

**(V. 2016.07.11)**  
**Committee Review**  
**RULES**  
**OF**  
**TENNESSEE DEPARTMENT OF CHILDREN'S SERVICES**  
**OFFICE OF CHILD WELFARE LICENSING**  
**CHAPTER 0250-04-08**  
**MINIMUM STANDARDS FOR JUVENILE DETENTION FACILITIES**  
**AND**  
**TEMPORARY HOLDING RESOURCES**

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**0250-04-08 -.01      GENERAL REQUIREMENTS**

1. Regulations for Juvenile Detention Facilities/Temporary Holding Resources will be promulgated according to state administrative procedures. The initial and continued approval of the licensing of a juvenile detention center shall be based upon the following criteria:
  - (A) The safety, welfare and best interests of the children in the care of the agency.
  - (B) The capability, training and character of the persons providing or supervising the care to the children.
  - (C) The quality of the methods of care and instruction provided for the children.
  - (D) The suitability of the facilities provided for the care of the children.
  - (E) The adequacy of the methods of administration and the management of the juvenile detention facility, the agency's personnel policies, and the financial integrity of the agency.

- (F) The present need for the juvenile detention facility/temporary holding resource
2. The issuance and continuation of a license or approval to operate a juvenile detention facility/temporary holding resource shall depend upon adherence to these standards.
  3. All public or private agencies operating juvenile detention facilities/temporary holding resources shall be specifically approved or licensed to exercise this function by the department.
  4. Juvenile detention facilities/temporary holding resources must be appropriately approved, licensed, permitted or credentialed by all appropriate agents, including the Tennessee Department of Health and the state/local fire marshal's office, before residents may be admitted.
  5. Juvenile detention facilities/temporary holding resources shall be classified according to the date operations commenced. Facilities which begin operation as a juvenile detention facility/temporary holding resource after July 1, 2016, shall be considered as new, while facilities operating prior to that date shall be considered existing facilities.
  6. Agencies must provide their services in an ethical and professional manner at all times. This includes (1) strict adherence to the practice of confidentiality, and (2) acting at all times in the best interest of the resident in so far as this does not violate the social responsibility of the agency for the protection of the community.
  7. The agency shall consider and respect the ethnic, religious, racial, and cultural background of all residents and make reasonable accommodations to meet any related needs.
  8. An agency shall not engage in practices which exploit the rights of residents in care.

**Provisions Specific to Temporary Holding Resources**

9. Temporary holding resources are designed to house no more than eight (8) children, and 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. Capacity of any temporary holding resource shall not exceed eight (8).
10. Temporary holding resources are designed to house children who are:
  - (A) In need of legal temporary placement;
  - (B) Who have pending adjudication; or

(C) Who are awaiting judicial disposition

11. Children/youth shall be detained in the temporary holding resource in accordance with T.C.A. 37-1-114 and 37-1-116.
12. Placement in *temporary holding resources* shall not exceed a seventy-two (72) hour maximum length of stay.
13. Children/youth who are alleged to be delinquent and meet the criteria for secure detention of T.C.A. 37-1-114(c) may be placed in secure custody in a *temporary holding resource* not to exceed a seventy-two (72) hour maximum length of stay.
14. Children who are alleged to be status offenders may 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 a child has violated a valid court order.
15. Dependent/neglected children/youth shall not be detained in secure rooms unless those areas are rendered "non-secure" for the duration of the placement.
16. Children placed in secure rooms must meet the criteria established in T.C.A. 37-1-114 and 37-1-116.

**Admission Criteria for Juvenile Detention Facilities and Secure Areas of Temporary Holding Resources**

17. A child/youth shall not be detained in any secure facility or secure portion of any facility unless:
  - (A) There is probable cause to believe the child/youth has committed a delinquent offense constituting:
    - (1) A crime against a person resulting in the serious injury or death of the victim or involving the likelihood of serious injury or death to such victim; or
    - (2) The unlawful possession of a handgun or carrying of a weapon, as prohibited by TCA 39-17-13;
  - (B) There is probable cause to believe the child/youth has committed any other delinquent offense involving the likelihood of serious physical injury\* or death, or an offense constituting a felony, violation of probation or violation of aftercare, and the child/youth:
    - (1) Is currently on probation

- (2) Is currently awaiting court action on a previous alleged delinquent offense
  - (3) Is alleged to be an escapee or absconder from a juvenile facility, institution or other court-ordered placement; or
  - (4) Has, within the previous twelve (12) months, willfully failed to appear at any juvenile court hearing, engaged in violent conduct resulting in serious injury to another person or involving the likelihood of serious injury or death, or been adjudicated delinquent by virtue of an offense constituting a felony if committed by an adult;
- (C) There is probable cause to believe the child/youth has committed a delinquent offense, and special circumstances in accordance with the provisions of subsection (a) indicate the child/youth should be detained; however, in any such case, the judge shall, within twenty-four (24) hours of the actual detention, excluding non-judicial days, issue a written order on a form prescribed by the Tennessee council of juvenile and family court judges setting forth the specific reasons necessitating such detention. Nothing in this subdivision (c)(3) shall be construed as requiring a hearing or formal finding of fact, except as otherwise required by § 37-1-117;
- (D) The child/youth is alleged to be an escapee from a secure juvenile facility or institution;
- (E) The child/youth is wanted in another jurisdiction for an offense that, if committed by an adult, would be a felony in that jurisdiction;
- (F) There is probable cause to believe the child/youth is unruly and has violated a valid court order or who is a runaway from another jurisdiction. Any detention of such a child/youth shall be in compliance with subsection (H)
- (G) In addition to any of the conditions listed in the previous subdivisions there is no less restrictive alternative that will reduce the risk of flight or of serious physical harm to the child/youth or to others, including placement of the child/youth with a parent, guardian, legal custodian or relative; use of any of the alternatives listed in § 37-1-116(g); or the setting of bail
- (H) Children/youth alleged to be unruly shall not be detained for more than twenty-four (24) hours, excluding non-judicial days unless there has

been a detention hearing and a judicial determination that there is probable cause to believe the child/youth has violated a valid court order, and in no event shall such a child/youth be detained for more than seventy-two (72) hours exclusive of non-judicial days prior to an adjudicatory hearing. Nothing herein prohibits the court from ordering the placement of children/youth in shelter care where appropriate, and such placement shall not be considered detention within the meaning of this section.

#### **PROVISIONS FOR YOUTH WITH SPECIAL NEEDS**

18. Provisions shall be made to address special needs for those youth exhibiting or with documented physical or intellectual disabilities or impairments, limited English proficiency (LEP) and/or mental or emotional health issues.

#### **INFORMED CONSENT**

Note: Rules in this section may not be applicable if family contact is considered contraindicated by the administrator due to safety concerns concerning the youth or the facility. Such concerns shall be documented by the facility administrator or designee

19. 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.
20. 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.
22. Facility staff shall obtain informed consent using a language that is understandable to the youth and his or her parent or guardian.

#### **FAMILY ENGAGEMENT**

Note: Rules in this section may not be applicable if family contact is considered contraindicated by the administrator due to safety concerns concerning the youth or the facility. Such concerns shall be documented by the facility administrator or designee.

23. Facility administrators shall provide a way for parents and guardians, including individuals who are limited English proficient, to ask questions about the facility and its programs and ensure that those questions are answered.

24. Parents and guardians shall receive contact information for a staff member who they can contact to obtain information about their child and his or her adjustment to the facility. The facility shall make appropriate arrangements to communicate with parents or guardians who are limited English proficient.
25. Facility staff shall encourage contact between youth and family members through mail, telephone, visitation and other means.
26. Parents, guardians and other family members will be able to register complaints about the treatment of youth. Facility administrators shall promptly reply to such complaints. The facility shall make appropriate arrangements to receive complaints from parents or guardians who are limited English proficient.

#### **0250-04-08 -.02 ADMINISTRATION/MANAGEMENT**

1. Each facility must develop a mission statement and written policies and procedures governing the facility's operations. These policies and procedures will be reviewed and updated annually and will be accessible to all employees at all times. Staff will be trained on these policies during pre-service and during their annual in-service training.
2. There must be written plans developed in advance for dealing with emergencies such as escape, medical emergencies, quarantine, disturbances, assaults on employees, hostage taking and emergency evacuation. These shall be incorporated into the facility's operations manual. Each employee will be trained on these plans; documentation will be noted in individual employee training records.
3. The facility administrator will approve a list of articles and materials that shall be allowed in the living area. This list will be made available to all youth upon admission.
4. Administrators regularly review logbooks; special incident reports; records of use of physical force, restraints and room confinement; grievances; and recreation records. Administrators provide positive feedback to staff on exemplary performance. Administrators advise staff of any areas of concern and take appropriate action with respect to particular staff members, such as re-training.
5. An intake process will be completed for every youth admitted to the facility and will 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 info
  - (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)
  - (w) information regarding the youth's custodial status (DCS custody)
6. The admitting worker shall ensure that each youth received is committed under proper legal authority.
  7. At the time of admission a diligent attempt will be made to notify parents or guardian. This and all future attempts will 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 worker 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 must be at least one witness to verify this transaction and the youth's refusal will be documented.
  9. Written policy and procedure must ensure that records on resident children/youth are current and accurate.
  10. Written policy and procedure must ensure that resident's records shall be maintained confidentially.

11. Written policy will govern the management of juvenile records, including at a minimum the following areas:
  - (a) The establishment, use and content of juvenile/resident records
  - (b) Right to privacy
  - (c) Secure storage and preservation of records
  - (d) Established schedule for disposal of inactive records
12. All juvenile/resident records will be retained a minimum of one (1) year from the date of discharge. All medical records will be retained until a youth's nineteenth (19) birthday. Local policy will adhere to state and federal guidelines regarding the retention of all special education records.
13. Written policy and procedure will specify that the person receiving a youth at discharge must be an approved parent or guardian and must present appropriate identification. Positive identification of a youth will be made by the releasing personnel before discharge or release.
14. All youth released from the facility will sign a receipt for property, medications, valuables and cash returned to the youth, parent, or guardian at the time of release. All items will be carefully inventoried on the receipt and witnessed by the releasing personnel. The receipt will be kept in the permanent records of the facility.
15. There will be a system for youth and staff to communicate with one another at all times.
16. Facility staff will cooperate promptly with requests from juvenile courts, LEAS, law enforcement and departmental representatives.
17. Written policy and procedure must 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 will establish the hours during which attorneys may visit.
18. Records shall be kept noting a juvenile/resident's access to the courts, visitation or access to the public, disciplinary actions and outcomes, medical or behavioral conditions that may need to be reported, and/or any other pertinent information. Such records will be retained per local policy, statutory requirement and/or administrative rules and regulations.
19. Any significant incident involving a juvenile/resident must be documented in a written incident report and retained in the juvenile/resident's individual file. The incident report will include date, time, location and witnesses and clearly describe the

juvenile/resident's involvement and behavior, as well as record staff actions (e.g., verbal and physical interventions and follow up actions) resulting from the incident. The incident must be reviewed by the detention services administrator or the administrator's designee prior to the conclusion of the shift and reported as designated by the department and the local jurisdiction. All incident reports will 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
- e) The use of isolation
- f) Use of mechanical restraints for reasons other than transportation
- g) Sentinel events including death or serious illness/injury

Incident reports completed by the agency to fulfill contractual requirements issued by the department shall be considered acceptable in meeting compliance with this provision.

- 20. The facility shall cooperate fully with the Tennessee Commission on Children and Youth in monitoring JJDP core requirements.
- 21. Each Juvenile Detention Facility shall maintain census information for all youth detained at the facility. The census shall reflect the following for each detainee:
  - a) Youth's first and last name
  - b) Date of birth/Age
  - c) Gender
  - d) County of origin
  - e) Date of Admission
  - f) Date of Discharge (when applicable)
  - g) Length of Stay
  - h) Custodial Disposition
  - i) Legal reason for detainment
- 22. Each Juvenile Detention Facility shall, on a monthly basis and on a form provided by the department, provide the department an aggregate report detailing the following information:
  - a) Physical capacity of the facility
  - b) Demographic information including monthly admissions by age/gender

- c) Monthly discharge information including custodial status and length of stay

**0250-04-08 -.03 PERSONNEL**

1. Written policy must indicate that there is a hiring plan based in Affirmative Action 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 must indicate that there is a clear commitment to recognize diversity in hiring.
3. Written policy must provide that, except in temporary, exigent situations approved by the facility administrator, there will be a separation of child 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 children and adults are excluded from this requirement.

4. Written personnel policies shall be provided to each employee 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) Physical examination policy which must include a required physical examination and tuberculin *screening* for all employees having contact with youth. The examination must be no older than 12 (twelve) months prior to hire date or must be completed within ninety (90) days of employment
  - (d) Training requirements and documentation of completion
  - (e) Vacation policy that clearly defines allowable time and payment plan
  - (f) Sick leave policy
  - (g) Policies regarding Social Security, insurance, retirement plans, and other fringe benefits
  - (h) Agency grievance procedure
  - (i) Grounds for dismissal
  - (j) Confidentiality of client information

## **SPECIFIC QUALIFICATIONS FOR STAFF**

5. The administrator must have a high school diploma and at least two (2) years' experience in the fields of juvenile justice or child welfare.
6. All juvenile facility/temporary holding resource staff must have a high school diploma or its equivalent as defined in 0250-04-08 -.02-16. 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.

## **STAFF DEVELOPMENT**

7. Each facility shall be required to provide personnel forty (40) hours of pre-service training before the employee assumes individual job responsibilities. All employees who have not received this forty (40) hours of training must be accompanied at all times by an employee who has received such training. There shall be documentation of topics covered and dates covered and class roster. Topics shall include but are not limited to:
  - (a) Hostage policy
  - (b) Crisis Management/Emergency Contingency Plan
  - (c) Use of force; including approved manual restraint techniques, chemical agents and mechanical restraint
  - (d) Admission and release
  - (e) Security procedures
  - (f) Proper administration of CPR, first aid and medications
  - (g) Indicators of mental illness and potential for suicide
  - (h) Professional ethics and standards of conduct
  - (i) Cultural diversity
  - (j) Description of the purpose and operating policies and procedures of the facility
  - (k) Rights of detainees
  - (l) Behavioral observation and recording
  - (m) Confidentiality
  - (n) Sexual abuse and sexual harassment prevention, detection and response.  
Note- curriculum and/or other training materials used in compliance with federal PREA guidelines will fulfill this requirement
  - (o) Verbal de-escalation techniques
  - (p) Universal Safety Precautions and infectious diseases
  - (q) Medical and mental health needs of youth
  - (r) Federal mandates including PREA and Title VI

8. All personnel whose duties include the supervision, custody, or treatment of detained/resident youth shall be required during the first year of employment to complete a basic juvenile training program consisting of a minimum of forty (40) hours. *These forty (40) hours shall be in addition to the required forty (40) hours pre-service.*
9. All personnel 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 detention operations. This annual in-service shall consist of forty (40) hours to be approved and monitored by the Tennessee Department of Children's Services.
10. Direct care workers and supervisory staff assigned to work at the facility shall be trained annually in First Aid and CPR. Approved First Aid and CPR training shall meet the following provisions-
  - a) The curriculum shall conform to current American Heart Association or American Red Cross guidelines.
  - b) 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" will not be accepted.
  - c) The instructor shall be qualified and authorized to teach the curriculum and shall be certified by a nationally recognized organization.
11. Medical-related training will also cover:
  - (a) Skills development for response in emergency situations;
  - (b) Transfer to appropriate medical provider;
  - (c) Recognition of symptoms of illness most common to youth;
  - (4) Med Administration;
  - (5) Confidentiality of medical records and information (HIPAA).
  - (6) Universal precautions.
12. All juvenile facility personnel who are authorized to use chemical defensive agents and mechanical restraints must receive basic and ongoing annual in-service training in their use. All such training will be recorded with the dates completed and kept in the employee's personnel training file.
13. All staff members who directly supervise children must have specific training on proper techniques and implements to be used in removing a resident from a hanging situation. This training shall be provided in the employee's pre-service array and on an annual basis.
14. Each facility shall maintain records on the specific training, including credit hours, completed by each facility staff member.

15. Each facility will ensure that there is in effect written policy that requires individuals who work with both juveniles and adult inmates in collocated facilities to be specifically trained and approved to work with juveniles.

#### **0250-04-08 -.04 SERVICE PROVISION**

##### **HYGIENE**

1. The standard clothing issue for both males and females in residence/detained longer than twenty four (24) hours in a facility shall include the following:
  - (a) Clean socks
  - (b) Clean undergarments, including safety approved bras for females
  - (c) Clean outer garments
  - (d) Clean footwear

Clean personal clothing (if available) may be substituted for institutional clothing at the discretion of the facility administrator.
2. Provisions shall be made so that youth can regularly obtain the following hygiene items supplied by the facility:
  - (a) Soap/shampoo
  - (b) Toothbrush
  - (c) Toothpaste
  - (d) Comb/Brush
  - (e) Toilet paper
  - (f) Feminine hygiene materials
  - (g) Deodorant
3. Haircuts for youth who request them will be made available at a minimum on a monthly basis
4. Youth will be permitted to brush their teeth and take a hot shower daily on a schedule Established by the facility between the hours of 5 AM and 11 PM . Youth shall be allowed at least 5 minutes to shower and shall be provided privacy to shower in single-occupancy stalls with shower curtains or shower doors.
5. Each youth who resides overnight will be provided the following:
  - (a) One (1) clean fire-retardant mattress in good repair
  - (b) One (1) clean mattress cover
  - (c) One (1) clean fire-retardant pillow in good repair with pillow case

- (d) Sufficient clean blankets to provide comfort under existing temperature conditions
  - (e) One (1) clean bath-size towel
  - (f) One (1) clean washcloth
6. An adequate supply of bedding and towels will be maintained. Bedding will be cleaned as follows:
- (a) Sheets, pillowcases, mattress covers, and towels shall be changed and washed at least once a week.
  - (b) Bedding shall be disinfected after use by each youth.
  - (c) Blankets shall be laundered or otherwise sterilized before re-issue.
7. 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.

#### **PROGRAMS AND ACTIVITIES**

8. Basic services shall be available to all youth as soon as they are admitted. Programmatic offerings will be made available to all youth in juvenile detention facilities within 48 hours of the detention hearing. The juvenile detention facility/temporary holding resource shall provide or make available the following minimum services and programs to all adjudicated and pre-adjudicated youth:

(a) Educational Services in Juvenile Detention Facilities

- i. For Youth certified for “Special Education”: Youth who are certified for special education upon admission are referred to the Director of Special Education of the school system in which the detention center is located
- ii. For Youth certified for “General Education”
  - 1. The Juvenile Detention Center shall notify the local education agency (LEA) where the student was previously enrolled and the LEA where the Facility is located within 24 hours of the Youth being admitted to the facility
  - 2. If the Youth remains in the facility for 10 days, the Facility shall notify the LEA where the student was previously enrolled, the LEA where the Facility is located, and the Tennessee Department of Education.
  - 3. The LEA will be responsible for providing educational services in the Facility either by supplying a teacher from the local LEA or by contracting for educational services in the Facility.
  - 4. When the Youth is discharged from the Facility, the Facility must immediately notify the LEA where the student was previously enrolled,

the LEA where the Facility is located, and the Tennessee Department of Education of the student's discharge.

- (b) Access to mental health counseling, substance abuse counseling and crisis intervention services as needed
  - (c) Medical services
  - (d) Food services
  - (e) A recreation and leisure-time plan that includes, at a minimum, at least one hour per day of physical exercise/large muscle activity outside the room and one hour per day of structured leisure-time activities. Restrictions may apply if the resident poses a risk to themselves or others.
  - (g) Culturally diverse and approved reading material approved by the facility
  - (h) The facility shall allow for youth to voluntarily participate in religious activity at least once a week so long as security is not compromised.
9. 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.
10. 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.
11. Work assignments shall not conflict with the education program.
12. Youth 18 years of age will not be housed in the same sleeping areas (bedrooms) as juveniles. Programmatic segregation of 18 year-old youth in other areas and activities will be at the discretion of the facility administrator.
13. Facility administrators will have discretion in making appropriate arrangements, either upon admission or in response to circumstances within the milieu, for the protection of vulnerable residents. This may include temporary isolation in both sleeping arrangements and common activities. Such arrangements should be short-term and noted in writing by the facility administrator.

## MAIL, TELEPHONE ACCESS AND VISITATION

13. Written policy shall outline the facility's procedures governing youth's mail, including the censoring of mail. Any regulation for censorship must meet the following criteria:
  - (a) The regulation must 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 and/or well-being of staff and/or other youth); and
  - (b) The limitation must be no greater than is necessary to the protection of the particular security interest involved.
14. Incoming mail shall be inspected for contraband items prior to delivery, unless received from the courts, attorney of record, or public officials, where the mail shall be delivered unopened in the presence of the youth.
15. Outgoing mail shall be collected and incoming mail shall be delivered without unnecessary delay.
16. A youth shall be notified if a letter is rejected, whether it is written by or addressed to the youth.
17. When a letter is rejected, policy and procedure must provide the author an opportunity to appeal that decision to the facility administrator.
18. Written policy and procedure will 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.
19. Written policy shall define the facility's visitation policies which shall include, at a minimum:
  - (a) A schedule of visitation times and length of visitation allowed
  - (b) The maintenance of a visitors' log
  - (c) 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.
  - (d) Notification of the possibility of visitor searches
20. Written policy shall provide that *Juvenile Detention Facilities* shall allow a minimum of one (1) hour of visitation each week for each youth with parent/guardian or other approved family members unless specifically prohibited by the juvenile court judge or his/her designee; this does not preclude visitation by other approved persons at the discretion of the program. Restrictions may be assessed if the youth is determined to pose a risk to themselves or others.

21. Written policy shall provide that Temporary Holding Resources shall allow each resident to visit with his/her parents or guardian at least once a day during the hours of 12:00 noon until 6:00 p.m. unless visitation is specifically prohibited by the juvenile court judge. Other visitors or hours of visitation must be approved by the temporary holding resource administrator or juvenile court judge.
22. Policy and procedure in Juvenile Detention Facilities shall 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 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 conspicuous to youth. The procedure shall include, at a minimum:
  - (a) The hours during which such access shall generally be provided.
  - (b) A statement regarding the privacy of telephone communication.
23. Written policy in Temporary Holding Resources shall provide that each child will be allowed to receive up to two (2) telephone calls a day from parents or guardian during the hours of 8:00 a.m. and 9:00 p.m. unless specifically prohibited by the juvenile court judge.

#### **FOOD SERVICES**

24. Current food service guidelines and a menu approved by a registered dietician or nutritionist will be used in all meal preparation whether meals are prepared on or off-site.
25. Three (3) meals and a substantial evening snack must 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.
26. All meals prepared onsite shall be under the direct supervision of agency staff. Any meals prepared off site and delivered to the facility must be served expeditiously to maintain safe serving temperature and palatability.
27. 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 meal times.

28. Food will 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 -.04 (24).
29. All medically modified diets of youth must be prepared and offered as prescribed by a physician, nurse practitioner and/or recommended by a registered dietician or nutritionist. Special provisions must be made to accommodate religious diets requiring modification and shall be documented for review by licensing.
30. The preparation or storage of food shall not be permissible in residential areas of the facility. All food preparation and storage must meet current Tennessee Department of Health guidelines.
31. Proper storage of food shall assure that there will 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/wrappings must be used in the storage of frozen, refrigerated and perishable items. Agency shall utilize "first in/first out" rotation in the storage of all food products.
32. 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.
33. All refrigerators/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 will not be considered noncompliance. The temperature for the dry storage area should be between 50°F to 70°F
34. No medication of any kind shall be stored in refrigerators containing food products.
35. All food products shall be stored at least six (6) inches off the floor on shelves or in shatterproof containers with tight fitting lids.
37. 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.
38. A system for the control of all sharps and chemicals shall be documented in policy and observable in practice.

## DISCIPLINARY HEARINGS/APPEALS IN JUVENILE DETENTION FACILITIES

39. Written policies shall provide for disciplinary hearings to be held in cases of alleged violations of detainee conduct rules within 7 days of the write-up if the youth is still in the facility excluding holidays, weekends, and emergencies.

These hearings shall include the following administrative guarantees:

- (a) Youth receives written notice in their language of charges and time of hearing prior to hearing.
  - (b) A brief period of time after the notice, no less than twenty-four (24) hours, shall be allowed for the youth to prepare for appearance before an impartial officer or board.
  - (c) Youth has the right to call and cross examine witnesses and present evidence in their own defense, when permitting them to do so will not be unduly hazardous to institutional safety or correctional goals.
  - (d) The reasons for any limitations placed on testimony or witnesses shall be stated in writing by the hearing chairperson.
  - (e) There must be a written statement by the fact finders as to evidence relied on and reasons for the disciplinary action.
  - (f) Appeals process is established.
  - (g) Youth has a right to waive hearing or appeal.
40. The youth shall receive a copy of the disciplinary decision and a copy is kept in the youth's record.
41. The youth's legal guardian/custodian may receive written notification of major disciplinary actions taken against the youth at the discretion of facility administration.
42. Documentation of major disciplinary action must be maintained in the record and made available for review by a child's parent, custodian, legal guardian, legal counsel, etc. in the event of an inquiry.
43. Written policy and procedure provide that the disciplinary reports are removed from all files on youth found not guilty of an alleged violation.

## GRIEVANCE PROCEDURES IN JUVENILE DETENTION SETTINGS

44. The facility shall provide more than one way to report abuse, neglect, harassment and retaliation by other youth or staff within the facility.
45. The agency shall provide at least one way 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 child abuse hotlines, the public defender's office, etc. Such entity is able to receive and immediately forward youth reports of sexual abuse and sexual harassment to agency officials and allows the youth to remain anonymous upon request.
46. The facility's opportunities for reporting abuse, neglect, harassment and Retaliation shall include ways to report verbally, in writing, anonymously and by third parties.
47. 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, including medical and mental health services.
48. Staff will ensure youth understand how to use the grievance process and can obtain and submit grievance forms confidentially. Staff shall provide youth with writing implements to fill out the forms.
49. The facility's grievance system shall be accessible to all youth, including youth with limited literacy, limited English proficient youth and youth with intellectual or developmental disabilities. Staff will ensure that:
  - Youth with intellectual disabilities, developmental disabilities, or limited literacy or English proficiency receive oral explanations of the grievance process that they can understand.
  - Grievance forms use easy-to-understand language and are simple in their design.
  - Youth are able to report grievances verbally and in writing.
  - Youth with intellectual disabilities, developmental disabilities, or limited literacy or English proficiency receive assistance in using the grievance process.
50. Once submitted by youth, grievances shall be forwarded to the 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. *Youth will be permitted to submit a grievance without submitting it to a staff member who is the subject of the complaint.*

51. The facility shall offer an emergency grievance procedure for youth who are at risk of imminent harm. The emergency grievance procedure allows for rapid response to needs identified through emergency grievances.
52. The facility shall not impose time limits on when youth can file grievances.
53. 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.
54. The facility shall permit third parties, including family members, attorneys and outside advocates, to file grievances on behalf of youth.
55. The facility shall provide information to third parties on how to submit grievances on behalf of youth.
56. 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.
57. Youth shall receive responses to their grievances that are respectful, legible and that address the issues raised.
58. Staff shall provide youth with an opportunity to appeal the decision regarding the grievance. Administrators charged with handling appeals will respond to appeals promptly and fairly.
59. If staff find a grievance to be valid, facility administrators shall take appropriate action and when staff actions are involved, provide for counseling, retraining, reprimand, discipline, or termination of the employee and, in an appropriate case, for the filing of child abuse or criminal charges.
60. Facility staff, administrators or other personnel shall fully document grievances and the results of grievance investigations.
61. Facility administrators shall regularly gather and review data on grievances (granted and denied) by race, ethnicity, gender, developmental and intellectual disability, mental illness, special education status and limited English proficient status for patterns or trends.

## 0250-04-08 -.05 MEDICAL SERVICES

1. When a youth is in need of medical care, the facility staff will transport or arrange for transportation of the youth to a medical facility for care. If a youth is in need of urgent or emergency care, the facility staff shall transport them to the nearest or designated urgent care clinic or hospital emergency department as soon as possible. Diligent efforts shall be made to immediately notify the parent/guardian. Medical complaints, diagnoses, treatment received and parental notification shall all be documented.
2. First aid kits shall be available and fully accessible by staff. A licensed medical professional will approve the number and contents of such kits. Documentation of such approval must be in the facility's permanent records or attached to the kit itself and shall be renewed annually. 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 Facility and before their placement in the general housing area. The findings shall be recorded on a printed or electronic screening form. The juvenile facility worker performing this duty shall inquire and check for evidence or appearance of:
  - (a) A serious illness/communicable disease or condition
  - (b) Open wounds
  - (c) Prescribed medications
  - (d) Intoxication - alcohol/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
  - (l) Suicidal issues or mental health diagnosis during any prior confinement.

4. For all youth admitted to a **Juvenile Detention Facility** a physical/health history examination shall be completed on youth within fourteen (14) days of their initial confinement date unless documentation of such an examination dated to within 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/weight.
  - (c) Review of systems.
  - (d) Medical history.
  - (e) Diagnoses/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 Facility** according to written triage procedure for the facility. All sick call requests shall be documented and maintained 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 treatments 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, wherever 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 meds that are expired or not in original containers.
8. There shall be strict control of medications to be issued to youth. All medications shall be prescribed by a physician or nurse practitioner at the time of use. Over the counter medications can be administered by written medical protocol approved by a licensed medical provider. A trained staff member shall be responsible to see that medication is administered as prescribed.
9. All medication shall be double locked within the medical area of the facility or other area approved by DCS Licensing. A medication receipt, log, and administration system shall be established. A running count of all prescribed medications must be

documented on an approved Medication Administration Record (MAR) including controlled medications and prescribed medications; and a continuous inventory shall be maintained for syringes and other sharps. All used syringes and other contaminated material will be disposed of in compliance with guidelines for disposal of bio-hazardous waste. All medication, including topical ointments, will be checked monthly for expiration dates and expired medication will be disposed of immediately.

10. 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.
11. In case of medical or mental health emergencies, specific information shall be readily accessible to all employees 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. 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. Staff shall promptly contact a qualified mental health professional in order to develop an emergency intervention plan for such youth and a qualified mental health professional conducts an assessment within 24 hours. Only a qualified mental health professional may remove a youth from constant observation.
13. 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 are immediately referred for an assessment by a qualified medical or qualified mental health professional, as appropriate.
14. Youth who are identified upon initial screening or at a later date as having experienced prior sexual victimization or who previously perpetrated sexual abuse are offered a meeting with a qualified mental health professional within 72 hours upon request by the youth.

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

#### PROVISIONS FOR YOUTH IN STATE CARE

12. For health or behavioral health services not provided directly by the agency, but received by the child through community clinicians, the agency is asked to ensure communication about those health services by providing 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 applies only to those youth in the legal custody of the Department.

#### 0250-04-08 -.06 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) Every fifteen (15) minutes for all youth confined in their rooms due to seclusion or medical requirements.
  - (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 as defined in Chapter XXX and the following procedures shall be followed:
    1. Referral to appropriate and pre-designated mental health practitioner or mobile crisis unit shall be made and documented
    2. Reasons for removal from the general population documented
    3. Behavior of youth during this period shall be clearly documented every fifteen (15) minutes
    4. Written authorization for release from constant supervision shall be made by licensed and designated mental health authority or in accordance with internal local protocol
  - (d) All youth shall be monitored every fifteen (15) minutes for the first 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 must be denoted as such.

**Comment [MA1]:** Definitions in admin rules

2. The time of all supervision checks shall be logged as well as the documentation of the behavior of the youth.
3. The facility shall visually count youth and record the results at the beginning and/or 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 juvenile facility worker or law enforcement officer must be available when there are female youth in the facility to conduct and document:
  1. Searches
  2. Supervision of showers
  3. Health checks
  4. Constant periodic observations as defined in section 1 of this chapter
6. Policies governing supervision of female youth by male employees and male youth by female employees shall be based on privacy needs and accepted legal standards. Except in emergencies, facility employees 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 division.
7. Youth shall not supervise, control, assume or exert authority over other youth.
8. There shall never be less than 2 direct care staff on duty and additional staff if required. At least one (1) direct care staff for every eight (8) youth shall be present during waking hours and at least one (1) direct care staff for every sixteen (16) youth shall be present during sleeping hours or other staffing plan approved by DCS Licensing.

#### **0250-04-08 -.07 PHYSICAL PLANT**

1. No juvenile detention facility/temporary holding resource constructed or developed after January 1, 1995 may be located in the same building or directly connected to any adult jail or prison facility complex.
2. Existing facilities located under the same roof or on the same grounds as an adult jail must meet the criteria for physical separation, as outlined in T.C.A. §37-1-116 (i). Refer to section 0250-04-08 -.01.(3)(c).

3. The following minimum provisions shall be made by each licensed agency:
  - (a) Sleeping areas 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 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 facilities shall maintain a temperature of not less than sixty-five (65) degrees Fahrenheit and no more than eighty (80) degrees Fahrenheit in sleeping and activity areas.
4. For new facilities, 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 room shall allow for a reasonable amount of useable floor space for any in-room activities of youth and one wall measurement must be at least 7 feet. Any issues pertaining to sufficiency of room dimensions shall be determined by the Department's licensing division. Each room shall contain a bunk, a toilet and a lavatory.
5. Multiple sleeping rooms in new Juvenile Detention Facilities 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 must be provided in such sleeping areas, with a ceiling height of not less than eight (8) feet. One wall measurement must be at least 7 feet.
6. Juvenile Detention Facilities with 10 or less permanent bed spaces shall not house in excess of their number of permanent bed spaces by more than 2 youth at any time. Facilities with 11 or more permanent bed spaces shall not, except in exigent situations, exceed their number of permanent bed spaces by more than 2 youth or 10% of the permanent bed space, whichever is greater, at any time. Any exception to compliance with this rule shall be noted in writing, shall include the administrator's signature to verify administrative review and shall not exceed 72 hours in duration.
7. New Juvenile Detention Facilities shall have a dayroom for each cluster of rooms. The day room should offer a minimum of thirty-five (35) square feet of floor space per youth. Existing facilities are not required to provide dayrooms.

8. All facilities shall provide operable toilets and washbasins to detained/resident youth on 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. Facilities shall have at least one (1) operable shower for every sixteen (16) detained youth and shall be accessible to youth without having to leave their designated area.
10. **New Juvenile Detention Facilities** 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 detainee use
  - (c) temporary holding rooms which have fixed benches to seat youth
  - (d) a shower, toilet and washbasin
11. 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. Provision shall be made for visitation areas.
13. Provision shall be made for a private room to allow for discussions between clergy, attorneys and others authorized by the juvenile court of jurisdiction.
14. Each new *Juvenile Detention Facility* shall have at least one (1) multi-purpose room for education, recreation and other activities.
15. 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. Space shall be provided where a health care professional may conduct sick call, examine patients in privacy and provide medical treatment.
17. Every *Juvenile Detention Facility* shall be provided with 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.

**Comment [MA2]:** 6.17 Removed due to CCLP suggestion:  
 New facilities shall be provided with at least one (1) single room for the separation and control of problem youth or youth under the influence of intoxicants. The room shall contain no hazardous conditions that would facilitate suicide or self-harm. The room shall be located to allow (and use requires) constant monitoring by staff. The room shall conform to the single-occupancy room dimensions and shall have, at a minimum, the following features:

- . . (a) . high security light fixture;
- . . (b) . unbreakable toilet and lavatory with control valve located outside the room;
- . . (c) . forced air ventilation;
- . . (d) . concrete bed, sixteen (16) inches from the floor, with rounded edges.

18. 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 will not be necessary to add drinking fountains but sanitary drinking cups must be available.
19. An emergency power source shall be provided to activate at times of power failure with 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. Facilities using electric locks shall provide for the capacity for those locks to be opened manually.
21. 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. 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 must 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. All kitchens, dining rooms and toilet areas shall contain operable floor drains.
24. There shall be rooms to accommodate each Juvenile Detention Facility's classification plan. Facilities that house both males and females shall have provisions to separate accordingly.
25. Plans for any new facility construction or renovation shall be in compliance with minimum standards recorded herein and be submitted to the Tennessee Department of Children's Services and the State Fire Marshal's office for review prior to the start of construction.
26. Plans for any new juvenile facility/temporary holding resource construction or renovation shall include provisions for handicapped persons to have access to all facilities and services.
27. The use of padlocks and chains to secure housing areas is prohibited.
28. Any facility changing function (i.e. Temporary Holding Resource changing to Detention, etc.) shall meet all requirements of a new facility.

29. 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 poly carbonate laminate.
30. 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.

**0250-04-08 -.8 SANITATION/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. Times of inspections shall be recorded 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, gang signs, or objects which 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 and document dates of said drills, participating staff and results.
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. Licensed facilities will maintain Material Safety Data Sheets (MSDS) in all areas where harmful chemicals are stored. These must be maintained for every chemical onsite whose original container contains precautionary wording in case of exposure or ingestion.

10. All toxic/caustic chemicals with a hazardous rating of two (2) or above will be maintained in locked cabinets and inventoried once weekly. All flammables will be maintained in fire-resistant cabinets and inventoried weekly.
11. All toxic/caustic chemicals maintained at full strength must be stored in their original containers. Diluted chemicals may be maintained in spray bottles or other containers but the contents must be annotated on the bottle.
12. Facility will remain in compliance with Life Safety Codes as determined by the State Fire Marshal or other approved authority.

#### **0250-04-08 -.9 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 personnel of the same sex, except in emergency situations involving an immediate threat to life, limb or property. All searches shall be documented.
2. Protocols around key control shall be established and the operator of the control center shall be aware of 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 personnel for use in the event of an emergency.
4. There should be an observable and effective method for the opening of individual cell doors in the event of an emergency and/or failure of electronically operating systems. Emergency systems should be tested on a monthly basis.
5. Written policy and procedure shall require that all other related security and emergency equipment are inventoried and tested at least quarterly to determine their 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.
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 that provides for continuing operations in the event of a work stoppage or other job action. Copies of this plan shall be available 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. Sight contact is defined as clear visual contact between incarcerated adults and juveniles within close proximity to each other. Sound contact is defined as direct oral communication between incarcerated adults and juvenile offenders.

#### **0250-04-08 -.11 SECLUSION AND RESTRAINT**

##### **Physical Restraint**

1. Physical restraint is the use of body contact by staff with a service recipient to restrict freedom of movement or normal access to his or her body. The use of physical restraint is seen as a restrictive intervention and one that poses a risk to the physical and/or psychological well-being of a child/youth and often the safety of staff. Physical restraint may be used only in an emergency safety situation when the child/youth, due to his/her current behavior, poses an imminent risk of harm to himself/herself or others. This applies to all children and youth in DCS licensed facilities regardless of adjudication. Physical restraint will not be used as a means of punishment, discipline, coercion, convenience or retaliation or for lack of staff presence or competency.
2. The following are not considered physical restraint and are deemed acceptable:
  - (a) Physical touch associated with prompting, comforting or assisting that does not prevent the service recipient's freedom of movement or normal access to his or her body;
  - (b) Physical or temporary touching or holding of the hand(s), wrist(s), arm(s), shoulder(s) or back for the purpose of inducing the service recipient to walk to a safe location; or
  - (c) 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.

3. Use of Physical Restraint should be restricted to the following guidelines:

- (a) Physical restraint is an emergency safety intervention, not a therapeutic technique, and will be implemented in a manner designed to protect the child/youth's safety, dignity and emotional well-being.
- (b) Staffing levels and resources are set to minimize circumstances that give rise to emergency situations that may require the use of physical restraint- and that maximize safety when these interventions are be used. There will be sufficient staffing to ensure appropriate supervision of all other children/youth while trained staff devotes full time and attention to all uses and phases of physical restraint.
- (c) The use of physical restraint is allowed only in the case of an emergency, when the child/youth is at imminent danger of self-harm or of harming others and no other option exists to protect the safety of the child/youth and staff members.
- (d) In a JDC/THR setting, physical restraint may also be justified to prevent a clear and immediate escape attempt.
- (e) Clothing may not be removed from a child/youth in conjunction with the use of physical restraint or seclusion, other than that which is determined to place the child/youth or others at risk.

4. Training Requirements

- (a) All staff who make use of physical restraint will be trained prior to performing these interventions and annually thereafter by a certified trainer in nationally recognized crisis intervention program.
- (b) The training will involve a post-test and the observation of staff in practice to ensure competency.
- (c) Records of staff completion of training will be maintained and made available to DCS licensing upon request.
- (d) Training will address prevention of 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, and other contributing factors that may lead to crisis
  - (ii) Understanding how staff behavior can influence the behavior of children/youth

- (iii) Understanding the limitations of restrictive behavior management techniques such as physical restraint or seclusion
  - (iv) Listening and communication techniques such as negotiation and mediation
  - (v) Involving the person in regaining control and encouraging self-calming behaviors
  - (vi) Separation of individuals involved in an altercation
  - (vii) Offering a voluntary escort to guide the person to a safe location
  - (viii) Voluntary time out to allow the person to calm down
  - (ix) Other non-restrictive methods to de-escalate and reduce episodes of aggressive and out-of-control behavior.
- (e) Training will include staff understanding of:
- (i) When it is appropriate to use a restrictive intervention such as physical restraint or seclusion
  - (ii) Safe use of physical restraint and seclusion, including time limits
  - (iii) Safe methods for escorting individuals
  - (iv) Understanding of the experience of being placed in a physical 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
- (f) Training will include staff learning to recognize and assess the following during a restrictive behavior management intervention such as physical restraint:
- (i) Physical and mental status of the child/youth, including signs of physical distress
  - (ii) Nutritional and hydration needs of the child/youth
  - (iii) Readiness to discontinue use of the physical restraint or seclusion
  - (iv) Recognizing when medical or other emergency personnel are needed

5. Authorization and Initiation of Physical Restraint

- (a) The staff member initiating the physical restraint will contact the administrator or designated qualified personnel to authorize the intervention either prior to the intervention, or immediately following the intervention if obtaining prior permission is infeasible due to the emergent nature of the situation. 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 physical restraint.

(b) Authorization of intervention: Designated Qualified Personnel may authorize physical restraint or seclusion if they are supervisory level staff who have completed all training requirements in compliance with this policy prior to authorizing physical restraint or seclusion and have been designated as having authority to make such decisions in an emergency setting by the facility administrator. In the JDC setting this will be a shift supervisor or higher ranking personnel.

Comment [MA3]: Add 6.17

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

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

(e) The re-authorization of interventions that exceed the initial time limits must be from mobile crisis staff or other qualified clinical personnel. Physical restraint can be authorized for up to an additional thirty (30) minutes.

Comment [MA4]: Added 6.17

(f) Time-limited authorizations do not mean that the use of restrictive behavior management interventions will be applied for the entire length of time for which the authorization is written. Physical restraint and seclusion will be used only for the minimum amount of time necessary as specified in sections 5 (d) and 37 (c).

Comment [MA5]: Added 6.17

## 6. Monitoring and Assessment

(a) A child/youth in physical restraint will be assessed and monitored continuously by an individual not involved in the restraint. All staff involved in conducting or monitoring restraints must be fully trained in compliance with the Training section of this policy. If a second staff member is not present at the moment the restraint is initiated, staff will call immediately for help so that another staff member may begin monitoring.

- (b) Monitoring of physical restraint will be by direct visual observation and staff will remain in the immediate physical presence of and in the same room as the child/youth. Video monitoring does not meet this requirement.
- (c) In addition to monitoring the child/youth on a continuous, face-to-face basis, staff will assess the child/youth every 15 minutes for:
  - (i) Any harmful health effects or signs of any injury associated with the intervention;
  - (ii) Emotional status and comfort of child/youth;
  - (iii) Child/youth's need for food, water, and use of bathroom facilities;
  - (iv) Readiness to discontinue the intervention
  - (v) Difficulty breathing and any other physical complaints that may signal the need to discontinue the intervention

7. Termination of Restraint and Follow-Up Assessment

- (a) Physical restraint is used for the minimum time possible. These interventions will be terminated when the behavior justifying their use no longer exists or if the face-to-face assessments required by this policy do not occur. Immediate release will occur with any threat to the child/youth's physical or emotional well-being.
- (b) Within one (1) hour of the initiation of the use of physical restraint, the Designated Qualified Personnel, as defined in 0250-04-08 -.11 5. (b), authorizing the seclusion or restraint will make a determination and assess the child/youth's condition. This assessment will be conducted regardless of the length of time the child/youth is in the physical restraint.

8. If a child/youth is injured as a result of the use of physical restraint staff will immediately obtain medical treatment for that child/youth.

9. The child/youth and staff will participate in a debriefing about the physical restraint 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. The debriefing with the child/youth and staff is used to:

- (i) Ascertain that the child/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 child/youth's reentry into routine activities

- (v) 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
- (vi) When deemed necessary- debriefing will take place with any children/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.

10. Notification and Documentation

(a) Documentation will include the following:

- (i) A clear description of the events and behavior leading to the initiation of the physical restraint including the specific risk of harm presented by the child/youth
- (ii) A description of attempts by staff to prevent and de-escalate the child/youth prior to utilizing physical restraint
- (iii) Names of the child/youth and personnel involved
- (iv) Duration of intervention
- (v) Verification of continuous observation and 15 minute checks
- (vi) A description of all injuries that occur because of the intervention
- (vii) A note that debriefing occurred

- (b) Whenever possible, the child/youth's parents will be notified of the occurrence of any physical restraint or seclusion

11. Internal Review

- (a) The licensed agency will engage in ongoing performance improvement activities that focus on the reduction of the use of physical restraint. 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.
- (b) Agencies will utilize data throughout the year to identify trends in use of restrictive behavior management techniques in order to reduce the use of physical restraint.
- (c) The licensed agency will ensure that a routine process is in place to address the use of crisis intervention and physical restraint 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 physical restraint.

## Chemical Defense Agents

12. Chemical Defense Agents- Written policy and procedure shall govern the availability, control and use of chemical defense agents. Chemical defense agents are defined as any product which is dispensed by means of an aerosol spray to control an individual's combative and/or resistive behavior. This policy 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 that will be followed in all instances involving the use of a chemical defense agent.

**The use of Chemical Defense Agents in all Temporary Holding Resources is prohibited except by law enforcement personnel.**

13. A written incident report shall be submitted to the facility administrator by the end of the shift when such substances are used that details the juvenile(s) and personnel involved, who authorized the usage and what incident necessitated the usage and the medical treatment rendered after usage.
14. A list of all personnel issued chemical defense agents or authorized in their use will be maintained and updated upon change of authorization status or employment.
15. All personnel authorized to use chemical agents must successfully complete training in their use prior to issuance and at least every three years thereafter.
16. Chemical defense agents maintained and used by facility staff are limited to Oleoresin Capsicum (OC) sprays and may not contain Mace.
17. Chemical defense agents may not be used in a punitive or coercive manner. Verbal de-escalation techniques should be exhausted before physical force or chemical agents are used. Oral warnings of intent to use chemical defense agents must be given, and resident given the opportunity to cease resistant behavior, prior to disbursement of chemical defense agents.
18. If chemical defense agents are dispersed in any area in which a youth with documented respiratory conditions (including asthma, bronchitis, etc.) may be affected, reasonable efforts must be made to remove that youth prior to use. Such efforts should be documented.
19. Chemical defense agents may only be used through prior authorization by the facility director or the designated qualified personnel. Documentation of this authorization will be available for review by licensing staff.

20. Only the minimum amount of chemical 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.
21. 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.
22. Chemical defense agents will be stored in a locked cabinet inaccessible to youth when not issued or in use.
23. Decontamination procedures will be administered to any youth affected following the disbursement of chemical agents.
23. Any intentional time lapse between the administering of OC sprays and subsequent appropriate decontamination/medical attention for punitive purposes is prohibited.
24. Psychotropic medication is prohibited from being utilized for the purposes of chemical restraint in any JDC setting.

### Mechanical Restraints

24. Mechanical restraints, i.e. handcuffs and shackles, may only be used to restrain youth who are alleged to be delinquent and meet the criteria for secure detention of T.C.A. 37-1-114. Staff must maintain visual contact at all times with youth in mechanical restraints.
25. Mechanical restraints may only be used for such time as it takes to place the child in a secure cell, or for transportation purposes. Waist belts are permitted for use in transportation only. No other mechanical restraints are permitted.
26. **Body wraps and restraint beds are strictly prohibited.**  
**Use of restraint chairs will be prohibited effective July 1, 2017.**  
**Use of mechanical restraints on pregnant youth shall be limited to wrist restraints only.**  
**Temporary, short-term use of security benches/mechanical restraints during classification or preparation for transport is permitted.**

**Comment [MA6]:**  
December 10, 2015

The 2012 DOJ investigation of Shelby Juvenile Court cited numerous findings around the use of its restraint chair. We feel the potential for misuse and/or abuse at any of the state's other JDCs is every bit as high simply because of the nature of these devices and the volatile circumstances that invariably precipitate their use.

One statement within the DOJ report reads as follows:  
 "Generally accepted professional standards regarding restraint chair use in juvenile detention facilities require that the chair either be eliminated entirely or, in the rare cases where a restraint chair is used, that it only be used under the direct supervision of a medical or mental health care provider."

We feel that the national trend away from the use of these devices in juvenile settings is warranted and reflects a response to numerous findings of abuse across the system, including a number of deaths that have resulted from misuse; not to mention subsequent significant litigation that has arisen from these circumstances.

All JDC and THR programs will be prohibited from using these devices to restrain resident youth effective July 1, 2017. This offers the agencies approximately 18 months to explore training around, and implementation of, alternative restraint techniques.

27. Written policy and procedure should outline the specifics of non-routine use of restraints and include language that requires the authorization of the shift supervisor before they may be used.
28. 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 juvenile setting. Possession or use of such equipment by agency personnel will result in immediate adverse licensing action up to suspension of the agency’s license.
29. Mechanical restraints shall never be used as punishment.
30. Whenever mechanical restraints are used for reasons other than transportation, written policy, procedure and practice will provide that prior approval must be obtained from the detention administrator, or designee. When a juvenile is mechanically restrained for reasons other than transportation, the following minimum procedures will be followed:
  - (a) Direct visual observation by staff shall be continuous.
  - (b) Safety/wellness checks shall be conducted and documented every ten minutes, to ensure the safety and well-being of the juvenile.
  - (c) Use of restraints shall be fully documented as to time, duration, reasons, authority and witnesses and reported to the detention services administrator or designee.

#### **Prohibited Restraint Techniques**

31. With the exception of use by law enforcement personnel, the following restraint techniques shall not be utilized 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

- (l) 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.

32. The following behaviors by staff or law enforcement personnel are prohibited under any circumstances:

- (a) slapping, punching, kicking, or hitting
- (b) dragging or lifting of the youth by the hair or ear or by any type of mechanical restraints

### Seclusion

32. For the purposes of this section the term "seclusion" is defined as the intentional involuntary segregation of an individual from the rest of the resident population for the purposes of preventing harm by the individual to themselves or others; harm of the individual by others, de-escalation of violent behavior or for clinically defined reasons. Seclusion is often associated with physical restraint in that physical restraint is regularly used to transport a child or 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.

33. Seclusion does not include:

- a) The segregation of a child/youth for the purpose of managing biological contagion consistent with the Centers for Disease Control Guidelines
- b) Confinement to a locked unit or ward where other children/youth are present. Seclusion is not solely confinement of a child/youth to an area, but separation of the child/youth from other persons
- c) Voluntary time-out involving the voluntary separation of an individual child/youth from others. The child/youth is allowed to end the separation at will.
- d) Seclusion in a JDC/THR 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.

34. Intentional seclusion may be provided only in a clean, dry, temperate location and be free of potentially hazardous conditions from which the child/youth might harm himself or herself or others. Rooms used for seclusion will allow staff full view of the child/youth in all areas of the room. The room will have the following qualities:

- (a) The room is lighted and well ventilated
  - (b) Light fixtures are screened or recessed, interior doorknobs are removed, and hinges are recessed.
  - (c) The room is at a minimum fifty (50) square feet in area.
  - (d) 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.
  - (e) The room contains an observation window the dimensions of which permit a child/youth to be in view regardless of where he/she is positioned in the room.
  - (f) Inspected and approved under regulations adopted by the State Fire Marshal prior to usage.
  - (g) Youth in room confinement have reasonable access to water, toilet facilities and hygiene supplies.
35. Monitoring of seclusion will be by direct in-person (face-to-face) visual observation through the seclusion room window or in the room itself every 15 minutes.
36. Seclusion of children/youth for suicidal behavior/ideation or other clinical reasons will be conducted as provided in section 0250-04-08 -.06 (1) –*Supervision of Youth*
37. All other referrals for seclusion as defined in section 0250-04-08 -.11 (32) will adhere to the following guidelines:
- a) Seclusion is used only when necessary to prevent imminent harm to another person, prevent damage to property, prevent the youth from escaping, or to prevent a youth from persistently disrupting program operations.
  - b) Staff may 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.
  - c) Prior to utilizing seclusion, staff 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 will be released upon regaining self-control. **Once the presenting behaviors have subsided and the youth no longer meets the criteria defined in section 37 (a) the seclusion will be terminated and the youth will be returned to the general population.**
  - d) (For secluded youth, a hearing must be held within twenty-four (24) hours of initial placement in seclusion.
  - e) Seclusion lasting over 24 hours must be reviewed and approved every subsequent 24 hour period by the superintendent/director or qualified designated personnel. **Youth may not be secluded for more than 72 total hours**

**Comment [MA7]:** Added 6.16

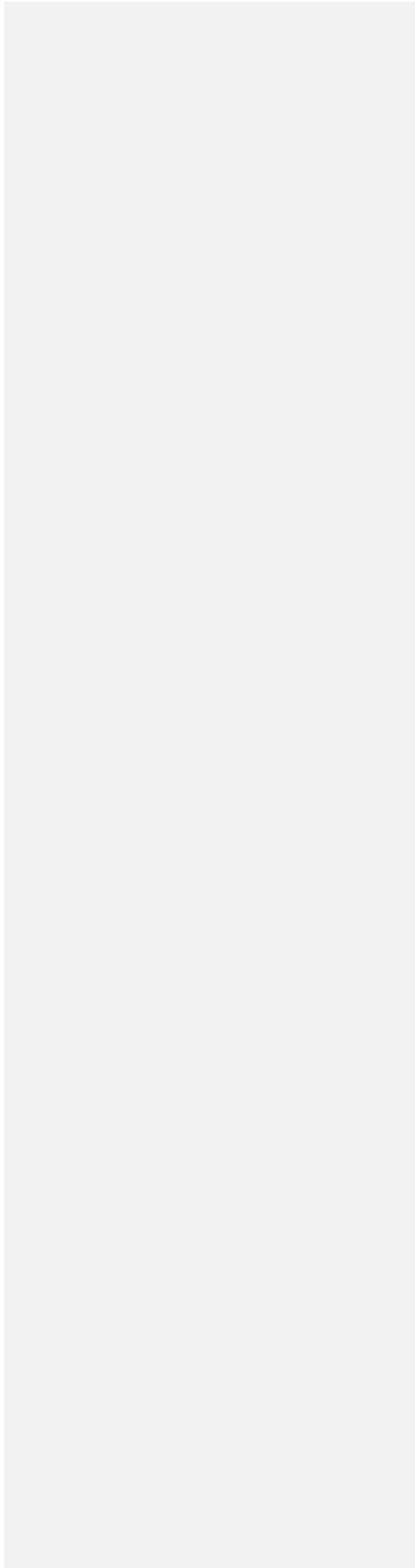
within any 14 day period. Large muscle group exercise must be provided a minimum of 1 hour daily for those juveniles in seclusion longer than 24 hours.

Comment [MA8]: Added 6.16

- f) Seclusion beyond 24 hours requires an administrative hearing in which the youth may appeal continued confinement. The hearing will be conducted by the facility administrator or his established designee and all proceedings will be documented. A written copy of this documentation will be provided to the youth and (unless contraindicated for safety reasons) the youth's parent or legal guardian.
- g) An incident report will be completed within 24 hours for any youth referred for seclusion. Youth may be placed in their room for a "cooling off" period not to exceed one hour without need for incident report.
- h) Youth placed in seclusion must still be offered reasonable access to services.

#### 0250-04-08 -.12 TRANSPORTATION

1. All transportation shall be provided by approved individuals or employees of the sheriff's department, police department, juvenile court, city or county government, or be any county official covered by liability within said county.
2. Each person providing transportation must provide documentation of a valid Class D Tennessee Driver's License. (T.C.A. 55-50-102)
3. Each person providing transportation must provide documentation of automobile liability insurance for any private vehicle used in transporting children in temporary holding resources or drive a government vehicle covered by liability insurance.
4. Each transportation provider must be oriented to the behavior of detained children 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 must be well maintained and operated in accordance with state law.
6. Driver and all passengers must wear seat belts.
7. With the exception of bonded or law-enforcement personnel, female youth requiring transportation must be accompanied by a female staff member/officer. Allowances may be made in extenuating circumstances and must be documented in facility logs.



## Appendix A

### DETENTION STATUTES.

(a) T.C.A. §37-1-101 Construction.

1. This part shall be construed to effectuate the following public purposes:

(i) to provide for the care, protection, and wholesome moral, mental and physical development of children coming within its provisions;

(ii) consistent with the protection of the public interest, to remove from children committing delinquent acts the taint of criminality and the consequences of criminal behavior and to substitute therefore a program of treatment, training and rehabilitation;

(iii) to achieve the foregoing purposes in a family environment whenever possible, separating the child from his parents only when necessary for his welfare or in the interest of public safety;

(iv) to provide a simple judicial procedure through which this part is executed and enforced and in which the parties are assured a fair hearing and their constitutional and other legal rights recognized and enforced; and

(v) to provide simple interstate procedures which permit resort to cooperative measures among the juvenile courts of the several states when required to effectuate the purposes of this part; and

(vi) to generally deinstitutionalize children who have not been found to be delinquent.

2. It is the intention of the general assembly in the passage of this part to promulgate laws relative to children which are to be uniform in application throughout the state.

3. Each of the juvenile courts in all the counties and municipalities of the state as described in 37-1-102 shall have all of the jurisdiction, authority, rights, powers and duties prescribed by the provisions of this part, and any additional jurisdiction, authority, rights, powers or duties conferred by special or private act upon any of the juvenile courts in the state are not intended to be invalidated or repealed by this part except where inconsistent or in conflict with any provisions of this part.

(b) T.C.A. §37-1-114 - Detention or shelter care of child prior to hearing of petition.

1. A child taken into custody shall not be detained or placed in shelter care prior to the continued hearing on the petition unless there is probable cause to believe that:

(i) the child has committed the delinquent or unruly act with which he is charged; or

(ii) the child is a neglected, dependent or abused child; and

(iii) in either case his detention or shelter care is required because the child is subject to an immediate threat to his health or safety to the extent that delay for a hearing would likely result in severe or irreparable harm; or

(iv) the child may abscond or be removed from the jurisdiction of the court; and,

(v) in either case, there is no less drastic alternative to removal of the child from custody of his parents, guardian, or legal custodian available which would reasonably and adequately protect the child's health or safety or prevent the child's removal from the jurisdiction of the court pending a hearing.

Comment [MA9]: Not yet reformatted- may move to core

2. Children alleged to be unruly shall not be detained for more than twenty-four (24) hours excluding non-judicial days unless there has been a detention hearing and a judicial determination that there is probable cause to believe the child has violated a valid court order, and in no event shall such child be detained for more than seventy-two (72) hours exclusive of non-judicial days prior to an adjudicatory hearing. Nothing herein shall prohibit the court from ordering the placement of children in shelter care where appropriate, and such placement shall not be considered detention within the meaning of this section.

3. A child shall not be detained in any secure facility or secure portion of any facility unless:

(i) There is probable cause to believe the child has committed a delinquent offense constituting a crime against a person resulting in the serious injury or death of the victim or involving the likelihood of serious injury or death to such victim;

(ii) There is probable cause to believe the child has committed a delinquent offense involving the likelihood of serious physical injury or death, or a property offense constituting a felony, and the child:

(1) is currently on probation;

(2) is currently awaiting court action on a previous alleged delinquent offense;

(3) is alleged to be an escapee or absconder from a juvenile facility, institution, or other court-ordered placement; or

(4) has, within the previous twelve (12) months, willfully failed to appear at any juvenile court hearing, engaged in violent conduct resulting in serious injury to another person or involving the likelihood of serious injury or death, or been adjudicated delinquent by virtue of an offense constituting a felony if committed by an adult;

(iii) There is probable cause to believe the child has committed a delinquent offense and special circumstances in accordance with the provisions of subsection (b) indicate the child should be detained; however, in any such case the judge shall, within twenty-four (24) hours of the actual detention, excluding non-judicial days, issue a written order on a form prescribed by the Tennessee Council of Juvenile and Family Court Judges setting forth the specific reasons necessitating such detention; however, nothing in this item shall be construed as requiring a hearing or formal finding of fact except as otherwise required by T.C.A. §37-1-117;

(iv) The child is alleged to be an escapee from a secure juvenile facility or institution;

(v) The child is wanted in another jurisdiction for an offense which, if committed by an adult, would be a felony in that jurisdiction;

(vi) There is probable cause to believe the child is an unruly child who has violated a valid court order or who is a runaway from another jurisdiction; however, any detention of such a child shall be in compliance with subsection 2 above; and

(vii) In addition to any of the conditions listed above in subdivisions (i)-(vi) of this subsection, there is no less restrictive alternative that will reduce the risk of flight or of serious physical harm to the child or to others, including placement of the child with a parent, guardian, legal custodian, or relative; use of any of the alternatives listed in T.C.A. §37-1-116(g); and/or, the setting of bail.

(c) T.C.A. §37-1-116 - Place of detention.

1. Notwithstanding the provisions of this section to the contrary, in any facility which meets the following requisites of separateness, children who meet the detention criteria of T.C.A. §37-1-

114(c) may be held in a juvenile detention facility which is in the same building or on the same grounds as an adult jail or lockup; provided, that no juvenile facility constructed or developed after January 1, 1995, may be located in the same building or directly connected to any adult jail or hardware secure complex:

- (i) Total separation between juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between child and adult residents in the respective facilities;
- (ii) Total separation in all juvenile and adult program activities within the facilities including recreation, education, counseling, health care, dining, sleeping, and general living activities;
- (iii) Separate juvenile facility and adult staff including management, security staff, and direct care staff such as recreational, educational, and counseling. Specialized services 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 children and adults can serve both; and
- (iv) The juvenile facility must meet the standards and be licensed or approved as appropriate.

2. In determining whether the criteria set out in this subsection are met, the following factors will serve to enhance the separateness of juvenile and adult facilities:

- (i) Juvenile facility staff are employees of or volunteers for a juvenile service agency or the juvenile court with responsibility only for the conduct of the child-serving operations. Juvenile facility staff are specially trained in the handling of children and the special problems associated with this group;
- (ii) A separate juvenile facility operations manual with written procedures for staff and agency reference specifying the function and operation of the program;
- (iii) There is minimal sharing between the facilities of public lobbies or office/support space for staff;
- (iv) Juveniles do not share direct service or access space with adult offenders within the facilities including entrance to and exits from the facilities. All facility intake and admission processes take place in a separate area and are under the direction of the juvenile facility staff. Secure entrances (sally ports, waiting areas) are independently controlled by juvenile facility staff and separated from adult entrances. Public entrances, lobbies, and waiting areas for the detention program are also controlled by juvenile facility staff and separated from similar adult areas. Adult and juvenile residents do not make use of common passageways between intake areas, residential spaces, and program/service spaces;
- (v) The space available for children's living, sleeping, and the conduct of programs conforms to the requirements for secure detention specified by prevailing case law, prevailing professional standards of care, and by state code; and
- (vi) The facility is formally recognized as a juvenile detention center by the state agency responsible for monitoring, review, and/or certification of juvenile detention facilities.

## **0250-04-08 -.01LEGAL BASIS FOR LICENSING**

The legal basis for licensing is contained in Sections 37-5-501 through 37-5- 519, Tennessee Code Annotated.

## **0250-04-08 -.02DEFINITIONS**

For the purpose of this chapter, the following definitions are given and will hereafter be used:

1. YOUTH-a person under eighteen (18) years of age or a person under nineteen (19) years of age in the custody of the Department or remaining under the jurisdiction of the juvenile court.
2. COMMISSIONER-The Commissioner of the Department of Children’s Services
3. DEPARTMENT-The Tennessee Department of Children’s Services
4. LAW-Tennessee Code Annotated, section 37-5-501 through 37-5-519.
5. LICENSE- A yearly permit issued to a Juvenile Detention Facility giving care to youth. Licensing is based upon meeting required standards developed and published by the Department.
6. JUVENILE DETENTION FACILITY - This facility is designed to house youth who meet the criteria of T.C.A. §37-1-114 (c), and who:
  - (a) are in need of legal temporary placement;
  - (b) are pending adjudication; or,
  - (c) are awaiting disposition and/or placement.
7. STAFF-Full time and part time employees.
8. CONTRABAND-Any item possessed by the youth or found within the facility that is illegal by law or that is expressly prohibited by those legally charged with the responsibility for administration and operation of the facility or program.
9. DEINSTITUTIONALIZATION OF STATUS OFFENDERS (DSO) VIOLATION- Federal and state law prohibit the placement of juveniles in adult jails. TCA 37-1-114 and TCA 37-1-130(b) specify the conditions under which juveniles may be detained.

10. ESCAPEE: Any juvenile who:
  - (a) Is alleged or adjudicated to be delinquent; is confined to a secure detention or correctional facility designated, operated, or approved by the court; and absconds or attempts to abscond from such facility may be charged with the offense of escape or attempted escape and a petition alleging such offense may be filed with the juvenile court of the county in which the alleged offense occurred;
  - (b) Is alleged or adjudicated to be delinquent; and has been placed by the court in a secure detention or correctional facility, designated, operated, or approved by the court; is being transported to or from such facility; and absconds or attempts to abscond from the custody of the person responsible for such transportation; may be charged with the offense of escape or attempt to escape. (T.C.A. §37-1-116)
11. NON-OFFENDERS- Dependent and neglected children and abused children, etc.
12. PANIC HARDWARE- A door latching assembly incorporating a device which releases the latch upon the application of force in the direction of exit travel. Tennessee Fire Marshal Standard Building Code 1114.2 (1988).
13. SEARCH- A visual and/or hands-on inspection of either a child or a location.
14. SEGREGATION- Unless otherwise noted, segregation for the purposes of this chapter will refer to segregation of individuals (ie; isolation, solitary confinement) rather than segregation of sub-populations within the program.
15. STATUS OFFENDERS- Youth who are charged with or who have committed offenses that would not be criminal if committed by an adult.
16. High School Diploma- refers to 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. A special education diploma, statement of attendance, honorary diploma or correspondence or video courses- is not considered an equivalent alternative.

**Comment [MA10]:** Is this even referenced elsewhere? Check all definitions

**Comment [MA11]:** Eliminate wording when including in rules.