

# Table of Contents

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## **16.03.21 - Developmental Disabilities Agencies (DDA)**

000. Legal Authority. ....	3
001. Title And Scope. ....	3
002. Written Interpretations. ....	3
003. Administrative Appeals. ....	3
004. Incorporation By Reference. ....	3
005. Office Hours -- Mailing Address -- Street Address -- Telephone -- Website. ....	3
006. Confidentiality Of Records And Public Records Requests. ....	4
007. -- 008. (Reserved) ....	4
009. Criminal History And Background Check Requirements. ....	4
010. Definitions -- A Through Z. ....	4
011. -- 074. (Reserved) ....	6
<b>SERVICES PROVIDED BY DEVELOPMENTAL DISABILITIES AGENCIES</b>	
075. DDA Services. ....	6
076. -- 099. (Reserved) ....	6
<b>CERTIFICATION REQUIREMENTS FOR DEVELOPMENTAL DISABILITIES AGENCIES</b>	
100. DDA Certification. ....	6
101. Application For Initial Certification. ....	6
102. -- 109. (Reserved) ....	8
110. Department Review Of Application For Certification. ....	8
111. Department's Written Decision Regarding Application For Certification. ....	8
112. -- 114. (Reserved) ....	8
115. Changes Each DDA Is Required To Report. ....	8
116. -- 119. (Reserved) ....	9
120. Initial Issuance Of Certificate. ....	9
121. -- 124. (Reserved) ....	9
125. Renewal And Expiration Of The Certificate. ....	9
126. Types Of Certificates Issued. ....	10
127. -- 299. (Reserved) ....	10
<b>RULE ENFORCEMENT PROCESS AND REMEDIES</b>	
300. Enforcement Process. ....	10
301. Revocation Of Certificate. ....	11
302. -- 309. (Reserved) ....	12
310. Notice Of Enforcement Remedy. ....	12
311. Hearing Rights. ....	12
312. -- 399. (Reserved) ....	12
<b>STAFFING REQUIREMENTS AND PROVIDER QUALIFICATIONS</b>	
400. General Staffing Requirements For Agencies. ....	12
401. -- 409. (Reserved) ....	13
410. General Training Requirements For DDA Staff. ....	13

411. -- 419. (Reserved) .....	14
420. Volunteer Workers In A DDA. ....	14
421. -- 499. (Reserved) .....	14
<b>FACILITY, SAFETY, AND HEALTH STANDARDS</b>	
500. Facility Standards For Agencies Providing Center-Based Services. ....	14
501. Vehicle Safety Requirements. ....	16
502. -- 509. (Reserved) .....	16
510. Health Requirements. ....	16
511. Medication Standards And Requirements. ....	17
512. -- 519. (Reserved) .....	18
520. Setting Requirements For Agencies Delivering Community-Based Services. ....	18
521. -- 599. (Reserved) .....	19
<b>PROGRAM REQUIREMENTS</b>	
600. Program Documentation Requirements. ....	19
601. Record Requirements. ....	19
602. -- 609. (Reserved) .....	20
610. Accessibility Of Agency Records. ....	20
611. -- 899. (Reserved) .....	20
<b>QUALITY ASSURANCE, PARTICIPANT RIGHTS, REQUIRED POLICIES, ETC.</b>	
900. Requirements For An Agency's Quality Assurance Program. ....	20
901. -- 904. (Reserved) .....	21
905. Participant Rights. ....	21
906. -- 909. (Reserved) .....	23
910. Obligation To Report Abuse, Neglect, Exploitation, And Injuries. ....	23
911. -- 914. (Reserved) .....	23
915. Policies And Procedures Regarding Development Of Social Skills And Management Of Maladaptive Behavior. ....	23
916. -- 919. (Reserved) .....	24
920. Annual Plan. ....	24
921. -- 999. (Reserved) .....	24

**IDAPA 16  
TITLE 03  
CHAPTER 21**

**16.03.21 - DEVELOPMENTAL DISABILITIES AGENCIES (DDA)**

**000. LEGAL AUTHORITY.**

The Idaho Board of Health and Welfare is authorized under the “Idaho Developmental Disabilities Services and Facilities Act,” Section 39-4605, Idaho Code, to adopt rules governing Developmental Disabilities Agencies in Idaho. (7-1-11)

**001. TITLE AND SCOPE.**

**01. Title.** The title of these rules is IDAPA 16.03.21, “Developmental Disabilities Agencies (DDA).” (7-1-11)

**02. Scope.** These rules govern: (7-1-11)

**a.** The certification of Developmental Disabilities Agencies that provide services to persons with developmental disabilities; and (7-1-11)

**b.** The provision for services to individuals who meet minimum eligibility criteria under Section 66-402, Idaho Code. (7-1-11)

**c.** All agencies that meet the definition of a Developmental Disabilities Agency (DDA) in Section 010 of these rules must be certified by the Department in accordance with the requirements in this chapter of rules. (7-1-11)

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations for this chapter of rules. (7-1-11)

**003. ADMINISTRATIVE APPEALS.**

Administrative appeals are governed by provisions of IDAPA 16.05.03, “Rules Governing Contested Case Proceedings and Declaratory Rulings.” (7-1-11)

**004. INCORPORATION BY REFERENCE.**

There are no documents that have been incorporated by reference into this chapter of rules. (7-1-11)

**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. (7-1-11)

**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. (7-1-11)

**03. Street Address.** The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. (7-1-11)

**04. Telephone.** The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. (7-1-11)

**05. Internet Website.** The Department's internet website is [www.healthandwelfare.idaho.gov](http://www.healthandwelfare.idaho.gov). (7-1-11)

**06. Division of Licensing and Certification.** The Department's Division of Licensing and Certification is located at 3232 Elder Street, Boise, ID 83705; Phone: 208 334-6626. (7-1-11)

**07. Division of Licensing and Certification's website** is <http://www.healthandwelfare.idaho.gov/>

[Medical/LicensingCertification/tabid/124/Default.aspx](#). (7-1-11)

**006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.**

**01. Confidential Records.** Any information about an individual covered by these rules and contained in the Department's records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." (7-1-11)

**02. Public Records.** The Department will comply with Title 74, Chapter 1, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure. (7-1-11)

**007. -- 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." (7-1-11)

**02. Requirement to Report Additional 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 or its designee when the agency learns of the convictions, investigations, or charges. (7-1-11)

**010. DEFINITIONS -- A THROUGH Z.**

For the purposes of this chapter of rules, the following terms apply. (7-1-11)

**01. ADA.** The "Americans with Disabilities Act Accessibility Guidelines," under 28 CFR Part 36, Appendix A. (7-1-11)

**02. Adult.** A person who is eighteen (18) years of age or older. (7-1-11)

**03. Agency.** A developmental disabilities agency (DDA) as defined in Section 010 of this rule. (7-1-11)

**04. Board.** The Idaho State Board of Health and Welfare. (7-1-11)

**05. Clinical Supervision.** Initial direction and procedural guidance by a professional and periodic inspection of the actual work performed at the service delivery site. (7-1-11)

**06. Communicable Disease.** A disease that may be transmitted from one (1) person or an 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. (7-1-11)

**07. Deficiency.** A determination of non-compliance with a specific rule or part of rule. (7-1-11)

**08. Department.** The Idaho Department of Health and Welfare. (7-1-11)

**09. Developmental Disabilities Agency (DDA).** A DDA is an agency that is: (7-1-11)

**a.** A type of developmental disabilities facility, defined in Section 39-4604, Idaho Code, that is non-residential and provides services on an outpatient basis; (7-1-11)

**b.** Certified by the Department to provide services to people with developmental disabilities, according to this chapter of rules; and (7-1-11)

- c. A business entity, open for business to the general public. (7-1-11)
- 10. Developmental Disability.** A developmental disability, 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: (7-1-11)
- a. Is attributable to an impairment, such as intellectual disability, cerebral palsy, epilepsy, autism, or other condition found to be closely related to or similar to one (1) of these impairments that requires similar treatment or services, or is attributable to dyslexia resulting from such impairments; and (7-1-11)
- 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 (7-1-11)
- c. Reflects the need for a combination and sequence of special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and individually planned and coordinated. (7-1-11)
- 11. Human Services Field.** A particular area of academic study in health care, social services, education, behavioral science or counseling. (7-1-11)
- 12. Measurable Objective.** A statement in specific and concrete terms that describes the observable results of the skill to be acquired. (7-1-11)
- 13. Paraprofessional.** A person delivering support services who meets the qualifications required in Section 400 of these rules. (7-1-11)
- 14. Participant.** A person who has been identified as having a developmental disability defined in Section 010 of this rule, and who is receiving services through a DDA. (7-1-11)
15. Plan of Service. An initial or annual plan that identifies all services and supports. (7-1-11)
- 16. Practitioner of the Healing Arts, Licensed.** A licensed physician, physician assistant, or nurse practitioner. (7-1-11)
- 17. Professional.** A professional delivering services within the scope of his practice and who meets the qualifications required in Section 400 of these rules. (7-1-11)
- 18. Program Implementation Plan.** A plan that details how intervention goals from the plan of service will be accomplished. (7-1-11)
- 19. Provider.** An agency, or an individual working for an agency, that furnishes DDA services under the provisions of these rules. (7-1-11)
- 20. Provisional Certificate.** A certificate issued by the Department to a DDA with deficiencies that do not adversely affect the health or safety of participants. A provisional certificate is issued contingent upon the correction of deficiencies in accordance with an agreed-upon plan. A provisional certificate is issued for a specific period of time, up to, but not to exceed, six (6) months. (7-1-11)
- 21. 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. (7-1-11)
- 22. Staff.** Employees or contractors of an agency who deliver services. (7-1-11)
- 23. Survey.** A review conducted by the Department to determine compliance with statutes and rules. (7-1-11)

**011. -- 074. (RESERVED)**

**SERVICES PROVIDED BY DEVELOPMENTAL DISABILITIES AGENCIES**  
**(Sections 075 - 099)**

**075. DDA SERVICES.**

A DDA provides services that include evaluation, diagnostic, training, treatment, and support services that are provided on an outpatient basis to persons with developmental disabilities and may be community-based, home-based, or center-based in accordance with the requirements of this chapter. A DDA may provide the following services as specified on its certificate under Section 120 of these rules. (7-1-11)

**01. Support Services.** Support services may include supervision for a participant, as well as assisting and facilitating the participant's integration into the community. (7-1-11)

**02. Intervention Services.** Intervention services include outcome-based therapeutic services, professional consultation services, as well as education and training for families caring for participants with developmental disabilities. (7-1-11)

**076. -- 099. (RESERVED)**

**CERTIFICATION REQUIREMENTS FOR DEVELOPMENTAL DISABILITIES AGENCIES**  
**(Sections 100 - 199)**

**100. DDA CERTIFICATION.**

**01. Certification Required.** Before any agency can operate as a DDA, it must obtain DDA certification from the Department. No agency may provide services until the Department has approved the application for certification. No agency may provide services without a current certificate. (7-1-11)

**02. Application for Certification.** All DDAs must apply for certification under Section 101 of these rules. (7-1-11)

**03. Restriction on Certification.** A business entity established by a parent for the sole purpose of providing DDA services to his own child cannot be certified as a DDA. (7-1-11)

**04. Effect of Previous Revocation or Denial of a Certificate or License.** The Department is not required to consider the application of any operator, administrator, or owner of an agency who has had his license or certification denied or revoked until five (5) years have lapsed from the date of denial or revocation. (7-1-11)

**101. APPLICATION FOR INITIAL CERTIFICATION.**

**01. Open Application.** An application for certification from new agencies will be accepted on an open and continuous basis. (7-1-11)

**02. Content of Application for Certification.** Application for certification must be made on the Department-approved form available by contacting the Department as described in Subsection 005.06 of these rules. The application and supporting documents must be received by the Department at least sixty (60) days prior to the planned opening date. The application must include all of the following: (7-1-11)

**a.** Name, address, and telephone number of the agency; (7-1-11)

**b.** Types of services to be provided by the agency and the anticipated capacity of each service; (7-1-11)

**c.** The geographic service area of the agency as indicated by counties that will be served; (7-1-11)

- d.** The anticipated date for the initiation of services; (7-1-11)
- e.** An accurate and complete statement of all business names of the agency as filed with the Secretary of State, whether an assumed business name, partnership, corporation, limited liability company or other entity, that identifies each owner with more than five percent (5%) interest in the agency, and the management structure of the agency; (7-1-11)
- f.** 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 complies with pertinent state and federal requirements governing equal opportunity and nondiscrimination; (7-1-11)
- g.** A written code of ethics policy adopting a code of ethics relevant to professional activities with participants and colleagues, in practice settings. 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. This code of ethics must reflect nationally-recognized standards of practice; (7-1-11)
- h.** A copy of the proposed organizational chart or plan for staffing of the agency; (7-1-11)
- i.** Staff qualifications including resumes, job descriptions, evidence of compliance with criminal history and background check requirements in Section 009.01 through 009.03 of these rules, and copies of state licenses and certificates for staff when applicable; (7-1-11)
- j.** Written policies and procedures that address professionals entering the field are being provided, or have completed, increased supervision for a period of six (6) months; (7-1-11)
- k.** Written transportation safety policies and procedures required in Section 501 of these rules; (7-1-11)
- l.** Staff and participant illness policy, communicable disease policy, and other health-related policies and procedures required in Section 510 of these rules; (7-1-11)
- m.** Written policies and procedures that address special medical or health care needs of participants required in Section 510 of these rules; (7-1-11)
- n.** Written medication policies and procedures to meet requirements in Section 511 of these rules; (7-1-11)
- o.** Written admission, transfer, and transition policies and procedures; (7-1-11)
- p.** Written description of the agency's quality assurance program developed to meet requirements in Section 900 of these rules; (7-1-11)
- q.** Written participant grievance policies and procedures to meet requirements in Section 905 of these rules; (7-1-11)
- r.** Written policies and procedures for reporting incidents to the adult or child protection authority and to the Department to meet requirements in Section 910 of these rules; (7-1-11)
- s.** Written policies and procedures that address the development of participants' social skills and the management of participants' inappropriate behavior to meet requirements in Section 915 of these rules; (7-1-11)
- t.** Written description of the program records system including a completed sample of a plan of service for participants, program implementation plan, and a monitoring record; (7-1-11)
- u.** Written description of the fiscal record system including a sample of program billing; and (7-1-11)

- v. 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 certification is requested. (7-1-11)
- w. When center-based services are to be provided, the following are also required for each service location: (7-1-11)
  - i. A site review must be completed by the Department prior to the initiation of center based services; (7-1-11)
  - ii. Address and telephone number for each service location; (7-1-11)
  - iii. A checklist that verifies compliance with the ADA requirements under Section 500 of these rules; (7-1-11)
  - iv. Evidence of a local fire safety inspection; (7-1-11)
  - v. Evidence of compliance with local building and zoning codes, including occupancy permit; (7-1-11)
  - vi. Written policies and procedures covering the protection of all persons in the event of fire and other emergencies under Section 500 of these rules; and (7-1-11)
  - vii. Written policies and procedures regarding emergency evacuation procedures. (7-1-11)

**102. -- 109. (RESERVED)**

**110. DEPARTMENT REVIEW OF APPLICATION FOR CERTIFICATION.**

Upon receipt of the application form and initial application materials, the Department will review the materials to determine if the agency has systems in place, that if properly implemented, would result in regulatory compliance. (7-1-11)

**111. 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 in compliance with these rules. (7-1-11)

**112. -- 114. (RESERVED)**

**115. CHANGES EACH DDA IS REQUIRED TO REPORT.**

**01. Change of Ownership or Physical Location. (7-1-11)**

**a.** The DDA must notify the Department at least thirty (30) days prior to any anticipated change in ownership or physical location. In order to continue operation after any such anticipated change, the DDA must receive an updated certificate from the Department that reflects the change. An agency that fails to notify the Department of such changes is operating without a certificate. (7-1-11)

**b.** 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 Subsection 115.01.a. of this rule, the agency must provide: (7-1-11)

- i. Evidence of review and approval by the local fire and building authorities, including issuance of occupancy permit; and (7-1-11)
- ii. A checklist that verifies compliance with the ADA requirements under Section 500 of these rules. (7-1-11)



**02. Change in Geographic Service Area.** The DDA must notify the Department at least thirty (30) days prior to any anticipated change(s) in the geographic service area including counties served. In order 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. (7-1-11)

**116. -- 119. (RESERVED)**

**120. INITIAL ISSUANCE OF CERTIFICATE.**

**01. Initial Certification.** When the Department determines that all application requirements have been met, a certificate is issued for a period of up to six (6) months from the initiation of services. During this period, the Department evaluates the agency's ongoing capability to provide services and to comply with these rules. The Department will resurvey the agency prior to the end of the initial certification period. (7-1-11)

**02. Return of Certificate.** The certificate is the property of the state and must be returned to the state if it is revoked or suspended. (7-1-11)

**03. Certificate Not Transferable.** The certificate is issued only to the agency named thereon, only for the period specified on the certificate, and only to the owners and operators as expressed on the application submitted to the Department, and may not be transferred or assigned to any other person or entity. (7-1-11)

**04. 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. (7-1-11)

**05. Service Specific Certification.** The certificate must indicate the type of service the agency is qualified to provide prior to the delivery of service. Types of certificates include: (7-1-11)

- a.** Support Services; (7-1-11)
- b.** Intervention Services; or (7-1-11)
- c.** Intervention and Support Services. (7-1-11)

**121. -- 124. (RESERVED)**

**125. RENEWAL AND EXPIRATION OF THE CERTIFICATE.**

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. The request must contain any changes in optional services provided and outcomes of the internal quality assurance processes required under Section 900 of these rules. (7-1-11)

**01. Issuance of Certificate.** The Department issues certificates that are in effect for a period of no longer than three (3) years. (7-1-11)

- a.** The Department will survey each agency seeking renewal of its certificate. (7-1-11)
- b.** The Department will renew the certificate of an agency it finds to be in substantial compliance with statutes and these rules. (7-1-11)

**02. Renewal of Certificate.** A certificate may be renewed by the Department when it determines the agency requesting recertification is in substantial compliance with the provisions of this chapter of rules. A certificate issued on the basis of substantial compliance is contingent upon the correction of deficiencies in accordance with a plan developed by the agency and approved by the Department. (7-1-11)

**03. 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. (7-1-11)

**04. National Accreditation.** The Department may accept national accreditation in lieu of state certification for developmental disabilities agencies. (7-1-11)

**05. DDA Enrolled Prior to July 1, 2011.** Agencies certified prior to July 1, 2011, are qualified to provide DDA services under the Intervention and Support Services Certification. Developmental Therapy and Intensive Behavioral Intervention services delivered by an agency are not subject to the requirements listed in Subsection 400.06 of these rules. (7-1-11)

**126. TYPES OF CERTIFICATES ISSUED.**

**01. Provisional Certificate.** When a DDA 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. A provisional certificate is issued contingent upon the correction of deficiencies in accordance with a plan developed by the agency and approved by the Department. 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. If so, then certification will be granted. If not, the certificate will be denied or revoked. (7-1-11)

**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, but there may be areas of deficient practice which would impact the agency's ability to provide effective care. An agency is prohibited from receiving consecutive one- (1) year certificates. (7-1-11)

**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 and has no areas of deficient practice that would impact safe and effective care. (7-1-11)

**127. -- 299. (RESERVED)**

**RULE ENFORCEMENT PROCESS AND REMEDIES**  
**(Sections 300 - 399)**

**300. ENFORCEMENT PROCESS.**

The Department may impose a remedy or remedies, when it determines a DDA has not met the requirements in this chapter of rules. (7-1-11)

**01. Determination of Remedy.** In determining which remedy or remedies to impose, the Department will consider the DDA'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 of the following remedies, independently or in conjunction with others, subject to the provisions of these rules for notice and appeal: (7-1-11)

- a.** Require the DDA to submit a plan of correction that must be approved in writing by the Department; (7-1-11)
- b.** Issue a provisional certificate with a specific date for correcting deficient practices; (7-1-11)
- c.** Ban enrollment of all participants with specified diagnoses; (7-1-11)
- d.** Ban any new enrollment of participants; (7-1-11)
- e.** Summarily suspend the certificate and transfer participants; or (7-1-11)
- f.** Revoke the DDA's certificate. (7-1-11)

**02. Immediate Jeopardy.** If the Department finds a DDA's deficiency or deficiencies immediately jeopardize the health or safety of its participants, the Department may summarily suspend the DDA's certificate. (7-1-11)

**03. Repeat Deficiencies.** If the Department finds a repeat deficiency in a DDA, it may impose any of the remedies listed in Subsection 300.01 of this rule. The Department may monitor the DDA on an "as needed" basis, until the DDA 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. (7-1-11)

**04. Failure to Comply.** If after three (3) months from the date of survey, the DDA has not implemented the Plan of Correction as approved by the Department and remains out of compliance with the identified rule, the Department may impose one (1) or more of the remedies specified in Subsection 300.01 of this rule. (7-1-11)

### **301. REVOCATION OF CERTIFICATE.**

**01. Revocation of the DDA's Certificate.** The Department may revoke a DDA's certificate when persuaded by the preponderance of the evidence that the DDA is not in substantial compliance with the requirements in this chapter of rules. (7-1-11)

**02. Causes for Revocation of the Certificate.** The Department may revoke any DDA's certificate for any of the following causes: (7-1-11)

**a.** The certificate holder has willfully misrepresented or omitted information on the application for certification or other documents pertinent to obtaining a certificate; (7-1-11)

**b.** When persuaded by existing conditions in the agency that endanger the health or safety of any participant; (7-1-11)

**c.** Any act adversely affecting the welfare of participants is being permitted, performed, or aided and abetted by the person or persons supervising the provision of services in the agency. Such acts include neglect, physical abuse, mental abuse, emotional abuse, violation of civil rights, or exploitation; (7-1-11)

**d.** The provider has demonstrated or exhibited a lack of sound judgment that jeopardizes the health, safety, or well-being of participants; (7-1-11)

**e.** The agency has failed to comply with any of the conditions of a provisional certificate; (7-1-11)

**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; (7-1-11)

**g.** An accumulation of minor deficiencies that, when considered as a whole, indicate the agency is not in substantial compliance with these rules; (7-1-11)

**h.** Repeat deficiencies by the agency of any requirement of these rules or of the Idaho Code; (7-1-11)

**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; (7-1-11)

**j.** The agency is not in substantial compliance with the provisions for services required in these rules or with the participants' rights under Section 905 of these rules; (7-1-11)

**k.** The agency is delivering services outside the scope of its certificate; or (7-1-11)

**l.** The certificate holder refuses to allow the Department or protection and advocacy agencies full access to the agency environment, agency records, or the participants. (7-1-11)

**302. -- 309. (RESERVED)**

**310. NOTICE OF ENFORCEMENT REMEDY.**

The Department will notify the following of the imposition of any enforcement remedy on a DDA: (7-1-11)

**01. Notice to DDA.** The Department will notify the DDA in writing, transmitted in a manner that will reasonably ensure timely receipt. (7-1-11)

**02. Notice to Public.** The Department will notify the public by sending the DDA printed notices to post. The DDA must post all the notices on the premises of the DDA in plain sight in public areas where they will readily be seen by participants and their representatives, including exits and common areas. The notices must remain in place until all enforcement remedies have been officially removed by the Department. (7-1-11)

**03. Notice to the Professional Licensing Boards.** The Department will notify professional licensing boards, as appropriate. (7-1-11)

**311. HEARING RIGHTS.**

A DDA may request a hearing following any enforcement action taken by the Department, under Section 003 of these rules. (7-1-11)

**312. -- 399. (RESERVED)**

**STAFFING REQUIREMENTS AND PROVIDER QUALIFICATIONS**  
**(Sections 400 - 499)**

**400. GENERAL STAFFING REQUIREMENTS FOR AGENCIES.**

Each DDA is accountable for all operations, policy, procedures, and service elements of the agency. (7-1-11)

**01. Agency Administrator Duties.** The agency administrator is accountable for the overall operations of the agency including ensuring compliance with this chapter of rules, overseeing and managing staff, developing and implementing written policies and procedures, and overseeing the agency's quality assurance program. (7-1-11)

**02. Agency Administrator Qualifications.** An agency administrator must have two (2) years of supervisory or management experience in a developmental disabilities services setting. (7-1-11)

**03. Clinical Supervisor Duties.** A clinical supervisor must be employed by the DDA on a continuous and regularly scheduled basis and be readily available on-site to provide for: (7-1-11)

**a.** The supervision of service elements of the agency, including face to face supervision of agency staff providing direct care services; and (7-1-11)

**b.** The observation and review of the direct services performed by all paraprofessional and professional staff on at least a monthly basis, or more often as necessary, to ensure staff demonstrate the necessary skills to correctly provide the DDA services. (7-1-11)

**04. Clinical Supervisor Qualifications.** A person qualified to act as clinical supervisor of a DDA must meet the following requirements: (7-1-11)

**a.** Must hold at least a bachelor's degree in a human services field from a nationally accredited university or college; and (7-1-11)

**b.** Must provide documentation of one (1) year's supervised experience working with the population served; and (7-1-11)

**c.** Must demonstrate competencies related to the requirements to provide intervention services as required by the Department; and (7-1-11)

- d. Must complete a additional coursework as required by the Department; or (7-1-11)
- e. Individuals working as Developmental Specialists or as Intensive Behavioral Interventionists prior to July 1, 2011, are qualified to provide clinical supervision until June 30, 2013. The individual must meet the requirements of the Department-approved competency coursework by June 30, 2013, to maintain their certification. (7-1-11)
- f. The agency administrator and clinical supervisor can be the same individual. (7-1-11)
- 05. Limitations.** If an agency administrator or a clinical supervisor also works as a professional delivering direct services, the agency must have policies and procedures demonstrating how the agency will continue to meet agency staffing requirements in Subsections 400.01 through 400.04 of this rule. (7-1-11)
- 06. Professionals.** The agency must ensure that staff providing intervention services have the appropriate licensure or certification required to provide services. A person qualified to provide intervention services must also meet the following minimum requirements: (7-1-11)
  - a. Must hold at least a bachelor's degree in a human services field from a nationally accredited university or college; (7-1-11)
  - b. Must provide documentation of one (1) year's supervised experience working with participants with developmental disabilities; (7-1-11)
  - c. Must demonstrate competencies related to the requirements to provide intervention services as required by the Department; and (7-1-11)
  - d. Must complete a supervised practicum and additional coursework as required by the Department; or (7-1-11)
  - e. Individuals working as Developmental Specialists or as Intensive Behavioral Interventionists prior to July 1, 2011, are qualified to provide intervention services until June 30, 2013. The individual must meet the requirements of the Department-approved competency coursework by June 30, 2013, to maintain their certification. (7-1-11)
- 07. Paraprofessionals.** A person qualified to provide support services must meet the following minimum requirements: (7-1-11)
  - a. Meet the qualifications prescribed for the type of services to be rendered; (7-1-11)
  - b. Have received instructions in the needs of the participant who will be provided the service; and (7-1-11)
  - c. Demonstrate the ability to provide services according to a plan of service. (7-1-11)
- 08. Records of Licenses or Certifications.** The agency must maintain documentation of the staff qualifications, including copies of applicable licenses and certificates. (7-1-11)
- 09. 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. (7-1-11)

**401. -- 409. (RESERVED)**

**410. GENERAL TRAINING REQUIREMENTS FOR DDA STAFF.**

Each DDA must ensure that all training of staff specific to service delivery to the participant is completed as follows: (7-1-11)

**01. Yearly Training.** The DDA must ensure that staff or volunteers who provide DDA services complete a minimum of twelve (12) hours of formal training each calendar year. Each agency staff providing services to participants must: (7-1-11)

- a.** Participate in fire and safety training upon employment and annually thereafter; and (7-1-11)
- b.** Be certified in CPR and first aid within ninety (90) days of hire and maintain current certification thereafter; and (7-1-11)
  - i.** The agency must ensure that CPR and first-aid trained staff are present or accompany participants when services or DDA-sponsored activities are being provided. (7-1-11)
  - ii.** Each agency staff person must have age appropriate CPR and first aid certification for the participants he serves. (7-1-11)
- c.** Be trained to meet any special health or medical requirements of the participants they serve. (7-1-11)

**02. Sufficient Training.** Training of all staff must include the following as applicable to their work assignments and responsibilities: (7-1-11)

- a.** Optimal independence of all participants is encouraged, supported, and reinforced through appropriate activities, opportunities, and training; (7-1-11)
- b.** Correct and appropriate use of assistive technology used by participants; (7-1-11)
- c.** Accurate record keeping and data collection procedures; (7-1-11)
- d.** Adequate observation, review, and monitoring of staff, volunteer, and participant performance to promote the achievement of participant goals and objectives; (7-1-11)
- e.** Participant's rights, advocacy resources, confidentiality, safety, and welfare; and (7-1-11)
- f.** The proper implementation of all policies and procedures developed by the agency. (7-1-11)

**03. Additional Training for Professionals.** Training of all professional staff must include the following as applicable to their work assignments and responsibilities: (7-1-11)

- a.** Correct and consistent implementation of all participants' individual program plans and implementation plans, to achieve individual objectives; (7-1-11)
- b.** Consistent use of behavioral and developmental programming principles and the use of positive behavioral intervention techniques. (7-1-11)

**411. -- 419. (RESERVED)**

**420. VOLUNTEER WORKERS IN A DDA.**

If volunteers are utilized by a DDA, the agency must establish written policies and procedures governing the screening, training, and utilization of volunteer workers. (7-1-11)

**421. -- 499. (RESERVED)**

**FACILITY, SAFETY, AND HEALTH STANDARDS**  
**(Sections 500 - 599)**

**500. FACILITY STANDARDS FOR AGENCIES PROVIDING CENTER-BASED SERVICES.**

The requirements in Section 500 of this rule, apply when an agency is providing center-based services. (7-1-11)

**01. Accessibility.** Agencies designated under these rules must be responsive to the needs of persons receiving services and accessible to persons with disabilities as defined in Section 504 of the federal Rehabilitation Act, the Americans with Disabilities Act (ADA) Accessibility Guidelines, and the uniform federal accessibility standard. The DDA must submit a completed checklist to the Department to verify compliance with the ADA requirements. This checklist must be provided to the Department with the application for certification. (7-1-11)

**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. (7-1-11)

**03. Fire and Safety Standards.** (7-1-11)

**a.** Buildings on the premises must meet all local and state codes concerning fire and life safety that are applicable to a DDA. The owner or operator of a DDA must have the center inspected at least annually by the local fire authority and as required by local city or county ordinances. 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 Department upon request and must include documentation of any necessary corrective action taken on violations cited; (7-1-11)

**b.** There must be written policies and procedures covering the protection of all persons in the event of fire and other emergencies; (7-1-11)

**c.** On the premises where natural or man-made hazards are present, suitable fences, guards, or railings must be provided to protect participants; (7-1-11)

**d.** The premises must be kept free from the accumulation of weeds, trash, and rubbish; and (7-1-11)

**e.** Portable heating devices are prohibited except those units that have heating elements that are limited to not more than two hundred twelve degrees Fahrenheit (212°F). The use of unvented, fuel-fired heating devices of any kind is prohibited. All portable space heaters must be approved by Underwriters Laboratories as well as approved by the local fire or building authority and covered in the local fire or building inspections; and (7-1-11)

**f.** All hazardous or toxic substances must be properly labeled and stored under lock and key; and (7-1-11)

**g.** Water temperatures in areas accessed by participants must not exceed one hundred twenty degrees Fahrenheit (120°F); and (7-1-11)

**h.** 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. (7-1-11)

**04. Evacuation Plans.** Evacuation plans must be posted throughout the center. Plans must indicate point of orientation, location of all fire extinguishers, location of all fire exits, and designated meeting area outside of the building. (7-1-11)

**a.** The DDA must conduct quarterly fire drills. At least two (2) times each year these fire drills must include complete evacuation of the building. The DDA must document the amount of time it took to evacuate the building; and (7-1-11)

**b.** A brief summary of each fire drill conducted must be written and maintained on file. The summary must indicate the date and time the drill occurred, participants and staff participating, problems encountered, and corrective action(s) taken. (7-1-11)

**05. Food Safety and Storage.** (7-1-11)

**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, “Food Safety and Sanitation Standards for Food Establishments.” Compliance is verified through inspection by the local District Health Department. (7-1-11)

**b.** When the agency does not provide food service for participants, it must keep refrigerators and freezers used to store participant lunches and other perishable foods in good repair and equipped with an easily readable thermometer. Refrigerators must be maintained at forty-one degrees Fahrenheit (41°F) or below. Freezers must be maintained at ten degrees Fahrenheit (10°F) or below. (7-1-11)

**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. (7-1-11)

**06. Housekeeping and Maintenance Services.** (7-1-11)

**a.** The interior and exterior of the center must be maintained in a clean, safe, and orderly manner and must be kept in good repair; (7-1-11)

**b.** Deodorizers cannot be used to cover odors caused by poor housekeeping or unsanitary conditions; (7-1-11)

**c.** The center must be maintained free from infestations of insects, rodents, and other pests; and (7-1-11)

**d.** The center must maintain the temperature and humidity within a normal comfort range by heating, air conditioning, or other means. (7-1-11)

**501. VEHICLE SAFETY REQUIREMENTS.**

Each DDA that transports participants must: (7-1-11)

**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. (7-1-11)

**02. Transportation Safety Policy.** Develop and implement a written transportation safety policy. (7-1-11)

**03. Licenses and Certifications for Drivers and Vehicles.** Obtain and maintain licenses and certifications for drivers and vehicles required by 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. Agencies must maintain documentation of appropriate licensure for all employees who operate vehicles. (7-1-11)

**04. Applicable Laws, Rules, and Regulations.** Adhere to all laws, rules, and regulations applicable to drivers and vehicles of the type used. (7-1-11)

**05. Liability Insurance.** Continuously maintain liability insurance that covers all passengers and meets the minimum liability insurance requirements under Idaho law. If an agency employee transports participants in the employee’s personal vehicle, the agency must ensure that adequate liability insurance coverage is carried to cover those circumstances. (7-1-11)

**502. -- 509. (RESERVED)**

**510. HEALTH REQUIREMENTS.**

**01. Required Health Policies and Procedures.** Each DDA must develop policies and procedures that: (7-1-11)



- a.** Describe how the agency will ensure that each staff person is free from communicable disease; (7-1-11)
- b.** Describe how the agency will protect participants from exposure to individuals exhibiting symptoms of illness. (7-1-11)
- c.** Address any special medical or health care needs of particular participants being served by the agency. (7-1-11)
- 02. Services that Require Licensed Professionals.** Some services are of such a technical nature that they must always be performed by, or under the supervision of, a licensed nurse or other licensed health professional. The agency must ensure all such care is provided within the scope of the care provider's training and expertise. These limitations are outlined in IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." (7-1-11)
- 03. Employees.** Each employee who has direct contact with participants must be free of communicable disease and infected skin lesions while on duty. (7-1-11)
- 04. Incident Reports.** Each DDA must complete incident reports for all accidents, injuries, or other events that endanger a participant or require the participant to be hospitalized. Each report must document the adult participant's legal guardian, if he has one, or, in the case of a minor, the minor's parent or legal guardian, has been notified or that the participant's care provider has been notified if the participant or the participant's parent or legal guardian has given the agency permission to do so. A documented review by the agency of all incident reports must be completed at least annually with written recommendations. These reports must be retained by the agency for five (5) years. (7-1-11)
- 05. Reporting Incidents as Mandatory Reporters.** DDA's must notify appropriate authorities of any health- and safety-related incident they are obligated to report to adult or child protection authorities, or law enforcement as mandatory reporters as required in Section 910 of these rules. (7-1-11)
- 06. Reporting Incidents to the Department.** If a DDA reports a health- and safety-related incident to protective or legal authorities, they must also notify the Department of this incident within twenty-four (24) hours. (7-1-11)

**511. MEDICATION STANDARDS AND REQUIREMENTS.**

- 01. Medication Policy.** Each DDA must develop written medication policies and procedures that outline in detail how the agency will ensure appropriate handling and safeguarding of medications. An agency that chooses to assist participants with medications must also develop specific policies and procedures to ensure this assistance is safe and is delivered by qualified, fully-trained staff. Documentation of training must be maintained in the staff personnel file. (7-1-11)
- 02. Handling of Participant's Medication.** (7-1-11)

  - a.** The medication must be in the original pharmacy-dispensed container, or in an original over-the-counter container, or placed in a unit container by a licensed nurse and be appropriately labeled with the name of the medication, dosage, time to be taken, route of administration, and any special instructions. Each medication must be packaged separately, unless in a Mediset, blister pack, or similar system. (7-1-11)
  - b.** Evidence of the written or verbal order for the medication from the physician or other practitioner of the healing arts must be maintained 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 physician or other practitioner of the healing arts. (7-1-11)
  - c.** The agency is responsible to safeguard the participant's medications while the participant is at the agency or in the community. (7-1-11)

**d.** Medications that are no longer used by the participant must not be retained by the agency or agency staff for longer than thirty (30) calendar days. (7-1-11)

**03. Self-Administration of Medication.** When the participant is responsible for administering his own medication without assistance, a written approval stating that the participant is capable of self-administration must be obtained from the participant's primary physician or other practitioner of the healing arts. The participant's record must also include documentation that a physician or other practitioner of the healing arts, or a licensed nurse has evaluated the participant's ability to self-administer medication and has found that the participant: (7-1-11)

- a.** Understands the purpose of the medication; (7-1-11)
  - b.** Knows the appropriate dosage and times to take the medication; (7-1-11)
  - c.** Understands expected effects, adverse reactions or side effects, and action to take in an emergency; (7-1-11)
- and
- d.** Is able to take the medication without assistance. (7-1-11)

**04. Assistance with Medication.** An agency may choose to assist participants with medications; however, only a licensed nurse or other licensed health professional may administer medications. Prior to unlicensed agency staff assisting participants with medication, the following conditions must be in place: (7-1-11)

**a.** Each staff person assisting with participant medications must successfully complete and follow the "Assistance with Medications" course available through the Idaho Professional Technical Education Program, a course approved by the Idaho State Board of Nursing, or other Department-approved training; (7-1-11)

**b.** The participant's health condition is stable; (7-1-11)

**c.** The participant's health status does not require nursing assessment, as outlined in IDAPA 23.01.01, "Rules for the Idaho Board of Nursing," before receiving the medication or nursing assessment of the therapeutic or side effects after the medication is taken; (7-1-11)

**d.** The medication is in the original pharmacy-dispensed container with proper label and directions, or in an original over-the-counter container, or the medication has been placed in a unit container by a licensed nurse. Proper measuring devices must be available for liquid medication that is poured from a pharmacy-dispensed container; (7-1-11)

**e.** Written and oral instructions from a licensed physician or other practitioner of the healing arts, pharmacist, or nurse concerning the reason(s) for the medication, the dosage, expected effects, adverse reactions or side effects, and action to take in an emergency have been reviewed by the staff person; (7-1-11)

**f.** Written instructions are in place that outline required documentation of assistance and who to call if any doses are not taken, overdoses occur, or actual or potential side effects are observed; (7-1-11)

**g.** Procedures for disposal or destruction of medications must be documented and consistent with procedures outlined in the "Assistance with Medications" course. (7-1-11)

**05. Administration of Medications.** Only a licensed nurse or another licensed health professional working within the scope of his license may administer medications. Administration of medications must comply with the Administrative Rules of the Board of Nursing, IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." (7-1-11)

**512. -- 519. (RESERVED)**

**520. SETTING REQUIREMENTS FOR AGENCIES DELIVERING COMMUNITY-BASED SERVICES.**

The requirements in Section 520 of these rules apply when a DDA is providing community-based services. (7-1-11)

**01. Accessibility.** The community-based setting must be accessible, safe, and appropriate for each participant. (7-1-11)

**02. Environment.** The community-based setting must be designed and equipped to meet the needs of each participant including factors such as sufficient space, equipment, lighting, and noise control. (7-1-11)

**03. Service Group Size.** The community-based services must occur in integrated, inclusive settings and with no more than three (3) participants per qualified staff at each session. (7-1-11)

**04. Image Enhancement.** The community-based services must enhance each participant's social image and personal competencies. (7-1-11)

**05. Promote Inclusion.** The community-based services must promote the participant's inclusion in the natural community. (7-1-11)

**06. Natural Environment.** 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 according to the service environment indicated. (7-1-11)

**521. -- 599. (RESERVED)**

**PROGRAM REQUIREMENTS**  
**(Sections 600 - 699)**

**600. PROGRAM DOCUMENTATION REQUIREMENTS.**

Each DDA must maintain records for each participant the agency serves. Each participant's record must include documentation of the participant's involvement in and response to the services provided. (7-1-11)

**01. Requirements for Participants Seven Through Sixteen.** For participants ages seven (7) through sixteen (16), the DDA must document that the child has been referred to the local school district. (7-1-11)

**02. Requirements for Participants Three to Twenty-One.** For participants ages three (3) to twenty-one (21), the following applies: (7-1-11)

**a.** For participants who are children enrolled in school, the local school district is the lead agency as required under Individuals with Disabilities Education Act (IDEA), Part B. The DDA must inform the child's home school district if it is serving the child during the hours that school is typically in session. (7-1-11)

**i.** The DDA participant's record must contain an Individualized Education Plan (IEP), including any recommendations for an extended school year. (7-1-11)

**ii.** The DDA must document that it has provided a current copy of the child's plan of service to the child's school. (7-1-11)

**iii.** The DDA may provide additional services beyond those the school is obligated to provide during regular school hours. (7-1-11)

**b.** For participants of mandatory school attendance age, seven (7) through sixteen (16), who are not enrolled in school, the DDA must document that it has referred the child to the local school district for enrollment in educational and related services under the provisions of the Individuals with Disabilities Education Act (IDEA). (7-1-11)

**601. RECORD REQUIREMENTS.**

Each DDA certified under these rules must maintain accurate, current, and complete participant and administrative records. These records must be maintained for at least five (5) years. Each participant record must support the

individual's choices, interests, and needs that result in the type and amount of each service provided. Each participant record must clearly document the date, time, duration, and type of service, and include the signature of the individual providing the service, for each service provided. Each signature must be accompanied both by credentials and the date signed. Each agency must have an integrated participant records system to provide past and current information and to safeguard participant confidentiality under these rules. (7-1-11)

**01. General Records Requirements.** Each participant record must contain the following information: (7-1-11)

**a.** Authorized plan of service as required for the participant. (7-1-11)

**b.** Program implementation plans that include participant's name, baseline statement, measurable objectives, written instructions to staff, service environments, target date, and corresponding program documentation and monitoring records when intervention services are delivered to the participant. (7-1-11)

**c.** When a participant has had a psychological or psychiatric assessment, the results of the assessment must be maintained in the participant's record. (7-1-11)

**d.** Profile sheet containing the identifying information reflecting the current status of the participant, including residence and living arrangement, contact information, emergency contacts, physician, current medications, allergies, special dietary or medical needs, and any other information required to provide safe and effective care; (7-1-11)

**e.** Medical, social, and developmental information and assessments that reflect the current status of the participant; and (7-1-11)

**f.** Intervention evaluation. An evaluation must be completed or obtained by the agency prior to the delivery of the intervention service. The evaluation must include the results, test scores, and narrative reports signed with credentials and dated by the respective evaluators. (7-1-11)

**02. Status Review.** Written documentation that identifies the participant's progress toward goals defined on his plan, and includes why the participant continues to need the service. (7-1-11)

**03. Case Record Organization.** The case record must be divided into program and discipline areas identified by tabs, including plan of service, medical, social, psychological, speech, and developmental, as applicable. (7-1-11)

**602. -- 609. (RESERVED)**

**610. ACCESSIBILITY OF AGENCY RECORDS.**

The DDA and 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. (7-1-11)

**611. -- 899. (RESERVED)**

**QUALITY ASSURANCE, PARTICIPANT RIGHTS, REQUIRED POLICIES, ETC.**  
**(Sections 900 - 999)**

**900. REQUIREMENTS FOR AN AGENCY'S QUALITY ASSURANCE PROGRAM.**

Each DDA defined under these rules must develop and implement a quality assurance program. (7-1-11)

**01. Purpose of the Quality Assurance Program.** The quality assurance program is an ongoing, proactive, internal review of the DDA designed to ensure: (7-1-11)

**a.** Services provided to participants produce measurable outcomes, are high quality, and are consistent

with individual choices, interests, needs, and current standards of practice; (7-1-11)

- b.** Sufficient staff and material resources are available to meet the needs of each person served; (7-1-11)
- c.** The environment in which services are delivered is safe and conducive to learning; (7-1-11)
- d.** Skill training activities are conducted in the natural setting where a person would commonly learn and utilize the skill, whenever appropriate; and (7-1-11)
- e.** The rights of a person with disabilities are protected and each person is provided opportunities and training to make informed choices. (7-1-11)

**02. Quality Assurance Program Components.** Each DDA's written quality assurance program must include: (7-1-11)

- a.** Goals and procedures to be implemented to achieve the purpose of the quality assurance program as described in Subsection 900.01 of this rule; (7-1-11)
- b.** Person, discipline, or department responsible for each goal; (7-1-11)
- c.** A system to ensure the correction of problems identified within a specified period of time; (7-1-11)
- d.** A method for assessing participant satisfaction annually including minimum criteria for participant response and alternate methods to gather information if minimum criteria is not met; (7-1-11)
- e.** An annual review of the agency's code of ethics, identification of violations, and implementation of an internal plan of correction; (7-1-11)
- f.** An annual review of agency's policy and procedure manual to specify date and content of revisions made; and (7-1-11)
- g.** Ongoing review of participant progress to ensure revisions to daily activities or specific implementation procedures are made when progress, regression, or inability to maintain independence is identified. (7-1-11)

**03. Additional Requirements.** The quality assurance program must ensure that DDA services provided to participants: (7-1-11)

- a.** Are developed with each participant, parent, or legal guardian, where applicable, and actively promote the participation, personal choice, and preference of the participant; (7-1-11)
- b.** Are age appropriate; (7-1-11)
- c.** Promote integration; (7-1-11)
- d.** Provide opportunities for community participation and inclusion; (7-1-11)
- e.** Offer opportunities for participants to exercise their rights; and (7-1-11)
- f.** Are observable in practice. (7-1-11)

**901. -- 904. (RESERVED)**

**905. PARTICIPANT RIGHTS.**

Each DDA must ensure the rights provided under Sections 66-412 and 66-413, Idaho Code, as well as the additional rights listed in Subsection 905.02 of this rule, for each participant receiving DDA services. (7-1-11)

**01. Participant Rights Provided Under Idaho Code.** Section 66-412, Idaho Code, provide the following rights for participants: (7-1-11)

- a.** Humane care and treatment; (7-1-11)
- b.** Not be put in isolation; (7-1-11)
- c.** Be free of mechanical restraints, unless necessary for the safety of that person or for the safety of others; (7-1-11)
- d.** Be free of mental and physical abuse; (7-1-11)
- e.** Voice grievances and recommend changes in policies or services being offered; (7-1-11)
- f.** Practice his own religion; (7-1-11)
- g.** Wear his own clothing and retain and use personal possessions; (7-1-11)
- h.** Be informed of his medical and habilitative condition, of services available at the agency, and the charges for the services; (7-1-11)
- i.** Reasonable access to all records concerning himself; (7-1-11)
- j.** Refuse services; and (7-1-11)
- k.** Exercise all civil rights, unless limited by prior court order. (7-1-11)

**02. Additional Participant Rights.** The agency must also ensure the following rights for each participant: (7-1-11)

- a.** Privacy and confidentiality; (7-1-11)
- b.** Receive courteous treatment; (7-1-11)
- c.** Receive a response from the agency to any request made within a reasonable time frame; (7-1-11)
- d.** Receive services that enhance the participant's social image and personal competencies and, whenever possible, promote inclusion in the community; (7-1-11)
- 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; (7-1-11)
- f.** Review the results of the most recent survey conducted by the Department and the accompanying plan of correction; (7-1-11)
- g.** All other rights established by law; and (7-1-11)
- h.** Be protected from harm. (7-1-11)

**03. Method of Informing Participants of Their Rights.** Each DDA must ensure and document that each person receiving services is informed of his rights in the following manner: (7-1-11)

- a.** Upon initiation of services, the DDA must provide each participant and his parent or guardian, where applicable, 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. (7-1-11)

**b.** When providing center-based services, a DDA must prominently post a list of the rights contained in this chapter. (7-1-11)

**c.** The DDA must provide each participant and his parent or guardian, where applicable, with a verbal explanation of their rights in a manner that will best promote individual understanding of these rights. (7-1-11)

**d.** Parents of infants and toddlers under three (3) years of age must be provided with a copy of their parental rights consistent with the requirements of 34 CFR 303.400 through 303.460, and 303.510 through 303.512. (7-1-11)

**906. -- 909. (RESERVED)**

**910. OBLIGATION TO REPORT ABUSE, NEGLECT, EXPLOITATION, AND INJURIES.**

Each agency must report all confirmed or suspected incidents of mistreatment, neglect, exploitation, or abuse of participants to the adult or child protection authority in accordance with the "Child Protective Act," Section 16-1619, Idaho Code, and the "Adult Abuse, Neglect and Exploitation Act," Section 39-5303, Idaho Code, or law enforcement as mandatory reporters. (7-1-11)

**911. -- 914. (RESERVED)**

**915. POLICIES AND PROCEDURES REGARDING DEVELOPMENT OF SOCIAL SKILLS AND MANAGEMENT OF MALADAPTIVE BEHAVIOR.**

Each DDA must develop and implement written policies and procedures that address the development of participants' social skills and management of maladaptive behavior. These policies and procedures must include statements that address: (7-1-11)

**01. Adaptive and Maladaptive Behaviors.** For intervention services, ensure an evaluation of participants' adaptive and maladaptive behaviors is completed. (7-1-11)

**02. Social Skills Development.** Focus on developing or increasing participants' social skills. (7-1-11)

**03. Prevention Strategies.** Ensure and document the use of positive approaches to increase social skills and decrease maladaptive behavior while using least restrictive alternatives and consistent, proactive responses to behaviors. (7-1-11)

**04. Function of Behavior.** Address the possible underlying causes or function of a behavior and identify what participants may be attempting to communicate by the behavior. (7-1-11)

**05. Behavior Replacement.** For intervention services, ensure that programs to assist participants with managing maladaptive behavior include teaching of alternative adaptive skills to replace the maladaptive behavior. (7-1-11)

**06. Protected Rights.** Ensure the safety, welfare, and human and civil rights of participants are adequately protected. (7-1-11)

**07. Objectives and Plans.** For intervention services, ensure 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 participants' independence or ability to participate in the community. Ensure that reinforcement selection is individualized and appropriate to the task and not contraindicated for medical reasons. (7-1-11)

**08. Participant Involvement.** Ensure plans developed by the DDA involve the participants, whenever possible, in developing the plan to increase social skills and to manage maladaptive behavior. (7-1-11)

**09. Written Informed Consent.** Ensure programs developed by an agency to assist participants with managing maladaptive behavior are conducted only with the written informed consent of a participant, parent, or

legal 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. (7-1-11)

**10. Review and Approval.** Ensure programs developed by an agency to manage maladaptive behavior are only implemented after the review and written approval of the professional. If the program contains restrictive or aversive components, a licensed individual working within the scope of their license, must also review and approve, in writing, the plan 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. (7-1-11)

**11. Appropriate Use of Interventions.** Ensure interventions used to manage participants' maladaptive behavior are never used: (7-1-11)

- a.** For disciplinary purposes; (7-1-11)
- b.** For the convenience of staff; (7-1-11)
- c.** As a substitute for a needed training program; or (7-1-11)
- d.** By untrained or unqualified staff. (7-1-11)

**916. -- 919. (RESERVED)**

**920. ANNUAL PLAN.**

Each agency is required, as needed, to participate in the development of the state developmental disabilities plan by completing an annual needs assessment survey regarding services for Idahoans with developmental disabilities. (7-1-11)

**921. -- 999. (RESERVED)**



# Subject Index

- A**  
Accessibility Of Agency Records 20  
Annual Plan 24  
Application For Initial Certification 6  
    Content of Application for Certification 6  
    Open Application 6
- C**  
Certification Requirements for Developmental Disabilities Agencies 6  
Changes Each DDA Is Required To Report 8  
    Change in Geographic Service Area 9  
    Change of Ownership or Physical Location 8  
Criminal History & Background Check Requirements 4  
    Requirement to Report Additional Criminal Convictions, Pending Investigations, or Pending Charges 4  
    Verification of Compliance 4
- D**  
DDA Certification 6  
    Application for Certification 6  
    Certification Required 6  
    Effect of Previous Revocation or Denial of a Certificate or License 6  
    Restriction on Certification 6  
DDA Services 6  
    Intervention Services 6  
    Support Services 6  
Definitions -- A Through Z 4  
    ADA 4  
    Adult 4  
    Agency 4  
    Board 4  
    Clinical Supervision 4  
    Communicable Disease 4  
    Deficiency 4  
    Department 4  
    Developmental Disabilities Agency (DDA) 4  
    Developmental Disability 5  
    Human Services Field 5  
    Measurable Objective 5  
    Paraprofessional 5  
    Participant 5  
    Plan of Service 5  
    Practitioner of the Healing Arts, Licensed 5  
    Professional 5  
    Program Implementation Plan 5
- Provider 5  
Provisional Certificate 5  
Repeat Deficiency 5  
Staff 5  
Survey 5  
Department Review Of Application For Certification 8  
Department's Written Decision Regarding Application For Certification 8
- E**  
Enforcement Process 10  
    Determination of Remedy 10  
    Failure to Comply 11  
    Immediate Jeopardy 11  
    Repeat Deficiencies 11
- F**  
Facility Standards For Agencies Providing Center-Based Services 14  
    Accessibility 15  
    Environment 15  
    Evacuation Plans 15  
    Fire & Safety Standards 15  
    Food Safety & Storage 15  
    Housekeeping & Maintenance Services 16  
Facility, Safety, & Health Standards 14
- G**  
General Staffing Requirements For Agencies 12  
    Agency Administrator Duties 12  
    Agency Administrator Qualifications 12  
    Clinical Supervisor Duties 12  
    Clinical Supervisor Qualifications 12  
    Limitations 13  
    Paraprofessionals 13  
    Parent or Legal Guardian of Participant 13  
    Professionals 13  
    Records of Licenses or Certifications 13  
General Training Requirements For DDA Staff 13  
    Additional Training for Professionals 14  
    Sufficient Training 14  
    Yearly Training 14
- H**  
Health Requirements 16  
    Employees 17
- Incident Reports 17  
Reporting Incidents as Mandatory Reporters 17  
Reporting Incidents to the Department 17  
Required Health Policies & Procedures 16  
Services that Require Licensed Professionals 17  
Hearing Rights 12
- I**  
Initial Issuance Of Certificate 9  
    Availability of Certificate 9  
    Certificate Not Transferable 9  
    Initial Certification 9  
    Return of Certificate 9  
    Service Specific Certification 9
- M**  
Medication Standards & Requirements 17  
    Administration of Medications 18  
    Assistance with Medication 18  
    Handling of Participant's Medication 17  
    Medication Policy 17  
    Self-Administration of Medication 18
- N**  
Notice Of Enforcement Remedy 12  
    Notice to DDA 12  
    Notice to Public 12  
    Notice to the Professional Licensing Boards 12
- O**  
Obligation To Report Abuse, Neglect, Exploitation, & Injuries 23
- P**  
Participant Rights 21  
    Additional Participant Rights 22  
    Method of Informing Participants of Their Rights 22  
    Participant Rights Provided Under Idaho Code 22  
Policies & Procedures Regarding Development Of Social Skills & Management Of Maladaptive Behavior 23  
    Adaptive & Maladaptive Behaviors 23  
    Appropriate Use of Interventions 24  
    Behavior Replacement 23  
    Function of Behavior 23

- Objectives & Plans 23
  - Participant Involvement 23
  - Positive Social Skills 23
  - Prevention Strategies 23
  - Protected Rights 23
  - Review & Approval 24
  - Written Informed Consent 23
  - Program Documentation
    - Requirements 19
    - Requirements for Participants
      - Seven Through Sixteen 19
      - Requirements for Participants
        - Three to Twenty-One 19
  - Program Requirements 19
- Q**
- Quality Assurance, Participant Rights,  
Required Policies, Etc. 20
- R**
- Record Requirements 19
    - Case Record Organization 20
    - General Records
      - Requirements 20
      - Status Review 20
  - Renewal & Expiration Of The  
Certificate 9
    - DDA Enrolled Prior to July 1,  
2011 10
    - Expiration Without Timely  
Request for Renewal 9
    - Issuance of Certificate 9
    - National Accreditation 10
    - Renewal of Certificate 9
  - Requirements For An Agency's Quality  
Assurance Program 20
    - Additional Requirements 21
    - Purpose of the Quality Assurance  
Program 20
    - Quality Assurance Program  
Components 21
  - Revocation Of Certificate 11
    - Causes for Revocation of the  
Certificate 11
    - Revocation of the DDA's  
Certificate 11
  - Rule Enforcement Process &  
Remedies 10
- S**
- Services Provided by Developmental  
Disabilities Agencies 6
  - Setting Requirements For Agencies  
Delivering Community-Based  
Services 18
    - Accessibility 19
    - Environment 19
    - Image Enhancement 19
  - Natural Environment 19
  - Promote Inclusion 19
  - Service Group Size 19
  - Staffing Requirements & Provider  
Qualifications 12
- T**
- Types Of Certificates Issued 10
    - One-Year Certificate 10
    - Provisional Certificate 10
    - Three-Year Certificate 10
- V**
- Vehicle Safety Requirements 16
    - Applicable Laws, Rules, &  
Regulations 16
    - Liability Insurance 16
    - Licenses & Certifications for  
Drivers & Vehicles 16
    - Preventative Maintenance  
Program 16
    - Transportation Safety Policy 16
  - Volunteer Workers In A DDA 14