

Rules for the Division of Developmental Disabilities

Early Intervention Day Treatment



LAST UPDATED: January 1, 2021

Subchapter 1. General.

101. Authority.

- (a) These standards are promulgated under the authority of Ark. Code Ann. § 20-48-201 to -212, Ark. Code Ann. § 20-48-1101 to -1108, Ark. Code Ann. § 25-10-102, and Ark. Code Ann. § 25-15-217.
- (b) (1) The Division of Provider Services and Quality Assurance (DPSQA) shall perform all regulatory functions regarding the licensure and monitoring of Early Intervention Day Treatment programs on behalf of the Division of Developmental Disabilities Services.

 (2) The Division of Developmental Disabilities Services (DDS) shall determine whether and to what an extent a county is underserved.
- (c) (1) The Division of Child Care and Early Childhood Education (DCCECE) shall perform all regulatory functions regarding the licensure and monitoring of child care centers.

 (2) DPSQA may perform regulatory functions regarding the monitoring of child care centers that are licensed as Early Intervention Day Treatment programs on behalf of DCCECE.

102. Purpose.

The purpose of these standards is to:

- (a) Serve as the minimum standards for early intervention day treatment programs and facilities; and
- (b) Ensure that all beneficiaries receive all early intervention day treatment services recommended by a physician for the maximum reduction of physical or mental disability and restoration of the beneficiary to the best functional level.

103. Definitions.

- (a) “Academic medical center” means a medical center located in Arkansas that consists of a medical school and its primary teaching hospitals and clinical programs.
- (b) “Adverse regulatory action” means a denial of an EIDT license and any enforcement action taken by DPSQA pursuant to Section 803 to 807.

- (c) “Applicant” means an applicant for an EIDT license.
- (d) “Child care center” means a child care center licensed as a child care center by DCCECE pursuant to the Minimum Licensing Standards for Child Care Centers.
- (e) “Child care center license” means a license to operate a child care center issued by DCCECE pursuant to the Minimum Licensing Standards for Child Care Centers.
- (f)
 - (1) “Change in ownership” means one or more transactions within a twelve (12) month period that result in a change in greater than fifty percent (50%) of the financial interests, governing body, operational control, or other operational or ownership interests of the EIDT.
 - (2) “Change in ownership” does not include a change of less than fifty percent (50%) in the membership of the EIDT’s board of directors, board of trustees, or other governing body.
- (g) “Directed in-service training plan” means a plan of action that:
 - (1) Provides training to assist an EIDT in complying with these standards and correcting deficiencies;
 - (2) Includes the topics covered in the training and materials used in the training;
 - (3) Specifies the length of the training;
 - (4) Specifies the staff required to attend the training; and
 - (5) Is approved by DPSQA.
- (h) “Early intervention day treatment” means diagnostic, screening, evaluative, preventative, therapeutic, palliative, and rehabilitative and habilitative, including speech, occupational, and physical therapies and any medical or remedial services recommended by a physician for the maximum reduction of physical or mental disabilities and the restoration of the child to the best possible functional level.
- (i) “ECDS” means an early childhood developmental specialist, which is an employee responsible for the development of beneficiary individual treatment plans (referred to as “ITPs”), the supervision of habilitative services delivery to beneficiaries, and who satisfies at least one of the following criteria:
 - (1) Is licensed as a speech therapist, occupational therapist, physical therapist, or developmental therapist; or
 - (2) Has a bachelor’s degree and at least one (1) of the following:

- (A) An Early Childhood or Early Childhood Special Education certificate;
 - (B) Current child development associate’s certificate;
 - (C) Current birth to pre-K credential; or
 - (D) Documented experience working with children with special needs and twelve (12) hours of completed college courses in early childhood, child development, special education, elementary education, or child and family studies.
- (j) “Early intervention day treatment services” means services that are available under the Early Intervention Day Treatment program for Medicaid beneficiaries as defined in Section II of the Early Intervention Day Treatment Medicaid Manual.
- (k) “EIDT” means an early intervention day treatment program, which is a pediatric day treatment program run by one or more ECDS that provides early intervention day treatment service prescribed by a physician to children with intellectual and developmental disabilities, developmental delays, or a medical condition that puts them at risk for developmental delay.
- (l) “EIDT license” means a non-transferable license issued by DPSQA to an EIDT for a specific location that meets these standards.
- (m) (1) “Employee” means an employee, owner, independent contractor, or other agent of an EIDT and includes without limitation full-time employees, part-time employees, transportation contractors, and any other person who acts on behalf of an EIDT or has an ownership, financial, or voting interest in the EIDT.
- (2) “Employee” does not mean an independent contractor if:
- (i) The independent contractor does not assist in the day-to-day operations of the EIDT; and
 - (ii) The independent contractor has no beneficiary contact.”
- (n) “First Connections” means the DDS program that administers, monitors, and carries out all activities and responsibilities for the State of Arkansas under Part C of the Individuals with Disabilities Education Act to ensure appropriate early intervention services are available to all infants and toddlers from birth to thirty-six (36) months of age who are suspected of having a developmental delay (and their families.)
- (o) “First Connections Central Intake Unit” means the DDS unit in the First Connections program that serves as the program’s single referral point of entry to minimize duplication and expedite service delivery.

- (p) “Irreconcilable conflict” means a conflict between two standards where an EIDT cannot comply with both standards at the same time.
- (q) “ITP” means a beneficiary’s individual treatment plan, which is a written, individualized service plan for an EIDT beneficiary to improve the EIDT beneficiary’s condition.
- (r) “Local Education Agency” means the school district or education service cooperative offering preschool services to the area where the beneficiary resides.
- (s) (1) “Marketing” means the accurate and honest advertisement of an EIDT that does not also constitute solicitation.
(2) “Marketing” includes without limitation:
 - (A) Advertising using traditional media;
 - (B) Distributing brochures or other informational materials regarding the services offered by the EIDT;
 - (C) Conducting tours of the EIDT to interested beneficiaries and their families;
 - (D) Mentioning services offered by the EIDT in which the beneficiary or his or her family might have an interest; or
 - (E) Hosting informational gatherings during which the services offered by the EIDT are described.
- (t) “Medication error” means the loss of medication, unavailability of medication, falsification of medication logs, theft of medication, missed doses of medication, incorrect medications administered, incorrect doses of medication, incorrect time of administration, incorrect method of administration, and the discovery of an unlocked medication container that is always supposed to be locked.
- (u) “Plan of correction” means a plan of action that:
 - (1) Provides the steps an EIDT must take to correct noncompliance with these standards;
 - (2) Sets a timeframe for each specific action provided in the plan; and
 - (3) Is approved by DPSQA.
- (v) “Residence” means the county where a beneficiary is listed as residing in the Arkansas Medicaid Management System.
- (w) “Serious injury” means any injury to a beneficiary that:

- (1) May cause death;
 - (2) May result in substantial permanent impairment;
 - (3) Requires the attention of an emergency medical technician, a paramedic, or a doctor; or
 - (4) Requires hospitalization.
- (x) (1) “Solicitation” means the initiation of contact with a beneficiary or his or her family by an EIDT when the beneficiary is currently receiving services from another provider and the EIDT is attempting to convince the beneficiary or his or her family to switch to or otherwise use the services of the ADDT that initiated the contact.
- (2) “Solicitation” includes without limitation the following acts to induce a beneficiary or his or her family by:
- (A) Contacting the family of a beneficiary that is currently receiving services from another provider;
 - (B) Offering cash or gift incentives to a beneficiary or his or her family;
 - (C) Offering free goods or services not available to other similarly situated beneficiaries or their families;
 - (D) Making negative comments to a beneficiary or his or her family regarding the quality of services performed by another service provider;
 - (E) Promising to provide services in excess of those necessary;
 - (F) Giving a beneficiary or his or her family the false impression, directly or indirectly, that the EIDT is the only service provider that can perform the services desired by the beneficiary or his or her family; or
 - (G) Engaging in any activity that DPSQA reasonably determines to be “solicitation.”
- (y) “Student observer” means a student visiting an EIDT on one-time or periodic basis to observe classroom activities or other similar activities that do not involve direct contact with beneficiaries.
- (z) “Underserved county” means a county that is underserved regarding early intervention day treatment services.

Subchapter 2. Licensing.

201. License Required.

- (a) (1) An EIDT must have an EIDT license issued by DPSQA pursuant to these standards for the location at which the EIDT will provide services.
- (2) An EIDT must comply with all requirements of these standards.
- (b) (1) An EIDT license is specific to a single location.
- (2) A separate EIDT license is required for each location even if the same person or entity has an EIDT at other locations.
- (3) A location may only have one EIDT license attributed to it at any one time.
- (c) An EIDT may be operated through an academic medical center program if the program:
 - (1) Specializes in developmental pediatrics; and
 - (2) Is staffed and operated by the academic medical center under the direction of a board-certified or board-eligible developmental pediatrician;
- (d) (1) An EIDT must have a child care center license in good standing for the EIDT's location unless the EIDT is operating as an academic medical center.
- (2) (A) An EIDT must comply with all requirements of the applicable Minimum Licensing Standards for Child Care Centers.
- (B) A violation of the applicable Minimum Licensing Standards for Child Care Centers constitutes a violation of these standards.
- (e) (1) In the event of a conflict between these standards and the Minimum Licensing Standards for Child Care Centers, the stricter requirement shall apply.
- (2) In the event of an irreconcilable conflict between these standards and the Minimum Licensing Standards for Child Care Centers, these standards shall govern to the extent not governed by federal laws or rules or state law.

202. Licensure Application.

- (a) (1) To apply for an EIDT license, an applicant must submit a complete application to DPSQA.

- (2) A complete application includes:
 - (A) Documentation demonstrating the applicant's entire ownership, including without limitation all the applicant's financial, governing body, and business interests;
 - (B) Documentation of the applicant's management, including without limitation the management structure and members of the management team;
 - (C) Documentation of the applicant's current contractors and the contractors that the applicant intends to use as part of operating the EIDT;
 - (D) Documentation of all required state and national criminal background checks for employees and operators;
 - (E) Documentation of all required Child Maltreatment Registry checks and Adult Maltreatment Registry checks for employees and operators;
 - (F) Documentation demonstrating compliance with these standards; and
 - (G) All other documentation or other information requested by DPSQA.
- (b) To apply to change the ownership of an existing EIDT, the EIDT must submit a complete application described in Section 202(a)(2).

203. Licensure Process.

- (a) DPSQA may approve an application for an EIDT license and issue an EIDT license if:
 - (1) The applicant submits a complete application under Section 202(a);
 - (2) DPSQA determines that the applicant has successfully passed all required criminal background and maltreatment checks.
 - (3) DPSQA determines that the applicant satisfies these standards; and
 - (4) DPSQA determines that one of the following conditions are met:
 - (A) DDS has determined that the county in which the new EIDT would be located is an underserved county;
 - (B) The applicant has one or more EIDT licensed locations in the same county in which the new EIDT would be located; or

- (C) The applicant has one or more EIDT licensed locations in a county contiguous to the county in which the new EIDT would be located and the existing location serves at least thirty (30) children who are eligible, enrolled, and participating in the existing location, but reside in the county in which the EIDT would be located.
- (b) DPSQA may approve an application to change the ownership of an existing EIDT and change the ownership of an existing EIDT license if:
 - (1) The applicant submits a complete application under Section 202;
 - (2) DPSQA determines that all employees and operators have successfully passed all required criminal background and maltreatment checks; and
 - (3) DPSQA determines that the applicant satisfies these standards.
- (c) DPSQA shall issue new EIDT licenses in accordance with the order of priority required by section 20-48-1105 of the Arkansas Code.
- (d) EIDT licenses do not expire until terminated under these standards.

204. Notice of Underserved Status.

DDS shall provide written notice of any underserved determination made under Section 203(a) as required in section 20-48-1106 of the Arkansas Code.

Subchapter 3. Administration.

301. Organization and Ownership.

- (a) The EIDT must be authorized and in good standing to do business under the laws of the State of Arkansas.

- (b) (1) An EIDT must appoint a single manager as the point of contact for all DDS and DPSQA matters and provide DDS and DPSQA with updated contact information for that manager.

- (2) This manager must have authority over the EIDT, all EIDT employees, and ensuring that DDS and DPSQA requests, concerns, inquiries, and enforcement actions are addressed and resolved to the satisfaction of DDS and DPSQA.

- (c) (1) An EIDT cannot transfer its EIDT license to any person or entity.

- (2) An EIDT cannot change its ownership unless DPSQA approves the application of the new ownership pursuant to Sections 202 and 203.

- (3) An EIDT cannot change its name or otherwise operate under a different name than the name listed on the EIDT license without prior written approval from DPSQA.

302. Employees and Staffing Requirements.

- (a) (1) An EIDT must appropriately supervise all beneficiaries based on each beneficiary's needs.

- (2) An EIDT must have enough employees on-site to supervise beneficiaries at the EIDT location.

- (b) (1) An EIDT must comply with all requirements applicable to employees under these standards and all requirements applicable to employees of child care centers, including without limitation criminal background checks and adult and child maltreatment checks.

- (2) An EIDT must verify an employee still meets all requirements upon the request of DPSQA or whenever the EIDT receives information after hiring that would create a reasonable belief that the employee no longer meets all requirements including without limitation requirements related to criminal background checks and adult and child maltreatment checks.

- (c) (1) An EIDT must conduct child maltreatment, adult maltreatment and criminal

background checks for all employees as required by law and applicable Minimum Licensing Standards for Child Care Centers.

- (2) Except as provided in this section, all EIDT employees, contractors, sub-contractors, interns, volunteers, and trainees, as well as all other persons who have routine contact with beneficiaries within the EIDT or who provide services within the EIDT, must successfully pass all required criminal background checks and adult and child maltreatment checks.
- (d)
 - (1) Employees must be sixteen (16) years of age or older.
 - (2) Employees under eighteen (18) years of age must be:
 - (A) Directly and visually supervised by an adult employee when in direct contact with beneficiaries; and
 - (B) Enrolled in high school or GED curriculum.
 - (3) Student observers:
 - (A) Cannot be counted toward staff-to-beneficiary ratios;
 - (B) Cannot have disciplinary control over an EIDT beneficiary;
 - (C) Cannot be left alone with a beneficiary; and
 - (D) Are not required to have criminal background, child maltreatment, or adult maltreatment checks.
 - (4) A beneficiary's custodian or legal guardian is not required to have criminal background, child maltreatment, or adult maltreatment check if the custodian or legal guardian only volunteers on a field trip and is not left alone with any beneficiary.
- (e)
 - (1) Except as provided in subsection (2) below, the EIDT must provide at least the following minimum staff-to-beneficiary ratio for all beneficiaries:

Age Group	Ratio
0 to 18 months	1:4
18 to 36 months	1:6
3 to 4 years	1:8
4 years and above	1:9

- (2) The EIDT may reduce the staff-to-beneficiary ratio by up to fifty percent (50%) during naptime for beneficiaries who are two and one-half (2 ½) years of age and

older, if at least seventy-five percent (75%) of the staff-to-beneficiary ratio is maintained throughout the EIDT facility.

- (f) (1) An EIDT must document all scheduled and actual employee staffing.
- (2) The documentation required for employee staffing includes without limitation employee names, job title or credential, shift role, shift days, and shift times.

303. Employee Training.

- (a) All employees involved in any way with services provided to beneficiaries or who have routine contact with beneficiaries must receive the following training before having contact with beneficiaries and no later than thirty (30) days after beginning employment:
 - (1) Basic health and safety practices;
 - (2) Infection control and infection control procedures;
 - (3) Identification and mitigation of unsafe environmental factors;
 - (4) Emergency and evacuation procedures required in Section 308;
 - (5) Identification and prevention of adult and child maltreatment;
 - (6) Mandated reporter requirements; and
 - (7) Reporting incidents and accidents as required in these standards.
- (b) Employees required to receive training prescribed in subdivision (a) must receive annual re-training on those topics at least once every twelve (12) months.

304. Employee Records.

- (a) An EIDT must maintain a personnel file for each employee that includes:
 - (1) A detailed job description;
 - (2) All required criminal background checks;
 - (3) All required Child Maltreatment Registry checks;
 - (4) All required Adult Maltreatment Registry checks;
 - (5) All conducted drug screen results;

- (6) Signed statement that employee will comply with the EIDT's drug screen and drug use policies;
 - (7) Copy of current state or federal identification;
 - (8) Copy of valid state-issued driver's license, if driving is required in the job description;
 - (9) Documentation demonstrating that the employee received all training required in Section 303;
 - (10) Documentation demonstrating that the employee obtained and maintained in good standing all professional licensures, certifications, or credentials for the employee or the service the employee is performing that are required for the employee or the service the employee is performing; and
 - (11) Documentation demonstrating that the employee meets all continuing education, in-service, or other training requirements applicable to that employee under these standards and any professional licensures, certifications, or credentials held by that employee.
- (b) (1) An EIDT must ensure that each personnel record is kept confidential and available only to:
- (A) Employees who need to know the information contained in the personnel record;
 - (B) Persons or entities who need to know the information contained in the personnel record;
 - (C) DPSQA and any governmental entity with jurisdiction or other authority to access the personnel record;
 - (D) The employee; and
 - (E) Any other individual authorized in writing by the employee.
- (2) (A) An EIDT must keep personnel records in a file cabinet or room that is always locked.
- (B) (i) An EIDT may use electronic records in addition to or in place of physical records to comply with these standards.
 - (ii) An EIDT provider that uses electronic records must take

reasonable steps to backup all electronic records and reconstruct a personnel record in the event of a breakdown in the EIDT's electronic records system.

- (c) An EIDT must retain all employee records for five (5) years from the date an employee is no longer an employee of the EIDT or, if longer, the final conclusion of all reviews, appeals, investigations, administrative actions, or judicial actions related to that employee that are pending at the end of the five-year period.

305. Beneficiary Service Records.

- (a)
 - (1) An EIDT must maintain a separate, updated and complete service record for each beneficiary documenting the services provided to the beneficiary and all other documentation required under these standards.
 - (2) Each beneficiary service record must be uniformly organized and readily available for review by DPSQA at the EIDT's location.
- (b) A beneficiary's service record must include a summary document at the front that includes:
 - (1) The beneficiary's full name;
 - (2) The beneficiary's address and county of residence;
 - (3) The beneficiary's telephone number and email address;
 - (4) The beneficiary's date of birth;
 - (5) The beneficiary's primary language;
 - (6) The beneficiary's diagnoses;
 - (7) The beneficiary's medications, dosage, and frequency, if applicable;
 - (8) The beneficiary's known allergies;
 - (9) The beneficiary's entry date into the EIDT;
 - (10) The beneficiary's exit date from the EIDT;
 - (11) The beneficiary's Medicaid Number;
 - (12) The beneficiary's commercial or private health insurance information or managed care organization information, if applicable;

- (13) The name, address, phone number, email address, and relationship of the beneficiary's custodian or legal guardian; and
 - (14) The name, address, and phone number of the beneficiary's primary care physician.
- (c) A beneficiary's service record must include at least the following information and documentation:
- (1) The beneficiary's ITP;
 - (2) The beneficiary's behavioral management plan;
 - (3) The beneficiary's daily activity logs;
 - (4) The beneficiary's medication management plan and medication logs;
 - (5) Copies of any assessments or evaluations completed on the beneficiary; and
 - (6) Copies of any orders that place the beneficiary in the custody of another person or entity.
- (d) (1) An EIDT must ensure that each beneficiary service record is kept confidential and available only to:
- (A) Employees who need to know the information contained in the beneficiary's service record;
 - (B) Persons or entities who need to know the information contained in the beneficiary service record in order to provide services to the beneficiary;
 - (C) DPSQA and any governmental entity with jurisdiction or other authority to access the beneficiary's service record;
 - (D) The beneficiary's legal guardian or custodian; and
 - (E) Any other individual authorized in writing by the legal guardian or custodian.
- (2) (A) An EIDT must keep beneficiary service records in a file cabinet or room that is always locked.
- (B) (i) An EIDT may use electronic records in addition to or in place of physical records to comply with these standards.

- (ii) An EIDT provider that uses electronic records must take reasonable steps to backup all electronic records and reconstruct a beneficiary's service record in the event of a breakdown in the EIDT's electronic records system.
- (e) An EIDT must retain all beneficiary service records for five (5) years from the date the beneficiary last exits from the EIDT or, if longer, the final conclusion of all reviews, appeals, investigations, administrative actions, or judicial actions related to beneficiary that are pending at the end of the five-year period.

306. Marketing and Solicitation.

- (a) An EIDT can market its services.
- (b) An EIDT cannot solicit a beneficiary or his or her family.

307. Third-party Service Agreements.

- (a) An EIDT may contract in writing with third-party vendors to provide services or otherwise satisfy requirements under these standards.
- (b) An EIDT must ensure that all third-party vendors comply with these standards and all other applicable laws, rules, and regulations.

Subchapter 4. Facility Requirements.

401. General Requirements.

- (a) An EIDT facility must:
- (1) Be heated, air-conditioned, well-lighted, well-ventilated, and well-maintained at a comfortable temperature;
 - (2) Be safe, clean, maintained, in good repair, and sanitary, including without limitation as to the facility's exterior, surrounding property, and interior floors and ceilings;
 - (3) Be free of offensive odors and potentially hazardous objects including without limitation explosives and broken equipment;
 - (4) Have drinking water available to beneficiaries and employees;
 - (5) Have an emergency alarm system throughout the facility to alert employees and beneficiaries when there is an emergency;
 - (6) Have at least one (1) toilet and one (1) sink for every fifteen (15) beneficiaries, with running hot and cold water, toilet tissue, liquid soap, and paper towels or air dryers;
 - (7) Have bathrooms that provide for individual privacy and are appropriate for all beneficiaries with regard to size and accessibility;
 - (8) Have at least one operable telephone on site that is available at all hours and reachable with a phone number for outside callers;
 - (9) Have working smoke and carbon monoxide detectors in all areas used by beneficiaries or employees;
 - (10) Have a first aid kit that includes at least the following:
 - (A) Adhesive band-aids of various sizes;
 - (B) Sterile gauze squares;
 - (C) Adhesive tape;
 - (D) Roll of gauze bandages;
 - (E) Antiseptic;

- (F) Thermometer;
 - (G) Scissors;
 - (H) Disposable gloves; and
 - (I) Tweezers;
- (11) Have enough fire extinguishers in number and location to satisfy all applicable laws and rules, but no fewer than two fire extinguishers;
 - (12) Have hallways and corridors at least six (6) feet in width;
 - (13) Have screens for all windows and doors used for ventilation;
 - (14) Have screens or guards attached to the floor or wall to protect floor furnaces, heaters, hot radiators, exposed water heaters, air conditioners, and electric fans;
 - (15) Have no lead-based paint;
 - (16) Have lighted “exit” signs at all exit locations;
 - (17) Have written instructions and diagrams noting emergency evacuation routes and shelters to be used in case of fire, severe weather, or other emergency posted at least every twenty-five (25) feet, in all stairwells, in and by all elevators, and in each room used by beneficiaries;
 - (18) Have a copy of Title VI and VII of the Civil Rights Law of 1964 and all required legal notices prominently posted as required;
 - (19) Have an emergency power system to provide lighting and power to essential electrical devices throughout the EIDT, including without limitation power to exit lighting and fire detection, fire alarm, and fire extinguishing systems;
 - (20) Have chemicals, toxic substances, and flammable substances stored in locked storage cabinets or closets;
 - (21) Have the EIDT’s telephone, hours of operation, and hours of access, if applicable, posted at all public entrances;
 - (22) Prohibit the possession of firearms or other weapons except by authorized law enforcement personnel; and
 - (23) Prohibit smoking, use of tobacco products, and the consumption of prescription medication without a prescription, alcohol, and illegal drugs.

Subchapter 5. Enrollments, Exits, and Referrals.

501. Enrollments.

- (a) An EIDT may enroll and provide services to a beneficiary who is eligible to receive EIDT services.
- (b) An EIDT must document the enrollment of all beneficiaries to the EIDT.

502. Exits.

- (a) An EIDT may exit a beneficiary from its program if the person becomes ineligible for EIDT services, chooses to enroll with another EIDT, or for any other lawful reason.
- (b) An EIDT must document the exit of all beneficiaries from its program.
- (c) An EIDT must provide reasonable assistance to all beneficiaries exiting its program including without limitation by:
 - (1) Assisting the beneficiary in transferring to another EIDT or other service provider; and
 - (2) Providing copies of such a beneficiary's records to the beneficiary, the beneficiary's legal custodian or guardian, and the EIDT or other service provider to which the beneficiary transfers after exiting the program.

503. Referrals to the First Connections Program.

- (a) (1) An EIDT must, within two (2) working days of first contact, refer to the First Connections program all infants and toddlers from birth to thirty-six (36) months of age for whom there is a diagnosis or suspicion of a developmental delay or disability.
- (2) The referral must be made to the First Connections Central Intake Unit.
- (b) Each EIDT is responsible for documenting that a proper and timely referral to First Connections has been made pursuant to these standards.

504. Referrals to Local Education Agencies.

- (a)
 - (1) Each EIDT must, within two (2) working days of first contact, refer to the appropriate Local Education Agency each beneficiary who is at least three (3) years old, has not entered Kindergarten, and for whom there is a diagnosis or suspicion of a developmental delay or disability.
 - (2) For beneficiaries who turn three (3) years of age while receiving services at the EIDT, the referral must be made at least ninety (90) days prior to the beneficiary's third birthday.
 - (3) If the beneficiary begins services less than ninety (90) days prior to their third birthday, the referral should be made within two (2) working days of first contact,
 - (4) The referral must be made to the Local Education Agency where that beneficiary resides.
- (b) Each EIDT is responsible for documenting that a proper and timely referral to the appropriate Local Education Agency has been made pursuant to these standards.

505. Appropriate Referrals for Beneficiaries Failing to Qualify.

- (a) An EIDT must provide the custodian or legal guardian of a beneficiary with appropriate information and referrals to other available services if:
 - (1) The EIDT assists the beneficiary with obtaining a developmental screen or performs a comprehensive developmental evaluation as part of the process of determining the beneficiary's eligibility for EDIT services; and
 - (2) The developmental screen or comprehensive developmental evaluation indicates the beneficiary is not eligible to receive EIDT services.
- (b) Other available services include without limitation any early head start, head start, and home visiting programs.
- (c) Each EIDT is responsible for maintaining documentation evidencing that a reasonable attempt was made to provide the referrals, materials, and information described in (a) to the beneficiary's custodian or legal guardian.

Subchapter 6. Program and Services.

601. Arrivals, Departures, and Transportation.

- (a) (1) An EIDT must ensure that beneficiaries safely arrive to and depart from an EIDT facility.
 - (2) (A) An EIDT must document the arrival and departure of each beneficiary to and from an EIDT facility.
 - (B) Documentation of arrivals to and departures from an EIDT must include without limitation the beneficiary's name, date of birth, date and time of arrival and departure, name of the person or entity that provided transportation, and method of transportation.
 - (3) (A) A manager or designee of an EIDT must:
 - (i) Review the beneficiary arrival and departure documentation each day and compare it with the EIDT's attendance record;
 - (ii) Sign and date the beneficiary arrival and departure documentation verifying that all beneficiaries for the day safely arrived to and departed from the EIDT facility.
 - (B) An EIDT must maintain beneficiary arrival and departure documentation for one (1) year from the date of transportation.
- (b) An EIDT that elects to provide transportation services to any beneficiary must comply with all vehicle and other transportation requirements in the Minimum Licensing Standards for Child Care Centers, including without limitation when the transportation is provided to a beneficiary by any person or entity on behalf of the EIDT and regardless of whether the person is an employee, or the transportation is a billed service.

602. Medications.

- (a) (1) An EIDT must develop a medication management plan for all beneficiaries with prescribed medication that may be administered at the EIDT.
- (2) A medication management plan must include without limitation:
 - (A) The name of each medication;
 - (B) The name of the prescribing physician or other health care professional if the medication is by prescription;

- (C) A description of each medication prescribed and any symptom or symptoms to be addressed by each medication;
 - (D) How each medication will be administered, including without limitation times of administration, doses, delivery, and persons that may lawfully administer each medication;
 - (E) How each medication will be charted;
 - (F) A list of the potential side effects caused by each medication; and
 - (G) The consent to the administration of each medication by the beneficiary or, if the person lacks capacity to consent, by the beneficiary's legal guardian or custodian.
- (b) (1) An EIDT must maintain a medication log detailing the administration of all medication to a beneficiary, including without limitation prescribed medication and over-the-counter medications.
- (2) Each medication log must be uniformly organized and document the following for each administration of a medication:
- (A) The name and dosage of medication administered;
 - (B) The symptom for which the medication was used to address;
 - (C) The method the medication was administered;
 - (D) The date and time the medication was administered;
 - (E) The name of the employee who administered the medication or assisted in the administration of the medication;
 - (F) Any adverse reaction or other side effect from the medication;
 - (G) Any transfer of medication from its original container into individual dosage containers by the beneficiary's custodian or legal guardian;
 - (H) Any error in administering the medication and the name of the supervisor to which the error was reported; and
 - (I) The prescription and the name of the prescribing physician or other health care professional if the medication was not previously listed in the medication management plan.

- (3) Medication errors must be:
 - (A) Immediately reported to a supervisor;
 - (B) Documented in the medication log; and
 - (C) Reported as required under all applicable laws and rules including without limitation the laws and rules governing controlled substances.
- (c) All medications stored for a beneficiary by an EIDT must be:
 - (1) Kept in the original medication container unless the beneficiary's custodian or legal guardian transfers the medication into individual dosage containers;
 - (2) Labeled with the beneficiary's name;
 - (3) Stored in an area, medication cart, or container that is always locked; and
 - (4) Returned to a beneficiary's custodian or legal guardian, destroyed, or otherwise disposed of in accordance with applicable laws and rules, if the medication is no longer to be administered to a beneficiary.
- (d) An EIDT must store all medications requiring cold storage in a separate refrigerator that is used only for purpose of storing medications.

603. Behavior Management Plans.

- (a) An EIDT may implement a written behavior management plan for a beneficiary if a beneficiary exhibits challenging behaviors on a chronic basis.
- (b) A behavior management plan:
 - (1) Must be approved by an ECDS;
 - (2) Must involve the fewest and shortest interventions possible; and
 - (3) Cannot punish or use interventions that are physically or emotionally painful, frighten, or put the beneficiary at medical risk.
- (c)
 - (1) (A) An EIDT must reevaluate behavior management plans at least quarterly.
 - (B) An EIDT must refer the beneficiary to an appropriately licensed professional for re-evaluation if the behavior management plan is not achieving the desired results.

- (2) An EIDT must regularly collect and review data regarding the use and effectiveness of all behavior management plans.
- (3) The collection and review of data regarding the use and effectiveness of behavior management plans must include at least:
 - (A) The date and time any intervention is used;
 - (B) The duration of each intervention;
 - (C) The employee or employees involved in each intervention; and
 - (D) The event or circumstances that triggered the need for the intervention.

Subchapter 7. Incident and Accident Reporting.

701. Incidents to be Reported.

- (a) An EIDT must report all alleged, suspected, observed, or reported occurrences of any of the following events:
 - (1) Death of a beneficiary;
 - (2) Serious injury to a beneficiary;
 - (3) Adult or child maltreatment of a beneficiary;
 - (4) Any event where an employee threatens or strikes a beneficiary;
 - (5) Unauthorized use on a beneficiary of restrictive intervention, including seclusion or physical, chemical, or mechanical restraint;
 - (6) Any situation when the whereabouts of a beneficiary are unknown for more than two (2) hours;
 - (7) Any unanticipated situation when services to the beneficiary are interrupted for more than two (2) hours;
 - (8) Events involving a risk of death, serious physical or psychological injury, or serious illness to a beneficiary;
 - (9) Medication errors made by an employee that cause or have the potential to cause death, serious injury, or serious illness to a beneficiary;
 - (10) Any act or admission that jeopardizes the health, safety, or quality of life of a beneficiary;
 - (11) Motor vehicle accidents involving a beneficiary;
 - (12) A positive case of a beneficiary or a staff member for any infectious disease that is the subject of a public health emergency declared by the Governor, ADH, the President of the United States, or the United States Department of Health and Human Services; or
 - (13) Any event that requires notification of the police, fire department, or coroner.
- (b) Any EIDT may report any other occurrences impacting the health, safety, or quality of life of a beneficiary.

702. Reporting Requirements.

- (a) An EIDT must:
 - (1) Submit all reports of the following events within one (1) hour of the event:
 - (A) Death of a beneficiary;
 - (B) Serious injury to a beneficiary; or
 - (C) Any incident that an EIDT should reasonably know might be of interest to the public or the media.
 - (2) Submit reports of all other incidents within forty-eight (48) hours of the event.
- (b) An EIDT must submit reports of all incidents to DPSQA as provided through DPSQA's website: <https://humanservices.arkansas.gov/about-dhs/dpsqa/>.
- (c) Reporting under these standards does not relieve an EIDT of complying with any other applicable reporting or disclosure requirements under state or federal laws, rules, or regulations.

703. Notification to Guardians and Legal Custodians.

- (a) An EIDT must notify the guardian or legal custodian of a beneficiary of any reportable incident involving a beneficiary, as well as any injury or accident involving a beneficiary even if the injury or accident is not otherwise required to be reported in this Section.
- (b) An EIDT should maintain documentation evidencing notification required in subdivision (a).

Subchapter 8. Enforcement.

801. Monitoring.

- (a) (1) DPSQA shall monitor an EIDT to ensure compliance with these standards.
- (2) (A) An EIDT must cooperate and comply with all monitoring, enforcement, and any other regulatory or law enforcement activities performed or requested by DPSQA or law enforcement.
- (B) Cooperation required under these standards includes without limitation cooperation and compliance with respect to investigations surveys, site visits, reviews, and other regulatory actions taken by DPSQA or any third-party contracted by DHS to monitor, enforce, or take other regulatory action on behalf of DHS, DPSQA, or DDS.
- (b) Monitoring includes without limitation:
 - (1) On-site surveys and other visits including without limitation complaint surveys and initial site visits;
 - (2) On-site or remote file reviews;
 - (3) Written requests for documentation and records required under these standards;
 - (4) Written requests for information; and
 - (5) Investigations related to complaints received.
- (c) DHS may contract with a third-party to monitor, enforce, or take other regulatory action on behalf of DHS, DPSQA, or DDS.

802. Written Notice of Enforcement Action.

- (a) DPSQA shall provide written notice to the EIDT of all enforcement actions taken against the EIDT.
- (b) DPSQA shall provide written notice to the EIDT by mailing the imposition of the enforcement action to the manager appointed by the EIDT pursuant to Section 301.

803. Remedies.

- (a) (1) DPSQA shall not impose any remedies imposed by an enforcement action unless:
 - (A) The EIDT is given notice and an opportunity to be heard pursuant to this Section 802 and Subchapter 10; or
 - (B) DPSQA determines that public health, safety, or welfare imperatively requires emergency action;
- (2) If DPSQA imposes a remedy as an emergency action before the EIDT has notice and an opportunity to be heard pursuant to subdivision (a)(1), DPSQA shall:
 - (A) Provide immediate notice to the EIDT of the enforcement action; and
 - (B) Provide the EIDT with an opportunity to be heard pursuant to Subchapter 10.
- (b) DPSQA may impose on an EIDT any of the following enforcement actions for the EIDT's failure to comply with these standards:
 - (1) Plan of correction;
 - (2) Directed in-service training plan;
 - (3) Moratorium on new admissions;
 - (4) Transfer of beneficiaries;
 - (5) Monetary penalties;
 - (6) Suspension of EIDT license;
 - (7) Revocation of EIDT license; and
 - (8) Any remedy authorized by law or rule including without limitation section 25-15-217 of the Arkansas Code.
- (c) DPSQA shall determine the imposition and severity of these enforcement remedies on a case-by-case basis using the following factors:
 - (1) Frequency of non-compliance;
 - (2) Number of non-compliance issues;
 - (3) Impact of non-compliance on a beneficiary's health, safety, or well-being;

- (4) Responsiveness in correcting non-compliance;
 - (5) Repeated non-compliance in the same or similar areas;
 - (6) Non-compliance with previously or currently imposed enforcement remedies;
 - (7) Non-compliance involving intentional fraud or dishonesty; and
 - (8) Non-compliance involving violation of any law, rule, or other legal requirement.
- (d) (1) DPSQA shall report any noncompliance, action, or inaction by the EIDT to appropriate agencies for investigation and further action.
 - (2) DPSQA shall refer non-compliance involving Medicaid billing requirements to the Division of Medical Services and the Arkansas Attorney General's Medicaid Fraud Control Unit.
- (e) These enforcement remedies are not mutually exclusive and DPSQA may apply multiple remedies simultaneously to a failure to comply with these standards.
 - (f) The failure to comply with an enforcement remedy imposed by DPSQA constitutes a separate violation of these standards.

804. Moratorium.

- (a) DPSQA may prohibit an EIDT from accepting new beneficiaries.
- (b) An EIDT prohibited from accepting new admissions may continue to provide services to existing beneficiaries.

805. Transfer of Beneficiaries.

- (a) DPSQA may require an EIDT to transfer a beneficiary to another EIDT if DPSQA finds that the EIDT cannot adequately provide services to the beneficiary.
- (b) If directed by DPSQA, an EIDT must continue providing services until the beneficiary is transferred to his or her new service provider of choice.
- (c) A transfer of a beneficiary may be permanent or for a specific term depending on the circumstances.

806. Monetary Penalties.

- (a) DPSQA may impose on an EIDT a civil monetary penalty not to exceed five hundred dollars (\$500) for each violation of these standards.
- (b)
 - (1) DPSQA may file suit to collect a civil monetary penalty assessed pursuant to these standards if the EIDT does not pay the civil monetary penalty within sixty (60) days from the date DPSQA provides written notice to the EIDT of the imposition of the civil monetary penalty.
 - (2) DPSQA may file suit in Pulaski County Circuit Court or the circuit court of any county in which the EIDT is located.

807. Suspension and Revocation of EIDT License.

- (a)
 - (1) DPSQA may temporarily suspend an EIDT license if the EIDT fails to comply with these standards.
 - (2) If an EIDT's license is suspended, the EIDT must immediately stop providing EIDT services until DPSQA reinstates its license.
- (b)
 - (1) DPSQA may permanently revoke an EIDT license if the EIDT fails to comply with these standards.
 - (2) If an EIDT's license is revoked, the EIDT must immediately stop providing EIDT services and comply with the permanent closure requirements in Section 901(a).

Subchapter 9. Closure.

901. Closure.

- (a) (1) An EIDT license ends if an EIDT permanently closes, whether voluntarily or involuntarily, and is effective the date of the permanent closure as determined by DPSQA.
- (2) An EIDT that intends to permanently close, or does permanently close without warning, whether voluntarily or involuntarily, must immediately:
 - (A) Provide the custodian or legal guardian of each beneficiary with written notice of the closure;
 - (B) Provide the custodian or legal guardian of each beneficiary with written referrals to at least three (3) other appropriate service providers;
 - (C) Assist each beneficiary and his or her custodian or legal guardian in transferring services and copies of beneficiary records to any new service providers;
 - (D) Assist each beneficiary and his or her custodian or legal guardian in transitioning to new service providers; and
 - (E) Arrange for the storage of beneficiary service records to satisfy the requirements of Section 305.
- (b) (1) An EIDT that intends to voluntarily close temporarily due to natural disaster, pandemic, completion of needed repairs or renovations, or for similar circumstances may request to temporarily close its facility while maintaining its EIDT license for up to one (1) year from the date of the request.
- (2) An EIDT must comply with subdivision (a)(2)'s requirements for notice, referrals, assistance, and storage of beneficiary records if DPSQA grants an EIDT's request for a temporary closure.
- (3) (A) DPSQA may grant a temporary closure if the EIDT demonstrates that it is reasonably likely that it will be able to reopen after the temporary closure.
- (B) DPSQA shall end an EIDT's temporary closure and direct that the EIDT permanently close if the EIDT fails to demonstrate that it is reasonably likely that it will be able to reopen after the temporary closure.

- (4) (A) DPSQA may end an EIDT's temporary closure if the EIDT demonstrates that it is in full compliance with these standards.
- (B) DPSQA shall end an EIDT's temporary closure and direct that the EIDT permanently close if the EIDT fails to become fully compliant with these standards within one (1) year from the date of the request.

Subchapter 10. Appeals.

1001. Reconsideration of Adverse Regulatory Actions.

- (a) (1) An EIDT may ask for reconsideration of any adverse regulatory action taken by DPSQA by submitting a written request for reconsideration to: Division of Provider Services and Quality Assurance, Office of the Director: Requests for Reconsideration of Adverse Regulatory Actions, P.O. Box 1437, Slot 427, Little Rock, Arkansas 72203.
- (2) The written request for reconsideration of an adverse regulatory action taken by DPSQA must be submitted by the EIDT and received by DPSQA within thirty (30) calendar days of the date the EIDT received written notice of the adverse regulatory action.
- (3) The written request for reconsideration of an adverse regulatory action taken by DPSQA must include without limitation the specific adverse regulatory action taken, the date of the adverse regulatory action, the name of the EIDT against whom the adverse regulatory action was taken, the address and contact information for the EIDT against whom the adverse regulatory action was taken, and the legal and factual basis for reconsideration of the adverse regulatory action.
- (b) (1) DPSQA shall review each timely received written request for reconsideration and determine whether to affirm or reverse the adverse regulatory action taken based on these standards.
- (2) DPSQA may request, at its discretion, additional information as needed to review the adverse regulatory action and determine whether the adverse regulatory action taken should be affirmed or reversed based on these standards.
- (c) (1) DPSQA shall issue in writing its determination on reconsideration within thirty (30) days of receiving the written request for reconsideration or within thirty (30) days of receiving all information requested by DPSQA under subdivision (b)(2), whichever is later.
- (2) DPSQA shall issue its determination to the EIDT using the address and contact information provided in the request for reconsideration.
- (d) (1) An applicant may ask for reconsideration of a determination by DDS that a county is not underserved by submitting a written request for reconsideration pursuant to DDS Policy 1076.
- (2) If a determination that a county is not underserved is reversed on reconsideration by DDS or on appeal by an agency or court with jurisdiction:

- (i) The applicant shall notify DPSQA of the reversal and submit a written request for reconsideration to DPSQA as provided in this section for any adverse regulatory action taken by DPSQA based on the initial determination; and
 - (ii) DPSQA shall review the written request for reconsideration as provided in this section.
- (e) DPSQA may also decide to reconsider any adverse regulatory action on its own accord any time it determines, in its discretion, that an adverse regulatory action is not consistent with these standards.

1002. Appeal of Regulatory Actions.

- (a)
 - (1) An EIDT may administratively appeal any adverse regulatory action to the DHS Office of Appeals and Hearings (OAH) except for provider appeals related to the payment for Medicaid claims and services governed by the Medicaid Fairness Act, Ark. Code Ann. § 20-77-1701 to -1718, which shall be governed by that Act.
 - (2) OAH shall conduct administrative appeals of adverse regulatory actions pursuant to DHS Policy 1098 and other applicable laws and rules.
- (b) An EIDT may appeal any adverse regulatory action or other adverse agency action to circuit court as allowed by the Administrative Procedures Act, Ark. Code Ann. § 25-15-201 to -220.