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**IDAPA 16
TITLE 04
CHAPTER 11**

16.04.11 - RULES GOVERNING DEVELOPMENTAL DISABILITIES AGENCIES

000. LEGAL AUTHORITY.

The following rules for the licensure of developmental disabilities agencies and the provision of services to persons with developmental disabilities in Idaho are adopted under the statutory authority vested in the Board of Health and Welfare, pursuant to the Developmental Disabilities Services and Facilities Act, Sections 39-4601 et seq., Idaho Code. (7-1-97)

001. TITLE AND SCOPE.

These rules govern the licensing of providers of rehabilitative and habilitative services to persons with developmental disabilities and the provision of services to eligible persons. These rules are to be cited as Idaho Department of Health and Welfare Rules, IDAPA 16, Title 04, Chapter 11, Rules Governing Developmental Disabilities Agencies. (7-1-97)

002. POLICY.

It is the policy of the Department of Health and Welfare to make developmental disability rehabilitative and habilitative services available through community agencies, throughout the state, as authorized or mandated by law only to the extent of funding and available resources as may be appropriated by the Idaho legislature. It is the responsibility of the Department to assure developmental disability rehabilitative and habilitative services are available to those persons diagnosed as having a developmental disability. Services shall be provided in community-based settings in natural environments such as home, work, leisure or center-based settings, based on consumer needs, interests or choices. Services provided by DDA's promote independence, participation and inclusion of people with developmental disabilities in their neighborhoods and communities. (7-1-97)

003. DEFINITIONS.

For the purpose of these rules the following terms are used, as herein defined. (7-1-97)

01. ACCESS Unit. Access to Care Coordination, Evaluation, Services and Supports. A regional multidisciplinary, transdivisional unit that has the responsibility of determining eligibility, authorizing services, and assuring quality services and supports for individuals with developmental disabilities. (7-1-97)

02. Annual. Every three hundred and sixty-five (365) days except during a leap year which equals three hundred and sixty-six (366) days. (7-1-97)

03. Audiologist. A person qualified to conduct hearing evaluation and therapy, who possesses a certificate of clinical competency in audiology or who will be eligible for certification within one (1) year of employment. Certification shall be from the American Speech, Language and Hearing Association (ASHA). (7-1-97)

04. Baseline. Current level of ability to complete a task independently, as a basis for initiating therapeutic intervention. (7-1-97)

05. Board. The Idaho State Board of Health and Welfare. (7-1-97)

06. Bureau of Developmental Disabilities. The section of the Department responsible for community programs for persons with developmental disabilities and which serves as the state developmental disability authority. (7-1-97)

07. Consumer. A person who has been identified as having a developmental disability as defined in this chapter and who is receiving services through a DDA. (7-1-97)

08. Department. The Idaho Department of Health and Welfare. (7-1-97)

09. Developmental Disabilities Agency (DDA). A developmental disabilities facility designated in accordance with these rules to provide (outpatient) rehabilitative or habilitative services to children or adults with developmental disabilities. (7-1-97)

10. Developmental Disabilities Facility. Any public or private organization or agency which provides developmental disabilities services on an inpatient, outpatient, residential, clinical or other programmatic basis, including community rehabilitation programs and developmental disabilities agencies. (7-1-97)

11. Developmental Disabilities Professional (DDP). A physician, psychologist, social worker, audiologist, speech and language pathologist specialist, developmental specialist, occupational therapist, physical therapist, or therapeutic recreation specialist employed by the developmental disabilities agency to provide evaluation and services as defined by the Department. (7-1-97)

12. Developmental Disability. A chronic disability of a person which appears before the age of twenty-two (22) years of age and: (7-1-97)

a. Is attributable to an impairment, such as mental retardation, cerebral palsy, epilepsy, autism or other condition found to be closely related to or similar to one (1) of these impairments, which requires similar treatment or services or is attributable to dyslexia resulting from such impairments; and (7-1-97)

b. Results in substantial functional limitations in three (3) or more of the following areas of major life activity; self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, or economic self-sufficiency; and (7-1-97)

c. Reflects the need for a combination or sequence of special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and individually planned and coordinated. (7-1-97)

13. Developmental Specialist. A person qualified to conduct developmental evaluation and therapy, including: (3-1-98)T

a. A person who possesses a bachelor's or master's degree in special education, early childhood special education, speech and language pathology, psychology, physical therapy, occupational therapy, social work, or therapeutic recreation and who has a minimum of two hundred forty (240) hours of supervised experience with individuals who have developmental disabilities; or (3-1-98)T

b. A person who possesses a bachelor's or master's degree in an area not listed in Subsection 003.13.a. of this subsection, and who: (3-1-98)T

i. Has completed a competency course jointly approved by the Department and the Idaho Association of Developmental Disabilities Agencies which relates to the job requirements of a developmental specialist; and (3-1-98)T

ii. Has passed a competency examination approved by the Department; and (3-1-98)T

iii. Has a minimum of two hundred forty (240) hours of supervised experience with individuals who have developmental disabilities; or (3-1-98)T

c. A person who possesses a bachelor's or master's degree in an area not listed in Subsection 003.13.a. of this subsection, and who: (3-1-98)T

i. Has passed a competency examination approved by the Department; and (3-1-98)T

ii. Has a minimum of two hundred forty (240) hours of supervised experience with individuals who have developmental disabilities; or (3-1-98)T

d. A person who is exempt from the requirements of these rules: (3-1-98)T

i. Any person employed as a developmental specialist prior to October 6, 1988 will be exempt from the requirements of these rules as long as there is not a gap of more than three (3) years of employment as a

- developmental specialist; or (3-1-98)T
- ii. Any person employed as a developmental specialist prior to May 30, 1997, unless previously disallowed by the Department, will be exempt from the requirements of these rules. (3-1-98)T
14. Director. The Director of the Idaho Department of Health and Welfare or his designee. (7-1-97)
15. Division of Family and Community Services. The division of the Department with responsibility for both community and institutional services for persons with developmental disabilities and mental illness. (7-1-97)
16. Evaluation. A process by which the need for services or progress toward identified goals is determined. It may include a comprehensive assessment or a specific skill assessment for the purpose of determining baseline or the need for further intervention for the discipline area being assessed. (7-1-97)
17. Habilitation. The process of developing skills and abilities. (7-1-97)
18. Initial License. A license issued to a DDA upon application when the Department determines that all application requirements have been met. An initial license can be issued for a period not to exceed one hundred and eighty (180) days from the initiation of services. This license allows the Department time to evaluate the agency's ongoing capability to provide services and to meet these rules. (7-1-97)
19. Normalization. The process of providing services which promote a life as much as possible like that of other citizens of the community, including living in the community and access to community resources. These services are designed to enhance the social image and personal competence of those being served. (7-1-97)
20. Objective. A behavioral statement of outcome developed to address an identified need of an individual. The need is identified by the consumer and guardian where applicable, and others the consumer has chosen to participate on his planning team, to be incorporated into the consumer's repertoire of functional behaviors. The objective is written in measurable terms which specify a target date for completion, no longer than two (2) years in duration, and criteria for successful attainment of the objective. (7-1-97)
21. Occupational Therapist. A person qualified to conduct occupational therapy evaluations and therapy, who is certified by the American Occupational Therapy Certification Board and licensed to practice in Idaho, and who has specialized training in developmental disabilities or one (1) year of experience working with persons with developmental disabilities. (7-1-97)
22. Paraprofessional. A person such as an aide or therapy technician who is qualified to assist DDP's in providing services. (7-1-97)
23. Person Centered Planning Process. The means by which the consumer and those individuals selected by the consumer to be team members, identify the consumer's talents, skills, strengths, needs and desires. (7-1-97)
24. Physical Therapist. A person qualified to conduct physical therapy evaluations and therapy, who is registered to practice in Idaho, and has specialized training in developmental disabilities or one (1) year of experience working with persons with developmental disabilities. (7-1-97)
25. Physician. A person licensed to practice medicine in Idaho in accordance with the provisions of the Medical Practice Act, Sections 54-1801 et seq., Idaho Code. (7-1-97)
26. Provider. Any individual or organization furnishing services through the provisions of these rules. (7-1-97)
27. Provider Agreement. An agreement between a provider and third-party payor whereby the third-party payor agrees to pay the provider for furnishing developmental disabilities rehabilitative and habilitative services in accordance with these rules. (7-1-97)

28. **Provisional License.** A license issued to a DDA which is found not to be in substantial compliance with these rules but not to have deficiencies which jeopardize the health or safety of consumers. A provisional license can be issued for a specific period of time, not to exceed one hundred and eighty (180) days, while corrections are being completed. (7-1-97)
29. **Psychologist.** A person licensed by the State of Idaho in accordance with the provisions of Sections 54-2301 et seq., Idaho Code, to independently practice psychology, or who is exempt from such requirements and meets the minimum qualifications established by the Idaho Personnel Commission to perform the duties assigned in classified service as defined by the Department, and has specialized training in developmental disabilities or one (1) year of experience working with persons with developmental disabilities. (7-1-97)
30. **Psychology Assistant.** An individual who practices psychology under the supervision of a licensed psychologist as required by Title 54, Chapter 23, Idaho Code, and as outlined by IDAPA 24, Title 12, Chapter 01, Rules of the Idaho State Board of Psychologist Examiners. (7-1-97)
31. **Rehabilitation.** The process of improving skills or level of adjustment to increase the person's ability to maintain satisfactory independent or dependent functioning. (7-1-97)
32. **Rehabilitative and Habilitative Services.** Evaluation and diagnostic services which include medical, social, developmental, psychological/psychiatric services, occupational therapy, physical therapy, and speech and hearing therapy. Treatment services which include individual, group and family-centered psychotherapy; individual and group speech and hearing therapy; individual and group physical therapy; individual and group developmental therapy, and individual and group occupational therapy. Evaluation, diagnostic and treatment services are to be provided on an outpatient basis and may be community-based, home-based, or center-based as consistent with the requirements of this chapter. (7-1-97)
33. **Service.** Evaluation, diagnosis, therapy, training, assistance, or support provided to a person with a developmental disability by a DDA. (7-1-97)
34. **Social Worker.** A person licensed in accordance with the Social Work Licensing Act, Sections 54-3201 et seq., Idaho Code, and who has specialized training in developmental disabilities or one (1) year of experience working with persons with developmental disabilities. (7-1-97)
35. **Speech and Language Pathologist.** A person qualified to conduct speech/language evaluation and therapy, who possesses a certificate of clinical competency in speech-language pathology or who will be eligible for certification within one (1) year of employment. Certification shall be from the American Speech Language and Hearing Association (ASHA). (7-1-97)
36. **State Developmental Disability Authority.** The Division of Family and Community Services, Bureau of Developmental Disabilities, within the Department which has statewide responsibility for planning, coordinating and monitoring developmental disabilities services. (7-1-97)
37. **Substantial Compliance.** Deficiencies identified at the time of the survey by the licensing agency that do not present a serious risk to consumers' health or safety or seriously impede the agency's ability to provide habilitative or rehabilitative services. (7-1-97)
38. **Supervision.** Initial direction and procedural guidance by a DDP and periodic inspection of the actual work performed at the site of service delivery. (7-1-97)
39. **Targeted Service Coordinator.** A regionally enrolled provider of the Department who is qualified by training and experience to develop and coordinate individual supports and services for eligible consumers of the Department, as defined in IDAPA 16, Title 03, Chapter 09, Rules Governing Medical Assistance, Section 118. (7-1-97)
40. **Temporary Developmental Disabilities Site Approval.** A location, established by a fully licensed agency, to provide additional services for ninety (90) or less consecutive days. (7-1-97)

41. U.L. Underwriters Laboratories. (7-1-97)

004. -- 099. (RESERVED).

100. LICENSING OF OTHER LICENSED FACILITIES.

Hospitals, skilled nursing facilities, intermediate care facilities for persons with mental retardation, community rehabilitation programs or other facilities or agencies licensed or certified under state law to provide medical, residential, professional or other services to persons with developmental disabilities need not be licensed under these rules unless the facility is seeking to provide rehabilitative and habilitative services to persons with developmental disabilities as described under Subsection 003.33 of these rules. (7-1-97)

101. REQUIRED LICENSING.

All agencies providing or seeking to provide rehabilitative or habilitative services to persons with developmental disabilities described in Subsection 003.33 of these rules shall be licensed unless exempt from licensing requirements described in Section 100 of these rules. (7-1-97)

102. -- 199. (RESERVED).

200. THE ROLE OF DDA'S.

Services shall be directed toward persons identified as having a developmental disability as defined in these rules. Agencies shall provide services to eligible consumers with developmental disabilities. (7-1-97)

201. -- 299. (RESERVED).

300. LICENSURE OF DDA'S.

01. Application for Licensure. Any DDA shall apply for licensure under these rules. (7-1-97)
02. Eligibility to Contract. Any program not licensed under these rules is ineligible to enter into a contract with, or receive funds through, the Department for the purpose of providing rehabilitative and habilitative services to persons with developmental disabilities as outlined in Subsection 003.33 of these rules. (7-1-97)
03. Obligation to Contract. Licensure of an agency by the Department does not constitute an obligation by the state to enter into a contract with that agency or otherwise provide state or federal funding or services. (7-1-97)

301. APPLICATION FOR LICENSURE.

01. License Required. Before any agency, private or public, profit or nonprofit, can provide rehabilitative and habilitative services to persons with developmental disabilities under these rules, it shall make application for licensure. No consumer shall receive services through an agency until the licensing agency has approved the application for licensure. No funding for services will be paid by the Department until the agency is licensed. (7-1-97)
02. Conformity. Licensed agencies shall conform to all applicable rules and rules of the Department, such as Medicaid reimbursement procedures, background checks, and fingerprinting requirements. (7-1-97)
03. Accessible Records. The DDA and records required under these rules shall be accessible during normal operations of the agency to the licensing agency for the purpose of inspection, with or without prior notification, pursuant to Sections 39-4605(4) and 39-108, Idaho Code. (7-1-97)
04. Open Application. Application for new agencies will be accepted on an open and continuous basis in accordance with Subsection 301.02. (7-1-97)
05. National Accreditation. The Department may adopt the policy of accepting national accreditation in lieu of state licensure for developmental disabilities agencies. (7-1-97)

06. Content of Application. Application shall be made to the licensing agency of the Department on a form provided by the Department. The application and supporting documents shall be received by the Department at least sixty (60) days prior to the planned opening date. The application shall include: (7-1-97)

- a. Name, address and telephone number of the agency; and (7-1-97)
- b. Types of services to be provided by the agency and the anticipated capacity of each service; and (7-1-97)
- c. The service area of the agency; and (7-1-97)
- d. The target population to be served and the service area to be covered by the program; and (7-1-97)
- e. The anticipated date for the initiation of services; and (7-1-97)
- f. A statement indicating the need for the agency's services; and (7-1-97)
- g. A statement which identifies the ownership and describes the management structure of the agency, including a copy of the corporation's articles of incorporation with designation as nonprofit or profit, public or private, and a copy of the bylaws; and (7-1-97)
- h. A statement that the agency is in compliance with these rules and all other applicable local, state and federal requirements, including an assurance that the agency is in compliance with the provisions of Subsection 925.02 governing nondiscrimination; and (7-1-97)
- i. A copy of the proposed organizational chart or plan for staffing of the agency; and (7-1-97)
- j. Staff qualifications including resumes, job descriptions and copies of state licenses for staff when applicable; and (7-1-97)
- k. When center-based services are to be provided, evidence of a local fire safety inspection; and (7-1-97)
- l. When center-based services are to be provided, evidence of compliance with local building and zoning codes; and (7-1-97)
- m. When center-based services are provided, written policy and procedures regarding emergency evacuation procedures; and (7-1-97)
- n. Staff and consumer illness policy, communicable disease policy and other health and hygiene policies and procedures; and (7-1-97)
- o. Written admission and transition policy; and (7-1-97)
- p. Written consumer grievance policy; and (7-1-97)
- q. Program records system including completed examples of individual service plans, intervention techniques, and monitoring records; and (7-1-97)
- r. Fiscal record system including program billings and documentation of services provided consumers; and (7-1-97)
- s. Written description of the agency's quality assurance program; and (7-1-97)
- t. Any other information requested by the Department for determining the agency's compliance with these rules or the agency's ability to provide the services for which licensure is requested. (7-1-97)

u. If the agency intends to seek a waiver or variance of any rule, then the application shall include a written request for a waiver or variance request and shall specify the particular rule and provide an explanation of the reasons for requesting the waiver or variance. (7-1-97)

07. Agency Review. Upon receipt of the application form and initial application materials, the licensing agency will review the materials to determine if the agency has in place systems, which if properly implemented, would result in regulatory compliance. (7-1-97)

08. Written Decision. A written decision with regard to licensure will be submitted to the agency by the licensing agency within thirty (30) days of the date the completed application packet is received in the licensing agency's office. (7-1-97)

302. ISSUANCE OF TEMPORARY LICENSE.

If an initial application for licensure is approved by the licensing agency, the agency will be issued a temporary license. Prior to the expiration of the temporary license, the licensing agency will conduct an on-site review of the agency to determine if the agency is in substantial compliance with the requirements of this chapter. A provisional license shall not be issued immediately following a temporary license. (7-1-97)

303. TEMPORARY SITE LIMITATION.

Only fully licensed developmental disabilities agencies may apply for a temporary developmental disabilities site approval. (7-1-97)

304. CHANGE OF PHYSICAL LOCATION.

01. Notification of Change. Prior to changing physical locations, agencies providing center-based services shall notify the licensing agency of the plans to relocate and the address of the new program site thirty (30) days prior to the actual move. (7-1-97)

02. Evidence of Review. For the new physical location, agencies shall provide evidence of review and approval by the local fire and building authorities and a statement verifying that the new location is accessible to persons with developmental disabilities. (7-1-97)

305. ISSUANCE OF A PROVISIONAL LICENSE, DENIAL OR REVOCATION OF LICENSE.

The Department will issue a provisional license, or deny or revoke the license if, after investigation of the agency, it finds that the agency is not in substantial compliance with these rules. (7-1-97)

01. Intent to Issue Provisional License. At the time of a survey, the applicant will be notified of the intent to issue a provisional license, or deny or revoke the license and the reasons for the intended action. (7-1-97)

02. Applicant Notification. Within fifteen (15) days of the site review, the applicant will be notified in writing of the Department's decision and the reason(s) for the intended action, pursuant to Sections 307 and 308 of these rules. (7-1-97)

03. Request for Hearing. Within fifteen (15) days of the receipt date of the notice to issue a provisional license or deny or revoke the license, the applicant may request, in writing, a hearing with the Director and subsequently may appeal to the District Court. (7-1-97)

04. Contested Case Provisions. Upon receipt of the written request, a hearing will be scheduled and conducted in accordance with IDAPA 16, Title 05, Chapter 03, Rules Governing Contested Case Proceedings and Declaratory Rulings. A review decision will be sent to the applicant within thirty (30) days of the date of the conclusion of hearing. (7-1-97)

306. ISSUANCE AND TRANSFER OF LICENSE.

01. Issuance of License. A notice of licensure shall be issued by the Department when it determines, in accordance with the provisions of this section, that the agency requesting licensure is in substantial compliance with these rules. Agencies found to be in substantial compliance with these rules but failing to comply with every detail

may be issued a license when failure to comply does not present a serious risk to the consumers' health or safety or seriously impede the agency's ability to provide rehabilitative or habilitative services. A license issued on the basis of substantial compliance is contingent upon the correction of deficiencies in accordance with a plan developed by the agency and approved by the Department. (7-1-97)

02. License Return. The license is the property of the state and shall be returned to the state if it is revoked or suspended in accordance with Sections 307 and 308 of these rules. (7-1-97)

03. License Not Transferable. The license is issued only to the agency named thereon and may not be transferred or assigned to any other person or entity without the written permission of the Department. (7-1-97)

04. Availability of License. The license shall be available. (7-1-97)

307. EXPIRATION AND RENEWAL OF LICENSE.

All licenses issued under the provisions of these rules, except for those facilities exempted pursuant to Section 100 of these rules, shall continue for a period of no greater than two (2) years unless revoked. No later than ninety (90) days before expiration, an agency may apply for renewal of the license. Applicants for renewal will also require a site review by the licensing agency. Licensing will be reviewed no less than every two (2) years. An agency shall be found to be in substantial compliance with these rules in order to receive renewal of the license. An application for renewal received less than ninety (90) days before expiration of the license shall be treated as an application to be acted upon after timely applications of renewal and initial applications. (7-1-97)

308. PROVISIONAL LICENSE.

If a new applicant or applicant for renewal is found not to be in substantial compliance with these rules but does not have deficiencies which jeopardize the health or safety of consumers, a provisional license may be issued by the Department for a one hundred and eighty (180) day period. At that time, the licensing agency will determine whether areas of concern have been corrected. If so, then the regular license will be issued. If not, the license will be denied or revoked. (7-1-97)

309. DENIAL, SUSPENSION OR REVOCATION OF LICENSE.

After a provisional license has been issued, if areas of concern have not been corrected, an application for relicensure may be denied or a license revoked. (7-1-97)

310. EMERGENCY REVOCATION.

An agency's license may be immediately revoked when there is evidence of life-threatening danger or harm to consumers served. If, following investigation, the issue of the safety of consumers is resolved, then a license may be granted. (7-1-97)

311. VARIANCE OR WAIVER.

A variance or waiver to these rules in whole or in part may be granted if good cause is shown for such waiver; the health, welfare, or safety of consumers will not be endangered by granting such a waiver; the agency's ability to provide services will not be impeded by granting such a waiver; and precedent shall not be set by the granting of such a waiver. The waiver may be renewed if sufficient written justification is presented to the licensing agency. (7-1-97)

312. -- 599. (RESERVED).

600. MANAGEMENT INFORMATION SYSTEM.

All licensed DDA's seeking funding from the Department shall maintain a data base on consumer services. The agencies must be capable of providing the Department with basic consumer information such as, but not limited to, the number of persons with developmental disabilities served, diagnostic category, level of mental retardation, age, sex and hours of services. This information may be hand-tabulated or part of the agency's computerized information system. (7-1-97)

601. -- 699. (RESERVED).

700. REPORTING.

Agencies funded by the Department shall furnish progress and other reports as the Department may require, such as

age by disability reports and annual consumer progress reports. (7-1-97)

701. -- 749. (RESERVED).

750. QUALITY ASSURANCE.

Each DDA defined under these rules shall develop and implement a quality assurance program. (7-1-97)

01. Purpose. The quality assurance program is an ongoing proactive internal review of the DDA designed to ensure: (7-1-97)

a. Services provided to consumers are high quality and consistent with individual choices, interests, and needs and current standards of practice; and (7-1-97)

b. Sufficient staff and material resources are available to meet the needs of each person served; and (7-1-97)

c. The environment in which center-based services are delivered is safe and conducive to learning; and (7-1-97)

d. Skill training activities are conducted in the natural setting where a person would commonly learn and utilize the skill, whenever appropriate; and (7-1-97)

e. The rights of a person with disabilities are protected and each person is provided opportunities and training to make informed choices. (7-1-97)

02. Program Components. The quality assurance program shall be described in writing and include: (7-1-97)

a. Goals and procedures by which the purpose of the quality assurance program as described in Subsection 750.01 of these rules will be achieved; and (7-1-97)

b. Person, discipline or department responsible for each goal; and (7-1-97)

c. A system to ensure the correction of problems identified within a specified period of time; and (7-1-97)

d. A method for assessing consumer satisfaction. (7-1-97)

03. Additional Requirements. The quality assurance program shall ensure that services provided: (7-1-97)

a. Are developed with consumer and guardian where applicable, and actively promote participation, personal choice and preference; and (7-1-97)

b. Are age appropriate; and (7-1-97)

c. Promote normalization; and (7-1-97)

d. Provide opportunities for community participation and inclusion; and (7-1-97)

e. Offer opportunities for consumers to exercise their rights; and (7-1-97)

f. Are observable in practice. (7-1-97)

751. -- 759. (RESERVED).

760. CONSUMER RIGHTS.

Each person receiving services through an agency designated under these rules shall be ensured the following rights:
(7-1-97)

01. Idaho Code. Sections 66-412 and 66-413, Idaho Code, provides the following rights. (7-1-97)
 - a. Humane care and treatment; and (7-1-97)
 - b. Not be put in isolation; and (7-1-97)
 - c. Be free of mechanical restraints, unless necessary for the safety of that person or for the safety of others; and (7-1-97)
 - d. Be free of mental and physical abuse; and (7-1-97)
 - e. Communicate by telephone or otherwise and to have access to private area to make telephone calls and receive visitors; and (7-1-97)
 - f. Receive visitors at all reasonable times and to associate freely with persons of his own choice; and (7-1-97)
 - g. Voice grievances and to recommend changes in policies or services being offered; and (7-1-97)
 - h. Practice his own religion; and (7-1-97)
 - i. Wear his own clothing and to retain and use personal possessions; and (7-1-97)
 - j. Be informed of his medical and habilitative condition, of services available at the agency and the charges for the services; and (7-1-97)
 - k. Reasonable access to all records concerning himself; and (7-1-97)
 - l. Refuse services; and (7-1-97)
 - m. Exercise all civil rights, unless limited by prior court order. (7-1-97)
02. Additional Consumer Rights. The agency shall also ensure the following rights. The right to:
(7-1-97)
 - a. Privacy and confidentiality; and (7-1-97)
 - b. Be treated in a courteous manner; and (7-1-97)
 - c. Receive a response from the agency to any request made within a reasonable time frame; and (7-1-97)
 - d. Receive services which enhance the consumer's social image and personal competencies and, whenever possible, promote inclusion in the community; and (7-1-97)
 - e. Refuse to perform services for the agency. If the consumer is hired to perform services for the agency the wage paid shall be consistent with state and federal law; and (7-1-97)
 - f. Review the results of the most recent survey conducted by the Department and the accompanying plan of correction; and (7-1-97)
 - g. All other rights established by law; and (7-1-97)

- h. Be protected from harm. (7-1-97)

03. Method of Informing Consumers of Their Rights. Each agency shall ensure that each person receiving services is informed of his rights in the following manner: (7-1-97)

a. Upon initiation of services, each consumer and guardian, where applicable, shall be provided with a packet of information which outlines rights, access to grievance procedures, and the names, addresses, and telephone numbers of protection and advocacy services. This packet shall be written in easily understood terms. (7-1-97)

b. When providing center-based services, agencies shall prominently post a list of the rights contained in this chapter. (7-1-97)

c. Each consumer and guardian, where applicable, shall be provided with a verbal explanation of their rights in a manner that will best promote individual understanding of these rights. (7-1-97)

761. APPLICANT SCREENING

The agency shall develop policies and procedures which ensure that individuals hired do not have a conviction or prior employment history of abuse, neglect, mistreatment, or exploitation of a child or vulnerable adult. (7-1-97)

762. OBLIGATION TO REPORT

All confirmed or suspected incidents of mistreatment, neglect, exploitation or abuse of consumers shall be reported to the adult or child protection authority. (7-1-97)

763. DEVELOPMENT OF POSITIVE SOCIAL BEHAVIORS.

Each DDA shall develop and implement written policies and procedures that address the development of positive social behaviors and the management of inappropriate behavior. These policies and procedures shall include: (7-1-97)

01. Positive Social Skills. Focusing on increasing positive social skills; and (7-1-97)

02. Positive Approaches/Least Restrictive Alternatives. Ensuring and documenting the use of positive approaches and least restrictive alternatives; and (7-1-97)

03. Protected Rights. Ensuring that the safety, welfare and human and civil rights of consumers are adequately protected; and (7-1-97)

04. Underlying Causes. Addressing the evaluation or assessment of the possible underlying causes of the inappropriate behavior and what the consumer may be attempting to communicate by the behavior; and (7-1-97)

05. Objectives and Plans. Ensuring that objectives and intervention techniques are developed or obtained and implemented to address self-injurious behavior, aggressive behavior, inappropriate sexual behavior and any other behaviors which significantly interfere with the consumer's independence or ability to participate in the community; and (7-1-97)

06. Training Alternate Behavior. Ensuring that programs to manage inappropriate consumer behavior include training of the appropriate alternative behavior(s); and (7-1-97)

07. Consumer Involvement. For plans developed by the agency ensuring the consumer is involved, whenever possible, in developing the plan to manage inappropriate behavior. When plans used by the agency are developed by another service provider the agency shall not be held accountable for ensuring consumer involvement in the development of the plan; and (7-1-97)

08. Written Informed Consent. Ensuring that programs developed by the agency to manage inappropriate consumer behavior are conducted only with the written informed consent of the consumer and guardian where applicable. When programs used by the agency are developed by another service provider the agency shall obtain a copy of the informed consent; and (7-1-97)

09. Review and Approval. Ensuring that programs developed by the agency to manage inappropriate behavior are only implemented after the review and written approval of a DDP. If the program contains restrictive or aversive components, the agency psychologist will also review and approve, in writing, the plan prior to implementation. When programs implemented at the agency are developed by another service provider the agency shall obtain a copy of these reviews and approvals; and (7-1-97)

10. Appropriate Use of Interventions. Ensuring that interventions used to manage inappropriate consumer behavior are never used: (7-1-97)

- a. For disciplinary purposes; or (7-1-97)
- b. For the convenience of staff; or (7-1-97)
- c. As a substitute for a needed training program; or (7-1-97)
- d. By untrained or unqualified staff. (7-1-97)

764. -- 799. (RESERVED).

800. STANDARDS FOR DDA'S PROVIDING SERVICES TO CONSUMERS WITH AUTHORIZED INDIVIDUAL SUPPORT PLANS.

Each DDA shall provide the following rehabilitative and habilitative services consistent with the needs of persons with developmental disabilities who have developed an Individual Support Plan with a Targeted Service Coordinator through a person centered planning process. (7-1-97)

01. Intake. (7-1-97)

a. To ensure the health and safety of the consumer, a medical profile sheet which contains relevant medical and identifying information about the consumer and family, and accurately reflects the current status and needs of the consumer shall be obtained or completed prior to the delivery of services. (7-1-97)

b. Prior to the delivery of services current and accurate comprehensive evaluations or specific skill assessments shall be completed or obtained, as necessary, to effectively plan the consumer's program. To be considered current, evaluations and assessments shall accurately reflect the current status of the consumer. (7-1-97)

02. Evaluations. (7-1-97)

a. Comprehensive assessments which are completed by the agency shall: (7-1-97)

b. Be conducted by qualified professionals for the respective disciplines as defined in this chapter; (7-1-97)

c. Be identified as a service on the Individual Support Plan. (7-1-97)

03. Specific Skill Assessments. Specific skill assessments which are completed by the agency shall: (7-1-97)

and a. Be completed by qualified professionals for the respective disciplines as defined in this chapter; (7-1-97)

b. Be identified as a service or need on the Individual Support Plan; and (7-1-97)

c. Be conducted for the purposes of determining baselines, or the need for further interventions. (7-1-97)

04. Individual Support Plan. Any services provided by the DDA must be included on the plan and authorized by the Regional ACCESS Unit before a consumer can receive the service from the agency. (7-1-97)

05. Implementation Plan. The DDA shall be required to develop an Implementation Plan for each service or support which is included on the consumer's Individual Support Plan provided by the agency as outlined in these rules. The Implementation Plan shall include: (7-1-97)

- a. The consumer's name; and (7-1-97)
- b. The specific skill area; and (7-1-97)
- c. A baseline statement addressing the consumer's specific skills and abilities related to the specific skill to be learned; and (7-1-97)
- d. Measurable, behaviorally stated objectives which are developed from an identified service or support in the Individual Support Plan; and (7-1-97)
- e. Written instructions to staff such as curriculum, lesson plans, locations, activity schedules, type and frequency of reinforcement and data collection, directed at the achievement of each objective. These instructions may be standardized, however, shall be individualized and revised as necessary to promote consumer progress toward the stated objective. (7-1-97)
- f. Identification of the specific environment(s) where services shall be provided. (7-1-97)
- g. These implementation plans shall be initiated within fourteen (14) calendar days of the initiation of services. (7-1-97)
- h. The target date for completion. (7-1-97)

06. ACCESS Unit Authorization. ACCESS Unit prior authorization is required in the following circumstances: (7-1-97)

- a. When revisions in the Implementation Plan change the type and amount of services listed on the Individual Support Plan; and (7-1-97)
- b. At the consumer's annual review of DDA services as part of the annual update of the Individual Support Plan. (7-1-97)

07. Program Documentation. Each consumer's record shall include documentation of the consumer's participation in and response to services provided. This documentation shall include at a minimum: (7-1-97)

- a. Daily entry of all activities conducted toward meeting consumer objectives; and (7-1-97)
- b. Sufficient progress data to accurately assess the consumer's progress toward each objective; and (7-1-97)
- c. A review of the data and, when indicated, changes in the daily activities or specific implementation procedures by a DDP. The review shall include the DDP's dated initials; and (7-1-97)
- d. Documentation of notification of the consumer and when applicable, the consumer's guardian. (7-1-97)

08. Program Changes. (7-1-97)

a. DDA shall coordinate the consumer's DDA program with other service providers to maximize learning. (7-1-97)

b. Documentation of Implementation Plan Changes. Documentation of Implementation Plan changes will be included in the consumer's record. This documentation shall include at a minimum, the reason for the change,

documentation of coordination with other service providers, where applicable, the date the change was made and the signature of the person making the change complete with date and title. A copy of an ISP will suffice for compliance to this requirement. (7-1-97)

09. Records. Each DDA licensed under these rules shall maintain accurate, current and complete consumer and administrative records. Each record of consumers with Targeted Service Coordinators shall contain the following information: (7-1-97)

a. Documentation which verifies that the services provided are recommended by a physician. A copy of an Individual Support Plan will suffice for compliance to this requirement; and (7-1-97)

b. When evaluations are completed or obtained by the agency the consumer's record shall include the evaluation forms and narrative reports, signed and dated by the respective evaluators; and (7-1-97)

c. A copy of the Individual Support Plan authorized by the ACCESS Unit; and (7-1-97)

d. Implementation Plans. Program documentation and monitoring records which comply with all applicable sections of these rules; and (7-1-97)

e. The case record shall be divided into program/discipline areas identified by tabs, such as, Individual Support Plan, medical, social, psychological, speech, and developmental. (7-1-97)

801. STANDARDS FOR DDA'S PROVIDING SERVICES TO CONSUMERS WITHOUT TARGETED SERVICE COORDINATORS.

Each DDA shall provide the following rehabilitative and habilitative services consistent with the needs of persons with developmental disabilities who have chosen not to access a Targeted Service Coordinator, to be available and accessible throughout its service area. (7-1-97)

01. Eligibility Documentation. Prior to the delivery of services, current and accurate comprehensive evaluations or specific skills assessments shall be completed or obtained, as necessary to determine eligibility as defined in Section 66-402, Idaho Code, and the Department's current interpretive guidelines, and to effectively plan the consumer's program. (7-1-97)

02. Intake. To ensure the health and safety of the consumer, medical information which accurately reflects the current status and needs of the consumer shall be obtained prior to the delivery of services. When this information is not available, a comprehensive medical evaluation shall be completed prior to the provision of services. (7-1-97)

03. Evaluations. (7-1-97)

a. Comprehensive evaluations which are completed by the agency shall be conducted by qualified professionals for the respective disciplines as defined in this chapter, recommended by a physician, identify accurate, current and relevant consumer strengths, needs and interests as applicable to the respective discipline, and recommend the type and amount of therapy necessary to address the consumer's needs. (7-1-97)

b. Prior to the delivery of ongoing services in a specific discipline a comprehensive medical, medical/social assessment shall be completed or obtained. (7-1-97)

c. Evaluation or specific skill assessments from additional disciplines such as speech and language pathologists or physical therapists, shall also be completed or obtained as necessary to meet the consumer's needs. (7-1-97)

d. All evaluations shall be completed within forty-five (45) calendar days of the date recommended by the physician. If not completed within this time frame, the consumer's records must contain consumer based documentation justifying the delay. (7-1-97)

e. A current psychological or psychiatric evaluation shall be completed or obtained when the

consumer is receiving a behavior modifying drug(s), or prior to the initiation of restrictive interventions to modify inappropriate behavior(s), or an evaluation is necessary to determine eligibility for services or establish a diagnosis, or the consumer has a primary or secondary diagnosis of mental illness, or when otherwise required in this chapter.

(7-1-97)

f. Comprehensive evaluations and specific skill assessments completed or obtained by the DDA shall be current. To be considered current, evaluations and assessments shall accurately reflect the current status of the consumer.

(7-1-97)

04. Individual Program Plan. When a consumer has not developed an Individual Support Plan with a Targeted Service Coordinator through a person centered planning process, the DDA is required to complete an Individual Program Plan and the following shall apply:

(7-1-97)

a. The Individual Program Plan shall be developed following obtainment or completion of all applicable evaluations consistent with the requirements of this chapter.

(7-1-97)

b. The planning process shall include the consumer and guardian, if applicable, and others the individual chooses to have in attendance. The consumer and guardian where applicable, will be provided a copy of the completed individual program plan. If the consumer and guardian where applicable, is unable to participate, the reason shall be documented in the consumer's record.

(7-1-97)

05. Program Plan Components. The Individual Program Plan shall promote self-sufficiency, the consumer's choice in program objectives and activities and encourage the consumer's participation and inclusion in the community. The Individual Program Plan shall include:

(7-1-97)

a. The consumer's name and medical diagnosis; and

(7-1-97)

b. The name of the DDP, the date of the planning meeting, and the name and titles of those present at the meeting; and

(7-1-97)

c. Documentation that the plan is recommended by a physician; and

(7-1-97)

d. The type, amount and duration of therapy to be provided such as individual speech therapy, thirty (30) minutes two (2) times per week; group developmental therapy, two and one-half (2 1/2) hours, five (5) days per week; and

(7-1-97)

e. A list of the consumer's current personal goals, interests and choices; and

(7-1-97)

f. An accurate, current and relevant list of the consumer's specific developmental and behavioral strengths; and

(7-1-97)

g. An accurate, current and relevant list of the consumer's specific developmental and behavioral needs. This list will identify which needs are a priority based on the consumer's choices and preferences. An Individual Program Plan objective shall be developed for each priority need; and

(7-1-97)

h. A list of the measurable, behaviorally stated objectives, which correspond to the list of priority needs. An Implementation Plan shall be developed for each objective.

(7-1-97)

i. The discipline or DDP responsible for each objective; and

(7-1-97)

j. The target date for completion; and

(7-1-97)

k. The review date; and

(7-1-97)

l. An individual transition plan designed to facilitate independence, personal goals and interests. The transition plan may include vocational goals/objectives directed toward paid employment. The transition plan shall specify criteria for transition into alternative settings, vocational training, supported or independent employment,

volunteer opportunities, community based organizations and activities, or less restrictive settings. The implementation of some components of the plan may necessitate decreased hours of service or discontinuation of services from a DDA. (7-1-97)

06. Support Documentation. The Individual Program Plan shall be supported by documentation included in the consumer's record. (7-1-97)

07. Frequency of Plan Development. Members of the planning team shall meet at least annually, or more often if necessary, to review and update the plan to reflect any changes in the needs or status of the consumer. (7-1-97)

08. Physician Recommendation. There shall be documentation that the plan is recommended by a physician prior to implementing the Individual Program Plan and when revisions in the plan change the type, amount, or duration of the service provided, and at the annual review. (7-1-97)

09. Regional Advisory Review. The Individual Program Plans shall be submitted to the Regional ACCESS Units for an advisory review to ensure that services are reimbursable and within the scope and duration of DDA services. Services may begin prior to advisory review. Agencies will work to resolve concerns identified in the advisory review. Notification of findings of the advisory review will become part of the consumer's record. (7-1-97)

10. Implementation Plan. The DDA shall be required to develop an Implementation Plan for each objective listed on the Individual Program Plan. The implementation Plan shall include: (7-1-97)

a. The consumer's name; and (7-1-97)

b. The measurable, behaviorally stated Individual Program Plan objective; and (7-1-97)

c. Baseline assessment to determine the consumer's specific skills and abilities related to the specific skill to be learned; and (7-1-97)

d. Written instructions to staff such as curriculum, lesson plans, activity schedules, type and frequency of reinforcement and data collection, directed at the achievement of each objective. These instructions may be standardized, however, shall be individualized and revised as necessary to promote consumer progress towards the stated objective; and (7-1-97)

e. Identification of the specific location where services shall be provided; and (7-1-97)

f. These implementation plans shall be completed within fourteen (14) calendar days of the initiation of services; and (7-1-97)

g. The target date for completion. (7-1-97)

11. Program Documentation. Each consumer's record shall include documentation of the consumer's participation in and response to services provided. This documentation shall include at a minimum: (7-1-97)

a. Daily entry of all activities conducted toward meeting consumer objectives; and (7-1-97)

b. Sufficient progress data to accurately assess the consumer's progress toward each objective; and (7-1-97)

c. A review of the data and, when indicated, changes in the daily activities or specific implementation procedures by a DDP. The review shall include the DDP's dated initials. (7-1-97)

12. Documentation of Program Changes. Documentation of all changes in the Individual Program Plan or Implementation Plan shall be included in the consumer's record. This documentation shall include at a minimum; (7-1-97)

- a. The reason for the change; and (7-1-97)
- b. The date the change was made; and (7-1-97)
- c. Signature of the person making the change complete with date and title; and (7-1-97)
- d. Documentation of notification of the consumer and, when applicable, the consumer's guardian. (7-1-97)

13. Records. Each DDA licensed under these rules shall maintain accurate, current and complete consumer and administrative records. Each consumer record shall support the individual's choices, interests and needs which result in the type and amount of each service provided. Each agency shall have an integrated consumer records system to provide past and current information and to safeguard consumer confidentiality pursuant to these rules. Each record of consumers without a Targeted Service Coordinator shall contain the following information: (7-1-97)

- a. Profile sheet containing necessary identifying information about the consumer and family; and (7-1-97)
- b. Medical/social history containing relevant medical and social history and information on the consumer and family; and (7-1-97)
- c. Documentation which verifies that the services provided are recommended by a physician; and (7-1-97)
- d. When evaluations are completed or obtained by the agency the consumer's record shall include the evaluation forms and narrative reports, signed and dated by the respective evaluators; and (7-1-97)
- e. Individual Program Plan, when developed by the agency; and (7-1-97)
- f. Implementation Plans, program documentation and monitoring records which comply with all applicable sections of these rules; and (7-1-97)
- g. The case records shall be divided into program/discipline areas identified by tabs, such as, Individual Program Plan, medical, social, psychological, speech, and developmental. (7-1-97)

802. FUNDS.

Agencies which receive funds under these rules shall maintain accurate records of the receipt, obligation and disbursement of funds. Reimbursement for services is contingent upon documentation in consumer records which supports the need for the type and amount of each service. (7-1-97)

803. ACCESSIBILITY.

Records shall be accessible during normal operation of the agency to the Department for the purpose of inspection, with or without prior notification, pursuant to Section 39-108, Idaho Code. (7-1-97)

804. REQUIRED SERVICES.

Services provided shall be sufficient in quantity and quality to meet the needs of each person receiving services, and shall be provided by qualified professionals for the respective disciplines defined in this chapter. The following services, individual, group, community-based and home-based shall be available as recommended by the physician and based on consumer needs, interests, or choices to eligible consumers either by employees of the agency or through formal written agreement and shall comply with all applicable rules of this chapter: (7-1-97)

01. Psychotherapy. Psychotherapy services when provided by a physician, psychiatrist, psychologist, psychology assistant, or social worker in accordance with the objectives specified. Psychotherapy services available shall include the following: (7-1-97)

- a. Individual psychotherapy; and (7-1-97)

b. Group psychotherapy in which there shall be a minimum ratio of one (1) qualified staff person for every twelve (12) individuals in group therapy; and (7-1-97)

c. Family-centered psychotherapy which shall include the consumer and one (1) other family member at any given time. (7-1-97)

02. Speech and Hearing Therapy. Speech and hearing therapy services provided in accordance with the specified objectives. (7-1-97)

03. Physical Therapy. Physical therapy services provided by a licensed physical therapist in accordance with the specified objectives. (7-1-97)

04. Developmental Therapy. Developmental therapy services: (7-1-97)

a. Shall be provided by qualified developmental disabilities staff in accordance with objectives specified; and (7-1-97)

b. Therapy shall be directed toward the rehabilitation/habilitation of physical or mental disabilities in the areas of self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living or economic self-sufficiency. (7-1-97)

05. Occupational Therapy. Occupational therapy services provided by a licensed occupational therapist in accordance with the specified objectives. (7-1-97)

06. Optional Services. (7-1-97)

a. Consultation for the purpose of prescribing, monitoring, or administering medications. These consultations shall be provided by a physician or licensed nurse practitioner in direct face-to-face contact with the consumer and incorporated into the individual plan with the type, amount, and duration of the service specified. (7-1-97)

b. Psychiatric evaluations and services for the purpose of establishing a diagnosis, identifying consumer strengths and needs, and recommending or implementing interventions to address each need. These evaluations and services shall be conducted by a physician in direct face-to-face contact with the consumer and incorporated into the consumer's individual plan with the type, amount, and duration of service specified. (7-1-97)

805. -- 809. (RESERVED).

810. STAFFING REQUIREMENTS FOR AGENCIES.

01. Physician. The agency shall have a physician available a sufficient amount of time to: (7-1-97)

a. Review medical/social history information for the purpose of ordering appropriate evaluations; and (7-1-97)

b. Perform necessary medical assessments; and (7-1-97)

c. Review and recommend the services identified in the Individual Program Plans; and (7-1-97)

d. Participate in annual reviews of consumer services to determine continued appropriateness of the plan if applicable. (7-1-97)

02. Professionals. The agency shall have available, at a minimum, the qualified DDP as employees of the agency or through formal written agreement: (7-1-97)

a. Audiologist or speech and language pathologist; and (7-1-97)

- b. Developmental specialist; and (7-1-97)
- c. Occupational therapist; and (7-1-97)
- d. Physical therapist; and (7-1-97)
- e. Physician; and (7-1-97)
- f. Psychologist; and (7-1-97)
- g. Social worker. (7-1-97)

811. -- 819. (RESERVED).

820. PAYMENT PROCEDURES.

Payment for agency services shall be in accordance with rates, forms, policies and procedures established by the Department. Payment for services is contingent upon documentation in each consumer's record which supports the type and amount of each service based on the agency's integrated records system and compliance with the requirements specified under Section 802 of this chapter. (7-1-97)

821. COOPERATION OF SERVICES.

Each DDA shall act in cooperation with other agencies providing services to consumers to maximize learning. Services with which coordination and integration shall occur include: (7-1-97)

01. Children's Services. DDA's shall refer a child of mandatory school attendance age, seven (7) through sixteen (16), to the local school district for consideration for education and related services found in Public Law 101-476. The DDA may provide services beyond those that the school is obligated to provide during regular school hours. These related services include audiology, psychotherapy services, physician's services, developmental therapy, occupational therapy, physical therapy and speech pathology. The consumer's record shall contain an Individualized Education Plan for each child of school age, including any recommendations for Extended School Year. The DDA shall send a current copy of the child's Individual Program Plan to his school. (7-1-97)

02. Services through School District. Services provided through a school district contract and reimbursed by the school district are not required to meet DDA rules, nor are they reimbursable as DDA services. (7-1-97)

822. -- 899. (RESERVED).

900. ADDITIONAL STANDARDS FOR PERSONNEL PROVIDING DEVELOPMENTAL DISABILITY SERVICES.

01. Professionals. Except as provided in Subsection 900.02 of this section, all personnel employed by an agency for the purpose of providing developmental disabilities services after October 6, 1988, shall be DDP's. (7-1-97)

02. Paraprofessionals. Paraprofessionals, such as aides or therapy technicians, may be used by an agency to provide developmental disabilities services if they are under the supervision of a DDP. (7-1-97)

a. The agency shall assure adequate professional supervision during its service hours; and (7-1-97)

b. There shall be a minimum of one (1) qualified staff, who may be a paraprofessional or a DDP, providing direct services for every twelve (12) individuals. Additional staff shall be added, as necessary, to meet the needs of each individual served; and (7-1-97)

c. Aides or therapy technicians utilized to assist in the provision of physical therapy services may do so only when a physical therapist is present at the site of service delivery; and (7-1-97)

d. Paraprofessionals shall not conduct consumer evaluations or establish the Implementation Program Plan. These activities shall be conducted by a DDP; and (7-1-97)

e. A professional shall, on a weekly basis or more often if necessary, give instructions, review progress and provide training on the program(s) and procedures to be followed; and (7-1-97)

f. A professional shall, on a monthly basis or more often if necessary, observe and review the work performed by the paraprofessional to assure the paraprofessional has been trained on the program(s) and demonstrates the necessary skills to correctly implement the program(s). (7-1-97)

03. Specified Service Providers. In accordance with Section 800 of these rules, only specified developmental disabilities service providers may provide service within the designated element of service. (7-1-97)

04. Administrative Staffing. The program administrator shall be accountable for all service elements of a developmental disabilities program and shall be employed on a continuous regularly scheduled basis. (7-1-97)

a. The program administrator shall be a DDP as defined in these rules. (7-1-97)

b. If the administrator is not a DDP, a DDP shall be employed on a continuous regularly scheduled basis and shall be responsible for the service elements of the developmental disabilities program; (7-1-97)

c. Either the program administrator or the DDP shall have two (2) years of supervisory or management experience providing developmental disabilities services to individuals with developmental disabilities. (7-1-97)

901. VOLUNTEERS.

If volunteers are utilized, the program shall establish policies and procedures governing the screening, training and utilization of volunteer workers for delivery of services. (7-1-97)

902. TRAINING.

Each agency designated under these rules shall provide ongoing training for staff and volunteers. (7-1-97)

01. Annual Training. A minimum of twelve (12) hours of formal training shall be provided. (7-1-97)

a. Within ninety (90) days of employment, each staff member will be certified in first aid and CPR; and (7-1-97)

b. In addition, a minimum of twelve (12) hours of training areas including fire safety, behavior management, and skill development in the area of rehabilitation or habilitation of persons with developmental disabilities on an annual basis. (7-1-97)

02. Sufficient Training. Training of staff and volunteers shall be sufficient to ensure the following as applicable to their work assignments and responsibilities: (7-1-97)

a. Correct and consistent implementation of consumer individual program plans and implementation plans, to achieve individual objectives; and (7-1-97)

b. Optimal independence of all individuals receiving services is encouraged, supported and reinforced through appropriate activities, opportunities, and training; and (7-1-97)

c. Correct and appropriate use of assistive technology used by individuals obtaining services; and (7-1-97)

d. Accurate record keeping and data collection procedures; and (7-1-97)

e. Consistent use of behavioral and developmental programming principles and the use of positive

behavioral intervention techniques; and (7-1-97)

f. Adequate observation, review and monitoring of staff, volunteer and consumer performance to promote the achievement of consumer objectives; and (7-1-97)

g. Each consumer's rights, advocacy resources, confidentiality, safety and welfare; and (7-1-97)

h. The proper implementation of all policies and procedures developed by the agency. (7-1-97)

903. -- 919. (RESERVED).

920. BUILDING STANDARDS.

The requirements under this section apply when an agency is providing center-based services. (7-1-97)

01. Accessibility. Agencies designated under these rules shall be responsive to the needs of the service area and persons receiving services and accessible to persons with disabilities as defined in 504 of the Federal Rehabilitation Act, the Americans with Disabilities Act, and the uniform federal accessibility standard. (7-1-97)

02. Environment. The agency shall be designed and equipped to meet the needs of each consumer including, but not limited to, factors such as sufficient space, equipment, lighting and noise control. (7-1-97)

03. Capacity. Agencies shall serve no more than forty (40) persons with developmental disabilities on site at a given time. Agencies may apply to the Director for a waiver pursuant to these rules. The decision of the Director may be reviewed by the Board. Agencies are encouraged to include persons without disabilities in their programs or to integrate persons with disabilities into community activities for part of the day. (7-1-97)

04. Fire and Safety Standards. (7-1-97)

a. Buildings on the premises used as facilities shall meet all local and state codes concerning fire and life safety that are applicable to a DDA. The owner/operator shall have the facility inspected at least annually by the local fire authority. In the absence of a local fire authority, such inspections shall be obtained from the Idaho State Fire Marshall's office. A copy of the inspection shall be made available to the licensing agency upon request and shall include documentation of any necessary corrective action taken on violations cited; and (7-1-97)

b. The facility shall be structurally sound and shall be maintained and equipped to assure the safety of consumers, employees and the public; and (7-1-97)

c. On the premises of all facilities where natural or man-made hazards are present, suitable fences, guards or railings shall be provided to protect consumers; and (7-1-97)

d. The premises and all buildings used as facilities shall be kept free from the accumulation of weeds, trash and rubbish; and (7-1-97)

e. Portable heating devices shall be prohibited except units that have heating elements that are limited to not more than two hundred twelve (212) degrees Fahrenheit. The use of unvented, fuel-fired heating devices of any kind shall be prohibited. All portable space heaters must be U.L. approved as well as approved by the local fire or building authority. (7-1-97)

f. Quantities of flammable or combustible materials deemed hazardous by the licensing agency shall not be stored in the facility; and (7-1-97)

g. All hazardous or toxic substances shall be properly labeled and stored under lock and key; and (7-1-97)

h. Water temperatures in areas accessed by consumers shall not exceed one hundred and twenty (120) degrees Fahrenheit; and (7-1-97)

- i. Portable fire extinguishers shall be installed throughout the facility. Numbers, types and location shall be directed by the applicable fire authority noted in Subsection 920.04.a. of these rules; and (7-1-97)
- j. Electrical installations and equipment shall comply with all applicable local or state electrical requirements. In addition, equipment designed to be grounded shall be maintained in a grounded condition and extension cords and multiple electrical outlet adapters shall not be utilized unless U.L. approved and the numbers, location, and use of them are approved, in writing, by the local fire or building authority. (7-1-97)
- k. There shall be a telephone available on the premises for use in the event of an emergency. Emergency telephone numbers shall be posted near the telephone; and (7-1-97)
- l. Furnishings, decorations or other objects shall not obstruct exits or access to exits. (7-1-97)
- 05. Evacuation Plans. Evacuation plans shall be posted throughout the building. Plans shall indicate point of orientation, location of all fire extinguishers, location of all fire exits, and designated meeting area outside of building. (7-1-97)
 - a. Emergency plans and training requirements: (7-1-97)
 - b. There shall be written policies and procedures covering the protection of all persons in the event of fire or other emergencies; and (7-1-97)
 - c. All employees shall participate in fire and safety training upon employment and at least annually thereafter; and (7-1-97)
 - d. All employees and consumers shall engage in quarterly fire drills. At least two (2) of these fire drills shall include evacuation of the building; and (7-1-97)
 - e. A brief summary of the fire drill and the response of the employees and consumers shall be written and maintained on file. The summary shall indicate the date and time the drill occurred, problems encountered and corrective action taken. (7-1-97)
- 06. Food Preparation and Storage. (7-1-97)
 - a. If foods are prepared in the agency, they shall be prepared by sanitary methods. (7-1-97)
 - b. Except during actual preparation time, cold perishable foods shall be stored and served under forty-five (45) degrees Fahrenheit and hot perishable foods shall be stored and served over one hundred forty (140) degrees Fahrenheit. (7-1-97)
 - c. Refrigerators and freezers used to store consumer lunches and other perishable foods used by consumers, shall be equipped with a reliable, easily-readable thermometer. Refrigerators shall be maintained at forty-five (45) degrees Fahrenheit or below. Freezers shall be maintained at zero (0) to ten (10) degrees Fahrenheit or below. (7-1-97)
 - d. When meals are prepared or provided for by the agency, meals will meet the nutritional, dietary and individual needs of each consumer. (7-1-97)
- 07. Housekeeping and Maintenance Services. (7-1-97)
 - a. The interior and exterior of the agency shall be maintained in a clean, safe and orderly manner and shall be kept in good repair; and (7-1-97)
 - b. Deodorizers cannot be used to cover odors caused by poor housekeeping or unsanitary conditions; and (7-1-97)
 - c. All housekeeping equipment shall be in good repair and maintained in a clean, safe and sanitary

manner; and (7-1-97)

d. The agency shall be maintained free from infestations of insects, rodents and other pests; and (7-1-97)

e. The facility shall maintain the temperature and humidity within a normal comfort range by heating, air conditioning or other means. (7-1-97)

08. Vehicle Safety. If the DDA provides transportation, a preventive maintenance program will be in place for each agency owned or leased vehicle, including but not limited to: (7-1-97)

a. Inspections, liability insurance, licensed drivers, and other maintenance to insure safety; and (7-1-97)

b. Coordination with transportation providers when the DDA does not provide the transportation. (7-1-97)

921. HEALTH.

01. Policies and Procedures. The agency shall develop policies and procedures which describe how the agency will assure that staff is free from communicable disease and how it will protect consumers from exposure to other individuals exhibiting symptoms of illness. (7-1-97)

02. Employees. Each employee with direct contact with consumers shall be free of communicable disease and infected skin lesions while on duty. (7-1-97)

03. Handling of Consumer's Medications. Personnel of the agency shall not administer medications unless legally authorized to do so. Personnel may assist the consumer to take his own medication under the following conditions: (7-1-97)

a. The medication shall be brought by the consumer in a prepackaged container which is appropriately labeled with the name of the medication, dosage and time and amount to be taken. Each medication shall be packaged separately to avoid mistakes in identification unless packaged in Medisets or a similar system. (7-1-97)

b. Only licensed nurses and other professionals legally authorized to administer medications may give consumers injectable medications. (7-1-97)

c. No medications shall be given except under the verbal or written orders of a physician. Evidence of the written or verbal order shall be maintained in the consumer's record. Medisets labeled by a pharmacist and supplied to the consumer on a weekly basis may serve as written evidence of a physician's order. An original prescription bottle labeled by a pharmacist describing the current physician's orders/instructions for use, may also serve as written evidence of a physician's orders. (7-1-97)

d. The agency shall be responsible for the safeguarding of the consumer's medications while he is at the agency or in the community. (7-1-97)

e. Medications which are no longer used by the consumer shall not be retained by agency staff. These shall be returned to the pharmacist, the consumer, or person responsible for the consumer's home care. (7-1-97)

f. Medications shall not be borrowed between consumers. (7-1-97)

04. Accident/Injury Reports. Accident/injury reports shall be completed for all such incidents experienced by consumers receiving services. (7-1-97)

922. COMMUNITY SITES.

The requirements under this section apply when an agency is providing community-based services. (7-1-97)

01. Accessibility. The community-based setting shall be accessible, safe and appropriate for each consumer. (7-1-97)

02. Environment. The community-based setting shall be designed and equipped to meet the needs of each consumer including, but not limited to, factors such as sufficient space, equipment, lighting, and noise control. (7-1-97)

03. Training Group Size Sessions. The community-based services shall occur in integrated inclusive settings and with no more than three (3) consumers per trainer at each training session. (7-1-97)

923. ANNUAL PROGRESS REPORT AND PLAN.

By June 30 of each year, each DDA shall submit an annual progress report and plan covering the current fiscal year to the state developmental disability authority. (7-1-97)

924. STATE PLAN.

Each agency shall be required, as needed, to participate in the state developmental disabilities plan development by completing an annual needs assessment survey or public hearing on services for Idahoans with disabilities. (7-1-97)

925. AFFIRMATIVE ACTION.

01. Equal Employment Opportunity. It is the policy of the Department to promote the objectives of equal employment opportunity and fair labor practice laws of the United States and the state of Idaho. (7-1-97)

02. Nondiscrimination. No employee of a agency designated under these rules will, in the course of serving consumer needs, discriminate against any individual on the basis of race, color, national origin, religion, sex, age, or physical/mental disability. (7-1-97)

926. -- 997. (RESERVED).

998. ADMINISTRATIVE PROVISIONS.

Contested case hearings shall be governed according to the provisions of IDAPA 16, Title 05, Chapter 03, Rules Governing Contested Case Proceedings and Declaratory Rulings. (7-1-97)

999. CONFIDENTIALITY OF RECORDS.

Any disclosure of information obtained by the Department is subject to the restrictions contained in IDAPA 16, Title 05, Chapter 01, Rules Governing the Protection and Disclosure of Department Records. In addition: (7-1-97)

01. Storage of Records. All consumer information including, but not limited to, consumer records shall be maintained and stored in a manner which ensures consumer confidentiality. (7-1-97)

02. Written Consent. Consumer information and records shall not be provided to individuals or agencies not legally authorized to receive it without the informed written consent of the consumer and guardian where applicable. (7-1-97)