

ARKANSAS REGISTER

Transmittal Sheet

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



Secretary of State
John Thurston
500 Woodlane, Suite 026
Little Rock, Arkansas 72201-1094
(501) 682-5070
www.sos.arkansas.gov



For Office
Use Only:

Effective Date _____ Code Number _____

Name of Agency Department of Human Services

Department Division of Developmental Disabilities Services

Contact Mac E. Golden E-mail Mac.E.Golden@dhs.arkansas.gov Phone 501.320.6383

Statutory Authority for Promulgating Rules Arkansas Code §§ 20-14-503, 20-76-201, and 25-10-129

Rule Title: Rules for DDS First Connection Program Under Part C of IDEA

| Intended Effective Date (Check One) | | Date |
|---|---------------------------------------|-------------------|
| <input type="checkbox"/> Emergency (ACA 25-15-204) | Legal Notice Published | <u>04/10/2022</u> |
| <input type="checkbox"/> 10 Days After Filing (ACA 25-15-204) | Final Date for Public Comment | <u>05/09/2022</u> |
| <input checked="" type="checkbox"/> Other <u>07/01/2022</u> (Must be more than 10 days after filing date.) | Reviewed by Legislative Council | <u>06/17/2022</u> |
| | Adopted by State Agency | <u>07/01/2022</u> |

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

| | | |
|-----------------|----------------------------------|----------------------|
| <u>Toni Roy</u> | <u>toni.roy@dhs.arkansas.gov</u> | <u>June 17, 2022</u> |
| 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.)



| | |
|--|---|
| <u>501-682-8662</u> | <u>Melissa.Weatheron@dhs.arkansas.gov</u> |
| Phone Number | E-mail Address |
| <u>Division of Development Disabilities Services, Director</u> | |
| Title | |
| <u>June 17, 2022</u> | |
| Date | |

Revised 7/2015 to reflect new legislation passed in the 2015 Regular Session (Act 1258). This act changed the effective date from 30 days to 10 days after filing the rule.

Rules for the Division of Developmental Disabilities

First Connections Program

Under Part C of the Individual with Disabilities Education Act



LAST UPDATED: July 1, 2022

Subchapter 1. General.

101. Authority.

- (a) These standards are promulgated under the authority of Ark. Code Ann. § 20-14-503.
- (b) The Division of Developmental Disabilities Services (DDS) is the designated lead agency for the State of Arkansas, responsible for performing all certification, general supervision, monitoring, and other regulatory functions involved in the implementation and administration of Part C of the IDEA.

102. Purpose.

The purpose of these standards is to:

- (1) Serve as the minimum standards for Service Providers; and
- (2) Ensure that all aspects of the First Connections program are carried out in compliance with the requirements of Part C of the IDEA.

103. Definitions.

- (a)
 - (1) “Assistive Technology and Adaptive Equipment” means an item or product used to increase, maintain, or improve the functional capabilities of the child.
 - (2) “Assistive Technology and Adaptive Equipment” does not mean a device that must be surgically implanted, or any therapy equipment typically found in clinics.
- (b) “Business Day” means Monday through Friday, except for any day that is recognized as a holiday by the State of Arkansas.
- (c) “Calendar Day” means the period from midnight to the following midnight, Monday through Sunday including without limitation holidays and days schools are closed.
- (d) “CDS” means the comprehensive database system used by First Connections into which Service Providers enter the information and upload the documentation required by these standards.
- (e) “Change in Ownership” means one (1) or more transactions within a twelve-month period that, in the aggregate, result in a change in greater than fifty percent (50%) of the ownership, financial, or voting interests of a Service Provider.

- (f) “CMDE” means the comprehensive multi-disciplinary developmental evaluation of a child that is used to determine the child’s First Connections eligibility and identify the child’s and family’s strengths, priorities, resources, and concerns.
- (g) “DDS” means the Arkansas Department of Human Services, Division of Developmental Disabilities Services.
- (h) “Evaluation Report” means a written report about a child’s evaluation results that is used to guide the IFSP team in developing a child’s IFSP.
- (i) “Early Intervention Services” means any of the following developmental services:
 - (1) Service Coordination Services;
 - (2) Assistive Technology and Adaptive Equipment and Services;
 - (3) Audiology Services;
 - (4) Family Training, Counseling, and Home Visit Services;
 - (5) Health Services;
 - (6) Medical Services;
 - (7) Nursing Services;
 - (8) Nutrition Services;
 - (9) Occupational Therapy Evaluations and Services;
 - (10) Physical Therapy Evaluations and Services;
 - (11) Psychological Services;
 - (12) Sign Language and Cued Language Services;
 - (13) Social Work Services;
 - (14) Specialized Evaluation Services;
 - (15) Speech-Language Pathology Evaluations and Services;
 - (16) Transportation Services;
 - (17) Developmental Therapy Services;

- (18) Vision Services;
 - (19) Parent Education Services; and
 - (20) Any other developmental, corrective, or supportive services that meet the needs of a child as determined by the IFSP team and incorporated into the IFSP.
- (j) “Employee” means an Employee or other agent of a Service Provider who has direct contact with a child participating in First Connections including without limitation any Employee, contractor, sub-contractor, intern, volunteer, trainee, or agent.
 - (k) “Family Assessment” means the family-directed assessment performed by a Service Coordinator using an assessment tool and conducting a personal interview that identifies the family resources, priorities, and concerns; the child’s Natural Environment; and the typical child and family community activities that will assist the IFSP team in developing the IFSP.
 - (l) “Family Delay” means the child or Parent is unavailable for any reason.
 - (m) “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 IDEA to ensure appropriate Early Intervention Services are available to all infants and toddlers from birth to thirty-six (36) months of age (and their families) that are suspected of having a developmental delay.
 - (n) “First Connections Central Intake Unit” means the unit that serves as the single referral point of entry for First Connections.
 - (o) “IDEA” means the Individuals with Disabilities Education Act.
 - (p) “IFSP” means an individual family service plan which is a written and individualized plan that includes Early Intervention Services and other services necessary to meet the identified unique needs of the child and their family and to enhance the child’s development.
 - (q) “LEA” or “Local Education Agency” means the school district, education cooperative, or other State of Arkansas accredited education agency for the area where a child resides.
 - (r)
 - (1) “Market or Marketing” means the accurate and honest advertisement of a Service Provider that does not also constitute solicitation.
 - (2) “Marketing” includes without limitation:
 - (i) Advertising using traditional media;

- (ii) Distributing brochures or other informational materials regarding the services offered by the Service Provider;
 - (iii) Conducting tours of the Service Provider’s place of practice to interested children and Parents;
 - (iv) Mentioning services offered by the Service Provider in which the child or Parent might have an interest; and
 - (v) Hosting informational gatherings during which the services offered by the Service Provider are described.
- (s) “Native Language” means the language and primary mode of communication used by an individual.
- (t)
- (1) “Natural Environment” means activities in which a same-aged child without a disability would participate in at appropriate home and community-based locations, such as the family home, parks, libraries, churches, and grocery stores.
 - (2) “Natural Environment” does not mean:
 - (i) A clinic, hospital, Service Provider’s office, early intervention day treatment center, or other facility in which the majority of individuals are not typically developing; or
 - (ii) Removing a child from an integrated setting or room to provide Early Intervention Services in an isolated setting or room.
- (u) “Parent” means one (1) of the following individuals who is responsible for protecting and representing the child’s rights and interests during their participation in First Connections:
- (1) A natural, adoptive, or foster parent;
 - (2) A legal guardian;
 - (3) A relative or other family member with whom the child lives acting in the place of a Parent;
 - (4) An individual legally responsible for the child’s welfare; or
 - (5) A Surrogate Parent.
- (v) “Parental Consent” means the Parent demonstrating formal, written approval of a proposed activity.

- (w) “Part C Funds” means the federal grant funds available to First Connections which may be used to administer, monitor, and carry out all activities and responsibilities under Part C of IDEA, including without limitation payments to Service Providers for the delivery of those Early Intervention Services included on a child’s IFSP.
- (x) “Personally Identifiable Information” means any information, written or otherwise, that would make a child or family member’s identity easily traceable including without limitation:
 - (1) The name of a child, Parent, or other family member;
 - (2) The address of a child, Parent, or other family member;
 - (3) A personal identifier number such as a Social Security or Medicaid identification number;
 - (4) Photographic images of a child, Parent, or family member; and
 - (5) A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty.
- (y) “Service Coordinator” means a First Connections staff member or a Service Provider certified to perform service coordination services.
- (z) “Service Provider” means an individual or organization that has been certified by First Connections to provide one (1) or more Early Intervention Services to children participating in First Connections.
- (aa)
 - (1) “Solicit or Solicitation” means the initiation of contact with a child or their family by a Service Provider, when the child is currently receiving services from another Service Provider, with the purpose of persuading the child or Parent to switch to or otherwise use the services of the Service Provider that initiated the contact.
 - (2) “Soliciting or Solicitation” includes without limitation inducing a child or their family by:
 - (i) Contacting the family of a child who is currently receiving services from another Service Provider;
 - (ii) Offering cash or gift incentives to a child or their family;
 - (iii) Offering free goods or services not available to other similarly situated children or their families;

- (iv) Making negative comments to a child or their family regarding the quality of services performed by another Service Provider;
 - (v) Promising to provide services in excess of those necessary;
 - (vi) Giving a child or their family the false impression, directly or indirectly, that the Service Provider is the only Service Provider that can perform the services desired by the child or their family; or
 - (vii) Engaging in any activity that DDS reasonably determines to be “Solicitation.”
- (bb) “Surrogate Parent” means an individual appointed by a judge or First Connections to serve as a child’s Parent for purposes of protecting and representing the child’s rights and interests during the child’s participation in First Connections when there is no other qualifying individual able or willing to serve in that role.
- (cc) “Written Notice” means delivery of written notice to the Parent or a Service Provider in their Native Language and in language that is understandable to the general public, of an action, proposed action, or refusal to act, which must include without limitation:
- (1) The action taken, not taken, or proposed to be taken or not taken;
 - (2) The reason for taking or not taking the action;
 - (3) All applicable due process and appeal rights, or instructions on where to find all applicable due process and appeal rights; and
 - (4) Any applicable procedures and timelines for exercising due process or appeal rights, or where to find any applicable procedures and timelines for exercising due process or appeal rights.

Subchapter 2. Certification.

201. Certification Required.

- (a) An individual or organization must be certified by DDS to provide any Early Intervention Service.
- (b) A separate DDS certification is required for each type of Early Intervention Service.
- (c) A Service Provider must comply with all applicable requirements of these standards to maintain certification for a particular Early Intervention Service.
- (d) An individual or organization that is on the Medicaid excluded provider list is prohibited from being a Service Provider.

202. Application for Certification.

- (a)
 - (1) To apply for Early Intervention Service certification, an Service Provider must submit a complete application to First Connections.
 - (2) A complete application includes without limitation:
 - (i.) Documentation demonstrating the Service Provider’s entire ownership, including without limitation all information on the applicant’s governing body as well as financial and business interests.
 - (ii.) Documentation of the Service Provider’s management, including without limitation the management structure and members of the management team;
 - (iii.) Documentation of the Service Provider’s contractors and the contractors that the Service Provider intends to use as part of providing First Connections Early Intervention Services;
 - (iv.) All documentation demonstrating compliance with the standards for the Early Intervention Services for which certification is sought; and
 - (v.) All other documentation or other information requested by DDS.
- (b) A request for a Change in Ownership is initiated by a potential new owner submitting a complete application described in Section 202(a)(2), which must include a detailed description of how the existing Service Provider's business and children will be transferred to the new owner if the Change of Ownership application is approved.

Subchapter 3. Administration.

301. Organization and Ownership.

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

- (b)
 - (1) If the Service Provider is an entity or organization, it must appoint a single manager as the point of contact for First Connections matters and provide First Connections with updated contact information for that manager.
 - (2) This manager must have decision-making authority for the Service Provider and all its Employees as well as the ability to ensure that First Connections requests, concerns, inquiries, and enforcement actions are addressed and resolved to the satisfaction of First Connections.

- (c)
 - (1) A Service Provider cannot transfer any Early Intervention Service certification to any other person or entity.
 - (2) A Service Provider cannot complete a Change in Ownership unless DDS approves the application of the new ownership pursuant to Sections 202.
 - (3) A Service Provider cannot change its name or otherwise operate under a different name than the one listed on the certification without prior Written Notice to First Connections.

302. Personnel and Staffing.

- (a)
 - (1) A Service Provider must comply with all requirements applicable to Employees under these standards, including without limitation drug screens, criminal background checks, adult and child maltreatment registry checks, and sex offender registry searches.
 - (2.) A Service Provider must verify that an Employee continues to meet all requirements upon the request of First Connections or whenever the Service Provider receives information after hiring that would create a reasonable belief that an Employee no longer meets all requirements, including without limitation

requirements related to drug screens, criminal background checks, adult and child maltreatment registry checks, and sex offender registry searches.

- (b)
 - (1) A Service Provider must conduct criminal background checks for all Employees as required pursuant to Ark. Code Ann. § 20-38-101, *et seq.*
 - (2) A Service Provider must conduct an Arkansas Child Maltreatment Central Registry check on each Employee prior to hiring and at least every two (2) years thereafter.
 - (3) A Service Provider must conduct an Arkansas Adult Maltreatment Central Registry check on each Employee prior to hiring and at least every two (2) years thereafter.
 - (4) A Service Provider must conduct a drug screen that tests for the use of illegal drugs on each Employee prior to hiring.
 - (5) A Service Provider must conduct an Arkansas Sex Offender Central Registry search on each Employee prior to hiring and at least every two (2) years thereafter.
- (c) Each Employee must successfully pass all required checks, screens, and searches required in Section 302 (b).

303. Employee Records.

- (a) A Service Provider must maintain a personnel file for each Employee in CDS including without limitation:
 - (1) Evidence of all required criminal background checks;
 - (2) All required Child Maltreatment Registry checks;
 - (3) All required Adult Maltreatment Registry checks;
 - (4) Documentation demonstrating that the Employee maintains in good standing all professional licensures, certifications, or credentials that are required for the Employee or the Early Intervention Service the Employee is performing; and
 - (5) Documentation demonstrating that the Employee meets all continuing education, in-service, or other training requirements applicable to that Employee under these standards as well as any professional licensures, certifications, or credentials held by that Employee.

- (b) A Service Provider must maintain its own separate and complete electronic or paper personnel file for each Employee in addition to the personnel file maintained for each Employee in CDS.
- (c) A Service Provider must make all Employee personnel files available to First Connections upon request.

304. Client Service Records and Personally Identifiable Information.

- (a) A Service Provider must maintain a complete service record for each child in CDS that includes (at a minimum) all documentation related to a child's eligibility determination, their IFSP, service delivery, Written Notices, Parental Consents, and any other documentation related to the child that is required under these standards.
- (b) If a Service Provider elects to maintain its own set of service records in addition to the service record maintained for each child in CDS, then the Service Provider must maintain service records and Personally Identifiable Information in compliance with the requirements of Part C of IDEA and all applicable state and federal laws and rules governing the protection of medical, social, personal, financial, and electronically stored records, including without limitation the Health Insurance Portability and Accountability Act (HIPAA), the Privacy Act of 1974, and the Family Educational Rights and Privacy Act (FERPA).
- (c)
 - (1) A Service Provider must provide access to, and at least one (1) no cost copy of, a child's service record to each of the following individuals within ten (10) Calendar Days upon request:
 - (i) First Connections staff;
 - (ii) A Parent; and
 - (iii) The authorized representative of a Parent.
 - (2) A Service Provider must explain and interpret the contents of a child's service record when requested by a Parent.
 - (3)
 - (i) A Parent has the right to request an amendment to the child's service record when the Parent believes that the service record is inaccurate, misleading, or violating the child's privacy or other rights.

- (ii) A Service Provider must respond to a Parent's child service record amendment request within ten (10) Calendar Days of receipt of the request.
- (iii) If a Parent's child service record amendment request is denied, the Service Provider must:
 - (A) Inform the Parent of their right to include the Parent's statement of facts concerning the amendment request in the child service record; and
 - (B) Provide Parental Notice of the Parent's due process rights to challenge the denial through First Connections dispute resolution procedures.

305. First Connections Referrals.

- (a) A Service Provider must refer to the DDS First Connections Central Intake Unit within two (2) Business Days of first contact with 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.
- (b) A CMDE and determination of program eligibility cannot be conducted when a referral to First Connections occurs less than forty-five (45) days before the child's third birthday. See Section 306 regarding LEA referral.

306. LEA Referrals and Notifications.

- (a)
 - (1) If a child is referred to First Connections forty-five (45) days or less before the child's third birthday, then the Service Coordinator must make a referral to the child's LEA unless there is documented refusal of Parental Consent or failure to obtain Parental Consent despite documented, repeated attempts.
 - (2) If a child is referred to First Connections between ninety (90) and forty-six (46) days before their third birthday, then the Service Coordinator must make a referral to the child's LEA as soon as possible after the child is determined eligible for First Connections.
- (b) For every child with an IFSP, the Service Coordinator must send a quarterly LEA notification to the appropriate LEA no later than ninety (90) days prior to a child's third birthday.
- (c) A Service Provider is required to enter documentation in CDS evidencing that any required referral or notification was completed in a proper and timely manner.

307. Transition Plan.

(a)

- (1) Each child must have a transition plan developed and included in their IFSP between nine (9) months and ninety (90) days prior to their third birthday.
- (2) Each transition plan must include without limitation:
 - (i) The transition services and activities necessary to support the child's and family's transition out of First Connections;
 - (ii) A minimum of three (3) specific steps that will be taken to prepare the child for the changes in service delivery and learning environment;
 - (iii) A specific action step that will be taken by the Parent or other caregiver to prepare the child for the changes in service delivery and learning environment;
 - (iv) Documentation that the Service Coordinator provided the Parent with a copy of the Transition Guide;
 - (v) Documentation that the Service Coordinator provided the Parent with LEA contact information concerning Part B services; and
 - (vi) Documentation that the Service Coordinator referred the child to the DDS Children with Chronic Health Conditions program or that the Parent declined the referral.

(b) The transition plan development process must include:

- (1) A Parent;
- (2) A Service Coordinator; and
- (3) Other individuals requested by the Parent.

308. Transition Conference.

(a) A transition conference must be held no later than ninety (90) days before the child's third birthday.

- (b)
 - (1) The only justifications for failing to hold the transition conference at least ninety (90) days before the child's third birthday are:
 - (i) Family Delay;
 - (ii) Lack of Parental Consent; or
 - (iii) The child's referral to First Connections was received less than ninety (90) days from the child's third birthday.
 - (2) The reason for Family Delay or lack of Parental Consent must be documented in the child's service record.
 - (3) The transition conference must be held as soon as practicable after Parental Consent is obtained or the circumstances causing Family Delay no longer exist.
- (c) The transition conference must include the following individuals:
 - (1) A Parent;
 - (2) A Service Coordinator;
 - (3) A Service Provider;
 - (4) An LEA or representative of any other program to which the child is transitioning; and
 - (5) Other individuals requested by the Parent.
- (d) The transition conference may be held in-person or by any other means that are acceptable to the Parent and other participants.
- (e)
 - (1) The transition conference must be held in a setting and at a time convenient to the Parent.
 - (2) Written Notice of the transition conference must be provided to all participants at least fourteen (14) days in advance.
 - (3) It must be documented if the Parent requests that a transition conference be held prior to receiving Written Notice.

309. Document Destruction.

- (a) A Service Provider must retain all child service records for at least five (5) years from the date the child exits First Connections, or until the conclusion of all reviews, appeals, investigations, administrative or judicial actions related to an exited child's service record (if longer than five (5) years).
- (b) A Service Provider must comply with all applicable state and federal laws and rules governing the destruction of child service records and Personally Identifiable Information, including without limitation Part C of IDEA and the General Education Provision Act.

310. Written Notice.

- (a) If Written Notice involves a proposed action, meeting, or refusal to act, then unless otherwise stated in these Rules, the Written Notice must be delivered at least seven (7) Calendar Days prior to the proposed action, meeting, or refusal to act described in the Written Notice.
- (b) A Service Provider must upload documentation into CDS demonstrating the delivery and receipt of all Written Notices in the manner required by these standards.

311. Parental Consent.

- (a)
 - (1) A Service Provider must fully inform a Parent in advance of all relevant information pertaining to the activity for which Parental Consent is sought, including without limitation:
 - (i) A complete description of the activity for which Parental Consent is sought;
 - (ii) An explanation that Parental Consent is voluntary and may be withdrawn at any time, but that any revocation will not be retroactive;
 - (iii)
 - (A) A description of any information that will be released (if any) and to whom;
 - (B) The purpose of releasing the information; and
 - (C) The duration of time that the information will be released.

- (2) A Service Provider must fully answer all Parent questions for Parental Consent to be valid.
 - (3) A Service Provider must communicate in the Parent's Native Language to fully inform the Parent and answer the Parent's questions when seeking Parental Consent.
 - (4) A Service Provider cannot use lack of Parental Consent as justification for failing to meet a requirement under these standards unless there is a documented refusal signed by the Parent or documented repeated attempts to obtain Parental Consent.
- (b) A Service Provider must upload documentation into CDS demonstrating the delivery and receipt of all Parental Consents in the manner required by these standards.

312. Marketing and Solicitation.

- (a) A Service Provider can Market its services.
- (b) A Service Provider cannot Solicit a child or their family.

313. Third-party Service Agreements.

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

314. System of Payments.

- (a) A Service Provider must provide any service on the IFSP at no cost to the Parent.
- (b) Part C Funds may only be used when there are no other federal, state, local, or private resources available to pay for the Early Intervention Service.
- (c)
 - (1) A Parent cannot be required to obtain private insurance or enroll in Medicaid (including TEFRA) to receive the services necessary to reach IFSP goals.

- (2)
 - (i) A Service Provider must have Parental Consent to submit a claim for payment for Early Intervention Services through a child or Parent's Medicaid.
 - (ii) Prior to obtaining Parental Consent, a Service Provider must provide the Parent the approved written notification regarding the use of the child or Parent's Medicaid and a statement of the no cost protection provisions.
- (3)
 - (i) A Service Provider must have Parental Consent to submit a claim for payment for Early Intervention Services through a Parent's private insurance.
 - (ii) Prior to obtaining Parental Consent, a Service Provider must provide the Parent the approved systems of payments information and a statement of the no cost protection provisions.
- (4)
 - (i) When a Parent's private insurance or Medicaid is used, the Parent is responsible for any applicable private insurance or Medicaid premiums.
 - (ii)
 - (A) Any co-payments and deductibles in connection with Early Intervention Services that are not covered by private insurance, Medicaid, or other funding may be paid with Part C Funds.
 - (B) A Parent may be reimbursed using Part C Funds for any co-payments and deductibles in connection with Early Intervention Services they paid that are not covered by private insurance, Medicaid, or other funding.
- (5) Part C Funds may be used to prevent a delay in providing Early Intervention Services pending reimbursement from the insurer or other available funding source that has ultimate responsibility for payment.
- (c) A Service Provider must accept the Medicaid payment for an Early Intervention Service as payment in full regardless of amount.
- (d) If a Parent has granted Parental Consent to bill their Medicaid and private insurance, then the Service Provider must first bill and receive a denial from the private insurance before billing Medicaid for an Early Intervention Service.

315. Exiting Children.

- (a) Upon the exiting of a child from First Connections, the Service Provider must ensure the following are entered or uploaded into CDS:
 - (1) Finalized required service delivery notes; and
 - (2) Final goals and objectives status rating.
- (b) Upon the exiting of a child from First Connections, the Service Coordinator must ensure the following are entered or uploaded into CDS:
 - (1) The reason for exit;
 - (2) Final Child Outcomes Summary Rating; and
 - (3) A complete Parent family rating unless there is a documented refusal signed by the Parent or documented repeated attempts to obtain.
- (c)
 - (1) If a child exits First Connections and does not have a transition conference, then the Service Coordinator must hold an exit conference.
 - (2) An exit conference must include the:
 - (i) Parent;
 - (ii) Service Coordinator;
 - (iii) Service Provider; and
 - (iv) Any other individual the Parent requests to attend.
 - (3) The only justification for failure to hold a transition conference or an exit conference is Family Delay.
 - (4) The exit conference may be held in-person or by any other means that are acceptable to the Parent and other participants.

316. Refusal to Serve.

- (a) If a selected Service Provider is unable or unwilling to serve a child, then the Service Provider must inform the Service Coordinator within two (2) Business Days of being notified in CDS of its selection as a Service Provider by a Parent.
- (b) The Service Provider is responsible for documenting that it has made a timely refusal to serve election.
- (c)
 - (1) A Service Provider is prohibited from selecting the children they do or do not serve based on location of the child (if a teleservices option is available) or the perceived complexity of the child's needs.
 - (2) If First Connections reasonably suspects a Service Provider is electing the children they do or do not serve based on a prohibited reason, it is the Service Provider's responsibility to demonstrate that its refusals to serve have been for permitted reasons.

Subchapter 4. Physical/Service Setting Requirements.

401. Natural Environment.

(a)

- (1) All Early Intervention Services listed on an initial IFSP must be performed in the child's Natural Environment.
- (2) All Early Intervention Services listed on any other IFSP must be performed in the child's Natural Environment unless the requirements of Section 401(b) below are documented.

(b)

- (1) An Early Intervention Service listed on an IFSP (other than the initial IFSP) can be performed in a setting that is not Natural Environment only when:
 - (i) A functional goal of a child has not been achieved in the Natural Environment;
 - (ii) There has been a meeting of the full IFSP team to update the IFSP by modifying goals, adjusting intervention strategies, and improving Parent implementation of intervention strategies in an attempt to achieve the functional goals in the Natural Environment setting;
 - (iii) There is a summary describing why the functional goals were not achieved after updating the IFSP with modified goals, adjusted intervention strategies, and improved Parent implementation of intervention strategies and implementing Natural Environment practices for at least a ninety (90) Calendar Day period; and
 - (iv)
 - (A) There is a conversion plan for transitioning the Early Intervention Service setting back to Natural Environment once the specific functional goals linked to that Early Intervention Service have been met.
 - (B) The conversion plan must list:
 - (I) Specific steps;
 - (II) Timelines; and

(III) Individuals involved.

(C) A conversion plan cannot exceed six (6) months.

- (2) A meeting of the full IFSP team must be held to update the IFSP and implement new strategies if unable to transition any Early Intervention Service setting back to Natural Environment within six (6) months.

Subchapter 5. Eligibility and the Individual Family Service Plan (IFSP).

501. Eligibility Generally.

- (a) Each of the following criteria must be met for a child to participate in First Connections:
 - (1) The child is under three (3) years of age.
 - (2) The child meets at least one of the following:
 - (i) A score on both an age-appropriate standardized norm and criterion referenced developmental evaluation that indicates a developmental delay of twenty-five percent (25%) of the child’s chronological age or greater in one (1) or more of the five (5) development domains, in accordance with Section 502;
 - (ii) A documented developmental diagnosis of a condition that has a high probability of developmental delay, in accordance with Section 503; or
 - (iii) It is the informed clinical opinion of the IFSP team that the child qualifies for First Connections, in accordance with Section 504.
 - (3) The child must be receiving at least one (1) Early Intervention Service.
 - (4) The child is not enrolled with and receiving Tier II or Tier III services through a Provider-Led Arkansas Shared Savings Entity (“PASSE”).
- (b) Every child referred to First Connections must have an individual acting as Parent.
- (c)
 - (1)
 - (i) Each child referred to First Connections at least forty-six (46) days prior to their third birthday must have a meeting to determine eligibility.
 - (ii) A CMDE must be completed prior to the meeting to determine eligibility.
 - (2) The meeting to determine eligibility must include, at a minimum:
 - (i) The Service Coordinator;
 - (ii) The evaluator that conducted the age-appropriate standardized developmental evaluations, or a knowledgeable representative who can also serve as member of the IFSP team at the initial IFSP meeting;

- (iii) The Parent; and
- (iv) Any other individual the Parent would like to attend.

502. Developmental Delay.

- (a) A qualifying developmental delay as described in Section 501(a)(2)(i) is demonstrated by a score on both an age appropriate standardized norm and criterion referenced developmental evaluation performed within the past six (6) months that indicates a developmental delay of twenty-five percent (25%) of the child's chronological age or greater in one (1) or more of the five (5) development domains:
 - (1) Physical;
 - (2) Cognitive;
 - (3) Communication;
 - (4) Social or emotional; and
 - (5) Adaptive or self-help.
- (b)
 - (1) The evaluator must follow the instrument's protocol for scoring.
 - (2) If the developmental evaluation scoring results do not yield a whole number, then the evaluator should round up to the next whole number for any score ending in five tenths (.5) or higher, and round down to the next whole number for any score ending in four tenths (.4) or lower.
 - (3) The evaluator must convert scoring results to a percentage of chronological age delay.
 - (4)
 - (i) The evaluator must adjust scoring for prematurity on any developmental evaluation administered to a child under eighteen (18) months of age who was born premature.
 - (ii) When an adjustment for prematurity is required, the evaluator must use age-appropriate standardized developmental evaluation instruments that are still valid when adjusted for prematurity.

503. Developmental Diagnosis.

- (a) A qualifying developmental diagnosis as described in Section 501(a)(2)(ii) is demonstrated by a medical diagnosis of a condition that has a high probability of resulting in a developmental delay, including without limitation:
- (1) Down syndrome and other chromosomal abnormalities associated with intellectual disability;
 - (2) Congenital syndromes and conditions associated with delays in development such as fetal alcohol syndrome, intra-uterine drug exposure, prenatal rubella, and severe macro and microcephaly;
 - (3) Metabolic disorders;
 - (4) Intra-cranial hemorrhage;
 - (5) Malignancy or congenital anomaly of brain or spinal cord;
 - (6) Spina bifida;
 - (7) Seizure disorder, asphyxia, respiratory distress syndrome, neurological disorder, and sensory impairments; and
 - (8) Maternal Acquired Immune Deficiency Syndrome.
- (b) The qualifying developmental diagnosis must be from a licensed physician.

504. Informed Clinical Opinion.

- (a) The informed clinical opinion of the IFSP team may be used to qualify a child for participation in First Connections.
- (1) Informed clinical opinion cannot be used to negate the results of any developmental evaluation used to establish First Connections eligibility.
 - (2) Informed clinical opinion may be issued only at the meeting to determine eligibility.
- (b) When informed clinical opinion qualifies a child for First Connections, the IFSP must either:
- (1) Detail the specific developmental concern that forms the basis of the informed clinical opinion and describe the rationale, contributing factors, and specific results of the CMDE that indicate the child qualifies for First Connections, including

without limitation why the CMDE evaluations do not clearly reflect the child's functional ability; or

- (2) Detail the specific condition and contributing factors that form the basis of the informed clinical opinion and describe how the specific condition affects the child's functional ability such that the child qualifies for First Connections.

505. Evaluations Generally.

(a)

- (1) Parental Consent is required prior to scheduling and conducting an evaluation.
- (2) Written Notice is required prior to conducting an evaluation.
- (3) A Parent or other caregiver must be present for the evaluation.

(b)

- (1) Any instrument and procedures used as part of an evaluation must be performed by an individual qualified to administer the evaluation instrument.
- (2) An evaluation must be administered in the child's Natural Environment with the Parent or other caregivers.
- (3) All aspects of an evaluation must be communicated in the child's and the family's Native Language.

(c)

- (1)
 - (i) Each evaluation performed must have its own Evaluation Report.
 - (ii) The Evaluation Report must be prepared by the individual who conducted the evaluation.
 - (iii) The Evaluation Report must be written in a format and using language that is free of jargon and understandable to the general public.
- (2) The completed Evaluation Report must be uploaded into CDS and the evaluation results keyed into the child's service record within twenty-one (21) Calendar Days of the date the Service Provider was notified to perform the evaluation, unless there is documentation demonstrating Family Delay.

- (3) The Evaluation Report must include, at a minimum:
- (i) Child's name, birthdate and Native Language;
 - (ii) Name of the participating Parent or other caregiver and their Native Language;
 - (iii) Name of the evaluation instrument and date administered;
 - (iv) Name and credentials of individual who conducted the evaluation;
 - (v) Date and location where the evaluation was administered;
 - (vi) Referral source and why the child was referred;
 - (vii) Complete child and family social history, which should include:
 - (A) All individuals living in same household as child;
 - (B) Observation of the child in their Natural Environment engaged in typical child and family routines and activities;
 - (C) Information about the child, including without limitation birth and development;
 - (D) The family's concerns about the child;
 - (E) The child's educational history; and
 - (F) The child's medical history, including without limitation a health, vision, and hearing summary.
 - (viii) Complete child developmental history, including without limitation the child's interests, abilities, strengths, and developmental needs;
 - (ix) Recommendations that support the family in assisting in the child's learning and development, which should include:
 - (A) Solutions to family issues, such as activities and routines in which the family would like the child to participate more fully;
 - (B) The skills needed for the child to successfully participate in the family identified activity or routine;

- (C) Skills that the family could benefit from learning that would assist the child's development and participation in everyday routines and activities;
 - (D) Assistive Technology devices, adaptations of existing equipment, or acquisition of other materials that will support the child's participation in everyday family routines and activities;
 - (E) Information that would enhance the family's capacity to assist the child's development and participation in everyday routines and activities; and
 - (F) Referrals to people and community resources outside of First Connections that would assist the child and family in expanding opportunities for involvement in community activities.
- (x) The signature, date, and credentials of individual who conducted the evaluation.

506. Comprehensive Multi-Disciplinary Developmental Evaluation (CMDE)

- (a)
 - (1) Every child referred to the First Connections Central Intake Unit at least forty-six (46) Calendar Days prior to their third birthday must receive a complete CMDE.
 - (2) A new CMDE must be conducted annually prior to the annual IFSP review to determine the child's continued eligibility for First Connections.
- (b) In addition to those requirements contained in Section 505, each CMDE must also:
 - (1) Be conducted by a multidisciplinary team that consists of one (1) or more individuals qualified or certified in two (2) or more separate disciplines or professions; and
 - (2) Involve the administration of:
 - (i)
 - (A) If it is an initial CMDE, both an age-appropriate standardized norm referenced developmental evaluation instrument AND an age-appropriate criterion referenced developmental evaluation instrument that measure the child's functioning in each of the five (5) developmental areas; or

(B) If it is an annual CMDE to demonstrate the child's continued eligibility, either an age-appropriate standardized norm referenced developmental evaluation instrument OR an age-appropriate criterion referenced developmental evaluation instrument that measure the child's functioning in each of the five (5) developmental areas; and

(ii) A Family Assessment.

507. Initial IFSP Meeting.

(a)

(1)

(i) The initial IFSP meeting to develop the initial IFSP must be held within forty-five (45) Calendar Days of the referral to the First Connections Central Intake Unit.

(ii) An initial IFSP meeting is not required if the referral was received by the First Connections Central Intake Unit less than forty-six (46) Calendar Days from the child's third birthday.

(2)

(i) Family Delay is the only justification for failure to hold the initial IFSP meeting within forty-five (45) Calendar Days of receipt of the referral by the First Connections Central Intake Unit.

(ii) The reason for Family Delay must be documented in the child's record.

(iii) The initial IFSP meeting must be held as soon as practicable after the circumstances causing Family Delay no longer exist.

(3) A child must have a completed CMDE prior to the initial IFSP meeting.

(b) The initial IFSP meeting must include, at a minimum:

(1) The initial Service Coordinator;

(2) The evaluator who conducted the age-appropriate standardized developmental evaluation instrument, or a knowledgeable representative;

(3) The Parent; and

- (4) Any other individuals that the Parent would like to attend.
- (c) An initial IFSP meeting may be held in-person or by any other means acceptable to the Parent and other participants.
- (d)
 - (1) Written Notice of the initial IFSP meeting must be provided to the Parent and any other participants.
 - (2) It must be documented if the Parent requests the initial IFSP meeting be held prior to receiving Written Notice.

508. Individual Family Service Plan (IFSP).

- (a) An IFSP must include, at a minimum:
 - (1) The child's present level of development stated in months with the percentage of child's chronological age delay in each of the five (5) developmental domains, based on professionally acceptable objective criteria;
 - (2) The family's resources, priorities, and concerns related to the development of the child;
 - (3) One or more family outcomes stating what the Parent will accomplish;
 - (4) A list of at least five (5) specific child functional outcomes, which must be specific, functional, family-driven, linked to child and family activities and routines, and measurable in a range of months not to exceed six (6);
 - (5) The specific action step(s) that will be taken by the Parent or other caregivers, within typical child and family activities, to reach each functional outcome;
 - (6) The list of Early Intervention Services and accompanying service delivery information, which must include:
 - (i) The location for each Early Intervention Service session, which must be in the child's Natural Environment unless there is justification meeting the requirements of Section 401(b);
 - (ii) A schedule of service delivery that includes the frequency and intensity of each Early Intervention Service session and whether sessions are on an individual or group basis;
 - (iii) The Service Provider;

- (iv) The specific date by which the child will be expected to achieve the outcome tied to the Early Intervention Service; and
- (v) Identification of the funding source for the Early Intervention Service.
- (7) A list of other services that the child or family will need or receive through sources outside of First Connections in order to achieve the child's outcomes;
- (8) The CMDE results;
- (9) If a child is within ninety (90) Calendar Days of their third birthday, a transition plan is required to be included in the IFSP, unless the child was referred to First Connections Central Intake Unit between ninety (90) and forty-six (46) Calendar Days prior to their third birthday; and
- (10) The original date of meeting and signatures of all parties participating in an IFSP meeting.
- (b) An IFSP expires at the earlier of either the child's third birthday or after twelve (12) months. The IFSP can only be renewed at an annual IFSP review.
 - (1) Early Intervention Services must stop when an IFSP expires.
 - (2)
 - (i) Parental choice or Family Delay are the only justifications for allowing an IFSP to expire before the child's third birthday.
 - (ii) The parental choice or Family Delay must be documented in the child's service record.
 - (iii) If Family Delay is the cause, then the annual IFSP review must be held to renew the IFSP as soon as practicable after the circumstances causing Family Delay no longer exist.

509. IFSP Reviews.

- (a) An annual IFSP review must be held at least every twelve (12) months after the initial IFSP meeting.
- (b) A bi-annual IFSP review must be held within six (6) months after the initial IFSP meeting and any annual IFSP review.

- (c)
 - (1) An IFSP review may be requested sooner or more frequently by the Parent.
 - (2) All annual and bi-annual IFSP reviews must include, at a minimum:
 - (i) The Service Coordinator;
 - (ii) A Service Provider performing at least one (1) Early Intervention Service for the child;
 - (iii) The Parent; and
 - (iv) Any other individuals that the Parent would like to attend.
- (d) An IFSP review may be held in-person or by any other means acceptable to the Parent and other participants.
- (e)
 - (1) Written Notice of an IFSP review must be provided to the Parent and any other participants.
 - (2) It must be documented if the Parent requests a IFSP review be held prior to receiving Written Notice.

510. Interim IFSP.

- (a) A child can begin receiving Early Intervention Services under an interim IFSP prior to completion of the CMDE when:
 - (1) There is a documented need for immediate services at the time of referral that cannot wait for the completion of the CMDE; and
 - (2) The available documentation demonstrates the child is eligible for First Connections pursuant to Section 501; however, informed clinical opinion cannot be used to demonstrate a child's eligibility for purposes of an interim IFSP.
- (b) An interim IFSP meeting should be scheduled as soon as possible after the determination of immediate need and must include the following individuals:
 - (1) Parent; and
 - (2) Service Coordinator.

- (c) The interim IFSP must include the following, at a minimum:
- (1) Name of the Service Coordinator;
 - (2) One (1) or more functional child outcomes and the action steps that will be taken to reach each functional outcome;
 - (3) The date by which the child will be expected to achieve the outcomes tied to the Early Intervention Service
 - (4) The Early Intervention Service(s) determined to be needed immediately to meet the outcomes;
 - (5) The name of the Service Provider selected by the Parent to provide the Early Intervention Service(s);
 - (6) A statement that the Early Intervention Service(s) will be performed in the child's Natural Environment;
 - (7) The location for each Early Intervention Service session;
 - (8) A schedule of service delivery that includes the frequency and intensity of each Early Intervention Service session and whether sessions are on an individual or group basis; and
 - (9) Funding source for the Early Intervention Service(s).
- (d) The use of an interim IFSP does not excuse, delay, extend, or toll the forty-five (45) Calendar Day requirement in Section 501(a)(1).

Subchapter 6. Early Intervention Services.

601. Services Generally.

- (a) Early Intervention Services included on the IFSP must begin no later than thirty (30) Calendar Days from the date of Parental Consent.

- (b)
 - (1)
 - (i) Parental Consent is required prior to the delivery of any Early Intervention Service.
 - (ii) A parent may revoke Parental Consent at any time for any reason.
 - (iii) A Parent may decline any Early Intervention Service or any other service or activity at any time without jeopardizing any other Early Intervention Service.
 - (iv) A Parent has the right to change the Service Provider for any Early Intervention Service at any time and for any reason with the exception that a Parent cannot switch initial Service Coordinators without the prior consent of First Connections.
 - (2) A Parent or other caregiver is required to attend and participate in each session of Early Intervention Services.
 - (3) The Service Provider must actively consult with and train the participating Parent or other caregiver on the early intervention strategies described in the child's IFSP when delivering an Early Intervention Service.

- (c) No requirement in these standards will be considered completed until the required information is entered or the required documentation uploaded into CDS.

- (d)
 - (1) A Service Provider must perform all Early Intervention Services at the scheduled time unless:
 - (i) There is justifiable reason, as determined in the reasonable discretion of First Connections staff;
 - (ii) There is Family Delay; or

- (iii) Alternative arrangements have been made with the Parent in advance.
- (2) The Service Provider must document one (1) of the justifications described in Section 601(d)(1) applies.
- (e) Any Early Intervention Service documentation required to be entered or uploaded into a child's service record must be completed no later than thirty (30) days after the Early Intervention Service was completed.

602. Service Coordination.

- (a) Service coordination services must be performed by a Service Provider who is a certified Service Coordinator.
- (b)
 - (1) A Service Coordinator must have:
 - (i)
 - (A) A bachelor's (or more advanced) degree in education, social work, or a related field; or
 - (B) A high school diploma, GED, or the equivalent, and have completed the First Connections targeted case management training with at least seventy percent (70%) proficiency on the exit exam.
 - (ii) Two (2) years' experience working with individuals with developmental disabilities.
 - (iii) Completed all First Connections training and professional development requirements.
 - (2) A Service Coordinator may only provide service coordination services for one (1) Service Provider organization.
 - (3) A Service Coordinator is limited to a maximum service coordination caseload of fifty (50) children without prior approval from First Connections.
- (c)
 - (1) An initial Service Coordinator is assigned at the time of a child's referral to the First Connections Central Intake Unit.
 - (2) An initial Service Coordinator is responsible for:

- (i) Making initial contact with the Parent and initiating the child's file in CDS;
- (ii) Discussing with the Parent the parental rights and procedural safeguards;
- (iii) Obtaining Parental Consent;
- (iv) Offering the Parent the choice of evaluators to perform the CMDE; and
- (v) Ensuring any required initial IFSP meeting is held within forty-five (45) Calendar Days of the referral to the First Connections Central Intake Unit.

(d)

- (1) The Parent will be offered their choice of an ongoing Service Coordinator at the initial IFSP meeting.
- (2) The ongoing Service Coordinator's responsibilities include without limitation:
 - (i) Updating the child's service record in CDS as required, including without limitation completing and uploading the Family Assessment;
 - (ii) Assisting the Parent in obtaining access to Early Intervention Services and other services identified in the IFSP, including making referrals to providers and scheduling appointments;
 - (iii) Coordinating the provision of Early Intervention Services and other services that the child needs or is being provided;
 - (iv) Coordinating evaluations and assessments;
 - (v) Ensuring that the Early Intervention Services and other services identified in the IFSP are provided in the child's Natural Environment;
 - (vi) Facilitating and participating in the development, review, and evaluation of IFSPs;
 - (vii) Coordinating, facilitating, and monitoring the delivery of services on the IFSP to ensure that the services are provided in a timely manner;
 - (viii) Conducting follow-up activities to determine that appropriate services are being provided;
 - (ix) Informing families of their rights and procedural safeguards and explaining the Parent Participation Agreement;

- (x) Coordinating the funding sources for services on the IFSP; and
 - (xi) Facilitating the development of a transition plan to preschool, or, if appropriate, to other services.
- (3) If through adoption or otherwise there is a change in the Parent, then the Service Coordinator must close out the child's service record in CDS under the former Parent and open a new service record under the new Parent.
- (e) A Service Coordinator must maintain the following documentation in the child's service record for each service coordination service provided:
- (1) The specific activities performed; and
 - (2) Recommendations based on the results of the service coordination service, if any.

603. Assistive Technology and Adaptive Equipment and Services.

- (a) An Assistive Technology or Adaptive Equipment service is any service that directly assists a child or their family in the selection, acquisition, or use of an Assistive Technology or Adaptive Equipment device.
- (b) An Assistive Technology or Adaptive Equipment device Service Provider must be enrolled as a Durable Medical Equipment provider with the Arkansas Medicaid Program.
- (c) An Assistive Technology or Adaptive Equipment Service Provider is required to:
 - (1) Provide instruction and training on how to use Assistive Technology or Adaptive Equipment to the child and Parent or other caregiver, as required;
 - (2) Provide ongoing assistance to adjust any Assistive Technology or Adaptive Equipment as needed by child or Parent;
 - (3) Assume liability for Assistive Technology or Adaptive Equipment devices and warranties;
 - (4) Install, maintain, and replace any defective parts or devices;
 - (5) Research and recoup payment from any third-party sources available to the child and their Parent prior to billing First Connections; and
 - (6) Submit the purchase or rental price for Assistive Technology or Adaptive Equipment within five (5) Business Days from the date a request is received from the Service Coordinator.

- (d) A Service Provider must maintain the following documentation in the child's service record for each Assistive Technology or Adaptive Equipment device order:
- (1) The date the order was received;
 - (2) The name of the Service Coordinator who placed the order;
 - (3) The price quoted for the order;
 - (4) The date the quote was submitted to the Service Coordinator;
 - (5) A copy of the Medicaid or private insurance denial, if applicable;
 - (6) The date of delivery and installation of the Assistive Technology or Adaptive Equipment device;
 - (7) A narrative of the instruction and training provided to the child and Parent or other caregiver when installed; and
 - (8) The Parent or other caregiver's signature verifying that the delivery, installation, and required instruction and training were completed.

604. Audiology Services.

- (a) An audiology service is any service listed in the IFSP that:
- (1) Identifies children with auditory impairments using appropriate screening techniques;
 - (2) Measures the range, nature, and degree of hearing loss and communication function through audiological evaluation procedures;
 - (3) Refers a child for necessary medical, habilitative, or rehabilitative auditory services;
 - (4) Is an auditory training, aural rehabilitation, speech reading, listening device orientation or training, or other auditory service;
 - (5) Is a hearing loss prevention service; or
 - (6) Measures the child's need for amplification, including the selecting, fitting, and dispensing of appropriate listening and vibrotactile devices, and the evaluation of the effectiveness of those devices.

- (b) Audiology services must be performed by an individual with a license in good standing from the Arkansas Speech-Language-Hearing Association.
- (c) A Service Provider must maintain the following documentation in the child's service record for each audiology service performed:
 - (1) The date and beginning and ending time for each audiology service;
 - (2) The name(s) of the Parent and any participants in the audiology service;
 - (3) The name(s) and credential(s) of the individual providing the audiology service;
 - (4) A narrative of the instruction, training, and interaction provided to the participating Parent or other caregiver
 - (5) The relationship of the audiology service to the goals and objectives described in the child's IFSP; and
 - (6) If applicable, written progress notes on each audiology service session, signed or initialed by the individual providing the audiology service, describing the child's status with respect to their goals and objectives.

605. Family Training, Counseling, and Home Visits.

- (a)
 - (1) Family training, counseling, and home visits are support services provided by social workers, psychologists, and other qualified personnel to train and assist the Parent or other caregiver of a child in any area related to the special needs of the child as determined necessary by the IFSP team.
 - (2) Family training, counseling, and home visit services exclude the required family training, counseling, and home visits provided to the child and family in connection with other Early Intervention Services.
- (b) A Service Provider must maintain the following documentation in the child's service record for each family training, counseling session, or home visit performed:
 - (1) The date and beginning and ending time for each training, session, or visit;
 - (2) The names of the Parent and other caregivers that participated in the training, session, or visit;

- (3) The name and credentials of the individual conducting the training, session or visit and, if the individual is not credentialed, the experience or other knowledge that qualifies them to conduct the training, session, or visit;
- (4) The topics covered and any specific materials or instruction received during the training, session, or visit;
- (5) The relationship of the training, session, or visit to the goals and objectives described in the child's IFSP;
- (6) If applicable, written progress notes on each training, session, or visit signed or initialed by the individual conducting the training, session, or visit;
- (7) If applicable, the receipt for the actual cost of any materials, training, session, or visit;
- (8) If applicable, the receipt for the actual cost of any reimbursement submitted by the attending Parent or other caregiver; and
- (9) Verification of the Parent or other caregiver participation such as a certificate of completion, sign-in sheet, or signature.

606. Health Services.

- (a) A health service is a service that enables a child to receive or benefit from other Early Intervention Services.
 - (1) Health services do not include services that are surgical or purely necessary to control or treat a medical condition.
 - (2) Health services do not include medical services such as immunizations or other care that is routinely recommended for all infants and toddlers.
- (b) A Service Provider must maintain the following minimum documentation in the child's service record for each health service performed:
 - (1) The date and beginning and ending time for each health service;
 - (2) The name of the Parent and other caregivers who participated in the health service;
 - (3) The name and credentials of the individual providing the health service and, if the individual is not credentialed, the experience or other knowledge that qualifies them to perform the health service;

- (4) A narrative of the instruction, training, and interaction provided to the participating Parent or other caregiver;
- (5) The other Early Interventions Services on the IFSP that the health services enable the child to receive; and
- (6) The relationship of the health service to the goals and objectives described in the child's IFSP.

607. Medical Services.

- (a) A medical service is a diagnostic service provided by a licensed physician when necessary to assist the IFSP team in developing and implementing the IFSP.
- (b) Medical services must be performed by a licensed physician in good standing with the Arkansas State Medical Board.
- (c) A Service Provider must maintain the following documentation in the child's service record for each medical service performed:
 - (1) A description, date, and beginning and ending time for each medical service;
 - (2) The name of the Parent and other caregivers who participated in the medical service;
 - (3) The name of the physician providing the medical service and the name of their employer;
 - (4) A narrative of the instruction, training, and interaction provided to the participating Parent or other caregiver;
 - (5) The relationship of the medical service to the goals and objectives described in the child's IFSP.

608. Nursing Services.

- (a) Nursing services are assessments, services, and medication or treatment administrations that are necessary to enable a child to benefit from other Early Intervention Services.
- (b) Nursing services must be performed by a licensed Registered Nurse in good standing with the Arkansas Board of Nursing.
- (c) A Service Provider must maintain the following documentation in the child's service record for each nursing service performed:

- (1) The date and beginning and ending time for each nursing service;
- (2) The name of the Parent and other caregivers who participated in the nursing service;
- (3) The name of the Registered Nurse providing the nursing service and the name of their employer;
- (4) A narrative of the instruction, training, and interaction provided to the participating Parent or other caregiver
- (5) The other Early Interventions Services on the IFSP that the nursing services enable the child to receive;
- (6) The relationship of the nursing services to the goals and objectives described in the child's IFSP.

609. Nutrition Services.

- (a)
 - (1) Nutrition services assess the nutritional needs of a child, develop and monitor plans to address those nutritional needs and refer a child to appropriate home and community resources to carry out the nutritional goals in their IFSP.
 - (2) Nutrition services exclude feeding services provided in connection with speech pathology and occupational therapy services.
- (b) Nutrition services must be performed by an individual that is:
 - (1) A Registered Dietician in good standing with the American Dietetic Association;
 - (2) A provisionally certified Registered Dietician by the American Dietetic Association; or
 - (3) A licensed physician in good standing with the Arkansas State Medical Board.
- (c) A Service Provider must maintain the following documentation in the child's service record for each nutrition service performed:
 - (1) The date and beginning and ending time for each nutrition service;
 - (2) The name of the Parent and other caregivers who participated in the nutrition service;

- (3) The name and credentials of the individual providing the nutrition service and the name of their employer;
- (4) A narrative of the instruction, training, and interaction provided to the participating Parent or other caregiver;
- (5) The relationship of the nutrition service to the goals and objectives described in the child's IFSP.

610. Occupational Therapy Evaluations and Services.

(a)

- (1) Occupational therapy evaluations and services address the functional needs of a child in their adaptive development, adaptive behavior, and play as well as sensory, motor, and postural development.
- (2)
 - (i) Occupational therapy evaluations must be performed by a licensed Occupational Therapist.
 - (ii) Occupational therapy services must be performed by a licensed Occupational Therapist or Occupational Therapy Assistant.
- (3) Occupational therapy evaluations and services must be performed by an individual who is a certified Occupational Therapy Service Provider.
- (4) Any occupational therapy evaluation instrument administered must be from the First Connections approved list.

(b) Each Occupational Therapist and Occupational Therapy Assistant must:

- (1) Hold an Occupational Therapy or Occupational Therapy Assistant license in good standing with the Arkansas State Medical Board;
- (2) Complete all First Connections training requirements; and
- (3) Enroll with the Arkansas Medicaid Program.

(c)

- (1) An Occupational Therapy Assistant must be supervised by an Occupational Therapist.

- (2) An Occupational Therapy Assistant must have their supervising Occupational Therapist's certification uploaded into CDS.
- (d) An Occupational Therapist may supervise a maximum of three (3) Occupational Therapy Assistants at any time.
- (1) An Occupational Therapist must work at the same Service Provider organization as any Occupational Therapy Assistant they are supervising.
 - (2) An Occupational Therapist must upload into CDS the certification of any Occupational Therapy Assistant they are supervising.
 - (3)
 - (i) An Occupational Therapist must complete a quarterly written evaluation on each Occupational Therapy Assistant they are supervising, which must include a complete evaluation of the Occupational Therapy Assistant's performance based on the supervising Occupational Therapist's in-person observation of a session with a child and Parent.
 - (ii) One (1) of the four (4) quarterly reports during each twelve (12) month period must be an annual written evaluation.
- (e) Each completed occupational therapy evaluation and report must be uploaded into CDS. See Section 505.
- (f) A Service Provider must maintain the following documentation in the child's service record for each occupational therapy service session:
- (1) The date and beginning and ending time for each occupational therapy service session;
 - (2) The name of the Parent and other caregivers who participated in the occupational therapy service session;
 - (3) A description of the consulting and training provided to the participating Parent or other caregivers on the early intervention strategies described in the child's IFSP;
 - (4) The name and credentials of the Occupational Therapist (if any) and Occupational Therapy Assistant providing or observing the occupational therapy services each session;
 - (5) The relationship of each occupational therapy session to the goals and objectives described in the child's IFSP; and

- (6) Written progress notes on each occupational therapy service session describing the child's status with respect to their goals and objectives, which must be signed or initialed by the Occupational Therapist or Occupational Therapy Assistant providing the occupational therapy services.

611. Physical Therapy Evaluations and Services.

(a)

- (1) Physical therapy evaluations and services address the sensory motor function of a child through enhancement of their musculoskeletal status, neurobehavioral organization, perceptual and motor development, cardiopulmonary status, and effective adaptation to their Natural Environment.

(2)

- (i) Physical therapy evaluations must be performed by a licensed Physical Therapist.
- (ii) Physical therapy services must be performed by a licensed Physical Therapist or Physical Therapy Assistant.

- (3) Physical therapy services must be performed by an individual who is a certified Physical Therapy Service Provider.

- (4) Any physical therapy evaluation instrument administered must be from the First Connections approved list.

(b) Each Physical Therapist and Physical Therapy Assistant must:

- (1) Hold a Physical Therapy or Physical Therapy Assistant license in good standing with the Arkansas State Medical Board;
- (2) Complete all First Connections training requirements; and
- (3) Enroll with the Arkansas Medicaid Program.

(c)

- (1) A Physical Therapy Assistant must be supervised by a Physical Therapist.
- (2) A Physical Therapy Assistant must have their supervising Physical Therapist's certification uploaded into CDS.

- (d) A Physical Therapist may supervise a maximum of three (3) Physical Therapy Assistants at any time.
 - (1) A Physical Therapist must work at the same Service Provider organization as any Physical Therapy Assistant he or she is supervising.
 - (2) A Physical Therapist must upload into CDS the certification of any Physical Therapy Assistant they are supervising.
 - (3)
 - (i) A Physical Therapist must complete a quarterly written evaluation on each Physical Therapy Assistant they are supervising, which must include a complete evaluation of the Physical Therapy Assistant's performance based on the supervising Physical Therapist's in-person observation of a session with a child and Parent.
 - (ii) One (1) of the four (4) quarterly reports during each twelve (12) month period must be an annual written evaluation.
- (e) Each completed physical therapy evaluation and report must be uploaded into CDS. See Section 505.
- (f) A Service Provider must maintain the following documentation for each physical therapy service session:
 - (1) The date and beginning and ending time for each physical therapy service session;
 - (2) The name of the Parent and other caregivers who participated in the physical therapy service session;
 - (3) A description of the consulting and training provided to the participating Parent or other caregivers on the early intervention strategies described in the child's IFSP;
 - (4) The name and credentials of the Physical Therapist (if any) and Physical Therapy Assistant providing or observing the physical therapy services each session;
 - (5) The relationship of physical therapy session to the goals and objectives described in the child's IFSP; and
 - (6) Written progress notes on each physical therapy service session describing the child's status with respect to their goals and objectives, which must be signed or initialed by the Physical Therapist or Physical Therapy Assistant providing the physical therapy services.

612. Psychological Services.

- (a) Psychological services support parents and other caregivers in helping a child use appropriate behavior to meet needs by using evidence-based practices to improve the quality of the Parent-child relationship through changing Parent-child interaction patterns for children with behavioral and emotional disorders. Psychological services include consultation on child development as well as Parent training and education programs, including without limitation Parent-Child Interaction Therapy and coaching Parents in the use of therapeutic parenting practices proven to decrease problematic behaviors.
- (b) A Service Provider of psychological services must meet one (1) of the following:
 - (1) A licensed Psychologist in good standing with the Arkansas Psychology Board; or
 - (2) A licensed Psychological Examiner in good standing with the Arkansas Psychology Board.
- (c) A Service Provider must maintain the following minimum documentation for each psychological service performed:
 - (1) The date and beginning and ending time for each psychological service;
 - (2) The name of the Parent and other caregivers who participated in the psychological service;
 - (3) The name and credentials of the individual providing the psychological service and the name of their employer;
 - (4) A narrative of the instruction, training, and interaction provided to the participating Parent or other caregiver;
 - (5) The relationship of the psychological service to determining the child's eligibility or the goals and objectives described in the child's IFSP.

613. Sign Language and Cued Language Services.

- (a) Sign language and cued language services include auditory and oral language and transliteration services, as well as formal training and direct support to families learning sign or cued language.
- (b) A Service Provider must maintain the following documentation for each sign language or cued language service performed:
 - (1) The date and beginning and ending time for each sign language or cued language service;

- (2) The name of the Parent and other caregivers who participated in the sign language or cued language service;
- (3) A description of the consulting and training provided to the participating Parent or other caregivers on the early intervention strategies described in the child's IFSP;
- (4) The name and credentials of the individual providing the sign language or cued language service and, if the individual is not credentialed, the experience or other knowledge that qualifies them to perform the sign language or cued language service; and
- (5) The relationship of the sign language or cued language service to the goals and objectives described in the child's IFSP.

614. Social Work Services.

- (a)
 - (1) Social work services evaluate a child's living conditions and patterns of family interaction, conduct social and emotional assessments of a child within the family context, and coordinate community resources and services to determine eligibility and enable a child to receive the maximum benefit from Early Intervention Services.
 - (2) Social work services do not include any activities that are able to be performed by the Service Coordinator.
- (b) Social work services must be performed by a Licensed Clinical Social Worker in good standing with the Arkansas Board of Social Work.
- (c) A Service Provider must maintain the following documentation for each social work service performed:
 - (1) The date and beginning and ending time for each social work service;
 - (2) The name of the Parent and other caregivers who participated in the social work service;
 - (3) A description of the consulting and training provided to the participating Parent or other caregivers on the early intervention strategies described in the child's IFSP;
 - (4) The name and credentials of the individual providing the social work service and the name of their employer; and

- (5) The relationship of the social work service to determining the child's eligibility or the goals and objectives described in the child's IFSP.

615. Developmental Therapy Evaluations and Services.

(a)

- (1) Developmental therapy evaluations and services provide specialized instruction to the child and Parent or other caregiver to promote the child's acquisition of skills in all developmental areas, daily living activities, and social interactions.

(2)

- (i) Developmental therapy evaluations must be performed by an individual who is a certified Developmental Therapist Service Provider.
- (ii) Developmental therapy services must be performed by an individual who is a certified Developmental Therapist or Developmental Therapy Assistant Service Provider.

(b)

(1)

- (i) A Developmental Therapist must have one (1) of the following:
 - (A) Early Childhood Special Education certification;
 - (B) A Masters of Developmental Therapy or Early Intervention; or
 - (C) An Alternate Learning Plan approved by and filed with the Arkansas Department of Education.
- (ii) A Developmental Therapist must have completed all First Connections training, professional development, and Developmental Therapy Assistant in-person observation requirements.
- (iii) A Developmental Therapist must be enrolled with the Arkansas Medicaid Program as both a DDS non-Medicaid Service Provider (type 76) and also as a First Connections Medicaid Service Provider (type 86).

(2)

- (i) A Developmental Therapy Assistant must have one (1) of the following:

- (A) Associates Degree in Early Childhood Development or a related field;
 - (B) Two (2) years of documented experience working with children under five (5) years of age; or
 - (C) Two (2) years of documented experience working with children with disabilities.
- (ii) A Developmental Therapy Assistant must be supervised by a certified Developmental Therapist Service Provider and have the supervising Developmental Therapist's certification uploaded into CDS.
 - (iii) A Developmental Therapy Assistant must have completed all First Connections training and professional development requirements.
 - (iv) A Developmental Therapy Assistant must be enrolled with the Arkansas Medicaid Program as both a DDS non-Medicaid Service Provider (type 76) and also as a First Connections Medicaid Service Provider (type 86).
- (c) A Developmental Therapist may supervise a maximum of three (3) Developmental Therapy Assistants at any time.
 - (1) A Developmental Therapist must work with the same Service Provider organization as any Developmental Therapy Assistant they are supervising.
 - (2) A Developmental Therapist must upload into CDS the certification of any Developmental Therapy Assistant they are supervising.
 - (d) Each completed developmental therapy evaluation and report must be uploaded into CDS. See Section 505.
 - (e) A Service Provider must maintain the following documentation for each development therapy service session:
 - (1) The date and beginning and ending time for each developmental therapy session;
 - (2) The name of the Parent and other caregivers who participated in the developmental therapy session;
 - (3) A description of the consulting and training provided to the participating Parent or other caregivers on the early intervention strategies described in the child's IFSP;
 - (4) The name and credentials of the Developmental Therapist (if any) and Developmental Therapy Assistant providing or observing the developmental therapy services each session;

- (5) The relationship of each developmental therapy session to the goals and objectives described in the child's IFSP; and
- (6) Written progress notes on each developmental therapy session describing the child's status with respect to his or her goals and objectives, which must be signed or initialed by the Developmental Therapist or Developmental Therapy Assistant providing the developmental therapy services.

616. Speech-Language Pathology Evaluations and Services.

(a)

- (1) Speech-language pathology evaluations and services identify a child's communication or language disorders and delays in development of communication skills and any service for the habilitation, rehabilitation, or prevention of a child's communication or language disorder or delays in the development of a child's communication skills.
- (2)
 - (i) Speech-Language Pathology evaluations must be performed by a licensed Speech-Language Pathologist.
 - (ii) Speech-Language Pathology services must be performed by a licensed Speech-Language Pathologist or Speech-Language Pathology Assistant.
- (3) Speech-Language Pathology services can only be performed by an individual who is a certified Speech-Language Pathology Service Provider.

(b) Each Speech-Language Pathologist and Speech-Language Pathology Assistant must:

- (1) Hold a Speech-Language Pathologist or Speech-Language Pathology Assistant license in good standing with the Arkansas State Medical Board;
- (2) Complete all First Connections training requirements; and
- (3) Enroll with the Arkansas Medicaid Program.

(c)

- (1) A Speech-Language Pathology Assistant must be supervised by a Speech-Language Pathologist.

- (2) A Speech-Language Pathology Assistant must have their supervising Speech-Language Pathologist's certification uploaded into CDS.
- (d) A Speech-Language Pathologist may supervise a maximum of three (3) Speech-Language Pathology Assistants at any time.
 - (1) A Speech-Language Pathologist must work at the same Service Provider organization as any Speech-Language Pathology Assistant they are supervising.
 - (2) A Speech-Language Pathologist must upload into CDS the certification of any Speech-Language Pathology Assistant he or she is supervising.
 - (3) A Speech-Language Pathologist must upload into CDS any in-person observation documentation related to a Speech-Language Pathology Assistant they are supervising.
- (e) Each completed speech-language pathology evaluation and report must be uploaded into CDS. See Section 505.
- (f) A Service Provider must maintain the following documentation for each speech-language pathology service session:
 - (1) The date and beginning and ending time for each speech-language pathology session;
 - (2) The name of the Parent and other caregivers who participated in the speech-language pathology session;
 - (3) A description of the consulting and training provided to the participating Parent or other caregivers on the early intervention strategies described in the child's IFSP;
 - (4) The name and credentials of the Speech-Language Pathologist (if any) and Speech-Language Pathology Assistant providing or observing the speech-language pathology services each session;
 - (5) The relationship of speech-language pathology session to the goals and objectives described in the child's IFSP; and
 - (6) Written progress notes on each speech-language pathology session describing the child's status with respect to their goals and objectives, which is signed or initialed by the Speech-Language Pathologist or Speech-Language Pathology Assistant providing the speech-language pathology services.

617. Transportation Services.

- (a) A transportation service involves covering the costs of travel necessary to enable a child and their Parent or other caregiver to receive an Early Intervention Service.

- (b) A Service Provider must maintain the following documentation for each transportation service:
 - (1) The specific Early Intervention Service, date, location, and beginning and ending time for the Early Intervention Service session for which the transportation service was necessary;
 - (2) The name of the Parent and other caregivers involved in a transportation service;
 - (3) If applicable, the name of the vendor that provided the transportation service;
 - (4) If applicable, the itemized receipt for any transportation service reimbursement submitted by the Parent or other caregiver; and
 - (5) If applicable, signed verification by Parent or other caregiver of the amount of the transportation service payment.

618. Vision Services.

- (a) Vision services involve the evaluation and assessment of a child's visual functioning.
- (b) Vision services must be performed by an individual that is one (1) of the following:
 - (1) A licensed Ophthalmologist in good standing with the Arkansas Board of Optometry or the Arkansas Board of Ophthalmology; or
 - (2) A certified Orientation Mobility Specialist.
- (c) A Service Provider must maintain the following documentation for each vision service performed:
 - (1) The date and beginning and ending time for each vision service;
 - (2) The name of the Parent and other caregivers who participated in the vision service;
 - (3) The name and credentials of the individual providing the vision service and the name of their employer;
 - (4) A narrative of the instruction, training, and interaction provided to the participating Parent or other caregiver;
 - (5) The completed evaluation or assessment and accompanying report (See Section 505); and

- (6) The relationship of the vision service to the goals and objectives described in the child's IFSP.

619. Specialized Evaluation Services.

- (a)
 - (1) Specialized evaluation services relate to the performance of evaluations and assessments necessary for diagnostic purposes to assist the IFSP team in developing and implementing the IFSP.
 - (2) Specialized evaluation services do not include evaluations related to occupational therapy, developmental therapy, speech-language pathology, physical therapy, or vision services.
- (b) A Service Provider must maintain the following documentation for each specialized evaluation conducted:
 - (1) The date and beginning and ending time for each specialized evaluation;
 - (2) The name of the Parent and other caregivers who participated in the specialized evaluation;
 - (3) The name and credentials of the individual conducting the specialized evaluation and, if the individual is not credentialed, the experience or other knowledge that qualifies them to conduct the specialized evaluation; and
 - (4) The diagnostic purpose of the specialized evaluation and how it will assist the IFSP team in development and implementing the child's IFSP.

620. Parent Education Services.

- (a) Parent education services are third-party support groups, conferences, and workshops that instruct a Parent or caregiver on how to enhance the child's development and enable the child to benefit from other Early Intervention Services.
- (b) A Service Provider must maintain the following documentation for each Parent education service:
 - (1) The date and beginning and ending time for each support group, conference, or workshop;
 - (2) The name of the Parent and other caregivers who participated in the support group, conference, or workshop;

- (3) The name and credentials of the individual or organization conducting the support group, conference, or workshop and, if the individual or organization is not credentialed, the experience or other knowledge that qualifies them to conduct the support group, conference, or workshop;
- (4) The topics covered, and any specific materials or instruction received during the support group, conference, or workshop;
- (5) The relationship of the support group, conference, or workshop to the goals and objectives described in the child's IFSP;
- (6) If applicable, the registration form and itemized receipt for the actual cost of any materials, support group, conference, or workshop;
- (7) If applicable, the itemized receipts for the actual cost of any reimbursement submitted by the Parent or other caregiver; and
- (8) Verification of Parent or other caregiver participation and attendance, such as a certificate of completion, or sign-in sheet.

621. Teleservices.

- (a) Teleservices are one (1) of the following Early Interventions Services conducted via a telecommunication device in accordance with the requirements of this Section 621:
 - (1) Developmental Therapy Services;
 - (2) Occupational Therapy Services;
 - (3) Physical Therapy Services;
 - (4) Speech-Language Pathology Services; and
 - (5) Sign Language and Cued-Language Services.
- (b) Developmental therapy, occupational therapy, physical therapy, and speech-language pathology evaluations must be performed through traditional in-person methods.
- (c) The child service record must include the following documentation:
 - (1) A detailed assessment of the child that determines they are an appropriate candidate for teleservices based on the child's age and functioning level;

- (2) A detailed explanation of all on-site assistance or participation that will be used to ensure:
 - (i) The effectiveness of telemedicine service delivery is equivalent to face-to-face service delivery; and
 - (ii) Telemedicine service delivery will address the unique needs of the child; and
 - (3) A plan and estimated timeline for returning service delivery to in-person if a client is not progressing towards goals and outcomes through telemedicine service delivery.
- (d) The Service Provider is responsible for ensuring teleservices are the equivalent to in-person, face-to-face service delivery.
- (1) The Service Provider is responsible for ensuring the calibration of all clinical instruments and the proper functioning of all telecommunications equipment.
 - (2) All teleservices must be delivered in a synchronous manner, meaning through real-time interaction between the practitioner and the child and Parent or other caregiver via a telecommunication link.
 - (3) A store and forward telecommunication method of service delivery where either the child and Parent or other caregiver or the practitioner records and stores data in advance for the other party to review at a later time is prohibited.
- (e) Teleservices are subject to all the same limits and requirements as in-person, face-to-face delivery of the Early Intervention Service.

Subchapter 7. Incident and Accident Reporting.

701. Incidents to be Reported.

- (a) A Service Provider must report all alleged, suspected, observed, or reported occurrences of any of the following events:
 - (1) Death of a child;
 - (2) Serious injury to a child;
 - (3) Child maltreatment;
 - (4) Any event where an individual threatens or strikes a child;
 - (5) Unauthorized use of restrictive intervention on a child, including seclusion or physical, chemical, or mechanical restraint;
 - (6) Events involving a risk of death, serious physical or psychological injury, or serious illness to a child; and
 - (7) Any act or omission that jeopardizes the health, safety, or quality of life of a child.
- (b) Any Service Provider may report any other occurrences impacting the health, safety, or quality of life of a child.

702. Reporting Requirements.

- (a) A Service Provider must:
 - (1) Submit all reports of the following events within one (1) hour of the event:
 - (i) Death of a child;
 - (ii) Serious injury to a child; or
 - (iii) Any incident that a Service Provider 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 or the first Business Day if the accident occurs on weekend or holiday that prevents reporting within forty-eight (48) hours.
- (b) A Service Provider must enter the incident report in the child's service record in CDS.

- (c) Reporting under these standards does not relieve a Service Provider 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) If not present at the time of the incident, a Service Provider must notify the guardian or legal custodian of a child of any reportable incident involving a child, as well as any injury or accident involving a child, even if the injury or accident is not otherwise required to be reported in this Section.
- (b) A Service Provider should maintain documentation evidencing notification required in subdivision (a).

Subchapter 8. Enforcement.

801. Monitoring.

- (a)
 - (1) DDS shall monitor a Service Provider to ensure compliance with these standards.
 - (2)
 - (i) A Service Provider must cooperate with all monitoring and other regulatory activities performed or requested by DDS.
 - (ii) Cooperation required includes without limitation cooperation with respect to investigations, surveys, site visits, reviews, and other regulatory actions taken by DDS to monitor, enforce, or take other regulatory action on behalf of DDS.
- (b) Monitoring includes without limitation:
 - (1) CDS reviews, on-site surveys, and other visits including without limitation annual reviews and Parent surveys;
 - (2) CDS and on-site child service record 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) DDS may contract with a third-party to monitor, enforce, or take other regulatory action on behalf of DDS.

802. Written Notice of Enforcement Remedy.

DDS shall provide Written Notice of all enforcement remedies taken against the Service Provider to the manager appointed pursuant to Section 301.

803. Remedies.

- (a)
 - (1) DDS shall not impose any enforcement remedies unless:

- (i) The Service Provider is provided Written Notice and appeal rights pursuant to this Section 802 and Subchapter 10; or
 - (ii) DDS determines that public health, safety, or welfare imperatively requires emergency action;
 - (2) If DDS imposes an enforcement remedy as an emergency action before the Service Provider has notice and appeal rights pursuant to subdivision (a)(1), DDS shall:
 - (i) Provide immediate Written Notice to the Service Provider of the enforcement action; and
 - (ii) Provide the Service Provider with its appeal rights pursuant to Subchapter 10.
- (b) If a Service Provider fails to comply with the standards, DDS may impose any of the following enforcement remedies for the Service Provider's failure to comply with the standards:
- (1) Plan of correction;
 - (2) Directed in-service training plan;
 - (3) Removal as choice of provider;
 - (4) Transfer;
 - (5) Monetary penalties;
 - (6) Suspension of Service Provider certification;
 - (7) Revocation of Service Provider certification;
 - (8) Recoupment; and
 - (9) Any remedy authorized by law or rule including, without limitation section 25-15-217 of the Arkansas Code.
- (c) DDS 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 child'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) DDS shall report any noncompliance, action, or inaction by the Service Provider to appropriate agencies for investigation and further action.
- (2) DDS 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 DDS may apply multiple enforcement remedies simultaneously for a failure to comply with these standards.

(f) The failure to comply with an enforcement remedy imposed by DDS constitutes a separate violation of these standards.

804. Removal as Choice of Provider.

(a) DDS may cease to offer the Service Provider as a choice for one (1) or more Early Intervention Services.

(b) A Service Provider that is no longer offered as a choice of Service Provider may continue to provide Early Intervention Services to children they are already serving.

805. Transfer.

(a) DDS may require a Service Provider to transfer a child to another Service Provider if DDS finds that the Service Provider cannot or is not adequately providing Early Intervention Services to the child.

(b) If directed by DDS, a Service Provider must continue providing services until the child is transferred to their new Service Provider of choice.

- (c) A transfer of a child may be permanent or for a specific term, depending on the circumstances.

806. Monetary Penalties.

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

807. Suspension and Revocation of Certification.

- (a)
 - (1) DDS may temporarily suspend a Service Provider's certification if the Service Provider fails to comply with these standards.
 - (2) If a Service Provider's certification is suspended, the Service Provider must immediately stop providing Early Intervention Services until DDS reinstates its certification.
- (b)
 - (1) DDS may permanently revoke a Service Provider's certification if the Service Provider fails to comply with these standards.
 - (2) If a Service Provider's certification is revoked, the Service Provider must immediately stop providing Early Intervention Services.

808. Recoupment.

- (a) DDS may recoup any Part C Fund payments made to a Service Provider as reimbursement for Early Intervention Services if it is determined that the Service Provider failed to comply with these standards.

- (b) The Arkansas Department of Human Services, Division of Medical Services may recoup any Medicaid payments made to a Service Provider for Early Intervention Services if it is determined that the Service Provider failed to comply with these standards or Medicaid requirements.

Subchapter 9. Closure.

901. Closure.

(a)

- (1) A Service Provider certification ends if a Service Provider permanently closes (whether voluntarily or involuntarily) and is effective the date of the permanent closure as determined by DDS.
- (2) A Service Provider that intends to or does permanently close (whether voluntarily or involuntarily) must:
 - (i) Provide Written Notice of the closure to First Connections at least thirty (30) Calendar Days prior to effective date of the proposed closure; and
 - (ii) Arrange for the storage of child service records to satisfy the requirements of Section 304.

(b)

- (1) A Service Provider that intends to voluntarily close temporarily may request to maintain its Service Provider certification for up to one (1) year from the date of the request.
- (2) A Service Provider must still comply with subdivision (a)(2)'s requirements for notice and storage of child service records.
- (3)
 - (i) DDS may grant a temporary closure if the Service Provider demonstrates that it is reasonably likely to reopen after the temporary closure.
 - (ii) DDS shall direct that the Service Provider permanently close if the Service Provider fails to demonstrate that it is reasonably likely to reopen after the temporary closure.
- (4)
 - (i) DDS may end a Service Provider's temporary closure if the Service Provider demonstrates that it is in full compliance with these standards.
 - (ii) DDS shall end a Service Provider's temporary closure and direct that the Service Provider permanently close if the Service Provider 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) A Service Provider may ask for reconsideration of any adverse regulatory action taken by DDS by submitting a written request for reconsideration to: Division of Disabilities Services, Attn: DDS Director, P.O. Box 1437, Slot N501, Little Rock, Arkansas 72203-1437.
- (2) The written request for reconsideration of an adverse regulatory action taken by DDS must be submitted by the Service Provider and received by DDS within thirty (30) Calendar Days of the date the Service Provider received Written Notice of the adverse regulatory action.
- (3) The written request for reconsideration of an adverse regulatory action taken by DDS must include without limitation the specific adverse regulatory action taken, the date of the adverse regulatory action, the name of the Service Provider against whom the adverse regulatory action was taken, the address and contact information for the Service Provider against whom the adverse regulatory action was taken, and the legal and factual basis for reconsideration of the adverse regulatory action.

(b)

- (1) DDS 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) DDS 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) DDS 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 DDS under subdivision (b)(2), whichever is later.
- (2) DDS shall issue its determination to the Service Provider using the address and contact information provided in the request for reconsideration.

(d) DDS may also unilaterally decide to reconsider any adverse regulatory action any time it determines, in its sole discretion, that an adverse regulatory action was inappropriate.

1002. Appeal of Regulatory Actions.

- (a) A Service Provider may administratively appeal any adverse regulatory action to the DHS Office of Appeals and Hearings (OAH) except for 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.
- (b) OAH shall conduct administrative appeals of adverse regulatory actions pursuant to DHS Policy 1098 and other applicable laws and rules.
- (c) A Service Provider 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.