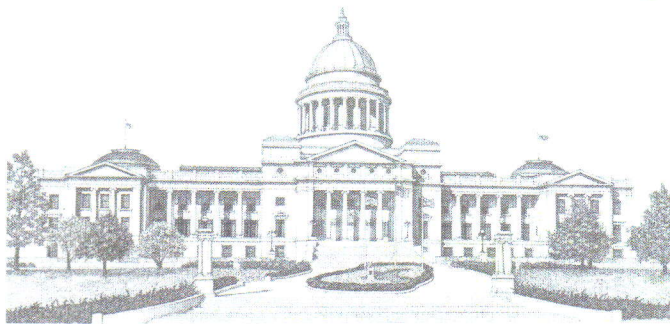


# ARKANSAS REGISTER

## Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State

**Mark Martin**

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For Office

Use Only:

Effective Date \_\_\_\_\_ Code Number \_\_\_\_\_

Name of Agency Department of Human Services

Department Division of Developmental Disabilities Services

Contact Elizabeth Pitman E-mail elizabeth.pitman@dhs.arkansas.gov Phone 501-682-4936

Statutory Authority for Promulgating Rules Arkansas Code Annotated 20-76-201

Rule Title: DDS Policy 1086 - Human Development Center Admission and Discharge Rules

Intended Effective Date  
(Check One)

☐ Emergency (ACA 25-15-204)

☒ 10 Days After Filing (ACA 25-15-204)

☐ Other \_\_\_\_\_  
(Must be more than 10 days after filing date.)

Legal Notice Published ..... 07/13/2017

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Reviewed by Legislative Council ..... \_\_\_\_\_

Adopted by State Agency ..... 10/01/2017

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Becky Murphy becky.murphy@dhs.arkansas.gov

Contact Person

E-mail Address

Date

### CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted  
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Signature

(501) 371-2165

rose.naff@dhs.arkansas.gov

Phone Number

E-mail Address

Director

Title

9-19-17

Date

**ARKANSAS DEPARTMENT OF HUMAN SERVICES  
DIVISION OF DEVELOPMENTAL DISABILITIES SERVICES  
HUMAN DEVELOPMENT CENTER ADMISSION AND DISCHARGE RULES  
DDS DIRECTOR'S OFFICE POLICY MANUAL**

| <b>Policy Type</b>    | <b>Subject of Policy</b>                                      | <b>Policy No.</b> |
|-----------------------|---------------------------------------------------------------|-------------------|
| <b>Administrative</b> | <b>Human Development Center Admission and Discharge Rules</b> | <b>1086</b>       |

**I. POLICY:**

This rule replaces existing policies in order to clarify that admission and continued residence at Human Development Centers is limited to eligible individuals who need and can benefit from care and active treatment at an intermediate care facility for individuals with developmental/intellectual disabilities. This rule establishes guidelines for discharge of individuals from the Human Development Centers (HDC) operated by Developmental Disabilities Services (DDS). This rule applies to all applicants for and recipients of human development center services regardless of whether the applicant or recipient is Medicaid eligible.

**II. SUBSTANTIVE RULES:**

**(a) Definitions:**

1. Active Treatment: A continuous program of aggressive, consistent, specialized and generic training, treatment, health services and related services described in 42 C.F.R. 483.440 (A) Chapter IV, Subchapter G, Part 483, Subpart I.
2. Adverse determination: A DDS determination of an individual's written application for or opposition to:
  - A. Eligibility for DDS services;
  - B. HDC admission, transfer, or discharge; that is contrary to the individual's written application or opposition.
3. Annual Status Review: A review conducted at least at twelve-month intervals after admission to:
  - A. Assess the client's status;
  - B. Review and, if necessary recommend changes to the client's program plan; and
  - C. Determine the client's continued HDC eligibility.
4. Disability: The deprivation of physical or mental capacity.
5. Emergency: Unforeseen life threatening circumstances that necessitate immediate HDC placement because no other safe alternatives are available.
6. Human Development Center (HDC): a state-operated intermediate care facility (ICF) for individuals with developmental/intellectual disabilities that provides residential care and active treatment services to eligible developmentally disabled individuals.
7. Interdisciplinary Team: a team constituted and functioning in accordance with 42 C.F.R. Chapter IV, Subchapter G, Part 483, Subpart I. For purposes of admission and the annual status review, the interdisciplinary team shall include a licensed physician.

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8. Independent Assessment: A standardized functional assessment performed by a third party vendor to determine eligibility of DDS services based on a person's individual needs. *See* Independent Assessment Manual.
9. Primary Disability: The condition having the greatest impact on the individual's ability to function.
10. Primary Diagnosis: A licensed physician's opinion of the individual's primary disability.
11. Psychological Team: DDS Psychological Examiner who determines Intermediate Level of Care (ICF) for individuals with developmental/intellectual disabilities.
12. Transfers: A transfer occurs when an HDC resident is admitted to another HDC. Transfers shall be accomplished by application for admission to the second HDC. If the application is approved, the individual shall be discharged from the first HDC at the time the individual is transported to the second HDC (see DDS Policy 1036 HDC Transfers).

**(b) Eligibility for Developmental Disabilities Services**

Developmental disability diagnoses include Cerebral Palsy, Epilepsy, Autism, Down Syndrome, and Spina Bifida as categorically qualified diagnoses. Other diagnoses will be considered if the condition causes the person to function as though they have an intellectual disability. DDS eligibility is established by A.C.A. § 20-48-101. DDS interprets a developmental disability to be:

1. a categorically qualifying diagnosis AND
2. significant adaptive behavior deficits related to this diagnosis.

Adaptive functioning deficits are defined as an individual's inability to function in three (3) of the following six (6) categories as consistently measured by standardized instruments administered by qualifying professionals:

1. Self-Care
2. Understanding the Use of Language
3. Learning
4. Mobility
5. Self-direction
6. Capacity for Independent Living

**(c) Categorically Qualifying Diagnoses**

1. Developmental Disability: An impairment of general intellectual functioning or adaptive behavior. For individuals over age five, developmental disability is established by scores of intelligence on standardized intelligence tests administered by a legally qualified professional. For individuals ages three through five, developmental disability is established by a standardized assessment evidencing that the applicant functions on a level two or more standard deviations from the mean in two or more areas. For individuals ages 0-36 months, developmental disability is established by a standardized assessment instrument assessing cognition, communication, social/emotional, motor, and adaptive, that yields scores in months, and that evidences a twenty-five percent delay.

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A. The delay is attributable to intellectual disability, cerebral palsy, epilepsy, autism, spina bifida, or down syndrome.

- i. As established by significant intellectual limitations that exist concurrently with deficits in adaptive behavior that are manifested before the age of 22. "Significant limitations" are defined as a full scale intelligence score of approximately 70 or below as measured by a standard test.

Infant/Preschool, 0-5 years - developmental scales, administered by qualified personnel authorized in the manual accompanying the instrument used, which indicate impairment of general functioning similar to that of developmentally disabled person;

- ii. Cerebral Palsy – As established by the results of a medical examination provided by a licensed physician;
- iii. Epilepsy – As established by the results of a neurological examination provided by a licensed physician;
- iv. Autism – As established by the results of a team evaluation including at least a licensed physician, a licensed psychologist or psychological examiner, and a licensed Speech Pathologist;
- v. Spina Bifida – As established by the results of a medical examination provided by a licensed physician.
- vi. Down Syndrome – As established by the results of a medical examination provided by a licensed physician.

Note: Each of these four conditions is sufficient for determination of eligibility independent of each other. This means that a person who is intellectually disabled does not have autism, or have epilepsy, or have cerebral palsy, or have down syndrome, or have spina bifida. Conversely, a person who has autism, or has cerebral palsy, or has epilepsy, or has spina bifida, or has down syndrome does not have to have a diagnosis of intellectual disability to receive services.

B. Is attributable to any other condition of a person found to be closely related to intellectual disabilities because the results in impairment of general intellectual functioning or adaptive behavior similar to those of persons with intellectual disabilities or requires treatment and services similar to those required for such persons.

This determination must be based on the results of a team evaluation including at least a licensed Physician and a licensed Psychologist.

C. Is attributable to dyslexia resulting from intellectual disability, cerebral palsy, epilepsy, spina bifida, down syndrome or autism by the results of a team evaluation including at least a licensed Physician and a licensed Psychologist.

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- D. The disability must originate prior to the date the person attains the age of twenty-two (22).

**(d) Eligibility for Human Development Center admission**

1. In order to be eligible for admission, the individual must be eligible for developmental disabilities services, be in need of and able to benefit from active treatment, and be unable to access appropriate and adequate developmental disabilities services in a less restrictive alternative. Admissions and discharges shall be conducted in accordance with any delegations of authority by the Developmental Disabilities Services Board. Admissions shall conform to Ark. Code Ann. § 20-48-404 through 20-48-407. Discharges shall conform to Ark. Code Ann § 20-48-412. Admissions, transfers, and discharges shall conform to 42 C.F.R. § 483.440.
2. Undergo an Independent Assessment and be determined Tier 3 level of need.
3. Each HDC may have additional specific criteria, age, activity, etc... regarding admission.
3. People less than eighteen years of age may be determined appropriate for HDC admission if one of the following issues is confirmed by the HDC Interdisciplinary Team based upon current evaluations after a determination of eligibility.
  - (A) Existing maladaptive behaviors prevented the individual from successfully residing in a less restrictive setting without endangering the health and safety of the individual or others; or
  - (B) The Human Development Center's treatment and therapies are medically necessary due to the individual's physical disabilities.
4. Regardless of age, DDS will consider for admission any individual who is eligible for ICF/IID level of care, once a determination has been made that admission is in the best interest of the individual, and their needs cannot, at the current time, be met in the community.
5. Retention: In order to remain in residence at an HDC, the annual status review conducted by the Interdisciplinary team must establish that the client remains eligible for admission.

**(e) Criteria for Discharge from Human Development Center**

1. Consideration for a discharge may be given:
  - (A) The recommendation of the individual's Interdisciplinary Team; or
  - (B) The recommendation of the Office of Long Term Care Inspection of Care Team.
2. Discharge will be given upon:
  - (A) The request of a competent adult individual, the individual's parent/guardian, legal representative if he/she is a minor, or according to the specific provisions of the individual's guardianship and/or power of attorney document;

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- (B) Even without a request for discharge, an HDC Superintendent must discharge an individual upon determination by HDC professionals that the individual is no longer eligible for admission or retention (i.e., that he or she is no longer in need of and able to benefit from active treatment provided at the HDC and is able to access appropriate and adequate services in another setting).

### **III. PROCEDURAL RULES**

#### **Perspective Eligibility Guidelines**

##### **(a) HUMAN DEVELOPMENT CENTER REFERRAL PROCESS:**

1. When a DDS Service Specialist receives a request for HDC placement he/she will give the applicant a six (6) part initial application, which includes: Information Letter, Choice Form-102, Social History; DHS 703 (Evaluation of Medical Need Criteria), Areas of Need Form, and results of the Independent Assessment.
2. The applicant will return the initial application to the DDS Service Specialist. Once the Specialist receives the completed initial application, the initial application will be sent to the DDS Eligibility Review Team for ICF eligibility determination. Once determination has been made, the DDS Eligibility Review Team will notify the DDS Intake and Referral Program Administrator of the individual(s) determined eligible.

Notice(s) of ineligibility, of individual(s) who was/were determined not to meet the ICF/IID eligibility requirement, will be sent by DDS Director or designee as well as DDS Policy 1076.

3. The Intake & Referral Unit Program Administrator will schedule a review within five (5) working days of notice of applicant(s) ICF eligibility with the DDS Appropriate Placement Review Team (which is comprised of the Intake and Referral Program Administrator, Program Manager and the HDC Admission Coordinators). The team will determine the appropriateness of the applicant for HDC services. Once a decision has been made, the Appropriate Placement Review Team will complete the *Review Of Referral For Placement Form*. On the review, the team will document if the preliminary decision is one of the following:

- ❖ The Appropriate Placement Review Team (APRT) has reviewed this initial application and has determined that this client is appropriate for placement and a vacancy exists at this time.

If the applicant is appropriate for placement and there is an appropriate vacancy, the Applicant will be informed of the vacancy and asked to complete the formal application process through his/her DDS Service Specialist.

After the APRT determines a client appropriate for placement, the DDS Director or designee may allow an emergency respite placement, if it is necessary to ensure the client's health and safety, prior to the Independent Assessment. However, the client must be referred

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for the Independent Assessment. A client will not be admitted to a HDC without the results of the Independent Assessment. The Independent Assessment must be completed within thirty (30) days of referral.

The Appropriate Placement Review Team (APRT) has reviewed this initial application and has determined that this client is not appropriate for HDC placement.

If the applicant is not appropriate for HDC placement, the applicant will be informed of the right to reconsideration under DDS Policy 1076.

Applicants may appeal a denial decision through the DDS Director or his designee.

4. The completed *Review Of Referral For Placement Form* will be sent by the DDS Program Manager of Adult Services Intake, to the applicant and/or legal representative, and his/her DDS Service Specialist.

**(b) HUMAN DEVELOPMENT ADMISSION PROCESS:**

1. Once a vacancy becomes available, the HDC Admission Coordinator will notify the appropriate DDS Specialist, the applicant and/or legal representative, and the formal application packet will be completed. In order to be considered, the packet must contain:
  - (A) An application for HDC services;
  - (B) Authorization to Disclose Health Information (DHS Form 4000);
  - (C) Freedom of Choice form (102);
  - (D) A cover memo by the individual's DDS Children or Adult Service Specialist stating the reason(s) for the referral, the specialist's impressions, and recommendations;
  - (E) A current medical evaluation signed by a physician;
  - (F) Physical therapy, occupational therapy, and speech therapy evaluations that are relevant to the reason or reasons for the referral. Evaluations must be completed within the preceding twelve months;
  - (G) A psychological evaluation, including intellectual functions levels and adaptive behavior scale. The evaluation must be completed within the preceding twelve months;
  - (H) The results and report of the Independent Assessment performed by the third-party vendor;
  - (I) A written social history completed within the preceding ninety (90) days by the individual's DDS Specialist. The social history shall include:

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- (i) A description of the individual's immediate situation and need for services, relating those needs to the services provided by the HDC;
  - (ii) A general and behavioral description of the individual;
  - (iii) A family status and profile;
  - (iv) A developmental history;
  - (v) Medical status signed by a physician and stating the individual's current problems (including general medical, vision, dental, and hearing, medications and treatments, allergies, and any communicable diseases);
  - (vi) Diet requirements;
  - (vii) Financial questionnaire completed within the preceding twelve months;
  - (viii) History of agency and professional contacts and outcomes, including, without limitation, reports, evaluations, and discharge summaries;
  - (ix) Review of alternate placement options and efforts;
  - (x) For school age applicants, a copy of the most recent individual education plan. For others, program plans established by current and past providers of developmental disabilities services;
  - (xi) A determination by a physician, other than the physician on the individual's interdisciplinary team that the individual qualifies for and is in need of human development center services.
2. Field Service Review of Formal Application Packet: The applicant's service specialist will compile the formal admission packet and send it to the DDS Program Manager. Within five business days of receiving the packet, DDS Program Manager will review the packet to determine if the packet is complete. If the packet is incomplete the DDS Program Manager will notify the service specialist that the packet is incomplete. If the packet is complete, the DDS Program Manager will send the packet to the HDC Admission Coordinator for review.
3. Human Development Center Review:
- A) The HDC Admission Team and/or Interdisciplinary Team will review each formal referral packet within five (5) business days of receipt and determine if the individual remains appropriate for admission.
  - B) If the team determines that the individual is now inappropriate for placement there, the HDC will notify the applicant of the determination. The notice must state the reason for inappropriate placement at its center and explain the individual's right to appeal.



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- C) If the team determines that the individual remains appropriate for placement at the center, the team will make a recommendation as to the appropriateness of admission to the HDC Superintendent.
- D) The HDC Superintendent will determine whether to admit each eligible individual and will notify the applicant and the service specialist of the decision. If the admission is denied, the notice must state the reason for the denial and explain the applicant's right to appeal.

4. Admission requirements:

- (A) Upon receiving notification of admission, the applicant's service specialist will furnish the following to the HDC:
  - (i) Copy of birth certificate.
  - (ii) Copy of Social Security card or valid Social Security number;
  - (iii) Copy of Medicaid card or verification of insurance, if any;
  - (iv) Completed "agreement to pay" worksheet;
  - (v) Copy of immunization history;
  - (vi) Copy of the results of a tuberculosis test performed within two weeks prior to admission;
  - (vii) Copy of the results and report of the Independent Assessment and Tier Determination for the individual;
  - (viii) Copy of the results of a physical examination, including any diagnosis made by the examining physician, performed within the preceding thirty (30) days;
  - (ix) Letters of acknowledgement from the local education agency for individuals who have not completed high school and are under twenty-two years old. Certificate of Completion/ High School Diploma and or/GED.
  - (x) All court orders rendered in connection with the individual's custody, guardianship, or adoption proceedings, if any.

5. The HDC Admission Coordinator will work with the applicant and DDS Specialist on admission arrangements.

6. Admission: Upon successful completion of pre-admission requirements, the HDC Admission Coordinator will schedule an admission date and notify the DDS Service Specialist of any diagnostic and evaluation assistance available. The DDS Specialist will contact the applicant and

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offer to assist in admission.

7. Periodic Reviews and Independent Assessment: Evaluations, assessments, and periodic review shall conform to 42 C.F.R.

Chapter IV, Subchapter G, Part 483, Subpart I. Each client shall have an annual status review, which will occur more often than annually if warranted. The Independent Assessment will be conducted prior to admission.

**(c) HUMAN DEVELOPMENT EMERGENCY REFERRAL:**

- 1) Service specialists may make emergency referrals to the DDS Program Manager. The service specialist shall include information explaining why an emergency exists, and why no other care or placement options are available. The service specialist shall also include the information required in a formal referral packet to the extent such information exists and is available. At a minimum, the emergency referral packet should include the results of a physical examination conducted within the previous thirty (30) days and signed by the examining physician, a statement signed by a physician listing any communicable diseases that the individual is known to have, copies or a list of the individual's current prescribed medications and a physician's determination that the individual qualifies for and is in need of HDC services on an emergency basis.
- 2) If the individual is admitted:
  - (i) The service specialist should attempt to obtain the individual's current medications and provide those to the HDC when the individual is transported to the facility;
  - (ii) Emergency admission is temporary. During the emergency admission the services specialist will seek other placement options, and will be in contact, by telephone or e-mail, with the HDC Admission Coordinator at least weekly in order to ascertain the individual's status.

**(d) HUMAN DEVELOPMENT CENTER DISCHARGE PROCESS:**

1. Court-ordered admission: If the individual is receiving services due to a court order, the individual or the individual's guardian/legal representative must obtain a discharge order from the court that ordered admission.
2. Other Admission: If the individual was admitted other than under court order:
  - A. Discharge planning begins upon admission.
  - B. Within ten (10) business days of a determination that an individual will be discharged:

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- a) The HDC Admission Coordinator or designee will notify the local education agency, if any, that serves the individual of the planned discharge;
  - b) The HDC Admission Coordinator or designee will provide the following information to the individual or the individual's guardian:
    - (i) A summary of the interdisciplinary team's recommendations for developmental disabilities services and placements;
    - (ii) A description of developmental disabilities services, e.g., LEA, day services, etc., that may be available to the individual, including, addresses and phone numbers of contact persons for the providers of such services;
    - (iii) The name, postal address, e-mail address, and phone number of the DDS Service Specialist servicing the area where the individual plans to live;
    - (iv) If available, the option of leave status as an alternative to discharge;
    - (v) An explanation of the procedures to apply for readmission to an HDC;
  - (vi) A copy of DDS Policy 1076, that outlines reconsideration to the DDS Director; the DDS Director or designee is the final decision maker regarding discharge.
3. Upon discharge and relocation of the individual from the HDC:
- 1) The HDC designee completes a discharge summary within ten (10) days of discharge.
  - 2) A copy of the discharge summary is provided to the individual, or parent, or guardian, or legal representative and DDS Service Specialist. Discharge notification is provided to the Lead Education Authority (LEA), if appropriate.
  - 3) Within five (5) business days of notification of the discharge, the DDS Service Specialist contacts the individual, and/or legally responsible party to offer choice of available services, Providers, and/or PASSE Entity.
  - 4) Within seventy-two (72) hours of post discharge, initial contact by HDC Social Worker or assigned staff is made with the individual and/or parent, guardian or legal representative. Follow-up contact continues for six months either via telephone or written correspondence.
  - 5) Within five (5) days of notification of the discharge the DDS Specialist will refer the individual to the third-party vendor for an Independent Assessment.

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## FINANCIAL IMPACT STATEMENT

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT** Arkansas Department of Human Services

**DIVISION** Division of Developmental Disabilities Services

**PERSON COMPLETING THIS STATEMENT** Elizabeth Pitman

**TELEPHONE** 501-682-4936 **FAX** 501-682-8380 **EMAIL:** [Elizabeth.pitman@dhs.arkansas.gov](mailto:Elizabeth.pitman@dhs.arkansas.gov)

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

**SHORT TITLE OF THIS RULE** DDS Policy 1086—HDC Admissions and Discharge

1. Does this proposed, amended, or repealed rule have a financial impact? Yes ☒ No ☐
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? Yes ☒ No ☐
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes ☒ No ☐

If an agency is proposing a more costly rule, please state the following:

- (a) How the additional benefits of the more costly rule justify its additional cost;

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- (b) The reason for adoption of the more costly rule;

---

- (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;

---

- (d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.

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4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

- (a) What is the cost to implement the federal rule or regulation?

**Current Fiscal Year**

|                  |          |
|------------------|----------|
| General Revenue  | <u>0</u> |
| Federal Funds    | <u>0</u> |
| Cash Funds       | <u>0</u> |
| Special Revenue  | <u>0</u> |
| Other (Identify) | <u>0</u> |
| Total            | <u>0</u> |

**Next Fiscal Year**

|                  |          |
|------------------|----------|
| General Revenue  | <u>0</u> |
| Federal Funds    | <u>0</u> |
| Cash Funds       | <u>0</u> |
| Special Revenue  | <u>0</u> |
| Other (Identify) | <u>0</u> |
| Total            | <u>0</u> |

(b) What is the additional cost of the state rule?

**Current Fiscal Year**

|                  |          |
|------------------|----------|
| General Revenue  | <u>0</u> |
| Federal Funds    | <u>0</u> |
| Cash Funds       | <u>0</u> |
| Special Revenue  | <u>0</u> |
| Other (Identify) | <u>0</u> |
| Total            | <u>0</u> |

**Next Fiscal Year**

|                  |          |
|------------------|----------|
| General Revenue  | <u>0</u> |
| Federal Funds    | <u>0</u> |
| Cash Funds       | <u>0</u> |
| Special Revenue  | <u>0</u> |
| Other (Identify) | <u>0</u> |
| Total            | <u>0</u> |

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

**Current Fiscal Year**

\$ 0

**Next Fiscal Year**

\$ 0

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

**Current Fiscal Year**

\$ 0

**Next Fiscal Year**

\$ 0

**Please see the financial impact statement accompanying the Independent Assessment Manual, which details the total cost of incorporating the Independent Assessments, including the costs associated with the HDCs utilizing the assessment.**

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes ☐ No ☒

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
  - (a) justifies the agency's need for the proposed rule; and
  - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;

- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
  - (a) the rule is achieving the statutory objectives;
  - (b) the benefits of the rule continue to justify its costs; and
  - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.