

Preparing Written Responses to OIG Findings and Recommendations

for Community
Developmental Disabilities
Providers

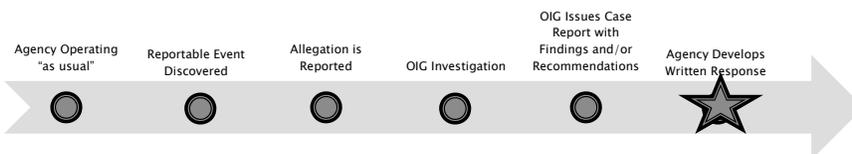
Updated 2/25/16

Presented by:
DHS- Division of Developmental Disabilities

Purpose

- ▶ Provide an overview of the written response process for community providers within the Division of Developmental Disabilities
- ▶ Clarify timelines for submission of responses
- ▶ Explain processes for seeking reconsideration of findings and/or clarification of recommendations
- ▶ Provide tips for improving the quality of written responses

Overview



- Submitted to Division of Developmental Disabilities
- Due within 30 days of receipt of Case Report

Written Response Form

WRITTEN RESPONSE TO THE OFFICE OF INSPECTOR GENERAL

<small>OIG FINDINGS/RECOMMENDATIONS</small>	<small>SERVICE PROVIDER RESPONSE</small>	<small>PERSON(S) RESPONSIBLE</small>	<small>DATES FOR IMPLEMENTATION/COMPLETION</small>

IV. APPROVAL BY AUTHORIZED REPRESENTATIVE. I have reviewed the above Written Response. I hereby approve it as the plan for correcting the Findings/Recommendations identified in the OIG investigation for this Case Number.

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Findings and Recommendations

- ▶ Findings – Specific to abuse, neglect or financial exploitation allegation
 - Substantiated
 - Unsubstantiated
 - Unfounded
- ▶ Recommendations – Other issues not specific to presence/absence of abuse, neglect or financial exploitation
- ▶ Findings AND Recommendations must be addressed in the written response

Location of Findings & Recommendations

WRITTEN RESPONSE TO THE OFFICE OF INSPECTOR GENERAL

Name of Service Provider: _____ Director: _____ OIG Case No.: _____

For this case, was there a finding of substantiated allegations? Yes ___ No ___
 Were there Other Observations by OIG, requiring a Written Response? Yes ___ No ___

I. NOTICE TO INDIVIDUAL AND LEGAL GUARDIAN (for substantiated cases). The individual and guardian (if a guardian exists) have been notified that the reported allegation was substantiated. Yes ___ No ___ Date: _____

II. SERVICE PROVIDER'S RESPONSE TO OIG FINDINGS/RECOMMENDATIONS.
 DIRECTIONS FOR EACH COLUMN (Please use additional pages of this form if necessary to complete the report.)

- SERVICE PROVIDER'S RESPONSE. Summarize your action for each finding/recommendation.
- PERSON RESPONSIBLE. Identify the person(s) responsible for each action, by name and/or job function.
- DATES. Provide the date(s) when each action will be (1) initiated and (2) completed.

SERVICE PROVIDER RESPONSE	PERSON(S) RESPONSIBLE	DATES FOR IMPLEMENTATION/COMPLETION	
			

IV. APPROVAL BY AUTHORIZED REPRESENTATIVE. I have reviewed the above Written Response. I hereby approve it as the plan for correcting the Findings/Recommendations identified in the OIG investigation for this Case Number.

SIGNATURE: Authorized Representative	DATE:	DHS Review:	Date:
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Sample Findings

- ▶ Based on the facts in this case, the following was concluded: Pursuant to Title 59, Illinois Administrative Code, Part 50, physical abuse is substantiated against John Doe and Jane Smith.
- ▶ The allegation of mental abuse against Jack Jones is substantiated.
- ▶ Based on the facts in this case, the following was concluded: The allegation of physical abuse, as defined by Title 59, Illinois Administrative Code, Part 50, against John Hancock is unsubstantiated.

More Findings

- ▶ Based on the facts in this case, the following was concluded: The allegation of neglect, as defined by Title 59, Illinois Administrative code, Part 50, against Jane Doe is unfounded.
- ▶ Based on the facts in the case the following was concluded: The allegation of neglect is substantiated against Clark Kent and unsubstantiated against Lois Lane.

Additional Sample

- ▶ Based on the facts in this case the following was concluded: The allegation of neglect against [Agency] is substantiated, and the allegation of neglect against Instructor Peter Pan is substantiated. The allegation of neglect against Instructor Jane Doe is unsubstantiated.

Sample Recommendations

- ▶ The agency should develop a written policy/procedure to establish routine periodic observation of the individuals, to include documenting such observations.
- ▶ The Office of Inspector General recommends the agency: Ensure all staff receive training in abuse and neglect prior to working with individuals.
- ▶ The Office of Inspector General recommends the agency: Ensure all staff are trained in medication administration.

More Recommendations

- ▶ Address John Doe's failure to report the allegation of abuse/neglect, which is a violation of 20 ILCS 1305/1-17 (a). Willful failure to comply with OIG reporting requirements is a Class A misdemeanor.
- ▶ Take appropriate administrative action against John Doe for attempting to influence Jane Doe's testimony. This is an obstruction of an OIG investigation.
- ▶ Take appropriate action to ensure incident reports are complete after an incident occurs and not after that incident is the subject of an OIG investigation, which could be interpreted as an attempt to obstruct an OIG investigation.

Still More Recommendations

- ▶ The agency should have its recipients examined by a licensed medical professional subsequent to an allegation of abuse.
- ▶ The agency should address DSP Jill Doe and DSP John Doe's inappropriate actions of arguing in front of an individual.
- ▶ The agency should define who is responsible for ensuring an individual's wheelchair seatbelt is secured during transportation.
- ▶ The agency should ensure staff are instructed to ensure individuals wheelchair seatbelts are secure after requiring removal.

Tips on Preparing Written Responses

- » (Increasing the likelihood that your written response will be on time and approved on the first try)

Do you disagree with findings or recommendations?

- ▶ The Division of Developmental Disabilities does not have the authority to change findings or recommendations made by OIG.
- ▶ The written response process is not the forum to disagree with the findings/recommendations.
- ▶ When appropriate, seek reconsideration (of findings) or clarification (of recommendations).
- ▶ If OIG accepts request for reconsideration, response is due 15 days after decision is rendered.
- ▶ While reconsideration/clarification is pending, must assume finding is still valid and protective measures must be taken.
- ▶ If reconsideration/clarification is not appropriate, then your agency must submit a written response to address the issues.

Do you believe your agency's policies and/or procedures already address the recommendations?

- ▶ The fact that a problem occurred (even though policies and procedures were already in place) means that additional action is required.

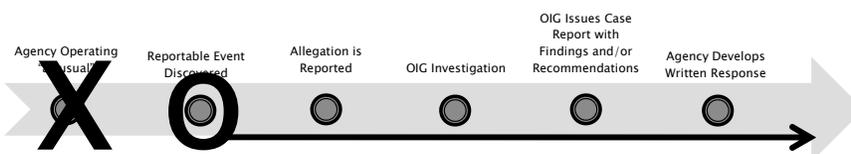
What is a Written Response?

- ▶ A **PLAN** to address the findings and recommendations
- ▶ Not a report of what has already been done
- ▶ Not necessary to complete all steps prior to submission
- ▶ Must be submitted within 30 days of receipt of the case report
- ▶ Not necessary to submit evidence of completion (unless requested to do so)

- ▶ **Must include:**
 - Action step for each FINDING and RECOMMENDATION
 - Person responsible for implementation
 - Start and end dates
- ▶ Narrative action steps – not simply copies of documentation
- ▶ Must be submitted on Written Response form (or reasonable facsimile)
- ▶ “SEE ATTACHED” acceptable only if attachments are easily linked to each of the OIG findings/recommendations

- ▶ Suggestion: In order to better link agency response to findings/recommendations, it is suggested that agencies number each finding/recommendation and use corresponding number with each action step. If more than one action step for a given finding and/or recommendation, use number and letter (1a, 1b, 1c, 2a, 2b, etc.)
- ▶ If documentation is submitted, use the same numbering system to identify attached documentation and clearly link it to the action steps

Timing of Corrective Action



When preparing the Written Response, consider only those actions implemented AFTER the discovery of the event.

The agency's "usual operations" will not suffice as "corrective action" without other actions to enhance/support past practice.

Other Reminders

- Staff named in findings or recommendations may not be the person(s) responsible for implementing corrective actions.

WRITTEN RESPONSE TO THE OFFICE OF INSPECTOR GENERAL

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For this case, was there a finding of substantiated allegations? Yes ___ No ___
 Were there Other Observations by OIG requiring a Written Response? Yes ___ No ___

I. NOTICE TO INDIVIDUAL AND LEGAL GUARDIAN (for substantiated cases). The individual and guardian (if a guardian exists) have been notified that the reported allegation was substantiated. Yes ___ No ___ Date: _____

II. SERVICE PROVIDER'S RESPONSE TO OIG FINDINGS/RECOMMENDATIONS

DIRECTIONS FOR EACH COLUMN (Please use additional pages of this form if necessary to complete the report.)

- SERVICE PROVIDER'S RESPONSE. Summarize your action for each finding/recommendation.
- PERSON RESPONSIBLE. Identify the person(s) responsible for each action, by name and/or job function.
- DATES. Provide the date(s) when each action will be (1) initiated and (2) completed.

OIG FINDINGS/RECOMMENDATIONS	SERVICE PROVIDER RESPONSE	PERSON(S) RESPONSIBLE	DATES FOR	
			IMPLEMENTATION	COMPLETION

IV. APPROVAL BY AUTHORIZED REPRESENTATIVE. I have reviewed the above Written Response. I hereby approve it as the plan for correcting the Findings/Recommendations identified in the OIG investigation for this Case Number.

SIGNATURE: Authorized Representative _____ DATE: _____ DHS Review: _____ Date: _____

- ▶ If multiple staff are named in the finding or recommendation, ensure that the response includes action taken with each of them.
- ▶ If a staff person named in a finding or recommendation is no longer employed at the agency, no action is needed. However, the response must indicate that the employee is no longer employed AND indicate the reason for separation and the date of separation.
- ▶ Must indicate on the written response form any steps already taken (even if action is described within the case report).

Agency Signatures

- ▶ Only the Authorized Representative may sign the written response. (A person with signature authority may sign on behalf of the Authorized Representative.)
- ▶ If the Executive Director/CEO (Authorized Representative) is named in findings/recommendations, a representative from the agency's Board of Directors must sign the written response.

WRITTEN RESPONSE TO THE OFFICE OF INSPECTOR GENERAL

Name of Service Provider: _____ Director: _____ OIG Case No.: _____

For this case, was there a finding of substantiated allegations? Yes No
 Were there Other Observations by OIG, requiring a Written Response? Yes No

I. NOTICE TO INDIVIDUAL AND LEGAL GUARDIAN (for substantiated cases). The individual and guardian (if a guardian exists) have been notified that the reported allegation was substantiated. Yes No Date: _____

II. SERVICE PROVIDER'S RESPONSE TO OIG FINDINGS/RECOMMENDATIONS.

DIRECTIONS FOR EACH COLUMN (Please use additional pages of this form if necessary to complete the report.)

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SIGNATURE: Authorized Representative	DATE:	DHIS Review:	Date:
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Response Sample

OIG Findings/ Recommendations	Service Provider Response	Person(s) Responsible	Dates for Implementation/Completion	
The allegation of mental abuse against Jack Jones is substantiated. The agency should develop a written policy/procedure to establish routine periodic observation of the individuals, to include documenting such observations. Ensure all staff receive training in abuse and neglect prior to working with individuals.				

OIG Findings/ Recommendations	Service Provider Response	Person(s) Responsible	Dates for Implementation/Completion	
1 The allegation of mental abuse against Jack Jones is substantiated.	1a. Jack Jones received retraining in appropriate interactions and in abuse and neglect.	1a. Tammy Trainer, Training Coordinator	3/1/11	3/1/11
2 The agency should develop a written policy/procedure to establish routine periodic observation of the individuals, to include documenting such observations.	1b. Jack Jones' supervisor conducted 3 unannounced observations in the home to confirm interactions were appropriate. 2. The agency has a policy that addresses such observations and documentation. Following this incident, the policy was reviewed, found to be appropriate and no revisions were required. All staff were retrained on the policy.	1b. Sam Supervisor, Home Manager	3/2/11	3/25/11
3 Ensure all staff receive training in abuse and neglect prior to working with individuals.		2. Daniel Director, Executive Director and Tammy Trainer, Training Coordinator	3/5/11	3/20/11

Continued on next page.

3. All new employees will complete pre-service training and orientation (inclusive of abuse and neglect identification and reporting) prior to working directly with persons receiving services.

Person Responsible: Tammy Trainer,
Training Coordinator

Dates for Implementation/Completion:
Effective 3/1/11 and ongoing.

Acceptable Responses (Findings)

- ▶ Based on the facts in this case, the following was concluded: Pursuant to Title 59, Illinois Administrative Code, Part 50, physical abuse is substantiated against, John Doe and Jane Smith.
 - The only acceptable response for substantiated physical abuse that results in the employee's name on the Health Care Worker Registry is DISCHARGE. (Discharge also required for sexual abuse, egregious neglect, and financial exploitation that are entered onto the HCWR.)
 - If there is an appeal of the employee's placement on the HCWR, the agency may chose to assign employee to a non-direct care role until the appeal decision is received.

- ▶ The appeal only addresses the issue of whether or not it warrants placement on the HCWR. The appeal does not change the finding of abuse.
- ▶ If the employee's name is not entered onto the HCWR, corrective action is still required to address the finding of abuse.
- ▶ Appropriate methods to address the abuse will then be based on the specifics of the case.
- ▶ After employee's name is placed on the HCWR with administrative finding, may no longer work for a DDD-funded provider.

- ▶ The allegation of mental abuse against Jack Jones is substantiated.
 - Type of action is at the agency's discretion. Be sure to consider severity of the offense, previous problems, training already received, etc. Some type of action is required. DDD reviews the case report as part of the process of approving written responses.
- ▶ Based on the facts in the case the following was concluded: The allegation of neglect is substantiated against Clark Kent and unsubstantiated against Lois Lane.
 - No action required for unsubstantiated allegations.
 - For neglect (non-egregious), action is at the agency's discretion. See notes above.

Acceptable Responses (Findings)

- ▶ Based on the facts in this case the following was concluded: The allegation of neglect against [Agency] is substantiated, and the allegation of neglect against Instructor Peter Pan is substantiated. The allegation of neglect against Instructor Jane Doe is unsubstantiated.
 - Neglect by agency typically requires analysis of systemic issues contributing to the neglect and action should address those systemic issues.
 - See previous information for required action for employees with substantiated neglect finding.

Additional Information Regarding Substantiated Neglect

- ▶ Egregious neglect requires discharge of the employee. (After the employee's name goes onto HCWR. See previous information about actions while an appeal is pending.)
- ▶ "Egregious" nature of neglect does not appear on the written response form. Finding will simply say "substantiated neglect".
- ▶ Must review case report to determine if neglect is egregious.

Additional Information Regarding Substantiated Financial Exploitation

- ▶ For allegations of financial exploitation made on or after July 16, 2014, placement of the perpetrator's name on the HCWR will occur if the allegation is substantiated.
- ▶ Financial exploitation requires discharge of the employee. (After the employee's name goes onto HCWR. See previous information about actions while an appeal is pending.)

Acceptable Responses (Recommendations)

- ▶ The Office of Inspector General recommends the agency: Ensure all staff are trained in medication administration.
- ▶ The agency should have its recipients examined by a licensed medical professional subsequent to an allegation of abuse.
- ▶ The agency should address DSP Jill Doe and DSP John Doe's inappropriate actions of arguing in front of an individual.
- ▶ The agency should define who is responsible for ensuring an individual's wheelchair seatbelt is secured during transportation.

Acceptable Responses (Recommendations)

- ▶ Address John Doe's failure to report the allegation of abuse/neglect, which is a violation of 20 ILCS 1305/1-17 (a). Willful failure to comply with OIG reporting requirements is a Class A misdemeanor.
- ▶ Take appropriate administrative action against John Doe for attempting to influence Jane Doe's testimony. This is an obstruction of an OIG investigation.
- ▶ Take appropriate action to ensure incident reports are completed after an incident occurs and not after that incident is the subject of an OIG investigation, which could be interpreted as an attempt to obstruct an OIG investigation.

Contact Information

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Questions?