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Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Department of Children's Services
Division:	Office of Child Welfare Licensure
Contact Person:	James Layman
Address:	315 Deaderick Street, 10th Floor, Nashville, TN 37243
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Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	Donovan Haynes
Address:	315 Deaderick Street, 7th Floor, Nashville, TN 37243
Phone:	615-741-8422
Email:	Donovan.haynes@tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	312 Rosa L. Parks Ave	
Address 2:	Tennessee Tower, 3rd Floor, Conference Room D	
City:	Nashville	
Zip:	37243	
Hearing Date:	07/12/2022	
Hearing Time:	1:00pm	_X_CST/CDT ___EST/EDT

Additional Hearing Information:

Please allow enough time to go through security upon entering the building. A state-issued ID is required. All written comments from the public re: this proposed rulemaking activity may be sent to james.r.layman@tn.gov and are due by close of business (4:30 PM CDT) on Friday, 7/15/2022.

Revision Type (check all that apply):

_X_ Amendment
___ New
___ Repeal

Rule(s) (**ALL** chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	**Chapter Title**
0250-04-08	Minimum Standards for Juvenile Detention Centers and Temporary Holding Resources
Rule Number	**Rule Title**
0250-04-08-.01	Definitions

0250-04-08-.02	General Requirements
0250-04-08-.03	Administration and Management
0250-04-08-.04	Personnel
0250-04-08-.05	Service Provision
0250-04-08-.06	Medical Services
0250-04-08-.07	Supervision of Youth
0250-04-08-.08	Physical Plant
0250-04-08-.09	Sanitation, Maintenance, and Life Safety
0250-04-08-.10	Security
0250-04-08-.11	Seclusion and Restraint
0250-04-08-.12	Transportation

Rule 0250-04-08-.01 Definitions is amended by deleting the text of the rules and substituting instead the following language, so that as amended, the rule shall read:

(1) "Administrator" or "Facility Administrator" means the director of the Temporary Holding Resource or the Juvenile Detention Center.

(2) "Administrator Designee" means a person authorized by the Administrator or Facility Administrator to make procedural decisions or to otherwise act on behalf of the Administrator or Facility Administrator in certain situations.

(3) "Chemical Defense Agent" means any product which is dispensed by means of an aerosol spray to control an individual's combative behavior and/or restrict the individual's behavior.

(4) "Department" or "DCS" means the Tennessee Department of Children's Services.

(5) "Facility" means a Temporary Holding Resource or Juvenile Detention Center unless context requires otherwise.

(6) "High School Diploma or Equivalent" means a document recognizing graduation from a legally approved public or private institution, based upon the issuing state's required number of academic credits. This may include a GED diploma or HiSET equivalent. A special education diploma, statement of attendance, honorary diploma, or correspondence or video course is not considered an equivalent alterative.

(7) "LEA" means Local Education Agency.

(8) "Licensing Office" means the Department of Children's Services Office of Child Welfare Licensing or successor office.

(9) "Physical Restraint" means the use of body contact by staff upon a youth to restrict the youth's freedom of movement or normal access to their body.

(10) "Qualified Medical Professional" means a physician or other qualified health care professional who is an individual qualified by education, training, licensure/regulation (when applicable), and facility privileging (when applicable) who performs a professional service within his/her scope of practice and independently reports that professional services.

(11) "Qualified Mental Health Professional" means a person with professional training, experience, and demonstrated competence in the treatment of mental illness, who shall be a physician, psychologist, social worker, mental health counselor, nurse, or other qualified person.

(12) "Seclusion" is defined as the involuntary segregation of a child from the rest of the resident population regardless of the reason for the segregation, including confinement to a locked unit or ward where other children may be seen or heard but are separated from the child.

(13) "Sentinel Event" means an unanticipated event resulting in death or serious physical or psychological injury to a youth in the care of the facility.

(14) "Sight Contact" means clear visual contact between incarcerated adults and juvenile offenders within close proximity to each other.

(15) "Sound Contact" means direct oral communication between incarcerated adults and juvenile offenders.

(16) "Staff" means full time and part time employees of a juvenile detention center or temporary holding resource.

(17) "Volunteer" means any person providing assistance to the agency without pay, who may have direct and ongoing contact with youth equal to or greater than twenty (20) hours per week.

(18) "Youth" means a person under eighteen (18) years of age or a person under nineteen (19) years of age in custody of the Department of Children's Services or remaining under the jurisdiction of the juvenile court.

Authority: T.C.A. §§ 37-5-105; 37-5-106; and 37-5-501, et. seq.

Rule 0250-04-08-.02 General Requirements is amended by deleting the text of the rule and substituting instead the following language, so that as amended, the rule shall read:

(1) The issuance and maintenance of a license to operate a juvenile detention center or temporary holding resource shall depend upon adherence to these standards.

(2) All public or private agencies operating juvenile detention centers or temporary holding resources shall be specifically licensed by the Department.

(3) The initial and continued licensing of a juvenile detention center or a temporary holding resource shall be based upon the following criteria:

(a) The safety, welfare, and best interests of the youth in the care of the facility;

(b) The capability, training, and character of the persons providing or supervising the care of youth;

(c) The quality of the methods of care and instruction provided to the youth;

(d) The suitability of the facilities provided for the care of the youth;

(e) The adequacy of the methods of administration and the management of the facility, the facility's personnel policies, and the financial integrity of the facility; and

(f) The present need for the juvenile detention center or temporary holding resource.

(4) Juvenile detention centers and temporary holding resources shall be appropriately approved, licensed, permitted, or credentialed by all appropriate agencies, including the Tennessee Department of Health and the state or local fire marshal's office, before residents may be admitted.

(5) The facility shall maintain compliance with the applicable regulations and standards of these authorities in order to obtain or retain a license.

(6) Juvenile detention centers and temporary holding resources shall be classified according to the date operations commenced. Facilities which begin operation as a juvenile detention facility or temporary holding resource after January 1, 2023 shall be considered new, while facilities operating prior to that date shall be considered existing facilities.

(7) A facility's license shall be posted in a prominent area that is visible to the public.

(8) It is the duty of the Department to inspect, at regular intervals, without previous notice, all facilities. The Department may interview staff, residents, or volunteers during the course of any inspection.

(9) Pursuant to state law, the Department is given the right of entrance, privilege of inspection, access to accounts, records, and information regarding the whereabouts of children under the care of the facility for the purpose of determining the kind and quality of care provided to the children and to obtain a proper basis for the Department's decisions and recommendations.

(10) If refused entrance for inspection of a licensed, approved, or suspected juvenile detention center or temporary holding resource, the chancery or circuit court of the county where the licensed, approved, or suspected juvenile detention center or temporary holding resource may be located may issue an immediate ex parte order permitting the Department's inspection upon a showing of probable cause, and the court may direct any law enforcement officer to aid the Department in executing such order and inspection. Refusal by the juvenile detention center or temporary holding resource to obey the inspection order may be punished as contempt and any violation of the rights given in this section is a Class A misdemeanor.

(11) Facilities shall provide their services in an ethical and professional manner at all times. This includes:

(a) Strict adherence to the practice of confidentiality; and

(b) Acting at all times in the best interest of the youth.

(12) The facility shall consider and respect the ethnic, religious, racial, and cultural background of all youth and make reasonable accommodations to meet any related needs.

(13) A facility shall not engage in practices which exploit the rights of youth in care. Youth shall not be individually identified in connection with fundraising activities or publicity for the facility without written permission from the youth and the youth's parent or legal guardian.

(14) Provisions Specific to Temporary Holding Resources:

(a) A temporary holding resource shall not house more than eight (8) children, and is designed to operate primarily as a staff secure facility with a maximum of two (2) hardware secure rooms. At least half of the rooms in the facility shall be non-secure.

(b) A temporary holding resource is designed to house children who are:

1. In need of legal temporary placement;

2. Awaiting a pending adjudication; or

3. Awaiting judicial disposition.

(c) Youth shall be detained in a temporary holding resource in accordance with T.C.A. §§ 37-1-114 and 37-1-116 (2021 and as amended):

1. A youth's placement in a temporary holding resource shall be less than seventy-two (72) hours;

2. Youth who are alleged to be delinquent and meet the criteria for secure detention may be placed in secure custody in a temporary holding resource for up to a seventy-two (72) hour maximum length of stay; and

3. Youth who are alleged to be status offenders shall not be placed in secure custody in a temporary holding resource for more than twenty-four (24) hours unless there is probable cause to believe the youth has violated a court order. The placement shall not exceed seventy-two (72) hours.

(d) Dependent and neglected youth shall not be detained in secure rooms unless those rooms are rendered "non-secure" for the duration of the placement.

(15) A youth shall not be detained in any secure facility or secure portion of any facility unless the criteria established in T.C.A. §§ 37-1-114 and 37-1-116 (2021 and as amended) are met.

(16) For youth with special needs, provisions shall be made to address special needs for those youth who exhibit or who have documented physical or intellectual disabilities or impairments, limited English proficiency (LEP), and/or mental or emotional health issues. Examples of provisions may include interpreter services, handbook and other related materials presented in Spanish, etc.

(17) Consent to Medical Services

(a) Rules in subparagraphs (b)-(d) may not be applicable if family contact is determined to be contraindicated by the administrator or facility administrator due to safety concerns concerning the youth or the facility. Such determination shall be documented by the administrator, facility administrator, or designee.

(b) At admission, staff shall request the name and contact information of an adult family member or guardian who can provide information about a youth's health and mental health history, Medicaid and health insurance information, and consent to medical treatment for the youth, if necessary.

(c) Any medical and/or mental health examinations and/or services provided to detained youth by medical or mental health professionals shall conform to state laws for informed consent and the right to refuse treatment.

(d) Facility staff shall obtain informed consent using a language that is understandable to the youth and his or her parent or legal guardian.

(18) Family Engagement

(a) Rules in subparagraphs (b)-(e) may not be applicable if family contact is determined to be contraindicated by the administrator or facility administrator due to safety concerns concerning the youth or the facility. Such determination shall be documented by the administrator, facility administrator, or designee.

(b) Facility administrators or administrators shall provide means for parents and legal guardians, including individuals who have limited English proficiency, to ask questions about the facility and its programs and ensure that those questions are answered.

(c) The facility shall provide parents and legal guardians contact information for a staff member who they can contact to obtain information about the youth and his or her adjustment to the facility. The facility shall make appropriate arrangements to communicate with parents or legal guardians who have limited English proficiency.

(d) Facility staff shall encourage contact between youth and family members through mail, telephone, visitation, and other means.

(e) Parents, legal guardians, and other family members shall be able to register complaints about the treatment of youth. The administrator, facility administrator, or the facility administrator designee shall promptly reply to such complaints in writing. The facility shall make appropriate arrangements to receive complaints from parents or legal guardians who have limited English proficiency.

(19) All licensed agencies shall ensure freedom from discrimination or harassment on the basis of race, color, religion, sex, age, disability, marital status, citizenship, genetic information, or any other characteristic protected by law. This applies to youth, families, clients, and employees.

Authority: T.C.A. §§ 37-1-114; 37-1-116; 37-5-105; 37-5-106; and 37-5-501, et. seq.

Rule 0250-04-08-.03 Administration and Management is amended by deleting the text of the rule and substituting instead the following language, so that as amended, the rule shall read:

(1) Each facility shall develop a mission statement and written policies and procedures governing the facility's operations. These policies and procedures shall be reviewed and updated annually and shall be accessible to all staff at all times. Staff shall be trained on these policies during pre-service and during their annual in-service training. Training documentation shall be noted in individual staff training records.

(2) There shall be written plans, developed in advance, for dealing with emergencies such as escape, medical emergencies, quarantine, disturbances, assaults on staff, hostage taking, and emergency evacuation. These written plans shall be incorporated into the facility's operations manual. Each staff member shall be trained on these plans. Training documentation shall be noted in individual staff training records.

(3) The facility administrator shall approve a list of articles and materials that shall be allowed in the living area. This list shall be made available to all youth upon admission.

(4) Administrators and Facility administrators shall regularly review logbooks, special incident reports, records of use of physical force or restraints, grievances, and recreation records. Administrators and Facility administrators shall conduct annual written performance evaluations for all subordinate staff. Administrators and Facility administrators shall advise staff of any areas of concern and take appropriate action with respect to particular staff members such as re-training, discipline, and termination, as appropriate.

(5) An intake process shall be completed for every youth admitted to the facility and shall contain the following information, as available:

(a) Date and time of admission;

(b) Name and aliases of youth;

(c) Gender;

(d) Race;

(e) Date of birth;

(f) Age;

(g) Driver's license and/or social security number;

(h) Information regarding the youth's custodial status (DCS custody);

(i) Place of birth;

(j) Last known address;

(k) Name of legal guardian;

(l) Name, relationship, and contact information for next of kin;

(m) Other key contact person(s) and addresses to notify in case of emergency, including legal representation and/or assigned juvenile case manager;

(n) Presenting medical and mental health information, including suicide risk, prescribed medications, open wounds, pregnancy, current and/or history of physical and sexual abuse, allergies, and intoxication (drugs or alcohol);

(o) Educational information, including name of originating school system (LEA);

(p) Specific charge(s);

(q) Status: pre/post adjudication;

(r) Court date and time;

(s) Notation of cash and property;

(t) Room assignment; and

(u) Records noting a youth's access to the courts, visitation or access to the public, disciplinary actions and outcomes, medical or behavioral concerns, and/or any other pertinent information.

(6) The admitting staff member shall ensure that each youth received meets the requisite legal requirements for admission into a juvenile detention or hardware secure temporary holding resource.

(7) At the time of a youth's admission to the facility, a diligent attempt shall be made to notify the youth's parent(s) or legal guardian(s). This attempt, and all future attempts, shall be documented in case records.

(8) Cash and personal property shall be secured from the youth upon admission, listed on a receipt form in duplicate, and securely stored pending the youth's release. The receipt shall be signed by the receiving staff member and the youth, the duplicate given to the youth, and the original kept for the record. If the youth is unable or unwilling to participate in the process, there shall be at least one (1) witness to verify this refusal and the youth's refusal shall be documented.

(9) Written policy and procedure shall ensure that records on youth are current and accurate.

(10) Written policy and procedure shall ensure that youth's records shall be maintained confidentially.

(11) Written policy and procedure shall govern the management of youth records including, at a minimum, the following areas:

(a) Establishment, use, and content of youth records;

(b) Right to privacy;

(c) Secure storage and preservation of records; and

(d) Established schedule for disposal of inactive records.

(12) All required records shall be made available upon request to any authorized agent of the Department's Licensing Office or Office of the General Counsel.

(13) All resident records, including computer files and other sensitive material, shall be protected against loss by fire or other natural disasters by storage in double-locked, fire-resistant metal cabinets or an offsite server. Access to this information should be limited to those individuals designated by the administrator or facility administrator.

(14) Access to all confidential data stored electronically by any facility or contracted staff shall be password protected and backed-up on a separate server or drive.

(15) Electronic Records Keeping

(a) All minimum requirements regarding content, retention, confidentiality, and security for records maintained electronically shall be the same as for all other records.

(b) The facility shall develop and enforce policies regarding integration and alignment of the management of electronic records with other records and information resources.

(c) The facility shall develop and enforce policies that specify the location, manner, and media in which electronic records shall be maintained.

(d) The facility shall develop and enforce an appropriate level of security to ensure the integrity of data and documents stored on the system.

(e) The facility shall develop clearly defined policies that support the retention requirements as detailed in this Rule chapter. This shall include policies that ensure the destruction of electronic records in a secure and permanent manner.

(f) The facility shall develop and enforce policies that require departing staff and other agents to return or destroy, as appropriate, all portable storage media or any other device capable of storing data in the individual's possession that may contain the agency's electronic records. These policies shall also address access through changing of passwords.

(16) All youth records shall be retained a minimum of one (1) year from the youth's eighteenth (18) birthday or youth's date of discharge, whichever is longer. All medical records shall be retained until a youth's nineteenth (19) birthday or one (1) year from the youth's date of discharge, whichever is longer.

(17) Written policy and procedure shall specify that the person receiving a youth at discharge shall be an approved parent or legal guardian and shall present appropriate identification. Positive identification of a youth shall be made by the releasing staff member before discharge or release.

(18) All youth released from the facility shall sign a receipt for property, medications, valuables, and cash returned to the youth, parent, or legal guardian at the time of release. All items shall be carefully inventoried on the receipt and witnessed by the releasing staff member. The receipt shall be kept in the permanent records of the facility. If the youth is unable or unwilling to sign a receipt, there shall be at least one (1) witness to verify this refusal, and the youth's refusal shall be documented.

(19) Facility staff shall cooperate promptly with requests from juvenile courts, LEAs, law enforcement, and Departmental representatives.

(20) Written policy and procedure shall provide that youth be allowed to have confidential access to attorneys and/or their authorized legal staff and/or court appointed representatives at any reasonable hour. The facility shall establish the hours during which attorneys may visit.

(21) Any significant incident involving a youth shall be documented in a written incident report and retained in the youth's individual file. The incident report shall include date, time, location, and witnesses. Every incident report shall also clearly document the youth's involvement and behavior, and staff actions or reactions (e.g., verbal and physical interventions and follow-up actions) resulting from the incident. Incident reports completed by the facility to fulfill contractual requirements issued by the department shall be considered acceptable in meeting compliance with this provision. The incident shall be reviewed by the administrator, facility administrator, or the facility administrator's designee prior to the conclusion of the shift and reported as designated by the department and the local jurisdiction. All incident reports shall be made available for review by licensing personnel. Significant incidents include, but need not be limited to, the following:

(a) Aggressive behavior, e.g., threats, fights and assaults;

(b) Attempted and completed escapes;

(c) Suicidal threats and attempts;

(d) Any incident involving use of physical force by staff, including physical restraint;

(e) Use of seclusion shall be documented as provided in Rule 0250-04-08-.11(5);

(f) Use of mechanical restraints for reasons other than transportation;

(g) Use of chemical defense agents;

(h) Sentinel events; and

(i) Other serious events, including, but not limited to:

1. Incidents involving multiple youth, such as youth assaulting staff member(s) or rioting;

2. Runaway incidents lasting over twelve (12) hours;

3. Facility under investigation by the FBI, TBI, or local law enforcement; and

4. Mandatory reporting to the Child Abuse Hotline by the facility staff on an incident that occurred with thin the facility by youth or staff;

(22) The facility shall cooperate fully with the Tennessee Commission on Children and Youth in monitoring Juvenile Justice and Delinquency Prevention core requirements and any other appropriate monitoring entity. The facility may contact the Department's licensing office to confirm the monitoring entity's authority if questions arise.

(23) Each juvenile detention center shall maintain census information for all youth detained at the juvenile detention center. The census shall reflect the following for each youth:

(a) First and last name;

(b) Date of birth and age;

(c) Gender;

(d) Race;

(e) County of original jurisdiction;

(f) Date of admission;

(g) Date of discharge, when applicable;

(h) Length of stay;

(i) Custodial disposition; and

(j) Reason for detention.

(24) Reports shall be submitted to the Department as follows:

(a) Each juvenile detention center shall, on a monthly basis and on a form provided by the Department, provide the Department an aggregate report detailing the following information:

1. Physical capacity of the facility;

2. Demographic information, including monthly discharges by age and gender;

3. Monthly discharge information, including custodial status and length of stay;

4. Restrictive Behavior Management information, including the number of physical restraints, mechanical restraints, use of chemical defense agents, and seclusions within the facility; and

5. Other related information as required by the Department.

(b) Any proposed change in the facility's location shall be reported to the Department's licensing office a minimum of ninety (90) days prior to the proposed move date to facilitate licensure of the new location. Any facility that changes location without obtaining the appropriate license for the new location shall be considered to be operating as an unlicensed program and shall be subject to any related legal, civil, or regulatory penalties.

(c) Any sentinel event shall be reported immediately to the youth's parent or legal guardian and the Department's licensing office.

(d) Any known or suspected incidents of brutality, abuse, neglect, or child sexual abuse shall be reported immediately to both the child abuse hotline at 1-877-237-0004 and the Department's licensing office.

(e) A succession roster for reporting any significant emergency situations affecting or potentially affecting the safety and welfare of the youth served by a facility, including sentinel events, shall be developed and included in policy accessible to all staff. The Department's licensing office shall be included as a point of contact on any such succession roster.

Authority: T.C.A. §§ 37-5-105; 37-5-106; and 37-5-501, et. seq.

Rule 0250-04-08-.04 Personnel is amended by deleting the text of the rule and substituting instead the following

language, so that as amended, the rule shall read:

(1) Written policy shall indicate that there is a hiring plan consistent with the facility's Affirmative Action obligations to include, at a minimum, a clear commitment to recognize and develop the abilities of all minorities, women, and handicapped persons in compliance with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and the Americans with Disabilities Act (P.L. 101-336) of 1990.

(2) Written policy shall indicate a clear commitment to recognizing diversity in hiring.

(3) Written policy shall provide that, except in temporary, exigent situations approved by the administrator or facility administrator, there shall be a separation of youth care and adult care staff, including management, security, recreational, educational, and counseling and other direct care staff. Specialized service staff, such as cooks, bookkeepers, and medical professionals who are not normally in contact with detainees or whose infrequent contacts occur under conditions of separation of youth and adults are excluded from this requirement. The facility shall be permitted to hire individuals who work in law enforcement or probation to work at the facility.

(4) Written personnel policies shall be provided to each staff member prior to or at time of employment. These shall include, but are not limited, to:

(a) A job description for each position covering the position's responsibilities, academic qualifications, and required level of experience;

(b) Annual salary schedule;

(c) Performance review requirements, which shall include, at a minimum, the following:

1. Clear policies or tools surrounding annual performance evaluations and disciplinary action guidelines;

2. An annual evaluation of performance for each level of staff within the facility; and

3. Actions that the facility will take for failure to receive a satisfactory job performance evaluation during any evaluation period.

(d) Physical examination policy, which shall include a required physical examination and tuberculin screening for all staff members having contact with youth. The examination shall be no older than twelve (12) months prior to hire date or shall be completed within ninety (90) days of employment;

(e) Training requirements and documentation of completion;

(f) Vacation policy that clearly defines allowable time and payment plan;

(g) Sick leave policy;

(h) Policies regarding Social Security, insurance, retirement plans, and other fringe benefits;

(i) Facility grievance procedure;

(j) Grounds for dismissal;

(k) Confidentiality of youth information; and

(j) A reporting policy requiring all staff to immediately report to the Facility Administrator or Administrator Designee any arrests, indictments, or criminal convictions of any criminal offense(s) and any Child Protective Services investigations or substantiations.

(5) Specific Qualifications for Staff:

(a) The facility administrator shall have a high school diploma and at least two (2) years of experience in juvenile justice or child welfare.

(b) All facility staff shall have a high school diploma or its equivalent.

(6) Staff Records:

(a) Records on all staff members and information on applicants for jobs must be kept in a confidential and locked file cabinet. Records retained offsite are subject to licensing review upon request.

(b) Staff records shall include, but are not limited to:

1. Application for employment;

2. Reports from at least three references, one of whom must be a former employer;

3. A physical statement of good health and a tuberculin screening. Staff may not have direct contact with youth until their tuberculin screening results have been received by the facility;

4. Proof of education, which shall consist of a copy of a high school diploma or GED/HiSet;

5. Background checks for each prospective and current employee. All persons shall be appropriately screened for prior criminal behavior and/or abuse history. Any waivers granted by the Department pertaining to background checks will be maintained in the staff member's personnel record;

6. Agreed upon terms of employment, including signed documents or agreement to facility's policies on confidentiality and child abuse reporting;

7. For staff transporting youth:

i. A valid motor vehicle driver's license from the state of residence. The license shall be validated annually;

ii. Driving record; and

iii. Proof of vehicle insurance showing vehicular and medical liability insurance;

8. A written job description;

9. A written record of positions held by the person during employment at the facility;

10. A written record of leave;

11. Annual written performance evaluation of the employee's quality of work. Facility administrators shall advise staff of any areas of concern and take appropriate action with respect to particular staff members such as retraining, discipline, and termination, as appropriate. These evaluations must be prepared by the administrator, assistant to the administrator, or by the person directly responsible for the supervision of the employee. If not conducted by the administrator, it must be approved by the administrator. The employee shall be given the opportunity to review and sign their annual performance evaluation;

12. A record of participation in orientation and other training activities; and

13. A date and reason for termination, if applicable.

(c) Additional information added to staff records throughout the period of employment shall include, as applicable and available:

1. Documentation of annual training;

2. Updated reports of physical examinations;

3. Renewed motor vehicle driver's license;

4. Renewed vehicle insurance showing vehicular and medical liability coverage;

5. Awards and recognition; and

6. Records of any disciplinary action taken, including termination summaries.

(d) Staff shall have access to their personnel records as afforded to them by law.

(e) Personnel records shall be retained a minimum of five (5) years after termination or separation date.

(7) Background Vetting

(a) Each person applying to work with youth as a paid employee with a juvenile detention center or temporary holding resource or in any position in which any significant contact with youth is likely in the course of the person's employment, or a new volunteer who is expected to provide volunteer services in excess of twenty (20) hours per month in a juvenile detention center or temporary holding resource or in any position in which any significant contact with youth is likely in the course of the person's volunteer status, shall be appropriately screened for prior criminal behavior and/or abuse history and shall agree to release all records involving the person, relating to the criminal history of such person, to the juvenile detention center or temporary holding resource and to the Department. All background vetting shall be conducted and documented according to requirements developed by the Department.

(b) Such persons shall also supply fingerprint samples to an approved screening vendor, the TBI, or the FBI, for the purposes of obtaining any criminal history.

(c) The juvenile detention center or temporary holding resource seeking to employ the applicant as paid staff or as a volunteer as defined in this section shall be responsible for obtaining and submitting the fingerprint sample for screening and shall include and maintain any information necessary to process and assess the criminal history review in such manner as may be required by the Department.

(d) An approved background screening shall also include:

1. A criminal records check from local law enforcement records or county court records for all residences of the employee or prospective employee within the immediate six (6) months preceding application for employment;

2. Each applicant's status on the Tennessee Department of Health's Vulnerable Persons Registry;

3. Each applicant's status on the Tennessee Department of Children's Services Child Abuse Registry;

4. For staff assigned to transport youth, driving records check, including a check of moving violations records and verification of that the applicant has a current, valid driver's license;

5. National Sexual Offender Registry Clearance; and

6. National Drug Offender Registry Clearance.

(e) During annual background screening renewals, any findings discovered shall be assessed on a case-by-case basis and may result in disciplinary action up to and including termination from employment with the facility.

(f) Results from the completed background checks shall be documented, and supporting results attached, in the employee's personnel record. Specific information related to Child Protective Services findings and records involving an applicant shall be maintained in the confidential section of the official personnel record.

(g) All facilities will make every effort to contact all prior institutional/facility employers for information related to substantiated allegations of sexual abuse or any resignation that occurred during a pending investigation of an allegation of sexual abuse. In addition, any reported history of sexual harassment will be considered when determining whether to hire or promote employees.

(h) No person whose fingerprint results, criminal history assessment, or other screenings as provided in this section indicated a prior criminal history which would preclude the individual from working with children pursuant to state law shall be permitted to be employed as a staff member, volunteer, or director.

(i) With the exception of those offenses listed in T.C.A. § 37-5-511 (2014 and as amended), the Department may waive any prior conviction disclosed in an application for employment or for other positions as provided in this section that is determined not to pose a safety risk to the youth located at the facility either by the nature of the conviction, by mitigating circumstances, by the time elapsed since the crime/conviction, or the severity of the charge.

(j) All waivers shall be submitted in writing and entered in the official record of the facility. This written document shall include the justification for the waiver and any official documentation that supports the request. All waivers shall be reviewed by the Department's licensing office and approval or denial will be granted within five (5) business days from receipt of the waiver request and all pertinent documentation.

(k) Waivers shall not be granted for convictions resulting from criminal proceedings that involve capital offenses or the neglect or abuse of children or any persons, for substantiation of abuse or neglect of children or any persons from investigations by state agencies, or for any other offense the Department finds to present a threat to the health, safety, or welfare of children. No applicant will be hired or promoted who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution as defined in 42 U.S.C. § 1997.

(l) A copy of any waivers granted by the Department shall be maintained in the employee's personnel record.

(8) Staff Development:

(a) Juvenile Detention Centers:

1. Each juvenile detention center shall be required to provide personnel a minimum of forty (40) hours of pre-service training before a staff member assumes individual job responsibilities. All staff members who have not received this forty (40) hours of training shall not have unsupervised access to incarcerated youth. There shall be documentation of topics covered, dates administered, and class roster. Topics shall include, but are not limited to:

(i) Hostage policy;

(ii) Crisis Management/Emergency Planning;

(iii) Admission and release;

(iv) Indicators of mental illness and potential for suicide, including staff response to attempted suicide;

(v) Professional ethics and standards of conduct;

(vi) Cultural diversity;

(vii) Rights of detainees;

(viii) Behavioral observation and recording;

(ix) Confidentiality;

(x) Universal Safety Precautions and infectious diseases; and

(xi) Medical and mental health needs of youth.

2. All juvenile detention center staff whose duties include the supervision, custody, or treatment of youth shall be required to complete an annual in-service program designed to instruct them in specific skill areas of operation. This annual in-service shall consist of a minimum of forty (40) hours of training to be approved and monitored by the Department. During the staff member's first year, these forty (40) hours of in-service shall be in addition to the required forty (40) hours of pre-service. Training received through curricula such as law enforcement, PREA compliance, and other similar fields may be used to meet these requirements. Annual training shall include, but is not limited to, the following:

(i) Use of force, including approved manual restraint techniques, chemical defense agents, and mechanical restraints;

(ii) Security procedures;

(iii) Purpose of the facility;

(iv) Operating policies and procedures of the facility;

(v) Sexual abuse and sexual harassment prevention, detection, and response. Curricula and/or other training materials used in compliance with federal PREA guidelines shall fulfill this requirement;

(vi) Verbal de-escalation techniques;

(vii) Federal mandates, including PREA and Title VI;

(viii) Medication maintenance and administration, for designated staff;

(ix) All local policy and procedure associated with the facility.

3. Direct care staff and supervisory staff assigned to work at the facility shall be trained annually in First Aid and CPR. Direct care staff shall not be required to become certified, but any related training should be documented. Approved First Aid and CPR training shall meet the following provisions:

(i) The curriculum shall conform to current American Heart Association or American Red Cross guidelines;

(ii) The curriculum shall require hands-on, skill-based instruction, as well as written and practical testing; and

(iii) The instructor shall be qualified and authorized to teach the curriculum and shall be certified by a nationally recognized organization.

4. Basic medical training shall be provided annually to all direct care staff and should include, but is not limited to:

(i) Skills development for response in emergency situations;

(ii) Transfer to appropriate medical provider;

(iii) Recognition of symptoms of illness most common to youth;

(iv) Medication administration;

(v) Confidentiality of medical records and information (HIPAA); and

(vi) Universal precautions.

5. All juvenile detention center staff members who are authorized in the use of force, including approved manual restraint techniques, chemical defense agents, and mechanical restraints shall receive annual in-service training in their use. All such training shall be recorded with the dates completed and maintained in the staff member's personnel training record.

6. Each juvenile detention center shall maintain records on the specific training, including credit hours, completed by each juvenile detention center staff member.

7. Each juvenile detention center shall ensure that there is written policy that requires individuals who work with both youth and adult inmates in co-located facilities to be specifically trained and approved to work with youth.

(b) Temporary Holding Resources:

1. Each temporary holding resource shall be required to provide full and part-time staff a minimum of sixteen (16) hours of pre-service training pertaining to security, facility operations, and interacting with youth before a staff member assumes unsupervised individual job responsibilities. All staff members who have not received this sixteen (16) hours of training shall be accompanied at all times by a fully trained staff member until these training requirements are met. Each full and part-time staff member shall receive a minimum of an additional nine (9) hours of instruction over the course of the first year of employment. This training can be provided during the course of the employee's routine execution of job responsibilities wherever necessary. However, there shall be documentation of all topics and dates covered. All full and part-time staff members shall subsequently receive a minimum of twenty (20) hours of instruction annually. Topics shall include, but are not limited to:

(i) Hostage Policy;

(ii) Crisis Management/Emergency Contingency Plan;

(iii) Use of force, including approved manual restraint techniques and mechanical restraint;

(iv) Admission and release;

(v) Security procedures;

(vi) Proper administration of CPR, first aid, and medications;

(vii) Indicators of mental illness and potential for suicide;

(viii) Professional ethics and standards of conduct;

(ix) Cultural diversity;

(x) The purpose of the facility;

(xi) Operating policies and procedures of the facility;

(xii) Rights of detainees;

(xiii) Behavioral observation and recording;

(xiv) Confidentiality;

(xv) Sexual abuse and sexual harassment prevention, detection, and response. Curriculum and/or other training materials used in compliance with federal PREA guidelines shall fulfill this requirement;

(xvi) Verbal de-escalation techniques;

(xvii) Universal Safety Precautions and infectious diseases;

(xviii) Medical and mental health needs of youth; and

(xix) Federal mandates, including PREA and Title VI.

2. The administrator, as well as each full-time staff who directly supervises youth, must receive after the first year of employment a minimum of twenty (20) hours of in-service training related to the administration and operation of a temporary holding resource. Training received through other curricula such as law enforcement, PREA compliance, and other similar fields can be used to meet these requirements.

3. All temporary holding resource staff members who are authorized in the use of force, including approved manual restraint techniques, chemical defense agents, and mechanical restraints shall receive annual in-service training in their use. All such training shall be recorded with the dates completed and kept in the staff member's personnel training record.

4. All staff members who directly supervise youth shall have specific training on proper techniques and implements to be used in removing a youth from a hanging situation. This training shall be provided in the staff member's pre-service array and on an annual basis.

5. Each temporary holding resource shall maintain records on the specific training, including credit hours, completed by each temporary holding resource staff member.

6. Each temporary holding resource shall ensure that there is written policy that requires individuals who work with both youth and adult inmates in co-located facilities to be specifically trained and approved to work with youth.

(9) Volunteers:

(a) For the purposes of this section, volunteers are defined as individuals providing services twenty (20) hours or more per week to youth.

(b) The facility shall establish an application and screening process to ensure that all prospective volunteers are of sufficient character and competence as to meet the facility's needs. Only those individuals how have been properly vetted pursuant to the procedure required by this rule for prior criminal behavior, either through the organization or by the facility, may have direct access to the youth.

(c) The facility shall provide an ongoing training program and orientation to the philosophies and practices specific to the facility to each volunteer within the facility. Within two (2) weeks of being admitted to the facility's program as a volunteer, the new volunteer shall receive orientation and instructions related specifically to child abuse detection, reporting, and prevention, and confidentiality. This training shall be documented in the individual's volunteer record.

(d) Paid staff members shall adequately supervise all volunteers.

(e) The facility shall maintain an individual personnel record, including the application to participate as a volunteer; the results of the screening process; documentation of orientation and training, including child abuse prevention training; a declaration of good health; and three (3) letters of reference obtained by the facility prior to allowing the volunteer to have direct contact with youth. The facility shall maintain this documentation in the facility records.

(f) Faith and community-based organizations providing volunteer services to the youth of less than twenty (20) hours per week shall meet such requirements as established by the administrator or facility administrator.

(10) The facility shall ensure that all prospective and current employees, volunteers, and other persons having access to youth in care shall be appropriately screened for prior criminal behavior and/or abuse history. All background checks shall be conducted and documented according to requirements developed by the Department.

Authority: T.C.A. §§ 37-5-105; 37-5-106; and 37-5-501, et. seq.

Rule 0250-04-08-.05 Service Provision is amended by deleting the text of the rule and substituting instead the following language, so that as amended, the rule shall read:

(1) Hygiene

(a) The standard clothing issue for both males and females held in the facility longer than twenty-four (24) hours shall include the following:

1. Clean socks;

2. Clean undergarments, including safety approved bras for females;

3. Clean outer garments; and

4. Clean footwear.

(b) Clean personal clothing, if available, may be substituted for facility clothing at the discretion of the facility administrator.

(c) Clothing, whether personal or institutional, shall be exchanged and cleaned at least twice weekly unless work, climatic conditions, or illness necessitate more frequent change. Undergarments shall be exchanged daily.

(d) Provisions shall be made so that youth can regularly obtain the following hygiene items supplied by the facility:

1. Soap and shampoo;

2. Toothbrush;

3. Toothpaste;

4. Comb or brush;

5. Toilet paper;

6. Feminine hygiene materials; and

7. Deodorant.

(e) Haircuts for youth who request them shall be made available at a minimum on a monthly basis.

(f) Youth shall be permitted to brush their teeth twice a day and take a hot shower daily on a schedule established by the facility between the hours of 5:00 AM and 11:00 PM. Youth shall be allowed at least five (5) minutes to shower and shall be provided privacy to shower in single-occupancy stalls with shower curtains or shower doors.

(g) Each youth who remains placed in the facility overnight shall be provided the following:

1. One (1) clean fire-retardant mattress in good repair;

2. One (1) clean mattress cover;

3. One (1) clean fire-retardant pillow in good repair with pillowcase. Mattresses with incorporated pillows are acceptable and an additional pillow does not need to be provided;

4. Sufficient clean blankets to provide comfort under existing temperature conditions;

5. One (1) clean bath-size towel; and

6. One (1) clean washcloth.

(h) An adequate supply of bedding and towels shall be maintained. Bedding shall be cleaned as follows:

1. Sheets, pillowcases, mattress covers, and towels shall be changed and washed at least once a week.

2. Bedding shall be disinfected after use by each youth.

3. Blankets shall be laundered or otherwise sterilized before re-issue.

(2) Programs and activities

(a) Basic services shall be available to all youth as soon as they are admitted. Programmatic offerings shall be made available to all youth in juvenile detention centers within twenty-four (24) hours of their admittance to the facility. The facility shall provide or make available the following minimum services and programs to all admitted youth:

1. Educational Services;

(i) Youth who are certified for special education upon admission are referred to the Director of Special Education of the school system in which the juvenile detention center is located.

(ii) Each juvenile detention center shall work with the appropriate LEA where the juvenile detention center is located in order to ensure general education services are provided to the youth in accordance with properly promulgated Department of Education or State Board of Education rules.

(iii) The juvenile detention center shall provide a secure setting for the education of the students. This space shall be adequate in size and conducive to instruction for the number of students required to be educated at the center.

(iv) The juvenile detention center shall provide appropriate staff to ensure the safety of students and LEA staff in the center.

(v) The juvenile detention center will accommodate any announced or unannounced monitoring by the Department of Education by making space available for the monitoring and appropriate staff available to answer any questions.

(vi) Participation in the education program cannot be used as a reward or consequence. If a youth is exhibiting behavior that would make it unsafe for them to be in the classroom, the juvenile detention center and the LEA must work together to determine how educational services can be provided.

2. Access to mental health counseling, substance use counseling, and crisis intervention services, as needed;

3. Medical services;

4. Food services;

5. A recreation and leisure-time plan for a minimum of two (2) hours a day that includes, but is not limited to:

(i) At least one (1) hour per day of physical exercise and large muscle activity outside the room. This should occur outdoors as weather and circumstances permit;

(ii) At least one (1) hour per day of structured leisure-time activities; and

(iii) Restrictions may apply if the youth poses a risk to themselves or others. Any restrictions for a youth's recreation and leisure-time plans shall be documented in the youth's file for each occurrence.

6. Culturally diverse reading material approved by the facility; and

7. The facility shall allow for youth to voluntarily participate in religious activity at least once a week so long as security is not compromised.

(b) Every youth shall have unrestricted and confidential access to the courts, legal representation, assigned caseworkers, child abuse hotlines, and law enforcement. Youth shall have the right to present any issue before a court of law or governmental agency.

(c) Youth shall not be permitted to perform any work prohibited by state and federal regulations and statutes pertaining to child labor or perform duties normally done by staff members due to inadequate staffing.

(d) Work assignments shall not conflict with the education program.

(e) Youth eighteen (18) years of age shall not be housed in the same sleeping areas (bedrooms) as youth under the age of eighteen (18). Programmatic segregation of eighteen (18) year-old youth in other areas and activities shall be at the discretion of the facility administrator.

(f) The administrator, facility administrator, or the facility administrator designee shall have discretion in making appropriate arrangements, either upon admission, or in response to circumstances within the milieu, for the protection of vulnerable youth. This may include temporary protective measures in both sleeping arrangements and common activities. Such arrangements shall be time-limited and justification for such arrangements shall be noted in writing by the administrator, facility administrator, or the facility administrator designee and placed in youth's file.

(3) Mail, Telephone Access, and Visitation

(a) Written policy shall outline the facility's procedures governing youth's mail, including the censoring of mail. Any regulation for censorship shall meet the following criteria:

1. The regulation shall further an important and substantial security interest unrelated to the suppression of expression (e.g., detecting escape plans which constitute a threat to the safety or well-being of staff or other youth); and

2. The limitation shall be no greater than is necessary to the protection of the particular security interest involved.

(b) Incoming mail shall be inspected for contraband items prior to delivery. Mail received from the courts, attorney of record, or public officials shall be delivered unopened in the presence of the youth.

(c) Outgoing mail shall be collected and incoming mail shall be delivered without unnecessary delay.

(d) A youth shall be notified if a letter is rejected, whether it is written by or addressed to the youth. Only correspondence to or from those persons on contact lists approved by the administrator or their designee shall be allowed.

(e) When a letter is rejected, policy and procedure shall provide an opportunity for the youth to appeal that decision to the administrator, facility administrator, or the facility administrator designee.

(f) Written policy and procedure shall provide that the facility permits postage for at least two (2) free personal letters per week for youth. Youth shall also receive free postage for all legal correspondence or case-related mail.

(g) Written policy shall define the facility's visitation policies, which shall include, at a minimum:

1. A schedule of visitation times and length of visitation allowed;

2. The maintenance of a visitors log;

3. Provision that all visitors shall register before admission and may be denied admission for refusal to register, for refusal to consent to search, or for any violation of posted facility rules; and

4. Notification of the possibility of visitor searches.

(h) Juvenile Detention Centers shall have written policy which provides that the Juvenile Detention Centers shall allow a minimum of one (1) hour of visitation each week for each youth with their parent, legal guardian, or other approved family members unless specifically prohibited by court order. This does not preclude visitation by other approved persons at the discretion of the Juvenile Detention Center. Restrictions may be imposed if the youth is determined to pose a risk to themselves or others.

(i) Temporary Holding Resources shall have written policy that provides that the Temporary Holding Resources shall allow each youth to visit with their parents or guardian at least once a day between 12:00 noon and 6:00 p.m. unless visitation is specifically prohibited by court order. Other visitors or hours of visitation shall be approved by the Temporary Holding Resource administrator or juvenile court judge.

(j) Juvenile Detention Centers shall have written policy and procedure which requires the Juvenile Detention Centers to provide reasonable telephone access that, at a minimum, shall consist of one (1) personal phone call per week. Additionally, each youth shall be afforded at least ten (10) minutes of phone conversation per week. Such procedure, including any limitations imposed by the program, shall be in writing and posted in an area conspicuous to youth. The procedure shall include, at a minimum:

1. The hours during which such access shall generally be provided; and

2. A statement regarding the privacy of telephone communication.

(k) Temporary Holding Resources shall have written policy which provides that each youth shall be allowed to receive up to two (2) telephone calls a day from their parent(s) or legal guardian during the hours of 8:00 a.m. and 9:00 p.m. unless specifically prohibited by court order.

(4) Food Services

(a) Current food service guidelines and a menu approved by a registered dietician or nutritionist shall be used in all meal preparation whether meals are prepared on or off-site. Food of adequate quality and quantity must be served and shall meet the caloric intake guidelines for youth as recommended by the USDA.

(b) Three (3) meals and a substantial evening snack shall be provided daily with no more than a fourteen (14) hour span between the evening meal and breakfast on the following day. At least two (2) of these meals shall be hot.

(c) All meals prepared onsite shall be under the direct supervision of facility staff. Any meals prepared off-site and delivered to the facility shall be served expeditiously to maintain safe serving temperature and palatability.

(d) Written policy and procedure shall require that accurate records are maintained on the number of meals served per day, the actual food served, and the scheduled mealtimes.

(e) Withholding of meals or mandated supplemental snacks shall not be used as punishment. Such action is grounds for adverse licensing action. Food may only be used as a reward when offered in addition to the minimum requirements established in 0250-04-08-05(4)(b).

(f) All medically modified diets of youth shall be prepared and offered as prescribed by a physician, nurse practitioner, and/or recommended by a registered dietician or nutritionist. Special provisions shall be made to accommodate religious diets requiring modification and shall be documented for review by licensing staff.

(g) The preparation or storage of food shall not be permissible in any residential areas of the facility. All food preparation and storage shall meet current Tennessee Department of Health guidelines.

(h) Proper storage of food shall assure that there shall be no contamination of the food from any source. Insecticide, cleaning agents, and poisonous substances shall be stored away from food and plainly labeled. Airtight containers or wrappings shall be used in the storage of frozen, refrigerated, and perishable items. The facility shall utilize "first in/first out" rotation in the storage of all food products.

(i) The temperature of potentially hazardous food shall be 41°F or below or 135°F or above at all times except as otherwise provided in the current edition of the ServSafe Manager Book.

(j) All refrigerators and freezers shall be clean and contain a thermometer. The temperature shall be maintained at 41°F or below in all refrigeration units. The temperature shall be maintained at 0°F for all freezer units. Fluctuation in temperatures from incidental use shall not be considered noncompliant. The temperature for the dry storage area should be between 50°F to 70°F.

(k) No medication of any kind shall be stored in refrigerators containing food products.

(l) All food products shall be stored at least six (6) inches off the floor.

(m) Stoves shall be equipped with operable hooded exhaust systems and the filters shall be kept clean. Hoods shall be inspected twice yearly and inspections documented for licensing review.

(n) A system for the control and disposal of all sharps and chemicals shall be documented in policy and observable in practice.

(5) Disciplinary Hearings and Appeals in Juvenile Detention Centers

(a) The facility's written policies shall provide for disciplinary hearings to be held in cases of alleged violations of youth conduct rules within five (5) business days of the write-up if the youth is still in the facility, excluding holidays, weekends, and emergencies. Facilities shall document that youth have been made aware of these policies upon admission. The disciplinary hearings shall include the following administrative guarantees:

1. Youth shall receive written notice in their language of charges and time of hearing at least twenty-four (24) hours prior to the hearing. The youth shall be allowed to prepare for the appearance before an impartial officer or board.

2. A youth has the right to call and cross-examine witnesses and present evidence in their own defense, when permitting them to do so shall not be unduly hazardous to institutional safety or correctional goals.

3. The reasons for any limitations placed on testimony or witnesses shall be stated in writing by the hearing chairperson.

4. There shall be a written statement by the fact finders as to evidence relied on and reasons for the disciplinary action.

5. An appeals process shall be established if the youth disagrees with the decision of the board or impartial officer, and the youth shall be given notice of their right to appeal.

6. A youth has a right to waive a hearing or appeal. If the youth chooses to waive a hearing or appeal, the waiver shall be documented in writing in the youth's file.

(b) The youth shall receive a written copy of the disciplinary decision.

(c) The facility shall document appropriate measures have been taken to ensure any youth who is unable to read, has limited reading proficiency, or who is designated as having Limited English Proficiency (LEP) has been made aware of all notices, rights, and disciplinary policies in a manner that ensures comprehension by the youth. Youth designated as having LEP shall be provided documentation in their native language.

(d) The administrator or administrator designee shall provide notification, either by phone or in writing, of major disciplinary actions or incidents involving use of seclusion, restraint, chemical defense agents, or other like incidents involving the youth to the youth's parent, legal guardian, or custodian. Notifications made to parents, guardians, or custodians shall be documented in the youth's file.

(e) Documentation of major disciplinary action shall be maintained in the youth's record and facility's record and made available for review by a youth's parent, custodian, legal guardian, legal counsel, or other appropriate party in the event of an inquiry.

(f) Written policy and procedure shall provide that the relevant disciplinary reports are removed from all files of any youth found not guilty of an alleged violation.

(6) Grievance Procedures in Juvenile Detention Centers

(a) The facility shall provide more than one method to report abuse, neglect, harassment, and retaliation by other youth or staff within the facility. Documentation related to incidents included in the Prison Rape Administration Act (PREA) shall be maintained in accordance with those standards and be made available for review.

(b) The facility shall provide avenues for youth to report abuse, neglect, harassment, or retaliation to a public or private entity or office that is not part of the agency that operates the facility, such as the public defender's office, attorneys, the courts, the child abuse hotline, local law enforcement, child welfare agencies, and the Office of Child Welfare Licensing. These entities shall be able to receive and immediately forward youth reports of sexual abuse and sexual harassment to administrative officials within the facility and to allow the youth to remain anonymous upon request.

(c) The facility's opportunities for reporting abuse, neglect, harassment, and retaliation shall include ways to report orally, in writing, anonymously, and by third parties.

(d) Staff shall provide all youth with access to a grievance procedure that provides an opportunity for a fair consideration and resolution of complaints about any aspect of the facility, include medical and mental health services.

(e) Staff shall ensure that youth understand how to use the grievance process and that youth can obtain and submit grievance forms confidentially. Staff shall provide youth with writing implements to fill out the forms.

(f) The facility's grievance system shall be accessible to all youth, including youth with limited literacy, youth who have limited English proficiency, and youth with intellectual or developmental disabilities. Staff shall ensure that:

1. Youth with intellectual disabilities, developmental disabilities, or limited literacy or limited English proficiency receive oral explanations of the grievance process that they can understand;

2. Grievance forms shall use easy-to-understand language and shall be simple in their design;

3. Youth shall be able to report grievances orally and in writing; and

4. Youth with intellectual disabilities, developmental disabilities, or limited literacy or English proficiency receive assistance in using the grievance process.

(g) Once submitted by youth, grievances shall be forwarded to the administrator, facility administrator, or designee. Grievances shall be handled by an individual who can independently investigate the issues raised in the grievance and recommend corrective action to the administrator, facility administrator, or the facility administrator designee. Youth shall be permitted to submit a grievance without submitting it to a staff member who is the subject of the complaint.

(h) The facility shall offer an emergency grievance procedure for youth who are at risk of imminent harm. The emergency grievance procedure shall allow for rapid response to needs identified through emergency grievances.

(i) The facility shall not impose time limits on when youth can file grievances.

(j) Staff shall not discipline youth for filing a grievance, even if an investigation does not establish sufficient evidence to substantiate the complaint. Discipline does not include appropriate legal action taken by the facility administration to address false allegations of abuse or similarly harmful activity.

(k) The facility shall permit interested third parties, including family members, attorneys, and outside advocates, to file grievances on behalf of youth.

(l) The facility shall provide information to third parties on how to submit grievances on behalf of youth.

(m) Facility staff, administrators, ombudspersons, or other personnel will fully investigate all grievances, including interviewing the youth who filed the grievance and any youth or staff members mentioned by the youth. Staff alleged to be involved in the grievance shall not conduct the investigation.

(n) Youth shall receive written responses to their grievances that are respectful, legible, and responsive. The facility shall document appropriate measures have been taken to ensure any youth that is unable to read, has limited reading proficiency, or who is designated as having Limited English Proficiency (LEP) have had the grievance procedure and responses to grievances explained in a manner that ensures comprehension by the youth. Youth designated as having LEP shall be provided the grievance procedure and responses to grievances in their native language.

(o) Staff shall provide youth with an opportunity to appeal the decision regarding the grievance. Administrators or the administrator designee charged with handling appeals shall respond to appeals promptly and fairly.

(p) If staff finds a grievance to be valid, the administrator or the administrator designee shall take appropriate action and when staff actions are involved, provide for counseling, retraining, reprimand, discipline, or termination of the employee, and, in appropriate cases, for the filing of child abuse or other criminal charges.

(q) Facility staff, administrators, or other personnel shall fully document all grievances and the results of grievance investigations.

(r) Facility administrators shall regularly gather and review data on grievances, both granted and denied, by race, ethnicity, gender, developmental and intellectual disability, mental illness, special education status, and Limited English Proficiency status for patterns or trends.

(s) All staff shall report any allegation of child abuse or neglect as mandated by T.C.A. § 37-1-403.

Authority: T.C.A. §§ 37-5-105; 37-5-106; and 37-5-501, et. seq.

Rule 0250-04-08-.06 Medical Services is amended by deleting the text of the rule and substituting instead the following language, so that as amended, the rule shall read:

(1) When a youth requires medical care, the facility staff shall transport or arrange for transportation of the youth to a medical facility. If a youth needs urgent or emergency care, facility staff shall immediately transport the youth to the nearest or designated urgent care clinic or hospital emergency care services. Diligent efforts shall be made to immediately notify the youth's parent or guardian. Medical complaints, diagnoses, treatment received, diligent efforts, and parental notification shall be documented.

(2) First aid kits shall be available to and fully accessible by staff. A licensed medical professional shall approve the number and contents of such kits. Documentation of such approval shall be in the facility's permanent records or attached to the kit itself and shall be renewed annually. Any perishable items, such as over the counter medications, topical ointments, eye washes, etc., shall be removed and replaced prior to listed expiration dates.

(3) Wellness/Health screenings shall be performed on all youth, in a confidential environment, upon admission to a juvenile detention center and before their placement in the general housing area. The findings shall be recorded on a printed or electronic screening form. The juvenile detention center staff member performing this duty shall inquire and check for evidence or appearance of:

(a) A serious illness or communicable disease or condition;

(b) Open wounds;

(c) Prescribed medications;

(d) Intoxication – alcohol or drug use;

(e) Pregnancy (last menstrual cycle);

(f) Physical or sexual abuse;

(g) Allergies;

(h) Past or current suicidal ideations and/or attempts;

(i) Mental health issues, including any prior mental health treatment;

(j) Recent significant loss, including but not limited to, the death of a family member or close friend;

(k) History of mental health diagnosis or suicidal behavior by family members and/or close friends; and

(l) Suicidal issues or mental health diagnosis during any prior confinement.

(4) A physical/health history examination shall be completed on all youth admitted to a Juvenile Detention Center within fourteen (14) days of their initial admission date unless documentation of such an examination dated within six (6) months prior to admission is available. A physician, nurse practitioner, or registered nurse shall perform this examination. This examination shall include:

(a) Monitoring of vital signs;

(b) Height and weight;

(c) Review of systems;

(d) Medical history; and

(e) Diagnoses and treatment recommendations as necessary.

(5) Sick call, conducted by a physician or other person designated by a physician as capable of performing such duty, shall be available to each youth admitted to a Juvenile Detention Center according to written triage procedure for the center. All sick call requests shall be documented and logged for review. These logs should reflect the date and time of the sick call request and any subsequent follow up. The youth shall be informed of these procedures upon admission. Triage policy and procedure, including documentation of access to emergency health services, shall be made available for review by licensing staff.

(6) Dental treatment shall be provided when the health of the youth would otherwise be adversely affected during confinement as determined by a physician or dentist.

(7) Youth on prescription medications shall, whenever possible, have their medications continued without interruption unless a qualified medical professional determines that continuing the medication is clinically inappropriate. Medication continuity decisions are made through a same-day evaluation by a physician, nurse practitioner, or psychiatrist or appropriate phone consultation between a nurse and a physician or psychiatrist, or sooner if medically necessary. The facility shall not administer any medications that are expired or not in original containers.

(8) There shall be strict control of medications to be issued to youth. All medication, with the exception of over the counter (OTC) medications, shall be prescribed by a physician or nurse practitioner. OTC medications may be administered by staff as provided by facility policy and procedure. A trained staff member shall be responsible to see that medication is only administered as prescribed. Any changes in medication orders shall be recorded on the youth's Medication Administration Record (MAR).

(9) All medication shall be double locked within the medical area of the facility or other area approved by the Department's Office of Child Welfare Licensing. A medication receipt, log, and administration system shall be established. All prescription medications shall be counted upon receipt and a running count of all remaining prescribed medications shall be documented on an approved Medication Administration Record (MAR) including controlled medications and prescribed medications. The MAR should be completed each time medication is administered. Any missing medication, transcribing errors, and/or administration errors shall be reported to the facility administration immediately.

(10) Prescription medication that has been discontinued, expired, unidentifiable, or has a missing or illegible label shall not be used and shall be destroyed within forty-eight (48) hours of discovery. Disposal shall be witnessed by two (2) people and shall be completed according to FDA guidelines.

(11) A continuous inventory shall be maintained for syringes and other sharps. All used syringes and other contaminated material shall be disposed of in compliance with guidelines for disposal of bio-hazardous waste. All medication, including topical ointments, shall be checked monthly for expiration dates and expired medication shall be disposed of immediately.

(12) Medical records shall be maintained on each youth's physical condition upon admission, during confinement, and at discharge. The medical record shall include all medical orders issued by the physician and any other medical personnel who are responsible for rendering health care services. These records shall be retained until the youth's nineteenth (19th) birthday or until one year from the date of discharge, whichever is longer.

(13) In case of medical or mental health emergencies, specific resource information shall be readily accessible to all staff members including, but not limited to, local hospital emergency department, local physician's office, crisis intervention services, 911 or local emergency response, and poison control numbers. Contact information for parent, guardian, or family member of each youth shall also be readily available in case of emergency.

(14) Staff shall immediately place youth identified as needing further evaluation for suicide risk or other acute mental health conditions on constant observation until they can be formally assessed by a qualified mental health professional such as, but not limited to, a mobile crisis response unit. Staff shall promptly contact a qualified mental health professional to develop an emergency intervention plan for such youth. The qualified mental health professional shall conduct an assessment of the youth within twenty-four (24) hours. Only a qualified mental health professional may remove a youth from constant observation.

(15) Youth who are identified as requiring additional medical or mental health follow-up for reasons other than significant medical or mental health needs or suicide risk shall be immediately referred for an assessment by a qualified medical or qualified mental health professional, as appropriate.

(16) Youth who are identified as either a victim or perpetrator of sexual abuse shall be provided access to a qualified mental health profession within seventy-two (72) hours of the youth's identification as a victim or perpetrator.

(17) The facility shall develop and implement written policies, procedures, and practices, in conjunction with the health authority, that ensure sufficient supervision of youth identified with potential medical problems (e.g., diabetes, asthma) until the youth receives a full health assessment.

(18) Provisions for appropriate medical and prenatal care shall be made for pregnant youth.

(19) For youth in the custody of the Department, if health or behavioral health services are not provided directly by the facility, but received by the youth through community clinicians, the facility shall complete Form CS-0689, Health Services Confirmation and Follow Up Notification. The Health Services Confirmation provides information about the service that was received and notes any follow-up services needed. This form shall be maintained in the youth's record.

Authority: T.C.A. §§ 37-5-105; 37-5-106; and 37-5-501, et. seq.

Rule 0250-04-08-.07 Supervision of Youth is amended by deleting the text of the rule and substituting instead the following language, so that as amended, the rule shall read:

(1) Staff shall provide direct supervision of all youth in placement, including, at a minimum, the following levels of visual contact:

(a) All youth confined in their rooms due to seclusion or similar event or medical requirements shall be observed every fifteen (15) minutes.

(b) Youth who are actively violent or intoxicated shall be observed every five (5) minutes.

(c) Youth exhibiting or expressing suicidal behavior or ideation shall be under constant direct observation and the following procedures shall be followed:

1. Referral to appropriate and pre-designated mental health practitioner or mobile crisis unit shall be immediately made and documented;

2. Reasons for removal from the general population shall be documented;

3. Behavior of youth during this period shall be clearly documented every fifteen (15) minutes; and

4. Written authorization for release from constant supervision shall be made by a licensed and designated mental health professional or in accordance with internal facility protocol.

(d) All youth shall be monitored every fifteen (15) minutes for the first twenty-four (24) hours of their detention and at least every thirty (30) minutes thereafter until release. Monitoring intervals do not pertain to routine direct line-of-sight supervision; however, all such supervision shall be denoted as such.

(2) The time of all supervision checks shall be logged and the behavior of the youth shall be documented.

(3) The facility shall visually count youth and record the results at the beginning and end of each shift change.

(4) Incidents which involve or endanger the lives or physical welfare of facility staff or youth or which involve escape or attempted escape shall be documented and such documentation retained.

(5) A female facility staff member or law enforcement officer shall be available when there are female youth in the facility to conduct and document:

(a) Searches;

(b) Supervision of showers;

(c) Health checks; and

(d) Constant periodic observations as set out in Rule 0250-04-08-.07(1).

(6) Policies governing supervision of female youth by male staff and male youth by female staff shall be based on privacy needs and accepted legal standards. Except in emergencies, facility staff shall not observe residents of the opposite sex in toilet and shower areas, including such areas maintained in individual living units. Reasonable accommodation of privacy needs shall be consistently observed, and departure from these standards shall be documented for review by the Department's licensing office.

(7) Youth shall not supervise, control, assume, or exert authority over other youth.

(8) There shall be at least one (1) direct care staff for every eight (8) youth during waking hours and at least one (1) direct care staff for every sixteen (16) youth during sleeping hours. For facilities maintaining dorms or units, or otherwise physically separated populations of youth, the ratio will be met in each of these specific areas. In facilities housing over six (6) youth, there shall never be less than two (2) direct care staff on duty during times when youth are present at the facility. In facilities housing six (6) or less youth, a second staff member shall only be needed when youth are admitted to the facility, when youth are moved from secure locations into non-secure locations, or when restrictive behavior management becomes necessary. In such facilities, youth shall never be left without direct supervision of at least one (1) staff member.

Authority: T.C.A. §§ 37-5-105; 37-5-106; and 37-5-501, et. seq.

Rule 0250-04-08-.08 Physical Plant is amended by deleting the text of the rule and substituting instead the following language, so that as amended, the rule shall read:

(1) Facilities located under the same roof or on the same grounds as an adult jail shall meet the criteria for physical separation, outlined in T.C.A. §37-1-116(i) (2021 and as amended).

(2) The following minimum provisions shall be made by each facility:

(a) Sleeping areas shall be free from hazardous conditions that would facilitate suicide attempts or self-harm.

(b) All sleeping and activity areas shall have lighting of at least twenty (20) foot-candles to be measured three (3) feet off the floor. These measurements shall be taken and documented by an independent source, such as the state or local fire marshal, and shall be retested at least every three (3) years.

(c) All facilities shall have forced air ventilation in all sleeping and activity areas.

(d) Facilities constructed or beginning operation after January 1991 shall have access to natural light in sleeping areas.

(e) All facilities shall maintain a temperature between sixty-five (65) degrees Fahrenheit and eighty (80) degrees Fahrenheit in sleeping and activity areas.

(3) For new facilities, as defined in Rule 0250-04-08-.02(6), the minimum size of a single sleeping room shall be fifty (50) square feet of unencumbered floor space with a ceiling height of not less than eight (8) feet. All dimensions of room length and width for both single and multiple occupancy rooms shall allow for a reasonable amount of usable floor space for any in-room activities of youth and one wall measurement shall be at least seven (7) feet. Any issues pertaining to room dimensions shall be determined by the Department's licensing office. Each room shall contain a bunk, a toilet, and a sink/washbasin.

(4) Sleeping rooms in Juvenile Detention Centers shall not accommodate more than eight (8) youth. A minimum of thirty-five (35) square feet of unencumbered floor space for each youth shall be provided in such sleeping areas, with a ceiling height of not less than eight (8) feet. One wall measurement shall be at least seven (7) feet.

(5) Juvenile Detention Centers shall not house in excess of their number of permanent bed spaces by more than two (2) youth at any time. Any exception to compliance with this rule shall be noted in writing, shall include the administrator's or facility administrator's signature to verify administrative review, and shall not exceed seventy-two (72) hours in duration.

(6) New Juvenile Detention Centers shall have a dayroom for each cluster of rooms or at least one (1) common multi-purpose room for education, recreation, and other activities. The dayrooms or common room shall offer a minimum of thirty-five (35) square feet of floor space per youth. Existing facilities as of January 1, 2023 are exempt from this rule.

(7) All facilities shall provide operable toilets and washbasins to youth held in the facility at a ratio of at least one (1) toilet and washbasin to every eight (8) youth and one (1) toilet and washbasin accessible to occupants of any single-occupancy room without their having to leave their room.

(8) Facilities shall have at least one (1) operable shower for every sixteen (16) youth held in the facility, which shall be accessible to youth without having to leave their designated area.

(9) New Juvenile Detention Centers shall provide space inside the security perimeter, separate from living areas and administrative offices, for processing of youth as they are received and discharged from the facility. This space shall have the following components:

(a) Pedestrian sally port;

(b) Telephone facilities for detained youth to use;

(c) Temporary holding rooms which have fixed benches to seat youth; and

(d) A shower, toilet, and washbasin.

(10) Existing facilities shall provide space where youth are received, searched, showered, and issued clothing, if provided by the facility, prior to assignment to the living quarters.

(11) Provision shall be made for visitation areas.

(12) Provision shall be made for access to a private room to allow for discussion between clergy, attorneys, and others authorized by the juvenile court.

(13) Each new facility shall provide a secure outdoor recreation area with dimensions of at least thirty (30) feet by thirty (30) feet or an indoor recreation area of the same dimensions which has access to natural light.

(14) Space shall be provided where a health care professional may conduct sick calls, examine patients in privacy, and provide medical treatment.

(15) Every Juvenile Detention Center shall have a secure control center, staffed continuously, through which telephone and other communications are channeled. The location of the control center shall provide line of sight visibility or be equipped with a monitoring device. The control center shall monitor the operation of security and life safety systems.

(16) Drinking fountains with potable water shall be located in all sleeping and activity areas of new facilities. In existing facilities, if the water from washbasins is potable, it shall not be necessary to add drinking fountains, but sanitary drinking cups shall be available.

(17) An emergency power source shall be available to activate at times of power failure. This emergency power source shall have sufficient capacity to operate security and evacuation electrical devices and equipment and to provide minimum lighting within the facility and its perimeter. The power source shall be checked for functional readiness quarterly and the dates logged.

(18) Facilities using electric locks shall also ensure that those locks may also be opened manually.

(19) Each facility shall have exit signs at each exit which are distinctly marked and continuously illuminated. Exits shall be kept clear and in usable condition.

(20) Each facility shall be inspected and approved annually by the designated Fire Safety Authority and by representatives from the Tennessee Department of Health. The facility shall be in compliance with the applicable regulations and standards of these authorities, including the current Life Safety Code applicable to the facilities regulated hereunder in order to obtain or retain a license or approval to operate.

(21) All kitchens, dining rooms, and toilet areas shall contain operable floor drains.

(22) There shall be rooms to accommodate each Juvenile Detention Center's classification plan. Facilities that house both males and females shall have provisions to separate accordingly.

(23) Plans for any new facility construction or renovation shall be in compliance with minimum standards recorded herein and be submitted to the Department and the State Fire Marshal's office for review prior to the start of construction.

(24) Plans for any new facility construction or renovation shall include provisions for disabled persons to have access to all facilities and services.

(25) The use of padlocks and chains to secure housing areas is prohibited.

(26) Any facility changing classification (e.g., Temporary Holding Resource changing to Juvenile Detention Center) shall meet all requirements of the new classification.

(27) All glass in the facility (windows, vision panels, etc.) shall be safety glass. All new construction, after January 1, 1991, shall have all windows, vision panels, etc., made of a mar-resistant polycarbonate laminate.

(28) The maintenance of hardware-secure rooms in Temporary Holding Resources shall be optional, with a maximum of two (2) occupants. At least half of the rooms in the facility shall be non-secure.

(29) The use of suspended ceilings such as particle board or other materials is prohibited in hardware secure areas.

(30) Toilet and shower facilities shall not be directly monitored by staff members of the opposite sex.

Authority: T.C.A. §§ 37-1-116; 37-5-105; 37-5-106; and 37-5-501, et. seq.

Rule 0250-04-08-.09 Sanitation, Maintenance, and Life Safety is amended by deleting the text of the rule and substituting instead the following language, so that as amended, the rule shall read:

(1) Floors, walls, and ceilings throughout the facility shall be kept clean, dry, and free of any hazardous materials or substance. All plumbing fixtures shall be clean and sanitary.

(2) A member of the staff shall be assigned to make sanitation and safety inspections a minimum of once weekly. Times of inspections shall be documented and conditions noted.

(3) The facility shall provide for regularly scheduled disposal of waste and trash in accordance with local or state health regulations.

(4) The facility shall provide for control of vermin and pests and shall remove youth from treated areas if there is a risk of illness.

(5) The facility shall be kept free of pictures, graffiti, and gang signs.

(6) Written policy and procedure shall provide for each shift at a facility to have announced and unannounced fire drills at a minimum of every six (6) months. The date of these fire drills as well as participating staff and results shall be documented.

(7) The facility shall have a written and graphic evacuation plan posted in the living area, as well as any other specified locations.

(8) Written policy shall outline appropriate infection control procedures and the use of universal precautions.

(9) Facilities shall maintain Material Safety Data Sheets (MSDS) in all areas where harmful chemicals are stored. A MSDS shall be maintained for every chemical onsite whose original container contains precautionary wording in case of exposure or ingestion.

(10) All toxic or caustic chemicals with a National Fire Prevention Association (NFPA) hazardous rating of category two (2) or above shall be maintained in locked cabinets and inventoried weekly. All flammables shall be maintained in fire-resistant cabinets and inventoried weekly.

(11) All toxic or caustic chemicals maintained at full strength shall be stored in their original containers. Diluted chemicals may be maintained in spray bottles or other containers, but the contents shall be legibly annotated on the bottle.

(12) A facility shall remain in compliance with Life Safety Codes as determined by the State Fire Marshal or other approved authority.

(13) Safety glass in windows shall be inspected and replaced if cracked or broken.

Authority: T.C.A. §§ 37-5-105; 37-5-106; and 37-5-501, et. seq.

Rule 0250-04-08-.10 Security is amended by deleting the text of the rule and substituting instead the following language, so that as amended, the rule shall read:

(1) Procedure shall differentiate between the types of searches allowed (cavity, pat, or strip) and identify when these shall occur and by whom such searches may be made. All body cavity searches shall be executed by medical personnel. Youth shall be searched by facility staff of the same sex, except in emergency situations involving an immediate threat to the safety of the youth or others. All searches shall be documented.

(2) Protocols around key control shall be established, and the operator of the control center shall log, track, and document all keys issued for use, including duplicate keys. All temporarily issued keys shall be logged by ring and a separate log shall be maintained for all permanently issued keys. All day-to-day operations shall be centralized and controlled through the admissions/control center.

(3) There shall be one (1) full set of well-identified keys, other than those in use, secured in a place accessible only to facility staff for use in the event of an emergency.

(4) There shall be an observable and effective method to open individual cell doors in the event of an emergency and/or failure of electronic operating systems.

(5) Written policy and procedure shall require that all other related security and emergency equipment is inventoried and tested at least quarterly to determine its condition and expiration dates. This shall include regular inspection of smoke detectors and other detection and suppression systems, and monthly visual inspections of ABC type fire extinguishers with documentation of these checks maintained in the facility's records.

(6) All tools and other potentially dangerous supplies and equipment shall be stored in a locked fire-resistant cabinet located outside the secure perimeter of confinement areas.

(7) Written policy and procedure shall provide for routine inspection and maintenance of all locks.

(8) There shall be a written plan providing for continuing operations in the event of a work stoppage or other job action. Copies of this plan shall be distributed to all supervisory personnel, who are required to familiarize themselves with it.

(9) Accused or adjudicated delinquent offenders, status offenders, and non-offenders cannot have contact with adult inmates, including adult inmate trustees. Contact is defined to include any physical or sustained sight and/or sound contact.

Authority: T.C.A. §§ 37-5-105; 37-5-106; and 37-5-501, et. seq.

Rule 0250-04-08-.11 Restrictive Behavior Management is amended by deleting the text of the rule and substituting instead the following language, so that as amended, the rule shall read:

(1) "Restrictive Behavior Management" refers to any practice involving intervention techniques that attempt to guide, redirect, modify, or manage behavior through the use of restraint, seclusion, and/or use of chemical defense sprays.

(2) Restraint

(a) For the purposes of this section, "Restraint" is defined as any physical or mechanical intervention using physical force to cause a youth to comply with a directive or to control or change the youth's behavior.

(b) Physical restraint is a restrictive behavior management practice that poses a risk to the physical and/or psychological well-being of a youth and to the safety of staff members. Physical restraint shall only be used in an emergency safety situation when the youth, due to current behavior, poses an imminent risk of harm to self or others. This applies to all youth in the facility regardless of adjudication. Physical restraint shall not be used as a means of punishment, discipline, coercion, convenience, or retaliation, or to compensate for lack of staff presence or competency, or for any other reason than the prevention of the individual from self-harm or harming others.

(c) Mechanical restraint refers to the use of handcuffs and shackles, or other similar devices, and shall only be used to restrain youth who are alleged to be delinquent and meet the criteria for secure detention listed in T.C.A. § 37-1-114 (2021 and as amended). Mechanical restraints may be used for routine transportation or court activity, and waist belts are only permitted to be used for transportation. Mechanical restraints may only be used as a Restrictive Behavior Management practice to prevent immediate harm to self or others or for such time as it takes to subdue a youth for placement into a secure cell. Mechanical restraint shall not be used as a means of punishment, discipline, coercion, convenience, or retaliation, or to compensate for lack of staff presence or competency, or for any other reason other than the prevention of the individual from self-harm or harming others.

(d) Use of physical and mechanical restraint for the purposes of restrictive behavior management shall be restricted as follows:

1. Physical and mechanical restraint are emergency safety interventions, not therapeutic techniques, and shall be implemented in a manner designed to protect the youth's safety, dignity, and emotional well-being.

2. There shall be sufficient staffing to ensure appropriate supervision of all other youth while trained staff devote full time and attention to all uses and phases of physical and/or mechanical restraint.

3. For the purposes of restrictive behavior management, the use of physical or mechanical restraint shall only be allowed in the case of an emergency, when the youth is in imminent danger of self-harm or of harming others, and no other option exists to protect the safety of the youth and staff members. Physical and mechanical restraints shall never be used as punishment or as a disciplinary practice.

4. In a facility setting, physical or mechanical restraint may also be justified to prevent a clear and immediate escape attempt.

5. Clothing shall not be removed from a youth in conjunction with the use of physical or mechanical restraint, other than that which is determined to place the youth or others at risk.

(e) Training Requirements

1. All staff who use physical or mechanical restraint shall be trained prior to performing these interventions and annually thereafter by a certified trainer in a nationally recognized crisis intervention program. This training may be combined with training around other restrictive behavior management techniques.

2. The training shall involve a post-test and the observation of staff in practice to ensure competency.

3. Records of staff completion of training shall be maintained and made available to the Department's Office of Child Welfare Licensing upon request.

4. Training shall address pre-emptive practices and de-escalation techniques to avoid the use of restrictive behavior management techniques through a curriculum which shall include the following:

   (i) Recognizing aggressive and out-of-control behavior, psychosocial issues, medical conditions, emotional triggers, and other contributing factors that may lead to crisis;

   (ii) Understanding how staff behavior can influence the behavior of youth;

   (iii) Understanding the limitations of physical and mechanical restraint practices;

   (iv) Listening and communication techniques such as negotiation and mediation;

   (v) Involving the youth in regaining control and encouraging self-calming behaviors;

   (vi) Separation of individuals involved in an altercation;

   (vii) Voluntarily escorting the youth to a safe location;

   (viii) Voluntary time out to allow the youth to calm down; and

   (ix) Other non-restrictive methods to de-escalate and reduce episodes of aggressive and out-of-control behavior.

5. At the conclusion of training, staff shall demonstrate an understanding of:

(i) When it is appropriate to use a restrictive intervention such as physical or mechanical restraint

(ii) Safe use of physical or mechanical restraint including time limits;

(iii) Safe methods for escorting youth;

(iv) The experience of being placed in a physical or mechanical restraint;

(v) Signs of distress;

(vi) Response techniques to prevent and reduce injury;

(vii) Negative effects that can result from misuse of restrictive interventions;

(viii) Physical and mental status of the youth, including signs of physical distress;

(ix) Hydration needs of the youth;

(x) Readiness to discontinue use of the physical or mechanical restraint; and

(xi) Recognizing when medical or other emergency personnel are needed.

(f) Authorization and Initiation of Physical or Mechanical Restraint

1. The staff member initiating the physical or mechanical restraint shall contact the administrator, facility administrator, or their qualified designee to authorize the intervention either prior to the intervention, or if prior permission is impracticable due to the emergent nature of the situation, immediately following the intervention. While it is best practice to obtain this authorization prior to the intervention, this is not always possible when handling the types of emergencies requiring the use of physical or mechanical restraint.

2. Staff members may authorize physical or mechanical restraint only if they are supervisory-level staff who have completed all training requirements in compliance with this rule prior to authorizing physical or mechanical restraint and have been previously designated as having authority to make such decisions in an emergency setting by the administrator or facility administrator. In a Juvenile Detention Center, this shall be a shift supervisor or higher-ranking personnel. A list of all staff designated to approve physical or mechanical restraints shall be maintained by the administrator or facility administrator.

3. A new authorization is required if there is a change in the intervention utilized. If the use of physical or mechanical restraint has been discontinued, it may be used again only with a new authorization, even if a previously authorized time limit has not expired.

4. Authorizations for the use of physical or mechanical restraint are time-limited up to fifteen (15) minutes for youth aged nine (9) years and under, and up to thirty (30) minutes for youth aged ten (10) years and over. Physical or mechanical restraints lasting longer than the allowed time frames require clinical justification, which shall be obtained through direct evaluation of the youth by mobile crisis staff or other qualified clinical personnel for continuation and require a new authorization.

5. The re-authorization of interventions that exceed the initial time limits shall be from mobile crisis staff or other qualified clinical personnel. Physical or mechanical restraint can be authorized for up to an additional thirty (30) minutes, but not to exceed a total cumulative time of forty-five (45) minutes for youth aged nine (9) years and under and one (1) hour for youth aged ten (10) years and over.

6. Time- limited authorizations do not mean that the use of restrictive behavior management interventions shall be applied for the entire length of time for which the authorization is

written. Physical or mechanical restraint shall be used only for the minimum amount of time necessary.

(g) Monitoring and Assessment

1. A youth in a physical or mechanical restraint shall be assessed and monitored continuously by a properly trained staff member not actively involved in the restraint. If a second staff member is not present at the moment the restraint is initiated, staff shall immediately call for help so that another staff member may begin monitoring.

2. Physical or mechanical restraints shall be monitored by direct visual observation and staff shall remain in the immediate physical presence of and in the same room as the youth. Video monitoring may augment, but does not supersede, this requirement.

3. In addition to monitoring the youth on a continuous basis, staff shall assess the youth every fifteen (15) minutes and document:

   (i) Any harmful effects or signs of any injury associated with the intervention;

   (ii) Emotional status and comfort;

   (iii) Need for food, water, and use of bathroom facilities;

   (iv) Readiness to discontinue the intervention; and

   (v) Difficulty breathing and any other physical complaints that may signal the need to discontinue the intervention.

(h) Termination of Restraint and Follow-Up Assessment

1. A physical or mechanical restraint shall only be used for the minimum time necessary. These interventions shall be terminated when the behavior justifying their use no longer exists. Immediate release shall occur if there is any threat to the youth's physical or emotional well-being.

2. Within fifteen (15) minutes of initiation of restraint for youth aged nine (9) years and under, and within thirty (30) minutes of initiation of restraint for youth aged ten (10) years and over, the staff member authorizing the restraint shall assess the youth's condition and shall determine whether to continue the restraint. This assessment shall be conducted regardless of the length of time the youth is in the physical or mechanical restraint.

3 Whenever a youth is injured as a result of the use of physical or mechanical restraint, staff shall immediately obtain medical treatment for that youth. This shall be documented in the subsequent written incident report.

4. The youth and staff shall participate in a debriefing about the physical or mechanical restraint episode as soon as possible, but no longer than twenty-four (24) hours after the cessation of the intervention. The debriefing shall occur in a safe, confidential setting and shall be documented for content, time, and duration of debrief session. The debriefing with the youth and staff shall be used to:

   (i) Ascertain that the youth's physical well-being, emotional comfort, and right to privacy were addressed;

   (ii) Identify any trauma that may have resulted from the incident and identify services to address the trauma;

   (iii) Identify what led to the emergency safety situation and what could have been handled differently;

(iv) Facilitate the youth's reentry into routine activities;

(v) Supervisor and involved staff shall privately discuss what precipitating events led to the intervention, how the incident was handled, and discuss any necessary changes to procedures or training to avoid future incidents; and

(vi) When deemed necessary, a debriefing shall take place with any youth or other individuals who witnessed the incident, with an emphasis placed on returning the environment to pre-incident condition and resuming the normal program routine.

(i) Notification and Documentation

1. Documentation shall include the following:

(i) A clear description of the events and behavior leading to the initiation of the physical or mechanical restraint, including the specific risk of harm presented by the youth;

(ii) A description of attempts by staff to prevent and de-escalate the youth prior to utilizing physical or mechanical restraint;

(iii) Documentation of approval from administrator, facility administrator, or authorized designee

(iv) Names, race, and custodial status of the youth involved;

(v) Names of staff members involved

(vi) The duration of the restraint including, start and end times of intervention;

(vii) Verification of continuous observation and fifteen (15) minute checks;

(viii) A description of all injuries, if any, that occurred because of the intervention and any medical attention provided for the youth's injuries; and

(ix) Documentation that describes time, date, and a brief description of debriefing with youth.

2. The youth's parents or legal guardian shall be notified of the occurrence of any physical or mechanical restraint. The date and time of the parental notification shall be documented.

(j) Internal Review

1. The facility shall engage in ongoing performance improvement activities that focus on the reduction of the use of physical or mechanical restraint. Information obtained through the review processes shall be considered, at least quarterly, in the identification of specific performance improvement activities and in the evaluation of the effectiveness of performance improvement activities.

2. Facilities shall review data throughout the year to identify trends in use of restrictive behavior management techniques to reduce the use of physical or mechanical restraint.

3. The facility shall ensure that a routine process is in place to address the use of crisis intervention and physical or mechanical restraint in individual and/or group supervision with all direct service and clinical staff. Such supervision shall focus on analyzing individual interventions as well as patterns of intervention to identify ways to increase the effective use of prevention methods and further reduce the use of physical or mechanical restraint.

(3) Exclusions and Prohibitions to Restraint

(a) The following practices are not considered as restrictive behavior management:

1. Physical touch associated with prompting, comforting, or assisting that does not prevent the youth's freedom of movement or normal access to his or her body;

2. Physical escort through temporarily touching or holding a youth's hand, wrist, arm, shoulder, or back to induce the youth to walk to a safe location; and

3. Use of mechanical restraints for the purposes of court activity or routine transportation.

(b) The following physical and/or mechanical restraint practices are prohibited in all Tennessee Juvenile Detention and Temporary Holding Facilities:

1. Four-point restraints, including body wraps, restraint beds, and restraint chairs are strictly prohibited.

2. With the exception of temporary, short-term use for security during classification or preparation for transportation, youth are prohibited from being mechanically restrained to a fixed object.

3. With the exception of trained law enforcement personnel, the possession/use of tasers and related "less lethal" designated equipment is prohibited in any facility. Possession or use of such equipment by facility staff other than law enforcement personnel may result in immediate adverse licensing action.

4. "Chemical restraint" means the use of any psychoactive medication as a restraint to control the youth's behavior or to restrict the youth's freedom of movement and that is not a standard treatment for the youth's medical or psychiatric condition and is prohibited in any facility.

5. Restricting respiration in any way, such as applying a chokehold or pressure to a youth's back or chest or placing a youth in a position that is capable of causing positional asphyxia is prohibited.

6. Using any method that is capable of causing loss of consciousness or harm to the neck is prohibited.

7. Pinning down with knees to torso, head, and/or neck is prohibited.

8. Using pressure point, pain compliance, and joint manipulation techniques, other than an approved method for release of a chokehold, bite, or hair pull is prohibited.

9. Modifying restraint equipment or applying any cuffing technique that connects handcuffs behind the back to ankle restraints is prohibited.

10. Lifting a youth's arms behind the back, while in mechanical restraints, in a manner that is capable of causing injury to the shoulder is prohibited.

11. Using other youth or untrained staff to assist with the restraint is prohibited.

12. Securing a youth to another youth is prohibited.

(c) Pregnant youth shall not be placed in mechanical restraints, beginning on the date on which a pregnancy is known to facility staff and confirmed by a healthcare professional.

1. This prohibition does not apply if:

(i) A pregnant youth is restrained solely by handcuffs in front of her body during internal escort or at any time outside of the facility.

(ii) The youth is determined to be an immediate and credible flight risk that cannot reasonably be prevented by other means;

(iii) The youth poses an immediate and serious threat of harm to herself, the unborn child, or others that cannot reasonably be prevent by other means; or

(iv) A healthcare professional responsible for the health and safety of the youth determines that the use of restraints is appropriate for the medical safety of the youth or the unborn child.

2. If mechanical restraints are used pursuant to an exception under this section:

(i) Only the least restrictive restraints may be used necessary to prevent harm to the youth, unborn child, or others, or to prevent the risk of escape;

(ii) The restraints shall not be applied around the ankles, legs, or waist of a youth who is in labor or delivery, or to restrain a youth's hands behind her back; and

(iii) Within twenty-four (24) hours of using mechanical restraints, facility staff shall document in writing the extraordinary circumstances that warranted the use of mechanical restraints to ensure the safety and security of the youth, the unborn child, facility staff, or other incarcerated youth.

3. All youth potentially affected by this section must be advised of the requirements of this section upon admission to the facility and when known to be pregnant. The facility shall document appropriate measures to ensure that any youth who is unable to read, has limited reading proficiency, or who is designated as having Limited English Proficiency (LEP) have been made aware of these requirements in a manner that ensures comprehension by the youth. Youth and parents designated as LEP shall be provided documentation in their native language.

(4) Chemical Defense Agents

(a) For the purposes of this section "Chemical Defense Agent" refers to "pepper spray" or "oleoresin capsicum (OC) spray" and is further defined as a chemical mixture that contains capsaicinoids extracted from the resin of hot peppers and dispersed through an aerosol device. Chemical Defense Agents incapacitate subjects by inducing an almost immediate burning sensation of the skin; burning, tearing, and swelling of the eyes; and, when inhaled, inflammation of the mucous membranes of the respiratory tract.

(b) Facilities shall have written policy and procedures which govern the availability, control, and use of chemical defense agents. The policies shall include specific guidelines that determine the level of authority needed to access and use chemical defense agents and the procedures required to authorize their use. The policy should also include medical and/or decontamination procedures and administrative review that will be followed in all instances involving the use of a chemical defense agent. Chemical defense agents shall not be used as a means of punishment, discipline, coercion, convenience, or retaliation, or to compensate for lack of staff presence or competency, or for any other reason other than the prevention of the individual from self-harm or harming others.

(c) The use of chemical defense agents by staff in all Temporary Holding Resources is prohibited.

(d) Use of chemical defense agents for the purposes of restrictive behavior management should be restricted as follows:

1. The use of chemical defense agents is allowed only in the case of an emergency, when the youth is at imminent danger of self-harm or harming others and no other option exists to protect the safety of other youth and staff members. Every effort shall be made to protect the youth's safety, dignity, and emotional well-being during use.

2. There shall be sufficient staffing to ensure appropriate supervision of all other youth while trained staff devote time and attention to use of chemical defense agents.

3. If a second staff member is not present at the moment the intervention is initiated, staff shall immediately call for assistance so that another staff member may begin monitoring.

4. Only those staff designated by the administrator or facility administrator and trained in their use shall be authorized to deploy chemical defense agents. A list of all designated individuals permitted to deploy chemical defense agents shall be maintained by the administrator or facility administrator.

5. Effort shall be made to avoid cross-contamination of other youth or staff in the vicinity of the use of sprays. Such efforts will be documented in any subsequent incident reporting.

(e) Training Requirements

1. All staff authorized to use chemical defense agents shall be trained prior to performing these interventions and annually thereafter by a certified trainer in a nationally recognized crisis intervention program. This training may be combined with training around other restrictive behavior management techniques.

2. The training shall involve a post-test and the observation of staff in practice to ensure competency.

3. Records of staff completion of training shall be maintained and made available to DCS licensing upon request.

4. Training shall address preemptive and de-escalation techniques to avoid the use of chemical defense agents through a curriculum that includes the following:

   (i) Recognizing aggressive and out-of-control behavior, psychosocial issues, medical conditions, emotional triggers and other contributing factors that may lead to crisis;

   (ii) Understanding how staff behavior can influence the behavior of youth;

   (iii) Understanding the limitations of the use of chemical defense sprays;

   (iv) Listening and communication techniques such as negotiation and mediation;

   (v) Involving the youth in regaining control and encouraging self-calming behaviors;

   (vi) Separation of individuals involved in an altercation;

   (vii) Voluntarily escorting the youth to a safe location;

   (viii) Voluntary time out to allow the youth to calm down;

   (ix) Other non-restrictive methods to de-escalate and reduce episodes of aggressive and out-of-control behavior; and

   (x) Procedures for accurately documenting the incident for administrative review

5. At the conclusion of training, staff shall demonstrate an understanding of:

   (i) When it is appropriate to use chemical defense agents;

   (ii) Safe use of chemical defense agents;

   (iii) Signs of distress;

(iv) Response techniques to prevent and reduce injury;

(v) Negative effects that can result from misuse of chemical defense agents;

(vi) Physical and mental status of the youth, including signs of physical distress;

(vii) Hydration needs of the youth;

(viii) Appropriate decontamination techniques including need for immediate response;

(ix) Recognizing when medical or other emergency personnel are needed; and

(x) Procedures for accurately documenting the incident for administrative review.

(f) Authorization for Intervention Involving Chemical Defense Agents

1. The staff member initiating the use of chemical defense agents shall contact the administrator, facility administrator, medical director, or their qualified designee to authorize the intervention either prior to the intervention, or if prior permission is impracticable due to the emergent nature of the situation, immediately following the intervention. While it is best practice to obtain this authorization prior to the intervention, this is not always possible when handling the types of emergencies requiring the use of chemical defense agents.

2. Prior authorization, when possible, or subsequent authorization for the use of chemical defense agents may only be granted by staff who have completed all training requirements in compliance with this part prior to authorizing the use of chemical defense agents and have been designated as having authority to make such decision in an emergency setting by the facility administrator. This shall be a shift supervisor or higher ranking personnel. A list of individuals designated to approve the use of chemical defense agents shall be maintained by the facility administrator.

3. If the use of chemical defense agents has been discontinued, they may be used again only with a new authorization.

4. Chemical defense agents shall be used only for the minimum amount of time necessary.

5. Chemical defense agents maintained and used by facility staff are limited to Oleoresin Capsicum (OC) sprays and may not contain Mace.

6. A list of all staff members issued chemical defense agents or authorized in their use must be maintained and updated upon change of authorization status or employment.

(g) Treatment, Assessment, and Monitoring

1. Following the use of chemical defense agents, decontamination procedures and any necessary medical treatment shall be administered immediately to any persons exposed to chemical agents during the incident. Staff shall arrange for youth to be moved to an area offering fresh air and given a shower and change of clothing. All body parts exposed to Oleoresin Capsicum (OC) spray will be thoroughly rinsed with water. Staff shall assist youth in flushing eyes. Time of decontamination with relation to time of disbursement will be documented in the incident report. Rooms and other areas exposed to chemical defense agents will also be cleaned and decontaminated prior to occupancy.

2. The affected youth shall be assessed and monitored continuously by a properly trained staff member not directly involved in the deployment of chemical defense agents. The affected youth shall be monitored by direct visual observation and staff will remain in the immediate physical presence of and in the same room as the youth. Video monitoring shall not meet this requirement. Monitoring shall continue until symptoms abate to ensure medical attention is administered when necessary. Physical effects of exposure to OC sprays include: tearing, involuntary closing of eyes, redness of skin, coughing, gagging,

shortness of breath, or loss of motor skills or coordination. Monitoring of youth following exposure to chemical defense agents for up to two hours shall not be considered a seclusion event.

3. In addition to monitoring the youth continuously, staff shall assess the youth every fifteen (15) minutes for:

   (i) Any harmful health effects or signs of any injury associated with the intervention;

   (ii) Emotional status and comfort of the youth;

   (iii) The youth's need for food, water, and use of bathroom facilities; and

   (iv) Difficulty breathing and any other physical complaints that may signal the need for medical treatment.

4. Medical treatment shall immediately be obtained for a youth if:

   (i) The youth shows symptoms for more than thirty (30) minutes after decontamination;

   (ii) More than a slight reddening of the youth's skin occurs following exposure;

   (iii) The youth complains of inordinate pain or requests medical care following decontamination; or

   (iv) The youth has a known history of respiratory illness, allergies, or asthma.

(h) The youth and staff will participate in a debriefing about the episode as soon as possible, but no longer than twenty-four (24) hours after the intervention occurred. The debriefing will occur in a safe, confidential setting and will be documented for content, time, and duration of debrief session. The debriefing with the youth and staff shall be used to:

1. Ascertain that the youth's physical well-being was appropriately addressed;

2. Identify any trauma that may have resulted from the incident and identify services to address the trauma;

3. Identify what led to the emergency safety situation and what could have been handled differently;

4. Facilitate the youth's reentry into routine activities;

5. Supervisor and involved staff shall privately discuss what precipitating events led to the intervention, how the incident was handled, and discuss any necessary changes to procedures or training to avoid future incidents; and

6. When deemed necessary, a debriefing will take place with any youth or other individuals who witnessed the incident, with an emphasis placed on returning the environment to pre-incident condition and resuming the normal program routine.

(i) Notification and Documentation

1. Documentation shall include the following:

   (i) A clear description of the events and behavior leading to the initiation of the chemical defense agent, including the specific risk of harm presented by the youth;

   (ii) A description of attempts by staff to prevent and de-escalate the youth prior to utilizing the chemical defense agent;

(iii) Documentation of approval from administrator, facility administrator, or authorized designee;

(iv) Names, race, age, gender, and custodial status of the youth involved;

(v) Names of staff members involved;

(vi) Duration of the intervention, including start and end times of intervention;

(vii) Start and end times of decontamination of youth;

(viii) Verification of continuous observation and fifteen (15) minute checks;

(ix) A description of all injuries, if any, that occurred because of the intervention and any medical attention provided for the youth's injuries;

(x) A brief summary that describes the debriefing with the youth, including the date and time of debriefing; and

(xi) Weighing of spray canister(s) immediately after incident and compared to monthly baseline to note amount of spray used.

2. The youth's parents or legal guardian will be notified of any use of chemical defense agents. The date and time of the parental notification should be documented.

3. Documentation of the incident shall be submitted no later than the conclusion of the involved staff or shift supervisor's shift.

4. The use of chemical defense agents on a youth under the age of twelve (12) years of age will be documented, with emphasis on the necessity of using the chemical defense agent as opposed to de-escalation techniques and less restrictive intervention.

(j) Internal Review

1. The facility shall engage in ongoing performance improvement activities that focus on the reduction of the use of chemical defense agents. Information obtained through the review processes will be considered, at least quarterly, in the identification of specific performance improvement activities and in the evaluation of the effectiveness of performance improvement activities.

2. Facilities shall review data throughout the year to identify trends in use of restrictive behavior management techniques to reduce the use of chemical defense agents.

3. The facility will ensure that a routine process is in place to address the use of crisis intervention and use of chemical defense agents in individual and/or group supervision with all direct service and clinical staff. Such supervision will focus on analyzing individual interventions as well as patterns of intervention to identify ways to increase the effective use of prevention methods and further reduce the use of chemical defense agents.

4. An administrative review of each incident of the use of chemical defense will be conducted by the facility administrator. The facility administrator will document and sign that this review has occurred.

(k) Reasonable efforts must be made to remove a youth with documented or known respiratory conditions (including asthma, bronchitis, etc.) prior to the chemical defense agents being dispersed in any area in which the youth may be affected.

(l) Only the minimum amount of chemical defense agent will be used to control the youth's behavior. All canisters containing chemical defense agents will be weighed monthly and immediately

following each use. Documentation of both routine inspection and incidental use will be documented for administrative review by the licensing staff or facility administrator.

(m) Written policy and procedure shall require that chemical defense agents are inventoried monthly and tested at least quarterly to determine their condition and expiration dates.

(n) Chemical defense agents will be stored in a locked cabinet inaccessible to youth when not issued or in use.

(o) Any intentional time lapse between the administering of chemical defense agents and subsequent appropriate decontamination or medical attention for punitive purposes is prohibited and subject to adverse licensing action.

(5) Seclusion

(a) "Seclusion" means the involuntary segregation of a child from the rest of the resident population regardless of the reason for the segregation, including confinement to a locked unit or ward where other children may be seen or heard but are separated from the child, but, for the purposes of this section, does not include the following:

(1) The segregation of the child for the purpose of managing biological contagion consistent with the centers for disease control and prevention guidelines, or for other medical reasons, including detoxification, at the discretion of the facility administrator. If the youth is segregated for other medical reasons, including detoxification, the medical reason leading to the segregation shall be documented in the child's file and made available for review.

(2) The segregation of a child for the purpose of managing suicidal behavior/suicidal ideation. Segregation of a youth for suicidal behavior/ideation shall be conducted as provided in Rule 0250-04-08-.07.

(3) The segregation of a vulnerable youth for the purpose of protection from harm by other detained youth. Such circumstances shall require approval by the facility administrator and shall include a safety plan to mitigate or prevent harm. Regular review of the safety plan will be conducted to determine whether continued segregation is necessary to protect the youth.

(4) Voluntary time-out involving the voluntary separation of an individual youth from others, and where the youth is allowed to end the separation at will.

(5) Temporarily securing youth in their rooms during regularly scheduled times, such as periods set aside for sleep or regularly scheduled down time, that are universally applicable to the entire population.

(6) Initial segregation of youth for classification upon admission. Segregation for this purpose shall not last longer than twenty-four (24) hours from the time of admission.

(7) The temporary segregation of a youth on an exigent basis due to attempted escape from the facility. Such circumstances shall require approval by the facility administrator, and information regarding the precipitating events is documented in the facility records. Such periods of segregation shall cease as soon as it is determined by the facility administrator or facility administrator's designee that the youth is no longer actively attempting escape.

(c) "Temporary" or "Temporarily" shall mean no more than two (2) hours.

(d) Seclusion shall not be used as a means of punishment, discipline, coercion, convenience, or retaliation, or to compensate for lack of staff presence or competency, or for any other reason other than the prevention of the individual from self-harm or harming others.

(e) Prior to using seclusion, staff shall employ less restrictive techniques, including verbal de-escalation of presenting behavior. Prior to the use of seclusion or immediately after placing a

youth in seclusion, staff shall explain to the youth the reasons for the action and the fact that he or she shall be released upon regaining self-control. Once the youth no longer presents a risk of imminent harm to themselves or others at the facility, the seclusion shall be terminated, and the youth shall be returned to the general population.

(f) Following a period of seclusion, the facility administrator may review the seclusion and authorize an additional two-hour period of seclusion if appropriate. The facility administrator shall not authorize more than two (2) subsequent periods of seclusion or more than six (6) total hours of seclusion within a twenty-four-hour period.

(g) Seclusion shall be provided only in a clean, dry, temperate location that is free of potentially hazardous conditions which might harm the youth or others. Rooms used for seclusion shall allow staff full view of the youth in all areas of the room. The room shall have the following qualities:

1. The room is lighted and well ventilated;

2. Light fixtures are screened or recessed, interior doorknobs are removed, and hinges are recessed;

3. The room is at least fifty (50) square feet in area;

4. The room is unfurnished and may have padding that is designed specifically for use in psychiatric or similar settings and approved by local health and fire authorities;

5. The room contains an observation window, the dimensions of which permit a youth to be in view regardless of where s/he is positioned in the room;

6. The room is inspected and approved under regulations adopted by the State Fire Marshal prior to usage; and

7. The room has reasonable access to water, toilet facilities, and hygiene supplies.

(h) An opportunity for administrative review with the youth shall be made available within twenty-four (24) hours of initial confinement for any seclusion event lasting more than two (2) hours. The administrative review shall be conducted by the administrator or the administrator designee and all proceedings shall be documented. During the administrative review, the youth will be given the opportunity to provide information to the administrator or the administrator designee about the seclusion event. A written copy of the documentation from the review shall be provided to the youth and the youth's parent or legal guardian. The facility shall document appropriate measures to ensure any youth who is unable to read, has limited reading proficiency, or who is designated as having Limited English Proficiency (LEP) has been made aware of all proceedings in a manner that ensures comprehension by the youth. Youth and parents designated as LEP shall be provided documentation in their native language.

(i) An incident report shall be completed within twenty-four (24) hours for any youth placed in seclusion lasting longer than two (2) hours.

(j) Youth placed in seclusion shall be offered reasonable access to services and shall be engaged in regularly scheduled programming unless they present an immediate threat to others.

(k) Authorization and Initiation of Seclusion

1. The staff member initiating the seclusion shall contact the facility administrator or qualified designee to authorize seclusion either prior to the intervention, or if prior permission is impractical due to the emergent nature of the situation, immediately following the commencement of the intervention. While it is best practice to obtain this authorization prior to the intervention, this is not always possible in some circumstances.

2. Staff members may authorize seclusion only if they are supervisory-level staff who have completed all training requirements in compliance with this part prior to authorizing

seclusion and have been designated as having authority to make such decisions in an emergency setting by the facility administrator. In a Juvenile Detention Center, this shall be a shift supervisor or higher-ranking personnel. A list of all individuals designated to approve seclusion shall be maintained by the administrator or facility administrator.

3. A new authorization is required if there is a change in the intervention utilized. If the use of seclusion has been discontinued, it may be used again only with a new authorization, even if a previously authorized amount of time has not expired.

4. Time-limited authorizations do not mean that the use of restrictive behavior management interventions shall be applied for the entire length of time for which the authorization is written. Seclusion shall only be used for the minimum amount of time necessary.

(l) Monitoring and Assessment

1. A youth in seclusion shall be assessed and monitored continuously.

2. In addition to monitoring the youth on a continuous basis, staff shall assess the youth every fifteen (15) minutes and document:

(i) Any harmful health effects or signs of any injury associated with the intervention;

(ii) Emotional status and comfort;

(iii) Need for food, water, and use of bathroom facilities;

(iv) Readiness to discontinue the intervention; and

(v) Difficulty breathing and any other physical complaints that may signal the need to discontinue the intervention.

(m) Termination of Seclusion and Follow-Up Assessment

1. Seclusion shall only be used for the minimum time necessary. These interventions shall be terminated when the behavior justifying their use no longer exists; or if danger to the youth by other individuals is determined to no longer be present. Immediate release shall occur if there is any perceived threat to the youth's physical or emotional well-being.

2. Whenever a youth is injured prior to or during a seclusion event, staff shall immediately obtain medical treatment for that youth. This shall be documented in the subsequent, written incident report.

3. The youth and staff shall participate in a debriefing for any seclusion event lasting more than two (2) hours as soon as possible, but no later than twenty-four (24) hours after the cessation of the intervention. The debriefing shall occur in a safe, confidential setting. The debriefing with the youth and staff is used to:

(i) Ascertain that the youth's physical well-being, emotional comfort, and right to privacy were addressed;

(ii) Identify any trauma that may have resulted from the incident and identify services to address the trauma;

(iii) Identify what led to the use of seclusion and what could have been handled differently;

(iv) Facilitate the youth's reentry into routine activities;

(v) Ensure supervisor and involved staff privately discuss what precipitating events led to the intervention, how the incident was handled, and discuss any necessary changes to procedures or training to avoid future incidents; and

(vi) Ensure that, when deemed necessary, a debriefing shall take place with any youth or other individuals who witnessed the incident, with an emphasis placed on returning the environment to pre-incident condition and resuming the normal program routine.

(n) Notification and Documentation

1. Documentation of any seclusion event lasting more than two (2) hours shall be completed using the form provided by the Department. If a form lacks one or more of the following requirements, the form will be deemed non-compliant. All documentation shall include the following:

(i) A clear description of the events and behavior leading to the initiation of seclusion, including the specific risk of harm presented by or to the youth;

(ii) A description of attempts by staff to prevent and de-escalate the youth prior to utilizing seclusion;

(iii) Documentation of approval from Facility Administrator or authorized designee;

(iv) Names, race, gender, and custodial status of the youth involved;

(v) Names of staff members involved;

(vi) Start and end times of intervention (duration);

(vii) Verification of continuous observation and fifteen (15) minute checks;

(viii) A description of any injuries that occurred because of the intervention;

(ix) Notation describing the time and brief description of debriefing with youth; and

(x) Documentation that notification was forwarded to the youth's parents or legal guardian regarding the occurrence of any seclusion event.

(o) Internal Review

1. The facility shall engage in ongoing performance improvement activities that focus on reducing the use of seclusion. Information obtained through the review processes shall be considered by administrative and direct care staff in the identification of specific performance improvement activities and in the evaluation of the effectiveness of performance improvement activities.

2. Facilities shall review data throughout the year to identify trends in the use of restrictive behavior management techniques to reduce the use of seclusion.

(p) Training Requirements

1. All staff who use seclusion shall be trained prior to performing these interventions and annually thereafter by a certified trainer in a nationally recognized crisis intervention program. This training may be combined with training around other restrictive behavior management techniques.

2. The training shall involve a post-test and the observation of staff in practice to ensure competency.

3. Records of staff completion of training shall be maintained and made available to DCS licensing upon request.

4. Training shall address pre-emptive practices and de-escalation techniques to avoid the use of restrictive behavior management techniques through a curriculum that includes the following:

   (i) Recognizing aggressive and out-of-control behavior, psychosocial issues, medical conditions, emotional triggers and other contributing factors that may lead to crisis;

   (ii) Understanding how staff behavior can influence youth behavior;

   (iii) Understanding the limitations and possible dangers of seclusion and related practices;

   (iv) Listening and communication techniques such as negotiation and mediation;

   (v) Involving the youth in regaining control and encouraging self-calming behaviors;

   (vi) Separation of individuals involved in an altercation;

   (vii) Voluntarily escorting the youth to a safe location;

   (viii) Voluntary time out to allow the youth to calm down; and

   (ix) Other non-restrictive methods to de-escalate and reduce episodes of aggressive and out-of-control behavior.

5. At the conclusion of training, staff shall demonstrate an understanding of:

   (i) When it is appropriate to use seclusion as a restrictive intervention;

   (ii) Use of appropriate time limits;

   (iii) Signs of distress;

   (iv) Response techniques to prevent and reduce injury;

   (v) Negative effects that can result from misuse of restrictive interventions;

   (vi) Physical and mental status of the youth, including signs of physical distress;

   (vii) Hydration needs of the youth;

   (viii) Readiness to discontinue use of seclusion; and

   (ix) Recognizing when medical or other emergency personnel are needed.

Authority: T.C.A. §§ 37-1-102; 37-1-116; 37-5-105; 37-5-106; 37-5-214; and 37-5-501, et. seq.

Rule 0250-04-08-.012 Transportation is amended by deleting the text of the rule and substituting instead the following language, so that as amended, the rule shall read:

(1) All transportation shall be provided by approved facility staff or law enforcement, unless otherwise ordered by the court;

(2) Each person providing transportation shall provide documentation of a valid Class D Tennessee driver's license in accordance with T.C.A. § 55-50-102 (2017 and as amended).

(3) Each person providing transportation shall provide documentation of automobile liability insurance for any private vehicle used in transporting youth in temporary holding resources or drive a government vehicle covered by liability insurance.

(4) Each person providing transportation shall be oriented to the behavior of detained youth during transportation, be aware of required documentation necessary for transportation to a detention center, and be able to communicate emergency information to proper authorities.

(5) Any vehicles used for transportation shall be well-maintained and operated in accordance with state law.

(6) Driver and all passengers shall wear seat belts.

(7) With the exception of bonded or law-enforcement personnel, female youth requiring transportation shall be accompanied by a female staff member/officer. Allowances may be made in extenuating circumstances and shall be documented in facility logs.

Authority: T.C.A. §§ 37-5-105; 37-5-106; and 37-5-501, et. seq.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 5-19-2022

Signature:

Name of Officer: Sammi S. Maitair

Title of Officer: Deputy General Counsel

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Filed with the Department of State on: 5/19/2022

Tre Hargett
Secretary of State

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RULES
OF
TENNESSEE DEPARTMENT OF CHILDREN'S SERVICES
LEGAL DIVISION

CHAPTER 0250-04-08
MINIMUM STANDARDS FOR JUVENILE DETENTION CENTERS AND TEMPORARY HOLDING RESOURCES

TABLE OF CONTENTS

0250-04-08-.01	Definitions	0250-04-08-.07	Supervision of Youth
0250-04-08-.02	General Requirements	0250-04-08-.08	Physical Plant
0250-04-08-.03	Administration and Management	0250-04-08-.09	Sanitation, Maintenance, and Life Safety
0250-04-08-.04	Personnel	0250-04-08-.10	Security
0250-04-08-.05	Service Provision	0250-04-08-.11	Seclusion and Restraint
0250-04-08-.06	Medical Services	0250-04-08-.12	Transportation

0250-04-08-.01 DEFINITIONS.

(1) "Administrator" or "Facility Administrator" means the director of the Temporary Holding Resource or the Juvenile Detention Center.

(2) "Administrator Designee" means a person authorized by the Administrator or Facility Administrator to make procedural decisions or to otherwise act on behalf of the Administrator or Facility Administrator in certain situations.

~~(2)~~(3) "Chemical Defense Agent" means any product which is dispensed by means of an aerosol spray to control an individual's combative behavior and/or restrict the individual's behavior.

~~(3)~~(4) "Department" or "DCS" means the Tennessee Department of Children's Services.

~~(4)~~(5) "Facility" means a Temporary Holding Resource or Juvenile Detention Center unless context requires otherwise.

~~(5)~~(6) "High School Diploma or Equivalent" means a document recognizing graduation from a legally approved public or private institution, based upon the issuing state's required number of academic credits. This may include a GED diploma or HiSET equivalent. A special education diploma, statement of attendance, honorary diploma, or correspondence or video course is not considered an equivalent alterative.

~~(6)~~(7) "LEA" means Local Education Agency.

~~(7)~~(8) "Licensing Office" means the Department of Children's Services ~~Child Welfare Licensing~~ Office of Child Welfare Licensing or successor office.

~~(8)~~(9) "Physical Restraint" means the use of body contact by staff upon a youth to restrict the youth's freedom of movement or normal access to their body.

~~(9)~~(10) "Qualified Medical Professional" means a physician or other qualified health care professional who is an individual qualified by education, training, licensure/regulation (when applicable), and facility privileging (when applicable) who performs a professional service within his/her scope of practice and independently reports that professional services.

~~(10)~~(11) "Qualified Mental Health Professional" means a person with professional training, experience, and demonstrated competence in the treatment of mental illness, who shall be a physician, psychologist, social worker, mental health counselor, nurse, or other qualified person.

~~(11)~~(12) "Seclusion" ~~means the intentional, involuntary segregation of an individual from the rest of the resident population for the purposes of preventing harm by the youth to themselves or others; preventing harm to the youth by others; aiding in de-escalation of violent behavior; or serving clinically defined reasons~~ is defined as the involuntary

segregation of a child from the rest of the resident population regardless of the reason for the segregation, including confinement to a locked unit or ward where other children may be seen or heard but are separated from the child.

~~(12)~~(13) "Sentinel Event" means an unanticipated event resulting in death or serious physical or psychological injury to a youth in the care of the facility.

~~(13)~~(14) "Sight Contact" means clear visual contact between incarcerated adults and juveniles ~~offenders~~ within close proximity to each other.

~~(14)~~(15) "Sound Contact" means direct oral communication between incarcerated adults and juvenile offenders.

~~(15)~~(16) "Staff" means full time and part time employees of a juvenile detention center or temporary holding resource.

~~(16)~~(17) "Volunteer" means any person providing assistance to the agency without pay, who may have direct and ongoing contact with youth equal to or greater than twenty (20) hours per week.

~~(17)~~(18) "Youth" means a person under eighteen (18) years of age or a person under nineteen (19) years of age in custody of the Department of Children's Services or remaining under the jurisdiction of the juvenile court.

Authority: T.C.A. §§ 37-5-105; 37-5-106; and 37-5-501, et. seq.

0250-04-08-.02 GENERAL REQUIREMENTS

(1) The issuance and maintenance of a license to operate a juvenile detention center or temporary holding resource shall depend upon adherence to these standards.

(2) All public or private agencies operating juvenile detention centers or temporary holding resources shall be specifically licensed by the Department.

(3) The initial and continued licensing of a juvenile detention center or a temporary holding resource shall be based upon the following criteria:

(a) The safety, welfare, and best interests of the youth in the care of the facility;

(b) The capability, training, and character of the persons providing or supervising the care of youth;

(c) The quality of the methods of care and instruction provided to the youth;

(d) The suitability of the facilities provided for the care of the youth;

(e) The adequacy of the methods of administration and the management of the facility, the facility's personnel policies, and the financial integrity of the facility; and

(f) The present need for the juvenile detention center or temporary holding resource.

(4) Juvenile detention centers and temporary holding resources shall be appropriately approved, licensed, permitted, or credentialed by all appropriate agencies, including the Tennessee Department of Health and the state or local fire marshal's office, before residents may be admitted.

(5) The facility shall maintain compliance with the applicable regulations and standards of these authorities in order to obtain or retain a license.

~~(5)~~(6) Juvenile detention centers and temporary holding resources shall be classified according to the date operations commenced. Facilities which begin operation as a juvenile detention facility or temporary holding resource after January 1, ~~2017~~ 2023 shall be considered new, while facilities operating prior to that date shall be considered existing facilities.

(7) A facility's license shall be posted in a prominent area that is visible to the public.

(8) It is the duty of the Department to inspect, at regular intervals, without previous notice, all facilities. The Department may interview staff, residents, or volunteers during the course of any inspection.

(9) Pursuant to state law, the Department is given the right of entrance, privilege of inspection, access to accounts, records, and information regarding the whereabouts of children under the care of the facility for the purpose of determining the kind and quality of care provided to the children and to obtain a proper basis for the Department's decisions and recommendations.

(10) If refused entrance for inspection of a licensed, approved, or suspected juvenile detention center or temporary holding resource, the chancery or circuit court of the county where the licensed, approved, or suspected juvenile detention center or temporary holding resource may be located may issue an immediate ex parte order permitting the Department's inspection upon a showing of probable cause, and the court may direct any law enforcement officer to aid the Department in executing such order and inspection. Refusal by the juvenile detention center or temporary holding resource to obey the inspection order may be punished as contempt and any violation of the rights given in this section is a Class A misdemeanor.

~~(6)~~(11) Facilities shall provide their services in an ethical and professional manner at all times. This includes:

(a) Strict adherence to the practice of confidentiality; and

(b) Acting at all times in the best interest of the youth ~~insofar as this does not violate the social responsibility of the facility for the protection of the community~~.

~~(7)~~(12) The facility shall consider and respect the ethnic, religious, racial, and cultural background of all youth and make reasonable accommodations to meet any related needs.

~~(8)~~(13) A facility shall not engage in practices which exploit the rights of youth in care. Youth shall not be individually identified in connection with fundraising activities or publicity for the facility without written permission from the youth and ~~either~~ the youth's parent or ~~the~~ legal guardian.

~~(9)~~(14) Provisions Specific to Temporary Holding Resources:

(a) A temporary holding resource shall not house more than eight (8) children, and is designed to operate primarily as a staff secure facility with a maximum of two (2) hardware secure rooms. At least half of the rooms in the facility shall be non-secure.

(b) A temporary holding resource is designed to house children who are:

1. In need of legal temporary placement;

2. Awaiting a pending adjudication; or

3. Awaiting judicial disposition.

(c) Youth shall be detained in a temporary holding resource in accordance with T.C.A. §§ 37-1-114 and 37-1-116 (~~2016~~ 2021 and as amended):

1. A youth's placement in a temporary holding resource shall be less than seventy-two (72) hours;

2. Youth who are alleged to be delinquent and meet the criteria for secure detention may be placed in secure custody in a temporary holding resource for up to a seventy-two (72) hour maximum length of stay; and

3. Youth who are alleged to be status offenders shall not be placed in secure custody in a temporary holding resource for more than twenty-four (24) hours unless there is probable cause to believe the youth has violated a court order. The placement shall not exceed seventy-two (72) hours.

(d) Dependent and neglected youth shall not be detained in secure rooms unless those rooms are rendered

"non-secure" for the duration of the placement.

~~(10)~~(15) A youth shall not be detained in any secure facility or secure portion of any facility unless the criteria established in T.C.A. §§ 37-1-114 and 37-1-116 (~~2016~~ 2021 and as amended) are met.

~~(11)~~(16) For youth with special needs, provisions shall be made to address special needs for those youth who exhibit or who have documented physical or intellectual disabilities or impairments, limited English proficiency (LEP), and/or mental or emotional health issues. Examples of provisions may include interpreter services, handbook and other related materials presented in Spanish, etc.

~~(12)~~(17) ~~Informed Consent~~ Consent to Medical Services

(a) Rules in subparagraphs (b)-(d) may not be applicable if family contact is determined to be contraindicated by the administrator or facility administrator due to safety concerns concerning the youth or the facility. Such determination shall be documented by the administrator, facility administrator, or designee.

(b) At admission, staff shall request the name and contact information of an adult family member or guardian who can provide information about a youth's health and mental health history, Medicaid and health insurance information, and consent to medical treatment for the youth, if necessary.

(c) Any medical and/or mental health examinations and/or services provided to detained youth by medical or mental health professionals shall conform to state laws for informed consent and the right to refuse treatment.

(d) Facility staff shall obtain informed consent using a language that is understandable to the youth and his or her parent or legal guardian.

~~(13)~~(18) Family Engagement

(a) Rules in subparagraphs (b)-(e) may not be applicable if family contact is determined to be contraindicated by the administrator or facility administrator due to safety concerns concerning the youth or the facility. Such determination shall be documented by the administrator, facility administrator, or designee.

(b) Facility administrators or administrators shall provide means for parents and legal guardians, including individuals who have limited English proficiency, to ask questions about the facility and its programs and ensure that those questions are answered.

(c) The facility shall provide parents and legal guardians contact information for a staff member who they can contact to obtain information about the youth and his or her adjustment to the facility. The facility shall make appropriate arrangements to communicate with parents or legal guardians who have limited English proficiency.

(d) Facility staff shall encourage contact between youth and family members through mail, telephone, visitation, and other means.

(e) Parents, legal guardians, and other family members shall be able to register complaints about the treatment of youth. The administrator, facility administrator, or the facility administrator designee shall promptly reply to such complaints in writing. The facility shall make appropriate arrangements to receive complaints from parents or legal guardians who have limited English proficiency.

~~(14)~~(19) All licensed agencies shall ensure freedom from discrimination or harassment on the basis of race, color, religion, sex, age, disability, marital status, citizenship, genetic information, or any other characteristic protected by law. This applies to youth, families, clients, and employees.

Authority: T.C.A. §§ 37-1-114; 37-1-116; 37-5-105; 37-5-106; and 37-5-501, et. seq.

0250-04-08-.03 ADMINISTRATION AND MANAGEMENT

(1) Each facility shall develop a mission statement and written policies and procedures governing the facility's operations. These policies and procedures shall be reviewed and updated annually and shall be accessible to all staff at all times. Staff shall be trained on these policies during pre-service and during their annual in-service training. Training documentation shall be noted in individual staff training records.

(2) There shall be written plans, developed in advance, for dealing with emergencies such as escape, medical emergencies, quarantine, disturbances, assaults on staff, hostage taking, and emergency evacuation. These written plans shall be incorporated into the facility's operations manual. Each staff member shall be trained on these plans. Training documentation shall be noted in individual ~~employee~~ staff training records.

(3) The facility administrator shall approve a list of articles and materials that shall be allowed in the living area. This list shall be made available to all youth upon admission.

(4) Administrators and Facility administrators shall regularly review logbooks, special incident reports, records of use of physical force or restraints, grievances, and recreation records. Administrators and Facility administrators shall conduct annual written performance evaluations for all subordinate staff. ~~Facility administrators shall provide positive feedback to staff on exemplary performance.~~ Administrators and Facility administrators shall advise staff of any areas of concern and take appropriate action with respect to particular staff members such as re-training, discipline, and termination, as appropriate.

(5) An intake process shall be completed for every youth admitted to the facility and shall contain the following information, as available:

(a) Date and time of admission;

(b) Name and aliases of youth;

~~(c) Last known address;~~

~~(d) Specific charge(s);~~

~~(e) Gender;~~

~~(f) Age;~~

~~(g) Date of birth;~~

~~(h) Place of birth;~~

~~(i) Race;~~

~~(j) Employment information;~~

~~(k) Educational information, including name of originating school system (LEA);~~

~~(l) Name, relationship and contact information for next of kin;~~

~~(m) Other key contact person(s) and addresses to notify in case of emergency, including legal representation and/or assigned juvenile case manager;~~

~~(n) Name of legal guardian;~~

~~(o) Driver's license and social security number;~~

~~(p) Status: pre/post adjudication;~~

~~(q) Notation of cash and property;~~

~~(r) Bonding company;~~

~~(s) Amount of bond;~~

~~(t) Court date and time;~~

~~(u) Room assignment;~~

~~(v) Presenting medical and mental health information, including suicide risk, prescribed medications, open wounds, pregnancy, current and/or history of physical and sexual abuse, allergies, and intoxication (drugs or alcohol); and~~

~~(w) Information regarding the youth's custodial status (DCS custody).~~

(c) Gender;

(d) Race;

(e) Date of birth;

(f) Age;

(g) Driver's license and/or social security number;

(h) Information regarding the youth's custodial status (DCS custody);

(i) Place of birth;

(j) Last known address;

(k) Name of legal guardian;

(l) Name, relationship, and contact information for next of kin;

(m) Other key contact person(s) and addresses to notify in case of emergency, including legal representation and/or assigned juvenile case manager;

(n) Presenting medical and mental health information, including suicide risk, prescribed medications, open wounds, pregnancy, current and/or history of physical and sexual abuse, allergies, and intoxication (drugs or alcohol);

(o) Educational information, including name of originating school system (LEA);

(p) Specific charge(s);

(q) Status: pre/post adjudication;

(r) Court date and time;

(s) Notation of cash and property;

(t) Room assignment; and

(u) Records noting a youth's access to the courts, visitation or access to the public, disciplinary actions and outcomes, medical or behavioral concerns, and/or any other pertinent information.

(6) The admitting staff member shall ensure that each youth received ~~is committed under proper legal authority~~ meets the requisite legal requirements for admission into a juvenile detention or hardware secure temporary holding resource.

(7) At the time of a youth's admission to the facility, a diligent attempt shall be made to notify the youth's parent(s) or legal guardian(s). This attempt, and all future attempts, shall be documented in case records.

(8) Cash and personal property shall be secured from the youth upon admission, listed on a receipt form in duplicate, and securely stored pending the youth's release. The receipt shall be signed by the receiving staff member and the youth, the duplicate given to the youth, and the original kept for the record. If the youth is unable or unwilling to participate in the process, there shall be at least one (1) witness to verify this refusal and the youth's refusal shall be documented.

(9) Written policy and procedure shall ensure that records on youth are current and accurate.

(10) Written policy and procedure shall ensure that youth's records shall be maintained confidentially.

(11) Written policy and procedure shall govern the management of youth records including, at a minimum, the following areas:

(a) ~~The~~ Establishment, use, and content of youth records;

(b) Right to privacy;

(c) Secure storage and preservation of records; and

(d) Established schedule for disposal of inactive records.

(12) All required records shall be made available upon request to any authorized agent of the Department's Licensing Office or Office of the General Counsel.

(13) All resident records, including computer files and other sensitive material, shall be protected against loss by fire or other natural disasters by storage in double-locked, fire-resistant metal cabinets or an offsite server. Access to this information should be limited to those individuals designated by the administrator or facility administrator.

(14) Access to all confidential data stored electronically by any facility or contracted staff shall be password protected and backed-up on a separate server or drive.

(15) Electronic Records Keeping

(a) All minimum requirements regarding content, retention, confidentiality, and security for records maintained electronically shall be the same as for all other records.

(b) The facility shall develop and enforce policies regarding integration and alignment of the management of electronic records with other records and information resources.

(c) The facility shall develop and enforce policies that specify the location, manner, and media in which electronic records shall be maintained.

(d) The facility shall develop and enforce an appropriate level of security to ensure the integrity of data and documents stored on the system.

(e) The facility shall develop clearly defined policies that support the retention requirements as detailed in this Rule chapter. This shall include policies that ensure the destruction of electronic records in a secure and permanent manner.

(f) The facility shall develop and enforce policies that require departing staff and other agents to return or destroy, as appropriate, all portable storage media or any other device capable of storing data in the individual's possession that may contain the agency's electronic records. These policies shall also address access through changing of passwords.

~~(12)~~(16) All youth records shall be retained a minimum of one (1) year from the youth's eighteenth (18) birthday or youth's date of discharge, whichever is longer. All medical records shall be retained until a youth's nineteenth (19)

birthday or one (1) year from the youth's date of discharge, whichever is longer. ~~The facility's policy shall adhere to state and federal guidelines regarding the retention of all special education records.~~

~~(13)~~(17) Written policy and procedure shall specify that the person receiving a youth at discharge shall be an approved parent or legal guardian and shall present appropriate identification. Positive identification of a youth shall be made by the releasing staff member before discharge or release.

~~(14)~~(18) All youth released from the facility shall sign a receipt for property, medications, valuables, and cash returned to the youth, parent, or legal guardian at the time of release. All items shall be carefully inventoried on the receipt and witnessed by the releasing staff member. The receipt shall be kept in the permanent records of the facility. If the youth is unable or unwilling to sign a receipt, there shall be at least one (1) witness to verify this refusal, and the youth's refusal shall be documented.

~~(15) There shall be a system for youth and staff to communicate with one another at all times.~~

~~(16)~~(19) Facility staff shall cooperate promptly with requests from juvenile courts, LEAs, law enforcement, and Departmental representatives.

~~(17)~~(20) Written policy and procedure shall provide that youth be allowed to have confidential access to attorneys and/or their authorized legal staff and/or court appointed representatives at any reasonable hour. The facility shall establish the hours during which attorneys may visit.

~~(18) Records shall be kept noting a youth's access to the courts, visitation or access to the public, disciplinary actions and outcomes, medical or behavioral conditions, and/or any other pertinent information. Such record shall be retained per facility policy, statutory requirement and/or administrative rules and regulations.~~

~~(19)~~(21) Any significant incident involving a youth shall be documented in a written incident report and retained in the youth's individual file. The incident report shall include date, time, location, and witnesses. Every incident report shall also clearly document the youth's involvement and behavior, and staff actions or reactions (e.g., verbal and physical interventions and follow-up actions) resulting from the incident. Incident reports completed by the facility to fulfill contractual requirements issued by the department shall be considered acceptable in meeting compliance with this provision. The incident shall be reviewed by the administrator, facility administrator, or the facility administrator's designee prior to the conclusion of the shift and reported as designated by the department and the local jurisdiction. All incident reports shall be made available for review by licensing personnel. Significant incidents include, but need not be limited to, the following:

(a) Aggressive behavior, e.g., threats, fights and assaults;

(b) Attempted and completed escapes;

(c) Suicidal threats and attempts;

(d) Any incident involving use of physical force by staff, including physical restraint;

(e) ~~Use of isolation~~ Use of seclusion shall be documented as provided in Rule 0250-04-08-.11(5);

(f) Use of mechanical restraints for reasons other than transportation;

(g) Use of chemical defense agents;

~~(g)~~(h) Sentinel events; and

(i) Other serious events, including, but not limited to:

1. Incidents involving multiple youth, such as youth assaulting staff member(s) or rioting;

2. Runaway incidents lasting over twelve (12) hours;

3. Facility under investigation by the FBI, TBI, or local law enforcement; and

4. Mandatory reporting to the Child Abuse Hotline by the facility staff on an incident that occurred with thin the facility by youth or staff;

~~(20)~~(22) The facility shall cooperate fully with the Tennessee Commission on Children and Youth in monitoring Juvenile Justice and Delinquency Prevention core requirements and any other appropriate monitoring entity. The facility may contact the Department's licensing office to confirm the monitoring entity's authority if questions arise.

~~(21)~~(23) Each juvenile detention center shall maintain census information for all youth detained at the juvenile detention center. The census shall reflect the following for each youth:

(a) First and last name;

(b) Date of birth and age;

(c) ~~Sex~~ Gender;

(d) Race;

~~(d)~~(e) County of original jurisdiction;

~~(e)~~(f) Date of admission;

~~(f)~~(g) Date of discharge, when applicable;

~~(g)~~(h) Length of stay;

~~(h)~~(i) Custodial disposition; and

~~(i)~~(j) Reason for detention.

~~(22)~~(24) Reports shall be submitted to the Department as follows:

(a) Each juvenile detention center shall, on a monthly basis and on a form provided by the Department, provide the Department an aggregate report detailing the following information:

1. Physical capacity of the facility;

2. Demographic information, including monthly discharges by age and gender;

3. Monthly discharge information, including custodial status and length of stay; ~~and~~

4. Restrictive Behavior Management information, including the number of physical restraints, mechanical restraints, use of chemical defense agents, and seclusions within the facility; and

~~4~~ 5. Other related information as required by the Department.

(b) Any proposed change in the facility's location shall be reported to the Department's licensing office a minimum of ninety (90) days prior to the proposed move date to facilitate licensure of the new location. Any facility that changes location without obtaining the appropriate license for the new location shall be considered to be operating as an unlicensed program and shall be subject to any related legal, civil, or regulatory penalties.

(c) Any sentinel event shall be reported immediately to the youth's parent or legal guardian and the Department's licensing office.

(d) Any known or suspected incidents of brutality, abuse, neglect, or child sexual abuse shall be reported immediately to both the child abuse hotline at 1-877-237-0004 and the Department's licensing office.

(e) A succession roster for reporting any significant emergency situations affecting or potentially affecting the safety and welfare of the youth served by a facility, including sentinel events, shall be developed and included in policy accessible to all staff. The Department's licensing office shall be included as a point of contact on any such succession roster.

Authority: T.C.A. §§ 37-5-105; 37-5-106; and 37-5-501, et. seq.

0250-04-08-.04 PERSONNEL

(1) Written policy shall indicate that there is a hiring plan consistent with the facility's Affirmative Action obligations to include, at a minimum, a clear commitment to recognize and develop the abilities of all minorities, women, and handicapped persons in compliance with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and the Americans with Disabilities Act (P.L. 101-336) of 1990.

(2) Written policy shall indicate a clear commitment to recognizing diversity in hiring.

(3) Written policy shall provide that, except in temporary, exigent situations approved by the administrator or facility administrator, there shall be a separation of youth care and adult care staff, including management, security, recreational, educational, and counseling and other direct care staff. Specialized service staff, such as cooks, bookkeepers, and medical professionals who are not normally in contact with detainees or whose infrequent contacts occur under conditions of separation of youth and adults are excluded from this requirement. The facility shall be permitted to hire individuals who work in law enforcement or probation to work at the facility.

(4) Written personnel policies shall be provided to each staff member prior to or at time of employment. These shall include, but are not limited, to:

(a) A job description for each position covering the position's responsibilities, academic qualifications, and required level of experience;

(b) Annual salary schedule ~~and performance review requirements;~~

(c) Performance review requirements, which shall include, at a minimum, the following:

1. Clear policies or tools surrounding annual performance evaluations and disciplinary action guidelines;

2. An annual evaluation of performance for each level of staff within the facility; and

3. Actions that the facility will take for failure to receive a satisfactory job performance evaluation during any evaluation period.

~~(c)~~(d) Physical examination policy, which shall include a required physical examination and tuberculin screening for all staff members having contact with youth. The examination shall be no older than twelve (12) months prior to hire date or shall be completed within ninety (90) days of employment;

~~(d)~~(e) Training requirements and documentation of completion;

~~(e)~~(f) Vacation policy that clearly defines allowable time and payment plan;

~~(f)~~(g) Sick leave policy;

~~(g)~~(h) Policies regarding Social Security, insurance, retirement plans, and other fringe benefits;

~~(h)~~(i) Facility grievance procedure;

~~(i)~~(j) Grounds for dismissal ~~and~~;

~~(j)~~(k) Confidentiality of youth information; and

(j) A reporting policy requiring all staff to immediately report to the Facility Administrator or Administrator Designee any arrests, indictments, or criminal convictions of any criminal offense(s) and any Child Protective Services investigations or substantiations.

(5) Specific Qualifications for Staff:

(a) The facility administrator shall have a high school diploma and at least two (2) years of experience in juvenile justice or child welfare.

(b) All facility staff shall have a high school diploma or its equivalent. ~~Staff who do not meet this requirement at the time of the effective date of these standards are permitted to remain in their positions; however, any staff hired after the effective date are required to have a high school diploma or its equivalent.~~

(6) Staff Records:

(a) Records on all staff members and information on applicants for jobs must be kept in a confidential and locked file cabinet. Records retained offsite are subject to licensing review upon request.

(b) Staff records shall include, but are not limited to:

1. Application for employment;

2. Reports from at least three references, one of whom must be a former employer;

3. A physical statement of good health and a tuberculin screening. Staff may not have direct contact with youth until their tuberculin screening results have been received by the facility;

4. Proof of education, which shall consist of a copy of a high school diploma or GED/HiSet;

5. Background checks for each prospective and current employee. All persons shall be appropriately screened for prior criminal behavior and/or abuse history. Any waivers granted by the Department pertaining to background checks will be maintained in the staff member's personnel record;

6. Agreed upon terms of employment, including signed documents or agreement to facility's policies on confidentiality and child abuse reporting;

7. For staff transporting youth:

i. A valid motor vehicle driver's license from the state of residence. The license shall be validated annually;

ii. Driving record; and

iii. Proof of vehicle insurance showing vehicular and medical liability insurance;

8. A written job description;

9. A written record of positions held by the person during employment at the facility;

10. A written record of leave;

11. Annual written performance evaluation of the employee's quality of work. Facility administrators shall advise staff of any areas of concern and take appropriate action with respect to particular staff members such as retraining, discipline, and termination, as appropriate. These evaluations must be prepared by the administrator, assistant to the administrator, or by the person directly responsible for the supervision of the employee. If not conducted by the administrator, it must be approved by the administrator. The employee shall be given the opportunity to review and sign their annual performance evaluation;

12. A record of participation in orientation and other training activities; and

13. A date and reason for termination, if applicable.

(c) Additional information added to staff records throughout the period of employment shall include, as applicable and available:

1. Documentation of annual training;

2. Updated reports of physical examinations;

3. Renewed motor vehicle driver's license;

4. Renewed vehicle insurance showing vehicular and medical liability coverage;

5. Awards and recognition; and

6. Records of any disciplinary action taken, including termination summaries.

(d) Staff shall have access to their personnel records as afforded to them by law.

(e) Personnel records shall be retained a minimum of five (5) years after termination or separation date.

(7) Background Vetting

(a) Each person applying to work with youth as a paid employee with a juvenile detention center or temporary holding resource or in any position in which any significant contact with youth is likely in the course of the person's employment, or a new volunteer who is expected to provide volunteer services in excess of twenty (20) hours per month in a juvenile detention center or temporary holding resource or in any position in which any significant contact with youth is likely in the course of the person's volunteer status, shall be appropriately screened for prior criminal behavior and/or abuse history and shall agree to release all records involving the person, relating to the criminal history of such person, to the juvenile detention center or temporary holding resource and to the Department. All background vetting shall be conducted and documented according to requirements developed by the Department.

(b) Such persons shall also supply fingerprint samples to an approved screening vendor, the TBI, or the FBI, for the purposes of obtaining any criminal history.

(c) The juvenile detention center or temporary holding resource seeking to employ the applicant as paid staff or as a volunteer as defined in this section shall be responsible for obtaining and submitting the fingerprint sample for screening and shall include and maintain any information necessary to process and assess the criminal history review in such manner as may be required by the Department.

(d) An approved background screening shall also include:

1. A criminal records check from local law enforcement records or county court records for all residences of the employee or prospective employee within the immediate six (6) months preceding application for employment;

2. Each applicant's status on the Tennessee Department of Health's Vulnerable Persons Registry;

3. Each applicant's status on the Tennessee Department of Children's Services Child Abuse Registry;

4. For staff assigned to transport youth, driving records check, including a check of moving violations records and verification of that the applicant has a current, valid driver's license;

5. National Sexual Offender Registry Clearance; and

6. National Drug Offender Registry Clearance.

(e) During annual background screening renewals, any findings discovered shall be assessed on a case-by-case basis and may result in disciplinary action up to and including termination from employment with the facility.

(f) Results from the completed background checks shall be documented, and supporting results attached, in the employee's personnel record. Specific information related to Child Protective Services findings and records involving an applicant shall be maintained in the confidential section of the official personnel record.

(g) All facilities will make every effort to contact all prior institutional/facility employers for information related to substantiated allegations of sexual abuse or any resignation that occurred during a pending investigation of an allegation of sexual abuse. In addition, any reported history of sexual harassment will be considered when determining whether to hire or promote employees.

(h) No person whose fingerprint results, criminal history assessment, or other screenings as provided in this section indicated a prior criminal history which would preclude the individual from working with children pursuant to state law shall be permitted to be employed as a staff member, volunteer, or director.

(i) With the exception of those offenses listed in T.C.A. § 37-5-511 (2014 and as amended), the Department may waive any prior conviction disclosed in an application for employment or for other positions as provided in this section that is determined not to pose a safety risk to the youth located at the facility either by the nature of the conviction, by mitigating circumstances, by the time elapsed since the crime/conviction, or the severity of the charge.

(j) All waivers shall be submitted in writing and entered in the official record of the facility. This written document shall include the justification for the waiver and any official documentation that supports the request. All waivers shall be reviewed by the Department's licensing office and approval or denial will be granted within five (5) business days from receipt of the waiver request and all pertinent documentation.

(k) Waivers shall not be granted for convictions resulting from criminal proceedings that involve capital offenses or the neglect or abuse of children or any persons, for substantiation of abuse or neglect of children or any persons from investigations by state agencies, or for any other offense the Department finds to present a threat to the health, safety, or welfare of children. No applicant will be hired or promoted who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution as defined in 42 U.S.C. § 1997.

(l) A copy of any waivers granted by the Department shall be maintained in the employee's personnel record.

~~(6)~~(8) Staff Development:

(a) Juvenile Detention Centers:

1. Each juvenile detention center shall be required to provide personnel a minimum of forty (40) hours of pre-service training before a staff member assumes individual job responsibilities. All staff members who have not received this forty (40) hours of training shall ~~be accompanied at all times by a staff member who has received such training~~ not have unsupervised access to incarcerated youth. There shall be documentation of topics covered, ~~and~~ dates ~~covered~~administered, and class roster. Topics shall include, but are not limited to:

(i) Hostage policy;

(ii) Crisis Management/Emergency ~~Contingency Plan~~ Planning;

~~(iii) Use of force, including approved manual restraint techniques, chemical agents and mechanical restraint;~~

~~(iv)~~(iii) Admission and release;

~~(v) Security procedures;~~

~~(vi) Proper administration of CPR, first aid and medications;~~

~~(vii)~~(iv) Indicators of mental illness and potential for suicide, including staff response to attempted suicide;

~~(vii)~~(v) Professional ethics and standards of conduct;

~~(viii)~~(vi) Cultural diversity;

~~(x) The purpose and operating policies and procedures of the facility;~~

~~(xi)~~(vii) Rights of detainees;

~~(xiii)~~(viii) Behavioral observation and recording;

~~(xiii)~~(ix) Confidentiality;

~~(xiv) Sexual abuse and sexual harassment prevention, detection and response. Curriculum and/or other training materials used in compliance with federal PREA guidelines shall fulfill this requirement;~~

~~(xv) Verbal de-escalation techniques;~~

~~(xvi)~~(x) Universal Safety Precautions and infectious diseases; and

~~(xvii)~~(xi) Medical and mental health needs of youth.~~; and~~

~~(xviii) Federal mandates, including PREA and Title VI.~~

2. All juvenile detention center staff whose duties include the supervision, custody, or treatment of youth shall be required to complete an annual in-service program designed to instruct them in specific skill areas of operation. This annual in-service shall consist of a minimum of forty (40) hours of training to be approved and monitored by the Department. During the staff member's first year, these forty (40) hours of in-service shall be in addition to the required forty (40) hours of pre-service. Training received through curricula such as law enforcement, PREA compliance, and other similar fields may be used to meet these requirements. Annual training shall include, but is not limited to, the following:

   (i) Use of force, including approved manual restraint techniques, chemical defense agents, and mechanical restraints;

   (ii) Security procedures;

   (iii) Purpose of the facility;

   (iv) Operating policies and procedures of the facility;

   (v) Sexual abuse and sexual harassment prevention, detection, and response. Curricula and/or other training materials used in compliance with federal PREA guidelines shall fulfill this requirement;

   (vi) Verbal de-escalation techniques;

   (vii) Federal mandates, including PREA and Title VI;

(viii) Medication maintenance and administration, for designated staff;

(ix) All local policy and procedure associated with the facility.

3. ~~As part of the training requirements in part 2. and 3. of this Rule, d~~Direct care staff and supervisory staff assigned to work at the facility shall be trained annually in First Aid and CPR. Direct care staff shall not be required to become certified, but any related training should be documented. Approved First Aid and CPR training shall meet the following provisions:

(i) The curriculum shall conform to current American Heart Association or American Red Cross guidelines;

(ii) The curriculum shall require hands-on, skill-based instruction, as well as written and practical testing~~. Training and certification that is provided solely "on-line" shall not be accepted~~; and

(iii) The instructor shall be qualified and authorized to teach the curriculum and shall be certified by a nationally recognized organization.

4. ~~Medical-related training shall also cover~~ Basic medical training shall be provided annually to all direct care staff and should include, but is not limited to:

(i) Skills development for response in emergency situations;

(ii) Transfer to appropriate medical provider;

(iii) Recognition of symptoms of illness most common to youth;

(iv) Medication administration;

(v) Confidentiality of medical records and information (HIPAA); and

(vi) Universal precautions.

5. All juvenile detention center staff members who are authorized ~~to use chemical defensive agents and mechanical restraints~~ in the use of force, including approved manual restraint techniques, chemical defense agents, and mechanical restraints shall receive ~~basic and ongoing~~ annual in-service training in their use. All such training shall be recorded with the dates completed and ~~kept~~ maintained in the staff member's personnel training record.

~~6. All juvenile detention center staff members who directly supervise youth shall have specific training on proper techniques and implements to be used in removing a youth from a hanging situation. This training shall be provided in the staff member's pre-service array and on an annual basis.~~

~~7~~ 6. Each juvenile detention center shall maintain records on the specific training, including credit hours, completed by each juvenile detention center staff member.

~~8~~ 7. Each juvenile detention center shall ensure that there is written policy that requires individuals who work with both youth and adult inmates in co-located facilities to be specifically trained and approved to work with youth.

(b) Temporary Holding Resources:

1. Each temporary holding resource shall be required to provide full and part-time staff a minimum of sixteen (16) hours of pre-service training pertaining to security, facility operations, and interacting with youth before a staff member assumes unsupervised individual job responsibilities. All staff members who have not received this sixteen (16) hours of training shall be accompanied at all times by a fully trained staff member until these training requirements are met. Each full and part-time staff member shall receive a minimum of an additional nine (9) hours of instruction

over the course of the first year of employment. This training can be provided during the course of the employee's routine execution of job responsibilities wherever necessary. However, there shall be documentation of all topics and dates covered. All full and part-time staff members shall subsequently receive a minimum of twenty (20) hours of instruction annually. Topics shall include, but are not limited to:

(i) Hostage Policy;

(ii) Crisis Management/Emergency Contingency Plan;

(iii) Use of force, including approved manual restraint techniques and mechanical restraint;

(iv) Admission and release;

(v) Security procedures;

(vi) Proper administration of CPR, first aid, and medications;

(vii) Indicators of mental illness and potential for suicide;

(viii) Professional ethics and standards of conduct;

(ix) Cultural diversity;

(x) The purpose ~~and operating policies and procedures~~ of the facility ;

(xi) Operating policies and procedures of the facility;

~~(xi)~~(xii) Rights of detainees;

~~(xii)~~(xiii) Behavioral observation and recording;

~~(xiii)~~(xiv) Confidentiality;

~~(xiv)~~(xv) Sexual abuse and sexual harassment prevention, detection, and response. Curriculum and/or other training materials used in compliance with federal PREA guidelines shall fulfill this requirement;

~~(xv)~~(xvi) Verbal de-escalation techniques;

~~(xvi)~~(xvii) Universal Safety Precautions and infectious diseases;

~~(xvii)~~(xviii) Medical and mental health needs of youth; and

(xix) Federal mandates, including PREA and Title VI.

2. The administrator, as well as each full-time ~~child care~~ staff who directly supervises ~~children~~ youth, must receive after the first year of employment a minimum of ~~forty (40)~~ twenty (20) hours of in-service training related to the administration and operation of a temporary holding resource. Training received through other curricula such as law enforcement, PREA compliance, and other similar fields can be used to meet these requirements.

3. All temporary holding resource staff members who are authorized in the use of force, including approved manual restraint techniques, chemical defense agents, and mechanical restraints shall receive annual in-service training in their use. All such training shall be recorded with the dates completed and kept in the staff member's personnel training record.

~~3~~ 4. All staff members who directly supervise youth shall have specific training on proper techniques and implements to be used in removing a youth from a hanging situation. This training shall be provided in the staff member's pre-service array and on an annual basis.

4 5. Each temporary holding resource shall maintain records on the specific training, including credit hours, completed by each temporary holding resource staff member.

~~5~~ 6. Each temporary holding resource shall ensure that there is written policy that requires individuals who work with both youth and adult inmates in co-located facilities to be specifically trained and approved to work with youth.

~~(7)~~ (9) Volunteers:

(a) For the purposes of this section, volunteers are defined as individuals providing services twenty (20) hours or more per week to youth.

~~(a)~~ (b) The facility shall establish an application and screening process ~~in order~~ to ensure that all prospective volunteers are of sufficient character and competence as to meet the facility's needs. Only those individuals how have been properly vetted pursuant to the procedure required by this rule for prior criminal behavior, either through the organization or by the facility, may have direct access to the youth.

~~(b)~~ (c) The facility shall provide an ongoing training program and orientation to the philosophies and practices specific to the facility to each volunteer within the facility. Within two (2) weeks of being admitted to the facility's program as a volunteer, the new volunteer shall receive orientation and instructions related specifically to child abuse detection, reporting, and prevention, and confidentiality. This training shall be documented in the individual's volunteer record.

~~(c)~~ (d) Paid staff members shall adequately supervise all volunteers.

~~(d)~~ (e) The facility shall maintain an individual ~~file~~ personnel record, including the application to participate as a volunteer; the results of the screening process; documentation of orientation and training, including child abuse prevention training; a declaration of good health; and three (3) letters of reference ~~shall be~~ obtained by the facility prior to allowing the volunteer to have direct contact with youth. The facility shall maintain this documentation in the facility records.

~~(e)~~ (f) Faith and community-based organizations providing volunteer services to the youth of less than twenty (20) hours per week shall meet such requirements as established by the administrator or facility administrator. ~~Only those individuals who have been properly vetted pursuant to procedure required in 0250-07-08-.04(8) for prior criminal behavior, either through the organization or by the facility, may have direct access to the youth.~~

~~(8)~~ (10) The facility shall ensure that all prospective and current employees, volunteers, and other persons having access to youth in care shall be appropriately screened for prior criminal behavior and/or abuse history. All background checks shall be conducted and documented according to requirements developed by the Department.

Authority: T.C.A. §§ 37-5-105; 37-5-106; and 37-5-501, et. seq.

0250-04-08-.05 SERVICE PROVISION

(1) Hygiene

(a) The standard clothing issue for both males and females held in the facility longer than twenty-four (24) hours shall include the following:

1. Clean socks;

2. Clean undergarments, including safety approved bras for females;

3. Clean outer garments; and

4. Clean footwear.

(b) Clean personal clothing, if available, may be substituted for facility clothing at the discretion of the facility administrator.

(c) Clothing, whether personal or institutional, shall be exchanged and cleaned at least twice weekly unless work, climatic conditions, or illness necessitate more frequent change. Undergarments shall be exchanged daily.

~~(c)~~ (d) Provisions shall be made so that youth can regularly obtain the following hygiene items supplied by the facility:

1. Soap and shampoo;

2. Toothbrush;

3. Toothpaste;

4. Comb or brush;

5. Toilet paper;

6. Feminine hygiene materials; and

7. Deodorant.

~~(d)~~ (e) Haircuts for youth who request them shall be made available at a minimum on a monthly basis.

~~(e)~~ (f) Youth shall be permitted to brush their teeth twice a day and take a hot shower daily on a schedule established by the facility between the hours of 5:00 AM and 11:00 PM. Youth shall be allowed at least five (5) minutes to shower and shall be provided privacy to shower in single-occupancy stalls with shower curtains or shower doors.

~~(f)~~ (g) Each youth who remains placed in the facility overnight shall be provided the following:

1. One (1) clean fire-retardant mattress in good repair;

2. One (1) clean mattress cover;

3. One (1) clean fire-retardant pillow in good repair with pillowcase. Mattresses with incorporated pillows are acceptable and an additional pillow does not need to be provided;

4. Sufficient clean blankets to provide comfort under existing temperature conditions;

5. One (1) clean bath-size towel; and

6. One (1) clean washcloth.

~~(g)~~ (h) An adequate supply of bedding and towels shall be maintained. Bedding shall be cleaned as follows:

1. Sheets, pillowcases, mattress covers, and towels shall be changed and washed at least once a week.

2. Bedding shall be disinfected after use by each youth.

3. Blankets shall be laundered or otherwise sterilized before re-issue.

(2) Programs and activities

(a) Basic services shall be available to all youth as soon as they are admitted. Programmatic offerings shall be made available to all youth in juvenile detention centers within twenty-four (24) hours of their admittance to the facility. The facility shall provide or make available the following minimum services and programs to all ~~adjudicated and pre-adjudicated~~ admitted youth:

1. Educational Services;

   (i) Youth who are certified for special education upon admission are referred to the Director of Special Education of the school system in which the juvenile detention center is located.

   (ii) Each juvenile detention center shall work with the appropriate LEA where the juvenile detention center is located in order to ensure general education services are provided to the youth in accordance with properly promulgated Department of Education or State Board of Education rules. ~~This may include entering into an agreement between the juvenile detention center, appropriate school districts, Tennessee Department of Education, and DCS.~~

   (iii) The juvenile detention center shall provide a secure setting for the education of the students. This space shall be adequate in size and conducive to instruction for the number of students required to be educated at the center.

   (iv) The juvenile detention center shall provide appropriate staff to ensure the safety of students and LEA staff in the center.

   (v) The juvenile detention center will accommodate any announced or unannounced monitoring by the Department of Education by making space available for the monitoring and appropriate staff available to answer any questions.

   (vi) Participation in the education program cannot be used as a reward or consequence. If a youth is exhibiting behavior that would make it unsafe for them to be in the classroom, the juvenile detention center and the LEA must work together to determine how educational services can be provided.

2. Access to mental health counseling, substance ~~a~~buse counseling, and crisis intervention services, as needed;

3. Medical services;

4. Food services;

5. A recreation and leisure-time plan ~~that includes at least one (1) hour per day of physical exercise and large muscle activity outside the room and one (1) hour per day of structured leisure-time activities. Restrictions may apply if the resident poses a risk to themselves or others~~ for a minimum of two (2) hours a day that includes, but is not limited to:

   (i) At least one (1) hour per day of physical exercise and large muscle activity outside the room. This should occur outdoors as weather and circumstances permit;

   (ii) At least one (1) hour per day of structured leisure-time activities; and

   (iii) Restrictions may apply if the youth poses a risk to themselves or others. Any restrictions for a youth's recreation and leisure-time plans shall be documented in the youth's file for each occurrence.

6. Culturally diverse ~~and approved~~ reading material approved by the facility; and

7. The facility shall allow for youth to voluntarily participate in religious activity at least once a week so long as security is not compromised.

(b) Every youth shall have unrestricted and confidential access to the courts, legal representation, assigned caseworkers, child abuse hotlines, and law enforcement. Youth shall have the right to present any issue before a court of law or governmental agency.

(c) Youth shall not be permitted to perform any work prohibited by state and federal regulations and statutes pertaining to child labor or perform duties normally done by staff members due to inadequate staffing.

(d) Work assignments shall not conflict with the education program.

(e) Youth eighteen (18) years of age shall not be housed in the same sleeping areas (bedrooms) as youth under the age of eighteen (18). Programmatic segregation of eighteen (18) year-old youth in other areas and activities shall be at the discretion of the facility administrator.

(f) The administrator, facility administrator, or the facility administrator designee shall have discretion in making appropriate arrangements, either upon admission, or in response to circumstances within the milieu, for the protection of vulnerable youth. This may include temporary protective measures in both sleeping arrangements and common activities. Such arrangements shall be ~~short-term and noted in writing by the facility administrator~~ time-limited and justification for such arrangements shall be noted in writing by the administrator, facility administrator, or the facility administrator designee and placed in youth's file.

(3) Mail, Telephone Access, and Visitation

(a) Written policy shall outline the facility's procedures governing youth's mail, including the censoring of mail. Any regulation for censorship shall meet the following criteria:

1. The regulation shall further an important and substantial security interest unrelated to the suppression of expression (e.g., detecting escape plans which constitute a threat to the safety or well-being of staff or other youth); and

2. The limitation shall be no greater than is necessary to the protection of the particular security interest involved.

(b) Incoming mail shall be inspected for contraband items prior to delivery. Mail received from the courts, attorney of record, or public officials shall be delivered unopened in the presence of the youth.

(c) Outgoing mail shall be collected and incoming mail shall be delivered without unnecessary delay.

(d) A youth shall be notified if a letter is rejected, whether it is written by or addressed to the youth. Only correspondence to or from those persons on contact lists approved by the administrator or their designee shall be allowed.

(e) When a letter is rejected, policy and procedure shall provide an opportunity for the youth to appeal that decision to the administrator, facility administrator, or the facility administrator designee.

(f) Written policy and procedure shall provide that the facility permits postage for at least two (2) free personal letters per week for youth. Youth shall also receive free postage for all legal correspondence or case-related mail.

(g) Written policy shall define the facility's visitation policies, which shall include, at a minimum:

1. A schedule of visitation times and length of visitation allowed;

2. The maintenance of a visitors log;

3. Provision that all visitors shall register before admission and may be denied admission for refusal to register, for refusal to consent to search, or for any violation of posted facility rules; and

4. Notification of the possibility of visitor searches.

(h) Juvenile Detention Centers shall have written policy which provides that the Juvenile Detention Centers shall allow a minimum of one (1) hour of visitation each week for each youth with their parent, legal guardian, or other approved family members unless specifically prohibited by ~~the juvenile court judge or their designee;~~ court order. This does not preclude visitation by other approved persons at the discretion of the Juvenile Detention Center. Restrictions may be imposed if the youth is determined to pose a risk to themselves or others.

(i) Temporary Holding Resources shall have written policy that provides that the Temporary Holding Resources shall allow each youth to visit with their parents or guardian at least once a day between 12:00 noon and 6:00 p.m. unless visitation is specifically prohibited by ~~the juvenile court judge or their designee~~ court order. Other visitors or hours of visitation shall be approved by the Temporary Holding Resource administrator or juvenile court judge.

(j) Juvenile Detention Centers shall have written policy and procedure which requires the Juvenile Detention Centers to provide reasonable telephone access that, at a minimum, shall consist of one (1) personal phone call per week. Additionally, each youth shall be afforded at least ten (10) minutes of phone conversation per week. Such procedure, including any limitations imposed by the program, shall be in writing and posted ~~so as to be~~ in an area conspicuous to youth. The procedure shall include, at a minimum:

1. The hours during which such access shall generally be provided; and

2. A statement regarding the privacy of telephone communication.

(k) Temporary Holding Resources shall have written policy which provides that each youth shall be allowed to receive up to two (2) telephone calls a day from their parent(s) or legal guardian during the hours of 8:00 a.m. and 9:00 p.m. unless specifically prohibited by ~~the juvenile court judge or their designee~~ court order.

(4) Food Services

(a) Current food service guidelines and a menu approved by a registered dietician or nutritionist shall be used in all meal preparation whether meals are prepared on or off-site. Food of adequate quality and quantity must be served and shall meet the caloric intake guidelines for youth as recommended by the USDA.

(b) Three (3) meals and a substantial evening snack shall be provided daily with no more than a fourteen (14) hour span between the evening meal and breakfast on the following day. At least two (2) of these meals shall be hot.

(c) All meals prepared onsite shall be under the direct supervision of ~~agency~~ facility staff. Any meals prepared off-site and delivered to the facility shall be served expeditiously to maintain safe serving temperature and palatability.

(d) Written policy and procedure shall require that accurate records are maintained on the number of meals served per day, the actual food served, and the scheduled mealtimes.

(e) ~~Food~~ Withholding of meals or mandated supplemental snacks shall not be used as punishment. Such action is grounds for adverse licensing action. Food may only be used as a reward when offered in addition to the minimum requirements established in 0250-04-08-05(4)(b).

(f) All medically modified diets of youth shall be prepared and offered as prescribed by a physician, nurse practitioner, and/or recommended by a registered dietician or nutritionist. Special provisions shall be made to accommodate religious diets requiring modification and shall be documented for review by licensing staff.

(g) The preparation or storage of food shall not be permissible in any residential areas of the facility. All food preparation and storage shall meet current Tennessee Department of Health guidelines.

(h) Proper storage of food shall assure that there shall be no contamination of the food from any source. Insecticide, cleaning agents, and poisonous substances shall be stored away from food and plainly labeled.

Airtight containers or wrappings shall be used in the storage of frozen, refrigerated, and perishable items. The facility shall utilize "first in/first out" rotation in the storage of all food products.

(i) The temperature of potentially hazardous food shall be 41°F or below or 135°F or above at all times except as otherwise provided in the current edition of the ServSafe Manager Book.

(j) All refrigerators and freezers shall be clean and contain a thermometer. The temperature shall be maintained at 41°F or below in all refrigeration units. The temperature shall be maintained at 0°F for all freezer units. Fluctuation in temperatures from incidental use shall not be considered noncompliant. The temperature for the dry storage area should be between 50°F to 70°F.

(k) No medication of any kind shall be stored in refrigerators containing food products.

(l) All food products shall be stored at least six (6) inches off the floor ~~on shelves or in shatterproof containers with tight fitting lids~~.

(m) Stoves shall be equipped with operable hooded exhaust systems and the filters shall be kept clean. Hoods shall be inspected twice yearly and inspections documented for licensing review.

(n) A system for the control and disposal of all sharps and chemicals shall be documented in policy and observable in practice.

(5) Disciplinary Hearings and Appeals in Juvenile Detention Centers

(a) The facility's written policies shall provide for disciplinary hearings to be held in cases of alleged violations of youth conduct rules within ~~seven (7)~~ five (5) business days of the write-up if the youth is still in the facility, excluding holidays, weekends, and emergencies. Facilities shall document that youth have been made aware of these policies upon admission. These disciplinary hearings shall include the following administrative guarantees:

1. Youth shall receive written notice in their language of charges and time of hearing at least twenty-four (24) hours prior to the hearing. The youth shall be allowed to prepare for the appearance before an impartial officer or board.

2. A youth has the right to call and cross-examine witnesses and present evidence in their own defense, when permitting them to do so shall not be unduly hazardous to institutional safety or correctional goals.

3. The reasons for any limitations placed on testimony or witnesses shall be stated in writing by the hearing chairperson.

4. There shall be a written statement by the fact finders as to evidence relied on and reasons for the disciplinary action.

5. An appeals process shall be established if the youth disagrees with the decision of the board or impartial officer, and the youth shall be given notice of their right to appeal.

6. A youth has a right to waive a hearing or appeal. If the youth chooses to waive a hearing or appeal, the waiver shall be documented in writing in the youth's file.

(b) The youth shall receive a written copy of the disciplinary decision.

(c) The facility shall document appropriate measures have been taken to ensure any youth who is unable to read, has limited reading proficiency, or who is designated as having Limited English Proficiency (LEP) has been made aware of all notices, rights, and disciplinary policies in a manner that ensures comprehension by the youth. Youth designated as having LEP shall be provided documentation in their native language.

~~(c)~~ (d) ~~The facility administrator may provide, at their discretion, written notification of major disciplinary actions involving the youth to the youth's parent, legal guardian, or custodian.~~The administrator or administrator

designee shall provide notification, either by phone or in writing, of major disciplinary actions or incidents involving use of seclusion, restraint, chemical defense agents, or other like incidents involving the youth to the youth's parent, legal guardian, or custodian. Notifications made to parents, guardians, or custodians shall be documented in the youth's file.

~~(d)~~ (e) Documentation of major disciplinary action shall be maintained in the youth's record and facility's record and made available for review by a youth's parent, custodian, legal guardian, legal counsel, or other appropriate party in the event of an inquiry.

~~(e)~~ (f) Written policy and procedure shall provide that the relevant disciplinary reports are removed from all files of any youth found not guilty of an alleged violation.

(6) Grievance Procedures in Juvenile Detention Centers

(a) The facility shall provide more than one method to report abuse, neglect, harassment, and retaliation by other youth or staff within the facility. Documentation related to incidents included in the Prison Rape Administration Act (PREA) shall be maintained in accordance with those standards and be made available for review.

(b) The facility shall provide avenues for youth to report abuse, neglect, harassment, or retaliation to a public or private entity or office that is not part of the agency that operates the facility, such as ~~these entities:~~ public defender's office, attorneys, the courts, the child abuse hotline, local law enforcement, child welfare agencies, and the Office of Child Welfare Licensing. These entities shall be able to receive and immediately forward youth reports of sexual abuse and sexual harassment to administrative officials within the facility and to allow the youth to remain anonymous upon request.

(c) The facility's opportunities for reporting abuse, neglect, harassment, and retaliation shall include ways to report orally, in writing, anonymously, and by third parties.

(d) Staff shall provide all youth with access to a grievance procedure that provides an opportunity for a fair consideration and resolution of complaints about any aspect of the facility, include medical and mental health services.

(e) Staff shall ensure that youth understand how to use the grievance process and that youth can obtain and submit grievance forms confidentially. Staff shall provide youth with writing implements to fill out the forms.

(f) The facility's grievance system shall be accessible to all youth, including youth with limited literacy, youth who have limited English proficiency, and youth with intellectual or developmental disabilities. Staff shall ensure that:

1. Youth with intellectual disabilities, developmental disabilities, or limited literacy or limited English proficiency receive oral explanations of the grievance process that they can understand;

2. Grievance forms shall use easy-to-understand language and shall be simple in their design;

3. Youth shall be able to report grievances orally and in writing; and

4. Youth with intellectual disabilities, developmental disabilities, or limited literacy or English proficiency receive assistance in using the grievance process.

(g) Once submitted by youth, grievances shall be forwarded to the administrator, facility administrator, or designee. Grievances shall be handled by an individual who can independently investigate the issues raised in the grievance and recommend corrective action to the administrator, facility administrator, or the facility administrator designee. Youth shall be permitted to submit a grievance without submitting it to a staff member who is the subject of the complaint.

(h) The facility shall offer an emergency grievance procedure for youth who are at risk of imminent harm. The emergency grievance procedure shall allow for rapid response to needs identified through emergency grievances.

(i) The facility shall not impose time limits on when youth can file grievances.

(j) Staff shall not discipline youth for filing a grievance, even if an investigation does not establish sufficient evidence to substantiate the complaint. Discipline does not include appropriate legal action taken by the facility administration to address false allegations of abuse or similarly harmful activity.

(k) The facility shall permit interested third parties, including family members, attorneys, and outside advocates, to file grievances on behalf of youth.

(l) The facility shall provide information to third parties on how to submit grievances on behalf of youth.

(m) Facility staff, administrators, ombudspersons, or other personnel will fully investigate all grievances, including interviewing the youth who filed the grievance and any youth or staff members mentioned by the youth. Staff alleged to be involved in the grievance shall not conduct the investigation.

(n) Youth shall receive written responses to their grievances that are respectful, legible, and responsive. The facility shall document appropriate measures have been taken to ensure any youth that is unable to read, has limited reading proficiency, or who is designated as having Limited English Proficiency (LEP) have had the grievance procedure and responses to grievances explained in a manner that ensures comprehension by the youth. Youth designated as having LEP shall be provided the grievance procedure and responses to grievances in their native language.

(o) Staff shall provide youth with an opportunity to appeal the decision regarding the grievance. ~~Facility~~ Administrators or the administrator designee charged with handling appeals shall respond to appeals promptly and fairly.

(p) If staff finds a grievance to be valid, the ~~facility~~ administrator or the administrator designee shall take appropriate action and when staff actions are involved, provide for counseling, retraining, reprimand, discipline, or termination of the employee, and, in appropriate cases, for the filing of child abuse or other criminal charges.

(q) Facility staff, administrators, or other personnel shall fully document all grievances and the results of grievance investigations.

(r) Facility administrators shall regularly gather and review data on grievances, both ~~(~~granted and denied~~)~~, by race, ethnicity, gender, developmental and intellectual disability, mental illness, special education status, and Limited English Proficiency status for patterns or trends.

(s) All staff shall report any allegation of child abuse or neglect as mandated by T.C.A. § 37-1-403.

Authority: T.C.A. §§ 37-5-105; 37-5-106; and 37-5-501, et. seq.

0250-04-08-.06 MEDICAL SERVICES

(1) When a youth requires medical care, the facility staff shall transport or arrange for transportation of the youth to a medical facility. If a youth ~~is in need of~~ needs urgent or emergency care, facility staff shall immediately transport the youth to the nearest or designated urgent care clinic or hospital emergency care ~~department~~ services ~~as soon as possible~~. Diligent efforts shall be made to immediately notify the youth's parent or guardian. Medical complaints, diagnoses, treatment received, diligent efforts, and parental notification shall ~~all~~ be documented.

(2) First aid kits shall be available to and fully accessible by staff. A licensed medical professional shall approve the number and contents of such kits. Documentation of such approval shall be in the facility's permanent records or attached to the kit itself and shall be renewed annually. Any perishable items, such as over the counter medications, topical ointments, eye washes, etc., shall be removed and replaced prior to listed expiration dates. ~~Outdated medications, including topical ointments, shall be removed and replaced.~~

(3) Wellness/Health screenings shall be performed on all youth, in a confidential environment, upon admission to a juvenile detention center and before their placement in the general housing area. The findings shall be recorded on a printed or electronic screening form. The juvenile detention center staff member performing this duty shall inquire and check for evidence or appearance of:

(a) A serious illness or communicable disease or condition;

(b) Open wounds;

(c) Prescribed medications;

(d) Intoxication – alcohol or drug use;

(e) Pregnancy (last menstrual cycle);

(f) Physical or sexual abuse;

(g) Allergies;

(h) Past or current suicidal ideations and/or attempts;

(i) Mental health issues, including any prior mental health treatment;

(j) Recent significant loss, including but not limited to, the death of a family member or close friend;

(k) History of mental health diagnosis or suicidal behavior by family members and/or close friends; and

(l) Suicidal issues or mental health diagnosis during any prior confinement.

(4) A physical/health history examination shall be completed on all youth admitted to a Juvenile Detention Center within fourteen (14) days of their initial admission date unless documentation of such an examination dated within six (6) months prior to admission is available. A physician, nurse practitioner, or registered nurse shall perform this examination. This examination shall include:

(a) Monitoring of vital signs;

(b) Height and weight;

(c) Review of systems;

(d) Medical history; and

(e) Diagnoses and treatment recommendations as necessary.

(5) Sick call, conducted by a physician or other person designated by a physician as capable of performing such duty, shall be available to each youth admitted to a Juvenile Detention Center according to written triage procedure for the center. All sick call requests shall be documented and logged for review. These logs should reflect the date and time of the sick call request and any subsequent follow up. The youth shall be informed of these procedures upon admission. Triage policy and procedure, including documentation of access to emergency health services, shall be made available for review by licensing staff.

(6) Dental treatment shall be provided when the health of the youth would otherwise be adversely affected during confinement as determined by a physician or dentist.

(7) Youth on prescription medications shall, whenever possible, have their medications continued without interruption unless a qualified medical professional determines that continuing the medication is clinically inappropriate. Medication continuity decisions are made through a same-day evaluation by a physician, nurse practitioner, or

psychiatrist or appropriate phone consultation between a nurse and a physician or psychiatrist, or sooner if medically necessary. The facility shall not administer any medications that are expired or not in original containers.

(8) There shall be strict control of medications to be issued to youth. All medication, with the exception of over the counter (OTC) medications, shall be prescribed by a physician or nurse practitioner. ~~Over the counter~~ OTC medications may be administered by ~~written medical protocol approved by a licensed medical provider~~ staff as provided by facility policy and procedure. A trained staff member shall be responsible to see that medication is only administered as prescribed. Any changes in medication orders shall be recorded on the youth's Medication Administration Record (MAR).

(9) All medication shall be double locked within the medical area of the facility or other area approved by ~~DCS Licensing~~ the Department's Office of Child Welfare Licensing. A medication receipt, log, and administration system shall be established. All prescription medications shall be counted upon receipt and a running count of all ~~remaining~~ prescribed medications shall be documented on an approved Medication Administration Record (MAR) including controlled medications and prescribed medications. The MAR should be completed each time medication is administered. Any missing medication, transcribing errors, and/or administration errors shall be reported to the facility administration immediately. ~~A continuous inventory shall be maintained for syringes and other sharps. All used syringes and other contaminated material shall be disposed of in compliance with guidelines for disposal of bio-hazardous waste. All medication, including topical ointments, shall be checked monthly for expiration dates and expired medication shall be disposed of immediately.~~

(10) Prescription medication that has been discontinued, expired, unidentifiable, or has a missing or illegible label shall not be used and shall be destroyed within forty-eight (48) hours of discovery. Disposal shall be witnessed by two (2) people and shall be completed according to FDA guidelines.

(11) A continuous inventory shall be maintained for syringes and other sharps. All used syringes and other contaminated material shall be disposed of in compliance with guidelines for disposal of bio-hazardous waste. All medication, including topical ointments, shall be checked monthly for expiration dates and expired medication shall be disposed of immediately.

~~(10)~~(12) Medical records shall be maintained on each youth's physical condition upon admission, during confinement, and at discharge. The medical record shall include all medical orders issued by the physician and any other medical personnel who are responsible for rendering health care services. These records shall be retained until the youth's nineteenth (19th) birthday or until one year from the date of discharge, whichever is longer.

~~(11)~~(13) In case of medical or mental health emergencies, specific resource information shall be readily accessible to all staff members including, but not limited to, local hospital emergency department, local physician's office, crisis intervention services, 911 or local emergency response, and poison control numbers. Contact information for parent, guardian, or family member of each youth shall also be readily available in case of emergency.

~~(12)~~(14) Staff shall immediately place youth identified as needing further evaluation for suicide risk or other acute mental health conditions on constant observation until they can be formally assessed by a qualified mental health professional such as, but not limited to, a mobile crisis response unit. Staff shall promptly contact a qualified mental health professional to develop an emergency intervention plan for such youth. The qualified mental health professional shall conduct an assessment of the youth within twenty-four (24) hours. Only a qualified mental health professional may remove a youth from constant observation.

~~(13)~~(15) Youth who are identified as requiring additional medical or mental health follow-up for reasons other than significant medical or mental health needs or suicide risk shall be immediately referred for an assessment by a qualified medical or qualified mental health professional, as appropriate.

~~(14)~~(16) ~~Youth who are identified upon initial screening, or at a later date, as having experienced prior sexual victimization or who previously perpetrated sexual abuse shall be offered a meeting with a qualified mental health professional within seventy-two (72) hours of either admission to the facility or request by the youth.~~ Youth who are identified as either a victim or perpetrator of sexual abuse shall be provided access to a qualified mental health profession within seventy-two (72) hours of the youth's identification as a victim or perpetrator.

~~(15)~~(17) The facility shall develop and implement written policies, procedures, and practices, in conjunction with the health authority, that ensure sufficient supervision of youth identified with potential medical problems (e.g., diabetes, asthma) until the youth receives a full health assessments.

~~(16)~~(18) Provisions for appropriate medical and prenatal ~~neonatal~~ care shall be made for pregnant youth.

~~(17)~~(19) For youth in the custody of the Department, if health or behavioral health services are not provided directly by the facility, but received by the youth through community clinicians, the facility shall complete Form CS-0689, Health Services Confirmation and Follow Up Notification ~~to the community provider~~. The Health Services Confirmation provides information about the service that was received and notes any follow-up services needed. This form shall be maintained in the youth's record.

Authority: T.C.A. §§ 37-5-105; 37-5-106; and 37-5-501, et. seq.

0250-04-08-.07 SUPERVISION OF YOUTH

(1) Staff shall provide direct supervision of all youth in placement, including, at a minimum, the following levels of visual contact:

(a) All youth confined in their rooms due to seclusion or similar event or medical requirements shall be observed every fifteen (15) minutes.

(b) Youth who are actively violent or intoxicated shall be observed every five (5) minutes.

(c) Youth exhibiting or expressing suicidal behavior or ideation shall be under constant direct observation and the following procedures shall be followed:

1. Referral to appropriate and pre-designated mental health practitioner or mobile crisis unit shall be immediately made and documented;

2. Reasons for removal from the general population shall be documented;

3. Behavior of youth during this period shall be clearly documented every fifteen (15) minutes; and

4. Written authorization for release from constant supervision shall be made by a licensed and designated mental health professional or in accordance with internal facility protocol.

(d) All youth shall be monitored every fifteen (15) minutes for the first twenty-four (24) hours of their detention and at least every thirty (30) minutes thereafter until release. Monitoring intervals do not pertain to routine direct line-of-sight supervision; however, all such supervision shall be denoted as such.

(2) The time of all supervision checks shall be logged and the behavior of the youth shall be documented.

(3) The facility shall visually count youth and record the results at the beginning and end of each shift change.

(4) Incidents which involve or endanger the lives or physical welfare of facility staff or youth or which involve escape or attempted escape shall be documented and such documentation retained.

(5) A female facility staff member or law enforcement officer shall be available when there are female youth in the facility to conduct and document:

(a) Searches;

(b) Supervision of showers;

(c) Health checks; and

(d) Constant periodic observations as set out ~~defined~~ in ~~paragraph 1 of this~~ Rule 0250-04-08-.07(1).

(6) Policies governing supervision of female youth by male staff and male youth by female staff shall be based on privacy needs and accepted legal standards. Except in emergencies, facility staff shall not observe residents of the opposite sex in toilet and shower areas, including such areas maintained in individual living units. Reasonable accommodation of privacy needs shall be consistently observed, and departure from these standards shall be documented for review by the Department's licensing office.

(7) Youth shall not supervise, control, assume, or exert authority over other youth.

(8) There shall be at least one (1) direct care staff for every eight (8) youth during waking hours and at least one (1) direct care staff for every sixteen (16) youth during sleeping hours ~~or other staffing plan approved by the Department's licensing office. At a minimum, there shall never be less than 2 direct care staff on duty~~. For facilities maintaining dorms or units, or otherwise physically separated populations of youth, the ratio will be met in each of these specific areas. In facilities housing over six (6) youth, there shall never be less than two (2) direct care staff on duty during times when youth are present at the facility. In facilities housing six (6) or less youth, a second staff member shall only be needed when youth are admitted to the facility, when youth are moved from secure locations into non-secure locations, or when restrictive behavior management becomes necessary. In such facilities, youth shall never be left without direct supervision of at least one (1) staff member.

Authority: T.C.A. §§ 37-5-105; 37-5-106; and 37-5-501, et. seq.

0250-04-08-.08 PHYSICAL PLANT

~~(1) No facility constructed or developed after January 1, 1995 shall be located in the same building or directly connected to any adult jail or prison facility complex.~~

~~(2)~~(1) ~~Existing~~Facilities located under the same roof or on the same grounds as an adult jail shall meet the criteria for physical separation, outlined in T.C.A. §37-1-116(i) (~~2016~~ 2021 and as amended).

~~(3)~~(2) The following minimum provisions shall be made by each facility:

(a) Sleeping areas shall be free from hazardous conditions that would facilitate suicide attempts or self-harm.

(b) ~~In new and existing facilities,~~ All sleeping and activity areas shall have lighting of at least twenty (20) foot-candles to be measured three (3) feet off the floor. These measurements shall be taken and documented by an independent source, such as the state or local fire marshal, and shall be retested at least every three (3) years.

(c) ~~New and existing~~ All facilities shall have forced air ventilation in all sleeping and activity areas.

(d) Facilities constructed or beginning operation after January 1991 shall have access to natural light in sleeping areas.

(e) ~~New and existing~~ All facilities shall maintain a temperature between sixty-five (65) degrees Fahrenheit and eighty (80) degrees Fahrenheit in sleeping and activity areas.

~~(4)~~(3) For new facilities, as defined in Rule 0250-04-08-.02(6), the minimum size of a single sleeping room shall be fifty (50) square feet of unencumbered floor space with a ceiling height of not less than eight (8) feet. All dimensions of room length and width for both single and multiple occupancy rooms shall allow for a reasonable amount of usable floor space for any in-room activities of youth and one wall measurement shall be at least seven (7) feet. Any issues pertaining to ~~sufficiency of~~ room dimensions shall be determined by the Department's licensing office. Each room shall contain a bunk, a toilet, and a ~~lavatory~~ sink/washbasin.

~~(5)~~(4) ~~Multiple~~ Sleeping rooms in ~~new~~ Juvenile Detention Centers shall not ~~be designed to~~ accommodate more than eight (8) youth. A minimum of thirty-five (35) square feet of unencumbered floor space for each youth shall be provided in such sleeping areas, with a ceiling height of not less than eight (8) feet. One wall measurement shall be at least seven (7) feet.

~~(6)~~(5) ~~Juvenile Detention Centers with ten (10) or fewer permanent bed spaces shall not house in excess of their number of permanent bed spaces by more than two (2) youth at any time. Juvenile Detention Centers with eleven (11) or~~

~~more permanent bed spaces shall not, except in exigent situations, exceed their number of permanent bed spaces by more than two (2) youth, or ten percent (10%) of the permanent bed space, whichever is greater, at any time.~~ Juvenile Detention Centers shall not house in excess of their number of permanent bed spaces by more than two (2) youth at any time. Any exception to compliance with this rule shall be noted in writing, shall include the administrator's or facility administrator's signature to verify administrative review, and shall not exceed seventy-two (72) hours in duration.

~~(7)~~(6) New Juvenile Detention Centers shall have a dayroom for each cluster of rooms or at least one (1) common multi-purpose room for education, recreation, and other activities. The dayrooms or common room shall offer a minimum of thirty-five (35) square feet of floor space per youth. Existing facilities as of January 1, 2023 are exempt from this rule.

~~(8)~~(7) All facilities shall provide operable toilets and washbasins to youth held in the facility at a ratio of at least one (1) toilet and washbasin to every eight (8) youth and one (1) toilet and washbasin accessible to occupants of any single-occupancy room without their having to leave their room.

~~(9)~~(8) Facilities shall have at least one (1) operable shower for every sixteen (16) ~~detained~~ youth held in the facility, which shall be accessible to youth without having to leave their designated area.

~~(10)~~(9) New Juvenile Detention Centers shall provide space inside the security perimeter, separate from living areas and administrative offices, for processing of youth as they are received and discharged from the facility. This space shall have the following components:

(a) Pedestrian sally port;

(b) Telephone facilities for detained youth to use;

(c) Temporary holding rooms which have fixed benches to seat youth; and

(d) A shower, toilet, and washbasin.

~~(11)~~(10) Existing facilities shall provide space where youth are received, searched, showered, and issued clothing, if provided by the facility, prior to assignment to the living quarters.

~~(12)~~(11) Provision shall be made for visitation areas.

~~(13)~~(12) Provision shall be made for access to a private room to allow for discussion between clergy, attorneys, and others authorized by the juvenile court.

~~(14) Each new Juvenile Detention Center shall have at least one (1) multi-purpose room for education, recreation, and other activities.~~

~~(15)~~(13) Each new facility shall provide a secure outdoor recreation area with dimensions of at least thirty (30) feet by thirty (30) feet or an indoor recreation area of the same dimensions which has access to natural light.

~~(16)~~(14) Space shall be provided where a health care professional may conduct sick calls, examine patients in privacy, and provide medical treatment.

~~(17)~~(15) Every Juvenile Detention Center shall have a secure control center, staffed continuously, through which telephone and other communications are channeled. The location of the control center shall provide line of sight visibility or be equipped with a monitoring device. The control center shall monitor the operation of security and life safety systems.

~~(18)~~(16) Drinking fountains with potable water shall be located in all sleeping and activity areas of new facilities. In existing facilities, if the water from washbasins is potable, it shall not be necessary to add drinking fountains, but sanitary drinking cups shall be available.

~~(19)~~(17) An emergency power source shall be available to activate at times of power failure. This emergency power source shall have sufficient capacity to operate security and evacuation electrical devices and equipment and to provide

minimum lighting within the facility and its perimeter. The power source shall be checked for functional readiness quarterly and the dates logged.

~~(20)~~(18) Facilities using electric locks shall also ensure that those locks may also be opened manually.

~~(21)~~(19) Each facility shall have exit signs at each exit which are distinctly marked and continuously illuminated. Exits shall be kept clear and in usable condition.

~~(22)~~(20) Each facility shall be inspected and approved annually by the designated Fire Safety Authority and by representatives from the Tennessee Department of Health. The facility shall be in compliance with the applicable regulations and standards of these authorities, including the current Life Safety Code applicable to the facilities regulated hereunder in order to obtain or retain a license or approval to operate.

~~(23)~~(21) All kitchens, dining rooms, and toilet areas shall contain operable floor drains.

~~(24)~~(22) There shall be rooms to accommodate each Juvenile Detention Center's classification plan. Facilities that house both males and females shall have provisions to separate accordingly.

~~(25)~~(23) Plans for any new facility construction or renovation shall be in compliance with minimum standards recorded herein and be submitted to the Department and the State Fire Marshal's office for review prior to the start of construction.

~~(26)~~(24) Plans for any new facility construction or renovation shall include provisions for ~~handicapped~~ disabled persons to have access to all facilities and services.

~~(27)~~(25) The use of padlocks and chains to secure housing areas is prohibited.

~~(28)~~(26) Any facility changing classification (e.g., Temporary Holding Resource changing to Juvenile Detention Center~~, etc.~~) shall meet all requirements of the new classification.

~~(29)~~(27) All glass in the facility (windows, vision panels, etc.) shall be safety glass. All new construction, after January 1, 1991, shall have all windows, vision panels, etc., made of a mar-resistant polycarbonate laminate.

~~(30)~~(28) The maintenance of hardware-secure rooms in Temporary Holding Resources shall be optional, with a maximum of two (2) occupants. At least half of the rooms in the facility shall be non-secure.

(29) The use of suspended ceilings such as particle board or other materials is prohibited in hardware secure areas.

(30) Toilet and shower facilities shall not be directly monitored by staff members of the opposite sex.

Authority: T.C.A. §§ 37-1-116; 37-5-105; 37-5-106; and 37-5-501, et. seq.

0250-04-08-.09 SANITATION, MAINTENANCE, AND LIFE SAFETY

(1) Floors, walls, and ceilings throughout the facility shall be kept clean, dry, and free of any hazardous materials or substance. All plumbing fixtures shall be clean and sanitary.

(2) A member of the staff shall be assigned to make ~~daily~~ sanitation and safety inspections a minimum of once weekly. Times of inspections shall be documented and conditions noted.

(3) The facility shall provide for regularly scheduled disposal of waste and trash in accordance with local or state health regulations.

(4) The facility shall provide for control of vermin and pests and shall remove youth from treated areas if there is a risk of illness.

(5) The facility shall be kept free of pictures, graffiti, and gang signs~~, or objects which are determined by staff to provide hiding places for vermin or create a fire hazard~~.

(6) Written policy and procedure shall provide for each shift at a facility to have announced and unannounced fire drills at a minimum of every six (6) months. The date of these fire drills as wells as participating staff and results shall be documented.

(7) The facility shall have a written and graphic evacuation plan posted in the living area, as well as any other specified locations.

(8) Written policy shall outline appropriate infection control procedures and the use of universal precautions.

(9) Facilities shall maintain Material Safety Data Sheets (MSDS) in all areas where harmful chemicals are stored. A MSDS shall be maintained for every chemical onsite whose original container contains precautionary wording in case of exposure or ingestion.

(10) All toxic or caustic chemicals with a National Fire Prevention Association (NFPA) hazardous rating of category two (2) or above shall be maintained in locked cabinets and inventoried weekly. All flammables shall be maintained in fire-resistant cabinets and inventoried weekly.

(11) All toxic or caustic chemicals maintained at full strength shall be stored in their original containers. Diluted chemicals may be maintained in spray bottles or other containers, but the contents shall be legibly annotated on the bottle.

(12) A facility shall remain in compliance with Life Safety Codes as determined by the State Fire Marshal or other approved authority.

(13) Safety glass in windows shall be inspected and replaced if cracked or broken.

Authority: T.C.A. §§ 37-5-105; 37-5-106; and 37-5-501, et. seq.

0250-04-08-.10 SECURITY

(1) Procedure shall differentiate between the types of searches allowed (cavity, pat, or strip) and identify when these shall occur and by whom such searches may be made. All body cavity searches shall be executed by medical personnel. Youth shall be searched by facility staff of the same sex, except in emergency situations involving an immediate threat to ~~life, limb or property~~ the safety of the youth or others. All searches shall be documented.

(2) Protocols around key control shall be established, and the operator of the control center shall log, track, and document all keys issued for use, including duplicate keys. All temporarily issued keys shall be logged by ring and a separate log shall be maintained for all permanently issued keys. All day-to-day operations shall be centralized and controlled through the admissions/control center.

(3) There shall be one (1) full set of well-identified keys, other than those in use, secured in a place accessible only to facility staff for use in the event of an emergency.

(4) There shall be an observable and effective method to open individual cell doors in the event of an emergency and/or failure of electronically operating systems. ~~Emergency systems shall be tested on a monthly basis and these test shall be documented in the facility's records.~~

(5) Written policy and procedure shall require that all other related security and emergency equipment is inventoried and tested at least quarterly to determine its condition and expiration dates. This shall include regular inspection of smoke detectors and other detection and suppression systems, and monthly visual inspections of ABC type fire extinguishers with documentation of these checks maintained in the facility's records.

(6) All tools and other potentially dangerous supplies and equipment shall be stored in a locked fire-resistant cabinet located outside the secure perimeter of confinement areas.

(7) Written policy and procedure shall provide for routine inspection and maintenance of all locks.

(8) There shall be a written plan providing for continuing operations in the event of a work stoppage or other job action. Copies of this plan shall be distributed to all supervisory personnel, who are required to familiarize themselves with it.

(9) Accused or adjudicated delinquent offenders, status offenders, and non-offenders cannot have contact with adult inmates, including adult inmate trustees. Contact is defined to include any physical or sustained sight and/or sound contact.

Authority: T.C.A. §§ 37-5-105; 37-5-106; and 37-5-501, et. seq.

0250-04-08-.11 ~~SECLUSION AND RESTRAINT~~ RESTRICTIVE BEHAVIOR MANAGEMENT

(1) "Restrictive Behavior Management" refers to any practice involving intervention techniques that attempt to guide, redirect, modify, or manage behavior through the use of restraint, seclusion, and/or use of chemical defense sprays.

~~(1)~~(2) ~~Physical~~ Restraint

(a) For the purposes of this section, "Restraint" is defined as any physical or mechanical intervention using physical force to cause a youth to comply with a directive or to control or change the youth's behavior.

~~(a)~~(b) Physical restraint is a restrictive behavior management practice ~~intervention and one~~ that poses a risk to the physical and/or psychological well-being of a youth and to the safety of staff members. Physical restraint shall only be used in an emergency safety situation when the youth, due to current behavior, poses an imminent risk of harm to ~~him~~self or others. This applies to all youth in ~~DCS licensed facilities~~ the facility regardless of adjudication. Physical restraint shall not be used as a means of punishment, discipline, coercion, convenience, or retaliation, or to compensate for lack of staff presence or competency, or for any other reason than the prevention of the individual from self-harm or harming others.

~~(b) The following are not considered physical restraint and are acceptable:~~

~~1. Physical touch associated with prompting, comforting or assisting that does not prevent the youth's freedom of movement or normal access to his or her body;~~

~~2. Physical or temporary touching or holding of the hand(s), wrist(s), arm(s), shoulder(s) or back for the purpose of inducing the youth to walk to a safe location; or~~

~~3. Physical intervention for the temporary holding of the hand(s), wrist(s), arm(s), shoulder(s), or leg(s) which does not otherwise restrict freedom of movement or access to one's body, for the purpose of terminating unsafe behavior.~~

(c) Mechanical restraint refers to the use of handcuffs and shackles, or other similar devices, and shall only be used to restrain youth who are alleged to be delinquent and meet the criteria for secure detention listed in T.C.A. § 37-1-114 (2021 and as amended). Mechanical restraints may be used for routine transportation or court activity, and waist belts are only permitted to be used for transportation. Mechanical restraints may only be used as a Restrictive Behavior Management practice to prevent immediate harm to self or others or for such time as it takes to subdue a youth for placement into a secure cell. Mechanical restraint shall not be used as a means of punishment, discipline, coercion, convenience, or retaliation, or to compensate for lack of staff presence or competency, or for any other reason other than the prevention of the individual from self-harm or harming others.

~~(c)~~(d) Use of physical and mechanical restraint for the purposes of restrictive behavior management shall ~~should~~ be restricted as follows:

1. Physical and mechanical restraint are ~~is an~~ emergency safety interventions, not ~~a~~ therapeutic techniques, and shall be implemented in a manner designed to protect the youth's safety, dignity, and emotional well-being.

2. There shall be sufficient staffing to ensure appropriate supervision of all other youth while trained staff devote full time and attention to all uses and phases of physical and/or mechanical restraint.

3. For the purposes of restrictive behavior management, the use of physical or mechanical restraint ~~is allowed only~~ shall only be allowed in the case of an emergency, when the youth is at ~~at~~ in

imminent danger of self-harm or of harming others, and no other option exists to protect the safety of the youth and staff members. Physical and mechanical restraints shall never be used as punishment or as a disciplinary practice.

4. In a facility setting, physical or mechanical restraint may also be justified to prevent a clear and immediate escape attempt.

5. Clothing shall not be removed from a youth in conjunction with the use of physical or mechanical restraint ~~or seclusion~~, other than that which is determined to place the youth or others at risk.

~~(d)~~(e) Training Requirements

1. All staff who use physical or mechanical restraint shall be trained prior to performing these interventions and annually thereafter by a certified trainer in a nationally recognized crisis intervention program. This training may be combined with training around other restrictive behavior management techniques.

2. The training shall involve a post-test and the observation of staff in practice to ensure competency.

3. Records of staff completion of training shall be maintained and made available to ~~DCS licensing~~ the Department's Office of Child Welfare Licensing upon request.

4. Training shall address ~~prevention of~~ pre-emptive practices and de-escalation techniques to avoid the use of restrictive behavior management techniques through a curriculum which shall include the following:

   (i) Recognizing aggressive and out-of-control behavior, psychosocial issues, medical conditions, emotional triggers, and other contributing factors that may lead to crisis;

   (ii) Understanding how staff behavior can influence the behavior of youth;

   (iii) Understanding the limitations of ~~restrictive behavior management techniques such as physical restraint and seclusion~~ physical and mechanical restraint practices;

   (iv) Listening and communication techniques such as negotiation and mediation;

   (v) Involving the youth in regaining control and encouraging self-calming behaviors;

   (vi) Separation of individuals involved in an altercation;

   (vii) Voluntarily escorting the youth to a safe location;

   (viii) Voluntary time out to allow the youth to calm down; and

   (ix) Other non-restrictive methods to de-escalate and reduce episodes of aggressive and out-of-control behavior.

5. At the conclusion of training, staff shall demonstrate an understanding of:

   (i) When it is appropriate to use a restrictive intervention such as physical or mechanical restraint ~~or seclusion~~;

   (ii) Safe use of physical or mechanical restraint ~~and seclusion,~~ including time limits;

   (iii) Safe methods for escorting youth;

   (iv) The experience of being placed in a physical or mechanical restraint ~~or in seclusion~~;

(v) Signs of distress;

(vi) Response techniques to prevent and reduce injury;

(vii) Negative effects that can result from misuse of restrictive interventions;

(viii) Physical and mental status of the youth, including signs of physical distress;

(ix) ~~Nutritional and~~ Hydration needs of the youth;

(x) Readiness to discontinue use of the physical or mechanical restraint ~~or seclusion~~; and

(xi) Recognizing when medical or other emergency personnel are needed.

~~(e)~~(f) Authorization and Initiation of Physical or Mechanical Restraint

1. The staff member initiating the physical or mechanical restraint shall contact the administrator, facility administrator, or their qualified designee to authorize the intervention either prior to the intervention, or if prior permission is impracticable due to the emergent nature of the situation, immediately following the intervention. While it is best practice to obtain this authorization prior to the intervention, this is not always possible when handling the types of emergencies requiring the use of physical or mechanical restraint.

2. ~~Authorization of intervention:~~ Staff members may authorize physical or mechanical restraint ~~or seclusion~~ only if they are supervisory-level staff who have completed all training requirements in compliance with this ~~part~~ rule prior to authorizing physical or mechanical restraint ~~or seclusion~~ and have been previously designated as having authority to make such decisions in an emergency setting by the administrator or facility administrator. In a Juvenile Detention Center, this shall be a shift supervisor or higher-ranking personnel. A list of all staff designated to approve physical or mechanical restraints shall be maintained by the administrator or facility administrator.

3. A new authorization is required if there is a change in the intervention utilized. If the use of physical or mechanical restraint has been discontinued, it may be used again only with a new authorization, even if a previously authorized time limit has not expired.

4. Authorizations for the use of physical or mechanical restraint are time-limited up to fifteen (15) minutes for youth aged nine (9) years and under, and up to thirty (30) minutes for youth aged ten (10) years and over. Physical or mechanical restraints lasting longer than the allowed time frames require clinical justification, which shall be obtained through direct evaluation of the youth by mobile crisis staff or other qualified clinical personnel for continuation and require a new authorization.

5. The re-authorization of interventions that exceed the initial time limits shall be from mobile crisis staff or other qualified clinical personnel. Physical or mechanical restraint can be authorized for up to an additional thirty (30) minutes, but not to exceed a total cumulative time of forty-five (45) minutes for youth aged nine (9) years and under and one (1) hour for youth aged ten (10) years and over.

6. Time-limited authorizations do not mean that the use of restrictive behavior management interventions shall be applied for the entire length of time for which the authorization is written. Physical or mechanical restraint and seclusion shall be used only for the minimum amount of time necessary.

~~(f)~~(g) Monitoring and Assessment

1. A youth in a physical or mechanical restraint shall be assessed and monitored continuously by a properly trained staff member not actively involved in the restraint. If a second staff member is not present at the moment the restraint is initiated, staff shall immediately call for help so that another staff member may begin monitoring.

2. Physical or mechanical restraints shall be monitored by direct visual observation and staff shall remain in the immediate physical presence of and in the same room as the youth. Video monitoring ~~does not meet this requirement~~ may augment, but does not supersede, this requirement.

3. In addition to monitoring the youth on a continuous ~~face-to-face~~ basis, staff shall assess the ~~child/~~youth every fifteen (15) minutes ~~for~~ and document:

   (i) Any harmful ~~health~~ effects or signs of any injury associated with the intervention;

   (ii) Emotional status and comfort;

   (iii) Need for food, water, and use of bathroom facilities;

   (iv) Readiness to discontinue the intervention; and

   (v) Difficulty breathing and any other physical complaints that may signal the need to discontinue the intervention.

~~(g)~~(h) Termination of Restraint and Follow-Up Assessment

1. A physical or mechanical restraint shall only be used for the minimum time ~~possible~~ necessary. These interventions shall be terminated when the behavior justifying their use no longer exists ~~or if the face-to-face assessments required by this rule do not occur~~. Immediate release shall occur if there is any threat to the youth's physical or emotional well-being.

2. Within ~~one (1) hour~~ fifteen (15) minutes of initiation of ~~the use of physical~~ restraint for youth aged nine (9) years and under, and within thirty (30) minutes of initiation of restraint for youth aged ten (10) years and over, the staff member authorizing the ~~seclusion or~~ restraint~~, in accordance with 0250-07-08-.11(5)(b),~~ shall assess the youth's condition and shall ~~make a determination~~ determine whether to continue the restraint. This assessment shall be conducted regardless of the length of time the youth is in the physical or mechanical restraint.

~~(h)~~3. Whenever a youth is injured as a result of the use of physical or mechanical restraint, staff shall immediately obtain medical treatment for that youth. This shall be documented in the subsequent written incident report.

~~(i)~~ 4. The youth and staff shall participate in a debriefing about the physical or mechanical restraint episode as soon as possible, but no longer than twenty-four (24) hours after the cessation of the intervention~~ occurred~~. The debriefing shall occur in a safe, confidential setting and shall be documented for content, time, and duration of debrief session. The debriefing with the youth and staff ~~is~~ shall be used to:

   ~~1.~~ (i) Ascertain that the youth's physical well-being, emotional comfort, and right to privacy were addressed;

   ~~2.~~ (ii) Identify any trauma that may have resulted from the incident and identify services to address the trauma;

   ~~3.~~ (iii) Identify what led to the emergency safety situation and what could have been handled differently;

   ~~4.~~ (iv) Facilitate the youth's reentry into routine activities;

   ~~5.~~ (v) Supervisor and involved staff shall privately discuss what precipitating events led to the intervention, how the incident was handled, and discuss any necessary changes to procedures or training to avoid future incidents; and

~~6.~~ (vi) When deemed necessary, a debriefing shall take place with any youth or other individuals who witnessed the incident, with an emphasis placed on returning the environment to pre-incident condition and resuming the normal program routine.

~~(j)~~(i) Notification and Documentation

1. Documentation shall include the following:

(i) A clear description of the events and behavior leading to the initiation of the physical or mechanical restraint, including the specific risk of harm presented by the youth;

(ii) A description of attempts by staff to prevent and de-escalate the youth prior to utilizing physical or mechanical restraint;

(iii) Documentation of approval from administrator, facility administrator, or authorized designee

(iv) Names, race, and custodial status of the youth involved;

~~(iii)~~(v) Names of ~~the youth and~~ staff members involved

~~(iv)~~(vi) The duration of ~~intervention~~ the restraint including, start and end times of intervention;

~~(v)~~(vii) Verification of continuous observation and fifteen (15) minute checks;

~~(vi)~~(viii) A description of all injuries, if any, that occurred because of the intervention and any medical attention provided for the youth's injuries; and

~~(vii)~~(ix) ~~A note that debriefing occurred~~ Documentation that describes time, date, and a brief description of debriefing with youth.

2. ~~Whenever possible,~~ The youth's parents or legal guardian shall be notified of the occurrence of any physical or mechanical restraint ~~or seclusion~~. The date and time of the parental notification shall be documented.

~~(k)~~(j) Internal Review

1. The facility shall engage in ongoing performance improvement activities that focus on the reduction of the use of physical or mechanical restraint. Information obtained through the review processes shall be considered, at least quarterly, in the identification of specific performance improvement activities and in the evaluation of the effectiveness of performance improvement activities.

2. Facilities shall review data throughout the year to identify trends in use of restrictive behavior management techniques ~~in order~~ to reduce the use of physical or mechanical restraint.

3. The facility shall ensure that a routine process is in place to address the use of crisis intervention and physical or mechanical restraint in individual and/or group supervision with all direct service and clinical staff. Such supervision shall focus on analyzing individual interventions as well as patterns of intervention to identify ways to increase the effective use of prevention methods and further reduce the use of physical or mechanical restraint.

~~(3) Mechanical Restraints~~

~~(a) Mechanical restraints, e.g. handcuffs and shackles, shall only be used to restrain youth who are alleged to be delinquent and meet the criteria for secure detention listed in T.C.A. § 37-1-114 (2016 and as amended). Staff shall maintain visual contact at all times with youth in mechanical restraints.~~

~~(b) Mechanical restraints may only be used for such time as it takes to place the child in a secure cell, or for transportation. Waist belts are permitted for transportation only.~~

~~(c) Body wraps and restraint beds are strictly prohibited. Use of restraint chairs shall be prohibited effective July 1, 2018. Use of mechanical restraints on pregnant youth shall be limited to wrist restraints only. Temporary, short-term use of security benches or mechanical restraints during classification or preparation for transport is permitted.~~

~~(d) The facility shall have written policy and procedure which outline the specifics of non- routine use of mechanical restraints and include language that requires the authorization of the shift supervisor before the mechanical restraint may be used.~~

~~(e) With the exception of law enforcement personnel, the possession/use of tasers and related "less lethal" designated equipment (such as Nova stun shields) is prohibited in any facility. Possession or use of such equipment by facility staff shall result in immediate adverse licensing action up to suspension of the agency's license.~~

~~(f) Mechanical restraints shall never be used as punishment.~~

~~(g) Whenever mechanical restraints are used for reasons other than transportation, the facility's written policy, procedure and practice shall provide that prior approval shall be obtained from the facility administrator, or designee. When a youth is mechanically restrained for reasons other than transportation, the following minimum procedures shall be followed:~~

~~1. Continuous, direct visual observation by staff;~~

~~2. Safety and wellness checks shall be conducted and documented every ten (10) minutes, to ensure the safety and well-being of the youth; and~~

~~3. Use of mechanical restraints shall be fully documented as to time, duration, reasons, authority and witnesses and reported to the facility administrator or designee.~~

(3) Exclusions and Prohibitions to Restraint

(a) The following practices are not considered as restrictive behavior management:

1. Physical touch associated with prompting, comforting, or assisting that does not prevent the youth's freedom of movement or normal access to his or her body;

2. Physical escort through temporarily touching or holding a youth's hand, wrist, arm, shoulder, or back to induce the youth to walk to a safe location; and

3. Use of mechanical restraints for the purposes of court activity or routine transportation.

(b) The following physical and/or mechanical restraint practices are prohibited in all Tennessee Juvenile Detention and Temporary Holding Facilities:

1. Four-point restraints, including body wraps, restraint beds, and restraint chairs are strictly prohibited.

2. With the exception of temporary, short-term use for security during classification or preparation for transportation, youth are prohibited from being mechanically restrained to a fixed object.

3. With the exception of trained law enforcement personnel, the possession/use of tasers and related "less lethal" designated equipment is prohibited in any facility. Possession or use of such equipment by facility staff other than law enforcement personnel may result in immediate adverse licensing action.

4. "Chemical restraint" means the use of any psychoactive medication as a restraint to control the youth's behavior or to restrict the youth's freedom of movement and that is not a standard treatment for the youth's medical or psychiatric condition and is prohibited in any facility.

5. Restricting respiration in any way, such as applying a chokehold or pressure to a youth's back or chest or placing a youth in a position that is capable of causing positional asphyxia is prohibited.

6. Using any method that is capable of causing loss of consciousness or harm to the neck is prohibited.

7. Pinning down with knees to torso, head, and/or neck is prohibited.

8. Using pressure point, pain compliance, and joint manipulation techniques, other than an approved method for release of a chokehold, bite, or hair pull is prohibited.

9. Modifying restraint equipment or applying any cuffing technique that connects handcuffs behind the back to ankle restraints is prohibited.

10. Lifting a youth's arms behind the back, while in mechanical restraints, in a manner that is capable of causing injury to the shoulder is prohibited.

11. Using other youth or untrained staff to assist with the restraint is prohibited.

12. Securing a youth to another youth is prohibited.

(c) Pregnant youth shall not be placed in mechanical restraints, beginning on the date on which a pregnancy is known to facility staff and confirmed by a healthcare professional.

1. This prohibition does not apply if:

   (i) A pregnant youth is restrained solely by handcuffs in front of her body during internal escort or at any time outside of the facility.

   (ii) The youth is determined to be an immediate and credible flight risk that cannot reasonably be prevented by other means;

   (iii) The youth poses an immediate and serious threat of harm to herself, the unborn child, or others that cannot reasonably be prevent by other means; or

   (iv) A healthcare professional responsible for the health and safety of the youth determines that the use of restraints is appropriate for the medical safety of the youth or the unborn child.

2. If mechanical restraints are used pursuant to an exception under this section:

   (i) Only the least restrictive restraints may be used necessary to prevent harm to the youth, unborn child, or others, or to prevent the risk of escape;

   (ii) The restraints shall not be applied around the ankles, legs, or waist of a youth who is in labor or delivery, or to restrain a youth's hands behind her back; and

   (iii) Within twenty-four (24) hours of using mechanical restraints, facility staff shall document in writing the extraordinary circumstances that warranted the use of mechanical restraints to ensure the safety and security of the youth, the unborn child, facility staff, or other incarcerated youth.

3. All youth potentially affected by this section must be advised of the requirements of this section upon admission to the facility and when known to be pregnant. The facility shall document appropriate measures to ensure that any youth who is unable to read, has limited reading proficiency, or who is designated as having Limited English Proficiency (LEP) have been made aware of these requirements in a manner that ensures comprehension by the youth. Youth and parents designated as LEP shall be provided documentation in their native language.

~~(2)~~(4) Chemical Defense Agents

(a) For the purposes of this section "Chemical Defense Agent" refers to "pepper spray" or "oleoresin capsicum (OC) spray" and is further defined as a chemical mixture that contains capsaicinoids extracted from the resin of hot peppers and dispersed through an aerosol device. Chemical Defense Agents incapacitate subjects by inducing an almost immediate burning sensation of the skin; burning, tearing, and swelling of the eyes; and, when inhaled, inflammation of the mucous membranes of the respiratory tract.

~~(a)~~(b) Facilities shall have written policy and procedures which govern the availability, control, and use of chemical defense agents. The policies shall include specific guidelines that determine the level of authority needed to access and use chemical defense agents and the procedures required to authorize their use. The policy should also include medical and/or decontamination procedures and administrative review that will be followed in all instances involving the use of a chemical defense agent. Chemical defense agents shall not be used as a means of punishment, discipline, coercion, convenience, or retaliation, or to compensate for lack of staff presence or competency, or for any other reason other than the prevention of the individual from self-harm or harming others.

~~(b)~~(c) The use of chemical defense agents by staff in all Temporary Holding Resources is prohibited ~~except by law enforcement personnel~~.

~~(c)~~(d) Use of chemical defense agents for the purposes of restrictive behavior management should be restricted as follows:

1. The use of chemical defense agents is ~~an emergency intervention and~~ allowed only in the case of an emergency, when the youth is at imminent danger of self-harm or harming others and no other option exists to protect the safety of other youth and staff members. Every effort ~~will~~ shall be made to protect the youth's safety, dignity, and emotional well-being during ~~its~~ use.

2. There ~~will~~ shall be sufficient staffing to ensure appropriate supervision of all other youth while trained staff devote time and attention to use of chemical defense agents.

3. If a second staff member is not present at the moment the intervention is initiated, staff shall immediately call for assistance so that another staff member may begin monitoring.

~~4. The use of chemical defense agents is allowed only in the case of an emergency, when the youth is at imminent danger of self-harm or of harming others and no other option exists to protect the safety of the youth and staff members.~~

~~5~~ 4. Only those staff designated by the administrator or facility administrator and trained in their use shall be authorized to deploy chemical defense agents. A list of all designated individuals permitted to deploy chemical defense agents shall be maintained by the administrator or facility administrator.

5. Effort shall be made to avoid cross-contamination of other youth or staff in the vicinity of the use of sprays. Such efforts will be documented in any subsequent incident reporting.

~~(d)~~(e) Training Requirements

1. All staff ~~who~~ authorized to use chemical defense agents ~~must~~ shall be trained prior to performing these interventions and annually thereafter by a certified trainer in a nationally recognized crisis intervention program. ~~Training through local law enforcement resources is acceptable.~~ This training may be combined with training around other restrictive behavior management techniques.

2. The training ~~must~~ shall involve a post-test and the observation of staff in practice to ensure competency.

3. Records of staff completion of training ~~will~~ shall be maintained and made available to DCS licensing upon request.

4. Training shall address preemptive and de-escalation techniques to avoid the use of chemical defense agents through a curriculum that includes the following:

(i) Recognizing aggressive and out-of-control behavior, psychosocial issues, medical conditions, emotional triggers and other contributing factors that may lead to crisis;

(ii) Understanding how staff behavior can influence the behavior of youth;

(iii) Understanding the limitations of the use of chemical defense sprays;

(iv) Listening and communication techniques such as negotiation and mediation;

(v) Involving the youth in regaining control and encouraging self-calming behaviors;

(vi) Separation of individuals involved in an altercation;

(vii) Voluntarily escorting the youth to a safe location;

(viii) Voluntary time out to allow the youth to calm down;

(ix) Other non-restrictive methods to de-escalate and reduce episodes of aggressive and out-of-control behavior; and

(x) Procedures for accurately documenting the incident for administrative review

5. At the conclusion of training, staff shall demonstrate an understanding of:

(i) When it is appropriate to use chemical defense agents;

(ii) Safe use of chemical defense agents;

(iii) Signs of distress;

(iv) Response techniques to prevent and reduce injury;

(v) Negative effects that can result from misuse of chemical defense agents;

(vi) Physical and mental status of the youth, including signs of physical distress;

(vii) Hydration needs of the youth;

(viii) Appropriate decontamination techniques including need for immediate response;

(ix) Recognizing when medical or other emergency personnel are needed; and

(x) Procedures for accurately documenting the incident for administrative review.

~~(e)~~(f) Authorization for Intervention Involving Chemical Defense Agents

1. The staff member initiating the use of chemical defense agents shall contact the administrator, facility administrator, medical director, or their qualified designee to authorize the intervention either prior to the intervention, or if prior permission is impracticable due to the emergent nature of the situation, immediately following the intervention. While it is best practice to obtain this authorization prior to the intervention, ~~it is noted that~~ this is not always possible when handling the types of emergencies requiring the use of chemical defense agents.

2. ~~Authorization of intervention: Staff members may authorize the use of chemical defense agents only if they are supervisory level staff~~ Prior authorization, when possible, or subsequent authorization for the use of chemical defense agents may only be granted by staff who have

completed all training requirements in compliance with this part prior to authorizing ~~intervention~~ the use of chemical defense agents and have been designated as having authority to make such decisions in an emergency setting by the facility administrator. ~~In a Juvenile Detention Center~~ This ~~will~~ shall be a shift supervisor or higher ranking personnel. A list of individuals designated to approve the use of chemical defense agents shall be maintained by the facility administrator.

3. ~~Once~~ If the use of chemical defense agents has been discontinued, ~~it~~ they may be used again only with a new authorization.

4. Chemical defense agents shall be used only for the minimum amount of time necessary.

5. Chemical defense agents maintained and used by facility staff are limited to Oleoresin Capsicum (OC) sprays and may not contain Mace.

4 6. A list of all staff members issued chemical defense agents or authorized in their use must be maintained and updated upon change of authorization status or employment.

~~(f)~~(g) Treatment, Assessment, and Monitoring

1. Following the use of chemical defense agents, decontamination procedures and any necessary medical treatment shall be administered immediately to any persons exposed to chemical agents during the incident. Staff shall arrange for youth to be moved to an area offering fresh air and given a shower and change of clothing. All body parts exposed to Oleoresin Capsicum (OC) spray will be thoroughly rinsed with water. Staff shall assist youth in flushing eyes. Time of decontamination with relation to time of disbursement will be documented in the incident report. Rooms and other areas exposed to chemical defense agents will also be cleaned and decontaminated prior to occupancy.

2. The affected youth shall be assessed and monitored continuously by a properly trained staff member not directly involved in the deployment of chemical defense agents. The affected youth shall be monitored by direct visual observation and staff will remain in the immediate physical presence of and in the same room as the youth. Video monitoring shall not meet this requirement. Monitoring shall continue until symptoms ~~disappear~~ abate to ensure medical attention is administered when necessary. Physical effects of exposure to OC sprays include: tearing, involuntary closing of eyes, redness of skin, coughing, gagging, shortness of breath, or loss of motor skills or coordination. Monitoring of youth following exposure to chemical defense agents for up to two hours shall not be considered a seclusion event.

3. In addition to monitoring the youth ~~on a continuous, face-to-face basis,~~ continuously, staff shall assess the youth every fifteen (15) minutes for:

   (i) Any harmful health effects or signs of any injury associated with the intervention;

   (ii) Emotional status and comfort of the youth;

   (iii) The youth's need for food, water, and use of bathroom facilities; and

   (iv) Difficulty breathing and any other physical complaints that may signal the need for medical treatment.

4. Medical treatment shall immediately be obtained for a youth if:

   (i) The youth shows symptoms for more than thirty (30) minutes after decontamination;

   (ii) More than a slight reddening of the youth's skin occurs following exposure;

   (iii) The youth complains of inordinate pain or requests medical care following decontamination; or

(iv) The youth has a known history of respiratory illness, allergies, or asthma.

~~5. The affected youth shall be monitored by direct visual observation and staff will remain in the immediate physical presence of and in the same room as the youth. Video monitoring shall not be used to meet this requirement.~~

~~(g)~~(h) The youth and staff will participate in a debriefing about the episode as soon as possible, but no longer than twenty-four (24) hours after the intervention occurred. The debriefing will occur in a safe, confidential setting and will be documented for content, time, and duration of debrief session. The debriefing with the youth and staff shall be used to:

1. Ascertain that the youth's physical well-being was appropriately addressed;

2. Identify any trauma that may have resulted from the incident and identify services to address the trauma;

3. Identify what led to the emergency safety situation and what could have been handled differently;

4. Facilitate the youth's reentry into routine activities;

5. Supervisor and involved staff shall privately discuss what precipitating events led to the intervention, how the incident was handled, and discuss any necessary changes to procedures or training to avoid future incidents; and

6. When deemed necessary, a debriefing will take place with any youth or other individuals who witnessed the incident, with an emphasis placed on returning the environment to pre-incident condition and resuming the normal program routine.

~~(h)~~(i) Notification and Documentation

1. ~~A written incident report shall be submitted to the facility administrator by the end of the shift when a chemical defense agent is used that includes the following~~ Documentation shall include the following:

(i) A clear description of the events and behavior leading to the initiation of the ~~intervention~~ chemical defense agent, including the specific risk of harm presented by the youth;

(ii) A description of attempts by staff to prevent and de-escalate the youth prior to utilizing the chemical defense agents;

(iii) Documentation of approval from administrator, facility administrator, or authorized designee;

(iv) Names, race, age, gender, and custodial status of the youth involved;

~~(iii)~~(v) Names of ~~the youth and~~ staff members involved;

~~(iv)~~(vi) ~~Time and~~ Duration of the intervention, including ~~decontamination~~ start and end times of intervention;

(vii) Start and end times of decontamination of youth;

~~(v)~~(viii) Verification of continuous observation and fifteen (15) minute checks;

~~(vi)~~(ix) A description of all injuries, if any, that occurred because of the intervention and any medical attention provided for the youth's injuries;

~~(vii)~~(x) A ~~note that debriefing occurred~~ brief summary that describes the debriefing with the youth, including the date and time of debriefing; and

(xi) Weighing of spray canister(s) immediately after incident and compared to monthly baseline to note amount of spray used.

2. ~~Whenever possible,~~The youth's parents or legal guardian will be notified of any use of chemical defense agents. The date and time of the parental notification should be documented.

3. Documentation of the incident shall be submitted no later than the conclusion of the involved staff or shift supervisor's shift.

4. The use of chemical defense agents on a youth under the age of twelve (12) years of age will be documented, with emphasis on the necessity of using the chemical defense agent as opposed to de-escalation techniques and less restrictive intervention.

~~(i)~~(j) Internal Review

1. The facility shall engage in ongoing performance improvement activities that focus on the reduction of the use of chemical defense agents. Information obtained through the review processes will be considered, at least quarterly, in the identification of specific performance improvement activities and in the evaluation of the effectiveness of performance improvement activities.

2. Facilities shall review data throughout the year to identify trends in use of restrictive behavior management techniques ~~in order~~ to reduce the use of chemical defense agents.

3. The facility will ensure that a routine process is in place to address the use of crisis intervention and use of chemical defense agents in individual and/or group supervision with all direct service and clinical staff. Such supervision will focus on analyzing individual interventions as well as patterns of intervention to identify ways to increase the effective use of prevention methods and further reduce the use of chemical defense agents.

4. An administrative review of each incident of the use of chemical defense will be conducted by the facility administrator. The facility administrator will document and sign that this review has occurred.

~~(j) Chemical defense agents maintained and used by facility staff are limited to OC sprays and may not contain Mace.~~

(k) Reasonable efforts must be made to remove a youth with documented or known respiratory conditions (including asthma, bronchitis, etc.) prior to the chemical defense agents being dispersed in any area in which the youth may be affected.

(l) Only the minimum amount of chemical defense agent will be used to control the youth's behavior. All canisters containing chemical defense agents will be weighed monthly and immediately following each use. Documentation of both routine inspection and incidental use will be documented for administrative review by the licensing staff or facility administrator.

(m) Written policy and procedure shall require that chemical defense agents are inventoried monthly and tested at least quarterly to determine their condition and expiration dates.

(n) Chemical defense agents will be stored in a locked cabinet inaccessible to youth when not issued or in use.

(o) Any intentional time lapse between the administering of chemical defense agents and subsequent appropriate decontamination or medical attention for punitive purposes is prohibited and subject to adverse licensing action.

~~(p) Psychotropic medication shall not be used for the purposes of chemical restraint in any Juvenile Detention Center or Temporary Holding Resource.~~

(4) With the exception of use by law enforcement personnel, the following restraint techniques shall not be used within any facility licensed by the Department:

(a) Restricting respiration in any way, such as applying a chokehold or pressure to a youth's back or chest or placing a youth in a position that is capable of causing positional asphyxia;

(b) Using any method that is capable of causing loss of consciousness or harm to the neck;

(c) Pinning down with knees to torso, head, and/or neck;

(d) Using pressure point, pain compliance, and joint manipulation techniques, other than an approved method for release of a chokehold, bite, or hair pull;

(e) Modifying restraint equipment or applying any cuffing technique that connects handcuffs behind the back to ankle restraints;

(f) Lifting a youth's arms behind the back, while in mechanical restraints, in a manner that is capable of causing injury to the shoulder;

(g) Using other youth or untrained staff to assist with the restraint;

(h) Securing a youth to another youth; and

(i) Administering a drug for controlling acute episodic behavior as a means of physical restraint, except when the youth's behavior is attributable to mental illness and the drug is authorized by a licensed physician and administered by a licensed medical professional.

(5) Seclusion

(a) Seclusion is often associated with physical restraint in that physical restraint is regularly used to transport youth to a seclusion environment. However, seclusion may occur without employing physical restraint. All precedent used by staff in avoiding the need for restraint should also be employed to avoid the need for seclusion.

(b) Seclusion does not include:

1. The segregation of a youth for the purpose of managing biological contagion consistent with the Centers for Disease Control Guidelines.

2. Confinement to a locked unit or ward where other youth are present. Seclusion is not solely confinement of a youth to an area, but separation of the youth from other persons.

3. Voluntary time-out involving the voluntary separation of an individual youth from others. The youth is allowed to end the separation at will.

4. Seclusion in a facility setting does not include temporarily securing youth in their rooms during regularly scheduled times (such as periods set aside for sleep or regularly scheduled down time) that are universally applicable to the entire population or within the youth's assigned living area.

(c) Seclusion may be provided only in a clean, dry, temperate location that is free of potentially hazardous conditions which might harm the youth or others. Rooms used for seclusion shall allow staff full view of the youth in all areas of the room. The room shall have the following qualities:

1. The room is lighted and well ventilated;

2. Light fixtures are screened or recessed, interior doorknobs are removed, and hinges are recessed;

3. The room is at a minimum fifty (50) square feet in area;

~~4. The room is unfurnished and may have padding that is designed specifically for use in psychiatric or similar settings and approved by the local health and fire authorities;~~

~~5. The room contains an observation window the dimensions of which permit a youth to be in view regardless of where he/she is positioned in the room;~~

~~6. The room is inspected and approved under regulations adopted by the State Fire Marshal prior to usage; and~~

~~7. Youth in seclusion have reasonable access to water, toilet facilities and hygiene supplies.~~

~~(d) Monitoring of seclusion shall be by direct in-person (face-to-face) visual observation through the seclusion room window or in the room itself every fifteen (15) minutes.~~

~~(e) Seclusion of youth for suicidal behavior/ideation or other clinical reasons shall be conducted as provided in 0250-04-08-.07(1).~~

~~(f) All other referrals for seclusion shall adhere to the following guidelines:~~

~~1. Seclusion shall only be used when necessary to prevent imminent harm to themselves, another person, prevent damage to property, or prevent the youth from escaping.~~

~~2. Staff shall never use seclusion for discipline, punishment, administrative convenience, retaliation, staffing shortages, or reasons other than a temporary response to behavior that threatens immediate harm to a youth or others.~~

~~3. Prior to using seclusion, staff shall use less restrictive techniques, including talking with youth to de-escalate the situation. Prior to using seclusion or immediately after placing a youth in seclusion, staff shall explain to the youth the reasons for the seclusion and the fact that he or she shall be released upon regaining self-control. Once the youth no longer presents a risk of imminent harm to themselves or others at the facility, the seclusion shall be terminated and the youth shall be returned to the general population.~~

~~4. Seclusion lasting over twenty-four (24) hours shall be reviewed and approved at the twenty-four (24) hour mark and every subsequent twenty-four (24) hour period by the facility administrator. Youth may not be secluded for more than seventy-two (72) total hours within any fourteen (14) day period. Large muscle group exercise must be provided a minimum of one (1) hour daily for those juveniles in seclusion longer than twenty-four (24) hours.~~

~~5. A hearing shall be held within twenty-four (24) hours of initial confinement for any seclusion lasting more than one (1) hour. Any seclusion lasting longer than twenty-four (24) hours requires an additional administrative hearing in which the youth may appeal continued confinement prior to the extension of confinement. The hearing shall be conducted by the administrator or his established hearing officer and all proceedings shall be documented. A written copy of this documentation shall be provided to the youth and the youth's parent or legal guardian.~~

~~6. An incident report shall be completed within twenty-four (24) hours for any youth referred for seclusion. Youth may be placed in their room for a "cooling off" period not to exceed one (1) hour without need for incident report. Staff may allow the "cooling off" period to extend an additional hour, for a total of two (2) hours, however if the youth's placement in their room under this part extends for longer than two (2) hours the youth shall be considered secluded and an incident report must be completed. Such action, including the precipitating behavior/event, shall be documented.~~

~~7. Youth placed in seclusion shall be offered reasonable access to services and shall be engaged in regularly scheduled programming unless they are an immediate threat to others.~~

(a) "Seclusion" means the involuntary segregation of a child from the rest of the resident population regardless of the reason for the segregation, including confinement to a locked unit or ward where other children may

be seen or heard but are separated from the child, but, for the purposes of this section, does not include the following:

(1) The segregation of the child for the purpose of managing biological contagion consistent with the centers for disease control and prevention guidelines, or for other medical reasons, including detoxification, at the discretion of the facility administrator. If the youth is segregated for other medical reasons, including detoxification, the medical reason leading to the segregation shall be documented in the child's file and made available for review.

(2) The segregation of a child for the purpose of managing suicidal behavior/suicidal ideation. Segregation of a youth for suicidal behavior/ideation shall be conducted as provided in Rule 0250-04-08-.07.

(3) The segregation of a vulnerable youth for the purpose of protection from harm by other detained youth. Such circumstances shall require approval by the facility administrator and shall include a safety plan to mitigate or prevent harm. Regular review of the safety plan will be conducted to determine whether continued segregation is necessary to protect the youth.

(4) Voluntary time-out involving the voluntary separation of an individual youth from others, and where the youth is allowed to end the separation at will.

(5) Temporarily securing youth in their rooms during regularly scheduled times, such as periods set aside for sleep or regularly scheduled down time, that are universally applicable to the entire population.

(6) Initial segregation of youth for classification upon admission. Segregation for this purpose shall not last longer than twenty-four (24) hours from the time of admission.

(7) The temporary segregation of a youth on an exigent basis due to attempted escape from the facility. Such circumstances shall require approval by the facility administrator, and information regarding the precipitating events is documented in the facility records. Such periods of segregation shall cease as soon as it is determined by the facility administrator or facility administrator's designee that the youth is no longer actively attempting escape.

(c) "Temporary" or "Temporarily" shall mean no more than two (2) hours.

(d) Seclusion shall not be used as a means of punishment, discipline, coercion, convenience, or retaliation, or to compensate for lack of staff presence or competency, or for any other reason other than the prevention of the individual from self-harm or harming others.

(e) Prior to using seclusion, staff shall employ less restrictive techniques, including verbal de-escalation of presenting behavior. Prior to the use of seclusion or immediately after placing a youth in seclusion, staff shall explain to the youth the reasons for the action and the fact that he or she shall be released upon regaining self-control. Once the youth no longer presents a risk of imminent harm to themselves or others at the facility, the seclusion shall be terminated, and the youth shall be returned to the general population.

(f) Following a period of seclusion, the facility administrator may review the seclusion and authorize an additional two-hour period of seclusion if appropriate. The facility administrator shall not authorize more than two (2) subsequent periods of seclusion or more than six (6) total hours of seclusion within a twenty-four-hour period.

(g) Seclusion shall be provided only in a clean, dry, temperate location that is free of potentially hazardous conditions which might harm the youth or others. Rooms used for seclusion shall allow staff full view of the youth in all areas of the room. The room shall have the following qualities:

1. The room is lighted and well ventilated;

2. Light fixtures are screened or recessed, interior doorknobs are removed, and hinges are recessed;

3. The room is at least fifty (50) square feet in area;

4. The room is unfurnished and may have padding that is designed specifically for use in psychiatric or similar settings and approved by local health and fire authorities;

5. The room contains an observation window, the dimensions of which permit a youth to be in view regardless of where s/he is positioned in the room;

6. The room is inspected and approved under regulations adopted by the State Fire Marshal prior to usage; and

7. The room has reasonable access to water, toilet facilities, and hygiene supplies.

(h) An opportunity for administrative review with the youth shall be made available within twenty-four (24) hours of initial confinement for any seclusion event lasting more than two (2) hours. The administrative review shall be conducted by the administrator or the administrator designee and all proceedings shall be documented. During the administrative review, the youth will be given the opportunity to provide information to the administrator or the administrator designee about the seclusion event. A written copy of the documentation from the review shall be provided to the youth and the youth's parent or legal guardian. The facility shall document appropriate measures to ensure any youth who is unable to read, has limited reading proficiency, or who is designated as having Limited English Proficiency (LEP) has been made aware of all proceedings in a manner that ensures comprehension by the youth. Youth and parents designated as LEP shall be provided documentation in their native language.

(i) An incident report shall be completed within twenty-four (24) hours for any youth placed in seclusion lasting longer than two (2) hours.

(j) Youth placed in seclusion shall be offered reasonable access to services and shall be engaged in regularly scheduled programming unless they present an immediate threat to others.

(k) Authorization and Initiation of Seclusion

1. The staff member initiating the seclusion shall contact the facility administrator or qualified designee to authorize seclusion either prior to the intervention, or if prior permission is impractical due to the emergent nature of the situation, immediately following the commencement of the intervention. While it is best practice to obtain this authorization prior to the intervention, this is not always possible in some circumstances.

2. Staff members may authorize seclusion only if they are supervisory-level staff who have completed all training requirements in compliance with this part prior to authorizing seclusion and have been designated as having authority to make such decisions in an emergency setting by the facility administrator. In a Juvenile Detention Center, this shall be a shift supervisor or higher-ranking personnel. A list of all individuals designated to approve seclusion shall be maintained by the administrator or facility administrator.

3. A new authorization is required if there is a change in the intervention utilized. If the use of seclusion has been discontinued, it may be used again only with a new authorization, even if a previously authorized amount of time has not expired.

4. Time-limited authorizations do not mean that the use of restrictive behavior management interventions shall be applied for the entire length of time for which the authorization is written. Seclusion shall only be used for the minimum amount of time necessary.

(l) Monitoring and Assessment

1. A youth in seclusion shall be assessed and monitored continuously.

2. In addition to monitoring the youth on a continuous basis, staff shall assess the youth every fifteen (15) minutes and document:

(i) Any harmful health effects or signs of any injury associated with the intervention;

(ii) Emotional status and comfort;

(iii) Need for food, water, and use of bathroom facilities;

(iv) Readiness to discontinue the intervention; and

(v) Difficulty breathing and any other physical complaints that may signal the need to discontinue the intervention.

(m) Termination of Seclusion and Follow-Up Assessment

1. Seclusion shall only be used for the minimum time necessary. These interventions shall be terminated when the behavior justifying their use no longer exists; or if danger to the youth by other individuals is determined to no longer be present. Immediate release shall occur if there is any perceived threat to the youth's physical or emotional well-being.

2. Whenever a youth is injured prior to or during a seclusion event, staff shall immediately obtain medical treatment for that youth. This shall be documented in the subsequent, written incident report.

3. The youth and staff shall participate in a debriefing for any seclusion event lasting more than two (2) hours as soon as possible, but no later than twenty-four (24) hours after the cessation of the intervention. The debriefing shall occur in a safe, confidential setting. The debriefing with the youth and staff is used to:

(i) Ascertain that the youth's physical well-being, emotional comfort, and right to privacy were addressed;

(ii) Identify any trauma that may have resulted from the incident and identify services to address the trauma;

(iii) Identify what led to the use of seclusion and what could have been handled differently;

(iv) Facilitate the youth's reentry into routine activities;

(v) Ensure supervisor and involved staff privately discuss what precipitating events led to the intervention, how the incident was handled, and discuss any necessary changes to procedures or training to avoid future incidents; and

(vi) Ensure that, when deemed necessary, a debriefing shall take place with any youth or other individuals who witnessed the incident, with an emphasis placed on returning the environment to pre-incident condition and resuming the normal program routine.

(n) Notification and Documentation

1. Documentation of any seclusion event lasting more than two (2) hours shall be completed using the form provided by the Department. If a form lacks one or more of the following requirements, the form will be deemed non-compliant. All documentation shall include the following:

(i) A clear description of the events and behavior leading to the initiation of seclusion, including the specific risk of harm presented by or to the youth;

(ii) A description of attempts by staff to prevent and de-escalate the youth prior to utilizing seclusion;

(iii) Documentation of approval from Facility Administrator or authorized designee;

(iv) Names, race, gender, and custodial status of the youth involved;

(v) Names of staff members involved;

(vi) Start and end times of intervention (duration);

(vii) Verification of continuous observation and fifteen (15) minute checks;

(viii) A description of any injuries that occurred because of the intervention;

(ix) Notation describing the time and brief description of debriefing with youth; and

(x) Documentation that notification was forwarded to the youth's parents or legal guardian regarding the occurrence of any seclusion event.

(o) Internal Review

1. The facility shall engage in ongoing performance improvement activities that focus on reducing the use of seclusion. Information obtained through the review processes shall be considered by administrative and direct care staff in the identification of specific performance improvement activities and in the evaluation of the effectiveness of performance improvement activities.

2. Facilities shall review data throughout the year to identify trends in the use of restrictive behavior management techniques to reduce the use of seclusion.

(p) Training Requirements

1. All staff who use seclusion shall be trained prior to performing these interventions and annually thereafter by a certified trainer in a nationally recognized crisis intervention program. This training may be combined with training around other restrictive behavior management techniques.

2. The training shall involve a post-test and the observation of staff in practice to ensure competency.

3. Records of staff completion of training shall be maintained and made available to DCS licensing upon request.

4. Training shall address pre-emptive practices and de-escalation techniques to avoid the use of restrictive behavior management techniques through a curriculum that includes the following:

(i) Recognizing aggressive and out-of-control behavior, psychosocial issues, medical conditions, emotional triggers and other contributing factors that may lead to crisis;

(ii) Understanding how staff behavior can influence youth behavior;

(iii) Understanding the limitations and possible dangers of seclusion and related practices;

(iv) Listening and communication techniques such as negotiation and mediation;

(v) Involving the youth in regaining control and encouraging self-calming behaviors;

(vi) Separation of individuals involved in an altercation;

(vii) Voluntarily escorting the youth to a safe location;

(viii) Voluntary time out to allow the youth to calm down; and

(ix) Other non-restrictive methods to de-escalate and reduce episodes of aggressive and out-of-control behavior.

5. At the conclusion of training, staff shall demonstrate an understanding of:

(i) When it is appropriate to use seclusion as a restrictive intervention;

(ii) Use of appropriate time limits;

(iii) Signs of distress;

(iv) Response techniques to prevent and reduce injury;

(v) Negative effects that can result from misuse of restrictive interventions;

(vi) Physical and mental status of the youth, including signs of physical distress;

(vii) Hydration needs of the youth;

(viii) Readiness to discontinue use of seclusion; and

(ix) Recognizing when medical or other emergency personnel are needed.

Authority: T.C.A. §§ 37-1-102; 37-1-116; 37-5-105; 37-5-106; 37-5-214; and 37-5-501, et. seq.

0250-04-08-.12 TRANSPORTATION

(1) All transportation shall be provided by approved facility staff or law enforcement, unless otherwise ordered by the court;

(2) Each person providing transportation shall provide documentation of a valid Class D Tennessee driver's license in accordance with T.C.A. § 55-50-102 (~~2016~~ 2017 and as amended).

(3) Each person providing transportation shall provide documentation of automobile liability insurance for any private vehicle used in transporting youth in temporary holding resources or drive a government vehicle covered by liability insurance.

(4) Each ~~transportation provider~~ person providing transportation shall be oriented to the behavior of detained youth during transportation, be aware of required documentation necessary for transportation to a detention center, and be able to communicate emergency information to proper authorities.

(5) Any vehicles used for transportation shall be well-maintained and operated in accordance with state law.

(6) Driver and all passengers shall wear seat belts.

(7) With the exception of bonded or law-enforcement personnel, female youth requiring transportation shall be accompanied by a female staff member/officer. Allowances may be made in extenuating circumstances and shall be documented in facility logs.

Authority: T.C.A. §§ 37-5-105; 37-5-106; and 37-5-501, et. seq.