

CHAPTER 88

Department of Disabilities and Special Needs

(Statutory Authority: Article 3 of Chapter 20 of Title 44 of the 1976 Code and Act 1057 of 1976)

ARTICLE 1 LICENSE REQUIREMENT FOR FACILITIES AND PROGRAMS

88-105. Scope.

A. No program shall be operated in part or in full for the care, maintenance, education, training or treatment of more than two persons with intellectual disability unless a license is first obtained from the South Carolina Department of Mental Retardation. "In part" shall mean a program operating for at least ten (10) hours a week.

B. Specifically excluded from this requirement is any program which is:

- (1) Operated by an agency of "the state";
- (2) An integral part of a public or private school or center which is licensed, certified, or accredited by the South Carolina Department of Education or is sponsored by a school district;
- (3) Licensed as a community residential care facility, skilled care facility, intermediate care facility or hospital.
- (4) A day care center licensed by the Department of Social Service.

C. Programs which qualify for exclusion under this section may, upon voluntary application made by the operator of the program, be licensed, provided, however, that the programs meet all the other provisions for licensing as herein required.

D. No facility or program shall accept participants for care, maintenance, education, training or treatment other than that for which it is licensed.

E. All licensees will meet the statutory standards prohibiting abuse, neglect or exploitation of adult or child participants and are expected to comply with state law concerning the reporting of known or suspected cases to the appropriate state authority and to DMR if the victim is a DMR client.

Code Commissioner's Note

Pursuant to 2011 Act No. 47, §14(B), the Code Commissioner substituted "intellectual disability" for "mental retardation" and "person with intellectual disability" or "persons with intellectual disability" for "mentally retarded." At the Code Commissioner's discretion, the substitution was not made for the formal reference to the South Carolina Department of Mental Retardation in this regulation.

88-110. Licenses Issued.

A. A license is issued to programs which are in compliance with these regulations.

B. A license may be issued for new programs or those found to be out of compliance upon receipt of an acceptable plan of correction for eliminating deficiencies identified in the official licensing survey. The plan must show that the deficiency will be corrected within a thirty (30) day period. An extension may be granted for another 30 days when requested in writing and good cause shown.

C. The licensor may visit any licensee at any time during normal working hours of the program.

D. The license will specify the name of the licensee, the maximum number of participants to be present at the facility at one time and the type of program it is determined to be. The program type is designated as follows:

- (1) Recreation Camp;

- (a) Residential;
- (b) Day.
- (2) Child Development Center;
- (3) Adult Activity Center;
- (4) Work Activity Center;
- (5) Sheltered Workshop;
- (6) Other.

E. A program may request an opinion or an interpretation of the application of any regulation by making a written request to the regional office. If further interpretation is needed the request can be sent to the Standards Division of SCDMR by the regional office along with the region's response or recommendation.

88-115. Effective Date and Term of License.

A license will be effective for up to a twelve (12) month period, beginning with the date of issuance.

88-120. Applications for License.

A. Applications for license shall be made to the appropriate regional office of the South Carolina Department of Mental Retardation, Community Program Division:

- (1) Coastal Region
Suite 907—Summerall Center
19 Hagood Street
Charleston, South Carolina 29403
- (2) Midlands Center
8301 Farrow Road.
Columbia, South Carolina 29203
- (3) Pee Dee Center
Post Office Box 3209
Florence, South Carolina 29502
- (4) Whitten Center
Post Office Drawer 239
Clinton, South Carolina 29325

B. Applicants will be provided the appropriate forms for licensing upon request from one of the above locations.

C. Applicants who plan to construct a new facility or currently licensed operators who plan extensive renovations shall submit complete plans for construction or changes for prior approval to the Office of the State Fire Marshal.

D. If a facility involving food service or camping is constructed or extensively remodeled, properly prepared plans and specifications shall be submitted to the local health authority for review and approval prior to any construction. Upon completion of construction, an application for a S. C. Department of Health and Environmental Control permit for the operation of each facility shall be submitted to the local health authority. A permit must be issued prior to any operation.

E. Where a swimming pool is to be constructed, properly prepared plans and specifications shall be submitted to the Division of Shellfish and Recreational Waters, S. C. Department of Health and Environmental Control. Permits must be issued in accordance with Regulations 61-50 and 61-51 prior to use of swimming pools and natural bathing areas.

Code Commissioner's Note

Pursuant to 2011 Act No. 47, §14(B), the Code Commissioner substituted "intellectual disability" for "mental retardation" and "person with intellectual disability" or "persons with intellectual disability" for "mentally retarded." At the Code Commissioner's discretion, the substitution was not made for the formal reference to the South Carolina Department of Mental Retardation in this regulation.

88-125. Denial, Suspension, or Revocation of License.

A. The Department may deny, suspend, or revoke a license on any of the following grounds:

- (1) Failure to establish or maintain proper standards of care and service as prescribed in these regulations;
- (2) Conduct or practices detrimental to the health or safety of residents, clients, or employees of any such facilities or programs;
- (3) Any violations of applicable laws and regulations.

B. Denial of a License—In the case of denial of an application for license, the Department shall inform the applicant by registered mail within thirty (30) days of the formal licensing survey of the justification for refusal to issue a license. This denial notification shall contain an explanation for the denial and shall advise the applicant of his rights to hearings and appeals.

C. Suspension or Revocation of License

(1) If an existing program has conditions or practices which, in the Department's judgment, provide a threat to the safety and/or welfare of the persons served, the Department may immediately suspend or revoke the license of the program. Upon receipt of notification from the Department the licensee will cease operation immediately. The licensee will be notified by mail of the suspension or revocation. The notification shall contain the reason(s) for the revocation or the conditions of suspension. Any agency or person operating a program which has had its license suspended or revoked shall be liable to the penalties provided by law. The licensee shall at the time of notification, be advised of the right to a fair hearing and the appeal process.

(2) The Department may, suspend or revoke a license. The Department shall notify the licensee by registered mail, stating the reasons for the suspension or revocation of the license, and shall advise the licensee of his rights to hearings and appeals.

(3) For any suspension or revocation of a license except as noted by R. 88-125C (1), the license shall be considered terminated at 12 midnight on the fifteenth calendar day following the mailing of the written notification, unless the licensee shall give written request of his desire for an appeal hearing. If such a request is received by the Department within ten calendar days from the date notification was sent to the licensee, the licensee may continue operation until a final decision is reached. If, at the hearing, the decision is made to suspend or revoke a license the program will have fifteen calendar days to cease operation.

88-130. Waivers.

A. The Commissioner may waive compliance with one or more of the requirements of these regulations if, in his judgment, the waiver would not endanger the safety of the participants, staff, or the public, and would not reduce significantly the quality or quantity of the services to be provided.

B. To request a waiver, the applicant or licensee must make a written application to the Commissioner which includes the justification for the request for a waiver and must first be reviewed by the appropriate regional superintendent.

C. The request for a waiver will also contain a plan for compliance with the regulation which will include a date when the regulation will be met.

D. A waiver will not be issued for longer than one year.

88-135. Validity of License.

A. A license cannot be sold, assigned or transferred, nor shall it be valid for any premises other than those for which it was issued.

B. No program shall have present more participants than approved and so stated on the face of the license.

88-140. Separate Licenses.

A. A separate license is required for programs operated on separate premises even though they are operated by the same licensee or agency.

B. When two or more defined programs are operated on the same premises or building, a separate license is required and must be obtained for each program.

ARTICLE 2
DEFINITIONS

88–210. Definitions.

For the purpose of these regulations the following definitions apply:

A. Agency—An organization either public or private which is operated by a board of directors or other governing body and which offers programs to persons with intellectual disability.

B. Applicant—Any agency who has applied for a license from the Department.

C. Client—A person with intellectual disability who has been deemed eligible for services by the Department and who is participating in a program in the State or is on the waiting list for services from the Department.

The Department is required to provide community and residential service programs similar to those provided to persons with intellectual disability to substantially handicapped epileptic, cerebral palsied, autistic, and other developmentally disabled individuals whose treatment and training needs approximate those of the persons with intellectual disability. Eligibility for services shall be determined by the Department. It is intended that the Department not duplicate other State agency programs or develop service modalities which normally would be considered to be the legal and programmatic mandate of another State agency.

D. Commissioner—The chief administrator of the Department of Mental Retardation or his designee.

E. Department—The South Carolina Department of Mental Retardation. (SCDMR)

F. Developmental Period—The period of time between conception and the twenty-second birthday.

G. Governing Board—The individuals or group that have legal responsibility for the agency or organization which operates the day program.

H. License—A document issued by the Department to an agency operating a program indicating that the licensee is in compliance with the provisions set forth in these regulations and other standards as specified in these regulations.

I. Licensee—The agency who holds the primary responsibility for providing services and compliance with these regulations.

J. Licensor—The Department of Mental Retardation.

K. Mental Retardation—Refers to significantly sub-average general intellectual functioning resulting in or associated with concurrent impairments in adaptive behavior and manifested during the developmental period.

L. Participant—Any person with intellectual disability who is participating in a program licensed by the Department.

M. Regional Office—The SCDMR office which performs the license survey and issues the license.

N. Permit—a written permit, issued by the health authority permitting the food service, camp, swimming pool or natural bathing area to operate under S. C. Department of Health and Environmental Control regulations.

Code Commissioner's Note

Pursuant to 2011 Act No. 47, §14(B), the Code Commissioner substituted "intellectual disability" for "mental retardation" and "person with intellectual disability" or "persons with intellectual disability" for "mentally retarded." At the Code Commissioner's discretion, the substitution was not made for the formal reference to the South Carolina Department of Mental Retardation in this regulation.

ARTICLE 3

RECREATIONAL CAMPS FOR PERSONS WITH INTELLECTUAL DISABILITY [REPEALED]

88–310. Repealed.

HISTORY: Former Regulation, titled Definitions, repealed by SCSR 46–5 Doc. No. 5041, eff May 27, 2022.

88–315. Repealed.

HISTORY: Former Regulation, titled Campsite, repealed by SCSR 46–5 Doc. No. 5041, eff May 27, 2022.

88-320. Repealed.

HISTORY: Former Regulation, titled Supervision, repealed by SCSR 46-5 Doc. No. 5041, eff May 27, 2022.

88-325. Repealed.

HISTORY: Former Regulation, titled Personnel, repealed by SCSR 46-5 Doc. No. 5041, eff May 27, 2022.

88-330. Repealed.

HISTORY: Former Regulation, titled Size of Staff, repealed by SCSR 46-5 Doc. No. 5041, eff May 27, 2022.

88-335. Repealed.

HISTORY: Former Regulation, titled Personnel Records, repealed by SCSR 46-5 Doc. No. 5041, eff May 27, 2022.

88-340. Repealed.

HISTORY: Former Regulation, titled General Health, repealed by SCSR 46-5 Doc. No. 5041, eff May 27, 2022.

88-345. Repealed.

HISTORY: Former Regulation, titled General Safety, repealed by SCSR 46-5 Doc. No. 5041, eff May 27, 2022.

88-350. Repealed.

HISTORY: Former Regulation, titled Emergency Procedures, repealed by SCSR 46-5 Doc. No. 5041, eff May 27, 2022.

88-355. Repealed.

HISTORY: Former Regulation, titled General Sanitation Requirements, repealed by SCSR 46-5 Doc. No. 5041, eff May 27, 2022.

88-360. Repealed.

HISTORY: Former Regulation, titled Housing in Residential Camps, repealed by SCSR 46-5 Doc. No. 5041, eff May 27, 2022.

88-365. Repealed.

HISTORY: Former Regulation, titled Nutrition and Food Service, repealed by SCSR 46-5 Doc. No. 5041, eff May 27, 2022.

88-370. Repealed.

HISTORY: Former Regulation, titled Transportation, repealed by SCSR 46-5 Doc. No. 5041, eff May 27, 2022.

88-375. Repealed.

HISTORY: Former Regulation, titled Program, repealed by SCSR 46-5 Doc. No. 5041, eff May 27, 2022.

88-380. Repealed.

HISTORY: Former Regulation, titled Waterfront Activity, repealed by SCSR 46-5 Doc. No. 5041, eff May 27, 2022.

88-385. Repealed.

HISTORY: Former Regulation, titled General Care of Campers, repealed by SCSR 46-5 Doc. No. 5041, eff May 27, 2022.

88-390. Repealed.

HISTORY: Former Regulation, titled Confidentiality, repealed by SCSR 46-5 Doc. No. 5041, eff May 27, 2022.

88-395. Repealed.

HISTORY: Former Regulation, titled Reserve Clause, repealed by SCSR 46-5 Doc. No. 5041, eff May 27, 2022.

ARTICLE 4
DAY PROGRAMS FOR PERSONS WITH INTELLECTUAL DISABILITY

Code Commissioner's Note

Pursuant to 2011 Act No. 47, § 14(B), the Code Commissioner substituted "intellectual disability" for "mental retardation" and "person with intellectual disability" or "persons with intellectual disability" for "mentally retarded".

88-405. Definitions.

A. Adult Activity Center—A goal oriented program of developmental, prevocational services designed to develop, maintain, increase or maximize an individual's functioning in activities of daily living, physical growth, emotional stability, socialization, communication and vocational skills

B. Child Development Center—A center-based day program for preschool age and school age children. The main purpose is to provide services which will encourage optimal growth and development.

C. Critical Incident—An event, involving clients, which has a harmful effect or otherwise special effect such as accidents, injuries, abuse, damage to property, theft, gross misbehavior, etc.

D. Direct Care Staff—Those employees whose job descriptions indicate the duty of directly working with participants. That amount of time the job description indicates is directly devoted to client contact will be counted in the staff/participant ratio. Dietary, transportational, janitorial staff and other support staff who do not work directly with clients are not considered direct care staff unless their job description shows that time is spent with clients.

E. First Aid Kit—A collection of supplies which includes: mild hand soap; cotton tipped applicators; gauze bandages, one and two inch widths; sterile gauze, three inch by three inch; band-aids; adhesive tape; scissors; disinfectant; and thermometer

F. Program Site—Any location where at least three participants are working or playing in an area that is physically separate from the main program, such as separate workshops, work crews, isolated class rooms, and field trips

G. Program Director—The staff person who determines the programmatic methods and client training procedures for an agency

H. Program Space—Area which participants use for programs, training or work. Areas excluded in space calculations are offices, storage, bathrooms, kitchen, isolation area and hallways. If any program routinely and regularly uses an excluded area for scheduled client use this area can be included in the space calculations. The program will show a written justification for such consideration.

I. "Regular Work Program" is a type of certificate issued by the Department of Labor which allows a workshop to pay handicapped clients at 50% of minimum wage.

J. Sheltered Workshop—A work program whose purpose is to assist participants to achieve their potential through the use of individual work goals, remunerative employment, supportive services and a controlled environment. The workshop will maintain a certificate with the United States Department of Labor which designates it as a "regular work program".

K. Work Activity Center—A workshop having an identifiable program designed to provide therapeutic activities for workers with intellectual disability whose physical or mental impairment is so severe as to interfere with normal productive capacity. Work or production is not the main purpose of the program, however, the development of work skills is its main purpose. The program will have a certificate from the United States Department of Labor designating it as a Work Activity Program when applicable.

Code Commissioner's Note

Pursuant to 2011 Act No. 47, §14(B), the Code Commissioner substituted "intellectual disability" for "mental retardation" and "person with intellectual disability" or "persons with intellectual disability" for "mentally retarded." At the Code Commissioner's discretion, the substitution was not made for the formal reference to the South Carolina Department of Mental Retardation in this regulation.

88-410. Personnel.

A. Qualifications of Staff

(1) Program Director—The director will meet the following minimal qualifications:

(a) Be at least twenty-one years old.

(b) Have a four-year, baccalaureate degree from an accredited college or university in the human services or related field and two year's experience in administration or supervision in the human services field or

(c) Have a master's degree from an accredited college or university in the human services or related field and one year's experience in administration or supervision in the human services

(d) Have references from past employment.

(2) Direct Care Staff—The direct care staff will meet the following qualifications:

(a) Be at least eighteen years old.

(b) Have a valid high school diploma or its certified equivalent.

(c) Have references from past employment if the person has a work history.

(3) All Staff—All Staff will meet the following qualifications:

(a) Have signed a statement that they have never been charged or convicted of a crime involving abuse, neglect or exploitation.

(b) Must be shown to be a non-reactor to the tuberculin skin test at the time of employment as evidenced by a tuberculin skin test dated within one month from the first day of employment. If the potential employee is found to be a reactor to the skin test he will not be able to work until he has written certification by a licensed physician that he is non-contagious and must show evidence of the non-contagious status annually.

(4) Support Staff—Staff shall have adequate qualifications to perform the fiscal, clerical, food service, housekeeping and maintenance functions.

B. Participant/Staff Ratios

(1) There will be at least the following minimum participant/staff ratio for each program:

(a) Child Development Center - 5:1;

(b) Adult Activity Center - 7:1;

(c) Work Activity Center - 7:1;

(d) Sheltered Workshop - 10:1.

(2) Upon consideration of the ages, the severity of handicapping conditions, and the services needed by the participants, the Department may approve a different participant/ staff ratio.

C. There will be a staff development/inservice education program operable in each agency which requires all staff to participate in new employee orientation, inservice education programs and staff development opportunities.

D. Supervision of Clients

(1) A designated responsible staff member must be present and in charge at all times a participant is present. The staff member left in charge must know how to contact the director at all times.

(2) At no time shall any participant be without supervision unless a specified activity which allows for an adult participant's independent functioning is planned and documented.

(3) A minimum participant/staff ratio of 10:1 must be maintained in each classroom, workshop, program area, etc. at all times.

(4) Each program shall have provisions for alternate coverage for staff members who are ill. Such policies shall require staff members with acute communicable disease, including respiratory infection, gastro-intestinal infection, and skin rash, to absent themselves during the acute phase of illness.

88-415. Facility.

A. Size—Each facility shall provide a minimum of fifty (50) square feet of program space per participant.

B. Sanitation—The facility shall meet the requirements of the appropriate sanitation regulations of the South Carolina Department of Health and Environmental Control (DHEC) which are current on the date of inspection. A current certificate of inspection shall be maintained in the facility's records.

C. Fire Safety

(1) The facility will meet the regulations of the appropriate standards for fire safety as set forth by the South Carolina Fire Marshal codes. Report of an approved fire safety inspection completed by a local Fire Marshal or the State Fire Marshal's shall be maintained in the facility's records.

(2) The agency shall formulate and post in each room and work area, in a place clearly visible, a diagrammatic plan for evacuation of the building in case of disaster. All employees shall be instructed and kept informed regarding their duties under the plan.

(3) The center shall hold fire/disaster drills at least once each quarter. Each drill conducted shall be recorded as to time, date of drill, number of those participating, and the total time required for evacuation. The record shall be signed by the person conducting the drill.

(4) Passageways shall be free of obstructions at all times.

(5) All staff shall be instructed in the proper use of fire extinguishers as documented in reports.

(6) The use of electrical extension cords is prohibited.

(7) Programs with deaf clients will develop a fire alarm system to assure the clients are alerted to the danger of fire.

D. Electrical System Inspection—A safety check on electrical systems shall be made by a licensed/certified electrician/contractor and a written report kept on file at the facility at all times. A new inspection shall be made after any expansion, renovation, or the addition of any major electrical appliances or equipment.

E. All staff shall be knowledgeable of utility cut-offs throughout the facility.

F. The heating system shall be approved annually by a licensed/certified H.V.A.C. contractor and the report maintained on file at the facility. Floor furnaces shall have adequate protective coverings or guards to insure that individuals coming into contact with them shall not be burned. If space heaters are used, they shall be vented properly and screens or other protective devices shall be provided to prevent individuals from coming into contact with the heaters.

G. Storage of Harmful Items—All cleaning equipment supplies, insecticides, etc. shall be in a locked cabinet or located in an area not accessible to unauthorized persons.

H. Safety of Equipment

(1) Furniture, equipment and training materials shall be appropriate to the ages of the individuals in the program; shall be sturdily constructed without sharp edges; shall not be covered with toxic paint; and shall present minimal hazards to individuals.

(2) Stationary outdoor equipment shall be firmly anchored.

(3) The use of tools and equipment shall be supervised by staff.

(4) In the presence of unusual hazards arising from certain work operations, appropriate safety precautions shall be taken to insure the protection of those present.

I. Equipment and Materials for Learning, Recreational Experiences—Indoor and outdoor equipment and materials shall be provided in sufficient quantity and variety to meet the developmental need of the participants. The equipment will be age appropriate for the clients who use it.

88-420. Transportation.

A. If the facility operates a transportation system, vehicles used for the transportation of participants shall ensure safety for the passengers.

(1) Vehicles shall be inspected daily, using a checklist. The driver shall sign a report which indicates that he has checked the lights, brakes, horn, wipers and tires.

(2) Maintenance of vehicles shall be recorded, updated, and signed every month.

(3) Each passenger shall have adequate seating space and shall use a seat belt or restraint system approved by the Highway Traffic Safety Administration Standards which is appropriate for his age while being transported.

(4) Each vehicle will have:

(a) first aid kit which is replenished after each use and checked monthly for completeness;

(b) fire extinguisher which is in good working order and securely fastened in a manner which is easily accessible to the driver.

(5) Vehicle operators and all staff who transport clients will be licensed drivers who are capable of handling road emergencies and hazards and will have a current defensive driving course certificate within one month of employment which is on file in the agency. If there was no course offered within first month this must be verified and the staff must take and pass the first course offered.

88-425. Medical Care.

A. Routine Medical Care

(1) Every participant will be examined by a licensed physician within twelve 12 months prior to admission or within 30 days after admission. The results of the exam will be kept at the main program site.

(2) Any evidence of illness or injury shall be documented in the participant's record and action shall be taken to obtain necessary medical treatment of the individual and to safeguard others from contagion.

B. Medication

(1) Medication to be administered shall be stored in a locked cabinet not accessible to unauthorized persons. Prescribed medication shall be kept in the original containers bearing the pharmacy label which shows drug name, the prescription number, date filled, physician's name, directions for use, and the patient's name.

(2) Employees supervising the taking of medication will document that medication was taken by client as authorized by parents or guardian.

(3) Written authorization to administer any medication must be given by parents or guardian or community residence assuming that authority.

C. Emergency Medical Care—A written plan for emergency medical services shall be developed to meet participant's needs. This shall include the name of the physician to be notified and means of transportation for emergency medical care. If a physician's services are not immediately available and the client's condition requires immediate medical attention, the director is responsible for securing transportation to the nearest medical emergency facility. Written permission from each parent/guardian authorizing such care shall be on file in the agency.

D. First Aid

(1) A first aid kit shall be maintained at each program site.

(2) All direct care staff will be trained in American Red Cross first aid procedures (either basic or standard first aid) within the first month of employment for new employees.

88-430. Evaluations.

A. Psychological evaluations will be required according to the following schedule:

(1) Children shall be evaluated by using a restrictive test of intelligence administered by a licensed or certified psychologist once upon entry into a day program and once more between ages three and five or prior to matriculation to Headstart or public school unless entry into the program occurs after the age of two years.

(2) Adults shall be tested using a restrictive test of intelligence administered by a licensed or certified psychologist on program entry, re-entry or at age twenty-two (22) whichever occurs first, unless there is a valid psychological evaluation completed within three years of admission on record.

B. Social History—A social history which includes basic information on participant's personal history, family situation and specific problem areas will be completed on admission to the day program and updated annually thereafter. Information from the parents/guardian will be included in the history. The update shall indicate any change in the family situation or living environment that may affect participant's progress and need for continued enrollment.

C. Assessment of Skills—Each participant in both adult and child programs will be assessed using an approved assessment tool(s) within thirty (30) calendar days of enrollment and annually thereafter. The assessment of needs will contain evaluations in the following areas:

(1) Children:

- (a) Sensorimotor skills;
 - 1. Gross motor;
 - 2. Fine motor;
 - (b) Communication and language;
 - (c) Social interaction/play;
 - (d) Self-help skills;
 - (e) Cognitive skills;
 - (f) Behavior needs.
- (2) Adults:
- (a) Self-care (e.g., hygiene, appearance, nutrition, eating habits, dressing, toileting, physical fitness, sex education etc.)
 - (b) Community Living Skills (e.g., budgeting, shopping, cooking, laundry, telephone usage, transportation, appropriate use of leisure etc.)
 - (c) Communication (e.g., speech, language, sign language, or other communication skills etc.)
 - (d) Socialization (e.g., appropriate behaviors for successful interaction with others, recreation and leisure)
 - (e) Vocational (e.g., physical capabilities, psychomotor skills, work habits, job seeking skills, knowledge of work practices, work related skills etc.)
 - (f) Education (e.g., academic and cognitive skills etc.)
 - (g) Behavioral needs–(behavioral management plans)
 - (h) Motor Development–(e.g. gross motor, fine motor and perceptual motor needs)

88–435. Program.

A. Plan–Each participant will have a written plan developed and approved by the program team within thirty days of admission for adults and for children and annually thereafter. The plan will be based on the professional evaluations, regional recommendations, the assessment of skills, parent/guardian and/or community residence staff conferences, staff and client recommendations and discussed in a team meeting. The date and signature of all team members will be documented on the plan.

- (1) The plan will contain written, individualized, long-range and short-range goals which are time limited and measurable.
- (2) The plan will contain written objectives which include a training schedule and the method of evaluation of progress.
- (3) The plan will contain documented evidence of parent/guardian involvement in the meeting.
- (4) Summary notations of progress made toward goals are made monthly by staff involved in the training. The notes will be signed and dated.
- (5) When a goal is reached a new goal will be set.
- (6) When the participant is observed to be making no progress in reaching a goal after three months of working on the same goal the methodology will be reviewed and evaluated by the team and a new goal will be set, the methodology changed or the recommendation may be made to continue the goal. If no progress has been made after one year the goal or methodology will be changed.
- (7) The plan will be reviewed and updated by the program team at least annually.
- (8) The plan will always have current goals and objectives.
- (9) The plan will address the participant's movement toward a less restrictive program and include goals and objectives which will help him progress to a higher level program.
- (10) The plan will be developed by a team which will consist of program staff, family, and any others who work with the client.

B. Services

(1) The services offered at the program will be directed toward the identified needs of the participant. He will be involved in activities which will help him progress toward goals identified in the plan. Activities should be age appropriate and allow for choices by the participant.

(2) The services for children will include the following:

- (a) Gross motor development;
- (b) Fine motor development;
- (c) Communication and language;
- (d) Socialization;
- (e) Self-help skills;
- (f) Cognitive development;
- (g) Behavior management;

(3) The services for adults will include but not be limited to the following:

- (a) Activities of daily living, AAC, WAC;
- (b) Independent living skills, AAC, WAC;
- (c) Socialization, AAC, WAC;
- (d) Recreation/Leisure Skills, AAC, WAC;
- (e) Habilitation/Vocational/Work Related, AAC, WAC,SW;
- (f) Behavior management, AAC, WAC,SW;
- (g) Physical development, AAC, WAC;
- (h) Communication/Language, AAC, WAC;

(4) The program may offer the services at the home of the participant, in the community, in the center, or any other appropriate site which can be arranged by the program and which is deemed appropriate by the team.

C. Hours of the Program

(1) Each program will have a current activity schedule posted

(2) The schedule will reflect the hours the facility is open and the hours the program offers supervised services.

(3) The schedule must reflect the scheduled activities of the day.

88-440. Records.

A. Administrative—The following records will be maintained at least 5 years in the administrative office for the program and shall be readily available for review by the Department:

- (1) Client register for enrollment;
- (2) Daily attendance;
- (3) Current (annual) certificate of sanitation inspection from DHEC;
- (4) Current (annual) certificate of fire inspection from a fire marshal;
- (5) Current (annual) heating, ventilation and air conditioning inspection report, dated and signed by a qualified technician;
- (6) Electrical system report, signed and dated by a licensed/certified electrical/contractor with the certification number listed.
- (7) Disaster plan and a record of fire drills;
- (8) Individual personnel records on each staff member which contain:
 - (a) TB report at time of employment and annually if skin test indicates a reactor;
 - (b) Signed application form or other statement of staff member's age, educational history and employment history;
 - (c) Job description;

(d) Signed statement that indicates the employee has never been charged or convicted of a crime involving abuse or neglect.

(e) References from past employment when applicable

(9) Written policies on:

(a) Access to, duplication of, and dissemination of information from client records;

(b) Prohibition of the use of physical, mechanical or chemical restraint unless used for safety or therapeutic purposes as prescribed by a written plan and as approved by DMR;

(c) The prohibition of corporal punishment;

(d) Conditions for use of isolation rooms;

(e) Retention of records;

(f) Use of volunteers and substitutes;

(g) Program evaluation;

(h) Administration of medication;

(i) Admission and discharge of participants;

(j) Personnel practices

(k) Procedures to be followed when a participant is discovered to be missing.

(l) Prohibition of abuse and neglect which also includes staff report of any/all abuse to appropriate state agencies and to the Department of Mental Retardation.

(m) Conditions and policies on the termination of clients which include:

1. A list of reasons for dismissal;

2. Methods of averting the termination;

3. Consultation and concurrence with the Department prior to termination.

B. Participant—A record shall be maintained for each participant which contains, as a minimum, the items listed below. All documents and entries shall be legible, dated, and signed by the person making the entry. If symbols are used, explanatory legends must be provided.

(1) Report of a medical examination which was performed not more than twelve (12) months prior to admission;

(2) Report of psychological evaluation(s) as required by R. 88-430A;

(3) Report of Social History which is updated annually;

(4) Current Individual Program Plan as required by R88-435 A;

(5) Monthly summary notations of progress;

(6) Record of unusual behavior incidents which are recorded at the time of occurrence;

(7) Record of illness and accidents;

(8) Authorization for emergency medical service;

(9) Record of critical incidents.

C. Confidentiality—All information in a participant's record shall be considered privileged and confidential. Staff shall not disclose or knowingly permit the disclosure of any information concerning the client or his family directly to any unauthorized person.

D. Maintenance of Records—After a participant's discharge or dismissal from a program, or his death, his records shall be retained for five years. Disposal of records must be performed in a confidential manner.

Code Commissioner's Note

Pursuant to 2011 Act No. 47, §14(B), the Code Commissioner substituted "intellectual disability" for "mental retardation" and "person with intellectual disability" or "persons with intellectual disability" for "mentally retarded." At the Code Commissioner's discretion, the substitution was not made for the formal reference to the South Carolina Department of Mental Retardation in this regulation.

ARTICLE 5
ELIGIBILITY DETERMINATION

88–505. General.

A. Individuals domiciled in the state and determined by the Department, using the diagnostic criteria specified in this Article, to have an Intellectual Disability, Related Disability, Autism Spectrum Disorder, Head Injury, Spinal Cord Injury, Similar Disability, or be a child at greater risk for a developmental disability than that for the general population, will be eligible for services from the Department. Individuals believed to be eligible for services of the Department or their representative must contact the Department to request a determination of eligibility.

HISTORY: Added by SCSR 46–5 Doc. No. 5040, eff May 27, 2022.

88–510. Definitions Used in this Article.

A. At Risk Child: Defined as a child 36 months of age up to but less than 72 months of age whose genetic, medical or environmental history is predictive of a substantially greater risk for a developmental disability than that of the general population.

B. Autism Spectrum Disorder: The Department defines Autism Spectrum Disorder (ASD) as included in the American Psychiatric Association’s Diagnostic and Statistical Manual of Mental Disorders-Fifth Edition (DSM-5) or most current edition.

C. Developmental Period: The period of time between conception and the twenty-second birthday.

D. Head Injury: S.C. Code Ann. § 44–38–20, which relates to the South Carolina Head and Spinal Cord Information System, defines head injury. Head Injury means an insult to the skull or brain, not of a degenerative or congenital nature, but one caused by an external physical force that may produce a diminished or altered state of consciousness, which results in impairment of cognitive abilities or physical functioning and possibly in behavioral or emotional functioning. It does not include cerebral vascular accidents or aneurysms.

E. High-Risk Infant: S.C. Code Ann. § 44–20–30 (9) defines high-risk infant as a child less than 36 months of age whose genetic, medical or environmental history is predictive of a substantially greater risk for a developmental disability than that for the general population.

F. Intellectual Disability: S.C. Code Ann. § 44–20–30 (12) defines Intellectual Disability as significantly sub-average general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.

G. Related Disability: S.C. Code Ann. § 44–20–30 (15) defines Related Disability as a severe, chronic condition found to be closely related to Intellectual Disability or to require treatment similar to that required for persons with Intellectual Disability.

H. Similar Disability: Similar Disability is not specifically defined within South Carolina Codes of Law; however, S.C. Code Ann. § 44–38–370 states that Similar Disability is not associated with the process of a progressive degenerative illness or dementia, or a neurological disorder related to aging. Similar Disability is similar to head injury or spinal cord injury as defined herein.

I. Spinal Cord Injury: S.C. Code Ann. § 44–38–20, which relates to the South Carolina Head and Spinal Cord Information System, defines a spinal cord injury. Spinal Cord Injury means an acute traumatic lesion of neural elements in the spinal canal resulting in any degree of sensory deficit, motor deficit, or major life functions. The deficit or dysfunction may be temporary or permanent.

J. Valid IQ Score: Based on 1) the psychometric properties of the selected test, and 2) the stipulation of the examiner in the Behavioral Observation section of the evaluation that describes the manner in which the examinee approached, participated, and completed the respective cognitive test.

HISTORY: Added by SCSR 46–5 Doc. No. 5040, eff May 27, 2022.

88–515. Diagnostic Criteria for Department Eligibility.

A. Intellectual Developmental Disorder

Pursuant to the DSM-5, or most current edition, a diagnosis of Intellectual Developmental Disorder requires consideration of both clinical assessment and standardized testing of intellectual and adaptive functions. Individual cognitive profiles based on neuropsychological testing as well as cross-battery

intellectual assessment using multiple IQ or cognitive tests to create a profile will also be considered when making a determination of eligibility. Specifically, an individual must meet the following three (3) criteria in order to receive a diagnosis:

(1) Criterion A requires deficits in mental abilities, referring to intellectual functions that involve reasoning, problem solving, planning, abstract thinking, judgment, learning from instruction and experience, and practical understanding.

To meet this criterion, individuals must have a valid IQ score of approximately 70 or below, including a margin of measurement error of +/- 5, establishing a range of eligibility from 65–75. Instruments must be normed for the individual's sociocultural background and native language. When multiple tests have been conducted for an individual, a clinical assessment of the validity of the results and other related factors (i.e., statistically significant splits between scores) of each singular test will occur as to provide the appropriate clinical judgment of an individual's score.

(2) Criterion B requires impairment in everyday adaptive functioning, in comparison to an individual's age, gender, and socioculturally matched peers.

To meet this criterion, individuals must have one domain in adaptive functioning—conceptual, social, or practical—sufficiently impaired as to necessitate ongoing support in order to have the individual perform adequately at school, at work, at home, or in the community. For the purposes of this Criterion B, the conceptual (academic) domain involves competence in memory, language, reading, writing, math reasoning, acquisition of practical knowledge, problem solving, and judgment in novel situations, among others. The social domain involves awareness of others' thoughts, feelings, and experiences; empathy; interpersonal communication skills; friendship abilities; and social judgment, among others. The practical domain involves learning and self-management across life settings, including personal care, job responsibilities; money management, recreation, self-management of behavior, and school and work task organization, among others.

Adaptive functioning is evaluated by using both clinical evaluation and individualized, culturally appropriate, psychometrically sound measures. Standardized measures are used with knowledgeable informants (e.g., parent or other family members; teacher; counselor; care provider) and the individual to the extent possible. Additional sources of information include educational, developmental, medical and mental health evaluations. In situations where standardized testing is difficult or impossible (e.g., sensory impairment, severe problem behavior), the individual may be diagnosed with unspecified intellectual development disorder. Intellectual capacity, education, motivation, socialization, personality features, vocational opportunity, cultural experience, and coexisting other medical conditions or mental disorders influence adaptive functioning.

(3) Criterion C requires onset to occur during the developmental period, referring to recognition of intellectual and adaptive deficits being present in childhood or adolescence.

To meet this criterion, a comprehensive evaluation is required. A comprehensive evaluation includes an assessment of intellectual capacity and adaptive functioning; identification of genetic and non-genetic etiologies; evaluation for associated medical conditions (e.g., cerebral palsy, seizure disorder); and evaluation for co-occurring mental, emotional, and behavioral disorders. Components of the evaluation may include basic pre- and perinatal medical history, three-generational family pedigree, physical examination, genetic evaluation, and metabolic screening and neuroimaging assessment.

B. Related Disability

(1) Diagnosis of Related Disability requires all four (4) of the following conditions:

(a) It is attributable to cerebral palsy, epilepsy, or any other condition other than mental illness found to be closely related (i.e., empirical medical evidence) to Intellectual Disability because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with Intellectual Disability and requires treatment or services similar to those required for these persons; and

(b) It is likely to continue indefinitely; and,

(c) It results in substantial functional limitations in three (3) or more of the following areas of major life activity: Self-care, Understanding and Use of Language, Learning, Mobility, Self-direction, Capacity for Independent Living; and

(d) The onset is before age 22 years.

(2) Only scores derived from nationally normed standardized tests administered by qualified examiners shall be used in eligibility determinations. Substantial functional limitations shall be defined as the results from administration of a standardized, norm-referenced test yielding a score of two standard deviations or more below the mean.

C. High-Risk Infant/At Risk Child

(1) Diagnosis of High Risk Infant/At Risk Child requires that a child younger than 72 months of age meet one of the following:

- (a) Exhibits significant documented delays in three or more areas of development; or
- (b) Have a diagnosis, as recognized by the Individuals with Disabilities Education Act (IDEA) Part C program (BabyNet) Established Risk Condition List, confirmed by a medical professional and exhibit significant documented delays in two areas of development.

D. Autism Spectrum Disorder

(1) Diagnosis of ASD based on the (DSM-5) requires that the results from a battery of ASD specific assessments confirm:

- (a) Persistent deficits in social communication and social interaction across multiple contexts, as manifested by the following three (3) criteria, currently or by history:
 - (i) Deficits in social-emotional reciprocity, ranging, for example, from abnormal social approach and failure of normal back-and-forth conversation; to reduced sharing of interests, emotions, or affect; to failure to initiate or respond to social interactions.
 - (ii) Deficits in nonverbal communicative behaviors used for social interaction, ranging for example, from poorly integrated verbal and nonverbal communication; to abnormalities in eye contact and body language or deficits in understanding and use of gestures; to a total lack of facial expressions and nonverbal communication.
 - (iii) Deficits in developing, maintaining, and understanding relationships, ranging, for example, from difficulties adjusting behavior to suit various social contexts; to difficulties in sharing imaginative play or in making friends; to absence of interest in peers.

(2) Restricted, repetitive patterns of behavior, interests, or activities, as manifested by at least two of the following, currently or by history:

- (a) Stereo-typed or repetitive motor movements, use of objects, or speech (e.g., simple motor stereotypes, lining up toys or flipping objects, echolalia, idiosyncratic phrases).
 - (b) Insistence on sameness, inflexible adherence to routines, or ritualized patterns of verbal or nonverbal behavior (e.g., extreme distress at small changes, difficulties with transitions, rigid thinking patterns, greeting rituals, need to take same route or eat same food every day).
 - (c) Highly restricted, fixated interests that are abnormal in intensity or focus (e.g., strong attachment to or preoccupation with unusual objects, excessively circumscribed or perseverative interests).
 - (d) Hyper- or hypo-reactivity to sensory input or unusual interest in sensory aspects of the environment (e.g., apparent indifference to pain/temperature, adverse response to specific sounds or textures, excessive smelling or touching of objects, visual fascination with lights or movement).
- (3) Symptoms are present in the early developmental period (but may not become fully manifest until social demands exceed limited capacities, or may be masked by learned strategies in later life).
- (4) Symptoms cause clinically significant impairment in social, occupational, or other important areas of current functioning.
- (5) These disturbances are not better explained by Intellectual Disability (Intellectual Developmental Disorder) or global developmental delay. Intellectual Disability and Autism Spectrum Disorder frequently co-occur; to make comorbid diagnoses of Autism Spectrum Disorder and Intellectual Disability, social communication should be below that expected for general developmental level.

E. Head and Spinal Cord Injury and Similar Disability

(1) Diagnosis of Head or Spinal Cord Injury or Similar Disability requires:

(a) Medical documentation and functional/adaptive assessments to substantiate that Traumatic Brain Injury, Spinal Cord Injury or Similar Disability occurred and produced ongoing substantial functional limitations. Including documentation of pre-existing/concurrent conditions, which impact functioning.

(b) The person has a severe chronic limitation that:

(i) Is attributed to a physical impairment, including head injury, spinal cord injury or both, or a similar disability, regardless of the age of onset, but not associated with the process of a progressive degenerative illness or disease, dementia, or a neurological disorder related to aging;

(ii) Is likely to continue indefinitely without intervention;

(iii) Results in substantial functional limitation in at least two (2) of these life activities: Cognitive; Self-care; Communication; Learning; Mobility; Self-direction; Capacity for independent living; Economic self-sufficiency; and,

(iv) Reflects the person's need for a combination and sequence of special interdisciplinary or generic care or treatment or other services, which are of lifelong or extended duration.

HISTORY: Added by SCSR 46-5 Doc. No. 5040, eff May 27, 2022.

88-520. Time Limitations.

A. Department eligibility may be established in a time-limited fashion as determined by the circumstances of the individual applying for eligibility. When an individual seeking eligibility presents with circumstances which could likely improve and thereby impact the eligibility determination, DDSN will establish Department eligibility in a time-limited fashion. All information received by the Department will be reviewed for reliability and validity in the determination of eligibility.

HISTORY: Added by SCSR 46-5 Doc. No. 5040, eff May 27, 2022.

ARTICLE 7 APPEAL PROCEDURES

88-705. Definitions.

A. Appeal: A procedure by which a person seeks review of the denial of a determination of eligibility for services solely state-funded by the Department. A procedure by which a person seeks review of a decision to deny, suspend, reduce or terminate a service solely state-funded by the Department.

B. Applicant: A person about whom the Department has been contacted in order for a determination of eligibility for services solely state-funded by the Department.

C. Family Support Services: A coordinated system of family support services administered by the Department directly or through contracts with private nonprofit or governmental agencies across the State, or both. This system is solely state-funded by the Department.

D. Person Eligible for Services from the Department: An individual who has been determined by the Department to meet the criteria for eligibility for services solely state-funded by the Department.

E. Solely State-Funded Case Management: Activities, provided by qualified professionals, which will assist those eligible for the Department services in gaining access to needed medical, social, educational, and other services which are solely state-funded by the Department.

F. Solely State-Funded Community Supports: An array of services solely state-funded by the Department to those who are eligible for the Department services, but are not eligible for the Department operated Medicaid Home and Community Based Services Waiver.

G. Solely State-Funded Follow Along: Employment focused services solely state-funded by the Department to those who are eligible for the Department services, who have secured individual integrated employment in the community in collaboration with the South Carolina Vocational Rehabilitation Department.

H. Solely State-Funded Residential Habilitation: Solely state-funded services which include the care, skills training, supervision and support provided to a person eligible for services in a noninstitu-

tionalized setting. The degree and type of care, supervision, skills training and support will be based on the person's needs and preferences.

I. Solely State-Funded Respite: Solely state-funded services provided to participants unable to care for themselves; furnished on a short-term basis because of the absence or need for relief of those individuals normally providing the care.

HISTORY: Added by SCSR 46-5 Doc. No. 5038, eff May 27, 2022.

88-710. Appeals.

A. Decisions that may be appealed include, but are not limited to:

(1) Eligibility for the solely state-funded Department services.

(2) Denial, suspension, reduction or termination of a service solely state-funded by the Department to include but not limited to:

(a) Solely State-Funded Community Supports

(b) Solely State-Funded Follow-Along

(c) Solely State-Funded Case Management

(d) Solely State-Funded Respite

(e) Solely State-Funded Residential Habilitation

(f) Family Support Services

HISTORY: Added by SCSR 46-5 Doc. No. 5038, eff May 27, 2022.

88-715. Appeal Procedures.

A. Applicants Seeking Eligibility for solely state-funded Department Services

(1) Step 1: Written Appeal: When an appeal is desired by the applicant, a signed and dated written appeal of the denial must be made within 30 calendar days from the date of the written correspondence from DDSN which communicates the eligibility decision of the Department. The appeal must state the reason(s) the denial was in error, and include any additional supporting information. The appeal shall be made by letter: South Carolina Department of Disabilities and Special Needs-Appeals, 3440 Harden Street Extension, Columbia, South Carolina 29203 or email: appeals@ddsn.sc.gov sent to the State Director of the Department. Reasonable accommodations to assist with communication will be provided upon request.

(2) Step 2: Review: Upon receipt of the appeal, all information shall be reviewed by the State Director using the eligibility criteria as set forth in the Department's regulation addressing "Eligibility". If the State Director determines new evaluation data is needed, no decision shall be made until this data is received. The applicant shall be notified that the new evaluation is needed within 30 business days of receipt of the written appeal.

(3) Step 3: Decision: A written decision shall be provided to the applicant within 30 business days of receipt of the written appeal or receipt of the new evaluation data. In accordance with S.C. Code § 44-20 430, the decision of the State Director is final.

B. Denial, Suspension, Reduction or Termination of a service solely state-funded by the Department.

(1) Step 1: Written Appeal: When an appeal is desired by the person eligible for services from the Department, a signed and dated written appeal of a decision to deny, suspend, reduce or terminate a service solely state-funded by the Department shall be made within 30 business days of the notification of the decision. The appeal shall state the reason(s) the denial/suspension/reduction/termination was in error including any additional supporting information. The appeal shall be made by letter: South Carolina Department of Disabilities and Special Needs-Appeals, 3440 Harden Street Extension, Columbia, South Carolina 29203 or email: appeals@ddsn.sc.gov sent to the State Director of the Department. Reasonable accommodations to assist with communication will be provided upon request.

(2) Step 2: Review: Upon receipt of the appeal, all available information shall be reviewed by the State Director.

(3) Step 3: Decision: A written decision shall be provided to the person eligible for services within 30 business days of receipt of the written appeal. The decision of the State Director shall be final.

HISTORY: Added by SCSR 46-5 Doc. No. 5038, eff May 27, 2022.

ARTICLE 8

RESEARCH INVOLVING PERSONS ELIGIBLE FOR SERVICES

88-805. Definitions.

A. Minimal risk – means the risk of harm anticipated in the proposed research is not greater, considering probability and magnitude, than those ordinarily encountered in daily life or during the performance of routine physical or psychological examinations or tests.

B. Research – is defined as a trial, special observation, or data collection usually made under conditions determined by the investigator, which aims to test a hypothesis or to discover some previously unknown principle, effect, or relationship. Research is further defined as a systematic investigation designed to contribute to generalized knowledge.

C. Activities which use experiments, tests, and/or observations designed to elicit information which is not publicly available are considered types of research.

D. Research participant – is defined as persons eligible for services from the Department about whom an investigator conducting the research obtains:

- (1) Data through intervention or interaction with the participant, or
- (2) Identifiable private information.

E. County Disabilities and Special Needs Boards (DSN Boards): the local public body administering, planning, coordinating, or providing services within a county or combination of counties for persons with Intellectual Disability, Related Disabilities, Head Injuries, or Spinal Cord Injuries and recognized by the Department.

F. Qualified Provider – A provider of services to persons eligible for services from the Department, other than a county DSN Board, that is qualified by the state to provide such services.

G. Informed Consent – The knowing and voluntary agreement by the research participant or an individual authorized by law to consent on behalf of an individual, without any element of coercion or undue influence. The research participant or the legally authorized representative must be given information that a reasonable person would want to have in order to make an informed decision about whether to participate, and an opportunity to discuss that information. The information that is given to the research participant or legally authorized representative shall be in language understandable to the participant or legally authorized representative.

HISTORY: Added by SCSR 46-5 Doc. No. 5039, eff May 27, 2022.

88-810. Review and Approval of Research Proposals.

A. Research Review Committee

(1) The Department Research Review Committee (the Committee) shall be designated and chaired by the State Director or a designee. The Committee shall include executive staff and others as appointed by the chairperson. The Committee retains authority for final approval for research involving persons eligible for services from the Department.

(2) The Committee will have at least three (3) members with varying backgrounds to promote the complete and appropriate review of proposed activities.

(3) The Committee shall review all research proposals to ascertain the acceptability of the proposed research in terms of departmental commitments and regulations, applicable laws, research participant protections and standards of professional conduct and practice. A copy of the proposal approved by an Institutional Review Board (IRB) appropriate to the employer of the investigator is required for the proposal to be reviewed by the Committee to include procedures for obtaining informed consent, obtaining more information and exiting the study. A local Human Rights Committee shall review any research proposals that involve personal contact, observation, or interaction prior to submission to the Committee to ensure that the rights and welfare of the research participants are protected; that informed consent is obtained by adequate and appropriate

methods; that individuals served are not used as captive sources of research; that the research is in no way detrimental to their welfare, and are consistent with federal regulation 45 CFR 46 (6/18/91), Protection of Human Subjects.

(4) Only research proposals approved by the Committee shall be implemented and for the designated period included in the issued written approval.

HISTORY: Added by SCSR 46-5 Doc. No. 5039, eff May 27, 2022.

88-815. Protection of Rights and Welfare of Research Participants.

A. Any research conducted must conform to the scientific, legal, and ethical principles which justify all research and should emerge from a sound theoretical basis or follow previously accepted research design.

B. Any research involving routine medical examinations or behavioral intervention techniques shall be conducted only by qualified professionals in adequately equipped settings and with the appropriate liaison or supervision during which a suitably qualified clinician is used.

Where body integrity may be violated or when otherwise appropriate, medical liaison or supervision shall be included.

C. All caution in exercise of research is limited not only to physical harm, but also includes unwarranted psychological or emotional impairment to the research participant or his/her family or legal guardian.

D. All experimentation shall be planned in such a way as to avoid pain, suffering, or inconvenience to the research participant and his/her family or legal guardian.

E. A copy of the signed informed consent form, for each research participant, shall be maintained by the Department.

F. All investigators who are not employees of the Department, a DSN Board or a Qualified Provider and who are allowed access to information about individuals served shall sign a confidentiality statement which shall be maintained in a file containing the research proposal and approval at the Department.

This shall be maintained in the file containing the research proposal and approval at the Department.

G. Facilities and programs are required to meet provisions of the federal regulations 45 CFR 46 Protection of Human Subjects.

H. Any concerns or complaints regarding the research may be addressed directly to the chairperson of The Department Review Committee and shall be investigated.

HISTORY: Added by SCSR 46-5 Doc. No. 5039, eff May 27, 2022.

88-820. Publications.

A. The investigator shall provide a copy of the final research report to the participating programs, facilities, and the chair of The Department Research Review Committee.

B. A copy shall also be forwarded to the State Director (if the chair is the designee of the State Director) prior to submission for publication.

C. All manuscripts submitted for publication which bear the facility or the Department name and sponsorship must be approved by the State Director prior to submission to a professional journal or publishing company.

D. Any published material or lectures on the particular project or study shall contain the following statement: "Research involving persons eligible for services from the South Carolina Department of Disabilities and Special Needs is acknowledged, but it is not to be construed as implying official approval of the South Carolina Department of Disabilities and Special Needs of the conclusions presented."

HISTORY: Added by SCSR 46-5 Doc. No. 5039, eff May 27, 2022.

ARTICLE 9
UNCLASSIFIED FACILITIES AND PROGRAMS

88-910. Unclassified Facilities and Programs.

An unclassified facility or program is one which:

- A. Under the provisions of Section 88-110 A must be licensed, and
- B. Is substantially different from programs and facilities classified and defined in these regulations.

88-915. Application for License of an Unclassified Program.

Application for license shall be made as required by R. 88-115. Such application shall contain specific and detailed information on the following:

- A. Name, mailing address, and location of facility or program
- B. Name and address of the Administrator
- C. Name and address of the owner or Chairman of Board of Directors
- D. Narrative description of services to be provided
- E. Number and general description of clients to be served
- F. Number and general qualifications of staff persons who will provide service.

88-920. Determination by the Department.

A. In making a determination as to whether or not a facility or program should be licensed, the Department shall foster the health, safety, and welfare of those developmentally disabled person being served. The Department shall consider the health and safety provisions required by the regulations for classified programs, and such other factors as may be appropriate to the applicant facility or program.

B. The Department will grant a license to such unclassified facility or program if, in the judgment of the Department, such facility or program

- (1) Provides a beneficial service to its developmentally disabled clients.
- (2) Observes appropriate standards to safeguard the health and safety of clients, staff, and public.
- (3) Documents that buildings involved have been approved for such use by a state or local fire marshal.
- (4) Does not exploit the developmentally disabled, their families or the public.