PROPOSED PROVIDER GUIDANCE ON P.L. 2025, c.280

RACHEL'S LAW

SIMPLIFIED FOR REVIEW AND FEEDBACK PURPOSES

WITH COMMENTS

RESPONSE REQUIRED BY

5PM ON TUESDAY, OCTOBER 13, 2026



Scope

This guidance applies to providers, agencies, programs, locations, employees, contractors, volunteers, caregivers, managers, supervisors, and other covered people who are subject to P.L. 2025, c.280 or related DDD/OPIA requirements.

These requirements can include:

THERE ARE DCF LICENSED GROUP HOMES SERVING INDIVIDUALS UNDER 21 AND SHOULD BE SUBJECT TO THESE REGULATIONS AS WELL

Licensing and certification

DDD authorization

Background checks

Abuse/neglect reporting

Investigations

Drug testing

Corrective action

Department oversight

Whether a person or organization is covered depends on factors such as:

The type of service or program.

Where the service is provided.

Whether the provider is licensed or authorized.

How the service is funded.

The person's job or role.

The individual receiving services.

Other applicable laws and requirements.

Providers should not assume they are exempt. They should confirm with the appropriate Department authority whether a particular employee, contractor, location, service, or funding arrangement is covered.

The guidance is intended to cover a broad range of providers and individuals, including residential providers, developmental disability service providers, day programs, and people responsible for hiring, assigning, supervising, training, screening, or monitoring staff.

Who pays the penalty?

If the law applies to the provider, the provider receives the penalty.

If the law applies to a covered individual, that individual receives the penalty.

In simple terms: This guidance applies broadly to people and organizations involved in providing or overseeing services for individuals with developmental disabilities. Whether a specific person or provider is covered depends on their role, services, location, licensing/authorization, and other legal requirements.

Definitions

Abuse: When a caregiver intentionally causes or allows physical, sexual, verbal, or psychological harm or mistreatment to a person with a developmental disability.

Administrative neglect: When a provider fails to properly train staff, supervise, monitor, or manage services needed to protect the health and safety of people with developmental disabilities. This can apply even if abuse, neglect, or exploitation is not proven.

Authorized provider: An agency approved by DDD to provide services to adults with intellectual or developmental disabilities through DDD funding or contracts.

Covered person: Certain people who work with or provide services to individuals with developmental disabilities, including case managers/supervisors, employees, volunteers, site visitors, and certain community-based service providers.

Department: The New Jersey Department of Human Services (DHS).

Division (DDD): The Division of Developmental Disabilities within DHS.

Division authorization: DDD's approval for an agency to provide services to adults with developmental disabilities through DDD funding or contracts.

Electronic Plan of Correction (E-POC): A written plan explaining how a provider will fix problems identified during a licensing inspection.

Exploitation: When a caregiver uses a person with a developmental disability or that person's money, property, or resources for someone else's benefit or profit.

Individualized Service Plan (ISP): A personalized plan based on a person's needs that identifies their goals, desired outcomes, services, and supports. An approved ISP authorizes those services and supports.

Licensed provider: A person or organization licensed by the Department to operate a community-based residential program for people with developmental disabilities.

Major injury: An injury serious enough to require hospital treatment and possibly hospitalization for additional care or observation.

Moderate injury: An injury that is not considered major but requires treatment beyond basic first aid by a healthcare professional.

Neglect: When a caregiver intentionally fails to provide necessary food, clothing, medical care, maintenance, a clean home, or other basic care needed for the person's well-being.

Penalty Review Committee (PRC): A Department committee that reviews violations and decides whether a fine or other enforcement action should be imposed.

Personal Guidance: Daily assistance or supervision needed when a person cannot safely complete activities independently because of a physical or cognitive condition, or needs supervision because of a documented health or mental health condition.

Provider-managed residential setting: A residential setting where the provider controls or is responsible for staffing, supervision, services, daily operations, or coordinating supports.

Provisional license: A temporary license issued when a provider has serious or intentional violations and must take corrective action.

Sexual Abuse: Any sexual activity, sexual contact, sexual penetration, or attempted sexual activity between a caregiver and a person with a developmental disability, subject to the exceptions stated in the rule. Consent does not make the activity permissible under this definition, and the rule applies whether the caregiver is on or off duty.

2.a General Provisions

The Department can fine providers and covered individuals for violating: Licensing rules, P.L. 2025, c.280, or Related rules and regulations. These penalties can be imposed in addition to the Department's normal licensing authority.

The Department considers:

Whether the provider has a history of repeated violations. REGARDLESS OF HISTORY, ABUSE IS ABUSE

Whether the provider cooperated with investigations and correction plans.

Whether the provider took appropriate steps to prevent future problems.

Penalties are based on the specific violation's penalty schedule and cannot exceed the legal maximum.

A fine can be imposed in addition to other actions, such as EXTREMELY LOW LEGAL MAXIMUM

Licensing action.

A corrective action plan.

Restrictions on admissions or transfers.

Restrictions on referrals, capacity, or expanding services.

Suspension of payments, when allowed.

Other actions available to the Department.

When a potential penalty under P.L. 2025, c.280 is identified, the matter goes to the Penalty Review Committee.

The PRC includes representatives from DDD and OPIA who are not involved with or responsible for the area being reviewed. SAME PEOPLE WHO HISTORICALLY UNSUBSTANTIATED PRIOR CASES

The PRC decides and issues penalties, which can include:

Written warnings.

Corrective action requirements.

Bans on accepting new admissions or transfers.

Financial penalties.

The PRC handles penalty decisions only. It does not replace or control the Department's separate licensing authority.

NO REFERENCE OF CRIMINALJUSTICE

Violation 2.b Operating a Residential Setting Without a Required License

A provider may not operate a provider-managed residential home without a license when a license is required.

First offense: The provider receives a written warning.

Second offense: The provider may be fined up to $10,000.

Third or later offense: The provider may be fined up to $10,000.

ALL OFFENSES STARTING WITH SECOND UP TO $10,000

When is a license required?

TAKE WORD 'MAY' OUT

A license is required when all three of these conditions apply:

1. The home is managed by the provider.

2. At least one resident receives services through the Community Care Program (CCP) Waiver.

3. At least one CCP resident in the home requires Personal Guidance.

Other important rules

DDD may also stop payments to the provider for services delivered in the unlicensed home.

DDD and OOL decide whether a license is required and will work with the provider to either obtain a license or transition the home appropriately.

If the provider is contacted about one potentially unlicensed home, the provider must report any other similar homes it operates using Division funding.

If the provider reports additional unlicensed homes at that time, they are treated as one offense.

SHOULD BE SEPARATE OFFENSE PER EACH HOME

If the provider fails to report them, each unreported home can count as a separate offense.

BECAUSE PUTTING DIFFERENT PEOPLE AT RISK

Paying the fine does not fix the problem. The provider still has to address the unlicensed home.

IF SAME EXACT OFFENSE THEN THERE IS A PATTERN, MUST BE TAKEN INTO ACCOUNT

If the provider goes 36 consecutive months without a 2.b violation, the next violation is treated as a first offense.

EXCEPT THAT IT WOULDN'T BE THE FIRST OFFENSE!

Offense	Penalty or action
First Offense	Written warning
Second Offense	$5,000
Third Offense	$7,500
Fourth or Subsequent Offense	$10,000

Violation 2.b Operating an Uncertified Day Habilitation Program

If someone operates a day habilitation program without the required certification:

1st offense: They receive a written warning.

WHY ONLY WARNING? WHAT IF IT'S A DEATH?

2nd offense: They can be fined up to $10,000.

3rd or later offense: They can be fined up to $10,000 for each offense.

ALL OFFENSES STARTING WITH SECOND UP TO $10,000

Other important rules:

If DDD contacts a provider about a possible uncertified program, the provider must tell DDD about any other similar programs they operate using Division funding.

If multiple uncertified programs are disclosed at that time, they are generally treated as one offense.

SHOULD BE SEPARATE OFFENSE PER EACH PROGRAM

If the provider fails to disclose additional uncertified programs, each program can count as a separate offense.

The provider must complete the required enrollment or certification within the deadline DDD sets.

If the issue is still unresolved after two financial penalties, DDD must refer the matter to the Medicaid Fraud Control Unit if it has not already done so.

WHY NOT THE SAME FOR RESIDENTIAL SETTING?

SAME SHOULD APPLY FOR RESIDENTIAL

Paying the fine does not fix the underlying violation. The provider still has to obtain certification/enrollment, correct improper services, and follow DDD's other instructions.

If the provider goes 36 consecutive months without a 2.b. violation, the next violation is treated as a first offense again.

EXCEPT THAT IT WOULDN'T BE THE FIRST OFFENSE!

Offense	Penalty or action
First Offense	Written warning
Second Offense	$5,000
Third Offense	$7,500
Fourth or Subsequent Offense	$10,000

Violation 2.c — Receiving a Second Consecutive Provisional License

If a licensed provider receives a second provisional license in a row for the same location, they can be fined up to $10,000.

This generally means:

The residence had serious or intentional violations of the applicable licensing rules.

REVOKE LICENSE IF SERIOUS OR INTENTIONAL VIOLATIONS

The provider submitted a Plan of Correction (E-POC).

OOL inspected the residence again.

If the same serious violations are still present—or corrections that were reported as completed are actually not fixed—OOL can issue a second consecutive provisional license.

LICENSE SHOULD BE REVOKED IF SAME SERIOUS VIOLATIONS ARE STILL PRESENT

What happens next?

The $10,000 penalty is triggered when the same location receives its second consecutive provisional license.

IS IT LOCATION OR AGENCY BASED?

OOL can still take other licensing actions; paying the fine does not prevent this.

Paying the fine does not fix the violations. The provider must still correct the problems and satisfy the requirements of the provisional license.

If the location is still not compliant after the second provisional license, the next step is generally non-renewal of the license. OOL does not issue a third provisional license in this progression.

REVOKE LICENSE AFTER THE FIRST PROVISIONAL

The financial penalty and licensing action are handled separately. SEPARATE, BUT DEPENDED

If the provider goes 36 consecutive months without a 2.c. violation, the next violation is treated as a first offense again.

EXCEPT THAT IT WOULDN'T BE THE FIRST OFFENSE!

THE FINE SHOULD BE BASED ON THE SEVERITY OF INJURY, NOT ONLY ORDER OF OCCURENCE

Offense	Penalty or action
First Offense	$5,000
Second Offense	$7,500
Third or Subsequent Offense	$10,000

Violation 2.d.: Employing Someone Who Is On a Disqualifying Registry

A provider can be fined up to $10,000 if they employ—or fail to remove—someone who is listed on:

The Central Registry of Offenders Against Individuals with Developmental Disabilities, or
The Child Abuse Registry.

Providers are responsible for checking these registries and removing an employee from employment if the employee is placed on either registry.

If an employee's Central Registry status is "Pending Final Judicial Determination," they cannot work while waiting for the final decision.

If a CARI (Child Abuse Record Information) check shows that an employee is on the Child Abuse Registry, the employee must be removed from employment.

Paying the $10,000 penalty does not eliminate the requirement to remove the employee.

If the provider goes 36 consecutive months without a 2.d. violation, the next violation is treated as a first offense. EXCEPT THAT IT WOULDN'T BE THE FIRST OFFENSE!

PENALTY SHOULD BE DETERMINED BY SEVERITY OF ABUSE AND INJURY

Offense	Penalty or action
First Offense	$5,000
Second Offense	$7,500
Third or Subsequent Offense	$10,000

Violation 2.e.: Criminal History Record Background Checks

Providers must complete a criminal background check when an employee is initially hired and every 2 years after that. SHOULD BE ANNUAL AS PER SIMILAR INDUSTRIES, NURSING HOMES, SCHOOLS, DAYCARES

If a provider fails to complete a required background check:

1st offense: The provider must create and follow a corrective action plan.

2nd offense: The provider cannot accept new admissions or transfers until the required background checks are completed.

3rd and later offenses: The provider can be fined up to $10,000 for each missing background check.

The required background checks must be completed every two years through the archiving process.

Paying the fine does not eliminate the requirement to complete the missing background checks.

If the provider has 36 consecutive months without a 2.e. violation, the next violation is treated as a first offense. EXCEPT THAT IT WOULDN'T BE THE FIRST OFFENSE!

Offense	Penalty or action
First Offense	Corrective action plan
Second Offense	Prohibition on transfers and admissions until compliant
Third Offense	$5,000 per missing required check
Fourth Offense	$7,500 per missing required check
Fifth or Subsequent Offense	$10,000 per missing required check

Violation 2.f.: Drug Testing Requirements

TESTING FOR MARIJUANA?

Providers must follow all required drug testing rules for controlled substances.

WHAT ARE ALL THE REQUIRED DRUG TESTING RULES?

If a provider fails to meet the drug testing requirements:

1st offense: The provider must create and follow a corrective action plan.

TOO FORGIVING

2nd offense: The provider cannot accept new admissions or transfers until the drug testing requirements are met.

3rd and later offenses: The provider can be fined up to $10,000.

Examples of violations include:

Not completing a required pre-employment drug test.

Not completing required quarterly random drug testing.

Paying the fine does not eliminate the requirement to complete the required drug tests.

If the provider has 36 consecutive months without a 2.f. violation, the next violation is treated as a first offense.

EXCEPT THAT IT WOULDN'T BE THE FIRST OFFENSE!

Offense	Penalty or action
First Offense	Corrective action plan
Second Offense	Prohibition on transfers and admissions until compliant
Third Offense	$5,000 per missing required check
Fourth Offense	$7,500 per missing required check
Fifth or Subsequent Offense	$10,000 per missing required check

Violation 2.g.: Substantiated Office of Investigations Findings

A provider can be fined up to $25,000 for each substantiated incident involving:

MOST ALLEGATIONS ARE UNSUBSTANTIATED

Administrative neglect that causes moderate or major injury.

Abuse that causes moderate or major injury.

WILL THIS BE DECIDED BY THIRD PARTY INDEPENDENT JUSTICE CENTER?

Sexual abuse.

WHO REVIEWS THE APEAL?

Neglect that causes moderate or major injury.

Exploitation.

How penalties are determined

The Department may consider:

Whether the provider has a history of repeated violations.

NO CONCRETE THRESHHOLD EXPRESSED

How well the provider cooperated with the investigation and followed its plan of correction.

HOW DOES THIS GET DETERMINED?

Whether the provider took appropriate steps to prevent the incident from happening again.

WHAT ARE THE APPROPRIATE STEPS?

The provider can appeal the penalty amount, but the appeal does not reopen or change the original investigative findings one offense, regardless of how many allegations or people were involved.

SHOULDN'T BE ABLE TO APPEAL PENALTY AMOUNT

A second or later offense can be issued for the same type of substantiated finding.

After 36 consecutive months with no 2.g. violations, the next violation is treated as a first offense.

EXCEPT THAT IT WOULDN'T BE THE FIRST OFFENSE!

Offense	Penalty amount
Per substantiated incident	Up to $25,000

Violation 2.h.: Internal Investigations and 180-Day Reporting

Providers must investigate allegations of abuse, neglect, or exploitation involving a person with a developmental disability. The provider must complete the investigation and submit a full report to the Department within 180 days of the alleged incident.

SIX MONTHS IS TOO LONG

30 DAYS AT MOST FOR THIS FIRST STEP

MORE HARM CAN BE DONE IN THAT SPAN OF TIME

Failure to conduct a required investigation can result in a fine of up to $10,000 for each investigation that was not completed.

CAN RESULT OR WILL RESULT?

HOW DO YOU KEEP THE VICTIM SAFE IN THE MEANTIME? THE ACCUSED NEEDS TO BE REMOVED

The report must:

NOT MOVED TO A DIFFERENT HOUSE IN THE SAME AGENCY

Be completed by an impartial person who was not involved in the incident.

IMPARTIAL MEANING NOT FROM THE AGENCY

Include interviews or summaries from victims, alleged perpetrators, witnesses, and other relevant people.

WHAT IF THE VICTIM IS NONVERBAL AND WITNESSES ARE NOT WILLING TO CORROBORATE?

Summarize the physical and documentary evidence.

ADD CAMERA FOOTAGE WHEN AVAILABLE

State the findings for each allegation, victim, and alleged perpetrator.

Explain the reason/evidence supporting each finding.

NOTIFY WITHIN 24 HOURS ON BOTH ENDS

Show that the guardian was notified when the investigation began.

IS THERE A REQUIRED TIMEFRAME FOR NOTIFICATION?

Show that the guardian was notified when the investigation ended, including the results, findings, summaries, and actions taken.

WILL THE GUARDIAN BE ABLE TO SEE THE REPORT IN ITS ENTIRETY?

Document that the investigation was completed.

Once an investigation is assigned to the Critical Incident Management Unit (CIMU), the provider must submit the completed internal investigation report within 30 business days.

Paying the fine does not eliminate the requirement to complete and submit the investigation report.

After 36 consecutive months without a 2.h. violation, the next violation is treated as a first offense.

EXCEPT THAT IT WOULDN'T BE THE FIRST OFFENSE!

Offense	Penalty per required investigation
First Offense	$2,500
Second Offense	$5,000
Third Offense	$7,500
Fourth or Subsequent Offense	$10,000

Violation 2.i.: Plans of Correction After an Investigation

After an Office of Investigations investigation is closed, the provider must submit a Plan of Correction (POC) addressing all violations, findings, and concerns identified by the Department.

IS THERE A TIMEFRAME FOR SUBMITTING THE POC?

If the provider fails to submit the required plan, they can be fined up to $10,000.

The Plan of Correction should explain:

DISCLOSE THE PENALTIES AND CONSEQUENCES

What needs to be corrected.

How it will be corrected.

POC TO BE SUBMITTED WITHIN 30 DAYS OF COMPLETION

Who is responsible for making the corrections.

When the corrections will be completed.

ARE THERE TIME REQUIREMENTS FOR THIS?

How the provider will verify that the corrections were completed.

What will be done to prevent the problem from happening again.

The POC must be submitted by the deadline stated in the Department's notice.

HOW IS THE DEADLINE DETERMINED?

Paying the fine does not eliminate the requirement to complete the Plan of Correction or the required corrective actions.

SHOULD BE SET AMOUNT OF TIME FOR ALL CASES

After 36 consecutive months without a 2.i. violation, the next violation is treated as a first offense.

EXCEPT THAT IT WOULDN'T BE THE FIRST OFFENSE!

Offense	Penalty per required investigation
First Offense	$2,500
Second Offense	$5,000
Third Offense	$7,500
Fourth or Subsequent Offense	$10,000

Violation 2.j.: Quality Management Team (QMT) Assignment

If a provider has ongoing or repeated problems with health, safety, quality, licensing, operations, finances, or other Department requirements, the Department may assign a Quality Management Team (QMT) to oversee the provider.

DEFINE ONGOING AND REPEATED, IS THERE A THRESHHOLD?

The provider may be fined up to $5,000 every 3 months until the QMT determines that the provider has shown enough improvement.

MAY OR WILL BE FINED?

What the QMT may oversee

The entire provider, or

Specific programs, services, locations, populations, or areas of operation.

The scope depends on the seriousness of the concerns, risks involved, and people or services affected.

HOW FAR BACK WILL THE SCOPE OF REVIEW GO?

The Department will publish on its website when a provider is assigned to a QMT.

A WRITTEN NOTICE SHOULD BE SENT TO ALL DDD SERVICE RECIPIENTS

If the provider does not meet the required improvement goals, the Department may take additional enforcement action or impose additional penalties.

AT WHICH POINT DOES THE LICENSE GET REVOKED?

A provider can appeal the amount of the fine, but cannot appeal the decision to assign a QMT.

WHY ALLOW THE AMOUNT OF THE FINE TO BE APPEALED?

Paying the fine does not eliminate the requirement to fix the problems identified by the Department.

Offense	Penalty
QMT assignment	$5,000
Each three-month review period without demonstrated improvement	$5,000
Three-month review with demonstrated improvement	No additional penalty

Violation 4.d.: Failure to Report Suspected Abuse, Neglect, or Exploitation

If a person has reasonable cause to suspect that someone with an intellectual/developmental disability has been abused, neglected, or exploited by a caregiver, they must report it immediately.

IS THERE A WHISLEBLOWER PROTECTION?

The provider's internal reporting procedure must be followed.

DO ALL AGENCIES HAVE REPORTING PROCEDURES?

A person can report directly to the Department if:

THE DIVISION SHOULD ALWAYS BE CONTACTED

They want to remain anonymous.

No one is available through the provider's reporting process.

WHY WOULD NO ONE BE AVAILABLE?

They are uncomfortable reporting to the provider.

Reports can be made to the DDD Abuse Hotline: 1-800-832-9173, then press 1.

WHAT IF IT'S A DCF GROUP HOME?

Penalty

The person who fails to report can be fined $350 for every day the suspected abuse, neglect, or exploitation goes unreported.

CAN OR WILL?

The penalty is charged to the individual who failed to report, not the provider agency.

SAME PENALTY SHOULD APPLY TO THE AGENCY

A criminal conviction is not required for the penalty to apply.

The daily penalty starts on the day reasonable cause to report existed and continues until the day before the report is made or the Department discovers the failure to report.

No penalty applies if the report is made on the same calendar day the person had reasonable cause to suspect abuse, neglect, or exploitation.

POST THE NOTICE OF THIS LAW IN EACH GROUP HOME

Offense	Penalty
Failure by a covered person to report immediately while having reasonable cause that abuse neglect or exploitation occurred.	$350 for each calendar day the incident was unreported

2.k. Appeal Rights

Providers and covered individuals who receive a penalty or termination of authorization have the right to appeal. Penalties issued by the Penalty Review Committee (PRC) can be appealed through Informal Dispute Resolution (IDR). A Quality Management Team (QMT) assignment itself cannot be appealed, but the financial penalties associated with the QMT can be appealed. SHOULD NOT BE ABLE TO

To appeal you must submit a written request for IDR within 10 business days of the date on the Penalty Letter. The request can be submitted by letter, email, or another method listed in the Penalty Letter.

Your request must include:

The specific violation(s) or penalty(s) you are appealing.

Documents or information showing why you believe the violation or penalty was incorrect.

Missing the 10-business-day deadline means the penalty becomes final and cannot receive further Department administrative review.

The review is handled by Department staff who were not involved in the original penalty decision.

The review may be conducted in person, virtually, by phone, or through written documents only if both sides agree.

The Department may:

Uphold the violation or penalty.

Reverse the violation or penalty.

Correct an objective/calculation error.

The IDR process cannot arbitrarily increase or decrease the standard penalty amount.

Requesting an appeal does not stop the payment deadline. Unless the Department says otherwise in writing, the penalty must still be paid by the date listed in the Penalty Letter.

The Department must issue a written decision within 45 business days after receiving the IDR request.

The IDR decision is the Final Agency Decision. There is no additional Department-level administrative appeal.

If you already paid a penalty and the decision later reduces or reverses it, the Department will arrange the appropriate refund or credit according to State procedures.

2.l., 2.n.: Licensing Authority

The Department can still take licensing action against a provider when appropriate, even if other penalties apply under P.L. 2025, c.280.

These rules do not limit or replace the Department's existing authority to take licensing action.

In other words, receiving or paying a penalty does not prevent the Department from also taking action against the provider's license.

WHAT ABOUT CRIMINAL ACTION, IS THERE A TRIGGER IN THE PROCESS FOR CRIMINAL JUSTICE?

2.m.: Division (DDD) Authority

DDD can terminate a provider's authorization if the provider does not follow:

P.L. 2025, c.280, or

Other DDD requirements and policies.

The provider can appeal the termination through the Department's normal appeal process.

In simple terms: DDD can take away a provider's authorization for failing to follow the rules, but the provider has the right to appeal.

WHAT ABOUT CRIMINAL ACTION, IS THERE A TRIGGER IN THE PROCESS FOR CRIMINAL JUSTICE?

IS THERE A DCF GUIDANCE?

3. Residential Facility Quality of Care Improvement Fund

The State is creating a Residential Facility Quality of Care Improvement Fund within the Department of Human Services (DHS).

DHS will manage the fund in consultation with the Department of the Treasury.

The fund will receive money from:

Fines collected under the law.

Penalties charged to providers for violating licensing rules, P.L. 2025, c.280, or related regulations.

The money in the fund will be used for:

Improving the quality of care in residential facilities.

Administrative activities related to the law.

Licensing and regulatory activities by the Department.

In simple terms: Money collected from provider fines and penalties goes into a special State fund and is used to improve care and support DHS oversight and enforcement activities.

THE COLLECTED FUNDS FROM PENALTIES SHOULD BE DISTRIBUTED TO VICTIMS AS COMPENSATION FOR HARM SUFFERED IN STATE LICENSED PLACEMEMTS