These proposed rules implement regulatory and licensing requirements for individualized skills and socialization services and reference rules that are proposed as part of other related rulemaking projects. Sections 559.2 and 559.209 reference Texas Administrative Code, Title 26, Chapters 260, 262, and 263, which are being proposed as part of other rulemaking projects

TITLE 26 HEALTH AND HUMAN SERVICES

PART 1 HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 559 DAY ACTIVITY AND HEALTH SERVICES REQUIREMENTS

SUBCHAPTER A INTRODUCTION

§559.1. Purpose.

The purpose of this chapter is to:

(1) implement Texas Human Resources Code, Chapter 103, by establishing licensing procedures and standards for a Day Activity and Health Services (DAHS)facility; and

(2) establish licensing procedures, standards, and requirements for an individualized skills and socialization provider licensed as a DAHS facility.

§559.2 Definitions

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise.

(1) Abuse--The negligent or willful infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical or emotional harm or pain to an elderly or disabled person by the person's caretaker, family member, or other individual who has an ongoing relationship with the person, or sexual abuse of an elderly or disabled person, including any involuntary or nonconsensual sexual conduct that would constitute an offense under Texas Penal Code, §21.08, (indecent exposure) or Texas Penal Code, Chapter 22, (assaultive offenses) committed by the person's caretaker, family member, or other individual who has an ongoing relationship with the person.

(2) Actual harm--A negative outcome that compromises the physical, mental, or emotional well-being of an elderly person or a person with a disability receiving services at a facility.

(3) Adult--A person 18 years of age or older, or an emancipated minor.

(4) Affiliate--With respect to a:

(A) partnership, each partner of the partnership;

(B) corporation, each officer, director, principal stockholder, and subsidiary; and each person with a disclosable interest;

(C) natural person, which includes each:

(i) person's spouse;

(ii) partnership and each partner thereof of which said person or any affiliate of said person is a partner; and

(iii) corporation in which the person is an officer, director, principal stockholder, or person with a disclosable interest.

(5) Alzheimer's disease and related disorders--Alzheimer's disease and any other irreversible dementia described by the Centers for Disease Control and Prevention (CDC) or the most current edition of the Diagnostic and Statistical Manual of Mental Disorders.

(6) Ambulatory--Mobility not relying on walker, crutch, cane, other physical object, or use of wheelchair.

(7) Applicant--A person applying for a license under Texas Human Resources Code, Chapter 103.

(8) Authorization--A case manager's decision, before DAHS begins and before payment can be made, that DAHS may be provided to an individual.

(9) Case manager--An HHSC employee who is responsible for DAHS case management activities. Activities include eligibility determination, individual enrollment, assessment and reassessment of an individual's need, service plan development, and intercession on the individual's behalf.

(10) Caseworker--Case manager.

(11) Change of ownership--An event that results in a change to the federal taxpayer identification number of the license holder of a facility. The substitution of a personal representative for a deceased license holder is not a change of ownership.

(12) Client--Individual.

(13) Construction, existing--See definition of existing building.

(14) Construction, new--Construction begun after April 1, 2007.

(15) Construction, permanent--A building or structure that meets a nationally recognized building code's details for foundations, floors, walls, columns, and roofs.

(16) DADS--The term referred to the Department of Aging and Disability Services; it now refers to HHSC.

(17) DAHS--Day activity and health services. Health, social, and related support services.

(18) DAHS facility--A facility that provides services under a day activity and health services program on a daily or regular basis, but not overnight, to four or more elderly persons or persons with disabilities who are not related by blood, marriage, or adoption to the owner of the facility.

(19) DAHS program--A structured, comprehensive program offered by a DAHS facility that is designed to meet the needs of adults with functional impairments by providing DAHS in accordance with individual plans of care in a protective setting.

(20) Days--Calendar days, unless otherwise specified.

(21) Deaf Blind Multiple Disabilities (DBMD) program--A waiver program operated by HHSC, as authorized by the Centers for Medicare & Medicaid Services (CMS) in accordance with §1915(c) of the Social Security Act.

(22) Department--HHSC.

(23) Dietitian consultant--A registered dietitian; a person licensed by the Texas State Board of Examiners of Dietitians; or a person with a bachelor's degree with major studies in food and nutrition, dietetics, or food service management.

(24) Direct service staff--An employee or contractor of a facility who directly provides services to individuals, including the director, a licensed nurse, the activities director, and an attendant. An attendant includes a driver, food service worker, aide, janitor, porter, maid, and laundry worker. A dietitian consultant is not a member of the direct service staff.

(25) Director--The person responsible for the overall operation of a facility.

(26) Direct ownership interest--Ownership of equity in the capital, stock, or profits of, or a membership interest in, an applicant or license holder.

(27) Disclosable interest--Five percent or more direct or indirect ownership interest in an applicant or license holder.

(28) Elderly person--A person 65 years of age or older.

(29) Executive Commissioner--The executive commissioner of HHSC.

(30) Existing building--A building or portion thereof that, at the time of initial inspection by HHSC, is used as an adult day care occupancy, as defined by Life Safety Code, NFPA 101, 2000 edition, Chapter 17 for existing adult day care occupancies; or has been converted from another occupancy or use to an adult day care occupancy, as defined by Chapter 16 for new adult day care occupancies.

(31) Exploitation--An illegal or improper act or process of a caretaker, family member, or other individual, who has an ongoing relationship with the elderly person or person with a disability, using the resources of an elderly person or person with a disability for monetary or personal benefit, profit, or gain without the informed consent of the elderly person or person with a disability.

(32) Facility--A licensed DAHS facility.

(33) Fence--A barrier to prevent elopement of an individual or intrusion by an unauthorized person, consisting of posts, columns, or other support members, and vertical or horizontal members of wood, masonry, or metal.

(34) FM--FM Global (formerly known as Factory Mutual). A corporation whose approval of a product indicates a level of testing and certification that is acceptable to HHSC.

(35) Fraud--A deliberate misrepresentation or intentional concealment of information to receive or to be reimbursed for service delivery to which an individual is not entitled.

(36) Functional impairment--A condition that requires assistance with one or more personal care services.

(37) Health assessment--An assessment of an individual by a facility used to develop the individual's plan of care.

(38) Health services--Services that include personal care, nursing, and therapy services.

(A) Personal care services include:

(i) bathing;

(ii) dressing;

(iii) preparing meals;

(iv) feeding;

(v) grooming;

(vi) taking self-administered medication;

(vii) toileting;

(viii) ambulation; and

(ix) assistance with other personal needs or maintenance.

(B) Nursing services may include:

(i) the administration of medications;

(ii) physician-ordered treatments, such as dressing changes; and

(iii) monitoring the health condition of the individual.

(C) Therapy services may include:

(i) physical;

(ii) occupational; and

(iii) speech therapy.

(39) HHSC--The Texas Health and Human Services Commission.

(40) Home and Community-based Services (HCS) program--A waiver program operated by HHSC as authorized by CMS in accordance with §1915(c) of the Social Security Act.

(41) Human services--Include the following services:

(A) personal social services, including:

(i) DAHS;

(ii) counseling;

(iii) in-home care; and

(iv) protective services;

(B) health services, including:

(i) home health;

(ii) family planning;

(iii) preventive health programs;

(iv) nursing facility; and

(v) hospice;

(C) education services, meaning:

(i) all levels of school;

(ii) Head Start; and

(iii) vocational programs;

(D) housing and urban environment services, including public housing;

(E) income transfer services, including:

(i) Temporary Assistance for Needy Families; and

(ii) Supplemental Nutrition Assistance Program; and

(F) justice and public safety services, including:

(i) parole and probation; and

(ii) rehabilitation.

(42) Human service program--An intentional, organized, ongoing effort designed to provide good to others. The characteristics of a human service program are:

(A) dependent on public resources and are planned and provided by the community;

(B) directed toward meeting human needs arising from day-to-day socialization, health care, and developmental experiences; and

(C) used to aid, rehabilitate, or treat people in difficulty or need.

(43) Immediate threat to the health or safety of an elderly person or a person with a disability—A situation that causes, or is likely to cause, serious injury, harm, or impairment to or the death of an elderly person or a person with a disability receiving services at a facility.

(44) Indirect ownership interest--Any ownership or membership interest in a person that has a direct ownership interest in an applicant or license holder.

(45) Individual--A person who applies for or is receiving services at a facility.

(46) Individualized skills and socialization--A DBMD, TxHmL, or HCS program service described in §260.503 of this title (relating to Description of Individualized Skills and Socialization), §262.903 of this title (relating to Description of Individualized Skills and Socialization), and §263.2003 of this title (relating to Description of Individualized Skills and Socialization). The two types of individualized skills and socialization are on-site individualized skills and socialization and off-site individualized skills and socialization.

(47) Individualized skills and socialization provider--A provider licensed as a DAHS by HHSC to provide individualized skills and socialization services. A provider of individualized skills and socialization services is considered a provider once licensed.

(48) Isolated--A very limited number of elderly persons or persons with disabilities receiving services at a facility are affected and a very limited number of staff are involved, or the situation has occurred only occasionally.

(49) License holder--A person that holds a license to operate a facility.

(50) Life Safety Code, NFPA 101--The Code for Safety to Life from Fire in Buildings and Structures, NFPA 101, a publication of the National Fire Protection Association, Inc. that:

(A) addresses the construction, protection, and occupancy features necessary to minimize danger to life from fire, including smoke, fumes, or panic; and

(B) establishes minimum criteria for the design of egress features so as to permit prompt escape of occupants from buildings or, where desirable, into safe areas within the building.

(51) Long-term care facility--A facility that provides care and treatment or personal care services to four or more unrelated persons, including:

(A) a nursing facility licensed under Texas Health and Safety Code, Chapter 242;

(B) an assisted living facility licensed under Texas Health and Safety Code, Chapter 247; and

(C) an intermediate care facility serving individuals with an intellectual disability or related conditions licensed under Texas Health and Safety Code, Chapter 252.

(52) LVN--Licensed vocational nurse. A person licensed by the Texas Board of Nursing who works under the supervision of a registered nurse (RN) or a physician.

(53) Management services--Services provided under contract between the owner of a facility and a person to provide for the operation of a facility, including administration, staffing, maintenance, and delivery of services. Management services do not include contracts solely for maintenance, laundry, or food services.

(54) Manager--A person having a contractual relationship to provide management services to a facility.

(55) Medicaid-eligible--An individual who is eligible for Medicaid.

(56) Medically related program--A human services program under the human services-health services category in the definition of human services in this section.

(57) Neglect--The failure to provide for one's self the goods or services, including medical services, that are necessary to avoid physical harm, mental anguish, or mental illness; or the failure of a caregiver to provide these goods or services.

(58) NFPA--The National Fire Protection Association. NFPA is an organization that develops codes, standards, recommended practices, and guides through a consensus standards development process approved by the American National Standards Institute.

(59) NFPA 10--Standard for Portable Fire Extinguishers. A standard developed by NFPA for the selection, installation, inspection, maintenance, and testing of portable fire extinguishing equipment.

(60) NFPA 13--Standard for the Installation of Sprinkler Systems. A standard developed by NFPA for the minimum requirements for the design and installation of automatic fire sprinkler systems, including the character and adequacy of water supplies and the selection of sprinklers, fittings, pipes, valves, and all maintenance and accessories.

(61) NFPA 70--National Electrical Code. A code developed by NFPA for the installation of electric conductors and equipment.

(62) NFPA 72--National Fire Alarm Code. A code developed by NFPA for the application, installation, performance, and maintenance of fire alarm systems and their components.

(63) NFPA 90A--Standard for the Installation of Air Conditioning and Ventilating Systems. A standard developed by NFPA for systems for the movement of environmental air in structures that serve spaces over 25,000 cubic feet or buildings of certain heights and construction types, or both.

(64) NFPA 90B--Standard for the Installation of Warm Air Heating and Air-Conditioning Systems. A standard developed by the NFPA for systems for the movement of environmental air in one- or two-family dwellings and structures that serve spaces not exceeding 25,000 cubic feet.

(65) NFPA 96--Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations. A standard developed by NFPA that provides the minimum fire safety requirements related to the design, installation, operation, inspection, and maintenance of all public and private cooking operations, except for single-family residential usage.

(66) Nurse--A registered nurse (RN) or a licensed vocational nurse (LVN) licensed in the state of Texas.

(67) Nursing services--Services provided by a nurse, including:

(A) observation;

(B) promotion and maintenance of health;

(C) prevention of illness and disability;

(D) management of health care during acute and chronic phases of illness;

(E) guidance and counseling of individuals and families; and

(F) referral to physicians, other health care providers, and community resources when appropriate.

(68) Pattern of violation--Repeated, but not widespread in scope, failures of a facility to comply with Texas Human Resources Code, Chapter 103 or a rule, standard, or order adopted under Texas Human Resources Code, Chapter 103 that:

(A) result in a violation; and

(B) are found throughout the services provided by the facility or that affect or involve the same elderly persons or persons with disabilities receiving services at the facility or the same facility employees.

(69) Person--An individual, corporation, or association.

(70) Person with a disability--A person whose functioning is sufficiently impaired to require frequent medical attention, counseling, physical therapy, therapeutic or corrective equipment, or another person's attendance and supervision.

(71) Physician's orders--An order that is signed and dated by a medical doctor (MD) or doctor of osteopathy (DO) who is licensed to practice medicine in the state of Texas. The HHSC physician's order form used by a DAHS facility that contracts with HHSC must include the MD's or DO's license number.

(72) Plan of care--A written plan, based on a health assessment and developed jointly by a facility and an individual or the individual's responsible party, that documents the functional impairment of the individual and the DAHS needed by the individual.

(73) Potential for minimal harm--A violation that has the potential for causing no more than a minor negative impact to an individual.

(74) Protective setting--A setting in which an individual's safety is ensured by the physical environment by staff.

(75) Related support services--Services to an individual, family member, or caregiver that may improve the person's ability to assist with an individual's independence and functioning. Services include:

(A) information and referral;

(B) transportation;

(C) teaching caregiver skills;

(D) respite;

(E) counseling;

(F) instruction and training; and

(G) support groups.

(76) Responsible party--A person designated by an individual as the individual's representative.

(77) RN--Registered nurse. A person licensed by the Texas Board of Nursing to practice professional nursing.

(78) Safety--Protection from injury or loss of life due to conditions such as fire, electrical hazard, unsafe building or site conditions, and the presence of hazardous materials.

(79) Sanitation--Protection from illness, the transmission of disease, or loss of life due to unclean surroundings, the presence of disease transmitting insects or rodents, unhealthful conditions or practices in the preparation of food and beverage, or the care of personal belongings.

(80) Semi-ambulatory--Mobility relying on a walker, crutch, cane, other physical object, or independent use of wheelchair.

(81) Serious injury--An injury requiring emergency medical intervention or treatment by medical personnel, either at a facility or at an emergency room or medical office.

(82) Social activities--Therapeutic, educational, cultural enrichment, recreational, and other activities in a facility or in the community provided as part of a planned program to meet the social needs and interests of an individual.

(83) Texas Home Living (TxHmL) program--A waiver program operated by HHSC and approved by CMS in accordance with §1915(c) of the Social Security Act.

(84) UL--Underwriters Laboratories, Inc. A corporation whose approval of a product indicates a level of testing and certification that is acceptable to HHSC.

(85) Widespread in scope--A violation of Texas Human Resources Code, Chapter 103 or a rule, standard, or order adopted under Texas Human Resources Code, Chapter 103 that:

(A) is pervasive throughout the services provided by the facility; or

(B) represents a systematic failure by the facility that affects or has the potential to affect a large portion of or all of the elderly persons or persons with disabilities receiving services at the facility.

(86) Working with people--Responsible for the delivery of services to individuals either directly or indirectly. Experience as a manager would meet this definition; however, an administrative support position such as a bookkeeper does not. Experience does not have to be in a paid capacity.

TITLE 26 HEALTH AND HUMAN SERVICES

PART 1 HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 559 DAY ACTIVITY AND HEALTH SERVICES REQUIREMENTS

SUBCHAPTER H INDIVIDUALIZED SKILLS AND SOCIALIZATION PROVIDER REQUIREMENTS

§559.201. Applicability of Subchapter.

This subchapter applies to an individualized skills and socialization provider and the provision of individualized skills and socialization services. This subchapter does not apply to a Day Activity and Health Services (DAHS) facility providing services under a DAHS program.

§559.203. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise.

(1) Community setting--A setting accessible to the general public within an individual’s community.

(2) Day Activity and Health Services (DAHS) directory--A public list generated and maintained by the Texas Health and Human Services Commission (HHSC), listing all DAHS providers, including individualized skills and socialization providers.

(3) Implementation plan--In the Home and Community-based Services (HCS) and Texas Home Living (TxHmL) programs, a written document developed by a program provider outlining outcomes and objectives for each program service on the individual's IPC to be provided by the program provider.

(4) Individual plan of care (IPC)--A written plan authorized by HHSC that states the type and amount of each Deaf Blind with Multiple Disabilities (DBMD), TxHmL, or HCS program service to be provided to the individual during an IPC year.

(5) Individual program plan (IPP)--In the DBMD program, a written plan documented on an HHSC form and completed by an individual's case manager that describes the goals and outcomes for each DBMD program service and Community First Choice (CFC) service, other than CFC support management, included on the individual's IPC.

(6) Person-directed plan (PDP)--In the HCS and the TxHmL programs, a written plan, based on person-directed planning and developed with an applicant or individual using the HHSC person-directed plan form and discovery tool found on the HHSC website, that describes the supports and services necessary to achieve the desired outcomes identified by the applicant, individual, or legally authorized representative and ensures the applicant's or individual's health and safety.

(7) Program provider--A person, as defined in Texas Administrative Code, Title 40 §49.102 (relating to Definitions), that has a contract with HHSC to provide DBMD, TxHmL, or HCS program services, excluding a financial management services agency.

(8) Service provider--A person, who may be an employee or contractor of an individualized skills and socialization provider, who directly provides individualized skills and socialization services to an individual.

§559.205. Application Procedures.

(a) An individualized skills and socialization provider, or an applicant to become an individualized skills and socialization provider, is subject to the provisions of Subchapter B of this chapter (relating to Application Procedures), except for the paragraphs listed in subsection (b) of this section.

(b) An individualized skills and socialization provider, or an applicant to become an individualized skills and socialization provider, is exempt from the provisions of:

(1) §559.11(c)(1) and (c)(2) of this chapter (relating to Criteria for Licensing);

(2) §559.12 of this chapter (relating to Building Approval);

(3) §559.13(c)(1) of this chapter (relating to Applicant Disclosure Requirements);

(4) §559.15(k) of this chapter (relating to Renewal Procedures and Qualifications);

(5) §559.16(e) of this chapter (relating to Change of Ownership and Notice of Changes);

(6) §559.22 of this chapter (relating to Plan Review Fees); and

(7) §559.23(b) and (c) of this chapter (relating to Relocation).

(c) An individualized skills and socialization provider, or an applicant to become an individualized skills and socialization provider, is exempt from the provisions of Subchapter C of this chapter (relating to Facility Construction Procedures).

(d) An entity may not establish or provide individualized skills and socialization services in Texas without a license issued by the Texas Health and Human Services Commission (HHSC) in accordance with Texas Human Resources Code, Chapter 103, and this chapter.

(e) An individualized skills and socialization provider must be listed on HHSC’s Day Activity and Health Services (DAHS) directory as an individualized skills and socialization provider in order to provide individualized skills and socialization services.

(f) An applicant to become an individualized skills and socialization provider must:

(1) submit a complete application according to the applicable provisions of §559.11, follow the application instructions, and electronically upload required documentation;

(2) complete the HHSC required training to become an individualized skills and socialization provider;

(3) provide documentation that required training is complete; and

(4) submit to HHSC as part of the application:

(A) name of business entity to be licensed;

(B) tax identification number;

(C) name of the chief executive officer (CEO);

(D) ownership information;

(E) address of on-site individualized skills and socialization location;

(F) name of program providers using this entity for individualized skills and socialization services, if any;

(G) maximum number of individuals that can receive individualized skills and socialization services at this location; and

(H) effective date entity will be available to provide individualized skills and socialization services.

§559.207. Staggered Expiration.

(a) Notwithstanding §559.15(a)(1) of this chapter (relating to Renewal Procedures and Qualifications), the Texas Health and Human Services Commission (HHSC) will implement a system under which licenses issued under this subchapter expire on staggered dates. For the initial 9-month application period, applicants may receive:

(1) a one-year license;

(2) a two-year license; or

(3) a three-year license.

(b) All licenses issued under this subchapter, after the initial 9-month application period, are valid for three years. The license fee is $75 for a three-year license. The license fee is $50 for a two-year license. The license fee is $25 for a one-year license.

§559.209. Licensure and Program Requirements.

(a) An individualized skills and socialization provider is subject to the provisions of Subchapter D of this chapter (relating to Licensure and Program Requirements), except for the paragraphs listed in subsection (b) of this section.

(b) An individualized skills and socialization provider is exempt from the provisions of:

(1) §559.62(a)(2), (b)(1) and (2), and (d)(2) and (7) of this chapter (relating to Program Requirements); and

(2) §559.64(f)(1) and (4) of this chapter (relating to Emergency Preparedness and Response).

(c) The provisions of §559.64(f)(2) and (3) of this chapter do not apply to off-site individualized skills and socialization settings.

(d) An individualized skills and socialization provider must ensure that service providers meet the qualifications in accordance with §260.515 of this title (relating to Service Provider Qualifications), §262.915 of this title (relating to Service Provider Qualifications), and §263.2015 of this title (relating to Service Provider Qualifications).

(e) An individualized skills and socialization provider must ensure the ratio of service providers to individuals is maintained in accordance with §260.509 of this title (relating to Staffing Ratios), §262.909 of this title (relating to Staffing Ratios), and §263.2009 of this title (relating to Staffing Ratios), during provision of individualized skills and socialization services, including during transportation.

(f) An individualized skills and socialization provider must make both on-site and off-site individualized skills and socialization available to an individual.

(g) An individualized skills and socialization provider must ensure that on-site individualized skills and socialization:

(1) is provided in a building or a portion of a building that is owned or leased by an individualized skills and socialization provider; and

(2) is not provided in:

(A) a prohibited residential setting for an individual, unless provided in an event open to the public; or

(B) the residence of an individual or another person.

(h) An individualized skills and socialization provider must ensure that off-site individualized skills and socialization:

(1) is provided in a community setting chosen by the individual from among available community setting options;

(2) includes transportation necessary for the individual’s participation in off-site individualized skills and socialization; and

(3) is not provided in:

(A) a building in which on-site individualized skills and socialization is provided;

(B) a prohibited residential setting for an individual, unless provided in an event open to the public; or

(C) the residence of an individual or another person.

(i) An individualized skills and socialization provider must provide on-site and off-site individualized skills and socialization:

(1) in the Deaf Blind with Multiple Disabilities (DBMD) program, in accordance with an individual’s individual plan of care (IPC) and individual program plan (IPP); and

(2) in the Texas Home Living (TxHmL) program and Home and Community-based Services (HCS) programs, in accordance with an individual’s person-directed plan (PDP), IPC, and implementation plan.

(j) An individualized skills and socialization provider must not require an individual to take a skills test or meet other requirements to receive off-site individualized skills and socialization, or prohibit an individual from receiving off-site individualized skills or socialization for any reason.

(k) If an individual does not want to participate in an activity the individual scheduled for on-site individualized skills and socialization or off-site individualized skills and socialization, or the legally authorized representative does not want the individual to participate in such activity, the individualized skills and socialization provider must document the decision not to participate in the individual’s record.

§559.211. Inspections, Surveys, and Visits.

(a) An individualized skills and socialization provider is subject to the provisions of Subchapter E of this chapter (relating to Inspections, Surveys, and Visits), except for §559.81(d) of this chapter (relating to Procedural Requirements).

(b) The Texas Health and Human Services Commission (HHSC) may conduct any inspection, investigation, or survey as a desk review, if appropriate, and at the discretion of HHSC, except for the on-site components of:

(1) an initial inspection; and

(2) a complaint investigation.

§559.213. Abuse, Neglect, and Exploitation: Complaint and Incident Reports and Investigations.

An individualized skills and socialization provider is subject to the provisions of Subchapter F of this chapter (relating to Abuse, Neglect, and Exploitation: Complaint and Incident Reports and Investigations).

§559.215. Enforcement.

The provisions of Subchapter G of this chapter (relating to Enforcement), apply to a license to provide individualized skills and socialization and to an individualized skills and socialization provider, except for §559.105 of this chapter (relating to Administrative Penalties).