearing, is in favor of the employee, the charges and the record of the hearing shall be physically expunged from the minutes and, if the employee has suffered any loss of salary by reason of being suspended, he/she shall be paid his/her full salary for the period of such suspension.

Any employee affected by a determination of the Board under this division may appeal to the court of common pleas of Madison County within thirty (30) days after receipt of notice of the entry of such determination. The appeal shall be an original action in the court and shall be commenced by the filing of a complaint against the Board, in which complaint the facts shall be alleged upon which the employee relies for a reversal or modification of such determination. Upon service or waiver of summons in that appeal, the Board immediately shall transmit to the clerk of the court for filing a transcript of the original papers filed with the Board, a certified copy of the minutes of the Board into which the determination was entered, and a certified transcript of all evidence adduced at the hearing or hearings before the Board or a certified transcript of all evidence adduced at the hearing or hearings before the referee.

The employee or the Board may appeal from the decision of the court of common pleas pursuant to the Rules of Appellate Procedure and, to the extent not in conflict with those rules, pursuant to O.R.C. Chapter 2505.

Not renewing an employee's employment contract with the Board is not a disciplinary action, is not a removal, and is not subject to this policy.

(Reference: O.R.C. §5126.23)

## **505.2 Disciplinary Process - Classified Employees**

PHILOSOPHY: Discipline should be viewed as constructive in nature, designed to improve the performances and behaviors of employees so that incidents do not reoccur. It should be viewed as a means to ensure the safety and well-being of employees as well as participants.

PRINCIPLES: The majority of our staff will never have cause or reason to be involved in disciplinary actions. Counseling, when used as a means to instruct an employee or to improve performance, will be all that is usually needed to assist an employee in meeting expectations. The Board has faith that its employees are dedicated and caring people who consistently try to do their best.

EXPECTATIONS OF EMPLOYEE PERFORMANCE AND CONDUCT: Each employee's performance and conduct are critical to the safeguarding of participants' rights, providing a quality work environment for all employees and the health of the Program. Therefore, the following is a basic statement of what is expected of each employee. It is meant to be illustrative in nature and should not be considered all-inclusive.

Supervisors are obligated to maintain standards in both performance and conduct of their assigned staff. When standards are not met, supervisors have the discretion to recommend disciplinary action to reflect the seriousness of the offenses, harmful impact upon the Program and/or participants and other mitigating circumstances.

STATEMENT OF EXPECTATIONS: Employees of the Board are expected to:

- A. Safeguard participants and their rights.
- B. Maintain confidentiality, professional behavior and language with participants, fellow employees and the public; provide complete, accurate and timely reporting of critical incidents, suspected violation of participant and/or employee rights; and report exposure to serious communicable diseases to the supervisor.
- C. Maintain a safe, clean and professional working environment; conduct personal business during non-working time; be free of intoxicating or illegal substances on the job or on Board business; and always remain fit for duty.
- D. Follow all proper department and agency rules, policies and procedures; communicate all expenses, service or performance incurred to the Board; take reasonable care of Board property, records and equipment and use only for authorized purposes; avoid all unauthorized political activity and solicitations; carry no firearms or weapons while on duty, on Board property or Board business.
- E. Maintain all certification and registration as required by the Department of DD, Department of Education, Medicaid or other licensing authority; complete and maintain all other job requirements.

### **Pre-disciplinary Conference – Classified Employees**

Whenever the Facility Director or designee determines that an employee may be reduced in pay or position, suspended or terminated, a pre-disciplinary conference will be scheduled to give the employee an opportunity to explain his/her conduct.

Pre-disciplinary conferences will be conducted by a neutral person who will be selected by the Superintendent from those persons not directly in the chain of command of the employee. Although, ideally, the neutral person will be another department supervisor, an employee under the jurisdiction of the Board need not be used.

Not less than twenty-four (24) hours prior to the scheduled starting time of the conference, the Director or designee will provide to the employee a written outline of the charges that may be the basis for disciplinary action. The employee must choose to:

- A. Appear at the conference to present an oral or written statement in his/her defense;
- B. Appear at the conference and have a chosen representative present an oral or written statement in defense of the employee; or,
- C. Elect in writing to waive the opportunity to have a pre-disciplinary conference.

At the pre-disciplinary conference, the neutral person will ask the employee or his/her representative to respond to the allegations of misconduct that were outlined to the employee. Employees are not required to respond. Employees may be disciplined if they lie at the pre-disciplinary conference.

At the conference the employee may present any testimony, witnesses, or documents that explain whether or not the alleged conduct occurred. The employee may be represented by any person he/she chooses. The employee shall provide a list of witnesses to the neutral person as far in

advance as possible, but not later than one (1) hour prior to the pre-disciplinary conference. It is the employee's responsibility to notify witnesses that their attendance is desired.

The employee or his/her representative will be permitted to confront and cross-examine witnesses. The conference shall be informal and the rules of evidence shall not apply. The neutral person will prepare a written conclusion as to whether or not the alleged conduct occurred. The Superintendent will decide what discipline, if any, is appropriate, and notify the employee in writing. A copy of the neutral person's report will be provided to the employee within five (5) working days following its preparation.

### **505.3 Progressive Disciplinary Policy**

Progressive discipline will generally follow the process outlined below. The Board reserves the right to utilize appropriate discipline that reflects the seriousness of the action, its impact upon participants and other employees, and any possible criminal nature of the offense. Disciplinary action will comply with laws, regulations and statutes regarding public employment.

The Board believes that certain basic principles, as set forth below, must consistently be applied in order to effectively and fairly correct unsatisfactory job performance or conduct when it occurs.

The Board's expectations are:

- A. Employees shall be aware of job expectations through job descriptions, performance evaluations, policies and procedures, the types of conduct the Board expects of all employees as set forth in this manual, and the penalties for unacceptable job performance and conduct.
- B. Immediate attention shall be given to policy infractions. As soon as the supervisor is aware of a problem/concern/allegation concerning an employee, the supervisor shall discuss it with the employee, allowing the employee an opportunity to respond to the issue.
- C. Discipline shall be applied uniformly and consistently.
- D. Each offense shall be dealt with as objectively as possible.
- E. Discipline shall usually be progressive, but, depending upon the severity of the offense, may proceed immediately to termination.
- F. An employee's immediate supervisor/coordinator, department director, and/or personnel administrator and the superintendent shall be responsible for administering discipline.

### **STAFF RESPONSIBILITIES DURING THE DISCIPLINARY PROCESS**

Staff are required to be truthful at all time during the disciplinary process. Lying, withholding information (partially or completely) or refusal to give information may result in termination.

Staff are reminded that failure to report abuse/neglect of participants or other violations of statute, rules or policy may result in the staff member being held equally responsible for a disciplinary offense as the person who committed the offense that was not reported.

#### PROGRESSIVE DISCIPLINE STEPS

STEP 1: ORAL COUNSELING (noted in supervisor's file).

STEP 2: ORAL REPRIMAND (noted in supervisor's file and copy sent to Personnel File - to remain in effect for a minimum of one (1) year).

STEP 3: WRITTEN REPRIMAND (copy in supervisor's file and copy sent to Personnel File - to remain in effect for a minimum of one (1) year).

STEP 4: SUSPENSION OF LESS THAN TWENTY-FOUR (24) HOURS, FOR OVERTIME ELIGIBLE EMPLOYEE, OR LESS THAN FORTY (40) HOURS, FOR OVERTIME EXEMPT EMPLOYEE (not appealable to State Personnel Board of Review - SPBR) (Permanently in Personnel File).

STEP 5: SUSPENSION OF TWENTY-FOUR (24) HOURS OR MORE, FOR OVERTIME ELIGIBLE EMPLOYEE, OR FORTY (40) HOURS OR MORE, FOR OVERTIME EXEMPT EMPLOYEE (appealable to SPBR) (Permanently in Personnel File).

STEP 6: **REDUCTION IN PAY OR POSITION AND REMOVALS (appealable to SPBR) (permanently in Personnel File, may not be rehired).**

The employee will be offered the opportunity of a fact-finding conference when Steps 4 through 6 may be the result of that fact-finding conference.

Serious unacceptable actions on the part of the employee, such as gambling during working hours, may result in removal on the first offense. Other such unacceptable actions include:

- A. Abuse of participants or participants' rights
- B. Falsification of records (such as deliberate recording of more hours than actually worked, misuse/abuse of sick leave)
- C. Failure to report participant abuse
- D. Lying or withholding information at fact-finding
- E. Use or sale of narcotics or alcohol during work time or on Board property
- F. Breach of confidentiality regarding participants or employees
- G. Unlawful harassment
- H. Any other gross misconduct

#### RIGHTS OF ABUSED INDIVIDUALS

Under circumstances of abuse, neglect, slander or other illegal acts, disciplinary action taken by the Board against the individual committing the disciplined act does not diminish the rights of

the individual, the parent/guardian, advocate or employee from exercising their rights to pursue legal recourse.

#### RESPONSIBILITY TO REPORT ABUSE/NEGLECT

By law, any employee who suspects abuse or neglect of a participant in any manner must report their suspicions to appropriate authorities pursuant to policies and procedures. Failure of an employee to make such reports as required by law will result in the employee being subject to disciplinary action.

#### **505.4 Order of Removal, Suspension, or Reduction -- Classified**

The same ORDER form is used for removals (including involuntary disability removals), suspensions, and reductions. One copy is given to the employee, one is filed with the State Personnel Board of Review, and one is retained by the appointing authority.

One of the statutory grounds for action must be stated on the form. Those acts of behavior that constitute or support the statutory basis for the action are to be specifically listed and described.

- A. Whenever possible, the exact time and place of specific acts are to be given, together with the names(s) of the person(s) involved. Where incompetency or inefficiency is charged, the standards of performance by which it is judged are to be given. The information given in this portion of the form must be clearly stated in terms that the employee can understand-but which also would be meaningful in the event the case reaches further stages of administrative review. The specific acts are to be written in such detail as to advise the employee of exact actions that must be defended. If previous warnings or suspensions of any sort have been given the employee concerning any of the behavior cited in the action, they should also be indicated on the form.
- B. The ORDER form shows the date on which the action becomes effective. This may be the same date that the employee receives a copy of the ORDER or it may be later than that date but it may never be earlier than that date.
- C. The filing date of the ORDER is entered at the designated place on the form. This may be the same date that the employee receives a copy of the ORDER or it may be later than the date but it may never be earlier. In cases where immediate removal seems to the appointing authority to be imperative, the effective date, the filing date, and the date of giving notice to the employee may all be the same.
- D. The copy of the ORDER that is given to the employee must be signed personally by the appointing authority.
- E. If an amended order is prepared, a new filing date and period for appeal will follow.

#### **505.5 Appeals – Classified Employees**

- A. Personnel actions affecting classified employees such as non-probationary dismissals, suspension of twenty-four (24) hours or more for overtime eligible employees, suspension

of forty (40) hours or more for overtime exempt employees, reductions, demotions and layoffs, may be appealed by affected employees to the State Personnel Board of Review. Suspensions of less than twenty-four (24) hours for overtime eligible employees and suspensions of less than forty (40) hours for overtime exempt employees are not appealable to the State Personnel Board of Review.

- B. Written appeals of removal, demotion or suspension must be filled with the State Personnel Board of Review within ten (10) calendar days after receipt of the ORDER by the employee. Written appeals of layoffs must be made within ten (10) calendar days after the effective date of the action.
- C. The State Personnel Board of Review maintains authority to decide whether an appeal warrants a hearing. When an appeal is heard, the State Personnel Board of Review may affirm, disaffirm, or modify personnel decisions made by the Superintendent.

#### EXCEPTIONS OF APPEAL

- A. Suspensions of less than twenty-four (24) hours for overtime eligible employees and suspensions of less than forty (40) hours for overtime exempt employees are not governed by the above procedure. Such suspensions may be made by the appointing authority at any time without the employee having recourse to any appeal. However, the employee must be notified of the grounds.
- B. Voluntary written agreement by the employee to a reduction constitutes a waiver of the above procedure. This consent must be signed on the date shown on the consent.
- C. When an employee becomes physically unable to perform the duties of the position, a transfer may be requested to a vacant position of a similar or lower pay grade that the employee has the ability/qualifications to fill.

## **506. Grievance Procedure Policy**

#### Classified Employees

- A. It is important for employees to have the means by which grievances may be aired in an atmosphere without fear that the submission of such a grievance will be held against them. To accomplish this, the Board has adopted a Grievance Procedure. An employee desiring to air a grievance must follow the steps of the procedure that are appropriate for his/her particular grievance.
- B. A "grievance" is defined as an allegation in writing describing a disagreement between an employee and management as to the interpretation or application of official Board policies, state civil service laws, agency rules or decisions, matters subject to state or federal law, departmental rules and regulations, or other disagreements perceived to be unfair or inequitable relating to discipline, treatment or other conditions of employment. Neither probationary removals nor any other personnel actions taken in matters in which employees have been afforded the opportunity for a predisciplinary conference described earlier may be appealed through the in-house grievance procedure.
- C. Nothing in this policy is intended to deny employees any rights available by law to have redress to their legal rights, including the right to appeal to the State Personnel Board of Review where that body has jurisdiction, the Ohio Civil Rights Commission, the Equal



Employment Opportunity Commission, or any court of competent jurisdiction. However, if the employee elects to file a complaint on a matter over which another appeals body has jurisdiction, it is the employee's responsibility to meet the criteria for filing with that appeals body.

- D. The purpose of this procedure is to secure equitable resolution of problems at the lowest possible administrative level.
- E. This grievance procedure is only to be used when normal supervisor-subordinate communications breakdown and the subordinate feels that a proper solution has not been reached.
- F. All employees shall sign a statement that they have seen and have knowledge of the complaint procedure.
- G. The employee must proceed through all steps of the grievance procedure in proper order and within the prescribed time limits, except as otherwise noted.
- H. Where a grievance cites issues of law which the individual hearing the complaint cannot address, the complaint shall be forwarded to the Prosecuting Attorney's Office for an opinion before proceeding. All time limits set forth in this procedure shall be held in abeyance until a response from the Prosecutor is received.
- I. Where a group of employees desire to file a grievance involving a situation affecting each employee in the same manner, one employee selected by such group will process the complaint. However, each employee affected shall sign the grievance.
- J. A complainant may have a representative (employee or non-employee) of his/her choosing present at any step of the procedure except Step 1. Employees and employee representatives shall not lose pay or benefits during normal working hours for time spent in grievance hearings. The expense of any legal representative(s) shall be borne by the party utilizing them. Witnesses may be called by both parties. Management maintains the right to schedule witnesses for hearings.
- K. All grievances filed under this procedure shall be in writing on the form provided for this purpose, and shall state the nature of the complaint, the desired remedy, and the facts which affect the conditions of the complaint.
- L. For the purpose of this policy, days shall not include Saturdays, Sundays, holidays, or non-working days.
- M. The employee may terminate the grievance at any point by submitting a written statement to that effect. This statement shall be submitted to the Superintendent.
- N. Time limits as set forth in the following Grievance Procedure may be extended by mutual written agreement of the parties.

#### GRIEVANCE PROCEDURE

##### A. Step One: Immediate Supervisor

- 1) An employee having a grievance shall file the grievance in writing on the appropriate form with his/her immediate supervisor. The grievance form may be obtained from the Administrative Office. In order for a grievance to be recognized, it must be filed within five (5) working days from the date of the incident giving rise to the grievance. The immediate supervisor and the employee will hold a verbal discussion to try to resolve the grievance within two (2) days following the date of receipt of the written grievance. The immediate supervisor may offer his/her oral

remedy immediately following the discussion, but shall present this remedy in writing within three (3) days following the date of discussion.

B. Step Two: Department Director

- 1) If the grievance is not resolved to the satisfaction of the employee at the STEP ONE meeting, the grievance must, within two (2) working days after receipt of the STEP ONE written decision, be submitted on the designated form to the employee's department director. The written grievance must be signed by the employee and contain all the pertinent facts of the grievance including a copy of the original grievance and a copy of the decision from STEP ONE. The department director shall schedule a meeting within three (3) working days following the receipt of the grievance. The employee may be accompanied by a representative of his/her choosing, but if an employee representative is chosen, the aggrieved must notify that employee's department director in advance of the meeting so that the employee representative may be relieved of duty to attend the meeting. The department director shall issue a written decision to the grievance within five (5) working days of the meeting with copies to all parties involved. (In facilities/departments having intermediate levels of supervision between the immediate supervisor and department director, the STEP TWO procedure shall be followed as indicated with next person in the chain of command. For example, for those facilities having an assistant director, the assistant director would hear the grievance with the same time guidelines as outlined above before the grievance went to the department director).

C. Step Three: Superintendent or Designee

- 1) If the grievance is not resolved at the STEP TWO decision, the employee must, within four (4) working days after receipt of the STEP TWO decision, submit the written grievance including all pertinent data from previous STEPS to the Superintendent or designee. The Superintendent or designee will schedule a meeting within five (5) working days following the date of receipt of the grievance. The employee may be accompanied by a representative of his/her choosing, but if an employee representative is chosen, the aggrieved must notify that employee's department director in advance of the meeting so that the employee representative may be relieved of duty to attend the hearing. The aggrieved employee and the department director shall attend the meeting. The Superintendent/designee will render a decision in writing to the employee within five (5) working days following the STEP THREE meeting. Copies of the decision shall be provided to all parties involved.

D. Step Four: Personnel Committee of the Board

- 1) If the STEP THREE decision is not satisfactory to the employee, the written grievance with supporting documentation and copies of previous decisions may be submitted to the Personnel Committee of the Board for review and determination of the facts within ten (10) working days from the date the STEP THREE decision is received or as soon thereafter as the Committee can meet. The Personnel Committee has the right to appoint any other individual to review and determine the facts. If the Personnel Committee determines to review the case, it will make a decision within fifteen (15) working days from the date the grievance is reviewed, with copies of the determination to all parties involved.

E. APPEALS

- 1) If the STEP FOUR decision is not satisfactory to the employee, the Superintendent will inform the employee that the employee may have the right to appeal the decision to the Department of Labor and/or State Personnel Board of Review and that decision will be final and binding, and that cases of alleged discrimination may be appealed to the Ohio Civil Rights Commission or the EEO Commission. However, nothing in this grievance procedure, including the review by the Personnel Committee of the Board, shall be deemed to give an employee any rights of appeal outside of the agency that the employee would not have in the absence of this grievance procedure.

#### MANAGEMENT RESPONSIBILITIES DURING GRIEVANCE PROCEDURES

##### A. Tracking of Grievances

- 1) Once a grievance is filed, the director must "track" the complaint throughout the procedure. If a grievance is not processed by the employee to the next step of the procedure within the specified time limits or any written extension thereof, it shall be considered resolved on the basis of the decision at the previous step, and should be indicated, "Resolved, employee did not pursue", dated, signed and sent to the employee and the Administrative Office for filing as a permanent record.
- 2) If the grievant does not receive a response from the appropriate management representative within the specified time limit or extension thereof, the grievance will be considered to have been answered in the negative and the employee may advance the grievance to the next step. The management representative receiving a grievance, which was not answered at the previous step, must investigate the reason that no answer was given. If a management representative does not possess the authority to correct the employee's grievance, then he/she should so indicate and return the grievance to the employee in a timely fashion.

##### B. Decisions. Decisions to grievances are to be in writing and should have supporting documentation attached.

##### C. Possible Decisions. There are three (3) possible decisions to any grievance. They are:

- 1) Find in the employee's favor. The decision is to grant the remedy requested.
- 2) Find against the employee. The decision is that the findings of fact do not support the allegation(s) and, therefore, the grievance and remedy requested is denied.
- 3) Compromise. The employee has a legitimate grievance but the remedy requested is improper. Prior to a compromise decision, the person responsible for determining the grievance should call the grievant in and ask if he/she will accept the proposed offer. If not, option 3b may be exercised.

## **507. EEO Complaint Policy and Procedure**

The following complaint procedure has been adopted by the Board.

##### A. Filing of Discrimination Complaint

- 1) Any employee or applicant having a complaint of discrimination on basis of race, color, religion, sex, national origin, military status, disability, genetic information, or age (40 and over) may file a written discrimination complaint in the office of the

Equal Employment Opportunity Coordinator located at the Board's Administrative Office. A complaint form is available for this purpose, and can be obtained from the EEO Coordinator.

- 2) The complaint must be filed within thirty (30) days of the alleged discriminatory action, except that this time limit may be extended if the complainant can show that he or she did not have notice of the time limit, or was prevented by circumstances beyond his/her control from submitting the complaint within the time limit, or for other reasons considered sufficient by the Coordinator.
- 3) A complaint shall be deemed filed on the date it is received, or on the date postmarked if mailed. The EEO Coordinator shall acknowledge receipt of the complaint in writing, and inform the complainant in writing of the complaint procedure and of his/her right to file with the EEO Commission and the Ohio Civil Rights Commission.

**B. Complainant's Right to Representation**

- 1) At any time during the course of the procedure, the complainant has the right to be accompanied, represented, and advised by a representative of his/her choosing. If the complainant is an employee and has designated another employee as his or her representative, both the representative and the complainant will be given a reasonable amount of time off work during normal working hours to present the complaint. Time spent during non-working hours to prepare the complaint will not merit compensation under this policy.

**C. Rejection of Complaint**

- 1) The EEO Coordinator may reject a complaint that was not timely filed or where information supplied by the complainant is deemed insufficient for the purpose of conducting an investigation.
- 2) The EEO Coordinator shall reject those complaints that do not allege discrimination on the basis of race, color, religion, sex, national origin, disability, genetic information, age (40 and over), or which are substantially identical to a previous complaint filed by the same complainant, which is pending or has been decided under this procedure.
- 3) The decision to reject a complaint, and the reason(s) for the decision, shall be communicated to the complainant in writing within ten (10) days of the filing of the complaint.

**D. Informal Resolution of Complaint**

- 1) Upon receipt of complaint, the EEO Coordinator shall have twenty-one (21) days in which to investigate and attempt to resolve the complaint informally. If an informal resolution of the complaint is achieved, the terms of the resolution shall be set forth in writing, made part of the complaint file, and a copy shall be provided to the complainant.
- 2) If an informal resolution of the complaint is not achieved, the EEO Coordinator shall notify the complainant in writing: (1) of the proposed disposition of the complaint; and (2) of his/her right to a determination by the Personnel Committee of the Board if the complainant notifies the Board's Personnel Committee Chairperson in writing of his/her desire for a determination within fifteen (15) days of his/her receipt of this notice.

**E. The Determination by the Personnel Committee of the Board**

- 1) Upon receipt by the Personnel Committee Chairperson of the Board of the complainant's written notification of his/her desire for a determination, the Personnel Committee of the Board shall have thirty (30) days in which to conduct a determination proceeding on the complaint.
- 2) The EEO Coordinator shall transmit to the Personnel Committee all materials concerning the complaint that have been acquired. Should the Personnel Committee determine that further investigation is needed, the Committee may direct the EEO Coordinator to conduct such investigation.
- 3) The determination proceeding shall be conducted in accordance with the following:
  - a. Adequate notice to parties of the determination proceeding including time, place, and procedures.
  - b. Reasonable timing.
  - c. Right of each party to representation.
  - d. Right of each party to present evidence.
  - e. Right of each party to question evidence of the other.
  - f. Decision made solely on the basis of the evidence.
- 4) The Personnel Committee shall have authority to:
  - a. Regulate the course of the determination proceeding.
  - b. Exclude irrelevant or unduly repetitious evidence.
  - c. Limit the number of witnesses.
  - d. Exclude any person from the determination proceeding for misconduct.
- 5) The Personnel Committee shall render a decision within ten (10) days of the conclusion of the determination proceeding or as soon thereafter as possible. The decision shall be made in writing and shall contain a statement of the reason(s) for the decision. Copies of the decision shall be provided to the Superintendent, the EEO Coordinator, and the complainant. In addition, a letter shall be provided the complainant informing him/her of his/her right to file with the EEO Commission and the Ohio Civil Rights Commission. The complainant has the right to file with the EEO Commission and the Ohio Civil Rights Commission within 180 days (federal) 6 months (state) of the date of the alleged discrimination.
- 6) The decision of the Personnel Committee shall be final; however, the Committee may refer the matter to the entire Board.

F. Freedom from Reprisal

- 1) Complainants, their representatives, and witnesses shall be free from restraint, interference, coercion, discrimination, or reprisal during all stages and following the completion of the complaint procedure.

## **508. Compensation Policy**

### **508.1 Compensation Plan**

It is the policy of the Board to compensate its employees according to an established compensation plan with consideration given to:

- A. Mandated state minimums if required for certain positions (i.e. teachers).
- B. Longevity.

The salary schedule for most employees is established in the form of pay ranges, and generally includes a range of steps designated for each position. The various working titles are assigned to specific pay ranges, and employees may advance to higher rates on their pay range based on longevity and acceptable performance.

The Board will periodically review the salary schedule and make adjustments as it deems necessary.

Employees are generally started at the minimum rate for their particular pay range. The Superintendent may permit the hiring of an employee at an advanced step in special cases where labor market conditions limit the available pool of qualified personnel at entry level salaries or where the applicant selected has unusually high qualifications for the classification.

The Superintendent will make the final decision on all step assignments of individual rates of pay, based upon the Board's general guidelines.

Upon promotion, an employee shall be compensated at no less than the lowest step of the approved range for his/her new classification which would provide an increase in pay over that received in his/her previous classification.

Salaries will not be reduced unless such reduction is part of an overall salary reduction affecting all employees.

## **508.2 Pay Periods**

There are normally twenty-six pay periods per year. All employees are to be paid every other Friday.

Questions regarding an employee's pay are to be referred immediately to the Administrative Office for resolution.

Pay advances of any kind are not permitted.

## **508.3 Payroll Deductions**

Certain deductions are made from an employee's paycheck as required by law, in accordance with employee benefit plans, or as requested by the employee. These deductions are itemized on the employee's pay statement that accompanies his/her bi-weekly paycheck. Deductions include:

- A. PERS/STRS - State law requires that employees contribute to the Public Employees Retirement System or the State Teachers Retirement System rather than Social Security. [Membership in one of these systems is compulsory upon being employed except those employees specifically exempted under the provisions of O.R.C. §145.03. This exemption is limited to full-time school employed for less than fifteen hundred hours per year upon filing of the appropriate application with PERS.]
- B. Income Taxes - Federal, state and some city ordinances or school districts with an approved income tax require that taxes be withheld from each salary payment. The amount of tax to be withheld is determined from tables furnished to the Personnel Office by the Ohio Department of Taxation, the IRS, and various cities, and varies according to the amount of salary, work location, residence, and number of withholding allowances (e.g., dependent exemptions). Employees are required to complete tax withholding forms upon initial employment and to inform the Personnel Office on the required form of any changes in withholding exemptions or residence whenever such change occurs.
- C. For all employees hired after April 1, 1986, a 1.45% deduction will be withheld for federal Medicaid/medicine.
- D. Miscellaneous - Examples include garnishments, deferred compensation, child support, Credit Union, United Way, etc. The employer may refuse to make deductions, not required by law, which are below certain prescribed minimum amounts, or at irregular intervals, or for other cause that the Board deems not in the best interest of the Board. All requests for payroll deductions must be presented by the employee in writing to the Personnel Office on the prescribed form.
- E. Whenever a request for payroll deductions is not personally made by the employee, the Payroll Department may verify the request with the employee.

#### **508.4 Overtime Pay**

The purpose of this policy is to establish uniform guidelines for the accrual, payment, and use of overtime pay and compensatory time off. The provisions of this policy shall apply to all non-exempt employees of the Board.

- A. **DEFINITIONS** - For the purposes of this policy:
  - 1) **OVERTIME** - Refers to actual time worked in excess of forty (40) hours in any one work week. Time worked on a holiday, administrative leave day, or during a calamity interval is not considered as time worked when calculating overtime eligibility because the time is compensated at a premium rate whether or not the employee works a forty (40) hour week. (See definition for work week.)
  - 2) **WORK WEEK** - Refers to that time period commencing Sunday 12:01 A.M. and ending seven twenty-four hour periods later on Saturday 12:00 Midnight.
  - 3) **OVERTIME ELIGIBLE EMPLOYEES** - Refers to employees of the Board who are not Overtime Exempt Employees. All overtime eligible employees are also eligible for compensatory time off and holiday compensatory time off.
  - 4) **OVERTIME EXEMPT EMPLOYEES** - Refers to those employees of the Board whose positions are professional, administrative or executive in nature and whose

positions/classifications have been placed on the Overtime Exempt Classifications list. Overtime exempt employees are also exempt from earning compensatory time.

- 5) OVERTIME PAY - is compensation in the form of wages at the rate of one and one half times the base rate of pay.
- 6) COMPENSATORY TIME - is compensation in the form of time off at the rate of one and one half hours off for every hour worked in excess of forty (40) hours in a work week.
- 7) CALAMITY INTERVAL - is a time period determined by the Superintendent during which only absolutely essential employees are required to work.
- 8) MANAGEMENT EMPLOYEES – Management employees may include the following positions and others as determined by the Superintendent: Superintendent, Organization Services Director, Family Support Director, Business Director, Cafeteria Supervisor, Recreation Coordinator, Health Services Coordinator, Investigative Agent, Children Services Supervisor, Administrative Assistant, Community Inclusion Manager, Paraprofessional Coordinator, and Executive Assistant. Also, employees as defined in O.R.C. 4117.1, other positions designated by the Board or the Director of the Ohio Department of Developmental Disabilities as having managerial or supervisory responsibilities and duties (The Fair Labor Standards Act requires Overtime Exempt Personnel to be salaried, to be paid a certain salary, and to meet the duties requirements required by the Fair Labor Standards Act).
- 9) PROFESSIONAL EMPLOYEES - Employees of the Board who hold the following positions: school personnel certified pursuant to O.R.C. 3319, early intervention specialist, support services coordinator, behavior support specialist, intake and information coordinator, other professional positions designated by the county board or the Director of the Ohio Department of Developmental Disabilities. (The Fair Labor Standards Act requires Overtime Exempt Personnel to be salaried, to be paid a certain salary, and to meet the duties requirements required by the Fair Labor Standards Act).
- 10) HOLIDAY PAY - refers to compensation paid in the form of wages at the rate of one and one half times the base rate for full time employees who work on holidays or administrative leave days and at the base rate by part time employees who work on holidays or administrative leave days. All full time and part-time employees receive base pay, including supplements, for the number of hours they would normally have been scheduled to work on a holiday or administrative leave day, in addition to the Holiday Pay. However, part-time employees required to work mandatory extra hours on a holiday will receive compensation at the rate of one and one half hours for all hours worked under mandatory conditions.

#### B. OVERTIME PAY

- 1) All "Overtime Eligible Employees" will be compensated at one and one half times their base rate of pay for actual hours worked in excess of forty hours during one work week.
- 2) Hours worked on a holiday, administrative leave day, or during a calamity interval are not considered hours worked for the purposes of calculating total hours worked as it relates to establishing overtime eligibility because this time is automatically compensated at a premium rate.



- 3) Time spent in active pay status for which the employee did not actually work is not included in the accumulation of forty hours worked for the purposes of establishing overtime eligibility. Examples of non-work time which are also active pay status includes, holidays taken off, compensatory time off, vacation, sick leave, personal days off, etc.
- 4) All actual hours worked in excess of 40 hours in a given work week must be prior approved by the Superintendent/designee prior to the employee actually working the hours.
- 5) Overtime Exempt Employees are not permitted to earn overtime pay.
- 6) Scheduled overtime that is subsequently canceled for any reason shall not entitle the employee to overtime compensation.

#### C. VOLUNTEER TIME

- 1) The time in which an employee engages in volunteer activities outside normal work time shall not be compensable. Board supervisory personnel shall not overtly direct or covertly imply that employees participate in any volunteer activities. Employees shall independently and freely determine their level of participation, if any, in volunteer activities related to the agency. Employees who volunteer are encouraged to register with the volunteer coordinator for insurance liability purposes. No employee shall volunteer to perform the same or similar duties which he/she performs during regular work hours.

#### D. TIME RECORDS

- 1) Employees are to sign/clock in no sooner than 15 minutes prior to the start of the work shift and are to sign/clock out no later than 15 minutes after the work shift is over.
- 2) Overtime-eligible Employees who voluntarily arrive early for their assigned shifts and/or stay late after the shift will be actively discouraged from doing so by their immediate Supervisors and Division Directors. Overtime-eligible employees who arrive early for work and who voluntarily stay late after work are to spend this time in designated non-work areas. Overtime-eligible employees may only engage in work related activities that would result in overtime pay or compensatory time accrual if they have prior written authorization to do so. Overtime eligible employees who violate this policy shall be subject to corrective action.
- 3) The Division time sheet/time card is the official record of the employee's time worked. It is the employee's responsibility to complete this time sheet in a timely and accurate manner. Each employee must accurately record his/her actual starting and finishing times, break time (if applicable) and lunchtime. Employees who fail to accurately record their hours of work shall be subject to corrective action.

### **508.5 Fringe Benefits**

- A. Health Insurance
- B. PERS/STRS Retirement Programs
- C. Worker's Compensation
- D. Life Insurance
- E. Liability Insurance

- F. Sick Leave
- G. Personal Leave
- H. Professional Leave
- I. Tax Deferred Compensation Plans

## **508.6 Retirement Plan**

Employees of the Board are required by law to participate in the Ohio Public Employees Retirement System or the State Teachers Retirement System as applicable. In addition to retirement benefits, PERS/STRS provides other benefits such as disability retirement, survivor benefits, health insurance for retirees, etc.

Employees should direct questions about retirement benefits to:

Public Employees Retirement System

277 East Town Street  
Columbus, Ohio 43215  
1-800-222-7377

State Teachers Retirement System of Ohio

275 East Broad Street  
Columbus, Ohio 43215-3771  
1-888-227-7877

## **508.7 Workers Compensation**

State law provides that every Board employee is eligible for Workers Compensation for injuries arising out of, or in the course of, his or her employment. Guidelines for administering Workers Compensation are set forth below.

- A. Should an employee be injured during the course of employment with the Board, the employee shall immediately notify his/her supervisor and shall complete an injury report form. This report shall be completed, regardless of the apparent seriousness of the injury, and regardless of whether medical attention is required. Such report shall be signed by the Building Authority following an investigation of the injury/accident and forwarded within twenty-four (24) hours to the Administrative Office.
- B. Should an employee's injury require medical attention, the injured employee shall notify the attending physician that the injury occurred during the course of employment. Workers Compensation claim forms shall then be completed by the attending physician and the injured employee and then forwarded to the Personnel Office for certification. Workers Compensation claim forms may be certified by the Personnel Department only when a Board injury report form has been submitted and the employee and physician sections have been completed on the Workers Compensation form.
- C. Upon approval by the Bureau of Workers Compensation, a claim number will be assigned and mailed to the injured employee. The injured employee shall notify the attending

physician that all professional medical charges be directed to the Bureau of payment with such claim number.

- D. The Administrative Office must be advised and continually updated if an employee continues to be absent due to a work-related injury. Employees are responsible for providing their supervisor with a physician's statement identifying the nature of the disabling condition and the projected date of return. This physician statement must accompany the leave request form.
- E. Employees who are injured in the line of duty and must leave work to obtain medical treatment before completing their scheduled workday shall be granted paid administrative leave for the remainder of the shift if the time is needed for medical treatment.
- F. An injured employee may elect to use accrued sick leave and vacation leave prior to receiving payments from Workers Compensation. Employees are prohibited, however, from receiving payment for sick leave while simultaneously receiving payment from Workers Compensation.
- G. The Board may designate as Family and Medical Leave time, qualifying absences due to work related injuries.

### **508.8 Wage Continuation Policy**

Any employee who suffers a compensable industrial injury or illness can receive regular wages instead of worker's compensation lost-time benefits. Payment for related medical benefits is the responsibility of the Bureau of Workers' Compensation.

#### **A. Qualifications**

- 1) The injury or illness must be determined to be compensable by the County, or in the case of dispute, the Ohio Industrial Commission. In no event will compensation commence before all initial paperwork is completed and filed with the appropriate agency(ies).
- 2) Competent medical proof of disability must be provided via Form C-84 or Physician's Update and Physical Capabilities form. The attending physician must complete the form in its entirety and affix his/her original signature to the form. Copies are unacceptable.
- 3) The employee must complete a FROI-1 First Report of Injury application and sign a wage agreement, medical release and an election form.
- 4) The County reserves the right to have the employee examined by a physician of its choice at the County's cost to confirm the medical diagnosis and/or the period of disability. Failure to submit to examination will result in termination of wage continuation benefits.
- 5) Wage continuation benefits will be paid only for those periods of lost time that otherwise would qualify the employee for receipt of worker's compensation lost time benefits, subject to the following limitations:

#### **B. Termination Conditions: Wage continuation payments will cease upon any of the following conditions:**

- 1) Attending physician releases employee to return to work.

- 2) Employee returns to work for another employer.
- 3) Employee fails to return to a transitional “limited duty” assignment consistent with his/her medical restrictions as approved by the injured worker’s treating physician.
- 4) Employee fails to appear for employer-sponsored medical examination.
- 5) Employee has reached maximum medical recovery and/or the condition has become permanent.
- 6) The claim is found to be fraudulent after payment has been commenced.
- 7) The injured worker attempts to collect both wage compensation and temporary total compensation.
- 8) Employment termination.
- 9) Violation of any company policy or guideline.
- 10) Regardless of the above conditions of termination, management may, at its sole discretion, terminate wage continuation benefits at any time if disability exceeds 12 weeks.
- 11) The wage continuation plan and all benefits can be terminated at management’s discretion at any time.

## **ADDENDUM to 508.8 Wage Continuation Policy**

### **NOTICE TO INJURED EMPLOYEES**

#### **Election of Compensation**

Madison County offers a Wage Continuation Policy relating to employees who are injured or contract an occupational disease while in the course of employment. The policy is effective for injuries on or after October 4, 1999. In the past, injured employees have been partially reimbursed for lost wages by the Bureau of Workers’ Compensation (BWC). Injured employees are compensated at the rate of 72% of the full weekly wage for the first 12 weeks of disability, and a 66 2/3% of the average weekly wage for all subsequent weeks of disability. In most cases, administrative delays have caused significant interruption in income from the last day worked to the eventual receipt of workers’ compensation benefits.

In order to prevent such delays, Madison County will, in compensable claims, continue to pay wages at the same rate of pay the injured worker was making at the time of the injury. This rate will be multiplied by the usual number of scheduled hours per week. The compensation will be paid for a period not to exceed 12 weeks. The payment by Madison County will take the place of payment by the Bureau. Wage continuation will be made only during period of time that workers’ compensation benefits would other be paid by the Bureau. In most cases, payments will immediately commence upon receipt of proof of disability from the preferred medical provider and a completed claim application.

The payment by Madison County will be taxable income to the employee and subject to the same tax withholding requirements as one’s regular weekly wage. Workers’ compensation benefits payable by the State are not taxable income to the employee; however, Madison County’s net payment will be equal to or greater than the payment which would be made by the Bureau, and will reduce the delay.

Receipt of wage continuation payments will be in lieu of workers’ compensation lost time benefits. The payment of medical benefits will continue to be the responsibility of the BWC.

If the period of disability exceeds 12 weeks, the County may, solely at management’s discretion, extend wage continuation payments for additional periods of time. Injury leave payments beyond

12 weeks will be calculated at the same rate of pay the injured worker was making at the time of injury. This rate will be multiplied by the usual number of scheduled work hours per week. Alternatively, after 12 weeks, the County may request that the employee commence payment from the BWC. Since the claim number will be assigned by the Bureau, no interruption in the disabled employee's benefits should occur.

Hopefully, this plan will eliminate any financial hardship suffered by an employee as a result of an occupational illness or injury. Please contact the WC Coordinator with any questions you may have or to obtain a copy of written guidelines pertaining to qualification for receipt of injury leave benefits.

\_\_\_\_\_ I elect to receive direct payments.

\_\_\_\_\_ I elect to receive compensation from the Bureau of Workers' Compensation.

\_\_\_\_\_  
Employee's signature

\_\_\_\_\_  
Date

ADDENDUM to Section 516.1 Retirement/Reemployment Plan

#### Voluntary Agreement to Accept a Reduction in Pay

This Voluntary Agreement to Accept a Reduction in Pay ("Agreement") is entered into and effective this \_\_\_\_\_ day of \_\_\_\_\_, by and between the Madison County Board of Developmental Disabilities ("County Board") and \_\_\_\_\_ ("Employee").

#### Statement of Agreement

WHEREAS, the County Board has instituted a Retirement/Reemployment Policy whereby the Superintendent of the County Board may reemploy employees of the County Board, who have retired under the Public Employees Retirement System (PERS) or the State Teachers Retirement System (STRS);

WHEREAS, the purpose of the policy is to achieve cost savings for the County Board as well as continue employment of recently retired employees;

WHEREAS, the Employee has agreed that, as a condition of being reemployed by the Superintendent of the County Board following his/her retirement, he/she accepts a voluntary reduction in pay as established by the County Board's policy, it is therefore agreed as follows:

No right to reemployment: The Employee acknowledges that he/she has no such right to reemployment with the County Board following his/her retirement and that such reemployment is based upon consideration provided by Section B of this Agreement.

Reduction in Pay: Effective for the pay period beginning \_\_\_\_\_, and thereafter, the Employee's rate of pay shall be \$\_\_\_\_\_. In Policy Section \_\_\_\_\_, the Employee shall be placed on Step \_\_\_\_ of the applicable salary schedule. Based upon the Employee's rate of Pay of \$\_\_\_\_\_, the Employee's bi-weekly pay in the first pay period following the effective date of this Agreement and thereafter shall be \$\_\_\_\_\_.

Waiver of right to appeal: Although a reduction in pay may be appealable to the Ohio State Personnel Board of Review pursuant to Ohio Revised Code 124.34, the Employee agrees that

he/she hereby waives the right to appeal the reduction effected by this Agreement as he/she is agreeing to voluntarily reduce his/her pay as a condition of being rehired by the County Board. Governing law: This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.

Jurisdiction/Venue: The parties expressly agree that the Common Pleas Court for Madison County, Ohio shall have jurisdiction over all matters relating to this Agreement and that any action to interpret or enforce any provision of this Agreement shall be brought and maintained in that Court.

Entire Agreement; Amendment: The parties acknowledge that they have read this Agreement, understand it, and agree to be bound by its terms, and the person signing on behalf of each had been authorized to do so. The parties further agree that this Agreement is the complete and exclusive statement of the agreement between the parties. This Agreement may not be amended or modified except by a writing, executed by each of the parties hereto. Any and all agreements, contracts, or understandings, whether prior or contemporaneous, written or oral, as superseded by this Agreement. This Agreement constitutes the entire agreement between the parties.

IN WITNESS WHEREOF, the parties have executed multiple counterparts of this Agreement, each of which is deemed to be an original, consisting of two (2) pages total, as of the date first set forth above.

Madison County Board of DD

BY: \_\_\_\_\_  
Superintendent

\_\_\_\_\_  
Employee

### **508.9 Expense Reimbursement**

Require proof of liability insurance coverage. Employees of the Board may receive reimbursement for expenses incurred while traveling on official Board business. Employees are eligible for expense reimbursement only when travel has been authorized in writing by the Superintendent/designee. Expenses shall be reimbursed in the following manner:

#### **A. Mileage, Parking and Tolls**

- 1) All employees must use county vehicles for work-related travel. If no county vehicle is available (per transportation department – denial must be in writing), employees may use personal vehicles. Employees using personal vehicles (with authorization to do so) shall be reimbursed for actual miles while on official Board business and at the Board approved mileage rate. (No reimbursement shall be made for employees using county vehicles.) Such payment is considered to be total reimbursement for all vehicle-related expenses. Mileage reimbursement is payable to only one employee if two or more employees traveling on the same trip use the same vehicle. Employees must request and receive prior authority for travel.

- 2) Charges incurred for parking and tolls are reimbursable at the actual amount. Receipts for parking costs and tolls are required.
- 3) No expense reimbursements are paid for travel between home and work location.
- B. Overnight Expenses
  - 1) Expenses covering the cost of a motel room may be reimbursed when an employee travels out of the county on official board business, and such travel requires an overnight stay. Expenses will be reimbursed only with prior written authorization by the Superintendent/designee.
- C. Meal Expenses
  - 1) Expenses covering the cost of meals may be reimbursed with prior authorization. The maximum reimbursement rate is \$25.00 per day. Itemized receipts must be submitted for reimbursement.
- D. Registration Fees
  - 1) Registration fees may be reimbursed with prior approval of the Board.

### **508.10 Holidays**

- A. Eligible employees are entitled to the following legal holidays: (O.R.C. §325.19)

New Years Day	First day of January
Martin Luther King Day	Third Monday in January
Presidents' Day	Third Monday in February
Memorial Day	Fourth Monday of May
Independence Day	Fourth Day of July
Labor Day	First Monday in September
Columbus Day	Second Monday in October
Veterans' Day	Eleventh Day of November
Thanksgiving Day	Fourth Thursday in November
Christmas Day	Twenty-Fifth day of December

And any other day designated for County employees by an act of the President of the United States, the Governor of this State or the Board.

- B. If the holiday falls on Sunday, it will be observed on the following Monday; if it falls on a Saturday, it will be observed on the preceding Friday or as designated by the Board calendar.
- C. An employee who actually works as required, with prior approval of the Superintendent, on one of the recognized, legal holidays is entitled to receive compensation at the rate of one and one-half (1 1/2) times the hours worked. Management, Professional, Supervisory, Intermittent or Substitute employees are exempt from this provision.
- D. Full-time employees who work a schedule other than Monday through Friday will receive compensatory time for any holiday observed on their regular day off based upon their regularly scheduled hours. Such time must be taken in the workweek in which the holiday occurs, unless otherwise approved by the Superintendent.

- E. Part-time employees are entitled to holiday pay for only that portion of any holiday for which they would normally have been scheduled to work.
- F. If a holiday occurs while an employee is on vacation or sick leave, such vacation day or sick day will not be charged against his or her vacation leave or sick leave.

### **508.11 Vacation**

#### **A. CALCULATION AND USE OF VACATION TIME - CLASSIFIED AND NON-UNION**

- 1) Full-time employees. All full-time classified employees earn annual vacation leave according to their number of years of service with the state of Ohio or any political subdivision of the state at a rate proportionate to the regular number of hours in the employee's biweekly period as set forth below. (Except for employees who have retired according to the provisions of any retirement plan offered by the state and have returned to public service after June 24, 1987. Such employees will not receive service credit for service prior to retirement with the state of Ohio or any political subdivision of the state.) Vacation leave for management employees is subject to the negotiated contracts. (Reference: O.R.C. §9.44, O.R.C. §325.19).

HOURS*	80**	75	72.5	70	VACATION DAYS/YEAR
YEARS OF COMPLETED SERVICE					
1 - 7	3.1	2.9	2.809	2.712	10
8 - 14	4.6	4.312	4.168	4.025	15
15 - 24	6.2	5.812	5.618	5.425	20
25 - UP	7.7	7.218	6.977	6.737	25

\*Hours are biweekly

\*\* Accrual rates for 80 hours are set by law. All pro-ration is based on the 80 hour standard.

The service required in each instance need not be continuous. Completion of a total of one (1) year of public service as defined in O.R.C. §9.44 is required before eligibility for any vacation leave is established. No further eligibility requirement need be met and vacation leave may be used as it is accrued, with approval of the Division Director and consistent with the other sections of this manual pertinent to vacation.

Vacation is credited each bi-weekly pay period at the maximum rate of 3.1 hours per pay period for those entitled to 80 hours of vacation per year; at 4.6 hours for those entitled to 120 hours per year; at 6.2 hours for those entitled to 160 hours per year; and at 7.7 hours for those entitled to 200 hours per year.

- 2) Carry-over to following year. Vacation leave shall be taken by the employee during the year in which it accrued and prior to the next recurrence of the anniversary date of his/her employment; provided, the appointing authority may, in special and meritorious cases, permit such employee to accumulate and carry over his vacation leave to the



following year. No vacation leave shall be carried over for more than three (3) years. (Reference: O.R.C. §325.19)

- 3) Holidays falling during scheduled vacation. Days designated as holidays or emergency days declared by the Governor are not charged to vacation leave regardless of the day of the week on which they occur.
- 4) Unpaid absences. Vacation leave is earned during the time the employee is on active pay status. It is not earned while on unpaid leave of absence or unpaid military leave.
- 5) Overtime. Vacation time used by an employee is considered non-work time for purposes of calculating overtime pay or compensatory time accrual.
- 6) Separation/Termination. Upon separation or termination from county service, an employee is entitled to compensation for any earned but unused vacation leave credit at the time of separation/termination. However, no payment will be made to employees having less than one (1) year of public service. Upon termination, all accumulated vacation will be paid to the employee at the employee's current hourly rate at the time of separation.
- 7) Death of employee. In the case of the death of an employee, any earned but unused vacation leave shall be paid to the date of death in accordance with O.R.C. §2113.04 to the deceased employee's estate.
- 8) Minimum one hour units. Vacation may only be used in units of one (1) hour or more.
- 9) Accrual by part-time employees. Part-time employees are not entitled to vacation leave. However, if these employees subsequently become full-time employees, their part-time service will count in determining the total amount of service. If a part-time employee becomes a full-time employee, he/she will be entitled to vacation leave after completing a total of one (1) year of service with the county or state or a political subdivision. When a part-time employee who has been in an active pay status for 2,080 hours becomes a full-time employee, that employee is eligible to immediately accumulate and use vacation benefits.

#### B. REQUEST AND APPROVAL

- 1) Vacation leave will normally be granted on a first request basis and must conform to program operation schedules. The Board reserves the right to approve vacation consistent with program needs including approval consistent with program operation schedules. The Board specifically reserves the right to require full-time seasonal employees to use some or all of accrued vacation time during periods when the relevant Board program is on break.
- 2) Vacation shall be requested in writing on the Board Vacation Request Form.
- 3) Requests for vacation must be submitted to and approved by the employee's immediate supervisor.

### **508.12 Sick Leave for Classified Employees**

- A. Sick leave is administered in accordance with O.R.C. §124.38 for classified employees. Sick leave for management employees is subject to the negotiated contracts. An employee may request sick leave for absences resulting from illness as described below, provided the employee follows the "Notification of Absence" policy outlined in this manual. Sick leave may be requested for the following reasons:

- 1) Illness or injury or conditions of the employee or a member of the employee's immediate family.
- 2) Exposure of employee or a member of the employee's immediate family to a contagious disease that would have the potential of jeopardizing the health of the employee or the health of others.
- 3) Death of a member of the employee's immediate family.
- 4) Medical, dental or optical examinations or treatment of employee or a member of the employee's immediate family.
- 5) Pregnancy, childbirth and/or related medical conditions.

For purposes of this policy, the "immediate family" is defined as: mother, father, brother, sister, child, spouse, grandparent, grandchild, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, legal guardian or other person who stands in the place of parent.

- B. The Superintendent or designee shall require an employee to furnish a satisfactory written, signed statement to justify the use of sick leave. If medical attention is required, a certificate stating the nature of the illness from a licensed physician shall be required to justify the use of sick leave. (Reference: R.C. §124.38)
- C. For each completed hour in active pay status, an employee earns .0575 hours of sick leave. For the purposes of this section, active pay status is defined as hours worked, hours on paid vacation, hours on holiday leave, hours on paid sick leave and hours on paid compensatory time.
- D. Intermittent employees accrue sick leave on a proportionate basis to the hours paid each pay period.
- E. The amount of sick leave time any one employee may accrue is unlimited.
- F. Sick leave shall be charged in minimum amounts of one (1) hour.
- G. Employees absent on sick leave shall be paid at the same basic hourly rate as when they are working.
- H. An employee requesting sick leave shall inform his or her supervisor or designee of the request and the reason therefore prior to fifteen minutes of the employee's scheduled starting time. Direct Care, Transportation, and employees who provide client services shall notify their supervisor prior to two (2) hours of their scheduled starting time. Failure to timely notify may result in denial of sick leave for the period of absence.
- I. Employees who request sick leave and have no available balance will have their requests disapproved.
- J. An employee fraudulently obtaining sick leave, or anyone found falsifying sick leave records, shall be subject to disciplinary action up to and including termination in accordance with policies outlined in this manual. The Superintendent or designee may require from the employee such verification as is appropriate to substantiate the employee's request for sick leave if the Superintendent or designee has a reasonable basis for requiring such verification.
- K. Altering a physician's certificate or falsification of a written, signed statement is grounds for immediate dismissal.
- L. Employees who transfer between county departments or agencies, or who are reappointed or reinstated, will be credited with the unused balance of accumulated sick leave, provided

the time between separation, reappointment or transfer does not exceed ten (10) years. It is the employee's responsibility to request that sick leave from prior services be transferred, and to provide documentation concerning the balance to be transferred.

- M. Employees may be required to document sick leave and other absences in accordance with the Board's Family and Medical Leave Act policy.

### **508.13 Sick Leave Donation Policy**

In the event of a catastrophic illness or injury to the employee or a member of his/her immediate family, which is documented to the satisfaction of the Superintendent, sick leave transfers in accordance with this policy will be permitted.

#### **A. Application**

- 1) Those persons eligible to be transfer sick leave donors shall include any employee of MCBDD who has twenty (20) days of sick leave accumulated prior to the transfer;
- 2) Donors will be permitted to transfer up to three (3) days per year to any one recipient, but may take as many transfers per year as they determine, subject to the provisions of item A.1;
- 3) Sick leave days received in the transfer shall be converted in value to the recipient's daily rate;
- 4) Recipients must exhaust all their own sick leave, personal leave, and vacation leave prior to receiving transferred sick leave;
- 5) The recipient may not use sick leave that would exceed 100% of his/her regular work days in any pay period;
- 6) In any calendar year, the recipient cannot receive total transferred sick leave in excess of ninety (90) days;
- 7) All transfers are voluntary and shall be documented in writing to the Superintendent on the MCBDD Sick Leave Transfer Form;
- 8) All matters pertaining to the medical information of the recipient and other matters relating to the transfers shall be kept confidential to the extent possible.
- 9) For each catastrophic illness or injury, any hours donated that are in excess of the necessary hours for the event, will be given back to the donors on a prorated basis.
- 10) An event is defined as an uninterrupted span of time where the employee is unable to work due to the catastrophic illness or injury. It does not include follow up doctor visits, therapy, etc.

### **508.14 Retirement – Sick Leave**

Sick Leave: Upon retiring from active state or county service after ten (10) or more years with the state or any of its political subdivisions, an employee may elect to be paid in cash for one-

fourth (1/4) of the employee's accrued but unused sick leave credit. The maximum payment allowed is one-fourth (1/4) of one hundred twenty (120) days. Conversion of sick leave on retirement shall be made based upon the employee's rate of pay at the time of retirement and eliminates the employee's entire sick leave balance. Sick leave conversion does not apply to any termination or separation other than retirement (Reference: O.R.C. §124.39(B)).

An employee may receive one or more payments, but the aggregate value of sick leave that is paid shall not exceed the value of thirty (30) days of accrued but unused sick leave.

### **508.15 Funeral Leave**

An eligible employee may be granted use of sick leave, upon approval of the Superintendent/designee, for a maximum of five (5) working days in the event of a death of an immediate family member. For purposes of this policy the "immediate family" is defined as only: mother, father, brother, sister, child, spouse, grandparent, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-law, sister-in-law, brother-in-law, legal guardian or other person who stands in place of the employee's parent. (Reference: Ad. Code 123:1-32-05(A)(4))

### **508.16 Military Leave**

- A. An employee who is drafted or is called up for service in the in the "uniformed services" generally shall (in accordance with federal and Ohio law) be entitled to re-employment upon discharge from the uniformed services. In all cases, the Board will comply with the provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA"), 38 U.S.C.A. 4303. For purposes of this paragraph of the policy, the term "uniformed services" shall have the same meaning as found in the USERRA. "Uniformed services" means the Armed Forces; the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty; the commissioned corps of the Public Health Service; and any other category of persons designated by the President in time of war or national emergency. "Services in the uniformed services" includes the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority. "Service in the uniformed services" includes active duty, active and inactive duty for training, National Guard duty under Federal statute, and a period for which a person is absent from a position of employment for an examination to determine the fitness of the person to perform such duty. The term also includes a period for which a person is absent from employment to perform funeral honors duty.

- 1) An employee is eligible for reemployment by meeting the following criteria:
  - a. The employer had advance notice of the employee's service;
  - b. The employee has five (5) years or less of cumulative service in the uniformed services in his or her employment relationship with a particular employer;

- c. The employee timely returns to work or applies for reemployment; and,
  - d. The employee has not been separated from service with a disqualifying discharge or under other than honorable conditions.
- 2) An employee in need of military leave should inform the Board at least thirty (30) days prior to departure for uniformed service when it is feasible to do so, and as much advance notice as possible unless giving such notice is prevented by military necessity, or is otherwise impossible or unreasonable under all the circumstances.
- 3) An employee's right to reemployment is terminated if the employee is:
  - a. Separated from uniformed service with a dishonorable or bad conduct discharge;
  - b. Separated from uniformed service under other than honorable conditions, as characterized by regulations of the uniformed service;
  - c. A commissioned officer dismissed by sentence of a general court-martial; in commutation of a sentence of a general court-martial; or, in time of war, by order of the President; or,
  - d. A commissioned officer dropped from the rolls due to absence without authority for at least three months; separation by reason of a sentence to confinement adjudged by a court-martial; or, a sentence to confinement in a Federal or State penitentiary or correctional institution.
- 4) An employee must timely reapply to the Board, and, in accordance with the law, provide appropriate documentation establishing eligibility for reemployment. Upon completing service in the uniformed services, the employee must notify the Board of his/her intent to return to the employment position by either reporting to work or submitting a timely application for reemployment. Whether the employee is required to report to work or submit a timely application for reemployment depends upon the length of service, as follows:
  - a. **Period of service less than 31 days or for a period of any length for the purpose of a fitness examination.** If the period of service in the uniformed services was less than thirty-one (31) days, or the employee was absent from a position of employment for a period of any length for the purpose of an examination to determine his or her fitness to perform service, the employee must report back to the employer not later than the beginning of the first full regularly-scheduled work period on the first full calendar day following the completion of the period of service, and the expiration of eight hours after a period allowing for safe transportation from the place of that service to the employee's residence. If it is impossible or unreasonable for the employee to report within such time period through no fault of his/her own, he or she must report to the employer as soon as possible after the expiration of the eight-hour period.
  - b. **Period of service more than 30 days but less than 181 days.** If the employee's period of service in the uniformed services was for more than thirty (30) days but less than one hundred eighty-one (181) days, he/she must submit an application for reemployment (written or verbal) with the employer not later than fourteen (14) days after completing service. If it is impossible or unreasonable for the employee to apply within fourteen (14) days through no fault of his/her own, he/she must submit the

application not later than the next full calendar day after it becomes possible to do so.

- c. **Period of service more than 180 days.** If the employee's period of service in the uniformed services was for more than one hundred eighty (180) days, he/she must submit an application for reemployment (written or verbal) not later than ninety (90) days after completing service.
- 5) If the employee is hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated during, the performance of service, he/she must report to or submit an application for reemployment to the Board at the end of the period necessary for recovering from the illness or injury. This period may not exceed two (2) years from the date of the completion of service, except that it must be extended by the minimum time necessary to accommodate circumstances beyond the employee's control that make reporting within the period impossible or unreasonable.
- 6) Upon timely application, the employee will be promptly reemployed. Generally, the employee will be reemployed in the job position that he or she would have attained with reasonable certainty if not for the absence due to uniformed service. The reemployment position will be determined in accordance with USERRA.
- 7) Even if the employee makes a timely application, reemployment may be denied when the Board demonstrates:
  - a. Its circumstances have so changed as to make reemployment impossible or unreasonable, such as an intervening reduction in force that would have included the employee.
  - b. Assisting the employee in becoming qualified for reemployment would impose an undue hardship on the Board; or,
  - c. The employment position vacated by the employee in order to perform service in the uniformed services was for a brief, nonrecurrent period and there was no reasonable expectation that the employment would continue indefinitely or for a significant period.
- B. O.R.C. §5923.05 requires that members of the Ohio National Guard, Ohio Naval Militia, Ohio military reserve, and all U.S. Armed Forces reserve components, who are permanent public employees, be granted a leave of absence without loss of pay for the time they are performing service in the uniformed services, for periods of up to one month, for each calendar year in which they are performing service in the uniformed services. For purposes of this policy, "one month" means twenty-two (22) eight (8) hour work days or one hundred seventy-six (176) hours within one calendar year. . An employee shall submit to the Board the published order authorizing the call or order to the uniformed services or a written statement from the appropriate military commander authorizing that service.
- C. Any employee who is entitled to the leave provided under paragraph B of this policy, and who is called or ordered to the uniformed services for longer than a month, for each calendar year in which the employee performed service in the uniformed services, because of an executive order issued by the President of the United States, because of an act of Congress, or because of an order to perform duty issued by the Governor is entitled, during the period designated in the order or act, to a leave of absence and to be paid, during each monthly pay period of that leave of absence, the lesser of the following:

- 1) The difference between the permanent public employee's gross monthly wage or salary as a permanent public employee and the sum of the permanent public employee's gross uniformed pay and allowances received that month;
- 2) Five hundred dollars.

#### **508.17 Personal Leave with Pay**

- A. Each full-time employee who has worked at least three (3) months with the Board will be granted the equivalent of two (2) days pay for personal leave per program year. These personal days will be placed to the employee's credit on the first day of each program year.
- B. Intermittent employees are not eligible for personal leave. Part-time employees will be granted personal leave on a pro-rated basis, based on the actual number of hours worked.
- C. Personal leave, as described in this policy, must be taken in minimum units of one-half (1/2) of the normal scheduled workday.
- D. Prior written approval by the Superintendent on the standard leave form must be obtained before using this benefit.
- E. Personal leave with pay may not be accumulated and may only be used during the program year in which it is granted.
- F. For purposes of this policy, program year is defined as the period of time between September 1 of any year and August 31 of the following year.
- G. Approval of personal leave shall be based on the ability of program to maintain adequate programming to the enrollees.

#### **508.18 Professional Leave**

An employee of the Board may be granted professional leave to attend professional meetings, conferences, workshops, courses, etc. Professional leave is intended to allow employees to receive specialized training and information without loss of pay and to stimulate and support their professional growth.

Prior written approval of the Superintendent/designee on the standard leave form must be obtained before using the benefit.

Employees requesting leave to travel outside the State of Ohio must have Board approval prior to the date(s) of the conference. Leave requests must be approved by the Superintendent through regular channels at least five (5) days in advance of the Board meeting which is scheduled prior to the dates requested.

#### **508.19 Administrative Days with Pay**

Employees are granted leave with pay the days the program is closed. These days are usually in conjunction with a holiday. These are considered active paid work days and employees may be required to report to work on these days. Other days are determined by the Board calendar.

### **508.20 Administrative Leave with Pay**

Employees may be granted leave with pay for purposes directly related to the function of the Agency or to the functions of the employee's position as defined below:

Purposes directly related to the function of the Agency or to the functions of the employee's position includes but is not limited to:

- A. Leave with pay that is granted in accordance with the disciplinary policy when it is determined by the Superintendent that the offense that is being investigated warrants the removal of the individual from active duty.
- B. Leave with pay that is granted when circumstances, such as health, preclude the staff member from reporting in to the facility for their regular shift. All paid leave must be exhausted in this case (sick, personal, vacation). The Superintendent will grant this leave when it is determined that the staff member can continue working from an outside location (their home) to assist the agency by continuing to provide essential functions of their position.

Administrative leave with pay may only be granted by the Superintendent. Any administrative leave with pay that would exceed three weeks in a one year period will be brought before the Board for review.

### **508.21 Court Leave/Jury Duty**

Court leave with pay shall be granted to employees summoned for jury duty during normal working hours by a federal, state or any other court of competent jurisdiction. In cases where the employee's absence will create a hardship on the agency or jeopardizes safety of students or clients, the employee will be requested to request excuse from jury duty. [Note: If employee cannot get released from jury duty, the employee cannot be penalized].

Court leave with pay shall be granted to employees subpoenaed to appear before any court or other body authorized by law to require attendance of witnesses during normal working hours where the employee is not a party to the action. An employee who is the appellant in an action before the State Personnel Board of Review or the claimant before the Bureau of Workers Compensation for a Board-related claim, and who is in active pay status at the time of the



scheduled hearing or examination, shall be granted leave with pay for purposes of attending such hearing or examination during a normally scheduled work day.

Any compensation or reimbursement received related to jury duty or for court attendance compelled by subpoena must be remitted to the Personnel Department when such duty was performed during normal working hours.

An employee who is appearing before a court or other authorized body in which he/she is a party to the action, except as noted, may request vacation time, personal day or leave with pay. Such instances would include, but not be limited to, criminal or civil cases, traffic court, divorce proceedings, custody or appearing as directed as a parent or guardian of juveniles.

(Reference: Ad. Code 123:1-34-03)

### **508.22 Leave Without Pay**

The Superintendent may grant a leave of absence to any employee for a maximum duration of six (6) months for any personal reasons of the employee, which includes any reason acceptable under the Family and Medical Leave Act subject to that Act's time limitations. Such a leave may be extended an additional six (6) months at the discretion of the Superintendent upon request of the employee.

Leave may be granted for a maximum six months for the disabling illness, injury or condition of an employee. If the employee is unable to return to active work status within six months, the employee may be given a disability separation. An employee requesting a leave of absence without pay due to a disabling illness, injury or condition must present, at the time the request is made, a licensed practitioner's certificate stating the probable period for which the employee will be unable to perform the essential job duties of the employee's position. Prior to return to work, the employee shall provide a physician's certificate that confirms the employee is able to perform the essential job duties of the employee's position.

Leave may be granted for a maximum period of two (2) years for the purpose of education, training, or specialized experience, which would be of benefit to the Board by improved performance at any level. No extension will be allowed.

The authorization of a leave of absence without pay is a matter of administrative discretion. The Superintendent will decide in each individual case if a leave of absence is to be granted.

The granting of any leave of absence is subject to approval of the Superintendent. Except for emergencies and subject to the Family and Medical Leave Act, employees will advise the Superintendent thirty (30) days prior to commencement of the desired leave so that the various functions may proceed properly.

Upon completion of a leave of absence, the employee is to be returned to the position formerly occupied, or to a similar position if the employee's former position no longer exists. Any replacement in the position while an employee is on leave will be terminated subject to established layoff procedures, upon the reinstatement of the employee from leave. The terminated employee may be considered for other vacancies.

An employee may return to work before the scheduled expiration of leave if requested by the employee and approved by the Superintendent. An employee who fails to return to work within three (3) working days of the completion or a valid cancellation of a leave of absence without pay without explanation to and approval from the Superintendent or designee may be removed from his/her position. An employee who fails to return to service from a leave of absence without pay and is subsequently removed or voluntarily resigns from the service is deemed to have a termination date corresponding to the starting date of the leave of absence without pay.

Leave without pay cannot be utilized until all other forms of legally available leave have been exhausted including vacation, personal leave and sick leave.

(Reference: Ad. Code 123:1-34-01)

## **509. Calamity Days**

The Superintendent/designee may authorize an emergency closing for all or part of the agency due to inclement weather conditions or other emergencies (i.e., water main break, heating malfunction).

All employees shall report to work on calamity days in which the program is closed (unless notified otherwise). A calamity day shall be considered a regular work day subject to all applicable policies. Employees will be paid in the same manner as they are paid for holidays for which they do not work except as noted in this policy. Employees shall be required to make up days if an excess of calamity days requires extending the calendar until the minimum number of required days of actual instruction/habilitation are completed.

Employees who are in a non-pay status before and after a calamity day will not be paid for the calamity day.

Employees who are on extended (five work days or greater) pre-arranged professional, sick, or vacation leave shall be charged for sick, vacation, or professional leave on calamity days.

Employees who are not on an extended leave and who are in a pay status (i.e., paid sick, professional, or vacation leave) either the entire day before or after a calamity day, will be paid for the calamity day or portion of the day missed, and will not be charged for sick, professional, or vacation leave for the portion of time they were not expected to report to work.

### **509.1 Religious Holidays**

It is the policy of the Board, in a flexible and fair manner, to permit and assist employees to observe religious holidays that have not been granted by law. While the granting of leave for such holidays may not always be possible, efforts will be made to accommodate the needs of the employee.

Employees observing religious holidays on days other than the already approved holidays may apply for Administrative Leave With Pay for the observance of a maximum of two (2) religious holidays per program year.

The time granted for Administrative Leave With Pay for religious holidays is to be made up by being assigned to work within the agency at times when the employee would not normally be scheduled to work.

Except by special permission, the employee will be assigned to work this make-up time in advance of the religious holidays to be taken. The time will be banked for use during the program year. Selection of time to work as make-up must be approved in writing by the Superintendent/designee.

The employee may also choose to use his/her personal day(s), vacation days, or approved leave without pay for observance of religious holidays. The policies governing use of personal days, vacation days or approved leave without pay must be followed.

If any of those days granted as Administrative Leave With Pay for observance of religious holidays are not made up by the end of the current program year, the employee will have a deduction made from his/her future accrual of vacation leave.

For the purposes of this policy, program year is defined as the period of time between September 1 of any year and August 31 of the following year.

### **510. Notification of Absence/Leave Request**

All employees must "report off" work for any absence. An employee is required to notify his/her supervisor or designee of his/her absence as referenced in 508.12 H. Failure to do so may result in denial of leave for the period of absence and may result in disciplinary action in accordance with the Board's Disciplinary Policy.

Employees are required to complete an Application for Leave form and to attach other applicable documents to request absence from work. Such request must be completed and forwarded to the supervisor prior to the absence whenever possible or upon immediate return to work.

The Superintendent/designee shall be the authority to approve or disapprove applications for leave and maintains the right to investigate any absence from work.

## **511. Commercial Driver License Training**

Each full-time employee of the Board required to obtain a commercial driver license (CDL) to complete their duties may be granted limited reimbursement to obtain the license based on the availability of funds. Reimbursement for obtaining the CDL shall be contingent upon the employee's enrollment in specialized coursework and testing procedures for the issuance of the license. Coursework must have a direct bearing on the preparation for license testing as related to operating Board vehicles.

An employee must apply for reimbursement on the appropriate form and receive prior written approval by the Superintendent in order to utilize the reimbursement. The employee will be personally responsible for all costs incurred for coursework attendance and testing of the above nature if prior approval is not obtained. Requests for approval should be submitted thirty (30) days prior to attendance, when possible. Requests for approval must include the cost of such coursework and a course description to assure the coursework has a direct bearing on the preparation for license testing as related to operating Board vehicles. Reimbursement will be approved contingent upon the successful completion of the coursework and successful passage of the commercial driver's license testing.

Based upon the availability of funds, the Board may provide for each qualified employee a one-time reimbursement. Costs for registration, lodging, meals and/or transportation shall not be reimbursable. Costs for the issuance of the driver's license itself shall not be reimbursable. Reimbursable costs include coursework, testing and medicals required. All requests for reimbursement shall be itemized and submitted to the Transportation Supervisor and Superintendent on the proper forms. Reimbursement requests must include the original receipts and documentation showing successful completion of the entire commercial driver's license testing for the required vehicle(s) to be operated.

Records of each employee's coursework shall be maintained in the individual's personnel file.

Reimbursement may not be accumulated and may only be granted up to the maximum amount approved by the Board on an annual fiscal year basis.

Reimbursement shall not be approved for persons attending coursework during their regular working hours. Coursework must be taken at times not requiring approved absence from employment.

## **512. Family and Medical Leave**

The Board will comply with Public Law 103-3, Public Law 110-181, Family and Medical Leave Act of 1993, to provide family and medical leave as specified in the legislation. Eligible employees will be provided up to 12 weeks of unpaid leave in connection with specific

qualifying events. Eligible employees may take up to 26 weeks of unpaid leave to care for a covered service member. Generally, employees will be provided employment in an equivalent position with equivalent conditions of employment upon return from family or medical leave. The Board will maintain records of utilization of family or medical leave per the requirements of the Department of Labor.

**A. Qualifying Events for Basic Leave Entitlement**

- 1) In order to be entitled to take the appropriate amount of family and medical leave, one of the following "qualifying events" must occur:
  - a. Incapacity due to pregnancy, prenatal medical care or child birth;
  - b. Care for the employee's child after birth, or placement for adoption or foster care;
  - c. Care for the employee's spouse, son, daughter or parent, who has a serious health condition;
  - d. For a serious health condition that makes the employee unable to perform the employee's job
- 2) The term "spouse" means a husband or wife. For purposes of this definition, husband or wife refers to the other person with whom an individual entered into marriage as defined or recognized under state law for purposes of marriage in the State in which the marriage was entered into or, in the case of a marriage entered into outside of any State, if the marriage is valid in the place where entered into and could have been entered into in at least one State. This definition includes an individual in a same-sex or common law marriage that either:
  - a. Was entered into in a State that recognizes such marriages; or
  - b. If entered into outside of any State, is valid in the place where entered into and could have been entered into in at least one State.
- 3) The term "parent" means a biological, adoptive, step, or foster father or mother, the spouse of any such person, or any other person who stood in loco parentis to the employee when the employee was a child as defined in this section. This term does not include "parents in law."
- 4) The term "son or daughter," for purposes of FMLA leave taken for birth or adoption or to care for a family member with a serious health condition, means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age 18, or age 18 or older and "incapable of self-care because of a mental or physical disability" at the time that FMLA leave is to commence.
- 5) A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities. Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three (3) consecutive calendar days combined with at least two (2) visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

## **B. Military Family Leave Entitlements**

- 1) Eligible employees with a spouse, son, daughter, or parent on “covered active duty” or call to covered active duty status may use their 12-week leave entitlement to address certain qualifying exigencies.
- 2) The term "spouse" means a husband or wife. For purposes of this definition, husband or wife refers to the other person with whom an individual entered into marriage as defined or recognized under state law for purposes of marriage in the State in which the marriage was entered into or, in the case of a marriage entered into outside of any State, if the marriage is valid in the place where entered into and could have been entered into in at least one State. This definition includes an individual in a same-sex or common law marriage that either:
  - a. Was entered into in a State that recognizes such marriages; or
  - b. If entered into outside of any State, is valid in the place where entered into and could have been entered into in at least one State.
- 3) The term "parent" means a covered service member's biological, adoptive, step or foster father or mother, the spouse of any such individual, or any other individual who stood in loco parentis to the covered service member. This term does not include parents “in law.”
- 4) The term "son or daughter," for purposes of military family leave, means a covered service member's biological, adopted, or foster child, stepchild, legal ward, or a child for whom the covered service member stood in loco parentis, and who is of any age.
- 5) An employee’s spouse, son, daughter, or parent is on “covered active duty” when he or she is either a) on duty as a member of a regular component of the Armed Forces and deployed with the Armed Forces to a foreign country under a call or order to active duty, or b) on duty as a member of a reserve component of the Armed Forces and deployed to a foreign country under a call or order to active duty in support of a contingency operation. Qualifying exigencies to manage the service member’s affairs are described on the Department of Labor form [Certification of Qualifying Exigency for Military Family Leave](#) and include: 1) Short notice deployment; 2) Military events and related activities; 3) Childcare and school activities; 4) care of the military member’s parent who is incapable of self-care; 5) Financial and legal arrangements; 6) Counseling; 7) Rest and recuperation; 8) Post-deployment activities; and 9) Additional activities not encompassed in the other categories, but agreed to by the employer and employee.
- 6) A qualified eligible employee may take leave to care for a covered service member who has suffered a serious injury or illness in the line of active duty or who has had an existing condition aggravated by military service (“military caregiver leave”). A covered service member means (1) a current member of the Armed Forces, National Guard or Reserves who is undergoing medical treatment, recuperation, or therapy, is in outpatient status, or is otherwise on the temporary disability retired list for a serious injury or illness incurred in the line of duty; or (2) a veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness. The injury or illness for

which the covered service member requires military caregiver assistance may manifest itself before or after the member officially became a “veteran.” Military caregiver leave also applies to pre-existing medical conditions that were aggravated by the service member’s active duty service in the military. **The FMLA definitions of “serious injury or illness” for current service members and veterans are distinct from the FMLA definition of “serious health condition”.**

- 7) An employee who has a qualified family relationship with a covered service member may take up to 26 weeks of leave during a single 12-month period. A qualified family relationship is a spouse, parent, son or daughter, or next of kin. The leave entitlement described in this paragraph applies on a per-covered service member, per-injury basis, such that an eligible employee may be entitled to take more than one leave if the leave is to care for a different covered service member or to care for the same service member with a subsequent serious illness or injury, but the employee is limited to a total of 26 weeks of military caregiver leave in any single 12-month period. No more than 26 weeks total of FMLA leave may be taken within any single 12-month period to care for a covered service member. Spouses who are employed by the same covered employer may be limited to a combined total of 26 workweeks of leave during the single 12-month period for military caregiver leave.
- 8) An employee may take FMLA leave for up to 12 weeks for a Qualifying Event in the same 12-month period in which an FMLA leave is taken to care for a covered service member.
- 9) The Board will provide the employee with a copy of the Department of Labor Form [Certification for Serious Injury or Illness of Covered Service member for Military Family Leave or Certification for Serious Injury or Illness of a Veteran for Military Caregiver Leave](#) to be completed by the employee and an authorized military health care provider of the covered service member. The employee may present certain military certifications such as “Invitational Travel Orders” or “Invitational Travel Authorizations” for purposes of certification that must be accepted by the Board.
- 10) If the certification is incomplete or unclear, the employee is to be given seven (7) additional calendar days to provide more complete information. Recertifications and second or third opinions are not permitted in connection with respect to leave to care for a covered service member.
- 11) The Superintendent or a person designated by the Superintendent may contact the covered service member’s health care provider for clarification and/or authentication of the medical certification. Under no circumstances may an employee’s direct supervisor contact the health care provider. Attempts to clarify or authenticate a medical certification shall not result in obtaining additional medical information.

#### **C. Certification and restrictions on leave**

- 1) The Board may require that an employee's leave to care for the employee's covered family member with a serious health condition, or due to the employee's own serious health condition that makes the employee unable to perform one or more of the essential functions of the employee's position, be supported by a certification issued by the health care provider of the employee or the employee's family member. The Board may also require that an employee's leave because of a

qualifying exigency or to care for a covered service member with a serious injury or illness be supported by a certification. An employer must give notice of a requirement for certification each time a certification is required; written notice must be provided whenever the Board is required to determine eligibility for FMLA leave. An oral request by the Board to an employee to furnish any subsequent certification is sufficient.

- 2) The employee must provide the requested certification to the Board within 15 calendar days after the Board's request, unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts or the Board provides more than 15 calendar days to return the requested certification. The employee must provide a complete and sufficient certification to the Board. The Board shall advise an employee whenever it finds a certification incomplete or insufficient, and shall state in writing what additional information is necessary to make the certification complete and sufficient. A certification is considered incomplete if the Board receives a certification, but one or more of the applicable entries have not been completed. A certification is considered insufficient if the Board receives a complete certification, but the information provided is vague, ambiguous, or non-responsive. The Board must provide the employee with 7 calendar days (unless not practicable under the particular circumstances despite the employee's diligent good faith efforts) to cure any such deficiency. If the deficiencies specified by the Board are not cured in the resubmitted certification, the Board may deny the taking of FMLA leave. A certification that is not returned to the Board is not considered incomplete or insufficient, but constitutes a failure to provide certification.
- 3) The Superintendent or a person designated by the Superintendent may contact an employee's health care provider for clarification and/or authentication of the medical certification. Under no circumstances may an employee's direct supervisor contact the health care provider. Attempts to clarify or authenticate a medical certification shall not result in obtaining additional medical information.
- 4) At the time the Board requests certification, it must also advise an employee of the anticipated consequences of an employee's failure to provide adequate certification. If the employee fails to provide the Board with a complete and sufficient certification, despite the opportunity to cure the certification, or fails to provide any certification, the Board may deny the taking of FMLA leave. In all instances when certification is requested, it is the employee's responsibility either to furnish a complete and sufficient certification or to furnish the health care provider providing the certification with any necessary authorization from the employee or the employee's family member in order for the health care provider to release a complete and sufficient certification to the Board to support the employee's FMLA request.
- 5) An eligible employee may take up to 12 weeks of unpaid leave to care for the employee's son or daughter with a serious health condition. For purposes of the FMLA, the terms "son" or "daughter" mean a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age 18, or age 18 or older and "incapable of self-care because of a mental or physical disability" at the time that FMLA leave is to commence.



"Incapable of self care" requires active assistance or supervision to provide daily self care in three or more "activities of daily living." For purposes of this policy, a spouse does not need to establish an "in loco parentis" relationship with a child to exercise their rights. In the absence of a marriage, as recognized under this policy, an employee may exercise his/her rights pursuant to the FMLA to care for a child when that employee stands in loco parentis to that child. Persons who are "in loco parentis" include those with day-to-day responsibilities to care for or financially support a child. A biological or legal relationship is not necessary.

- 6) In the absence of a biological or legal relationship and/or for purposes of confirmation of family relationship, the Board may require the employee giving notice of the need for leave to provide reasonable documentation or statement of family relationship. This documentation may take the form of a simple statement from the employee, or a child's birth certificate, a court document, etc. The Board is entitled to examine documentation such as a birth certificate, etc., but the employee is entitled to the return of the official document submitted for this purpose.
- 7) Entitlement for child care ends at the end of the 12-month period beginning on the date of birth. Entitlement for child care ends at the end of the 12-month period beginning on the date of placement. The child care entitlement applies to parents in a marriage, as recognized under this policy, and unmarried individuals acting "in loco parentis."
- 8) When the Board employs both spouses, the total amount of Family and Medical Leave shall be twelve (12) weeks combined, when the leave is taken for birth of the employee's son or daughter or to care for the child after birth, for placement of a son or daughter with the employee for adoption or foster care or to care for the child after placement, or to care for the employee's parent with a serious health condition. Leave taken for other qualifying events shall not be subject to this restriction.

#### **D. Qualified Employee**

- 1) A Board employee must meet the following criteria to be a "qualified employee" eligible for family and medical leave:
  - a. An employee must be employed by the Board for more than 12 months of active service, which need not be 12-consecutive months.
  - b. An employee must have worked more than 1,250 hours in the 12 months prior to the commencement of FMLA leave.
  - c. An employee must be employed at a worksite where 50 or more employees are employed within 75 miles of that worksite.
- 2) Service Member Time in the military service covered under the Uniformed Services Employment and Reemployment Rights Act (USERRA) will count towards fulfilling the length of employment and hours of work requirements to be eligible for an FMLA leave.

#### **E. Use of Paid Leave**

- 1) If an employee does not elect to use accrued paid leave, he/she will be required to use all accrued, unused paid vacation, personal, sick, compensatory time, and/or PTO as a substitute for unpaid Family and Medical Leave. Such paid leave will run concurrently with and be counted toward the 12 workweeks of leave. Once all

paid leave is exhausted, any remainder of the Family and Medical Leave shall be unpaid.

**F. Coverage Period; Intermittent Leave**

- 1) A qualified employee is entitled to take up to a total of twelve (12) weeks of a combination of paid and unpaid leave per year (as defined by the Board) for a qualifying event.
- 2) Leave under qualifying events 1 or 2 will not be taken by an employee intermittently or on a reduced leave schedule unless the employee and the Board agree otherwise. Leave taken under qualifying events 3, 4, and Section B may be taken intermittently or on a reduced leave schedule when medically necessary. If an employee requests intermittent leave or leave on a reduced leave schedule, the Board may require the employee to transfer temporarily to an available alternative position for which the employee is qualified and that has equivalent pay and benefits and better accommodates recurring periods of leave than the regular employment position of the employee. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis. Upon return to work from such leave, the employee will be returned to his/her former position, or an equivalent position.

**G. Benefits**

- 1) Qualified employees who take family or medical leave under this provision are entitled to the continuation of health and dental care benefits during the period of family or medical leave or military caregiver leave. The Board will continue to pay the Board's share of the health and dental insurance premiums during any family or medical leave or military caregiver leave. If the employee should exhaust all paid leave during the Family and Medical Leave, the employee shall make arrangements with the Board to pay the employee's share of health insurance costs prior to the beginning of the unpaid Family and Medical Leave. The Board is entitled to recover the premium paid by the Board for maintaining insurance coverage for the employee if the employee fails to return after the expiration of the family or medical leave to which the employee is entitled under this act for a reason other than (1) the continuation, recurrence, or onset of either a serious health condition of the employee (Qualifying Event 3) or the employee's family member (Qualifying Event 4), or a serious injury or illness of a covered service member; or (2) other circumstances beyond the control of the employee.
- 2) Qualified employees do not accrue seniority or benefits, other than health and dental care benefits during the time of family or medical leave unless they are in active pay status using sick leave or vacation leave. Use of FMLA leave will not result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

**H. Designation of Leave**

- 1) It is the responsibility of the Board, through the Superintendent or designee, to designate employee absences as FMLA leave or not FMLA leave. This is the case whether or not an employee wishes to have absences designated as FMLA leave, and whether or not the employee has requested FMLA leave. The Board may request from the employee, and the employee will provide to the Board, such

information as is reasonably necessary for the Board to determine whether an employee absence qualifies for FMLA leave. The Board will act reasonably in determining whether an absence qualifies for and/or is designated FMLA leave.

- 2) The Board shall inform an employee requesting leave whether he/she is eligible under the FMLA. If the employee is eligible, the Board will provide the employee with all appropriate forms and notices required or authorized by the FMLA including the employee's rights and responsibilities. The Board will notify the employee that the leave will be designated as FMLA-protected leave and the amount of leave counted against the employee's entitlement. If the employee is not eligible for FMLA leave, the Board will provide the employee as to the reason for ineligibility. If the Board determines that the leave is not FMLA-qualifying, the Board will notify the employee.

#### **I. Notifications and Timeframes**

- 1) The qualified employee will give the Board at least 30 days notice of the date family or medical leave when the need is foreseeable. Otherwise, the employee shall provide notice as soon as practicable under the facts and circumstances, and generally must comply with the Board's normal call-in procedures. Employees must comply with established procedures for requesting leave, including paid leave.
- 2) Employees must provide sufficient information for the Board to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, a family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the Board if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees will be required to provide a certification and periodic recertification supporting the need for leave.
- 3) The qualified employee will provide the Board certified information from the health care provider (licensed doctor of medicine or osteopathy) of the employee, employee's spouse or immediate family member upon requesting utilization of family or medical leave. Such certification will include:
  - a. The date the condition began;
  - b. The anticipated duration of the condition;
  - c. The necessity of the leave;
  - d. The inability of the employee to perform job functions.
- 4) The Board may, at its expense, request a second or third opinion from a health care provider. When certification is requested for FMLA approval, it is the employee's responsibility to provide the employer with timely, complete, and sufficient certification and failure to do so may result in delay or denial of FMLA leave. If the certification is incomplete or unclear, the employee is to be given seven (7) additional calendar days to provide more complete information.
- 5) Before being permitted to return to work from a leave for the employee's own serious health condition, the employee shall be required to provide certification from his or her health care provider that the employee is able to resume work and perform the essential functions of the employee's job. If state or local law requires

that a public health official examine an employee as a condition for returning to work, the employee must fulfill this obligation.

- 6) In cases where an FMLA leave is for a qualifying exigency, the Board shall provide the employee with a copy of the Department of Labor form [Certification of Qualifying Exigency for Military Family Leave](#) to be completed by the employee. The completed form along with the documentation that the employee provides will be used to determine if the leave request qualifies and the length of the leave.

**J. Reinstatement after leave.**

- 1) Upon return from leave under this policy, the employee shall be restored to his/her former position or an equivalent position with equivalent pay, benefits, and other terms and conditions of employment, to the extent required by law. However, no employee is entitled under this policy to any right, benefit, or position other than that to which the employee would have been entitled had he/she not taken leave. The FMLA contains a limited exception to the restoration provision for certain highly compensated employees (“key employees”) under certain conditions. Employees determined to be key employees and to whom the Board intends to deny restoration will be notified in writing at the time the employee gives notice of the need for FMLA leave or as soon thereafter as the Board makes such determination.

**K. Definition of “Year”.**

- 1) For purposes of the Board’s Family and Medical Leave Act policy, a “year” means a “rolling twelve month period measured backward from the date an employee uses any FMLA leave”. This rolling 12-month period means that each time an employee takes FMLA leave, the remaining leave balance would be any balance of the 12 weeks which has not been used during the immediately preceding 12 months. For example, if an employee has taken eight weeks of leave during the past 12 months, an additional four weeks of leave could be taken. If an employee used four weeks beginning February 1, 2008, four weeks beginning June 1, 2008, and four weeks beginning December 1, 2008, the employee would not be entitled to any additional leave until February 1, 2009. However, beginning on February 1, 2009, the employee would again be eligible to take FMLA leave, recouping the right to take the leave in the same manner and amounts in which it was used in the previous year. Thus, the employee would recoup (and be entitled to use) one additional day of FMLA leave each day for four weeks, commencing February 1, 2009. The employee would also begin to recoup additional days beginning on June 1, 2009, and additional days beginning on December 1, 2009.

**L. Unlawful Acts.**

- 1) The FMLA makes it unlawful for the Board to:
  - a. Interfere with, restrain, or deny the exercise of any right provided under FMLA;
  - b. Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

**M. Enforcement.**

- 1) An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

- 2) The FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

## **513. Voluntary Separation**

Resignation. Voluntary separation from employment shall require written consent of the Superintendent, or Board President, or at least thirty (30) days written notice before its effective date. Professional and management employees in a position that requires a certificate issued by the State Board of Education under R.C. §3319.22 to 3319.31 or a certificate issued by the Director of the Ohio Department of Developmental Disabilities under R.C. §5126.25 who resign without thirty (30) days notice shall be subject to suspension of the certificate for a period of time not to exceed one year as determined by the state board/director following a complaint filed by the county board of DD and investigated by the issuing body. (R.C. §5126.29)

Employees who plan to voluntarily resign shall notify their immediate supervisor in writing on the appropriate form. Staff other than professional or management staff shall give at least two (2) weeks' notice.

Any employee who resigns is encouraged to give his/her reasons for resigning and to discuss with his/her supervisor any working conditions that he/she feels are noteworthy.

Failure to give proper notification may result in ineligibility for reinstatement.

## **514. Disability Separation**

This policy outlines the conditions under which Disability Separation may be granted and procedures for administering its use. Employees who are protected under the Americans With Disabilities Act, 1990, and/or the Family and Medical Leave Act are guaranteed their rights by the Board. A disciplinary separation may be voluntary or involuntary. [The Appointing Authority must follow the removal provisions (R.C. 124.34) in the case of an involuntary disability separation.].

- A. Voluntary Reduction - When an employee becomes physically unable to perform the essential duties of his/her position, but is still able to perform the essential duties of a vacant, lower level position for which the employee has the necessary credentials, he/she may voluntarily request reduction to the lower level position and the subsequent salary adjustment. Such request shall be made in writing through the proper channels stating the reason for the request.

- B. Personal Leave - A physically incapacitated employee, who has exhausted his/her accumulated sick leave and vacation leave and for whom voluntary reduction is not practicable, may request up to six (6) months of personal leave without pay only if he/she can present evidence as to the probable date on which he/she will be able to return to the same or similar position within a six (6) month period. Such request must be submitted in writing to the Superintendent through the immediate supervisor with a copy of a physician's statement attached. Whenever the probable date of return is unknown, or longer than six (6) months, the employee shall be placed on Disability Separation, up to the maximum of two (2) years. An employee who fails to return to work within three (3) working days of the completion or valid cancellation of a leave of absence without pay without explanation to and approval from the Superintendent/designee may be removed from his/her position.
- C. Disability Separation - A disability separation may be granted when an employee has exhausted his/her accumulated sick leave and any authorized vacation and any other approved leave and the Board has substantial credible medical evidence of the employee's disability and determines that the employee is incapable of performing the essential job duties of the employee's assigned position due to the disabling illness, injury or condition. (Ohio Administrative Code 123:1-30-01).
- D. Voluntary Disability Separation - A voluntary disability separation may be granted when requested by an employee who is unable to perform the essential job duties of his or her position due to a disabling illness, injury, or condition. (Ohio Administrative Code 123:1-30-02).
- E. Medical/Psychological Examination - The Superintendent may request a medical or psychological examination when it appears that an employee is unable to perform the essential functions of the employee's job, the employee has requested a voluntary disability separation, or the employee has requested reinstatement from a disability separation. An employee may be disciplined, including removal, for failure to appear for the scheduled exam or failure to release to the Superintendent the results of the examination.

If the Superintendent determines as a result of the examination that the employee is incapable of performing the essential functions of the employee's job due to a disabling injury, illness, or condition, the Superintendent shall, in the case of an involuntary disability separation, institute pre-separation proceedings (Ohio Administrative Code 123:1-30-01), or shall, in the case of a request for a voluntary disability separation, grant the employee's request. (Ohio Administrative Code 123:1-30-02). In the case of an involuntary disability separation, if the Superintendent determines after the pre-separation proceedings that the employee is incapable of performing the employee's job, the Superintendent shall file with the State Personnel Board of Review a R.C. 124.34 order of involuntary disability separation.

- F. Temporary Appointment of Replacement. An appointment made to a position vacant by voluntary or involuntary disability separation will be on a temporary basis, and such employee must be made fully aware of its temporary nature with written documentation of same. A replacement in the position while an employee is on leave will be terminated upon the reinstatement of the employee from leave.

## **515. Separation Pay**

Upon separation from employment, an eligible employee shall be paid for any unused vacation time to his/her credit as of the date of such separation.

Eligible employees shall be paid for their sick leave upon written request and according to the Board's policy. (Cross Reference: Sick Leave Conversion Policy).

Separation payments will be made on the nearest scheduled payday following sixty (60) days from separation.

## **516. Retirement**

Board employees are required by law to participate in the Ohio Public Employees Retirement System or the Ohio State Teachers Retirement System, as applicable.

Eligibility for retirement under each of the above systems is outlined by that entity and employees should consult that agency to determine eligibility and benefits.

Employees who plan to retire shall notify their immediate supervisor in writing with at least thirty days notice.

### **516.1 Retirement/Reemployment Plan**

See Addendum for Voluntary Agreement to Accept a Reduction in Pay

This policy applies to classified and non-classified employees of the Madison County Board of DD (County Board) following their retirement under PERS or STRS

Upon their retirement, employees of the County Board may be reemployed by the Superintendent. The Superintendent, as the appointing authority, has full and final authority, in his/her sole discretion, to reemploy any retired employee. Employees wishing to retire and then be reemployed must notify in writing the Superintendent at least sixty (60) days prior to retirement.

Reemployed retirees will remain on the County Board Wage Schedule and agree to a wage reduction of twenty (20) % or seven (7) steps of the current level, whichever is lower. The reemployment retirees shall remain on the same step for the remainder of their reemployment.

If the sixty (60) day waiting period is not taken for the initial reemployment year, the 20 (20) % reduction will not occur until two (2) months after their retirement date.

Vacation and Sick Leave shall be paid out at initial retirement per County Board policy and reemployed employees will start reemployment with zero (0) balances.

Sick leave will begin accruing at reemployment but will not be paid out at later separation from the County Board.

Vacation leave will begin accruing at reemployment with credit for all prior public service years.

All reemployed retirees who are reemployed full time qualify for the same insurance benefits as other full time employees.

Reemployed employees still must contribute to their respective retirement system.

Employees who are retiring must submit a copy of the letter from PERS or STRS verifying the retirement date to the Personnel Office.

## **517. Layoff Policy**

### **517.1 Layoff Procedure – Classified**

#### **INTENT OF THIS POLICY**

Employees in the classified civil service may be laid off whenever a reduction in force is necessary due to a lack of funds, lack of work, or the abolishment of positions.

#### **IMPLEMENTATION PROCESS**

- G. If it becomes necessary for an appointing authority to reduce its work force, the appointing authority shall lay off employees in accordance with R.C. §§124.321 to 124.327 and the rules of the Administrative Code of the Ohio Department of Administrative Services.
- H. If an appointing authority abolishes positions in the civil service, the abolishment of positions and any resulting displacement of employees shall be made in accordance with R.C. §§124.321 to 124.327 and the Administrative Code of the Ohio Department of Administrative Services.

Employees desiring a copy of the applicable codes may request them from the Superintendent's office.

### **517.2 Layoff Procedure - Unclassified**

#### **A. As used in this section:**

- 1) "Board" means the Madison County Board of Developmental Disabilities.
- 2) "Employee" means a management employee of a Board.
- 3) "Job title" means the working title of a position from which the Board determines a reduction in force is necessary.
- 4) "Reduction in force" means a reduction in the number of employees employed by a Board, which results in layoffs.



- 5) "Seniority" means the total number of quarters of employment completed by an employee with the Board.
- B. When a Board determines a reduction in force is necessary, it may lay off employees. The provisions of R.C. §§124.321 to 124.327 do not apply to reductions in force under this section.
- C. The Board, in its sole discretion, shall determine the job titles in which a reduction in force shall occur. Within each job title, the order of layoff shall be as follows:
  - 1) All employees holding limited contracts for that title shall be laid off before any employee holding a continuing contract for that title is laid off.
  - 2) Within each category of contract, part time employees shall be laid off before full time employees.
  - 3) Layoffs shall proceed in inverse order of seniority.
- D. Employees may not bump into other job titles.
- E. Employees retain the right to be reinstated to the job title from which they were laid off for one (1) calendar year following layoff.
  - 1) Employees shall be offered reemployment in inverse order of layoff as provided in division (C) of this section.
    - a. When a vacancy occurs in a job title from which employees have been laid off, the employee eligible for reinstatement shall be notified, in writing of the vacancy. Notice shall be mailed, certified U.S. mail, return receipt requested, to the employee's last known address. Laid off employees are responsible for notifying the Board, in writing, of any change of address.
    - b. Laid off employees shall accept or decline the offer of reinstatement within five (5) days after it is received. Offers of reinstatement are deemed received on the earlier of ten (10) days after mailing to the correct address or actual receipt. Failure to respond to an offer of reemployment within the time limits imposed by this division constitutes refusal of that offer.
    - c. Any employee who declines reemployment under this division forfeits his/her right to reemployment except that no employee shall lose the employee's right to reemployment for refusing to accept a part-time position.
  - 2) No person may be hired into any job title in which a layoff has occurred, other than by reinstatement, until:
    - a. All laid off employees have been reinstated or declined reinstatement or
    - b. More than one (1) year has elapsed since the layoff occurred.
- F. No person shall be hired into any position for which a laid off employee holds a continuing contract until that position has been offered to and declined by all eligible employees in the manner provided in division (E) of this section.

## **518. Delegated Nursing**

Pursuant to Ohio Revised Code §§5123.42, 5123.651, and 5126.36, an employee of the Board who is not specifically authorized by other provisions of the Revised Code to administer prescribed medications, perform health-related activities, perform tube feedings, or provide

assistance in the self-administration of prescribed medications may do so pursuant to the authority granted under those sections, provided such activities are carried out in accordance with the requirements of those sections and any administrative rules promulgated by the Ohio Department of Developmental Disabilities.

Cross Reference County Board Policy – Chapter 14 Medication Administration

## **519. Miscellaneous Policies**

### **519.1 Solicitation and Distribution**

- A. This policy does not apply to solicitations sanctioned by the County Board or County Commissioners, i.e. United Way.
- B. The purpose of this policy is to protect the interests of the Board, its clients and the citizens of the county and to provide for a productive and safe working environment.
- C. There shall be no solicitation or distribution by non-employees at any time on the Employer's premises or in any work area, except as provided for in this policy. This section does not apply to vendors as listed in the Definition Section of this policy.
- D. Employees shall not solicit or distribute materials to other employees or non-employees during work time. Employees may solicit other employees or non-employees during non-work time.
- E. Each facility of the Board, except for residential facilities, will have established work and non-work areas. The building authorities of each of the training centers, workshops, transportation center, and early education center will be responsible for designating such areas. The Superintendent/designee will designate such areas for the administration building and act as the building authority for purposes of solicitation and distribution.
  - 1) Any organization, group or individual employee(s) may request permission to use the designated non-work areas for the purpose of soliciting or distributing materials to employees under the following conditions:
  - 2) Employees to whom solicitations are made, must be on non-work time.
  - 3) Solicitation or distribution may only be conducted in designated non-work areas.
  - 4) Requests for permission to use the designated non-work areas of the facility must be in writing to the building authority no less than seven (7) calendar days, and no more than fourteen (14) calendar days prior to the requested date for solicitation or distribution activities. Such request shall contain a list of the person(s) or alternate(s) who wish to access the premises.
  - 5) The building authority will confirm by letter the approval or disapproval of the use of the designated area, outlining the date and time in which the designated non-work area may be used.
  - 6) The designated non-work area may only be used by one group, organization, or individual employee(s) at a time.
  - 7) Once written approval for use of the non-work area has been obtained, notices may be permitted to be posted in accordance with the Bulletin Board policy.

- F. Whenever conflicts occur over the scheduling of non-work areas within the individual facilities, the building authority shall attempt to provide an alternate area. If no alternate non-work areas are available, the building authority shall grant access to the group, organization or employee(s) on a rotating basis.
- G. Written materials which contain the following will be prohibited from distribution or posting:
  - 1) Scandalous, scurrilous or derogatory attacks on the Board, managing officers, supervisors, or other personnel of the Board.
  - 2) Personal attacks upon any employee.
  - 3) Comments regarding candidates for public or employee organization office.
- H. Non-employees who disregard or violate these conditions for solicitation or distribution will be ordered to leave the premises, and, if necessary, escorted from the premises. In addition, the individual and the organization shall be prohibited access to the facility for a minimum of sixty (60) days.
- I. Employees who violate these policies will be subject to discipline as provided in the Board's discipline policy.
- J. For the purposes of this policy, the following definitions apply to the terms referred to in this policy:
  - 1) "Distribution" - means an act of distributing goods, materials and/or written materials.
  - 2) "Employee" - means any person in the employ of the Board.
  - 3) "Non-Work Area" - means any area on or off the Board's premises not designated as a work area.
  - 4) "Non-Work Time" - means any time during an employee's work day where the employee is totally relieved of work duties, such as break time. Whether an employee is in paid or non-paid status during these times is immaterial to the designation of non-work time.
  - 5) "Solicitation" - means an act of requesting an individual to purchase goods, materials or services, sign anything or a plea for financial contribution or support of any other kind.
  - 6) "Vendor" - means any individual or group engaged in or desiring to engage in the supply of goods, materials or services to the Board or sheltered workshop(s) which goods, materials or services are utilized in the conduct of public business.
  - 7) "Work Area" - means any office, building or physical location where official Board or sheltered workshop business is transacted and/or operations of the Board or workshop are being conducted. This includes any public or private area where employees are engaged in work activities.
  - 8) "Work Time" - means all the time when an employee's duties require that he/she be engaged in work tasks, but does not include an employee's own time, such as scheduled breaks, and time before or after a work shift.

#### **SOLICITATION, DISTRIBUTION, NO ACCESS AND TRESPASS**

**SOLICITATION:** Solicitation by an employee to another employee is only permitted while the employee doing the soliciting and the employee being solicited are on their non-work time in a non- work area.

**DISTRIBUTION OF MATERIALS:** Distribution of materials by an employee to another employee is only permitted while the employee doing the distributing and the employee being distributed to are on their non-work time in a non-work area.

**NO TRESPASS RULE:** Solicitation and/or distribution of literature or trespassing by non-employees is prohibited. The only exception to this policy is the regular business activities of the Parent/Teacher Association and the Adult Center Parent Group.

**EMPLOYEE NO ACCESS RULE:** Employees are not permitted to enter a Board facility on an unassigned work day (for example: vacation or personal leave day) for the purpose of solicitation or distribution as defined below.

**DEFINITIONS:**

- A. "SOLICITATION" -- means an act of requesting an individual to purchase goods, materials or services, sign anything or plea for financial contribution or support of any other kind.
- B. "DISTRIBUTION" -- means an act of distributing goods, materials and/or written materials.
- C. "NON-WORK AREA" -- means areas not normally used for daily program or other designated activities. Non-work areas to be designated by administrator in charge.
- D. "NON-WORK TIME" -- means time when staff is not assigned to clients or pupils, classroom or work area or any other work assignment.

(Reference: O.A.C. Rules 4117-5-06,10. O.R.C. §4117.11; O.R.C. §4117.12)

## **519.2 Bulletin Boards**

It is the policy of the Board to maintain all facility bulletin boards as a means of communicating information to employees. (Exceptions are those bulletin boards specified for programming purposes.)

All material that is to appear on Board bulletin boards shall be posted and removed by the facility Building Authority or designee.

All Board, federal and state required notices, and other legally required notices shall be posted in an area visible to all employees.

Information of a general public interest may be posted by the Building Authority or designee if the information does not contain the following:

- A. Personal attacks upon any employee or public official;
- B. Scandalous, scurrilous or derogatory attacks on the Board, managing officers, supervisors or other personnel of the agency;
- C. Comments regarding candidates for public office.

The following procedures shall be followed concerning the posting of any materials on the Board's bulletin boards:

- A. All requests to have materials posted shall be in writing to the Building Authority or designee, and shall contain the name of the person or group requesting to post the material, a copy of the material to be posted, and the requested period of time the material is to be posted.
- B. The Building Authority or designee shall approve or disapprove of the request by the end of the next scheduled workday.
- C. No material will be posted for a period of time which is longer than thirty (30) calendar days, except for legally required notices, timely staff training materials, or agency publications/notices that the Building Authority or designee decides should be posted for a longer period.
- D. At the end of the thirty (30) day period, or any period specified by the person or group requesting the posting, whichever is less, the Building Authority or designee shall remove the posted material.

Any material posted in violation of this policy shall be removed from the facility bulletin boards.

Violators of this policy shall be subject to disciplinary action as specified in the Board's discipline policy.

### **519.3 Political Activity - Classified Employees**

This policy lists the specific political activities legally permitted and prohibited to all classified employees, including classified employees on authorized leave of absence from their positions. Employees are encouraged to exercise their constitutional rights to vote.

#### **A. Activities Permitted to Classified Employees**

- 1) Registration and voting.
- 2) Expressing opinions, either orally or in writing.
- 3) Voluntary financial contributions to political candidates or organizations.
- 4) Circulation of nonpartisan petitions or petitions stating views on legislation.
- 5) Attendance at political rallies. Employees may attend political rallies that are open to the general public.
- 6) Nominating petitions. Employees may sign nominating petitions in support of individuals.
- 7) Political pictures. Employees may display political signs in/on their homes/yards.
- 8) Badges, buttons and stickers. Employees may display political stickers on their private automobiles or may wear political badges or buttons. (Wearing of same may not interfere with job safety.)
- 9) Serving as a precinct election official under O.R.C. §3501.22.

#### **B. Activities Prohibited to Classified Employees**

- 1) Participating in a partisan election as a candidate for office.
- 2) Declaring candidacy for an elected office that is filled by partisan election.
- 3) Circulating official nominating petitions for any candidate.
- 4) Filing of petitions meeting statutory requirements for partisan candidacy to elective office.
- 5) Holding an elected or appointed office in any political organization.
- 6) Accepting appointment to any office normally filled by partisan election.
- 7) Campaigning by writing for publications, by distributing political material or by making speeches on behalf of a candidate for elective office.
- 8) Soliciting, either directly or indirectly, any assessment, contribution, or subscription for any party or candidate.
- 9) Soliciting the sale of or selling political party tickets, materials or other political matter.
- 10) Engaging in activities at the political polls, such as soliciting votes.
- 11) Acting as recorder, checker, watcher, judge, poll worker, or challenger for any party or partisan committee.
- 12) Engaging in political caucuses.

Participation in a political action committee that supports partisan activity (Reference: O.R.C. §124.57, O.A.C. 123:1-46-02).

#### **519.4 Political Activity - Unclassified Employees**

Unclassified employees are subject to the Hatch Act and the Ohio Ethics Law.

#### **519.5 Safety and Health**

Work safety and health is a primary concern of the Board. The safe and healthful performance of all work assignments is the responsibility of both supervisory and non-supervisory personnel. It is the responsibility of each employee to ensure that all safety procedures/practices are observed.

- A. An employee found to be willfully or wantonly negligent in equipment operation resulting in either damage to the equipment or an accident, shall be subject to disciplinary action which may include termination. An employee who drives county vehicles will maintain the appropriate speed limits and obey all other vehicular laws. Violators are subject to disciplinary action, including termination. Employees will take safety measures, such as universal precautions, when directed to do so by Board policy and/or Board supervisory staff. Violators are subject to disciplinary action, including termination.
- B. All employees, particularly supervisors, are charged with the responsibility of reporting the existence of any hazardous condition or practice in the workplace. Employees will not be required to work in unsafe conditions and are encouraged to report any unsafe conditions to supervisory staff.

- C. Any accident, whether or not injuries were incurred, occurring during working hours shall be reported to the immediate supervisor at once. Upon notification, the supervisor or facility director shall insure that an accident report is completed and submitted to the Administrative Assistant no later than the end of the work shift.
- D. Dress code shall be appropriate to the job and safety concerns.

### **519.6 Dress Code**

All employees shall wear attire that is appropriate for their position and daily work, in good taste, and present a favorable image of the Board to the public. An employee's attire at work can play an important role in how the employees and the organization are perceived. It is important for Madison County Board of DD employees to be perceived by stakeholders, including people served, the public and visitors to the building, as professional and as the experts in our field.

- A. The Superintendent/Directors reserve the right to prescribe appropriate dress and grooming and to set standards which are in the best interests of the department and position.
- B. Clothing shall be conducive to the safe and effective performance of required job duties. We encourage employees to dress for success by following professional dress standards. Minimum standards for clothing and grooming include, but are not limited to the following:
  - 1) Clothing should not be excessively tight, short, revealing or contain suggestive language.
  - 2) Yoga pants are not permitted. Leggings are permitted, but should be worn with tops or dresses that are an appropriate length or lower and cover the entire midsection. Dresses and skirts should be no more than 3 inches above the knee.
  - 3) Clothing should be in good repair.
  - 4) Clothing should be neat, clean, and wrinkle-free.
  - 5) Clothing should fit properly and not be distracting. Appropriate undergarments should be worn.
  - 6) Shirts and blouses must have straps wide enough to cover any undergarments. Halter tops and spaghetti straps are not permitted unless they are covered by a garment that sufficiently covers them. Sleeveless blouses are permitted.
  - 7) Maintain appropriate personal and oral hygiene standards.
- C. The Board may issue uniform certificates to order approved uniform styles with the Board logo that help identify staff in public settings and present a professional appearance.

### **519.7 Employee Property Damage**

When an employee's property, as defined in the administrative rules and procedures that follow, is damaged by an enrollee, the Board shall pay the unreimbursed costs of the property. Replacement of damaged items will be set at comparable worth. If the damage to employee's property is the result of an action of an enrollee that is considered deliberate, the enrollee or the parent/guardian of the enrollee will be billed for damages. The functioning level of the enrollee shall be considered before deliberate intent is attributed to the action. Limited to \$300.00 per occurrence.

## **519.8 Continuation of Health Care Benefits**

The Board will comply with Public Law 99-272, Title X (COBRA) to provide continuation of applicable health benefits to eligible former employees who were covered by the Board's group health plan or their spouses and dependent children if they meet the COBRA requirements. COBRA does not apply to life insurance or disability insurance. "Qualified Beneficiary" will be offered the opportunity to continue under COBRA the group health care insurance benefits the individual was receiving immediately before the qualifying event.

In order for continuation coverage to be made available, one of the following "qualifying events" which would result in a loss of coverage must occur:

- A. The death of a covered employee
  - B. The termination of the covered employee's employment (termination other than by reason of misconduct)
  - C. Voluntary resignation
  - D. Reduction in work hours (strike, layoff, leave of absence, full-time to part-time).
  - E. The divorce or legal separation of the covered employee from the employee's spouse.
  - F. The covered employee becoming entitled to Medicare benefits.
  - G. A dependent child ceasing to be an eligible family dependent under the plan requirements
8. Chapter 11/Bankruptcy of the Employer.

Should a "qualifying event" take place, a "qualified beneficiary" includes one or more of the following individuals who, on the day prior to the "qualifying event", is a covered member under the Board's group health plan. Each qualified beneficiary may make an individual decision in reference to determining COBRA plan coverage. A "Qualified beneficiary" is:

- A. A covered employee
- B. The spouse of the covered employee
- C. The dependent child of a covered employee

"Qualified beneficiaries" shall be responsible for 100% payment of all health care premiums. All premiums must be paid by the first day of the month by cashier's check or money order. The premium shall be made payable to the Madison County Treasurer.

"Qualified beneficiaries" may elect to continue coverage up to 18 months from the date coverage would have terminated due to being:

- A. A covered employee who was terminated (gross misconduct exception), had a reduction of hours of employment which resulted in loss of coverage, or voluntarily resigned
- B. The spouse and/or dependent children of a covered employee who was terminated, had a reduction of hours of employment which resulted in loss of coverage, or voluntarily resigned



A "qualified beneficiary" who is disabled (according to Title II or XVI of the Social Security Act) at the time of the 18-month qualifying event may elect to continue coverage up to 29 months. The "qualified beneficiary" must provide the plan administrator with Notice of Disability (from Social Security Administration) before expiration of eighteen (18) month COBRA period and within sixty (60) days of notice.

A "qualified beneficiary" may elect to continue coverage up to 36 months from the date coverage would have terminated due to being:

- A. A surviving spouse and/or children of a deceased employee.
- B. A legally separated or divorced spouse and/or dependent children of the covered employee.
- C. The spouse and/or dependent children of a covered employee becomes eligible for and enrolls in Medicare benefits.
- D. The spouse and/or dependent children of a covered employee currently in a period of 18-month coverage and a second qualifying event occurs before the end of that 18-month period.
- E. Dependent child ceasing to be Dependent.

COBRA coverage may be terminated by the Board under the following conditions:

- A. Eighteen (18) months from the event date for individuals whose coverage ended due to termination or reduction of hours.
- B. Twenty-nine (29) months from the event date of an individual whose coverage ended due to a termination or reduction in hours where the continuation coverage was extended to twenty- nine (29) months due to the individual's Social Security disability determination.
- C. Thirty-six (36) months from the event date of an individual whose coverage ended because of the death of the employee, divorce/legal separation, a dependent child ceasing to be a dependent or the employee's Medicare entitlement.
- D. The date the individual becomes entitled to Medicare unless the Medicare entitlement is due to End Stage Renal Disease (ESRD) or the individual being deemed a "disabled active individual" under a "large group health plan".
- E. The first day for which timely payment is not made to the plan.
- F. The date the individual becomes covered under another group health plan that does not limit coverage for a pre-existing condition of the beneficiary.
- G. In the case of a beneficiary who was deemed disabled by the Social Security Administration and is receiving the eleven (11) month COBRA extension, coverage may terminate the month that begins thirty (30) days after the date of the final determination that the individual is no longer disabled.
- H. In the case of a Medicare entitlement (where insurance is not lost) COBRA shall not terminate for qualified beneficiaries other than the employee for such event or subsequent event, before thirty-six (36) months after the date of the Medicare entitlement.
- I. The day the employer ceases to maintain any group health plan.

COBRA Notification and Election Timeframes:

- A. "Qualified beneficiaries" shall be notified of their COBRA rights by the employer and/or plan administrator at the time of commencement of coverage under the plan. Notification shall be sent first class mail to the enrollee, spouse and dependent(s) at the last known address. Notification to the spouse is deemed notification to all individuals residing with the spouse.
- B. Following a death, termination of employment, reduction in hours or Medicare eligibility, the Board must notify the beneficiary of the eligibility for continuation coverage within thirty (30) days.
- C. Qualifying event notification shall be made to inform each qualified beneficiary that they have rights to continue their health insurance coverage under COBRA. Notification shall be sent with proper language within fourteen (14) days of a qualifying event. Notification shall be sent first class mail to the enrollee, spouse and dependent(s) at the last known address. Notification to the spouse is deemed notification to all individuals residing with the spouse.
- D. An eligible beneficiary shall have sixty (60) days to exercise the continuation coverage option. The sixty (60) day period shall begin on the later of the date when existing coverage ends or when the beneficiary receives notice of the continuation coverage options.
- E. "Qualified beneficiaries" shall have forty-five (45) days from the date they elect coverage to pay any and all back premiums.
- F. Following a change of family status, such as in the case of divorce, or legal separation, or dependent child ceasing to be a dependent, the employee or the qualified beneficiary must notify the Group Health Plan Administrator and the Superintendent of the qualifying event within sixty (60) days of the later of the date of the event or the date the Qualified Beneficiary would lose coverage due to the event. Upon notification by the employee or affected beneficiary, the Board must notify the beneficiary of the continuation coverage options within fourteen (14) days.
- G. The Board upon notification of a COBRA extension may provide extension notification to inform the qualified beneficiary of new continuation coverage time frame, monthly premium rates, premium due date and reasons coverage can be canceled prior to the end of the maximum coverage period. Extension of COBRA coverage can be extended for the following reasons: a) standard secondary event, b) special Medicare entitlement, c) Medicare entitlement interruption, and d) disability. Notification shall be sent first class mail to the enrollee, spouse and dependent(s) at the last known address. Notification to the spouse is deemed notification to all individuals residing with the spouse.
- H. The Board shall notify all COBRA continuees of open enrollment periods. The notification shall be sent prior to open enrollment and inform the continuee of the open enrollment period, the options available during the enrollment period and the monthly premium rates for those options. Notification shall be sent first class mail to the enrollee, spouse and dependent(s) at the last known address. Notification to the spouse is deemed notification to all individuals residing with the spouse.
- I. The Board shall notify all COBRA continuees of plan changes. The notification shall be sent as soon as the employer is aware of the plan change and inform the continuee of the plan benefit changes, premium rate changes and other modifications to the plan. Notification shall be sent first class mail to the enrollee, spouse and dependent(s) at the last known address. Notification to the spouse is deemed notification to all individuals residing with the spouse.

- J. The Board shall notify all COBRA continuees of the right to convert. The notification shall be to notify the individual that the COBRA coverage is coming to an end and they have the right to elect an individual conversion policy (if such a policy is available under the group health plan). Plan administrators are required to notify all Qualified Beneficiaries of their right to elect a conversion option within one hundred and eighty (180) days prior to the expiration of their COBRA coverage. Notification shall be sent first class mail to the enrollee, spouse and dependent(s) at the last known address. Notification to the spouse is deemed notification to all individuals residing with the spouse.

#### **519.9 Use of Board Vehicles**

- A. Use of Board motor vehicles shall be strictly controlled by the Superintendent/designee and shall be restricted to official Board business purposes only.
- B. Employees operating a motor vehicle are required to have a proper and valid Ohio motor vehicle operator's license that is appropriate for their position. New employees shall obtain the appropriate Ohio license prior to the appointment to the position. Applicants or employees shall be required to authorize the Superintendent to obtain a driver's abstract from the Bureau of Motor Vehicles.
- C. An employee who operates a Board vehicle shall exercise caution and responsibility and shall adhere to all safety regulations. Reckless or destructive operation of vehicles is grounds for disciplinary action including termination as outlined in these policies.
- D. Any equipment or vehicular accident, including those involving two Board vehicles, must be reported to the supervisor immediately.
- E. Any citation received by an employee, who is operating a Board vehicle, must be reported to the supervisor immediately.
- F. Failure to report accidents, citations or equipment damage may result in disciplinary action.
- G. Any Board employee operating a program vehicle shall be required to submit an annual test for chemical use/abuse. Fees for such testing shall be the responsibility of the Board in conjunction with its health care benefits plan.
- H. Any Board employee operating a program vehicle shall provide an annual driver's abstract to the Superintendent by September 1 of each program year.
- I. Any Board employee shall be subject to the right to operate program vehicles based on his/her driving record. An employee who has charged against him/her a total of eight (8) points or more within a period of two (2) years from the date of the first conviction shall be denied operation of any program vehicle.

Any employee with two (2) points shall require frequent checking during vehicle operation, four (4) points shall result in consultation with the supervisor, six (6) points will result in temporary suspension from driving for a period of ninety (90) days, and eight (8) points will result in suspension from operating a program vehicle for a period of two (2) years.

(Cross Reference – Chapter 6: Transportation Policy)

## **519.10 Volunteers**

The Board believes that volunteers provide a valuable service for persons with developmental disabilities. The time and talents offered by volunteers greatly enhance and enrich the quality of services provided by the Board.

The Board encourages the growth of the volunteer program and recognizes individuals in the following categories as current or potential volunteers:

- A. Parents/guardians and other family members;
- B. Staff (during non-working hours);
- C. Members of specialized volunteer programs (i.e. foster grandparent program, high school class projects, scouting groups);
- D. Students sponsored by the local colleges and universities in a capacity as a student teacher, or intern, or practicum student;
- E. Interested citizens.

A volunteer must have completed standard admittance procedures and obtain written parental permission if under 18 years of age. A criminal records check will be required.

Volunteers shall provide services that are based on the needs of individuals served, on staff requests, and on the volunteer's skills, abilities, and experiences. Persons providing volunteer services will do so under the supervision of professional staff. At no time will a volunteer act in lieu of staff.

Procedures for recruitment, selection, training, assignment/evaluation, recognition, and termination of volunteers will be developed and disseminated to all volunteers and staff.

Volunteers will be recruited to provide direct service for enrollees and indirect supportive services. Persons who volunteer may do so during regularly scheduled program hours and during extra-curricular events sponsored by the Board.

Persons are expected to apply for volunteer status through the proper authority (Superintendent or designee) and to be formally accepted and oriented as a volunteer prior to beginning their volunteer experience. Any person acting without such recognition will be considered a "visitor" and, as such, will be subject to the policies and procedures of the Board regarding "visitors". Volunteers may be required to successfully complete a criminal records check. Volunteers shall comply with applicable Board policies (i.e. behavior management, individual rights).

## **519.11 Employee Communicable Disease Guidelines**

- A. Every employee will be required to have a physical prior to employment. All employees working directly with participants will have a tuberculin test. Record of this physical will be maintained by the Board.

- B. Colds, flu, and other viral infections are common and easily transmitted in the work place. It is difficult to effectively contain the spread of these diseases because the individual has spread the disease for several days while in the early stages. Physician's sanction to return to work is usually not necessary for these infections.
- C. If an employee is suspected of having a communicable disease, the building authority may request that the employee seek medical attention. The employee can return to work when the employee's attending physician states that continued presence at work will not pose a threat to the employee, co-workers, or enrollees. The Superintendent reserves the right to require an examination by a medical doctor appointed by the agency.
- D. An employee who has been diagnosed as having an infectious disease must inform his/her supervisor of the condition. An employee's health condition is personal and confidential. Precautions shall be followed to protect information regarding an employee's health condition.
- E. An employee may have or be a carrier of an infectious disease that is of life-long duration and he/she may or may not be symptom-free. If there is evidence that the disease cannot be transmitted by normal, casual contact in the work environment, and the condition is not a threat to self or others, the employee will continue to work in a regular manner. The Board shall follow any applicable requirements of the Americans With Disabilities Act in this regard. The employee is expected to meet acceptable performance standards and will be treated in a manner consistent with other employees.
- F. No special consideration will be given beyond normal transfer requests for employees who feel threatened by a co-worker's disease. Requests for transfer will be decided by the Superintendent based on the best interests of the agency.
- G. The Superintendent will determine the admissibility to the work place by an individual whose condition is in question. The Superintendent will consult with or convene a meeting with the employee, building authority, the employee's physician, and others as the Superintendent deems necessary. Based on the information gathered, the Superintendent may decide:
  - 1) To return the employee to his/her usual place of employment unconditionally,
  - 2) To place the employee on a work assignment under restrictive conditions, or
  - 3) To seek to have the employee utilize sick leave and be placed on a leave of absence.
- H. In making a decision, the Superintendent will consider:
  - 1) The nature of the risk and how the disease is transmitted,
  - 2) The duration of the risk and how long the carrier is infectious
  - 3) The severity of the risk and the potential harm to others, and
  - 4) The individual's physical condition.

### **519.12 Board Property/Employee Privacy**

All Board property and the contents thereof, including desks, lockers and computers, are subject to Board control and supervision and are not private areas for employees. This includes any information contained in Board computers (such as E mail, anything in the computer's memory, and software used in Board computers including memory disks). The Board will maintain the privacy of employee records, such as medical records, employee social security numbers, etc., as required by law.

### **519.13 Electronic Communications**

As a county agency, the Board is responsible for ensuring that its resources, including electronic equipment, are used for appropriate public purposes. To the extent provided to employees by the Board, desktop or laptop computers, network server, facsimile machines, scanners, e-mail, Internet and Intranet access, electronic calendar, voicemail, cellular telephones, and personal digital assistant ("PDA") (collectively, referred to herein as "Electronic Equipment") remain the property of the Board and are to be used for business purposes only except as otherwise authorized by this policy or a supervisor. Pursuant to this policy, employees are hereby advised that they have no reasonable expectation of privacy in their use of the Board's Electronic Equipment, including, but not limited to, personal use of the Board's Electronic Equipment. The use of any passwords to access a particular component of the Board's Electronic Equipment does not create an expectation of privacy.

Employees are prohibited from using the Board's Electronic Equipment to download, upload, transmit, or store any unprofessional, threatening, defamatory, harassing, pornographic, or discriminatory material, documents, or information. Employees are prohibited from using the Board's Electronic Equipment to send unprofessional, threatening, defamatory, harassing, pornographic or discriminatory material, documents, or information to any person, in or outside of the program and regardless of relationship to the employee. The Board's Electronic Equipment may not be used to solicit or promote commercial ventures, religious or political causes, outside organizations, or any other non-job-related solicitations.

A. Violations of this policy include, but are not limited to, the following:

- 1) Viewing, distributing, storing, or possessing sexually explicit, pornographic, racist, sexist, or material disparaging based on race, origin, sex, sexual orientation, age, disability, religion or political beliefs;
- 2) Viewing or sending messages intended to harass, intimidate, threaten, embarrass, humiliate or degrade co-workers or third parties, or that contain defamatory references;
- 3) Conducting illegal activity including, but not limited to, gambling;
- 4) Using the Board's resources for commercial uses of the employee;
- 5) Downloading or distributing pirated software or data, entertainment software, music or games;
- 6) Sending chain letters;
- 7) Downloading, uploading, or installing viruses, worms, Trojan horses, or the like;
- 8) Copying, destroying, deleting, distorting, removing, concealing, modifying or encrypting messages or files or other data on any Board computer, network or other communications system without authorization;
- 9) Attempting to access or accessing another employee's computer, computer account, e-mail or voice mail messages, files or other data without authorization;
- 10) Using resources for personal use that interferes with the Board's operation, productivity or distracts employees from their responsibilities.

Generally, employees should not use the Board's Electronic Equipment for personal reasons. It is reasonable for employees to occasionally use these items for personal business, such as to communicate with family members by e-mail or maintain personal events on the employee's electronic calendar. Although employees will be expected to use their reasonable judgment in this regard, the Board will initially advise, and later discipline if necessary, an employee who abuses this privilege.

The Board reserves the right to monitor, access, retrieve, read and disclose to law enforcement officials or other third parties all messages created, sent, received, or stored on the Board's Electronic Equipment without prior notice to employees who originated or received such messages. The Board may monitor the use of Electronic Equipment by employees to determine whether there have been any violations of law, breaches of confidentiality, communications harmful to the interests of the Board, or any violations of this policy or any other Board policy. Use of the Board's Electronic Equipment is considered consent by the employee to have such use monitored by the Board at its sole discretion, with or without prior notice to the employee.

The Board is the owner of all work product developed by an employee while working for the Board, including, but not limited to, all property, programs, systems, devices, patents, applications, hardware, products, and all other things tangible or intangible which are created, made, enhanced, modified, or improved by employees during employment with the Board. Employees may not transfer, sell, lease, license, patent, use, franchise, or gift such work product and shall not permit any other party to obtain the beneficial use of such work product without the expressed and written permission of the Board.

Employees who violate this policy will be subject to discipline, up to and including termination.

## **UPDATES**

Everything from this point on may still need editing. These may need to be plugged into an existing section

### **520. Internet, Email, and Social Media**

Employees who wish to use social media are welcome to do so on a personal level but should be aware of the following guidelines:

Employees shall remember they are paid by public funds and the public holds them to a high standard of professionalism. The MCBDD has an overriding interest and expectation in deciding what is "spoken" on behalf of the MCBDD. This policy is not meant to infringe on one's right to free speech, rights under the Ohio Revised Code, or any other protected activity.

#### Identifying Yourself

Unless specifically directed, Board staff are not authorized to represent to others that they are a representative of the Board. In fact, given the confidentiality issues the Board faces and to make this as simple as possible, the Board recommends that staff should not identify themselves as employees of the Board on social networking sites. Remember, Board employees do not speak for the Board, or the individuals it serves. The best practice is to always use the first person

when discussing opinions, beliefs, desires and so forth. The sentence, “I believe cats are better than dogs” is clear that you, individually, hold this belief, not you as an employee or a person we serve.

### Respectful Communications

The relationships the Board has with the community, our business partners, employees and individuals it serves are extremely important. If a staff member has an issue or complaint, it must be handled through the appropriate chain of command, not aired on a social networking site.

### Respect Work Commitments

Please remember that blogging and other social network or media activities are personal and should be done on personal time unless specifically assigned to perform an online activity related to work.

The MCBDD respects the right of privacy of its employees, but must have some rules restricting off-duty social networking, social media contact and similar communications. Employees’ non-work activities are restricted as follows:

An employee may not make inappropriate remarks or displays about an individual the Board serves, group of individuals, families of individuals, or persons or organizations which interact with consumers.

- A. An employee may not harass in any manner another employee; board member; an individual, an individual representative or family; or others associated with the Board by any social networking or social media activity or other means of communication, such as telephone or e-mail.
- B. Communication between a Board staff member and an individual the Board serves, a group of individual, families of individuals, or persons or organizations which interact with consumers must take place using Board owned communication mediums such as a Board owned cellular phone, office phone or e-mail account.
- C. An employee may not use any MCBDD logos, without proper authorization. Contact the Superintendent for clarification on this restriction.
- D. An employee may not act as the Board representative on any matter or discussion without proper authorization.
- E. An employee may not transmit images of individuals, the MCBDD workplace or other Board employees without proper authorization.
- F. An employee may not transmit any confidential information about individuals served by the Board, Board employees, Board members or their families.
- G. If a staff member chooses to identify themselves as a Board employee on any site, they should use disclaimers, when appropriate. For example, “I am not speaking as a representative of MCBDD” or “This is my opinion and is not necessarily the position of the MCBDD on this matter.”

### Work Time

Unless otherwise directed, in writing, Board staff may not access, read, post or monitor social networking media while at work. This includes text messaging and e-mailing that is not part of your job duties.

### Uphold Board Core Values



The mission of the Madison County Board of Developmental Disabilities is to bring about a vibrant community where people lead fulfilling lives and make meaningful contributions. Please choose words and phrases carefully when engaging in social networking or media activities. Avoid posting pictures, videos, or comments that are sexual, obscene, violent, offensive, harassing or pornographic in nature.

#### Ask Questions

If a Board staff member thinks they SHOULD be posting information about the Board, the individuals it serves or any other topic that might be prohibited by this policy, ask. Staff members are welcome to seek guidance on these topics from their supervisor or the Superintendent.

#### Disclose

If a staff member thinks they have published something that they should not have, they should inform their supervisor. If it occurred prior to this policy, that fact will be taken into account. The goal of the Board is to correct any problem that may exist.

#### Discipline

The Board reserves the right to take appropriate action for violation of this policy per the disciplinary process outlined in Chapter 5 of the Personnel Policy.

#### Summary and Conclusion

- Do not post or publish information about the individual the Board serves without written consent from the individual, his/her parent or guardian, and the Board. This includes images of individuals, information about their lives, activities, moods, diagnoses, and habits of any individuals.
- Do ask if you think you should post or publish information about the individuals we serve, the Board, or its employees.
- Do tell the Board if you have posted or published information you maybe should not have posted or published.
- Do not use work time to blog, tweet, e-mail or otherwise engage in or read communications that are unrelated to performing your job duties.

All Internet browsers furnish a trail to trace all site visits on the terminal. All e-mails are public record. The MCBDD reserves the right to monitor the system and inspect all messages and transactions executed on the Internet, e-mail and online services. Violations of the policy may result in discipline, up to and including termination.

Board Approved March 22, 2018

## **521. Data Plans (iPads) and Cell Phones**

Any charges resulting from personal use that exceed the monthly plan of County Board owned iPads (data plan) or County Board cell phone shall be reimbursed to the County. If the personal usage exceeds the plan amount, the employee will be responsible for any amount that

exceeds the monthly set rate amount. The employee's supervisor shall ensure that the monthly Billing Statement is submitted for payment immediately upon being received. Madison County will not be responsible for paying interest or late payment charges due to late submission of the statement.

Reimbursement of charges will be paid by the 25th of the month following the statement date. Charges that are incurred by employees that have resigned or retired will be deducted from their final paycheck.

## **Tiers of disqualifying offenses as outlined in the following section of the Ohio Revised Code:**

### **5123:2-2-02 Background investigations for employment**

#### **(E) Disqualifying offenses**

(1) There are five tiers of disqualifying offenses with corresponding time periods that preclude an applicant from being employed or an employee from remaining employed by a responsible entity and preclude a candidate from receiving supported living certification issued by the department.

##### **(a) Tier one: permanent exclusion**

No responsible entity shall employ an applicant or continue to employ an employee, nor shall the department issue supported living certification to a candidate, if the applicant, employee, or candidate has been convicted of or pleaded guilty to any of the following sections of the Revised Code:

- (i) [2903.01](#) (aggravated murder);
- (ii) [2903.02\(murder\)](#);
- (iii) [2903.03](#) (voluntary manslaughter);
- (iv) [2903.11](#) (felonious assault);
- (v) [2903.15](#) (permitting child abuse);
- (vi) [2903.16](#) (failing to provide for a functionally impaired person);
- (vii) [2903.34](#) (patient abuse and neglect);
- (viii) [2903.341](#) (patient endangerment);
- (ix) [2905.01\(kidnapping\)](#);
- (x) [2905.02\(abduction\)](#);
- (xi) [2905.32](#) (human trafficking);
- (xii) [2905.33](#) (unlawful conduct with respect to documents);
- (xiii) [2907.02\(rape\)](#);
- (xiv) [2907.03](#) (sexual battery);
- (xv) [2907.04](#) (unlawful sexual conduct with a minor, formerly corruption of a minor);
- (xvi) [2907.05](#) (gross sexual imposition);
- (xvii) [2907.06](#) (sexual imposition);
- (xviii) [2907.07\(importuning\)](#);
- (xix) [2907.08\(voyeurism\)](#);
- (xx) [2907.12](#) (felonious sexual penetration);
- (xxi) [2907.31](#) (disseminating matter harmful to juveniles);
- (xxii) [2907.32](#) (pandering obscenity);
- (xxiii) [2907.321](#) (pandering obscenity involving a minor);
- (xxiv) [2907.322](#) (pandering sexually oriented matter involving a minor);
- (xxv) [2907.323](#) (illegal use of minor in nudity-oriented material or performance);
- (xxvi) [2909.22](#) (soliciting/providing support for act of terrorism);
- (xxvii) [2909.23](#) (making terrorist threat);
- (xxviii) [2909.24\(terrorism\)](#);

(xxix) [2913.40](#) (medicaid fraud);  
(xxx) [2923.01\(conspiracy\)](#), [2923.02\(attempt\)](#), or [2923.03\(complicity\)](#) when the underlying offense is any of the offenses or violations described in paragraphs (E)(1)(a)(i) to (E)(1)(a)(xxix) of this rule;  
(xxxi) A conviction related to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct involving a federal or state-funded program, excluding the disqualifying offenses set forth in section [2913.46](#) of the Revised Code (illegal use of supplemental nutrition assistance program or women, infants, and children program benefits); or  
(xxxii) A violation of an existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the offenses or violations described in paragraphs (E)(1)(a)(i) to (E)(1)(a)(xxxi) of this rule.

(b) Tier two: ten-year exclusion

No responsible entity shall employ an applicant or continue to employ an employee, nor shall the department issue supported living certification to a candidate, for a period of ten years from the date the applicant, employee, or candidate was fully discharged from imprisonment, probation, and parole, if the applicant, employee, or candidate has been convicted of or pleaded guilty to any of the following sections of the Revised Code:

- (i) [2903.04](#) (involuntary manslaughter);
- (ii) [2903.041](#) (reckless homicide);
- (iii) [2905.04](#) (child stealing) as it existed prior to July 1, 1996;
- (iv) [2905.05](#) (criminal child enticement);
- (v) [2905.11\(extortion\)](#);
- (vi) [2907.21](#) (compelling prostitution);
- (vii) [2907.22](#) (promoting prostitution);
- (viii) [2907.23](#) (enticement or solicitation to patronize a prostitute, procurement of a prostitute for another);
- (ix) [2909.02](#) (aggravated arson);
- (x) [2909.03\(arson\)](#);
- (xi) [2911.01](#) (aggravated robbery);
- (xii) [2911.11](#) (aggravated burglary);
- (xiii) [2913.46](#) (illegal use of supplemental nutrition assistance program or women, infants, and children program benefits);
- (xiv) [2913.48](#) (workers' compensation fraud);
- (xv) [2913.49](#) (identity fraud);
- (xvi) [2917.02](#) (aggravated riot);
- (xvii) [2923.12](#) (carrying concealed weapon);
- (xviii) [2923.122](#) (illegal conveyance or possession of deadly weapon or dangerous ordnance in a school safety zone, illegal possession of an object indistinguishable from a firearm in a school safety zone);
- (xix) [2923.123](#) (illegal conveyance, possession, or control of deadly weapon or dangerous ordnance into courthouse);
- (xx) [2923.13](#) (having weapons while under disability);
- (xxi) [2923.161](#) (improperly discharging a firearm at or into a habitation or school);
- (xxii) [2923.162](#) (discharge of firearm on or near prohibited premises);
- (xxiii) [2923.21](#) (improperly furnishing firearms to minor);
- (xxiv) [2923.32](#) (engaging in pattern of corrupt activity);
- (xxv) [2923.42](#) (participating in criminal gang);
- (xxvi) [2925.02](#) (corrupting another with drugs);
- (xxvii) [2925.03](#) (trafficking in drugs);
- (xxviii) [2925.04](#) (illegal manufacture of drugs or cultivation of marihuana);
- (xxix) [2925.041](#) (illegal assembly or possession of chemicals for the manufacture of drugs);

(xxx) [3716.11](#) (placing harmful objects in food or confection);  
(xxxi) [2923.01\(conspiracy\)](#), [2923.02\(attempt\)](#), or [2923.03\(complicity\)](#)  
when the underlying offense is any of the offenses or violations described  
in paragraphs (E)(1)(b)(i) to (E)(1)(b)(xxx) of this rule; or  
(xxxii) A violation of an existing or former municipal ordinance or law of this  
state, any other state, or the United States that is substantially equivalent  
to any of the offenses or violations described in paragraphs (E)(1)(b)(i) to  
(E)(1)(b)(xxx) of this rule.

(c) Tier three: seven-year exclusion No responsible entity shall employ an applicant  
or continue to employ an employee, nor shall the department issue supported living  
certification to a candidate, for a period of seven years from the date the applicant,  
employee, or candidate was fully discharged from imprisonment, probation, and  
parole, if the applicant, employee, or candidate has been convicted of or pleaded  
guilty to any of the following sections of the Revised Code:

(i) [959.13](#) (cruelty to animals);  
(ii) [959.131](#) (prohibitions concerning companion animals);  
(iii) [2903.12](#) (aggravated assault);  
(iv) [2903.21](#) (aggravated menacing);  
(v) [2903.211](#) (menacing by stalking);  
(vi) [2905.12\(coercion\)](#) ;  
(vii) [2909.04](#) (disrupting public services);  
(viii) [2911.02\(robbery\)](#) ;  
(ix) [2911.12\(burglary\)](#) ;  
(x) [2913.47](#) (insurance fraud);  
(xi) [2917.01](#) (inciting to violence);  
(xii) [2917.03\(riot\)](#) ;  
(xiii) [2917.31](#) (inducing panic);  
(xiv) [2919.22](#) (endangering children);  
(xv) [2919.25](#) (domestic violence);  
(xvi) [2921.03\(intimidation\)](#) ;  
(xvii) [2921.11\(perjury\)](#) ;  
(xviii) [2921.13](#) (falsification, falsification in theft offense, falsification to  
purchase firearm, or falsification to obtain a concealed handgun license);  
(xix) [2921.34\(escape\)](#) ;  
(xx) [2921.35](#) (aiding escape or resistance to lawful authority);  
(xxi) [2921.36](#) (illegal conveyance of weapons, drugs, or other prohibited  
items onto grounds of detention facility or institution);  
(xxii) [2925.05](#) (funding of drug or marijuana trafficking);  
(xxiii) [2925.06](#) (illegal administration or distribution of anabolic steroids);  
(xxiv) [2925.24](#) (tampering with drugs);  
(xxv) [2927.12](#) (ethnic intimidation);  
(xxvi) [2923.01\(conspiracy\)](#), [2923.02\(attempt\)](#), or [2923.03\(complicity\)](#)  
when the underlying offense is any of the offenses or violations described  
in paragraphs (E)(1)(c)(i) to (E)(1)(c)(xxv) of this rule; or  
(xxvii) A violation of an existing or former municipal ordinance or law of this  
state, any other state, or the United States that is substantially equivalent  
to any of the offenses or violations described in paragraphs (E)(1)(c)(i) to  
(E)(1)(c)(xxvi) of this rule.

(d) Tier four: five-year exclusion

No responsible entity shall employ an applicant or continue to employ an employee,  
nor shall the department issue supported living certification to a candidate, for a  
period of five years from the date the applicant, employee, or candidate was fully  
discharged from imprisonment, probation, and parole, if the applicant, employee,  
or candidate has been convicted of or pleaded guilty to any of the following sections  
of the Revised Code:

(i) [2903.13\(assault\)](#) ;

- (ii) [2903.22\(menacing\)](#);
- (iii) [2907.09](#) (public indecency);
- (iv) [2907.24](#) (soliciting after positive human immunodeficiency virus test);
- (v) [2907.25\(prostitution\)](#);
- (vi) [2907.33](#) (deception to obtain matter harmful to juveniles);
- (vii) [2911.13](#) (breaking and entering);
- (viii) [2913.02\(theft\)](#);
- (ix) [2913.03](#) (unauthorized use of a vehicle);
- (x) [2913.04](#) (unauthorized use of property, computer, cable, or telecommunication property);
- (xi) [2913.05](#) (telecommunications fraud);
- (xii) [2913.11](#) (passing bad checks);
- (xiii) [2913.21](#) (misuse of credit cards);
- (xiv) [2913.31](#) (forgery, forging identification cards);
- (xv) [2913.32](#) (criminal simulation);
- (xvi) [2913.41](#) (defrauding a rental agency or hostelry);
- (xvii) [2913.42](#) (tampering with records);
- (xviii) [2913.43](#) (securing writings by deception);
- (xix) [2913.44](#) (personating an officer);
- (xx) [2913.441](#) (unlawful display of law enforcement emblem);
- (xxi) [2913.45](#) (defrauding creditors);
- (xxii) [2913.51](#) (receiving stolen property);
- (xxiii) [2919.12](#) (unlawful abortion);
- (xxiv) [2919.121](#) (unlawful abortion upon minor);
- (xxv) [2919.123](#) (unlawful distribution of an abortion-inducing drug);
- (xxvi) [2919.23](#) (interference with custody);
- (xxvii) [2919.24](#) (contributing to unruliness or delinquency of child);
- (xxviii) [2921.12](#) (tampering with evidence);
- (xxix) [2921.21](#) (compounding a crime);
- (xxx) [2921.24](#) (disclosure of confidential information);
- (xxxi) [2921.32](#) (obstructing justice);
- (xxxii) [2921.321](#) (assaulting/harassing police dog or horse/service animal);
- (xxxiii) [2921.51](#) (impersonation of peace officer);
- (xxxiv) [2925.09](#) (illegal administration, dispensing, distribution, manufacture, possession, selling, or using any dangerous veterinary drug);
- (xxxv) [2925.11](#) (drug possession other than a minor drug possession offense);
- (xxxvi) [2925.13](#) (permitting drug abuse);
- (xxxvii) [2925.22](#) (deception to obtain dangerous drugs);
- (xxxviii) [2925.23](#) (illegal processing of drug documents);
- (xxxix) [2925.36](#) (illegal dispensing of drug samples);
- (xl) [2925.55](#) (unlawful purchase of pseudoephedrine product);
- (xli) [2925.56](#) (unlawful sale of pseudoephedrine product);
- (xlii) [2923.01\(conspiracy\)](#), [2923.02\(attempt\)](#), or [2923.03\(complicity\)](#) when the underlying offense is any of the offenses or violations described in paragraphs (E)(1)(d)(i) to (E)(1)(d)(xli) of this rule; or
- (xliii) A violation of an existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the offenses or violations described in paragraphs (E)(1)(d)(i) to (E)(1)(d)(xlii) of this rule.

(e) Tier five: no exclusion

A responsible entity may employ an applicant or continue to employ an employee, and the department may issue supported living certification to a candidate, if the applicant, employee, or candidate has been convicted of or pleaded guilty to any of the following sections of the Revised Code:

- (i) [2925.11](#) (drug possession that is minor drug possession offense);

- (ii) [2925.14](#) (illegal use or possession of drug paraphernalia);
- (iii) [2925.141](#) (illegal use or possession of marihuana drug paraphernalia);
- or
- (iv) A violation of an existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the offenses or violations described in paragraphs (E)(1)(e)(i) to (E)(1)(e)(iii) of this rule.

(2) Multiple disqualifying offenses

- (a) If an applicant, employee, or candidate has been convicted of or pleaded guilty to multiple disqualifying offenses listed in paragraphs (E)(1)(b)(i) to (E)(1)(b)(xxxii) of this rule, and offenses listed in paragraphs (E)(1)(c)(i) to (E)(1)(c)(xxvii) of this rule, and paragraphs (E)(1)(d)(i) to (E)(1)(d)(xliii) of this rule, the applicant, employee, or candidate is subject to a fifteen-year exclusion period.
- (b) If an applicant, employee, or candidate has been convicted of or pleaded guilty to multiple disqualifying offenses listed in paragraphs (E)(1)(c)(i) to (E)(1)(c)(xxvii) of this rule and offenses listed in paragraphs (E)(1)(d)(i) to (E)(1)(d)(xliii) of this rule, the applicant, employee, or candidate is subject to a ten-year exclusion period.
- (c) If an applicant, employee, or candidate has been convicted of or pleaded guilty to multiple disqualifying offenses listed in paragraphs (E)(1)(d)(i) to (E)(1)(d)(xliii) of this rule, the applicant, employee, or candidate is subject to a seven-year exclusion period.

(F) A conviction of or plea of guilty to a disqualifying offense listed or described in paragraph (E)(1) of this rule shall not preclude an applicant from being employed or an employee from remaining employed by a responsible entity or preclude a candidate from receiving supported living certification issued by the department under the following circumstances:

- (1) The applicant, employee, or candidate has been granted an unconditional pardon for the offense pursuant to Chapter 2967. of the Revised Code;
- (2) The applicant, employee, or candidate has been granted an unconditional pardon for the offense pursuant to an existing or former law of this state, any other state, or the United States, if the law is substantially equivalent to Chapter 2967. of the Revised Code;
- (3) The applicant's, employee's, or candidate's conviction or guilty plea has been overturned pursuant to law;
- (4) The applicant, employee, or candidate has been granted a conditional pardon for the offense pursuant to Chapter 2967. of the Revised Code and the conditions under which the pardon was granted have been satisfied;
- (5) The applicant's, employee's, or candidate's conviction or guilty plea is not for an offense listed or described in paragraph (E)(1)(a) of this rule and the applicant, employee, or candidate has a certificate of qualification for employment issued by a court of common pleas with competent jurisdiction pursuant to section [2953.25](#) of the Revised Code; or
- (6) The applicant's, employee's, or candidate's conviction or guilty plea is not for an offense listed or described in paragraph (E)(1)(a) of this rule and the applicant, employee, or candidate has a certificate of achievement and employability in a home and community-based services-related field, issued by the Ohio department of rehabilitation and correction pursuant to section [2961.22](#) of the Revised Code.

(G) A responsible entity may continue to employ a person who is excluded by paragraph (E)(1)(d) of this rule if the conviction for a tier four offense occurred prior to January 1, 2013, the employee was hired prior to January 1, 2013, and if the responsible entity has considered the nature and seriousness of the offense and attests in writing to the character and fitness of the person based on the person's demonstrated work performance. The responsible entity shall make this determination by April 1, 2013 and shall maintain the written attestation in the employee's personnel record. The determination shall be subject to review by the department.

(H) The department may renew the supported living certification of a candidate who is excluded by paragraph (E)(1)(d) of this rule if the conviction for a tier four offense occurred prior to January 1, 2013, the candidate was originally certified to provide supported living prior to January 1, 2013, and if the department has considered the nature and seriousness of the offense and determines

that the candidate has demonstrated the appropriate character and fitness to have the supported living certification renewed based on the candidate's demonstrated work performance. The department shall keep a written record of its determination for each candidate.

(I) Any report obtained pursuant to this rule is not a public record for purposes of section [149.43](#) of the Revised Code and shall not be made available to any person other than:

(1) The applicant, employee, or candidate who is the subject of the report or the applicant's, employee's, or candidate's representative;

(2) The responsible entity that requested the report or its representative;

(3) The department if a county board, agency provider, or subcontractor is the responsible entity that requested the report and the department requests the responsible entity to provide a copy of the report to the department;

(4) A county board if an agency provider or subcontractor is the responsible entity that requested the report and the county board requests the responsible entity to provide a copy of the report to the county board; or

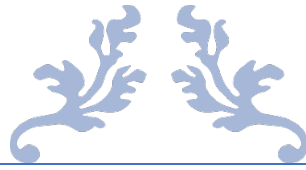
(5) A court, hearing officer, or other necessary person involved in a case dealing with the denial of employment to the applicant or employee; the denial, suspension, or revocation of certification issued under section [5123.166](#) or [5123.45](#) of the Revised Code; or a civil or criminal action regarding the medicaid program or a program the department administers.

(J) For purposes of this rule, reports from the bureau of criminal identification and investigation or any other state or federal agency regarding a person's criminal record and records supplied by the bureau of motor vehicles regarding a person's record of convictions for violations of motor vehicle laws are valid for a period of one year from the date of the report.

Replaces: 5123:1-7-01, 5123:2-1-05, 5123:2-1- 05.1, 5123:2-3-06

Effective:				01/01/2013
R.C.	<a href="#">119.032</a>	review	dates:	01/01/2018
Promulgated		Under:		<a href="#">119.03</a>
Statutory	Authority:	<a href="#">5123.04</a> ,	<a href="#">5123.081</a> ,	<a href="#">5123.1610</a>
Rule	Amplifies:	<a href="#">5123.04</a> ,	<a href="#">5123.081</a> ,	<a href="#">5123.1610</a>
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# **MADISON COUNTY BOARD OF DEVELOPMENTAL DISABILITIES POLICY MANUAL**

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## **Chapter 6: Transportation Policy**



**Board Adopted October 21, 1999  
Revised August 15, 2002  
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## **600. Purpose and Philosophy**

The Madison County Board of Developmental Disabilities herein known as the Board shall ensure in accordance with section 5126.04 of the Revised Code that an array of transportation services is available for all individuals enrolled in the Board's programs. The Board will comply with all requirements of Ohio Administrative Code (OAC) 5123:2-1-03. The Board will insure that transportation services are provided in a safe and efficient manner and in the most normalized mode possible for each individual.

The Board may provide transportation services through collaborative arrangements with other entities. The Board recognizes the importance of mutually cooperating with other local entities that provide transportation to persons who are elderly or who have disabilities and other types of transportation service providers.

To ensure a safe and efficient transportation system, bus and van drivers shall be responsible for compliance with all regulations contained in the Madison County Board of DD Policy Manual. Bus drivers shall also comply with the Ohio Pupil Transportation Operation and Safety Rules, and the Rules of the Ohio Department of Education and DD and are hereby incorporated in this policy by reference as if fully restated herein. In addition, the Board shall adhere to any restrictions placed upon the Board by a vehicle insurance carrier.

The provisions of this policy and OAC 5123:2-1-03 shall apply to:

- A. The Board in its capacity as a provider of specialized transportation and as otherwise specified in the above rule.
- B. Providers of specialized transportation under contract with the Board in accordance with section 5126.035 of the Ohio Revised Code (ORC). Providers of specialized transportation services under contract with the Board in accordance with ORC 5126.035 shall provide services in accordance with their contracts with the Board. The contract shall specify the terms and conditions for the delivery of training, services, and supports to individuals served and shall be in compliance with all applicable laws. It is the responsibility of the Board to ensure that the contract meets such requirements, and that contracting entities are trained in and have access to applicable rules in the OAC and to applicable policies of the Board.

## **601. Definitions**

- A. "County Board" means a county board of developmental disabilities established under Chapter 5126. of the Revised Code.
- B. "Department" means the Ohio department of developmental disabilities as established by section 121.02 of the Revised Code.
- C. "Individual" means a person with mental retardation and/or developmental disabilities.
- D. "IEP" means individualized education program as defined in rule 3301-51-01 of the Administrative Code.
- E. "ISP" means the individual service plan, a written description of the services, supports, and activities to be provided to an individual.
- F. "Medicaid" means the program that is authorized by Chapter 5111. of the Revised Code and provided by the department of job and family services under Chapter 5111. of the Revised Code, Title XIX of the "Social Security Act", 79 Stat. 286 (1965), 42 U.S.C.A. 1396, as amended, and the

waivers of Title XIX requirements granted to the department by the health care financing administration of the United States department of health and human services.

- G. "Non-specialized transportation" means a transportation service available to the general public including, but not limited to, transportation available to the general public from local transit systems and public transportation systems. The following is non-specialized transportation:
  - 1) Transportation provided by a public transit agency organized under Chapter 306 of the Revised Code; and
  - 2) Transportation provided by a participating agency under the Ohio department of transportation coordination project.
- H. "Specialized transportation" means any transportation service designed and operated to serve primarily individuals, including a transportation service provided by an entity licensed or certified by the department.

## **602. ISP and IEP**

The Board shall provide transportation services in accordance with an individual's ISP or IEP, as applicable, and shall incorporate within the ISP or IEP any specific transportation supports; i.e., travel training and safety issues. To meet an individual's transportation needs, the Board may provide specialized transportation or assist the individual in accessing non-specialized transportation.

The Board may develop policies or procedures on the collection of individual payments for transportation services to the extent permitted by law.

During the development of the IEP / ISP for each individual, the following shall be considered:

- A. The eligible individual shall have access to needed service / appropriate programs.
- B. The steps necessary to ensure safety of the individual are addressed.
- C. The least restrictive, most normalized mode of transportation is considered.
- D. Transportation assistance needs – special needs of the individual to be addressed include but not limited to:
  - 1) Specialized equipment
  - 2) Lifts
  - 3) Seatbelts
  - 4) Car seats
  - 5) Safety harnesses / restraints – must have quick release mechanism (restraints shall be approved by the Behavior Management Committee / Human Rights Committee for each individual who is deemed to need one.)
  - 6) Securement devices--all wheel chairs must be secured (Refer to 3301-87-06©)
  - 7) Other adaptive devices
  - 8) Staff assistance
  - 9) Behavior management specialist
  - 10) Bus aide / assistant
  - 11) OT / PT
  - 12) Residential staff or others
- E. Mobility / travel training be provided for individuals using alternate modes of transportation.

## 603. Qualifications of Drivers

The Board will provide insurance coverage for all drivers of county vehicles. The following qualifications apply to all bus, van, and vehicle drivers including those meeting commercial drivers license (CDL) or the Ohio Department of Education (ODE) licensure requirements and are as follows and evidence of such will be filed in each driver's personnel file.

- A. Being of legal age (ORC Sec. 3327.10)
- B. Minimum of 2 years driving experience and possess a valid Ohio Driver's License
- C. Being physically qualified by passing an annual physical examination.- (Administrative Code 3301-83-07)
- D. An annual driver record check with no more than 8 points and/or no 6 point convictions within the last twenty-four months (AC 3301-83-06) (Abstract from the Ohio Department of Highway Safety, Bureau of Motor Vehicles)
- E. Current and valid American Red Cross first aid and CPR certificate.
- F. Attend at least one annual workshop, which will include a review of the operator's manual and a practical overview of the characteristics and needs of the individual's being transported.
- G. Physical capability of appropriately lifting and managing pupils with special needs, pre school children and/or adults with special needs when necessary.
- H. A satisfactory report from the state bureau of criminal identification and investigation shall be required prior to the hiring of a person as a driver. **Reference also C.B. Chapter 5 section 503.4 and Addendum.**
- I. Ability to cope with stressful situations.
- J. A negative pre-employment drug and alcohol test.

In addition to the above the following requirements must be met for bus drivers meeting the commercial drivers license (CDL) or the Ohio Department of Education (ODE) licensure requirements.

- A. Having a current Ohio Commercial Driver's License with a School Bus Endorsement and current certification through the Ohio Department of Education.
- B. Successfully complete pre-service and in-service bus driver training provided by and approved by the Ohio Department of Transportation within three (3) months of initial hire.
- C. A new satisfactory report from the state bureau of criminal identification and investigation shall be required to be completed with driver certification (rule 3301-83-10 of OAC)

## 604. Driver Training

- A. Pre-Service Training: Prior to their assignment to a vehicle with passengers on board, all drivers, assistants and substitutes will receive the following training:
  - 1) General characteristics and needs of individuals;
  - 2) Review and distribution of appropriate transportation procedure manual(s);
  - 3) Familiarization with vehicle operation;
  - 4) Familiarization with the proper use, operation and safety inspection adaptive equipment and securement systems, i.e. wheelchairs, vests and car seats;
  - 5) Familiarization with the safe operation of wheelchair lift systems and the safe loading and unloading of individuals.

- 6) Cell phones may not be used by the driver of any county owned or contract entity owned vehicle unless it is an emergency.
- B. Ongoing Training will be provided to all drivers, assistants and substitutes on an annual basis. A minimum of 4 hours of training per year will be given to drivers in accordance with applicable rules.
- C. The Board will develop and provide to all drivers, assistants and substitutes, a written transportation manual. The manual will detail general supervision and operation of specialized transportation. The transportation manual will include but not be limited to the following:
  - 1) Transportation during inclement weather;
  - 2) Emergency situations and evacuation drills;

## **605. Information Relating to Passengers**

Vehicle drivers, assistants, and substitutes shall have access to appropriate information about individuals to the degree that such information might affect safe transportation and medical well-being while being transported. This information shall be available in the vehicle, or readily accessible in the transportation provider office. If the information is not carried on the vehicle, drivers, assistants, and substitutes shall be instructed on how to access the information in the event of an emergency. This information shall be maintained in a confidential manner and, at a minimum, include the following:

- A. Identify all authorized passengers, which in addition to the individuals being transported may include family members, caregivers, and volunteers.
- B. ISP interventions, including behavior support plans that apply to the individual with mental retardation or other disabilities being transported. This information shall include specifics concerning how relevant restraints should properly be used during transportation as well as non-violent crisis intervention strategies identified in the ISP/behavior support plan.

***Reference County Board Policy Chapter 19 HIPAA.***

## **606. Revocation of Bus Driving Certificate or Van Driving Privileges**

In addition to reasons set forth in Section 3319.081 of the Ohio Revised Code (just cause), the Board may revoke the bus driving certificate and/or terminate the employment of a bus or van driving employee for the following:

- A. Failure to file a notice of conviction of a traffic violation and/or a notice of driver's license suspension or revocation;
- B. Reckless operation of a motor vehicle during the course of employment or while operating a private vehicle;
- C. Driving while under the influence of drugs and/or alcohol during the course of employment or while operating a private vehicle;
- D. Conviction of drag racing during the course of employment or while operating a private vehicle;
- E. Possessing a driving record such that the carrier providing insurance to the Board refuses to insure the Board or charges a premium rate for the insurance because of the driving record of said employee;
- F. Involvement in an accident where the employee is at fault while operating a school or Board vehicle;

- G. Violations of rules and regulations of the Board;
- H. Violation of the regulations set forth in the Ohio Pre-Service School Bus Driver Trainer Manual. (Bus Driver Only).
- I. Medically unable to perform bus driving duties. When an employee has had his/her certificate or license revoked for medical reasons and requests to return to work, the Board may require the employee to submit to an independent medical examination at the Board's expense to determine whether the employee is medically able to perform his/her duties.
- J. The Board may suspend or terminate any bus or van driving employee who has charged against him a total of (8) eight points or more within a period of two years from the date of his first conviction. The point accumulation includes all points accumulated on the employee's driving record during the course of employment or while operating a private vehicle.

## **607. Provisions for Specialized Transportation Provided by County Board or Through Contract Entities**

Specialized transportation will be provided in compliance with applicable law including, but not limited to, the requirements of OAC 5123:2-1-03 and rule 3301-51-10 and rules 3301-83-03 to 3301-83-22 ("Ohio Pupil Transportation Operation and Safety Rules") of the Administrative Code.

- A. Specialized transportation may be billed for reimbursement through the community alternative funding system only when it meets the requirements specified in rule 5123:2-15-40 of the Administrative Code.

### ***Reference County Board Policy Chapter 15 CAFS Policy.***

- B. Specialized transportation shall be provided in compliance with the minimum safety requirements specified in paragraph E of OAC 5123:2-1-03. A specialized transportation provider shall complete the following vehicle inspections as further detailed in the County Board Transportation Manual:
  - 1) Annual vehicle safety inspection;
  - 2) Daily pre-trip safety inspection (records to be maintained for no less than 12 months);
  - 3) Daily post-trip inspection for remaining passengers and belongings;
  - 4) Systematic preventative maintenance program inspections.
- C. A transportation provider will maintain required records and reports in accordance with applicable law.
- D. The Board requires that all staff owned personal vehicles used to transport enrollees be in good safe operating condition and that staff maintain personal auto insurance coverage.

*\*Reference OAC 5123:2-1-03(D)(6) for specific criteria that do not apply to providers when they are providing transportation services funded under Medicaid.*

## **608. Bus and Vehicle Safety Instruction**

The Board will ensure the development and the provision of appropriate annual safety instruction to all individuals who use specialized transportation and/or annually communicate safety information to appropriate family members, as applicable and caregivers of all enrollees. The bus/vehicle safety instruction program will include, but not be limited to:

- A. Safe walking practices to and from the bus/vehicle.
- B. How and where to wait safely for the bus/vehicle.

- C. Wearing of light colored or reflective clothing when going to and from the bus/vehicle stop in darkness.
- D. What to do if the bus/vehicle is late or does not arrive.
- E. How to safely approach, enter and leave the bus/vehicle.
- F. Safe riding practices.
- G. Procedures to follow in emergencies, including evacuation of the bus/vehicle.
- H. Proper respect for the rights and privileges of others.

## **609. Non-Routine Use of the School Bus**

From the ORC (Section 3301-83-16):

“Non-routine use of school buses” is defined as transportation of passengers for purposes other than regularly scheduled routes to and from school or workshop. School buses may be used for non-routine trips only when such trips will not interfere with routine transportation services.

- A. Approved non-routine use of buses
  - 1) Trips that are an extension of the instructional/training program as determined by the administration.
  - 2) Trips for the transportation of enrollees directly participating in school/workshop sponsored events. A “school sponsored event” is defined as any activity in which pupils are participating and are under the direct supervision and control of a certified staff member or any advisor as designated by the superintendent.
  - 3) Transporting enrollees taking part in board approved recreation programs.
  - 4) Trips for transportation of the aged when contracted with a municipal corporation or a public or nonprofit private agency or organization delivering services to the aged (section 3327.14 ORC).
  - 5) Transporting enrollees/chaperones taking part in board approved events within the local community which are board or local community sponsored.
  - 6) Emergency evacuation and/or emergency evacuation drills when such emergencies are declared by state or local directors of emergency disaster services.
  - 7) A civil emergency as declared by the governor.
  - 8) Transporting Board employees engaged in board-approved employee improvement programs.
  - 9) Transportation coordination to participate with local human services providers in transporting welfare reform participants and those participating in temporary assistance programs.
- B. Costs -- The Board shall recover an amount not to exceed the actual operational costs associated with non-routine use of school buses, with the exception of field trips that are an extension of the instructional/training program. These costs include:
  - 1) Driver salary and benefits;
  - 2) Fuel;
  - 3) Maintenance;
  - 4) Service;
  - 5) Supervision;
  - 6) Insurance;

- C. Trip Permits -- The Superintendent or designee shall approve/issue a trip permit which shall accompany the driver on any non-routine trip. The permit shall provide the following information:
- 1) Date of trip;
  - 2) Destination;
  - 3) Purpose of trip;
  - 4) Name of County Board;
  - 5) Driver's Name
  - 6) Bus registration number;
  - 7) Total Miles of Trip;
  - 8) Designated meal stops;
  - 9) Driver must have a route map for destination or directions;
  - 10) Superintendent or designee signature;
  - 11) Attached list of passengers and emergency medical forms;
- D. Chaperones -- One or more adult chaperones, as approved by the Superintendent or designee, shall accompany each bus required for any non-routine trip involving school age passengers. The chaperone's responsibility shall be to assist the bus driver in maintaining passenger control and in enforcing procedures for the safety of all passengers. A certificated person licensed as a school bus driver may serve as a chaperone and driver concurrently.
- E. Out-Of-State-Trips -- Any out-of-state travel shall remain within two hundred forty miles round trip distance from point of exit from the state to the point of entry to the state. (Section 3327.15 of the Ohio Revised Code).
- F. It is not permissible to use buses for any personal reasons. Drivers cannot stop at the store or at any other location unless the stop is official business.
- G. Drivers for field trips will be assigned on a rotating basis of the regularly employed drivers.
- H. Transportation Coordination.
- 1) Each school bus owner may participate in the written county transportation plan that establishes policies regarding the transportation needs of Ohio Works First participants seeking or striving to retain employment. A copy of the plan shall be maintained on file
  - 2) Based upon the availability of local and/or state resources, school bus owners may enter into contractual agreements with local social service agencies to provide school bus transportation to Ohio Works First participants, when there are no other alternative methods of transportation as identified in the county transportation plan.
  - 3) The social service agency(ies) shall pay for the fully allocated costs associated with the use of the school bus(es).
- I. Non-Routine Use Of School Buses
- 1) The agency(ies) shall agree to hold harmless the school bus owner from all liability arising from such use.
  - 2) The school bus owner and/or agency(ies) must obtain liability in an amount equal to or greater than the maximum tort damage permitted by law.
  - 3) The proposed use is consistent with owner policies regarding the use of school buses.
  - 4) Mileage under such contract/agreement is not reimbursable by the Department of Education.
- J. School bus owners may enter into agreement with any recognized organization serving the elderly under the Older Americans Act to provide for the use of school buses, under certain conditions:
- 1) The organization must pay for the fully allocated costs associated with the use of the bus(es)



- 2) The organization must agree to hold harmless the school bus owner from all liability arising from such use
  - 3) The school bus owner and/or organization must obtain liability in an amount equal to or greater than the maximum tort damage permitted by law
  - 4) The proposed use is consistent with owner policies regarding the use of school buses
  - 5) Mileage under such contract/agreement is not reimbursable by the Department of Education
- K. The first priority for the use of school buses must be for the purposes outlined in chapter 3301-83 inclusive of the Administrative Code.
  - L. Transportation coordination shall not be conducted during those times the school bus is in regular use and school children, or persons attending programs offered by community boards of mental health and county boards of mental retardation and developmental disabilities, are being transported.
  - M. It will be the responsibility of the school bus owner to ensure compliance to all laws and regulations applicable to such additional use of the school bus.

## **610. Bus/Vehicle Routes**

- A. The Superintendent or designee shall prepare routes and disseminate the information to bus drivers, enrollees or parents guardians and other appropriate program personnel including residential facilities at least five (5) days prior to the start of the program year. Routes will be established to insure that no individual enrolled in the County Board Program will travel in a vehicle on a regularly scheduled route for more than ninety minutes one way on any day. The Board will ensure the following:
  - 1) Turnarounds, in any vehicle, may not be scheduled at intersections where the vehicle must cross a lane of traffic to back.
  - 2) The driver who leaves the seat of a vehicle for enrollee management may not leave the immediate vicinity of the vehicle.
- B. All drivers are responsible for maintaining current, updated route sheets (including names, addresses, phone numbers, pick-up and drop-off times, and route directions and other appropriate information) on their vehicle and in the administrative office at all times. Whenever changes or additions are made, driver must update their copy and must provide the office with an updated route sheet within two days. Whenever drivers are assigned a new enrollee, that person or family/guardian must be notified of the pick-up or drop-off time changes due to additional pick-ups or drop-offs, the enrollees or parents/guardians must be notified. The Transportation Coordinator shall be responsible for ensuring the notifications.
- C. If the driver arrives at a pick-up point ahead of schedule, the driver shall wait until the normal pick-up time for the passenger if necessary.
- D. If the driver arrives at the pick-up on schedule a maximum of 3 minutes waiting time will be observed for passenger to exit residence.
- E. No vehicle shall be scheduled for more passengers than the approved seating capacity of each vehicle. Seating capacity shall be adjusted if seats removed for wheelchair transport.
- F. When passengers are loading or unloading, the driver is to remain in the vehicle at all times. Van drivers are to remain on the van at all times except with approval of Transportation Coordinator or Administrative Office.
- G. Operation of lifts is the responsibility of family members or residential service providers at the individual residences and MCBDD direct service staff at program facilities.

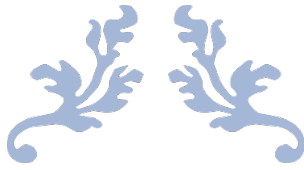
- H. The driver is responsible for maintaining passenger safety, including securing wheelchairs, observing seating capacity requirements, appropriate use of car seats, restraints and quick release mechanisms.

## **611. Idle Time on Diesel Buses**

The Madison County Board of DD is environmentally conscience and will adhere to all related laws pertaining to vehicle emissions etc. The following maximum time lines will be observed for diesel engines at idle.

Cold weather (below 45 degrees F)----1000-1200 RPM for no more than 10 minutes.

Warm weather (above 45 degrees F)----1000-1200 RPM for no more than 5 minutes.



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# MADISON COUNTY BOARD OF DEVELOPMENTAL DISABILITIES POLICY MANUAL

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## Chapter 7: Behavior Support Policy



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## **700. PURPOSE**

The Madison County Board of Developmental Disabilities recognizes the purpose of behavior support is to support and assist the individual in social and emotional development so that they will be able to live, work, learn, and participate in their community. This policy was developed in accordance with OAC 5123-2-06, and the Board will therefore comply with all provisions of this rule. This policy sets forth requirements for development and implementation of positive measures as well as behavioral support strategies that include restrictive measures for the purpose of ensuring that:

- A. Individuals with developmental disabilities are supported in a caring and responsive manner that promotes dignity, respect, and trust and with recognition that they are equal citizens with the same rights and personal freedoms granted to Ohioans without developmental disabilities;
- B. Services and supports are based on an understanding of the individual and the reasons for the individual's actions;
- C. Effort is directed at creating opportunities for individuals to exercise choice in matters affecting their everyday lives and supporting individuals to make choices that yield positive outcomes; and
- D. Restrictive measures are used only when necessary to keep people safe and always in conjunction with positive measures.

## **701. SCOPE**

- A. This policy applies to persons and entities that provide specialized services regardless of source of payment, including but not limited to:
  - 1) County boards of developmental disabilities and entities under contract with county boards;
  - 2) Residential facilities licensed pursuant to section 5123.19 of the Revised Code, including intermediate care facilities for individuals with intellectual disabilities;
  - 3) Providers of supported living certified pursuant to section 5123.161 of the Revised Code; and
  - 4) Providers of services funded by Medicaid home and community-based services waivers administered by the department pursuant to section 51266.21 of the Revised Code.
- B. Individuals receiving services in a setting governed by the Ohio department of education shall be supported in accordance with rule 3301-35-15 of the Administrative Code.

## **702. DEFINITIONS**

- A. "Chemical restraint" means the use of medication in accordance with scheduled dosing or pro re nata ("PRN" or as needed) for the purpose of causing a general or non-specific blunt suppression of behavior (i.e., the effect of the medication results in a noticeable or discernible difference in the individual's ability to complete activities of daily living) or for the purpose of treating sexual offending behavior.
  - 1) A behavior support strategy may include chemical restraint only when an individual's actions pose risk of harm, or an individual engages in a precisely defined pattern of behavior that is very likely to result in risk of harm.
  - 2) A medication prescribed for the treatment of a physical or psychiatric condition in accordance with the standards of treatment for the condition and not for the purpose of causing a general or non-specific blunt suppression of behavior, is presumed to not be a chemical restraint.

- 3) "Chemical restraint" does not include a medication that is routinely prescribed in conjunction with a medical procedure for patients without developmental disabilities.
- B. "County board" means a county board of developmental disabilities.
- C. "Department" means the Ohio department of developmental disabilities.
- D. "Director" means the director of the Ohio department of developmental disabilities.
- E. "Emergency" means an individual's behavior presents an immediate danger of physical harm to the individual or another person or the individual being the subject of a legal sanction and all available positive measures have proved ineffective or infeasible.
- F. "Human rights committee" means a standing committee formed by a county board or an intermediate care facility for individuals with intellectual disabilities to safeguard individuals' rights and protect individuals from physical, emotional, and psychological harm. At intermediate care facility for individuals with intellectual disabilities, the human rights committee may also be referred to as a "specially constituted committee" as that term is used in 42 C.F.R. 483.440 as in effect on the effective date of this policy.
- G. "Individual" means a person with a developmental disability.
- H. "Individual service plan" means the written description of services, supports, and activities to be provided to an individual and includes an "individual program plan" as that term is used in 42 C.F.R. 483.440 as in effect on the effective date of this policy.
- I. "Informed consent" means a documented written agreement to allow a proposed action, treatment, or service after full disclosure provided in a manner an individual or the individual's guardian, as applicable, understands, of the relevant facts necessary to make the decision. Relevant facts include the risks and benefits of the action, treatment, or service; the risks and benefits of the alternatives to the action, treatment, or service; and the right to refuse the action, treatment, or service. An individual or guardian, as applicable, may withdraw informed consent at any time.
- J. "Intermediate care facility for individuals with intellectual disabilities" has the same meaning as in section 5124.01 of the Revised Code.
- K. "Manual restraint" means use of a hands-on method, but never in a prone restraint, to control an identified action by restricting the movement or function of an individual's head, neck, torso, one or more limbs, or entire body, using sufficient force to cause the possibility of injury and includes holding or disabling an individual's wheelchair or other mobility device.
  - 1) An individual in a manual restraint shall be under constant visual supervision by staff.
  - 2) Manual restraint shall cease immediately once risk of harm has passed.
  - 3) "Manual restraint" does not include a method that is routinely used during a medical procedure for patients without developmental disabilities.
  - 4) A behavioral support strategy may include manual restraint only when an individual's actions pose a risk of harm.
- L. "Mechanical restraint" means use of a device, but never in a prone restraint, to control an identified action by restricting an individual's movement or function.
  - 1) Mechanical restraint shall cease immediately once risk of harm has passed.
  - 2) "Mechanical restraint" does not include:
    - a) A seatbelt of a type found in an ordinary passenger vehicle or an age-appropriate child safety seat;
    - b) A medically necessary device (such as a wheelchair seatbelt or a gait belt) used for supporting or positioning an individual's body; or
    - c) A device that is routinely used during a medical procedure for patients without developmental disabilities.

- 3) A behavioral support strategy may include mechanical restraint only when an individual's actions pose risk of harm.
- M. "Precisely-defined pattern of behavior" means a documented and predictable sequence of actions that if left uninterrupted, will very likely result in physical harm to self or others.
- N. "Prohibited measure" means a method that shall not be used by persons or entities providing specialized services. "Prohibited measures" include:
- 1) Prone restraint.
  - 2) Use of a manual restraint or mechanical restraint that has the potential to inhibit or restrict an individual's ability to breathe or that is medically contraindicated.
  - 3) Use of a manual restraint or mechanical restraint that causes pain or harm to an individual.
  - 4) Disabling an individual's communication device.
  - 5) Denial of breakfast, lunch, dinner, snacks, or beverages (excluding denial of snacks or beverages for an individual with primary polydipsia or a compulsive eating disorder attributed to diagnosed condition such as "Prader-Willi Syndrome," and denial is based on specific medical treatment of the diagnosed condition and approved by the human rights committee).
  - 6) Placing an individual in a room with no light.
  - 7) Subjecting an individual to damaging or painful sound.
  - 8) Application of electric shock to an individual's body (excluding electroconvulsive therapy prescribed by a physician as a clinical intervention to treat a diagnosed medical condition and administered by a physician or a credentialed advanced practice registered nurse).
  - 9) Subjecting an individual to any humiliating or derogatory treatment.
  - 10) Squirting an individual with any substance as an inducement or consequence for behavior.
  - 11) Using any restrictive measure for punishment, retaliation, convenience of providers, or as a substitute for specialized services.
- O. "Prone restraint" means a method of intervention where an individual's face and/or frontal part of an individual's body is placed in a downward position touching any surface for any amount of time.
- P. "Provider" means any person or entity that provides specialized services.
- Q. "Qualified intellectual disability professional" has the same meaning as in 42 C.F.R. 483.430 as in effect on the effective date of this policy.
- R. "Restrictive measure" means a method of last resort that may be used by persons or entities providing specialized services only when necessary to keep people safe and with prior approval in accordance with Section 707 of this policy. "Restrictive measures" include:
- 1) Chemical restraint;
  - 2) Manual restraint;
  - 3) Mechanical restraint;
  - 4) Rights restriction; and
  - 5) Time-out
- S. "Rights restriction" means restriction of an individual's rights as enumerated in section 5123.62 of the Revised Code.
- 1) A behavior support strategy may include a rights restriction only when an individual's actions pose risk of harm or are very likely to result in the individual being the subject of a legal sanction such as eviction, arrest, or incarceration.
  - 2) Absent risk of harm or likelihood of legal sanction, an individual's rights shall not be restricted (e.g., by imposition of arbitrary schedules or limitation on consumption of tobacco products).
- T. "Risk of Harm" means there exists a direct and serious risk of physical harm to the individual or another person. For risk of harm:
- 1) An individual must be capable of causing physical harm to self or others; and

- 2) The individual must be causing physical harm to self or others or very likely to begin doing so.
- U. "Service and support administrator" means a person, regardless of title, employed by or under contract with a county board to perform the functions of service and support administration and who holds the appropriate certification in accordance with rule 5123:2-5-02 of the Administrative Code.
- V. "Specialized services" means any program or service designed and operated to serve primarily individuals with developmental disabilities, including a program or service provided by an entity licensed or certified by the department. If there is a question as to whether a provider or entity under contract with a provider is providing specialized services, the provider or contract entity may request that the director of the department make a determination. The director's determination is not subject to appeal.
- W. "Team," as applicable, has the same meaning as in rule 5123-4-02 of the Administrative Code or means an "interdisciplinary team" as that term is used in 42 C.F.R. 483.440 as in effect on the effective date of this policy.
- X. "Time-out" means confining an individual in a room or area and preventing the individual from leaving the room or area by applying physical force or by closing a door or constructing another barrier, including placement in such a room or area when a staff person remains in the room or area.
- 1) Time-out shall not exceed thirty minutes for any one incident nor one hour in any twenty-four-hour period.
  - 2) A time-out room or area shall not be key-locked, but the door may be held shut by a staff person or by a mechanism that requires constant physical pressure from a staff person to keep the mechanism engaged.
  - 3) A time-out room or area shall be adequately lighted and ventilated and provide a safe environment for the individual.
  - 4) An individual in a time-out room or area shall be protected from hazardous conditions including but not limited to, sharp corners and objects, uncovered light fixtures, or unprotected electrical outlets.
  - 5) An individual in a time-out room or area shall be under constant visual supervision by staff.
  - 6) Time-out shall cease immediately once risk of harm has passed or if the individual engages in self-abuse, becomes incontinent, or shows other signs of illness.
  - 7) "Time-out" does not include periods when an individual, for a limited and specified time, is separated from others in an unlocked room or area for the purpose of self-regulation of behavior and is not physically restrained or prevented from leaving the room or area by physical barriers.
  - 8) A behavior support strategy may include time-out only when an individual's actions pose risk of harm.

### **703. DEVELOPMENT OF A BEHAVIORAL SUPPORT STRATEGY**

- A. The focus of a behavioral support strategy is proactive creation of supportive environments that enhance an individual's quality of life by understanding and respecting the individual's needs and expanding opportunities for the individual to communicate and exercise choice and control through identification and implementation of positive measures such as:
- 1) Emphasizing alternative ways for the individual to communicate needs and to have needs met;
  - 2) Adjusting the physical or social environment;
  - 3) Addressing sensory stimulus;



- 4) Adjusting schedules; and
  - 5) Establishing trusting relationships.
- B. A behavioral support strategy that includes restrictive measures requires:
- 1) Documentation that demonstrates that positive measures have been employed and have been determined ineffective.
  - 2) An assessment conducted within the past twelve months that clearly describes:
    - a) The behavior that poses risk of harm or likelihood of legal sanction or the individual's engagement in a precisely defined pattern of behavior that is very likely to result in risk of harm;
    - b) The level of harm or type of legal sanction that could reasonably be expected to occur with the behavior;
    - c) When the behavior is likely to occur;
    - d) The individual's interpersonal, environmental, medical, mental health, communication, sensory, and emotional needs; diagnosis; and life history including traumatic experiences as a means to gain insight into origins and patterns of the individual's actions; and
    - e) The nature and degree of risk to the individual if the restrictive measure is implemented.
  - 3) A description of actions to be taken to:
    - a) Mitigate risk of harm or likelihood of legal sanction;
    - b) Reduce and ultimately eliminate the need for restrictive measures; and
    - c) Ensure the individual is in environments where the individual has access to preferred activities and is less likely to engage in unsafe actions due to boredom, frustration, lack of effective communication, or unrecognized health problems.
- C. A behavioral support strategy shall never include prohibited measures.
- D. Persons who conduct assessments and develop behavioral support strategies that include restrictive measures shall:
- 1) Hold a valid license issued by the Ohio board of psychology;
  - 2) Hold a valid license issued by the Ohio counselor, social worker and marriage and family therapist board;
  - 3) Hold a valid physician license issued by the state medical board of Ohio; or
  - 4) Hold a bachelor's or graduate-level degree from an accredited college or university and have at least three years of paid, full-time (or equivalent part-time) experience in developing and/or implementing behavioral support and/or risk reduction strategies or plans.
- E. A behavioral support strategy that includes restrictive measures shall:
- 1) Be designed in a manner that promotes healing, recovery, and resilience;
  - 2) Have the goal of helping the individual to achieve outcomes and pursue interests while reducing or eliminating the need for restrictive measures to ensure safety;
  - 3) Describe tangible outcomes and how progress toward achievement of outcomes will be identified;
  - 4) Recognize the role environment plays in behavior;
  - 5) Capitalize on the individual's strengths to meet challenges and needs;
  - 6) Delineate restrictive measures to be implemented and identify those who are responsible for implementation;
  - 7) Specify steps to be taken to ensure the safety of the individual and others;
  - 8) As applicable, identify needed services and supports to assist the individual in meeting court-ordered community controls such as mandated sex offender registration, drug-testing, or participation in mental health treatment; and

- 9) As applicable, outline necessary coordination with other entities (e.g., courts, prisons, hospitals, and law enforcement) charged with the individual's care, confinement, or reentry to the community.
- F. A behavioral support strategy that includes chemical restraint, manual restraint, or time-out will specify when and how the provider will notify the individual's guardian when such restraint is used.
- G. When a behavioral support strategy that includes restrictive measures is proposed by an individual and the individual's team, the qualified intellectual disability professional or the service and support administrator, as applicable, shall:
- 1) Ensure the strategy is developed in accordance with the principles of person-centered planning and trauma-informed care and incorporated as an integral part of the individual service plan.
  - 2) When indicated, seek input from persons with specialized expertise to address an individual's specific support needs.
  - 3) Secure informed consent of the individual or the individual's guardian, as applicable.
  - 4) Submit to the human rights committee the strategy and documentation, including the record of restrictive measures described in Section 705 (D) of this policy, based upon the assessment that clearly indicates:
    - a) The justification for the proposed restrictive measure, that is:
      - i. When manual restraint, mechanical restraint, or time-out is proposed – risk of harm;
      - ii. When chemical restraint is proposed – risk of harm or how the individual's engagement in a precisely defined pattern of behavior is very likely to result in risk of harm; or
      - iii. When rights restriction is proposed – risk of harm or how the individual's actions are very likely to result in the individual being the subject of a legal sanction.
    - b) The nature and degree of risk to the individual if the restrictive measure is implemented.
  - 5) Ensure the strategy is reviewed and approved in accordance with Section 707 of this policy prior to implementation and whenever the behavioral support strategy is revised to add restrictive measures.
  - 6) Ensure the strategy is reviewed by the individual and the individual's team at least every ninety calendar days or more frequently when specified by the human rights committee to determine and document the effectiveness of the strategy and whether the strategy should be continued, discontinued, or revised.
    - a) The review shall consider:
      - i. Numeric data on changes in the severity or frequency of behaviors that had been targeted for reduction due to a treat to safety or wellbeing;
      - ii. New skills that have been developed which have reduced or eliminated threats to safety or wellbeing;
      - iii. The individual's self-report of overall satisfaction in achieving desired outcomes and pursuing interests; and
      - iv. Observation by paid staff and/or natural supports as they relate to safety or wellbeing and the individual's achievement of desired outcomes and pursuit of interest.
    - b) When a manual restraint has been used in the past ninety calendar days, the review shall include seeking the perspective of the individual and at least one direct support professional involved in use of the manual restraint regarding why the manual restraint occurred and what could be done differently in the future to avoid manual restraint.
    - c) A decision to continue the strategy shall be based upon review of up-to-date information justifying the continuation of the strategy.

#### **704. RECONSIDERATION OF A MEDICATION INITIALLY PRESUMED TO NOT BE A CHEMICAL RESTRAINT**

- A. When administration of a medication initially presumed to not be a chemical restraint in accordance with Section 702 (A)(2) results in a general or non-specific blunt suppression of behavior, the provider is to alert the individual's qualified intellectual disability professional or service and support administrator, as applicable. The qualified intellectual disability professional or the service and support administrator is to ensure the prescriber of the medication and the individual's team are notified.
  - 1) The prescriber of the medication may adjust the medication (type or dose) to abate the general or non-specific blunt suppression of behavior.
  - 2) When the prescriber of the medication is not inclined to adjust the medication, the individual's team is to meet to consider what actions may be necessary (e.g., seeking an opinion from a different prescriber or introducing activities that may mitigate the impact of the medication on the individual's ability to complete activities of daily living).
- B. When a medication (as originally administered or as adjusted) continues to cause a general or non-specific blunt suppression of behavior beyond thirty calendar days, the medication is to be regarded as a chemical restraint and submitted to the human rights committee in accordance with Section 707 of this policy.

#### **705. IMPLEMENTATION OF BEHAVIORAL SUPPORT STRATEGIES WITH RESTRICTIVE MEASURES**

- A. Restrictive measures shall be implemented with sufficient safeguards and supervision to ensure the health, welfare, and rights of individuals receiving specialized services.
- B. Each person providing specialized services to an individual with a behavioral support strategy that includes restrictive measures shall successfully complete training in the strategy prior to serving the individual.
- C. After each incident of manual restraint, a provider shall take any measures necessary to ensure the safety of the individual, staff, and witnesses and minimize trauma for all involved.
- D. Each provider shall maintain a record of the date, time, and antecedent factors regarding each event of a restrictive measure other than a restrictive measure that is not based on antecedent factors (e.g., bed alarm or locked cabinet). The record for each event of a manual restraint or a mechanical restraint will include the duration. The provider will share the record with the individual or the individual's guardian, as applicable, and the individual's team whenever the individual's behavioral support strategy is being reviewed or reconsidered.

#### **706. ESTABLISHMENT OF HUMAN RIGHTS COMMITTEE**

- A. Each county board and each intermediate care facility for individuals with intellectual disabilities shall actively participate in an established human rights committee. A human rights committee may be established by a county board or an intermediate care facility for individuals with intellectual disabilities acting independently or jointly in collaboration with one or more other county boards and/or intermediate care facilities for individuals with intellectual disabilities. The human rights committee shall:

- 1) Be comprised of at least four persons;
  - 2) Include at least one individual who receives or is eligible to receive specialized services;
  - 3) Include qualified persons who have either experience or training in contemporary practices for behavioral support; and
  - 4) Reflect a balance of representatives from each of the following two groups:
    - a) Individuals who receive or are eligible to receive specialized services or family members or guardians of individuals who receive or are eligible to receive specialized services; and
    - b) County boards, intermediate care facilities for individuals with intellectual disabilities or other providers, or other professionals.
- B. All information and documents provided to the human rights committee and all discussions of the committee shall be confidential and shall not be shared or discussed with anyone other than the individual, the individual's guardian, and the individual's team.
- C. Members of the human rights committee shall receive department-approved training within three months of appointment to the committee in:
- 1) Rights of individuals as enumerated in section 5123.62 of the Revised Code;
  - 2) Person-centered planning;
  - 3) Informed consent;
  - 4) Confidentiality; and
  - 5) The requirements of the 5123-2-06 rule.
- D. Members of the human rights committee shall annually receive department-approved training in relevant topics which may include but not limited to:
- 1) Self-advocacy and self-determination;
  - 2) Role of guardians and section 5123.043 of the Revised Code;
  - 3) Effect of traumatic experiences on behavior; and
  - 4) Court-ordered community controls and the role of the court, the county board or intermediate care facility for individuals with intellectual disabilities, and the human rights committee.

## **707. REVIEW OF BEHAVIORAL SUPPORT STRATEGIES THAT INCLUDE RESTRICTIVE MEASURES**

There are two distinct processes for review of behavioral support strategies that include restrictive measures based on the nature of the request:

- A. Emergency request
- 1) An emergency request for a behavioral support strategy that includes restrictive measures shall consist of:
    - a) A description of the restrictive measures to be implemented;
    - b) Documentation of risk of harm or legal sanction which demonstrates the situation is an emergency;
    - c) A description of positive measures that have been implemented and proved ineffective or infeasible;
    - d) Any medical contraindications; and
    - e) Informed consent by the individual or the individual's guardian, as applicable.
  - 2) Prior to implementation of a behavioral support strategy submitted via the emergency request process, the strategy must be approved by:
    - a) A quorum of members of the human rights committee in accordance with 42 C.F.R. 483.440 as in effect on the effective date of this policy for an individual who resides in an intermediate care facility for individuals with intellectual disabilities; or

- b) The superintendent of the county board or the superintendent's designee for an individual who does not reside in an intermediate care facility for individuals with intellectual disabilities.
- 3) A behavioral support strategy approved via the emergency request process may be in place for a period not to exceed forty-five calendar days. Continuation of the strategy beyond the initial forty-five calendar days requires approval by the human rights committee in accordance with the process for a routine request described in Section 707 (B) of this policy.
- B. Routine request
  - 1) Absent an emergency, a human rights committee shall review a request to implement a behavioral support strategy that includes restrictive measures.
  - 2) An individual or the individual's guardian, as applicable, is to be notified at least seventy-two hours in advance of the date, time, and location of the human rights committee meeting at which the individual's behavioral support strategy will be reviewed. The individual or guardian has the right to attend to present related information.
  - 3) In its review of an individual's behavioral support strategy, the human rights committee is to:
    - a) Ensure that the planning process outlined in this policy has been followed and that the individual or individual's guardian, as applicable, has provided informed consent.
    - b) Ensure that the proposed restrictive measures are necessary to reduce risk of harm or likelihood of legal sanction.
    - c) When indicated, seek input from persons with specialized expertise to address an individual's specific support needs.
    - d) Ensure that the overall outcome of the behavioral support strategy promotes the physical, emotional, and psychological wellbeing of the individual while reducing risk of harm or likelihood of legal sanction.
    - e) Ensure that a restrictive measure is temporary in nature and occurs only in specifically defined situations based on:
      - i. Risk of harm for manual restraint, mechanical restraint, or time-out;
      - ii. Risk of harm or an individual's engagement in a precisely defined pattern of behavior that is very likely to result in risk of harm for chemical restraint; or
      - iii. Risk of harm or likelihood of legal sanction for a rights restriction.
    - f) Verify that any behavioral support strategy that includes restrictive measures also incorporates positive measures designed to enable the individual to feel safe, respected, and valued while emphasizing choice, self-determination, and an improved quality of life.
    - g) Determine the period of time for which a restrictive measure is appropriate and may approve a strategy that includes restrictive measures for any number of days not to exceed three hundred sixty-five.
    - h) Approve in whole or in part, reject in whole or in part, monitor, and when indicated, reauthorize behavioral support strategies that include restrictive measures.
    - i) Communicate the committee's determination including an explanation of its rejection of a strategy in writing to the qualified intellectual disability professional or service and support administrator that submitted the request for approval.
  - 4) The qualified intellectual disability professional or service and support administrator shall communicate in writing to the individual or individual's guardian, as applicable, the determination of the human rights committee including an explanation of rejection of a strategy as well as the individual's or guardian's right to seek reconsideration when the human rights committee rejects a strategy.
  - 5) An individual or the individual's guardian, as applicable, may seek reconsideration of rejection by the human rights committee of a strategy that includes restrictive measures by submitting

the request for reconsideration with additional information provided as rationale for the request to the qualified intellectual disability professional or service and support administrator, as applicable, in writing within fourteen calendar days of being informed of the rejection. The qualified intellectual disability professional or service and support administrator is to forward the request to the human rights committee within seventy-two hours. The human rights committee will consider the request for reconsideration and respond in writing to the individual or guardian within fourteen calendar days of receiving the request.

- 6) An individual who resides in an intermediate care facility for individuals with intellectual disabilities or the individual's guardian, as applicable, may appeal to the facility's specially constituted committee in accordance with the facility's procedure if the individual or guardian, as applicable, is dissatisfied with the strategy or the process used for development of the strategy.
- 7) An individual who does not reside in an intermediate care facility for individuals with intellectual disabilities or the individual's guardian, as applicable, may seek administrative resolution in accordance with rule 5123-4-04 of the Administrative Code if the individual or guardian is dissatisfied with the strategy, or the process used for development of the strategy.

#### **708. USE OF A RESTRICTIVE MEASURE WITHOUT PRIOR APPROVAL**

- A. Use of a restrictive measure, including use of a restrictive measure in a crisis situation (e.g., to prevent an individual from running into traffic), without prior approval in accordance with Section 707 of this policy shall be reported as "unapproved behavior support" in accordance with rule 5123-17-02 of the Administrative Code.
- B. Nothing in this policy shall be construed to prohibit or prevent any person from intervening in a crisis situation as necessary to ensure a person's immediate health and safety.

#### **709. REPORTING OF BEHAVIORAL SUPPORT STRATEGIES THAT INCLUDE RESTRICTIVE MEASURES**

Each county board and each intermediate care facility for individuals with intellectual disabilities shall enter information regarding behavior support strategies that include restrictive measures in the department's restrictive measure notification system. Corresponding entries are to be made:

- A. After securing approval in accordance with Section 707 of this policy and prior to implementation of a behavioral support strategy that includes restrictive measures; and
- B. When a restrictive measure is discontinued.

#### **710. ANALYSIS OF BEHAVIORAL SUPPORT STRATEGIES THAT INCLUDE RESTRICTIVE MEASURES**

- A. Each county board and each intermediate care facility for individuals with intellectual disabilities shall annually compile and analyze aggregate data regarding behavioral support strategies that include restrictive measures and furnish the data and analyses to the human rights committee by March fifteenth of each year for the preceding calendar year. Data compiled and analyzed shall include, but are not limited to:
  - 1) Nature and frequency of risk of harm or likelihood of legal sanction that triggered development of strategies that include restrictive measures;

- 2) Number of strategies that include restrictive measures by type of restrictive measure (i.e., chemical restraint, manual restraint, mechanical restraint, rights restriction, and time-out) reviewed, approved, rejected, and reauthorized in accordance with Section 707 of this policy.
  - 3) Number of restrictive measures by type of restrictive measure (i.e., chemical restraint, manual restraint, mechanical restraint, rights restriction, and time-out) implemented;
  - 4) Number of strategies that include restrictive measures that have been discontinued and the reasons for discontinuing the strategies; and
  - 5) An in-depth review and analysis of either:
    - a) Trends and patterns regarding strategies that include restrictive measures for purposes of determining methods for enhancing risk reduction efforts and outcomes, reducing the frequency of restrictive measures, and identifying technical assistance and training needs; or
    - b) A sample of implemented strategies that include restrictive measures for purposes of ensuring that strategies are developed, implemented, documented, and monitored in accordance with this policy.
- B. County boards and intermediate care facilities for individuals with intellectual disabilities shall make the data and analyses available to the department upon request.

## **711. DEPARTMENT OVERSIGHT**

- A. The department will take immediate action as necessary to protect the health and welfare of individuals which may include, but is not limited to:
  - 1) Suspension of a behavioral support strategy not developed, implemented, documented, or monitored in accordance with OAC 5123-2-06 or where trends and patterns of data suggest the need for further review;
  - 2) Provision of technical assistance in development or redevelopment of a behavioral support strategy; and
  - 3) Referral to other state agencies or licensing bodies, as indicated.
- B. The department will compile and analyze data regarding behavioral support strategies for purposes of determining methods for enhancing risk reduction efforts and outcomes, reducing the frequency of restrictive measures, and identifying technical assistance and training needs. The department will make the data and analyses available.
- C. The department may periodically select a sample of behavioral support strategies for review to ensure that strategies are developed, implemented, documented, and monitored in accordance with OAC 5123-2-06.
- D. The department will conduct reviews of county boards and providers as necessary to ensure the health and welfare of individuals and compliance with OAC 5123-2-06. Failure to comply with the rule may be considered by the department in any regulatory capacity, including certification, licensure, and accreditation.

## **712. WAIVER OF PROVISIONS OF OAC 5123:2-06**

- A. For good cause, the director may waive a condition or specific requirement of this rule except that the director shall not permit use of a prohibited measure as defined in Section 702 (N) of this policy. The director's decision to waive a condition or specific requirement of this rule shall not be contrary to the rights, health, or safety of individuals receiving services. The director's decision to grant or deny a request is not subject to appeal.



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# **MADISON COUNTY BOARD OF DEVELOPMENTAL DISABILITIES POLICY MANUAL**

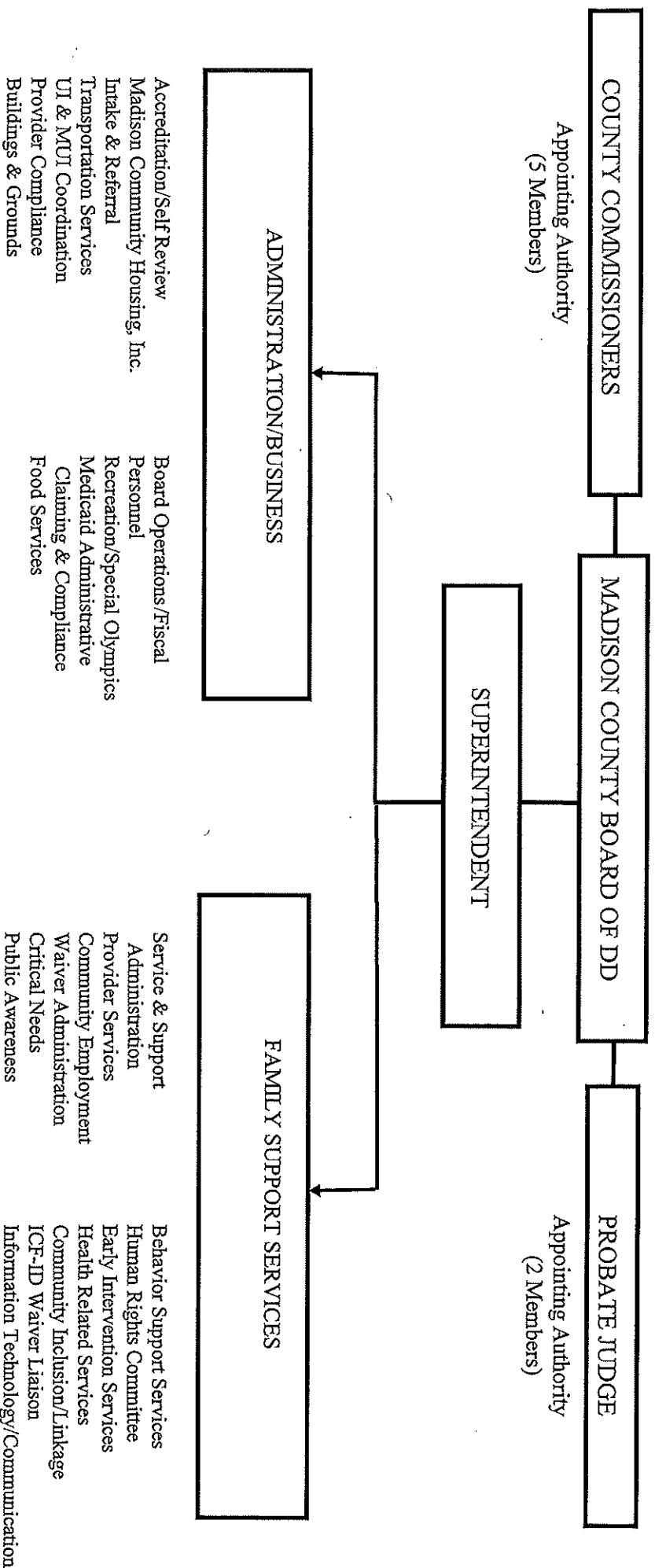
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## **Chapter 8: Table of Organization**

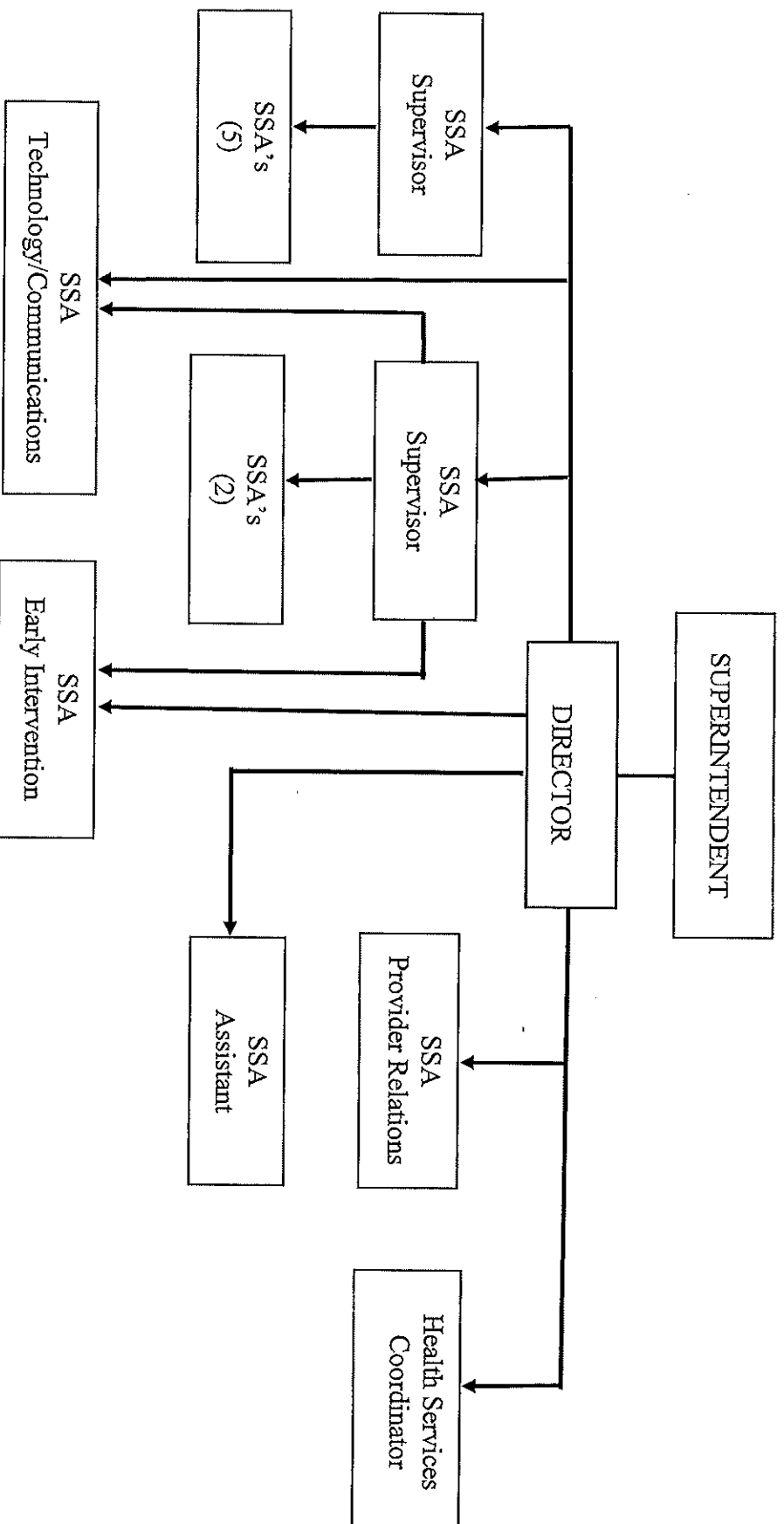




# **MADISON COUNTY BOARD OF DEVELOPMENTAL DISABILITIES TABLE OF ORGANIZATION OPERATIONS CHART**



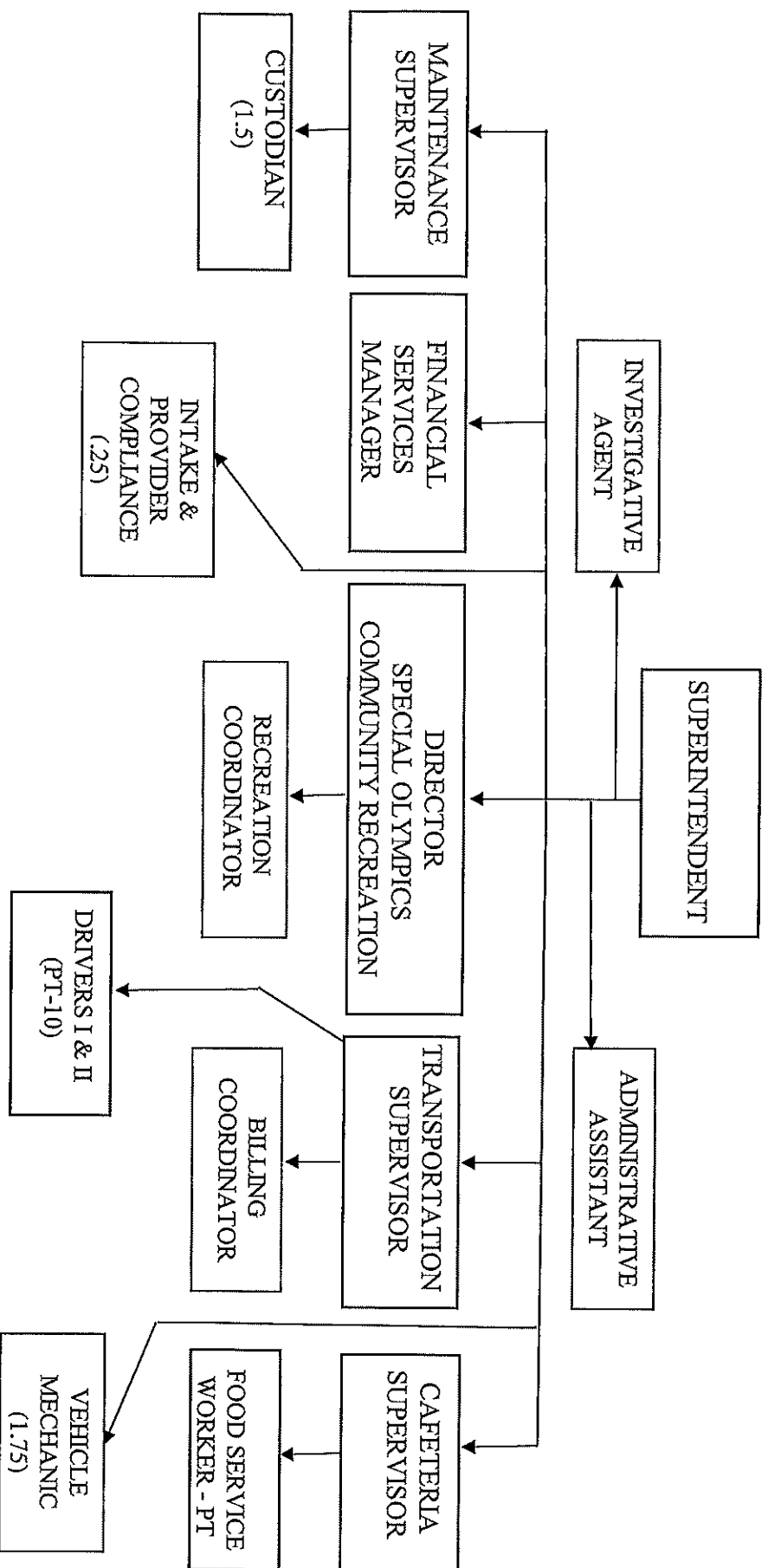
**MADISON COUNTY BOARD OF DEVELOPMENTAL DISABILITIES  
TABLE OF ORGANIZATION  
FAMILY SUPPORT SERVICES**



SSA – Support Services Administrator

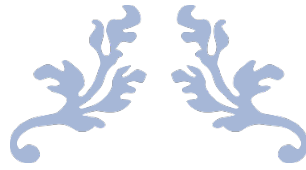
Board Approved: May 27, 2021

**MADISON COUNTY BOARD OF MENTAL RETARDATION & DEVELOPMENTAL DISABILITIES**  
**TABLE OF ORGANIZATION**  
**ADMINISTRATIVE/FISCAL SERVICES**



Board Adopted: May 27, 2021

FILE: ORGCHART-OPERATIONS



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# MADISON COUNTY BOARD OF DEVELOPMENTAL DISABILITIES POLICY MANUAL

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## Chapter 11: Waiting List



**Board Adopted: January 11, 1990**

**Revised: August 17, 2000**

**April 18, 2002**

**September 18, 2003**

**April 21, 2016**

**November 15, 2018**

**Updated Format and Layout: May 3, 2021**

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## **1100. Purpose**

- A. This policy sets forth the requirements for waiting lists established by the Madison County Board of Developmental Disabilities (hereafter referred to as 'Madison County Board of DD') pursuant to section 5126.042 of the Ohio Revised Code.

## **1101. Definitions**

- A. "Adult" means an individual who is eighteen years of age or older.
- B. "Alternative services" means the various programs, funding mechanisms, services, and supports, other than home and community-based services, that exist as part of the developmental disabilities service system and other service systems including, but not limited to, services offered through Ohio's Medicaid state plan such as home health services and services available at an intermediate care facility for individuals with intellectual disabilities.
- C. "Community-based alternative services" means alternative services in a setting other than a hospital, an intermediate care facility for individuals with intellectual disabilities, or a nursing facility.
- D. "County board" means a county board of developmental disabilities.
- E. "Current need" means an unmet need for home and community-based services within twelve months, as determined by a county board based upon assessment of the individuals using the waiting list assessment tool. Situations that give rise to current need include:
  - 1) An individual is likely to be at risk of substantial harm due to:
    - i. The primary caregiver's declining or chronic physical or psychiatric condition that significantly limits his or her ability to care for the individual;
    - ii. Insufficient availability of caregivers to provide necessary supports to the individual; or
    - iii. The individual's declining skills resulting from a lack of supports.
  - 2) An individual has an ongoing need for limited or intermittent supports to address behavioral, physical, or medical needs, in order to sustain existing caregivers and maintain the viability of the individual's current living arrangement.
  - 3) An individual has an ongoing need for continuous supports to address significant behavioral, physical or medical needs.
  - 4) An individual is aging out of, or being emancipated from, children's services and has needs that cannot be addressed through community-based alternative services.
  - 5) An individual requires waiver funding for adult day services or employment-related supports that are not otherwise available as vocational rehabilitation services funded under section 110 of the Rehabilitation Act of 1973, 29 U.S.C. 730, as in effect on the effective date of this rule, or as special education or related services as those terms are defined in section 602 of the Individuals with Disabilities Education Improvement Act of 2004, 20 U.S.C. 1401, as in effect on the effective date of this rule.
- F. "Date of request" means the earliest date and time of any written or other documented request for home and community-based services made prior to the effective date of this rule.
- G. "Department" means the Ohio Department of Developmental Disabilities.
- H. "Home and community-based services" has the same meaning as in section 5123.01 of the Revised Code.

- I. "Immediate need" means a situation that creates a risk of substantial harm to an individual, caregiver, or another person if action is not taken within thirty calendar days to reduce the risk. Situations that give rise to immediate need include:
- 1) A resident of an immediate care facility for individuals with intellectual disabilities has received notice of termination of services in accordance with rule 5123:2-3-05 of the Administrative Code.
  - 2) A resident of a nursing facility has received thirty-day notice of intent to discharge in accordance with Chapter 5160-3 of the Administrative Code.
  - 3) A resident of a nursing facility has received an adverse determination in accordance with rule 5123:2-14-01 of the Administrative Code.
  - 4) An adult is losing his or her primary caregiver due to the primary caregiver's declining or chronic physical or psychiatric condition or due to other unforeseen circumstances (such as military deployment or incarceration) that significantly limit the primary caregiver's ability to care for the individual when:
    - i. Impending loss of the caregiver creates a risk of substantial harm to the individual; and
    - ii. There are no other caregivers available to provide necessary supports to the individual.
  - 5) An adult or child is engaging in documented behavior that creates a risk of substantial harm to the individual, caregiver, or another person.
  - 6) There is impending risk of substantial harm to the individual or caregiver as a result of:
    - i. The individual's significant care needs (i.e., bathing, lifting, high-demand, or twenty-four-hour care); or
    - ii. The individual's significant or life-threatening medical needs.
  - 7) An adult has been subjected to abuse, neglect, or exploitation and requires additional supports to reduce a risk of substantial harm to the individual.
- J. "Individual" means a person with a developmental disability.
- K. "Intermediate care facility for individuals with intellectual disabilities" has the same meaning as in section 5124.01 of the Revised Code.
- L. "Locally-funded home and community-based services waiver" means the county board pays the entire nonfederal share of Medicaid expenditures in accordance with sections 5126.059 and 5126.0510 of the Revised Code.
- M. "Nursing facility" has the same meaning as in section 5165.01 of the Revised Code.
- N. "Service and support administration" means the duties performed by a service and support administrator pursuant to section 5126.15 of the Revised Code.
- O. "State-funded home and community-based services waiver" means the department pays, in whole or in part, the nonfederal share of Medicaid expenditures associated with an individual's enrollment in the waiver.
- P. "Status date" means the date on which the individual is determined to have a current need based on completion of an assessment of the individual using the waiting list assessment tool.
- Q. "Transitional list of individuals waiting for home and community-based services" means the list maintained in the department's web-based individual data system which shall include the name and date of request for each individual on a list of individuals waiting for home and community-based services on the day immediately prior to the effective date of this rule established in accordance with rule 5123:2-1-08 of the Administrative Code as that rule existed on the day immediately prior to the effective date of this rule.

- R. "Waiting list assessment tool" means the Ohio assessment for immediate need and current need contained in the appendix to this rule, which shall be used for purposes of making a determination of an individual's eligibility to be added to the waiting list for home and community-based services defined in paragraph (B) (20) of this rule and administered by persons who successfully complete training developed by the department.
- S. "Waiting list date" means, as applicable, either:
  - 1) The date of request for an individual whose name is included on the transitional list of individuals waiting for home and community-based services; or
  - 2) The earliest status date for an individual whose name is not included on the transitional list of individuals waiting for home and community-based services.
- T. "Waiting list for home and community-based services" means the list established by county boards and maintained in the department's web-based waiting list management system which shall include the name, status date, date of request (as applicable), waiting list date, and the criteria for current need by which an individual is eligible based on administration of the waiting list assessment tool, for each individual determined to have a current need on or after the effective date of this rule.

## **1102. Planning for locally-funded home and community-based services waivers**

- A. A county board shall, in conjunction with development of its plan described in section 5126.054 of the Revised Code and its strategic plan described in rule 5123-4-01 of the Administrative Code, identify how many individuals the county board plans to enroll in each type of locally-funded home and community-based services waiver during each calendar year, based on projected funds available to the county board to pay the nonfederal share of medicaid expenditures and the assessed needs of the county's residents on the waiting list for home and community-based services. This information shall be made available to any interested person upon request.

## **1103. Waiting list for home and community-based services**

- A. An individual or the individual's guardian, as applicable, who thinks the individual has an immediate need or a current need may contact the county board in the individual's county of residence to request an assessment of the individual using the waiting list assessment tool. The county board shall initiate an assessment of the individual using the waiting list assessment tool within thirty calendar days. An individual or the individual's guardian, as applicable, shall have access to the individual's completed waiting list assessment tool maintained in the department's web-based waiting list management system and upon request, shall be provided a copy by the county board.
- B. The county board shall place an individual's name on the waiting list for home and community-based services when, based on assessment of the individual using the waiting list assessment tool, the individual:
  - 1) Has been determined to have a condition that is:
    - i. Attributable to a mental or physical impairment or combination of mental and physical impairments, other than an impairment caused solely by mental illness;
    - ii. Manifested before the individual is age twenty-two; and



- iii. Likely to continue indefinitely; and
  - 2) Has a current need which cannot be met by community-based alternative services in the county where the individual resides (including a situation in which an individual has a current need despite the individual's enrollment in a home and community-based services waiver).
- C. The county board shall not place an individual's name on the waiting list for home and community-based services when the individual:
  - 1) Is a child who is subject to a determination under section 121.38 of the Revised Code and requires home and community-based services; or
  - 2) Has an immediate need, in which case the county board shall take action necessary to ensure the immediate need is met. The county board shall provide the individual or the individual's guardian, as applicable, with the option of having the individual's needs met in an intermediate care facility for individuals with intellectual disabilities or through community-based alternative services. Once an individual or individual's guardian chooses the setting in which he or she prefers to receive services, the county board shall take action to ensure the individual's immediate need is met, including by enrollment in a home and community-based services waiver, if necessary. Such action may also include assisting the individual or the individual's guardian, as applicable, in identifying and accessing alternative services that are available to meet the individual's needs.
- D. When a county board places an individual's name on the waiting list for home and community-based services, the county board shall:
  - 1) Record, in the department's web-based waiting list management system:
    - i. The individual's status date; and
    - ii. For an individual included in the transitional list of individuals waiting for home and community-based services defined in paragraph (B) (17) of this rule, the individual's date of request.
  - 2) Notify the individual or the individual's guardian, as applicable, that the individual's name has been placed on the waiting list for home and community-based services.
  - 3) Provide contact information to the individual or the individual's guardian, as applicable, for a person at the county board who can assist in identifying and accessing alternative services that address, to the extent possible, the individual's needs.
- E. Annually, a county board shall:
  - 1) Review the waiting list assessment tool and service needs of each individual whose name is included on the waiting list for home and community-based services with the individual and the individual's guardian, as applicable; and
  - 2) Assist the individual or the individual's guardian, as applicable, in identifying and accessing alternative services.
- F. Under any circumstances, when a county board determines an individual's status has changed with regard to having an immediate need and/or having a current need or an individual's status date has changed, the county board shall update the individual's record in the department's web-based waiting list management system.

#### **1104. Order for enrolling individuals in locally-funded home and community-based services waivers**

- A. Individuals shall be selected for enrollment in locally-funded home and community-based services waivers in this order:
  - 1) Individuals with immediate need who require waiver funding to address the immediate need.
  - 2) Individuals who have met multiple criteria for current need for twelve or more consecutive months and who were not offered enrollment in a home and community-based services waiver in the prior calendar year. When two or more individuals meet the same number of criteria for current need, the individual with the earliest of either the status date or date of request shall be selected for enrollment.
  - 3) Individuals who have met multiple criteria for current need for less than twelve consecutive months. When two or more individuals meet the same number of criteria for current need, the individual with the earliest of either the status date or date of request shall be selected for enrollment.
  - 4) Individuals who meet a single criterion for current need. When two or more individuals meet a single criterion for current need, the individual with the earliest of either the status date or date of request shall be selected for enrollment.
- B. Individuals with immediate need and individuals with current need may be enrolled in locally-funded home and community-based services waivers concurrently.
- C. Meeting the criteria for immediate need and/or current need does not guarantee enrollment in a locally-funded home and community-based services waiver within a specific timeframe.
- D. When an individual is identified as next to be enrolled in a locally-funded home and community-based services waiver, the county board shall determine the individual's eligibility for enrollment in a home and community-based services waiver. When the county board determines an individual is eligible for enrollment in a home and community-based services waiver, the county board shall determine which type of locally-funded home and community-based services waiver is sufficient to meet the individual's needs in the most cost-effective manner.

#### **1105. Order for enrolling individuals in state-funded home and community-based services waivers**

- A. The department shall determine the order for enrolling individuals in state-funded home and community-based services waivers.
- B. Meeting the criteria for immediate need and/or current need does not guarantee enrollment in a state-funded home and community-based services waiver within a specific timeframe.

#### **1106. Change in an individual's county of residence**

When an individual on the waiting list for home and community-based services moves from one county to another and the individual or the individual's guardian, as applicable, notifies the receiving county board, the receiving county board shall within ninety calendar days of receiving notice, review the individual's waiting list assessment tool.

- A. When the receiving county board determines that the individual has a current need which cannot be met by community-based alternative services in the receiving county (including a situation in which an individual has a current need despite the individual's enrollment in a home and community-based services waiver), the receiving county board shall update the individual's county of residence in the department's web-based waiting list management system without changing the status date or date of request assigned by the previous county board.
- B. When the receiving county board determines that the individual has a current need which can be met by community-based alternative services in the receiving county, the receiving county board shall assist the individual or the individual's guardian, as applicable, in identifying and accessing those services.

### **1107. Removal from waiting list for home and community-based services**

A county board shall remove an individual's name from the waiting list for home and community-based services:

- A. When the county board determines that the individual no longer has a condition described in paragraph (D)(2)(a) of this rule;
- B. When the county determines that the individual no longer has a current need;
- C. Upon request of the individual or the individual's guardian, as applicable;
- D. Upon enrollment of the individual in a home and community-based services waiver that meets the individual's needs;
- E. If the individual or the individual's guardian, as applicable, declines enrollment in a home and community-based services waiver or community-based alternative services that are sufficient to meet the individual's needs;
- F. If the individual or the individual's guardian, as applicable, fails to respond to attempts by the county board to contact the individual or the individual's guardian by at least two different methods, one of which shall be certified mail to the last known address of the individual or the individual's guardian, as applicable;
- G. When the county board determines the individual does not have a developmental disabilities level of care in accordance with rule 5123:2-8-01 of the Administrative Code;
- H. When the individual is no longer a resident of Ohio; or
- I. Upon the individual's death.

### **1108. Advancement from transitional list of individuals waiting for home and community-based services to waiting list for home and community-based services**

- A. The department shall maintain the transitional list of individuals waiting for home and community-based services as defined in paragraph (B)(17) of this rule until December 31, 2020.
- B. A county board shall administer the waiting list assessment tool to each individual residing in the county whose name is included on the transitional list of individuals waiting for home and community-based services.
  - 1) The county board shall administer the waiting list assessment tool to each individual residing in the county whose name is included on the transitional list of individuals waiting for home and community-based services who receives service

and support administration when the individual service plan is next scheduled for review following the effective date of this rule.

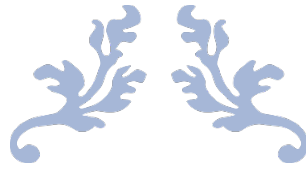
- 2) The county board shall administer the waiting list assessment tool to each individual residing in the county whose name is included on the transitional list of individuals waiting for home and community-based services who does not receive service and support administration no later than December 31, 2020. A county board may request and the department may provide assistance to identify, locate, contact, or administer the waiting list assessment tool to individuals residing in the county but unknown to the county board.
  - 3) There are three possible outcomes of administration of the waiting list assessment tool:
    - i. The county board determines the individual has an immediate need, in which case the individual shall receive services in accordance with paragraph (D)(3)(b) of this rule;
    - ii. The county board determines the individual has a current need, in which case the county board shall use community-based alternative services in the county to meet the individual's needs or if the individual's needs cannot be met by community-based alternative services in the county, the county board shall add the individual's name to the waiting list for home and community-based services; or
    - iii. The county board determines the individual has neither an immediate need nor a current need.
  - 4) Once the waiting list assessment tool has been administered to an individual whose name is included on the transitional list of individuals waiting for home and community-based services and a determination made, the county board shall notify the department and the department shall remove the individual's name from the transitional list of individuals waiting for home and community-based services.
- C. The county board or the department shall attempt to contact each individual whose name is included on the transitional list of individuals waiting for home and community-based services or the individual's guardian, as applicable, by at least two different methods, one of which shall be certified mail to the last known address of the individual or the individual's guardian, as applicable. The department shall remove an individual's name from the transitional list of individuals waiting for home and community-based services when the individual or the individual's guardian, as applicable:
- 1) Fails to respond to attempts by the county board or the department to establish contact; or
  - 2) Declines an assessment of the individual using the waiting list assessment tool.

## **1109. Due process**

- A. Due process shall be afforded to an individual aggrieved by an action of a county board related to:
- 1) The approval, denial, withholding, reduction, suspension, or termination of a service funded by the state medicaid program;
  - 2) Placement on, denial of placement on, or removal from the waiting list for home and community-based services or the transitional list of individuals waiting for home and community-based services; or

- 3) A dispute regarding an individual's date of request or status date.
- B. Due process shall be provided in accordance with section 5160.31 of the Revised Code and Chapters 5101:6-1 to 5101:6-9 of the Administrative Code.

OAC 5123-9-04 (Replaces OAC 5123:2-1-08)      Effective: 9/1/2018



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# **MADISON COUNTY BOARD OF DEVELOPMENTAL DISABILITIES POLICY MANUAL**

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## **Chapter 12: Administrative Resolution of Complaints Policy**



**Board Adopted: February 19, 1998**

**Reviewed: August 16, 2001**

**August 21, 2014**

**Updated Format and Layout: May 4, 2021**

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## **1200. Purpose**

The purpose of this policy is to set forth the process for resolution of complaints involving the programs, services, policies, or administrative practices of the Madison County Board of Developmental Disabilities, herein know as the Board or an entity under contract with the Board; set forth the process for individuals to appeal adverse actions proposed or initiated by the Board; and set forth the requirement for the Board to give notice of the process to be followed for resolution of complaints and appeals of adverse action. The Board will insure compliance with OAC 5123:2-1-12 as well as all applicable sections of the Ohio Revised Code.

## **1201. Scope**

- A. Any individual or person, other than an employee of the Board, may file a complaint using the process set forth in this policy. An individual may appeal an adverse action using the process set forth in this policy. The process set forth in this policy shall be followed before commencing a civil action.
- B. This policy shall not be applicable:
  - 1) When the Board is a vendor or subcontractor for service delivery.
  - 2) To education services arranged by the local education agency. Complaints or appeals concerning such services shall follow rules adopted by the Ohio department of education.
  - 3) To services provided under Part C of the Individuals with Disabilities Education Act, 34 C.F.R.303, as in effect on the effective date of this policy. Complaints or appeals concerning such services shall follow rules adopted by the lead agency responsible for administration of Part C of the Individuals with Disabilities Education Act.
  - 4) To Medicaid services including home and community-based waiver services and targeted case management services. Complaints or appeals concerning such services shall follow rules adopted by the Ohio department of Medicaid. The Board shall not require the use of the process set forth in this policy for issues regarding Medicaid services.
  - 5) To administration of prescribed medication, performance of health-related activities, and performance of tube feedings by developmental disabilities personnel pursuant to the authority granted under section 5123.42 of the Revised Code or compliance with Chapter 5123:2-6 of the Administrative Code. Complaints or appeals concerning such matters shall be made to the department using the process established in rule 5123:2-17-01 of the Administrative Code.
  - 6) To services provided to a resident of an intermediate care facility by the intermediate care facility, or provided on behalf of or through a contract with an intermediate care facility. Complaints or appeals concerning such services shall follow regulations governing intermediate care facilities.
- C. If the Board determines that a complaint or appeal of adverse action filed with the Board is not subject to this policy, the Board shall provide information to the individual or person filing the complaint or appeal, including the name and telephone number, if available, of the appropriate entity with which to file the complaint or appeal of adverse action.



- D. An individual received non-medicaid supported living services shall follow the terms of the contract of the service provider, as required by section 5126.45 of the Revised Code, prior to beginning the process for resolution of complaints or appeals of adverse action established in this policy.

## **1202. Definitions**

- A. “Adverse action” means any of the following:
- 1) Denial of a request for a non-medicaid service.
  - 2) Reduction in frequency and/or duration of a non-medicaid service.
  - 3) Suspension of a non-medicaid service.
  - 4) Termination of a non-medicaid service (except when the recipient of that service is deceased).
  - 5) The outcome of an eligibility determination.
- B. “Advocate” means any person selected by an individual to act and/or communicate as authorized by the individual.
- C. “Contracting entity” means an entity under contract with the Board for the provision of services to individuals with developmental disabilities.
- D. “County board” means a county board of developmental disabilities including a county board when acting through a council of governments.
- E. “Department” means the Ohio department of developmental disabilities.
- F. “Director” means the director of the Ohio department of developmental disabilities or his or her designee.
- G. “Hearing” means the opportunity to present one’s case regarding a complaint or appeal of adverse action.
- H. “Individual” means a person with a developmental disability who is eligible, or purports to be eligible, for services pursuant to Chapters 5123. and 5126. of the Revised Code and includes a parent of a minor child, an individual’s guardian, or an adult authorized in writing by an individual pursuant to section 5126.043 of the Revised Code to make a decision regarding receipt of a service or participation in a program.
- I. “Intermediate care facility” means an intermediate care facility for individuals with intellectual disabilities as defined in rule 5123:2-7-01 of the Administrative Code.
- J. “Notice” means and is deemed to have occurred upon:
- 1) For an individual who has selected email as her or her preferred method of communication, electronic confirmation that the individual has read the email;
  - 2) Personal delivery to an individual; or
  - 3) The date of certified mailing to an individual unless:
    - i. The original certified mailing is refused, in which case notice is deemed to have occurred on the date the notice is resent by ordinary mail to the individual; or
    - ii. The original certified mailing is unclaimed, in which case notice is deemed to have occurred on the date the notice is resent by ordinary mail to the individual unless within thirty days after the date the notice is resent, the resent notice is returned for failure of delivery.
- K. “Person” has the same meaning as in section 1.59 of the Revised Code.

### **1203. General Provisions**

- A. Complaints and appeals of adverse action shall be filed in writing. When an individual or person expresses dissatisfaction with an outcome subject to complaint or appeal in accordance with this policy, the Board shall, to the extent necessary, assist the individual or person in filing a complaint or appeal.
- B. At all times throughout the resolution of complaints and appeals of adverse action process, the Board shall maintain the confidentiality of the identities of individuals unless an individual gives written permission to share information.
- C. An advocate may assist an individual at any time during the resolution of complaints and appeals of adverse action process.
- D. The Board shall make all reasonable efforts to ensure that information regarding resolution of complaints and appeals of adverse action, including all notices and responses made pursuant to this policy, is presented using language and in a format understandable to affected individuals and persons. All notices and responses made pursuant to this policy shall include an explanation of the individual's or person's opportunity to file a complaint with or appeal to a higher authority, as applicable.
- E. The timelines set forth in this policy may be extended if mutually agreed upon in writing by all parties involved.
- F. Initiation of the formal process set forth in this policy does not preclude the resolution of complaint or an appeal of adverse action at any point, as long as the outcome is mutually agreed upon in writing by all parties involved.

### **1204. Requirements for the Board to Provide Information about the Process for Resolution of Complaints and Appeals of Adverse Action and to Give Notice of Adverse Action**

- A. General information about the process for resolution of complaints and appeals of adverse action.
  - 1) The County board shall give the "Complaint or Appeal of Adverse Action Explanation Form" contained in the appendix to this rule to an individual at the time of the individual's initial request for services, at least annually to each individual receiving or on a waiting list for non-medicaid services, and at the time a complaint within the scope of this rule is received or the county board proposes an adverse action.
  - 2) Upon request, a county board or contracting entity shall provide a copy this rule.
  - 3) The county board shall publicly post the "Complaint or Appeal of Adverse Action Explanation form" contained in the appendix to this rule.
- B. Specific notice of adverse action.
  - 1) Except when it is necessary to suspend an individual's services without delay to ensure the health and safety of the individual or other individuals in accordance with Section 1204(c) of this policy, the county board shall provide written notice to the affected individual of the county board's decision to deny, reduce, suspend, or terminate services at least fifteen calendar days prior to the effective date of such action. The notice shall include:

- i. An explanation of the county board's policy and/or authority for taking the adverse action;
    - ii. A description of the specific adverse action being proposed or initiated by the county board;
    - iii. The effective date for the adverse action;
    - iv. A clear statement of the reasons for the adverse action including a description of the specific assessments and/or documents that are the basis for the adverse action;
    - v. An explanation of the individual's right to appeal the adverse action;
    - vi. An explanation of the steps the individual must take to appeal the adverse action;
    - vii. A statement that the individual has ninety calendar days to appeal the adverse action;
    - viii. A statement that the individual must file his or her appeal prior to the effective date for the adverse action to keep his or her services in place during the appeal process;
    - ix. The name and contact information for the staff member of the county board who can assist the individual with his or her appeal; and
    - x. The "Complaint or Appeal of Adverse Action Explanation Form" contained in the appendix to this rule.
  - 2) The county board shall retain written evidence of the date the notice is personally delivered or sent by certified mail to the individual or for an individual who has selected email as his or her preferred method of communication, the date of electronic confirmation that the individual has read the email.
- C. Specific notice of adverse action when it is necessary to suspend an individual's services without delay to ensure the health and safety of the individual or other individuals.
- 1) When it is necessary to suspend an individual's services without delay to ensure the health and safety of the individual or other individuals, the county board shall:
    - i. Determine what immediate steps are necessary to ensure the health and safety of the individual and other individuals; and
    - ii. Provide written notice to the affected individual immediately. The notice shall include:
      - a) An explanation of the county board's policy and/or authority for suspending the individual's services;
      - b) A description of the specific services being suspended;
      - c) The effective date for the suspension of services;
      - d) A clear statement of the reasons for the suspension of services including a description of the specific circumstances that jeopardize the health and safety of the individual or other individual's;
      - e) An explanation that the county board shall arrange for appropriate alternative services and a description of the specific alternative services available to the individual;
      - f) An explanation of the steps the county board shall take in accordance with paragraphs 1204(c)(3) and 1204(c)(4) of this policy;

- g) The name and contact information for the staff member of the county board who can answer questions about the suspension of services; and
  - h) The “Complaint or Appeal of Adverse Action Explanation Form” contained in the appendix to this rule.
- 2) The county board shall retain written evidence of the date the notice is personally delivered or sent by certified mail to the individual or for an individual who has selected email as his or her preferred method of communication, the date of electronic confirmation that the individual has read the email.
- 3) Within five calendar days of the notice of suspension of services, the county board shall convene a team meeting to identify measures that may be implemented to eliminate the circumstances that jeopardize the health and safety of the individual or other individuals.
- 4) Within five calendar days of the team meeting, the county board shall:
  - i. With the consent of the individual, implement measures to eliminate the circumstances that jeopardize the health and safety of the individual or other individuals as necessary and restore the suspended services; or
  - ii. With the consent of the individual, continue to arrange for appropriate alternative services; or
  - iii. Provide written notice that includes the components described in Section 1204(b) of this policy to the individual of the county board’s decision to terminate the individual’s services at least fifteen calendar days prior to the effective date of such action. If the individual files an appeal prior to the effective date of the termination of services, the county board shall keep the individual’s alternative services in place until the appeal process is completed.

## **1205. Informal process for resolution of complaints and appeals of adverse action**

The following grievance procedure is an informal process for the resolution of disputes with complainants or individuals:

- A. A County Board designee, *as appointed by the Superintendent* shall serve as the representative to conduct an informal hearing of such disputes seeking to resolve the issue within a time frame of no more than thirty (30) days. The filing of such grievances under this policy shall not affect the rights of the complainant or individual to file an appeal through the administrative resolution procedures under paragraph (D) (03) of this policy.
  - 1) A case conference may be requested by the complainant or individual to discuss conflict issues with ten (10) days of the complaint.
  - 2) The complainant or individual shall contact the County Board Program Director of the applicable service component from which the pending issue originated.
  - 3) Upon receipt of the request for a case conference, the Program Director shall, at a mutually agreeable time to all parties, schedule a case conference. Case conferences shall be scheduled within five (5) working days of the request.
  - 4) The case conference shall include all persons requested to attend by the complainant and/or individual.

- 5) During the case conference the Program Director shall; respond to question, review the circumstances related to the decision, and provide the party initiating the request the opportunity to present reasons as to why any decision(s) should be reconsidered.
- 6) Prior to the conclusion of the case conference, the Program Director shall provide the party initiating the request for the case conference, a copy of the County Board Administrative Resolution of Complaints for County Boards.
- 7) The Program Director will inform the complainant or individual that the appeal process to the grievance procedure is the Administrative Resolution Procedure.

## **1206. Formal process for resolution of complaints and appeals of adverse action**

- A. Step one: filing a complaint or appeal of adverse action with the Division Director responsible for the program, service, policy, or administrative practice of the county board.
  - 1) An individual or person must file a complaint with the Division Director of the county board within ninety calendar days of becoming aware of the program, service, policy, or administrative practice that is the subject of the complaint.
  - 2) An individual must file an appeal of adverse action with the Division Director of the county board within ninety calendar days of notice of the adverse action or within ninety calendar days of conclusion of the informal process set forth in Section 1205 of this Policy. If the individual appeals an adverse action within the prior notice period (i.e., the period of time between notice of the intended adverse action and the effective date of the adverse action), the individual's services shall not be reduced, suspended, or terminated until the appeal process is completed or the appeal is withdrawn by the individual. An individual who appeals during the prior notice period may voluntarily consent in writing to the reduction, suspension, or termination of services during the appeal process.
  - 3) The Division Director of the county board shall conduct an investigation of the complaint or appeal which shall include meeting with the individual or person who filed the complaint or appeal.
  - 4) Within fifteen calendar days of receipt of the complaint or appeal, the Division Director of the county board shall provide and thereafter be available to discuss a written report and decision with the individual or person who filed the complaint or appeal. The written report and decision shall include the rationale for the decision and a description of the next step in the process if the individual or person is not satisfied with the decision of the Division Director.
- B. Step two: filing a complaint or appeal of adverse action with the superintendent of the county board.
  - 1) If the individual or person filing the complaint or appeal of adverse action is not satisfied with the outcome of the process set forth in Section 1206(a) of this Policy, the individual or person may file a complaint or appeal with the superintendent of the county board.
  - 2) The complaint or appeal of adverse action must be filed with the superintendent of the county board within ten calendar days of notice of the decision of the Division Director of the county board. If no decision is provided by the Division Director of the county board within fifteen calendar days in accordance with Section 1206(a)

of this Policy, the complaint or appeal of adverse action must be filed with the superintendent of the county board within twenty five calendar days of filing the complaint or appeal with the Division Director.

- 3) The superintendent of the county board or his or her designee shall, within ten calendar days of receipt of the complaint or appeal, meet with the individual or person and conduct an administrative review.
  - 4) As part of the administrative review, the superintendent of the county board or his or her designee may ask questions to clarify and review the circumstances and facts related to the Division Director's decision and shall provide the individual or person the opportunity to present reasons why the Division Director's decision should be reconsidered.
  - 5) Within fifteen calendar days of receipt of the complaint or appeal, the superintendent of the county board or his or her designee shall send by certified mail, a copy of his or her decision to the individual or person who submitted the complaint or appeal. Such decision shall include the rationale for the decision and a description of the next step in the process if the individual or person is not satisfied with the decision of the superintendent of the county board or his or her designee.
- C. Step three: filing a complaint or appeal of adverse action with the president of the county board.
- 1) If the individual or person filing the complaint or appeal of adverse action is not satisfied with the outcome of the process set forth in Section 1206 of this Policy, the individual or person may file a complaint or appeal with the president of the county board.
  - 2) The complaint or appeal of adverse action must be filed with the president of the county board within ten calendar days of notice of the decision of the superintendent of the county board or his or her designee. If no decision is provided by the superintendent of the county board or his or her designee within fifteen calendar days in accordance with Section 1206 of this Policy, the complaint or appeal of adverse action must be filed with the president of the county board within twenty-five calendar days of filing the complaint or appeal with the superintendent.
  - 3) The president of the county board shall ensure that a hearing is conducted within twenty calendar days of receipt of the complaint or appeal at a time and place convenient to all parties. At such hearing:
    - i. The county board may hear the complaint or appeal;
    - ii. A committee of two or more county board members appointed by the president of the county board with agreement of the county board may hear the complaint or appeal. The committee shall issue a report and recommendation to the county board within ten calendar days of the conclusion of the hearing; or
    - iii. A hearing officer appointed by the county board may hear the complaint or appeal. The hearing officer shall have the same powers and authority in conducting the hearing as granted to the county board. The hearing officer shall not be an employee or contractor of the county board providing any service other than that of hearing officer. The hearing officer need not be an attorney, but shall possess qualifications to be able to make neutral and informed decisions about the complaint or appeal. The county board may

ask the department to decide if a person is qualified to be a hearing officer. The hearing officer shall issue a report and recommendation to the county board within ten calendar days of the conclusion of the hearing.

- 4) Upon request, the individual or person filing the complaint or appeal shall be provided access to all records and materials related to the complaint or appeal no less than ten calendar days before the hearing.
  - 5) To the extent permitted by law, the hearing shall be private unless the individual or person requesting the hearing wants it open to the public.
  - 6) During the hearing, both parties may present evidence to support their positions.
  - 7) The individual or person requesting the hearing and the county board have the right to be represented by an attorney.
  - 8) The individual or person requesting the hearing shall have the right to have in attendance at the hearing and question any official, employee, or agent of the county board who may have evidence upon which the complaint or appeal is based.
  - 9) Evidence presented at the hearing shall be recorded by stenographic means or by use of an audio recorder at the option of the county board. The record shall be made at the expense of the county board and, upon request, one copy of a written transcript shall be provided, at no cost, to the individual or person requesting the hearing.
  - 10) In making its decision, the county board may request or consider additional information with notice to all affected parties, may request a presentation in writing and/or in person from each party, or take other action necessary to make a determination.
  - 11) Within fifteen calendar days of conclusion of a county board hearing or the county board's receipt of the report and recommendation from a county board-appointed committee or a hearing officer, the president of the county board shall send by certified mail, a copy of the county board's decision to the individual or person who requested the hearing. Such decision shall include the rationale for the decision and a description of the next step in the process if the individual or person is not satisfied with the decision of the county board.
- D. Step four: filing a complaint or appeal of adverse action with the director.
- 1) If the individual filing the complaint or appeal of adverse action is not satisfied with the outcome of the process set forth in Section 1206 of the Policy, the individual may file a complaint or appeal with the director.
  - 2) The complaint or appeal of adverse action must be filed with the director within fifteen calendar days of notice of the decision of the county board. If no decision is provided by the president of the county board within fifteen calendar days in accordance with Section 1206 of the Policy, the complaint or appeal of adverse action must be filed with the director within fifty-five days of filing the complaint with the president of the county board.
  - 3) The director shall send a copy of the complaint or appeal of adverse action to the superintendent and president of the county board.
  - 4) The president of the county board shall send the director the written transcript of the county board hearing, copies of any exhibits, and a copy of the county board's decision within twenty calendar days of receiving the copy of the complaint or appeal of adverse action from the director.

- 5) Upon request by an affected party or at the director's initiation, the director may request or consider additional information with notice to all affected parties, may request a presentation in writing and/or in person from each party, or take other action necessary to make a determination.
  - 6) Within forty-five calendar days of receipt of the written transcript of the county board hearing, copies of any exhibits, and a copy of the county board's decision from the president of the county board, the director shall send by certified mail, a copy of his or her decision to all affected parties. The director shall uphold the decision of the county board if the director determines that the decision is in accordance with applicable statute and administrative rule. The director's decision shall include the rationale for the decision.
- E. Other Remedies
- 1) After exhausting the administrative remedies required by this rule, an individual or person may commence a civil action if the complaint or appeal of adverse action is not resolved to his or her satisfaction. The rule is not intended to provide any right or cause of action that does not exist absent this rule.

**Appendix**  
**5123:2-1-12**  
**DATE: 04/14/2014**

**COMPLAINT OR APPEAL OF ADVERSE ACTION EXPLANATION  
FORM**

- A. Why would I file a complaint or appeal?
- 1) You may file a complaint if you are dissatisfied with a program, service, policy, or practice of the county board of developmental disabilities.
  - 2) You may file an appeal of adverse action ("appeal") if your request for services is denied or if services you have been receiving are being taken away.
- B. Do I have to file a formal complaint or appeal?
- 1) No; if you choose, you may start by trying to resolve your complaint or appeal informally with a supervisor or manager at the county board of developmental disabilities. You and the supervisor or manager can agree to work together to try and resolve your complaint or appeal. The informal process shall take no longer than 30 days.
- C. Should I try to resolve my complaint or appeal informally before filing a formal complaint or appeal?
- 1) That is entirely up to you. Trying to resolve your complaint or appeal informally does not prevent you from filing a formal complaint or appeal.
- D. When should I file a complaint or appeal?
- 1) A complaint must be filed within 90 days of becoming aware of the program, service, policy, or practice that is the subject of your complaint.
  - 2) An appeal must be filed within 90 days of receiving notice that your services are being denied or taken away.



E. Important!

- 1) In most cases, the county board must notify you at least 15 days prior to the date it plans to take away your services. If you file an appeal before the date your services are scheduled to be taken away, your services will stay in place during the appeal process.

F. How do I file a formal complaint or appeal?

- 1) The complaint or appeal must be filed in writing with the supervisor or manager responsible for the program, service, policy, or practice of the county board. Staff of the county board will assist you if you need help.

G. How will I be notified about my complaint or appeal?

- 1) The county board will respond to you in writing. Each response will explain the next step and the time line for completing it.

H. What will happen after I file a formal complaint or appeal?

- 1) The supervisor or manager will meet with you to discuss your complaint or appeal and will investigate your complaint or appeal. Within 15 days, the supervisor or manager will provide you with a written response to your complaint or appeal. If you make a request, the supervisor or manager will discuss the written response with you.

I. What if I am not satisfied with the supervisor's or manager's decision?

- 1) You may file your complaint or appeal with the Superintendent of the county board. Your complaint or appeal must be filed in writing within 10 days of receiving the supervisor's or manager's written response. Staff of the county board will assist you if you need help. The Superintendent or his or her designee will meet with you within 10 days of receipt of your complaint or appeal and provide you with a written response within 15 days of receipt of your complaint or appeal.

J. What if I am not satisfied with the Superintendent's decision?

- 1) You may file your complaint or appeal with the President of the county board. Your complaint or appeal must be filed in writing within 10 days of receiving the Superintendent's written response. Staff of the county board will assist you if you need help. A hearing will be conducted within 20 days of receipt of your complaint or appeal.

K. What will happen at the hearing?

- 1) The hearing may be conducted by the full county board, by a committee of two or more members of the county board appointed by the President of the county board, or by a hearing officer appointed by the President of the county board. You will have an opportunity to explain your complaint or appeal. You may be represented by an attorney. You have the right to question officials or employees of the county board who have information related to your complaint or appeal. You may be asked questions about your complaint or appeal.

L. What will happen after the hearing?

- 1) You are entitled to receive, at no cost, a written transcript of the hearing. Within 15 days of a hearing conducted by the county board or the county board's receipt of the report and recommendation from a hearing officer, the President of the county board will send you by certified mail, the county board's decision regarding your complaint or appeal. The decision must include a rationale and a description of what you should do if you are still dissatisfied.

M. What if I am not satisfied with the county board's decision?

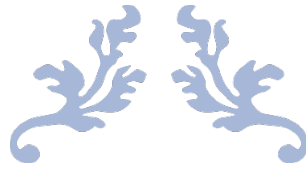
- 1) You may file your complaint or appeal with the Director of the Ohio Department of Developmental Disabilities. Your complaint or appeal must be filed in writing within 15 days of receiving the county board's decision. Staff of the county board will assist you if you need help. The Director or his or her designee may request additional information from you. Within 45 days of receipt of necessary documents related to your complaint or appeal, the Director or his or her designee will send you by certified mail, his or her decision regarding your complaint or appeal.

N. What if I am not satisfied with the Director's decision?

- 1) You may file a claim through the court system.

O. Who else can help me with my complaint or appeal?

- 1) Arc of Ohio at 1-800-875-2723
- 2) Disability Rights Ohio at 1-800-282-9181
- 3) Ohio Department of Developmental Disabilities at 1-877-464-6733



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# **MADISON COUNTY BOARD OF DEVELOPMENTAL DISABILITIES POLICY MANUAL**

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## **Chapter 13: Addressing Major Unusual Incidents and Unusual Incidents to Ensure Health, Welfare, and Continuous Quality Improvement**



**Board Adopted March 16, 2000**

**Revised: February 21, 2002**

**January 25, 2007**

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## **1300. Purpose**

The Madison County Board of Developmental Disabilities, herein known as the Board is committed to insuring the health and safety of individuals with developmental disabilities. This policy establishes the requirements for addressing major unusual incidents and unusual incidents and implements a continuous quality improvement process in order to prevent or reduce the risk of harm to individuals. The Board will insure compliance with Ohio Administrative Code (OAC) Section 5123:17-02 as well as all applicable sections of the Ohio Revised Code. The above rule applies to county boards, developmental centers, and providers.

## **1301. Definitions**

- A. "Administrative Investigation" means the gathering and analysis of information related to a major unusual incident so that appropriate action can be taken to address any harm or risk of harm and prevent recurrence. There are three administrative investigation procedures (category A, category B, and category C) that correspond to the three categories of major unusual incidents.
- B. "Agency provider" means a provider, certified or licensed by the department that employs staff to deliver services to individuals and who may subcontract the delivery of services. "Agency provider" includes a county board while providing specialized services.
- C. "At-risk individual" means an individual whose health or welfare is adversely affected or whose health or welfare may reasonably be considered to be in danger of being adversely affected.
- D. "Common law employee" has the same meaning as in rule 5123-9-32 of the Administrative Code.
- E. "County board" means a county board of developmental disabilities as established under Chapter 5126. of the Revised Code or a regional council of governments as established under Chapter 167. of the Revised Code when it includes at least one county board.
- F. "Department" means the Ohio department of developmental disabilities.
- G. "Developmental Center" means an intermediate care facility under the managing responsibility of the department.
- H. "Developmental disabilities employee" means any of the following:
  - 1) An employee of the department;
  - 2) A superintendent, board member, or employee of a county board;
  - 3) An administrator, board member, or employee of a residential facility licensed under section 5123.19 of the Revised Code;
  - 4) An administrator, board member, or employee of any other public or private provider of services to an individual with a developmental disability; or
  - 5) An independent provider.
- I. "Incident Report" means documentation that contains details about a major unusual incident or an unusual incident and shall include, but is not limited to:
  - 1) Individual's name;
  - 2) Individual's address;
  - 3) Date of incident;
  - 4) Location of incident;

- 5) Description of incident;
  - 6) Type and location of injuries;
  - 7) Immediate actions taken to ensure health and welfare of individual involved and any at-risk individuals;
  - 8) Name of primary person involved and his or her relationship to the individual;
  - 9) Names of witnesses;
  - 10) Statements completed by persons who witnessed or have personal knowledge of the incident;
  - 11) Notifications with name, title, and time and date of notice;
  - 12) Further medical follow-up; and
  - 13) Name or signature of person completing the incident report.
- J. "Incident tracking system" means the department's web-based system for reporting major unusual incidents.
- K. "Independent provider" means a self-employed person or a common law employee who provides services for which he or she must be certified in accordance with rules promulgated by the department and does not employ, either directly or through contract, anyone else to provide the services.
- L. "Individual" means a person with a developmental disability.
- M. "Individual served" means an individual who receives specialized services.
- N. "Intermediate care facility for individuals with intellectual disabilities" has the same meaning as in section 5124.01 of the Revised Code.
- O. "Investigative agent" means an employee of a county board or a person under contract with a county board who is certified by the department to conduct administrative investigations of major unusual incidents.
- P. "Major unusual incident" means the alleged, suspected, or actual occurrence of an incident described in paragraph (C)(16)(a), (C)(16)(b), or (C)(16)(c) of this rule when there is reason to believe the incident has occurred. There are three categories of major unusual incidents that correspond to three administrative investigation procedures delineated in appendix A, appendix B, and appendix C to this policy;
- 1) Category A
    - i. "Accidental or suspicious death" means the death of an individual resulting from an accident or suspicious circumstances.
    - ii. "Exploitation" means the unlawful or improper act of using an individual or an individual's resources for monetary or personal benefit, profit, or gain.
    - iii. "Failure to report" means that a person, who is required to report pursuant to section 5123.61 of the Revised Code, has 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 health and welfare or neglect of that individual, and such person does not immediately report such information to a law enforcement agency, a county board, or in the case of an individual living in a developmental center, either to law enforcement or the department. Pursuant to division (C)(1) of section 5123.61 of the Revised Code, such report shall be made to the department and the county board when the incident involves an act or omission of an employee of a county board.

- iv. “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 of the Revised Code.
- v. “Neglect” means when there is a duty to do so, failing to provide an individual with medical care, personal care, or other support that consequently results in serious injury or places an individual or another person at risk of serious injury. Serious injury means an injury that results in treatment by a physician, physician assistant, or nurse practitioner.
- vi. “Physical abuse” means the use of physical force that can reasonably be expected to result in physical harm to an individual. Such physical force may include, but is not limited to hitting, slapping, pushing, or throwing objects at an individual.
- vii. “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.
- viii. “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.
- ix. “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) when the sexual conduct, sexual contact, or act involves an individual.
- x. “Verbal abuse” means the use of words, gestures, or other communicative means to purposefully threaten, coerce, intimidate, harass, or humiliate an individual.

## 2) Category B

- i. “Attempted suicide” means a physical attempt by an individual that results in emergency room treatment, in-patient observation, or hospital admission.
- ii. “Death other than accidental or suspicious death” means the death of an individual by natural cause without suspicious circumstances.
- iii. “Medical emergency” means 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, use of an automated external defibrillator, or use of an epinephrine auto injector).
- iv. “Missing individual” means an incident that is not considered neglect and an individual’s whereabouts, after immediate measures taken, are unknown and the individual is believed to be at or pose an imminent risk of harm to self or others. An incident when an individual’s whereabouts are unknown for longer than the period of time specified in the individual service plan that does not result in imminent risk of harm to self or others shall be investigated as an unusual incident.
- v. “Peer-to-peer act” means one of the following incidents involving two individuals:

- a) Exploitation which means the unlawful or improper act of using an individual or an individual's resources for monetary or personal benefit, profit, or gain.
- b) Theft which 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.
- c) Physical act means a physical altercation that:
  - a. Results in examination or treatment by a physician, physician assistant, or nurse practitioner; or
  - b. Involves strangulation, a bloody nose, a bloody lip, a black eye, a concussion, or biting which causes breaking of the skin; or
  - c. Results in an individual being arrested, incarcerated, or the subject of criminal charges.
- d) Sexual act which means sexual conduct and/or contact for the purposes of sexual gratification without the consent of the other individual.
- e) Verbal act which 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.
- vi. "Significant injury" means an injury of known or unknown cause that is not considered abuse or neglect and that results in concussion, broken bone, dislocation, second or third degree burns or that requires immobilization, casting, or five or more sutures. Significant injuries shall be designated in the incident tracking system as either known or unknown cause.

### 3) Category C

- i. "Law enforcement" means any incident that results in the individual served being arrested, charged, or incarcerated.
- ii. "Unanticipated hospitalization" means any hospital admission or hospital stay over twenty-four hours that is not pre-scheduled or planned. A hospital admission associated with a planned treatment or pre-existing condition that is specified in the individual service plan indicating the specific symptoms and criteria that require hospitalization need not be reported.
- iii. "Unapproved behavior support" means the use of a prohibited measure as defined in rule 5123:2-2-06 of the Administrative Code or the use of a restrictive measure implemented without approval of the human rights committee or without informed consent of the individual or the individual's guardian in accordance with rule 5123:2-2-06 of the Administrative Code, when use of the prohibited measure or restrictive measure results in risk to the individual's health or welfare. When use of the prohibited measure or restrictive measure does not result in risk to the individual's health or welfare, the incident shall be investigated as an unusual incident.

Q. "Physical harm" means any injury, illness, or other physiological impairment, regardless of its gravity or duration.



- R. "Primary person involved" means the person alleged to have committed or to have been responsible for the accidental or suspicious death, exploitation, failure to report, misappropriation, neglect, physical abuse, prohibited sexual relations, rights code violation, sexual abuse, or verbal abuse.
- S. "Program implementation incident" means an unusual incident involving the failure to carry out a person-centered plan when such failure causes minimal risk or no risk. Examples include, but are not limited to, failing to provide supervision for short periods of time, automobile accidents without harm, and self-reported incidents with minimal risk.
- T. "Provider" means an agency provider or independent provider.
- U. "Qualified intellectual disability professional" has the same meaning as in 42 C.F.R. 483.430 as in effect on (January 1, 2019).
- V. "Specialized services" means any program or service designed and operated to serve primarily individuals, including a program or service provided by an entity licensed or certified by the department.
- W. "Systems issue" means a substantiated major unusual incident attributed to multiple variables.
- X. "Team" means, as applicable:
  - 1) The group of persons chosen by an individual with the core responsibility to support the individual in directing development of his or her individual service plan. The team includes the individual's guardian or adult whom the individual has identified, as applicable, the service and support administrator, direct support staff, providers, licensed or certified professionals, and any other persons chosen by the individual to help the individual consider possibilities and make decisions; or
  - 2) An interdisciplinary team as that term is used in 42 C.F.R. 483.440 as in effect on the effective date of this rule.
- Y. "Unusual incident" means an event or occurrence involving an individual that is not consistent with routine operations, policies and procedures, or the individual's care or individual service plan, but is not a major unusual incident. Unusual incident includes, but is not limited to: dental injuries; falls; an injury that is not a significant injury; medication errors without a likely risk to health and welfare; overnight relocation of an individual due to a fire, natural disaster, or mechanical failure; an incident involving two individuals served that is not a peer-to-peer act major unusual incident; rights code violations or unapproved behavioral supports without a likely risk to health and welfare; emergency room or urgent care treatment center visits; and program implementation incidents.
- Z. "Working day" means Monday, Tuesday, Wednesday, Thursday, or Friday except when that day is a holiday as defined in section 1.14 of the Revised Code.

## **1302. Reporting Requirements for Major Unusual Incidents**

- A. Reports regarding all major unusual incidents involving an individual who resides in an intermediate care facility for individuals with intellectual disabilities or who receives round-the-clock waiver services shall be filed and the requirements of this policy followed regardless of where the incident occurred.
- B. Reports regarding the following major unusual incidents shall be filed and the requirements of this policy followed regardless of where the incident occurred:

- 1) Accidental or suspicious death;
  - 2) Attempted suicide;
  - 3) Death other than accidental or suspicious death;
  - 4) Exploitation;
  - 5) Failure to report;
  - 6) Law enforcement;
  - 7) Misappropriation;
  - 8) Missing individual;
  - 9) Neglect;
  - 10) Peer-to-peer act;
  - 11) Physical abuse;
  - 12) Prohibited sexual relations;
  - 13) Sexual abuse; and
  - 14) Verbal abuse.
- C. Reports regarding the following major unusual incidents shall be filed and the requirements of this 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;
- 1) Medical emergency;
  - 2) Rights code violation;
  - 3) Significant injury;
  - 4) Unanticipated hospitalization; and
  - 5) Unapproved behavioral support.
- D. Immediately upon identification or notification of a major unusual incident, the provider shall take all reasonable measures to ensure the health and welfare of at-risk individuals. The provider and county board shall discuss any disagreements regarding reasonable measures in order to resolve them. If the provider and county board are unable to agree on reasonable measures to ensure the health and welfare of at-risk individuals, the department shall make the determination. Such measures will include:
- 1) Immediate and ongoing medical attention, as appropriate;
  - 2) Removal of an employee from direct contact with any individual when the employee is alleged to have been involved in abuse or sexual abuse until such time as the provider has reasonably determined that such removal is no longer necessary; and
  - 3) Other necessary measures to protect the health and welfare of at-risk individuals.
- E. Immediately upon receipt of a report or notification of an allegation of a major unusual incident, the county board shall:
- 1) Ensure that all reasonable measures necessary to protect the health and welfare of at-risk individuals have been taken;
  - 2) Determine if additional measures are needed; and
  - 3) Notify the department if the circumstances in paragraph 1307 (A) of this policy that require a department-directed administrative investigation are present. Such notification shall take place on the first working day the county board becomes aware of the incident.
- F. The provider shall immediately, but no later than four hours after discovery of the major unusual incident, notify the county board through means identified by the county board of the following incidents or allegations:

- 1) Accidental or suspicious death;
  - 2) Exploitation;
  - 3) Misappropriation;
  - 4) Neglect;
  - 5) Peer-to-peer act;
  - 6) Physical abuse;
  - 7) Prohibited sexual relations;
  - 8) Sexual abuse;
  - 9) Verbal abuse; and
  - 10) When the provider has received an inquiry from the media regarding a major unusual incident.
- G. For all major unusual incidents, a provider shall submit a written incident report to the county board contact or designee by three p.m. on the first working day following the day the provider becomes aware of a potential or determined major unusual incident. The report shall be submitted in a format prescribed by the department.
- H. The county board shall enter preliminary information regarding the major unusual incident in the incident tracking system and in the manner prescribed by the department by five p.m. on the first working day following the day the county board receives notification from the provider or otherwise becomes aware of the major unusual incident.
- I. When a provider has placed an employee on leave or otherwise taken protective action pending the outcome of the administrative investigation, the county board or department, as applicable, shall keep the provider apprised of the status of the administrative investigation so that the provider can resume normal operations as soon as possible consistent with the health and welfare of at-risk individuals. The provider shall notify the county board or department, as applicable, of any changes regarding the protective action.
- J. If the provider is a developmental center, all reports required by OAC 5123:17-02 shall be made directly to the department.
- K. The county board shall have a system that is available twenty-four hours a day, seven days a week, to receive and respond to all reports required by this rule. The county board shall communicate this system in writing to all individuals receiving services in the county or their guardians as applicable, providers in the county, and to the department.

### **1303. Reporting of Alleged Criminal Acts**

- A. The provider shall immediately report to the law enforcement entity having jurisdiction of the location where the incident occurred, any allegation of a criminal act. The provider shall document the time, date, and name of person notified of the alleged criminal act. The county board shall ensure that the notification has been made.
- B. The department shall immediately report to the Ohio state highway patrol, any allegation of a criminal act occurring at a developmental center. The department shall document the time, date, and name of person notified of the alleged criminal act.

### **1304. Abused or Neglected Children**

All allegations of abuse or neglect as defined in sections 2151.03 and 2151.031 of the Revised Code of an individual under the age of twenty-one 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.

### **1305. Notification Requirements for Major Unusual Incidents**

- A. The provider shall make the following notifications, as applicable, when the major unusual incident or discovery of the major unusual incident occurs when such provider has responsibility for the individual. The notification shall be made on the same day the major unusual incident or discovery of the major unusual incident occurs and include immediate actions taken.
  - 1) Guardian or other person whom the individual has identified.
  - 2) Service and support administrator serving the individual.
  - 3) Other providers of services as necessary to ensure continuity of care and support for the individual.
  - 4) Staff or family living at the individual's residence who have responsibility for the individual's care.
- B. All notifications or efforts to notify shall be documented. The county board shall ensure that all required notifications have been made.
- C. Notification shall not be made:
  - 1) 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; or
  - 2) When such notification could jeopardize the health and welfare of an individual involved.
- D. Notification to a person is not required when the report comes from such person or in the case of a death when the family is already aware of the death.
- E. In any case where law enforcement has been notified of an alleged criminal act, the department may provide notification of the major unusual 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. The notified provider or county board shall take such steps necessary to address the health and welfare needs of any at-risk individual and may consult the department in this regard. The department shall inform any notified entity as to whether the major unusual incident is substantiated. Providers, developmental centers, or county boards employing a primary person involved shall notify the department when they are aware that the primary person involved works for another provider.

### **1306. General Administrative Investigation Requirements**

- A. The Board shall employ at least one investigative agent or contract with a person or governmental entity for the services of an investigative agent. An investigative agent shall

be certified by the department in accordance with rule 5123:2-5-07 of the Administrative Code. Employees of the department who are designated investigators are considered certified investigative agents for the purpose of this policy.

- B. All major unusual incidents require an administrative investigation meeting the applicable administrative investigation procedure in appendix A, appendix B, or appendix C to this policy unless it is not possible or relevant to the administrative investigation to meet a requirement under this rule, in which case the reason shall be documented. Administrative investigations shall be conducted and reviewed by investigative agents.
  - 1) The department or county board may elect to follow the administrative investigation procedure for category A major unusual incidents for any major unusual incident.
  - 2) Based on the facts discovered during administrative investigation of the major unusual incident, the category may change or additional categories may be added to the record. If a major unusual incident changes category, the reason for the change shall be documented and the new applicable category administrative investigation procedure shall be followed to investigate the major unusual incident.
  - 3) Major unusual incidents that involve an active criminal investigation may be closed as soon as the county board ensures that the major unusual incident is properly coded, the history of the primary person involved has been reviewed, cause and contributing factors are determined, a finding is made, and prevention measures implemented. Information needed for closure of the major unusual incident may be obtained from the criminal investigation.
- C. County board staff may assist the investigative agent by gathering documents, entering information into the incident tracking system, fulfilling category C administrative investigation requirements, or performing other administrative or clerical duties that are not specific to the investigative agent role.
- D. Except when law enforcement or the public children's services agency is conducting the investigation, the investigative agent shall conduct all interviews for major unusual incidents unless the investigative agent determines the need for assistance with interviewing an individual. For a major unusual incident occurring at an intermediate care facility for individuals with intellectual disabilities, the investigative agent may utilize interviews conducted by the intermediate care facility for individuals with intellectual disabilities or conduct his or her own interviews. If the investigative agent determines the information is reliable, the investigative agent may utilize other information received from law enforcement, the public children's services agency, or providers in order to meet the requirements of this rule.
- E. Except when law enforcement or the public children's services agency has been notified and is considering conducting an investigation, the county board shall commence an administrative investigation. If law enforcement or the public children's services agency notifies the county board that it has declined to investigate, the county board shall commence the administrative investigation within a reasonable amount of time based on the initial information received or obtained and consistent with the health and welfare of all at-risk individuals, but no later than twenty-four hours for a major unusual incident in category A or no later than three working days for a major unusual incident in category B or category C.

- F. An intermediate care facility shall conduct an investigation that complies with applicable federal regulations, including 42 C.F.R. 483.420 (January 1, 2019), for any unusual incident or major unusual incident involving a resident of the facility, regardless of where the unusual incident occurs. The intermediate care facility for individuals with intellectual disabilities shall provide a copy of its full report of an administrative investigation of a major unusual incident to the county board. The investigative agent may utilize information from the administrative investigation conducted by the intermediate care facility for individuals with intellectual disabilities to meet the requirements of this rule or conduct a separate administrative investigation. The county board shall provide a copy of its full report of the administrative investigation to the intermediate care facility for individuals with intellectual disabilities. The department shall resolve any conflicts that arise.
- G. When an agency provider, excluding an intermediate care facility, conducts an internal review of an incident for which a major unusual incident has been filed, the agency provider shall submit the results of its internal review of the incident, including statements and documents to the county board within fourteen calendar days of the agency provider becoming aware of the incident.
- H. All developmental disabilities employees shall cooperate with administrative investigations conducted by entities authorized to conduct investigations. Providers and county boards shall respond to requests for information within the time frame requested. The time frames identified shall be reasonable.
- I. Except when law enforcement or the public children's service agency is conducting an investigation, the investigative agent shall endeavor to reach a preliminary finding regarding allegations of physical abuse or sexual abuse and notify the individual or individual's guardian and provider of the preliminary finding within fourteen working days. When it is not possible for the investigative agent to reach a preliminary finding within fourteen working days, he or she shall instead notify the individual or individual's guardian and provider of the status of the investigation.
- J. The investigative agent shall complete a report of the administrative investigation and submit it for closure in the incident tracking system within thirty working days unless the county board requests and the department grants an extension for good cause. If an extension is granted, the department may require submission of interim reports and may identify alternative actions to assist with the timely conclusion of the report.
- K. The report shall follow the format prescribed by the department. The investigative agent shall include the initial allegation, a list of persons interviewed and documents reviewed, a summary of each interview and document reviewed, and a findings and conclusions section which shall include the cause and contributing factors to the incident and the facts that support the findings and conclusions.

### **1307. Department-Directed Administrative Investigations of Major Unusual Incidents**

- A. The department shall conduct the administrative investigation when the major unusual incident includes an allegation against:
  - 1) The superintendent of a county board or developmental center;
  - 2) The executive director or equivalent of a regional council of governments;

- 3) A management employee who reports directly to the superintendent of the county board, the superintendent of a developmental center, or executive director or equivalent of a regional council of governments;
  - 4) An investigative agent;
  - 5) A service and support administrator;
  - 6) A major unusual incident contact or designee employed by a county board;
  - 7) A current member of a county board;
  - 8) A person having any known relationship with any of the persons specified in sections 1307 1) through 7) (above) when such relationship may present a conflict of interest or the appearance of a conflict of interest; or
  - 9) An employee of a county board or a developmental center when it is alleged that the employee is responsible for an individual's death, has committed sexual abuse, engaged in prohibited sexual activity, or committed physical abuse or neglect resulting in emergency room treatment or hospitalization.
- B. A department-directed administrative investigation or administrative investigation review may be conducted following the receipt of a request from a county board, developmental center, provider, individual, or guardian if the department determines that there is a reasonable basis for the request.
- C. The department may conduct a review or administrative investigation of any major unusual incident or may request that a review or administrative investigation be conducted by another county board, a regional council of governments, or any other governmental entity authorized to conduct an investigation.

### **1308. Written Summaries of Major Unusual Incidents**

- A. No later than five working days following the county board, developmental center, or department's recommendation for closure via the incident tracking system, the county board, developmental center, or department shall provide a written summary of the administrative investigation of each category A or category B major unusual incident, including the allegations, the facts and findings, including as applicable, whether the case was substantiated or unsubstantiated, and preventive measures implemented in response to the major unusual incident to:
- 1) 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, individual's guardians, or other persons whom the individuals have identified, as applicable, shall receive the written summary;
  - 2) The licensed or certified provider and provider at the time of the major unusual incident; and
  - 3) The individual's service and support administrator and support broker, as applicable.
- B. In the case of an individual's death, the written summary shall be provided to the individual's family only upon the request of the individual's family.
- C. The written summary shall not be provided to the primary person involved, the spouse of the primary person involved, or the significant other of the primary person involved.

- D. When the primary person involved is a developmental disabilities employee or a guardian, the county board shall, no later than five working days following the recommended closure of a case, make a reasonable attempt to provide written notice to the primary person involved as to whether the major unusual incident has been substantiated, unsubstantiated/insufficient evidence, or unsubstantiated/unfounded.
- E. If a service and support administrator is not assigned, a county board designee shall be responsible for ensuring the preventive measures are implemented based upon the written summary.
- F. An individual, individual's guardian, other person whom the individual has identified, or provider may dispute the findings by submitting a letter of dispute and supporting documentation to the county board superintendent, or to the director of the department if the department conducted the administrative investigation, within fifteen calendar days following receipt of the findings. An individual may receive assistance from any person selected by the individual to prepare a letter of dispute and provide supporting documentation.
- G. The county board superintendent or his or her designee or the director or his or her designee, as applicable shall consider the letter of dispute, the supporting documentation, and any other relevant information and issue a determination within thirty calendar days of such submission and take action consistent with such determination, including confirming or modifying the findings or directing that more information be gathered and the findings reconsidered.
- H. In cases where the letter of dispute has been filed with the county board, the disputant may dispute the final findings made by the county board by filing those findings and any other documentation contesting such findings as are disputed with the director of the department within fifteen calendar days of the county board determination. The director shall issue a decision within thirty calendar days.

### **1309. Review, Prevention, and Closure of Major Unusual Incidents**

- A. Agency providers shall implement a written procedure for the internal review of all major unusual incidents and shall be responsible for taking all reasonable steps necessary to prevent the recurrence of major unusual incidents. The written procedure shall require senior management of the agency provider to be informed within two working days following the day staff become aware of a potential or determined major unusual incident involving misappropriation, neglect, physical abuse, or sexual abuse.
- B. Members of an individual's team shall ensure that risks associated with major unusual incidents are addressed in the individual plan or individual service plan of each individual affected and collaborate on the development of preventive measures to address the causes and contributing factors to the major unusual incident. The team members shall jointly determine what constitutes reasonable steps necessary to prevent the recurrence of major unusual incidents. If there is no service and support administrator, team, qualified intellectual disability professional, or agency provider involved with the individual, a county board designee shall ensure that reasonably possible preventive measures are fully implemented.



- C. The department may review reports submitted by a county board or developmental center. The department may obtain additional information necessary to consider the report, including copies of all administrative investigation reports that have been prepared. Such additional information shall be provided within the time period specified by the department.
- D. The department shall review and close reports regarding the following major unusual incidents:
  - 1) Accidental or suspicious death;
  - 2) Death other than accidental or suspicious death;
  - 3) Exploitation;
  - 4) Medical emergency;
  - 5) Misappropriation;
  - 6) Neglect;
  - 7) Peer-to-peer act;
  - 8) Physical abuse;
  - 9) Prohibited sexual relations;
  - 10) Sexual abuse;
  - 11) Significant injury when cause is unknown;
  - 12) Verbal abuse;
  - 13) Any major unusual incident that is the subject of a director's alert; and
  - 14) Any major unusual incident investigated by the department.
- E. The county board shall review and close reports regarding the following major unusual incidents:
  - 1) Attempted suicide;
  - 2) Failure to report;
  - 3) Law enforcement;
  - 4) Missing individual;
  - 5) Rights code violation;
  - 6) Significant injury when cause is known;
  - 7) Unanticipated hospitalization; and
  - 8) Unapproved behavioral support.
- F. The department may review any case to ensure that it has been properly closed and shall conduct sample reviews to ensure proper closure by the county board. The department may reopen any administrative investigation that does not meet the requirements of OAC 5123:17-02. The county board shall provide any information deemed necessary by the department to close the case.
- G. The department and the county board shall consider the following criteria when determining whether to close a case:
  - 1) Whether sufficient reasonable measures have been taken to ensure the health and welfare of any at-risk individual;
  - 2) Whether a thorough administrative investigation has been conducted consistent with the standards set forth in this rule;
  - 3) Whether the team, including the county board and provider, collaborated on developing preventive measures to address the causes and contributing factors;
  - 4) Whether the county board has ensured that preventive measures have been implemented to prevent recurrence;

- 5) Whether the incident is part of a pattern or trend as flagged through the incident tracking system requiring some additional action; and
- 6) Whether all requirements set forth in statute or rule have been satisfied.

### **1310. Analysis of Major Unusual Incident Trends and Patterns**

- A. By January thirty-first of each year, a provider shall conduct an in-depth review and analysis of trends and patterns of major unusual incidents occurring during the preceding calendar year and compile an annual report which contains:
  - 1) Date of review;
  - 2) Name of person completing review;
  - 3) Time period of review;
  - 4) Comparison of data for previous three years;
  - 5) Explanation of data;
  - 6) Data for review by major unusual incident category type;
  - 7) Specific individuals involved in established trends and patterns (i.e., five major unusual incidents of any kind within six months, ten major unusual incidents of any kind within a year, or other pattern identified by the individual's team);
  - 8) Specific trends by residence, region, or program;
  - 9) Previously identified trends and patterns; and
  - 10) Action plans and preventive measures to address noted trends and patterns.
- B. A provider other than a county board shall send the annual report to the county board for all programs operated in the county by February twenty-eighth of each year. The county board shall review the annual report to ensure that all issues have been reasonably addressed to prevent recurrence of major unusual incidents. The county board shall keep the annual report on file and make it available to the department upon request.
- C. A county board that provides specialized services shall send the annual report to the department for all programs operated by the county board by February twenty-eighth of each year. The department shall review the annual report to ensure that all issues have been reasonably addressed to prevent recurrence of major unusual incidents.
- D. 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 shall 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.
  - 1) The role of the committee shall be to review and share the county or council of governments' aggregate data prepared by the county board or council of governments to identify trends, patterns, or areas for improving the quality of life for individuals served in the county or counties.
  - 2) The committee shall meet each March to review and analyze data for the preceding calendar year. The county board or council of governments shall send the aggregate data prepared for the meeting to all participants at least ten calendar days in advance of the meeting.

- 3) The county board or council of governments shall record and maintain minutes of each meeting, distribute the minutes to members of the committee, and make the minutes available to any person upon request.
  - 4) The county board shall ensure follow-up actions identified by the committee have been implemented.
- E. The department shall prepare a report on trends and patterns identified through the process of reviewing major unusual incidents. The department shall periodically, but at least semi-annually, review this report with a committee appointed by the director of the department which shall consist of at least six members who represent various stakeholder groups, including disability rights Ohio and the Ohio Department of Medicaid. The committee shall make recommendations to the department regarding whether appropriate actions to ensure the health and welfare of individuals served have been taken. The committee may request that the department obtain additional information as may be necessary to make recommendations.

### **1311. Requirements for Unusual Incidents**

- A. Unusual incidents shall be reported and investigated by the provider.
- B. Each agency provider shall develop and implement a written unusual incident policy and procedure that:
  - 1) Identifies what is to be reported as an unusual incident which shall include unusual incidents as defined in this policy;
  - 2) Requires an employee who becomes aware of an unusual incident to report it to the person designated by the agency provider who can initiate proper action;
  - 3) Requires the report to be made no later than twenty-four hours after the occurrence of the unusual incident; and
  - 4) Requires the agency provider to investigate unusual incidents, identify the cause and contributing factors when applicable, and develop preventive measures to protect the health and welfare of any at-risk individuals.
- C. The agency provider shall ensure that all staff are trained and knowledgeable regarding the unusual incident policy and procedure.
- D. The provider providing services when an unusual incident occurs shall notify other providers of services as necessary to ensure continuity of care and support for the individual.
- E. Independent providers shall complete an unusual incident report, notify the individual's guardian or other person whom the individual has identified, as applicable, and forward the unusual incident report to the service and support administrator or county board designee on the first working day following the day the unusual incident is discovered.
- F. Each agency provider and independent provider shall review all unusual incidents as necessary, but no less than monthly, to ensure appropriate preventive measures have been implemented and trends and patterns identified and addressed as appropriate.
- G. The unusual incident reports, documentation of identified trends and patterns, and corrective action shall be made available to the county board and department upon request.
- H. Each agency provider and independent provider shall maintain a log of all unusual incidents. The log shall contain only unusual incidents as defined in paragraph 1301(Y) of

this policy and shall include, but is not limited to, the name of the individual, a brief description of the unusual incident, any injuries, time, date, location, cause and contributing factors, and preventive measures.

- I. Members of an individual's team shall ensure that risks associated with unusual incidents are addressed in the individual plan or individual service plan of each individual affected.
- J. A provider shall, upon request by the department or a county board, provide any and all information and documentation regarding an unusual incident and investigation of the unusual incident.

## **1312. Oversight**

- A. The county board shall review, on at least a quarterly basis, a representative sample of provider unusual incident logs, including logs where the county board is a provider, to ensure that major unusual incidents have been reported, preventive measures have been implemented, and that trends and patterns have been identified and addressed in accordance with this rule. The sample shall be made available to the department for review upon request.
- B. When the county board is a provider, the department shall review, on a monthly basis, a representative sample of county board logs to ensure that major unusual incidents have been reported, preventive measures have been implemented, and that trends and patterns have been identified and addressed in accordance with this rule. The county board shall submit the specified logs to the department upon request.
- C. The department shall conduct reviews of county boards and providers as necessary to ensure the health and welfare of individuals and compliance with this rule. Failure to comply with this rule may be considered by the department in any regulatory capacity, including certification, licensure, and accreditation.
- D. The department shall review and take any action appropriate when a complaint is received about how an administrative investigation is conducted.

## **1313. Access to Records**

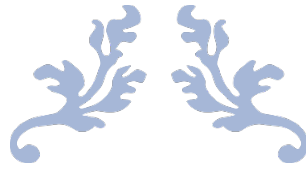
- A. Reports made under section [5123.61](#) of the Revised Code and this rule are not public records as defined in section [149.43](#) of the Revised Code. Records may be provided to parties authorized to receive them in accordance with sections [5123.613](#) and [5126.044](#) of the Revised Code, to 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.
- B. A county board or the department shall not review, copy, or include in any report required by this rule a provider's personnel records that are confidential under state or federal statutes or rules, including medical and insurance records, workers' compensation records, employment eligibility verification (I-9) forms, and social security numbers. The provider shall redact any confidential information contained in a record before copies are provided to the county board or the department. A provider shall make all other records available upon request by a county board or the department. A provider shall provide confidential

information, including the date of birth and social security number, when requested by the department as part of the abuser registry process in accordance with rule [5123:2-17-03](#) of the Administrative Code.

- C. Any party entitle to receive a report required by this policy and OAC 5123:17-02 may waive receipt of the report. Any waiver of receipt of a report shall be made in writing.

## **1314. Training**

- A. Agency providers and county boards shall ensure staff employed in direct services positions are trained on the requirements of this policy and OAC 5123:17-02 prior to direct contact with any individual. Thereafter, staff employed in direct services positions shall receive annual training on the requirements of this policy and OAC 5123:17-02 including a review of health and welfare alerts issued by the department since the previous year's training.
- B. Agency providers and county boards shall ensure staff employed in positions other than direct services positions are trained on the requirements of this policy and OAC 5123:17-02 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 policy and OAC 5123:17-02 including a review of health and welfare alerts issued by the department since the previous year's training.
- C. Independent providers shall be trained on the requirements of OAC 5123:17-02 prior to application for initial certification in accordance with rule 5123:2-2-01 of the Administrative Code and shall receive annual training on the requirements of OAC 5123:17-02 including a review of health and welfare alerts issued by the department since the previous year's training.



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# **MADISON COUNTY BOARD OF DEVELOPMENTAL DISABILITIES POLICY MANUAL**

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## **Chapter 14: Health Services and Medication Administration**



**Board Adopted March 16, 2000**

**Revised: February 21, 2002**

**Last Review/Revision Board Approved May 20, 2004**

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## **1400. Purpose**

## **1401. Definitions**

- A. The following definitions will apply to this policy:
- B. “Abuse” has the same meaning as in section 5123.50 of the Revised Code, except that it includes a misappropriation, as defined in that section.
- C. “Adult Services” has the same meaning as in section 5126.01 of the Revised Code.
- D. “Certified home and community-based services provider” means a person or government entity certified under section 5123.045 of the Revised Code.
- E. “Certified supported living provider” means a person or government entity certified under section 5126.431 of the Revised Code.
- F. “Contact hour” has the same meaning as in Chapter 4723-14 of the Administrative Code.
- G. “County Board” means a county board of mental retardation and developmental disabilities established under Chapter 5126. of the Revised Code or a regional council of government formed under section 5126.13 of the Revised Code by two or more county boards. May also be referenced herein as “Board”.
- H. “Delegable nursing task” means a nursing task, which a licensed nurse has determined meets the provisions listed in Chapter 4723-13 of the Administrative Code.
- I. “Department” means the Ohio Department of Developmental Disabilities.
- J. “Drug” as defined in section 4729.01 of the Revised Code.
- K. “Early Intervention, preschool or school-age services” means those services offered or provided under Chapter 5123. or Chapter 5126. of the Revised Code.
- L. “Family Support Services” has the same meaning as in section 5126.01 of the Revised Code.
  - 1) “Health-Related Activities” means the following:
    - 2) Taking vital signs;
    - 3) Application of clean dressings that do not require health assessment;
    - 4) Basic measurement of bodily intake and output;
    - 5) Oral suctioning;
    - 6) Use of glucometers;
    - 7) External urinary catheter care;
    - 8) Emptying and replacing colostomy bags;
- M. Collection of specimens by noninvasive means.
- N. “Health Support Activities” includes as applicable health-related activities, administration of oral and topical prescribed medications, administration of prescribed medication through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled, performance of routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled, and the administration of routine insulin through subcutaneous injections and insulin pumps.
- O. “ICF/DD” means an intermediate care facility for people with developmental disabilities.
- P. “Individual” means a person with mental retardation and/or developmental disabilities.

- Q. “Licensed health professional authorized to prescribe drugs” has the same meaning as in section 4729.01 of the Revised Code.
- R. “Licensed nurse” means a registered nurse or licensed practical nurse who holds a current valid license to practice nursing in Ohio.
- S. “Major unusual incident” has the same meaning as in section 5123:2-17-02 of the Administrative Code.
- T. “Medicaid” has the same meaning as in section 5111.01 of the Revised Code.
  - 1) “DD personnel” means the employees and the workers under contract who provide specialized services to individuals with developmental disabilities. DD personnel includes those who provide the services as follows:
  - 2) Through direct employment with the Department or the Madison County Board of Developmental Disabilities;
  - 3) Through an entity under contract with the Department or the Madison County Board of DD.
- U. Through direct employment or being under contract with private entities, including private entities that operate residential facilities.
- V. “Neglect” has the same meaning as in section 5123.50 of the Revised Code.
- W. “Nursing Delegation” means the process established in rules adopted by the Ohio Board of Nursing pursuant to Chapter 4723 of the Revised Code under which a registered nurse or licensed practical nurse acting at the direction of a registered nurse transfers the performance of a particular nursing activity, task, or prescribed medication administration to another person who is not otherwise authorized to perform the activity, task, or prescribed medication administration.
- X. “Oral prescribed medication” means any prescribed medication that can be ingested through the mouth.
- Y. “Prescribed medication” means a drug that is to be administered according to the instructions of a licensed health professional authorized to prescribe drugs.
- Z. “Prescribed medication error” means the administration of the wrong prescribed medication (which includes outdated prescribed medication and prescribed medication not stored in accordance with the instructions of the manufacturer or the pharmacist), administration of the wrong dose of prescribed medication, administration of prescribed medication at the wrong time, administration of prescribed medication by the wrong route, or administration of prescribed medication to the wrong person.
- AA. “Prescribed medication via stable labeled gastrostomy tube or stable labeled jejunostomy tube” means administration of an oral prescribed medication to an individual through a stable labeled gastrostomy tube or stable labeled jejunostomy tube.
- BB. “Residential facility” means a facility licensed under section 5123.19 of the Revised Code or subject to section 5123.192 of the Revised Code.
- CC. “Self-Administration or assistance with self-administration of prescribed medication” has the same meaning as in rule 5123:2-6-02 of the Administrative Code.
- DD. “Specialized services” has the same meaning as in section 5123.50 of the Revised Code.
- EE. “Subcutaneous insulin injection” includes injection of prescribed insulin by syringe and needle subcutaneous injection, and by insulin pump injection.
- FF. “Task” means a task that is prescribed, ordered, delegated, or otherwise directed by a health care professional acting within the scope of the professional’s practice.

- GG. “Topical prescribed medication” means any prescribed medication that is applied to the outer skin, eye, ear, or nose drops. “Topical medication” may include transdermal prescribed medication or vaginal or rectal suppositories.
- HH. “Train the instructor program” means the program for training registered nurses to train DD personnel and for training registered nurses to train other registered nurses to train DD personnel in the performance of health support activities as defined within this policy, or performance of delegable nursing tasks pursuant to Chapter 4723-13 of the Administrative Code.
- II. “Tube feeding” means the provision of prescribed nutrition to an individual through a stable labeled gastrostomy tube or a stable labeled jejunostomy tube.
- JJ. “Unusual incident” has the same meaning as in rule 5123:2-17-02 of the Administrative Code.
- KK. “OAC”---Ohio Administrative Code, “RC”---Revised Code, “OBN”---Ohio Board of Nursing.

## **1402. Self-Administration or Assistance with the Self-Administration of Prescribed Medication**

The Madison County Board of DD is committed to providing services to individuals that promote independence. This concept also applies to the least restrictive means of taking medication, while insuring health and safety. An individual who can safely self-administer medication or receive assistance with self-administration of medication has the right to self-administer medication or receive assistance with the self-administration of medication.

### **1402.1 Self-Administration Assessment**

The assigned Support Service Coordinator shall insure the completion of an assessment prescribed or approved by the Department to determine the individual’s level of independence in the area of self-administration of prescribed medication. Based on this assessment, the individual’s service plan shall document when the individual cannot safely self-administer prescribed medication or receive assistance with self-administration of prescribed medication. The assessment used to determine when an individual cannot safely self-administer or receive assistance with self-administration of prescribed medication shall be reviewed annually, and a new assessment shall be conducted at least every three years.

### **1402.2 Personnel Requirements**

DD Personnel who are not specifically authorized by other provisions of the Revised Code to provide assistance in the self-administration of prescribed medication may, under section 5123.651 of the Revised Code and 5123:2-6-02 of the Ohio Administrative Code (OAC), provide that assistance as part of the services they provide to individuals. To provide assistance

with self-administration of prescribed medication, DD personnel are not required to be trained or certified in accordance with section 5123.42 of the Revised Code and rules 5123:2-6-05 and 2-6-06 of the OAC.

### **1402.3 Limits of Staff Assistance**

When assisting in the self-administration of prescribed medication, DD personnel shall take only the following actions:

- A. Remind an individual when to take the medication and observe the individual to ensure that the individual follows the directions on the container;
- B. Assist an individual by taking the medication in its container from the area where it is stored, handing the container with the medication in it to the individual, and opening the container, if the individual is physically unable to open the container;
- C. Assist, on request by or with the consent of, a physically impaired but mentally alert individual, with removal of oral or topical medication from the container and with the individual's taking or applying of the medication. If an individual is physically unable to place a dose of oral medication to the individual's mouth without spilling or dropping it, DD personnel may place the dose in another container and place that container to the individual's mouth.

## **1403. Authorization of DD Personnel to Administer Prescribed Medications, Perform Health-Related Activities, or Perform Tube Feedings**

Effective December 31, 2003, DD personnel who are not specifically authorized by other provisions of the Revised Code to administer prescribed medications, perform health-related activities, or perform tube feedings may do so pursuant to section 5123.42 of the Revised Code and section 5123:2-6-03 of the OAC as part of the specialized services the DD personnel provide to individuals as outline below.

### **1403.1 Early Intervention, Preschool, School Age and Adult Services**

(offered or provided pursuant to Chapter 5123 or 5126 R.C.)

- A. With nursing delegation, DD personnel may perform health-related activities.
- B. With nursing delegation, DD personnel may administer oral and topical prescribed medications.
- C. With nursing delegation, DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.
- D. With nursing delegation, DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.

### **1403.2 Family Support, Supported Living, and Home and Community Based Services**

This area includes individual receiving family support services, offered or provided pursuant to Chapters 5123 and 5126 of the Revised Code; individuals receiving services from certified Support Living Providers, if the services are offered or provided pursuant to Chapters 5123 and 5126 of the Revised Code; individuals receiving residential support services from certified Home and Community-Based Services Providers, if services are received in a community living arrangement that includes not more than four individuals and the services are offered or provided pursuant to Chapters 5123 and 5126 of the Revised Code. Additionally this section includes individuals residing in a residential facility with five or fewer beds.

- A. Without nursing delegation, DD personnel may perform health-related activities.
- B. Without nursing delegation, DD personnel may administer oral and topical prescribed medications.
- C. With nursing delegation, DD personnel may administer prescribed medication through gastrostomy and jejunostomy, if the tubes being used are stable and labeled.
- D. With nursing delegation, DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.
- E. With nursing delegation, DD personnel may administer routine doses of insulin through subcutaneous injections and insulin pumps.

### **1403.3 Other Individuals**

In the case of individuals receiving services not included in sections 1403.1 and 1403.2 above that are offered or provided pursuant to Chapters 5123. or 5126 of the Revised Code, all of the following apply:

- A. With nursing delegation, DD personnel may administer health-related activities.
- B. With nursing delegation, DD personnel may administer oral and topical medications.
- C. With nursing delegation, DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.
- D. With nursing delegation, DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.

### **1403.4 Residential Facilities with at Least Six but Not More than Sixteen Beds**

- A. With nursing delegation, DD personnel may perform health-related activities.
- B. With nursing delegation, DD personnel may administer oral and topical medications.
- C. With nursing delegation, DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.
- D. With nursing delegation, DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.

### **1403.5 Residential Facility with Seventeen or More Beds—Field Trip**

At the time this policy was developed no such living situation exists in Madison County. In the event that this would change, relevant sections of 5123:2-6-03 would apply specifically A (9) (a-d) and B (9) (a-d).

### **1403.6 Authority of DD Personnel**

Pursuant to section 5123.42 of the the Revised Code the following apply:

- A. To administer prescribed medications, perform health-related activities, administer food or prescribed medication via stable labeled gastrostomy tube and stable and labeled jejunostomy tube or administer subcutaneous insulin injection (herein referred to as “health support activities”) for individuals in the categories specified in sections 1403.1 through 1403.4 of this policy, DD personnel shall obtain the certificate or certificates required by the Department and issued under 5123.45 of the Revised Code and rule 5123:2-6-06 of the OAC. DD personnel shall administer prescribed medication, perform health-related activities, and perform tube feedings only as authorized by the certificates held.
- B. To administer or provide health support activities as specified in section 1403.5 above, DD personnel shall successfully complete the training course or courses developed under section 5123.43 of the Revised Code and rule 5123:2-6-05 of the Administrative Code for DD personnel, or obtain the certificate or certificates required by the department and issued under section 5123.45 of the Revised Code and rule 5123:2-6-06 of the Administrative Code. DD personnel shall administer or provide health support activities only as authorized by the training completed.
- C. If nursing delegation is required as identified in this policy, DD personnel shall not act without nursing delegation or in a manner that is inconsistent with the delegation.
- D. Prior to delegating under this policy, the delegating licensed nurse shall:
  - 1) Assess the individual and complete an evaluation of the conditions under which the delegated task(s) or delegated prescribed medication(s) administration will be done; and
  - 2) Select DD personnel that have current training in the DD personnel training pursuant to rule 5123:2-6-05 of the OAC and do individual specific training; or select DD personnel that have current certification in the DD personnel training pursuant to rule 5123: 2-6-06 of the OAC and do individual specific training; or if the delegating licensed nurse is qualified as a registered nurse instructor pursuant to rule 5123:2-6-05 of the OAC provide training to the DD personnel pursuant to rule 5123:2-6-05 of the OAC and do individual specific training; and
  - 3) Document assessment and training.
- E. The employer of DD personnel and, in situations in which nursing delegation is required the delegating licensed nurse shall ensure that DD personnel have been trained specifically with respect to each individual for whom they administer prescribed medications, perform health-related activities, administer food or prescribed medication via stable labeled gastrostomy tube and stable labeled jejunostomy tube or administer

subcutaneous insulin injections. DD personnel shall not administer prescribed medications, perform health-related activities, administer food or prescribed medication via stable labeled gastrostomy tube and stable labeled jejunostomy tube or administer subcutaneous insulin injection for any individual for whom they have not been specifically trained.

- F. If the employer of DD personnel believes or is notified by the county board, the Department, a delegating licensed nurse or the registered nurse responsible for quality assessment pursuant to rule 5123:2-6-07 of the OAC that DD personnel have not safely delivered or will not safely deliver the identified health care based activities, the employer shall:
  - 1) Prohibit the action from continuing or commencing;
  - 2) Immediately make other staffing arrangements so that the identified health support activities are completed as prescribed, including compliance with the requirements of 5123:2-6-03 OAC and this policy.
  - 3) If applicable, immediately notify the county board via the major unusual incident reporting system pursuant to OAC 5123:2-17-02, and, if applicable the county board shall notify the registered nurse responsible for quality assessment oversight pursuant to rule OAC 5123:2-6-07.
  - 4) If applicable immediately notify the delegating nurse.
- G. DD personnel shall not engage in the action or actions subject to an employer's prohibition or a delegating licensed nurse's prohibition.
- H. If the licensed nurse delegating to DD personnel believes that DD personnel have not safely administered or will not safely administer delegated prescribed medications, the delegated licensed nurse shall not authorize the action to commence and shall withdraw authorization for the action to continue. The delegating licensed nurse shall immediately notify the DD personnel's employer and if applicable the registered nurse responsible for quality assessment pursuant to rule OAC 5123:2-6-07. DD personnel shall not engage in the prescribed medication administration requiring nurse delegation without specific authorization from the delegating licensed nurse.
- I. A registered nurse shall reassess the delegation and the needs of the individual on an on-going basis, but at least annually, including determination that delegation continues to be necessary and appropriate, determination that the individual continues to be stable, and determination that the DD personnel continue to have the skills to perform the nursing task(s), activity(ies), or prescribed medication administration that have been delegated. The reassessment may be more frequent if necessary in the judgment of the delegating registered nurse.

#### **1404. Qualifications, Training and Certification of Registered Nurses**

The Madison County Board of DD will insure that registered nurses who will be training DD personnel in the administration of prescribed medications, performance of health-related activities, and performance of tube feedings have the appropriate training and certification as prescribed in OAC 5123:2-6-04 and if applicable OAC 5123:2-6-05. Further the Board will comply with all other components of OAC 5123:2-6-05.

## **1405. Qualification, training, and certification of DD personnel**

### **1405.1 Eligibility to receive training in providing health support activities.**

DD personnel who meet the following qualifications are eligible to receive training in health support activities:

- A. At least age eighteen years
- B. Earned a high school diploma or a certificate of high school equivalency (GED)
- C. Individuals who, pursuant to 4723-21-16 of the OAC, were employed on or before February 1, 2000 and determined eligible to give oral or apply topical prescribed medication by demonstrating to a nurse instructor sufficient skills in writing, reading, and mathematics to be able to safely give oral or apply topical prescribed medications are not required to have a high school diploma or certificate of high school equivalency (GED).

### **1405.2 Employers of DD personnel shall do the following prior to permitting DD personnel to take a program of instruction set forth in this rule**

- A. Determine whether state nurse aide registry created under section 3721.32 of the Revised Code contains a statement included pursuant to division (B)(1) of that section regarding the DD personnel's alleged abuse or neglect of a long-term care facility resident or misappropriation or resident property
- B. Verify that the DD personnel's name does not appear on the abuser registry created under sections 5123.50 to 5123.54 of the Revised Code as having committed alleged abuse or neglect of an individual or misappropriation of an individual's property
- C. Verify compliance with the applicable criminal background check requirements established under sections 5126.28 and 5126.281 of the Revised Code and rules 5123.2-1-05, 5123:2-1-05.1 and 5123:2-3-06 of the Administrative Code

### **1405.3 DD Personnel Training Program for Prescribed Medication Administration and Health-Related Activities**

- A. A prescribed medication administration and health-related activities training program to allow DD personnel to perform said activities shall be a minimum of a fourteen-hour course. The content of a course or part of a training course that trains DD personnel in the administration of prescribed oral and topical medications and performance of health-related activities shall include all of the following:
  - 1) Infection Control and Universal Precautions.
    - i. The registered nurse course instructor may waive the infection control and universal precautions instruction material and instruction time of the program of instruction if the DD personnel can document training on that topic within the previous year.
  - 2) Review of applicable federal and state drug laws and rules.
  - 3) Information and instruction for giving oral or applying topical prescribed medications to include:



- i. correct and safe practices
  - ii. procedures and techniques to train DD personnel to administer the right medication, at the right dose, to the right individual, by the right route, at the right time.
  - iii. Written step-by-step directions on how to give oral or apply topical prescribed medication.
- 4) Instruction in quality measures including but not limited to:
  - i. procedures for reporting and documenting all errors that may occur when giving oral or applying topical prescribed medications
  - ii. Errors that may occur when performing health-related activities
  - iii. Procedures to follow in case of emergency
  - iv. Procedures on when and how to contact the trained DD personnel's employer or designee or the supervising licensed nurse when medication is administered or a nursing task is performed pursuant to nurse delegation.
- 5) Information about what DD personnel may be authorized to perform with respect to giving oral or applying topical prescribed medications.
- 6) Limitations with respect to as needed prescribed medications or PRN medications, which state that DD personnel shall not give or apply a prescribed medication ordered by a physician or other licensed health care professional authorized by the Revised Code to prescribe medications when the prescribed medication is to be given as needed, unless the order is written with specific parameters which preclude independent judgment.
- 7) Information about what DD personnel are prohibited from giving which includes but is not limited to the following:
  - i. An Intramuscular injection
  - ii. An Intravenous injection
  - iii. A subcutaneous injection except an injection of subcutaneous insulin, providing the DD personnel are trained and delegated to give a subcutaneous injection of insulin pursuant to section 5123.42 of the Revised Code and paragraph (E) of 5123:2-6-06 of the OAC and the subcutaneous injection of insulin is delegated to a specific person by a licensed nurse pursuant to section 5123.42 of the Revised Code and this section.
  - iv. Any prescribed medication administered through a nasogastric tube or any unstable or unlabeled gastrostomy tube or jejunostomy tube
  - v. Any debriding agent used in the treatment of a skin condition or minor abrasion.
- 8) Instruction in the use of commercially packaged epinephrine auto-injector for treatment of anaphylactic allergic reaction as prescribed by a licensed health professional authorized to prescribe drugs.
- 9) Instruction in the use of commercially packaged rectal diazepam gel for the treatment of epilepsy as prescribed by a licensed health professional authorized to prescribe drugs.
- 10) Instruction in the commercially packaged glucagon for the treatment of hypoglycemia as prescribed by a licensed health professional authorized to

- prescribe drugs. Teaching must be completed and nursing delegation must be in place prior to administration of glucagon.
- 11) Instruction in potential drug reactions, including known side effects, interactions, and the proper course of action if a side effect occurs, and sources for prescribed medication information (such as pharmacist, physician, nurse or poison control).
  - 12) Requirements for documentation of prescribed medications administered, applied, missed held or refused to, by or for each individual.
  - 13) Information regarding proper storage and care of prescribed medications.
  - 14) Information and instruction about who may receive and who may transcribe physician orders and prescriptions onto a prescribed medication administration record and a treatment administration record specific to each category pursuant to rule 5123:2-6-03 of the Administrative Code.
  - 15) Performance of a successful return demonstration for each route of prescribed medication administration that DD personnel are being trained to give.
  - 16) Information that medication administration and health-related activities are performed only with nurse delegation except for:
    - i. Individuals receiving family support services or services from supported living providers (Refer to Chapter 5123 or 5126 of the Revised Code).
    - ii. Individuals receiving residential support services from certified home and community based services providers, if the services are received in a community living arrangement that includes no more than four individuals
    - iii. Individuals residing in a residential facility with five or fewer beds.
  - 17) Information and instruction on the concepts underlying each step for performing health related activities according to current standards of safe practice, including instruction in the correct and safe practices, procedures, and techniques for performing health related activities.
  - 18) Instruction in the usual parameters of health related activities including vital signs, signs of possible wound infection and complications, bodily intake and output, and glucometer readings and instruction in the course of action to be taken when parameters of health related activities are above or below those taught.
  - 19) Requirements for documentation of health related activities done, missed, held or refused to, by or for each individual.
  - 20) Requirements for documentation and notification of health related activity errors.
  - 21) Performance of successful return demonstration for each health related activity DD personnel are trained to perform
  - 22) Completion of written examination pursuant to paragraph C(6)(d) of OAC 5123:2-6-06.
  - 23) Requirements for individual specific training including the individual's needs, a summary of the individual's relevant health care information, and implementation of the individual's health care plan as part of the individual service plan. The individual specific training shall occur after certification and prior to administration of prescribed medication or performance of health related activities. The employer of DD personnel and the delegating licensed nurse shall ensure that DD personnel receive individual specific training pursuant to paragraphs C (5) and C (6) of rule 5123:2-6-03 of the Administrative Code.

- B. Except as specified in section 1405.3 C a prescribed medication administration and health-related activities training program provided pursuant to this section for DD personnel already trained prior to 1/8/2004 to receive nursing delegation to give oral prescribed medication or apply topical prescribed medication shall be a minimum of a three-hour course and include at a minimum the following:
- 1) Update applicable federal and state drug laws and rules
  - 2) Review of correct and safe practices, procedures, and techniques for administering prescribed oral or topical prescribed medication to train DD personnel to administer the right prescribed medication, at the right dose, to the right individual, by the right route, at the right time.
  - 3) Instruction in quality measures including, but not limited to:
    - i. reporting and documenting all errors related to medication administration and performance of health support services.
    - ii. Procedures to follow in case of emergency and procedures on contacting the trained DD personnel's employer or designee or supervising licensed nurse for delegable nursing task.
  - 4) Limitations with respect to administering as needed or PRN prescribed medications only if order is written with specific parameters that preclude independent judgment.
  - 5) Information about what DD personnel are prohibited from giving which includes but is not limited to areas specified in 1405.3 section 7 a-e above.
  - 6) Instruction in the use of commercially packaged epinephrine auto-injector for treatment of anaphylactic allergic reaction as prescribed by a licensed health professional authorized to prescribe drugs.
  - 7) Instruction in the use of commercially packaged diazepam rectal gel for the treatment of acute repetitive seizures or cluster seizures as prescribed by a licensed health professional authorized to prescribe drugs.
  - 8) Instruction in the use of commercially packaged glucagons for treatment of hypoglycemia as prescribed by a licensed health professional authorized to prescribe drugs. Teaching must be completed and nursing delegation must be in place prior to administration of glucagons.
  - 9) Reminder of proper course of action for side effects and sources of medication specific information.
  - 10) Update documentation of medications administered, applied, missed, held or refused.
  - 11) Update requirements for documentation and notification of all medication errors and health related activity errors.
  - 12) Information and instruction about who may receive and who may transcribe physician orders and prescriptions onto a prescribed medication and/or treatment administration record specific to each category pursuant to OAC 5123:2-6-03.
  - 13) Update on proper storage and care of prescribed medications.
  - 14) Performance of successful return demonstration for each route of prescribed medication and for health related activities individual will be performing.
  - 15) Correct and safe practices, procedures, and techniques for performing health related activities.

- 16) Instruction in usual parameters of health related activities including vital signs, signs of possible wound infection and complications, bodily intake and output, glucometer readings and instruction in the course of action to be taken when parameters of health-related activities are above or below those taught.
  - 17) Completion of written examination pursuant to paragraph C (6)(d) of 5123:2-6-06 OAC.
  - 18) Requirements for individual specific training including the individual's needs, a summary of the individual's relevant health care information, and implementation of the individual's health care plan as part of the individual service plan. The individual specific training shall occur after certification and prior to administration of prescribed medication or performance of health related activities. The employer of DD personnel and the delegating licensed nurse shall insure that DD personnel receive individual specific training pursuant to paragraphs C (5) and C (6) of OAC 5123:2-6-03.
- C. DD personnel may forego and instruction material and corresponding instruction time of the training outlined in 1405.3 B (paragraph C (2) of OAC 5123:2-6-06) by providing the providing the certified registered nurse instructor with documentation of having received training provided by a registered nurse as part of nursing delegation prior to 1/8/2004. Documentation must be by the registered nurse who taught the delegation. Such DD personnel must still complete those portions of the prescribed medication and health-related activities training program required in section B above (paragraph C (2) of 5123:2-6-06 OAC) that they have not been trained on and meet the certification requirements outlined in F (b to d) of this section.
- D. The registered nurse coordinator of the prescribed medication administration and health related activities training program must ensure that the training be planned, developed, and taught in accordance with requirements set forth in OAC 5123:2-6-06. Licensed health care professionals may provide a portion of the training within their scope of practice. The registered nurse certified instructor is the only professional who can teach the class in its entirety.
- E. A prescribed medication administration and health related activities training program course, which is not developed by the department must be approved by the department prior to implementation.
- F. Certification of DD personnel.
- 1) Successful completion of the prescribed medication administration and health-related activities training program is requires to receive a certificate of training. DD personnel who meet the following requirements will be certified.
    - i. Attend the entire program of required training
    - ii. Participate in class discussions, activities, and return demonstration of proficiency in administering prescribed medications and performing health related activities
    - iii. Complete and submit an evaluation of the training program to the registered nurse certified instructor.
    - iv. Complete the final closed book written examination with a score of a least eighty per cent. DD personnel who score less than eighty per cent on the final written examination must take the course over in its entirety to be eligible to retake the final written examination. The final written

examination will be developed and maintained by the department and is the only one that can be used.

G. Renewal of Certification.

- 1) DD personnel who are certified in prescribed medication administration and health support services must annually complete a minimum of two hours of continuing education related to medication administration or health support services. Certified DD personnel will provide documentation of training to the certified registered nurse trainer. PLEASE NOTE: Cardiopulmonary resuscitation (CPR), universal precautions, and first aid training are not included in these hours.
- 2) Certification will be temporarily suspended for up to sixty days until the required two hours of training is completed. The DD personnel will not be allowed to administer prescribed medications during this period. If the training is not completed in the sixty day period, the DD personnel's certification will be revoked. The DD personnel will be required to retake the course in order to be recertified.

**1405.4 DD Personnel: Nursing Delegation Training Program for Feeding Tube.**

A. Training to allow DD personnel to administer prescribed medications or feeding through a stable labeled gastrostomy tube ("G" tube) or stable labeled jejunostomy tube ("J" tube ) will be a minimum of four hours. DD personnel who take the four hour training must first successfully complete the Prescribed Medication administration and Health-Related Services Training Program. The content of the training course for administration of food or prescribed medications through a stable labeled "G" or "J" tube shall include the following:

- 1) Correct and safe practices, procedures and techniques for administering food or prescribed medications.
  - i. Possible signs and symptoms of "G" tube or "J" tube malfunction and problems
  - ii. Complications or intolerance of food or medications by the individual
  - iii. Appropriate response to "G" tube or "J" tube that becomes dislodged.
- 2) Requirements for documentation of food and prescribed medications administered, missed, held or refused to, by or for each individual with a "G" tube or "J" tube.
- 3) Requirements for documentation and notification of prescribed medication or feeding errors.
- 4) Information regarding proper storage, care, and preparation of food and prescribed medication given through stable labeled "G" tube or "J" tube.
- 5) Information regarding proper storage and care of tube feeding equipment.
- 6) Requirements for nursing delegation of prescribed medications or feedings through stable labeled "G" tube or "J" tube.
- 7) Instruction that only the delegating licensed nurse can receive and transcribe into the individual's prescribed medication administration or treatment record, prescriptions for food or prescribed medications to be given through a stable labeled "G" tube or "J" tube.

- 8) Completion of written examination per E 4 of this section(Refer to (D)(5)(d) of OAC 5123:2-6-06)
  - 9) Requirements for individual specific training including the individual's needs, a summary of the individual's relevant health care information, and implementation of the individual's health care plan as part of the individual service plan. The delegating nurse shall be responsible for the individual-specific training. The individual-specific training shall occur after certification and prior to the administration or feeding via a stable labeled gastrostomy or stable labeled jejunostomy tube.
- B. DD personnel who prior to 1/8/2004, were receiving nursing delegation and performing prescribed medication administration and or feeding per stable labeled "G" or "J" tube may forego the training outlined in 1405.4 A if they successfully perform a return demonstration of these skills to the delegating nurse. The delegating nurse shall update the DD personnel who are being delegated on sections 5123.41 to 5123.47 of the Revised Code and rules adopted under 5123:2-6-06 of the OAC.
- C. The register nurse coordinator of the feeding tube by nursing delegation shall ensure that the feeding tube nursing delegation training program be planned, developed and taught in accordance with the requirements outlined in OAC 5123:2-6-06. Further in accordance with this section, other health care professionals may serve as a guest instructors within their scope of practice in the feeding tube training program, but may not teach the class in its entirety.
- D. A feeding tube nurse delegation training program that is not developed by the department must be approved by the department prior to implementation.
- E. Certification. Successful completion the feeding tube by nursing delegation training program is required to receive a certificate of training. DD personnel must complete the following to be certified:
- 1) Attend entire program of required training
  - 2) Participate in class discussions, activities, and return demonstration of proficiency in administering medications or feeding through a stable labeled "G" tube or "J" tube.
  - 3) Complete and submit to the registered nurse certified trainer the evaluation of feeding tube by nursing delegation training program
  - 4) Complete the final closed book written examination with a score of at least eighty per cent. DD personnel who score less than eighty per cent on the final written examination shall retake the training program in its entirety. The final written examination that is developed and maintained by the department will be the only one used in the program.
- F. Renewal of Certification.
- 1) DD personnel shall complete one hour of continuing education annually to maintain certification in the feeding tube by nursing delegation training program. The continuing education training must be planned or coordinated by a register nurse certified according to rule 5123:2-6-04 of the Administrative Code. The training must relate to information taught in the feeding tube by nursing delegation training program or must enhance the role of the DD personnel who have completed the feeding tube nurse delegation training program. Documentation of the continuing education must be provided to the certified

registered nurse trainer. Cardiopulmonary resuscitation (CPR), first aid, and universal precautions training may not be used for the required one hour of training.

- 2) DD personnel who do not complete the one hour continuing education by the annual date of certification will have the certification temporarily suspended for a maximum period of sixty days. They must complete the required continuing education during that period to maintain certification. DD personnel will not be allowed to administer prescribed medications or food through a “G” tube or “J” tube until the continuing education is completed and documented. If the continuing education is not completed within the sixty day period, the certification will be revoked and the DD personnel will be required to retake the course in feeding tube by nursing delegation to be recertified.

#### **1405.5 DD Personnel: Subcutaneous Insulin Injection By Nursing Delegation Training Program.**

- A. The training program subcutaneous insulin injection by nursing delegation will be at least four hours. DD personnel must successfully complete the prescribed medication administration and health-related activities training program to be eligible to take the subcutaneous insulin injection by nursing delegation training program. The content for administration of insulin by subcutaneous injection shall include the following:
  - 1) Information on basic pathophysiology of diabetes mellitus
  - 2) Correct and safe practices, procedures and techniques for administering subcutaneous insulin injections, possible signs and symptoms of subcutaneous insulin injection complications, and instruction in safe handling and disposal of sharps.
  - 3) Requirements for documentation of subcutaneous insulin injection administered, missed, held or refused to, by or for each individual.
  - 4) Requirements for documentation of subcutaneous insulin injection or insulin pump errors.
  - 5) Information regarding proper storage, care and preparation of insulin to be given by subcutaneous injection or insulin pump.
  - 6) Signs and symptoms of hypoglycemia and hyperglycemia, procedure for intervention and notification of nurse, physician or emergency medical services.
  - 7) Instruction in use of commercially packaged glucagons for the treatment of hypoglycemia as prescribed by a licensed health professional authorized to prescribe drugs. Teaching must be completed and nursing delegation must be in place prior to administration of glucagon.
  - 8) Instruction that only a licensed nurse shall transcribe an insulin prescription into an individual’s prescribed medication administration record.
  - 9) Completion of written examination as required in 1405.5 D (4) (Reference (E) (4) (d) of OAC 5123:2-6-06).
  - 10) Requirements for nursing delegation of subcutaneous insulin injection.
  - 11) Requirements for individual specific training to include the individual’s needs, summary of the relevant health information and implementation of the individual’s health care plan as part of the individual service plan. DD personnel

- must receive individual specific training by the delegating licensed nurse prior to administration of subcutaneous insulin injection.
- B. The subcutaneous insulin injection nursing delegation training program will be planned and developed by the registered nurse certified instructor in accordance with requirements specified in the rule. Other health care professionals who have received instruction on the material may be guest instructors within the scope of their practice but may not teach the class in its entirety as specified in the rule.
  - C. If the subcutaneous insulin injection nursing delegation training program is not developed by the department it must be approved by the department prior to implementation.
  - D. Certification. Successful completion of the subcutaneous insulin injection nursing delegation training program is required for certification. In order to be certified, DD personnel must meet the following requirements.
    - 1) Attend the entire program of required training.
    - 2) Participate in class discussions, activities, and return demonstration of proficiency in administering subcutaneous insulin injection.
    - 3) Complete the required evaluation for the training program and submit to the registered nurse certified instructor.
    - 4) Complete the final closed book written examination with a score of at least eighty per cent. DD personnel who score less than eighty per cent must take the training over in its entirety to be eligible to retake the final written examination. The final written examination shall be developed and maintained by the department, and only this final written examination shall be used in this program.
  - E. Renewal of certification.
    - 1) DD personnel shall complete one hour of continuing education annually to maintain certification in subcutaneous insulin injection. The one hour training will be planned or coordinated by a registered nurse certified pursuant to rule 5123:2-6-04 of the OAC. The training will relate to information taught in the subcutaneous insulin injection by nursing delegation training program and will enhance the role of the DD personnel certified to provide subcutaneous insulin injection. Documentation of training must be provided to the certified registered nurse trainer. Cardiopulmonary resuscitation (CPR), first aid, and universal precautions will not be accepted as part of the one hour.
    - 2) DD personnel who do not complete the required one hour of training by the annual date of certification will have the certification temporarily suspended for a maximum period of sixty days, during which time the required continuing education shall be completed, and during which time the DD personnel may not administer subcutaneous insulin injection, and may not receive nursing delegation to administer subcutaneous insulin injection. If the required one hour of training is not completed within the sixty days, certification will be revoked and the DD personnel will be required to retake the course in its entirety to be recertified.

Standards established by the Ohio Board of Nursing under Chapter 4723-13 of the Administrative Code shall apply when an unlicensed person is performing delegable nursing tasks that are not defined as health related activities.



The Board and all applicable providers which employ or contract with certified DD personnel will maintain evidence of training and certification as prescribed within this section.

## **1406. General Provisions and Compliance in the Delivery of Health Support Activities**

### **1406.1 List of Certified DD Personnel and Certified Registered Nurses**

The Madison County Board of DD will insure compliance with all sections of 5123:2-6-07. The Certified Registered Nurse Trainers shall be responsible for maintaining current information on trained registered nurses and DD personnel on the Department registered nurse certification database and the DD personnel certification database list respectively.

### **1406.2 DD Personnel Documentation Requirements**

These documentation requirements apply to the categories specified under sections 1402.1 through 1402.5 of this policy and paragraphs (A)(1) to (A9) of rule 5123:2-6-03 of the OAC.

- A. Documentation of all health support activities given, applied, missed, held, or refused shall be done on a prescribed medication administration record or treatment administration record indicating the name or initials of the DD personnel administering a prescribed medication or treatment, time and date, and, when appropriate, observations or difficulties noted.
- B. The employer of DD personnel shall maintain a means of identifying initials and signatures of DD personnel making entries in the prescribed medication administration record and treatment administration record.

All prescribed medications administered pursuant to this section and section 5123:2-6-07 of the OAC shall be administered according to the written direction of an appropriately licensed health care professional and according to the training received by DD personnel pursuant to section 5123.43 of the Revised Code and rules 5123:2-6-05 and 5123: 2-6-06 of the OAC.

### **1406.3 Reporting Errors**

DD personnel are required to observe the following requirements for reporting errors in the categories specified under sections 1402.1 through 1402.5 of this policy and paragraphs (A)(1) to (A9) of rule 5123:2-6-03 of the OAC.

- A. Any error by DD personnel in the administration or provision of health support activities that results in physical harm to the individual shall be immediately reported to an appropriate licensed health care professional.

- B. Any error by DD personnel in the administration or provision of health support activities shall be reported in accordance with OAC 5123:2-17-02 if the error meets the definition of major unusual incident or unusual incident as those terms are defined in that rule. Reference County Board Policy Chapter 13.

#### **1406.4 Compliance and Quality Assessment Reviews**

Compliance and quality assessment reviews of individuals receiving services from certified supported living providers; individuals receiving residential support services from certified home and community-based services providers, if the services are received in a community living arrangement that includes not more than four individuals; or individuals residing in residential facilities of five or fewer beds, excluding ICFs/MR.

A registered nurse, employed by or under contract with the county board, shall assist with consultation and quality assessment oversight.

- A. The quality assessment registered nurse, employed by or under contract with the county board, shall complete quality assessment reviews in a format prescribed by the Department so that a review of each individual receiving administration of prescribed medications or performance of health-related activities by DD personnel pursuant to this rule in the county is conducted at least once every three years. The quality assessment registered nurse, employed by or under contract with the county board, may conduct more frequent reviews if the registered nurse or county board, provider, or Department determines there are issues to warrant such.
- B. In settings where the Board directly provides supported living or home and community-based services in a community living arrangement that includes not more than four individuals or operates a residential facility of five or fewer beds, excluding an ICF/MR, a registered nurse who is not directly employed by the county board and is a disinterested party of the county board shall complete quality assessment reviews in a format prescribed by the Department so that a review of each individual receiving administration of prescribed medications or performance of health-related activities by DD personnel pursuant to this rule in the county is conducted at least once every three years. The registered nurse may conduct more frequent reviews if the registered nurse or county board, provider, or Department determines there are issues to warrant such.
- C. Quality assessment reviews will be completed in a format prescribed by the Department and will include, but are not limited to, the following:
  - 1) Observation of administering prescribed medication or performing health-related activities;
  - 2) Review of documentation of prescribed medication administration and health-related activities for completeness of documentation and for documentation of appropriate actions taken based on parameters provided in prescribed medication administration and health-related activities training;
  - 3) Review of all prescribed medication errors from the past twelve months;

- 4) Review of the system used by the employer or provider to monitor and document completeness and correct techniques used during oral and topical prescribed medication administration and performance of health-related activities.
- D. The quality assessment registered nurse shall provide a copy of the quality assessment review to the county board and the provider of services in which the site is located within ten business days of the quality assessment review and shall recommend to the county board and the provider of services steps to take to improve the functioning of the trained DD personnel and maintain compliance with this policy. The quality assessment registered nurse shall maintain a copy of each quality assessment review performed by the quality assessment nurse or by the registered nurse as specified above.
- E. The quality assessment registered nurse, employed by or under contract with the county board, as specified within section 1405.4 shall act as a resource for the county board and related program and service providers concerning health management issues and may serve to assist in expanding health care services in the community.
- F. If the employer of DD personnel believes or is notified by the county board, the Department, a delegating licensed nurse or the registered nurse responsible for quality assessment pursuant to OAC 5123:2-6-07 that DD personnel have not safely delivered or will not safely deliver the required health support activities, the employer shall prohibit the action from continuing or commencing. DD personnel shall not engage in the action or actions subject to an employer's prohibition. When the employer prohibits the action from continuing or commencing, the employer shall do the following:
  - 1) Notify the DD personnel of the prohibition and immediately make other staffing arrangements so that the required health support activities are completed as prescribed, including compliance with requirements of OAC 5123:2-6-07;
  - 2) Immediately notify the Department;
  - 3) If applicable, immediately notify the county board via the major unusual incident reporting system pursuant to rule 5123:2-17-02 of the OAC, and the county board, as applicable, shall notify the registered nurse responsible for quality assessment oversight as noted in this section;
  - 4) If applicable, immediately notify the delegating licensed nurse.
- G. The employer shall ensure all corrective action is taken prior to allowing the DD personnel to resume the health support activity. The employer shall notify the Department and as applicable, the county board, the registered nurse responsible for quality assessment, or the delegating licensed nurse of the corrective action taken.

#### **1406.5 Suspension and Revocation of Certification of DD Personnel**

The Board will comply with the process outlined in sections G and H of OAC 5123:2-6-07.

### **1407. Procedures for Accepting Complaints and Conducting Investigations**

- A. Any complaint regarding the administration of health support activities as defined in this policy by DD personnel pursuant to the authority granted under section 5123.42 of

the Revised Code or compliance with the rules adopted under this policy shall be made to the Department using the process established under OAC 5123:2-17-01. This paragraph shall not be construed to allow DD personnel, a representative of DD personnel, or an employee organization as defined in Chapter 4117 of the Revised Code to make a complaint to the Department regarding a personnel action.

- B. Any complaints related to the scope of nursing practice shall be referred to the Ohio Board of Nursing, which regulates nursing practice in accordance with Chapter 4723 of the Revised Code.
- C. When a quality assessment registered nurse under 1406.4 of this policy, receives a complaint or identifies concerns based on a quality assurance review conducted pursuant to section 1406.4 related to the performance or qualifications of DD personnel, that registered nurse shall do an initial investigation including a discussion with the DD personnel and his/her employer. After completing the initial investigation, the registered nurse, employed by or under contract with the county board, shall contact and work with the nurse consultant or a designee of the Department to assure that the cases are handled in a consistent manner statewide.

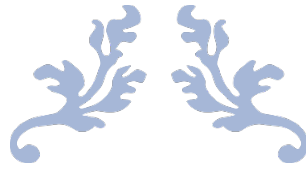
## **1408. Corrective Action**

- A. In the event that an investigation conducted pursuant to section 1407 of this Policy results in a finding of failure to comply with the requirements of this chapter, the county board shall work with the DD personnel's employer to assure immediate action is taken to correct the issue to assist the county board or the DD personnel's employment agency in meeting compliance with this chapter.
- B. The Department shall review alleged county board violations of applicable sections of OAC 5123:2-6-01 through 07 pursuant to DD personnel performing health support activities as defined in this policy. The Department shall make recommendations to assist the Board in achieving compliance.
- C. If the provider is found to be in violation of applicable sections of OAC 5123:2-6-01 through 07 pursuant to DD personnel performing health support activities as defined in this Policy, the Department may make recommendations to assist the provider in achieving compliance.
- D. The Department shall review compliance within thirty days of the corrective action. If the Department determines that corrective action does not bring the Board, program, or any other provider into substantial compliance with this chapter, the Department may revoke a certificate obtained pursuant to rule 5123:2-6-06 or the OAC, or take other actions as allowed by the Revised Code or OAC.
- E. The Board or any other provider of services may appeal the findings of the Department within seven days of receipt of notification by the Department. The Department's responsibilities with regard to appeals is outlined in OAC 5123:2-6-07 section (J) (5) (a-c).

## **1409. Immunity from Liability**

DD personnel who administer health support activities as defined within this Policy pursuant to the authority granted under section 5123.42 of the Revised Code, rule 5123:2-6-03 of the OAC are not liable for any injury caused by administering the prescribed medications, performing the tasks, or performing tube feedings if both the following apply:

- A. The DD personnel acted in accordance with the methods taught in training completed in compliance with section 5123.42 of the Revised Code and rules 5123:2-6-05 and 5123:2-6-06 of the OAC.
- B. The DD personnel did not act in a manner that constitutes wanton or reckless misconduct.



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# **MADISON COUNTY BOARD OF DEVELOPMENTAL DISABILITIES POLICY MANUAL**

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## **Chapter 16: Medicaid Due Process**



**Board Adopted: December 21, 2000**

**Next Scheduled Review: December 2001**

**Updated Language Formatting: July 2014**

**Updated Format and Layout: May 6, 2021**

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## **1600. Purpose**

The Madison County Board of Developmental Disabilities will insure compliance with Ohio Administrative Code (OAC) 5101:6-1 through 5101:6-9 concerning hearing rights and appeal requirements which apply to individuals receiving or requesting Medicaid covered services. This includes services that the Board directly provides or contracts with another agency to provide. Medicaid services covered in this policy include, but are not limited to Skills Development and Supports, Active Treatment, Professional Services, Targeted Case Management, Service Coordination and Waiver services (cross-reference Chapter 11 Waiting List Policy regarding Waivers).

All time frames specified in this policy are in calendar days.

This policy and procedure will be reviewed annually with all enrollees and parents/guardians by the Service Coordinator at the time of the program review.

## **1601. Notification**

When any notification to an individual is given under this policy and the individual may not be able to understand and/or exercise his/her right to a state hearing due to factors such as the individual's mental capability or language barriers, the individual shall be assisted in naming a responsible party such as a guardian, relative, next friend, legal counsel including a Legal Rights Service Attorney, or any other advocate for the individual. The advocate selected by the individual shall receive a copy of any notice given to the individual and shall be permitted to act as the authorized representative of the individual. Reference: OAC 5101:6-1-01(C).

## **1602. Notice of denial, reduction, suspension or termination**

When a request for an initial Medicaid service or a request to increase the frequency/duration of an existing Medicaid service is denied, the individual or his/her authorized representative must be given a notice of denial by the County Board. ODJFS (ODHS) form 7334, "NOTICE OF DENIAL OF YOUR APPLICATION FOR ASSISTANCE" must be used for this purpose.

When a decision has been made to terminate a service being received or to reduce the frequency and/or duration of the service, ODJFS (ODHS) form 4065, "IMPORTANT NOTICE ABOUT YOUR WELFARE BENEFITS" must be issued.

When a Medicaid service is denied, reduced, suspended, or terminated, or an application for Medicaid services is not acted upon with reasonable promptness or acted upon erroneously, the



individual shall be notified of his/her right to a state hearing. Reference: OAC 5101:6-3-01. This notice shall be sent by mail or personally provided to the individual and/or guardian as applicable not less than 15 calendar days prior to the processing of the proposed action. The notice shall include:

- A. A clear and understandable statement of the action the Board has proposed;
  - B. Reasons for proposing the action;
  - C. Applicable regulations;
  - D. An explanation of the individual's rights to and the method of obtaining a county conference and a state hearing;
  - E. An explanation of the circumstances under which a timely hearing request will result in continued benefits; and,
  - F. The telephone number of the Ohio Legal Rights Service.
- Reference: OAC 5101:6-2-04

The service will continue to be provided for the 15 day period. Services will continue if an appeal is received in 15 days. If there is no appeal services will be terminated. Services will not be reinstated if the appeal is received within 90 days, but after 15 days. If an individual fails to request a hearing within the 15 day prior notice period, but requests a hearing within 10 days following the effective date of the proposed adverse action, and has good cause for failing to request a hearing within the prior notice period, services shall be reinstated to the previous level and continued until the hearing is decided (OAC 5101:6-4-01).

Determination of good cause is the responsibility of the ODJFS hearing authority, who is the hearing supervisor in the ODJFS district office with jurisdiction over the county in which the individual lives. If good cause is found, the hearing authority will issue an order that services be reinstated.

"Prior Notice of Right to a State Hearing", ODJFS (ODHS) 4065 shall be used. Reference: OAC 5101:6-2-04. This notice is to be filed in the individual's file. Reference: OAC 5123:1-2-02(E)(2)(g)(vii). Services shall continue if an appeal is received within 15 days, pending the outcome of the hearing. Reference: OAC 5101:6-4-01.

## **1603. Right to Appeal**

Whenever an individual expresses disagreement with an action or lack of action regarding Medicaid services they receive/request, the individual shall be reminded of the right to request a state hearing by giving the individual form "Explanation of Hearing Procedures" ODJFS (ODHS) 4059. Reference OAC 5101:6-2-08. The individual may verbally request an appeal. The County Board will then be responsible for putting this request in written form.

When the agency's decision is being appealed, the agency shall, upon request of ODJFS use ODJFS (ODHS) Form 4067, "Appeals Summary", to explain its decision. Reference OAC 5101:6-5-01(B).

#### **1604. Exceptions to Prior Notice**

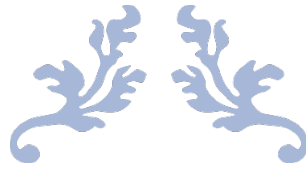
Under the following circumstances, prior notice of an adverse action is not required, but the individual shall be provided written notice on or before the effective date of the action:

- A. Death of the individual;
- B. The agency receives a clear, written statement, signed by the individual, that he/she no longer wishes to receive benefits, or that gives information which requires reduction or termination, and indicates that the individual understands that this must be the consequence of supplying the information;
- C. The individual has been placed in skilled nursing care or intermediate care where he/she is ineligible for further benefits;
- D. The individual has been admitted or committed to an institution where he/she is ineligible for further benefits;
- E. The individual's whereabouts are unknown and agency mail directed to the individual has been returned by the post office indicating no known forwarding address;
- F. The individual has moved to another state;
- G. A child is removed from the home as a result of a judicial determination or is voluntarily placed in foster care by the child's legal guardian;
- H. A service implemented for a specific period of time is terminated at the end of the specified time.

Reference: OAC 5101: 6-2-05

The notice shall contain a clear and understandable statement of the action being taken, and the reasons for it, cite the applicable regulations, explain the individual's right to and the method of obtaining a county conference and a state hearing, explaining the circumstances under which a timely hearing request will result in reinstated benefits, and contain the telephone number of the Ohio Legal Rights Service. Reference : OAC 5101:6-2-05(A)(2). "NOTICE OF RIGHT TO STATE HEARING" ODJFS (ODHS) 4085 shall be used. Reference OAC 5101:6-2-05(A)(3). This notice is to be filed in the individual's file. Reference: OAC 5123:1-2-02(E)(2)(g)(vii).

All forms referenced in this policy are attached, along with instructions for completing them.



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# **MADISON COUNTY BOARD OF DEVELOPMENTAL DISABILITIES POLICY MANUAL**

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## **Chapter 17: PASRR Policy**



**Board Adopted: May 17, 2001**  
**Next scheduled review: May 2002**  
**Updated Language Formatting: July 2014**  
**Updated Format and Layout: May, 10 2021**

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## **1700. Policy**

Pursuant to Ohio Administrative Code 5123:2-14-01, Madison County Board of DD, Office of Family Support Services, participates in the OBRA PASRR (Pre-admission Screening and Resident Review) Evaluation process for individuals seeking admission to a nursing home, regardless of funding source, and for those applying for the PASSPORT Waiver administered by the Ohio Department of Aging (ODA). Family Support Services provides this evaluation for persons who have suspected mental retardation or developmental disabilities.

The purpose of this process is to provide information to the Ohio Department of Developmental Disabilities (DODD) to determine whether the person's needs should be met in a nursing facility or elsewhere, and whether if admitted to a nursing facility, specialized services should be provided by the County Board to ensure continuous active treatment, by rule definition:

- A. Active treatment means a continuous treatment program that includes aggressive, consistent implementation of a program of specialized and generic training treatment, health services and related services that are directed toward the following:
  - 1) The acquisition of the behaviors necessary for the client to function with as much self-determination and independence as possible; and
  - 2) The prevention or deceleration of regression or loss of current optimal functional status.

## **1701. Specialized Services Guidelines**

To understand what specialized services are, it is important to understand its definition and how it interacts with active treatment.

### **1701.1 Administrative Rule 5101:3-3-151(B)(19) & 5123:2-14-01(B)(13)**

“Specialized Services for mental retardation and/or other developmental disabilities means the services specified by the Pre-Admission Screening and Resident Review (PASRR) determination and provided or arranged for by the Department which are integrated with services provided by the Nursing Facility (NF) or other service providers to result in continuous active treatment. Specialized services shall be made available at the intensity and frequency necessary to meet the needs of the individual.”

### **1701.2 Administrative Rule 5101:3-3-151(B)(1) & 5123:2-14-01(B)(1)**

“Active treatment means a continuous treatment program which includes aggressive, consistent implementation of a program of specialized and generic training, treatment, health services and related services for individuals with mental retardation and/or other developmental disabilities that are directed towards the following:

- A. The acquisition of the behaviors necessary for the client to function with as much self-determination and independence as possible; and
- B. The prevention or deceleration of regression or loss of current optimal functional status.”

### **1701.3 Definition of Commonly Used Terms**

- A. Specialized: Directed towards or concentrated on a specific/particular end.
- B. Service: An act of giving assistance (advantage) to another resulting in the others benefit. (i.e. friendly help, professional aid).
- C. Integrated: Made whole or complete by the adding or bringing together of parts; unity created within different segments in order to establish the whole.
- D. Continuous: Ongoing without interruption or break; connected.
- E. Intensity: The degree of concentrated effort: magnitude.
- F. Frequency: The number of times any action or occurrence is repeated in a given period.
- G. Aggressive: Bold and active, pushing, full of initiative.
- H. Consistent: Holding always to the same principles, practice, approach in agreement, harmony, accord.

Specialized Services are:

- A. Specified by the PASRR determination;
- B. To be provided or arranged for by the County in conjunction with DODD;
- C. What is required to equip the individual with the knowledge, resources and experiences necessary to enable the individual to reach his/her maximum level of independence;
- D. To be provided in each part of the individual’s daily activity, as appropriate;
- E. To be coordinated in such a way to unify all providers (professional, paraprofessional, nonprofessional) in design, approach and delivery of services rendered to the individual to meet his/her unique educational training needs;
- F. To result in an uninterrupted and connected acquisition of knowledge, resources and experiences by the individual through proper or appropriate interactions between all staff and the individual which are designed to meet specific Individual Plan (IP) goals and objectives; and
- G. To be made available at the number of times and to the degree specified by the IP.

### **1701.4 Determination of Specialized Services 5123:2-14-01© & (C)(3)(C)**

- A. Review of Assessments
  - 1) Current medical history, physical and physician’s progress notes (current within one (1) year).
    - i. Review to determine, if any, medical needs have been noted that could be addressed through Specialized Services (i.e., individual has medications administered, but is capable intellectually and cognitively to self administer medication).

- ii. Review to determine if the individual's medical condition has deteriorated to the point that Special Services would not show any measurable benefit to the individual (i.e., individual's Alzheimer's has progressed to the point that dementia significantly effects any measurable benefit a current or proposed self medication program would have for the individual).
- B. Review Minimum Data Set (M.D.S.)
  - 1) Review to gain insight into the individual's behaviors, receptive and expressive language skills, self care abilities, physical restrictions and limitations, emotional stability, adaptive equipment used, special therapy or treatments currently in place, rehabilitative/restorative care and types of medication now being administered.
  - 2) Use this information to assist in determining the individual's needs through appropriate assessment/evaluations, program development and implementation, and/or consultation and training.
- C. Nursing Care Plan
  - 1) Review and gain additional insight into the individual's current physical, mental and social condition as well as the facilities approach to address the various needs of the individual.
  - 2) Combine this information with the M.D.S. information to gain a mental picture of how the individual interacts, functions and copes with the world around him/her. Use this to assist in determining if Specialized Services would enhance the individual's capabilities towards greater independence, self-determination and/or prevention or reduction of any loss in skills the individual already possesses.
- D. Professional Evaluations and Consultations
  - 1) Review to obtain any recommendations for treatment of needs identified through the evaluation process.
  - 2) Determine if the needs and recommendations are to be addressed through specialized services.

When making recommendations for specialized services determination, the following points may be useful to apply.

- A. The assessments are to be a true reflection of the individual's current condition/functional status. Therefore, information that is outdated or is not reflective of the individual's current condition/functional status should not be submitted (i.e., outdated M.D.S., physical, social history, evaluations, nursing care plans, IP, IEP).
- B. A "specialized services determination is given only to those individuals who require continuous supervision, treatment and training to address needs in each of the life areas in which functional limitations have been identified."
- C. Documentation of the need for specialized services is to accompany the Individual Plan (IP). The specialized service must be of measurable benefit to the individual.
- D. Assessments/Evaluations should give the present status of the individual, including strengths and needs, and present recommendations designed to meet the needs of the individual.

- E. The Department may request additional information in order to address any areas that may remain unclear.

### **1701.5 Where are Specialized Services to be delivered and by whom?**

- A. Specialized services are to be rendered to the individual wherever the individual is located during the daily routine of the individual. (The IP may designate that the individual is to attend the workshop or some other function provided by the County Board; then, specialized services are provided at the location of the function. However, the IP may designate that services are to be provided in the nursing facility; then the specialized services are to be provided in the facility).
- B. After the individual's IP team has met:
  - 1) The team is to review all evaluations/assessments to establish a list of the individual's strengths and needs, stated in behavioral terms that are based on the individual's current functional status.
  - 2) The team is to state specific objectives necessary to meet the individual's needs and the planned sequence for dealing with those objectives. These objectives are to be:
    - i. Stated for each behavioral outcome the team intends the individual to learn;
    - ii. Expressed in behavioral terms that can show a measurable benefit to the individual;
    - iii. Organized to show a developmental progression appropriate to the individual;
    - iv. Prioritized from the most to least important for implementation;
    - v. Addressed through written training programs, that indicate:
      - 1. The method to be used;
      - 2. The schedule for use of the method;
      - 3. The person responsible for the program;
      - 4. The type of data and frequency of data collection necessary to be able to assess the benefit to the individual towards the desired objectives; and
      - 5. The individual's inappropriate behaviors, if applicable.

### **1701.6 Initiated and Delivered**

Specialized services should be initiated and delivered as soon as the Individual Plan (IP) programs are developed and staff is trained to provide the service in all appropriate situations.

Specialized services should be monitored on an ongoing basis to ascertain the benefit the individual obtains by receiving the service.



- A. When the individual benefits from the service, the service should be continued as is. Perhaps the service should be continued with adjustments to allow the individual to receive maximum benefit.
- B. When the individual does not benefit from the service, the service should be reviewed and adjustments made so that the benefit to the individual is established. Otherwise, the service is to be discontinued.

#### **1701.7 Specialized Services (Benefit or Not?)**

To determine if the delivery and receipt of specialized services are benefiting the individual, the County Board must:

- A. Evaluate the data relevant to the accomplishment of the objectives specified in the IP; and
- B. Evaluate significant events in the individual's daily activity that relate to the individual's IP and that contribute to the overall understanding of the individual's on-going level and quality of functioning.

#### **1701.8 Coordination of Specialized Services**

- A. Specialized services are to be coordinated by the County Board and documented in the IP.
  - 1) The county board is to assure that training and technical assistance is made available to all service providers in order for the individual to receive the maximum benefit from services rendered.
  - 2) The county board is to monitor the services being rendered to ascertain the benefit the individual is receiving from the combined efforts offered in relation to the goals and objectives stated in the IP.
- B. The DODD has the ultimate responsibility to monitor the need for, delivery of an individual outcomes resulting from receipt of Specialized Services. Therefore, the PASRR Specialist will provide periodic reviews.

#### **1701.9 Refusal to Receive Specialized Services**

An individual has the right to refuse any attempt at service delivery. When and if this occurs, the County Board should ensure the following:

- A. Refusal must be persistent from the individual (individual should be asked at least on two separate occasions under different circumstances).
- B. Refusal must be consistently documented in the individual's records and reflected as part of the IP updates.
- C. County Board must document and discuss with the individual possible consequences of refusal of services.

## **1702. Procedures**

The process of admission to a nursing home begins with the determination of nursing home need and type of nursing facility. The Area Agency on Aging makes this determination, known as level of care. During this process, if the Agency on Aging sees indications of a diagnosis of mental retardation or development disabilities, a notification is sent to DODD's PASRR office, which faxes the information to the county board with a request for Further Review.

The Family Support Services Director or designee completes the OBRA PASRR Evaluation Summary form (revised October, 2000) and submits it with documentation to the Department within five days, following procedures outlined below:

If the individual is not known to the county board, the Family Support Services Director screens first to confirm or rule out a diagnosis of mental retardation or developmental disability using available written or verbal information from family members or other contact persons. If there is no evidence of a DD diagnosis, the Rule-Out section of the form is completed and returned to the Department's PASRR unit.

If the person does have a diagnosis, the Family Support Services Director or Support Service Coordinator, with permission from the person or guardian, acquires the assessments needed as listed in the PAS section of the PASRR form, and sends them to the Department's PASRR unit with the completed form.

If the person needs a new or updated psychological evaluation, the County Board must attempt to procure that service within five days of the request from DODD.

An individual with a DD diagnosis may be admitted to a nursing facility without this initial procedure in the following circumstances:

- A. An emergency situation not to exceed seven days;
- B. Respite not to exceed fourteen days; and
- C. Convalescent care admitted directly from a hospital, and not to exceed thirty days. The individual must need treatment for the same condition for which they were hospitalized.

In the above situations, Area Agency on Aging informs DODD of the category of admission. At the end of the above time limits per category, the nursing facility must inform DODD's PASRR unit if the person cannot be discharged. At that point, the Department requests the further review process from the county board. With this process, referred to as Resident Review on the PASRR Evaluation form, assessments are required from the nursing home in addition to the documents for PAS, and are all sent to the Department within ten days.

## **1703. Change in Condition**

Change in Condition is defined as changes in mental or physical condition, with consideration made of the individual's present physical, emotional, intellectual, cognitive, adaptive and

maladaptive behavioral, social, vocational, sensorimotor, and speech and language development - which may result in a change of placement. The Support Service Coordinator will monitor for change in conditions by periodic review of service plans of those individuals who are provided day services at the County Board. For individuals who are not currently provided day services, the individual would request services from the County Board, and the Support Service Coordinator would provide a Resident Review to obtain more information about their eligibility status. If there is a change in status, when the individual would improve and the individual no longer needs nursing home placement, then the Support Service Coordinator would ascertain from the individual what residential setting is desired, as well as taking in to account the complete medical history, physician orders, nursing care plan, current medications, and the other components entailed in a Resident Review.

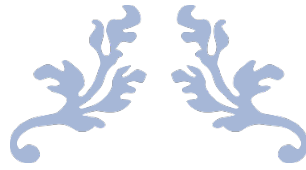
#### **1704. Change in Placement/Must Move Status**

If DODD determines during the Resident Review that the level of services of a nursing facility is not needed, the individual is given a “must move” status. This is considered an emergency and the individual becomes a priority for placement by the County Board in an appropriate setting with needed services and supports. The County Board where the nursing facility is located, the County of previous residence, or where the person desires to live is responsible to secure these supports and relocate the individual within a reasonable time frame. Upon receipt of this determination from DODD, the Family Support Services Office refers the emergency placement need to the PASRR unit.

If the Resident Review determines a more appropriate placement is desired, then the Support Service Coordinator would inform the individual of the various options available, such as HCBS waivers, Supported Living, and/or ICF/DD. The Support Service Coordinator will review the various alternative placement options with the individual, and have the individual sign a form acknowledging such.

#### **1705. Due Process**

The Due Process Policy by the County Board shall be used as needed for resolving disagreements in regard to any issues that my result from implementation of this policy.



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# **MADISON COUNTY BOARD OF DEVELOPMENTAL DISABILITIES POLICY MANUAL**

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## **Chapter 19: HIPPA Policy**



**Board Approved: April 20, 2003**  
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## 1900. Purpose

The Madison County Board of Developmental Disabilities, herein known as the Board, is committed to safeguarding the privacy of individuals with developmental disabilities. This in conjunction with the directives of the Ohio Department of Developmental Disabilities (DODD), the Ohio Department of Jobs and Family Services, and in accordance with The Health Insurance Portability and Accountability Act of 1996 (HIPAA). HIPAA policies pertain to federal, state and local rules and regulations. To learn how medical information may be used and disclosed, how individuals may gain access to their medical information, and the individuals' rights and the Board's legal duties with respect to PHI, please read our [Notice of Privacy Practices](#).

## 1901. Definitions

- A. 'Applicable Requirements' mean applicable federal and Ohio law and the contracts between the Board and other persons or entities which conform to federal and Ohio Law.
- B. 'Breach' means the acquisition, access, use, or disclosure of PHI in an unauthorized manner which compromises the security or privacy of the PHI. The following types of breaches are expressly excluded from this definition:
  - 1. Any unintentional acquisition, access, or use of PHI by a workforce member or person acting under the authority of a covered entity or a business associate, if such acquisition, access, or use was made in good faith and within the scope of authority and does not result in further use or disclosure in a manner prohibited by HIPAA;
  - 2. Any inadvertent disclosure by a person who is authorized to access PHI to another person authorized to access PHI at the same Covered Entity or Business Associate and the information is not further disclosed in a manner prohibited by HIPAA; or
  - 3. A disclosure of PHI where a covered entity or business associate has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain such information.
- C. 'Business Associate' means a person or entity which creates, uses, receives or discloses PHI held by a covered entity to perform functions or activities on behalf of the covered entity. The requirements are set forth more fully in 45 CFR 160.103. (Examples include software vendors or network vendors).
- D. 'Covered entity' means a health plan, a health care clearinghouse or a health care provider who transmits any health information in electronic form in connection with a transaction covered by HIPAA privacy rules. The Board is considered a covered entity.
- E. 'Council of Government' means a group of Boards or other governmental entities which have entered into an agreement under ORC Chapter 167 and are operating in accordance with that agreement.
- F. 'Designated Record Set' means:
  - 1. A group of records maintained by or for a covered entity that is:
    - i. The medical records and billing records about individuals maintained by or for a covered health care provider;
    - ii. the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or

- iii. used, in whole or in part, by or for the covered entity to make decisions about individuals.
- 2. For purposes of this definition, the term *record* means any item, collection, or grouping of information that includes protected health information and is maintained, collected, used, or disseminated by or for a covered entity.
- G. 'Disclosure' means the release, transfer, provision of access to, or divulging in any other manner of information outside the entity holding the information.
- H. 'HCBS' means Medicaid-funded home and community-based services waiver program available to individuals with DD granted to ODJFS by CMS as permitted in §1915c of the Social Security Act, with day-to-day administration performed by DoDD.
- I. 'Health Care Clearinghouse' means a public or private entity, including a billing service, community health management information system or community health information system that does either of the following functions:
  - 1. Processes or facilitates the processing of health information received from another entity in a nonstandard format or containing nonstandard data content into standard data elements or a standard transaction.
  - 2. Receives a standard transaction from another entity and processes or facilitates the processing of health information into nonstandard format or nonstandard data content for the receiving entity.
- J. 'Health Oversight Agency' means an agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is authorized by law to oversee the health care system (whether public or private) or government programs in which health information is necessary to determine eligibility or compliance, or to enforce civil rights laws for which health information is relevant.
- K. 'Health Plan' means an individual or group plan that provides, or pays the cost of medical care. Health plan includes the following, singly or in combination:
  - 1. The Medicaid program under title XIX of the Act, 42 U.S.C. § 1396, et seq.
  - 2. Any other individual or group plan, or combination of individual or group plans, that provides **or pays** for the cost of medical care.
- L. 'HIPAA' means the Health Insurance Portability and Accountability Act of 1996, codified in 42 USC §§ 1320 - 1320d-8 and 45 CFR Parts 160 and 164.
- M. 'ICF/IID' (replaces ICF/MR) means an intermediate care facility for individuals with intellectual disabilities, certified to provide services to individuals with DD or a related condition in accordance with 42 CFR part 483, subpart I, and administered in accordance with OAC Chapter 5101:3-3.
- N. 'ISP' means the Individual Service Plan which is a document developed by the ISP team, containing written descriptions of the services and activities to be provided to an individual, which shall conform to the applicable requirements, including, but not limited to OAC §5123:1-2-02, 5123:2-3-17 and 5123:2-12-03. References to the ISP shall include Individual Plans developed in accordance with OAC §5123:2-15-18.
- O. 'Minimum Necessary' means a covered entity complies with the minimum necessary requirement if the covered entity releases a limited data set or the minimum information necessary to accomplish the purpose of the disclosure. 42 USC 17935(b)(1)(A).



- P. 'MOU' means a Memorandum of Understanding between governmental entities, which incorporates elements of a business associate contract in accordance with HIPAA rules. (Examples could include Department of Job and Family Services or County Prosecutor).
- Q. 'Personal Representative' means a person who has authority under applicable law to make decisions related to health care on behalf of an adult or an emancipated minor, or the parent, guardian, or other person acting in *loco parentis* who is authorized under law to make health care decisions on behalf of an unemancipated minor, except where the minor is authorized by law to consent, on his/her own or via court approval, to a health care service, or where the parent, guardian or person acting in *loco parentis* has assented to an agreement of confidentiality between the Board and the minor.
- R. 'PHI' means Protected Health Information, that is, individually identifiable information relating to the past, present or future physical or mental health or condition of an individual, provision of health care to an individual, or the past, present or future payment for health care provided to an individual. PHI does not include individually identifiable health information in any of the following:
1. Education records subject to FERPA
  2. Employment records held by a covered entity in its role as employer
  3. Regarding a person who has been deceased for more than 50 years.
- S. 'Provider' means a person or entity which is licensed or certified to provide services, including but not limited to health care services, to persons with DD, in accordance with applicable requirements. A Covered Provider is a Health Care Provider who transmits any health information in electronic form.
- T. 'Public Health Authority' means an agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is responsible for public health matters as part of its official mandate.
- U. 'Targeted Case Management' (TCM) means an Ohio State Plan Medicaid service that provides case management, including service coordination, services to eligible individuals with DD in accordance with OAC Chapter 5123.
- V. TPO means treatment, payment or health care operations under HIPAA rules.
- W. 'Unsecured PHI' means protected health information that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary in the guidance issued and made available at <http://www.hhs.gov/ocr/privacy/>. 45 CFR §164.402; The commentary notes that "unsecured PHI can include information in any form or medium, including electronic, paper, or oral form." 74 Fed. Reg. 42748. The regulations require this guidance to be updated annually. PHI which is secured as specified by the guidance will not be subject to notification in the event there is a breach of the secured PHI.
- X. Use means, with respect to individually identifiable health information, the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains such information.
- Y. 'Workforce Member' means employees, volunteers, trainees, and other persons whose conduct, in the performance of work for the Board, is under the direct control of the Board, whether or not they are paid by the Board.

## **1902. Privacy and Confidentiality**

### **A. Sources**

1. 45 CFR Part 160 and 164 generally
2. 45 CFR 164.502(b)(1) minimum necessary standard
3. 45 CFR 164.502(a)(1)(iii) incidental uses and disclosures
4. 45 CFR 164.504(g) for entities with multiple functions
5. ORC § 5126.044 Ohio law on confidentiality
6. OAC § 5123.31 General DD Board confidentiality requirements
7. OAC § 5123:1-6-01 Access to Confidential Personal Information
8. OAC § 5123:2-2-01(D)3(b) Supported Living requirements for confidentiality policies and standards

### **1902.1 General Policy**

- A. The Board shall conform to all requirements for privacy and confidentiality set forth in HIPAA and other applicable law. The Board shall not use or disclose PHI except in accordance with applicable requirements.
- B. This policy shall apply whether the Board is acting as a covered health care provider or a Health Plan under HIPAA. If the Board is acting in more than one capacity, the Board shall be subject to the requirements applicable to that function and shall use or disclose PHI only for purposes related to the function being performed.
- C. Treatment, payment and health care operations
  1. The Board may use PHI for treatment, payment and health care operations without an individual's release or authorization to the extent that such activities occur within the Board program.
  2. The Board shall obtain a release or authorization from the individual for any disclosure for treatment, payment or health care operations when such disclosure is to a person or entity which is not otherwise entitled to receive such information under applicable requirements.
- D. Scope of Disclosure: Minimum Necessary Standard
  1. In general, use, disclosure or requests of records must be limited to the minimum which is reasonably necessary to accomplish the purpose of the use, disclosure or request. The following are exceptions to this general principle:
    - i. The minimum necessary standard does not apply to disclosures to the individual.
    - ii. When an individual has authorized disclosure, the scope of disclosure shall be in accordance with the authorization.
    - iii. Disclosures required by law or for monitoring purposes shall be made in accordance with the authority seeking the information.

## **1903. Administration**

### **A. Sources**

1. 45 CFR 164.530 administration requirements
2. ORC § 1347 personal information systems
3. ORC § 5123.046 rights
4. ORC § 5123.64(A) training in rights
5. ORC § 5126.34 training standards for reviewing abuse and neglect reports
6. OAC § 5123:2-1-02(I)(7) appointment of person responsible for ensuring the safekeeping of records and securing them against loss or use by unauthorized persons.
7. OAC § 5123:2-3-08 staff training in licensed facilities
8. OAC § 5123:2-5-01(C)(12) training requirements for adult service workers
9. OAC § 5123:2-5-02(D) training requirements for SSAs
10. OAC § 5123:2-5-05(C)(13) training requirements for early intervention workers
11. OAC § 5123:2-5-07(C) training requirements for investigative agents
12. OAC § 5123:2-6 training requirements for administration of medication
13. OAC § 5123:2-17 complaint resolution; MUIs

### **1903.1 Pre-Emption Analysis**

- A. Follow current practices in general.
- B. Under HIPAA members of workforce whose functions are affected by a material change in the policies or procedures must be trained within a reasonable period of time after the material change becomes effective. §164.530(b)(2)(c).

### **1903.2 Policy on Privacy Officer and Contact Person for Complaints**

- A. The DD Board shall designate and document designations of the following:
  1. Privacy Officer
    - i. The Board shall designate an individual to be the Privacy Officer, responsible for the development and implementation of Board policies and procedures relating to the safeguarding of PHI. It shall be the Intake and Information Coordinator.
  2. HIPAA Committee
    - i. The Board shall have a HIPAA committee that advises and supports the Privacy Officer. The Superintendent shall appoint the HIPAA committee in consultation with the Privacy Officer. It shall be made up of the Intake and Information Coordinator (Chair), Health Services Coordinator, and Investigations Coordinator
  3. Contact Person or Office
    - i. Each facility or program operated by the Board shall designate an individual, position title, or office that will be responsible for receiving complaints relating to PHI and for providing information about the office's, facility's, or program's privacy practices.

## **1904. Authorization**

### **A. Sources**

1. 45 CFR 164.508 – HIPAA requirements for authorizations
2. 45 CFR 164.512(b)(1)(vi) – HIPAA requirement for record of immunization
3. ORC § 5126.044 – Ohio Statute on confidentiality of records
4. OAC § 5123:2-1-02(I)(7) – Ohio Rule on confidentiality of records

### **1904.1 Pre-Emption Analysis**

- A. ORC § 5126.044(B) generally requires a written release prior to disclosure for treatment purposes of an individual's records maintained by a Board. This state law preempts HIPAA's rule which allows release of PHI for treatment without consent or authorization. The new provision (effective October 16, 2009) states that the *identity* of an eligible individual may be disclosed without the individual's consent, if the identity of the individual is necessary for treatment or payment. RC 5126.044(B)(4). Treatment is defined as "provision, coordination, or management of services provided to an eligible person." Payment is defined as "activities undertaken by a service provider or governmental entity to obtain or provide reimbursement for services to an eligible person." RC 5126.044(A).
- B. A strict construction of the language of statute as amended permits disclosure *only of the identity* of an individual for treatment or payment purposes; the language as currently enacted does not clearly permit release of records or reports on an individual without a written consent for the release. Under this construction, state law pre-empts HIPAA since state law will not allow disclosure of PHI other than the individual's identity for treatment or payment purposes without authorization.
- C. ORC § 5126.044(B) preempts HIPAA's rule which allows disclosure of PHI to business associates without a consent or authorization. In order for disclosures to persons who are not employees of the DD Board to be given, under state law, an individual must give permission through a written release.
- D. HIPAA pre-empts ORC § 5126.044(B)(3) which allows access to PHI to monitor waiting lists by persons who are not employed by a health oversight agency.
- E. HIPAA pre-empts parts of ORC § 5126.044(C)(3)(b). HIPAA only allows release of PHI to an executor or to a family member involved in the individual's care or payment for health care prior to the individual's death, if the PHI is relevant to such person's involvement.

### **1904.2 Policy on Authorizations**

- A. In compliance with 45 CFR Part 164 and Ohio law, all uses and disclosures of PHI beyond those otherwise permitted or required by law require a signed authorization. An authorization which conforms to procedures adopted by the Board may be used for use or disclosure of PHI in any situation where an authorization or release of information is required.

## **1905. Uses and Disclosures for Which No Release or Authorization is Required**

### **A. Sources**

1. 45 CFR § 164.512
2. ORC § 2151.421(A) Reports of Child Abuse
3. ORC § 2305.51 Disclosures to prevent harm to 3<sup>rd</sup> parties
4. ORC § 2317.02(B) and (G) Privilege for physicians, school guidance counselors, licensed social workers and licensed counselors
5. ORC § 4732.19 Privilege for psychologists
6. ORC § 5123.19 Licensure activities of DODD
7. ORC § 5123.60 OLRs
8. ORC § 5123.61(C)(1) Duty to report abuse/neglect of persons with DD
9. ORC § 5126.044 Confidentiality for DD Boards
10. ORC § 5126.055 MLAA functions of DD Boards
11. ORC § 5126.31 Case Review and Investigation
12. OAC § 5123:2-17-02(B) Incidents adversely affecting health/safety
13. OAC § 5123:2-17-02(D) Reporting MUIs
14. OAC § 5123:2-3-04 Monitoring of licensed facilities
15. Ohio Rules of Civil Procedure Rule 45 -- Procedures for obtaining a subpoena

### **1905.1 Pre-Emption Analysis**

- A. In general, DD Boards should follow current practice except that DD Boards must comply with HIPAA requirement for informing individual after disclosure to authority of abuse or neglect, unless exceptions apply. 164.512(c)(2)
- B. There is a question about whether the absence of any of the HIPAA exceptions in ORC § 5126.044 prohibits any of the HIPAA disclosures. Common law, current practice and common sense dictate that the exceptions do exist and that the policies and procedures listed below should be followed.

### **1905.2 Policy on Uses and Disclosures for Which No Release or Authorization is Required**

- A. PHI may be disclosed without written release or authorization of the individual as follows and as further set forth in the Board's procedures:
  1. When required by law.
  2. For public health purposes such as reporting communicable diseases, work-related illnesses, or other diseases and injuries permitted by law; reporting births and deaths, and reporting reactions to drugs and problems with medical devices.
  3. To protect victims of abuse, neglect, or domestic violence.
  4. For health oversight activities such as investigations, audits, and inspections.
  5. For judicial and administrative proceedings.
  6. For law enforcement purposes.
  7. For fund raising purposes, provided there an opportunity to opt out

8. For disclosure of immunization with some record of consent
9. To coroners, medical examiners, and funeral directors.
10. For organ, eye or tissue donation.
11. Research.
12. To reduce or prevent a serious threat to public health and safety.
13. Specialized government functions.
14. For workers' compensation or other similar programs if applicable.

## **1906. Notice**

### **A. Sources**

1. 45 CFR 164.520 (HIPAA rules on notice)
2. ORC § 1347.08(A)(3) (Personal Information Systems)

### **1906.1 Pre-Emption Analysis**

#### **A. HIPAA rules apply.**

### **1906.2 Policy on Notices**

- #### **A. The Board shall give adequate notice of the uses and disclosures of PHI that may be made by the Board, and of the individual's rights and the Board's legal duties with respect to PHI.**

## **1907. Individual Rights Related to PHI**

### **A. Sources**

1. 45 CFR 164.524(e) Individual's right to access PHI
2. 45 CFR 164.524(b) Time limits on response to access
3. 45 CFR 164.524(c) Form of access
4. ORC § 1347.08(A)(2) Individual's right to access records
5. 45 CFR 164.522 individual's right to request restrictions
6. 45 CFR 164.526(f) individual's right to request amendment
7. ORC § 1347.09 Right to amend records with personal information
8. 45 CFR 164.528(d) individual's right to an accounting of disclosures of PHI
9. ORC § 1347.08 notice of who has access to personal information

### **1907.1 Pre-Emption Analysis**

#### **A. Individual's right to access PHI**

1. There is no conflict on the general principle of an individual's right to access PHI. State law pre-empts HIPAA exceptions; there are no limits in state law to an individual's access.

#### **B. Individual's right to request restrictions**

1. There is no comparable provision in Ohio law.
- C. Individual's right to request amendment
  1. Except as noted, HIPAA and state rules are substantially similar and should be followed.
- D. HIPAA requires designation of a person responsible for managing requests for amendment of records with PHI.
- E. HIPAA requirements pre-empt Ohio law in deadline for response to a request to amend a record with PHI. Under HIPAA a Board must respond within 60 days of the date of request; a single extension of up to 30 days may be obtained with notice. 164.526 (a), (b). The comparable Ohio section is 90 days to respond. 1347.09(A)(1).
- F. HIPAA notice requirements when there is an amendment are more detailed than Ohio law; HIPAA must be followed. 164.526(c)
- G. Individual's right to an accounting of disclosures of PHI
  1. State law and HIPAA must both be followed. Content of accountings must meet HIPAA requirements.

### **1907.2 Policy on Individual's Access to PHI**

- A. In general, an individual has a right of access to inspect and obtain a copy of protected health information about the individual in a designated record set, for as long as the protected health information is maintained in the designated record set, subject to any limitations imposed by applicable law.
- B. Information supplied to an individual is not subject to the minimum necessary standard.

### **1907.2 Policy on Individual's Right to Request Restrictions**

- A. The Board may voluntarily agree to restrict disclosure of information. The Board is not required to agree to such restrictions (unless the disclosure is to a health plan and involves PHI related to payment or health care operations and pertains to a health care item or service for which the individual has paid out of pocket in full). If there is such an agreement, the Board shall abide by the terms of the agreement, unless and until the agreement is rescinded in accordance with Board procedures.
- B. An individual may request, subject to conditions set forth in Board procedures, that confidential information be conveyed by the Board to the individual through alternative means or at alternative locations.

### **1907.3 Policy on Individual's Right to Request Amendment of Records of PHI**

- A. Subject to the rules set forth in applicable requirements and Board procedures, an individual has the right to have the Board amend PHI or a record about the individual in a designated record set for as long as the PHI is maintained in the designated record set.

#### **1907.4 Policy on Accounting of Disclosures of PHI**

- A. If the Board discloses an individual's identity or releases a record or report regarding an eligible individual, the Board shall maintain a record of when and to whom the disclosure or release was made.

### **1908. Safeguards for PHI**

#### **A. Sources**

- 1. 45 CFR 164.308, 164.310, 164.312 – NEW
- 2. 45 CFR 164.530(c)
- 3. ORC § 5126.044 Ohio law on confidentiality
- 4. OAC § 5123:2-1-02(I) Safeguard requirements for confidential DD Board records
- 5. OAC § 5123:2-4-01(C)(2)(b) General requirements for DD Board confidentiality policies
- 6. OAC § 5123:2-3-13(B) Safeguards for records in licensed facilities

#### **1908.1 Pre-Emption Analysis**

- A. HIPAA and Ohio law are consistent.

#### **1908.2 Policy on Safeguards**

- A. Each program or facility of the Board shall adopt and implement appropriate administrative, technical, and physical safeguards to reasonably safeguard PHI from intentional or unintentional unauthorized use or disclosure.

### **1909. Individual Complaints and Grievances**

#### **A. Sources**

- 1. 45 CFR 164.530(d) HIPAA complaint procedures
- 2. ORC § 5123.64(A) requires establishment of a complaint procedure
- 3. OAC § 5123:2-1-12 administrative resolution of complaints involving the programs, services, policies, or administrative practices of a county board or the entities acting under contract with a county board

#### **1909.1 Pre-Emption Analysis**

- A. Follow current procedures. Individuals must be permitted to file complaint with the Secretary of HHS or the Ohio Attorney General as well as local complaints.



## **1909.2 Policy on Individual Complaints and Grievances**

- A. The Board shall permit individuals to make complaints about the Board's HIPAA policies and procedures and/or the Board's compliance with those policies and procedures. The Board shall document all such complaints.

## **1910. Sanctions**

### **A. Sources**

1. 42 USC 1320d-5 HIPAA penalties for failure to comply
2. 45 CFR 164.530(e)
3. 45 CFR 164.502(j)(1) Disclosures by Whistleblowers
4. 45 CFR 164.502(j)(2) Disclosures by Workforce Members who are Victims of a Crime
5. No equivalent Ohio requirements on sanctions for breach of privacy requirements. Ohio common law imposes liability for breach of confidentiality. *See e.g. Biddle v. Warren Gen. Hosp.* 86 Ohio St.3d 395, 715 N.E.2d 518 (1999).
6. ORC § 4113.52 Right of employee to report violations of law in workplace

### **1910.1 Policy on Sanctions**

- A. The Board shall apply and document application of appropriate sanctions against workforce members who fail to comply with the privacy policies and procedures of the Board or applicable requirements.
- B. Sanctions may not be applied to whistleblowers, certain victims of crime committed by individuals served by the Board or in a manner which would be reasonably construed as intimidation or retaliation.

## **1911. Business Associates**

### **A. Sources**

1. 45 CFR 160.103 – HIPAA definition of business associate
2. 42 USC 17934(a) Requirement that BA conform to all privacy standards applicable to the DD Board
3. 45 CFR 164.502(e) – HIPAA requirements on disclosure to business associates
4. 45 CFR 164.504(e) – HIPAA requirements for contracts with business associates
5. 45 CFR 164.532 – HIPAA Transition requirements for business associates
6. 45 CFR 164.410 Duty of BA to give notice of breach
7. ORC § 5126.044 – Ohio Statute on confidentiality of records

### **1911.1 Pre-Emption Analysis**

- A. Business Associate Agreements

1. HIPAA requires a business associate agreement with any person or entity that is not a member of the Board's workforce and is receiving or creating PHI on behalf of the Board in order to perform TPO activities or tasks on behalf of the Board. (Similar agreements are required for subcontractors of the BA). The BA Agreement must meet the requirements of 45 CFR 164.504(e). Under HIPAA, if a BA Agreement is in place, the BA may receive and use PHI from the Board without consent or an authorization.
  2. Ohio law requires a contract between a Board and its consultants, contract employees and any other persons or entities hired to perform activities or tasks on behalf of the Board. Under Ohio law, having a contract, even one which meets the HIPAA BA requirements, does not alter the requirements for a release prior to disclosure of PHI.
  3. Both HIPAA requirements and Ohio law must be followed – HIPAA requires business associate agreements and Ohio law requires contracts and under some circumstances, authorizations as well for disclosure to BAs. The need for authorization or releases is discussed in section 1910.1B.
- B. Disclosure of PHI to the Business Associate
1. Under HIPAA if a business associate agreement is in effect, no authorization is required from the individual.
  2. Ohio law requires authorizations from individuals prior to the release of any PHI to any person or entity that is not an employee of the Board. Ohio law does not clearly state whether the definition of Board employee includes consultants and other such individuals performing tasks and activities on behalf of a Board.
- C. Creation of PHI by the Business Associate
1. HIPAA permits a business associate to create PHI on behalf of the Board. Ohio law addresses disclosure of confidential information, but not use or creation of PHI. HIPAA rules should therefore be followed.

### **1911.2 Policy on Business Associates**

- A. The Board shall not disclose PHI to any person or entity under contract with the Board without a BA agreement or MOU which conforms to requirements applicable to BA relationships unless such disclosure is otherwise permitted under federal or Ohio law. Individuals should generally provide proper authorization prior to disclosure to a BA or subcontractor.
1. Review of existing contracts
    - i. The Board shall review all existing contracts and extensions of contracts with any person or entity outside the workforce to determine whether there is a BA relationship under HIPAA.
  2. Conformity to applicable requirements -- The Board shall conform to all requirements applicable to BA relationships.

- i. If the Board has a BA relationship with a COG or other governmental entity, the Board shall enter into an MOU which meets HIPAA requirements applicable to BA relationships as well as applicable Ohio law.
  - ii. If there is an existing contract between the BA and the Board, the requirements of HIPAA may be met by an addendum to the contract.
- 3. Annual Review
  - i. The Board shall review all contracts with any person or entity outside the workforce at least annually to determine whether there is a BA relationship and whether the contract meets requirements of HIPAA.
- 4. Violations
  - i. If the Board knows of a pattern or practice of the BA that amounts to a material violation of the agreement, the Board shall attempt to cure the breach or end the violation, and if such attempt is unsuccessful, terminate the agreement, if feasible, and, if not, report the problem to the Office of U.S. Secretary of Health and Human Services.

## **1912. Document Management**

### **A. Sources**

- 1. 45 CFR 164.530(J)
- 2. ORC § 5126.044(E) (General records of DD Boards)
- 3. OAC § 5123: 2-7-12 (L) (ICFs/IID)
- 4. OAC § 5101:3-40-01 (ISPs for IO Waiver)
- 5. OAC § 5123:2-9-04, 2-9-06, and 2-3-13 (Waiver records)
- 6. OAC § 5123:1-2-11(P) (HCBS waivers for licensed providers)

### **1912.1 Pre-Emption Analysis**

- A. State law requires notice prior to destruction of an individual's records which contain PHI. There is no comparable requirement in HIPAA.

### **1912.2 Policy on Document Retention**

#### **A. Policies, procedures and other documentation required by HIPAA**

- 1. The Board shall maintain written or electronic copies of all policies and procedures, communications, actions, activities or designations as are required to be documented under Board policies for a period of six years from the later of the date of creation or the last effective date or such longer period that may be required under state or other federal law, or as set forth below.
  - i. Records with PHI and financial records
    - 1. The Board shall retain all Medicaid-related record information and fiscal data for a period of seven years from the date of receipt of payment or for six years after any initiated audit is completed and

adjudicated, whichever is longer, and said records shall be available for any partial or full review.

2. The Board shall retain all records and forms, including, but not limited to ISPs, necessary to fully disclose the extent of services provided and related business transactions for a period of seven years from the date of receipt of payment, or for six years after any initiated audit is completed and adjudicated, whichever is longer.
3. The Board shall retain financial, statistical, and medical records supporting the cost reports or claims for services rendered to residents of ICF/IID for the greater of seven years after the cost report is filed; if ODHS issues an audit report in accordance with rule 5101:2-7-12(L) of the Administrative Code, or six years after all appeal rights relating to the audit report are exhausted.
4. The Board shall maintain the records necessary and in such form to disclose fully the extent of HCBS waiver services provided, for a period of six years from the date of receipt of payment or until an initiated audit is resolved, whichever is longer.

### **1912.3 Policy on Document Destruction**

- A. The Board shall notify an eligible individual, the individual's guardian, or, if the eligible individual is a minor, the individual's parent or guardian, prior to destroying any record or report regarding the eligible individual.

## **1913. Notice in Event of Breach of Unsecured PHI**

### **A. Sources**

1. 45 CFR §§ 164.402 – 164.414

### **1913.1 Pre-Emption Analysis**

- A. HIPAA rules apply.

### **1913.2 Policy on Notice of Breach**

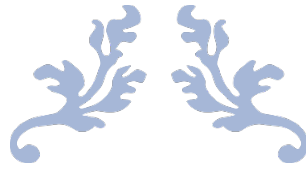
- A. In the event of a breach of unsecured PHI, the Board shall provide notice of breach in accordance with applicable requirements. Notice shall be provided to the affected individual, the Secretary of HHS and, as required, to the media. The Board shall take steps reasonably necessary to ensure that BAs provide notice of such a breach to the Board.

### **1913.3 Procedures**

- A. Presumption: Any impermissible use or disclosure of protected health information is presumed to be a breach unless the Board or Business Associate, as applicable,

demonstrates by a risk assessment that there is a low probability that the protected health information has been compromised.

- B. Definition of a Breach: A breach is the acquisition, access, use, or disclosure of PHI in an unauthorized manner which compromises the security or privacy of the PHI. Compromise of security or privacy means that there is a significant risk of financial, reputational, or other harm to the individual. The following types of breaches are expressly excluded from this definition:
1. PHI which is secured as specified by the guidance.
  2. Any unintentional acquisition, access, or use of PHI by a workforce member or person acting under the authority of a covered entity or a business associate, if such acquisition, access, or use was made in good faith and within the scope of authority and does not result in further use or disclosure in a manner prohibited by HIPAA.
  3. Any inadvertent disclosure by a person who is authorized to access PHI to another person authorized to access PHI at the same Covered Entity or Business Associate and the information is not further disclosed in a manner prohibited by HIPAA.
  4. A disclosure of PHI where a covered entity or business associate has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain such information.
- C. Definition of Unsecured PHI: Unsecured PHI means protected health information that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary in the guidance issued and made available at <http://www.hhs.gov/ocr/privacy/>.



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# **MADISON COUNTY BOARD OF DEVELOPMENTAL DISABILITIES POLICY MANUAL**

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## **Chapter 20: Fees for Services to Eligible Individuals**



**Draft 1: June 17, 2004**

**Updated Language and Reformatted: August 11, 2014**

**Updated Format and Layout: May 11, 2021**

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## **2000. Purpose**

The Madison County Board of Developmental Disabilities adopts the rate structure attached hereto as Attachment 1 for persons who are eligible for services from the Madison County Board of DD. The DD Board will make reasonable efforts to identify third party payers who may be available to provide payment for services provided to individuals by the DD Board and to collect payment from such third party payers in accordance with the rate structure defined in Attachment 1. Procedures for implementing this Policy are set forth below.

## **PROCEDURES**

### **2001. Fees from third party payors for services provided by the DD Board**

Except as stated in these procedures, the DD Board will make reasonable efforts to identify third party payers who may be available to provide payment for services provided to individuals by the DD Board and to collect payment from such third party payers in accordance with the rate structure defined in Attachment 1.

### **2002. Individuals Receiving Services from an IEP**

The DD Board shall not seek reimbursement from third party payers for children, whether or not Medicaid eligible, for services which are included in an individual child's Individualized Education Program (IEP).

### **2003. Rate Structure**

The Rate Structure attached as Attachment 1 shall be used for billing third party payers which provide coverage to individuals or families receiving services from the Madison County Board of DD.

### **2004. Termination of available Third Party Payers**

- A. Determinations of Third Party Payers which may be available for coverage of services provided by the DD Board shall be made at the time of initial enrollment and repeated at least once per year thereafter at the time of the ISP team meeting.
- B. All individuals or their families shall be instructed to notify the DD Board of any change in such third party payers.

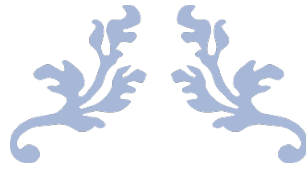


## **2005. Reasonable Efforts to Seek Reimbursement**

The DD Board will be deemed to have made reasonable efforts to seek reimbursement if the DD Board submits claims to third party payers identified as available to the individual in accordance with procedures adopted by such payers. If the claim is denied, an appeal is not required if the DD Board determines that there is no reasonable likelihood of success if an appeal were filed.

## **2006. Rules by DODD**

These procedures are subject to rules promulgated by DODD pursuant to O.R.C. § 5126.045. In the event that DODD adopts rules under O.R.C. § 5126.045 and any part of this policy is inconsistent with such rules, the provisions of such rules shall apply.



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# **MADISON COUNTY BOARD OF DEVELOPMENTAL DISABILITIES POLICY MANUAL**

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## **Chapter 21: Non-Medicaid Adult Services**



**Board Approved: June 14, 2012**  
**Reformatted: August 6, 2014**  
**Updated Format and Layout: May 11, 2021**

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## **2100. Purpose**

This policy is intended to allow the Madison County Board of Developmental Disabilities herein known as the Board to serve more individuals by maximizing the use of federal funds, thereby reducing the cost of services to local taxpayers.

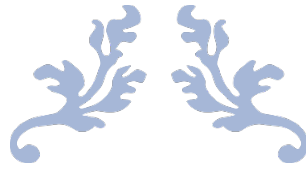
## **2101. General Policy**

This policy applies to non-Medicaid Adult Services. As used in this policy “non-Medicaid adult services” means adult services provided in accordance with OAC 5123:2-1-06 that are not funded in whole or in part by Ohio’s Medicaid program.

Within applicable budgetary constraints, the Board supports the provision of adult services to as many eligible individuals in need of such services as possible. To this end, the Board places the following conditions on persons receiving or seeking to obtain county-funded adult services:

- A. To be eligible to receive, or to continue to receive non-Medicaid adult services, the person must, when so directed to by the Board, apply for and be determined ineligible for an appropriate Medicaid home and community-based services waiver administered by the Board. The Board shall have sole discretion to determine the appropriateness of the particular waiver for which the person applies. Board staff will assist the person in the application process.
- B. If a person is not eligible for Medicaid or refuses to apply for Medicaid, the person will be required to bear a portion of the monthly cost for non-Medicaid adult services at a rate equal to fifty percent (50%) of the total cost of such services as determined by the Board. A written agreement between the person, the Board, and the adult services provider containing each party’s cost-sharing obligation may be required. The written agreement shall provide for the termination of non-Medicaid adult services in the event the person fails to fulfill his or her cost-sharing obligations in a timely manner.
- C. Notwithstanding paragraph 2 above, if a person refuses to apply for Medicaid or is determined ineligible for a Medicaid home and community-based waiver as specified in paragraph 1 above due to failure to obtain the appropriate level of care, or due to excessive earned income, or if a person is willing to apply, but unable to obtain a Medicaid waiver slot because no appropriate slot is available or other emergencies or special circumstances would make such slot available, the Superintendent (or designee) shall have the authority to increase the amount paid toward the service by the Board thereby reducing the portion of cost borne by the individual.
- D. The conditions shall be effective beginning July 1, 2012 except that persons enrolled in and receiving non-Medicaid adult services prior to July 1, 2012, shall not be required to comply with paragraph 2 above until January 1, 2013. In addition, the Superintendent (or designee) may waive the requirements in paragraphs 1 and 2 for any person determined by the Superintendent (or designee) to be in emergency need of services.

- E. The Board shall authorize no person's enrollment in the non-Medicaid adult services plan unless the Superintendent (or designee) determines that the person's needs can be met appropriately through such services, and the person's health and safety can be adequately protected within the funding requirements established by the Board and the Ohio Department of Developmental Disabilities. Eligible persons shall be offered non-Medicaid adult services in the order in which persons apply for enrollment, except that persons determined to be in emergency or priority status as defined in OAC 5123:2-1-08 may be considered ahead of all others. Individuals may also be advised of related resources or options, including Medicaid Buy-In or the establishment of Special Needs or Medicaid Pay-Back Trusts.



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# **MADISON COUNTY BOARD OF DEVELOPMENTAL DISABILITIES POLICY MANUAL**

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## **Chapter 22: Application Fees for Certification**



**Board Approved: November 15, 2012**  
**Revised: August 20, 2015**  
**Updated Format and Layout: May 11, 2021**

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## 2200. Purpose

The purpose of this policy is to establish application fees for certifications issued under Chapter 5123:2-5-02 (Service and Support Administration Certification Standards) of the Administrative Code. The Madison County Board of Developmental Disabilities, herein known as the Board, will be processing all Service and Support Administration certifications for agency staff. Investigative Agent, Early Intervention, and Superintendent certifications will be sought through the Ohio Department of Developmental Disabilities. The Board will comply with all sections of OAC 5123:2-5-02.

## 2201. Application

This policy shall apply to all persons submitting applications for initial or renewal certification. This policy and the rates included will apply to all agency staff.

## 2202. Definitions

Applicant means a person submitting a completed application to the Board for registration or certification.

Certification means a document verifying an applicant meets the minimum qualifications for certification as established in rules promulgated by the department.

Department means the Ohio Department of Developmental Disabilities as established by section 121.02 of the Revised Code.

Evaluation means the review of an applicant's qualifications for the requested registration or certification.

Levels mean the categories used to differentiate employee positions within the validation of certification. There are two levels that apply to this policy—Service and Support Administrator and Service and Support Administrator Supervisor.

## 2203. Description

The fees charged under this policy shall be contingent upon the validation, level, and grade of the registration or certification requested by the applicant.

- A. All applications for certification shall be accompanied by a money order or check in the appropriate amount, payable to the Madison County Board of Developmental Disabilities. Applications submitted without an appropriate money order or check shall be returned to the applicant.**
- B. Application fees are non-refundable.**
- C. Evaluations of applications shall be valid for one year from the date the evaluation is completed and all appeals related to the evaluation have been exhausted; therefore, an applicant who does not initially meet the requirements for issuance of a certification has up to one year to provide evidence of meeting the requirements for issuance of a certification without submitting an additional money order or check.**
- D. If a certification has lapsed for more than one year from the most recent expiration date, the applicant shall pay an additional fee of twenty dollars for purposes of reinstatement.**



**E. The following fees apply:**  
*Service and Support Administration Certification*

Service and Support Administration \$30.00

Service and Support Administration Supervisor \$40.00

**2204. Fund**

All fees collected pursuant to this policy shall be deposited into the Board's General Fund.

**Madison County Board of Developmental Disabilities**  
**Application for Certification**  
**(Effective July 2013)**

**Instructions: (Please read carefully):**

1. Complete a separate application form for each certification requested. Failure to thoroughly complete application form and/or submit required supporting documents will result in return of the application to the applicant.
2. Submit official transcripts, original grade reports, original verifications of seminar completion, and original verifications of continuing professional development, as applicable.
3. Submit the completed application form and supporting documents to: **Madison County Board of Developmental Disabilities**

**A. Applicant Information:**

Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_ Middle Name: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ SSN: \_\_\_\_\_ Home Phone: \_\_\_\_\_

Home Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Employer's Name: \_\_\_\_\_ Work Phone: \_\_\_\_\_

Work Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

**B. Certification Type: (Check one)**

☐ Service and Support Administration (SSA) Certification

☐ Service and Support Administration Supervisor Certification

**C. Highest Degree Attained: (Check one and provide related information)**

☐ High School Diploma or GED High School: \_\_\_\_\_ Year Graduated: \_\_\_\_\_

☐ Associate Degree College/University: \_\_\_\_\_ Year Graduated: \_\_\_\_\_

☐ Bachelor Degree College/University: \_\_\_\_\_ Year Graduated: \_\_\_\_\_

☐ Master Degree College/University: \_\_\_\_\_ Year Graduated: \_\_\_\_\_

☐ Doctorate Degree College/University: \_\_\_\_\_ Year Graduated: \_\_\_\_\_

**D. Current Employment:**

Your position, if currently employed: \_\_\_\_\_

**(Please turn over)**

**E. Other Registrations/Certifications/Licenses Held:**

Type and Issuing Agency/State	Number	Effective Dates

**F. Other Name(s) Under Which You Have Held Registrations/Certifications/Licenses:**

Other Name(s)

**G. Convictions/Adverse Actions:****Have you ever been convicted of any felony or misdemeanor (other than a minor traffic offense)?**

You must answer this question, even if the record of your conviction(s) has been sealed or expunged by a court of law and regardless of whether or not the conviction appears on a criminal background check. If you answer "Yes," use a separate sheet of paper to provide a detailed description of the nature of the offense including the name of the conviction, the date, the location (i.e., city, county, and state), and an explanation of the event leading to the conviction. If the conviction has been sealed or expunged, also provide detailed information regarding the sealing or expungement. Attach a copy of the criminal background check from the Ohio Bureau of Criminal Identification and Investigation (BCII). In addition, if you have lived outside of the state of Ohio during the past five years, attach a copy of the criminal background check from the Federal Bureau of Investigation.

☐ Yes ☐ No

**Have you ever had a registration, certification, or license (excluding a Driver's License) suspended or revoked?**

If you answer "Yes," use a separate sheet of paper to explain.

☐ Yes ☐ No

**H. Required Notice:**

If the holder of or applicant for certification becomes aware that the holder of or applicant for certification is guilty of serious intemperate, immoral, or conduct unbecoming to his/her position, and/or is guilty of serious incompetence or negligence within the scope of his/her duties, and/or has been convicted of or pleaded guilty to any of the felony or misdemeanor offenses described in *Ohio Administrative Code 5123:2-2-02*, he/she shall notify the Madison County Board of DD Superintendent at the time of initial employment or within 14 days of the event for current employees. Failure to make notification may result in termination of employment.

**I. Applicant's Statement:**

I hereby attest (certify) that the information contained on this application is true to the best of my knowledge. I agree to complete the necessary seminars, college courses, and/or continuing professional development units required to receive initial certification or to renew existing certification.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date Signed

**J. Superintendent's Authorization/Verification: (Check all that apply)**

**Signature by the Superintendent of the employing county board of DD is required for issuance of certification to an employee of the county board, verification of the employee's applicable work experience, and the employee's completion of the Orientation Program.**

- ☐ Applicant has met the requirements of applicable work experience for the certification requested.
- ☐ Applicant is renewing certification and has completed appropriate training and/or the required Orientation Program.

**If applicant answered "Yes" to the first question in Section J, the Superintendent must check one of the following**

- ☐ Applicant has completed a BCII criminal background check and does NOT have a criminal record that precludes issuance of certificate as defined in *Ohio Administrative Code 5123:2-2-02*.
- ☐ Applicant has completed a BCII criminal background check and has met the rehabilitation standards as defined in *Ohio Administrative Code 5123:2-2-02*.

\_\_\_\_\_  
Signature of Superintendent

\_\_\_\_\_  
Date Signed

Madison County Board of Developmental

Disabilities Certification Procedure

As outlined within Chapter 5 Personnel Policies each staff member is responsible for obtaining and maintaining current certification as stipulated in his/her job description. Applying for initial certification and applying for renewal well in advance to the expiration date of the certification is the employee's responsibility. Failure to maintain required certification may result in termination of employment.

The following certifications are issued by the DODD: Superintendent, Early Intervention Specialist, and Investigative Agent. It is recommended that application for renewals for these are completed 60 days prior to the expiration date.

The Board issues initial and renewal certifications for Service and Support Administration.

Staff responsibilities:

- **Staff will insure that all information necessary to apply for initial certification is submitted to the Administrative Assistant no later than 5 working days after their date of hire. This includes original college transcript.**
- **Staff will insure that they read the applicable certification rule and that they obtain all required elements necessary to renew their certification well in advance of the expiration date. Staff should seek guidance from their Director if they are unsure of what is needed to renew the certification.**
- **No later than 30 days prior to the certification expiration date staff should review their application and information with their immediate supervisor and submit the following to the Administrative Assistant:**
  - **Original certificates of CEUs**
  - **The completed Application for Certification (County SSA; DODD other)**
  - **A check for the amount of certification as determined by the issuing agency**

Administrative Assistant responsibilities:

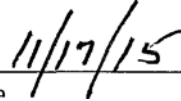
- **The Administrative Assistant will review the completed application to insure that it is completed properly and for renewals will review all CEUs/Orientation requirements to insure that they meet the criteria necessary for renewal. For initial applications will review to insure all materials (i.e. original college transcripts are included).**
- **The Administrative Assistant will forward the packet to the Superintendent (and certification for signing if SSA) for approval.**
- **The Administrative Assistant will forward applications and original CEU documents to DODD for approval for Superintendent, Early Intervention Specialist, and Investigative Agent and provide a copy of the certification to the staff member upon receiving it and place the original in the staff member's personnel policy.**
- **For SSA certification the Administrative Assistant will provide the staff member with a copy of the certification and place the original in the staff member's file.**
- **The Administrative Assistant will schedule staff orientations to insure that staff meet all applicable requirements per rule within the timelines specified within the certification rule.**
- **The Administrative Assistant will scan in all related information to the certification including CEU certificates, applications, Certification and maintain these in permanent electronic storage for each**

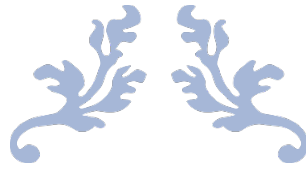
staff member as applicable.

- If there are any issues related to the certification that cannot be resolved between the staff member and the Administrative Assistant the Director of that division should be notified.

Ref. OAC 5123:2-5-02(SSA); 5123:2-5-03(Superintendent); 5123:2-5-05(Early Intervention); 5123:2-5-07(Investigative Agent); / 3:2-5-04 e ial, suspension, and revocation of SSA certification).

  
\_\_\_\_\_  
Jim Canney, Superintendent

  
\_\_\_\_\_  
Date



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# **MADISON COUNTY BOARD OF DEVELOPMENTAL DISABILITIES POLICY MANUAL**

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## **Chapter 23: Critical Needs Funding**



**Board Adopted: December 19, 2013**  
**Reformatted: August 6, 2014**  
**Revision Adopted: March 22, 2018**  
**Updated Format and Layout: May 11, 2021**

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## **2300. PURPOSE**

The Madison County Board of Developmental Disabilities, herein known as the Board, is willing to consider financially supporting critical needs of the individuals that we serve by utilizing local funds generated from our local tax levies. As these funds are very limited, only critical needs that are related to the health and welfare of the individual, and needs that cannot be met by other funding means will be approved. The Board will establish an annual amount to be placed in this fund and used for purposes described in this policy and will review and revise this amount as needed and at least annually. The Board may also place annual limits that any one individual and/or family may receive from this fund.

## **2301. OBTAINING SERVICES**

- A. Requests for services shall be initiated by the family or by someone on their behalf. The request for services shall be honored if funds and services are available and the request is consistent with this policy. The Board will work with the family to obtain supports and services. At the family's request, the Board will assist the family in developing individual plans and strategies for supports. Services provided in accordance with this policy will be considered a component of the individual planning process.
  - 1) In regards to respite care the family, the Board and the provider shall enter into an agreement in regards to maintaining any day program or other supports the individual receiving respite may be involved in.
  - 2) If the individual is enrolled in a day program, and respite will be taking place out-of-home, effort will be made to arrange a placement within the service area of the day program. If this is not possible, it is up to the family to decide whether respite care or daytime programming is most important under the circumstances. It is the family's responsibility to arrange for any needed change in transportation and informing the day program of the change.
- B. The family's request for education, training or counseling for members of the family, adaptive equipment, special diets or home modification shall be supported through the active involvement of the Board to determine that the requested service is needed to improve the living environment or facilitate the care of the individual. Documentation of need by professionals familiar with the individual and/or family may be necessary. The family shall be responsible for obtaining and providing documentation requested.
  - 1) In the case of home modification requested for a rental property, written agreement by the owner of the property allowing the modification is required. In addition, in cases where the modification is permanent, the owner of the property will be encouraged to support a portion of the modification costs.



- 2) In the case of home modification, a written quote by an approved provider must be submitted by the family for consideration.
  - 3) In the case of adaptive equipment, the provider shall submit a purchase order listing services to be provided and all price quotations.
- C. Services may be provided in a county other than Madison County, Ohio, however, the Madison County Board of DD reserves the right to determine that providers meet the requirements specified in rule.
- D. Services may be provided by agencies or persons other than the Madison County Board of DD including, but not limited to, independent providers in the community.
- E. The family may request an approved provider list from the Madison County Board of DD or they may recommend a provider to be considered for approval.
- F. A Family Selected Provider is selected by the family to provide the needed services. The family may waive all training and background checks on the individual referral. The family may also negotiate any rate acceptable to the provider not to exceed the maximum amount paid to a Board Approved Provider. To be assured of reimbursement, the family shall obtain prior approval from the Madison County Board of DD of the provider and the estimated cost of the service before agreeing to or signing a contract for the services.
- G. Upon approval of the request for Critical Needs Funding, the family shall be notified of the amount approved. The family shall present the notification along to the provider when the service has been received or at a time otherwise mutually agreed to.
- H. The provider and parent/guardian shall sign the authorization form/time sheets supplied by the Madison County Board and send to the County Board who shall pay the costs within 45 days after the provider submits it.

## **2302. MAXIMUM REIMBURSEMENT**

- A. The amount approved for an individual who is eligible for Board services shall not exceed the level approved by the Board each year.
- B. A family that has more than one family member who is eligible for Board services may be reimbursed an additional amount beyond the basic level imposed.

- C. When extraordinary circumstances exist, as determined by the Family Support Services Director in conjunction with the Superintendent (or his designee), The Board may reimburse a family at a level greater than that of the maximum annual reimbursement.
- D. The Board may limit a family's reimbursement to an amount that is less than the maximum allowed if sufficient funds are not available.

## **2303. REIMBURSEMENT SCHEDULE**

- A. In determining the co-pay, if any, the TAXABLE income for the prior year of the family with whom the eligible person resides, shall be utilized. The person or persons shall certify the income by his/her/their signature. As used herein, "taxable income" has the same meaning as it has for federal income tax purposes. Should the family not be required to file an income tax form, that fact shall not affect their eligibility for services provided according to this rule and the family shall not be liable for contribution for reimbursable services. If the taxable income of the family for the year in which services are requested is less than the taxable income for the prior year on which reimbursement is normally based, the projected taxable income for the current year shall be considered available to the individual. The family requesting reimbursement shall be solely responsible for reporting a change in income. Notification of income change will be sent to families on an annual basis to assist with documenting any changes. The Board may consider extenuating circumstances in the determination of co-payment.
- B. The percentage of the family's co-pay will be determined according to the following schedule:

<b><u>TAXABLE</u></b>	<b><u>FAMILY CO-PAY</u></b>
\$45,000 OR LESS	0%
\$45,001 TO \$65,000	15%
\$65,001 TO \$85,000	30%
\$85,001 & OVER	50%

- C. Identifying other Resources for Payment of Services:
  - 1) Critical Needs Funding should be considered the payment of last resource. Families are to utilize other funding available to pay for supports they request through this program. To assure that occurs, the coordinator will ask the family about coverage through 3<sup>rd</sup> party private insurance, Medicaid, Medicare, public health departments, civic organizations, etc.
  - 2) Since potential funding sources are numerous, the family could spend a great deal of energy seeking alternative funding and come up with nothing. The County Board Employee assisting the family should use common sense about having a

family “jump through too many hoops”. If other resources exist, then the County Board should assist in identifying them.

## **2304. APPROVAL PROCESS**

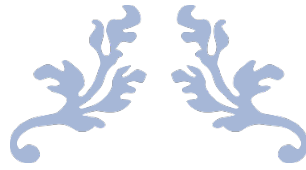
All requests for Critical Needs Funding will be made on the Critical Needs Funding Request Form.

In the event that the individual or the family member cannot complete the form the individual’ Support Services Coordinator or other representative of the Board will assist them in them in completing the form. All requests will be submitted to the Request Review Committee.

- A. The Request Review Committee will review the request and may authorize expenditures up to the Board approved allocation per family per year. All requests will be forwarded to the Family Support Services Director for final approval.
- B. Notification will be made to the individual and or family member in writing expressly detailing the amount approved, the services to be purchased/provided, and include the approved agency or individual that will be providing the services.
- C. Notification for all denials will be provided to the individual and or family member in writing no later than 10 working days after the request is made.

## **2305. TRACKING**

The Request Review Committee Chairperson will maintain a tracking log of all requests, approvals, denials and expenditures made through the Critical Needs Fund. Tracking will be shared with the Superintendent at least twice a year and the Board at least one time a year.



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# **MADISON COUNTY BOARD OF DEVELOPMENTAL DISABILITIES POLICY MANUAL**

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## **Chapter 24: Electronic Signature Policy**



**Board Approved October 17, 2013  
Updated Format and Layout: May 11, 2021**

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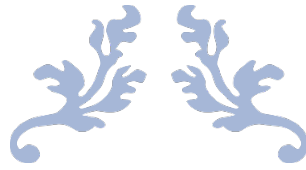
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### **2400. Policy**

The Madison County Board of Developmental Disabilities recognizes that it is in the best interest of the agency to maximize the use of technology. Information will be stored electronically and backed-up to ensure protection. Electronic signature, an automated function that replaces a handwritten signature with a system-generated signature statement, will be utilized for records as a means for authentication of transcribed documents, computer generated documents and/or electronic entries. System generated electronic signatures are considered legally binding as a means to identify the author of record entries and confirm that the contents are what the author intended.

Employees will be allowed to utilize electronic signature in accordance with this policy and state and federal regulations regarding such.





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# **MADISON COUNTY BOARD OF DEVELOPMENTAL DISABILITIES POLICY MANUAL**

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## **Chapter 25: Public Records Policy**



**Board Approved: August 21, 2014**  
**Policy Revision #1: May 13, 2020**  
**Board Approved: May 21, 2020**  
**Updated Format and Layout: May 11, 2021**

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## **2500. Purpose**

Pursuant to Section 149.43 of the Ohio Revised Code, the Madison County Board of Developmental Disabilities (hereafter referred to as the Board) hereby adopts this public records policy. It is the mission of the Board that openness leads to a better-informed citizenry, which leads to better government and better public policy. It is the policy of the Board to adhere to the State of Ohio's Public Records Act.

## **2501. Public Records**

- A. In accordance with the Ohio Revised Code, the Board defines records as: Any document, device, or item – paper, electronic (including, but not limited to, e-mail), or other format – that is created or received by, or comes under the jurisdiction of the Board, which documents the organization, functions, policies, decisions, procedures, operations, or other activities of the County Board. Records regarding individuals with developmental disabilities who are eligible for services from -- or who are served by -- the Board are not public records and will be disclosed only in accordance with state and federal law.
- B. It is the policy of the Board that, as required by Ohio law, records will be organized and maintained so that they are readily available for inspection and copying. Record retention schedules will be updated regularly and posted prominently at the Board's administration office and posted on the Board website.

## **2502. Record Requests**

- A. A requester must at least identify the records requested with sufficient clarity to allow the Board to identify, retrieve, and review the records. If it is not clear what records are being sought, the Board may deny a request but will provide the requester an opportunity to revise the request by informing the requester of the manner in which records are maintained by the Board and accessed in the ordinary course of the Board's business.
- B. The Board may ask a requester to make the request in writing, may ask for the requester's identity, and may inquire about the intended use of the information requested, but may do so only after disclosing to the requester that a written request is not mandatory, that the requester may decline to reveal the requester's identity or the intended use, and when a written request or disclosure of the identity or intended use would benefit the requester by enhancing the ability of the Board to identify, locate, or deliver the public records sought by the requester.
- C. Requests may be validly received via email, US postal mail, telephone, in person, writing, or in any other means of communication. The record will be provided to the requester in the medium requested, but in accordance with the conditions and limitations specified in this policy.
- D. Requests will be documented by recording the following information:
  - a. The date and time that the request was received;
  - b. The name of the employee who originally received the request, and the name of the employee processing the request;

- c. The specific records sought to be inspected or copied;
  - d. The medium request for the request to be fulfilled, including physical inspection, paper, email, or computer disc;
  - e. Whether the record is to be picked up by the requesting party, or mailed or emailed to the requesting party.
- E. Public records will be available for inspection during regular business hours, with the exception of published holidays. The Board's regular business hours are 8:00 a.m. to 4:00 p.m. Public records will be made available for inspection promptly. Copies of public records will be made available within a reasonable period of time. "Prompt" and "reasonable" take into account, among other things, the volume of records requested; the proximity of the location where the records are stored, and the necessity for any legal review of the records requested.
- F. The number of records may be limited to 10 records per month when requests are made that require the Board to transmit the records by US mail, unless that person certifies, in writing, that the records or information is not intended to be used or forwarded for commercial purposes.
- G. The Ohio Revised Code contains certain exemptions from disclosure. With respect to each request, the Board will determine whether an exemption applies to prohibit disclosure or permit non-disclosure of the requested records. If a record contains information that does not constitute a public record in accordance with federal or state law, such information will be redacted. The Board will make the redaction plainly visible or notify the requester of the redaction. When a redaction is required or authorized by state or federal law, it is not considered a denial of a request. A denial of public records in response to a valid request will be accompanied by an explanation, including legal authority, as required by the Ohio Revised Code. If the request is in writing, the explanation must also be in writing.

### **2503. Costs for Public Records**

- A. Those seeking public records will be charged only the actual cost of making copies.
- 1) The charge for paper copies is \$.05 per page.
  - 2) Certified paper copy is \$1.00 per page.
  - 3) The charge for downloaded computer files to a compact disc is \$1.00 per disc.
  - 4) Audio cassette tape is \$1.00 per tape.
  - 5) Video cassette tape is \$2.50 per tape.
  - 6) There is no charge for documents e-mailed.
- B. Requesters may ask that documents be mailed to them and will be charged the actual cost of the postage and mailing supplies.

### **2504. Email and Other Electronic Medium**

- A. Documents in electronic mail format are records as defined by the Ohio Revised Code when their content relates to the business of the Board. E-mail is to be treated in the same fashion as records in other formats and will follow the same retention schedules. This will also pertain to other Board-sanctioned electronic communication (example – Skype).

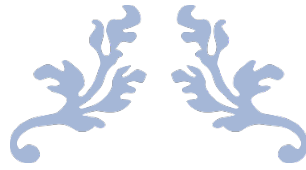
- B. Records in private e-mail accounts used to conduct public business are subject to disclosure, and all employees or representatives of the Board are instructed to retain their e-mails that relate to public business and to copy them to their business e-mail accounts and/or to the Board's records custodian. This will also pertain to other private electronic communication utilized to conduct Board business (example – Facebook).
- C. The records custodian will treat the e-mails (and other electronic communication) from private accounts as records of the public office, will file them in the appropriate way, will retain them pursuant to established schedules, and will make them available for inspection and copying in accordance with the Public Records Act.

## **2505. Posting and Acknowledgements**

- A. This policy will be posted in a public location.
- B. The policy shall be distributed to the records custodian and all other employees who will acknowledge receipt and understanding of the policy.
- C. The records custodian will attend training, approved by the Ohio Attorney General, as is required under Section 149.43 of the Ohio Revised Code which provides guidance in applying the Ohio Public Records Act, and in developing and updating the Board's public record policies. In addition, other employees will be providing training regarding this policy to ensure that it is managed as intended and in accordance with the law.

## **2506. Disclaimer**

- D. Notwithstanding the existence of this policy, the Board hereby informs the public that it shall comply with the requirements of the Ohio Public Records Act, including, but not limited to, Section 149.43 of the Ohio Revised Code, and that the provisions of the Ohio Public Records Act, and any amendments thereto, supersede and take precedence over this policy. The Board retains the right to amend this policy at any time in accordance with the Ohio Public Records Act.



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# **MADISON COUNTY BOARD OF DEVELOPMENTAL DISABILITIES POLICY MANUAL**

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## **Chapter 26: Technology First**



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### **2600. POLICY**

Madison DD will ensure that technology is considered as a part of all services and support plans for people with disabilities to improve their quality of life and experience more independence and personal freedom. Remote support must be considered as a first option when authorizing services for a person with disabilities before authoring on-site Homemaker/Personal Care staff. Supportive technology is any product, device, equipment, and the related supports and services that may be used to maintain, increase, or improve the functional capabilities of individuals with developmental disabilities and afford them maximum control over their daily life, activities, health, and safety.

### **2601. PROCEDURE**

#### **2601.1 Implementation**

- A. Madison DD will ensure that technology solutions are explored and documented throughout the initial and ongoing person-centered assessment and planning process and used to the greatest extent possible to support the outcomes in an individual service plan.
- B. Madison DD will identify ways to increase capacity for use of technology solutions and outline specific steps to be taken to establish benchmarks for increasing the number of individuals who benefit from the use of technology solutions.
- C. Madison DD will ensure staff receive adequate and ongoing training about technology options to increase the level of knowledge, skill and comfort when assessing how technology may help meet needs or achieve outcomes.

#### **2601.2 Process**

- A. Madison DD will collaborate with individuals served and their families, providers of services, the Ohio Department of Developmental Disabilities, and community partners such as schools, mental health agencies, Area Agency on Aging, Madison County Job and Family

Services, public transit authorities, vocational rehabilitation centers and employers to expand awareness and use of technology solutions by individuals served.

- B. Madison DD will use the person-centered assessment and planning process to identify the individual's unique strengths, interests, abilities, preferences, and resources and explore how technology solutions might support the individual's desired outcomes.
- a. The individual and the individual's team will discuss any technology solution previously or currently used by the individual and the effectiveness of the technology solution.
  - b. The individual and the individual's team will discuss the individual's needs, explore information regarding available technology solutions, and consider how each technology solution might enhance the individual's personal freedoms, increase the individual's ability to communicate effectively with others, expand opportunities for the individual to access and pursue available activities and establish meaningful relationships with people who are important to the individual, enable the individual to perform tasks that support the individual's efforts to obtain or maintain employment or help the individual increase and/or maintain independence with daily tasks and activities.
  - c. After discussing whether technology solutions may be appropriate, the individual and the individual's team will discuss how available technology solutions may advance what is important to or important for the individual, may make referrals for assessments by technology subject matter experts to identify technology solutions and may identify additional evaluations needed to determine whether other available technology solutions meet the individual's assessed needs.
  - d. When available technology solutions have been determined by the individual and the individual's team to meet the individual's assessed needs, they will be included in the individual service plan.
    - i. Technology solutions included for the duration of the individual service plan may be reviewed and modified at any time based on a request by the individual or the individual's team. Technology solutions included on a trial basis are to be reviewed by the individual and the individual's team at the conclusion of the trial period.
    - ii. When reviewing a technology solution to determine whether the solution is effective and should continue, the individual and the individual's team are to consider the individual's experience in terms of achieving the desired outcomes, whether the solution enhanced the individual's health and safety, whether additional support is needed to facilitate use of the technology solution, whether the technology solution reduced dependence on staff by increasing the individual's independence and without having the effect of isolating the individual from the individual's community or preventing the individual from interacting with people with or without disabilities and whether the individual has a desire to continue to use the technology solution.
- C. The results of the person-centered planning process, including, as applicable, the individual's desired outcomes as they relate to technology solutions and the activities that will occur to expand the individual's exploration, awareness, and use of technology solutions, will be integrated into the individual service plan. The individual service plan will be amended if the individual's served needs change.