

IDAPA 16 – IDAHO DEPARTMENT OF HEALTH AND WELFARE

Division of Licensing and Certification

16.03.21 – Developmental Disabilities Agencies (DDA)

Who does this rule apply to?

Developmental Disabilities Agencies in Idaho.

What is the purpose of this rule?

- a. The certification of Developmental Disabilities Agencies that provide services to persons with developmental disabilities;*
- b. The provision for services to individuals who meet minimum eligibility criteria; and*
- c. All agencies that meet the definition of a Developmental Disabilities Agency (DDA) must be certified by the Department.*

What is the legal authority for the agency to promulgate this rule?

This rule implements the following statute passed by the Idaho Legislature:

Health and Safety -

- [Section 39-4605, Idaho Code](#) – Idaho Developmental Disabilities Services and Facilities Act: Duties of the Department

Where can I find information on Administrative Appeals?

Administrative appeals and contested cases are governed by the provisions of IDAPA 16.05.03, “Contested Case Proceedings and Declaratory Rulings.”

How do I request public records?

Unless exempted, all public records are subject to disclosure by the Department that will comply with Title 74, Chapter 1, Idaho Code, upon requests. Confidential information may be restricted by state or federal law, federal regulation, and IDAPA 16.05.01, “Use and Disclosure of Department Records.”

Who do I contact for more information on this rule?

Idaho Department of Health and Welfare
Developmental Disabilities Agencies (DDA) Certification Program
450 W. State Street,
Boise, ID 83702

Attn: DDA Certification Program

P.O. Box 83720

Boise, ID 83720-0009

Phone: Local (208) 364-1906 or Toll-Free (877) 457-2815

Division of Licensing and Certification: (208) 364-1959

Fax: (208) 364-1888

Email: DDARH@dhw.idaho.gov

Webpage: <https://healthandwelfare.idaho.gov/providers/developmental-disabilities-residential-facilities/developmental-disabilities-agencies>

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16.03.21 – DEVELOPMENTAL DISABILITIES AGENCIES (DDA)

000. LEGAL AUTHORITY.

Section 39-4605, Idaho Code, authorizes the Idaho Board of Health and Welfare to adopt rules and standards of certification for Developmental Disabilities Agencies to promote the health and safety of participants. (3-17-22)

001. SCOPE.

These rules govern: (3-17-22)

01. Certification. The granting, denial, or revocation of certification is based on whether agencies are adequate for the health, safety, and the care, treatment, maintenance, training, and support of participants under these rules. (3-17-22)

02. Application. Any person, corporation, or association may apply to the Department for approval and certification of the applicant's DDA. (3-17-22)

002. -- 008. (RESERVED)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Verification of Compliance. The agency must verify that all employees, subcontractors, agents of the agency, and volunteers delivering DDA services have complied with IDAPA 16.05.06, "Criminal History and Background Checks." (3-17-22)

02. Reporting Criminal Convictions, Pending Investigations, or Pending Charges. Once an employee, subcontractor, agent of the agency, or volunteer delivering DDA services has received a criminal history clearance, any additional criminal convictions, pending investigations, or pending charges must be reported to the Department as listed in IDAPA 16.05.06, "Criminal History and Background Checks," Subsections 210.01 and 02 by the close of the next business day when the agency learns of the convictions, investigations, or changes. (3-17-22)

010. DEFINITIONS -- A THROUGH Z.

For the purposes of this chapter of rules, the following terms apply. (3-17-22)

01. ADA. The "Americans with Disabilities Act Accessibility Guidelines," under 28 CFR Part 36, Appendix A. (3-17-22)

02. Center-Based Services. Services provided in a location under control of the agency through ownership or lease agreement that meets requirements under Section 400 of these rules. (3-17-22)

03. Communicable Disease. A disease that may be transmitted from one (1) person or animal to another person either by direct contact or through an intermediate host, vector, inanimate object, or other means that may result in infection, illness, disability, or death. (3-17-22)

04. Deficiency. A determination of non-compliance with a specific rule or part of rule. (3-17-22)

05. Department. The Idaho Department of Health and Welfare. (3-17-22)

06. Developmental Disability. A developmental disability, defined in Section 66-402, Idaho Code. (3-17-22)

07. Developmental Disability Agency (DDA). A business entity, also known as "agency," that meets the definition of a developmental disabilities facility provided in Section 39-4604(3), Idaho Code, that is certified by the Department to provide services to individuals with developmental disabilities under these rules. (3-17-22)

08. Health Care Professional. An individual licensed to provide health care within their respective discipline and scope of practice. (3-17-22)

09. Implementation Plan. A plan that details how goals from the plan of service will be accomplished. (3-17-22)

10. Natural Setting. The environment where an activity or behavior naturally occurs that is typical for peers of the participant's age, such as the home and community, where the participant lives or participates in activities, and in the service environment indicated. (3-17-22)

11. Participant. An individual receiving services through a DDA. (3-17-22)

12. Plan of Service. An initial annual plan, or addendum that identifies all services, supports, or both, if applicable. (3-17-22)

13. Repeat Deficiency. A violation or deficiency found on a resurvey or revisit to a DDA that was also found during the previous survey or visit. (3-17-22)

14. Survey. A review conducted by the Department to determine compliance with statutes and rules. (3-17-22)

011. -- 074. (RESERVED)

SERVICES PROVIDED BY DEVELOPMENTAL DISABILITIES AGENCIES

Sections 075-099

075. DDA SERVICES.

A DDA provides services that include evaluation, diagnostics, skill development, intervention, and support services that are provided in the community, home, or center to individuals eligible to receive services. (3-17-22)

076. -- 099. (RESERVED)

CERTIFICATION REQUIREMENTS FOR DEVELOPMENTAL DISABILITIES AGENCIES

Sections 100-299

100. TYPES OF CERTIFICATES ISSUED.

The Department issues certificates in effect for a period no longer than three (3) years. The types of certificates issued are as follows: (3-17-22)

01. Initial Certificate. When the Department determines application requirements have been met, an initial certificate is issued for a period of up to six (6) months from the initiation of services. The Department will survey the agency prior to the certificate expiration date to ensure substantial compliance with these rules. When the agency is determined to be in substantial compliance, a one (1) year certificate will be granted. (3-17-22)

02. One-Year Certificate. A one (1) year certificate is issued by the Department when it determines the agency is in substantial compliance with these rules, following an initial or provisional certificate, or when there may be areas of deficient practice that would impact the agency's ability to provide adequate care. An agency is prohibited from receiving consecutive one (1) year certificates. (3-17-22)

03. Three-Year Certificate. A three (3) year certificate is issued by the Department when it determines the agency requesting certification is in substantial compliance with these rules. (3-17-22)

04. Provisional Certificate. When an agency is found to be out of substantial compliance with these rules but does not have deficiencies that jeopardize the health or safety of participants, a provisional certificate may be issued by the Department for up to a six (6) month period. (3-17-22)

a. A provisional certificate is issued contingent upon the correction of deficiencies under a plan developed by the agency and approved by the Department. (3-17-22)

b. Before the end of the provisional certification period, the Department will determine whether areas of concern have been corrected and whether the agency is in substantial compliance with these rules. (3-17-22)

c. If the Department determines the agency is in compliance, a one (1) year certificate will be issued. If the agency is determined to be out of compliance, the certificate will be revoked. (3-17-22)

101. APPLICATION FOR INITIAL CERTIFICATION.

01. Certification Required. Before any agency can operate and provide services as a DDA, it must apply for, obtain, and maintain DDA certification from the Department. (3-17-22)

02. Department Review Not Guaranteed. The Department may choose not to consider the application of any operator, administrator, or owner of an agency whose license or certification has been revoked until five (5) years have lapsed from the date of revocation. (3-17-22)

03. Open Application. An applicant may apply up to three (3) times within a three hundred sixty-five (365) day period starting on the date of the first submission. If the application is incomplete upon a third submission, the application will be denied. The applicant may not resubmit an application for six (6) months from the date of the denial notice. (3-17-22)

04. Content of Application for Certification. Application for certification must be submitted to the Department on the Department-approved form with the following information and supporting documents at least sixty (60) days prior to the planned opening: (3-17-22)

a. An application form that contains name, address, and telephone number of the agency, type of services to be provided, the geographic service area of the agencies, and the anticipated date for the initiation of services; (3-17-22)

b. An accurate and complete statement of all business names of the agency as filed with the Secretary of State, whether it is an assumed business name, partnership, corporation, limited liability company, or other entity that identifies each owner and the management structure of the agency; (3-17-22)

c. A statement that the agency will comply with these rules and all other applicable local, state, and federal requirements, including an assurance that the agency complies with pertinent state and federal requirements governing equal opportunity and nondiscrimination; (3-17-22)

d. A copy of the proposed organizational chart or plan for staffing of the agency; (3-17-22)

e. Written policies and procedures addressing qualifications to meet service delivery requirements including resumes, job descriptions, verification of criminal history clearance, and copies of state licenses and certificates, when applicable; (3-17-22)

f. Written policies and procedures for the development and implementation of personnel training to meet the requirements of Section 302 of these rules; (3-17-22)

g. Personnel and participant illness policy, communicable disease policy, and other health-related policies and procedures; (3-17-22)

h. Written transportation safety policies and procedures required in Section 402 of these rules; (3-17-22)

i. Written participant grievance policies and procedures to meet requirements in Section 406 of these rules; (3-17-22)

j. Written medication policies and procedures to address medication standards to meet requirements in Section 405 of these rules; (3-17-22)

k. Written policies and procedures that address the development of positive behavior supports to meet requirements in Section 510 of these rules; (3-17-22)

- l.** Written policies and procedures for reporting incidents to the adult protection, child protection authority, or both, and to the Department to meet requirements in Section 404 of these rules; (3-17-22)
- m.** A written code of ethics policy reflecting nationally recognized professional standards of practice. The policy must articulate basic values, ethical principles and standards for confidentiality, conflict of interest, exploitation, and inappropriate boundaries in an agency's relationship with participants, relatives, or with other agencies; (3-17-22)
- n.** Complete administrator and supervisor records as required in Subsection 301.04 of these rules; (3-17-22)
- o.** Sample of the following documents: (3-17-22)
 - i.** Complete participant record as required in Subsection 301.05 of these rules; (3-17-22)
 - ii.** Program billing; (3-17-22)
 - iii.** Quality assurance program developed to meet requirements in Section 500 of these rules; (3-17-22)
 - iv.** All documents referenced in the application. (3-17-22)
- p.** Any other information requested by the Department for determining the agency's compliance of these rules or the agency's ability to provide the services for which certification is requested; (3-17-22)
- q.** When center-based services are to be provided, the agency must include the following and meet requirements under Section 400 of these rules: (3-17-22)
 - i.** Address and telephone number for each service location; (3-17-22)
 - ii.** Supporting documentation requirements including the ADA checklist, local fire safety inspection, and local building and zoning compliance; (3-17-22)
 - iii.** Written policies and procedures covering the protection of all individuals in the event of fire and other emergencies to include emergency evacuation procedures; and (3-17-22)
 - iv.** A site review completed by the Department prior to the initiation of center-based services verifying compliance with these rules. (3-17-22)

102. -- 109. (RESERVED)

110. DEPARTMENT'S WRITTEN DECISION REGARDING APPLICATION FOR CERTIFICATION.
The Department will provide to the agency, within thirty (30) days of the date the completed application packet is received, a written decision regarding certification. An application is considered completed when all required documents are received and comply with these rules. (3-17-22)

111. DENIAL OF AN APPLICATION.
The Department may deny any application. (3-17-22)

- 01. Causes for Denial.** Causes for denial of an application may include: (3-17-22)
 - a.** The application does not meet rule requirements in Subsection 101.04 of these rules; (3-17-22)
 - b.** The applicant, owner, operator, or provider has: (3-17-22)
 - i.** Willfully misrepresented or omitted information on the application or other documents pertinent to obtaining a certificate; (3-17-22)

ii. Been denied or has had revoked any license or certificate for a DDA, facility, certified family home, or residential habilitation agency; or (3-17-22)

iii. Been convicted of operating an unlicensed or uncertified DDA, facility, certified family home, or residential habilitation agency; (3-17-22)

iv. A court order that mandates the applicant must not operate a DDA, facility, certified family home, or residential habilitation agency; (3-17-22)

v. An action, either current or in process, against a certificate held by the applicant either in Idaho or any other state or jurisdiction. (3-17-22)

02. Before Denial is Final. The Department will advise the individual or provider in writing of the denial and their right and method to appeal. Contested case hearings, including denial and revocation, must be conducted under IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." (3-17-22)

112. -- 114. (RESERVED)

115. CHANGES THAT REQUIRE REPORTING.

01. Notification To The Department. (3-17-22)

a. When a change of a certified agency's ownership, administrator, geographic service area, or address is contemplated, the owner or designee must notify the Division of Licensing and Certification in writing through the Department-approved process. (3-17-22)

02. Center-Based Services. When an agency plans to provide center-based services in a new physical location, on a temporary or permanent basis, the Department will conduct a site review within thirty (30) days after the agency has relocated. Included with the notification required under this rule, the agency must provide: (3-17-22)

a. Evidence of review and approval by the local fire and building authorities, including issuance of occupancy permit; (3-17-22)

b. A checklist that verifies compliance with the ADA requirements and Subsection 400.01 of these rules.; and (3-17-22)

c. Written policies and procedures covering the protection of all individuals in the event of fire and other emergencies to include emergency evacuation procedures. (3-17-22)

03. Updated Certificate Necessary. To continue operation after any such anticipated change, the DDA must receive an updated certificate from the Department that reflects the change(s). An agency that fails to notify the Department of such changes is operating without a certificate. (3-17-22)

04. New Ownership. For new ownership, the new owner must submit a new application to the Division of Licensing and Certification through the approved process at least sixty (60) days prior to the proposed date of change under Section 101 of these rules. (3-17-22)

116. CERTIFICATE NOT TRANSFERABLE.

The certificate is issued only to the agency named in the application, for the period specified, and for the location indicated in the application, and to the owners or operators as expressed on the application submitted to the Department. The certificate may not be transferred or assigned to any other person or entity. The certificate is nontransferable from one (1) location to another. (3-17-22)

117. RESTRICTION ON CERTIFICATION.

A business entity established by a parent for the sole purpose of providing DDA services to their own child cannot be certified as a DDA. (3-17-22)

118. AVAILABILITY OF CERTIFICATE.

The certificate must be posted in a conspicuous location in the DDA where it may be seen readily by the participants and members of the public. (3-17-22)

119. AGENCIES APPROVED THROUGH NATIONAL ACCREDITATION.

Agencies approved by national accrediting bodies must maintain Department certification requirements in the following: (3-17-22)

- 01. The Current Accreditation Verification or Report.** (3-17-22)
- 02. Criminal History Background Check Requirements.** See Section 009 of these rules; (3-17-22)
- 03. Personnel Records.** See Subsection 301.04 of these rules; (3-17-22)
- 04. General Training Requirements.** See Section 302 of these rules; and (3-17-22)
- 05. Facility Standards for Agencies Providing Center-Based Services.** See Section 400 of these rules. (3-17-22)

120. RENEWAL AND EXPIRATION OF THE CERTIFICATE.

01. Renewal Request. An agency must request renewal of its certificate no less than ninety (90) days before the expiration date of the certificate, to ensure there is no lapse in certification. (3-17-22)

02. Expiration Without Timely Request for Renewal. Expiration of a certificate without a timely request for renewal automatically rescinds the agency's certificate to deliver services under these rules. If an agency's certificate is rescinded, a new application for certification must be submitted to deliver services under these rules. (3-17-22)

121. -- 299. (RESERVED)

GENERAL AGENCY QUALIFICATIONS AND REQUIREMENTS
Sections 300-399

300. GENERAL STAFFING REQUIREMENTS FOR AGENCIES.

Each DDA is accountable for all operations, policy, procedures, and service elements of the agency. (3-17-22)

01. Agency Administrator Qualifications. The agency administrator must have two (2) years of supervisory experience with the population served in an administrative role. An administrator may designate a qualified individual to perform administrative functions on their behalf. (3-17-22)

02. Agency Administrator Duties. An agency administrator is accountable for the overall operations of the agency, including ensuring compliance with these rules, overseeing and managing personnel, developing and implementing written policies and procedures, and overseeing the agency's quality assurance program. (3-17-22)

03. Supervisor Qualifications. The agency must have documentation that ensures personnel acting in a supervisory capacity meets qualifications as required by the payer source for the service provided. The agency administrator and supervisor can be the same individual if the agency can meet requirements of each duty. (3-17-22)

04. Supervisor Duties. (3-17-22)

a. Complete or obtain participant assessments and plans according to the authorized plan of service. (3-17-22)

b. Provide personnel initial direction, procedural guidance, and monthly supervision of work performed to ensure programs are implemented as written and demonstrate the necessary skills to provide the services. (3-17-22)

05. Direct Service Provider (DSP) Qualifications. A person qualified to provide services must meet the qualifications prescribed for the type of services to be rendered and training requirements of Section 302 of these rules. (3-17-22)

06. DSP Duties. Perform tasks as assigned under the direction of a supervisor. Tasks may not be assigned that require specific certification or licensure. (3-17-22)

07. Parent or Legal Guardian of Participant. A DDA may not hire the parent or legal guardian of a participant to provide services to the parent's or legal guardian's child. (3-17-22)

08. Volunteer Workers in a DDA. If volunteers are utilized, the agency must establish written policies and procedures governing the screening, training, and utilization of volunteer workers. If a volunteer is working directly with participants, they must meet the qualifications, training, and record requirements of a DSP. (3-17-22)

301. AGENCY RECORD REQUIREMENTS.

01. Accessibility of Agency Records. The agency records required under these rules must be accessible to the Department during normal operations of the agency for the purpose of inspection and copying, with or without prior notification, under Section 39-4605(4), Idaho Code. (3-17-22)

02. General Record Requirements. Each agency certified under these rules must maintain accurate, current, and complete administrative, personnel, and participant records for at least five (5) years. (3-17-22)

03. Administrative Records. Records must include: (3-17-22)

- a.** An organizational chart; (3-17-22)
- b.** Legal authority identified in organizational bylaws or other documentation of legal authority of ownership; and (3-17-22)
- c.** Fiscal records verifying service delivery prior to request for payment. (3-17-22)

04. Personnel Records. Records must include: (3-17-22)

- a.** Name, current address, and phone number of the employee; (3-17-22)
- b.** Documentation supporting qualifications to carry out assigned duties; (3-17-22)
- c.** Verification of satisfactory completion of criminal history checks under IDAPA 16.05.06, "Criminal History and Background Checks." (3-17-22)
- d.** Date of Employment; (3-17-22)
- e.** Documentation of training under Section 302 of these rules; (3-17-22)
- f.** Evidence of current age-appropriate CPR and first aid certifications; (3-17-22)
- g.** Current assistance with medications certification, if applicable; (3-17-22)
- h.** Other current certifications, as applicable; (3-17-22)
- i.** Obtain and maintain documentation of licenses and certifications for drivers and vehicles under public transportation laws, regulations, and ordinances that apply to the agency to conduct business and to operate the types of vehicles used to transport participants; (3-17-22)
- j.** Continuously maintain liability insurance that covers all passengers and meets the minimum

liability insurance requirements under Idaho law. The agency will ensure that liability insurance coverage is carried to cover circumstances when an employee transports participants in their personal vehicle; and (3-17-22)

- k.** Date and reason for termination, if applicable. (3-17-22)

05. Participant Records Requirements. Each agency must have an organized participant records system to provide past and current information and to safeguard participant confidentiality under these rules that contain the following: (3-17-22)

- a.** Clear documentation of the date, time, duration, and type of service with credentialed signature and corresponding initials of the individual providing the service, for each service provided. (3-17-22)

- b.** Profile sheet containing the following information: (3-17-22)

- i.** Current living arrangement; (3-17-22)
 - ii.** Complete address and contact information for the participant, guardian (if applicable), emergency contacts, and physician; (3-17-22)

- iii.** Current medications and allergies; and (3-17-22)

- iv.** Special dietary or medical needs. (3-17-22)

- c.** Notification of rights, access to grievance procedures, and the names, addresses, and telephone numbers of protection and advocacy services; (3-17-22)

- d.** Authorized plan of service for the participant; (3-17-22)

- e.** Assessments from a health care professional, if relevant or needed for service provision due to medical or behavioral condition; (3-17-22)

- f.** An evaluation to be completed by a qualified supervisor or obtained by the agency, if applicable; (3-17-22)

- g.** Implementation plans, as applicable; (3-17-22)

- h.** Written documentation that identifies the participant's progress toward goals defined on their plan of service; and (3-17-22)

- i.** Incident reports under Section 404 of these rules. (3-17-22)

302. GENERAL TRAINING REQUIREMENTS.

Each DDA must ensure that all training of staff is completed as follows: (3-17-22)

01. Initial and Annual Training. Prior to working with participants and annually thereafter, direct service providers are to complete: (3-17-22)

- a.** Safety training to include location based structural and environmental risks, and natural disasters; (3-17-22)

- b.** Abuse, neglect, and exploitation training covering definitions and reporting requirements; (3-17-22)

- c.** Agency adopted ethical standards; (3-17-22)

- d.** Participant's rights, advocacy resources, and confidentiality; and (3-17-22)

e. For center-based services, fire training to include policies and procedures, fire drills, and emergency evacuation plans. (3-17-22)

02. Participant-Sufficient Training. (3-17-22)

a. Prior to working alone with participants, DSPs will receive basic introductory review of participant information to provide services and supports, to include the following: (3-17-22)

i. Participant's profile sheet; (3-17-22)

ii. Correct and appropriate use of assistive technology used by participants; and (3-17-22)

iii. Special, medical, or health requirements. (3-17-22)

b. Supervisor will provide or ensure training provided by a designee on the following, as applicable: (3-17-22)

i. Instructional techniques including correct and consistent implementation of the participant's implementation plan or plan of service; (3-17-22)

ii. Managing behaviors including techniques and strategies for teaching adaptive behaviors; and (3-17-22)

iii. Accurate record keeping and data collection procedures; (3-17-22)

03. Certification Training. (3-17-22)

a. Prior to working alone with participants, personnel receive age-appropriate certification in CPR and first aid, and maintain current certification thereafter; and (3-17-22)

b. Personnel assisting with participant medications successfully complete the assistance with medications training course available through an Idaho college or university; (3-17-22)

c. Personnel that implement physical restraints receive and maintain certification in a nationally recognized physical intervention strategy. (3-17-22)

04. Ongoing Training. The supervisor provides and ensures ongoing training of DSPs when there are changes that impact services or supports including: (3-17-22)

a. Participant's plan of service and corresponding implementation plans, as applicable; and (3-17-22)

b. Participant's physical, medical, and behavioral status. (3-17-22)

303. -- 399. (RESERVED)

FACILITY, SAFETY, AND HEALTH STANDARDS
Sections 400-499

400. FACILITY STANDARDS FOR AGENCIES PROVIDING CENTER-BASED SERVICES. When an agency is providing center-based services they must meet the following: (3-17-22)

01. Accessibility. Agencies designated under these rules must be responsive to the needs of individuals receiving services and accessible to individuals with disabilities as defined in Section 504 of the federal Rehabilitation Act, the ADA, and the uniform federal accessibility standard. The DDA must submit a completed checklist to the Department with the application for certification to verify compliance with the ADA requirements. (3-17-22)

02. Environment. The facilities of the agency must be designed and equipped to meet the needs of each participant including factors such as sufficient space, equipment, lighting, and noise control. (3-17-22)

03. Fire and Safety Standards. Center-based locations must: (3-17-22)

a. Meet all local and state codes concerning fire and life safety that are applicable to a DDA through annual inspection by the local fire authority or Idaho State Fire Marshal's office as required by local, city, or county ordinances, documented with inspection results and corrective actions taken on violations cited; (3-17-22)

b. Provide suitable fences, guards, or railings to protect participants on the premises where natural or man-made hazards are present; (3-17-22)

c. Remove the accumulation of weeds, trash, and rubbish; (3-17-22)

d. Limit and use of portable heating devices that have heating elements to not more than two hundred twelve degrees Fahrenheit (212°F), certified by Underwriters Laboratories, and approved by the local fire or building authority; (3-17-22)

e. Properly label and store all hazardous or toxic substances under lock and key; (3-17-22)

f. Maintain water temperatures in areas accessed by participants at one hundred twenty degrees Fahrenheit (120°F) or below; and (3-17-22)

g. Have a telephone available on the premises with emergency numbers near the telephone for use in the event of an emergency. (3-17-22)

04. Evacuation Plans. Evacuation plans must be posted throughout the center and indicate point of orientation, location of all fire extinguishers, location of all fire exits, and designated meeting area outside of the building. (3-17-22)

05. Fire Drills. The DDA must conduct and document quarterly fire drills. and meet the following: (3-17-22)

a. At least two (2) times each year these fire drills will include complete evacuation of the building; and (3-17-22)

b. A brief summary of each fire drill conducted, written, and maintained on file indicating the date, time, and duration the drill occurred, participants and personnel participating, problems encountered, and corrective action(s) taken. (3-17-22)

06. Food Safety and Storage. (3-17-22)

a. When the agency provides food service for participants and meets the definition of a "food establishment," in Section 39-1602, Idaho Code, the agency must comply with IDAPA 16.02.19, "Idaho Food Code." Compliance is verified through inspection by the local District Health Department. (3-17-22)

b. Refrigerators and freezers used to store participant foods will be maintained at or below forty-one degrees Fahrenheit (41°F), and ten degrees Fahrenheit (10°F) respectively, and in good repair. (3-17-22)

c. When medicines requiring refrigeration are stored in a food refrigerator, medicines must be stored in a package and kept inside a covered, leak-proof container that is clearly identified as a container for the storage of medicines. (3-17-22)

07. Housekeeping and Maintenance Services. The agency must meet the following: (3-17-22)

a. Maintain the interior and exterior of the center be maintained in a clean, safe, and orderly manner and kept in good repair; (3-17-22)

b. Not use deodorizers to cover odors caused by poor housekeeping or unsanitary conditions; (3-17-22)

c. Ensure the agency is free from infestations of insects, rodents, and other pests; and (3-17-22)

d. Maintain the temperature and humidity of the agency within a normal comfort range by heating, air conditioning, or other means. (3-17-22)

401. SETTING REQUIREMENTS.

The service setting must meet the needs of the participant as follows: (3-17-22)

01. Accessibility. Be accessible, safe, and appropriate. (3-17-22)

02. Environment. Be assessed to meet the needs of each participant including factors such as sufficient space, equipment, lighting, and noise control. (3-17-22)

03. Promote Inclusion. Promote the participant's inclusion in the natural setting. (3-17-22)

402. TRANSPORTATION POLICY.

Each agency must develop and implement transportation policies that include the following: (3-17-22)

01. Preventative Maintenance Program. Establish a preventive maintenance program for each agency-owned or leased vehicle, including vehicle inspections and other regular maintenance to ensure participant safety. (3-17-22)

02. Adequate Staffing. Ensure adequate staffing for participants who require additional supervision during transportation for the safety of all vehicle occupants. (3-17-22)

03. Licenses, Certifications, and Insurance for Drivers and Vehicles. Ensure adequate insurance coverage to protect the individuals utilizing agency transportation. This may include commercial vehicle insurance and employee vehicle insurance coverage. Obtain and maintain licenses, certifications, and insurance for drivers and vehicles required by public transportation laws, regulations, and ordinances. (3-17-22)

04. Laws, Rules, and Regulations. Adhere to all laws, rules, and regulations applicable to drivers and types of vehicles used. (3-17-22)

403. HEALTH POLICY.

Each DDA must develop and implement policies and procedures that: (3-17-22)

01. Ensure Personnel are Disease-Free. Describe how the agency will ensure that personnel are free from communicable disease; (3-17-22)

02. Protect Participants. Describe how the agency will protect participants from exposure to individuals exhibiting symptoms of illness. (3-17-22)

03. Medication Standards. Implement medication requirements under Section 405 of these rules. (3-17-22)

04. Address Needs of Participants. Address any special medical or health care needs of participants as relevant to service delivery. (3-17-22)

404. AGENCY REPORTING POLICY.

Each agency must develop and implement written policies and procedures outlining how the agency will document reporting and other communications for the following requirements: (3-17-22)

01. Incident Reports. Document all participant incidents that occur during service delivery and affect

the ability to participate in services. Each report will document that the participant's legal guardian has been notified within twenty-four (24) hours. A documented review by the agency of all incident reports will be completed at least annually with written recommendations and retained by the agency for five (5) years. (3-17-22)

02. Reporting Requirements. Any agency employee, contractor, or volunteer will report all suspected incidents and allegations of mistreatment, abuse, neglect, or exploitation to the administrator, adult or child protection authorities, or law enforcement under Sections 39-5303 and 16-1605, Idaho Code. The agency will protect the participant from the possibility of abuse during services while the investigation is in progress. The administrator will ensure the events and the agency response to the events are documented in the participant record. (3-17-22)

03. Reporting Incidents to the Department. Through a Department-approved process, the agency administrator or designee must notify the Division of Licensing and Certification by the close of the next business day of any significant incidents that occur to the participant during service hours including: (3-17-22)

- a. Death; (3-17-22)
- b. Hospitalization; (3-17-22)
- c. Participant's arrest or incarceration; or (3-17-22)
- d. When staff actions result in a report to protective or legal authorities. (3-17-22)

405. MEDICATION POLICY.

Each agency must develop and implement written medication policies and procedures that outline in detail how the agency will ensure appropriate handling and safeguarding of medications. If the agency chooses to assist participants with medications, the agency must also develop and implement specific policies and procedures to ensure assistance is safe and delivered by qualified, fully-trained personnel. (3-17-22)

01. Handling of Participant's Medication. The agency must: (3-17-22)

a. Maintain that medication is in the original pharmacy-dispensed container, original over-the-counter container, or placed in a unit container (by a licensed nurse) appropriately labeled with the name of the medication, dosage, time to be taken, route of administration, and any special instructions. Each medication will be packaged separately, unless in a Mediset, blister pack, or similar system. (3-17-22)

b. Maintain evidence of the written or verbal order for the medication from the health care professional in the participant's record. Medisets filled and labeled by a pharmacist or licensed nurse can serve as written evidence of the order. An original prescription bottle labeled by a pharmacist describing the order and instructions for use can also serve as written evidence of an order from the health care professional. (3-17-22)

c. Be responsible to safeguard the participant's medications while the participant is at the agency or in the community. (3-17-22)

d. Not retain medications that are no longer used by the participant for longer than thirty (30) calendar days. (3-17-22)

02. Self-Administration of Medication. Written approval is required when the participant is responsible for administering their own medication without assistance, stating the participant's health care professional has evaluated the participant's ability to self-administer medication, and has found that the participant: (3-17-22)

- a. Understands the purpose of the medication; (3-17-22)
 - b. Knows the appropriate dosage and times to take the medication; (3-17-22)
 - c. Understands expected effects, adverse reactions or side effects, and action to take in an emergency; (3-17-22)
- and

- d. Is capable of taking the medication without assistance. (3-17-22)

03. Assistance with Medication. An agency may assist participants with medications; however, only a health care professional may administer medications. Prior to unlicensed agency personnel assisting participants with medication, the following conditions must be in place: (3-17-22)

a. Personnel assisting with participant medications successfully complete the assistance with medications training course available through an Idaho college or university; (3-17-22)

b. The participant's health condition is stable; (3-17-22)

c. The participant's health status does not require nursing assessment before receiving the medication or nursing assessment of the therapeutic or side effects after the medication is taken; (3-17-22)

d. The medication is in the original pharmacy-dispensed container with proper label and directions, in an original over-the-counter container, or the medication has been placed in a unit container by a licensed nurse. Proper measuring devices will be available for liquid medication that is poured from a pharmacy-dispensed container; (3-17-22)

e. Written and oral instructions from a physician, practitioner of the healing arts, health care professional, pharmacist, or nurse concerning the reason(s) for the medication, the dosage, expected effects, adverse reactions, side effects, and action to take in an emergency have been reviewed. (3-17-22)

f. Written instructions are in place that outline required documentation of assistance including the following: (3-17-22)

i. Name of the participant; (3-17-22)

ii. Name and dosage of the medication given; (3-17-22)

iii. Time and date the medication was given; (3-17-22)

iv. Initials of individual assisting with medication that can be verified with matching signature; (3-17-22)

v. Documentation of medication errors to include any dose not taken, incorrect medication taken, overdose occurrence, or side effects observed; (3-17-22)

vi. Health care professional contacted to determine the level of threat to the individual's health and determine the treatment required, if any; and (3-17-22)

vii. Documentation of corrective action taken and results. (3-17-22)

g. Procedures for disposal or destruction of medications must be documented and consistent with procedures outlined in the assistance with medication training course. (3-17-22)

406. GRIEVANCE POLICY.

Each DDA must develop and implement written grievance policies and procedures that outline in detail the agency's grievance policy. The policy must include how the agency will ensure participant and guardian are aware of the process, how to file a grievance, and receive a response from the agency in fourteen (14) days or less. (3-17-22)

407. – 499. (RESERVED)

QUALITY ASSURANCE, PARTICIPANT RIGHTS, REQUIRED POLICIES, ETC.
Sections 500-599

500. REQUIREMENTS FOR AN AGENCY'S QUALITY ASSURANCE PROGRAM.

Each agency must develop and implement a quality assurance program that identifies any corrections needed, a time frame for those corrections, and ensures the following: (3-17-22)

01. Measurable Outcomes. Produces high quality services that maintain interests, needs, and current standards of practice consistent with individual choices. This includes: (3-17-22)

- a.** Review of participant records, for content and effectiveness of programs; and (3-17-22)
- b.** A method for gathering and assessing participant satisfaction; (3-17-22)

02. Available Personnel and Resources. Sufficient personnel and material resources are available to meet the needs of each individual served to include a review of: (3-17-22)

- a.** Personnel records for content. (3-17-22)
- b.** Supervision and training data to ensure there are personnel who have the skills necessary to provide the service. (3-17-22)
- c.** Work scheduled to assure coverage. (3-17-22)

03. Health and Safety Supports. The overall agency practices are within rule and support participant health and safety to include a review of: (3-17-22)

- a.** Code of ethics, identification of violations, and implementation of an internal plan of correction; (3-17-22)
- b.** Policy and procedure manual to specify date and content of revisions made; (3-17-22)
- c.** Center-based facilities, if applicable, to ensure compliance with these rules. (3-17-22)

501. -- 504. (RESERVED)

505. PARTICIPANT RIGHTS.

Each agency must ensure the rights provided under Section 66-412, Idaho Code, as well as the additional rights listed below for each participant receiving DDA services. (3-17-22)

01. Participant Rights Provided Under Idaho Code. Provide the following rights for participants: (3-17-22)

- a.** Humane care and treatment; (3-17-22)
- b.** Not be put in isolation; (3-17-22)
- c.** Be free of restraints, unless necessary for the safety of that individual or for the safety of others; (3-17-22)
- d.** Be free of mental and physical abuse; (3-17-22)
- e.** Voice grievances and recommend changes in policies or services being offered; (3-17-22)
- f.** Practice their own religion; (3-17-22)
- g.** Wear their own clothing and retain and use personal possessions; (3-17-22)
- h.** Be informed of their medical and habilitative condition, of services available at the agency, and the charges for the services; (3-17-22)

- i. Reasonable access to all records concerning themselves; (3-17-22)
- j. Refuse services; (3-17-22)
- k. Exercise all civil and all other rights established by law, unless limited by prior court order; (3-17-22)
- l. Privacy and confidentiality; (3-17-22)
- m. Receive a response from the agency to any request made within fourteen (14) business days; (3-17-22)
- n. Receive services that enhance the participant's social image, personal competencies, and whenever possible, promote inclusion in the community; (3-17-22)
- o. 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 (3-17-22)
- p. Review the results of the most recent survey conducted by the Department and the accompanying plan of correction. (3-17-22)

02. Method of Informing Participants of Their Rights. Each agency must ensure and document that each participant receiving services is informed of their rights in the following manner: (3-17-22)

- a. Upon initiation of services, provide each participant and their parent or guardian, where applicable, with a packet of information that 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. (3-17-22)
- b. When providing center-based services, prominently post a list of the rights contained in this chapter. (3-17-22)
- c. Provide each participant and their parent or guardian, where applicable, with a verbal explanation of their rights in a manner that will best promote individual understanding of these rights. (3-17-22)

506. -- 509. (RESERVED)

510. POLICIES AND PROCEDURES REGARDING DEVELOPMENT OF RESTRICTIVE INTERVENTIONS.

Each agency must develop and implement written policies and procedures that address restrictive interventions to include the following: (3-17-22)

- 01. Protected Rights.** Ensure the safety, welfare, and human and civil rights of participants are adequately protected. (3-17-22)
- 02. Appropriate Use of Interventions.** Ensure interventions used to manage participants' maladaptive behavior are never used: (3-17-22)
 - a. For disciplinary purposes; (3-17-22)
 - b. For the convenience of personnel; (3-17-22)
 - c. As a substitute for a needed training program; or (3-17-22)
 - d. By untrained or unqualified personnel. (3-17-22)

03. Use of Restraint on Participants. No restraints, other than physical restraint in an emergency, must be used on participants prior to the use of positive behavior interventions. The following requirements apply to the use of physical restraint on participants by qualified personnel. (3-17-22)

a. Physical restraint may be used in an isolated emergency to prevent injury to the participant or others and must be documented and reviewed by the DSP and the supervisor. Documentation must include a debrief with the participant, guardian, and DSP involved focusing on strategies to avoid the occurrence of future physical restraints. (3-17-22)

b. Physical restraint may be used in a non-emergency setting when a written behavior program is developed by a supervisor, the participant, and their guardian, if applicable, and approved by a health care professional. Informed consent is required by the participant and parent or legal guardian. (3-17-22)

04. Written Informed Consent. If the program contains restrictive or aversive components, an individual working within the scope of their license or certification must also review and approve, in writing, the plan prior to implementation. The participant, parent or legal guardian, if applicable, must also consent prior to implementation. When programs implemented by the agency are developed by another service provider, the agency must obtain a copy of these reviews and approvals. (3-17-22)

511. -- 599. (RESERVED)

RULE ENFORCEMENT PROCESS AND REMEDIES

SECTIONS 600-699

600. ENFORCEMENT PROCESS.

The Department may impose a remedy when it determines an agency has not met the requirements in these rules. (3-17-22)

01. Determination of Remedy. In determining which remedy to impose, the Department will consider the agency's compliance history, change of ownership, the number of deficiencies, the scope and severity of the deficiencies, and the potential risk to participants. Subject to these considerations, any one or combination of the following remedies, is subject under these rules for notice and appeal: (3-17-22)

- a.** Require the agency to submit a plan of correction approved in writing by the Department; (3-17-22)
- b.** Issue a provisional certificate with a specific date for correcting deficient practices; (3-17-22)
- c.** Ban enrollment of all participants with specified diagnoses; (3-17-22)
- d.** Ban any new enrollment of participants; (3-17-22)
- e.** Summarily suspend the certificate and transfer participants; or (3-17-22)
- f.** Revoke the agency's certificate. (3-17-22)

02. Immediate Jeopardy. If the Department finds an agency's deficiency immediately jeopardizes the health or safety of its participants, the Department may summarily suspend the agency's certificate. (3-17-22)

03. Repeat Deficiency. If the Department finds a repeat deficiency in an agency, it may impose any of the remedies listed in Subsection 600.01 of this rule. The Department may monitor the agency on an as-needed basis, until the agency has demonstrated to the Department's satisfaction that it is in compliance with these rules. If so, then certification will be granted. If not, the certificate will be denied or revoked. (3-17-22)

04. Failure to Comply. The Department may impose one (1) or more of the remedies specified in Subsection 600.01 of this rule if: (3-17-22)

a. The agency has not complied with any requirement in these rules within three (3) months after the date it was notified of its failure to comply with such requirement; or (3-17-22)

b. The agency has failed to correct the deficiencies stated in the agency's accepted plan of correction and as verified by the Department, via resurveys. (3-17-22)

601. REVOCATION OF CERTIFICATE.

01. Revocation of the Agency's Certificate. The Department may revoke a agency's certificate when persuaded by the preponderance of the evidence that the agency is not in substantial compliance with the requirements in these rules. The certificate is the property of the state and must be returned to the state if it is revoked or suspended. (3-17-22)

02. Causes for Revocation of the Certificate. The Department may revoke any agency's certificate for any of the following causes: (3-17-22)

a. The certificate holder has willfully misrepresented or omitted information on the application for certification or other documents pertinent to obtaining a certificate; (3-17-22)

b. Conditions exist in the agency that endanger the health or safety of any participant; (3-17-22)

c. Any act adversely affecting the welfare of participants is being permitted, performed, or aided and abetted by the person(s) supervising the provision of services in the agency. Such acts include neglect, physical abuse, mental abuse, emotional abuse, violation of civil rights, or exploitation; (3-17-22)

d. The provider has demonstrated or exhibited a lack of sound judgment that jeopardizes the health, safety, or well-being of participants; (3-17-22)

e. The agency has failed to comply with any of the conditions of a provisional certificate; (3-17-22)

f. The agency has one (1) or more major deficiencies. A major deficiency is a deficiency that endangers the health, safety, or welfare of any participant; (3-17-22)

g. An accumulation of minor deficiencies that, when considered as a whole, indicate the agency is not in substantial compliance with these rules; (3-17-22)

h. Repeat deficiencies by the agency of any requirement of these rules or of the Idaho Code; (3-17-22)

i. The agency lacks adequate personnel, as required by these rules or as directed by the Department, to properly care for the number and type of participants served at the agency; (3-17-22)

j. The agency is not in substantial compliance with the provisions for services required in these rules or with the participants' rights under Section 505 of these rules; (3-17-22)

k. The certificate holder refuses to allow the Department or protection and advocacy agencies full access to the agency environment, agency records, or the participants. (3-17-22)

602. NOTICE OF ENFORCEMENT REMEDY.

The Department will notify the following of the imposition of any enforcement remedy on a agency: (3-17-22)

01. Notice to Agency. The Department will notify the agency in writing, transmitted in a manner that will reasonably ensure timely receipt. (3-17-22)

02. Notice to Public. The Department will notify the public by sending the agency printed notices to post. The agency must post all the notices on the premises of the agency in plain sight in public areas where they will readily be seen by participants and their representatives, including exits and common areas and with the notices

remaining in place until all enforcement remedies have been officially removed by the Department. (3-17-22)

603. -- 999. (RESERVED)