

COMMENT DUE DATE: January 15, 2024

Date: December 15, 2023

Darrin Thompson, Programs Manager III	405-301-2895
Holli Kyker, Programs Administrator	405-982-2217
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It is important that you provide your comments regarding the **draft copy** of policy by the comment due date. Comments are directed to *STO.LegalServices.Policy@okdhs.org. The proposed policy is **PERMANENT**.

SUBJECT:

Chapter 100. Developmental Disabilities Services
Subchapter 3. Administration
Part 3. Administration
340:100-3-38 [AMENDED]
Subchapter 5. Client Services
Part 3. Service Provisions
340:100-5-22.7 [AMENDED]
Subchapter 18. Licensing
340:100-18-1 [AMENDED]
(Reference WF 24-100)

SUMMARY:

The proposed amendment to Chapter 30, Subchapter 5 and Chapter 40, Subchapters 5 and 9 amends the rules to implement changes recommended during the annual Developmental Disabilities Services (DDS) rule review process.

Permanent rulemaking approval is requested.

LEGAL AUTHORITY:

Director of Human Services; 56 O.S. § 162.



OKLAHOMA DEPARTMENT OF HUMAN
SERVICES



Rule Impact Statement

To: Programs administrator
Legal Services - Policy

From: Beth Scrutchins, Director
Developmental Disabilities Services (DDS)

Date: May 22, 2023

Re: **CHAPTER 100. DEVELOPMENTAL DISABILITIES SERVICES**
Subchapter 3. Administration
Part 3. Administration
340:100-3-38 [AMENDED]
Subchapter 5. Client Services
Part 3. Service Provisions
340:100-5-22.7 [AMENDED]
Subchapter 18. Licensing
340:100-18-1 [AMENDED]
(Reference WF 24-100)

Contact: Darrin Thompson 405-301-2895

A. Brief description of the purpose of the proposed rule:

Purpose.

The proposed amendment to Chapter 30, Subchapter 5 and Chapter 40, Subchapters 5 and 9 amends the rules to implement changes recommended during the annual Developmental Disabilities Services (DDS) rule review process.

Strategic Plan Impact.

The proposed amendments positions Oklahoma Human Services (OKDHS) DDS to improve services to individuals with intellectual and developmental disabilities; support DDS goals of improving vulnerable Oklahomans' quality of life by increasing individuals' abilities to lead safer, healthier, more independent, and productive lives; and to comply with federal requirements.

Substantive changes.

Subchapter 3. Administration

Part 3. Administration

Oklahoma Administrative Code (OAC) 340:100-3-38 is amended to add language regarding expectations for participants of virtual training.

Subchapter 5. Client Services

Part 3. Service Provisions

OAC 340:100-5-22.7 is amended to clarify: (1) what forms and information the DDS provider must submit with a claim; and (2) the provider notifies the DDS case manager when the service recipient's room and board, income, or expenditures change significantly.

OAC 340:100-5-32 is amended to update language regarding labeling containers and medications away from home.

Subchapter 18. Licensing

OAC 340:100-18-1 is amended to: (1) update the "Supervision" definition to specify that at least one face-to-face contact with supervisor occurs during the provision of services to conform with the Behavior Analyst Certification Board definitions; (2) add language to specify this policy is not applicable to service provision by school districts or employees under the Individuals with Disabilities Education Act; (3) include graduate student or postdoctoral fellow as supervisee and identify the supervision requirements; (4) stipulate the Oklahoma Licensed Behavior Analyst Board (OLBAB) may issue a temporary or full license to out of state providers who meet requirements; (5) clarify expenditures and deposits of money OLBAB receives; (6) explain orientation DDS provides for new OLBAB members; (7) clarify conflict of interest in regard to OLBAB members; (8) clarify liability exemptions of OLBAB members; (9) expand the categories of who can serve as an OLBAB member; (10) clarify that the OKDHS Director or designee appointments or removes OLBAB members and may reappoint OLBAB members for additional two-year terms; and (11) clarify the complaint investigation and OLBAB imposed sanctions processes.

Reasons.

The proposed amendments update and clarify DDS rules, per Section 1020 of Title 56 of the Oklahoma Statutes (56 O.S. § 1020).

Repercussions.

The proposed amendments contribute to the health and safety of vulnerable Oklahomans and positions Oklahoma to continue to improve service provision.

Legal authority.

Director of Human Services; 56 O.S. § 162.

Permanent rulemaking approval is requested.

- B. A description of the classes of persons who most likely will be affected by the proposed rule, including classes that will bear the costs of the proposed rule, and any information on cost impacts received by the Agency from any private or public entities:** The classes of persons affected by the proposed amendments are

individuals receiving DDS services, who bear no costs associated with the rule's implementation.

- C. A description of the classes of persons who will benefit from the proposed rule:** The classes of persons who benefit are individuals receiving DDS services.
- D. A description of the probable economic impact of the proposed rule upon the affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever possible, a separate justification for each fee change:** There is no economic impact on individuals who receive DDS services.
- E. The probable costs and benefits to the Agency and to any other agency of the implementation and enforcement of the proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule and any anticipated effect on state revenues, including a projected net loss or gain in such revenues if it can be projected by the Agency:** The probable OKDHS cost includes the cost of printing and distributing the rules, estimated less than \$20.
- F. A determination whether implementation of the proposed rule will have an impact on any political subdivisions or require their cooperation in implementing or enforcing the rule:** The proposed amendments do not have an impact on any political subdivisions or require their cooperation in enforcing the rules.
- G. A determination whether implementation of the proposed rule will have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act:** The proposed amendments do not have an adverse effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act.
- H. An explanation of the measures the Agency has taken to minimize compliance costs and a determination whether there are less costly or nonregulatory methods or less intrusive methods for achieving the purpose of the proposed rule:** The proposed amendments do not increase compliance costs. There are no less costly, non-regulatory, or less intrusive methods.
- I. A determination of the effect of the proposed rule on the public health, safety, and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety, and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk:** The proposed amendments do not negatively impact the public health, safety, and environment of affected individuals.
- J. A determination of any detrimental effect on the public health, safety, and environment if the proposed rule is not implemented:** If the proposed amendment is not implemented the public health, safety, and environment of affected individuals will not be negatively affected.

K. The date the rule impact statement was prepared and, if modified, the date modified: Prepared May 22, 2023; Modified: September 6, 2023

SUBCHAPTER 3. ADMINISTRATION

PART 3. ADMINISTRATION

340:100-3-38. Training requirements for community staff

Revised 7-1-1109-14-24

(a) **Application.** Oklahoma Administrative Code (OAC) 340:100-3-38 sets forth training requirements for Developmental Disabilities Services Division (DDSD) (DDS) staff, specialized foster care (SFC) providers, and agencies contracting for delivery of residential supports, per OAC 340:100-5-22.1, habilitation training services, group home services, assisted living services, employment services, or in-home supports through ~~DDSD~~ DDS state funds or a Home and Community-Based Services (HCBS) Waiver, per OAC 317:40-1-1. ~~DDSD~~ DDS staff, provider agency staff, and SFC providers complete a course of instruction specific to applicable job duties in accordance with:

- (1) residential supports and group home services per OAC 340:100-3-38.1;
- (2) employment services per OAC 340:100-3-38.2, excluding job coaching services through contracts with industry, per OAC 317:40-7-18. The job coach, per OAC 317:40-7-18, completes contracts with industry job coach curriculum, approved by the ~~DDSD director of human resource development~~ DDS director or designee, within 30 days of assignment as job coach;
- (3) supports in the family's or service recipient's home through Community Waiver or Homeward Bound Waiver, other than residential supports, per OAC 340:100-3-38.3;
- (4) SFC per OAC 340:100-3-38.4;
- (5) supports in the family's or service recipient's home through an In-Home Supports Waiver per OAC 340:100-3-38.5;
- (6) ~~DDSD~~ DDS case management services per OAC 340:100-3-38.6;
- (7) program coordination services per OAC 340:100-3-38.7;
- (8) employment program manager services per OAC 340:100-3-38.8;
- (9) ~~DDSD~~ DDS or provider agency supervisory or management support per OAC 340:100-3-38.9;
- (10) respite, homemaker, or homemaker respite services per OAC 340:100-3-38.12; and
- (11) supports in alternative group homes per OAC 340:100-3-38.13.

(b) Training curricula.

(1) To fulfill the training requirements of OAC 340:100-3-38, any training course or curriculum must be approved by the ~~DDSD director of human resource development~~ DDS director or designee unless the course is:

- (A) designed and offered by a professional training or education organization to enhance the management skills of supervisors; or
- (B) offered by a regional, state, or national professional organization, such as:
 - (i) The Association for Persons with Severe Handicaps (TASH);
 - (ii) The Council on Quality and Leadership (CQL); or
 - (iii) the American Association on Intellectual and Developmental Disabilities (AAIDD).

(2) In-services to staff and meetings pertaining to agency policies and practices are not subject to approval by the ~~DDSD director of human resource development~~ DDS director or designee.

(3) Trainers of approved courses must be licensed, certified, or otherwise qualified based on requirements of the course or by approval of the ~~DDSD director of human resource development~~ DDS director or designee.

(4) Competency-based courses require a specified level of proficiency to receive credit for satisfactory completion. Competencies are based upon specific identified outcomes. The trainer of each course communicates the required level of proficiency to participants at the beginning of each course.

(5) Each curriculum developed or sponsored by ~~DDSD~~ DDS is reviewed at least every two years to ensure the curriculum is:

(A) reflective of current best practice;

(B) aligned with Oklahoma ~~Department of~~ Human Services (OKDHS) rules; and

(C) reflective of changes in the service delivery system.

(c) **Classroom expectations.** ~~DDSD~~ DDS training staff and contract training staff are authorized to dismiss a participant or observer from a class for the reasons in (1) through (5) of this subsection.

(1) Dismissal from a training class may occur for:

(A) sleeping in class; ■ 1

(B) disruptive behavior, such as:

(i) inappropriate comments during class that are considered rude, insensitive, or derogatory;

(ii) whispering or talking to other participants during class;

(iii) conducting activities unrelated to the class topic;

(iv) being called out of class frequently; or

(v) leaving class frequently other than at designated break times; ■ 1

(C) tardiness or absence. ■ 1

(i) Tardiness, such as:

(I) arriving at class more than 30 minutes after class begins on the first day;

(II) arriving at class more than 15 minutes after class begins on subsequent days; or

(III) missing a total of more than 30 minutes of any day's presentation.

(ii) Participants may be granted no more than 30 minutes the first day of class to allow for difficulty in locating the building or parking, except in courses that require a specific number of training hours to meet certification requirements;

(D) incomplete preparation. Dismissal from class occurs for any participant who has not completed required prerequisite courses, tasks, or preparatory materials prior to attending; and

(E) violating confidentiality requirements, per OAC 340:100-3-2 and other applicable rules.

(2) If dismissal from class occurs, the trainer notifies the participant's agency and trainer's supervisor as soon as possible and maintains a brief written summary of the incident.

(A) Dismissed participants do not receive credit for the class and are required to re-enroll and satisfactorily complete the entire course or module to receive credit.

(B) The trainer must give approval before re-enrollment is allowed. Appeal of the trainer's decision is made to the ~~DDSD director of human resource development~~ DDS director or designee.

(3) No children, friends, or family members of participants may attend class unless enrolled as participants.

(4) Service recipients family members, advocates, ~~DDSD~~ DDS staff, and provider agency staff may observe training classes unless they engage in activities disruptive to the class. Service recipients who wish to participate in training and who need staff support must be accompanied by a staff not enrolled in the training.

(5) When other persons attend class in place of enrolled participants, or in addition to enrolled participants, they are allowed to remain, if the trainer determines there are adequate materials and space. ■ 2

(d) **Online Training Expectations.** Online training courses may be used as an alternative to classroom instruction.

(1) Online courses must be approved by the ~~DDSD~~ director of human resource development DDS director or designee.

(2) Provider agencies participating in online training have responsibility for preventing misuse of online training.

(3) Provider agencies participating in online training develop protocols governing use of online training. The protocols include, but are not limited to the following:

(A) supervision of employees completing online training;

(B) provision of technical assistance to learners;

(C) mentoring and assisting learners; and

(D) completion of on-the-job components of the courses including maintaining documentation of completion.

(4) ~~DDSD~~ DDS and provider agency staff sign Form 06MP050E, Notice of Responsibilities Regarding Online Training, prior to taking online courses that have been approved to meet the training requirements per OAC 340:100-3-38.

(e) Virtual Training Expectations. Virtual training may be used as an alternative to both classroom and online training as referenced in this Section. Virtual training is an instructor-led, interactive, online learning experience with participants who are connected from geographically dispersed locations. This does not include telehealth services, webinars, webcasts, virtual meetings, or other similar platforms. Participants are expected to actively participate and engage with the trainer and the group during group discussions and activities. Refer to (c)(1) of this Section regarding reasons for dismissal from virtual training. During virtual training participants:

(1) have their camera on at all times. All participants are visible and have adequate audio capability to both hear and be heard. When participants need to turn off the camera and leave the training momentarily, participants notify the instructor(s) using the chat function;

(2) check Internet capabilities prior to the training to allow for relocation if needed;

(3) ensure their dress, appearance, and behavior are appropriate for the circumstances;

(4) are in an environment as free from distractions as possible. This includes but is not limited to minimizing:

(A) external noise;

(B) the presence of people who are not registered participants; and

(C) use of electronic devices unless being used to participate in the class;

(5) may not participate while driving;

(6) may use a library, community parking lot, or a government building as needed for adequate Internet reception. In an area with external noise, headphones or ear buds are used to block out external noise, and the distractions in (e)(5) of this Section are minimized as much as possible;

(7) ensure that identifying client information is not visible or discussed; and

(8) are not working or responsible for other duties during training.

~~(e)~~(f) **Course availability.** The ~~DDSD Human Resource Development Unit~~ DDS training unit and contract trainers work to ensure the availability of all courses by taking into account:

(1) location;

(2) time of day; and

(3) day of the week.

~~(f)~~(g) **Class closings due to inclement weather.**

(1) ~~If~~ For a live training, if the public schools in the town where the class is held are closed or OKDHS has closed the local offices due to bad weather, class is canceled and the DDS trainer notifies affected provider agencies. The provider agency is responsible to enroll the staff in the next available class.

(2) If provider agency staff plans to attend an out-of-town class, but the schools are closed at the staff's work location, the agency may determine that it is not safe for staff to travel.

(A) The agency is responsible ~~to call for contacting~~ for contacting the ~~enrollment phone number for the class on~~ DDS training unit the next work day to notify the training provider of this decision.

(B) ~~The trainer~~ DDS training unit enrolls the staff in the next available class, and the staff is not penalized for not attending.

(C) The ~~letter~~ email confirming re-enrollment serves as notification of the next available class.

~~(3) If a class is cancelled due to bad weather, the enrolled staff is expected to notify the provider agency of his or her potential availability to work.~~

~~(4)~~(3) If a provider agency or staff is uncertain about weather conditions or cancellations, they must contact the DDS training unit. ~~call the enrollment phone number for the particular class.~~

~~(g)~~(h) **Quality assurance.** To ensure consistency with state laws and regulations and current best practices, training provided by ~~DDSD~~ DDS staff, service providers, or contract agents, and other classes required by ~~DDSD~~ DDS are observed and monitored on a regular basis. ■ 4

(1) The components of the monitoring system are listed in (A) through (E).

(A) ~~The DDSD director of human resource development~~ DDS director or designee attends and monitors training classes on a random basis throughout the calendar year. ■ 3

(B) ~~DDSD training supervisors and contract~~ Contract training coordinators observe each trainer directly under their supervision at least twice a calendar year. ■ 3

(i) At least one review must include foundation training, if applicable.

(ii) Each review is at least one-half training day, which is three hours in length.

(iii) The reviews:

(l) cover the range of primary training topics ~~offered by each trainer~~ offers;

(II) are conducted in both metropolitan and rural areas of Oklahoma, when applicable; and

(III) include announced and unannounced observations.

(iv) The ~~supervisor~~ DDS training program manager or contract training coordinator reviews the training classes as a participant rather than as an observer, when possible.

(v) Direct feedback is given to the trainer following the class in both written and verbal form. ■ 3

(vi) A copy of the written review is sent to the ~~DDSD director of human resource development~~ DDS director or designee.

(vii) If significant areas of concern are noted, the contract training coordinator and trainer and ~~immediate supervisor~~ develop a specific plan of correction that may include retraining, increased supervision of classes, or co-training. A copy of the plan of correction is sent to the ~~DDSD director of human resource development~~ DDS director or designee.

(viii) The ~~supervisor~~ DDS director or designee or contract training coordinator may request an unannounced review by another supervisor, coordinator, or trainer.

(ix) Exceptional performance is noted in writing with a copy to:

(I) the trainer's personnel file; and

(II) ~~DDSD director of human resource development~~ DDS director or designee.

(C) Provider agencies notify ~~DDSD~~ DDS area training staff at least the day before the class of the location and time when offering in-house training courses to meet requirements per OAC 340:100-3-38. ~~DDSD~~ DDS may provide unannounced monitoring at any time.

(D) To ensure contract trainers support the ~~DDSD~~ DDS mission, values, and philosophies, as well as demonstrate mastery of the subject matter and good training skills, the DDS director or designee assigns each ~~DDSD~~ DDS trainer is assigned to monitor a ~~specific number of contract trainers per calendar year~~ trainer as needed.

(i) Each ~~DDSD~~ DDS trainer:

(I) is assigned to monitor contract trainers based upon the ~~DDSD~~ DDS trainer's areas of expertise and interest;

(II) reviews each assigned contract trainer at least one time per calendar year for a minimum of one-half training day, which is three hours. ■ 3 The review is unannounced; and

(III) provides written and oral feedback to the contract trainer following the class.

(ii) A copy of the written report is provided to the contract trainer, contract trainer's supervisor, and ~~DDSD director of human resource development~~ DDS director or designee.

(iii) If significant areas of concern are noted, the contract trainer and immediate supervisor develop a specific plan of correction that may include retraining, increased supervision of classes, or co-training. A copy is sent to the ~~DDSD director of human resource development~~ DDS director or designee.

(iv) Exceptional performance is noted in writing with a copy to:

- (I) trainer's personnel file; and
 - (II) ~~DDSD director of human resource development~~ DDS director or designee .
- (v) ~~DDSD~~ DDS training staff reviews the primary training programs and other sensitive training programs ~~provided by contract training staff~~ provides.
- (E) Service recipients, family members, and advocates, as well as organizations with expertise in disability issues or training may be invited to review training classes or portions of classes.
- (i) These reviews may be announced or unannounced.
 - (ii) Service recipients, family members, friends, advocates and legal guardians, or organizations provide feedback to the trainer, trainer's supervisor, and ~~DDSD director of human resource development~~ DDS director or designee.
- (2) Training found to violate requirements of OAC 340:100-3-38, including material covered, testing procedures, or ~~DDSD~~ DDS rule requirements may result in:
- (A) corrective discipline for OKDHS employees;
 - (B) revocation of approval to provide training;
 - (C) supervised retraining; or
 - (D) sanctions against the provider per OAC 340:100-3-27.
- (3) Any participant or agency with concerns about course content, a course instructor, or availability of a course immediately notifies the supervisor of the course or instructor. If resolution of the issue does not occur, the participant or agency notifies the ~~DDSD director of human resource development~~ DDS director or designee.
- (4) Each class used to fulfill training requirements, per OAC 340:100-3-38, offered by ~~DDSD~~ DDS, contract training agents, or provider agencies offers participants the opportunity to provide feedback. Feedback options include:
- (A) end-of-class evaluation forms;
 - (B) periodic surveys; or
 - (C) focus group discussions.
- (5) ~~DDSD~~ DDS case managers and providers report to the ~~DDSD director of human resource development~~ DDS director or designee any training system issues inhibiting fulfillment of requirements per OAC 340:100-3-38.
- ~~(h)~~(i) **Documentation.**
- (1) Provider agencies maintain documentation of completion of required training as defined in OAC 340:100-3-38. Staff who attend training ~~are given certificates or other completion verification and the~~ may request the DDS trainer verify and sign completion verification the provider agency provides. Staff also may request verification of live and virtual training from the DDS training unit. The agency maintains a copy of such documents.
- (2) ~~DDSD~~ DDS case managers monitor training completion through review of progress reports from service providers per OAC 340:100-5-52 and follow up when issues are noted.

INSTRUCTIONS TO STAFF 340:100-3-38

Revised 7-1-119-14-24

1. Classroom expectations.

- (1) Participants who become drowsy are free to stand or get refreshments, as long as this is not disruptive to the class.
 - (A) If drowsiness continues, the trainer talks to the participant at the first available break to determine the cause, such as working a double shift or health reasons, and to encourage the participant to move around or get refreshments.
 - (B) The trainer tells the participant the trainer wants the participant to be successful in the class, but sleeping is not tolerated and further occurrence results in dismissal from the class.
 - (2) If the participant disrupts class, the trainer:
 - (A) talks to the participant on the first available break to determine the reason for the disruption; and
 - (B) informs the participant that further disruptions will are not be tolerated and will result in dismissal from class.
 - (3) If the participant is tardy for class, the trainer:
 - (A) reminds the participant to be on time the next day if the class is a two-day class;
 - (B) tells the participant to return from breaks and lunch on time and that class resumes as scheduled; and
 - (C) counsels the participant who is tardy after the first offense on the guidelines for dismissal from the class.
2. Trainer responsibilities. The trainer:
- (1) obtains the name, provider agency, hire date, and Social Security number of the person who is not enrolled;
 - (2) ensures the person has completed any prerequisite courses or pre-course activities; and
 - (3) calls the appropriate training coordinator for the course at the first available opportunity to enroll the person.
3. Class monitoring. ~~The Developmental Disabilities Services Division (DDSD) director of human resource development~~ (DDS) director or designee monitors classes in accordance with guidelines in (1) through (7).
- (1) Each review is at least one-half training day, which is three hours in length.
 - (2) The reviews cover the range of primary training topics offered through ~~DDSD~~ DDS, such as foundation training, leadership and administration, and health.
 - (3) ~~The DDSD director of human resource development~~ DDS director or designee reviews training classes as a participant rather than as an observer, when possible.
 - (4) The reviews include announced and unannounced observations.
 - (5) Direct feedback is given to the trainer following the class, in written and verbal form. A copy of the written review is given to the trainer's immediate supervisor.
 - (6) If significant areas of concern are noted, the trainer and immediate supervisor are asked to develop a plan of correction that may include retraining, increased supervision of classes, or co-training.

- (7) Exceptional performance is noted in writing with a copy to the trainer's personnel file.
4. Monitoring documents. Documents to assist in the review process are available from the ~~DDSD director of human resource development~~ DDS director or designee.

SUBCHAPTER 5. CLIENT SERVICES

PART 3. SERVICE PROVISIONS

340:100-5-22.7. Supplemental room and board funding for persons receiving Home and Community-Based Services (HCBS) Waivers

Issued ~~2-2-219-14-24~~

(a) **Applicability.** This Section applies to services funded through Medicaid HCBS Waivers, per Oklahoma Administrative Code (OAC) 317:35-9-5, and Section 1915(c) of the Social Security Act. Specific Waivers include service recipients who receive:

- (1) daily living supports (~~DLS~~), per OAC 317:40-5-150; or
- (2) group home services, per OAC 317:40-5-152.

(b) **General Information.** In an effort to support participation in community life Oklahoma Human Services (~~OKDHS~~) Developmental Disabilities Services (DDS) may supplement room and board costs for service recipients with income insufficient to meet the costs of the items listed in (b)(1)(A) through (H). Room and board costs are not a reimbursable waiver expense, per the HCBS service regulations. The provider may request a supplemental room and board payment when Room room and board expenses in a residential setting may leave a service recipient with insufficient personal funds exceeds income. DDS State Fund supplemental payments permit a provider to be reimbursed for room and board costs beyond a service recipient's ability to pay with personal benefits income.

(1) Allowable room and board costs are actual monthly expenses that include:

- (A) rent;
- (B) food;
- (C) housing supplies;
- (D) utilities;
- (E) basic cable or television;
- (F) telephone;
- (G) repair and maintenance that are not an obligation of another entity; and
- (H) insurance.

(2) Room and board reimbursement is authorized, per OAC 340-3-33.1. When the need for a supplemental payment is expected to continue, cost effective community living arrangements ~~must be~~ are considered and documented in the Individual Plan (~~IP~~). The supplemental room and board payment must meet all of the requirements in (A) through (E) of this paragraph.

(A) Funding to meet the service recipient's needs are not available through another source.

(B) The service recipient's room and board expenses are consistent with fair market values for properties in the general area.

(C) The supplemental payment must be necessary to support community living and must be required for other than the preference of the service recipient, family, or provider.

(D) The provider must provide detailed expenses including but not limited to mortgage detail and status. The mortgage ~~can't~~ may not be a loan with business debt that is greater than the properties fair market value or non-routine costs for non-physical plant excluding the normal escrow items such as taxes and insurance.

(E) The provider must disclose common ownership interests between the provider and mortgage holder or lessor.

(3) The service recipient's Personal Support Team (Team) ~~is responsible for ensuring~~ ensures individuals have a minimum of \$100 of personal spending money each month unless the DDS director or designee approves a lesser amount ~~is approved by the DDS director or designee.~~

(4) When possible, the Team develops a plan to resolve the room and board deficiency by identifying lower cost housing options or seeking roommates when there are additional bedrooms available.

(c) **Room and board payment.** Each service recipient contributes an amount ~~determined by the provider~~ determines, not to exceed actual expenses. The service recipient retains at least \$100 a month in personal spending money. The service recipient ~~must contribute~~ contributes employment income to meet his or her room and board costs.

(1) To ensure Waiver funding is not used for room and board costs when the service recipient has exceptionally low income, a room and board supplement is provided. The supplement is provided when he or she: ■ 1

(A) does not have adequate income to meet his or her room and board expenses;

(B) is awaiting a medical decision from the Social Security Administration for Supplemental Security income eligibility; or

(C) is unable to achieve sustained employment resulting in a room and board income deficit.

(2) Each month the provider submits: ~~OKDHS Form 06CL001E, Room and Board Supplement Claim Form, and OKDHS Form 10AD012E, Claim Form, for reimbursement within three months of the last date of service.~~

(A) OKDHS Form 06CL001E, Room and Board Supplement Claim Form, for reimbursement within three-months of the last date of service;

(B) an invoice with:

(i) the date of service;

(ii) a unique invoice number;

(iii) an itemized description of services and total amount that matches Form 06CL001E; and

(iv) name and address of the vendor that matches the contract name and address.

(3) Proof of payment for all claim expenditures ~~must be~~ is included, ~~with the initial claim. When the supplement extends beyond six calendar months the provider must submit proof of payment in six month intervals. For subsequent claims, DDS may request additional claim expenditures when a significant change occurs.~~

(d) **Provider requirements.** The provider establishes a written financial agreement with the service recipient or legal guardian that defines the provider and service recipient's responsibilities, per OAC 340:100-5-22.1.

(1) The provider ensures:

- (A) service recipient expenses accrue on a monthly basis and are actual expenses;
- (B) the Social Security Administration is contacted to review the service recipient's benefits when his or her personal benefits are low; and
- (C) the service recipient is employed an average of 30 hours per week. When the service recipient does not participate in 30 hours per week of employment services, the Team develops a plan to address the situation, per OAC 317:40-7-15.

(2) The provider notifies the DDS case manager when the service recipient's room and board, income, or expenditures change significantly.

INSTRUCTIONS TO STAFF 340:100-5-22.7

Revised ~~9-15-229-14-23~~

1. ~~(a)~~ **When a service recipient has low income, Developmental Disabilities Services (DDS) assists in developing a plan to remedy the cause for reduced personal benefits income.**

(1) **The Personal Support Team (Team) reviews the service recipient's personal income benefits to ensure he or she is receiving all eligible benefits. When it is discovered that he or she is eligible for additional benefits, the Team assists the service recipient in applying for additional benefits.**

(2) **When a service recipient resides in daily living supports (DLS), with fewer than two roommates, the DDS field administrator may grant approval for a two-person DLS placement, per Oklahoma Administrative Code 317:40-5-150. When the request is submitted, the DDS field administrator ensures the service recipient can afford his or her living arrangement.**

(3) **When the service recipient is unable to consistently participate in employment, DDS vocational staff is contacted to provide technical assistance to the Team.**

SUBCHAPTER 18. LICENSING

340:100-18-1. Board Certified Behavior Analyst (BCBA) license and Board Certified Assistant Behavior Analyst (BCaBA) certification

Revised ~~9-17-199-14-24~~

(a) **Authority.** Section 1928 of Title 59 of the Oklahoma Statutes (59 O.S. § 1928) directs ~~the Oklahoma Department of Human Services (DHS)~~(OKDHS) Developmental Disabilities Services (DDS) to provide for licensing of ~~{BCBAs}~~ and certification of BCaBAs.

(b) **Definitions.** The following words and terms, when used in this Subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) **"Applied behavior analysis"** means the process of systematically applying interventions based upon the principles of learning theory to improve socially

significant behaviors to a meaningful degree, and to demonstrate that the interventions employed are responsible for the improvement in behavior.

(2) **"Behavior Analyst Certification Board (national Board) (BACB)"** means the national-accrediting Behavior Analyst Certification Board or its successor.

(3) **"Board Certified Assistant Behavior Analyst (BCaBA)"** means an individual who is certified by the national Board, BACB as a Board Certified Assistant Behavior Analyst and practices under the close, ongoing supervision of a BCBA and ~~is certified by DHS DDS to provide applied behavior analysis services in Oklahoma.~~

(4) **"Board Certified Behavior Analyst (BCBA)"** means an individual who is certified by the national Board BACB as a Board Certified Behavior Analyst and ~~is licensed by DHS DDS to provide applied behavior analysis services in Oklahoma.~~

(5) **"Employee-employer relationship"** means the BCBA employs the BCaBA or the registered behavior technician (RBT).

~~(6)~~ **"Human services professional"** means an individual licensed or certified in Oklahoma as a licensed:

- (A) physical therapist or physical therapist assistant;
- (B) occupational therapist or occupational therapist assistant;
- (C) clinical social worker;
- (D) masters social worker;
- (E) social work associate;
- (F) psychologist or health service psychologist;
- (G) speech pathologist;
- (H) audiologist;
- (I) professional counselor or professional counselor candidate;
- (J) marital and family therapist or marital and family therapist candidate; or
- (K) behavioral practitioner or behavioral practitioner candidate.

~~(7)~~~~(6)~~ **"Licensed behavior analyst"** means an individual who is certified by the national-accrediting Board as a BCBA and is licensed by DHS DDS to provide applied behavior analysis services in Oklahoma. **"Oklahoma Certified Assistant Behavior Analyst (OCABA)"** means a BCaBA who is certified by OLBAB under authority of OKDHS DDS to provide applied behavior analysis services in Oklahoma.

~~(8)~~~~(7)~~ **"Oklahoma Licensed Behavior Analyst Board (OLBAB)"** or **"state Board"** means the state board responsible for licensing behavior analysts, certifying assistant behavior analysts and regulating the practice of applied behavior analysis professionals.

~~(9)~~~~(8)~~ **"Real-time supervision"** means the observation of the provision of service with all parties participating in or monitoring live interactions. **"Oklahoma Licensed Behavior Analyst (OLBA)"** means a BCBA who is licensed by OLBAB under authority of OKDHS DDS to provide applied behavior analysis services in Oklahoma.

~~(10)~~~~(9)~~ **"Registered behavior technician (RBT)"** means a paraprofessional who is certified by the national Board BACB and practices under the close, ongoing supervision of a BCBA. The RBT works under the license number of a BCBA and is primarily responsible for the direct implementation of BCBA designed and prescribed behavior-analytic services.

~~(11)~~~~(10)~~ **"Supervisee"** means a BCaBA or, RBT, or Behavior Analyst in training who acts under the authority and supervision of a BCBA to provide applied behavior

analysis services or a BCaBA or RBT candidate in training to provide such services ~~as defined by~~ in accordance with the requirements and procedures of the national board BACB.

(A) The supervisee does not design intervention or assessment plans but may assist the BCBA performing those tasks to the extent the BACB allows. It is the supervising BCBA's responsibility to determine which other tasks the supervisee may perform as a function of his or her training, experience, and competence.

(B) The BCBA is responsible for the supervisee's work on the cases he or she is overseeing.

(C) A BCBA, BCaBA, ~~or RBT~~ or Behavior Analyst in training as a guardian or parent, may not provide services to his or her own child or ward.

~~(12)~~(11) "Supervision" means the direct observation and professional guidance at least two face-to-face, real time contacts with at least one occurring during the provision of service by a BCBA, BCaBA, or RBT, or Behavior Analyst in training.

~~(13) "Two-way interactions" means the observation of the provision of service using real-time visual and auditory contact through the use of technological devices.~~

(c) Qualifications.

(1) Each person wishing to practice as a BCBA or ~~as a BCaBA~~ in Oklahoma applies to DDS using Form 06LC001E, Application for BCBA License and BCaBA Certification, and furnishes evidence that he or she:

(A) ~~is at least 21 years old;~~

~~(B)~~ passed the Board examination and is certified by the ~~national Board~~ BACB as a BCBA or as a BCaBA, as applicable; and

~~(C)~~(B) has not had a professional license or state certification refused, revoked, suspended, or restricted and does not have a complaint, allegation, or investigation pending in any regulatory jurisdiction in the United States or in another country for reasons that relate to unprofessional conduct unless DDS finds that the conduct was corrected or that mitigating circumstances exist that prevent resolution.

(2) No person ~~can~~ may claim the title of or hold himself or herself out as being a ~~BCBA~~ an OLBA or ~~BCaBA~~ OCABA unless he or she meets the applicable requirements and obtains a license or certification, per this Section.

(A) Supervisees provide applied behavior analysis under the supervision of a ~~BCBA~~ an OLBA.

(B) This Section does not restrict the practice of applied behavior analysis by human services professionals, provided such individuals are working within the scope of their professions and the practice of applied behavior analysis is commensurate with their level of training and experience and provided such professionals do not hold themselves out as being an OLBA, OCABA, BCBA, or BCaBA if they do not possess such credentials.

(C) This Section does not prohibit the practice of applied behavior analysis by a ~~technician or family member,~~ guardian or caregiver of a person implementing a plan for that person within the home, acting under the extended authority and direction of a ~~Licensed BCBA or BCaBA,~~ an OLBA or OCABA.

~~(D) A violation of this subsection is punishable by a fine of not more than \$500, the suspension or revocation of a license or certification issued per this Section, or both fine, and loss of licensure or certification. This Section does not apply to~~

persons employed by a school district who provide services solely to the school district under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C., Section 1400 et seq., provided they do not claim the title of an OLBA, OCABA, BCBA, BCaBA, or RBT unless they are in compliance with the requirements for the RBT as promulgated and administered by the BACB.

(E) DHS OKDHS Legal Services may file and seek injunctive relief against any person who wrongfully holds himself or herself out as a an OLBA, OCABA, BCBA, or BCaBA, and does not in fact meet the applicable requirements set forth above, or who is not licensed or certified as a ~~BCBA or BCaBA~~ this policy requires. The injunctive relief set forth in this Section is filed in the district court for any county wherein which the person holding himself or herself out as a an OLBA, OCABA, BCBA or BCaBA.

(F) ~~RBT is certified the national board and renews certification annually as required and defined by the national board.~~ The term supervisee includes:

- (i) a matriculated graduate student or postdoctoral fellow whose activities are part of a defined behavior analysis program of study, practicum, or intensive practicum, provided that the practice under this exemption is directly supervised by a licensed behavior analyst in this state or an instructor in a course sequence approved by the certifying entity; or
- (ii) an unlicensed individual pursuing experience in behavior analysis consistent with the experience requirements of the certifying entity, provided such experience is supervised by a licensed behavior analyst in the state.

(H) A violation of this subsection is punishable by a fine of not more than \$500, the suspension or revocation of a license or certification issued per this Section, or both fine, and loss of licensure or certification.

(d) **Application.** Oklahoma licenses and certificates are issued for two-year terms following the initial ~~State Board OLBA~~ BACB certification period.

(1) **Licensure.** A person requesting licensure provides for:

(A) an initial request:

- (i) a current copy of ~~national Board~~ BACB certification; and
- (ii) ~~a copy of a valid photo identification;~~
- (iii) Form 06LC001E;
- (iv) ~~Form 06LC002E, Professional Reference for BCBA License and BCaBA Certification; and~~
- (v) ~~Form 06LC004E, Statement of Professional Disclosure for BCBA License and BCaBA Certification; and~~

(B) a renewal:

- (i) a current copy of ~~national Board~~ BACB certification; and
- (ii) Form 06LC001E; and
- (iii) ~~Form 06LC004E.~~

(2) **Certification.** A person requesting certification provides for:

(A) an initial request:

- (i) a current copy of ~~national Board~~ BACB certification; and
- (ii) ~~a copy of a valid photo identification;~~
- (iii) Form 06LC001E;
- (iv) ~~Form 06LC002E;~~

- (v) ~~Form 06LC004E; and~~
- (vi) ~~Form 06LC005E, BCaBA Professional Supervision; and~~
- (B) re-certification:
 - (i) a current copy of ~~national Board~~ BACB certification; and
 - (ii) ~~a copy of a valid photo identification;~~
 - (iii) ~~Form 06LC001E; and~~
 - (iv) ~~Form 06LC004E; and~~
- (3) **Post-military personnel.** Pursuant to the Post-Military Service Occupation, Education and Credentialing Act, 59 O.S. § 4100.1, issuance of an Oklahoma license or certificate to post-military service members and spouses is expedited upon receipt of required application materials and verification of ~~national Board~~ BACB certification.
- (4) **Temporary License.** OLBAB may issue a temporary license to practice behavior analysis in Oklahoma for 30-calendar days or less in a calendar year. For a temporary license to be issued, the person must be licensed to practice behavior analysis in another state whose requirements are substantially equivalent to Oklahoma requirements, per 59 O.S. § 1928(B) and this Section.
- (5) **Licensure Requirements.** OLBAB may issue a license to a person who:
 - (A) holds a valid license or certificate from another state;
 - (B) meets the requirements specified in 59 O.S. § 1928(B) and this Section;
 - (C) meets any additional licensing requirements contained in administrative regulation promulgated by OLBAB; and
 - (D) has no imposed or pending disciplinary actions.
- (e) **Licensure and certification.** A person licensed or certified ~~by DDS:~~
 - (1) maintains active status and fulfills all requirements of certification or recertification with the ~~national Board~~ BACB;
 - (2) conducts professional activities in accordance with the ethical and professional standards of the ~~national Board~~ and BACB available on its website at www.bacb.com; and
 - (3) applies for license or certification renewal on or before April 30 of each odd-numbered year to continue practicing in Oklahoma.
- (f) **Fees.**
 - (1) ~~BCBA~~ OLBA licensure fees:
 - (A) for initial licensing are pro-rated on a rounded average of \$50 for each full-calendar year remaining on the ~~national Board~~ BACB certification; and
 - (B) \$100 for each two-year license thereafter.
 - (2) ~~BCaBA~~ OCABA certification fees:
 - (A) for initial certification are pro-rated on a rounded average of \$25 for each full-calendar year remaining on the ~~national Board~~ BACB certification; and
 - (B) \$50 for each two-year certification thereafter.
- (g) **Requirements of supervision.** A ~~An certified BCaBA~~ OCABA or RBT works under the supervision of a ~~an licensed BCBA~~ OLBA. The ~~BCBA~~ OLBA follows the supervision guidelines of the ~~national Board~~ BACB.
- (h) **OLBAB.**
 - (1) OLBAB has at least five members consisting of:

(A) at least three licensed BCBA OLBA who may be employed by DHS appointed to the OLBAB by the DHS OKDHS Director or designee, one of whom may be employed by OKDHS, and two who are recommended by the:

(i) largest nonprofit professional association for behavior analysts in the state;

or

(ii) OLBAB;

(B) at least one BCaBA OCABA or RBT who may be employed by DHS OKDHS appointed to the OLBAB by the DHS OKDHS Director or designee; and

(C) one member employed by OHCA, designated by the Oklahoma Health Care Authority (OHCA) who is a person with behavioral health expertise of the public who is, or in the last five years has been, a consumer of behavior analytic services, or family member of a consumer of behavior analytic services provided or supervised by an OLBA.

(2) The OKDHS Director or designee appoints the chair of OLBAB is appointed by the DHS Director.

(3) Administrative support of the OLBAB is provided by DDS staff as designated by the DDS director. Upon OLBAB's request or at the Director's own determination, and before an OLBAB member's term expires, the OKDHS Director or designee may remove an OLBAB member for malfeasance, neglect of duty, or incompetency, or revoke or suspend the member's license.

(4) OLBAB meets a minimum of four times per calendar year. All meetings are subject to the Open Meetings Act, per 25 O.S. § 301-314. If an OLBAB member resigns appointment, or a board seat is otherwise vacated prior to completion of term, the OKDHS Director or designee appoints a replacement member to complete the term.

(5) Travel expenses for members of OLBAB are reimbursed, per 74 O.S. § 500.4. The OKDHS Director or designee may reappoint OLBAB members for additional two year terms.

(6) OLBAB maintains a list of all persons licensed or certified to provide behavior analytic services in Oklahoma and provides copies to interested persons upon written request. DDS staff provides administrative support of the OLBAB.

(7) OLBAB meets a minimum of four times per calendar year. All meetings are subject to the Open Meetings Act, per 25 O.S. § 301-314.

(8) Travel expenses for members of OLBAB are reimbursed, per 74 O.S. § 500.4.

(9) Money received for the licensure or certification of behavior analysts and assistant behavior analysts, and any penalties, fines, appropriations, gifts, grants or donations received for purposes relating to the duties of OLBAB are deposited in a fund and are used exclusively for OLBAB operations and administration of 59 O.S. § 1928.

(10) Each new member of OLBAB completes orientation training provided by DDS within 60 calendar days after his or her appointment to OLBAB. Orientation includes, but is not limited to:

(A) the purpose of OLBAB and the duties of OLBAB members; and

(B) any applicable laws and regulations including the provisions of the governing law and regulations of OLBAB, administrative hearing requirements, confidentiality requirements, complaint investigation, and disposition procedures.

(11) Appointees to OLBAB are free of conflict of interest in performing the duties of OLBAB. OLBAB Members adhere to the ethical standards of OKDHS in executing

duties of OLBAB. No OLBAB member participates in any matter before OLBAB in which the member has a pecuniary interest or other conflict of interest.

(12) OLBAB maintains a list of all persons licensed or certified to provide behavior analytic services in Oklahoma and provides copies to interested persons upon written request.

(i) **Ethics.**

(1) Any person licensed or certified by DDS as either a ~~BCBA~~ an OLBA or a ~~BCaBA~~ OCABA reports to the ~~state Board~~ OLBAB within five-business days of any sanction, denial of initial or renewal certification, revocation, suspension, or any other limitation of license or certification or combination of ~~national Board~~ BACB sanctions. When a person loses ~~national Board~~ BACB licensure or certification for any reason, he or she immediately forfeits the Oklahoma license or certification and must notify OLBAB within five-business days of such ~~national Board~~ BACB action and ~~must immediately stop~~ stop providing BCBA or BCaBA services in Oklahoma.

(2) ~~Grounds for forfeiture or non-renewal of a license or certification for practice in Oklahoma include:~~

~~(A) obtaining or attempting to obtain a license or certification by making a false or misleading statement, failure to make a required statement, or fraud or deceit in any communication to OLBAB;~~

~~(B) gross or repeated negligence, incompetence, misconduct, or malpractice in professional work including, but not limited to:~~

~~(i) any physical or mental condition that currently impairs competent professional performance or poses a substantial risk to the recipient of behavior analysis services;~~

~~(ii) professional conduct that constitutes an extreme and unjustified deviation from the customary standard of practice accepted in the applied behavior analytic community and creates a serious risk of harm to or deception of service recipients;~~

~~(iii) abandonment of a service recipient resulting in the termination of imminently needed care without adequate notice or provision for transition;~~

~~(iv) professional record keeping or data collection that constitutes an extreme and unjustified deviation from the customary standard of practice for the field, or deceptively altering service recipient's records or data;~~

~~(v) engaging in blatant fraud, deception, misrepresentation, false promise or pretense, intimidation in the practice of applied behavior analysis, or in solicitation of service recipients; or~~

~~(vi) the unauthorized material disclosure of confidential service recipient information;~~

~~(C) limitation, sanction, revocation, or suspension by a health care organization, professional organization, or other private or governmental body, relating to behavior analysis practice, public health or safety, or behavior analysis certification;~~

~~(D) any conviction of a felony or misdemeanor directly relating to behavior analysis practice or public health or safety;~~

~~(E) failure to adequately supervise or be supervised in accordance with the BACB Standards for Supervision.~~

All persons licensed or certified, per 59 O.S. § 1928(D)(2), complies with the BACB Standards for Supervision and Ethics Code for Behavior Analysts, and OLBAB may investigate any complaints and impose sanctions for any violations of these provisions or the applicable BACB ethics and supervision requirements in effect at the time of the relevant conduct or occurrence.

(3) Grounds for disciplinary action including denial, suspension, forfeiture, or non-renewal of a license or certification for practice in Oklahoma. Other disciplinary or remedial action include:

(A) obtaining or attempting to obtain a license or certification by making a false or misleading statement, failure to make a required statement, or fraud or deceit in any communication to OLBAB;

(B) violations of the BACB professional and ethical compliance codes;

(C) aiding and abetting the unlawful practice of behavior analysis;

(D) failing to cooperate with or respond promptly, completely, and honestly to OLBAB requests in connection with licensing, certifying, investigative, or disciplinary activities;

(E) gross or repeated negligence, incompetence, misconduct, or malpractice in professional work including, but not limited to:

(i) any physical or mental condition that currently impairs competent professional performance or poses a substantial risk to the recipient of behavior analysis services;

(ii) professional conduct that constitutes an extreme and unjustified deviation from the customary standard of practice accepted in the applied behavior analytic community and creates a serious risk of harm to or deception of service recipients;

(iii) abandonment of a service recipient resulting in the termination of imminently needed care without adequate notice or provision for transition;

(iv) professional record keeping or data collection that constitutes an extreme and unjustified deviation from the customary standard of practice for the field, or deceptively altering service recipient's records or data;

(v) engaging in blatant fraud, deception, misrepresentation, false promise or pretense, intimidation in the practice of applied behavior analysis, or in solicitation of service recipients; or

(vi) the unauthorized material disclosure of confidential service recipient information;

(F) limitation, sanction, revocation, or suspension by a health care organization, professional organization, or other private or governmental body, relating to behavior analysis practice, public health or safety, or behavior analysis certification;

(G) any conviction of a felony or misdemeanor directly relating to behavior analysis practice or public health or safety; or

(H) failure to adequately supervise or be supervised in accordance with the BACB Standards for Supervision.

(3)(4) Applicants and persons holding a current license or certificate reports to the OLBAB within 30-calendar days of occurrence:

(A) a change in name, address, or other vital information;

- (B) the filing of any criminal or civil charges;
- (C) the initiation of any disciplinary charges, investigations, or findings and/or, or sanctions by a health care organization, federal or state agency, or other professional association; and
- (D) any other change in information provided by the applicant or person holding a current license or certificate to the OLBAB.

~~(4)~~(5) The RBT must RBTs providing services in Oklahoma abide by the national Board's BACPs RBT Ethics Code. When OLBAB becomes aware of a potential code violation, a referral is made to the national Board BACB that has the responsibility for investigating and initiating disciplinary action, when determined necessary.

(j) **Complaint investigation.** All complaints regarding unprofessional conduct of a BCBA or BCaBA are submitted to OLBAB in writing. The DDS Quality Assurance programs administrator assists with investigations upon request and reports any findings to the ~~state Board~~ OLBAB for action.

(1) A complaint is defined as the receipt of any information by OLBAB indicating that there may be grounds for disciplinary action against a licensed behavior analyst or a licensed assistant behavior analyst, an individual claiming to be a licensed behavior analyst or a certified assistant behavior analyst, or an individual practicing without a license or certificate.

(2) Complaints may be initiated by any person or by OLBAB on its own initiative.

(3) Complaints sent to OLBAB:

(A) are addressed as confidential;

(B) are in writing;

(C) clearly identify the person against whom the complaint is being made;

(D) contain the date;

(E) identify, by signature, the person initiating the complaint; and

(F) contain a clear and concise statement of the facts giving rise to the complaint.

(4) At the next regularly scheduled meeting of OLBAB, or as soon as practicable, OLBAB determines whether the complaint warrants further investigation.

(5) If OLBAB determines that a complaint warrants further investigation, OLBAB notifies the licensee or applicant against whom the complaint has been made by certified mail. The notice includes a:

(A) notice that a complaint has been filed;

(B) statement of the nature of the complaint;

(C) reference to the particular Section(s) of the statutes, administrative code, or ethical standards that may be involved; and

(D) request for cooperation in obtaining a full understanding of the circumstances.

(6) The respondent provides OLBAB a written response to the initiating complaint within 30-calendar days.

(7) During the investigation phase, OLBAB may communicate with the complainant and the respondent in an effort to seek resolution of the complaint without a formal hearing.

(8) If a satisfactory resolution cannot be identified in the investigation phase, or OLBAB determines that the circumstances may warrant the denial, revocation, or suspension of a license, OLBAB initiates a formal hearing. The purpose of the hearing is to determine:

(A) if the respondent committed certain acts or omissions and whether those acts or omissions violated one or more of the following:

(i) 59 O.S. § 1928;

(ii) the professional and ethical compliance code for behavior analysts of the certifying entity; or

(iii) prior conditions OLBAB imposed regarding the respondent; and

(B) appropriate disciplinary action.

(9) Upon final resolution of a complaint submitted pursuant to this process, OLBAB notifies the complainant and respondent of the outcome of OLBAB's actions.

(10) OLBAB has the authority to determine that a formal hearing should be initiated immediately on any complaint.

(k) **Sanctions.** Sanctions are determined by the state Board OLBAB determines sanctions.

(1) After notice to the respondent, and an opportunity for a hearing conducted before a majority of OLBAB members, OLBAB may:

(A) refuse to license or certify any applicant;

(B) refuse to renew the license or certificate of any person;

(C) suspend or revoke or place on probation the license or certificate of any person;

(D) impose restrictions on the scope of practice or conditions of practice, including additional supervisory requirements, professional education, treatment requirements or physical or mental examination requirements or other practice conditions or limitations of any person;

(E) issue a letter of censure to any person;

(F) issue an administrative reprimand to any person;

(G) issue a written or verbal admonishment to any person; or

(H) impose fines for violations, not to exceed \$500.

(2) OLBAB may temporarily suspend a license or certificate prior to the hearing referenced in (j)(8). If OLBAB determines the licensee poses a substantial risk to the individual or individuals receiving applied behavior analysis services. The temporary suspension remains effective until the:

(A) hearing referenced in (j)(8) is conducted; or

(B) matter is otherwise resolved prior to the hearing as set forth in Section (j)(8) of this rule.