

DCF Policy #85-005

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51A INVESTIGATIONS IN CERTAIN INSTITUTIONAL SETTINGS POLICY

The sharing between the Department and certain other state agencies of supported reports of child abuse and/or neglect in certain institutional settings is required by MGL c. 119 §§ 51B(9) and 51B(10). This policy identifies activities necessary for investigating reports of abuse and/or neglect within any school and DEEC, DMH, DPH, DYS or DMR facility. Institutional settings include foster homes or pre-adoptive homes (the Department or other state or private agency), day care centers, family day care homes, school-age child care programs, day schools or residential facilities (public and/or private), day or overnight camps, pediatric nursing homes, temporary shelters, hospitals and respite facilities. Also included are investigations of reported abuse or neglect which occurred while any child or children were being transported to or from a facility, or were off the premises of the facility but still in its care.

This policy also identifies those times when the Department is required to notify the parents or legal guardians who have custodial responsibility of other children in the same out-of-home-placement (i.e., a setting in which a child has been living; this does not include a day care, day school or day program) as the child named in the supported 51A report.

POLICY

It is the policy of the Department that all reports of abuse and/or neglect in an institutional setting shall be handled in the same manner as all other 51A reports and in accordance with Department Regulations and Policies. [See *Policy #86-015, Protective Intake Policy*; *Policy #85-012, District Attorney Referral Policy*; *Policy #86-010, Policy for Reports Alleging Medical Neglect of Infants with Life-Threatening Conditions*]

For all types of facilities other than Department foster/pre-adoptive homes, the Area Office covering the geographic area in which the facility is located is responsible for screening the 51A report. Responsibility for investigating the 51A report is specified in the *Addendum* to this policy, dated 12/23/02.

For all Department foster/pre-adoptive homes, the Area Office covering the geographic area in which the home is located is responsible for screening the 51A report. Screened-in 51A reports shall be investigated by another Department Area Office. [See *Policy #84-002, Policy for Receipt of 51A Reports on Department Employees, Relatives/Household Members of Department Employees, Department Foster/Pre-Adoptive Parents, or Department Area Board Members*]

The Department will notify the director of the facility in question at the outset and at the close of any investigation involving the facility.

The Department will notify DMH, DPH, DYS and DMR of reports and investigations of their facilities as follows:

- When a screened-out 51A report contains circumstances which may expose a child to harm;
- When a screened-in 51A report is supported;
- When a 51A report is unsupported but the investigation reveals possible licensing violations or conditions which may endanger the health, safety or welfare of children.

The Department will notify the OCCS Director of Licensing of reports and investigations in facilities subject to DEEC licensing as follows:

- When a screened-out 51A report contains circumstances which may expose a child to harm;
- When a 51A report is screened-in and coordinating investigations with DEEC, especially of reports involving multiple victims and/or perpetrators, may maximize efficiency and resources and reduce interviewing of child-victims;

- When a 51A report is supported;
- When a 51A report is unsupported but the investigation reveals possible licensing violations or conditions which may endanger the health, safety or welfare of children;
- When a non-institutional 51A investigation reveals relevant information.

The Department may notify (MGL c. 119, § 51E) the superintendent of the involved school and/or the Department of Education of any report and/or investigation involving a public and/or private school.

The Department will make its employees available to testify at any subsequent administrative hearing that may be held by the state agency in connection with the report and investigation.

Pursuant to MGL c. 119, § 51B(2), the Department will notify the parents or legal guardians who have custodial responsibility for other children living in the same out-of-home placement as the child named in a supported 51A report, when:

- the child named in the supported report was living in an out-of-home placement;
- the child named in the supported report died or was seriously injured;
- the child(ren) is in Department care or custody; and
- such notification is in the best interests of the non-reported child living in the out-of-home placement.

As a matter of policy, the Commissioner has delegated the determination of the best interests of the child to the Area Director and also has determined that, in the absence of extraordinary circumstances, it is not in the best interests of children to notify parents of a supported 51A report unless the incident occurred at the out-of-home placement in question.

PROCEDURES FOR SCREENING

1. **Screening Process.** The report is screened in accordance with *Policy #86-105, Protective Intake Policy*.
2. **Screen-Outs.** When a Screener receives a report which will not be investigated by the Department but includes information about circumstances which may expose a child to harm in a facility subject to licensing, funding or approval by DEEC, DMH, DPH, DYS or DMR, the Department gives the responsible state agency verbal notice only, within 2 working days of the screening decision. Examples of those times when the state agency should be notified include but are not limited to:
 - allegations concerning persons over 18 in an DEEC, DMH, DPH, DYS or DMR facility;
 - allegations concerning an unknown child in an DEEC, DMH, DPH, DYS, or DMR facility;
 - allegations concerning non-caretaker, unknown or departed perpetrators who may have had direct access to children in an DEEC, DMH, DPH, DYS or DMR facility;
 - allegations concerning the quality of care or supervision of children in an DEEC, DMH, DPH, DYS or DMR facility.
3. **51A on a Department Foster Home.** When the Department screens in a 51A report which alleges that a Department foster or pre-adoptive parent has abused or neglected a child, the Screener should contact the currently assigned Social Worker and/or Supervisor of every child in the foster/pre-adoptive home as well as the Family Resource Worker and/or Supervisor responsible for the foster/pre-adoptive home to inform her/him of the report. These contacts should be documented in FamilyNet.

When the Department screens in a 51A report which alleges that a Department foster/pre-adoptive parent has abused or neglected a child, the report shall be immediately referred to another Department Area Office for investigation. (See *Policy #84-002, Policy for 51A Reports Involving Department Employees, Relatives/Household Members of Department Employees, Department Foster/Pre-Adoptive Parents, or Department Area Board Members*)

4. **Notification to SIU.** When the Department screens in a report involving certain institutional settings, the Area Director or designee will immediately notify the Central Office Special Investigations Unit. (See [Addendum](#) to this policy, dated 12/23/02)
5. **Conflict of Interest.** When the Department screens in a 51A report which alleges abuse or neglect in an institutional setting and there is a determination by the Area Director that the investigation would pose a conflict for the Area Office responsible for the investigation, the Area Director notifies the SIU. (See Addendum, dated 12/23/02, to [Policy #84-002, Policy for 51A Reports Involving Department Employees, Relatives/Household Members of Department Employees, Department Foster/Pre-Adoptive Parents, or Department Area Board Members](#))

PROCEDURES FOR INVESTIGATION

1. **Investigation Process.** The Investigator conducts an investigation in accordance with [Policy #86-015, Protective Intake Policy](#).

Joint Investigations. When the report alleges ***multiple victims*** and/or ***perpetrators***, the Department gives verbal notice to DEEC in time for joint investigation activities to be conducted. In cases other than those involving multiple victims or perpetrators, joint investigations may also be conducted, as appropriate. After the report has been screened-in, the intake Supervisor notifies the Area Program Manager(or SIU designee). The Area Program Manager(or SIU designee) then notifies the Area or SIU Director or designee who contacts DEEC and shares the necessary information in order to decide whether a joint investigation is appropriate. The DEEC contact is the Director of Licensing, who assigns the DEEC investigator, as appropriate.

To the greatest extent possible, the Department and DEEC coordinate their activities so as to maximize the efficiency and resources of both agencies, and to minimize the number of interviews of any child-victim which may be necessary.
2. **Contacts with Other Department Staff.** If FamilyNet indicates that the child(ren) is currently receiving services from the Department, the Investigator contacts the currently assigned Social Worker and/or Supervisor to discuss the current allegations, the child(ren)'s history and the child(ren)'s functioning.
3. **Initial Visit.** The Investigator visits the facility in question. Prior to, or at the time of the visit to the facility, the Investigator gives written notice to the director of that facility using Institutional Letter-1 "Notice to Provider of a Child Abuse and Neglect Investigation." If the setting is a private agency foster/pre-adoptive home, the Investigator also notifies the director of the agency using Institutional Letter-1.
4. **Licensing Violations.** The Investigator includes in FamilyNet any information or circumstances discovered during the investigation which might indicate poor quality of care provided to children or potential licensing violations. This includes, but is not limited to, information or circumstances indicative of obvious dangers in the physical environment of the facility.
5. **Documentation.** The Investigator includes in the investigation conclusion section of FamilyNet whether there is reason to believe abuse or neglect may have occurred at the facility in question or during a time the facility in question was responsible for the child(ren).
6. **Approval; Decision to Share Information with Other State Agencies.** The Area or SIU Director or designee approves the investigation in FamilyNet. The Area or SIU Director or designee determines

whether information should be shared with another state agency in accordance with the procedures listed below.

7. **Decision to Share Information with Parents of Other Children in Out-of-Home Placement.** The Area or SIU Director or designee determines whether information should be shared with the parents or legal guardians of other children in an out-of-home placement in accordance with the procedures listed below.

PROCEDURES FOR SUPPORTED REPORTS

1. **Notice to Facility/Provider.** The Investigator notifies all persons (including the director of the facility) previously notified in writing of the report, using Institutional Letter-2 "Notice to Provider of Investigation Outcome: Report Supported" or Institutional Letter-3 "Notice to Provider of Investigation Outcome: Report Supported/Facility Not Involved." Requests for copies of the 51A report and 51B investigation from the director of the facility in question shall be treated like all other requests for information under MGL c. 119, § 51E. (See Department Regulations **110 CMR 12.08**)
2. **Notice to DEEC/Other State Agency.** If the investigation supported that abuse and/or neglect occurred in an DEEC, DMH, DPH, DYS or DMR facility, the Area or SIU Director or designee sends a copy of the unredacted 51A report and 51B investigation (regardless of the Department's ability to identify an alleged perpetrator), along with Institutional Letter - 5 "Notice to State Agency: Report Supported," to the appropriate state agency. Supported investigations which rule out that the incident occurred at the reported facility should not be sent. All other supported investigations should be sent, including those concerning a provider's own children (whether biological or adopted). Other examples of reports which should be forwarded, include, but are not limited to:
 - the report supports allegations of abuse or neglect of any child or children by a household member of a family day care home operated by a person subject to licensure or approval;
 - the report supports allegations that abuse or neglect occurred while any child or children were being transported to or from a facility, by a person employed by or responsible to the facility, or while any child or children were off the premises of the facility, but in the care of such facility.

Emergency Situations. When an emergency investigation is supported, the Area or SIU Director or designee gives DEEC and any other state agency **verbal notice** within **24 hours** of the support decision and **written notice** (i.e., the unredacted copy of the 51A and B) within **5 working days** of the support decision.

Non-Emergency Situations. When a non-emergency investigation is supported, the Area or SIU Director or designee gives DEEC and other state agencies **written notice** (as stated) within **5 working days** of the support decision.

3. **Notice to Schools/DOE.** If the investigation supported an incident of abuse/neglect in a public and/or private school, the Department may notify the Superintendent of the school and/or the Department of Education. The Area Director may release the 51A Report (redacted) and 51B investigation information in accordance with MGL c. 119, § 51E. Such notice should occur only when it is determined that it is not against the best interest of the child(ren) involved.
4. **Notice to Parents of Other Children.** If the investigation supported that a child died or was seriously injured while living in an out-of-home placement, the parents or legal guardians who have custodial responsibility for the other child(ren) living in the out-of-home placement will be notified in writing. Only the parents or legal guardians of other children in Department care or custody need to be notified and only if the notification is in the best interest of that child. The decision not to send notice to the parent(s) or legal guardian(s) of another child living in the out-of-home placement must be made by the Area Director of the office which is serving the child and her/his family.

In situations which supported that a child died or was seriously injured while living in an out-of-home placement, the Investigator informs her/his Area (or the SIU) Director. The Area or SIU Director ensures that the names and Area Offices of other children in the out-of-home placement are identified. The Area or SIU Director ensures that each of the involved Area Director(s) is contacted to inform her/him that the parents or legal guardians will be notified of the supported investigation. If the Area Director, responsible for each child believes this to be counter to the child's best interest, she/he informs the Area Director of the office responsible for notifying the parents or legal guardians, and the

parents or legal guardians will not be notified. The reasons for not notifying the parents or legal guardians should be documented in the ongoing dictation of that child's case record.

The Area or SIU Director of the office completing the investigation ensures that Institutional Letter - 7 "Notice to Parents or Legal Guardians of Other Children in an Out-Of-Home Placement" is sent to all other parents or legal guardians of children in the out-of-home placement. A copy of the letter is sent to each ongoing Social Worker to be included in the case record.

If there is a child(ren) not in Department care or custody also living in the out-of-home placement (e.g., a child in DYS custody), the Area or SIU Director also sends Institutional Letter-8 "Notice to Executive Director" to the Executive Director of the out-of-home placement. The purpose of this letter is to advise her/him that the Department is notifying parents of other children in Department care or custody and to request that the Executive Director notify the parents of the children who are not in Department care or custody. A copy also is sent to the Director of Licensing at DEEC.

5. **DEEC Communications.** All communications with DEEC will be made through the Director of Licensing or designee at DEEC's Central Office.
6. **Review of Investigation Decision.** When any supported decision previously shared with DEEC is reversed by an Administrative Review or a Fair Hearing, the Area or SIU Director or designee notifies DEEC within 5 days of the reversal using Institutional Letter-6 "Notice to State Agency: Support Decision Reversed." A copy is sent to the Deputy Commissioner's office at the same time.

PROCEDURES FOR UNSUPPORTED REPORTS

1. **Notice to Facility/Provider.** The Investigator notifies all persons (including the director of the facility) previously notified in writing of the report, using Institutional Letter-4 "Notice to Provider of Investigation Outcome: Report Unsupported."
2. **Notice to DEEC/Other State Agencies.** If the investigation revealed information or circumstances indicating a possible licensing violation or condition which may endanger the health, safety or welfare of any child(ren) in an DEEC, DMH, DPH, DYS or DMR facility, the Area or SIU Director or designee gives **verbal notice** only to the appropriate state agency within **2 working days** of the unsupport decision. Examples of those times when information on an unsupported report should be shared include but are not limited to:
 - Allegations concerning persons over 18 in an DEEC, DMH, DPH, DYS or DMR facility;
 - Allegations concerning an unknown child in an DEEC, DMH, DPH, DYS, or DMR facility;
 - Allegations concerning non-caretaker or unknown or departed perpetrators who may have had direct access to children in an DEEC, DMH, DPH, DYS or DMR facility;
 - Allegations concerning the quality of care or supervision of children in an DEEC, DMH, DPH, DYS or DMR facility.

The 51A and B are **not** shared.

3. **Notice to Schools/DOE.** If the investigation revealed information or circumstances which may endanger the health, safety or welfare of any child in a school, the Area Director or designee gives verbal information only to the Superintendent of the school system or the Department of Education.

PROCEDURES FOR OTHER REPORTS

1. If, during **any** investigation (not just of an institutional setting), the Department discovers information relevant to DEEC, the Investigator notifies her/his Supervisor, who in turn notifies the Area Program Manager (or SIU designee) (following the same procedures as for screened-outs or unsupported reports). The Area Program Manager (or SIU designee) then notifies the Area or SIU Director or designee, who shares the relevant information with DEEC **verbally or in writing** within **5 working days** of the investigation decision. The 51A and B are **not** shared. Examples of the types of information which should be shared include but are not limited to:
 - Information concerning an individual providing day care to too many children under age 6;
 - Information concerning an unlicensed foster home, i.e., a family acting as foster parents but not licensed or homestudied.

51A Investigations in Certain Institutional Settings

Update Re: Special Investigations Unit (SIU) and Area Office Responsibilities

GENERAL INVESTIGATION RESPONSIBILITIES:

COLUMN A Institutions Subject to Investigation by SIU (AO MUST notify SIU)	COLUMN B Institutions Subject to Investigation by Area Office* (No SIU notice required)
<ul style="list-style-type: none">• A facility operated or licensed by the:<ul style="list-style-type: none">• Department of Mental Health (DMH);• Department of Public Health (DPH);• Department of Youth Services (DYS);• Department of Mental Retardation (DMR)• Department of Early Education and Care (DEEC) licensed child care center• DEEC licensed family child care home [51A on child(ren) in provider's care]• DEEC licensed school-based child care program (e.g., after school program)• Department licensed foster or pre-adoptive home• Private placement agency• Residential facility• Group home• Bridge/Mentor home• Respite facility• Temporary shelter• Hospital• Pediatric nursing home• Religious organization, including affiliated or sponsored program• Department employee acting in her/his professional capacity	<ul style="list-style-type: none">• Public or private school• School-based after school child care program not licensed by DEEC• Privately operated youth sports program• Other privately funded child/youth services organization (e.g., Boy/Girl Scouts; Big Brother/Big Sister)• Day/overnight and/or summer camp• Transportation/busing company• Private tutor or personal instructor• Unlicensed family child care provider

* Specifically, the Area Office in which the institution is located, as stated in Department Policy #85-005(R).

The designation of investigation responsibilities above extends to those situations in which the reported abuse/neglect occurred:

- while the child(ren) was being transported to or from the Column A or Column B institutional facility by a person employed by the facility; or
- while the child(ren) was off the premises, but in the care of a person employed by the Column A or Column B facility (e.g., on a field trip or an appointment).

Institutional facilities not mentioned in either category above and exceptions are considered for investigation on a case by case basis, as determined by the Assistant Commissioner for Quality Case Practice/designee.

EMERGENCY RESPONSE RESPONSIBILITIES:

- **Column A:** When the SIU Director/designee determines that emergency response must be provided, the Area Office identifies an investigator who provides the emergency response under the direction of the SIU Director/designee. The SIU Director/designee determines investigation time frames and responsibilities and ensures that the investigation is completed in accordance with the current protective intake policy.
- **Column B:** Area Office provides emergency response and completes the investigation, in accordance with the current protective intake policy.