

CHAPTER 75-03-41 SUPERVISED INDEPENDENT LIVING

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75-03-41-01. Definitions.

As used in this chapter:

1. "Agency" means the public or private entity licensed by the department to provide supervised independent living programming to eligible clients.
2. "Client" means an eligible individual between the ages of eighteen and twenty-one years and in foster care or eligible to return to foster care.
3. "Continued foster care services" is a voluntary foster care program to allow a child in foster care to remain in or return to foster care between the ages of eighteen and twenty-one while in the placement and care of a public agency, but not in public custody.
4. "Employee" means an individual compensated by the agency to work in a part-time, full-time, intermittent, or seasonal capacity for the agency. This definition is not inclusive to contracted service providers who come onsite to conduct trainings, treatment groups, individual therapy, or other program services.
5. "Licensee" means an agency either licensed by the department or approved by the department if the agency is located within a tribal jurisdiction.

6. "Nonemployee" means an individual who is not compensated by the agency, such as a volunteer or student intern providing a specific service under the supervision of an employee.
7. "Placement and care agency" means a public agency granted legal placement and care authority.
8. "Supervised independent living program" means a program offered by an agency providing services and supports to eligible clients transitioning to independence.
9. "Supervised independent living setting" means a specific setting certified in accordance with the standards set forth by the agency to operate a supervised independent living program.

History: Effective October 1, 2019; amended effective April 1, 2024.

General Authority: NDCC 50-06-05.1, 50-11-03

Law Implemented: NDCC 50-06-05.1, 50-11-00.1

75-03-41-02. Application - Effect of license.

1. An application may not be approved for a supervised independent living program license until the department has reviewed the need for additional supervised independent living programs. To enable the department to determine the need for a new supervised independent living program, the applicant shall submit an initial application, including the following documentation and information to the department:
 - a. The number, gender, and age range of the residents to be served;
 - b. The employee staffing, including a list of full-time and part-time positions by job titles and descriptions;
 - c. A description of the proposed program;
 - d. A proposed budget; and
 - e. The geographic location of the supervised independent living program.
2. Upon receipt of initial application, the department shall:
 - a. Review the detailed plan for the operation proposed by the applicant;
 - b. Ask for additional materials or information necessary for evaluation of need;
 - c. Respond in writing within thirty days of receipt of all required information from the applicant; and
 - d. Send written notice of determination of need. The notice must state the specific reason for the determination. If the department determines there is no need for additional supervised independent living programs, the department may deny the initial application. If the department determines there is need for additional supervised independent living programs, the notice must be accompanied by an authorization for the applicant to move forward with the application process for a license to operate a supervised independent living program.
3. If an applicant receives authorization to apply for a license to operate a supervised independent living program, an application must be submitted in the form and manner prescribed by the department, which will initiate a document-based review or onsite visit at least every two years.

4. After completion of a licensing study, the department shall issue a license to an applicant that meets all requirements for licensure to provide a supervised independent living program.
5. Each agency shall carry general comprehensive liability insurance.
6. The department shall renew the license on the expiration date of the previous license if:
 - a. The agency makes written application for renewal prior to the expiration date of its current license; and
 - b. The agency continues to meet all requirements for licensure at the time of the licensing study or license review.
7. If the department determines an application, renewal of license, or accompanying information is incomplete or erroneous, the department shall notify the applicant of the specific deficiencies or errors, and the applicant shall submit the required or corrected information. The department may not issue or renew a license until it receives all required or corrected information.
8. A supervised independent living program license is in force and effect for the period stated thereon, not to exceed two years, is nontransferable, and is valid only to the agency providing the program oversight for the number of clients indicated on the license.

History: Effective October 1, 2019; amended effective April 1, 2024; October 1, 2024.

General Authority: NDCC 50-06-05.1, 50-11-03

Law Implemented: NDCC 50-06-05.1, 50-11-03

75-03-41-03. Denial or revocation.

1. After written notice to the applicant or licensee, the department may deny, suspend, or revoke a supervised independent living program application or license upon finding the applicant or agency:
 - a. Is not in compliance with all licensure requirements; or
 - b. Has made a material misrepresentation to the department regarding its operations.
2. An applicant or agency whose application or license has been denied or revoked, may appeal to the department under the provisions of North Dakota Century Code sections 50-11-08 and 50-11-09. The agency may continue the operation of the program pending the final administrative determination or until the license expires, whichever occurs first; provided, this subsection does not limit the actions the department may take pursuant to North Dakota Century Code chapter 50-11.

History: Effective October 1, 2019.

General Authority: NDCC 50-06-05.1, 50-11-03

Law Implemented: NDCC 50-06-05.1, 50-11-07, 50-11-08, 50-11-09

75-03-41-04. Correction orders.

1. The department may require immediate correction of a violation that threatens the life or safety of a client in the licensed supervised independent living program.
2. All time periods under this section commence on the third day after the department mails notice of the correction order to the agency.

3. Upon written request by the agency and upon showing need for an extension created by circumstances beyond the control of the agency and that the agency has diligently pursued correction of the violation, the department may grant extensions of time to correct violations.
4. The department may inform the public of an agency correction order status.

History: Effective October 1, 2019.

General Authority: NDCC 50-06-05.1, 50-11-03

Law Implemented: NDCC 50-06-05.1, 50-11-04.2

75-03-41-05. Agency program closure.

The agency shall have a policy to ensure proper and efficient procedure in the event a supervised independent living program closes. Prior to closing, the agency program administrator shall provide at least a sixty-day written notice to the department:

1. Detailing a plan for closure, including:
 - a. Date of closure;
 - b. Plan to notify clients and placement and care agency, when applicable;
 - c. Identification of a North Dakota depository to maintain the agency case, fiscal, and employee and nonemployee records; and
 - d. Retention of all fiscal records for a period of seven years following account settlement.
2. Written notification must be given to each client and placement and care agency at least forty-five days prior to program closure.

History: Effective October 1, 2019.

General Authority: NDCC 50-06-05.1, 50-11-03

Law Implemented: NDCC 50-06-05.1, 50-11-03

75-03-41-06. Governance and administration.

1. The agency shall have a governing body that is responsible for the policies, activities, practice, and overall operations of the agency. The governing body shall:
 - a. Be composed of at least five members. A list of the names and contact information of members of the governing body must be maintained and submitted to the department annually. Each board member shall annually disclose conflicts of interest. Members of the board may not be family or have conflicts of interest with agency administration or employees with budget or accounting duties;
 - b. Meet at least every six months;
 - c. Maintain records of the governing body's meetings;
 - d. Develop and review policies for member selection and rotation;
 - e. Ensure each board member understands the agency operation and program goals;
 - f. Ensure the agency is funded, housed, staffed, and equipped in a manner required for the provision of services;
 - g. Approve the agency's annual budget of anticipated income and expenditures necessary to provide services described in the program's statement of purpose;

- h. Provide financial statements and audits to the department for reimbursement purposes, upon request;
 - i. Ensure the agency has an active strategic plan with a schedule to review annually;
 - j. Adopt a written statement of the purpose and philosophy of the agency;
 - k. Adopt written policies for the agency regarding administration, personnel, and program services. Personnel policies for the recruitment and retention of employees necessary to operate the agency must indicate expectations of employees and nonemployees, detail job descriptions for each position, and ensure a process to review policies and procedures with employee participation at least every five years; and
 - l. Ensure developed policies for agency operations are in compliance with law, administrative rules, and policy as defined by the department.
2. All statements and policies required by this chapter must be in writing to demonstrate the intent of the standards are integrated into agency practice. The agency policy must be up to date.

History: Effective October 1, 2019; amended effective April 1, 2024.

General Authority: NDCC 50-06-05.1, 50-11-03

Law Implemented: NDCC 50-06-05.1, 50-11-03

75-03-41-07. Financial structure.

- 1. For purposes of initial licensure, the applicant shall demonstrate the applicant has sufficient income to operate the applicant's program of services and, upon relicensure, the agency shall demonstrate ongoing financial stability.
- 2. The agency shall prepare an annual budget based on the assessment of agency program priorities and appraisal of anticipated funding, including reimbursement for services. The agency shall submit a copy of its budget to the department with a cost breakdown of budget items utilized to determine fees for services.
- 3. The agency shall maintain liability insurance as protection for its governing body, employees, nonemployees, clients, funds, and property. The agency shall review the liability insurance annually to assure adequate agency coverage.
- 4. The supervised independent living program ratesetting must be negotiated with the department for clients who meet the continued foster care services criteria. Ratesetting may include the review of program costs and client outcomes.

History: Effective October 1, 2019; amended effective April 1, 2024.

General Authority: NDCC 50-06-05.1, 50-11-03

Law Implemented: NDCC 50-06-05.1, 50-11-03

75-03-41-08. Disaster plan.

The agency shall have a written disaster plan to accommodate emergencies. The disaster plan must allow the department and placement and care agency to identify, locate, and ensure continuity of services to clients who are displaced or adversely affected by a disaster. The agency shall ensure the disaster plan specifies:

- 1. Agency responsibilities and contact information;
- 2. Primary and alternate plans for evacuation specific to the setting, including transportation, relocation, and evacuation of injured individuals;

3. Supervision and followup with clients after evacuation or relocation;
4. Where clients and if applicable, employees or nonemployees, would go in an evacuation, including one location in the nearby area and one location out of the area;
5. The process the agency must use to inform the clients, department, and placement and care agencies of clients who are displaced or adversely affected by a disaster;
6. Employee training on the disaster plan that details the procedures for meeting disaster emergencies. The review of the disaster plan must occur with employees on an annual basis to ensure it is current, accurate, and employees understand their role; and
7. Client training on the disaster plan ensuring awareness of all emergency and evacuation procedures upon acceptance to the program and approved supervised independent living setting. These procedures must be reviewed at time of placement and every six months thereafter.

History: Effective October 1, 2019.

General Authority: NDCC 50-06-05.1, 50-11-03

Law Implemented: NDCC 50-06-05.1, 50-11-03

75-03-41-09. Confidentiality.

1. Except as otherwise provided in this section, agency records concerning clients that have received, are receiving, or seek to receive supervised independent living programming must be safeguarded. The agency shall ensure the safety of client records against loss, theft, defacement, tampering, or use by unauthorized persons. Any documents containing identifying information regarding the client must be locked when unattended by an employee or nonemployee.
2. The agency may not make public or otherwise disclose by electronic, print, or other media for fundraising, publicity, or illustrative purposes, any image or identifying information concerning any client or member of the client's family without first securing the written consent of the appropriate parties.
3. Client consent is not required to release confidential information if situations where the safety of the client or other individuals are at risk, child abuse or neglect is suspected.
4. The agency shall have policy in place to ensure all clients served have a responsibility for keeping confidentiality of other clients in the program. This includes not confirming or denying another client's participation in the program to outside persons or agencies via telephone, face-to-face, social media, electronic communications, or written requests.
5. The agency shall have written policies regarding retention of client records and supervised independent living program personnel files.
6. The agency shall disclose its records to the department as requested.

History: Effective October 1, 2019; amended effective April 1, 2024.

General Authority: NDCC 50-06-05.1, 50-11-03

Law Implemented: NDCC 50-06-05.1, 50-11-05

75-03-41-10. Quality assurance.

A supervised independent living program shall have a performance and quality assurance plan that advances efficient, effective service delivery, management practices, and the achievement of goals and outcomes.

1. An agency quality assurance plan must include agency performance and client outcomes which identify measures of the following client outcomes:
 - a. Employment;
 - b. Education;
 - c. Permanent connections;
 - d. Health insurance coverage;
 - e. Reduction of illegal or high-risk behaviors;
 - f. Reduction of unplanned parenting; and
 - g. Reduction of homelessness.
2. The agency shall conduct an outcomes survey for each client upon entry and exit from the supervised independent living program.

History: Effective October 1, 2019; amended effective April 1, 2024.

General Authority: NDCC 50-06-05.1, 50-11-03

Law Implemented: NDCC 50-06-05.1, 50-11-03

75-03-41-11. Employee qualifications.

1. The agency shall employ supervised independent living program employees with sufficient qualifications to enable the supervised independent living program employees to perform the agency's fiscal, clerical, and maintenance functions associated with operating the program.
2. The supervised independent living program shall comply with the following minimum employee-to-client ratio requirements:
 - a. No fewer than one part-time program administrator for a supervised independent living program serving less than thirty clients or a full-time program administrator for a program serving thirty or more clients; and
 - b. No fewer than one supervised independent living program transition coordinator for each fifteen clients.

History: Effective October 1, 2019; amended effective April 1, 2024.

General Authority: NDCC 50-06-05.1, 50-11-03

Law Implemented: NDCC 50-06-05.1, 50-11-03

75-03-41-12. Program administrator.

The agency shall designate a program administrator to oversee the agency's supervised independent living program.

1. The agency clearly shall define, in writing, the responsibilities of the program administrator. At a minimum, the program administrator's responsibilities shall include:
 - a. Planning and coordinating the development of policies and procedures governing the supervised independent living program;
 - b. Ensuring the governing body is kept informed of matters affecting the supervised independent living program's finances, operation, and provision of services;

- c. Ensuring employment of qualified staff and the administration of the supervised independent living program's employee and nonemployee policies;
 - d. Ensuring the supervised independent living program and its services are made known to the community;
 - e. Maintaining the policies and procedures required by this chapter in written form;
 - f. Maintaining a current organizational chart representing program authority; and
 - g. Supervising, evaluating, and monitoring the work progress of the program employees and nonemployees.
2. The program administrator must have a bachelor's degree in business, public administration, or a behavioral science field and have four years of related work experience.

History: Effective October 1, 2019; amended effective April 1, 2024.

General Authority: NDCC 50-06-05.1, 50-11-03

Law Implemented: NDCC 50-06-05.1, 50-11-03

75-03-41-13. Transition coordinator.

1. The agency clearly shall define, in writing, the responsibilities of the supervised independent living program transition coordinator. At a minimum, responsibilities must include:
- a. Performance of intake services;
 - b. Provide client case management and coordination of services;
 - c. Referral of resources to assist clients;
 - d. Overall management of the client's transition plan;
 - e. Documentation of ongoing communications and case activity for each client;
 - f. Competencies necessary to implement an individualized transition care plan for each client; and
 - g. Competencies to provide group services, if applicable to the program.
2. The transition coordinator must have a bachelor's degree in a behavioral science field and be licensed as required by the field of practice, and have two years previous paid or unpaid work experience with children or families, unless otherwise approved by the department.
3. The agency shall have sufficient transition coordinators employed to meet minimum employee-to-client ratios required by this chapter.

History: Effective October 1, 2019; amended effective April 1, 2024.

General Authority: NDCC 50-06-05.1, 50-11-03

Law Implemented: NDCC 50-06-05.1, 50-11-03

75-03-41-14. Nonemployees.

An agency that utilizes nonemployees who regularly work directly with clients shall:

- 1. Require nonemployees be at least two years older than the client;
- 2. Require each nonemployee to successfully complete a fingerprint-based criminal background check and a child abuse and neglect index check; and

3. Detail policy and procedure specific to nonemployees, including:
 - a. Description of duties and specify responsibilities for nonemployee positions;
 - b. Checking personal references before placement as a nonemployee;
 - c. Designating an employee to supervise and evaluate nonemployees;
 - d. An orientation plan that includes education on the legal requirements for confidentiality, training in the philosophy of the agency, and the needs of clients served by the supervised independent living program; and
 - e. A plan for required trainings.

History: Effective October 1, 2019.

General Authority: NDCC 50-06-05.1, 50-11-03

Law Implemented: NDCC 50-06-05.1, 50-11-03

75-03-41-15. Professional development.

1. The agency shall ensure employees receive training, as applicable to their position, and in current program and service delivery specific to transition to adulthood. All employees in contact with clients must receive at least fifteen hours of training per year with evidence of completion in the employee personnel file.
2. Prior to a new employee working independently with clients, the agency shall provide orientation training to the employee covering the following areas, with evidence of completion present in the employee personnel file:
 - a. Overall agency philosophy and program goals;
 - b. Review of administrative procedures, policy, and protocols;
 - c. Review of personnel policies;
 - d. Review of programs and services, policy, and protocols;
 - e. Nature of clients' emotional and physical needs;
 - f. Expected employee conduct toward clients and expected client conduct;
 - g. Overview of trauma and trauma informed transition into adulthood;
 - h. Review protocol for incident reporting;
 - i. Review client rights and grievance procedures;
 - j. Identification and reporting of child abuse and neglect;
 - k. Review suicide prevention, including signs and agency response measures;
 - l. Review disaster planning;
 - m. Review confidentiality standards;
 - n. Review procedures for reporting a runaway or missing individual;
 - o. Emergency medical procedures;
 - p. Review procedures for client searches, if applicable for the setting; and

- q. Review child abuse and neglect mandated reporter policy and offer training.

History: Effective October 1, 2019.

General Authority: NDCC 50-06-05.1, 50-11-03

Law Implemented: NDCC 50-06-05.1, 50-11-03

75-03-41-16. Personnel files.

1. The agency shall maintain an individual personnel file on each employee. The employee personnel file must include:
 - a. File inventory detailing first and last date of employment, reason employment ended, training totals per year, and performance evaluation dates due;
 - b. Application for employment including a record of previous employment;
 - c. Copy of the initial fingerprint-based criminal background check;
 - d. Copy of annual child abuse and neglect index findings;
 - e. Copy of motor vehicle operator's license record, if applicable to duties;
 - f. Copy of other evaluation or background checks deemed necessary by the program administrator;
 - g. Verification of any required license or qualification for the position or tasks assigned to the employee;
 - h. Evidence of the employee having read and received a copy of the law and agency procedures requiring the reporting of suspected child abuse and neglect, North Dakota Century Code chapter 50-25.1, initially upon hire and annually thereafter;
 - i. Job description specifying the employee roles and responsibilities;
 - j. Annual performance evaluations; and
 - k. Professional development training records consisting of name of presenter, date of presentation, topic of presentation, and length of presentation.
2. The agency shall maintain an individual personnel file on each nonemployee. The nonemployee personnel file must include:
 - a. Personal identification information;
 - b. Copy of the initial fingerprint-based criminal background check;
 - c. Copy of annual child abuse and neglect index findings;
 - d. Copy of motor vehicle operator's license record, if applicable to duties;
 - e. Copy of other evaluation or background checks deemed necessary by the program administrator;
 - f. Description of nonemployee duties;
 - g. Evidence of the nonemployee having read and received a copy of the law and agency procedures requiring the reporting of suspected child abuse and neglect, North Dakota Century Code chapter 50-25.1, initially upon hire and annually thereafter; and

- h. Professional development training records consisting of name of presenter, date of presentation, topic of presentation, and length of presentation.
3. The agency shall adopt a policy regarding the retention of employee and nonemployee personnel files.

History: Effective October 1, 2019.

General Authority: NDCC 50-06-05.1, 50-11-03

Law Implemented: NDCC 50-06-05.1, 50-11-03

75-03-41-17. Background checks effect on operation of agency or employment.

Repealed effective April 1, 2024.

75-03-41-18. Background checks and criminal conviction - Effect on operation of agency or employment by agency.

1. The department requires an initial fingerprint-based criminal background check for each employee or nonemployee with direct contact with clients. Subsequent fingerprint-based background checks are not required for an employee who maintains continuous employment at the supervised independent living program unless the program or the department determines a need exists to conduct a subsequent investigation. Subsequent fingerprint-based background checks for nonemployees are not required unless the program or department determines a need exists to conduct a subsequent investigation.
2. The department requires a child abuse and neglect index check as part of the initial fingerprint-based background check. An annual child abuse and neglect index check must be completed and placed in the personnel file.
3. An agency may not employ an employee or place a nonemployee, in any capacity that involves or permits contact between an employee or nonemployee and any client provided supervised independent living programming by the agency, an individual who is known to have been found guilty of, pled guilty to, or pled no contest to:
 - a. An offense described in North Dakota Century Code chapter 12.1-16, homicide; 12.1-17, assaults - threats - coercion - harassment; 12.1-18, kidnapping; 12.1-27.2, sexual performances by children; or 12.1-41, Uniform Act on Prevention of and Remedies for Human Trafficking; or 19-03.1, Uniform Controlled Substance Act, if class A, B, or C felony under that chapter; or in North Dakota Century Code section 12.1-20-03, gross sexual imposition; 12.1-20-03.1, continuous sexual abuse of a child; 12.1-20-04, sexual imposition; 12.1-20-05, corruption or solicitation of minors; 12.1-20-05.1, luring minors by computer or other electronic means; 12.1-20-06, sexual abuse of wards; 12.1-20-07, sexual assault; 12.1-20-12.3, sexual extortion; 12.1-21-01, arson; 12.1-22-01, robbery; if a class A or B felony under section 2 of that section or 12.1-22-02, burglary, if a class B felony under subdivision b of subsection 2 of that section; 12.1-29-01, promoting prostitution; 12.1-29-02, facilitating prostitution; 12.1-31-05, child procurement; 12.1-31-07, endangering an eligible adult - penalty; 12.1-31-07.1, exploitation of an eligible adult - penalty; 14-09-22, abuse of child; or 14-09-22.1, neglect of child;
 - b. An offense under the laws of another jurisdiction which requires proof of substantially similar elements as required for conviction under any of the offenses identified in subdivision a; or
 - c. An offense, other than an offense identified in subdivision a or b, if the department determines that the individual has not been sufficiently rehabilitated.

- (1) The department will not consider a claim the individual has been sufficiently rehabilitated until any term of probation, parole, or other form of community corrections or imprisonment for all other criminal convictions has elapsed.
 - (2) An offender's completion of a period of five years after final discharge or release from any term of probation, parole, or other form of community corrections or imprisonment, without subsequent conviction, is prima facie evidence of sufficient rehabilitation.
4. The department has determined the offenses enumerated in subdivisions a and b of subsection 3 have a direct bearing on the individual's ability to serve the public in a capacity involving the provision of supervised independent living programs and services.
5. In the case of offenses described in North Dakota Century Code section 12.1-17-01, simple assault; 12.1-17-03, reckless endangerment; 12.1-17-06, criminal coercion; 12.1-17-07, harassment; or 12.1-17-07.1, stalking; 12.1-22-01, robbery, if a class C felony; or 12.1-31-07.1, exploitation of an eligible adult - penalty, if a class B or C felony or a class A misdemeanor; or chapter 19-03.1, Uniform Controlled Substance Act, if a class A, B, or C, felony; or equivalent conduct in another jurisdiction which requires proof of substantially similar elements as required for conviction, the department may determine the individual has been sufficiently rehabilitated if five years have elapsed after final discharge or release from any term of probation, parole, or other form of community corrections or imprisonment for all other criminal convictions. The department may not be compelled to make such determination.
6. The department may discontinue processing a request for a criminal background check for any individual who provides false or misleading information about the individual's criminal history.
7. An individual is known to have been found guilty of, pled guilty to, or pled no contest to an offense when it is:
 - a. Common knowledge in the community verified by source documents;
 - b. Acknowledged by the individual; or
 - c. Discovered by the agency or department as a result of a background check.
8. The department may request a fingerprint-based criminal background check whenever an employee or nonemployee of the agency is known to have been involved in, charged with, or convicted of an offense.
9. The department may review fingerprint-based criminal background check results as follows:
 - a. If an individual disputes the accuracy or completeness of the information contained in the fingerprint-based criminal background check required under this chapter, the individual may request a review of the results by submitting a written request for review to the department within thirty calendar days of the date of the results. The individual's request for review must include a statement of each disputed item and the reason for the dispute.
 - b. The department shall assign the individual's request for review to a department review panel.
 - c. An individual who has requested a review may contact the department for an informal conference regarding the review any time before the department has issued its final decision.

- d. The department shall notify the individual of the department's final decision in writing within sixty calendar days of receipt of the individual's request for review.
 - e. The final decision of the review panel may not be appealed.
10. The supervised independent living program shall make an offer of employment to an employee conditioned upon the individual's consent to complete a required background check. While awaiting the results of the required background check, the supervised independent living program may choose to provide training and orientation to an employee. However, until the completed and approved required background check results are placed in the employee file, the employee is limited to supervised interaction with clients.
 11. The department may excuse an employee or nonemployee from providing fingerprints if usable prints have not been obtained after two sets of prints have been submitted and rejected. If an employee or nonemployee is excused from providing fingerprints, the department may conduct a nationwide name-based criminal history record investigation in any state in which the employee or nonemployee lived during the eleven years preceding the signed authorization for the background check.
 12. An agency shall establish written policies and engage in practices that conform to those policies, to effectively implement this section, North Dakota Century Code section 50-11-06.8, and subsection 4 of North Dakota Century Code section 50-11-07.
 13. An agency shall establish written policies specific to how the agency shall proceed if a current employee or nonemployee is known to have been found guilty of, pled guilty to, or pled no contest to an offense.

History: Effective October 1, 2019; amended effective April 1, 2024; October 1, 2024.

General Authority: NDCC 50-06-05.1, 50-11-03

Law Implemented: NDCC 50-06-05.1, 50-11-06.8

75-03-41-19. Child abuse and neglect reporting.

1. Upon hire and annually thereafter, all agency employees and nonemployees shall certify having read the law requiring the reporting of suspected child abuse and neglect, North Dakota Century Code chapter 50-25.1, and having read and received a copy of the agency's written child abuse and neglect procedures.
2. Each agency offering supervised independent living programming to clients with the client's own children, shall adopt written policies and procedures requiring employees and nonemployees to report cases of suspected child abuse or neglect. The procedures must include the following statement: "All agency employees and nonemployees shall comply with North Dakota Century Code Chapter 50-25.1, child abuse and neglect. Therefore, it is the policy of this agency that if any employee or nonemployee who knows or reasonably suspects that a child of a client whose health or welfare has been, or appears to have been, harmed as a result of abuse or neglect, that employee or nonemployee shall immediately report this information to the department. Failure to report this information in the prescribed manner constitutes grounds for dismissal from employment or placement of nonemployee and referral of the employee or nonemployee to the office of the state's attorney for investigation of possible criminal violation."
3. The agency's policies and procedures must describe:
 - a. To whom a report is made;
 - b. When a report must be made;

- c. The contents of the report;
 - d. The responsibility of each individual in the reporting chain;
 - e. The status and discipline of an employee or nonemployee who fails to report suspected child abuse or neglect; and
 - f. The status of the employee or nonemployee while the report is being assessed; if they are the subject of the report.
4. An agency shall establish written policies specific to how the agency shall proceed when a current employee or nonemployee is known to be:
- a. Involved in any capacity in a reported incident of institutional child abuse or neglect; or
 - b. The subject of a confirmed decision in a child abuse or neglect report that occurred outside of the agency.

History: Effective October 1, 2019; amended effective April 1, 2022.

General Authority: NDCC 50-06-05.1, 50-11-03

Law Implemented: NDCC 50-06-05.1, 50-11-03

75-03-41-20. Supervised independent living setting.

1. An agency licensed to provide supervised independent living programming may engage in service delivery based on different housing options, referenced as a supervised independent living setting. The agency is not required to offer each setting and shall specify during application and in policy which setting the agency shall provide. The agency shall have defined criteria and policy specific to clients eligible for each setting. The agency may own, lease, or contract with another person to provide a setting. Setting may include:
 - a. Individual apartment: an individual suite or shared apartment unit located within a building housing one or multiple individuals, each with adequate bedroom and bathroom space, living space, and kitchen facilities. This setting may include onsite program management.
 - b. Shared housing: a single-family residence serving clients living cooperatively as an unrelated family in a house each with a private bedroom. If a client has a child of their own, the shared housing accommodations must meet the needs of all individuals residing in the home. This setting may include onsite program management.
 - c. College dorm room: a room in a building provided by a college or university containing several private or semiprivate bedrooms for housing a number of individuals in a setting whose inhabitants are in school. This includes dorms on- or off-campus and may include onsite program management.
2. A supervised independent living setting is not required to be licensed in addition to the agency license to provide supervised independent living programming.
3. A supervised independent living setting must be in compliance with all applicable provisions of state and local laws, ordinances, rules, and regulations concerning health, safety, and nondiscrimination for housing. A supervised independent living setting must be:
 - a. Be located in a safe area accessible to necessary services and adequate transportation;
 - b. Provide proper accommodations for the client; and

- c. Be maintained in clean and sanitary condition providing reasonable comfort and well-being of the client.
- 4. Only clients accepted into the supervised independent living program may reside in a supervised independent living program setting, unless otherwise approved by the placement and care agency.
- 5. Supervised independent living programs provided to pregnant or parenting clients and client's children shall also meet the following criteria:
 - a. The setting shall provide safe and adequate sleeping arrangements for the children;
 - b. The client's transition plan must include appropriate parent education, including certified first aid, certified cardiopulmonary resuscitation, and child care; and
 - c. The program policy for pregnant or parenting clients must be followed.

History: Effective October 1, 2019; amended effective April 1, 2024.

General Authority: NDCC 50-06-05.1, 50-11-03

Law Implemented: NDCC 50-06-05.1, 50-11-03

75-03-41-21. Client eligibility.

The supervised independent living program may be made available for a variety of clients in need of transition services. The agency shall detail in policy, clients eligible for program acceptance and the expectations of a client's ability to live independently with minimal supervision. Clients eligible for acceptance into the program include:

- 1. Clients currently under the custody of a public agency; or
- 2. Clients currently in the placement and care of a public agency, actively participating in continued foster care services; and
- 3. Clients in need of supervised independent living programming.

History: Effective October 1, 2019; amended effective April 1, 2024.

General Authority: NDCC 50-06-05.1, 50-11-03

Law Implemented: NDCC 50-06-05.1, 50-11-03

75-03-41-22. Program acceptance.

Agencies licensed to provide supervised independent living programming shall define in writing policy and procedures specific to acceptance of a client into the program. The agency shall have written policies that describe the program and services offered, range of client characteristics the agency shall accept, and procedures for placement into a supervised independent living setting. The supervised independent living program policy must indicate the agency shall provide services to a client referred to the program without discrimination.

- 1. Application. The agency shall have written policy regarding the application required, including prospective client information, placement settings options, and financial agreements with the applicant or referral source.
- 2. Program acceptance committee. The agency shall have policy detailing employees on the committee, how often the committee meets, and the timeliness the committee has in responding to referrals. Before a prospective client is accepted for supervised independent living programming, the committee shall evaluate the needs of the prospective client using information and procedures described in policy and determine whether the agency can meet the identified needs of the prospective client.

3. Acceptance determination. The program acceptance committee shall complete a written, dated, and signed determination on a prospective client which includes review and identification of the prospective client's primary presenting needs. The committee shall:
 - a. Provide a written statement recommending reasons for or against program acceptance based on the ability of the agency to meet the prospective client's needs.
 - b. Provide the determination and decision within fourteen working days of receipt of the completed application; and
 - c. If denied, ensure a process for assisting the applicant or referral source in obtaining services from other agencies when the supervised independent living program is not appropriate to the applicant's needs.
4. Orientation. Each client shall receive orientation upon acceptance into the supervised independent living program. An agency employee shall:
 - a. Orient the new client and client's placement and care agency worker, if applicable, to the program;
 - b. Help the client adjust to the setting; and
 - c. Provide the client and placement and care agency, if applicable, copies of the supervised independent living setting rules, including rules on visiting, expected behavior and consequences for rule infractions, client rights and grievance and complaint procedures, with explanations of the documents.

History: Effective October 1, 2019.

General Authority: NDCC 50-06-05.1, 50-11-03

Law Implemented: NDCC 50-06-05.1, 50-11-03

75-03-41-23. Program and services.

1. The agency shall adopt written program policy that must include:
 - a. A description of the agency's plan for the provision of services required in this chapter, as well as assessment and evaluation procedures to be used in program planning and service delivery;
 - b. A description of the services provided by the agency, clearly stating which services are provided directly by the agency and which services are to be provided in collaboration with the placement and care agency, if the client is in public custody, or other agencies and informal supports determined appropriate for the transition plan;
 - c. The purpose or mission of the agency;
 - d. Characteristics and eligibility requirements of individuals appropriate for referral to the agency;
 - e. A list of information that is required to be submitted with the referral;
 - f. A description of how the agency engages in the child and family team meeting structure facilitated by the placement and care agency for a client in foster care;
 - g. A description of how the agency provides services for a client to accommodate needs, either directly or through cooperative arrangements with other agencies and informal supports;

- h. A description of how the agency participates in preparing clients to develop the skills required to transition into adulthood, achieve outcomes, and live independently;
 - i. A description of how the agency demonstrates that the program is guided by the best interests of the clients in all matters relating to services; and
 - j. A description of how family or other adult connections shall be maintained.
2. Supervised independent living programs include the following service components to provide clients with opportunities to achieve positive outcomes and make successful transitions to self-sufficiency, which may include:
- a. Academic support;
 - b. Budget financial management;
 - c. Career preparation;
 - d. Educational financial assistance;
 - e. Employment programs or vocational training;
 - f. Family support and healthy relationships;
 - g. Health education and risk prevention;
 - h. Housing education and home management;
 - i. Needs assessment;
 - j. Mentoring;
 - k. Other financial assistance;
 - l. Postsecondary educational support;
 - m. Access to community resources and community linkages;
 - n. Recreational and leisure skills; and
 - o. Preparation for transition to independence.
3. The agency shall detail in writing the expectations of how often the clients are seen. Face-to-face contact with clients is required at least monthly and additional frequency is decided based on the individualized needs of the client and setting. Policy may include if the agency engages in unannounced visits.
4. The agency shall collaborate with the placement and care agency, if the client is in foster care, to request documentation for the client record and to coordinate service delivery and planning.
5. The agency shall address expectations of each supervised independent living setting. Expectations may include:
- a. House rules of the specified setting;
 - b. Curfew;
 - c. Personal belongings;
 - d. Medication management;

- e. Clothing;
- f. Allowance;
- g. Groceries;
- h. Grievance procedures;
- i. Transportation;
- j. Utilities;
- k. Guidelines for guests and visitation;
- l. Client rights;
- m. Disaster planning;
- n. Abstain from underage consumption of alcohol;
- o. Abstain from illegal use of drugs;
- p. Abstain from illegal or criminal behavior;
- q. Abstain from violence and threats of violence; and
- r. Emergency and crisis protocols.

History: Effective October 1, 2019.

General Authority: NDCC 50-06-05.1, 50-11-03

Law Implemented: NDCC 50-06-05.1, 50-11-03

75-03-41-24. Transition plan.

The agency shall adopt a written policy that ensures the agency shall develop a written transition plan for each client, to aid in the client's personal transition to adulthood and independence.

1. The client's transition plan must be:
 - a. Developed within thirty days of acceptance to the program;
 - b. Developed and reviewed with appropriate participation and informed consent of the client and placement and care agency, if applicable; and
 - c. Developed in collaboration with the client and the transition coordinator and if applicable, the child and family team meeting participants on a quarterly basis.
2. The client's transition plan must include documentation of:
 - a. Collaboration and communication with other agencies that are working with the client to ensure coordination of services and to carry out the client's transition plan;
 - b. Services provided by the supervised independent living program and other agencies or informal supports;
 - c. Completion of a needs assessment of the client;
 - d. Completion of the outcomes survey;
 - e. Identified measurable goals and client outcomes, including time frames for completion;

- f. Identified tasks to assist the client in meeting set goals; and
- g. The individual or entity responsible for providing the service or completing the task.

History: Effective October 1, 2019.

General Authority: NDCC 50-06-05.1, 50-11-03

Law Implemented: NDCC 50-06-05.1, 50-11-03

75-03-41-25. Client rights.

Repealed effective April 1, 2024.

75-03-41-26. Client file.

Upon acceptance to the supervised independent living program, a client's case file is confidential and must be protected from unauthorized examination unless permitted or required by law or regulation. The agency shall adopt a policy regarding the retention of client files.

1. The client file must include:
 - a. A file inventory with dates of acceptance into the program, referral agency, and emergency contact information;
 - b. The client's full name, date of birth, and other identifying information;
 - c. A photo of the client;
 - d. Signed care program acceptance agreement, including financial responsibility and expectations of all parties. The agreement must indicate a clear division of responsibility between the agency, client, and the placement and care agency, if applicable;
 - e. A current court order establishing the authority granted to the placement and care agency;
 - f. A copy of the continued foster care agreement signed by all parties;
 - g. A copy of the outcomes survey;
 - h. A copy of the transition plan prepared by the agency and client;
 - i. Transition plan progress reports, no less than quarterly;
 - j. Ongoing documentation and case activity logs of face-to-face contact, electronic mails, and texts with clients;
 - k. All incident or sentinel event reports involving the client; and
 - l. A copy of client rights.
2. The agency shall designate an employee to review each client file at least quarterly. Documentation of the file review must be included in the client file.
3. An agency shall disclose its records to the department as requested.

History: Effective October 1, 2019; amended effective April 1, 2024.

General Authority: NDCC 50-06-05.1, 50-11-03

Law Implemented: NDCC 50-06-05.1, 50-11-05

75-03-41-27. Incident and sentinel event reporting.

A client served by the agency also in foster care shall have all incident and sentinel events reported to the placement and care agency. The agency shall report sentinel events to the department.

1. The agency shall have written policy outlining the critical incident and sentinel event reporting for all clients.
 - a. An incident is an unplanned occurrence that resulted or could have resulted in injury to people or damage to property, specifically involving the general public, clients in supervised independent living setting, or agency employees and nonemployees. An incident also can involve issues such as harassment, violence, and discrimination.
 - b. A sentinel event is an unexpected occurrence involving death or serious physical or psychological injury that is not related to the natural course of a client's illness or underlying condition, including any process variation for which a recurrence would carry a significant chance of a serious adverse outcome including inappropriate sexual contact.
2. The agency immediately shall notify the client's placement and care agency when any of the following occurs involving a client in foster care:
 - a. An incident that requires the services of law enforcement, including:
 - (1) Case of a runaway or missing individual; or
 - (2) Criminal activity by the client placed in a supervised independent living setting; or
 - b. A sentinel event, including:
 - (1) Death of a client in foster care;
 - (2) Serious injury or trauma of a client in foster care, requiring medical attention;
 - (3) Any attempt at suicide by a client in foster care; and
 - (4) Any behavior involving a client in foster care, that results in a serious threatening situation of harm to others.

History: Effective October 1, 2019.

General Authority: NDCC 50-06-05.1, 50-11-03

Law Implemented: NDCC 50-06-05.1, 50-11-03

75-03-41-28. Variance.

Upon written application and good cause shown to the satisfaction of the department, the department may grant a variance regarding a specific provision of this chapter upon such terms as the department may prescribe, except no variance may permit or authorize a danger to the health or safety of any client accepted in the supervised independent living program and no variance may be granted except at the discretion of the department. An agency shall submit a written request to the department justifying the variance. A refusal to grant a variance is not subject to appeal.

History: Effective October 1, 2019.

General Authority: NDCC 50-06-05.1, 50-11-03

Law Implemented: NDCC 50-06-05.1, 50-11-03