

**NOTICE OF PUBLIC HEARING**

DATE: February 13, 2025

TIME: 10:00 a.m.

PLACE: Multi-Purpose Room
Rhodes State Office Tower
30 East Broad Street
Columbus, Ohio 43215

Pursuant to Chapter 119. of the Revised Code, the Ohio Department of Developmental Disabilities hereby gives notice of its intent to rescind rule 5123-17-02 of the Administrative Code (Addressing major unusual incidents and unusual incidents to ensure health, welfare, and continuous quality improvement) and enact a replacement rule of the same number and title on a permanent basis on or about March 23, 2025, and to conduct a public hearing thereon. At this public hearing, the Department will accept verbal and/or written testimony regarding the proposed rule action.

Persons unable to attend the public hearing may submit written comments. Any written comments received on or before the public hearing date will be treated as testimony and made available for public review. Submittal of written comments may be made to Becky Phillips, Administrative Rules Coordinator, by email to becky.phillips@dodd.ohio.gov or by U.S. mail to 1810

Sullivant Avenue, Columbus, Ohio 43223-1239. Comments regarding rules are public records; persons submitting comments should refrain from including confidential or personal information about themselves or any other person.

Rule 5123-17-02 establishes the requirements for addressing major unusual incidents and unusual incidents and implements a continuous quality improvement process to prevent or reduce the risk of harm to individuals. The rule is due for five-year review. Based on a comprehensive review, the Department is revising the rule to clarify procedures and timelines, eliminate confusing or redundant provisions, and align wording with newer rules.

Revisions include:

- Expanding the purpose statement in paragraph (A) to reflect "[just culture](#)" philosophy.
- Creating, in paragraph (C)(2), a streamlined "administrative review" process for major unusual incidents in Category C which is driven by forms included as appendices C, D, and E.
- In paragraph (C)(16)(a), replacing "accidental or suspicious death" with "unexplained or unanticipated death" and replacing "verbal abuse" with "emotional abuse."
- Revising the definition of "failure to report" in paragraph (C)(16)(a)(iii).
- Revising the definition of "missing individual" in paragraph (C)(16)(b)(iv).
- Removing "verbal act" from the list of peer-to-peer incidents in paragraph (C)(16)(b)(v).
- Revising the definition of "unanticipated hospitalization" in paragraph (C)(16)(c)(ii).
- Explicitly stating, in paragraph (D)(1), that a developmental disabilities employee must report a major unusual incident.
- Requiring, in paragraph (D)(5), a provider to document reasonable measures taken to ensure individuals' health and welfare.
- Clarifying and consolidating wording in paragraph (E) regarding removal of a developmental disabilities employee from direct contact with individuals served and authorizing a county board of developmental disabilities to remove an independent provider alleged to have been involved in physical abuse or sexual abuse from direct contact with any individual.

- Requiring, in paragraph (H)(2), staff of an agency provider to inform agency management of major unusual incidents of misappropriation, neglect, physical abuse, or sexual abuse.
- Eliminating what is paragraph (H)(2)(a) of the currently effective rule, which permits a county board of developmental disabilities to elect to follow the administrative investigation procedure for Category A major unusual incidents for any category of major unusual incident.
- Eliminating what is paragraph (H)(7) of the currently effective rule, which requires an agency provider to submit the results of its internal review of a major unusual incident to the county board of developmental disabilities within 14 days.
- Requiring, in paragraph (I)(10), an investigative agent who does not reach a preliminary finding regarding an allegation of physical abuse or sexual abuse within 14 working days to notify the individual/guardian and provider of the status of the investigation every 7 working days thereafter.
- Adjusting the lists of major unusual incidents in paragraphs (M)(3) and (M)(4), closed by the Department and county boards of developmental disabilities.
- Eliminating what is paragraph (N)(1) of the currently effective rule, which requires county boards of developmental disabilities to review, on a quarterly basis, a sample of providers' unusual incident logs.
- Eliminating what is paragraph (N)(2) of the currently effective rule, which requires the Department to review, on a monthly basis, a sample of county board logs.
- Eliminating what is paragraph (Q) of the currently effective rule, which authorized the Director of the Department to modify provisions of the rule during the COVID-19 state of emergency.

Due to the volume of revisions, the Department is rescinding existing rule 5123-17-02 and enacting a new replacement rule of the same number and title.

The rules are available for review at the [Register of Ohio](#) and at the [Department's website](#). The rules are also available for review at each county board of developmental disabilities.

The Department is committed to providing access and inclusion and reasonable accommodation in its services, activities, programs, and employment opportunities in accordance with the Americans with Disabilities Act and other applicable laws. To request a reasonable accommodation due to a disability, please contact Becky Phillips, Administrative Rules Coordinator, no later than January 30, 2025, by email to becky.phillips@dodd.ohio.gov or by telephone (614-644-7393 / TTY 711).

Please note that visitors to the Rhodes State Office Tower must enter the building through the Broad Street lobby. Visitors will be required to register at the security desk by showing government-issued photo identification and pass through a magnetometer. Visitors' belongings, such as purses and backpacks, are subject to inspection.