

**Article 64 – Developmental Disabilities –
Community Developmental Disability Organizations (CDDOs)**

30-64-01 Definitions. (a) Words and phrases used in this article shall have the same meanings as those set forth in K.S.A. 39-1803 or as defined in article 63. In addition, the following terms shall have the meaning ascribed to them in this regulation:

(1) "home county" means, as determined by the CDDO in accordance with the following listed order of priority:

(A) the county of residence of a family member of the person with a development disability;

(B) the county of residence of the person's guardian; or

(C) the county in which the person is living; and

(2) "service area" means the counties from which a CDDO receives funding pursuant to K.S.A. 19-4001, et.seq.

(b) This regulation shall take effect on and after July 1, 1996. (Authorized by and implementing K.S.A. 39-1801, et.seq.)

30-64-10. Currently established and recognized community mental retardation centers now recognized as community developmental disability organizations (CDDOs). (a) Each community mental retardation center organized pursuant to the provisions of K.S.A. 19-4001, et. seq., currently established and operating as of the effective date of this regulation, shall be recognized as a CDDO. The CDDO shall have the same service area that the community mental retardation center was previously recognized for.

(b) This regulation shall take effect on and after July 1, 1996. Authorized by and implementing K.S.A. 19-4001 and K.S.A. 39-1801, et.seq.)

30-64-11. Establishment of new community developmental disability organizations (CDDOs). (a) Except in compliance with this article, a new CDDO shall not be established if the proposed service area is already being served by one or more existing CDDOs.

(b) Except in compliance with this article, an existing CDDO shall not alter its existing service area to include an area already being served by one or more existing CDDOs.

(c) Along with the proposal to establish a new CDDO, anyone proposing the establishment of a new CDDO shall submit an application for a license for the CDDO to operate as a provider of community services in compliance with in article 63, unless the organization, corporation or agency proposed as the new CDDO is already licensed, or unless the proposed CDDO does not intend to provide community services itself.

(d) This regulation shall take effect on and after July 1, 1996. (Authorized by and implementing K.S.A. 19-4001 and K.S.A. 39-1801, et.seq.)

30-64-12. Application for approval of a proposal to establish a new community developmental disability organization or to re-align

the service area of one or more existing CDDOs; requirements. (a)

Anyone proposing the establishment of a new CDDO, or the re-alignment of the service area of any existing CDDO, shall apply for approval of the proposal to the commissioner in writing. The application shall include the following:

- (1) A description of the service area or areas to be created;
- (2) a copy of the establishing resolution or resolutions adopted pursuant to K.S.A. 19-4001, and amendments thereto, by the affected board or boards of county commissioners;
- (3) a statement of the problems thought to exist with the current structure of community services for persons with developmental disabilities within that service area or areas and how the new or realigned CDDO or CDDOs will address those problems;
- (4) a description of what specific services the new or re-aligned CDDO or CDDOs will provide;
- (5) a plan for how any other services needs of the proposed service area will be met;
- (6) a description of the planned structure of governance, organization, staffing, and fiscal management procedures that will be used by the new or realigned CDDO;
- (7) a long-range financial plan detailing how the new or realigned CDDO proposes to finance itself during the initial five-year period;
- (8) a statement of the anticipated fiscal and service impacts that this new or realigned CDDO will have on all other affected service areas of the state;
- (9) an endorsement of the proposal by the governing board or boards and chief executive officer or officers of any affected existing CDDOs, or an explanation of why an endorsement has not or cannot be obtained; and
- (10) written comments received from the public and a summary of public comments made at a public hearing held for the purpose of receiving comments concerning the proposal. The commission shall have been consulted in advance of this public hearing, and approval of the process to be used for obtaining public comments shall have been given by the commission. Any process for obtaining public comments shall contain a method for notifying all existing CDDOs and licensed community service providers that operate in the service area or areas to be affected by the proposal.

(b) This regulation shall take effect on and after October 1, 1998. (Authorized by and implementing K.S.A. 19-4001 and K.S.A. 1997 Supp. 39-1801, et seq.)

30-64-13. Approval or disapproval of a proposal to establish a new community developmental disability organization or to realign the service area of one or more existing CDDOs. (a)

Before the approval or disapproval of a proposal to establish a new CDDO, or to realign the service area of one or more existing CDDOs, the materials submitted as required by K.A.R. 30-64-12 shall be reviewed by the commission. Additional comments from any of the following may be received or sought out as the commission deems appropriate:

- (1) consumer and advocacy organizations or representatives;

- (2) other interested individuals and agencies; and
- (3) licensed providers in and near the proposed new or realigned service area or areas.

(b) The proposal shall be approved or disapproved by the commissioner and the applicant shall be notified of that determination in writing. The notice shall clearly state the reasons why the proposal is disapproved.

(c) An applicant may appeal any decision to disapprove a proposal to establish a new CDDO or to realign the service area of one or more existing CDDOs to the administrative appeals section pursuant to the provisions of article seven of these regulations.

(d) This regulation shall take effect on and after July 1, 1996. (Authorized by and implementing K.S.A. 19-4001 and K.S.A. 39-1801. et.seq.)

30-64-20. Contracting community developmental disability organizations; requirements; enforcement actions. (a) Each CDDO established according to this article desiring to contract with the secretary pursuant to the provisions of the developmental disabilities reform act, K.S.A. 39-1801 et seq., and amendments thereto, shall comply with the provisions of this article.

(b) Any CDDO having entered into a contract with the secretary, but failing to maintain compliance with the provisions of this article or with the provisions of the contract, may be subject to one or more of the following enforcement actions:

(1) The requirement of a corrective action plan, approved by the commission, with specific corrective or improvement activities identified and implemented, measurable outcomes, and implementation timelines;

(2) the requirement of a peer review process, approved by the commission, with specific review and improvement activities identified and implemented, measurable outcomes, and implementation timelines;

(3) suspension of part or all of the payments provided for in the contract until the violation is corrected;

(4) civil penalties in an amount not to exceed \$125.00 per day for each violation from a specified date forward until the CDDO complies; or

(5) cancellation of the contract.

The contract may specifically provide for any or all of the penalties specified in this subsection.

(Authorized by and implementing K.S.A. 39-1804, 39-1805, 39-1807, and 39-1810; effective July 1, 1996; amended Feb. 1, 2002.)

30-64-21 Procedures applicable to the service area; development by the CDDO. (a) The governing board of each CDDO desiring to contract with the secretary shall develop written procedures, subject to approval by the commissioner, which shall specify how the requirements of this article will be met within that service area by the CDDO, and if applicable, by affiliating providers. These

procedures shall include provisions which allow any affiliating provider which employs 20 or more direct care employees to contract with the department for direct payment in lieu of receiving payments from the CDDO.

(b) At least 30 days before final adoption, the governing board shall present these procedures to the service area's council of community members organized pursuant to K.A.R. 30-64-22(a)(3), who may provide written comment upon them to the board. The board shall include any comments by the council with the procedures when the procedures are submitted to the commissioner.

(c)(1)(A) At least 30 days before final adoption, the governing board shall present these procedures to interested parties and the public at a public hearing held for the purposes of receiving comments upon these procedures; or

(B) other means may be used to solicit and receive comments about these procedures from interested parties and the public at least 30 days before final adoption.

(2) The commission shall have been consulted in advance of this public hearing or the board's decision to use any other means to obtain public comments, and the commission shall have given approval of the process to be used. The board shall summarize any comments received and include them with the procedures when the procedures are submitted to the commissioner.

(d) The governing board shall obtain approval of these procedures by the commissioner before the CDDO may be awarded a contract by the secretary. The CDDO shall not make any changes to these procedures after their approval except in compliance with the procedures set forth in subsections (b) and (c) above. The CDDO shall obtain approval of these changes by the commissioner, in writing, before those changes may become effective.

(e) This regulation shall take effect on and after July 1, 1996. (Authorized by and implementing K.S.A. 39-1801, et.seq.)

30-64-22. Implementation responsibilities of CDDOs. Each contracting CDDO shall perform the following:

(a) Implement the approved service area procedures specified in K.A.R. 30-64-21;

(b) collect and report to the secretary, in a manner specified by the commission, all information requested by the commission, including the following:

(1) Information required by the basic assessment and services information system (BASIS);

(2) copies of the plans of care detailing home- and community-based services to be provided to persons served by that program;

(3) copies of independent financial audits obtained by the CDDO, as well as any management letters generated as a result of the audits; and

(4) any other information or records the CDDO has that the commission needs in order to monitor how services are provided in the CDDO's service area;

(c) organize a council of community members as specified in

K.A.R. 30-64-31;

(d) organize a local committee on quality assurance as specified in K.A.R. 30-64-27;

(e) ensure that all services are provided in a manner that meets these requirements:

(1) Provides to all persons equal access to services, including to persons currently residing in any ICF/MR or institution but referred to the CDDO for possible services;

(2) provides that each person receiving or applying for community services, and that person's guardian if one has been appointed, receives information at least annually, communicated in a format appropriate for the person to understand, regarding the following:

(A) The types of community services available in the person's service area and information concerning the providers of those services; and

(B) the rights of persons served pursuant to the developmental disabilities reform act and implementing regulations, the content of which shall be approved by the commission;

(3) enables a person or the person's guardian, if one has been appointed, to choose the person's community service provider; and

(4) promotes the efficient delivery of services within the service area; and

(f) ensure that each community service provider entering into an affiliating agreement with the CDDO and operating within the CDDO's service area abides by the procedures applicable to that service area as established by the CDDO according to K.A.R. 30-64-21. In meeting this requirement, the CDDO may establish a procedure that would allow the CDDO to refuse to enter into or continue an affiliation agreement with any community service provider under any of these circumstances:

(1) If the provider refuses to accept a reimbursement rate for services to be provided that is at least equal to that established by the secretary to apply to the CDDO, or as agreed to in the affiliation agreement with the CDDO;

(2) if the provider has established a pattern of failing or refusing to abide by the service area procedures established by the CDDO according to K.A.R. 30-64-21, or failing to comply with its affiliation agreement with the CDDO; or

(3) if the CDDO demonstrates to the satisfaction of the secretary that being required to enter into the affiliating agreement would seriously jeopardize the CDDO's ability to fulfill its responsibilities either under these regulations or pursuant to its contract with the secretary.

(Authorized by and implementing K.S.A. 39-1804, 39-1805, 39-1806, and 39-1810; effective July 1, 1996; amended Oct. 1, 1998; amended Feb. 1, 2002.)

30-64-23. Single point of application, determination, and referral. (a) Each contracting CDDO shall develop and implement policies and procedures by which the CDDO shall act as the single point of application, eligibility determination, and referral for persons desiring to receive either information about community services or these services within the service area of that CDDO. Procedures shall be established for the following:

(1) Distributing, completing, accepting, and processing the uniform statewide application for community services, as published by the commission;

(2) determining if the applicant meets the definitional criteria to be considered a person with a developmental disability as defined in K.S.A. 39-1803, and amendments thereto;

(3) impartially informing a person of the types and availability of community services provided within the service area and of the licensed providers and other agencies existing within the service area that the CDDO has been advised might be willing to provide services to the person, and the way to contact those licensed providers or other agencies ;

(4) impartially assisting a person in deciding which community services the person may wish to obtain or would accept within the next year from the date of the person's application;

(5) impartially assisting a person in accessing the community services of the person's choice;

(6) maintaining a list of persons who have made application to the CDDO for community services and have been determined eligible, and allowing access to this list, except for the names of those persons who have requested that their names be kept confidential by the licensed providers in the service area who have entered into affiliation agreements with the CDDO; and

(7) ensuring that when any person receiving any services expresses a desire to consider changing service providers, that person is referred directly and only to an individual who is not involved in the delivery of any service, has no involvement in any dispute about the person's current services, and honors the confidentiality of the person considering a change in service providers. The individual shall supply to the person and the person's guardian information about the types and availability of community services within the service area and assist the person in accessing alternative service providers.

(b) Each contracting CDDO shall require any employees or agents of the CDDO who perform any of the functions specified in subsection (a) to maintain records that shall demonstrate compliance with these requirements.

(c) Each contracting CDDO shall require any employees or agents of the CDDO who perform the functions of determining eligibility, processing applications for service or referral of

persons for service, or assisting persons in accessing services, to complete a training program that is approved by the division and meets these criteria:

(1) Is developed by the CDDO and approved by the CDDO council of community members required by K.A.R. 30-64-22(c);

(2) includes topics regarding the following:

(A) The types of community services available in the service area and information concerning the licensed providers and other agencies offering those services; and

(B) potential referral contacts for persons who are determined not to be eligible for services; and

(3) is offered in a manner and frequency that shall ensure that employees or agents of the CDDO who perform the duties required by subsection (a) are competent to do so.

(Authorized by and implementing K.S.A. 39-1804, 39-1805 and 39-1810; effective July 1, 1996; amended Oct. 1, 1998; amended Feb. 1, 2002.)

30-64-24. Case management. (a) A person choosing case management may select that service from any licensed case management provider in the person's CDDO area. The CDDO shall be the only enrolled medicaid provider of case management services and may impartially and equitably subcontract with any licensed case management provider whose payment rate is based exclusively upon the subcontract with the CDDO. Case management shall assist the person and the person's support network to identify, select, obtain, coordinate, and use both paid services and natural supports that may be available to enhance the person's independence, integration, and productivity consistent with the person's capabilities and preferences as outlined in the person's person-centered support plan. Case management shall include the following:

(1) Assessment, including an ongoing process for the identification of the person's needs, the determination of a person's preferred lifestyle, and the resources that are available to the person, through both formal and informal evaluation methods;

(2) (A) Support planning, with the participation of the person and the person's support network, including the development or assistance in the development, updating, and reviewing of the person's person-centered support plan and any related service or support plan, building upon assessment information to assist the person in meeting the person's needs and achieving the person's preferred lifestyle; and

(B) providing assistance to the person in being knowledgeable about the types and availability of community services and support options, in receiving information regarding the rights of persons served pursuant to the developmental disabilities reform act and implementing regulations, the content of which shall be approved by

the commission, and in obtaining the community services and supports of the person's choice;

(3) support coordination, including the following:

(A) Arranging for and securing supports outlined in the person's person-centered support plan;

(B) developing and accessing of natural supports and generic community support systems; and

(C) advocacy, including pursuing means for gaining access to needed services and entitlements, and seeking modification of service systems when necessary to increase the accessibility to those systems by the person;

(4) monitoring and follow-up, including ongoing activities that are necessary to ensure that the person-centered support plan and related supports and services are effectively implemented and adequately addressing the needs of the person; and

(5) assisting transition and portability, including the planning of and arranging for services to follow the person when the person moves between any of the following:

(A) From school to the adult world;

(B) from an institution to community alternatives;

(C) from one kind of service setting to another kind of service setting;

(D) from one provider to another provider; or

(E) from one service area to another service area.

(b)(1) Case management shall be provided by case managers, who shall meet these requirements:

(A) Be employed by the CDDO as the enrolled medicaid provider of case management services, be employed by a subcontractor for those services, or be a subcontractor for those services, for which the CDDO or subcontractor maintains a license from the division of mental health and developmental disabilities to provide pursuant to article 63 of these regulations;

(B) be selected, from the CDDO or any of its subcontractors, to provide case management by the person being served or by the person's guardian, if one has been appointed;

(C) not provide any other direct service except case management to any person receiving any direct service from the organization that employs the case manager;

(D) not be supervised by anyone responsible for the provision or supervision of direct services to any person;

(E) have the following:

(i) A minimum of six months' experience in the field of developmental disabilities services; and

(ii) a bachelor's degree or additional experience in the field, which may be substituted for the degree at the rate of six months of experience for each semester; and

(F) complete a registration process that includes demonstrating qualifications, providing demographic information, and

agreeing to abide by service and ethics standards as well as case management-related policies and procedures, case management-related training, and assessments as required by the division of mental health and developmental disabilities.

(2) Each case manager providing case management shall carry a caseload of not more than 30 persons. If a provider hires more than one case manager, then the total number of the cases carried by all of the provider's case managers shall average to not more than 30 persons per case manager.

(Authorized by K.S.A. 39-1806, 39-1807, and 39-1810 ; implementing K.S.A. 39-1804, 39-1805, and 39-1806; effective July 1, 1996; amended Oct. 1, 1998; amended August 23, 2002.)

30-64-25. Uniform access to services. (a) Each contracting CDDO shall implement a plan, developed in coordination with the CDDO's affiliates, that results in services being offered and provided in a way that does not discriminate against any person because of the severity of each person's disability.

(1) The plan may require all community service providers to serve all persons regardless of the severity of each person's disability.

(2) The plan may allow individual community service providers to specialize in services, if all persons are offered appropriate services without regard to the severity of each person's disability.

(b) The plan shall not require any community service provider to accept more persons than the community service provider can effectively serve. If all community service providers are at their maximum capacity, the CDDO shall, pursuant to K.S.A. 39-1805(b), assist in establishing new community service providers.

(c) Notwithstanding these provisions, any CDDO that contracts with its affiliates and by mutual agreement provides its affiliates with financial consideration in excess of that required to be provided by the commission may require its affiliates to develop and make available appropriate services for any eligible person.

(d) Notwithstanding these provisions, a CDDO may refuse to serve a person who is determined by the secretary to be inappropriate for community services because the person presents a clear and present danger to self or to the community.

(vi) This regulation shall take effect on and after October 1, 1998. (Authorized by and implementing K.S.A. 1997 Supp. 39-1801, et seq.)

30-64-26. Quality enhancement. (a) Each contracting CDDO shall ensure that each service provided by the CDDO or by any affiliate shall be:

(1) provided as specified within, and in a manner that is

responsive to, the person-centered support plan under which that service is being provided;

(2) provided in a manner that offers opportunities of choice to the person being served; and

(3) performed in a manner that ensures that all of the person's rights are observed and protected.

(b) This regulation shall take effect on and after July 1, 1996. (Authorized by and implementing K.S.A. 39-1801, et. seq.)

30-64-27. Quality assurance. (a) Each contracting CDDO shall ensure the quality of the services being provided to persons being served by the CDDO or by an affiliate. Ensuring quality shall include providing for on-site monitoring by a local committee made up of persons served, their families, guardians, interested citizens, and providers. The type and intensity of on-site review shall be determined by the local committee and shall include at least a determination of all of the following:

(1) Services that are paid for are delivered.

(2) Services that are delivered are paid for in accordance with the terms of any agreement or contract in force, including any payment requirement that the person being served or a third party acting on behalf of the person being served has the responsibility to meet.

(3) Services are being provided in a manner meeting applicable requirements provided for in article 63.

(4) The CDDO or affiliate is affording the person being served all of the person's legally protected rights.

(5) The CDDO or affiliate meets both of these requirements:

(A) Is reporting any suspicions of abuse, neglect, or exploitation to the appropriate state agency; and

(B) has corrected or is actively in the process of correcting the cause of any confirmed violation.

(b) This regulation shall take effect on and after October 1, 1998. (Authorized by and implementing K.S.A. 1997 Supp. 39-1801, et seq.)

30-64-28. Continuity and portability of services. (a) Each contracting CDDO shall ensure both of the following:

(1) That each person who has applied for, accepted, and begun receiving community services continues to receive services consistent with the person's person-centered support plan, as long as state or federal funding support for those services continues, or until the person or the person's legal guardian, if one has been appointed, requests that services be discontinued; and

(2) that if the person moves from one service area to another and wants to continue receiving community services, the level of state and federal financial support utilized to provide services and supports for that person is transferred to the person's new service

area.

(b) This regulation shall take effect on and after October 1, 1998. (Authorized by and implementing K.S.A. 1997 Supp. 39-1801, et seq.)

30-64-29. Gatekeeping. (a) Each request for admission to an ICF/MR or state institution shall be submitted to the CDDO responsible for the county in which the person is currently residing. The CDDO shall implement a procedure to review each request for admission to an ICF/MR or state institution. The procedure shall result in the following:

(1) Determining whether or not the person requesting admission has a developmental disability and is eligible for ICF/MR services using procedures and standards specified by the commission;

(2) determining if ICF/MR placement is consistent with the person's preferred lifestyle as determined consistent with K.A.R. 30-63-21;

(3) informing the person, the person's family, and the person's guardian if one has been appointed, of all services or supports that are available or could be made available within 90 days in or near the person's home county, and of the person's rights pursuant to the developmental disabilities reform act and implementing regulations, the content of which shall be approved by the commission;

(4) offering to provide or arranging to provide these services or supports; and

(5) providing the commission with the results of items stipulated in (a)(1) through (a)(4) of this subsection for each person who requests admission to an ICF/MR or state institution, using forms specified by the commission, within 15 days of receiving information necessary to determine eligibility and preferred lifestyle.

(b) As described in this subsection, the CDDO shall implement a procedure to, at least annually, review the persons living in ICFs/MR and state institutions. The procedure shall result in all of the following:

(1) The CDDO whose service area includes the county in which the ICF/MR or state institution is located meets these requirements:

(A) Collecting information about the persons living in ICFs/MR and state institutions and submitting this data to the commission using standards, forms, and procedures specified by the commission; and

(B) making a determination regarding what the person's home county is and providing the CDDO whose service area includes the person's home county of the person's name and address, and the name and address of the person's family and guardian, if one has been appointed.

(2) The CDDO whose service area includes the person's home

county informs the person, the person's family, and the person's guardian, if one has been appointed, of all services or supports that are available or could be made available in or near the person's home county, and of the person's rights pursuant to the developmental disabilities reform act and implementing regulations, the content of which shall be approved by the commission.

(3) The CDDO whose service area includes the person's home county provides or arranges to provide these services or supports if the person or the person's guardian, if one has been appointed, chooses them.

(c) This regulation shall take effect on and after October 1, 1998. (Authorized by and implementing K.S.A. 1997 Supp. 39-1801, et seq.)

30-64-30. Statewide service access list. Each contracting CDDO shall ensure that each person who has applied for services, been determined eligible for services, and agreed to accept services within the next year following the date of the person's application, but who cannot now be provided those services by either the CDDO, or any affiliate, because the maximum number of persons to be served as established in the contract with the secretary are already being served, or because supporting funding is not available, will receive the following services:

(a) Be assisted in the person's current setting by any means the CDDO can provide within existing resources in order to avoid as much as possible a crisis from developing until services can be arranged to be provided by the CDDO or an affiliate;

(b) be referred to other community agencies that may be able to provide any type of support or assistance appropriate to the needs of that person until services can be arranged to be provided by the CDDO or an affiliate;

(c) be reported to the secretary as waiting to access services in accordance with the division's policy governing service access lists; and

(d) be contacted at least annually from the initial application date to determine the continued need for services.

(Authorized by and implementing K.S.A. 39-1804, 39-1805, and 39-1810; effective July 1, 1996; amended Feb. 1, 2002.)

30-64-31. Council of community members. (a) A council of community members organized according to K.A.R. 30-64-22 (c) shall meet these criteria:

(1) Consist of a selected number of individuals, a majority of whom shall be made up of representatives from each of the following two categories:

(A) Persons with a developmental disability; and

(B) family members or guardians of a person with a developmental disability;

(2) include representatives from the following:

(A) The CDDO; and

(B) affiliates of the CDDO;

(3) not have served more than two consecutive three-year terms as members of the council;

(4) have the right to express opinions and make suggestions and recommendations to the governing board of the CDDO concerning any services issue, including the following:

(A) The types of services being offered by the various providers within the service area; and

(B) the manner in which those services are being provided;

(5) be responsible for the development and implementation of the dispute resolution procedures required by K.A.R. 30-64-32;

(6) be responsible for overseeing development, implementation, and progress reporting as to local capacity building plans, in accordance with guidelines provided by the division; and

(7) meet at least quarterly and at other times as necessary to fulfill the council's responsibilities for dispute resolution according to K.A.R. 30-64-32.

(b) For purposes of initial organization of the council, the CDDO shall appoint each member to the council. Thereafter, the selection of successor members of the council shall be determined pursuant to the bylaws or procedures agreed to and adopted by the council. Those bylaws or procedures shall stipulate a process by which consumer, family member, or guardian council members are chosen in an election by consumers, family members, and guardians following nominations by individuals residing in the service area.

(c) In order for a quorum to exist at any meeting of the council, at least 51 percent of those council members present and qualified to vote shall meet the provisions of both paragraphs

(c)(1) and (2) below:

(1) Be any of the following:

(A) Persons being served;

(B) family members of persons being served; or

(C) legal guardians of persons being served; and

(2) not also be either of the following:

(A) An employee or paid consultant to any provider or CDDO; or

(B) a member of the board of directors of any provider or

CDDO.

(Authorized by and implementing K.S.A. 39-1804, 39-1805 and 39-1810; effective July 1, 1996; amended Oct. 1, 1998; amended Feb. 1, 2002.)

30-64-32. Dispute resolution. (a) Each contracting CDDO, in conjunction with the council of community members as specified in K.A.R. 30-64-31, shall develop and implement a dispute resolution procedure

that shall provide persons being served by the CDDO, or by any community service provider affiliated with that CDDO, with a means for resolving disputes that may arise between the following:

- (1) (A) The person;
- (B) the person's legal guardian, if one has been appointed; or
- (C) other individuals from the person's support network; and
- (2) (A) The CDDO;
- (B) an affiliated community service provider; or
- (C) any other component of the community services system.

(b) These procedures shall provide a means for resolving disputes that may arise between any of the following:

- (1) The CDDO and any affiliated community service provider;
- (2) the CDDO and any entity that wishes to become an affiliated provider;
- (3) the CDDO and any other component of the community services system;
- (4) any affiliated community service providers; or
- (5) any affiliated provider and any other component of the community service system.

(c) The procedures shall provide for the following:

(1) A local dispute-resolution process providing the opportunity for resolution between the disputing parties, to be completed no later than 20 calendar days following receipt of written notice to the CDDO of a dispute;

(2) an opportunity for the intervention into the dispute by a mediator who has no decision-making authority and is impartial to the issues being discussed, and a mechanism by which any fees charged by the mediator can be shared equally between the parties to the mediation. A person shall not be denied mediation services solely because of an inability to pay the applicable fee. Mediation shall be completed no later than 40 calendar days following the receipt of written notice to the CDDO of a dispute referred to in paragraph (c)(1) above. Any party to the dispute may decline to enter into any process of mediation if that party chooses to proceed directly to the appeal procedures provided for in paragraph (c)(3) below. Any party to the dispute may withdraw from any mediation whenever that party believes further efforts at mediation will not likely result in resolution of the dispute; and

(3) the right of any party to the dispute to appeal to either of the following:

(A) The governing board of the CDDO, or any other body that the board may designate, if the dispute involves the CDDO as a party. The board shall have 20 days from the date of receipt of a written notice of appeal to conduct any appropriate proceedings and

issue a written decision concerning the issues in dispute. If the board fails to issue a written decision by the end of this 20-day period, the appeal shall be deemed to have been decided in favor of the appellant. Each decision of the board shall be binding upon the parties unless either party further appeals to the commission as specified in paragraph (c)(3)(B); or

(B) the commission, unless the dispute involves the CDDO as a party, in which case the appeal shall first have been made to the governing board, as specified in paragraph (c)(3)(A). If the appeal is from a decision of the governing board of the CDDO, a written notice of appeal shall be delivered to the commission within 10 calendar days of the appealing party's receipt of the board's decision. If the dispute does not involve the CDDO as a party, a written notice of appeal shall be delivered to the commission within 60 calendar days following the CDDO's receipt of written notice of the dispute as specified in paragraph (c)(1) above. The authority to review the dispute and make an appropriate decision shall be reserved by the commission to assist the parties in resolving the dispute and preventing similar disputes in the future, including by requiring changes of policies, procedures, or practices of community service participants; by requiring corrective action or a peer review process by community service participants; or by using other resolution guidelines. The decision of the division may be appealed to the office of administrative appeals within the Kansas department of administration pursuant to article 7.

(d) Nothing in this regulation shall be construed to limit the right of any person to bring any action against a CDDO, any affiliated community service provider, or any other individual or entity as may be permitted by law.

(Authorized by and implementing K.S.A. 39-1804, 39-1805 and 39-1810; effective July 1, 1996; amended Oct. 1, 1998; amended Feb. 1, 2002.)

30-64-33 Fiscal management. (a) Each contracting CDDO shall expend the funds received pursuant to its contract with the secretary only in accordance with the terms or that contract and this article.

(b) A contacting CDDO shall not use funds received through this contract to supplant funds previously received from local tax levies made pursuant to K.S.A. 19-4004, and amendments thereto.

(c) A contracting CDDO shall not transfer funds received through this contract from the CDDO to any other entity, except as authorized by that contract, or as otherwise expressly authorized in advance, in writing, by the department.

(d) All funds received by a contracting CDDO shall be subject to audit and review by the department.

(e) This regulation shall take effect on and after July 1,

1996. (Authorized by and implementing K.S.A. 39-1801, et, seq.)