



# COMMONWEALTH of VIRGINIA

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COMMISSIONER

DEPARTMENT OF  
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*Office of Human Rights*

Thursday, September 12, 2024

## MEMORANDUM

To: DBHDS Operated Facilities  
From: Taneika Goldman, State Human Rights Director  
RE: Improbable Allegations Documentation and LHRC Appeals

In an effort to support state operated facilities and in keeping with our mission to promote impartial and thorough investigations into allegations of abuse, neglect and exploitation, the following memo is being issued on behalf of the Office of Human Rights (OHR). The purpose of this memo is to clarify procedures concerning the Improbable Process outlined in Departmental Instruction 201 specific to documentation in CHRIS as well as appeals to the Local Human Rights Committee (LHRC). This information will also be incorporated into the CHRIS training for facilities.

It should be noted that the Facility Services Division is actively reviewing and revising its policy infrastructure, and DI 201 will soon be reviewed, revised and renamed to FS.006.

### Background

Currently, DI 201 emphasizes the rights of individuals to *“have all allegations of abuse or neglect investigated in accordance with the procedures and time frames in the Human Rights Regulations and this DI.”*

According to DI 201, while all allegations of abuse or neglect must be investigated, there are times that there may be an abbreviated investigation: *“when in consultation and agreement, the facility director, investigator, and advocate determine at any time during the course of an investigation that an individual's allegation of abuse or neglect may be based on inaccurate information and therefore may be an improbable allegation...”*

Historically improbable allegations have been closed as unsubstantiated; however, since an abbreviated investigation is conducted no finding should be made. Only when a “full” investigation is conducted should a finding of substantiated or unsubstantiated be made.

## DI 201 Transmittal Memo

The current DI 201 Transmittal Memo already differentiates a designation of improbable from findings such as substantiated or unsubstantiated.

## CHRIS

Improbable allegations must still be entered into CHRIS and all subsequent fields must be completed as with any other “DI 201 Investigation.” The current CHRIS system requires a finding on the investigation tab that corresponds to the type of allegation completed on the allegation tab.

Given this system requirement, a corresponding finding of unsubstantiated must still be entered into CHRIS on the investigation tab related to the type of allegation; however, facilities will need to select “no” beside “Other” on the investigation tab. This will allow facilities to enter more information in the “Please explain Other” text box to indicate the allegation was deemed improbable. Facilities should also complete the “Other Rationale” text box to further explain how the decision was made. Please use the following example as a guide:

What type of Abuse/Neglect occurred? (check all that apply)

Physical	<input type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> Undo	Psychological	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Undo
Verbal	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Undo	Neglect: peer on peer aggression	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Undo
Sexual	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Undo	Neglect: Missing Individual, Elopement, AWOL	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Undo
Seclusion: Not in compliance with standards	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Undo	Neglect: Medication Related	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Undo
Restraint Not in compliance with standards	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Undo	Neglect: Failure to provide services necessary for health, safety and welfare	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Undo
Exploit	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Undo	*Other (Explain on below textbox)	<input type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> Undo

*Please explain Other	<input type="text" value="This allegation was deemed &lt;u&gt;improbable&lt;/u&gt; and the Director, Investigator and Human Rights Advocate are in agreement."/>
Rationale	<input type="checkbox"/> Eyewitness Statements <input type="checkbox"/> Staff Admissions <input type="checkbox"/> Failure to Follow Behavior/Mgmt Plan <input type="checkbox"/> Failure To Follow Policy <input type="checkbox"/> Witness Credibility <input checked="" type="checkbox"/> Other (e.g., video footage)
Other Rationale	<input type="text" value="A meeting with the treatment team confirmed the allegation is more likely than not symptomatic of the individual's mental illness."/>

## **Appeals to the Local Human Rights Committee**

As previously established, investigations that are closed as improbable do not have a substantiated or unsubstantiated finding as required in a “full” investigation; therefore, these cases are not available to appeal to the Local Human Rights Committee (LHRC). When sending a findings letter to the individual and, if applicable, surrogate decision maker, the standard appeal information should not be included.

If new information becomes available bringing the improbability into question, the case will need to be reopened and “fully” investigated which would result in a finding of substantiated or unsubstantiated. This would require a new findings letter with appeal information included, given that the case would then be open for potential appeal to the LHRC.

We appreciate your tireless commitment to the safety of the individuals in our service delivery system and the dedication of the trained investigators in each of your facilities. If you have questions regarding the information in this memo, please contact Brandon Charles, OHR Facility Operations Manager.