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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, under the Developmental Disabilities Services and Facilities Act, Sections 39-4601 et seq., Idaho Code. (3-20-04)

001. TITLE, POLICY AND SCOPE.

01. Title. The title of these rules is IDAPA 16.04.11, "Rules Governing Developmental Disabilities Agencies". (3-20-04)

02. 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 must be provided in community-based settings in natural environments such as home, work, leisure or center-based settings, based on participant needs, interests or choices. Services provided by DDA's promote independence, participation and inclusion of people with developmental disabilities in their neighborhoods and communities. (3-20-04)

03. 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. (3-20-04)

002. WRITTEN INTERPRETATIONS.

There is a written interpretation for these rules specific to Intensive Behavioral Intervention (IBI). The Intensive Behavioral Intervention Interpretive Guidelines for Developmental Disabilities Agencies is available at: <http://idahocdh.org/cdhd/ibi/ibi/IBIRules.asp>. (3-20-04)

003. ADMINISTRATIVE APPEALS.

Administrative appeals are governed by provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings". (3-20-04)

004. INCORPORATION BY REFERENCE.

There are no documents that have been incorporated by reference into this chapter of rules. (3-20-04)

005. OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE -- WEBSITE.

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (3-20-04)

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. (3-20-04)

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83720-0036. (3-20-04)

04. Telephone. The telephone number for of the Idaho Department of Health and Welfare is (208) 334-5500. (3-20-04)

05. Internet Website. The Department's internet website is found at "<http://www2.state.id.us/dhw/>". (3-20-04)

006. PUBLIC RECORDS ACT COMPLIANCE AND REQUESTS.

Any disclosure of information obtained by the Department is subject to the restrictions contained in Idaho Department of Health and Welfare Rules, IDAPA 16.05.01, "Use and Disclosure of Department Records".

(3-20-04)

007. -- 009. (RESERVED).

010. DEFINITIONS -- A THROUGH O.

For the purposes of these rules the following terms are used as defined below:

(3-20-04)

01. Adult. A person who is eighteen (18) years of age or older or an ISSH Waiver participant.

(3-20-04)

02. Annual. Every three hundred sixty-five (365) days except during a leap year which equals three hundred 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 must be from the American Speech, Language and Hearing Association (ASHA).

(3-20-04)

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. Department. The Idaho Department of Health and Welfare.

(7-1-97)

07. 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)

08. 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)

09. 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)

10. Developmental Disability. A developmental disability, as defined in Section 66-402, Idaho Code, means a chronic disability of a person which appears before the age of twenty-two (22) years of age and:

(3-20-04)

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)

11. Developmental Specialist. A person qualified to conduct developmental evaluation and therapy, including: (3-30-01)

a. A person who possesses a bachelor's or master's degree in special education, early childhood special education, speech and language pathology, applied behavioral analysis, psychology, physical therapy, occupational therapy, social work, or therapeutic recreation and who has a minimum of two hundred forty (240) hours of professionally supervised experience with individuals who have developmental disabilities; or (3-30-01)

b. A person who possesses a bachelor's or master's degree in an area not listed in Subsection 010.11.a. of these rules, and who: (3-20-04)

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 (3-30-01)

ii. Has passed a competency examination approved by the Department; and (3-30-01)

iii. Has a minimum of two hundred forty (240) hours of professionally supervised experience with individuals who have developmental disabilities; or (3-30-01)

c. A person who possesses a bachelor's or master's degree in an area not listed in Subsection 010.11.a. of these rules, and who: (3-20-04)

i. Has passed a competency examination approved by the Department; and (3-30-01)

ii. Has a minimum of two hundred forty (240) hours of professionally supervised experience with individuals who have developmental disabilities; or (3-30-01)

d. A person who is exempt from the requirements of these rules: (3-30-01)

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 (3-30-01)

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. (3-30-01)

e. Developmental Specialists providing services to infants and toddlers, birth to three (3) years of age, must have a minimum of two hundred forty (240) hours of professionally supervised experience with young children who have developmental disabilities and one (1) of the following: (3-30-01)

i. An Elementary Education Certificate or Special Education Certificate with an Endorsement in Early Childhood Special Education; or (3-30-01)

ii. A bachelor's or master's degree in special education, elementary education, speech language pathology, early childhood education, physical therapy, occupational therapy, psychology, social work, or nursing plus a minimum of twenty (20) credits in Early Childhood Special Education (ECSE) from the listing of approved courses. Courses must cover content in each of the following areas: normal child development, characteristics of young children with disabilities and foundations of special education, curriculum and instruction in ESCE, assessment in ESCE and families of young children with disabilities. Closely related electives may be accepted with recommendation from an institution of higher education. In circumstances where there is a shortage of such qualified personnel to meet service needs the Department may approve the most qualified individuals who are demonstrating satisfactory progress toward completion of applicable course work in accordance with the individuals's approved plan to meet the required standard within three (3) years of being hired. Satisfactory progress will be determined on an annual review by the Department. (3-30-01)

f. Developmental Specialists providing services to children ages three (3) through seventeen (17)

must meet one (1) of the Developmental Specialists definitions listed in Subsections 010.11.a. through 010.11.d. of these rules, and also complete a competency course regarding developmental evaluation and therapy for children and pass a competency examination that includes demonstration of learned skills within one (1) year of the availability of the Department approved competency course and examination. (3-20-04)

g. Developmental Specialists providing services to children under the provisions of an Individualized Education Plan approved by a local school district must meet the personnel requirements established by the State Department of Education, Bureau of Special Education. Services must also be delivered in accordance with local school district and state education requirements for mandatory school attendance, and coordination of services, see Section 821 of these rules. (3-20-04)

12. Director. The Director of the Idaho Department of Health and Welfare or his designee. (7-1-97)

13. 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)

14. Habilitation. The process of developing skills and abilities. (7-1-97)

15. 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 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)

16. 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)

17. Objective. A behavioral statement of outcome developed to address an identified need of an individual. The need is identified by the participant and guardian where applicable, and others the participant has chosen to participate on his planning team, to be incorporated into the participant'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. (3-20-04)

18. 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)

011. DEFINITIONS -- P THROUGH Z.

For the purposes of these rules, the following terms are used as defined below: (3-20-04)

01. Paraprofessional. A person such as an aide or therapy technician who is qualified to assist DDP's in providing services. (7-1-97)

02. Participant. A person who receives health care services, has been identified as having a developmental disability as defined in this chapter, and who is receiving services through a DDA. (3-20-04)

03. Person-Centered Planning Process. A meeting facilitated by the plan developer, comprised of family and individuals significant to the participant who collaborate with the participant to develop the plan of service. (3-20-04)

04. Person-Centered Planning Team. The group who develops the plan of service. This group includes, at a minimum, the participant and the service coordinator or plan developer chosen by the participant. The person-centered planning team may include others identified by the participant or agreed upon by the participant and the Department as important to the process. (3-20-04)

05. Plan Developer. A paid or nonpaid person identified by the participant who is responsible for developing one (1) plan of service and subsequent addenda that covers all services and supports, based on a person-centered planning process. (3-20-04)

06. Plan Monitor. A person who oversees the provision of services on a paid or non-paid basis. The plan developer is the plan monitor unless there is a Service Coordinator, in which case the Service Coordinator assumes both roles. (3-20-04)

07. Plan Of Service. An initial or annual plan that identifies all services and supports based on a person-centered planning process. Plans are authorized annually every three hundred sixty-five (365) days. (3-20-04)

08. 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)

09. 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)

10. Prior Authorization (PA). A process for determining a participant's eligibility for services and medical necessity prior to the delivery or payment of services as provided by these rules. (3-20-04)

11. Provider. Any individual or organization furnishing services through the provisions of these rules. (7-1-97)

12. 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)

13. Provider Status Review. The written documentation that identifies the participant's progress toward goals defined in the plan of service. (3-20-04)

14. 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 participants. A provisional license can be issued for a specific period of time, not to exceed one hundred eighty (180) days, while corrections are being completed. (3-20-04)

15. 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)

16. 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 24.12.01, "Rules of the Idaho State Board of Psychologist Examiners". (7-1-97)

17. 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)

18. 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)

19. Service. Evaluation, diagnosis, therapy, training, assistance, or support provided to a person with a developmental disability by a DDA. (7-1-97)

20. Service Coordination. Service coordination is an activity which assists individuals eligible for Medicaid in gaining and coordinating access to necessary care and services appropriate to the needs of an individual. (3-20-04)

21. Service Coordinator. An individual who provides service coordination to a Medicaid-eligible participant, is employed by a service coordination agency, and meets the training, experience, and other requirements under IDAPA 16.03.09, "Rules Governing the Medical Assistance Program," Section 118. This includes Targeted Service Coordinators. (3-20-04)

22. 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)

23. 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 must be from the American Speech Language and Hearing Association (ASHA). (3-20-04)

24. State Developmental Disability Authority. The Department is the State Developmental Disability Authority which has statewide responsibility for planning, coordinating and monitoring developmental disabilities services. (3-20-04)

25. Substantial Compliance. Deficiencies identified at the time of the survey by the licensing agency that do not present a serious risk to participants' health or safety or seriously impede the agency's ability to provide habilitative or rehabilitative services. (3-20-04)

26. 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)

27. Supports. Formal or informal services and activities, not paid for by the Department, that enable the individual to reside safely and effectively in the setting of his choice. (3-20-04)

28. 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)

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

012. -- 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 011.17 of these rules. (3-20-04)

101. REQUIRED LICENSING.

All agencies providing or seeking to provide rehabilitative or habilitative services to persons with developmental disabilities described in Subsection 011.17 of these rules must be licensed unless exempt from licensing requirements described in Section 100 of these rules. (3-20-04)

102. -- 199. (RESERVED).

200. THE ROLE OF DEVELOPMENTAL DISABILITIES AGENCIES (DDAS).

Services must be directed toward persons identified as having a developmental disability as defined in these rules. Developmental Disabilities Agencies must provide services to eligible participants with developmental disabilities. (3-20-04)

201. -- 299. (RESERVED).

300. LICENSURE OF DEVELOPMENTAL DISABILITIES AGENCIES (DDAS).

01. Application For Licensure. All DDAs must apply for licensure under these rules. (3-20-04)

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 011.17 of these rules. (3-20-04)

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 must make application for licensure. No participant may 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. (3-20-04)

02. Conformity. Licensed agencies must conform to all applicable rules and rules of the Department, such as Medicaid reimbursement procedures and satisfactory completion of a criminal history check in accordance with IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks". (3-20-04)

03. Accessible Records. The DDA and records required under these rules must be accessible during normal operations of the agency to the licensing agency for the purpose of inspection, with or without prior notification, under Sections 39-4605(4) and 39-108, Idaho Code. (3-20-04)

04. Open Application. Application for new agencies will be accepted on an open and continuous basis in accordance with Subsection 301.02 of these rules. (3-20-04)

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 must be made to the licensing agency of the Department on a form provided by the Department. The application and supporting documents must be received by the Department at least sixty (60) days prior to the planned opening date. The application shall include: (3-20-04)

- 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 of these rules governing nondiscrimination; and (3-20-04)
- 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 participant illness policy, communicable disease policy and other health and hygiene policies and procedures; and (3-20-04)
- o.** Written admission and transition policy; and (7-1-97)
- p.** Written participant grievance policy; and (3-20-04)
- 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 participants; and (3-20-04)
- 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 must include a written request for a waiver or variance request and must specify the particular rule and provide an explanation of the reasons for requesting the waiver or variance. (3-20-04)

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 must not be issued immediately following a temporary license. (3-20-04)

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 must 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. (3-20-04)

02. Evidence Of Review. For the new physical location, agencies must 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. (3-20-04)

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, under Sections 307 and 308 of these rules. (3-20-04)

03. Request For Hearing. Within twenty-eight (28) days of the receipt date of the notice to issue a provisional license or action to deny or revoke the license, the applicant may request a hearing in writing. Upon receipt of the written request, a hearing will be scheduled and conducted in accordance with IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings". (3-20-04)

306. ISSUANCE AND TRANSFER OF LICENSE.

01. Issuance Of License. A notice of licensure must 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 participants' 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. (3-20-04)

02. License Return. The license is the property of the state and must be returned to the state if it is revoked or suspended in accordance with Sections 307 and 308 of these rules. (3-20-04)

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 must be available. (3-20-04)

307. EXPIRATION AND RENEWAL OF LICENSE.

All licenses issued under the provisions of these rules, except for those facilities exempted under Section 100 of these rules, must 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 must 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 must be treated as an application to be acted upon after

timely applications of renewal and initial applications. (3-20-04)

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 participants, 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. (3-20-04)

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 participants served. If, following investigation, the issue of the safety of participants is resolved, then a license may be granted. (3-20-04)

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 participants 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 must 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. (3-20-04)

312. -- 599. (RESERVED).

600. MANAGEMENT INFORMATION SYSTEM.

All licensed DDA's seeking funding from the Department must maintain a data base on participant services. The agencies must be capable of providing the Department with basic participant information such as, but not limited to, the number of persons with developmental disabilities served, diagnostic category, level of mental retardation, age, gender and hours of services. This information may be hand-tabulated or part of the agency's computerized information system. (3-20-04)

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 must develop and implement a quality assurance program. (3-20-04)

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 participants are high quality and consistent with individual choices, interests, and needs and current standards of practice; and (3-20-04)

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 must be described in writing and include: (3-20-04)

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 participant satisfaction. (3-20-04)

03. Additional Requirements. The quality assurance program must ensure that services provided: (3-20-04)

a. Are developed with participant and guardian where applicable, and actively promote participation, personal choice and preference; and (3-20-04)

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 participants to exercise their rights; and (3-20-04)

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

751. -- 759. (RESERVED).

760. PARTICIPANT RIGHTS.

Each person receiving services through an agency designated under these rules must be ensured the following rights: (3-20-04)

01. Idaho Code. Sections 66-412 and 66-413, Idaho Code, provide the following rights. (3-20-04)

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 Participant Rights.** The agency must also ensure the following rights. The right to: (3-20-04)

 - 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 participant's social image and personal competencies and, whenever possible, promote inclusion in the community; and (3-20-04)
 - e.** Refuse to perform services for the agency. If the participant is hired to perform services for the agency the wage paid must be consistent with state and federal law; and (3-20-04)
 - 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 Participants Of Their Rights.** Each agency must ensure that each person receiving services is informed of his rights in the following manner: (3-20-04)

 - a.** Upon initiation of services, each participant and guardian, where applicable, must 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 must be written in easily understood terms. (3-20-04)
 - b.** When providing center-based services, agencies must prominently post a list of the rights contained in this chapter. (3-20-04)
 - c.** Each participant and guardian, where applicable, must be provided with a verbal explanation of their rights in a manner that will best promote individual understanding of these rights. (3-20-04)

761. APPLICANT SCREENING

The agency must have policies and procedures regarding job applicants, including the requirement of satisfactory completion of a criminal history check in accordance with IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks". (3-20-04)

762. OBLIGATION TO REPORT.

All confirmed or suspected incidents of mistreatment, neglect, exploitation or abuse of participants must be reported to the adult or child protection authority. (3-20-04)

763. DEVELOPMENT OF POSITIVE SOCIAL BEHAVIORS.

Each DDA must 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 must include: (3-20-04)

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

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

03. Protected Rights. Ensuring that the safety, welfare and human and civil rights of participants are adequately protected. (3-20-04)

04. Underlying Causes. Addressing the evaluation or assessment of the possible underlying causes of the inappropriate behavior and what the participant may be attempting to communicate by the behavior. (3-20-04)

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 participant's independence or ability to participate in the community. (3-20-04)

06. Training Alternate Behavior. Ensuring that programs to manage inappropriate participant behavior include training of the appropriate alternative behavior(s). (3-20-04)

07. Participant Involvement. For plans developed by the agency ensuring the participant 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 must not be held accountable for ensuring participant involvement in the development of the plan. (3-20-04)

08. Written Informed Consent. Ensuring that programs developed by the agency to manage inappropriate participant behavior are conducted only with the written informed consent of the participant and guardian where applicable. When programs used by the agency are developed by another service provider the agency must obtain a copy of the informed consent. (3-20-04)

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 must obtain a copy of these reviews and approvals. (3-20-04)

10. Appropriate Use Of Interventions. Ensuring that interventions used to manage inappropriate participant behavior are never used: (3-20-04)

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 DEVELOPMENTAL DISABILITIES AGENCIES (DDA) PROVIDING SERVICES TO PARTICIPANTS AGE EIGHTEEN OR OLDER AND ISSH WAIVER PARTICIPANTS.

DDA services for participants eighteen (18) years of age or older and ISSH Waiver participants must be prior authorized in accordance with IDAPA 16.03.13, "Prior Authorization for Behavioral Health Services". Each DDA providing services under the requirements of Section 800 must provide the following rehabilitative and habilitative services consistent with the needs of persons with developmental disabilities eighteen (18) years of age or older or ISSH Waiver participants based on a plan of service authorized by the Department. (3-20-04)

- 01. Intake.** Prior to the delivery of any DDA services: (3-20-04)
 - a.** The person must be determined by the Department to be eligible for DDA services; (3-20-04)
 - b.** The current medical/social history, SIB-R, and the medical care evaluation form must be obtained from the Department or its designee; and (3-20-04)
 - c.** All services must be prior authorized by the Department or its designee under IDAPA 16.03.13, "Prior Authorization for Behavioral Health Services". IBI services are authorized under Section 809 of these rules. (3-20-04)

- 02. Evaluations.** Evaluations required for the development of the implementation plan administered by the DDA must: (3-20-04)
 - a.** Be conducted by qualified professionals for the respective disciplines as defined in this chapter; (7-1-97)
 - b.** Be identified as a service on the plan of service and be prior authorized by the Department or its designee. (3-20-04)

- 03. Specific Skill Assessments.** Specific skill assessments which are completed by the agency must: (3-20-04)

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 plan of service; and (3-20-04)
 - c.** Be conducted for the purposes of determining baselines, or the need for further interventions. (7-1-97)

- 04. Plan Of Service.** Any services provided by the DDA must be included on the plan and authorized by the Department or its designee before a participant can receive the service from the agency. (3-20-04)

- 05. Implementation Plan.** The DDA must develop an Implementation Plan for each service or support that is included on the participant's plan of service provided by the agency as outlined in these rules. The Implementation Plan must be completed within fourteen (14) days after the initial provision of service, be revised whenever participant needs change, and must include: (3-20-04)
 - a.** The participant's name; and (3-20-04)
 - b.** The specific skill area; and (7-1-97)
 - c.** A baseline statement addressing the participant's specific skills and abilities related to the specific skill to be learned; and (3-20-04)
 - d.** Measurable, behaviorally stated objectives which are developed from an identified service or support in the plan of service; and (3-20-04)

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, they must be individualized and revised as necessary to promote participant progress toward the stated objective. (3-20-04)

f. Identification of the specific environment(s) where services will be provided. (3-20-04)

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

06. Changes To The Implementation Plan. (3-20-04)

a. The DDA must coordinate the participant's DDA program with other service providers to maximize learning. (3-20-04)

b. Documentation of Implementation Plan changes will be included in the participant's record. This documentation must 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. (3-20-04)

c. If there are changes to an Implementation Plan that affect the service on the plan of service, an addendum to the plan of service must be completed in accordance with IDAPA 16.03.13, "Prior Authorization for Behavioral Health Services". (3-20-04)

07. Program Documentation. Each participant's record must include documentation of the participant's involvement in and response to services provided. This documentation must include at a minimum: (3-20-04)

a. Daily entry of all activities conducted toward meeting participant objectives; and (3-20-04)

b. Sufficient progress data to accurately assess the participant's progress toward each objective; and (3-20-04)

c. A review of the data and, when indicated, changes in the daily activities or specific implementation procedures by a DDP. The review must include the DDP's dated initials; and (3-20-04)

d. Documentation of notification of the participant and when applicable, the participant's guardian. (3-20-04)

08. Records. Each DDA licensed under these rules must maintain accurate, current and complete participant and administrative records. Each participant record must contain the following information: (3-20-04)

a. Documentation which verifies that the services provided are authorized by the Department or its designee. A copy of a plan of service will suffice for compliance to this requirement; and (3-20-04)

b. When evaluations are completed or obtained by the agency the participant's record must include the evaluation forms and narrative reports, signed and dated by the respective evaluators; and (3-20-04)

c. A copy of the plan of service authorized by the Department or its designee; and (3-20-04)

d. Program documentation and monitoring records which comply with all applicable sections of these rules; and (3-20-04)

e. The case record must be divided into program/discipline areas identified by tabs, such as, plan of service, medical, social, psychological, speech, and developmental. (3-20-04)

09. Provider Status Review. DDAs must submit semiannual and annual status reviews to the plan

monitor reflecting the status of behavioral objectives or services identified on the plan of service. Semiannual status reviews must remain in the participant's file and annual status reviews must be attached to annual plan of service. (3-20-04)

801. STANDARDS FOR DDAS PROVIDING SERVICES TO PARTICIPANTS UNDER AGE EIGHTEEN WHO DO NOT USE ISSH WAIVER SERVICES.

Each DDA providing services under the requirements of Section 801 must provide the following rehabilitative and habilitative services consistent with the needs of persons under age eighteen (18) or who do not use ISSH Waiver services with developmental disabilities. These services are to be available and accessible throughout the DDA's service area. (3-20-04)

01. Eligibility Documentation. Prior to the delivery of services, current and accurate comprehensive evaluations or specific skills assessments must 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 participant's program. (3-20-04)

02. Intake. To ensure the health and safety of the participant, medical information that accurately reflects the current status and needs of the participant must be obtained prior to the delivery of services. When this information is not available, a comprehensive medical evaluation must be completed prior to the provision of services. (3-20-04)

03. Evaluations. (7-1-97)

a. Comprehensive evaluations that are completed by the agency must be conducted by qualified professionals for the respective disciplines as defined in this chapter, recommended by a physician, identify accurate, current and relevant participant strengths, needs and interests as applicable to the respective discipline, and recommend the type and amount of therapy necessary to address the participant's needs. (3-20-04)

b. Prior to the delivery of ongoing services in a specific discipline a comprehensive medical, medical/social assessment must be completed or obtained. (3-20-04)

c. Evaluation or specific skill assessments from additional disciplines such as speech and language pathologists or physical therapists, must also be completed or obtained as necessary to meet the participant's needs. (3-20-04)

d. All evaluations must be completed within forty-five (45) calendar days of the date recommended by the physician. If not completed within this time frame, the participant's records must contain participant-based documentation justifying the delay. (3-20-04)

e. A current psychological or psychiatric evaluation must be completed or obtained when the participant 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 participant has a primary or secondary diagnosis of mental illness, or when otherwise required in this chapter. (3-20-04)

f. Comprehensive evaluations and specific skill assessments completed or obtained by the DDA must be current. To be considered current, evaluations and assessments must accurately reflect the current status of the participant. (3-20-04)

04. Individual Program Plan. The DDA is required to complete an Individual Program Plan according to the following: (3-20-04)

a. The Individual Program Plan must be developed following obtainment or completion of all applicable evaluations consistent with the requirements of this chapter. (3-20-04)

b. The planning process must include the participant and guardian, if applicable, and others the individual chooses to have in attendance. The participant and guardian where applicable, will be provided a copy of

the completed individual program plan. If the participant and guardian where applicable, is unable to participate, the reason must be documented in the participant's record. (3-20-04)

05. Program Plan Components. The Individual Program Plan must promote self-sufficiency, the participant's choice in program objectives and activities and encourage the participant's participation and inclusion in the community. The Individual Program Plan must include: (3-20-04)

a. The participant's name and medical diagnosis; and (3-20-04)

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 participant's current personal goals, interests and choices; and (3-20-04)

f. An accurate, current and relevant list of the participant's specific developmental and behavioral strengths; and (3-20-04)

g. An accurate, current and relevant list of the participant's specific developmental and behavioral needs. This list will identify which needs are a priority based on the participant's choices and preferences. An Individual Program Plan objective must be developed for each priority need; and (3-20-04)

h. A list of the measurable, behaviorally stated objectives, which correspond to the list of priority needs. An Implementation Plan must be developed for each objective; and (3-20-04)

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 must 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. (3-20-04)

06. Support Documentation. The Individual Program Plan must be supported by documentation included in the participant's record. (3-20-04)

07. Frequency Of Plan Development. Members of the planning team must 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 participant. (3-20-04)

08. Physician Recommendation. It must be documented 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. (3-20-04)

09. Implementation Plan. The DDA must develop an Implementation Plan for each objective listed on the Individual Program Plan. The Implementation Plan must be completed within fourteen (14) days from the time the service was provided and include: (3-20-04)

- a. The participant's name; (3-20-04)
 - b. The measurable, behaviorally stated Individual Program Plan objective; (3-20-04)
 - c. Baseline assessment to determine the participant's specific skills and abilities related to the specific skill to be learned; (3-20-04)
 - 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, they must be individualized and revised as necessary to promote participant progress towards the stated objective; (3-20-04)
 - e. Identification of the specific location where services will be provided; and (3-20-04)
 - f. The target date for completion. (7-1-97)
- 10. Program Documentation.** Each participant's record must include documentation of the participant's participation in and response to services provided. This documentation must include at a minimum: (3-20-04)
- a. Daily entry of all activities conducted toward meeting participant objectives; and (3-20-04)
 - b. Sufficient progress data to accurately assess the participant's progress toward each objective; and (3-20-04)
 - c. A review of the data and, when indicated, changes in the daily activities or specific implementation procedures by a DDP. The review must include the DDP's dated initials. (3-20-04)
- 11. Documentation Of Program Changes.** Documentation of all changes in the Individual Program Plan or Implementation Plan must be included in the participant's record. This documentation must include at a minimum; (3-20-04)
- 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 participant and, when applicable, the participant's guardian. (3-20-04)
- 12. Records.** Each DDA licensed under these rules must maintain accurate, current and complete participant and administrative records. Each participant record must support the individual's choices, interests and needs which result in the type and amount of each service provided. Each agency must have an integrated participant records system to provide past and current information and to safeguard participant confidentiality under these rules. Each participant record must contain the following information: (3-20-04)
- a. Profile sheet containing necessary identifying information about the participant and family; and (3-20-04)
 - b. Medical/social history containing relevant medical and social history and information on the participant and family; and (3-20-04)
 - 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 participant's record must include the evaluation forms and narrative reports, signed and dated by the respective evaluators; and (3-20-04)
- 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 must be divided into program/discipline areas identified by tabs, such as, Individual Program Plan, medical, social, psychological, speech, and developmental. (3-20-04)

802. FUNDS.

Agencies which receive funds under these rules must maintain accurate records of the receipt, obligation and disbursement of funds. Reimbursement for services is contingent upon documentation in participant records which supports the need for the type and amount of each service. (3-20-04)

803. ACCESSIBILITY.

Records must be accessible during normal operation of the agency to the Department for the purpose of inspection, with or without prior notification, under Section 39-108, Idaho Code. (3-20-04)

804. REQUIRED SERVICES.

Services provided must be sufficient in quantity and quality to meet the needs of each person receiving services, and must be provided by qualified professionals for the respective disciplines defined in this chapter. The following services, individual, group, community-based and home-based must be available as recommended by the physician and based on participant needs, interests, or choices to eligible participants either by employees of the agency or through formal written agreement and must comply with all applicable rules of this chapter: (3-20-04)

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 must include the following: (3-20-04)

- a.** Individual psychotherapy; and (7-1-97)
- b.** Group psychotherapy in which there is a minimum ratio of one (1) qualified staff person for every twelve (12) individuals in group therapy; and (3-20-04)
- c.** Family-centered psychotherapy that includes the participant and at least one (1) other family member at any given time. (3-20-04)

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.** Must be provided by qualified developmental disabilities staff in accordance with objectives specified; and (3-20-04)
- b.** Therapy must 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. (3-20-04)

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

805. OPTIONAL SERVICES.

Optional services include medication consultation, psychiatric advices, and Intensive Behavioral Intervention (IBI). (3-20-04)

806. MEDICATION CONSULTATION.

Consultation for the purpose of prescribing, monitoring, or administering medications. These consultations must be provided by a physician or licensed nurse practitioner in direct face-to-face contact with the participant and incorporated into the individual plan with the type, amount, and duration of the service specified. (3-20-04)

807. PSYCHIATRIC SERVICES.

Psychiatric evaluations and services for the purpose of establishing a diagnosis, identifying participant strengths and needs, and recommending or implementing interventions to address each need. These evaluations and services must be conducted by a physician in direct face-to-face contact with the participant and incorporated into the participant's individual plan with the type, amount, and duration of service specified. (3-20-04)

808. INTENSIVE BEHAVIORAL INTERVENTION (IBI).

01. Individualized And Comprehensive Interventions. Individualized and comprehensive interventions used on a short term, one-to-one basis that have been shown to be effective and produce measurable outcomes which diminish behaviors that interfere with the development and use of language and appropriate social interaction skills or broaden an otherwise severely restricted range of interest. (3-20-04)

02. Service Availability. Intensive Behavioral Intervention is available only to children birth through age twenty-one (21) who have self-injurious, aggressive or severely maladaptive behavior and severe deficits in the following areas: (3-20-04)

- a. Verbal and nonverbal communication; or (3-20-04)
- b. Social interaction; or (3-20-04)
- c. Leisure and play skills. (3-20-04)

809. QUALIFICATIONS TO PROVIDE INTENSIVE BEHAVIORAL INTERVENTION (IBI).

A person qualified to provide or direct the provision of Intensive Behavioral Intervention (IBI) must meet the following requirements: (5-3-03)

01. Degree. A qualified IBI professional must hold at least a bachelor's degree in a health, human services, educational, behavioral science or counseling field from a nationally accredited university or college. (5-3-03)

02. Experience. An individual applying for IBI paraprofessional or professional certification must be able to provide documentation of one (1) year's supervised experience working with children with developmental disabilities. The year's experience must include one thousand (1,000) hours of direct contact or care of children with developmental disabilities in a behavioral context. (3-20-04)

03. Training And Certification. Qualified IBI professionals and paraprofessionals must complete and pass a Department-approved training course and examination for certification. The training must include a curriculum that addresses standards of competence for the provision of intensive behavioral intervention and ethical standards. Specifically, the curriculum must include: assessment of individuals, behavioral management, services or treatment of individuals, supervised practical experience, and an observation of demonstrated competencies. An individual applying for IBI professional certification or to be certified as an IBI trainer must also be able to demonstrate their competency in the provision of IBI services by passing a certification examination. A certified IBI professional who has a break in the provision of IBI services of more than one (1) year will be required to meet any additional Department requirements implemented subsequent to the individual's certification. (3-20-04)

04. Individuals Previously Certified. Beginning July 1, 2003, an individual certified as an IBI professional prior to that date must continue to be certified as an IBI professional as long as they meet the

requirements of Subsection 809.03 of these rules. (3-20-04)

05. Use Of Paraprofessionals. An aide or therapy technician who has completed Department approved training and certification may be used to provide Intensive Behavioral Intervention under the supervision of a professional who is certified by the Department to provide Intensive Behavioral Intervention. (4-5-00)

a. The agency must assure adequate professional supervision during its services hours; and (3-20-04)

b. Paraprofessionals must not conduct evaluations or establish the Implementation Plan. These activities must be conducted by a professional qualified to provide or direct the provision of Intensive Behavioral Intervention; and (3-20-04)

c. The professional must, 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 (3-20-04)

d. A professional must, 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). (3-20-04)

06. Limitation To Service Provision By A Paraprofessional. Intensive Behavioral Intervention provided by a paraprofessional is limited to ninety percent (90%) of the direct intervention time. The remaining ten percent (10%) of the direct intervention time must be provided by the professional qualified to provide or direct the provision of Intensive Behavioral Intervention. (4-5-00)

810. INITIAL PRIOR AUTHORIZATION.

Initial Intensive Behavioral Intervention services or consultation must be prior authorized by the Department. The DDA must submit evidence of each child's eligibility for Intensive Behavioral Intervention, the Implementation Plan, the number of hours of service requested, and the measurable outcomes expected as the result of the intervention. (4-5-00)

811. PROGRESS REPORTS, EVALUATION, AND CONTINUED PRIOR AUTHORIZATION.

The provider must submit a report on the child's progress toward Intensive Behavioral Intervention outcomes to the Department every one hundred twenty (120) days and seek prior authorization for continuation or modification of services. On an annual basis, a multi disciplinary treatment team that includes at a minimum, the parent(s), staff psychologist and staff providing services to the child, will review current evaluations and make a recommendation for continuation or modification of the intervention. (4-5-00)

812. PARENT AND STAFF CONSULTATION.

Professionals may provide consultation to parents and to other staff who provide therapy or care for the child in other disciplines to assure successful integration and transition from Intensive Behavioral Intervention to other therapies. (4-5-00)

813. STAFFING REQUIREMENTS FOR AGENCIES.

01. Physician. For participants whose services are governed by Section 801 of these rules, the agency must have a physician available a sufficient amount of time to: (3-20-04)

a. Review medical/social history information for the purpose of ordering appropriate evaluations; and (3-20-04)

b. Perform necessary medical assessments; and (3-20-04)

c. Review and recommend the services identified in the Individual Program Plans; and (3-20-04)

d. Participate in annual reviews of participant services to determine continued appropriateness of the plan if applicable. (3-20-04)

02. Professionals. The agency must have available, at a minimum, the qualified DDP as employees of the agency or through formal written agreement: (3-20-04)

- a.** Audiologist or speech and language pathologist; and (3-20-04)
- b.** Developmental specialist; and (3-20-04)
- c.** Occupational therapist; and (3-20-04)
- d.** Physical therapist; and (3-20-04)
- e.** Physician; and (3-20-04)
- f.** Psychologist; and (3-20-04)
- g.** Social worker. (3-20-04)

814. -- 819. (RESERVED).

820. PAYMENT PROCEDURES.

Payment for agency services must be in accordance with rates, forms, policies and procedures established by the Department. Payment for services is contingent upon documentation in each participant'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 these rules. (3-20-04)

821. COOPERATION OF SERVICES.

Each DDA must act in cooperation with other agencies providing services to participants to maximize learning. Services with which coordination and integration must occur include: (3-20-04)

01. Children's Services. DDA's must 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 under the provisions of the Individuals with Disabilities Education Act (IDEA). 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 participant's record must contain an Individualized Education Plan for each child of school age, including any recommendations for Extended School Year. The DDA must send a current copy of the child's Individual Program Plan to his school. (3-20-04)

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 these rules, all personnel employed by an agency for the purpose of providing developmental disabilities services after October 6, 1988, must be DDP's. (3-20-04)

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 must assure adequate professional supervision during its service hours; and (3-20-04)

b. There must 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 must be added, as necessary, to meet the needs of each individual served; and (3-20-04)

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 may not conduct participant evaluations or establish the Implementation Program Plan. These activities must be conducted by a DDP; and (3-20-04)

e. A professional must, 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 (3-20-04)

f. A professional must, 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). (3-20-04)

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 must be accountable for all service elements of a developmental disabilities program and must be employed on a continuous regularly scheduled basis. (3-20-04)

a. The program administrator must be a DDP as defined in these rules. (3-20-04)

b. If the administrator is not a DDP, a DDP must be employed on a continuous regularly scheduled basis and is responsible for the service elements of the developmental disabilities program; (3-20-04)

c. Either the program administrator or the DDP must have two (2) years of supervisory or management experience providing developmental disabilities services to individuals with developmental disabilities. (3-20-04)

901. VOLUNTEERS.

If volunteers are utilized, the program must establish policies and procedures governing the screening, training and utilization of volunteer workers for delivery of services. (3-20-04)

902. TRAINING.

Each agency designated under these rules must provide ongoing training for staff and volunteers. (3-20-04)

01. Annual Training. A minimum of twelve (12) hours of formal training must be provided. (3-20-04)

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 must be sufficient to ensure the following as applicable to their work assignments and responsibilities: (3-20-04)

a. Correct and consistent implementation of participant individual program plans and implementation plans, to achieve individual objectives; and (3-20-04)

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 participant performance to promote the achievement of participant objectives; and (3-20-04)
- g.** Each participant's rights, advocacy resources, confidentiality, safety and welfare; and (3-20-04)
- 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 must 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. (3-20-04)

02. Environment. The agency must be designed and equipped to meet the needs of each participant including, but not limited to, factors such as sufficient space, equipment, lighting and noise control. (3-20-04)

03. Capacity. An agency may not serve more than forty (40) persons with developmental disabilities on site at a given time. An agency may apply to the Director for a waiver under 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. (3-20-04)

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

a. Buildings on the premises used as facilities must meet all local and state codes concerning fire and life safety that are applicable to a DDA. The owner/operator must have the facility inspected at least annually by the local fire authority. In the absence of a local fire authority, such inspections must be obtained from the Idaho State Fire Marshall's office. A copy of the inspection must be made available to the licensing agency upon request and must include documentation of any necessary corrective action taken on violations cited; and (3-20-04)

b. The facility must be structurally sound and must be maintained and equipped to assure the safety of participants, employees and the public; and (3-20-04)

c. On the premises of all facilities where natural or man-made hazards are present, suitable fences, guards or railings must be provided to protect participants; and (3-20-04)

d. The premises and all buildings used as facilities must be kept free from the accumulation of weeds, trash and rubbish; and (3-20-04)

e. Portable heating devices are 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 is prohibited. All portable space heaters must be U.L. approved as well as approved by the local fire or building authority; and (3-20-04)

f. Quantities of flammable or combustible materials deemed hazardous by the licensing agency must

not be stored in the facility; and (3-20-04)

g. All hazardous or toxic substances must be properly labeled and stored under lock and key; and (3-20-04)

h. Water temperatures in areas accessed by participants must not exceed one hundred twenty (120) degrees Fahrenheit; and (3-20-04)

i. Portable fire extinguishers must be installed throughout the facility in the numbers, types and locations directed by the applicable fire authority noted in Subsection 920.04.a. of these rules; and (3-20-04)

j. Electrical installations and equipment must comply with all applicable local or state electrical requirements. In addition, equipment designed to be grounded must be maintained in a grounded condition and extension cords and multiple electrical outlet adapters must 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. (3-20-04)

k. There must be a telephone available on the premises for use in the event of an emergency. Emergency telephone numbers must be posted near the telephone; and (3-20-04)

l. Furnishings, decorations or other objects must not obstruct exits or access to exits. (3-20-04)

05. Evacuation Plans. Evacuation plans must be posted throughout the building. Plans must indicate point of orientation, location of all fire extinguishers, location of all fire exits, and designated meeting area outside of building. (3-20-04)

a. Emergency plans and training requirements: (7-1-97)

b. There must be written policies and procedures covering the protection of all persons in the event of fire or other emergencies; and (3-20-04)

c. All employees must participate in fire and safety training upon employment and at least annually thereafter; and (3-20-04)

d. All employees and participants must engage in quarterly fire drills. At least two (2) of these fire drills must include evacuation of the building; and (3-20-04)

e. A brief summary of the fire drill and the response of the employees and participants must be written and maintained on file. The summary must indicate the date and time the drill occurred, problems encountered and corrective action taken. (3-20-04)

06. Food Preparation And Storage. (7-1-97)

a. If foods are prepared in the agency, they must be prepared by sanitary methods. (3-20-04)

b. Except during actual preparation time, cold perishable foods must be stored and served under forty-five (45F) degrees Fahrenheit and hot perishable foods must be stored and served over one hundred forty (140F) degrees Fahrenheit. (3-20-04)

c. Refrigerators and freezers used to store participant lunches and other perishable foods used by participants, must be equipped with a reliable, easily-readable thermometer. Refrigerators must be maintained at forty-five (45F) degrees Fahrenheit or below. Freezers must be maintained at zero (0F) to ten (10F) degrees Fahrenheit or below. (3-20-04)

d. When meals are prepared or provided for by the agency, meals will meet the nutritional, dietary and individual needs of each participant. (3-20-04)

07. Housekeeping And Maintenance Services. (7-1-97)

a. The interior and exterior of the agency must be maintained in a clean, safe and orderly manner and must be kept in good repair; and (3-20-04)

b. Deodorizers cannot be used to cover odors caused by poor housekeeping or unsanitary conditions; and (7-1-97)

c. All housekeeping equipment must be in good repair and maintained in a clean, safe and sanitary manner; and (3-20-04)

d. The agency must be maintained free from infestations of insects, rodents and other pests; and (3-20-04)

e. The facility must maintain the temperature and humidity within a normal comfort range by heating, air conditioning or other means. (3-20-04)

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 must develop policies and procedures which describe how the agency will assure that staff is free from communicable disease and how it will protect participants from exposure to other individuals exhibiting symptoms of illness. (3-20-04)

02. Employees. Each employee with direct contact with participants must be free of communicable disease and infected skin lesions while on duty. (3-20-04)

03. Handling Of Participant's Medications. Personnel of the agency must not administer medications unless legally authorized to do so. Personnel may assist the participant to take his own medication under the following conditions: (3-20-04)

a. The medication must be brought by the participant in a prepackaged container which is appropriately labeled with the name of the medication, dosage and time and amount to be taken. Each medication must be packaged separately to avoid mistakes in identification unless packaged in Medisets or a similar system. (3-20-04)

b. Only licensed nurses and other professionals legally authorized to administer medications may give participants injectable medications. (3-20-04)

c. Medications may not be given except under the verbal or written orders of a physician. Evidence of the written or verbal order must be maintained in the participant's record. Medisets labeled by a pharmacist and supplied to the participant 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. (3-20-04)

d. The agency is responsible for the safeguarding of the participant's medications while he is at the agency or in the community. (3-20-04)

e. Medications that are no longer used by the participant must not be retained by agency staff. These must be returned to the pharmacist, the participant, or the person responsible for the participant's home care.

(3-20-04)

- f. Medications prescribed for one (1) participant may not be shared with other participants. (3-20-04)

04. Accident/Injury Reports. Accident/injury reports must be completed for all such incidents experienced by participants receiving services. (3-20-04)

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 must be accessible, safe and appropriate for each participant. (3-20-04)

02. Environment. The community-based setting must be designed and equipped to meet the needs of each participant including, but not limited to, factors such as sufficient space, equipment, lighting, and noise control. (3-20-04)

03. Training Group Size Sessions. The community-based services must occur in integrated inclusive settings and with no more than three (3) participants per trainer at each training session. (3-20-04)

923. ANNUAL PROGRESS REPORT AND PLAN.
By June 30 of each year, each DDA must submit an annual progress report and plan covering the current fiscal year to the state developmental disability authority. (3-20-04)

924. STATE PLAN.
Each agency is 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. (3-20-04)

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 participant needs, discriminate against any individual on the basis of race, color, national origin, religion, gender, age, or physical/mental disability. (3-20-04)

926. -- 999. (RESERVED).

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