

**Department of Developmental Services and
Office of Protection and Advocacy for Persons With Disabilities**

Memorandum of Understanding

February 2016

INTRODUCTION

Pursuant to Conn. Gen. Stat. § 46a-11(6), the Department of Developmental Services (DDS) and the Office of Protection and Advocacy for Persons with Disabilities ("OPA") entered into a Memorandum of Understanding (MOU), which governed the investigation of allegations of abuse and neglect of individuals with intellectual disabilities and the provision of protective services to such individuals. For purposes of reporting and intake/referral processes only, the MOU also includes individuals who receive services from DDS' Division of Autism Spectrum Disorder Services (ASDS). This MOU reflects revisions following implementation of the 2008 agreement and are agreed to by both agencies.

REPORTING RESPONSIBILITIES

Consistent with applicable statutes, Conn. Gen. Stat. §§ 17a-210(a), 17a-247b, 46a-11b, and 46a-11c, governing the Department of Developmental Services (DDS) and the Office of Protection and Advocacy (OPA), all mandated reporters, including DDS employees and qualified provider/vendor personnel, who have reasonable cause to suspect abuse or neglect involving a person with intellectual disabilities shall report, or cause a report to be made, to OPA as soon as is practicable but no later than seventy two (72) hours upon noticing or learning of the suspected abuse or neglect. A written report shall also be filed by the person alleging abuse or neglect with OPA within five (5) calendar days of the initial intake referral.

Pursuant to Conn. Gen. Stat. § 46a-11c, the OPA Director, upon receiving a report that an individual who receives services from the DDS' Division of Autism Spectrum Disorder Services (ASDS), allegedly is being abused or neglected, shall make an initial determination whether such individual receives funding or services from said division, shall determine if the report warrants investigation and shall cause, in cases that so warrant, a prompt, thorough evaluation, as described in subsection (b) of section 17a-247f, to be made by the DDS to determine whether the individual has been abused or neglected.

In cases where there is a death of a person with intellectual disabilities for whom the DDS had direct or oversight responsibility for medical care and there is reasonable cause to suspect or believe that such death may be due to abuse or neglect, the Commissioner shall report such suspicions to OPA no later than twenty four (24) hours of making such determination. Such notification shall include the basis for suspecting that abuse or neglect contributed to the death of the person with intellectual disabilities.

OPA INTAKE AND REFERRAL PROCESSES

Upon receiving an allegation of suspected abuse or neglect, the OPA will determine whether it has jurisdiction to cause an investigation of the allegation and, if so, whether further investigation is warranted. If OPA determines that it has jurisdiction and that further investigation is warranted, OPA will generate an intake referral document as part of the reporting referral process. The intake referral will record and detail the specific nature of the allegation of suspected abuse and neglect as reported, indicate whether further investigation is warranted, and assign the primary investigating agency. In the event that OPA makes an initial determination that such individual receives funding or services from the Division of ASDS, then OPA shall cause the matter to be referred to DDS for further evaluation of abuse and/or neglect of the individual.

OPA will generate and post, through the "Tumbleweed" secure transport, the completed intake referral to the appropriate DDS region. For the purposes of this MOU, Southbury Training School (STS) is considered and treated as an independent entity following all regional reporting processes. The identity of the reporter shall not be disclosed by OPA to DDS without the reporter's consent.

If OPA determines that an allegation of suspected abuse or neglect does not fall within its jurisdiction, or otherwise does not warrant further investigation under C.G.S. § 46a-11c, a "Do Not Take" (DNT) notice may be posted by OPA to the appropriate DDS region. A DNT may contain information that merits the attention of the DDS and/or a qualified provider/vendor. DNT notices are not a substitute for DDS internal reporting systems regarding incidents which are known by the reporter to fall outside OPA investigative jurisdiction.

Upon receiving an OPA intake referral, DDS will notify the parent or guardian/legal representative of the person with intellectual disabilities that an allegation of suspected abuse or neglect has been made, unless the parent or guardian/legal representative has been identified in the referral process as being an alleged perpetrator. No OPA intake referral shall be forwarded to a qualified provider/vendor unless that provider/vendor is assigned to conduct the investigation, consistent with the provisions on pages 3 and 4 of this MOU.

INTAKE: IMMEDIATE PROTECTIVE SERVICE PLAN (IPSP)

In the event that OPA determines that immediate actions or measures are necessary to protect the health and safety of a person with intellectual disabilities, the OPA intake referral will be posted to the appropriate DDS region, containing a summarization of the allegation(s) and a request for an "Immediate Protective Service Plan" (IPSP).

OPA will telephone the appropriate DDS Abuse/Neglect Liaison in order to provide verbal notice of the need for such immediate services. Additionally, the intake referral will be posted to the appropriate DDS region in accordance with ordinary intake and referral procedures.

Upon receiving an OPA intake referral containing a request for an IPSP, DDS will make all reasonable efforts to review the matter as quickly as possible and respond to the situation presented as soon as possible. DDS will provide OPA with a sufficiently detailed informational response concerning the IPSP

request within 24 hours, or by the end of the next business day. This response shall indicate what measures have been initiated in response to the IPSP request and, where warranted, include a status update regarding the ongoing health and safety of the person with intellectual disabilities. The initial DDS response to OPA may be verbal, with a written response submitted by DDS to OPA within 72 hours.

In some situations, the person who is the subject of the intake referral is not known to DDS and has not previously been subject to the DDS eligibility process. DDS will provide Immediate Protective Services to the person in the same manner as outlined above, until such time as it may be fully determined by either DDS or OPA that the person is not in need of such protective services, or that the person does not have intellectual disabilities.

As an investigation progresses and new information comes to light, OPA may request or modify an IPSP request. OPA will make the initial or revised IPSP request known to the DDS Abuse/Neglect Liaison by telephone and will follow up in writing, addressed to the DDS Regional Director. Steps to address these requests will occur as outlined above. In addition, should DDS become aware of new information which contradicts or further develops the initial information contained in the IPSP intake referral; DDS will communicate that information to OPA through the Abuse/Neglect Liaison or other DDS staff. OPA will review the additional information and if applicable, will repost the revised intake or DNT as may be warranted in light of all the information received.

Upon receipt of the IPSP request, if there is any need for clarification, DDS will immediately call upon the individual intake investigator or an individual designated by the OPA Abuse Investigation Division (AID) Program Director for factual clarification. Continued confusion or disputes concerning IPSP requests will be addressed by the OPA AID Program Director working with the DDS Regional Director in an attempt to resolve such disputes or confusion. If the DDS Regional Director and OPA AID Program Director are unable to resolve the matter, the DDS Commissioner and OPA Executive Director will consult to resolve any confusion or dispute regarding the provision of an IPSP. Such dispute resolution processes shall proceed as quickly as is practically possible, with both agencies recognizing that some matters may require more immediate resolution than others.

INVESTIGATION: ASSIGNMENT

The OPA intake referral will state whether further investigation is warranted, and if warranted, designate the agency assigned to conduct the primary investigation. OPA reserves the right to assert jurisdiction and investigate any matter which is reported consistent with CGS § 46a-11c. OPA reserves the right with any agency that is assigned to conduct an investigation, including DDS, to access any ongoing investigative activities including, but not limited to, a review of evidence obtained. During the course of the investigation, OPA will communicate with DDS any changes made in the investigation assignment and/or status if warranted. However, as a general matter, OPA will conduct primary investigations for those allegations of abuse and neglect which involve private individuals and/or family homes, individuals who self-direct and hire his or her own support staff, and in cases where there is reasonable cause to suspect or believe that the death of a person with intellectual disabilities was due to abuse or neglect. In cases where individuals hire self-directed staff from a qualified provider/vendor, the qualified provider/vendor may be assigned to conduct the investigation. Primary investigations for other cases

will be assigned by OPA consistent with the provisions outlined below and will also be subject to the investigation review and monitoring process described in the applicable section of this MOU.

OPA shall assign the primary agency to conduct investigations of allegations of abuse and neglect. If there is a decision by OPA to change the primary investigating agency and assert its own jurisdiction, the DDS Abuse/Neglect Liaison will be notified by telephone and the intake referral will be revised and reposted to reflect that OPA will be investigating the allegation. Occasionally, DDS may request that a particular intake referral be investigated in a manner different than that designated by OPA. In such cases, a DDS Lead Investigator will contact the OPA AID Program Director or designee to discuss the proposed assignment change prior to taking any investigative action. DDS and OPA will make best efforts to resolve any disputes regarding proposed assignment changes to the satisfaction of both agencies.

The DDS will ordinarily conduct the primary investigation for allegations of abuse or neglect which implicate DDS employees and/or occur at DDS facilities. Upon completion of such investigations, DDS will forward a copy of the DDS investigation report, along with a copy of all witness statements, case notes and relevant documents to OPA for review.

In addition to DDS and OPA, qualified providers/vendors who provide services to adults with intellectual disabilities may also be assigned by OPA to conduct primary investigations into allegations of suspected abuse and neglect. The DDS, in consultation with OPA AID, shall establish minimum standards, with requisite training, as deemed necessary to ensure that each qualified provider/vendor has staff who are competent at conducting investigations into allegations of suspected abuse or neglect.

Trained qualified provider/vendor investigators will ordinarily conduct primary investigations into any abuse or neglect allegation which implicates the qualified provider/vendor's employees and/or facilities. In some cases, DDS or OPA may assist the qualified provider/vendor investigators in planning and/or conducting investigations. The fact of DDS' or OPA's assistance shall be documented in the investigation report. Such involvement shall not be a substitute for the DDS investigation review and monitoring process described in the applicable section of this agreement.

The qualified provider/vendor will forward a copy of the completed investigation report, along with a copy of all witness statements, case notes, relevant documents, photographs and electronic media, to OPA and DDS for review. The DDS Abuse/Neglect Liaison shall ensure that a copy of the qualified provider/vendor investigation package has been forwarded to OPA and DDS.

DEATH INVESTIGATIONS

Pursuant to CGS§ 46a-11c (c), in cases where there is a death of a person with intellectual disabilities for whom the DDS has direct or oversight responsibility for medical care, and there is reasonable cause to suspect or believe that such death may be due to abuse or neglect, the Commissioner or designee shall report such suspicions to OPA within twenty-four hours of making such determination. This notification shall include the basis for suspecting that abuse or neglect contributed to the death of the person with intellectual disabilities.

At the discretion of OPA, DDS may be asked to assist in areas as identified by OPA during the investigation process. Such requests will be made by the OPA AID Program Director to the DDS Director for the Division of Investigations.

In such cases where it is anticipated that the investigation will exceed ninety (90) calendar days, notice will be given by OPA to DDS, and DDS will follow up with applicable agencies.

INVESTIGATION PROCESS

The investigation process will be as follows:

- DDS and OPA may call upon each other for an update on the status of an open investigation.
- Both OPA and DDS shall employ case information management systems, and agree to share information from their respective systems to allow immediate updates on the status of individual cases and provide the reporting capabilities to track timeliness of reports, and other important trends.
- Primary investigations will be completed within ninety (90) calendar days, unless a more stringent rule applies. It is understood that OPA AID death investigations and investigations involving law enforcement agencies, the Department of Children and Families, the Department of Public Health and the Department of Mental Health and Addiction Services may take longer. As deemed necessary, OPA and DDS will work with law enforcement agencies during the primary investigation process.
- Late notices will be generated by both DDS and OPA in cases where no investigation report or status update has been received within ninety (90) calendar days of the initial intake referral.
- In certain circumstances when a report has not been received by OPA after one hundred twenty (120) calendar days, OPA may issue an OPA M-5 indicating that neglect has been substantiated against the assigned investigating agency for failure to conduct a timely investigation into the allegation. OPA also reserves the right to subpoena investigation reports and other evidence, as may be warranted, in order to ensure compliance with this provision.
- When DDS is investigating an allegation where the identity of an anonymous reporter is known to OPA and it has been determined that the reporter needs to be interviewed, DDS will ask OPA to contact the reporter and request the reporter speak with the DDS investigator. OPA will make reasonable efforts to comply with such requests in a timely manner.
- If, during an investigation, evidence is encountered suggesting that a person with intellectual disabilities may have been a victim of a crime, the primary investigating agency shall ensure that the alleged victim is made aware of his or her right to report the matter to the appropriate law enforcement agency, and will ensure that if the individual so wishes, appropriate assistance is offered in contacting the police.
- If, during the course of an investigation, evidence is disclosed of an immediate and serious threat to the health or life of a person with intellectual disabilities, OPA, DDS or the qualified provider/vendor will contact the appropriate law enforcement agency. Once law enforcement becomes involved, it is understood that an investigation may become delayed. In such cases,

OPA and DDS will act to continue to protect the individual's ongoing health and safety as may be deemed warranted.

It is the expectation of OPA and DDS that a comprehensive investigation report shall be produced and forwarded to both agencies from the qualified provider/vendor under the provisions of this agreement. The investigation report shall include at least the following items:

- a statement of the original allegation;
- subsequent allegations which became known during the investigation process, if any;
- a summary of the results of a personal visit to the alleged victim;
- names of people interviewed and a copies of signed witness statements, if such statements exist;
- a description of all the documents, photographs or electronic media reviewed during the investigation process and a description of their relevance to the matters being investigated. Copies of the above referenced materials may be necessary to include with the investigation report;
- any policy, procedure, regulation, directive, or similar authoritative document reviewed during investigation;
- findings and the rationale for the findings;
- information that identifies the primary investigator, provides the telephone number of the primary investigator and represents by way of the primary investigator's signature that the report reflects his or her own work product;
- documentation by the DDS Lead Investigator or designee of any assistance provided by DDS to the qualified provider/vendor investigator in the completion of the investigation;
- documentation by the DDS Lead Investigator or designee of any additional information requested from the qualified provider/agency in order for the investigation to be considered complete by DDS; and
- recommendations, if warranted.

All individuals deemed necessary to be involved in the investigation will cooperate with the process.

In specific, limited circumstances, a full and complete investigation may not be warranted. Such determinations will only be made by OPA and DDS after relevant, specific facts of the circumstance are shared by OPA and DDS. In such circumstances, such as when the facts and case are very simple, clear and uncontested by all parties, and/or witnessed by several people, an abridged investigation will suffice and will cause a case to be closed. Such cases will only be closed as abridged investigations when OPA and DDS agree that a qualified provider/vendor does not need to do a comprehensive investigation report. If it is an investigation to be done by DDS, the production of an abridged investigation must be approved by OPA and a DDS Lead Investigator.

DDS will be responsible for notifying the parent or guardian of the results of an investigation. Any questions from a parent or guardian about an investigation report shall be referred to the OPA or the DDS.

INVESTIGATION COMPLETION: OPA AND DDS MONITORING PROCESSES

Upon completion of an investigation conducted by OPA for which the allegation is substantiated, the investigation report will be posted to the appropriate DDS region. In cases for which the allegation is not substantiated, a notice of such will be posted to DDS, with recommendations as applicable.

Upon completion of investigations assigned, conducted and completed by DDS, a copy of the DDS investigation report, along with a copy of all witness statements, case notes, photographs, electronic media and relevant documents, will be forwarded to OPA for review. During this review and monitoring process, a case may be subject to further investigation by either DDS or OPA, as may be deemed necessary. OPA may ultimately determine as part of its review process that it disagrees with some or all of the conclusions reached in the DDS investigation report.

Within sixty (60) calendar days of completion of the monitoring process, OPA will generate and post a notice known as an "OPA M-5", indicating the review and monitoring process has been completed and indicating whether OPA is in agreement with DDS investigative findings. In cases where OPA disagrees with the DDS investigative findings, a specific rationale describing the basis upon which OPA disagrees will be provided to DDS as part of the OPA M-5.

Upon completion of investigations assigned, conducted and completed by qualified providers/vendors, copies of investigation reports will be sent by the qualified provider/vendor to OPA and DDS. The DDS Abuse Neglect Liaison shall ensure that a copy of the qualified provider/vendor investigation report, and all attachments, has been forwarded to OPA.

Both DDS and OPA will conduct independent reviews of qualified provider/vendor investigation reports. If DDS determines that further investigation and/or clarification is warranted by the qualified provider/vendor, the DDS Lead Investigator shall inform OPA in writing of components of the investigation that require further investigation and/or clarification. OPA will file this notification from the DDS Lead Investigator with the copy of the original investigation report. The reviewing OPA investigator and the reviewing DDS Lead Investigator may also contact each other to discuss any particular qualified provider/vendor report as part of their respective review processes. Either OPA or DDS may disagree with some or all of the conclusions reached in the qualified provider/vendor investigation report. For cases which appear to meet the criteria for referral to the DDS Abuse and Neglect Registry, OPA and DDS will follow the procedure as outlined below.

Upon completion of each agency's review process, OPA and DDS will generate notices, known respectively as the OPA M-5 and the "**DDS Abuse/Neglect Investigation Review**" form, indicating that the respective agency's review and monitoring process has been completed and indicating whether or not that particular reviewing agency is in agreement with the qualified provider/vendor's investigative findings. A copy of the DDS Abuse/Neglect Investigation Review form shall be distributed by the DDS Abuse Neglect Liaison to the qualified provider/vendor and to OPA. The OPA M-5 will be posted to the DDS Abuse Neglect Liaison who, upon receipt, will forward all OPA M-5's to the appropriate qualified provider/vendor.

In cases where either OPA or DDS disagrees with a qualified provider/vendor's investigative findings, a specific rationale describing the basis upon which the reviewing agency disagrees will be included as part of each agency's completed review and monitoring notice. If a pattern emerges in which both OPA and DDS disagree with the qualified provider/vendor investigation findings, then OPA and DDS will confer as to the current investigation. DDS and OPA will also determine whether the qualified provider/vendor requires additional training and assistance to conduct investigations in the future.

DDS ABUSE AND NEGLECT REGISTRY CASES

For purposes of the DDS Abuse and Neglect Registry, both DDS and OPA are "authorized agencies" in accordance with C.G.S. §17a-247a (2) and RCSA § 17a-247e-2 (b). For the investigations conducted by OPA, OPA will be the authorized agency for registry purposes. For most investigations conducted by DDS and qualified providers/vendors, DDS will be the authorized agency for registry purposes. The exception will be when OPA reviews a DDS investigation and disagrees with a finding, in which case OPA will be the authorized agency for registry purposes.

DDS investigations conducted by the Office of Human Rights at Southbury Training School shall follow the provisions of the OPA/DDS (DMR) STS Process and Protocol, executed in March, 2005 (see attached).

In cases investigated by qualified providers/vendors for which the level of alleged abuse or neglect, if substantiated, could result in a referral to the registry, the **"DDS Division of Investigations" (DOI)** will, if possible, identify those cases for discussion and review with OPA that are believed to be potential registry cases. Likewise, when OPA identifies potential registry cases, then OPA will review those cases with DDS DOI.

Upon OPA and DDS' receipt of an investigation report(s) completed by a qualified provider/vendor who may result in a referral to the registry, and before making a final disposition, OPA and DDS will discuss and review any case(s) which rises to the level of a registry referral. The following procedure will take effect:

1. If OPA disagrees, or has questions or concerns, with the findings, conclusions, or determination as to substantiation, the OPA Assigned Investigator will make reasonable efforts to discuss the disagreement, questions or concerns with the qualified provider/vendor and/or the DDS Lead Investigator as soon as such issues are identified by OPA.
2. If DDS disagrees, or has questions or concerns, with the findings, conclusions, or determination as to substantiation, the DDS Lead Investigator will make reasonable efforts to discuss the disagreement, questions or concerns with the qualified provider/vendor and/or the OPA AID Program Director and/or the Assigned Investigator as soon as such issues are identified by DDS.

As authorized agencies, DDS and OPA will make best efforts to reach consensus and agreement as to the appropriate final disposition of registry cases. In most cases, when OPA and DDS agree with the findings of a qualified provider/vendor investigation which will result in a referral to the registry, DDS will be the authorized agency for purposes of the registry. For those Registry cases in which agreement between agencies cannot be reached, the matter shall be referred to the Commissioner of DDS and the OPA Executive Director for final disposition.

PROTECTIVE SERVICE PLAN (PSP)

Upon completion of an investigation or the monitoring process, OPA may request Protective Services. In accordance with CGS § 46a-11e (b), the DDS Commissioner or her regional designee will respond within fifteen (15) calendar days of the receipt of the request for the provision of protective services.

When OPA conducts an investigation and abuse or neglect is substantiated, the full investigation report will be posted to the appropriate DDS region for review within ninety (90) calendar days of the initial intake referral. The report shall be maintained in a secure location, separate from the individual's clinical and service records. The assigned DDS Case Manager will have access to the full OPA AID investigation report, and shall be responsible for the development of a written protective service plan. The DDS Abuse/Neglect Liaison shall furnish OPA with a written plan of protective services (PSP) within fifteen (15) calendar days of DDS' receipt of the investigation report requesting such services.

If OPA disagrees with the DDS' PSP, the OPA AID Program Director will work with the DDS Regional Director in an attempt to resolve such disputes. If the DDS Regional Director and OPA AID Program Director are unable to resolve the matter, the DDS Commissioner and OPA Executive Director will consult to resolve any dispute regarding the provision of a PSP.

Subsequent to the implementation of a PSP, DDS shall review each case, including meeting with the person with intellectual disabilities at least once every six months, to determine whether continuation or modification of the PSP is warranted. A written status update shall be provided by the DDS Abuse/Neglect Liaison to OPA every six months.

Upon written agreement with OPA, DDS can terminate a PSP. The DDS Abuse/Neglect Liaison will send a written request to OPA. OPA shall respond in writing to the DDS request to terminate the PSP within fifteen (15) calendar days of OPA's receipt of the written request.

RECOMMENDATIONS NOT CONSIDERED PSPs

In some cases, OPA may make recommendations to DDS which, while not considered protective in nature, are important for the department, the individual, and their team to consider and address. These recommendations will be responded to, and tracked, as outlined in applicable DDS procedures.

CONFIDENTIALITY

The OPA and the DDS shall comply with all applicable federal and state statutes regarding the confidential treatment of all information received or generated as a result of the implementation of this MOU

PERIODIC DISCUSSION AND REVIEW

OPA and DDS administrative staff shall meet quarterly to discuss issues related to the implementation of this agreement, and any other issues of concern to either agency. The OPA AID Program Director and the Director of Investigations for DDS may meet monthly also to discuss issues of concern as needed.

TERM OF AGREEMENT

This agreement shall take effect upon signing and will remain in effect for a period of two (2) years or until revised. Either agency may with 30 days written notice, terminate the Memorandum of Understanding. Additionally, and based upon information gathered in the regularly scheduled meetings, it is the intention of the parties that this MOU will be reviewed and/or revised every two years from the date of implementation.



Craig B. Henrici
Executive Director
Office of Protection & Advocacy
For Persons With Disabilities

2-17-16

Date



Morna A. Murray, J.D.
Commissioner
Department of Developmental Service

Date

Department of Developmental Services
Abuse/Neglect Investigation Review

Client Name Qualified Provider/Vendor	Report Date	Allegation Type	Qualified Provider/Vendor Findings	DDS DOI Review
				<input type="checkbox"/> Agree <input type="checkbox"/> Disagree

If applicable, please note the following:

- Specific nature and extent of assistance by the DDS DOI to the qualified provider/vendor in the completion of this investigation:

Explanation of modifications made to the components of the investigation submitted by the qualified provider/vendor:

- Page(s):
- Signature(s):
- Statement(s):
- Documentation to support findings:
- Findings/Summary:
- Other:

If applicable, specific rationale for disagreement with the findings of the qualified provider/vendor:

DDS Lead Investigator Signature and Date

I agree / do not agree [circle one] with the DDS Lead Investigator, and recommendations.

If applicable, specific rationale for disagreement:

DDS Regional Director/Designee Signature and Date