

Tyren Frazier, Chair  
Robert Vilchez, Vice Chair  
Dana G. Schrad, Secretary  
Eric English  
William Johnson  
Scott Kizner  
Anita James Price  
Synethia White



Post Office Box 1110  
Richmond, VA 23218-1110  
804.588.3903

COMMONWEALTH of VIRGINIA  
*Board of Juvenile Justice*

## BOARD MEETING

September 21, 2022

Virginia Public Safety Training Center, Knox Hall

# A G E N D A

9:30 a.m. Board Meeting

1. **CALL TO ORDER and INTRODUCTIONS**
2. **BOARD ELECTIONS (Page 1)**  
James Towey, Legislative & Regulatory Affairs Manager, Department of Juvenile Justice
3. **CONSIDERATION OF THE JUNE 29, 2022, MINUTES (Pages 2-13)**
4. **PUBLIC COMMENT**
5. **DIRECTOR'S CERTIFICATION ACTIONS (Pages 14-39)**  
Ken Bailey, Certifications Manager, Department of Juvenile Justice
6. **OTHER BUSINESS**
  - I. **Consideration of the Board Bylaws (Pages 40-47)**  
James Towey, Legislative & Regulatory Affairs Manager, Department of Juvenile Justice
  - II. **Consideration of Virginia Juvenile Community Crime Control Act (VJCCCA) Plans (Pages 48-61)**  
Katherine Farmer, VJCCCA Supervisor, Department of Juvenile Justice
  - III. **Regulatory Update (Pages 62-64)**  
Ken Davis, Regulatory Affairs Coordinator, Department of Juvenile Justice
  - IV. **Request Approval to Advance the Regulation Governing Juvenile Correctional Centers to the Final Stage (Pages 65-117)**  
Kristen Peterson, Regulatory and Policy Coordinator, Department of Juvenile Justice
  - V. **Request Approval to Advance SB 20 Regulation (6VAC35-200) to the Proposed Stage (Pages 118-159)**  
Ken Davis, Regulatory Affairs Coordinator, Department of Juvenile Justice

## BOARD MEETING AGENDA

September 21, 2022

Page Two

- VI. **Request Extension of Variance Applicable to Merrimac Juvenile Detention Center (Pages 160-177)**  
Ken Davis, Regulatory Affairs Coordinator, Department of Juvenile Justice
- VII. **Request Extension of Variance Applicable to Juvenile Correctional Centers, Security Staff Supervision of Residents During Transportation (Pages 178-182)**  
Kristen Peterson, Regulatory and Policy Coordinator, Department of Juvenile Justice
- VIII. **Request Extension of Variance Applicable to Juvenile Correctional Centers, Training for Director Supervision Staff (Pages 183-186)**  
Kristen Peterson, Regulatory and Policy Coordinator, Department of Juvenile Justice
- IX. **Request Amendment to Board Policy 02-002 (Media Relations) (Pages 187-191)**  
Ken Davis, Regulatory Affairs Coordinator, Department of Juvenile Justice
- X. **Request Amendment to Board Policy 02-024 (Collaboration with Colleges and Universities) (Pages 187-191)**  
Kristen Peterson, Regulatory and Policy Coordinator, Department of Juvenile Justice
- XI. **Request Rescission of Board Policy 20-106 (Behavior Management) (Pages 187-191)**  
Kristen Peterson, Regulatory and Policy Coordinator, Department of Juvenile Justice
7. **DIRECTOR REMARKS and BOARD COMMENTS**
8. **SPECIALLY CALLED MEETING:** November 9, 2022, 9:30 a.m., Virginia Public Safety Training Center
9. **ADJOURNMENT**



COMMONWEALTH of VIRGINIA  
*Board of Juvenile Justice*

**§ 5.01. Officers Elected from the Board.**

The Officers of the Board elected from its membership shall be the Chairperson, Vice- chairperson and Secretary, who shall each be elected by the Board at its first regular meeting of the fiscal year. Officers shall serve for a term of one year and shall be eligible for re-election.

**§ 5.02. Chairperson.**

The Chairperson shall be the presiding officer of the Board at its meetings. Upon request of the Board, the Chairperson shall act as its spokesperson or representative and shall perform such additional duties as may be imposed on that position by an Act of the General Assembly or by direction of the Board. The Chairperson shall be an ex-officio member of all Committees of the Board.

**§ 5.03. Vice-chairperson.**

In the absence of the Chairperson at any meeting or in the event of disability or of a vacancy in the office, all the powers and duties of the Chairperson shall be vested in the Vice-chairperson. The Vice-chairperson shall also perform such other duties as may be imposed by the Board or the Chairperson.

**§ 5.04. Secretary.**

The Secretary shall (1) review and recommend improvements to Board meeting procedures and other relevant Board business so as to facilitate the administrative efficiency of the Board; (2) ensure the development of appropriate resolutions, etc., which are needed by the Board from time to time; (3) serve as the Board's parliamentarian; (4) work closely with the Department staff who are assigned to provide administrative assistance to the Board to review and sign minutes and policy documents, etc.; and (5) to ensure that unique or non-routine materials and equipment are available for the Board to carry out its functions. In the event that both the Chairperson and Vice-chairperson are absent at any meeting, the Secretary shall preside over the meeting.

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## COMMONWEALTH of VIRGINIA *Board of Juvenile Justice*

### DRAFT MEETING MINUTES

June 29, 2022

Virginia Public Safety Training Center

**Board Members Present:** Eric English, Tyren Frazier, William (Will) Johnson, Dana Schrad, and Synethia White

**Board Members Absent:** Scott Kizner, Anita James Price, and Robert Vilchez

**Department of Juvenile Justice (Department) Staff Present:** Gabbi Ashby, Ken Bailey, Ken Davis, Jenna Easton, Cullen Enabnit, Katherine Farmer, Michael Favale, Amy Floriano, Wendy Hoffman, Dale Holden, Joyce Holmon, Linda McWilliams, Guillermo Novo, Margaret O'Shea (Office of the Attorney General), Kristen Peterson, Lara Todd, and James Towey

**Guests:** Maya Artis (University of Virginia School of Law), Drew Flanagan (University of Virginia School of Law), and Rhonda Gilmer (City of Richmond Juvenile Services)

#### CALL TO ORDER AND INTRODUCTIONS

Chairperson Tyren Frazier called the meeting to order at 9:43 a.m. Chairperson Frazier welcomed those present and asked for introductions.

#### CONSIDERATION OF THE APRIL 20, 2022, MINUTES

The minutes of the April 20, 2022, Board meeting were provided for approval. On a motion duly made by Dana Schrad and seconded by Will Johnson that the Board approve the minutes as presented, all Board members present declared "aye" and the motion carried.

#### PUBLIC COMMENT

There was no public comment.

#### DIRECTOR'S CERTIFICATION ACTIONS

*Ken Bailey, Certification Manager, Department*

Mr. Bailey directed the Board to the packet, which contained the individual audit reports and a summary of the Director's certification actions completed June 6, 2022.

Aurora House is a group home serving the areas of Falls Church and Arlington. The facility operates a long-term program for girls that includes a separate space in the facility for independent living for older girls. The audit for Aurora House found two areas of noncompliance, both dealing with maintaining proper

documentation. The first deficiency was not documenting when medication was changed or discontinued. As there were no new cases to review for March's follow-up visit, and the certification staff could not determine compliance, a corrective action plan was developed and this satisfied the requirement. The second deficiency was not documenting behavioral support plans. Aurora House implemented a corrective action plan, and five cases were reviewed at the status review in March. The facility was found to be in compliance and was certified to August 23, 2024.

Fairfax Shelter Care is a pre-dispositional emergency shelter placement for youth in crisis located in the Fairfax Government Complex near the Juvenile Detention Center. Fairfax Shelter Care received 100% compliance on their audit and was certified to May 9, 2025, with a letter of congratulations.

New River Valley Juvenile Detention Home and Post-dispositional Program serves the area of Christiansburg, and received their second consecutive 100% compliance audit and were certified to June 11, 2025. New River Valley is one of the older facilities that have no updated features such as electronic locks, but they do have an effective program. The facility has a unique feature with a therapy goat program.

Mr. Bailey has shared with the Board previously that there are good audits and some that are challenging, like the one for Roanoke Valley Juvenile Detention Center (JDC). The audit for this program found two deficiencies, and the facility was certified to February 11, 2025, with a status report due in December 2022 regarding the repairs to the facility computer system. Roanoke Valley JDC was considered state-of-the-art when it was built, with surveillance cameras and electronic locking systems; however, over the years the system has deteriorated. The audit found the system in need of upgrade. The facility operates with keys controlling the egress from the pods to the residents' rooms, but the facility was designed for electronic control from a control room. The facility needs to operate the way it was designed. The facility was cited for not maintaining the functions of the system.

The current status for Roanoke Valley JDC is not determined. They have received a consultant's evaluation of the facility and will move forward with securing bids once the architectural drawings are created. On page 29 of the Board packet is the security assessment done by Mead and Hunt. The system may be hard to fix due to availability of materials such as electronic chips. The facility's estimated cost to replace the system is \$435,000, an expense the Roanoke Detention Commission would have to absorb. The facility does have the support of the Commission. The Certification Unit will follow this situation closely to ensure repairs are made.

The audit for Roanoke Valley JDC also found one minor deficiency in the medication area. Medication records did not document the medication strength. Certification staff had no cases to review at their follow-up visit on April 13, but determined they were in compliance with policy.

Board Member Will Johnson remarked that the facility is relying on a key-operated system and asked if the juvenile detention center was able to staff the facility to ensure security for both residents and staff, i.e. staff-to-population ratios?

Mr. Bailey answered that the facility has added personnel but found staffing to be a problem during the pandemic. Roanoke Valley JDC had a serious incident in January which could have been prevented if the facility had more staff. Staffing is a good remedy to some problems, but the facility is operating on a key system much like the one in New River Valley. Certification staff recommended repair of the electronic system.

Board Member Dana Schrad asked how much consideration is given to a facility during an audit regarding supply and staff shortages. Some of the shortages are out of their control. Is the Certification Unit doing anything to change the standard?

Mr. Bailey responded that the Certification Unit does take those factors into consideration when audits are conducted. In this instance, Roanoke Valley JDC was not taking aggressive steps to start the process. The Department felt they needed to write that assessment and send a copy to the Commission in order for the facility to realize they needed to be aggressive toward fixing the problem.

Department Director Amy Floriano said that due to the incident in January at Roanoke Valley JDC, the area judges were concerned with the response to the electronic system failure. The judges approached city management and told them the problem needed to be addressed or the judges would not send youth to the facility. The safety of the children is the utmost concern and the Department needed to make sure the facility is operating properly. The Department decided to set a quick date of December for a follow-up visit to stay on top of the issues and has told the facility that supply chain shortages are out of their control, but that does not mean the facility cannot try and move forward with fixing the issues.

Board Member Schrad asked if the audit takes into consideration the effort the facility makes to correct deficiencies. Mr. Bailey responded that he would like to see some effort; however, in this case, the documentation was not there; if it had been, then he would have taken a different approach.

The Shenandoah Valley Juvenile Center received their second consecutive 100% compliance, and the facility was certificated until June 9, 2025, with a letter of congratulations. This program is unique as the only juvenile detention center in the country that houses federal youth from the Office of Refugee Resettlement (ORR). There had been a number of issues over the past years with lawsuits against the facility for improper care. The Certification Unit conducted several monitoring visits and found Shenandoah Valley Juvenile Center does a good job with these young people. The lawsuits have been dismissed.

There have been numerous issues at Chesapeake Juvenile Services over the past 12 months. The original audit for the facility was in November 2021, and had four areas of noncompliance. A status review was conducted on February 7, 2022. Certification staff found no documentation for a sanitation inspection, but the status review found documents to be updated. Evacuation drills were missing on a number of different shifts, but the status review found drills being conducted on each shift and on each month in December 2021 to present. Residents had complained that blankets were not clean and needed to be washed; at the status review, all six residents reported the issue corrected. It was also reported that some of the blankets were torn and needed to be replaced, which has also been completed. Chesapeake Juvenile Services was given approval to continue their current certification status to October 2022, with review of the implementation of the corrective action plan. If a deficiency is found during an audit, the certification staff wait several months to return to ensure the facility has taken corrective action. That is why the reports show current status.

Before a final report could be presented to the Department Director, several incidents took place at Chesapeake Juvenile Services in January and February. Residents received injuries due to use of force, and there were reports of sexual misconduct. At the writing of this report, one of those issues was referred to law enforcement for prosecution. All staff involved in the serious incident were found to have used Handle with Care techniques improperly and were very aggressive, an approach that led to concussions. The certification staff met and decided to take a closer look at the current situation in Chesapeake. A qualified group of Department staff representing the Certification Unit, Quality Assurance Unit, and the Human Rights Advocates conducted an onsite assessment and evaluated the general well-being of the residents at Chesapeake Juvenile Services. After the completion of the assessment, the Department felt that this situation needed the involvement of the governing body. The Department met with the City of Chesapeake's Deputy City Manager, Director of Human Services, and Assistant Director of Human Services, as well as the administration of the facility. The City administration is concerned with the reputation of the facility and the

care and treatment of youth. The administration was presented with the findings, and they completed a corrective action plan. At this point, certification staff will review the situation again in October.

Mr. Bailey has talked to the Board previously about audits that give the Department concern, but certification staff are present in the facility each month looking at physical restraint. Mr. Bailey has two staff considered experts in the field of Handle with Care. They review video recordings and assess what needs to be corrected. The City's Director of Human Services decided to understand the program better and completed training on Handle with Care to get a better idea of the program, to help remedy some of the problems.

Board Member Schrad noted that there was a lot to unpack from this audit report and asked if any staff were disciplined or terminated. Mr. Bailey responded that all staff involved in the incidents were terminated.

Board Member Schrad noticed the lack of sufficient mental health services. Board Member Schrad's organization recently met with the Secretary of Health and Human Resources on the lack of qualified care specialists across the state and the difficulty of getting good quality mental health care. Is this problem apparent in detention centers?

Mr. Bailey responded that it is not seen to a great extent, and facilities seem to have a good connection with their community services board or other organizations that provide mental health services when needed. Some facilities have mental health therapists employed, but smaller facilities may find it difficult to justify the expense.

Board Member Schrad believed Chesapeake is not an area in the state that is underserved, but rich in resources. It makes Board Member Schrad wonder about the overall environment in this particular facility and whether the culture invites quality personnel to want to work there. Are there any longer term issues?

Mr. Bailey responded that this past year Chesapeake Juvenile Services hired a new superintendent who had a large learning curve. They sought advice from the Virginia Beach JDC, a facility with a good reputation and operation. Mr. Bailey believed there is a culture in the facility that has existed for some time, and the Deputy City Manager is concerned that changes have not been made. Mr. Bailey is confident, at this point, that the City administration will take charge and make sure that Chesapeake Juvenile Services is up to par, and if not, the Department will find out.

Director Floriano added that the City administration in Chesapeake has changed in the past few months. The current City Manager came from northern Virginia. The Department hopes the changes made in city management will translate to the facility because they have had a problem for a long time.

Mr. Bailey said the Department's Quality Assurance staff have volunteered to look at the behavior management program in Chesapeake Juvenile Services. The last time that program was reviewed was in 2014, and it is time to make changes and redevelop.

Chairperson Frazier said this audit report was pretty intense; it was interesting to hear the comparison between Roanoke with their technology challenges and the response of the judges to not wanting to send the youth to that facility. Chairperson Frazier did not see any judicial response in Chesapeake, not that it did not happen, but he can see the differences in the two communities. Chairperson Frazier asked, when there is a situation like this related to the safety of the young people and staff, what actions are authorized by the Board?

Mr. Bailey answered that the Department Director can place the program on probation, which would be the next step if Chesapeake Juvenile Services does not correct their issues, and could de-certify the program with

all the youth removed from that facility. There was a similar situation years ago with the City of Richmond, which was headed in the direction of de-certification; however, the city administration decided to shut down for a year before being de-certified. The options was mentioned to Chesapeake to shut down to retool, retrain, and reopen. Chesapeake Juvenile Services is confident they can make the necessary corrective actions and not reach that stage.

Board Member Schrad had a few questions on the incentives for a locality to have detention centers and their ability to properly support them to ensure compliance.

Mr. Bailey responded that one of the main factors for a locality to want a detention center is to keep the youth closer to their families and closer to the court. If a youth housed in Virginia Beach needed to go to court in Chesapeake, law enforcement from Chesapeake would drive to Virginia Beach to pick up the youth, take them to court, and return them. It is the convenience of having those services in that area. Mr. Bailey noted that things happen in juvenile detention centers, and the Department has dedicated staff to ensure a response if issues arise.

Chairperson Frazier appreciated the information, and instructed the Board that, if they wanted to take action, such as a strongly worded letter or other type of action to ensure the safety of young people and staff, then the Board can have more conversations. It does seem like the corrective actions are working, but Chairperson Frazier still worries about the well-being of the young people especially seeing all the challenges in Chesapeake.

Mr. Bailey finished his report by letting the Board know of a request received from Northern Virginia JDC, which operates a post-dispositional program, to increase the capacity of that program from 10 beds to 16. The Director was in agreement to modify the terms of their certificate. The program feels this will provide them more needed services to the community by having those six post-dispositional beds.

## **CONSIDERATION OF THE FY 2022-2023 VIRGINIA JUVENILE COMMUNITY CRIME CONTROL ACT (VJCCCA) PLANS**

*Jenna Easton, Program Manager, Department*

The item on the VJCCCA was presented to the Board by Ms. Easton virtually, and the presentation is on page 59 of the Board packet.

The General Assembly enacted VJCCCA in 1995 to establish a community-based system of services that correspond with the severity of offense and treatment needs of youth. Originally, the purpose was to deter crime by providing an immediate and effective punishment that emphasizes the accountability of the juvenile offender for their actions, as well as reviewing the pattern of repeat offending per Code of Virginia section 16.1-309.2. The intent is for a locality to have autonomy to develop and implement programs and services to prevent and address offending by youth in their communities. Because this is a unique funding source, emphasis is placed on funding detention alternatives and up-front programming to address diversion and prevention, as well as early intervention needs.

Under this legislation, state and local dollars are combined to fund community-based programs for youth. Since January 1996, state funding has been allocated to localities through a formula based on several factors such as the number and type of arrest. Some localities are required to contribute a maintenance of effort (MOE). The MOE originally required that a locality must extend the same amount of funding it did in fiscal year (FY) 1995 in order to receive state funding. Legislation passed July 1, 2011, allowed a locality to reduce the MOE to an amount equal to the state funding amount and not to exceed the amount of state funds allocated for VJCCCA.



The current total state allocation is slightly under \$10.4 million. The total annual budget including the MOE and additional local funds that are contributed is approximately \$20 million.

Participation in VJCCCA is voluntary, but currently all 133 localities in Virginia participate. Some localities maintain local plans while others pool their funds with other localities to form combined plans.

The Department's Diversion Unit staff provide technical assistance to these localities and have administrative oversight and monitoring of the current 76 VJCCCA plans in Virginia. Pages 65 and 68 of the Board packet include a breakdown of each locality's state allocation, as well as their required MOE. The information regarding local contributions is not included because that often changes. If a locality happens to expend more than planned through the state allocation and MOE, they are required to cover those costs with local dollars. Sometimes the final budget is not established until the end of the fiscal year.

In order for a locality to participate and receive VJCCCA funding, they are required to develop a biennial plan for utilization of those funds. The Diversion Unit staff offers technical assistance and helps guide the locality to use data to identify needs based on current trends to decide which programs and services to include on their plan.

While plans must be approved by the Department and Board, communities do have autonomy and flexibility in addressing their juvenile offense patterns. Per the Code of Virginia, plan development requires consultation with judges, court service unit directors, and the Office of Children Services (CSA) through their local community planning management team (CPMT) chair. The CPMT is a local interagency body that manages the expenditures of CSA and provides funding for localities for children and families in communities.

Prior to FY 2020, all VJCCCA funding was used to serve youth before intake on complaints or who were before the court on petitions alleging the juvenile is a child in need of services, child in need of supervision, or delinquent per Code of Virginia §16.1-309.2. Effective from FY 2020, VJCCCA was amended and expanded to deter crime by providing communities with diversion or community-based services to juveniles who are in need of such services, by providing immediate and effective punishment to hold the juvenile offender accountable for their actions, reducing the pattern of repeat offending. Localities are not required to provide prevention programming; they can now elect to add the category prevention services to their plan. The Department has had an increase in that area of programming for the upcoming plans.

The Diversion Unit anticipated receiving plans for all 133 localities; some localities choose to participate in combined plans. Since VJCCCA is the only source of funding from the state for detention alternatives, those services continue to make up a large portion of the funding. In addition, staff have researched and shared with localities model provision programs and have seen an increase in plan proposals that include those services, particularly for truancy prevention programs.

As a result of the Diversion Unit's research on best practices, and following feedback received from the field, restorative justice, pro-social activity, and mentoring have been added to the allowable services list, which is a menu of programs and services included in local plans. On pages 69-77 of the Board packet are the updated allowable services, and page 64 provides a breakdown of each program or service, as well as the number of youth and the funds that are projected for the upcoming FYs of the biennium. At the bottom of that document, the figures are not the same for each year. This may be because localities have allocated funds differently for each year or because of DJJ's recommendations.

Ms. Easton shared with the Board some data from FY 2021:

- 3,578 youth were placed in VJCCCA programs for a total of 5,807 placements.

- 81% of youth placed in VJCCCA programs and services were eligible for detention.
- On average there were 1.6 program placements for youth.
- The majority (53%) of placements were pre-dispositional and non-residential, while 29% of placements were post-dispositional and non-residential.
- Of the 8% of placements that were residential placements, 93% were pre-dispositional. Most likely those were detention alternatives; the remaining 7% were post-dispositional placements into residential services.

The number of youth served through VJCCCA has declined over the past three years. This is likely due to a combination of major impact on service delivery by COVID-19 and a reduction in spending on youth.

The following 68 localities and combinations of localities have submitted VJCCCA plans for FY 2023 and FY 2024 with balanced budgets for both years. These plans have been reviewed by DJJ staff and are recommended for approval by the Board for FY 2023 and 2024 of the 2023-2024 biennium.

Accomack combined (includes Northampton), Alexandria, Amherst, Arlington combined (includes Falls Church), Bath, Bedford County, Campbell, Caroline, Charlotte combined (includes Appomattox, Buckingham, Cumberland, Lunenburg, Prince Edward), Charlottesville combined (includes Albemarle), Chesterfield, Colonial Heights, Craig, Culpeper, Danville, Dinwiddie, Emporia combined (includes Brunswick, Greensville, Sussex), Fairfax City combined (includes Fairfax County), Fauquier, Floyd, Fluvanna, Franklin, Frederick combined (includes Clark, Winchester), Fredericksburg, Giles, Goochland, Greene, Halifax, Hampton, Hanover, Henrico, Hopewell, King George, King William combined (includes Charles City, King & Queen, Middlesex, New Kent), Loudoun, Louisa, Lynchburg, Madison, Manassas City, Manassas Park, Martinsville combined (includes Henry, Patrick), Mecklenburg, Montgomery, Nelson, Newport News, Norfolk, Orange, Page, Petersburg, Pittsylvania, Prince George, Pulaski, Radford, Rappahannock, Rockingham combined (includes Harrisonburg), Roanoke City, Roanoke County combined (includes Salem), Shenandoah, Spotsylvania, Stafford, Surry, Tidewater Youth Services Commission (includes Chesapeake, Franklin City, Isle of Wight, Portsmouth, Southampton, Suffolk, Virginia Beach), Warren, Washington combined (includes Bristol, Smyth, Russell, Buchanan, Dickenson, Lee, Norton, Scott, Tazewell, Wise), Waynesboro combined (includes Augusta, Staunton), Westmoreland combined (includes Essex, Lancaster, Northumberland, Richmond County), Wythe combined (includes Bland), and York combined (includes Gloucester, James City, Williamsburg, Matthews, Poquoson)

On a motion duly made by Will Johnson and seconded by Dana Schrad, the Board of Juvenile Justice approved the 68 VJCCCA plans listed above for the 2023 and 2024 fiscal years. All Board members present declared "aye" and the motion carried.

The following four localities have submitted VJCCCA plans with a balanced budget for FY 2023. These plans have been reviewed by DJJ staff and are recommended for approval by the Board for the 2023 fiscal year of the 2023-2024 biennium: Amelia, Nottoway, Powhatan, and Prince William.

Board Member Schrad asked why the four plans were only for one year. Ms. Easton responded that in this situation the court service unit directors from the locality wanted to add programming that the community was not prepared to offer yet and did not want to wait the full two years to have the programming added. A locality can add diversion programming and move forward with the proposed plan. Then for the second year, the locality can have the time to develop the program for the second year of the biennium.

On a motion duly made by Dana Schrad and seconded by Synethia White, the Board of Juvenile Justice approved the VJCCCA plans for the 2023 fiscal year for Amelia, Nottoway, Powhatan, and Prince William. All Board members present declared "aye" and the motion carried.

The following four localities and combinations of localities have not yet met all proposed plan submission requirements: Grayson combined (includes Carroll, Galax), Highland, Lexington combined (includes Buena Vista, Rockbridge, Alleghany, Covington, Botetourt), and City of Richmond

It is recommended that the localities' FY 2022 plan be carried forward for one additional quarter, through September 30, 2022, to allow additional time for proposed plan development and submission. The new plan will be presented during the September meeting of the Board of Juvenile Justice.

On a motion duly made by Eric English and seconded by Synethia White, the Board of Juvenile Justice approved the FY 2022 VJCCA plans for Grayson combined, Highland, Lexington combined, and the City of Richmond for one additional quarter through September 30, 2022. All Board members present declared "aye" and the motion carried.

The City of Richmond has submitted a request to reduce their Maintenance of Effort (MOE) to match the state allocation beginning in FY 2023. The current MOE is \$459,084, which exceeds the state allocation of \$347,000 by \$111,401.

Board Member Schrad asked whether, when a reduction is requested by a locality, they need to submit a plan adjusting their spending.

Ms. Easton answered that the City of Richmond asked for their plan to be continued, and if approved, the MOE will be reduced and the budget will reduce by \$111,401; therefore, the City of Richmond will present a new plan based on that new budget with the reduction. The locality does not have to report or justify what they will do with the additional funds but will continue to use them toward VJCCA services. In 1995, when VJCCA was initiated, the budgets were much greater, approximately four times what the state allocation is currently. The budgets have been reduced over the years. The MOE was based on those high numbers. In order for a locality to receive or not return any state funds, they have to use their entire MOE. It is almost like a required match in a grant. The locality would like to reduce the amount required to participate in order to receive the reduced amount of funding from the state.

Board Member Johnson asked whether, given that the state has reduced its commitment over the years, it seemed unfair that localities are expected to continue to provide support at an elevated level toward supporting these youth. Ms. Easton responded that she is confident that the City of Richmond should be the last locality to have a greater MOE.

On a motion duly made by Tyren Frazier and seconded by Will Johnson, the Board of Juvenile Justice approved the reduction of the required Maintenance of Effort for the City of Richmond to match the state allocation beginning in FY 2023. All Board members present declared "aye" and the motion carried.

## **REGULATORY UPDATE**

*Ken Davis, Regulatory Affairs Coordinator, Department*

The regulatory update is on page 78 in the Board packet.

Mr. Davis updated the Board on changes made since the regulatory update was written. In April, the Board approved moving the Regulation Governing Juvenile Secure Detention Centers to the final stage of the regulatory process. Executive branch review by the Office of the Attorney General is underway.

The workgroup has finished the text on the Regulation Governing Youth Detained Pursuant to Federal Contracts (known as the SB20 regulation) with a few outstanding questions to be answered. The regulation should be ready to present to the Board for consideration to move forward to the proposed stage at their September meeting.

### **CONSIDERATION OF FOUR BOARD POLICIES**

*Kristen Peterson, Regulatory and Policy Coordinator and Ken Davis, Regulatory Affairs Coordinator, Department*

Ms. Peterson provided background on Board policies. The Department plans to conduct a comprehensive review of 39 Board policies and recommend either amending, rescinding, or retaining the policies. The Board has not done a comprehensive review of their policies since 2012. A number of policies have become obsolete, dated, or require review. Policies are distinct from regulations. Regulations are subject to the Administrative Process Act and undergo executive branch review. They have the force and effect of law and are treated more stringently in terms of review than Board policies. Board policies are not subject to executive branch review or the public comment process. The Board's decision on these policies takes effect immediately.

The Board considered four policies, three of which the Department asked the Board to amend and the fourth the Department asked the Board to rescind.

02-006 (Applications for Federal Funds) is a continuation from the last Board meeting. Originally, the Department brought forward a recommendation to rescind this Board policy because the statutory provision that gave rise to the policy was no longer in place. It was repealed in 2012. The Department recommended rescinding, but the Board indicated their interest in receiving information on funding provided to the Department. Ms. Peterson directed the Board to page 83 of the Board packet to review the revised Board policy.

Changes were made to the first and third paragraphs. In the first paragraph, statutory language that was repealed was removed; in its place the current statutory language that forms the basis for this policy had been inserted. In the third paragraph, the Department had drafted language requiring a summary report submission to the Board at least twice a year that would correspond with a Board meeting. This would provide a wider range of information than the Board's original needs, such as including competitive grants. Ms. Peterson noted that the Department already puts together an internal report containing most of this information. So it will not be difficult to modify that report for the Board's purpose.

Board Member Schrad thanked Ms. Peterson for this revision and said it was important for the Board to be made aware of grant applications due to the directives within them that can often drive policy. Board Member Schrad believed this will be helped by receiving regular reports. This is not to question the decisions of the agency when applying for funds but to ensure those applications are consistent with policy directives, the law, and what the Board thinks is the proper direction for the Department.

On a motion duly made by Dana Schrad and seconded by Eric English, the Board of Juvenile Justice approved the amendment of Board Policy 02-006 (Applications for Federal Funds), as proposed at the June 29, 2022, meeting, to take effect immediately. All Board members present declared "aye" and the motion carried.

Mr. Davis provided information on 01-001 (Board Policies and Regulations). This was originally called Board Policies and Standards, but the Board's standards have since been subsumed into regulations. The Department recommended a change in the title to be more reflective of what the policy actually addresses which is Board policies and regulations. The only other change is to make this policy more specific in terms

of ensuring the policies stay updated. Language was added that these reviews should happen every four years, and the Board will be provided with recommendations to amend, retain, or rescind each policy.

On a motion duly made by Synethia White and seconded by Dana Schrad, the Board of Juvenile Justice approved the amendment of Board Policy 01-001 (Board Policies and Regulations), as proposed at the June 29, 2022, meeting, to take effect immediately. All Board members present declared “aye” and the motion carried.

Mr. Davis provided information on 17-001 (Summary of Residents’ Rights). The Department asked to amend the title to Protecting Residents’ Rights. The policy is not a summary of residents’ rights, but rather a statement of the Board’s commitment to protecting the rights of residents in the care of the Department or those entities regulated by the Board. The only other change was to strike language that was duplicative. There was a phrase, “laws relating to individuals rights” which duplicated “federal and state statutes and regulations.” The policy stays the same, the revisions tidy up the language.

On a motion duly made by Will Johnson and seconded by Eric English, the Board of Juvenile Justice approved the amendment of Board Policy 17-001 (Protecting Residents’ Rights), as proposed at the June 29, 2022, meeting, to take effect immediately. All Board members present declared “aye” and the motion carried.

Ms. Peterson concluded the discussion with 05-010 (The Prison Rape Elimination Act (PREA)). This is a federal statute in place since 2003. The statute was enacted in order to provide for the analysis of the incidence and effects of prison rape in federal, state, and local institutions and to provide information, resources, recommendations, and funding to protect individuals from prison rape. Part of the initiative established a national commission, which was tasked with developing standards that went into place in 2012. Part of those standards, specifically section 115-311(a), requires agencies to have a written policy that mandates zero tolerance towards sexual abuse and harassment and to outline the approach to preventing, detecting, and responding to such conduct. With respect to that particular requirement, the term “agencies” is defined as the entity that is responsible for actually operating the facility. The Board’s policy does not comply with many of the requirements of the national standards. PREA is a federal policy that the Department is required to comply with even in the absence of any Commonwealth statutory provisions or any regulatory provisions promulgated by the Board. The Department believed the procedure that DJJ has in place currently is sufficient to demonstrate compliance with the requirements of PREA.

The Department is trying to reduce the number of resources that staff have to consult in order to effectively carry out their duties, and part of that is reducing the Board’s policies. The recommendation is for the Board to rescind the policy. There is no executive branch review or any other requirements. The rescission of the policy would be immediate and would not impact facility operations.

On a motion duly made by Dana Schrad and seconded by Eric English, the Board of Juvenile Justice approved the rescission of Board Policy 05-010 (The Prison Rape Elimination Act), as proposed at the June 29, 2022, meeting, to take effect immediately. All Board members present declared “aye” and the motion carried.

## **DIRECTOR’S COMMENTS**

*Amy M. Floriano, Director, Department*

Director Floriano updated the Board on the implementation of pre-court services for all youth entering the system. This means that VJCCCA services can be offered to them immediately. Once the petition is secured, there will be contact with the family and access to court services when the child is undergoing crisis. This has been implemented in all court service units. Additionally, there is an immediate crisis across the state involving gun violence. The administration has decided that children with guns need more attention, and the

agency has issued a few directives. The first directive issued requires that, if a child brings a gun to school, the Department will not divert that child. That child will go in front of the judge and the judge will determine why this child had a gun and brought it to school. Those felony charges will not be diverted. The second directive issued was something the Department is already doing but needed to clarify, and that was a mandatory override of the detention instrument for a child with firearms. If a child has a gun, that is an increased risk to themselves and to the community; therefore, a judge will need to decide the constraints to place on that child.

The Department has pursued vocational programming, and is hoping to have at least three vocational programs in facilities, to include welding, electrical, and plumbing. The Department is hoping to have electrical and plumbing programs in place by this summer. The Department has worked to secure mentoring services for youth in the facility that will continue when they are returned to the community. The Department secured a grant for 20 spots in the Virginia Technical Institute in Hampton Roads for youth in the community who needed to go through additional programming.

The Department has looked at the reentry numbers, and 40% of recidivism occurs during the first four months after release. This is one of the reasons why the Department wanted to give VJCCA services to youth as soon as possible. The time span between when an event happens and when the child receives services is currently too long. The child's brain is in a completely different place by the time the services are provided. If you ask a child what they did six months ago, they will not remember why they did what they did. But if you get services to the child within a few weeks of the event, they will have a better understanding of the connection and be able to move forward further in their treatment therapy. The Department's Data Resource Guide for 2021 showed a slight downward trend in recidivism, and that is why it is important to get services in place as soon as possible. The Department is focused on wrapping services around the youth from when they first come into contact with the system until they return to the community. The Department wants to support youth so they do not return to their previous dangerous situations and lifestyles.

Board Member English asked about the detention override. Director Floriano answered that the Department put in place the mandatory override for firearm charges, and are now ready to move forward with revisions to the length of stay guidelines. The Department will likely review the detention override instrument at some point and will take into account the concerns of law enforcement and the judiciary in determining what factors to include in the override.

Board Member White asked about juveniles' families and social circle, who play a big role in how they get re-acclimated and whether or not they reoffend. Director Floriano answered that the Department has family advocates who work with the families and partner with various outreach programs. Director Floriano believes it is important to make contact with families as soon as possible and to include them in treatment team discussions and in therapy options. Board Member White followed up by asking if that will start before release, and Director Floriano replied yes. The family is already involved in treatment team meetings before their child gets released.

Board Member Schrad asked about the effectiveness of parental education programs and if they are evaluated. Director Floriano does not know the statistics for that program. Board Member Schrad said it can be a struggle to get parents involved. They are part of the solution and part of the problem.

Board Member White talked about the Strengthening Families Program in which she is a facilitator. The program started in the prison system with adults and centered on communication. Board Member White believes in the program, but she cannot see how it will work if a young person was not able to participate in the program closer to their home community. It has better outcomes when it is community-neighborhood based. Board Member White would also like to know what types of programs are available to youth before

they are released to families, such as programs that support reunification, positive support, and positive social behavior. Board Member White stressed the need to look at concerns with cultural competency with the facilitators leading these programs.

Director Floriano said many of the programs involved with VJCCA services are done in the community. These are intervention, diversion, and probation programs done in the community where the child is placed. They are not necessarily being done in the facilities. Director Floriano said that when the child enters the system, the family participates in therapeutic programming determined by the treatment team. The Department is focused on continuity of services from beginning to end. We need to make sure we provide oversight, family interactions, and step-down services with the agency's reentry advocates. As part of its workforce development, the Department is reviewing how it handles moving the child through the system, what the agency should keep doing to adapt and standardize provision. Also there is a need to provide the same programming in community placement programs as well.

Deputy Director of Community Programs Linda McWilliams said that youth on probation or parole are benefiting from Functional Family Therapy (FFT) and Multi-Systemic Therapy (MST), to help them avoid going deeper into the system.

Chairperson Frazier asked about the rebuild at Bon Air and the population numbers.

Director Floriano said the Department is completing the preliminary work and relocating staff affected by the construction on campus. Currently, Bon Air has approximately 100 youth, with a further 79 youth in community placement programs. Many of the Bon Air youth are high risk. The Department tries to place youth near their home to structure the continuity of services and possibly start some work release programs as they transition out. There is a focus on the youth stepping down in a gradual manner that is not going to be a complete cultural shock on their final release.

#### **NEXT MEETING**

The next Board meeting is September 21, 2022, at 9:30 a.m. at the Virginia Public Safety Training Center.

#### **ADJOURNMENT**

Chairperson Frazier adjourned the meeting at 11:17 a.m.

**DIRECTOR'S CERTIFICATION ACTIONS**  
**August 25, 2022**

**CERTIFICATION ACTION – August 25, 2022:** Certified Summit Transitional Living program to April 30, 2025.

*Pursuant to 6VAC35-20-100C.2, if the certification audit finds the program or facility in less than 100% compliance with all regulatory requirements and a subsequent status report, completed prior to the certification action, finds 100% compliance on all regulatory requirements, the director or designee shall certify the facility for a specific period of time, up to three years.*

**CERTIFICATION ACTION – August 25, 2022:** Certified Prince William Juvenile Detention Center to April 13, 2025.

*Pursuant to 6VAC35-20-100C.2, if the certification audit finds the program or facility in less than 100% compliance with all regulatory requirements and a subsequent status report, completed prior to the certification action, finds 100% compliance on all regulatory requirements, the director or designee shall certify the facility for a specific period of time, up to three years.*

**CERTIFICATION ACTION – August 25, 2022:** Certified Richmond Juvenile Detention Center and Post-Dispositional Program to June 12, 2025.

*Pursuant to 6VAC35-20-100C.2, if the certification audit finds the program or facility in less than 100% compliance with all regulatory requirements and a subsequent status report, completed prior to the certification action, finds 100% compliance on all regulatory requirements, the director or designee shall certify the facility for a specific period of time, up to three years.*

**CERTIFICATION ACTION August 25, 2022:** Continued the current certification status to November 8, 2022. The facility is to have the security fencing project completed by that date. The first priority must be the 10 foot area where the escape took place in June 2021.



**CERTIFICATION AUDIT REPORT  
TO THE  
DEPARTMENT OF JUVENILE JUSTICE**

**PROGRAM AUDITED:**

The Summit Transitional Living Program  
3400 Newby's Bridge Road  
Chesterfield, Virginia 23832  
(804) 726-8690  
Heather Rose, Director  
[hlroses@intercepthealth.com](mailto:hlroses@intercepthealth.com)

**AUDIT DATES:**

April 11, 2022

**CERTIFICATION ANALYST:**

Learna Harris

**CURRENT TERM OF CERTIFICATION:**

April 30, 2020 – April 29, 2022

**REGULATIONS AUDITED:**

6VAC35-41 Regulation Governing Juvenile Group Homes and Halfway Houses

**PREVIOUS AUDIT FINDINGS – May 21, 2020**

100%

**CURRENT AUDIT FINDINGS – April 11, 2022:**

99.8% Compliance Rating

No repeat deficiencies from previous audit.

**6VAC35-41-180 (A). Employee and volunteer backgrounds checks. CRITICAL**

**DIRECTOR'S CERTIFICATION ACTION – August 25, 2022:** Certified Summit Transitional Living program to April 30, 2025.

*Pursuant to 6VAC35-20-100C.2, if the certification audit finds the program or facility in less than 100% compliance with all regulatory requirements and a subsequent status report, completed prior to the certification action, finds 100% compliance on all regulatory requirements, the director or designee shall certify the facility for a specific period of time, up to three years.*

**TEAM MEMBERS:**

Learna Harris, Team Leader  
Shelia Hinton, Central Office  
John Adams, Central Office  
Nikeshia Roberts, Central Office  
Michael Sayles, Central Office  
Wanda Parris-Flanagan, Central Office

**POPULATION SERVED:**

The Summit Transitional Living Program facility is a 3,000 square foot residential home situated on 11-acres. This two-level home includes seven (7) total bedrooms (six single and 1 double), four (4) bathrooms, kitchen, living room, dining area, recreation room, access to laundry facilities and staff office. The property also has an additional 2,000 square foot building, which is used as a career/resource room with a computer lab, space for family visitation and multi-use area for recreation and community meetings.

The Summit Transitional Living Program accepts males, ages 17.5 to 21 with a minimum IQ of

65, who are being discharged from a Department of Juvenile Justice commitment. Youth referred to and placed at Summit Transitional Living home will demonstrate various levels of risk to reoffend and commonly display the following behaviors and criminogenic and non-criminogenic needs:

1. Criminal history and propensity to commit crimes
2. History of running away from home, foster care, and/or residential placements
3. History of association with anti-social companions
4. Pro-criminal, risky thinking)
5. Antisocial personality such as impulsivity, poor emotional regulation and inadequate decision-making skills
6. Limited coping skills and low frustration toleration
7. Low educational achievement and history of poor school performance
8. History of low family affection/history of poor supervision
9. History of substance abuse
10. History of self-destructive behavior
11. History of mental health diagnoses (such as post-traumatic stress disorder, depression, Oppositional Defiance Disorder, and Attention Deficit Hyperactivity Disorder)
12. Low or limited functioning youth with a minimum IQ of 65
13. Lower levels of job readiness and independent living skills
14. Need for focused intensive transition and community reintegration services
15. History of trauma and exposure to violence
16. Impaired social functioning

**PROGRAMS AND SERVICES PROVIDED:**

The Summit Transitional Living Program provides the following services to the residents:

- Direct:
  - Aggression Replacement Training (ART)
  - Casey-Life Skills
  - YASI screening
  - Cognitive Behavioral Interventions (CBI)
  - Core Correctional Practices (CCP)
  - Motivational Interviewing
  - The Risk, Need, Responsivity (RNR) Model,
  - Understanding of the Youth Assessment & Screening Instrument (YASI),
  - DJJ's Assessment-Driven Case Planning Practices (Comprehensive Re-Entry Case Plan – CRCP)
  - DJJ's Community Model Utilized in the JCCs
  - Behavioral Intervention
  - Video conferencing for external services and communication (court, family visitation, telehealth)
  - Resource lab with computers and internet access
  - Individual and Family counseling
  - Supervision
  - Treatment planning
  - Psycho-educational groups on independent living skills, substance abuse education, AIDS and sexually transmitted diseases, victim sensitivity, self-esteem, parenting, decision making, anger management, and more

- Career assessment
- Employment skills
- Education skills/support (not to be confused with teaching. Courses can be accessed in the Resource center, but are NOT offered through/by The Summit Transitional Living Program)
- Nutrition/meal planning
- Community engagement
- Identifying/strengthening relationships with natural supports
- Facilitating visitation with family and natural supports
- Transportation support
  
- Community:
  - Enrichment activities and programs – various professional and community groups
  - Spiritual programs – various local spiritual groups
  - AIDS and sexually transmitted disease – various organizations and community groups such as, Planned Parenthood
  - Transportation
  - Parenting skills – Mentoring; various community groups
  - Dental/Vision Care – local provider of choice
  - Medical Care – local provider of choice (assuming Medicaid or resident private insurance is accepted)
  - Literacy and Math - Local educational institutions; tutors; PennFoster
  - Social Skills (Program and Community service)
  - Independent Living Skills – programs identified on an as-need basis
  - Experiences/Exposure
  - Community: (services offered by community agencies and resources)
  - Out Patient Service – additionally purchased service available through Intercept or identified provider of choice
  - ABEL Assessment Sexual Interest (AASI) Screen
  - Affinity 2.5 Sexual Interest Screen
  - Anger Management Intervention
  - Clinical Group
  - Crisis Stabilization
  - Dialectical Behavior Therapy Group
  - Face to Face Surveillance
  - Therapeutic Mentor
  - Family Centered Treatment
  - Gang Intervention
  - GPS Electronic Monitoring
  - Home-Based Services
  - Individual, Group and Family Therapy and relapse prevention for Substance Abuse
  - Individual, Group and Family Therapy for youth and relapse prevention with sexualized behaviors
  - Intensive In-Home Services

- Mental Health Skill Building
  - Multi-Systemic Therapy
  - Non Clinical Group
  - Parenting Group
  - Psychological Services
  - Psycho-Sexual Evaluation
  - Restorative Justice
  - Seven Challenges Group for Substance Abuse
  - Strengthening Families Program
  - Substance Abuse Intensive Outpatient Program
- 

**CORRECTIVE ACTION PLAN  
TO THE  
DEPARTMENT OF JUVENILE JUSTICE**

**FACILITY/PROGRAM:** Summit Traditional Living Program

**SUBMITTED BY:** Heather Rose, Program Director

**CERTIFICATION AUDIT DATES:** April 11, 2022

**CERTIFICATION ANALYST:** Learna R. Harris

Under Planned Corrective Action indicate; 1) The cause of the identified area of non-compliance. 2) The effect on the program. 3) Action that has been taken/will be taken to correct the standard cited. 4) Action that will be taken to ensure that the problem does not recur.

**6VAC35-41-180 (A). Employee and volunteer backgrounds checks. CRITICAL**

**A. Except as provided in subsection B, all persons who (i) accept a position of employment at, (ii) volunteer on a regular basis and will be alone with a resident in the performance of their duties, or (iii) provide contractual services directly to a resident on a regular basis and will be alone with a resident in the performance of their duties in a juvenile residential facility shall undergo the following background checks, in accordance with 63.2-1726 of the Code of Virginia, to ascertain whether there are criminal acts or other circumstances that would be detrimental to the safety of residents in the facility:**

1. A reference check;
2. A criminal history check;
3. A fingerprint check with the Virginia State Police and Federal Bureau of Investigations (FBI)
4. A central registry check with Child Protective Services; and
5. A driving record check if applicable to the individual's job duties;

**Audit Finding:**

One of two applicable cases reviewed did not have the reference checks completed.

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**Program Response**

**Cause:**

Human Resources failed to complete reference check for new employee. Therefore, references were not checked/completed.

**Effect on Program:**

None

**Planned Corrective Action:**

Onboarding Specialists will ensure that they have been reminded that new hires cannot onboard without completing the entire application process.

**Completion Date:**

4/12/2022

**Person Responsible:**

Cristen Anderson, Human Resources

**Current Status on July 12, 2022: Compliant**

Three of three applicable cases reviewed had completed reference checks.

**CERTIFICATION AUDIT REPORT  
TO THE  
DEPARTMENT OF JUVENILE JUSTICE**

**PROGRAM AUDITED:**

Prince William County Juvenile Detention Center  
14873 Dumfries Road  
Manassas, Virginia 20112  
(703) 792-8300  
(703) 791-3958 FAX  
John T. Dowdy, Superintendent  
[jdowdy@pwcgov.org](mailto:jdowdy@pwcgov.org)

**AUDIT DATES:**

March 22, 2022

**CERTIFICATION ANALYST:**

Wanda Parris-Flanagan

**CURRENT TERM OF CERTIFICATION:**

April 13, 2019 – April 12, 2022

**REGULATIONS AUDITED:**

6VAC35-101 Regulation Governing Juvenile Secure Detention Centers

**PREVIOUS AUDIT FINDINGS – November 6, 2018:**

97.64% Compliance Rating

**6VAC35-101-80 (A) Serious incident reports. CRITICAL**

**6VAC35-101-80 (D) Serious incident reports.**

**6VAC35-101-170 (A) Employee and volunteer background checks. CRITICAL**

**6VAC35-101-300 (A) Volunteer and intern orientation and training.**

**6VAC35-101-350 (C) Buildings and inspections.**

**6VAC35-101-1060 (H) Medication.**

**6VAC35-101-100 (E) Room confinement and isolation.**

**CURRENT AUDIT FINDINGS – March 22, 2022:**

99.65% Compliance Rating

No repeat deficiencies from previous audit.

**6VACC35-101-800 (B) Admission and orientation.**

**DIRECTOR'S CERTIFICATION ACTION – August 25, 2022:** Certify Prince William Juvenile Detention Center to April 13, 2025.

*Pursuant to 6VAC35-20-100C.2, if the certification audit finds the program or facility in less than 100% compliance with all regulatory requirements and a subsequent status report, completed prior to the certification action, finds 100% compliance on all regulatory requirements, the director or designee shall certify the facility for a specific period of time, up to three years.*

**TEAM MEMBERS:**

Wanda Parris-Flanagan, Team Leader

Shelia Hinton, Central Office

Nikeshia Roberts, Central Office

Michael Sayles, Central Office

John Adams, Central Office

Leah Nelson, Central Office

Christopher Mallory, Chesterfield JDC

### **PROGRAM DESCRIPTION**

Prince William Juvenile Detention Center ("PWCJDC") opened for operations in 1979. They are a 72-bed co-ed facility designed and licensed to secure detention for juveniles ages 10 thru 17. The facility is located in the hub of Prince William County, Virginia.

PWCJDC is a part of the Residential Services Division of the Prince William County Department of Social Services. The facility provides services to the 31<sup>st</sup> Court Services Unit/Judicial District which includes the following localities:

- Prince William County
- Manassas City
- Manassas Park

It is the mission of PWCJDC to protect the community, the staff and youth we serve; provide quality structured programs in a humane environment and promote healthy emotional, educational, social and physical development.

It is the vision of the PWCJDC to protect, restore and improve public safety through a continuum of services and programs that: effectively supervise juvenile offenders, promote offender accountability to victims and communities, and build skills and competencies of youth to become responsible citizens.

### **SERVICES PROVIDED:**

#### **Education**

The Education Department at the PWCJDC is operated by the Virginia Department of Education, (State Operated Programs), but locally contracted through Prince William County Public Schools, and staffed by certified secondary Prince William County public schools teachers. Our staff consists of; a principal, administrative assistant, core content area teachers, a Health and Physical Education teacher, special education teachers, an ESOL teacher, Literacy Coach, and a GED teacher. We offer both traditional and computer-based instruction, for those students who are already placed in the computer-based instruction program, as well as a 16/17 year old GED program. Students detained at the juvenile detention center are afforded the opportunity to continue their education while detained, including special education and ESOL services, as well as access to SOL testing. In addition, we are a certified testing site for the GED test by Pearson VUE.

#### **Mental Health**

PWCJDC's licensed Clinical Supervisor provides on-site supervision to a full-time Region Ten CSB Mental Health Case Manager/Clinician. The Region Ten CSB Mental Health Case Manager/Clinician position is dedicated to and located at PWC JDC.

#### **Medical**

PWCJDC employs nurses, physician assistants and a physician to monitor and address the medical needs of residents. The medical clinic currently operates several days a week and has an on-call nurse to address all medical issues and unforeseen events.

#### **Community Volunteers**

PWCJDC has a great relationship with the local community. Volunteers provide weekly arts and crafts, girl scouts, yoga, life skills and religious activities for the youth.

#### **Recreation**

Each youth is given an opportunity for structured large muscle activity daily and receives additional physical activity during their daily physical education class. The recreation program also provides leisure activities during evening and weekend hours.

**Community Placement Program (CPP)**

In effort to place residents close to their home community to promote community re-entry and family engagement, the Prince William County Community Placement Program ("PWCCPP") provides a highly structured, disciplined residential program for juvenile offenders committed to the Department of Juvenile Justice. PWCCPP utilizes a blended behavioral modification approach with positive peer culture and community treatment model elements to help residents learn empathy, accountability, and personal responsibility through evidence-based cognitive behavioral techniques. Programming focuses on skill development, with the aim of improving positive, prosocial decision-making and building competencies in the areas of education, job readiness and social skills. Services are provided in the areas of anger management, substance abuse, life skills, post-graduate education, job and employability skills, community service and recreation.

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**CORRECTIVE ACTION PLAN  
TO THE  
DEPARTMENT OF JUVENILE JUSTICE**

**FACILITY/PROGRAM:** Prince William County Juvenile Detention Center  
**SUBMITTED BY:** John Dowdy, Superintendent  
**CERTIFICATION AUDIT DATES:** March 22, 2022  
**CERTIFICATION ANALYST:** Wanda Parris-Flanagan

Under Planned Corrective Action indicate; 1) The cause of the identified area of non-compliance. 2) The effect on the program. 3) Action that has been taken/will be taken to correct the standard cited. 4) Action that will be taken to ensure that the problem does not recur.

**6VAC35-101-800 (B). Admission and orientation.**

**B. The resident shall receive an orientation to the following:**

- 1. The behavior management program as required by 6VAC35-101-1070 (behavior management);**
  - a. During the orientation, residents shall be given written information describing rules of conduct, the sanctions for rule violations, and the disciplinary process. These shall be explained to the resident and documented by the dated signature of resident and staff.**
  - b. Where a language or literacy problem exists that can lead to a resident misunderstanding the rules of conduct and related regulations, staff or a qualified person under the supervision of staff shall assist the resident.**
- 2. The grievance procedure as required by 6VAC35-101-100 (grievance procedure);**
- 3. The disciplinary process as required by 6VAC35-101-1080 (disciplinary process);**



4. The resident's responsibilities in implementing the emergency procedures as required by 6VAC35-101-510 (emergency and evacuation procedures); and
5. The resident's rights, including, but not limited to, the prohibited actions provided for in 6. VAC35-101-650 (prohibited actions).

**Audit Finding:**

Six out of six files audited did not provide documentation that the resident received an orientation on the behavior management program. Six out of 6 files audited did not provide documentation that the resident received an orientation on the disciplinary process.

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**Program Response**

**Cause:**

The facility was using an outdated form that addressed the review of rules, consequences and expectations, but didn't specifically mention the behavior management program and due process.

**Effect on Program:**

The facility did not have documented evidence that the behavior management program and due process were reviewed/discussed during intake/orientation.

**Planned Corrective Action:**

The facility developed, trained staff on and implemented an intake checklist (see attached) that covers all elements of the standard and requires acknowledgement by staff/youth that the areas were reviewed and that they received a written copy. This will take place during intake/orientation.

**Completion Date:**

March 22, 2022

**Person Responsible:**

John T. Dowdy, Superintendent and Justin Ford, Assistant Superintendent

**Current Status on June 13, 2022: Compliant**

Six out of six case files reviewed provided documentation that the resident received an orientation on the behavior management program and the disciplinary process.

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**CERTIFICATION AUDIT REPORT  
TO THE  
DEPARTMENT OF JUVENILE JUSTICE**

**PROGRAM AUDITED:**

Richmond Juvenile Detention Center  
1700 Oliver Hill Way  
Richmond, Virginia 23219  
(804) 646-2937  
Rodney Baskerville, Superintendent  
[rodney.baskerville@rva.gov](mailto:rodney.baskerville@rva.gov)

**AUDIT DATES:**

April 20, 2022

**CERTIFICATION ANALYST:**

Learna Harris

**CURRENT TERM OF CERTIFICATION:**

June 12, 2019 – June 11, 2022

**REGULATIONS AUDITED:**

6VAC35-101 Regulation Governing Juvenile Detention Centers

**PREVIOUS AUDIT FINDINGS – January 30, 2019:**

6VAC35-101-80 (D). Serious incident reports.  
6VAC35-101-1060 (M). Medication. CRITICAL

**CURRENT AUDIT FINDINGS – April 20, 2022:**

98.9%

No repeat deficiencies from previous audit.

6VAC35-101-650 (A). Prohibited Actions. CRITICAL  
6VAC35-101-1080 (B). Disciplinary process.

**DIRECTOR'S CERTIFICATION ACTION – August 25, 2022:** Certify Richmond Juvenile Detention Center and Post-Dispositional Program to June 12, 2025.

*Pursuant to 6VAC35-20-100C.2, if the certification audit finds the program or facility in less than 100% compliance with all regulatory requirements and a subsequent status report, completed prior to the certification action, finds 100% compliance on all regulatory requirements, the director or designee shall certify the facility for a specific period of time, up to three years.*

**TEAM MEMBERS:**

Learna Harris, Team Leader  
Shelia Hinton, Central Office  
Deborah Hayes, Central Office  
John Adams, Central Office  
John Dowdy, Prince William JDC  
Wanda Parris-Flanagan, Central Office  
Nikeshia Roberts, Central Office

**POPULATION SERVED:**

The Richmond Juvenile Detention Center (RJDC) is a 60-bed facility designated to provide temporary and safe custody to male and female juvenile offenders between the ages of ten and 17. The age range for residents admitted to the Post Dispositional Program is 14-17 and for the Re-Entry Program approved age, range is 16-19.

The facility, which is approximately 17 years old, is divided into six 10-bed pods. The facility contains an intake and medical area, several classrooms, a library/computer lab, and there are security cameras scanning the interior and exterior perimeter of the building.

**PROGRAMS AND SERVICES PROVIDED:**

The Richmond Juvenile Detention Center is a pre-dispositional secure facility. The facility has a behavior management program that provides a system of rewards for positive behavior and teaches residents to be accountable for their behavior. Recreation is incorporated into the academic program and during leisure time. Residents participate in psycho-educational groups five days a week and life skills twice a week. Programs are designed to ensure residents have a more productive transition when they return home or are transferred to other facilities.

The Richmond Juvenile Detention Center Re-Entry Program provides services for residents transitioning from a Juvenile Correctional Center to detention up to 120 days prior to discharge from commitment onto parole. The Richmond Juvenile Detention Center will provide bed space for male/female juveniles from ages 16-19. The goal is to provide quality Detention Re-Entry services in a structured yet nurturing environment. The program is strengths based and will help each resident with maladaptive behaviors and replace them with socially appropriate skills to enhance self-esteem, develop competency skills and build character through individual, group and family therapy.

The Richmond Juvenile Detention Center's Post-Dispositional Program is governed by the Code of Virginia and certified through the VA Department of Juvenile Justice. It provides the Thirteenth Court Service Unit a secure residential alternative to commitment to DJJ for the City of Richmond youths. These non-violent juvenile offenders from ages 14-17 years of age are on suspended commitments to DJJ and can spend up to six months in the Post-D Program. The program is designed to meet their individual, behavioral, educational and treatment needs. The participation of parents and/or legal guardians is an integral component of the program as they take part in the treatment and progress of the youth through their transition back home.

**CENTRAL ADMISSION AND PLACEMENT UNIT**

Due to the closure of some juvenile correctional centers (JCC) within the VA Department of Juvenile Justice, the RJDC serves as an intake site for DJJ to conduct intakes/evaluations for juvenile offenders committed to DJJ. The intake process includes interviews, orientations, assessments and testing completed by DJJ staff. After completion of this three-week intake process, residents remain at the facility until accepted into a Community Placement Program (CPP) or placement at Bon Air JCC. When a placement is arranged, the residents are transported by DJJ to their designated facility placement.

Residents receive medical and mental health services as needed. Three nutritious meals and one snack are provided daily by the facility food services in accordance with USDA requirements.

The Dr. Virgie Binford Education Center, operated by the Richmond Public School system, is an eleven-month academic program. An array of services are provided to include GED preparation, remedial courses, social skills and basic reading, writing, and math lessons. A principal, several teachers and support staff operate the facility education program. When a resident is released, all their grades and testing results are communicated to the resident's designated school.

**SERVICES PROVIDED:**

- Direct:

- Medical and mental health services
- Educational enrichment
- Emergency and medical transportation
- Food service
- Social and recreational services
- Psycho-Educational groups
- Life skills group
- Volunteer Services
  
- Services accessed in the community:
  - Community service task
  - Community monitoring program
  - Psychiatric and mental health services

**CORRECTIVE ACTION PLAN  
TO THE  
DEPARTMENT OF JUVENILE JUSTICE**

**FACILITY/PROGRAM:** Richmond Juvenile Detention Center  
**SUBMITTED BY:** Rodney Baskerville, Superintendent  
**CERTIFICATION AUDIT DATE:** April 20, 2022  
**CERTIFICATION ANALYST:** Learnna R. Harris

Under Planned Corrective Action indicate; 1) The cause of the identified area of non-compliance. 2) The effect on the program. 3) Action that has been taken/will be taken to correct the standard cited. 4) Action that will be taken to ensure that the problem does not recur.

**6VAC35-101-650 (A). Prohibited Actions. CRITICAL**

**A. The following actions are prohibited:**

- 1. Discrimination in violation of the Constitution of the United States, the Constitution of the Commonwealth of Virginia, and state and federal statutes and regulations.**
- 2. Deprivation of drinking water or food necessary to meet a resident's daily nutritional needs, except as ordered by a licensed physician for a legitimate medical purpose and documented in the resident's record;**
- 3. Denial of contacts and visits with the resident's attorney, a probation officer, the regulatory authority, a supervising agency representative, or representatives of other agencies or groups as required by applicable statutes or regulations;**
- 4. Any action that is humiliating, degrading, abusive, or unreasonably impinges upon the residents' rights, including but not limited to any form of physical abuse, sexual abuse, or sexual harassment;**
- 5. Corporal punishment, which is administered through the intentional inflicting of pain or discomfort to the body through actions such as, but not limited to (i) striking or hitting with any part of the body or with an implement; (ii) pinching, pulling, or shaking; or (iii) any similar action that normally inflicts pain or discomfort;**
- 6. Subjection to unsanitary living conditions;**
- 7. Deprivation of opportunities for bathing or access to toilet facilities, except as ordered by a licensed physician for a legitimate medical purpose and documented in the resident's record;**
- 8. Denial of health care;**
- 9. Denial of appropriate services, programs, activities, and treatment;**
- 10. Application of aversive stimuli, except as provided in this chapter or permitted pursuant to other applicable state regulations. Aversive stimuli means any physical forces (e.g., sound, electricity, heat, cold, light, water, or noise) or substances (e.g., hot pepper, pepper sauce, or pepper spray) measurable in duration and intensity that when applied to a resident are noxious or painful to the individual resident;**
- 11. Administration of laxatives, enemas, or emetics, except as ordered by a licensed physician or poison control center for a legitimate medical purpose and documented in the resident's record;**
- 12. Deprivation of opportunities for sleep or rest, except as ordered by a licensed**

- physician for a legitimate medical purpose and documented in the resident's record;
13. Use of pharmacological restraints; and
  14. Other constitutionally prohibited actions.

**Audit Finding:**

Three out of six confinement forms reviewed residents were read charges, had hearings, and offered large muscle activity during sleeping hours.

---

**Program Response**

**Cause:**

Staff/Supervisor did not afford resident(s) to have uninterrupted sleep/rest after receiving a facility infraction.

**Effect on Program:**

Failure to enable a resident to receive sufficient sleep/rest.

**Planned Corrective Action:**

No hearings will be conducted during sleeping hours. All staff will be trained in the Prohibited Actions regulation to ensure compliance on each action. Supervisors and Superintendent will review facility documentation to ensure compliance. Individual sessions to be completed with each supervisor on how to conduct hearings. Staff will be provided a copy of DJJ standards for detention centers.

**Completion Date:**

May 9, 2022

**Person Responsible:**

Protective Services Specialist (PSS) Protective Services Support Supervisor (PSSS) and Superintendent

**Current Status on July 18 2022: Compliant**

Four of four applicable cases reviewed no residents were disturbed during sleeping hours.

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**6VAC35-101-1080 (B). Disciplinary process.**

**B. Disciplinary report.** A disciplinary report shall be completed when it is alleged that a resident has violated a rule of conduct for which room confinement, including a bedtime earlier than that provided on the daily schedule, may be imposed as a sanction.

1. All disciplinary reports shall contain the following:
  - a. A description of the alleged rule violation including the date, time, and location;
  - b. A listing of any staff present at the time of the alleged rule violation;
  - c. The signature of the resident and the staff who completed the report; and
  - d. The sanctions, if any, imposed.
2. A disciplinary report shall not be required when a resident is placed in his room for a "cooling off" period, in accordance with written procedures, that does not exceed 60 minutes.

**Audit Finding:**

Six of six cases reviewed alleged rule violations were reported on an Incident report form instead of a Disciplinary report form, which did not have a place for the resident's signature.

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**Program Response**

**Cause:**

Facility reported/documented violations of conduct within the facility on Incident Forms, instead of a Disciplinary Report designed specifically for disciplinary violations.

**Effect on Program:**

Not having a Disciplinary Report with a description, may have hindered resident(s) obtaining a clear understanding of their violation of a rule of conduct at the facility.

**Planned Corrective Action:**

A Disciplinary Report Form was created to include description and a resident's signature. All staff provided and trained on all forms, provided copies of the regulations supporting the report and process. All staff will receive a copy of DJJ standards for detention centers. Facility policies will be updated to reflect any changes in the hearing process.

**Completion Date:**

May 9, 2022

**Person Responsible:**

Administration (Superintendent)

**Current Status on July 18, 2022: Compliant**

The facility has implemented a disciplinary report form.

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**CERTIFICATION AUDIT REPORT  
TO THE  
DEPARTMENT OF JUVENILE JUSTICE**

**PROGRAM AUDITED:**

Northern Virginia Juvenile Detention Home  
200 South Whiting Street  
Alexandria, VA 22304  
(703) 751-3700  
Johnitha McNair, Executive Director  
JMcNair@jdcnv.org

**AUDIT DATES:**

June 2021

**CERTIFICATION ANALYST:**

Clarice T. Booker  
Kenneth Bailey

**CURRENT TERM OF CERTIFICATION:**

May 15, 2018 – June 1, 2022

**REGULATIONS AUDITED:**

6VAC35-101 Regulation Governing Juvenile Secure Detention Centers

**PREVIOUS AUDIT FINDINGS – January 30, 2018:**

**6VAC35-101-80 (A) Serious incident reports CRITICAL**  
**6VAC35-101-655 (A) Vulnerable populations**  
**6VAC35-101-870 (B) Written communication between staff; daily log**  
**6VAC35-101-1060 (G) Medication**

**CURRENT AUDIT FINDINGS – June 28, 2021**

98.62% Compliance Rating  
No repeat deficiencies from previous audit  
**6VAC35-101-170 (A). Employee and volunteer background checks. CRITICAL**  
**6VAC35-101-350 (B). Buildings and inspections. CRITICAL**  
**6VAC35-101-350 (C). Buildings and inspections.**  
**6VAC35-101-1200 (A). Individual service plans in post-dispositional detention programs.**  
**6VAC35-101-1210 (A). Progress reports in post-dispositional detention programs**

**DIRECTOR'S CERTIFICATION ACTION January 13, 2022:** Continued the current certification status of Northern Virginia Juvenile Detention Center June 1, 2022, with instructions to have completed the necessary security enhancements. (Director Boykin)

**CERTIFICATION ACTION August 25, 2022:** Continued the current certification status to November 8, 2022. The facility must have the security fencing project completed by that date. The first priority must be the 10 foot area where the escape took place in June 2021.

**TEAM MEMBERS:**

Clarice Booker, Team Leader  
Deborah Hayes, Central Office  
Mark Lewis, Central Office  
Shelia Hinton, Central Office  
Nikeshia Roberts, Central Office  
Michael Sayles, Central Office



James McPherson, Central Office  
Thomas Gaskins, Central Office

**POPULATION SERVED:**

Northern Virginia Juvenile Detention Home is a secure custody facility operated by the Juvenile Detention Commission for Northern Virginia. The members of the Commission include the cities of Alexandria and Falls Church and the county of Arlington. The facility serves a pre-dispositional population of 70 male and female residents ages 10 through 17. There is a post-dispositional detention program for 10 male and female residents, ages 14 through 17, included in the rated capacity. There is also a CPP unit in the facility, housing eight direct care females included in the rated capacity.

**PROGRAMS AND SERVICES PROVIDED:**

In addition to all mandated services Northern Virginia Juvenile Detention Center interacts with the community in obtaining such services as:

- Psycho-educational groups through the Alexandria Community Service Board
- Counseling and crisis intervention by mental health staff through local jurisdictions
- On-site education through the Alexandria Public School System
- Local religious-based organizations provide youth the opportunity for spiritual guidance as well as religious services

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**CORRECTIVE ACTION PLAN  
TO THE  
DEPARTMENT OF JUVENILE JUSTICE**

**FACILITY/PROGRAM:** Northern Virginia Juvenile Detention Home

**SUBMITTED BY:** Johnitha McNair, Executive Director

**CERTIFICATION AUDIT DATES:** June 2021

**CERTIFICATION ANALYST:** Clarice T. Booker/Kenneth Bailey

Under Planned Corrective Action indicate; 1) The cause of the identified area of non-compliance. 2) The effect on the program. 3) Action that has been taken/will be taken to correct the standard cited. 4) Action that will be taken to ensure that the problem does not recur.

**6VAC35-101-350 (B). Buildings and inspections. CRITICAL**

**A current copy of the facility's annual inspection by fire prevention authorities indicating that all buildings and equipment are maintained in accordance with the Virginia Statewide Fire Prevention Code (13VAC5-51) shall be maintained. If the fire prevention authorities have failed to timely inspect the detention center's buildings and equipment, documentation of the facility's request to schedule the annual inspection as well as documentation of any necessary follow-up with fire prevention authorities shall be maintained.**

**Audit Finding:**

Fire inspections by the Fire Marshall were conducted at the facility on 2/15/2018, 3/16/2018, 2/22/2019, 3/1/2019, and 12/23/2020. There was no documentation of a fire inspection between March 1, 2019 and December 23, 2020, and there was more than 13 months between the inspections.

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**Program Response**

**Cause:**

The Fire Marshall reported to the facility on March 22, 2019, as a follow-up to the March 1, 2019 visit (attached). Per Fire Marshall Richard C. Boyd Jr., they did not report to the facility between March 1, 2019, and December 23, 2020 "due to COVID-19, being understaffed and backed up". The facility has requested that Mr. Boyd Jr. put this in writing so it can be on record. A copy of the correspondence will be sent to DJJ as well.

**Effect on Program:**

Resulted in non-compliance.

**Planned Corrective Action:**

On August 24, 2021, the facility Maintenance Engineer, Maurice Moye spoke with Mr. Boyd Jr. to ask for an update regarding an appointment for them to conduct the fire inspection however he advised that he's unable to provide a specific date at this time. He further indicated that they are still, "backed up". We will continue to remain in contact with the Fire Marshall in an effort to resolve this area of non-compliance.

**Completion Date:**

Unknown at this time

**Person Responsible:**

Maurice Moye and Ian Rachal

**Status Visit November 8, 2021: Noncompliant**

According to Salithea Eubanks, Compliance Manager, Northern Virginia Juvenile Detention Center is still attempting to get the fire inspection completed by the Fire Marshall. The Fire Marshall has not been able to complete the fire inspection due to COVID-19, being under staffed and being backed up. There is no projected date when the fire inspection will be completed in person.

**Current Status on August 15, 2022: Compliance**

Reviewed a current Alexandria Fire Inspection date 3/05/2022.

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**6VAC35-101-350 (C). Buildings and inspections.**

A current copy of the detention center's annual inspection and approval, in accordance with state and local inspection laws, regulations, and ordinances, of the systems listed below shall be maintained. These inspections shall be of the:

1. General sanitation;
2. Sewage disposal system;
3. Water supply; and
4. Food service operations.

**Audit Finding:**

Sanitation inspections by the Health Department were conducted at the facility on 4/4/2018, and 6/2/2019. There was no documentation of an inspection between 4/4/2018 and 6/2/2019, and there were more than 13 months between the inspections.

---

**Program Response**

**Cause:**

N/A

**Effect on Program:**

N/A

**Planned Corrective Action:**

A sanitation inspection was completed on September 28, 2018. (attached)

**Completion Date:**

September 28, 2018

**Person Responsible:**

Selita Taylor

**Current Status: Compliant**

The inspection report was located and reviewed by Ken Bailey.

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**6VAC35-101-1200 (A). Individual service plans in postdispositional detention programs.**

**A. A written plan of action, the individual service plan, shall be developed and placed in the resident's record within 30 days following admission and implemented immediately thereafter. The individual service plan shall:**

1. Be revised as necessary and reviewed at intervals; and
2. Specify (i) measurable short-term and long-term goals; (ii) the objectives, strategies, and time frames for reaching the goals; and (iii) the individuals responsible for carrying out the plan.

**Audit Finding:**

There was no documentation of strategies being addressed in two out of three applicable service plans reviewed.

---

**Program Response**

**Cause:**

Individual service plans to include short-term and long-term goals for post-dispositional residents were verbally discussed during treatment team meetings with the resident and supervising staff.

However, the facility failed to consistently formally document per 6VAC35-101-1200 (A).

**Effect on Program:**

The direct effect on the program was incomplete files and inaccurate record keeping.

**Planned Corrective Action:**

A checklist was developed to be completed by the post-dispositional Case Manager and reviewed by the Program Manager to ensure compliance. In addition, this standard was added to the case conference form indicating that the short-term and long-term goals and plans were reviewed by the treatment team which includes notification of parent/guardian. Case files for post-dispositional have been updated with sections that mirror the DJJ standards.

**Completion Date:**

June 28, 2021

**Person Responsible:**

Lana Powers and Annie Reiney

**Status Visit November 8, 2021: Compliant**

Two of two applicable service plans reviewed documented the strategies.

---

**6VAC35-101-1210 (A). Progress reports in postdispositional detention programs. There shall be a documented review of each resident's progress in accordance with § 16.1-284.1 of the Code of Virginia. The review shall report the:**

- 1. Resident's progress toward meeting the plan's objectives;**
- 2. Family's involvement; and**
- 3. Continuing needs of the resident.**

**Audit Finding:**

**There was no documentation that the family's involvement and continuing needs of the resident were addressed in progress reports in three out of three applicable case records reviewed.**

---

**Program Response**

**Cause:**

The facility failed to properly document due to the family involvement section being inadvertently removed from the progress reports. There was a turnover in leadership for post-dispositional and this error wasn't identified until October 2020.

**Effect on Program:**

The direct effect on the program was incomplete files.

**Planned Corrective Action:**

A checklist was developed to be completed by the post-dispositional Case Manager and reviewed by the Program Manager to ensure compliance. The resident's progress toward meeting the plan's objectives is documented under the Treatment Plan Progress section. Case files for post-dispositional residents are completed with sections that mirror the DJJ standards and currently,

family involvement is documented in the Family Participation section and continuing needs of the residents is documented in the Goal section.

**Completion Date:**

October 20, 2020

**Person Responsible:**

Lana Powers and Annie Reiney

**Status Visit November 8, 2021: Compliant**

There was documentation that the family's involvement and continuing needs of the resident were addressed in progress reports in two out of two applicable case records reviewed

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**6VAC35-101-170 (A). Employee and volunteer background checks. CRITICAL**

**A. Except as provided in subsection B, all persons who (i) accept a position of employment at, (ii) volunteer on a regular basis and will be alone with a resident in the performance of their duties, or (iii) provide contractual services directly to a resident on a regular basis and will be alone with a resident in the performance of that person's duties shall undergo the following background checks in accordance with § 63.2-1726 of the Code of Virginia to ascertain whether there are criminal acts or other circumstances that would be detrimental to the safety of residents:**

- 1. A reference check;**
- 2. A criminal history record check;**
- 3. Fingerprint checks with the Virginia State Police and Federal Bureau of Investigations (FBI);**
- 4. A central registry check with Child Protective Services; and**
- 5. A driving record check if applicable to the individual's job duties.**

**Audit Finding:**

**There was no documentation of reference checks in four out of 10 new staff records reviewed. The criminal history check in one out of 10 new staff files reviewed was completed after the date of hire (date of hire 11/30/2020, date of criminal history check was 12/4/2020). The CPS check in one out of 10 new staff files reviewed was completed after the date of hire (date of hire 11/30/2020, date of CPS check was 12/3/2020).**

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**Program Response**

**Cause:**

A turnover in the Human Resources positions in March and June of 2020 contributed to miscommunication as to the status of applicants and what had been completed, received, and maintained as it related to the hiring process. The recruiting, screening, hiring, and onboarding process was interrupted in the early months of 2020 as a result of the pandemic. For instance, the CPS check that was completed on the employee on 12/3/2020; after the hire date of 11/30/2020; had previously been received in January of 2020 when the employee was initially considered for the position. These errors are directly attributed to our effort to bring staff on after months of delay in the process caused by the pandemic.

**Effect on Program:**

The direct effect on the program was failing to meet the standard.

**Planned Corrective Action:**

We recognize that both the delay in hiring caused by the pandemic and the urgency to bring staff on board contributed to our non-compliance with the standard. To avoid this moving forward; prior to new hires receiving a start date, an employee personnel action form (which shows the status of completion of all background checks and pre-employment requirements and the dates they were reviewed) will be completed and signed by the Executive Director and the Deputy Director in her absence and maintained in each employee's file.

**Completion Date:**

June 9, 2021

**Person Responsible:**

Selita Taylor and Johnitha McNair

**Status Visit November 8, 2021: Compliant**

There was documentation of reference checks in three out of three new staff records reviewed. The criminal history check in three out of three new staff files reviewed was completed prior to date of hire. The CPS check in three out of three new staff files reviewed was completed prior to the date of hire.

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**ADDENDUM**

A significant incident occurred after the conclusion of the audit and necessitates inclusion in this audit report as there are ongoing compliance issues.

On June 15, 2021, an escape occurred from the recreation yard where a resident was participating in recreation with two other residents. One staff was assigned to their supervision. The resident was able to distance himself from staff and scale the wall and adjacent fence to gain access to the roof of the building. After gaining access the roof he was able to travel to the back portion of the building jump off the building near the dumpsters where he was able to scale another fence and continue into the community. He was apprehended by local police and returned to detention. There were no incidents in the community. Due to community feedback the concertina wire securing the roof was removed on May 31, 2020.

Ken Bailey, Certification Manager, reviewed the incident and made the following determinations.

**6VAC35-101-350 (D). Buildings and inspections.**

**D. Building plans and specifications for new construction, change in use of existing buildings, and any structural modifications or additions to existing buildings shall be submitted to and approved by the regulatory authority and by other appropriate regulatory agencies. Any planned construction, renovation, enlargement, or expansion of a detention center shall follow the submission and approval requirements of the Regulations for State Reimbursement of Local Juvenile Residential Facility Costs (6VAC35-30) and of any other applicable regulatory authorities.**

**Finding:**

NVJDC modified the existing building security features without approval of the regulatory authority. The removal of the barbed wire compromised the security of facility, safety of the residents, and public safety.

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### **Program Response**

#### **Cause:**

Both the concertina and barbed wire were removed from two interior fences adjacent to the housing units and recreation area and one exterior fence which is not accessible from the recreation yard. It is necessary to note that the outermost perimeter fence adjacent to the recreation yard never had concertina wire or barbed wire; nor were there modifications made to it. The outer perimeter fencing, which was not breached and played no part in this incident is supplemented with no-climb mesh fencing and an inverted overhang designed to prevent scaling. It remains in place, without modifications.

The resident was able to access the roof from one of the two interior fences. Once on the roof, the resident was able to access a fence only accessible from the roof when inside the facility. This unauthorized access to the roof facilitated escape from the facility.

#### **Effect on Program:**

Changes to programming activities, specifically the cessation of outdoor recreation. A finding of non-compliance with the Department of Juvenile Justice's certification standards.

#### **Planned Corrective Action:**

We have requested bids to make the fencing inside the perimeter more secure either or both by increasing the height of the fence with an inverted overhang similar to the exterior perimeter and adding no climb mesh to the exterior of the fence to cover the current chain link. Once a vendor is selected, NVJDC will proceed with securing the areas that contributed to the escape.

#### **Completion Date:**

In progress

#### **Person Responsible:**

Johnitha R. McNair

#### **Status Visit November 8, 2021: Noncompliance**

The required documents have not been submitted to DJJ for review.

#### **Current Status August 15, 2022: Compliance**

The needed plans were submitted to DJJ Chief Deputy Angela Valentine. She noted in an email of March 8, 2022, that NOVA JDC had done due diligence in ensuring that the work to be done will meet security standards. With the assurance from the Northern Virginia Detention Commission that they would not request reimbursement from the State to secure the perimeter, on March 21, 2022, approval was granted for NOVA to proceed with the project.

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**6VAC35-101-530 (A). Control of perimeter.**

**In accordance with a written plan, the detention center's perimeter shall be controlled by appropriate means to provide that residents remain within the perimeter and to prevent unauthorized access by the public.**

**Finding:**

Removal of the barbed wire that was an approved security feature of the facility did not provide for proper control of the facility perimeter. Nothing was added to secure the perimeter.

---

**Program Response**

**Cause:**

As stated in the program response in section: 6VAC35-101-350 (D). Buildings and inspections; the removal of the barbed wire and concertina wire contributed to a breach in the control of the inner perimeter.

**Effect on Program:**

Changes to programming activities, specifically the cessation of outdoor recreation. A finding of non-compliance with the Department of Juvenile Justice's certification standards.

**Planned Corrective Action:**

We have requested bids to make the fencing inside the perimeter more secure either or both by increasing the height of the fence with an inverted overhang similar to the exterior perimeter and adding no climb mesh to the exterior of the fence to cover the current chain link. Once a vendor is selected, NVJDC will proceed with securing the areas that compromised physical security and contributed to the escape.

**Completion Date:**

In progress

**Person Responsible:**

Johnitha R. McNair

**Status Visit November 8, 2021: Noncompliance**

Not modifications have been made to secure the area from escapes.

**Current Status on August 15 2022: Noncompliance**

The NOVA Detention Commission has approved funding for the project but a final vendor has not been selected. This decision is expected before the end of August. Johnitha McNair will give an update on August 25<sup>th</sup>. A contract has been awarded to Long Fence. Construction is scheduled to begin October 15, 2022.

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**6VAC35-101-890 (G). Staff supervision of residents.**



**G. Staff shall regulate the movement of residents within the detention center in accordance with written procedures.**

**Finding:**

The staff supervising the recreation area was not attentive to his duties and was not posted in a manner to respond to the incident and show awareness of his surroundings. Video showed him sitting on a bench engaged with the other two youth while Lopez Kener moved away from the group and started scaling the fence. Until the area is secured properly procedures should be modified to require two staff on the recreation yard when residents in the area.

---

**Program Response**

**Cause:**

Staff failed to maintain a security posture while supervising the residents which provided an opportunity for the resident to scale the fence gaining access to the roof which led to the resident's escape.

**Effect on Program:**

Changes to programming activities, specifically the cessation of outdoor recreation. A finding of non-compliance with the Department of Juvenile Justice's certification standards.

**Planned Corrective Action:**

Until the perimeter is made to be more secure, all recreation will take place in the indoor gymnasium. Staff was held accountable in keeping with the standards of conduct and disciplinary process of the Northern Virginia Juvenile Detention Center.

**Completion Date:** In progress

**Person Responsible:** Johnitha R. McNair

**Status Visit November 8, 2021: Noncompliance**

Staffing levels have not been increased to allow for the needed security on the recreation yard. Due to the security threat outdoor recreation has been ceased since July 2021.

**Current Status on August 15, 2022: Compliance**

Residents have returned to outside recreation with increased staffing levels and appropriate positioning of staff in the recreation yard. This includes a staff member stationed on top of the building when the resident was able to gain access to the roof and escape.

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# STATE BOARD OF JUVENILE JUSTICE

## BY-LAWS

Revised September 1, 2021

### Article 1.

#### **§ 1.01. Establishment and Composition.**

The State Board of Juvenile Justice (the “Board”) is established by § 66-4 of the Code of Virginia. The Board consists of nine members appointed by the Governor and confirmed by the General Assembly if in session and, if not, at its next succeeding session. Two of the nine members shall be experienced educators.

### Article 2.

#### **§ 2.01. Term of Office.**

In accordance with § 66-5 of the Code of Virginia, the term of office of Board members shall be for four years, except that appointments to fill vacancies shall be for the remainder of the unexpired terms. No person shall be eligible to serve more than two successive four-year terms, except that a person appointed to fill a vacancy may be eligible for two additional, successive four-year terms after the term of the vacancy for which the person was appointed has expired.

#### **§ 2.02. Orientation.**

In accordance with § 2.2-3702 of the Code of Virginia, within two weeks of their appointment or re-appointment, members of the Board shall (i) be furnished by the Board's administrator or legal counsel with a copy of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), and (ii) read and become familiar with the provisions of that Act.

#### **§ 2.03. Meetings.**

Section 66-8 of the Code of Virginia requires that the Board meet at least four times each calendar year. The Board shall meet as follows:

- (a) Regular Meetings - Meet once during each calendar quarter at such times and places as it deems appropriate.
- (b) Special Meetings - Special meetings of the Board may be called by the Chairperson or, if the Chairperson is absent or disabled, by the Vice chairperson or by any four members of the Board at such dates, times and places as may be specified in the call for the meeting.

**§ 2.04. Notice.**

At least five days' notice in writing shall be given to a Board member of the date, time, and place of all meetings. In accordance with § 2.2-3707 of the Code of Virginia, notice including the time, date and place of each meeting shall be furnished to any citizen of the Commonwealth who requests such information. Notices for meetings shall state whether or not public comment will be received at the meeting, and, if so, the approximate points during the meeting public comment will be received. Any requests to be notified of Board meetings on a continual basis shall be made at least once a year, in writing and shall include the requester's name, address, zip code, daytime telephone number, email address (if available) and organization, if applicable. Notice to any citizen of the Commonwealth who requests such information, reasonable under the circumstance, of special or emergency meetings shall be given contemporaneously with the notice provided Board members.

**§ 2.05. Board Materials.**

With the exception of any materials that are exempt from public disclosure pursuant to § 2.2-3705 of the Code of Virginia, at least one copy of all agenda packets and materials furnished to Board members for a meeting shall be made available for inspection by the public at the same time such documents are furnished to the members of the Board.

**§ 2.06. Cancellation or Rescheduling of Meetings.**

The Chairperson may, with the concurrence of a majority of the Board, cancel or postpone a meeting. The Director of the Department of Juvenile Justice (the "Director") shall ensure that proper and immediate public notice is given. In an emergency, the Chairperson is authorized to cancel, significantly alter, or postpone the meeting time.

**§ 2.07. Quorum.**

In accordance with § 66-9 of the Code of Virginia, a majority of the current membership of the Board shall constitute a quorum for all purposes.

**§ 2.08. Attendance.**

Participation is essential to the fulfillment of the function of membership. The absence of any member impedes the business of the Board and deprives the Department of Juvenile Justice (the "Department") of the overall policy direction this Board is responsible for providing. Should any member miss three consecutive regular meetings, or a total of five or more regular meetings during a calendar year, the Chairperson, following consultation with the member, is authorized to advise the appropriate Executive Branch official(s). In accordance with § 66-5 of the Code of Virginia, members of the Board may be suspended or removed by the Governor at his pleasure.

**§ 2.09. Conduct of Business**

The Board actively encourages and welcomes public participation in all its public deliberations. All meetings of the Board, including meetings and work sessions during which no votes are cast or any decisions made, shall be public meetings, and shall be conducted in accordance with § 2.2-3707 of the Code of Virginia. Votes shall not be

taken by written or secret ballot in an open meeting, and minutes shall be recorded at all public meetings. All meetings shall be conducted in accordance with the principles of procedures prescribed in Roberts' Rules of Order.

### Article 3. Powers and Duties.

#### **§ 3.01. General Powers and Duties.**

Section 66-10 of the Code of Virginia gives the Board the following general powers and duties:

- a) To establish and monitor policies for programs and facilities for which the Department is responsible by law;
- b) To ensure the development of a long-range youth services policy;
- c) To monitor the activities of the Department and its effectiveness in implementing the policies of the Board;
- d) To advise the Governor and Director on matters relating to youth services;
- e) To promulgate such regulations as may be necessary to carry out the provisions of Title 66 of the Code of Virginia and other laws of the Commonwealth;
- f) To ensure the development of programs to educate citizens and elicit public support for the activities of the Department;
- g) To establish length-of-stay guidelines for juveniles indeterminately committed to the Department and to make such guidelines available for public comment;
- h) To adopt all necessary regulations for the management and operation of the schools in the Department, provided that any such regulations do not conflict with regulations relating to security of the institutions in which the juveniles are committed; and
- i) To establish compulsory minimum entry-level, in-service, and advanced training standards, as well as the time required for completion of such training, for persons employed as juvenile correctional officers employed at a juvenile correctional facility as defined in § 66-25.3. For juvenile correctional officers who may have contact with pregnant residents, such standards shall include training on the general care of pregnant women, the impact of restraints on pregnant residents and fetuses, the impact of being placed in restrictive housing or solitary confinement on pregnant residents, and the impact of body cavity searches on pregnant residents.

#### **§ 3.02. Additional Specific Powers and Duties.**

Various sections of the Code of Virginia give the Board additional specific powers and duties, both mandatory and discretionary. Such sections of the Code of Virginia include, but are not limited to, the following:

- a) Section 2.2-4007.02 of the Code of Virginia requires the Board to promulgate regulations for public participation in the formation and development of regulations.

- b) Section 16.1-223 of the Code of Virginia requires the Board to promulgate regulations governing the security and confidentiality of data in the Virginia Juvenile Justice Information System.
- c) Section 16.1-233 of the Code of Virginia requires the Board to establish minimum standards for court service unit staff and related supportive personnel and to promulgate regulations pertaining to their appointment and functions to the end that uniform services, insofar as is practical, will be available to juvenile and domestic relations district courts throughout the Commonwealth.
- d) Section 16.1-284.1 of the Code of Virginia requires the standards established by the Board for secure juvenile detention centers to require separate services for the rehabilitation of juveniles placed in post-dispositional detention programs for greater than 30 calendar days.
- e) Section 16.1-293.1 of the Code of Virginia requires the Board to promulgate regulations for the planning and provision of mental health, substance abuse, or other therapeutic treatment services for persons returning to the community following commitment to a juvenile correctional center or post-dispositional detention program.
- f) Section 16.1-309.3 of the Code of Virginia authorizes the Board to approve local plans for the development, implementation, and operation of a community-based system of services under the Virginia Juvenile Community Crime Control Act (Article 12.1 of Title 16.1 of the Code of Virginia). This section also requires the Board to solicit written comments on the plan from the judge or judges of the juvenile and domestic relations court, the director of the court service unit, and if applicable, the director of programs established under the Delinquency Preventions and Youth Development Act (Chapter 3 of Title 66 of the Code of Virginia).
- g) Section 16.1-309.5 of the Code of Virginia requires the Board to promulgate regulations to serve as guidelines in evaluating requests for reimbursement of one-half the cost of construction, enlargement, renovation, purchase, or rental of a secure juvenile detention center or other home and to ensure the geographically equitable distribution of state funds provided for such purpose.
- h) Section 16.1-309.9 of the Code of Virginia requires the following:
  - a. The Board to develop, promulgate, and approve standards for the development, implementation, operation, and evaluation of a range of community-based programs, services, and facilities authorized by the Virginia Juvenile Community Crime Control Act (Article 12.1 of Title 16.1 of the Code of Virginia)
  - b. The Board to approve minimum standards for the construction and equipment of secure juvenile detention centers or other facilities and for the provision of food, clothing, medical attention, and supervision of juveniles to be housed in these facilities and programs.
- i) Section 16.1-309.10 of the Code of Virginia authorizes the Board to visit, inspect, and regulate any secure juvenile detention center, group home, or the residential care facility for children in need of services, delinquent, or alleged delinquent that is established by a city, county, or any combination thereof.

- j) Section 16.1-322.5 of the Code of Virginia requires the Board to approve those localities creating a Commission for the purpose of financing and constructing a regional detention or group home. This section also requires the Board to approve contracts for construction of such facilities.
- k) Section 16.1-322.7 of the Code of Virginia requires the Board to make, adopt, and promulgate regulations governing specific aspects of the private management and operation of local or regional secure juvenile detention centers or other secure facilities.
- l) Section 66-10.1 of the Code of Virginia requires the Board to promulgate regulations to effectuate the purposes of Chapter 5.1 (§32.1-162.16 et seq.) of Title 32.1 of the Code of Virginia governing any human research conducted or authorized by the Department.
- m) Section 66-10.2 of the Code of Virginia requires the Board to promulgate regulations governing the housing of youth who are detained in a juvenile correctional facility pursuant to a contract with the federal government and not committed to such juvenile correctional facility by a court of the Commonwealth.
- ~~n) Section 66-13 of the Code of Virginia requires the Board to prescribe standards for the development, implementation, and operation of juvenile boot camps.~~
- o) Section 66-23 authorizes the Board to promulgate regulations to govern the process by which superintendents of juvenile correctional centers consent to residents applying for driver's licenses and issue employment certificates;
- p) Section 66-24 of the Code of Virginia requires the Board to promulgate regulations for the certification of community group homes or other residential care facilities that contract with or are rented for the care of juveniles in direct state care.
- q) Section 66-25.1 of the Code of Virginia requires the Board to promulgate regulations governing the form and review process for any agreement with a public or private entity for the operation of a work program for juveniles committed to the Department.
- r) Section 66-25.6 of the Code of Virginia requires the Board to promulgate regulations governing the private management and operation of juvenile correctional facilities.
- s) Section 66-28 of the Code of Virginia requires the Board to prescribe policies governing applications for grants pursuant to the Delinquency Prevention and Youth Development Act (Chapter 3 of Title 66 of the Code of Virginia) and standards for the operation of programs developed and implemented under the grants.

#### Article 4.

#### Committees.

##### **§ 4.01. Special or Ad Hoc Committees**

Special or Ad Hoc Committees may be constituted at any time by action of the Board or the Chairperson. At the time a Special Committee is created, its mission shall be specifically established by action of the Board or by the Chairperson. In creating such

Special Committees, the Chairperson shall specify the time within which the Committee is to make its report to the Board.

**§ 4.04. Other Appointments.**

The Chairperson may designate members of the Board from time to time to serve on various task forces, advisory councils, and other committees and to serve as liaison with Department functions and state organizations or associations.

**Article 5.**  
**Officers.**

**§ 5.01. Officers Elected from the Board.**

The Officers of the Board elected from its membership shall be the Chairperson, Vice-chairperson and Secretary, who shall each be elected by the Board at its first regular meeting of the fiscal year. Officers shall serve for a term of one year and shall be eligible for re-election.

**§ 5.02. Chairperson.**

The Chairperson shall be the presiding officer of the Board at its meetings. Upon request of the Board, the Chairperson shall act as its spokesperson or representative and shall perform such additional duties as may be imposed on that position by an Act of the General Assembly or by direction of the Board. The Chairperson shall be an ex-officio member of all Committees of the Board.

**§ 5.03. Vice-chairperson.**

In the absence of the Chairperson at any meeting or in the event of disability or of a vacancy in the office, all the powers and duties of the Chairperson shall be vested in the Vice-chairperson. The Vice-chairperson shall also perform such other duties as may be imposed by the Board or the Chairperson.

**§ 5.04. Secretary.**

The Secretary shall (1) review and recommend improvements to Board meeting procedures and other relevant Board business so as to facilitate the administrative efficiency of the Board; (2) ensure the development of appropriate resolutions, etc., which are needed by the Board from time to time; (3) serve as the Board's parliamentarian; (4) work closely with the Department staff who are assigned to provide administrative assistance to the Board to review and sign minutes and policy documents, etc.; and (5) to ensure that unique or non-routine materials and equipment are available for the Board to carry out its functions. In the event that both the Chairperson and Vice-chairperson are absent at any meeting, the Secretary shall preside over the meeting.

**§5.05. Order of Succession in Absence of Officers**

In the event that the Chairperson, Vice-chairperson, and Secretary all are absent from a meeting, the Board member in attendance with the longest tenure on the Board shall be

authorized to preside over the meeting. In the event that two or more such members in attendance have served identical terms, the Director shall be authorized to designate one of the two Board members to preside over the meeting.

## Article 6. Department of Juvenile Justice.

### **§ 6.01. Director.**

§ 66-1 of the Code of Virginia establishes the Department of Juvenile Justice under the immediate supervision of a Director who is appointed by the Governor, subject to confirmation by the General Assembly. In accordance with § 66-2 of the Code of Virginia, the Director is responsible for supervising the Department and for exercising such other powers and performing such other duties as may be provided by law or as may be required of the Director by the Governor and the Secretary of Public Safety. The Director shall implement such standards and goals of the Board as formulated for local and community programs and facilities. In accordance with § 16.1-234 of the Code of Virginia, it shall be the duty of the Department to ensure that minimum standards established by the Board for court service and other state-operated programs are adhered to.

### **§ 6.02. Relationship of the Board and Department.**

In keeping with the powers and duties imposed upon the Board and upon the Director by law, the Board shall regularly meet with the Director in order that the responsibilities of each are carried out efficiently and cooperatively. The Board shall periodically assess its needs for administrative assistance and how well those needs are being met, and shall so advise the Director. In accordance with § 16.1-309.4 of the Code of Virginia, the Department shall submit to the Board on or before July 1 of odd-numbered years, a statewide plan for the establishment and maintenance of a range of institutional and community-based, diversion, predispositional and postdispositional services to be reasonably accessible to each court. The Department shall establish procedures to ensure (i) the superior quality and timeliness of materials submitted to the Board and (ii) that the Board is informed as early as possible of individuals attending Board meetings.

### **§ 6.03. Administrative Assistance.**

The Department shall provide staff assistance to the Board in carrying out its administrative duties.

## Article 7. Amendments and Procedural Irregularities.

### **§ 7.01. Annual Review.**

The Board shall review the By-Laws annually to ensure compliance with any amendments that may have been made to applicable sections of the Code of Virginia.



STATE BOARD OF JUVENILE JUSTICE  
BY-LAWS

**§ 7.02. Amendments.**

The By-Laws may be amended at any regular or special meeting of the Board by an affirmative vote of the majority of the Board, provided that the proposed amendment was included in the notice of the meeting.

**§ 7.03. Procedural Irregularities.**

Failure to observe procedural provisions of the By-Laws does not affect the validity of Board actions.

**§ 7.04. Effective Date.**

The foregoing By-Laws are adopted by the Board and are effective as amended, September 2<sup>nd</sup> 1, 2021.

**Virginia Juvenile Community Crime Control Act**  
**FY2023 - FY2024 Summary of Programs**

	Sum of FY 23 Year 1 Youth	Sum of FY 23 Year 1 Budget	Sum of FY 24 Year 2 Youth	Sum of FY 24 Year 2 Budget
Anger Management	590	\$241,362.00	763	\$234,102.00
Assessments/Evaluations	29	\$27,926.00	29	\$27,926.00
Clinical Services	124	\$303,658.00	124	\$303,658.00
Community Service	1311	\$2,256,981.63	1191	\$855,412.00
Coordinator/Administrative	50	\$373,830.80	50	\$356,841.70
Employment/Vocational	63	\$121,300.00	63	\$121,300.00
Gang Intervention	33	\$123,329.10	33	\$123,579.10
Gang Prevention	48	\$162,373.44	48	\$162,623.44
Group Home	261	\$1,614,426.77	261	\$1,614,426.77
Law Related Education	221	\$133,362.00	205	\$115,186.00
Life Skills	376	\$299,984.08	376	\$299,984.08
Mentoring	126	\$284,665.00	127	\$284,467.00
Parenting Skills	239	\$158,495.00	239	\$158,495.00
POST-D Day & Evening Reporting	66	\$611,223.00	66	\$623,840.27
POST-D EM & GPS	1049	\$1,302,161.26	975	\$1,100,208.32
POST-D Outreach	305	\$531,811.72	305	\$533,123.72
POST-D Shelter Care	64	\$381,079.73	64	\$381,079.73
PRE-D EM & GPS	1914	\$3,034,810.26	1724	\$2,807,676.62
PRE-D Outreach	888	\$2,666,744.43	883	\$2,364,082.72
PRE-D Shelter Care	332	\$2,412,016.73	152	\$662,981.73
Pro-Social Activities	131	\$45,470.00	131	\$45,470.00
Pro-Social Skills	895	\$480,257.41	865	\$428,277.72
Restorative Justice	212	\$72,225.00	172	\$56,441.00
Sex Offender Services	11	\$24,150.00	11	\$24,150.00
Shoplifting/Larceny Reduction	262	\$37,908.00	260	\$37,908.00
Specialized Prevention Programs	112	\$65,855.00	117	\$65,855.00
Specialized Program Services	464	\$548,678.20	438	\$447,451.20
Substance Abuse Ed/Treatment	612	\$469,971.00	569	\$465,651.00
Substance Abuse Prevention	38	\$75,053.00	38	\$75,053.00
Truancy Intervention	190	\$217,137.00	190	\$217,137.00
Truancy Prevention	650	\$270,142.00	650	\$270,142.00
<b>Grand Total</b>	<b>11666</b>	<b>\$19,348,387.56</b>	<b>11119</b>	<b>\$15,264,530.12</b>

**Virginia Juvenile Community Crime Control Act**  
**FY2023 - FY2024 Budget Summary**

Locality	FY2023 MOE	FY2023 State	FY2024 MOE	FY 2024 State
Accomack	\$0.00	\$ 23,933.00	\$0.00	\$ 23,933.00
Albemarle	\$52,231.00	\$ 71,218.00	\$52,231.00	\$ 71,218.00
Alleghany	\$3,617.00	\$ 18,476.00	\$3,617.00	\$ 18,476.00
Amelia	\$2,729.00	\$ 9,913.00	\$2,729.00	\$ 9,913.00
Amherst	\$28,233.00	\$ 37,022.00	\$28,233.00	\$ 37,022.00
Appomattox	\$332.00	\$ 9,071.00	\$332.00	\$ 9,071.00
Arlington	\$270,059.00	\$ 270,059.00	\$270,059.00	\$ 270,059.00
Augusta	\$0.00	\$ 26,808.00	\$0.00	\$ 26,808.00
Bath	\$0.00	\$ 6,585.00	\$0.00	\$ 6,585.00
Bedford	\$14,190.00	\$ 70,751.00	\$14,190.00	\$ 70,751.00
Bland	\$0.00	\$ 6,585.00	\$0.00	\$ 6,585.00
Botetourt	\$3,300.00	\$ 13,138.00	\$3,300.00	\$ 13,138.00
Brunswick	\$635.00	\$ 11,703.00	\$635.00	\$ 11,703.00
Buchanan	\$809.00	\$ 67,453.00	\$809.00	\$ 67,453.00
Buckingham	\$287.00	\$ 8,798.00	\$287.00	\$ 8,798.00
Campbell	\$53,024.00	\$ 53,024.00	\$53,024.00	\$ 53,024.00
Caroline	\$8,460.00	\$ 14,869.00	\$8,460.00	\$ 14,869.00
Carroll	\$2,940.00	\$ 18,929.00	\$2,940.00	\$ 18,929.00
Charles City	\$9,400.00	\$ 6,585.00	\$9,400.00	\$ 6,585.00
Charlotte	\$268.00	\$ 12,976.00	\$268.00	\$ 12,976.00
Chesterfield	\$202,459.00	\$ 668,292.00	\$202,459.00	\$ 668,292.00
Clarke	\$0.00	\$ 8,990.00	\$0.00	\$ 8,990.00
Craig	\$0.00	\$ 6,585.00	\$0.00	\$ 6,585.00
Culpeper	\$1,119.00	\$ 51,802.00	\$1,119.00	\$ 51,802.00
Cumberland	\$0.00	\$ 6,585.00	\$0.00	\$ 6,585.00
Dickenson	\$2,739.00	\$ 10,437.00	\$2,739.00	\$ 10,437.00
Dinwiddie	\$9,014.00	\$ 19,549.00	\$9,014.00	\$ 19,549.00
Essex	\$4,885.00	\$ 22,825.00	\$4,885.00	\$ 22,825.00
Fairfax County	\$613,374.00	\$ 600,996.00	\$613,374.00	\$ 600,996.00
Fauquier	\$2,886.00	\$ 36,836.00	\$2,886.00	\$ 36,836.00
Floyd	\$0.00	\$ 6,585.00	\$0.00	\$ 6,585.00
Fluvanna	\$0.00	\$ 6,585.00	\$0.00	\$ 6,585.00
Franklin County	\$10,124.00	\$ 21,332.00	\$10,124.00	\$ 21,332.00
Frederick	\$0.00	\$ 53,031.00	\$0.00	\$ 53,031.00
Giles	\$385.00	\$ 9,243.00	\$385.00	\$ 9,243.00
Gloucester	\$44,727.00	\$ 44,727.00	\$44,727.00	\$ 44,727.00
Goochland	\$0.00	\$ 6,585.00	\$0.00	\$ 6,585.00

Grayson	\$0.00	\$ 6,585.00	\$0.00	\$ 6,585.00
Greene	\$0.00	\$ 7,596.00	\$0.00	\$ 7,596.00
Greensville	\$8,668.00	\$ 6,585.00	\$8,668.00	\$ 6,585.00
Halifax	\$10,476.00	\$ 63,762.00	\$10,476.00	\$ 63,762.00
Hanover	\$20,556.00	\$ 81,243.00	\$20,556.00	\$ 81,243.00
Henrico	\$209,620.00	\$ 390,110.00	\$209,620.00	\$ 390,110.00
Henry	\$34,009.00	\$ 131,661.00	\$34,009.00	\$ 131,661.00
Highland	\$0.00	\$ 6,585.00	\$0.00	\$ 6,585.00
Isle of Wight	\$10,716.00	\$ 23,984.00	\$10,716.00	\$ 23,984.00
James City	\$91,512.00	\$ 91,512.00	\$91,512.00	\$ 91,512.00
King & Queen	\$2,535.00	\$ 9,336.00	\$2,535.00	\$ 9,336.00
King George	\$1,040.00	\$ 15,258.00	\$1,040.00	\$ 15,258.00
King William	\$10,300.00	\$ 6,951.00	\$10,300.00	\$ 6,951.00
Lancaster	\$7,908.00	\$ 20,530.00	\$7,908.00	\$ 20,530.00
Lee	\$3,333.00	\$ 27,260.00	\$3,333.00	\$ 27,260.00
Loudoun	\$145,706.00	\$ 145,706.00	\$145,706.00	\$ 145,706.00
Louisa	\$1,028.00	\$ 9,905.00	\$1,028.00	\$ 9,905.00
Lunenburg	\$1,047.00	\$ 13,270.00	\$1,047.00	\$ 13,270.00
Madison	\$1,494.00	\$ 6,585.00	\$1,494.00	\$ 6,585.00
Mathews	\$10,651.00	\$ 22,790.00	\$10,651.00	\$ 22,790.00
Mecklenburg	\$1,349.00	\$ 31,360.00	\$1,349.00	\$ 31,360.00
Middlesex	\$3,241.00	\$ 6,585.00	\$3,241.00	\$ 6,585.00
Montgomery	\$179.00	\$ 49,393.00	\$179.00	\$ 49,393.00
Nelson	\$202.00	\$ 10,364.00	\$202.00	\$ 10,364.00
New Kent	\$14,391.00	\$ 10,557.00	\$14,391.00	\$ 10,557.00
Northampton	\$0.00	\$ 12,336.00	\$0.00	\$ 12,336.00
Northumberland	\$6,626.00	\$ 29,083.00	\$6,626.00	\$ 29,083.00
Nottoway	\$617.00	\$ 19,399.00	\$617.00	\$ 19,399.00
Orange	\$2,181.00	\$ 21,728.00	\$2,181.00	\$ 21,728.00
Page	\$0.00	\$ 30,076.00	\$0.00	\$ 30,076.00
Patrick	\$5,984.00	\$ 25,241.00	\$5,984.00	\$ 25,241.00
Pittsylvania	\$29,756.00	\$ 41,765.00	\$29,756.00	\$ 41,765.00
Powhatan	\$2,056.00	\$ 8,468.00	\$2,056.00	\$ 8,468.00
Prince Edward	\$0.00	\$ 10,840.00	\$0.00	\$ 10,840.00
Prince George	\$21,972.00	\$ 52,775.00	\$21,972.00	\$ 52,775.00
Prince William	\$509,171.00	\$ 394,413.00	\$509,171.00	\$ 394,413.00
Pulaski	\$0.00	\$ 21,321.00	\$0.00	\$ 21,321.00
Rappahannock	\$0.00	\$ 9,673.00	\$0.00	\$ 9,673.00
Richmond County	\$11,698.00	\$ 10,751.00	\$11,698.00	\$ 10,751.00
Roanoke County	\$24,644.00	\$ 179,982.00	\$24,644.00	\$ 179,982.00
Rockbridge	\$0.00	\$ 14,600.00	\$0.00	\$ 14,600.00
Rockingham	\$0.00	\$ 44,867.00	\$0.00	\$ 44,867.00

Russell	\$411.00	\$ 28,355.00	\$411.00	\$ 28,355.00
Scott	\$35.00	\$ 23,096.00	\$35.00	\$ 23,096.00
Shenandoah	\$0.00	\$ 31,204.00	\$0.00	\$ 31,204.00
Smyth	\$4,392.00	\$ 29,786.00	\$4,392.00	\$ 29,786.00
Southampton	\$6,340.00	\$ 10,485.00	\$6,340.00	\$ 10,485.00
Spotsylvania	\$39,655.00	\$ 84,641.00	\$39,655.00	\$ 84,641.00
Stafford	\$37,265.00	\$ 107,510.00	\$37,265.00	\$ 107,510.00
Surry	\$6,275.00	\$ 6,585.00	\$6,275.00	\$ 6,585.00
Sussex	\$3,321.00	\$ 6,585.00	\$3,321.00	\$ 6,585.00
Tazewell	\$923.00	\$ 46,689.00	\$923.00	\$ 46,689.00
Warren	\$0.00	\$ 36,630.00	\$0.00	\$ 36,630.00
Washington	\$11,856.00	\$ 34,727.00	\$11,856.00	\$ 34,727.00
Westmoreland	\$30,339.00	\$ 58,808.00	\$30,339.00	\$ 58,808.00
Wise	\$6,815.00	\$ 54,899.00	\$6,815.00	\$ 54,899.00
Wythe	\$0.00	\$ 33,156.00	\$0.00	\$ 33,156.00
York	\$44,146.00	\$ 54,684.00	\$44,146.00	\$ 54,684.00
Alexandria	\$95,575.00	\$ 185,026.00	\$95,575.00	\$ 185,026.00
Bristol	\$9,828.00	\$ 28,057.00	\$9,828.00	\$ 28,057.00
Buena Vista	\$0.00	\$ 11,657.00	\$0.00	\$ 11,657.00
Charlottesville	\$108,415.00	\$ 220,840.00	\$108,415.00	\$ 220,840.00
Chesapeake	\$83,014.00	\$ 246,857.00	\$83,014.00	\$ 246,857.00
Colonial Heights	\$0.00	\$ 69,080.00	\$0.00	\$ 69,080.00
Covington	\$1,054.00	\$ 7,575.00	\$1,054.00	\$ 7,575.00
Danville	\$26,324.00	\$ 86,999.00	\$26,324.00	\$ 86,999.00
Emporia	\$8,917.00	\$ 63,101.00	\$8,917.00	\$ 63,101.00
Fairfax City	\$0.00	\$ 12,378.00	\$0.00	\$ 12,378.00
Falls Church	\$2,815.00	\$ 120,679.00	\$2,815.00	\$ 120,679.00
Franklin City	\$6,195.00	\$ 15,521.00	\$6,195.00	\$ 15,521.00
Fredericksburg	\$33,165.00	\$ 54,975.00	\$33,165.00	\$ 54,975.00
Galax	\$0.00	\$ 13,363.00	\$0.00	\$ 13,363.00
Hampton	\$110,724.00	\$ 315,703.00	\$110,724.00	\$ 315,703.00
Harrisonburg	\$0.00	\$ 41,964.00	\$0.00	\$ 41,964.00
Hopewell	\$42,913.00	\$ 105,185.00	\$42,913.00	\$ 105,185.00
Lexington	\$0.00	\$ 6,608.00	\$0.00	\$ 6,608.00
Lynchburg	\$147,370.00	\$ 247,716.00	\$147,370.00	\$ 247,716.00
Manassas	\$2,510.00	\$ 59,873.00	\$2,510.00	\$ 59,873.00
Manassas Park	\$0.00	\$ 20,794.00	\$0.00	\$ 20,794.00
Martinsville	\$22,756.00	\$ 72,076.00	\$22,756.00	\$ 72,076.00
Newport News	\$226,485.00	\$ 339,437.00	\$226,485.00	\$ 339,437.00
Norfolk	\$639,899.00	\$ 639,899.00	\$639,899.00	\$ 639,899.00
Norton	\$10.00	\$ 12,062.00	\$10.00	\$ 12,062.00
Petersburg	\$64,836.00	\$ 84,000.00	\$64,836.00	\$ 84,000.00

Poquoson	\$10,295.00	\$ 10,295.00	\$10,295.00	\$ 10,295.00
Portsmouth	\$45,877.00	\$ 184,000.00	\$45,877.00	\$ 184,000.00
Radford	\$0.00	\$ 10,199.00	\$0.00	\$ 10,199.00
Richmond City	\$459,084.00	\$ 347,683.00	\$459,084.00	\$ 347,683.00
Roanoke City	\$274,384.00	\$ 394,210.00	\$274,384.00	\$ 394,210.00
Salem	\$9,418.00	\$ 52,851.00	\$9,418.00	\$ 52,851.00
Staunton	\$0.00	\$ 35,093.00	\$0.00	\$ 35,093.00
Suffolk	\$57,855.00	\$ 124,169.00	\$57,855.00	\$ 124,169.00
Virginia Beach	\$662,505.00	\$ 869,280.00	\$662,505.00	\$ 869,280.00
Waynesboro	\$0.00	\$ 55,484.00	\$0.00	\$ 55,484.00
Williamsburg	\$31,908.00	\$ 39,383.00	\$31,908.00	\$ 39,383.00
Winchester	\$0.00	\$ 66,337.00	\$0.00	\$ 66,337.00
	<b>\$5,922,796.00</b>	<b>\$10,379,921.00</b>	<b>\$5,922,796.00</b>	<b>\$10,379,921.00</b>
	<b>\$16,302,717.00</b>		<b>\$16,302,717</b>	

Table 1: FY23/24 Allowable VJCCCA Funded Programs and Services (updated 12/09/2021)

<b>VJCCCA GRANT PLAN ADMINISTRATION</b>	
<b>Coordinator/ Administrative Services</b>	<p>Administrative services to manage VJCCCA plans, programs, and services</p> <p><u>Services may include:</u> plan development coordination, Plan and/or Data Contact responsibilities, negotiating/monitoring service contracts, and attending VJCCCA meetings and/or training</p> <p><u>Requirements:</u> Plans may allocate up to 5% of total VJCCCA budget for compensation of these services by non-DJJ staff; FTE percentages must be proportional to allocation</p>
<b>PUBLIC SAFETY</b>	
<b>Pre-Dispositional Detention Alternatives</b>	
<b>PRE-D Outreach Services</b>	<p>Monitoring that provides for public safety and assures youth's availability for court through random contacts at home, school, and within the community via face to face or phone/video contact This category of services should not be used for CHINS or other non-detainable offenses.</p> <p><u>Target Population:</u> Pre-dispositional youth in need of a detention alternative (with a DAI score of 10-14); Youth stepped down from a more-restrictive detention alternative</p> <p><u>Requirements:</u> Program guidelines must be established through an MOA with provider and must include program expectations established by court and CSU, including: number and mode of contacts; length of stay; a plan for step up/down as needed based on a system of graduated sanctions and incentives; hours of operation; program behavior management system; and admission/dismissal criteria.</p>
<b>PRE-D Electronic Monitoring (EM) &amp; Global Positioning Service (GPS)</b>	<p>Monitoring that provides for public safety and assures youth's availability for court through use of electronic monitoring (EM) or global positioning service (GPS) This category of services should not be used for CHINS or other non-detainable offenses.</p> <p><u>Target Population:</u> Pre-dispositional youth in need of a detention alternative (with a DAI score of 10-14); Youth stepped up/down from a less/more-restrictive detention alternative.</p> <p><u>Requirements for non-DJJ providers:</u> Program guidelines must be established through an MOA with provider and must include program expectations established by court and CSU, including: number and mode of contacts; length of stay; a plan for step up/down as needed based on a system of graduated sanctions and incentives; hours of operation; program behavior management system; and admission/dismissal criteria. Use of EM/GPS must also include Pre-D Outreach Services as a component of this service.</p>

<p><b>PRE-D Structured Day &amp; Evening Reporting Programs</b></p>	<p>Non-residential programs that provide structured activities and supervision during or after regular school hours (especially during the hours of 3:00pm-7:00pm), and are used as a pre-dispositional alternative to secure detention. This category of services should not be used for CHINS or other non-detainable offenses.</p> <p><u>Target population:</u> Pre-dispositional youth in need of a detention alternative (with a DAI score of 10-14); Youth stepped up/down from a less/more-restrictive detention alternative</p> <p><u>Services include:</u> transportation; counseling; supervision; academic support; vocational development; cultural, educational and recreational activities; pro-social skill development</p> <p>Short-term (up to 90 days) residential care programs that focus on stabilizing youth behavior and are used as a pre-dispositional alternative to detention.</p> <p>This category of services should not be used for CHINS or other non-detainable offenses.</p>
<p><b>PRE-D Shelter Care</b></p>	<p><u>Target Population:</u> Pre-dispositional youth in need of a detention alternative (with a DAI score of 10-14); Youth stepped up from a less-restrictive detention alternative; Youth stepped down from secure detention</p> <p><u>Services include:</u> assessment(s) and a specifically approved range of services to address treatment needs such as counseling, academic support, interagency services referrals</p>
<p><b>Post-Dispositional/Graduated Sanctions</b></p>	
<p><b>POST-D Outreach Services</b></p>	<p>Monitoring that provides additional contacts to home, school, and within the community via face to face or phone/video contact in order to enhance probation/parole supervision</p> <p><u>Target Population:</u> Youth on probation or parole in need of additional supervision; youth facing technical violation(s) of supervision; youth before the court for disposition</p> <p><u>Requirements:</u> Program guidelines must be established through an MOA with provider and must include program expectations established by court and the CSU, including: number and mode of contacts; length of stay; a plan for step up/down as needed based on a system of graduated sanctions and incentives; hours of operation; program behavior management system; and admission/dismissal criteria. The number of contacts shall be determined in advance, proportional to severity of need with a plan to decrease over time, and should not remain in place for over 30 consecutive days without CSU Supervisor approval. Additional surveillance contacts do not replace contacts made by the youth's probation/parole officer.</p>



<p><b>POST-D Electronic Monitoring (EM) &amp; Global Positioning Service (GPS)</b></p>	<p>Monitoring that provides additional surveillance in order to enhance probation/parole supervision through use of electronic monitoring (EM) or global positioning service (GPS);</p> <p><u>Target Population:</u> Youth on probation or parole in need of additional supervision; youth facing technical violation(s) of supervision; youth before the court for disposition</p> <p><u>Requirements for non-DJJ providers:</u> Program guidelines must be established through an MOA with provider and must include program expectations established by court and the CSU, including: number and mode of contacts; length of stay; a plan for step up/down as needed based on a system of graduated sanctions and incentives; hours of operation; program behavior management system; and admission/dismissal criteria. The number of contacts shall be determined in advance, proportional to severity of need with a plan to decrease over time, and should not remain in place for over 30 consecutive days without CSU Supervisor approval. Additional surveillance contacts do not replace contacts made by the youth's probation/parole officer.</p> <p>Use of EM/GPS must also include Post-D Outreach Services as a component of this service.</p>
<p><b>POST-D Structured Day &amp; Evening Reporting Programs</b></p>	<p>Non-residential programs that provide structured activities and supervision during or after regular school hours (especially during the hours of 3:00pm-7:00pm) in order to enhance probation/parole supervision</p> <p><u>Target Population:</u> Youth on probation or parole in need of additional supervision; youth facing technical violation(s) of supervision; youth before the court for disposition</p> <p><u>Services include:</u> transportation; counseling; supervision; academic support; vocational development; cultural, educational and recreational activities; pro-social skill development</p>
<p><b>POST-D Shelter Care</b></p>	<p>Short-term (up to 90 days) residential care programs that focus on stabilizing youth behavior in order to enhance probation/parole supervision</p> <p><u>Target Population:</u> Youth on probation or parole in need of additional supervision; youth facing technical violation(s) of supervision; youth before the court for disposition</p> <p><u>Services include:</u> assessment(s) and a specifically approved range of services to address treatment needs such as counseling, academic support, interagency services referrals</p>

<b>ACCOUNTABILITY</b>	
<b>Community Service Programs</b>	<p>Programs that provide community service work opportunities for youth that include supervision and recruiting &amp; establishing partnerships with worksites; May also incorporate social learning and/or restorative principles; transportation to/from worksites Case management duties alone (providing a list of worksite opportunities, monitoring attendance, verifying completion) do not meet the requirements for this program.</p> <p><u>Target Population:</u> Youth before intake or the court (Pre-D or Post-D); youth on supervised probation/parole facing technical violation(s) (graduated sanction)</p> <p><u>Requirements:</u> An MOA between DJJ and the locality (as the service provider) is required.</p>
<b>Law Related Education Programs</b>	<p>Programs that encourage youth to become law-abiding citizens by promoting civic responsibility, accountability, and an understanding of the legal system; may also include offense-specific individual/group discussions, interactive web-based presentations, pre &amp; post knowledge tests</p> <p><u>Target Population:</u> Youth before intake or the court (Pre-D or Post-D); youth on supervised probation/parole facing technical violation(s) (graduated sanction)</p> <p><u>Program Examples:</u> Virginia Rules</p> <p><u>Requirements:</u> A curriculum/program approved by the VJCCCA Coordination Team</p>
<b>Restorative Justice Programs</b>	<p>Programs that provide youth an opportunity to repair harm caused by their behavior and to recognize how their behavior impacts others; May also include restitution and/or other compensation to victims</p> <p><u>Target Population:</u> Youth before intake or the court (Pre-D or Post-D); youth on supervised probation/parole facing technical violation(s) (graduated sanction)</p> <p><u>Services include:</u> circle processing; community conferencing; victim/offender conferences</p> <p><u>Requirements:</u> Participation by all parties is strictly voluntary.</p>
<b>Shoplifting/ Larceny Reduction Programs</b>	<p>Programs that educate participants on the laws and consequences of shoplifting and/or larceny; May also include developing consequential thinking skills; discussing alternatives to problem behavior; addressing thinking patterns, values, and beliefs that lead to problem behavior</p> <p><u>Target Population:</u> Youth before intake or the court (Pre-D or Post-D) on charges related to shoplifting and/or larceny; youth on supervised probation/parole facing technical violation(s) (graduated sanction) for related behavior</p> <p><u>Program Examples:</u> Youth Emerge Straight (Y.E.S.); STOPLifting (3rd Millennium Classrooms)</p> <p><u>Requirements:</u> A curriculum/program approved by the VJCCCA Coordination Team</p>

<b>COMPETENCY DEVELOPMENT</b>	
<b>Anger Management Programs</b>	<p>Programs that teach alternative means of communicating and problem solving to reduce aggressive behavior; May also include individual/group counseling and education; conflict resolution skills; self-regulation skills; cognitive behavioral interventions; development of problem solving, impulse-control, and coping skills</p> <p><u>Target Population:</u> Youth before intake or the court (Pre-D or Post-D) on charges related to violence and/or aggression; youth on supervised probation/parole facing technical violation(s) (graduated sanction) for related behavior</p> <p><u>Program Examples:</u> Aggression Replacement Therapy (ART); Thinking For a Change (T4C); 3rd Millennium Classrooms; Peaceful Alternatives To Tough Situations (PATTIS)</p> <p><u>Requirements:</u> Services must be provided by a licensed mental health professional with applicable degree(s) and specialized training* or a curriculum/program approved by the VJCCCA Coordination Team</p> <p><u>Assessments/evaluations</u> for youth requiring clinical services in order to fulfill diversion plan or court ordered obligations. The SASSI does not meet the requirements for this program.</p> <p><u>Target Population:</u> Youth before intake or the court (Pre-D or Post-D) requiring clinical services in order to fulfill diversion or court-ordered obligations</p> <p><u>Requirements:</u> Services must be provided by a licensed mental health professional with applicable degree(s) and specialized training*</p>
<b>Clinical Services</b>	<p><u>Target Population:</u> Youth before intake or the court (Pre-D or Post-D) with an identified need for mental health services</p> <p><u>Requirements:</u> Services must be provided by a licensed mental health professional with applicable degree(s) and specialized training*</p> <p>Mental health services to meet the needs of youth and family; May include individual, group, or family counseling; in-home counseling; equine therapy; art therapy; music therapy; etc.</p>
<b>Employment/ Vocational Programs</b>	<p><u>Target Population:</u> Youth before intake or the court (Pre-D or Post-D) with an identified need for employment skill building; youth on supervised probation/parole with an identified need for related skill development</p> <p><u>Requirements:</u> A curriculum/program approved by the VJCCCA Coordination Team</p>

<p><b>Gang Intervention Programs</b></p>	<p>Programs designed to reduce gang involvement; May include skill development to assist youth in critical thinking, decision making, and resistance/refusal skills; identifying and addressing youth, family and community factors that influence gang involvement; mentoring/coaching; wraparound services and supports; individual/family/group counseling; connecting youth to pro-social supports, places, and activities; tattoo removal; job training/placement</p> <p><u>Target Population:</u> Youth before intake or the court (Pre-D or Post-D) on charges related to gang involvement; youth on supervised probation/parole with an identified need</p> <p><u>Program Examples:</u> The Phoenix Curriculum; Gang Resistance Education and Training (G.R.E.A.T.); Youth Advocate Programs (YAP)</p> <p><u>Requirements:</u> A curriculum/program approved by the VJCCCA Coordination Team</p>
<p><b>Life Skills Programs</b></p>	<p>Programs that promote skill development to assist youth in maintaining pro-social and healthy behaviors to become productive citizens; May include individualized services based on youth's identified criminogenic need; consequential thinking, goal setting, social perspective-taking, and/or interpersonal skill development; independent living skills; development of healthy relationships and support systems</p> <p><u>Target Population:</u> Youth before intake or the court (Pre-D or Post-D) with an identified need for life skills development</p> <p><u>Program Examples:</u> Casey Life Skills; Botvin LifeSkills Training; ARISSE; Project Life</p> <p><u>Requirements:</u> A curriculum/program approved by the VJCCCA Coordination Team</p>
<p><b>Mentoring Programs</b></p>	<p>Programs that build competency by providing a positive adult relationship/role model to support, guide, and enhance opportunities for youth to meet their goals and be successful; May include modeling/teaching prosocial skills and coping mechanisms; advising; reinforcing and coaching positive behavior; interpersonal skill training</p> <p><u>Target Population:</u> Youth before intake or the court (Pre-D or Post-D); youth on supervised probation/parole with an identified need</p> <p><u>Program Examples:</u> MENTOR Virginia</p> <p><u>Requirements:</u> A curriculum/program approved by the VJCCCA Coordination Team</p>
<p><b>Parenting Skills Programs</b></p>	<p>Programs designed to build positive parenting solutions, enhance parenting skills, and provide support to the parents/guardians/caretakers/natural supports of justice-involved youth; May include parent/guardian empowerment; culturally competent programming; fatherhood initiatives</p> <p><u>Target Population:</u> Parents/guardians/caretakers/natural supports of youth before intake or the court (Pre-D or Post-D) or on supervised probation/parole</p> <p><u>Program Examples:</u> The Parent Project; 24/7 Dad; FAST Families &amp; Schools Together<sup>®</sup>; Strengthening Families</p> <p><u>Requirements:</u> A curriculum/program approved by the VJCCCA Coordination Team</p>

<p><b>Pro-Social Activities</b></p>	<p>Programs, services, and activities that build protective factors, provide positive reinforcement, and reduce likelihood for future delinquency through pro-social activities; May include structured recreational activities; extracurricular activities; lessons/classes; costs associated with GED testing</p> <p><u>Target Population:</u> Youth before intake or the court (Pre-D or Post-D); youth on supervised probation/parole with an identified need</p> <p><u>Requirements:</u> Prior approval must be received from the VJCCA Coordination Team. This category must be a standalone program on the plan.</p> <p>Programs tailored to the individual needs of youth that teach skills to enhance pro-social behaviors and improve consequential thinking skills; May include cognitive behavioral interventions; gender specific programming; character development and value clarification; addressing thinking patterns, values, and beliefs that contribute to problem behavior</p> <p><u>Target Population:</u> Youth before intake or the court (Pre-D or Post-D); youth on supervised probation/parole with an identified need to strengthen protective factors</p> <p><u>Program Examples:</u> Thinking For A Change (T4C); 3rd Millennium Classrooms; Girls Circle; The Council for Boys and Young Men; Unity Circle; Becoming a Man (B.A.M) Program; Working on Womanhood (WOW)</p> <p><u>Requirements:</u> A curriculum/program approved by the VJCCA Coordination Team</p>
<p><b>Pro-Social Skills Programs</b></p>	<p>Programs and services that promote public safety through education and/or treatment of sexual offending behaviors; May include sexting education; personal boundary education; individual, family, and group counseling/treatment</p> <p><u>Target Population:</u> Youth before intake or court (Pre-D or Post-D) or on supervised probation/parole on charges related to sexting, pornography, and/or sexual offending behaviors</p> <p><u>Requirements:</u> Services must be provided by a licensed professional with applicable degree(s) and specialized training* or a curriculum/program approved by the VJCCA Coordination Team</p>
<p><b>Sex Offender Services</b></p>	<p>Programs designed to teach youth the consequences of illegal substance use, assist the youth in remaining drug and alcohol free, and to avoid further problem behavior; May include substance abuse education; substance abuse counseling/treatment</p> <p>Urinalysis, breathalyzer, and other drug testing may be conducted by the service provider only when done in conjunction with treatment program administration. Drug testing alone is an excluded service.</p> <p>The SASSI does not meet the requirements for this program.</p> <p><u>Target Population:</u> Youth before intake or the court (Pre-D or Post-D) on charges related to drugs or alcohol; youth on supervised probation/parole facing technical violation(s) (graduated sanction) for related behavior</p> <p><u>Requirements:</u> Services must be provided by a licensed professional with applicable degree(s) and specialized training* or a curriculum/program approved by the VJCCA Coordination Team</p>
<p><b>Substance Abuse Education/Treatment Programs</b></p>	<p>Programs and services that promote public safety through education and/or treatment of sexual offending behaviors; May include sexting education; personal boundary education; individual, family, and group counseling/treatment</p> <p><u>Target Population:</u> Youth before intake or court (Pre-D or Post-D) or on supervised probation/parole on charges related to sexting, pornography, and/or sexual offending behaviors</p> <p><u>Requirements:</u> Services must be provided by a licensed professional with applicable degree(s) and specialized training* or a curriculum/program approved by the VJCCA Coordination Team</p>

<p><b>Truancy Intervention Programs</b></p>	<p>Programs that improve school engagement and reduce further court involvement by addressing barriers to school attendance; May include mentoring/coaching and counseling; incentives and rewards; summer transition services; morning accountability/wake-up calls; home visits; student/teacher relationship building; college &amp; career readiness services; academic supports; truancy-based mediation/restorative practices; alternative court programs/teen court</p> <p><u>Target Population:</u> Youth before intake for CHINS-Truancy petitions; youth on supervised probation/parole facing technical violation(s) (graduated sanction) for related behavior</p> <p><u>Program Examples:</u> Achievement Mentoring Program (AMP); Check and Connect; School Engagement Program by Domus; On Track Supports by RISE Network; Preparing Our Kids for Success by Parent Project; Youth Advocate Program – Truancy (YAP)</p> <p><u>Requirements:</u> A curriculum/program approved by the VJCCCA Coordination Team</p>
<p><b>Specialized Program Services</b> (formerly Supervision Plan Services)</p>	<p>Funding allocated for the purchase of services that are not provided for within the current VJCCCA plan. Services may include any service or program outlined on the Allowable Services List.</p> <p><u>Target Population:</u> Youth before intake or the court (Pre-D or Post-D) on charges related to the requested service; youth on supervised probation/parole facing technical violation(s) (graduated sanction) related to/indicating need for requested service</p> <p><u>Requirements:</u> Approval must be received from the VJCCCA Coordination Team</p>
<p><b>GROUP HOMES</b></p>	
<p><b>Group Home Programs</b></p>	<p>Programs that provide a residential placement in a non-secure environment; includes placement in a homelike foster care environment</p> <p><u>Target Population:</u> Youth before the court (Pre-D or Post-D); youth on supervised probation/parole with an identified need</p> <p><u>Requirements:</u> Must meet licensing, regulatory, and certification requirements.</p>

\* All service providers (including local VJCCCA-funded employees and contracted providers) must possess the required professional credentials and must be operating in compliance within regulations and scope of practice, including but not limited to the VA Dept. of Health Professions Board of Counseling.

**Table 2: FY 23/24 Allowable VJCCCA Funded Prevention Programs and Services (updated 12/09/2021)**

COMPETENCY DEVELOPMENT	
<b>Gang Prevention Programs</b>	<p>Programs designed to prevent gang involvement; May include skill development to assist youth in critical thinking, decision making, and resistance/refusal skills; identifying and addressing youth, family and community factors that influence gang involvement; mentoring/coaching; wraparound services and supports/case management; individual/family/group counseling; connecting youth to pro-social supports, places, and activities; tattoo removal; job training/placement</p> <p><u>Target Population:</u> Youth who have been identified, by an approved assessment tool, as being at-risk for gang involvement</p> <p><u>Program Examples:</u> The Phoenix Curriculum; Gang Resistance Education and Training (G.R.E.A.T.); Youth Advocate Programs (YAP)</p> <p><u>Requirements:</u> A curriculum/program approved by the VJCCCA Coordination Team</p> <p>Programs designed to teach youth the consequences of illegal substance use, assist the youth in remaining drug and alcohol free, May include substance abuse education; substance abuse screening (i.e. SASSI), assessment, and counseling</p> <p>Urinalysis, breathalyzer, and other drug testing is a prohibited service.</p> <p><u>Target Population:</u> Youth who have been identified, by an approved assessment tool, as being at-risk for substance abuse</p> <p><u>Requirements:</u> Services must be provided by a licensed professional with applicable degree(s) and specialized training* or a curriculum/program approved by the VJCCCA Coordination Team</p>
<b>Substance Abuse Prevention Programs</b>	<p>Programs that improve school engagement and prevent youth from becoming truant by addressing barriers to school attendance; May include mentoring/coaching and counseling; incentives and rewards; summer transition services; morning accountability/wake-up calls; home visits; student/teacher relationship building; college &amp; career readiness services; academic supports; case management; truancy-based mediation/restorative practices; alternative court programs/teen court; truancy awareness campaigns</p> <p><u>Target Population:</u> Youth who have been identified, by an approved assessment tool, as being at-risk for truancy</p> <p><u>Program Examples:</u> Achievement Mentoring Program (AMP); Check and Connect; School Engagement Program by Domus; On Track Supports by RISE Network; Preparing Our Kids for Success by Parent Project; Youth Advocate Program – Truancy (YAP); Wyman’s Teen Outreach Program (TOP); Communities in Schools; Truancy Court Program (TCP); Ability School Engagement Partnership</p> <p><u>Requirements:</u> A curriculum/program approved by the VJCCCA Coordination Team</p>
<b>Truancy Prevention Programs</b>	<p>Programs that provide specialized services to prevent youth from becoming involved in the juvenile justice system</p> <p><u>Target Population:</u> Youth who have been identified, by an approved assessment tool, as being at-risk for juvenile justice involvement</p> <p><u>Requirements:</u> A curriculum/program approved by the VJCCCA Coordination Team</p>
<b>Specialized Prevention Programs</b>	<p>Programs that provide specialized services to prevent youth from becoming involved in the juvenile justice system</p> <p><u>Target Population:</u> Youth who have been identified, by an approved assessment tool, as being at-risk for juvenile justice involvement</p> <p><u>Requirements:</u> A curriculum/program approved by the VJCCCA Coordination Team</p>

\* All service providers (including local VJCCCA-funded employees and contracted providers) must possess the required professional credentials and must be operating in compliance within regulations and scope of practice, including but not limited to the VA Dept. of Health Professions Board of Counseling.

**DEPARTMENT OF JUVENILE JUSTICE  
REGULATORY AND GUIDANCE DOCUMENT UPDATE**

September 21, 2022

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**ACTIONS WITH RECENT UPDATES:**

- 6VAC35-30      Regulation Governing State Reimbursement of Local Juvenile Residential Facility Costs**
- 6VAC35-35      Regulation Governing the Process for Planning, Designing, and Constructing Locally Funded Juvenile Residential Facilities (\*New)**

Stage: NOIRA (Standard Regulatory Process)

Status: This action involves a comprehensive overhaul of the process localities follow to obtain state reimbursement for local facility construction and renovation projects and proposes a new process for localities that have no plans to seek reimbursement for such projects. The NOIRA has completed Executive Branch review, and was published in the *Virginia Register* on February 1, 2021. The 30-day public comment period generated no comments.

Next step: The board approved the proposed amendments on April 7, 2021, for advancement to the Proposed Stage of the standard regulatory process. The department continues its preparations to advance the approved amendments for Executive Branch review.

- 6VAC35-41      Regulation Governing Juvenile Group Homes and Halfway Houses**

Stage: Proposed (Standard Regulatory Process)

Status: This regulation was last amended effective January 1, 2014. This action involves a comprehensive review of the regulatory requirements. The NOIRA was published in the *Virginia Register* on October 31, 2016; we received no public comments. The action was submitted through the Proposed Stage on April 17, 2020, has undergone Executive Branch review, and was published in the *Virginia Register* on May 24, 2021. The 60-day public comment period ended on July 23, 2021, with no public comments.

Next step: The reconvened workgroup has resumed meetings to prepare this regulation for advancement to the Final Stage of the standard regulatory process.

- 6VAC35-71      Regulation Governing Juvenile Correctional Centers**

Stage: Revised Proposed (Standard Regulatory Process).

Status: This regulation became effective on January 1, 2014. This action involves a comprehensive review of the regulatory requirements. The NOIRA was published in the *Virginia Register* on October 3, 2016. At the NOIRA stage, no public comments were submitted. The Proposed action was certified by the Office of the Attorney General; approved by DPB, the SPSHS, and the Governor's Office; and subsequently published in the *Virginia Register* on September 30, 2019. The 60-day public comment period



ended on November 29, 2019. Significant changes were made after the Proposed Stage, so the action was advanced through a Revised Proposed Stage, which was submitted on August 31, 2021. The Revised Proposed Stage completed Executive Branch review on January 4, 2022. It was published in the *Virginia Register* on February 14, 2022, and a 30-day public comment period followed, ending on March 16, 2022. There were no public comments.

Next step: The department plans to present the proposed final language to the Board at its September 21, 2022, meeting for approval to advance to the Final Stage of the standard regulatory process.

#### **6VAC35-101 Regulation Governing Juvenile Secure Detention Centers**

Stage: Proposed (Standard Regulatory Process)

Status: This regulation became effective on January 1, 2014. This action involves a comprehensive review of the regulatory requirements. The NOIRA was published in the *Virginia Register* on October 17, 2016, and yielded no public comments. The action was submitted through the Proposed Stage on September 3, 2019, completed Executive Branch review, and was published in the *Virginia Register of Regulations* on May 24, 2021. The 60-day public comment period ended on July 23, 2021, and resulted in two public comments. The reconvened workgroup held its last meeting on December 6, 2021. At its April 20, 2022, meeting, the Board authorized the Department to submit this regulation to the Final Stage.

Next step: This regulation is undergoing review at the Office of the Attorney General, after which it will advance to the Department of Planning and Budget, followed by the Secretary's office and the Governor's office.

#### **6VAC35-180 Regulations Governing Mental Health Services Transition Plans for Incarcerated Juveniles**

Stage: NOIRA (Standard Regulatory Process)

Status: This regulation became effective January 1, 2008, and has never been amended. This action involves a comprehensive overhaul of the regulatory requirements to ensure the continued provision of post-release services for incarcerated juveniles with a substance abuse, mental health, or other therapeutic need. The NOIRA completed Executive Branch review on January 4, 2022, and subsequently was published in the *Virginia Register* on February 14, 2022. The required 30-day public comment period ended on March 16, 2022, and yielded no comments.

Next step: The department has convened a workgroup to prepare the text for the Proposed Stage of the standard regulatory process.

#### **6VAC35-200 Regulations Governing Youth Detained Pursuant to Federal Contracts (\*New)**

Stage: NOIRA (Standard Regulatory Process)

Status: This action seeks to establish new regulations applicable to programs for youth detained in juvenile correctional facilities pursuant to contracts with the federal government. The action is intended to carry out the legislative directive in Chapter 599 of the 2020 Acts of Assembly. The NOIRA action has undergone DPB, SPSHS, and Governor's Office review, was published in the *Virginia Register* on March 1, 2021, and the public comment period ending on March 31, 2021, yielded no public comment.

Next step: The department plans to present the proposed language for this regulation to the Board at its September 21, 2022, meeting for approval to advance to the Proposed Stage.



Amy M. Floriano  
Director

**COMMONWEALTH OF VIRGINIA**  
*Department of Juvenile Justice*

P.O. Box 1110  
Richmond, VA 23218  
(804) 371.0700  
Fax: (804) 371.6497  
www.djj.virginia.gov

**TO:** State Board of Juvenile Justice

**FROM:** Virginia Department of Juvenile Justice

**SUBJECT:** Request Authorization to Submit Amendments to the Regulation Governing Juvenile Correctional Centers (6VAC35-71) to the Final Stage of the Standard Regulatory Process

**DATE:** September 21, 2022

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## **I. SUMMARY OF ACTION REQUESTED**

The Department of Juvenile Justice (the department) respectfully requests the State Board of Juvenile Justice (the board) to authorize amendments to the Regulation Governing Juvenile Correctional Centers (6VAC35-71) for advancement to the Final stage of the standard regulatory process pursuant to the Administrative Process Act set forth in § 2.2-4000 et seq. of the Code of Virginia. The proposed amendments are intended to impact the Bon Air Juvenile Correctional Center, as well as any juvenile correctional centers that may be constructed in the Commonwealth in the future. These amendments also will apply to any future privately operated juvenile correctional centers.

## **II. BACKGROUND OF THE REVIEWS**

Pursuant to § 66-10 of the Code of Virginia, the board has the authority to promulgate regulations “necessary to carry out the provisions of this title and other laws of the Commonwealth.” This includes the authority to adopt regulations governing the operation of juvenile correctional centers. The department assists the board by facilitating the review of existing regulations, identifying areas for amendment, and submitting them to the board for evaluation and approval.

In June 2016, the board authorized the submission of a Notice of Intended Regulatory Action (NOIRA) to initiate the regulatory process for a comprehensive review of this chapter. The NOIRA completed executive branch review in September 2016, and a 30-day public comment period followed, ending in November 2016 and yielding no public comments. In November 2017 and January 2018, the board authorized the submission of proposed amendments for advancement to the Proposed stage of the regulatory process. After the required executive branch review, the amendments were published in the Virginia Register of Regulations in September 2019, followed by a 60-day public comment period that yielded one set of comments from the disAbility Law Center of Virginia (dLCV). Based on dLCV’s recommendations, new practices adopted in the juvenile correctional center since the 2018 regulatory submission, and internal concerns with the proposed version, the department recommended additional amendments to the regulation, which the board approved on June 24, 2020. Although the board

authorized the amendments for advancement to the Final stage of the standard regulatory process, the department submitted the action through the Revised Proposed stage due to the volume and scope of amendments made since the last submission. This optional stage is available to state agencies pursuant to § 2.2-4007.03 of the Code when considerable amendments made between the Proposed and Final stages of the standard process warrant additional executive branch review and public comment. The Revised Proposed package completed executive branch review on January 4, 2022, was published in the Virginia Register on February 14, 2022, and yielded no comments at the close of the public comment period on March 6. The department now presents these additional amendments to the board for advancement to the Final stage of the standard regulatory process.

### **III. EXPLANATION OF ADDITIONAL PROPOSED CHANGES FOR FINAL STAGE**

The final proposal incorporates all proposed amendments to the regulation presented during the Proposed stage and any additional amendments approved as part of the Revised Proposed stage, except as modified below. The information contained in Part III of this memo addresses amendments approved at the Proposed and Revised Proposed stage only to the extent they are relevant to the final proposal.

#### **Room Confinement**

##### **Amendments Approved at the Proposed or Revised Stages**

As 6VAC35-71 advanced through the various stages of the regulatory process, the board approved numerous amendments to restrict the use of room confinement in juvenile correctional centers. For purposes of the revised regulation, room confinement includes all instances in which a resident is placed involuntarily in the resident's room or another designated room and subject to additional restrictions. Room confinement does not include timeouts, confinement resulting from lockdowns, or confinement that occurs during normal sleeping hours, showering activities, facility counts, or shift changes.

The primary intent of the board-approved amendments involving room confinement was to impose additional safeguards that ensure each confined resident's physical and mental well-being during confinement while allowing staff a means of addressing threats to security and safety. Among the amendments approved at the Proposed and Revised Proposed stages are mandatory checks of confined residents at 15- rather than 30-minute intervals; daily visits from a qualified medical health professional or mental health clinician to assess the resident's health status; a mandatory visit from at least one staff member during the initial three hours of placement, and an opportunity for one or two additional interactions with staff daily depending upon the anticipated duration of the confinement period.

In addition to these changes, the board also limited the purposes for which room confinement may be authorized consistent with the department's efforts to reduce the use of disciplinary room confinement at Bon Air Juvenile Correctional Center. The board-approved amendments allow for room confinement only to address a resident whose actions threaten facility security or the safety and security of others in the facility or to prevent property damage committed in order to fashion an object that threatens safety or security. Room confinement imposed as a sanction for noncompliance or as a means of punishment is expressly prohibited under the board-approved amendments. Thus, amendments at the Proposed stage repealed the current regulatory provisions allowing staff to sanction a resident with disciplinary room confinement for up to five days for violating a facility rule.

### Amendments Recommended at the Final Stage

While the department remains supportive of efforts to reduce room confinement and the use of alternative strategies to address facility infractions, the department no longer supports an absolute ban on disciplinary room confinement. Bon Air Juvenile Correctional Center has continued to use disciplinary room confinement to address and deter certain behavioral infractions, and its continued use demonstrates that disciplinary room confinement remains an effective and useful tool to address the most severe infractions committed in a juvenile correctional center. The department believes this sanction holds residents accountable to staff and other residents who may be impacted when the resident commits certain behavioral infractions; demonstrates to other residents the consequences associated with these offenses and thus serves as a deterrent for similar behavior; and provides the resident with a transparent, definable, and proportionate penalty for the offense. Under the current regulatory scheme, residents are placed in disciplinary room confinement only after they are charged with an applicable offense, afforded an opportunity for a hearing, and, if such hearing occurs, determined guilty of the offense. Residents are afforded the opportunity to appeal the disciplinary decision in accordance with the timeframes specified in the current regulation.

Based on these considerations, the department believes that room confinement should continue to be available to staff as a sanction to address and prevent those offenses specified in the department's current procedures. Therefore, the proposal strikes the language in subsection C of Section 1140 that would have prohibited disciplinary room confinement and adds language authorizing room confinement as a disciplinary sanction, provided residents have been charged with and found guilty of or have admitted to one of the following institutional infractions: 1) escape, attempted escape, or Absent without Leave (AWOL); 2) possession or use of security contraband; 3) assault; 4) fighting; 5) sexual misconduct; and 6) sexual abuse. As under the current regulation, the proposal places a five-day cap on disciplinary room confinement. Because the terms are not defined currently, the proposal adds definitions for disciplinary room confinement, sexual abuse, and sexual misconduct in Section 10 of the regulation.

### **Boot Camp Provisions**

Part X of the current regulation contains provisions that address juvenile boot camp facilities (§§ 1230-1270). These facilities were authorized pursuant to § 66-13 of the Code, which gave the department the authority to establish or contract with various other entities to establish juvenile boot camps and mandated that the board prescribe standards for the development, implementation, and operation of these facilities. The types of boot camps contemplated in the governing statute have not operated in the Commonwealth since 2003. While in place, these programs operated independently of the juvenile correctional centers and had different structures and philosophies regarding behavior management. Because of these differences, the board agreed at the Proposed stage that the boot camp provisions should be moved to a new, separate chapter that would apply exclusively to juvenile boot camp programs.

During the 2022 Virginia General Assembly Session, however, the General Assembly passed legislation (Chapters 414 and 415 of the 2022 Acts of Assembly) removing the department's authority to establish or contract for these programs, as well as the board's mandate to prescribe regulations governing the programs. In light of these statutory changes, the board is no longer under a statutory duty to promulgate regulations governing juvenile boot camps. The proposal strikes the proposed new chapter in its entirety along with the additional references to juvenile boot camps in Section 15 of the regulation.

### **Omissions at Previous Stage; Other Nonsubstantive Amendments**

At the Revised Proposed stage, the department proposed amendments to several provisions in the regulation that improperly incorporated written procedures into the regulation in violation of 1VAC7-10-140. In accordance with this section, agencies are precluded from adopting textual matter in a regulation by referring to all or any part of one of the agency's own documents except in unique and highly unusual circumstances. The department identified over 40 violations of this provision at the Revised Proposed stage but inadvertently omitted an improper incorporation reference in Section 230. The proposal strikes this invalid language.

The proposal also makes a few additional minor changes, none of which is substantive.

### **IV. CONCLUSION**

The department believes that the additional amendments recommended in this memo will ensure that juvenile correctional center staff continue to be equipped with the tools needed to address resident infractions in a safe and productive manner. Other amendments addressed in this memo are consistent with earlier modifications that the board approved at the Proposed or Revised Proposed Stages. The department therefore requests that the board approve these amendments for advancement to the Final stage of the standard regulatory process.

## REGULATION GOVERNING JUVENILE CORRECTIONAL CENTERS

### 6VAC35-71-10. Definitions.

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

"Active supervision" or "actively supervise" means the act of resident supervision in which a direct care employee is (i) actively patrolling and frequently viewing the areas in which residents are present a minimum of once every 15 minutes and (ii) close enough in proximity to the resident to provide a quick response should an incident occur.

"Annual" means within 13 months of the previous event or occurrence.

"Assistant superintendent" means the individual who provides regular assistance and support to the superintendent in the management and operation of a juvenile correctional center.

"Aversive stimuli" means physical forces, such as sound, electricity, heat, cold, light, water, or noise, or substances, such as hot pepper, pepper sauce, or pepper spray, measurable in duration and intensity that when applied to a resident are noxious or painful to the resident.

"Behavior management" means the principles and methods employed to help a resident achieve positive behavior and to address and correct a resident's inappropriate behavior in a constructive and safe manner that emphasizes program expectations, treatment goals, resident and staff safety and security, and the resident's individual service plan.

"Board" means the Board of Juvenile Justice.

"Case record" means the collection of written information regarding a resident and the resident's family, if applicable.

"Community manager" means the individual who supervises, coordinates, and directs an assigned group of staff in multiple housing units and who oversees the schedules, programs, and services for assigned housing units within a juvenile correctional center.

"Contraband" means an item possessed by or accessible to a resident or found within a juvenile correctional center or on its premises that (i) is prohibited by statute, regulation, or department procedure; (ii) is not acquired through approved channels or in prescribed amounts; or (iii) may jeopardize the safety and security of the juvenile correctional center or individual residents.

"Contractor" means an individual who has entered into a legal agreement to provide services on a recurring basis to a juvenile correctional center.

"Department" means the Department of Juvenile Justice.

"Direct care" means the period during which a resident who is committed to the department pursuant to § 16.1-272 or 16.1-285.1 or subdivision A 14 of § 16.1-278.8 of the Code of Virginia is under the supervision of staff in a juvenile correctional center operated by or under contract with the department.

"Direct care employee" means an employee whose primary job responsibilities are (i) maintaining the safety, care, and well-being of residents; (ii) implementing the structured program of care and the behavior management program; and (iii) maintaining the security of the facility. For purposes of this chapter, the term "direct care employee" shall include a security employee assigned, either on a primary or as-needed basis, to perform the duties of clauses (i), (ii), and (iii) of this definition and who is required to receive initial and annual training in these areas in order to carry out the responsibilities in clauses (i), (ii), and (iii) of this definition.

"Direct supervision" or "directly supervise" means the act of a direct supervision employee providing services to a resident while direct care employees are not within close proximity and do

not have direct and continuous visual observation of or the ability to hear any sounds or words spoken by the resident.

"Direct supervision employee" means an employee who is responsible for maintaining the safety, care, and well-being of the residents in addition to providing services or performing the primary responsibilities of that position and who is authorized to directly supervise residents.

"Director" means the Director of the Department of Juvenile Justice.

[ "Disciplinary room confinement" means the placement of a resident in room confinement as a consequence for a violation of a rule of the facility after application of the disciplinary process, as provided for in 6VAC35-71-1110. ]

"Emergency" means a sudden, generally unexpected occurrence or set of circumstances demanding immediate action such as a fire, chemical release, loss of utilities, natural disaster, hostage situation, major disturbance, escape, or bomb threat. For purposes of this definition, "emergency" does not include regularly scheduled employee time off or other situations that reasonably could be anticipated.

"Gender identity" means a person's internal sense of being male or female, regardless of the person's sex assigned at birth.

"Grievance" means a written communication by a resident on a department-approved form that reports a condition or situation that relates to department procedure and that presents a risk of hardship or harm to a resident.

"Health care record" means the complete record of all health care services provided to a resident, including medical, dental, orthodontic, mental health, family planning, obstetrical, gynecological, health education, and other ancillary records.

"Health care services" means those actions, preventive and therapeutic, taken for the physical and mental well-being of a resident. Health care services include medical, dental, orthodontic, mental health, family planning, obstetrical, gynecological, health education, and other ancillary services.

"Health-trained personnel" means an individual who is trained and appropriately supervised to carry out specific duties with regard to the administration of health care.

"Housing unit" means the space in a juvenile correctional center in which a particular group of residents resides, which comprises sleeping areas, bath and toilet facilities, and a living room or its equivalent for use by the residents. Depending upon its design, a building may contain one or several separate housing units.

"Human research" means any systematic investigation, including research development, testing, and evaluation utilizing human subjects that is designed to develop or contribute to generalized knowledge. Human research shall not be deemed to include research exempt from federal research regulation pursuant to 45 CFR 46.101(b).

"Immediate family member" means a resident's parent or legal guardian, step-parent, grandparent, spouse, child, sibling, or step-sibling.

"Individual service plan" means a written plan of action developed, revised as necessary, and reviewed at specified intervals to meet a resident's needs.

"Juvenile correctional center," "JCC," or "facility" means a public or private facility, operated by or under contract with the department, where care is provided to residents under the direct care of the department 24 hours a day, seven days a week.

"JCC administration" or "facility administration" means the juvenile correctional center superintendent or the superintendent's designee.



"Legal mail" means a written communication that is sent to or received from a designated class of correspondents, including a court, legal counsel, administrator of the grievance system, the department, or the regulatory authority.

"Lockdown" means the restriction of all or a group of residents to their housing unit, an area within their housing unit, or another area within a JCC for the purpose of (i) relieving temporary tensions within the facility that may threaten or critically affect staff or residents or present a risk to public safety; (ii) conducting a facility search for contraband; (iii) responding to an imminent threat to the security and control of the facility or to the safety of staff, residents, or the public; or (iv) responding to other unexpected circumstances that threaten the safe operation of the facility, such as a loss of electricity, a critical shortage of staff, or an emergency.

"Mechanical restraint" means an approved mechanical device that involuntarily restricts the freedom of movement or voluntary functioning of a limb or portion of an individual's body as a means of controlling his physical activities when the individual being restricted does not have the ability to remove the device. For purposes of this chapter, mechanical restraints shall include flex-cuffs, handcuffs, leather restraints, leg irons, restraining belts and straps, and waist chains.

"Mechanical restraint chair" means an approved chair used to restrict the freedom of movement or voluntary functioning of a portion of an individual's body as a means of controlling his physical activities while the individual is seated and either stationary or being transported.

"Medical record" means the complete record of medical screening and examination information and ongoing records of medical and ancillary service delivery, including all findings, diagnoses, treatments, dispositions, prescriptions, and their administration.

"Medication incident" means any one of the following errors made in administering a medication to a resident: (i) a resident is given incorrect medication; (ii) medication is administered to the incorrect resident; (iii) an incorrect dosage is administered; (iv) medication is administered at the wrong time or not at all; or (v) the medication is administered through an improper method. For purposes of this regulation, a medication incident does not include a resident's refusal of appropriately offered medication.

"Mental health clinician" means a clinician licensed to provide assessment, diagnosis, treatment planning, treatment implementation, and similar clinical counseling services, or a license-eligible clinician under supervision of a licensed mental health clinician.

"Natural support" means a department-approved personal association and pro-social relationship typically developed in the community that enhances the quality and security of life for a resident and that is expected to provide post-release support, including an extended family member, person serving as a mentor, or representative from a community organization.

"On duty" means the period of an employee's scheduled work hours during which the employee is responsible for the supervision of one or more residents in the performance of that employee's position duties.

"Parent" or "legal guardian" means (i) a biological or adoptive parent who has legal custody of a resident, including either parent if custody is shared under a joint decree or agreement; (ii) a biological or adoptive parent with whom a resident regularly resides; (iii) a person judicially appointed as a legal guardian of a resident; or (iv) a person who exercises the rights and responsibilities of legal custody by delegation from a biological or adoptive parent, upon provisional adoption, or otherwise by operation of law.

"Physical restraint" means the application of behavior intervention techniques involving a physical intervention to prevent an individual from moving all or part of his body.

"Premises" means the tracts of land within the secure perimeter on which any part of a juvenile correctional center is located.

"Protective device" means an approved device placed on a portion of a resident's body to protect the resident or staff from injury.

"Regulatory authority" means the board, or the department if designated by the board.

"Resident" means an individual, regardless of age, who is committed to the department and resides in a juvenile correctional center.

"Rest day" means a period of not less than 24 consecutive hours during which the direct care employee has no responsibility to perform duties related to employment at the JCC or with the department.

"Room confinement" means the involuntary placement of an individual resident in the resident's room or other designated room and the imposition of additional restrictions. For purposes of this chapter, room confinement shall not include (i) timeout periods; (ii) confinement during normal sleeping hours; (iii) confinement for purposes of allowing residents in a housing unit to shower safely; (iv) confinement for purposes of conducting facility counts; (v) confinement during shift changes; or (vi) confinement resulting from a lockdown.

"Rules of conduct" means a list of a juvenile correctional center's rules or regulations that is maintained to inform residents and others of the behavioral expectations of the behavior management program, behaviors that are not permitted, and the consequences that may be applied when impermissible behaviors occur.

"Security employee" means an employee who is responsible for maintaining the safety, care, and well-being of residents and the safety and security of the facility.

[ "Sexual abuse" means nonconsensual sexual contact by a resident or staff, including (i) contact between the penis and the vagina or the anus; (ii) contact between the mouth and the penis, vagina, or anus; (iii) penetration of the anal or genital opening of another person by a hand, finger, or other object; or (iv) non-penetrative intentional touching (either directly or through the clothing) of the genitalia, anus, groin, breast, inner thigh, or buttocks; and (v) intentional sexual touching (either directly or through clothing) of the genitalia, anus, groin, breast, inner thigh, or buttocks.

"Sexual misconduct" means any sexual conduct or act by a resident either individually, with another resident, or directed towards staff, including non-forced sexual contact, indecent exposure or masturbation, and sexual harassment. ]

"Sick call" means the evaluation and treatment of a resident in a clinical setting, either onsite or offsite, by a qualified health care professional.

"Spit guard" means a protective device designed for the purpose of preventing the spread of communicable diseases as a result of spitting or biting.

"Superintendent" means the individual who is responsible for the onsite management and operation of a juvenile correctional center on a regular basis.

"Timeout" means a systematic behavior management technique designed to reduce or eliminate minor inappropriate or problematic behavior by having staff require a resident to move to a specific location that is away from a source of reinforcement until the problem behavior has subsided, not to exceed 60 minutes.

"Volunteer" or "intern" means an individual or group under the direction and authority of the juvenile correctional center who voluntarily provides goods and services without competitive compensation.

"Vulnerable population" means a resident or group of residents who has been determined by designated JCC staff to be reasonably likely to be exposed to the possibility of being attacked or harmed, either physically or emotionally.

"Written" means the required information is communicated in writing in either hard copy or in electronic form.

**6VAC35-71-15. Applicability.**

This chapter applies exclusively to (i) state-operated juvenile correctional centers and (ii) privately operated juvenile correctional centers governed by the Juvenile Corrections Private Management Act (§ 66-25.3 et seq. of the Code of Virginia). Parts I through VIII apply to state-operated and privately operated facilities. Part IX applies solely to privately operated juvenile correctional centers. Provisions applicable to [ juvenile boot camps and ] locally, regionally, or privately operated alternative direct care programs for juveniles are not included in this chapter.

**6VAC35-71-20. (Repealed.)**

**6VAC35-71-30. Certification.**

A. The JCC administration shall maintain a current certification demonstrating compliance with the provisions of the Regulation Governing the Monitoring, Approval, and Certification of Juvenile Justice Programs and Facilities (6VAC35-20).

B. The JCC administration shall demonstrate compliance with this chapter, other applicable regulations issued by the board, and applicable statutes and regulations.

C. Documentation necessary to demonstrate compliance with this chapter shall be maintained for a minimum of three years.

D. The current certificate shall be posted at all times in a place conspicuous to the public.

**6VAC35-71-40. Relationship to the regulatory authority.**

All reports and information as the regulatory authority may require to establish compliance with this chapter and other applicable regulations and statutes shall be submitted to or made available to the audit team leader.

**6VAC35-71-50. Variances and waivers.**

A. Board action may be requested by the director or the director's designee to relieve a JCC from having to meet or develop a plan of action for the requirements of a specific section or subsection of this regulation, provided the section or subsection is a noncritical regulatory requirement. The variance request may be granted either permanently or for a determined period of time, as provided in the Regulation Governing the Monitoring, Approval, and Certification of Juvenile Justice Programs and Facilities (6VAC35-20).

B. A variance may not be implemented prior to approval of the board.

C. If the superintendent has submitted a variance request to the director or the director's designee concerning a noncritical regulatory requirement and board action has been requested formally by the director or the director's designee, the director may, but is not required to, grant a waiver temporarily excusing the facility from meeting the requirements of a specific section or subsection of this regulation. The waiver shall be subject to the requirements in 6VAC35-20-93.

**6VAC35-71-55. Operational procedures.**

Current operational procedures shall be readily accessible to all staff.

**6VAC35-71-60. Incident reports.**

A. The following events shall be reported to the director or the director's designee as soon as practicable, but no later than 24 hours after the incident:

1. A serious illness, incident, injury, or accident involving the serious injury of a resident;
2. A resident's absence from the facility without permission; and
3. The facility's use of the mechanical restraint chair, regardless of the purpose or duration of use.

B. As appropriate and applicable, facility staff shall, as soon as practicable, but no later than 24 hours after the incident, report the incidents listed in subsection A of this section to (i) the parent or legal guardian and (ii) the supervising court service unit or agency.

C. Any incident involving the death of a resident shall be reported to the individuals specified in subsections A and B of this section without undue delay.

D. Facility staff shall prepare and maintain a written report of the events listed in subsections A and C of this section that shall contain the following information:

1. The date and time the incident occurred;
2. A brief description of the incident;
3. The action taken as a result of the incident;
4. The name of the person who completed the report;
5. The name or identifying information of the person who made the report to the supervising agency and to the parent or legal guardian; and
6. The name of any law-enforcement agency or local department of social services to which the report was made.

E. The department shall establish written procedures that address any additional serious incidents that must be reported, the process for notifying the parties identified in subsection B of this section, and the steps for completing and submitting the written report required in subsection D of this section. The JCC administration shall ensure the written procedures are accessible to JCC staff.

F. The resident's case record shall contain a written reference (i) that an incident occurred and (ii) of all applicable reporting.

G. In addition to the requirements of this section, any suspected child abuse and neglect shall be governed by 6VAC35-71-70.

**6VAC35-71-70. Suspected child abuse or neglect.**

A. When there is reason to suspect that a resident is an abused or neglected child, the matter shall be reported immediately to the local department of social services or to the Virginia Department of Social Services toll-free child abuse and neglect hotline as required by § 63.2-1509 of the Code of Virginia .

B. Any case of suspected child abuse or neglect occurring at a JCC, occurring during a JCC-sponsored event or excursion or involving JCC staff shall be reported within 24 hours to (i) the director or the director's designee, (ii) the supervising court service unit, and (iii) the resident's parent or legal guardian, as appropriate and applicable.

C. When a case of suspected child abuse or neglect is reported in accordance with subsection A of this section, a record shall be maintained at the facility that contains the following information:

1. The date and time the suspected abuse or neglect occurred;
2. A brief description of the suspected abuse or neglect;
3. The action taken as a result of the suspected abuse or neglect; and
4. The name or identifying information of the person to whom the report was made at the local department of social services.

D. The resident's case record shall contain a written reference that a report was made.

E. Written procedures shall be accessible to staff regarding the following:

1. Handling accusations of child abuse or neglect, including those made against staff;
2. Reporting consistent with requirements of the Code of Virginia and documenting suspected cases of child abuse or neglect to the local child protective services unit;

3. Cooperating during any investigation; and
4. Measures to be taken to ensure the safety of the resident and the staff.

**6VAC35-71-75. Reporting criminal activity.**

A. Staff shall be required to report to the superintendent or the superintendent's designee all known criminal activity alleged to have been committed by residents or staff, including physical abuse, sexual abuse, or sexual harassment of residents.

B. The superintendent or the superintendent's designee shall notify the appropriate persons or agencies, including law enforcement and the local department of social services division of child protective services, if applicable and appropriate, of suspected criminal violations by residents or staff.

C. The JCC superintendent and applicable staff shall assist and cooperate with the investigation of these complaints and allegations subject to restrictions in federal or state law.

**6VAC35-71-80. Grievance procedure.**

A. The department shall have a grievance procedure in place that provides for the following:

1. Resident participation in the grievance process, with assistance from staff upon request;
2. Investigation of the grievance by an impartial and objective employee who is not the subject of the grievance;
3. Documented responses to all grievances with the supporting reasons for the decision;
4. At least one level of appeal;
5. Administrative review of grievances;
6. Protection of residents from retaliation or the threat of retaliation for filing a grievance; and
7. Immediate review of grievances that pose an immediate risk of harm to a resident with resolution as soon as practicable but no later than eight hours after the initial review and review and resolution of all other grievances as soon as practicable but no later than 30 business days after receipt of the grievance. For purposes of this subdivision, a grievance may be deemed resolved once facility staff have addressed, corrected, or referred the issue to an external organizational unit.

B. Residents shall be oriented to the grievance procedure in an age and developmentally appropriate manner.

C. The grievance procedure shall be (i) written in clear and simple language, (ii) posted in an area accessible to residents, and (iii) available in an area easily accessible to parents and legal guardians.

D. Staff shall assist and work cooperatively with other employees in facilitating the grievance process.

**6VAC35-71-90. Student government association.**

A. The JCC administration shall maintain a student government association that is representative of the facility's population and is organized to (i) provide leadership development opportunities and opportunities for civic participation and engagement for residents and (ii) allow for resident communication with facility and agency leadership.

B. The student government association shall develop a constitution and bylaws that shall govern the operation of the organization and provide for an election process for student government association officers and representatives.

C. Representatives from the student government association shall meet with the superintendent or the superintendent's designee at least once per month, during which time the representatives shall be given the opportunity to raise matters that concern the residents and to

have input into planning, problem-solving, and decision-making in areas of the residential program that affect their lives.

D. In addition to the monthly meetings with the superintendent or the superintendent's designee, the JCC administration shall provide regular opportunities for the student government association to meet as a body and with the residents they represent.

E. The facility administration shall maintain a current copy of the constitution and bylaws required in subsection B of this section that shall be posted in each housing unit. During orientation, the residents shall receive an overview of the student government association, the constitution, and the bylaws.

**6VAC35-71-100. Administration and organization.**

Each JCC shall have an organizational chart that includes functions, services, and activities in administrative subunits. The organizational chart shall be reviewed and updated as needed, as determined by the superintendent or the superintendent's designee.

**6VAC35-71-110. Organizational communications.**

A. The superintendent or the superintendent's designee shall meet, at least monthly, with all facility department heads and key staff members.

B. In order to encourage contact with employees and residents, observe the facility's living and working conditions, and enhance the efficacy and success of the therapeutic community within each housing unit, the JCC administration shall establish written procedures that require the assistant superintendent and the community manager assigned to each specific housing unit to make regular, consistent, and frequent visits to each housing unit under their jurisdiction. The written procedures also shall provide facility rules regarding these visits.

C. The superintendent shall visit every housing unit and activity area at least once per month.

**6VAC35-71-120. Community relationships.**

The JCC administration shall designate a community liaison and, if appropriate, a community advisory committee to serve as a link between the facility and the community. The community advisory committee may include facility neighbors, local law enforcement, and local government officials.

**6VAC35-71-130. Participation of residents in human research.**

Residents shall not be used as subjects of human research except as provided in 6VAC35-170 and in accordance with Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 of the Code of Virginia.

Additionally, the testing of medicines or drugs for experimentation or research is prohibited.

**6VAC35-71-140. Background checks.**

A. Except as provided in subsection B of this section, all persons who (i) accept a position of employment or (ii) provide contractual services directly to a resident on a regular basis and will be alone with a resident in the performance of their duties in a JCC shall undergo the following background checks to determine whether there are criminal acts or other circumstances that would be detrimental to the safety of residents in the JCC:

1. A reference check;
2. A criminal history record check;
3. Fingerprint checks with the Virginia State Police and Federal Bureau of Investigation (FBI);
4. A central registry check with Child Protective Services; and
5. A driving record check, if applicable to the individual's job duties.

B. In order to minimize vacancy time when the fingerprint checks required by subdivision A 3 of this section have been requested, employees may be hired pending the results of the fingerprint checks, provided:

1. All other applicable components of subsection A of this section have been completed;
2. The JCC provides the applicant with written notice that continued employment is contingent on the fingerprint check results as required by subdivision A 3 of this section; and
3. Employees hired under this exception shall not be allowed to be alone with residents and may work with residents only when the residents are under the direct or active supervision of staff whose background checks have been completed until all the requirements of this section are satisfied.

C. The JCC administration shall retain documentation of compliance with this section.

D. Written procedures shall provide for the supervision of nonemployee persons who are not subject to the provisions of this section and have contact with residents.

**6VAC35-71-150. Required initial orientation.**

A. Before the expiration of the employee's seventh work day at the facility, each employee shall receive a basic orientation on the following:

1. The facility;
2. The population served;
3. The basic tenets and objectives of the facility's behavior management program;
4. The facility's organizational structure;
5. Security, population control, emergency preparedness, and evacuation procedures in accordance with 6VAC35-71-460;
6. The practices of confidentiality;
7. The residents' rights; and
8. The basic requirements of and competencies necessary to perform in the positions.

B. Volunteers and interns shall be oriented in accordance with 6VAC35-71-240.

C. Contractors shall receive an orientation regarding the expectations of working within a secure environment.

**6VAC35-71-160. Required initial training.**

A. JCC employees shall complete initial, agency-approved training that is specific to the individual's occupational class.

B. Direct care employees and security employees, before being responsible for supervising a resident, shall complete at least 120 hours of training, which shall include training in the following areas:

1. First aid and cardiopulmonary resuscitation, unless the individual is currently certified, with certification required as applicable to their duties;
2. Recognition of signs and symptoms and knowledge of actions required in a medical emergency;
3. The department's behavior management program, as provided in 6VAC35-71-745, including the requirements for sustaining a therapeutic community environment, as required in 6VAC35-71-735. At a minimum, this training shall address (i) the components and basic principles of the behavior management program; (ii) the principles, definitions, and expectations governing a therapeutic community environment; (iii) the main tenets of

the department's graduated incentive system; and (iv) the tools available to address noncompliance;

4. The residents' rules of conduct, the rationale for the rules, and the disciplinary process in accordance with 6VAC35-71-1110;
5. The department's behavior interventions, including, if applicable to the individual's duties, training in the use of physical restraints, mechanical restraints, and protective devices and the mechanical restraint chair, as provided in 6VAC35-71-1175, 6VAC35-71-1180, and 6VAC35-71-1203;
6. Emergency preparedness and response, as provided in 6VAC35-71-460;
7. Standard precautions, as provided in 6VAC35-71-1000;
8. Child abuse and neglect;
9. Mandatory reporting;
10. Residents' rights, including the prohibited actions provided for in 6VAC35-71-550;
11. Maintaining appropriate professional relationships;
12. Appropriate interaction among staff and residents;
13. Suicide prevention, as provided in 6VAC35-71-805;
14. Adolescent development;
15. Procedures applicable to the employees' positions and consistent with their work profiles; and
16. Other topics as required by the department and any applicable state or federal statutes or regulations.

C. Direct supervision employees shall complete an initial 80 hours of agency-approved training, including the topics enumerated in subsection B of this section before being responsible for the direct supervision of a resident and an additional 40 hours of agency-approved training before the completion of their first year of employment.

D. Employees providing medical services shall complete the following training:

1. An initial 40 hours of agency-approved training, including (i) tuberculosis control practices and (ii) the topics enumerated in subdivisions B 5 through B 16 of this section before they may work directly with a resident; and
2. An additional 80 hours of agency-approved training before the expiration of their first year of employment.

E. Employees who administer medication shall, prior to administration and in accordance with the provisions of § 54.1-3408 of the Code of Virginia, successfully complete a medication management training program approved by the Board of Nursing or be licensed by the Commonwealth of Virginia to administer medication.

F. Administrative and managerial staff shall receive at least 40 hours of training during their first year of employment. Clerical and support staff shall receive at least 16 hours of training.

G. If an individual is employed by contract to provide services for which licensure by a professional organization is required, documentation of current licensure shall constitute compliance with this section.

H. Volunteers and interns shall be trained in accordance with 6VAC35-71-240.

I. The department shall develop written procedures that clearly delineate the positions falling under each category identified in this section.



**6VAC35-71-170. Retraining.**

A. Each employee shall complete retraining that is specific to the individual's occupational class and the position's job description and that addresses any professional development needs.

1. Direct care employees, security employees, direct supervision employees, and employees providing medical services shall complete 40 hours of training annually, including the requirements of this section.
2. Administrative and managerial staff shall receive at least 40 hours of training annually.
3. Clerical and support staff shall receive at least 16 hours of training annually.

B. All staff shall complete an annual training refresher on the facility's emergency preparedness and response plan and procedures.

C. All direct care employees, security employees, and direct supervision employees shall complete annual refresher training in the following areas:

1. The department's behavior management program and the requirements for sustaining a therapeutic community environment, as required by 6VAC35-71-160 B 3;
2. Suicide prevention;
3. Maintaining appropriate professional relationships;
4. Appropriate interaction among staff and residents;
5. Child abuse and neglect;
6. Mandatory reporting;
7. Resident rights, including the prohibited actions provided for in 6VAC35-71-550;
8. Standard precautions; and
9. Other topics as required by the department and any applicable state or federal statutes or regulations.

D. All employees providing medical services shall complete annual retraining in the topics enumerated in subdivisions C 2 through C 9 of this section.

E. All direct care employees, security employees, and direct supervision employees shall receive training sufficient to maintain a current certification in first aid and cardiopulmonary resuscitation.

F. Employees who administer medication shall complete annual refresher training on the administration of medication, which shall include at a minimum, a review of the components required in 6VAC35-71-1070.

G. If an individual is employed by contract to provide services for which licensure by a professional organization is required, documentation of the individual's current licensure shall constitute compliance with this section.

H. All staff approved to apply physical restraints as provided for in 6VAC35-71-1175 shall be trained as needed to maintain the applicable current certification.

I. All staff approved to apply mechanical restraints, protective devices, or the mechanical restraint chair shall be retrained annually as required by 6VAC35-71-1180 and 6VAC35-71-1203.

J. Staff who have not timely completed required retraining shall not be allowed to have direct care or direct supervision responsibilities pending completion of the retraining requirements.

**6VAC35-71-180. Code of ethics.**

The facility administration shall make available to all employees a written set of rules describing acceptable standards of conduct for all employees.

**6VAC35-71-185. Employee tuberculosis screening and follow-up.**

A. On or before the individual's start date at the facility and at least annually thereafter each (i) employee and (ii) contractor who provides services directly to residents on a regular basis shall submit the results of a tuberculosis screening assessment that is no older than 30 days. The documentation shall indicate the screening results as to whether there is an absence of tuberculosis in a communicable form.

B. Each (i) employee and (ii) contractor who provides services directly to residents on a regular basis shall submit evidence of an annual evaluation of freedom from tuberculosis in a communicable form.

C. Each (i) employee and (ii) contractor who provides services directly to residents on a regular basis shall undergo a subsequent tuberculosis screening or evaluation, as applicable, in the following circumstances:

1. The employee or contractor comes into contact with a known case of infectious tuberculosis; or
2. The employee or contractor develops chronic respiratory symptoms of three weeks' duration.

D. Employees and contractors providing services directly to residents on a regular basis, who are suspected of having tuberculosis in a communicable form shall not be permitted to return to work or have contact with staff or residents until a licensed physician or licensed medical provider has determined that the individual does not have tuberculosis in a communicable form.

E. Any active case of tuberculosis developed by an employee or a resident shall be reported to the local health department in accordance with the requirements of the State Board of Health Regulations for Disease Reporting and Control (12VAC5-90).

F. Documentation of any screening results shall be retained in a manner that maintains the confidentiality of information.

G. The detection, diagnosis, prophylaxis, and treatment of pulmonary tuberculosis shall be performed in accordance with the current recommendations of the Virginia Department of Health's Division of Tuberculosis Prevention and Control and the federal Department of Health and Human Services Centers for Disease Control and Prevention.

**6VAC35-71-215. Physical or mental health of personnel.**

If an employee or contractor poses a significant risk of substantial harm to the health and safety of a resident, others at the facility, or the public or is unable to perform essential job-related functions, that individual shall be removed immediately from all duties involved in the supervision of residents. The facility may require a medical or mental health evaluation to determine the individual's fitness for duty prior to returning to duties involving the supervision of residents.

**6VAC35-71-220. Selection and duties of volunteers and interns.**

A. A JCC that uses volunteers or interns shall have written procedures in place governing their selection and use. The procedures shall provide for the evaluation of persons and organizations in the community who wish to associate with the residents.

B. Volunteers and interns shall have qualifications appropriate for the services provided.

C. The responsibilities of interns and individuals who volunteer on a regular basis shall be defined clearly in writing.

D. Volunteers and interns may not be responsible for the duties of direct care or direct supervision employees, nor may a volunteer or intern be authorized to be alone with residents.

**6VAC35-71-230. Background checks for volunteers and interns.**

A. Any individual who volunteers or is an intern on a regular basis in a JCC shall be subject to the background check requirements provided for in 6VAC35-71-140.

B. Documentation of compliance with the background check requirements shall be maintained for each volunteer or intern for whom a background check is required.

C. A JCC that uses volunteers or interns shall [ ~~implement~~ have ] written procedures [ ~~in place~~ ] for supervising volunteers or interns, on whom background checks are not required or whose background checks have not been completed who have contact with residents.

**6VAC35-71-240. Volunteer and intern orientation and training.**

A. Any individual who (i) volunteers on a regular basis; (ii) volunteers and has contact with residents or is an intern in a JCC; or (iii) is the designated leader for a group of volunteers shall be provided with a basic orientation on the following:

1. The facility;
2. The population served;
3. The basic objectives of the department;
4. The department and facility organizational structure;
5. Security, population control, emergency preparedness, and evacuation procedures;
6. The practices of confidentiality;
7. Resident rights, including the prohibited actions provided for in 6VAC35-71-550; and
8. The basic requirements of and competencies necessary to perform their duties and responsibilities.

B. Volunteers and interns shall be trained within 30 days from their start date at the facility in the following:

1. Their duties and responsibilities in the event of a facility evacuation as provided in 6VAC35-71-460; and
2. All other procedures that are applicable to their duties and responsibilities.

**6VAC35-71-260. Maintenance of case records.**

A. A separate written case record shall be maintained for each resident, which shall include all correspondence and documents received by the JCC relating to the care of that resident and documentation of all case management services provided.

B. Separate health care records, including behavioral health records, as applicable, and medical records shall be kept on each resident. Health care records shall be maintained in accordance with 6VAC35-71-1020 and applicable statutes and regulations. Behavioral health care records may be kept separately from other health care records.

C. Case records shall be released only in accordance with §§ 16.1-300 and 16.1-309.1 of the Code of Virginia and applicable state and federal laws and regulations.

D. The department shall have written procedures in place for the maintenance and management of case records in juvenile correctional centers. The procedures for managing resident written records shall address confidentiality, accessibility, security, and retention of records pertaining to residents, including:

1. Access, duplication, dissemination, and acquisition of information only by persons legally authorized according to federal and state laws;
2. Security measures to protect records from loss, unauthorized alteration, inadvertent or unauthorized access, and disclosure of information, and records transported between service sites; and

3. Designation of the person responsible for records management.

E. Active and closed records shall be kept in secure locations or compartments that are accessible only to authorized employees and shall be protected from unauthorized access, fire, and flood.

F. Each resident's written case and health care records shall be stored separately subsequent to the resident's discharge in accordance with applicable statutes and regulations.

G. Residents' inactive records shall be retained as required by The Library of Virginia.

**6VAC35-71-270. Face sheet.**

A. At the time of admission, each resident's record shall include, at a minimum, a completed face sheet that contains the following: (i) the resident's full name, last known residence, birth date, birthplace, sex, gender identity, race, social security number or other unique identifier, religious preference, and admission date; and (ii) the names, addresses, and telephone numbers of the resident's legal guardians, supervising agency, emergency contacts, and parents, if appropriate.

B. The face sheet shall be updated when changes occur and maintained as a part of the resident's record.

**6VAC35-71-280. Buildings and inspections.**

A. All newly constructed buildings, major renovations to buildings, and temporary structures shall be inspected and approved by the appropriate building officials. There shall be a valid, current certificate of occupancy available at each JCC that documents this approval.

B. A current copy of the facility's annual inspection by fire prevention authorities indicating that all buildings and equipment are maintained in accordance with the Virginia Statewide Fire Prevention Code (13VAC5-51) shall be maintained. If the fire prevention authorities have failed to inspect the facility's buildings and equipment, the facility administration shall maintain documentation of the request to schedule the annual inspection, as well as documentation of any necessary follow-up.

C. The facility administration shall maintain a current copy of the facility's compliance with annual inspection and approval by an independent, outside source in accordance with state and local inspection laws, regulations, and ordinances, of the following:

1. General sanitation;
2. The sewage disposal system, if applicable;
3. The water supply, if applicable;
4. Food service operations; and
5. Swimming pools, if applicable.

**6VAC35-71-290. Equipment and systems inspections and maintenance.**

A. All safety, emergency, and communications equipment and systems shall be inspected, tested, and maintained by designated staff in accordance with the manufacturer's recommendations or instruction manuals or, absent these requirements, in accordance with a schedule that is approved by the superintendent.

1. The facility administration shall maintain a listing of all safety, emergency, and communications equipment and systems and the schedule established for inspections and testing.
2. Testing of equipment and systems shall be conducted quarterly, at a minimum.

B. Whenever safety, emergency, or communications equipment or systems are determined to be defective, immediate steps shall be taken to rectify the situation and to repair, remove, or replace the defective equipment or systems.

**6VAC35-71-310. Heating and cooling systems and ventilation.**

A. Heat shall be distributed in all rooms occupied by the residents so that a temperature no less than 68°F is maintained, unless otherwise mandated by state or federal authorities.

B. Air conditioning or mechanical ventilating systems, such as electric fans, shall be provided in all rooms occupied by residents when the temperature in those rooms exceeds 80°F, unless otherwise mandated by state or federal authorities.

**6VAC35-71-320. Lighting.**

A. Sleeping and activity areas shall provide natural lighting.

B. All areas within buildings shall be lighted for safety, and the lighting shall be sufficient for the activities being performed.

C. Night lighting shall be sufficient to observe residents.

D. Operable flashlights or battery-powered lanterns shall be accessible to each security employee and direct care employee on duty.

E. Outside entrances and parking areas shall be lighted.

**6VAC35-71-330. Plumbing and water supply; temperature.**

A. Plumbing shall be maintained in operational condition, as designed.

B. An adequate supply of hot and cold running water shall be available at all times.

C. Precautions shall be taken to prevent scalding from running water. Hot water temperatures shall be maintained at 100°F to 120°F.

**6VAC35-71-350. Toilet facilities.**

A. There shall be toilet facilities available for resident use in all sleeping areas for each JCC constructed after January 1, 1998.

B. There shall be at least one toilet, one hand basin, and one shower or tub for every eight residents for facilities certified on or before December 27, 2007. There shall be one toilet, one hand basin, and one shower or tub for every four residents in any building constructed or structurally modified on or after December 28, 2007.

C. There shall be at least one bathtub in each facility.

D. The maximum number of employees on duty in the housing unit shall be counted in determining the required number of toilets and hand basins when a separate bathroom is not provided for staff.

**6VAC35-71-360. Sleeping areas.**

A. Generally, male and female residents shall have separate sleeping areas; however, nothing in this chapter shall preclude a facility from making a placement decision based upon a case-by-case analysis of whether a placement would ensure a resident's health and safety or present management or security problems, as required in 6VAC35-71-555.

B. Beds in all facilities or sleeping areas established, constructed, or structurally modified after July 1, 1981, shall be at least three feet apart at the head, foot, and sides; and bunk beds in such facilities shall be at least five feet apart at the head, foot, and sides. Facilities or sleeping areas established, constructed, or structurally modified before July 1, 1981, shall have a bed placement plan approved by the director or the director's designee.

C. Mattresses shall be fire retardant as evidenced by documentation from the manufacturer, except in buildings equipped with an automated sprinkler system, as required by the Virginia Uniform Statewide Building Code (13VAC5-63).

D. Sleeping quarters established, constructed, or structurally modified after July 1, 1981, shall have:

1. At least 80 square feet of floor area in a bedroom accommodating one person;
2. At least 60 square feet of floor area per person in rooms accommodating two or more persons; and
3. Ceilings with a primary height of at least 7-1/2 feet exclusive of protrusions, duct work, or dormers.

**6VAC35-71-400. Smoking prohibition.**

Residents shall be prohibited from using, possessing, purchasing, or distributing (i) tobacco products, nicotine vapor products, or alternative nicotine products as defined in § 18.2-371.2 of the Code of Virginia; (ii) cannabidiol oil or THC-A as defined in § 54.1-3408.3 of the Code of Virginia; or (iii) any substance that is prohibited by state or federal law. These products may not be used by staff, contractors, interns, or visitors in any area on the premises.

**6VAC35-71-410. Space utilization.**

A. The JCC administration shall provide for the following:

1. An indoor recreation area with appropriate recreation materials;
2. An outdoor recreation area with appropriate recreation materials;
3. Kitchen facilities and equipment for the preparation and service of meals;
4. A dining area equipped with tables and seating;
5. Space and equipment for laundry, if laundry is done on site;
6. Storage space for items such as first aid equipment, household supplies, recreational equipment, and other materials;
7. A designated visiting area that permits informal communication and opportunities for limited, monitored physical contact between residents and visitors;
8. Space for administrative activities, including confidential conversations and the storage of records and materials; and
9. A central medical area with medical examination rooms or other spaces designated to ensure privacy of care and equipped in consultation with the health authority.

B. If a school program is operated at the facility, school classrooms shall be designed in consultation with appropriate education authorities to comply with applicable state and local requirements.

C. Spaces or areas may be utilized for multiple purposes but shall be in functional condition for the designated purpose.

**6VAC35-71-420. Kitchen operation and safety.**

A. The facility administration shall have a food service operation maintenance plan that addresses the following: (i) food sanitation and safety procedures; (ii) the inspection of food service, preparation, and dining areas and equipment; (iii) a requirement for sanitary and temperature-controlled storage facilities for food; and (iv) the monitoring of refrigerator and water temperatures.

B. The facility administration shall have written procedures governing access to all areas where food or utensils are stored and the inventory and control of culinary equipment to which residents reasonably may be expected to have access.

C. Walk-in refrigerators and freezers shall be equipped to permit emergency exits.

D. Bleach or another sanitizing agent approved by the U.S. Environmental Protection Agency to destroy bacteria shall be used in laundering table and kitchen linens.

**6VAC35-71-430. Maintenance of the buildings and grounds.**

A. The interior and exterior of all buildings and grounds shall be safe, maintained, and reasonably free of clutter and rubbish. This requirement applies to all areas of the facility and to items within the facility, including (i) required locks, mechanical devices, indoor and outdoor equipment, and furnishings; and (ii) all areas where residents, staff, and visitors may reasonably be expected to have access.

B. All buildings shall be reasonably free of stale, musty, or foul odors.

C. Each facility shall have a written plan to control pests and vermin. Buildings shall be kept reasonably free of flies, roaches, rats, and other vermin. Conditions conducive to harboring or breeding insects, rodents, or other vermin shall be eliminated immediately. The facility administration shall document efforts to eliminate these conditions, as applicable.

**6VAC35-71-440. Animals on the premises.**

A. Animals maintained on the premises shall be:

1. Kept a reasonable distance from eating and food preparation areas, as well as a safe distance from water supplies;
2. Tested, inoculated, and licensed as required by law; and
3. Provided with clean sleeping areas and adequate food and water.

B. The premises shall be kept reasonably free of stray domestic animals.

**6VAC35-71-450. Fire prevention plan.**

The JCC administration shall develop and implement a fire prevention plan that provides for an adequate fire protection service.

**6VAC35-71-460. Emergency and evacuation procedures.**

A. Each JCC shall have a written emergency preparedness and response plan, which shall address:

1. Documentation of contact with the local emergency coordinator to determine (i) local disaster risks; (ii) communitywide plans to address different disasters and emergency situations; and (iii) assistance, if any, that the local emergency management office will provide to the facility in an emergency;
2. Analysis of the facility's capabilities and potential hazards, including natural disasters, severe weather, fire, flooding, workplace violence or terrorism, missing persons, severe injuries, or other emergencies that would disrupt the normal course of service delivery;
3. Written emergency management procedures outlining specific responsibilities for (i) provision of administrative direction and management of response activities; (ii) coordination of logistics during the emergency; (iii) communications; (iv) life safety of residents, employees, contractors, interns, volunteers, and visitors; (v) property protection; (vi) community outreach; and (vii) recovery and restoration;
4. Written emergency response procedures for (i) assessing the situation; (ii) protecting residents, employees, contractors, interns, volunteers, visitors, equipment, and vital records; and (iii) restoring services shall address:
  - a. Communicating with employees, contractors, and community responders;
  - b. Warning and notifying residents;
  - c. Providing emergency access to secure areas and opening locked doors;
  - d. Requiring fire and emergency keys that are instantly identifiable by sight and touch;
  - e. Conducting evacuations to emergency shelters or alternative sites and accounting for all residents;

- f. Relocating residents, if necessary;
- g. Notifying parents and legal guardians, as applicable and appropriate;
- h. Alerting emergency personnel and sounding alarms;
- i. Locating and shutting off utilities when necessary; and
- j. Providing for a planned, personalized means of effective evacuation for individuals who use wheelchairs, crutches, canes, or require other special accommodations.

5. Supporting documents that would be needed in an emergency, including emergency call lists, building and site maps necessary to shut off utilities, designated evacuation routes, and lists of major resources such as local emergency shelters; and

6. A schedule for testing the implementation of the plan and conducting emergency preparedness drills.

B. All employees shall be trained to ensure they are prepared to implement the emergency preparedness plan in the event of an emergency. The training shall be conducted in accordance with 6VAC35-71-160 and 6VAC35-71-170 and shall outline the employees' responsibilities for:

- 1. Alerting emergency personnel and sounding alarms;
- 2. Implementing evacuation procedures, including evacuation of individuals who require special accommodations;
- 3. Using, maintaining, and operating emergency equipment;
- 4. Accessing emergency information for residents [REDACTED] including medical information; and
- 5. Utilizing community support services.

C. Contractors, volunteers, and interns shall be oriented in their responsibilities in implementing the evacuation plan in the event of an emergency. Orientation shall be in accordance with the requirements of 6VAC35-71-150, 6VAC35-71-160, and 6VAC35-71-240.

D. The JCC administration shall document the review of the emergency preparedness plan annually and make necessary revisions. The revisions shall be communicated to employees, contractors, volunteers, interns, and residents and shall be incorporated into (i) training for employees, contractors, interns, and volunteers; and (ii) orientation of residents to services.

E. If a disaster, fire, emergency, or any other condition that may jeopardize the health, safety and welfare of residents occurs, facility administration shall take appropriate action to protect the health, safety, and welfare of the residents and to remedy the condition as soon as possible.

F. If a disaster, fire, emergency, or other condition that may jeopardize the health, safety, and welfare of residents occurs, facility staff first shall respond and stabilize the disaster or emergency. Once stabilized, facility staff shall report the disaster or emergency and the conditions at the facility to (i) the parents or legal guardians of all residents, (ii) the director or the director's designee, and (iii) the applicable court service units in accordance with 6VAC35-71-60. A report also shall be made to the regulatory authority within the same timeframe.

G. Floor plans showing primary and secondary emergency exits shall be posted on each floor in locations where they are easily visible to employees and residents.

H. The responsibilities of the residents in implementing the emergency and evacuation procedures shall be communicated to all residents within seven days following admission or within seven days of a substantive change in the procedures.

I. The facility administration shall conduct at least one evacuation drill to simulate the facility's evacuation procedures each month in each building occupied by residents. During any three consecutive calendar months, at least one evacuation drill shall be conducted during each shift.

J. A record shall be maintained for each evacuation drill and shall include the following:

- 1. The buildings in which the drill was conducted;



2. The date and time of the drill;
3. The amount of time taken to evacuate the buildings;
4. The specific problems encountered, if applicable;
5. The staff tasks completed, including head counts and practice in notifying emergency authorities; and
6. The name of the staff members responsible for conducting and documenting the drill and preparing the record.

K. The JCC administration shall designate at least one employee who shall ensure that all requirements regarding the emergency preparedness and response plan and the evacuation drill program are met.

**6VAC35-71-470. Security procedures.**

A JCC shall have written security procedures in place related to the following:

1. Post orders or shift duties for each direct care and security post;
2. Population count;
3. A control center that integrates all external and internal security functions and communications, is secured from residents' access, and is staffed 24 hours a day;
4. Control of the perimeter;
5. Actions to be taken regarding any escapes or absences without permission;
6. Searches of the buildings, premises, and persons; and
7. The control, detection, and disposition of contraband.

**6VAC35-71-480. Searches of residents.**

A. A JCC may conduct a search of a resident only for the purposes of maintaining facility security and controlling contraband while, to the greatest extent possible, protecting the resident's dignity.

B. Staff in the JCC shall adhere to the following requirements when conducting searches of residents, including patdowns and frisk searches, strip searches, and body cavity searches:

1. Searches shall be conducted only by personnel who have received the required training and are authorized to conduct searches.
2. The resident shall not be touched any more than is necessary to conduct the search.
3. Facility staff shall not search or physically examine a transgender or intersex resident solely for the purpose of determining the resident's genital status.

C. Strip searches and visual inspections of the vagina and anal cavity areas shall be conducted with a staff witness in an area that ensures privacy.

D. Except in exigent circumstances creating a potential threat to the health of a resident, if it is determined that a manual or instrumental search of the anal cavity or vagina is necessary, the resident shall be transported to a local medical facility. In exigent circumstances creating a potential threat to the resident's health, manual or instrumental searches of the anal cavity or vagina shall be conducted by a qualified medical professional.

**6VAC35-71-490. Communications systems.**

A. There shall be at least one continuously operable, nonpay telephone accessible to staff in each building in which residents sleep or participate in programs.

B. There shall be a means of communicating between the control center and housing units.

C. The facility shall be able to provide communications in an emergency.

**6VAC35-71-500. Emergency telephone numbers.**

A. There shall be an emergency telephone number where a staff person may be contacted 24 hours per day and seven days per week.

B. The emergency telephone number shall be provided to residents and the adults responsible for their care when a resident is away from the facility and not under the supervision of direct care employees, security employees, or law-enforcement officials.

**6VAC35-71-510. Weapons.**

No firearms or other weapons shall be permitted on JCC premises or during JCC-related activities unless:

1. The weapon belongs to a law-enforcement officer and is (i) secured in a locked cabinet, (ii) secured in the trunk of the officer's vehicle, or (iii) present on the premises in response to a request for law-enforcement intervention in an emergency; or
2. The director or the director's designee authorizes the weapon to be brought on the premises.

**6VAC35-71-520. Equipment inventory.**

Facility staff shall have written procedures in place governing the inventory and control of all of the facility's security, maintenance, recreational, and medical equipment to which residents reasonably may be expected to have access.

**6VAC35-71-530. Power equipment.**

The JCC administration shall have written safety rules in place for use and maintenance of power equipment.

**6VAC35-71-540. Transportation.**

A. The JCC administration shall have transportation available or make the necessary arrangements for routine and emergency transportation of residents.

B. Written procedures shall require that facility staff whose duties involve transporting residents offsite do the following:

1. Maintain a valid driver's license and report to the superintendent or the superintendent's designee any change in the individual's driver's license status, including any suspensions, restrictions, or revocations; and
2. Complete all related training.

C. Except when residents are transferred by non-JCC personnel as authorized in subsection D of this section, residents shall be supervised by security employees or direct care employees during routine and emergency vehicle transportation.

D. If a person or entity other than personnel in the juvenile correctional center assumes custody of the resident for purposes of transportation, staff shall:

1. Provide the person or entity with a written document that identifies any pertinent information known to the facility concerning the resident's immediate medical needs or mental health condition that reasonably could be considered necessary for the resident's safe transportation and supervision, including the resident's recent suicidal ideations or suicide attempts. Any such information shall be provided in a manner that protects the confidentiality of the information in accordance with § 16.1-300 of the Code of Virginia and applicable rules and regulations regarding confidentiality of juvenile records.
2. Provide the individual transporting the resident with any medication the resident may be required to take during transport or while absent from the facility.

**6VAC35-71-545. Lockdowns.**

A JCC may impose a lockdown only in accordance with the following requirements:

1. With the exception of a lockdown to respond to an emergency, a lockdown may not be imposed until the superintendent or the superintendent's designee provides approval;
2. If an emergency necessitates a lockdown, the superintendent shall be notified as soon as practicable;
3. The facility shall have written procedures in place for notifying administrators above the level of superintendent of all lockdowns except lockdowns for routine contraband searches;
4. If the lockdown extends beyond 72 hours, the lockdown and the steps being planned or taken to resolve the situation shall be reported immediately to the administrator who is two levels above the superintendent in the department's reporting chain-of-command;
5. Whenever residents are confined to a locked room as a result of a lockdown, the staff shall:
  - a. Check each locked-down resident visually at least every 15 minutes, and more frequently if necessitated by the circumstances;
  - b. Ensure that each resident has a means of immediate communication with staff, either verbally or electronically, throughout the duration of the confinement period;
  - c. Ensure that each resident is afforded the opportunity for at least one hour of large muscle exercise outside of the locked room every calendar day unless the resident displays behavior that is threatening or presents an imminent danger to himself or others, or unless the circumstances that required the lockdown justify an exception.
  - d. Ensure that the superintendent or the superintendent's designee makes personal contact with each resident who is confined every calendar day; and
  - e. In response to a resident who exhibits self-injurious behavior after being in room confinement, (i) take appropriate action in response to the behavior, (ii) consult with a mental health clinician immediately thereafter and document the consultation, and (iii) monitor the resident in accordance with established protocols, including constant supervision, if appropriate.

**6VAC35-71-550. Prohibited actions.**

- A. Residents shall not be subjected to the following actions:
  1. Discrimination in violation of the Constitution of the United States, the Constitution of the Commonwealth of Virginia, [redacted] and state and federal statutes and regulations;
  2. Deprivation of drinking water or food necessary to meet a resident's daily nutritional needs, except as ordered by a licensed physician or licensed medical provider for a legitimate medical or dental purpose and documented in the resident's medical record;
  3. Denial of contacts and visits with the resident's attorney, probation or parole officer, the JCC staff assigned to conduct the resident's due process hearings or resolve the resident's grievance or complaint, the regulatory authority, a supervising agency representative, or representatives of other agencies or groups as required by applicable statutes or regulations;
  4. Any action that is humiliating, degrading, abusive, or unreasonably impinges upon the resident's rights, including physical abuse, sexual abuse, or sexual harassment, nor shall the resident be subject to retaliation for reporting these actions;
  5. Corporal punishment, which is administered through the intentional infliction of pain or discomfort to the body through actions such as (i) striking or hitting with any part of the body or with an implement; (ii) pinching, pulling, or shaking; or (iii) similar actions that normally inflict pain or discomfort;
  6. Subjection to unsanitary living conditions;

7. Deprivation of opportunities for bathing or access to toilet facilities, except as ordered by a licensed health care professional for a legitimate medical purpose and documented in the resident's medical record;
8. Denial of health care;
9. Denial of appropriate services, programs, activities, and treatment;
10. Application of aversive stimuli, except as permitted pursuant to other applicable state regulations;
11. Administration of laxatives, enemas, or emetics, except as ordered by a licensed physician, licensed medical provider, or poison control center for a legitimate medical purpose and documented in the resident's medical record;
12. Deprivation of opportunities for sleep or rest, except as ordered by a licensed health care professional for a legitimate medical or dental purpose and documented in the resident's medical record;
13. Use of pharmacological restraints; and
14. Other constitutionally prohibited actions.

B. Employees shall be trained on the prohibited actions as provided in 6VAC35-71-160 and 6VAC35-71-170, as applicable.

**6VAC35-71-555. Vulnerable population.**

A. The facility administration shall implement a procedure for assessing whether a resident is a member of a vulnerable population. Factors including the resident's height and size, English proficiency, sexual orientation, history of being bullied, or history of self-injurious behavior may be considered in determining whether a resident is a member of a vulnerable population. The resident's views with respect to his safety shall be given serious consideration.

B. If the assessment determines a resident is a member of a vulnerable population, the facility administration shall implement any identified additional precautions such as heightened need for supervision, additional safety precautions, or separation from certain other residents. The facility administration shall consider on a case-by-case basis whether a placement would ensure the resident's health and safety and whether the placement would present management or security problems.

C. Lesbian, gay, bisexual, transgender, or intersex residents shall not be placed in particular housing, bed, or other assignments solely on the basis of this identification or status, nor shall any facility consider lesbian, gay, bisexual, transgender, or intersex identification or status as an indicator of a likelihood of being sexually abusive.

**6VAC35-71-560. Resident mail.**

A. A resident's incoming or outgoing mail may be delayed or withheld only in accordance with this section, as permitted by other applicable regulations, or by order of a court.

B. Staff may open and inspect residents' incoming and outgoing nonlegal mail for contraband. When based on legitimate interests of facility order and security, nonlegal mail may be censored or rejected. The resident shall be notified when incoming or outgoing letters are withheld or redacted, as appropriate.

C. In the presence of the resident recipient, staff may open to inspect for contraband but shall not read incoming legal mail except as authorized in subsection D of this section.

D. Staff may not read incoming or outgoing mail unless (i) permission has been obtained from a court or (ii) the superintendent or the superintendent's designee has determined that there is a reasonable belief that the security of [a the ] facility is threatened.

E. Except as otherwise provided, incoming and outgoing letters shall be held for no more than 24 hours, and packages shall be held for no more than 48 hours, excluding weekends and holidays.

F. Upon request, each resident shall be given postage and writing materials for all legal mail and for at least two other letters per week.

G. Residents shall be permitted to correspond at their own expense with any person or organization provided this correspondence does not pose a threat to facility order and security and is not being used to violate or to conspire to violate the law.

H. First class letters and packages received for residents who have been transferred or released shall be forwarded to the resident's last known address.

I. Written procedures governing correspondence of residents shall be made available to all employees and residents and updated as needed.

**6VAC35-71-570. Telephone calls.**

A. Residents shall be permitted to call family members or natural supports. Facility staff shall have flexibility in scheduling these calls based on facility security needs and scheduled activities.

B. Resident telephone calls with their legal representatives shall comply with 6VAC35-71-590.

C. The department shall have written procedures in place that address resident contacts.

**6VAC35-71-580. Resident contacts and visitation.**

A. In order to ensure that residents maintain strong family and community relationships, a resident's contacts and visits with immediate family members and natural supports may not be restricted solely for punitive purposes. Any limitation shall be documented and based on (i) the need for facility security and order and (ii) the behavior of individual residents and visitors.

B. Copies of the visitation procedures shall be mailed, either electronically or via first class mail, to the resident's parents or legal guardians, as applicable and appropriate, no later than the close of the next business day after the resident arrives at the JCC, unless a copy already has been provided to them.

C. Resident visitation at the home of an employee, volunteer, intern, or contractor is prohibited.

**6VAC35-71-590. Contact with attorneys, courts, and law enforcement.**

A. Residents shall have uncensored, confidential contact with their legal representative in writing, as required by 6VAC35-71-560, by telephone, and in person. Reasonable limits may be placed on these contacts as necessary to protect the security and order of the facility.

B. Residents shall not be denied access to the courts.

C. Residents shall not be required to submit to questioning by law enforcement, though they may do so voluntarily.

1. A resident must provide written consent before any contact with law enforcement. Written procedures shall be implemented for obtaining the resident's consent.

2. No employee may coerce a resident's decision to consent to have contact with law enforcement.

**6VAC35-71-610. Showers.**

Residents shall have the opportunity to shower daily except (i) for the purpose of maintaining facility security or for the special management of maladaptive behavior if approved by the superintendent or designee or a mental health clinician or (ii) when there is a documented emergency.

**6VAC35-71-620. Resident privacy.**

Residents shall be provided a level of privacy from routine sight supervision by staff members of the opposite sex while bathing, dressing, or conducting toileting activities except (i) in exceptional security circumstances or (ii) if constant supervision is necessary to protect the resident due to mental health issues. This section does not apply to medical personnel performing medical procedures or to staff providing assistance to residents whose physical or mental disabilities dictate the need for assistance with these activities as justified in the resident's medical record.

**6VAC35-71-630. Nutrition.**

A. Each resident, except as provided in subsection B of this section, shall be provided a daily diet that (i) consists of at least three nutritionally balanced meals, of which two are hot meals (except in emergencies), and an evening snack; (ii) includes an adequate variety and quantity of food for the age of the resident; and (iii) meets the nutritional requirements of all applicable federal dietary requirements, such as U.S. Department of Agriculture (USDA).

B. Special diets or alternative dietary schedules shall be provided in the following circumstances: (i) when prescribed by a licensed health care professional; (ii) when necessary to observe the established religious dietary practices of the resident; or (iii) when food or culinary equipment has been used inappropriately, resulting in a threat to facility security and the special diet or alternative dietary schedule is approved by the superintendent, the superintendent's designee, or a mental health clinician. If a facility provides special diets or alternative dietary schedules, the meals shall meet the minimum nutritional requirements of all applicable federal dietary requirements, such as the USDA, and any required approval shall be documented.

C. Menus of actual meals served shall be kept on file in accordance with all applicable federal requirements.

D. Staff who eat in the presence of the residents shall be served the same meals as the residents unless a licensed health care professional has prescribed a special diet for the staff or residents or unless the staff or residents are observing established religious dietary practices.

E. The JCC administration shall not allow more than 14 hours to pass between the evening meal and breakfast the following day.

F. The JCC administration shall ensure that food is available to residents who for documented medical or religious reasons need to eat breakfast before the 14 hours have expired.

**6VAC35-71-650. Religion.**

A. Residents shall not be required or coerced to participate in or unreasonably denied participation in religious activities.

B. Residents shall be informed of their rights relating to religious participation during orientation as provided in 6VAC35-71-680.

**6VAC35-71-660. Recreation.**

A. The JCC administration shall implement a recreational program plan developed and supervised by a person trained in recreation or a related field. The plan shall include:

1. Opportunities for individual and group activities;
2. Opportunity for large muscle exercise daily;
3. Scheduling so that activities do not conflict with meals, religious services, or educational programs; and
4. Regularly scheduled indoor and outdoor recreational activities that are structured to develop skills. Outdoor recreation shall be available whenever practicable in accordance with the facility's recreation plan. Staff shall document any adverse weather conditions, threat to facility security, or other circumstances preventing outdoor recreation.

B. Each recreational program plan shall (i) address the means by which residents will be medically assessed for any physical limitations or necessary restrictions on physical activities and (ii) provide for the supervision of and safeguards for residents, including when participating in water-related and swimming activities.

**6VAC35-71-670. Resident funds.**

A resident's personal funds, including any per diem or earnings, shall be used only for the following: (i) the resident's benefit; (ii) payment of fines, restitution, costs, or support ordered by a court or administrative judge; or (iii) payment of restitution for damaged property or personal injury resulting from an institutional incident, as determined in accordance with the process established in 6VAC35-71-1110.

**6VAC35-71-680. Admission and orientation.**

A. Written procedures governing the admission and orientation of residents to the JCC shall provide for:

1. Verification of legal authority for placement;
2. Search of the resident and the resident's possessions, including inventory and storage or disposition of property, as appropriate and required by 6VAC35-71-690;
3. Health screening of the resident as required by 6VAC35-71-940;
4. Notice to the parent or legal guardian of the resident's admission;
5. Provision to the parent or legal guardian of information on (i) visitation, (ii) how to request information, and (iii) how to register concerns and complaints with the facility;
6. Interview with the resident to answer questions and obtain information;
7. Explanation to the resident of program services and schedules; and
8. Assignment of the resident to a housing unit and sleeping area or room.

B. The resident shall receive an orientation to the following:

1. The behavior management program as required by 6VAC35-71-745. During the orientation, residents shall be given written information describing rules of conduct, the sanctions for rule violations, and the disciplinary process. Staff shall have the discretion to provide residents who are noncompliant or are displaying maladaptive behavior at least one opportunity to view the written information instead of providing the resident with a copy. The written information shall be explained to the resident and documented by the dated signature of the resident and staff. If staff exercise the discretion not to provide the resident with a written copy, staff must give the resident a copy of the written information once the resident demonstrates the ability to comply with the rules of the facility.
2. The grievance procedure as required by 6VAC35-71-80.
3. The disciplinary process as required by 6VAC35-71-1110.
4. The resident's responsibilities in implementing the emergency procedures as required by 6VAC35-71-460.
5. The resident's rights, including the prohibited actions provided for in 6VAC35-71-550.
6. The resident's rights relating to religious participation as required by 6VAC35-71-650.

C. The facility administration shall ensure that all information provided to the resident pursuant to this section is explained in an age-appropriate or developmentally appropriate manner and is available in a format that is accessible to all residents, including those who are deaf, visually impaired, or otherwise disabled or who have limited reading skills or limited English proficiency.

D. The facility administration shall maintain documentation that the requirements of this section have been satisfied.

**6VAC35-71-690. Resident personal possessions.**

A. The JCC administration shall inventory each resident's personal possessions upon admission and document the information in the resident's case records.

B. The department shall have written procedures for the disposition or storage of items that the resident is not permitted to possess in the facility. At a minimum, the procedures shall require that if the items are nonperishable property that the resident may otherwise legally possess, staff shall (i) securely store the property and return it to the resident upon release or (ii) make reasonable, documented efforts to return the property to the resident or the resident's parent or legal guardian.

C. Personal property that remains unclaimed six months following a resident's discharge from DJJ and after a documented attempt to return the property may be disposed of in accordance with § 66-17 of the Code of Virginia .

**6VAC35-71-700. Classification plan.**

A. The JCC administration shall utilize an objective classification system for determining a resident's level of risk, needs, and most appropriate services and for assigning the resident to a housing unit based on the resident's needs and existing resources.

B. Residents shall be placed according to their classification levels. These classifications shall be reviewed as necessary in light of (i) the facility's safety and security and (ii) the resident's needs and progress.

**6VAC35-71-710. Resident transfer and reassignment between and within JCCs.**

A. When a resident is transferred between JCCs, the following shall occur:

1. The resident's case records and health care records shall accompany the resident to the receiving facility; and
2. The resident's parents or legal guardian, if applicable and appropriate, and the court service unit or supervising agency shall be notified within 24 hours of the transfer.

B. If a resident is reassigned to a more restrictive unit or program within a JCC or transferred between JCCs, the JCC administration shall provide due process safeguards for the resident prior to reassignment or transfer. The due process safeguards shall be documented in writing and provided to the resident, both during orientation and when facility staff determine that reassignment or transfer is necessary.

C. In the case of emergency transfers, the safeguards and notifications shall be instituted as soon as practicable after transfer.

**6VAC35-71-720. Discharge from direct care.**

A. The case record of each resident s committed to the department and discharged from direct care shall contain the following:

1. Documentation that the discharge was discussed with the parent or legal guardian, if applicable and appropriate, the court service unit, and the resident; and
2. As soon as possible, but no later than 30 days after discharge, a comprehensive discharge summary, which also shall be sent to the persons or agency that made the placement. The discharge summary shall review:
  - a. Services provided to the resident;
  - b. The resident's progress toward meeting individual service plan objectives;
  - c. The resident's continuing needs and recommendations for further services and care, if any;
  - d. The name of the person to whom the resident was discharged;
  - e. Dates of admission and discharge; and



f. The date the discharge summary was prepared and the identification of the person preparing it.

B. In addition to the requirements in subsection A of this section, the case record of each resident serving a determinate commitment or discharged pursuant to an order of a court also shall contain a copy of the court order.

C. As appropriate and applicable, information concerning current medications, need for continuing therapeutic interventions, educational status, and other items important to the resident's continuing care shall be provided to the legal guardian or legally authorized representative.

D. Upon discharge, the (i) date of discharge and (ii) the name of the person to whom the resident was discharged, if applicable, shall be documented in the case record.

**6VAC35-71-735. Therapeutic communities in housing units.**

A. The JCC administration shall ensure that each housing unit functions as a therapeutic community that, at a minimum, includes the following components:

1. Designated staff assigned to one housing unit and, to the extent practicable, continued assignment to that unit for the therapeutic benefit of residents;
2. Continued resident assignment to the same housing unit throughout the duration of commitment, unless the continued assignment would threaten facility safety or security or the resident's needs or progress;
3. Daily, structured therapeutic activities provided in accordance with 6VAC35-71-740; and
4. Direction, guidance, and monitoring provided by an interdisciplinary team consisting of designated JCC staff and representatives from the department's mental health, education, and medical units.

B. The department shall establish written procedures governing therapeutic communities in housing units that include these components.

**6VAC35-71-740. Structured programming.**

A. The facility administration shall implement a comprehensive, planned, and structured daily routine designed to:

1. Meet the residents' physical and emotional needs;
2. Provide protection, guidance, and supervision;
3. Ensure the delivery of program services; and
4. Meet the objectives of the resident's individual service plan.

B. Residents shall be provided the opportunity to participate in programming, as applicable, upon admission to the facility.

**6VAC35-71-745. Behavior management program.**

A. The JCC administration shall implement a behavior management program approved by the director or the director's designee.

B. Written procedures governing this program shall:

1. List the behavioral expectations for the resident;
2. List and explain techniques that are available or used to manage behavior, including incidents of noncompliance;
3. Specify the processes for implementing the program; and
4. Identify the means of documenting and monitoring the program's implementation.

C. If substantive revisions are made to the behavior management program, residents and direct care employees shall be notified of these revisions in writing prior to implementation.

**6VAC35-71-747. Behavior support contract.**

A. If a resident exhibits a pattern of behavior indicating a need for behavioral support beyond the support provided in the department's behavior management program, a written behavior support contract shall be developed to assist the resident in self-managing these behaviors.

B. The facility shall have written procedures in place that address the circumstances under which the contract will be utilized and the means of documenting and monitoring the contract's implementation.

C. Staff regularly assigned to work with a resident in a housing unit shall review and be prepared to implement the resident's behavior support contract.

**6VAC35-71-750. Communication with court service unit staff.**

A. A resident's probation or parole officer shall be provided with the contact information for an individual at the facility to whom inquiries on assigned resident cases may be addressed.

B. The resident's probation or parole officer shall be invited to participate in any scheduled classification and staffing team and treatment team meetings.

**6VAC35-71-760. Communication with parents.**

A. Each resident's parent or legal guardian, as appropriate and applicable, shall be provided with the contact information for an individual at the facility to whom inquiries regarding the resident may be addressed.

B. The resident's parent or legal guardian, as appropriate and applicable, shall be provided written notice of and the opportunity to participate in scheduled classification and staffing team and treatment team meetings.

**6VAC35-71-765. Family engagement.**

To the extent practicable the JCC administration shall adhere to the following in order to ensure the inclusion and involvement of immediate family members and natural supports during a resident's commitment to the department:

1. Permit the resident telephone calls to immediate family members or natural supports in accordance with 6VAC35-71-570[)];
2. Ensure events and activities in which family members will be invited to participate;
3. Ensure that a designated visiting area is available that is conducive to family visits in accordance with 6VAC35-71-410; and
4. Maximize involvement of immediate family members and natural supports in the resident treatment process.

**6VAC35-71-770. Case management services.**

A. The facility administration shall have written procedures in place governing case management services that shall address:

1. The resident's adjustment to the facility, group living, and separation from the resident's family;
2. Supportive counseling, as needed;
3. Transition and community reentry planning and preparation; and
4. Communication with (i) staff at the facility; (ii) the parents or legal guardians, as appropriate and applicable; (iii) the court service unit; and (iv) community resources, as needed.

B. The provision of case management services shall be documented in the case record.

#### **6VAC35-71-790. Individual service plans.**

A. An individual service plan shall be developed and placed in the resident's record within 30 days following arrival at the facility and implemented immediately thereafter.

B. Individual service plans shall describe in measurable terms the:

1. Strengths and needs of the resident;
2. Short-term and long-term goals, objectives, strategies, and timeframes for reaching those goals, and the individuals responsible for carrying out the service plan;
3. Projected family involvement;
4. Projected date for accomplishing each objective; and
5. Status of the projected release plan and estimated length of stay except that this requirement shall not apply to residents who are determinately committed to the department.

C. The resident and facility staff shall participate in the development of the individual service plan.

D. The supervising agency and resident's parents, legal guardian, or legally authorized representative, if appropriate and applicable, shall be given the opportunity to participate in the development of the resident's individual service plan.

E. The individual service plan shall include the date it was developed and the signature of the person who developed it.

F. Copies of the individual service plan shall be provided to the (i) resident; (ii) resident's parents or legal guardians, as appropriate and applicable; and (iii) placing agency.

G. The individual service plan shall be reviewed within 60 days of its development and within each 90-day period thereafter.

H. The individual service plan shall be updated annually and revised as necessary. Changes to the plan shall be made in writing. All participants shall receive copies of the revised plan.

#### **6VAC35-71-800. Quarterly reports.**

A. The resident's progress toward meeting individual service plan goals shall be reviewed, and a progress report shall be prepared within 60 days of the development of the individual service plan and within each 90-day period thereafter. The report shall review the status of the following:

1. Resident's progress toward meeting the plan's objectives;
2. Family's involvement;
3. Continuing needs of the resident;
4. Resident's progress towards discharge; and
5. Status of discharge planning.

B. Each quarterly progress report shall include the date it was developed and the signature of its author.

C. All quarterly progress reports shall be reviewed with the resident and distributed to the resident's parents, legal guardian, or legally authorized representative; the supervising agency; and appropriate facility staff.

#### **6VAC35-71-805. Suicide prevention.**

Written procedure shall require that (i) there is a suicide prevention and intervention program developed in consultation with a qualified medical professional or mental health clinician and (ii) all direct care employees, direct supervision employees, security employees, and employees providing medical services are trained and retrained in the implementation of the program, in accordance with 6VAC35-71-160 and 6VAC35-71-170, as applicable.

**6VAC35-71-810. Behavioral health services.**

Behavioral health services, if provided, shall be furnished by an individual (i) licensed by the Department of Health Professions or (ii) who is working under the supervision of a licensed clinician.

**6VAC35-71-815. Daily housing unit log.**

A. A daily housing unit log shall be maintained in each housing unit to inform staff of significant incidents or problems experienced by residents, including health and dental complaints and injuries.

B. Each entry in the daily housing unit log shall contain (i) the date of the entry, (ii) the name of the individual making the entry, and (iii) the time each entry is made.

C. If the daily housing unit log is electronic, all entries shall be made in accordance with subsection B of this section. The computer program shall possess the functionality to prevent previous entries from being overwritten.

**6VAC35-71-820. Staff supervision of residents.**

A. Direct care employees shall provide 24-hour awake supervision seven days a week.

B. No direct care employee shall be on duty more than six consecutive days without a rest day, except in an emergency.

C. Direct care employees shall be scheduled with an average of at least two rest days per week in any four-week period.

D. Direct care employees shall not be on duty more than 16 consecutive hours, except in an emergency.

E. There shall be at least one trained direct care employee on duty and actively supervising residents at all times in areas of the premises in which one or more residents are present.

F. Notwithstanding the requirement in subsection E of this section, an employee who meets the definition of a direct supervision employee and who satisfies the following additional requirements shall be authorized to be alone with a resident outside the active supervision of a direct care employee:

1. The direct supervision employee completes the training required by 6VAC35-71-160 C and satisfies any additional retraining requirements provided for in 6VAC35-71-170;
2. The employee completes agency-approved training for direct supervision employees on safety and security including training on the supervision of residents, verbal de-escalation techniques, personal protection techniques, and emergency intervention before being alone with residents outside of the active supervision of direct care employees;
3. The direct supervision employee passes an assessment demonstrating the ability to perform all physical requirements related to personal protection;
4. During any period in which the resident is not actively supervised by direct care employees, the direct supervision employee has the ability to communicate immediately with a direct care employee through a two-way radio or by other means ; and
5. The direct supervision employee notifies the direct care employee immediately before and immediately after meeting with the resident.

G. The facility administration shall have written procedures in place that address staff supervision of residents, including contingency plans for resident illnesses, emergencies, and off-campus activities. These procedures shall be based on the:

1. Needs of the population served;
2. Types of services offered;
3. Qualifications of staff on duty; and

4. Number of residents served.

H. The JCC administration may not permit an individual resident or group of residents to exercise control or authority over other residents except when practicing leadership skills as part of an approved program under the direct and immediate supervision of staff.

**6VAC35-71-830. Staffing pattern.**

A. During the hours that residents are scheduled to be awake, there shall be at least one direct care employee awake, on duty, and responsible for supervision of every eight residents, or portion thereof, wherever youth are present in the facility, as well as wherever residents are attending off-campus, facility-sponsored activities. Pursuant to 6VAC35-71-540, however, security employees shall be authorized to transport residents for routine or emergency purposes, such as for work release programs or in response to an injury, without the presence of direct care employees, provided the same staffing ratios are maintained as required in this subsection.

B. During the hours that residents are scheduled to sleep, there shall be at least one direct care employee awake, on duty, and responsible for supervision of every 16 residents, or portion thereof, wherever youth are present in the facility.

C. At least one direct care employee shall be on duty and responsible for the supervision of residents in each building or housing unit where residents are sleeping.

D. Notwithstanding the requirements in this section, residents may be supervised by security employees or direct care employees while assigned to or receiving health care services in the infirmary or nurse's station.

**6VAC35-71-840. Outside personnel.**

A. JCC staff shall supervise all situations in which outside personnel perform any kind of work in the immediate presence of residents.

B. Adults who are confined in a public or privately operated prison or a local jail shall not work in the immediate presence of any resident and shall be supervised in a manner that prohibits direct contact between or interaction among these individuals and residents.

**6VAC35-71-850. Facility work assignments.**

A. Work assignments, whether paid or unpaid, shall be in accordance with the age, health, and ability of the resident.

B. Work assignments shall not interfere with school programs, study periods, meals, or sleep.

**6VAC35-71-860. Agreements governing juvenile industries work programs.**

A. If the director enters into an agreement with a public or private entity for the operation of a work program pursuant to § 66-25.1 of the Code of Virginia, the agreement shall:

1. Comply with all applicable federal and state laws and regulations, including the Fair Labor Standards Act (29 USC § 201 et seq.), child labor laws, and workers' compensation insurance laws;
2. State the duration of the agreement and the criteria by which it may be extended or terminated;
3. Specify where residents will work and, if not at a JCC, the security arrangements at the work site; and
4. Summarize the educational and career and job-readiness benefits to residents.

B. The agreement shall address how residents will be hired and supervised, including:

1. The application and selection process;
2. The qualifications required of residents;
3. A requirement that there be a job description for each resident's position;

4. A requirement that there be an evaluation of each resident's job-related behaviors and attitudes, attendance, and quality of work; and
  5. Whether and how either party may terminate a resident's participation.
- C. The agreement shall address resident compensation including:
1. The manner by which and through what funding source residents are to be paid; and
  2. If applicable, whether any deductions shall be made from the resident's compensation for subsistence payments, restitution to victims, fines, or other similar deductions.
- D. As applicable, the agreement shall specify:
1. How records of the work program's finances, materials inventories, and residents' hours of work shall be maintained and that these records are subject to inspection by either party and by an independent auditor;
  2. How the project's goods or services will be marketed;
  3. How proceeds from the project will be collected and distributed to the parties; and
  4. Which party is responsible for providing:
    - a. The materials to be worked on;
    - b. The machinery to be used;
    - c. Technical training and supervision in the use of equipment or processes;
    - d. Utilities;
    - e. Transportation of raw materials and finished goods;
    - f. Disposal of waste generated in the work project; and
    - g. Safety and other special equipment and clothing.
- E. Prior to execution of the agreement, the director or the director's designee shall review the agreement for compliance with the requirements of this section. Except upon explicit authorization by the board, the director and the director's designee shall be prohibited from executing any agreement that is missing one or more elements enumerated in this section.

**6VAC35-71-880. Health authority.**

The JCC administration shall ensure that a licensed physician, health administrator, government authority, health care contractor, supervising registered nurse or head nurse, or health agency is designated to serve as the health authority responsible for organizing, planning, and monitoring the timely provision of appropriate health care services in that facility, including arranging for all levels of health care and ensuring the quality and accessibility of all medical, nursing, dental, and mental health care services, consistent with applicable statutes, prevailing community standards, and medical ethics. All medical, psychiatric, dental, and nursing matters are the province of the physician, psychiatrist, dentist, and nurse, respectively.

**6VAC35-71-890. Provision of health care services.**

A. Licensed health care professionals shall provide treatment pursuant to the laws and regulations governing the applicable practice within the Commonwealth.

B. Other health-trained personnel shall provide care within their level of training and certification and shall not administer health care services for which they are not qualified or specifically trained.

C. The facility administration shall retain documentation of the training received by health-trained personnel necessary to perform any designated health care services. Documentation of applicable, current licensure or certification shall constitute compliance with this section.

**6VAC35-71-900. Health care procedures.**

A. The department shall have written procedures in place for promptly:

1. Providing or arranging for the provision of medical and dental services for health problems identified at admission;
2. Providing or arranging for the provision of routine ongoing and follow-up medical and dental services after admission;
3. Providing emergency services for each resident who has reached 18 years of age and consents to these services or for any other resident, as provided by statute;
4. Providing emergency services and ongoing treatment, as appropriate and applicable, for any resident experiencing or showing signs of suicidal or homicidal thoughts, symptoms of mood or thought disorders, or other mental health problems; and
5. Ensuring that the required information in subsection B of this section is accessible and up to date.

B. The following written information concerning each resident shall be readily accessible to designated staff who may have to respond to a medical or dental emergency:

1. The name, address, and telephone number of the licensed physician or dentist to be contacted;
2. The name, address, and telephone number of the parent, legal guardian, or supervising agency, as applicable, to be notified; and
3. Information concerning:
  - a. Use of medication;
  - b. Allergies, including medication allergies;
  - c. Substance abuse and use; and
  - d. Significant past and present medical problems.

**6VAC35-71-930. Consent to and refusal of health care services.**

A. An appropriately trained medical professional shall advise the resident and parent or legal guardian, as applicable and appropriate, of (i) the material facts regarding the nature, consequences, and risks of the proposed treatment, examination, or procedure; and (ii) the alternatives to the proposed treatment, examination, or procedure.

B. Consent to health care services, as defined in 6VAC35-71-10, shall be provided in accordance with § 54.1-2969 of the Code of Virginia.

C. Residents may refuse, in writing, health care and treatment. This subsection does not apply to medication refusals that are governed by 6VAC35-71-1070.

D. When health care is rendered against the resident's will, it shall be in accordance with applicable laws and regulations.

**6VAC35-71-950. Tuberculosis screening.**

A. Within seven days of arrival at a JCC, each resident, excluding residents transferred from another JCC shall have undergone a screening or assessment for tuberculosis. The screening or assessment shall be no older than 30 days.

B. A screening or assessment for tuberculosis shall be completed annually on each resident.

C. The facility's screening practices shall be performed in a manner that is consistent with the current recommendations of the Virginia Department of Health, Division of Tuberculosis Prevention and Control and the federal Department of Health and Human Services Centers for Disease Control and Prevention for the detection, diagnosis, prophylaxis, and treatment of pulmonary tuberculosis.

**6VAC35-71-960. Medical examinations.**

A. Within five days of an initial intake at a JCC, all residents shall be medically examined by a licensed physician or a licensed health care practitioner operating under the supervision of a licensed physician to determine if the resident requires medical attention or poses a threat to the health of staff or other residents. This examination shall include the following:

1. Complete medical, immunization, and psychiatric history;
2. Recording of height, weight, temperature, pulse, respiration, and blood pressure;
3. Reports of medical laboratory testing and clinical testing results, as deemed medically appropriate, to determine both clinical status and freedom from communicable disease;
4. Physical examination, including gynecological assessment of females, when appropriate;
5. Documentation of immunizations administered; and
6. A plan of care, including initiation of treatment, as appropriate.

B. Residents transferring to the JCC from a direct care placement may submit the report of a medical examination conducted within the preceding 13 months at the discretion of the health care provider, upon review of the health screening at admission and prior medical examination report.

C. Each resident shall have an annual physical examination by or under the direction of a licensed physician.

**6VAC35-71-970. Dental examinations.**

A. Within 14 days of an initial intake at a JCC, all residents shall undergo a dental examination conducted by a dentist.

B. For residents transferring to the JCC from a direct care placement, the report of a dental examination within the preceding 13 months may be acceptable at the discretion of the dentist upon review of the dental examination documentation.

C. Each resident shall have an annual dental examination by a dentist and routine prophylactic treatment.

**6VAC35-71-990. Health screening for intrasystem transfers.**

A. All residents transferred between JCCs shall receive a medical, dental, and mental health screening by health-trained or qualified health care personnel upon arrival at the facility. The screening shall include:

1. A review of the resident's health care record;
2. Discussion with the resident on his medical status; and
3. Observation of the resident.

B. All findings shall be documented, and the resident shall be referred for follow-up care as appropriate.

**6VAC35-71-1000. Infectious or communicable diseases.**

A. A resident with a known communicable disease that can be transmitted person-to-person shall not be housed in the general population unless a licensed health care professional certifies that:

1. The facility is aware of the required treatment for the resident and the procedures to protect residents and staff; and
2. The facility is capable of providing care to the resident without jeopardizing residents and staff.



B. The facility administration shall have written procedures in place, approved by the health authority, that:

1. Address staff (i) interactions with residents with infectious, communicable, or contagious medical conditions; and (ii) use of standard precautions;
2. Require staff training in standard precautions, initially and annually thereafter as required in 6VAC35-71-160 and 6VAC35-71-170; and
3. Require staff to follow procedures for dealing with residents who have infectious or communicable diseases.

C. Employees providing medical services shall be trained in tuberculosis control practices as required in 6VAC35-71-160.

**6VAC35-71-1020. Resident health care records.**

A. Each resident's health care record shall include written documentation of (i) the initial physical examination, (ii) an annual physical examination by or under the direction of a licensed physician including any recommendation for follow-up care, and (iii) the provision of follow-up medical care recommended by the physician or indicated by the needs of the resident.

B. Each initial physical examination report shall include:

1. Information necessary to determine the health and immunization needs of the resident, including:
  - a. Immunizations administered at the time of the exam;
  - b. Hearing and vision exams conducted at a minimum on students in grades three, seven, and 10, pursuant to 8VAC20-250-10, unless any of the exceptions listed in § 22.1-273 of the Code of Virginia apply;
  - c. A statement of the resident's general physical condition and documentation of communicable disease status, including tuberculosis;
  - d. Current medical conditions or concerns;
  - e. Allergies, chronic conditions, and disabilities, if any;
  - f. Nutritional requirements, including special diets, if any;
  - g. Restrictions on physical activities, if any; and
  - h. Recommendations for further treatment, immunizations, and other examinations indicated.
2. Date of the physical examination; and
3. Signature of a licensed physician, the physician's designee, or an official of a local health department.

C. A resident's health care record shall include written documentation of (i) an annual examination by a licensed dentist and (ii) follow-up dental care recommended by the dentist based on the needs of the resident.

D. A resident's health care record shall include notations of health and dental complaints and injuries and a summary of the resident's symptoms and treatments given.

E. A resident's health care record shall include or document the facility's efforts to obtain treatment summaries of ongoing psychiatric or other mental health treatment and reports, if applicable.

F. Written procedures shall provide that each resident's active health care records shall be:

1. Kept confidential from unauthorized persons and in a file separate from the case record;
2. Readily accessible in case of emergency; and
3. Available to authorized staff consistent with applicable state and federal laws.

G. A resident's inactive health records shall be retained and disposed of as required by The Library of Virginia.

**6VAC35-71-1030. First aid kits.**

A. The JCC administration shall maintain first aid kits within the facility, as well as in facility vehicles used to transport residents. The facility shall have written procedures in place addressing the (i) contents; (ii) location; and (iii) method of restocking first aid kits.

B. The first aid kit shall be readily accessible for minor injuries and medical emergencies.

**6VAC35-71-1040. Sick call.**

A. All residents shall have the opportunity daily to request health care services.

B. Resident requests for health care services shall be documented, reviewed for the immediacy of need and the intervention required, and responded to daily by qualified medical staff. Residents shall be referred to a licensed physician consistent with established protocols and written or verbal orders issued by personnel authorized by law to give these orders.

C. The frequency and duration of sick call shall be sufficient to meet the health needs of the facility population.

**6VAC35-71-1050. Emergency medical services.**

A. The JCC administration shall ensure that residents have access to 24-hour emergency medical, mental health, and dental services for the care of an acute illness or unexpected health care need that cannot be deferred until the next scheduled sick call.

B. Procedures shall include arrangements for the following:

1. Utilization of 911 emergency services;
2. Emergency transportation of residents from the facility;
3. Security procedures for the immediate transfer of residents when appropriate;
4. Use of one or more designated hospital emergency departments or other appropriate facilities consistent with the operational procedures of local supporting rescue squads;
5. Response by on-call health care providers to include provisions for telephonic consultation, guidance, or direct response as clinically appropriate; and
6. Onsite first aid and crisis intervention.

C. Staff who respond to medical or dental emergencies shall do so within the scope of their training and certifications.

**6VAC35-71-1060. Hospitalization and other outside medical treatment of residents.**

A. If a resident needs hospital care or other medical treatment outside the facility:

1. The resident shall be transported in accordance with 6VAC35-71-540.
2. Staff shall escort and supervise residents when outside the facility for hospital care or other medical treatment until appropriate security arrangements are made. This subdivision shall not apply to the transfer of residents under the Psychiatric Inpatient Treatment of Minors Act (§ 16.1-335 et seq. of the Code of Virginia).
3. Any exceptions to subdivisions 1 and 2 of this subsection shall be made in accordance with the resident's medical condition.

B. The parent or legal guardian, as appropriate and applicable, shall be informed that the resident was taken outside the facility for health care in accordance with 6VAC35-71-60.

**6VAC35-71-1070. Medication.**

A. All medication shall be properly labeled consistent with the requirements of the Virginia Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia). Medication prescribed for individual use shall be so labeled.

B. All medication shall be securely locked, except when otherwise ordered by a licensed physician or licensed health care provider on an individual basis for keep-on-person or equivalent use.

C. All staff responsible for medication administration who do not hold a license issued by the Virginia Department of Health Professions authorizing the administration of medications shall successfully complete a medication training program approved by the Board of Nursing and receive required annual refresher training before they may administer medication.

D. Staff authorized to administer medication shall be informed of any known side effects of the medication and the symptoms of the effects.

E. A program of medication shall be initiated for a resident only when prescribed in writing by a person authorized by law to prescribe medication. This includes over-the-counter medication administered pursuant to a written or verbal order that is issued by personnel authorized by law to give these orders.

F. All medications shall be administered in accordance with the physician's or other prescriber's instructions and consistent with the requirements of § 54.1-3408 of the Code of Virginia and the Virginia Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia).

G. A medication administration record shall be maintained that identifies all medicines received by each resident and that includes the:

1. Date the medication was prescribed or most recently refilled;
2. Drug name;
3. Schedule for administration, to include notation of each dose administered or refused;
4. Strength;
5. Route;
6. Identity of the individual who administered the medication; and
7. Date the medication was discontinued or changed.

H. If a medication incident or an adverse drug reaction occurs, first aid shall be administered if indicated. As addressed in the physician's standing orders, staff shall promptly contact a poison control center, hospital, pharmacist, nurse, or physician and shall take actions as directed. If the situation is not addressed in standing orders, the attending physician shall be notified as soon as possible and the actions taken by staff shall be documented.

I. Written procedures shall require (i) the documentation of medication incidents, (ii) the review of medication incidents and reactions and implementation of necessary improvements, (iii) the storage of controlled substances, and (iv) the distribution of medication off campus. The procedures must be approved by the department's health services director. Documentation of this approval shall be retained.

J. Medication refusals and actions taken by staff shall be documented. The facility administration shall have procedures for managing these refusals that shall address:

1. The manner by which medication refusals are documented; and
2. Physician follow-up, as appropriate.

K. Disposal and storage of unused, expired, and discontinued medications and medical implements shall be in accordance with applicable laws and regulations.

L. The telephone number of a regional poison control center and other emergency numbers shall be posted on or next to each non-pay telephone that has access to an outside line in each building in which residents sleep or participate in programs.

M. Syringes and other medical implements used for injecting or cutting skin shall be locked and inventoried.

**6VAC35-71-1080. Release physical.**

Each resident shall be medically examined by a licensed physician or qualified health care practitioner within 30 days before release unless exempted by the responsible physician based on a full medical examination conducted within 90 days prior to release.

Article 1

Behavior, Discipline, and Room Confinement

**6VAC35-71-1110. Disciplinary process.**

A. The JCC administration shall ensure that, to the extent practicable, resident behavioral issues are addressed (i) in the context of a therapeutic community; (ii) in a manner that is consistent with the department's behavior management program; (iii) with consideration of the safety and security of the residents, staff, and others in the facility; and (iv) with the goal of rehabilitating [ rather than punishing ] the resident.

B. The JCC administration shall address (i) minor resident misbehavior through an informal process and (ii) instances when a resident is charged with a violation of the rules of conduct through the formal process outlined in subsections C, D, and E of this section.

C. If staff have reason to believe a resident has committed a rule violation that cannot be resolved through the facility's informal process, staff shall prepare a disciplinary report detailing the alleged rule violation. A written copy of the report shall be maintained by the housing unit staff. The resident shall be given a written copy of the report within 24 hours of the alleged rule violation; however, staff shall have the discretion to provide residents who are noncompliant or are displaying maladaptive behavior at least one opportunity to view the written report instead of providing a copy to the resident within 24 hours of the alleged rule violation. If staff exercise this option, a copy of the written report shall be provided to the resident once the resident demonstrates [ that the resident is able the ability ] to comply with the rules of the facility.

D. After the resident receives notice of an alleged rule violation, the resident shall be provided the opportunity to admit or deny the charge.

1. The resident may admit to the charge in writing to a superintendent or the superintendent's designee who was not involved in the incident, accept the sanction prescribed for the offense, and waive his right to any further review.
2. If the resident denies the charge or there is reason to believe that the resident's admission is coerced or that the resident does not understand the charge or the implication of the admission, the formal process for resolving the matter detailed in subsection E of this section shall be followed.

E. The formal process for resolving rule violations shall provide the following:

1. A disciplinary hearing to determine if substantial evidence exists to find the resident guilty of the rule violation shall be scheduled to occur no later than seven days after the rule violation, excluding weekends and holidays. The hearing may be postponed with the resident's consent.
2. The resident alleged to have committed the rule violation shall be given at least 24 hours' notice of the time and place of the hearing; however the hearing may be held within 24 hours with the resident's written consent.
3. The disciplinary hearing on the alleged rule violation shall:
  - a. Be conducted by an impartial and objective employee who shall determine (i) what evidence is admissible, (ii) the guilt or innocence of the resident, and (iii) if the resident is found guilty of the rule violation, what sanctions shall be imposed;

- b. Allow the resident to be present throughout the hearing, unless the resident waives the right to attend, his behavior justifies exclusion, or another resident's testimony must be given in confidence. The reason for the resident's absence or exclusion shall be documented;
  - c. Permit the resident to make a statement, present evidence, and request relevant witnesses on his behalf. The reasons for denying these requests shall be documented;
  - d. Permit the resident to request a staff member to represent him and question the witnesses. A staff member shall be appointed to help the resident when it is apparent that the resident is not capable of effectively collecting and presenting evidence on his own behalf; and
  - e. Be documented, with a record of the proceedings kept for three years.
4. A written record shall be made of the hearing disposition and supporting evidence. The hearing record shall be kept on file at the JCC.
  5. The resident shall be informed in writing of the disposition and, if found guilty of the rule violation, the reasons supporting the disposition and the right to appeal.
  6. If the resident is found guilty of the rule violation, a copy of the disciplinary report shall be placed in the resident's case record.
  7. The superintendent or the superintendent's designee shall review all disciplinary hearings and dispositions to ensure conformity with this chapter.
  8. The resident shall have the right to appeal the disciplinary hearing decision to the superintendent or the superintendent's designee within 24 hours of receiving the decision. The appeal shall be decided within 24 hours of its receipt, and the resident shall be notified in writing of the results within three days. These timeframes do not include weekends and holidays.

**6VAC35-71-1120. Timeout.**

- A. Facilities that use timeout shall have written procedures in place that provide the following:
  1. Timeout may be imposed only to address minor inappropriate or problematic behavior, such as talking back or failing to follow instructions;
  2. A resident shall be released from the timeout period when the resident demonstrates the ability to rejoin the group activity and comply with expectations that are in place; and
  3. Staff shall be authorized to determine the area in which a resident is placed for timeout on a case-by-case basis.
- B. A resident in timeout shall have a means of immediate communication with staff, either verbally or electronically.
- C. Staff shall monitor the resident in the timeout area at least every 15 minutes and more often depending on the nature of the resident's condition or behavior.
- D. Use of timeout and staff checks on the residents shall be documented.

**6VAC35-71-1130. (Repealed.)**

**6VAC35-71-1140. Room confinement.**

- A. Written procedures governing room confinement shall address the following issues:
  1. The actions or behaviors that may result in room confinement;
  2. The factors, such as age, developmental level, or disability, that should be considered prior to placing a resident in room confinement;
  3. The process for determining whether the resident's behavior threatens the safety and security of the resident, others, or the facility; the protocol for determining whether the

threat necessitating room confinement has abated; and the necessary steps for releasing the resident from room confinement after the threat has abated; and

4. The circumstances under which a debriefing with the resident should occur after the resident is released from confinement; the party that should conduct the debriefing; and the topics that should be discussed in the debriefing, including the cause and impact of the room confinement and the appropriate measures post-confinement to support positive resident outcomes.

B. If a resident is placed in room confinement, regardless of the duration of the confinement period or the rationale for the confinement, staff shall take measures to ensure the continued health and safety of the confined resident. At a minimum, the following measures shall be taken:

1. Staff shall monitor the resident visually at least every 15 minutes and more frequently if indicated by the circumstances. If a resident is placed on suicide precautions, staff shall conduct additional visual checks as determined by the mental health clinician.

2. A qualified medical health professional or mental health clinician shall visit with the resident at least once daily to assess the resident's medical and mental health status.

3. The resident shall have a means of immediate communication with staff, either verbally or electronically, throughout the duration of the confinement period.

4. The resident shall be afforded the opportunity for at least one hour of large muscle activity outside of the locked room every calendar day unless the resident displays behavior that is threatening, presents an imminent danger to himself or others, or other circumstances prevent the activity. The reasons for the exception shall be approved by the superintendent or the superintendent's designee and documented.

5. If the resident exhibits self-injurious behavior while in room confinement, staff shall (i) take appropriate action in response to the behavior to prevent further injury and to notify supervisory staff; (ii) consult with a mental health clinician immediately after the threat has abated and document the consultation; and (iii) adjust the frequency of face-to-face checks, as needed, never allowing more than 15 minutes to pass between checks.

C. [ A resident shall never be placed in room confinement as a sanction for noncompliance or as a means of punishment. ] Room confinement may be imposed only in response to the following situations:

1. If a resident's actions threaten facility security or the safety and security of residents, staff, or others in the facility; [ or ]

2. In order to prevent damage to real or personal property when the damage is committed with the intent of fashioning an object or device that may threaten facility security or the safety and security of residents, staff, or others in the facility[ ; or

3. If the resident admits in writing to a charge for or is found guilty of one of the following offenses in accordance with the disciplinary process in 6VAC35-71-1120 and is placed in disciplinary room confinement:

a. Escape, attempted escape, or Absent without Leave (AWOL);

b. Possession or use of an unauthorized item that has the potential to threaten the security of the facility;

c. Assault;

d. Fighting;

e. Sexual misconduct; or

f. Sexual abuse.

~~D.~~ A resident may not receive a sanction for disciplinary room confinement that exceeds five consecutive days.

~~D.~~ Room E. Except when a resident is placed in disciplinary room confinement in accordance with subdivision C 3, room ] confinement may be imposed only after less restrictive measures have been exhausted or cannot be employed successfully. Once the threat necessitating the confinement has abated, staff shall initiate the process for releasing the resident from confinement.

~~[ E. F. ]~~ If a resident is placed in room confinement, the resident shall be provided medical and mental health treatment, as applicable, education, daily nutrition in accordance with 6VAC35-71-630, and daily opportunities for bathing in accordance with 6VAC35-71-550.

~~[ F. G. ]~~ Within the first three hours of a resident's placement in room confinement, a designated staff member shall communicate with the resident to explain (i) the reasons for which the resident has been placed in confinement; (ii) the expectations governing behavior while in room confinement; and (iii) the steps necessary for the resident to be released from room confinement.

~~[ G. H. ]~~ A resident confined for six or fewer waking hours shall be afforded the opportunity at least once during the confinement period to communicate, wholly apart from the communications required in subsection F of this section, with a staff member regarding his status or the impact of the room confinement. A resident confined for a period that exceeds six waking hours shall be afforded an opportunity twice daily during waking hours for these communications.

~~[ H. I. ]~~ The superintendent or the superintendent's designee shall make personal contact with every resident who is placed in room confinement each day of confinement.

~~[ I. J. ]~~ If a resident is placed in room confinement for 24 hours, the superintendent or the superintendent's designee shall be notified and shall provide written approval for any continued room confinement beyond the 24-hour period.

~~[ J. K. ]~~ The facility superintendent's supervisor shall provide written approval before any room confinement may be extended beyond 48 hours.

~~[ K. L. ]~~ The administrator who is two levels above the superintendent in the department's reporting chain-of-command shall provide written approval before any room confinement may be extended beyond 72 hours. The administrator's approval shall be contingent upon receipt of a written report outlining the steps being taken or planned to resolve the situation. The facility administration shall convene a treatment team consisting of stakeholders involved in the resident's treatment to develop this plan. The department shall establish written procedures governing the development of this plan.

~~[ L. M. ]~~ Room confinement periods that exceed five days shall be subject to a case management review that adheres to the following requirements:

1. A facility-level review committee shall conduct a case management review at the committee's next scheduled meeting immediately following expiration of the five-day period.
2. If the facility-level case management review determines a need for the resident's continued confinement, the case shall be referred for a case management review at the division-level committee meeting, which shall occur no later than seven business days following the referral.
3. Upon completion of the initial reviews in subdivisions L 1 and L 2 of this section, any additional time that the resident remains in room confinement shall be subject to a recurring review by the facility-level review committee and the division-level review committee, as applicable, until either committee recommends the resident's release from room confinement. Upon written request of the division-level review committee, the

administrator who is two levels above the superintendent in the department's reporting chain-of-command shall be authorized to reduce the frequency of or waive the division-level reviews. The rationale for the waiver shall be documented and placed in the resident's record.

**6VAC35-71-1150. (Repealed.)**

**6VAC35-71-1160. (Repealed.)**

**6VAC35-71-1175. Physical restraints.**

A. Physical restraint shall be used as a last resort only after less restrictive behavior intervention techniques have failed or to control residents whose behavior poses a risk to the safety of the resident, staff, or others.

1. Staff shall use the least force deemed reasonably necessary to eliminate the risk or to maintain security and order and shall never use physical restraint as punishment or with intent to inflict injury.
2. Physical restraint may be implemented, monitored, and discontinued only by staff trained in the proper and safe use of restraint in accordance with the requirements in 6VAC35-71-160 and 6VAC35-71-170.

B. The JCC administration shall implement written procedures governing use of physical restraint that shall:

1. Require training in crisis prevention and behavior intervention techniques that staff may use to control residents whose behaviors pose a risk;
2. Identify the staff position that will write the report and timeframe for completing the report;
3. Identify the staff position that will review the report for continued staff development for performance improvement and the timeframe for this review; and
4. Identify the methods to be followed should physical restraint, less intrusive behavior interventions, or measures permitted by other applicable state regulations prove unsuccessful in calming and moderating the resident's behavior.

C. Each application of physical restraint shall be fully documented in the resident's record. The documentation shall include:

1. Date and time of the incident;
2. Staff involved in the incident;
3. Justification for the restraint;
4. Less restrictive behavior interventions that were unsuccessfully attempted before using physical restraint;
5. Duration of the restraint;
6. Description of the method of physical restraint techniques used;
7. Signature of the person completing the report and date; and
8. Reviewer's signature and date.

Article 3

Mechanical Restraints and Protective Devices

**6VAC35-71-1180. Mechanical restraints and protective devices.**

A. Mechanical restraints and protective devices may be used for the following purposes subject to the restrictions enumerated in this section: (i) to control residents whose behavior poses an imminent risk to the safety of the resident, staff, or others; (ii) for purposes of controlled



movement, either from one area of the facility to another or to a destination outside the facility; and (iii) to address emergencies.

B. A JCC that uses mechanical restraints or protective devices shall observe the following general requirements:

1. Mechanical restraints and protective devices shall be used only for as long as necessary to address the purposes established in subsection A of this section. Once the imminent risk to safety has abated, the resident has reached the intended destination within the facility or has returned to the facility from a destination offsite, or the emergency has been resolved, the mechanical restraint or protective device shall be removed.
2. The superintendent or the superintendent's designee shall be notified immediately upon using mechanical restraints or protective devices in an emergency.
3. The facility administration may not use mechanical restraints or protective devices as a punishment or a sanction.
4. Residents shall not be restrained to a fixed object or restrained in an unnatural position.
5. A mental health clinician or other qualifying licensed medical professional may order termination of a mechanical restraint or protective device at any time upon determining that the item poses a health risk.
6. Each use of a mechanical restraint or protective device, except when used to transport a resident or during video court hearing proceedings, shall be recorded in the resident's case record and in the daily housing unit log.
7. A written system of accountability shall be in place to document routine distribution of mechanical restraints and protective devices.
8. All staff who are authorized to use mechanical restraints or protective devices shall receive training in such use in accordance with 6VAC35-71-160 and 6VAC35-71-170, as applicable; and only trained staff shall use restraint or protective devices.

C. If staff in a JCC use a mechanical restraint to control a resident whose behavior poses a safety risk in accordance with clause (i) of subsection A of this section, they shall notify a qualified health care professional and a mental health clinician before continuing to use the restraint and, if applicable, the accompanying protective device, if the imminent risk has abated, but staff determine that continued use of the mechanical restraint is necessary to maintain security due to the resident's ongoing credible threat of self-injury or injury to others. This may include instances in which the resident verbally expresses the intent to continue the actions that required the restraint.

D. Staff in a juvenile correctional center may not use a protective device unless the use is in connection with a restraint and shall remove the device when the resident is released from the restraint.

E. In addition to the requirements in subsections A through D of this section, if staff in a juvenile correctional center use a spit guard to control resident behavior, they shall observe the following requirements:

1. Staff may not use a spit guard unless it possesses the following characteristics:
  - a. The spit guard's design may not inhibit the resident's ability to breathe;
  - b. The spit guard must be constructed to allow for visibility; and
  - c. The spit guard must be manufactured and sold specifically for the prevention of biting or spitting.
2. The spit guard may be used only on a resident who (i) previously has bitten or spit on a person at the facility, or (ii) in the course of a current restraint, threatens or attempts to spit on or bite or actually spits on or bites a staff member.

3. The spit guard must be applied in a manner that will not inhibit the resident's ability to breathe.
4. While the spit guard remains in place, staff shall provide for the resident's reasonable comfort and ensure the resident's access to water and meals, as applicable.
5. Staff must employ constant supervision of the resident while the spit guard remains in place to observe whether the resident exhibits signs of respiratory distress. If any sign of respiratory distress is observed, staff shall take immediate action to prevent injury and to notify supervisory staff.
6. Staff may not use a spit guard on a resident who is unconscious, vomiting, or in obvious need of medical attention.

**6VAC35-71-1190. Monitoring residents placed in mechanical restraints.**

A. Written procedures shall provide that if a resident is placed in mechanical restraints, except when being transported offsite, staff shall:

1. Provide for the resident's reasonable comfort and ensure the resident's access to water, meals, and toilet; and
2. Conduct a face-to-face check on the resident at least every 15 minutes and more often if the resident's behavior warrants. During each check, a staff member shall monitor the resident for signs of circulation and for injuries.
3. Attempt to engage verbally with the resident during each periodic check. These efforts may include explaining the reasons for which the resident is being restrained or the steps necessary to be released from the restraint or otherwise attempting to deescalate the resident.

B. If a resident remains in a mechanical restraint for a period of two hours or more, except during transportation of residents offsite:

1. The resident shall be permitted to exercise the resident's limbs for a minimum of 10 minutes every two hours in order to prevent blood clots; and
2. A medical staff member shall conduct a check on the resident at least once every two hours.

C. When a resident is placed in mechanical restraints for more than one continuous hour in a 24-hour period, with the exception of use in routine off-campus transportation of residents, staff shall consult with a mental health clinician. This consultation shall be documented.

D. If the resident, after being placed in mechanical restraints exhibits self-injurious behavior, staff shall (i) take appropriate action in response to the behavior to prevent further injury and to notify supervisory staff; (ii) consult with a mental health clinician and medical staff immediately thereafter and document the consultation; and (iii) adjust the frequency of face-to-face checks as needed.

**6VAC35-71-1195. Written procedures regarding mechanical restraints and protective devices.**

The department shall develop written procedures approved by the director that reflect the requirements established in this article.

**6VAC35-71-1200. (Repealed.)**

**6VAC35-71-1203. Mechanical restraint chair; general provisions.**

If staff in a JCC utilize a mechanical restraint chair, they shall observe the following requirements, regardless of whether the chair is used for purposes of controlled movement in accordance with 6VAC35-71-1204 or for other purposes in accordance with 6VAC35-71-1205:

1. The restraint chair shall never be applied as punishment or as a sanction.

2. All staff authorized to use the restraint chair shall receive training in such use in accordance with 6VAC35-71-160 and 6VAC35-71-170.
3. Prior to placement in the chair, the health authority or the health authority's designee shall ensure that the resident's medical and mental health condition are assessed to determine whether the restraint is contraindicated based on the resident's physical condition or behavior and whether other accommodations are necessary.
4. The superintendent or the superintendent's designee shall provide approval before a resident may be placed in the restraint chair.
5. Staff shall notify the health authority or designee immediately upon placing the resident in the restraint chair. The health authority or designee also shall ensure that a mental health clinician conducts an assessment to determine whether, on the basis of serious danger to self or others, the resident should be in a medical or mental health unit for emergency involuntary treatment. The requirements of this subdivision shall not apply when the restraint chair is requested by a resident for whom such voluntary use is part of an approved plan of care by a mental health clinician in accordance with subsection C of 6VAC35-71-1205.
6. If the resident exhibits self-injurious behavior after being placed in the mechanical restraint chair, staff shall (i) take appropriate action in response to the behavior to prevent further injury and to notify supervisory staff, and (ii) consult a mental health clinician immediately thereafter and obtain approval for continued use of the restraint chair.
7. The health authority or the health authority's designee, a mental health clinician, or other qualifying licensed medical professional may order termination of restraint chair use at any time upon determining that use of the chair poses a health risk.
8. Each use of the restraint chair shall constitute a serious incident to which the provision of 6VAC35-71-60 shall apply.
9. Each use of the restraint chair shall be documented in the resident's case record and in the daily housing unit log. The documentation shall include:
  - a. Date and time of the incident;
  - b. Staff involved in the incident;
  - c. Justification for the restraint;
  - d. Less restrictive interventions that were attempted or an explanation of why the restraint chair is the least restrictive intervention available to ensure the resident's safe movement.
  - e. Duration of the restraint;
  - f. Signature of the person documenting the incident and date;
  - g. Indication that all applicable approvals required in this article have been obtained; and
  - h. Reviewer's signature and date.
10. Staff involved in the use of the chair, together with supervisory staff, shall conduct a debriefing after each use of the restraint chair.

**6VAC35-71-1204. Mechanical restraint chair use for controlled movement; conditions.**

A. JCC staff shall be authorized to use a mechanical restraint chair for purposes of controlled movement of a resident from one area of the facility to another, provided the following conditions are satisfied:

1. The resident's refusal to move from one area of the facility to another poses a direct and immediate threat to the resident or others or interferes with required facility operations, and
2. Use of the restraint chair is the least restrictive intervention available to ensure the resident's safe movement.

B. When facility staff utilize the restraint chair in accordance with this section, staff shall remove the resident from the chair immediately upon reaching the intended destination. If staff, upon reaching the intended destination, determine that continued restraint is necessary, staff shall consult with a mental health clinician for approval of the continued restraint.

**6VAC35-71-1205. Mechanical restraint chair use for purposes other than controlled movement; conditions for use.**

A. JCC staff shall be authorized to use a mechanical restraint chair for purposes other than controlled movement provided the following conditions are satisfied:

1. The resident's behavior or actions present a direct and immediate threat to the resident or others;
2. Less restrictive alternatives were attempted but were unsuccessful in bringing the resident under control or abating the threat;
3. The resident remains in the restraint chair only for as long as necessary to abate the threat or help the resident gain self-control.

B. Once the direct threat is abated, if staff determine that continued restraint is necessary to maintain security due to the resident's ongoing credible threat to injure the resident or others, staff shall consult a mental health clinician for approval of the continued restraint. The ongoing threat may include instances in which the resident verbally expresses the intent to continue the actions that required the restraint.

C. JCC staff shall be excused from the requirements in subsections A and B of this section when the restraint chair is requested by a resident for whom such voluntary use is part of an approved plan of care by a mental health clinician.

D. Whenever a resident is placed in a restraint chair for purposes other than controlled movement, staff shall observe the following monitoring requirements:

1. Employ constant, one-on-one supervision until the resident is released from the chair;
2. Attempt to engage verbally with the resident during the one-on-one supervision. These efforts may include explaining the reasons for which the resident is being restrained or the steps necessary to be released from the restraint or otherwise attempting to deescalate the resident.
3. Ensure that a medical professional monitors the resident for signs of circulation and for injuries at least once every 15 minutes; and
4. Ensure that the resident is reasonably comfortable and has access to water, meals, and toilet.

**6VAC35-71-1206. Monitoring residents placed in mechanical restraints.**

A. If a resident remains in the restraint chair for a period that exceeds two hours, the resident shall be permitted to exercise the resident's limbs for a minimum of 10 minutes every two hours to prevent blood clots.

B. The JCC administration shall ensure that a video record of the following is captured and retained for a minimum of three years in accordance with 6VAC35-71-30:

1. The placement of a resident in a restraint chair when a resident is restrained for purposes of controlled movement;

2. The entire restraint, from the time the resident is placed in the restraint chair until the resident's release, when restrained in the chair for purposes other than controlled movement. The JCC administration may satisfy this requirement by positioning the restraint chair within direct view of an existing security camera.

**6VAC35-71-1207. Department monitoring visits; annual reporting; board review.**

A. If staff in a JCC use a mechanical restraint chair to restrain a resident, regardless of the purpose or duration of the use, the JCC shall be subject to a monitoring visit conducted by the department pursuant to the authority provided in 6VAC35-20-60. The purpose of the monitoring visit shall be to assess staff compliance with the provisions of this article.

B. Upon completion of the monitoring visit, the department shall provide the JCC administration with a written report of its findings in accordance with 6VAC35-20-90.

C. The department shall document each monitoring visit conducted pursuant to subsection A of this section and provide a written report to the board annually that details, at a minimum, the following information regarding each separate incident in which the restraint chair is used:

1. The facility in which the chair is used;
2. The date and time of the use;
3. A brief description of the restraint, including the purpose for which the restraint was applied, the duration of the restraint, and the circumstances surrounding the resident's release from the restraint;
4. The extent to which the JCC complied with this article; and
5. The plans identified to address findings of noncompliance, if applicable.

D. The annual report shall be placed on the agenda for the next regularly scheduled board meeting for the board's consideration and review.

**6VAC35-71-1208. Written procedures regarding mechanical restraint chairs.**

Department staff shall develop written procedures approved by the director that reflect the requirements established in this article.

Article 5

Limitations on Restraints

**6VAC35-71-1209. Pregnant residents; limitations on use of physical restraints, mechanical restraints, and the mechanical restraint chair.**

A. Staff in a juvenile correctional center may not use physical restraints, mechanical restraints, protective devices, or the mechanical restraint chair on a resident known to be pregnant during labor, delivery, or post-partum recovery unless credible, reasonable grounds exist to believe the resident presents an immediate and serious threat of self injury, injury to staff, or injury to others.

B. Abdominal restraints, leg and ankle restraints, wrist restraints behind the back, and four-point restraints may not be used on a resident known to be pregnant unless (i) credible reasonable grounds exist to believe the resident presents an immediate and serious threat of self injury, injury to staff, or injury to others; or (ii) reasonable grounds exist to believe the resident presents an immediate and credible risk of escape that cannot be reasonably minimized through any other method.

C. This section shall not apply to orthopedically prescribed devices, surgical dressings or bandages, protective helmets, or any other devices or methods that involve physically holding a resident for purposes of conducting routine physical examinations or tests, protecting the resident from falling out of bed, or permitting the resident to participate in activities without the risk of physical harm.

**6VAC35-71-1210. Private contracts for JCCs.**

A. The administration for privately operated JCCs shall abide by the requirements of (i) the Juvenile Corrections Private Management Act (§ 66-25.3 et seq. of the Code of Virginia), (ii) the governing contract with the department, and (iii) this chapter.

B. The administration for privately operated JCCs shall develop procedures, approved by the director or the director's designee, to facilitate the transfer of the facility's operations to the department if the contract terminates.

**Part X**

**Boot Camps**

**6VAC35-71-1230. (Repealed.)**

**6VAC35-71-1240. (Repealed.)**

**6VAC35-71-1250. (Repealed.)**

**6VAC35-71-1260. (Repealed.)**

**6VAC35-71-1270. (Repealed.)**

**Chapter 73**

**Regulation Governing Juvenile Boot Camps**

**6VAC35-73-10. Definitions.**

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

"Boot camp" means a short-term secure or nonsecure juvenile residential program that includes aspects of basic military training and that utilizes a form of military style discipline whereby employees are authorized to respond to minor institutional offenses by imposing immediate sanctions that may require the performance of some physical activity based on the program's written procedures

"Department" means the Department of Juvenile Justice.

"Director" means the director of the department.

"Resident" means an individual, regardless of age, who resides in a juvenile boot camp.

**6VAC35-73-20. Staff physical and psychological qualifications.**

The boot camp shall include in the qualifications for staff positions a statement of:

1. The physical fitness level requirements for each staff position; and
2. Any psychological assessment or evaluation required before employment.

**6VAC35-73-30. Resident physical qualifications.**

The boot camp shall have written procedures that govern:

1. Admission, which shall require a written statement from (i) a licensed physician or licensed medical provider that the resident is cleared to participate in contact sports; and (ii) a mental health clinician that the resident is an appropriate candidate for a boot camp program; and
2. Discharge, should a resident be physically unable to continue the program.

**6VAC35-73-40. Resident nonparticipation.**

The boot camp shall have written procedures approved by the director or the director's designee for addressing residents who do not comply with boot camp program requirements.

**6VAC35-73-50. Program description.**

The boot camp shall have a written program description that specifies:

1. How residents' physical training, work assignments, education, and career-readiness training, and treatment program participation will be interrelated;
2. The duration of the boot camp program;
3. That any juvenile boot camp program established by or as a result of a contract with the department shall require at least six months of intensive after-care following a resident's release from the boot camp program and the type of treatment and supervision that will be provided upon the resident's release from the program;
4. That the programming for such boot camp shall consider the therapeutic needs of each participant;
5. Whether residents will be cycled through the program individually or in platoons; and
6. The program's incentives and sanctions, including whether military or correctional discipline will be used, and what summary punishments are permitted. ]



Amy M. Floriano  
Director

**COMMONWEALTH OF VIRGINIA**  
*Department of Juvenile Justice*

P.O. Box 1110  
Richmond, VA 23218  
(804) 371.0700  
Fax: (804) 371.6497  
www.djj.virginia.gov

**TO:** Board of Juvenile Justice

**FROM:** Virginia Department of Juvenile Justice

**SUBJECT:** Request Authorization to Advance 6VAC35-200 (Regulations Governing Youth Detained Pursuant to Federal Contracts) to the Proposed Stage of the Standard Regulatory Process

**DATE** September 21, 2022

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### **I. Action Requested**

The Department of Juvenile Justice (the department) respectfully requests that the Board of Juvenile Justice (the board) authorize advancing 6VAC35-200 (Regulations Governing Youth Detained Pursuant to Federal Contracts) to the *Proposed* stage of the standard regulatory process. This regulatory action was mandated by Chapter 599 of the 2020 Acts of Assembly, later codified as § 66-10.2 of the Code of Virginia. The proposed text is attached to this document.

### **II. Background**

During the 2020 Virginia General Assembly Session, Senator Adam Ebbin introduced Senate Bill 20 (SB 20) directing the board to promulgate regulations to address youth detained in juvenile correctional facilities pursuant to contracts with the federal government. The legislation intended to ensure that immigrant minors placed in state-licensed secure juvenile facilities have additional regulatory protections and that staff provide them with a heightened level of care. The bill passed both chambers of the General Assembly, was signed into law by Governor Ralph Northam, and took effect on July 1, 2020.

The statute applies specifically to contractual arrangements between “juvenile correctional facilities” and the federal government. The department is aware of two types of agreements that may fall under this statutory mandate. First, juvenile correctional facilities may have contracts to house youth under legal custody of the Office of Refugee Resettlement (ORR). ORR is a division of the U.S. Department of Homeland Security and is responsible for placing unaccompanied immigrant minors apprehended while in the United States without legal authorization. Pursuant to federal law, ORR must place such youth in the least restrictive setting that is in the youth’s best interest. While this generally means placement in non-secure facilities such as shelter care, foster care, group homes, residential treatment centers, or other special needs care facilities, unaccompanied minors who are deemed a danger to themselves or others or who are charged with or convicted of a criminal offense must be placed in secure settings. Currently, the Shenandoah Valley Juvenile Center, a state-licensed, locally operated



secure juvenile detention center in Staunton, is the only secure facility in the country that has a cooperative agreement with ORR to house unaccompanied minors.

Second, U.S. Immigration and Customs Enforcement (ICE) may contract with state-licensed juvenile facilities for the temporary placement of accompanied minors and, occasionally, unaccompanied minors in exigent circumstances when transportation to ORR is delayed. Youth may be confined in such facilities for 72 hours or in some cases up to 30 days. Currently, ICE has contractual arrangements in place with several facilities across the United States, including the Northwestern Regional Juvenile Detention Center, a state-licensed, locally operated secure juvenile detention center in Winchester.

Senator Ebbin's legislation directs the board to establish regulations that will apply to juvenile correctional facilities that contract with the federal government in either of the two scenarios above. Section 66-25.3 of the Code of Virginia defines *juvenile correctional facility* as, "any institution operated by or under the authority of the Department" (of Juvenile Justice). This term commonly is understood to include state-operated juvenile correctional centers housing and supervising youth committed to the department by a juvenile or circuit court pursuant to § 16.1-278.7 of the Code of Virginia. While the department never has entered into a contractual arrangement to house the youth in question in its juvenile correctional centers, the department determined that in order to comply with the express statutory language, the proposed regulation must apply to juvenile correctional centers that may enter into such contractual arrangements in the future.

Less frequently, the Code uses the term *juvenile correctional facility* to refer to locally or regionally operated secure juvenile detention centers. These facilities detain youth charged with a delinquency offense while they await adjudication or dispositional hearings. Many juvenile detention centers in Virginia also operate postdispositional programs for youth who have been adjudicated delinquent for certain eligible offenses and detained for up to six months by court order pursuant to Code of Virginia § 16.1-284.1. During his testimony before various committees of the General Assembly, Senator Ebbin indicated that SB 20 was intended to apply to Shenandoah Valley Juvenile Center, at a minimum, since it had a contractual arrangement with ORR. Consistent with this intent, the department determined that the regulation also must apply to any other juvenile detention centers that execute agreements for similar programs with ORR or ICE in the future.

On July 13, 2020, the department convened a workgroup to begin developing the regulation in accordance with the new statute. The workgroup met regularly thereafter. On September 16, 2020, the board authorized the submission of a Notice of Intended Regulatory Action (NOIRA), which is the first stage of the standard regulatory process. The NOIRA completed the necessary Executive Branch review and was published in the *Virginia Register of Regulations* on March 1, 2021. The 30-day public comment period ended on March 31, 2021, and yielded no public comment. The SB 20 regulatory workgroup continued to meet throughout 2021 and into 2022, holding its final meeting on June 22.

### III. STATUTORY REQUIREMENTS

As set out in § 66-10.2, the new regulation must address seven areas:

1. Standards (i) governing the use of physical force, mechanical restraints, and spit guards, and (ii) avoiding the use of isolation;
2. Staff training requirements regarding cognitive behavioral interventions, trauma-informed care, cultural background implications, de-escalation techniques, and physical and mechanical restraints;

3. Requirements for an appropriate number of bilingual staff and culturally relevant programs;
4. Methods to ensure that youth in these programs understand their rights and responsibilities;
5. Standards to ensure the provision of necessary physical and mental health care;
6. A requirement that any contract in which a juvenile correctional facility agrees to house youth under federal custody must provide DJJ staff with the same access to those youth that DJJ has for all other youth in juvenile correctional facilities, and
7. Standards for recordkeeping, including extended recordkeeping requirements for records and video footage related to reported incidents.

A number of proposed amendments to the regulatory chapters governing juvenile correctional centers and secure juvenile detention centers have been approved by the board and continue to make their way through the regulatory process. Among other changes, the proposed amendments impose additional restrictions on the use of restraints, protective devices, and isolation. A regulatory change also took effect on August 22, 2019, requiring that these types of contracts give department staff access to the case files of residents in these programs for the purposes of compliance monitoring. In addition, a few of the topics identified in Senator Ebbin's legislation are addressed in existing regulatory provisions. The committee therefore paid special attention to those areas that either are not expressly addressed in the current regulations or are not included in the proposed amendments.

#### **IV. DISCUSSION OF THE PROPOSED TEXT**

The workgroup decided on a three-part structure for the proposed regulation. Part I (Sections 10 through 50) contains definitions and the general provisions that will apply to both state-operated juvenile correctional centers (JCCs) and locally operated secure juvenile detention centers (JDCs). Parts II (Sections 60 through 350) and III (Sections 360 through 560) contain provisions specific to the JDCs and the JCCs, respectively. The text draws heavily on the proposed language for the JDC and JCC regulations currently making their way through the regulatory process, with the goal of keeping all three chapters aligned (6VAC35-71, 6VAC35-101, and 6VAC35-200). Because federal programs will be required to follow the JDC or JCC regulations unless otherwise noted, the proposed text of this chapter frequently cross-references those chapters directly. Even though they contain no changes, a few regulatory provisions from the JDC and JCC regulations have been duplicated in this chapter because they address topics specifically mentioned in the new statute, and the workgroup determined it would be prudent to include them. In cases where the JDC and JCC regulatory provisions were extensive, as with those concerning the provision of physical and mental health care, facilities are directed to follow the relevant provisions in the applicable chapter(s).

A brief discussion of selected sections of the proposed regulation follows:

#### **PART I – ALL FEDERAL PROGRAMS**

##### Section 10. Definitions.

The definitions of *juvenile detention center* and *juvenile correctional center* in 6VAC35-101 and 6VAC35-71, respectively, do not contemplate these facilities housing residents pursuant to federal contracts. The definitions of both terms have been updated for this chapter to include these residents. Additionally, the proposed text adds definitions for *federal program* and *federal resident*.

##### Section 30. Initial training requirements for employees in federal programs.

This section establishes enhanced training requirements for JDC and JCC employees who are expected to have regular direct contact with residents in a federal program. These employees must receive this training prior to working independently with federal residents. The topics are drawn directly from § 66-10.2: cognitive behavioral interventions, trauma-informed care, cultural background implications, and de-escalation techniques. The new law also requires training in the use of physical and mechanical restraints; these training requirements are addressed in 6VAC35-101 and 6VAC35-71 and are required in Sections 260, 270, 300, 470, 480, and 510 of this chapter.

Section 40. Residents with limited English proficiency.

To address the staffing requirement in § 66-10.2, this section adds a provision in B requiring that a minimum of one bilingual staff member be accessible to the federal program. This provision supplements the requirement in A that interpretation and translation services be available at all times to all federal residents with limited English proficiency.

Section 50. Culturally relevant programming.

In addition to the requirement for bilingual staff, § 66-10.2 also mandates that the regulation set out requirements for culturally relevant programming. Section 50 does that by requiring any facility with a federal contract to ensure that culturally relevant programming is available to those residents and that it be developed with consideration of the cultural needs, preferences, and differences of the populations served.

**PART II – FEDERAL PROGRAMS IN JUVENILE DETENTION CENTERS**

Section 60. Other applicable regulations.

Generally, JDCs participating in federal programs will be required to adhere to the provisions of 6VAC35-101 in addition to this new chapter. This section establishes which provisions in the JDC regulations are not applicable because they have been altered for federal programs or included as distinct sections in 6VAC35-200.

Section 80. Serious incident reports.

The serious incident reporting provisions in 6VAC35-101 require that the enumerated events be reported to the applicable court service unit (CSU) along with the parent or legal guardian and the director or the director's designee. Residents held pursuant to the federal contracts addressed in this regulation are not under the jurisdiction of the juvenile and domestic relations court and therefore do not have their cases managed by a CSU. Accordingly, this section removes the reference to CSUs. In keeping with the requirement in § 66-10.2, C 7 and E contain enhanced requirements for cases involving allegations of abuse or neglect. These requirements include documentation of a statement from the alleged victim, a statement from all staff who observed the alleged abuse or neglect, and any medical records pertaining to medical examinations connected to the alleged incident.

Section 90. Suspected child abuse or neglect.

The proposed text adds subsection D to address the handling of video footage in cases of suspected abuse or neglect. This change is intended to address the video footage requirement in § 66-10.2.

Section 100. Grievance procedure.

Section 100 duplicates 6VAC35-101-100 establishing the grievance procedure for JDCs. Because this section deals specifically with residents' rights, it is repeated here to ensure this new chapter fully addresses the topics outlined in § 66-10.2. The provisions are identical.

Section 110. Maintenance of case records.

Code of Virginia § 66-10.2 requires that this regulation include standards for recordkeeping. While the final proposed text of the JDC regulation contains a substantial set of recordkeeping requirements (6VAC35-101-330), some of the language is not applicable to records for federal residents. For example, subsection C of 6VAC35-101-330 references §§ 16.1-300 and 16.1-309.1 of the Code of Virginia pertaining to confidentiality of department records for youth under the jurisdiction of the juvenile and domestic relations court. These references are removed in this chapter. Additionally, standards related to automated records have been removed since these programs' records are not automated in any system under JDC management or control. To help ensure federal residents understand what records are available to them, how to access that information, and what recourse they have if their information requests are denied, the proposed language adds a requirement at D 5 that this be explained to these residents. The facility also is required by this section to maintain documentation of the program's authority to retain, release, transfer, or destroy records maintained by the federal program. Several minor changes elsewhere in the section clarify that this provision applies to residents in federal programs.

Section 130. Emergency and evacuation procedures.

This section is identical to 6VAC35-101-510. The new statute specifically addresses methods to ensure residents understand their rights and responsibilities, so the workgroup decided it was prudent to duplicate this section in the new regulatory chapter since residents do have certain responsibilities related to the emergency and evacuation procedures referenced in these provisions.

Section 140. Escapes.

This section is substantively the same as that contained in the JDC regulation except that it removes the reference to Code § 16.1-309, which is irrelevant for this chapter.

Section 150. Transportation of residents.

The language in this section is nearly identical to the provisions in 6VAC35-101-630 except that references to inapplicable Code sections are stricken. Additionally, the JDC regulation contains a subsection G pertaining to the transportation of residents to a JCC upon commitment, which does not apply to federal residents.

Section 160. Transportation of violent or disruptive youth or youth traveling to specified destinations.

This section is equivalent to 6VAC35-101-635 but has been shortened significantly for this chapter. Much of 6VAC35-101-635 concerns the courts and CSUs and does not apply to federal programs.

Section 190. Fundraising.

The language in this section is identical to that in 6VAC35-101-790 except that it adds the appropriate federal entity to the list of those who must provide written consent for residents to be used in fundraising activities.

Section 200. Admission and orientation.

Section 200 is substantively very similar to 6VAC35-101-800, which addresses admission and orientation in the JDCs. The key difference is that Section 200 of this chapter enumerates the residents' rights in greater detail, as required by § 66-10.2. In addition, this section adds a requirement that all information be provided to residents in a developmentally appropriate manner and in a format that is accessible to all residents, including those who have limited English proficiency, which is a particular concern for this population. Finally, cross-references to other regulatory sections have been updated, as appropriate.

Section 210. Mental health screening.

This section removes two Code references that would not apply to federal residents and replaces them with express requirements. First, in C, if the required mental health screening indicates a need for a mental health assessment, that assessment shall be conducted within 24 hours. Second, subsection D requires staff to implement the facility's suicide prevention program or take other steps as determined by a mental health clinician if the preliminary or a subsequent mental health screening indicates a significant suicide risk or the need for emergency intervention.

Section 220. Release from federal programs.

This section is specific to federal programs but is based on similar provisions in 6VAC35-101-840 concerning release from a JDC.

Section 230. Structured programming.

Section 230 removes the requirement in 6VAC35-101-860 that programming meet the objectives of residents' individual service plans. Residents in federal programs generally do not have individual service plans.

Section 240. Room restriction.; Section 250. Disciplinary room restriction.

Code of Virginia § 66-10.2 requires that the regulations governing federal programs establish standards that "avoid the use of isolation." The department has made a concerted effort over the past several years to reduce and limit the use of room confinement at both JCCs and JDCs across the state. The SB 20 workgroup discussed these provisions at great length and determined that the JDC provisions approved by the board for the final stage of that action are the most appropriate method of addressing the requirements in this Code section. The language in these two sections, therefore, is identical to 6VAC35-101-1100 and 1105 except for minor edits to update regulatory cross-references.

Section 260. Physical restraint.; Section 270. Mechanical restraints and protective devices.; Section 280. Monitoring residents placed in mechanical restraints.; Section 290. Written procedures regarding mechanical restraints and protective devices.

As with Sections 240 and 250, these sections are identical to their companion provisions in the JDC regulation and are included here to answer the requirement in § 66-10.2.

Article 8. Mechanical Restraint Chair (Sections 300 through 350)

As above, these sections are included to answer the requirements of the statute and, except for minor edits to update regulatory cross-references, are identical to their companion provisions in the JDC regulation approved by the board earlier this year.

**PART III – FEDERAL PROGRAMS IN JUVENILE CORRECTIONAL CENTERS**

Section 380. Suspected child abuse or neglect.

Subsection B removes the requirement to report a case of suspected child abuse or neglect to the CSU and instead requires that it be reported to the supervising federal entity. This provision also expands the recordkeeping requirements for suspected abuse or neglect cases to include a statement from the alleged victim, statements from all staff and residents who observed the alleged abuse or neglect or who have knowledge relevant to the investigation, and medical records if a medical examination occurred. Finally, this section adds requirements for handling video footage related to the allegation. These changes all are in response to the requirements in § 66-10.2.

Section 390. Grievance procedure.

Section 390 duplicates the proposed language for 6VAC35-71-80 establishing the grievance procedure for JCCs. Because this section deals specifically with residents' rights, it is repeated here to ensure this new chapter fully addresses the topics outlined in § 66-10.2. The provisions are identical.

Section 400. Other applicable regulations.

Generally, JCCs participating in federal programs will be required to adhere to the provisions of 6VAC35-71 in addition to this new chapter. This section establishes which provisions in the JCC regulations are not applicable because they have been altered for federal programs or included as distinct sections in 6VAC35-200.

Section 410. Maintenance of case records.

This section makes a number of changes to make the provisions appropriate for federal programs, although the overall substance remains the same as 6VAC35-71-260. Changes include removing the Code citation from C since it applies to court-involved youth (juvenile and domestic relations or circuit court), expanding the procedural requirements for federal case records, and requiring facility staff to maintain documentation of the federal program's authority to retain, release, transfer, or destroy records maintained by the program. To help ensure federal residents understand what records are available to them, how to access that information, and what recourse they have if their information requests are denied, the proposed language adds a requirement at D 5 that this be explained to these residents. Finally, the proposed language removes the requirement found in 6VAC35-71-260 to retain records in accordance with Library of Virginia requirements since these records are federal and not state records.

Section 420. Face sheet.

Section 420 adds primary and preferred language to the list of information that must be included on a federal resident's face sheet.

Section 430. Admission and orientation.

Section 430 is substantively similar to the language currently proposed for 6VAC35-71-680, which addresses admission and orientation in the JCCs. The key difference is that Section 430 of this chapter enumerates the residents' rights in greater detail, as required by § 66-10.2. Cross-references to other regulatory sections have been updated, as appropriate.

Section 440. Resident personal possessions.

This section makes a minor change to require the department to develop written procedures regarding the disposition of property unclaimed by a federal resident after release from a federal program. By contrast, 6VAC71-690 requires that unclaimed property be disposed of in accordance with § 66-17, which applies to youth who have been in the custody of the department. This eliminates the possible confusion that could arise if a JCC were to house a federal resident whose custody was retained by the federal entity.

Section 450. Discharge from federal program.

With minor adjustments, this section is nearly identical to the proposed language for 6VAC35-71-720 regarding release from direct care.

Section 460. Room confinement.

As discussed above for Sections 240 and 250, § 66-10.2 requires this regulation to address “the use of isolation” in federal programs. For this reason, the proposed language for 6VAC35-71-1140 has been duplicated in Section 460 of this chapter. The workgroup determined this would meet the statutory requirement.

Section 470. Physical restraints.

Section 480. Mechanical restraints and protective devices.

Section 490. Monitoring residents placed in mechanical restraints.

Section 500. Written procedures regarding mechanical restraints and protective devices.

As with Sections 260 through 290, these sections are nearly identical to their companion provisions in the proposed JCC regulation and are included here to answer the requirement in § 66-10.2.

Article 6. Mechanical Restraint Chair. (Sections 510 through 560)

Section 560 adds a provision that procedures shall provide that any prohibition on placing residents in the restraint chair in other programs at the JCC also must apply to the federal program. As above, the remaining sections in this article are included to answer the requirements of the statute and, except for minor edits to update regulatory cross-references, are identical to their companion provisions in the proposed JCC regulation.

## V. CONCLUSION

The attached proposal is the product of many hours of work by the SB 20 workgroup and department staff, and both the workgroup and the department believe it addresses all of the requirements contained in § 66-10.2. The department therefore requests that the board grant approval to advance the regulation to the *Proposed* stage of the standard regulatory process.

1 **REGULATIONS GOVERNING YOUTH DETAINED PURSUANT TO FEDERAL CONTRACTS**  
2 **(6VAC35-200)**

3 **PART I – ALL FEDERAL PROGRAMS**

4 **6VAC35-200-10. Definitions.**

5 “Department” means the Department of Juvenile Justice.

6 “Detention center” or “juvenile detention center” means a local, regional, or state publicly or  
7 privately operated, secure custody facility that houses individuals who are ordered to be detained  
8 pursuant to the Code of Virginia or under custody of the federal government and housed in the  
9 detention facility pursuant to a contract with the federal government.

10 “Direct care employee” means an employee whose primary job responsibilities are: (i)  
11 maintaining the safety, care, and well-being of residents; (ii) implementing the structured program  
12 of care and the behavior management program; and (iii) maintaining the security of the facility.  
13 For purposes of federal programs in juvenile correctional centers, the term “direct care employee”  
14 shall include a security employee assigned, either on a primary or as-needed basis, to perform  
15 the duties of clauses (i) through (iii) of this definition and who is required to receive initial and  
16 annual training in these areas in order to carry out the responsibilities in clauses (i) through (iii) of  
17 this definition.

18 “Director” means the director of the department.

19 “Facility administration” means the juvenile correctional center superintendent or the  
20 superintendent’s designee.

21 “Facility administrator” means the individual who is responsible for the on-site management  
22 and operation of the detention center on a regular basis.

23 “Federal program” means a residential program operated in a juvenile correctional center or  
24 juvenile detention center pursuant to a written agreement with an agency of the federal  
25 government in which an administrator agrees to house and provide 24-hour supervision to youth  
26 under legal custody of the federal agency.

27 “Federal resident” means a resident in a federal program.

28 “Gender identity” means a person’s internal sense of being male, female, or neither,  
29 regardless of the person’s sex assigned at birth.

30 “Juvenile correctional center” means a public or private facility operated by or under contract  
31 with the department where care is provided to: (i) residents under the direct care of the  
32 department, or (ii) residents under custody of the federal government and housed in the  
33 correctional facility, 24 hours a day, seven days a week.

34 “Mechanical restraint” means an approved mechanical device that involuntarily restricts the  
35 freedom of movement or voluntary functioning of a limb or portion of an individual’s body as a  
36 means of controlling his physical activities when the individual being restricted does not have the  
37 ability to remove the device. For purposes of this chapter, mechanical restraints shall include flex  
38 cuffs, handcuffs, leather restraints, leg irons, restraining belts and straps, and waist chains.

39 “Mechanical restraint chair” means an approved chair used to restrict the freedom of  
40 movement or voluntary functioning of a portion of an individual’s body as a means of controlling  
41 his physical activities while the individual is seated and either stationary or being transported.

42 “Mental health clinician” means a clinician licensed to provide assessment, diagnosis,  
43 treatment planning, treatment implementation, and similar clinical or counseling services, or a  
44 license-eligible clinician providing services under supervision of a licensed mental health clinician.

45 “Parent or legal guardian” means (i) a biological or adoptive parent who has legal custody of  
46 a resident, including either parent if custody is shared under a joint decree or agreement; (ii) a  
47 biological or adoptive parent with whom a resident regularly resides; (iii) a person judicially  
48 appointed as a legal guardian of a resident; or (iv) a person who exercises the rights and  
49 responsibilities of legal custody by delegation from a biological or adoptive parent, upon  
50 provisional adoption, or otherwise by operation of law.



1 "Physical restraint" means the application of behavior intervention techniques involving a  
2 physical intervention to prevent an individual from moving all or part of that individual's body.

3 "Protective device" means an approved device placed on a portion of a resident's body to  
4 protect the resident or staff from injury.

5 "Security employee" means an employee in a juvenile correctional center who is responsible  
6 for maintaining the safety, care, and well-being of residents and the safety and security of the  
7 facility.

8 "Spit guard" means a device designed for the purpose of preventing the spread of  
9 communicable diseases as a result of spitting or biting.

10  
11 **6VAC35-200-20. Applicability.**

12 This chapter applies to juvenile detention centers and juvenile correctional centers operating  
13 federal programs. Part I (6VAC35-200-10 et seq.) applies to federal programs operated by both  
14 juvenile detention centers and juvenile correctional centers. Part II (6VAC35-200-60 et seq.)  
15 applies solely to federal programs operated in juvenile detention centers. Part III (6VAC35-200-  
16 360 et seq.) applies solely to federal programs operated in juvenile correctional centers.

17  
18 **6VAC35-200-30. Initial training requirements for employees in federal programs.**

19 A. All employees who are expected to have direct contact on a regular basis with federal  
20 residents shall receive initial training in the following topics before they may work independently  
21 with federal residents:

- 22 1. Cultural background implications, which shall address:
  - 23 a. Awareness of and sensitivity to the importance of considering different cultural  
24 backgrounds;
  - 25 b. The impact of various cultural backgrounds on resident experiences,  
26 relationships, communication, and behavior;
  - 27 c. Potential challenges associated with an undocumented status in the United  
28 States; and
  - 29 d. Potential for acculturative stress and possible impacts.
- 30 2. Cognitive behavioral interventions, which shall address:
  - 31 a. Helping residents develop an awareness of their thinking;
  - 32 b. Supporting skill development in the areas of healthy emotional, cognitive, and  
33 behavioral responses;
  - 34 c. Understanding adolescent development and the impact on behavior;
  - 35 d. Assisting with relationship building among residents, their peers, and staff; and
  - 36 e. Working with residents in collaborative problem solving.
- 37 3. Trauma-informed care, which shall address:
  - 38 a. Awareness of trauma, including the types of trauma that might be specific to the  
39 population;
  - 40 b. Impacts of trauma on residents' social, emotional, cognitive, and behavioral  
41 functioning;
  - 42 c. Coping skills; and
  - 43 d. Effective staff responses.
- 44 4. De-escalation techniques, which shall include both methods for preventing escalation  
45 and intervening to de-escalate and resolve conflicts or distress when they occur.

46 B. All employees who are expected to have direct contact on a regular basis with federal  
47 residents shall complete annual refresher training in the topics required in subsection A of this  
48 section.

49 C. The facility administrator or facility administration, as applicable, shall maintain  
50 documentation of completed training for a minimum of three years for each individual subject to  
51 the training requirements in this section.

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**6VAC35-200-40. Residents with limited English proficiency.**

A. Interpretation and translation services shall be available at all times to all federal residents who have limited English proficiency.

B. The facility administrator or facility administration, as applicable, shall ensure that at least one bilingual staff is accessible to the federal program.

**6VAC35-200-50. Culturally relevant programming.**

The facility administrator or facility administration, as applicable, shall ensure that culturally relevant programming is available to residents in federal programs. The programming shall be developed with consideration of the cultural needs, preferences, and differences of the populations served.

1 **PART II – FEDERAL PROGRAMS IN JUVENILE DETENTION CENTERS**

2 **Article 1 – General Provisions**

3  
4 **6VAC35-200-60. Other applicable regulations.**

5 In addition to the applicable requirements in this chapter, federal programs in juvenile  
6 detention centers shall comply with each section of the Regulations Governing Juvenile Secure  
7 Detention Centers (6VAC35-101) with the exception of the following provisions:

- 8 1. 6VAC35-101-20
- 9 2. 6VAC35-101-45
- 10 3. 6VAC35-101-80
- 11 4. 6VAC35-101-90
- 12 5. 6VAC35-101-100
- 13 6. 6VAC35-101-330
- 14 7. 6VAC35-101-340
- 15 8. 6VAC35-101-510
- 16 9. 6VAC35-101-540
- 17 10. 6VAC35-101-630
- 18 11. 6VAC35-101-680
- 19 12. 6VAC35-101-750
- 20 13. 6VAC35-101-790
- 21 14. 6VAC35-101-800
- 22 15. 6VAC35-101-820
- 23 16. 6VAC35-101-840
- 24 17. 6VAC35-101-860
- 25 18. 6VAC35-101-1090
- 26 19. 6VAC35-101-1100
- 27 20. 6VAC35-101-1105
- 28 21. 6VAC35-101-1130
- 29 22. 6VAC35-101-1140
- 30 23. 6VAC35-101-1145
- 31 24. 6VAC35-101-1153
- 32 25. 6VAC35-101-1154
- 33 26. 6VAC35-101-1155
- 34 27. 6VAC35-101-1156
- 35 28. 6VAC35-101-1157
- 36 29. 6VAC35-101-1158
- 37 30. Part IX, 6VAC35-101-1160 through 6VAC35-101-1270.

38  
39 **6VAC35-200-70. Contracts between juvenile detention centers and federal governmental**  
40 **entities.**

41 A. When a facility administrator enters into an agreement with a federal governmental entity  
42 for the purpose of operating a federal program, the agreement shall satisfy the following  
43 requirements:

- 44 1. The agreement shall be in writing;
- 45 2. The agreement shall require the federal governmental entity to comply with 6VAC35-  
46 20, Regulation Governing the Monitoring, Approval, and Certification of Juvenile Justice  
47 Programs and Facilities and this chapter; and

1 3. For purposes of demonstrating compliance with this chapter, the agreement shall allow  
2 the department the same access to juveniles in the federal program and to their records  
3 and reports as currently authorized for all other residents in the detention center under  
4 § 16.1-309.10 of the Code of Virginia and 6VAC35-20.

5 B. Upon entering into the agreement, the facility administrator shall: (i) notify the department  
6 immediately, and (ii) provide the department with a copy of the written agreement.

7 C. Nothing in this section shall prevent the facility administrator and the federal government  
8 from agreeing that services and treatment shall exceed the requirements of this chapter for  
9 juveniles in the federal program.

10  
11 **6VAC35-200-80. Serious incident reports.**

12 A. The following events shall be reported within 24 hours to (i) either the parent or legal  
13 guardian, as appropriate and applicable, and (ii) the director or the director's designee:

- 14 1. A serious incident, accident, illness, or injury to the resident;
- 15 2. The death of a resident;
- 16 3. A suspected case of child abuse or neglect at the detention center, on a detention  
17 center-sponsored event or excursion, or involving detention center staff as provided in  
18 6VAC35-101-90;
- 19 4. A disaster, fire, emergency, or other condition that may jeopardize the health, safety,  
20 and welfare of residents; and
- 21 5. A resident's absence from the detention center without permission.
- 22 6. The use of the mechanical restraint chair by facility staff, regardless of the purpose or  
23 duration of use.

24 B. If an incident involving the death of a resident occurs at the facility, facility staff shall notify  
25 the parents or legal guardians, as appropriate and applicable, of all residents in the federal  
26 program provided such notice does not violate any confidentiality requirements or jeopardize any  
27 law-enforcement or child protective services investigation or the prosecution of any criminal cases  
28 related to the incident.

29 C. Facility staff shall (i) prepare and maintain a written report of the events listed in subsections  
30 A and B of this section and (ii) submit a copy of the written report to the director or the director's  
31 designee. The report shall contain the following information:

- 32 1. The date and time the incident occurred;
- 33 2. A brief description of the incident;
- 34 3. The action taken as a result of the incident;
- 35 4. The name of the person who completed the report;
- 36 5. The name or identifying information of the person who made the report to the director,  
37 and either the parent or legal guardian, as appropriate and applicable, and the date and  
38 time on which the report was made;
- 39 6. The name or identifying information of the person to whom the report was made,  
40 including any law-enforcement or child protective service personnel, or other applicable  
41 agency; and
- 42 7. For cases alleging abuse or neglect: (i) a statement from the victim of the alleged abuse  
43 or neglect; (ii) a statement from all staff and residents who observed the alleged abuse or  
44 neglect; and (iii) medical records if a medical examination is conducted in connection with  
45 the allegation of abuse or neglect.

46 D. In addition to the requirements of this section, serious incidents involving an allegation of  
47 child abuse or neglect at the detention center, at a detention center-sponsored event, or involving  
48 detention center staff shall be governed by 6VAC35-200-90.

49 E. The federal resident's case record shall contain a written reference (i) that an incident  
50 occurred and (ii) of all applicable reporting.

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**6VAC35-200-90. Suspected child abuse or neglect.**

A. When there is reason to suspect that a resident in a federal program is an abused or neglected child, the matter shall be reported immediately to the local department of social services or to the state Department of Social Services' toll-free child abuse and neglect hotline as required by § 63.2-1509 of the Code of Virginia and in accordance with written procedures.

B. Written procedures shall be distributed to all staff members and shall at a minimum provide for:

1. Handling accusations against staff,
2. Reporting and documenting suspected cases of child abuse and neglect,
3. Cooperating during an investigation, and
4. Measures to be taken to ensure the safety of the residents and the staff.

C. Cases of suspected child abuse or neglect against a resident shall be reported and documented as required in 6VAC35-200-80. The resident's record shall contain a written reference that a report was made.

D. If a serious incident alleging child abuse or neglect is reported and the facility determines that video footage associated with the allegation can be accessed and extracted from a running video record, staff shall extract and maintain the applicable video footage until all investigations for the underlying allegation have concluded and at least three years have passed since the conclusion of the investigation.

**6VAC35-200-100 Grievance procedure.**

A. Written procedure shall require that residents are oriented to and have continuing access to a grievance procedure that provides for:

1. Resident participation in the grievance process with assistance from staff upon request;
2. Investigation of the grievance by an impartial, objective employee who is not the subject of the grievance;
3. Documented, timely responses to all grievances with the reasons for the decision, in accordance with written procedures;
4. At least one level of appeal;
5. Administrative review of grievances;
6. Protection of residents from retaliation or threat of retaliation for filing a grievance; and
7. Hearing of an emergency grievance within eight hours.

B. Residents shall be oriented to the grievance procedure in an age and developmentally appropriate manner.

C. The grievance procedure shall be (i) written in clear and simple language and (ii) posted in an area easily accessible to residents and their parents and legal guardians.

D. Staff shall assist and work cooperatively with other employees in facilitating the grievance process.

**Article 2 – Administrative Provisions**

**6VAC35-200-110. Maintenance of case records.**

A. A separate written case record shall be maintained for each resident in a federal program, which shall include all correspondence and documents generated or received by the federal program relating to the care of that resident and documentation of all case management services provided.

B. Separate health care records, including behavioral health records, as applicable, and medical records, shall be kept on each federal resident. Behavioral health records may be kept separately from other health care records. The federal resident's active health care records shall be kept in accordance with this section, 6VAC35-101-1030, and applicable laws and regulations.

1 C. Each case record and health care record shall be kept (i) up to date, (ii) in a uniform  
2 manner, and (iii) confidential from unauthorized access.

3 D. The facility shall have written procedures in place for the maintenance and management  
4 of case records in federal programs. The procedures for managing resident written records shall  
5 address confidentiality, accessibility, security, and retention of records pertaining to federal  
6 residents including:

- 7 1. Access, duplication, dissemination, and acquisition of information, restricted to persons  
8 legally authorized according to applicable federal and state laws;
- 9 2. Security measures to protect records from loss, unauthorized alteration, inadvertent or  
10 unauthorized access, and disclosure of information
- 11 3. Security measures to protect records during transportation between service sites;
- 12 4. Designation of the person responsible for records management;
- 13 5. Explanation of the record information available to the federal resident, how to access  
14 that information, and the recourse available to federal residents when their record  
15 information requests are denied;
- 16 6. Disposition of records when a resident is discharged from the federal program; and
- 17 7. Disposition of records if the detention center ceases to operate or terminates its contract  
18 with the applicable federal governmental entity.

19 E. The facility shall maintain documentation of the program's authority to retain, release,  
20 transfer, or destroy any records maintained by the federal program.

21 F. Active and closed records shall be kept in secure locations or compartments that are  
22 accessible only to authorized employees and shall be protected from unauthorized access, fire,  
23 and flood.

24 G. Each resident's written case records and health care records shall be stored separately  
25 subsequent to the resident's discharge in accordance with applicable statutes and regulations.  
26

#### 27 **6VAC35-200-120. Face sheet.**

28 A. At the time of admission, each resident's record shall include, at a minimum, a completed  
29 face sheet that contains the following:

- 30 1. The resident's full name, last known residence, birth date, birthplace, sex, gender  
31 identity, race, primary language, preferred language, unique numerical identifier, religious  
32 preference, and admission date.
- 33 2. Names, addresses, and telephone numbers of emergency contacts and parents or legal  
34 guardians, if available, and as appropriate and applicable; and
- 35 3. Name and telephone number of the supervising agency.

36 B. The face sheet shall be updated when changes occur and maintained as a part of the  
37 resident's record.  
38

### 39 **Article 3 – Safety and Security**

#### 40 **6VAC35-200-130. Emergency and evacuation procedures.**

41 A. The facility administrator or the facility administrator's designee shall develop a written  
42 emergency preparedness and response plan which shall address:

- 43 1. Documentation of contact with the local emergency coordinator to determine (i) local  
44 disaster risks; (ii) communitywide plans to address different disasters and emergency  
45 situations; and (iii) assistance, if any, that the local emergency management office will  
46 provide to the detention center in an emergency;
- 47 2. Analysis of the detention center's capabilities and potential hazards, including natural  
48 disasters, severe weather, fire, flooding, workplace violence or terrorism, missing persons,  
49 severe injuries, or other emergencies that would disrupt the normal course of service  
50 delivery;  
51

1 3. Written emergency management procedures outlining specific responsibilities for  
2 provision of administrative direction and management of response activities; coordination  
3 of logistics during the emergency; communications; life safety of employees, contractors,  
4 interns, volunteers, visitors, and residents; property protection; fire protection service;  
5 community outreach; and recovery and restoration;

6 4. Written emergency response procedures for assessing the situation; protecting  
7 residents, employees, contractors, interns, volunteers, and visitors; equipment and vital  
8 records; and restoring services. Emergency procedures shall address:

9 a. Communicating with employees, contractors, and community responders;

10 b. Warning and notifying residents;

11 c. Providing emergency access to secure areas and opening locked doors;

12 d. Conducting evacuations to emergency shelters or alternative sites and accounting  
13 for all residents;

14 e. Relocating residents, if necessary;

15 f. Notifying parents and legal guardians, as applicable and appropriate;

16 g. Alerting emergency personnel and sounding alarms;

17 h. Locating and shutting off utilities when necessary; and

18 i. Providing for a planned, personalized means of effective evacuation for individuals  
19 with disabilities who require special accommodations, such as deaf, blind, and  
20 nonambulatory individuals.

21 5. Supporting documents that would be needed in an emergency, including emergency  
22 call lists, building and site maps necessary to shut off utilities, designated evacuation  
23 routes, and lists of major resources such as local emergency shelters; and

24 6. Schedule for testing the implementation of the plan and conducting emergency  
25 preparedness drills.

26 B. Emergency preparedness and response training shall be developed and required for all  
27 employees to ensure they are prepared to implement the emergency preparedness plan in the  
28 event of an emergency. Such training shall be conducted in accordance with 6VAC35-101-190  
29 through 6VAC35-101-200 and shall outline the employees' responsibilities for:

30 1. Alerting emergency personnel and sounding alarms;

31 2. Implementing evacuation procedures, including evacuation of individuals with  
32 disabilities who require special accommodations, such as deaf, blind, and nonambulatory  
33 individuals;

34 3. Using, maintaining, and operating emergency equipment;

35 4. Accessing emergency information for residents including medical information; and

36 5. Utilizing community support services.

37 C. Contractors, volunteers, and interns shall be oriented in their responsibilities in  
38 implementing the evacuation plan in the event of an emergency. The orientation shall be in  
39 accordance with the requirements of 6VAC35-101-185 and 6VAC35-101-187.

40 D. An annual review of the emergency preparedness plan shall be conducted and  
41 documented, and revisions shall be made as deemed necessary. Such revisions shall be  
42 communicated to employees, contractors, interns, and volunteers and incorporated into training  
43 for employees, contractors, interns and volunteers, and orientation of residents to services.

44 E. If a disaster, fire, emergency, or any other condition occurs that may jeopardize the health,  
45 safety, and welfare of residents, the detention center shall take appropriate actions to protect the  
46 health, safety, and welfare of the residents and to remedy the conditions as soon as possible.

47 F. If a disaster, fire, emergency, or any other condition occurs that may jeopardize the health,  
48 safety, and welfare of residents, the detention center first shall respond and stabilize the disaster  
49 or emergency. Once the disaster or emergency is stabilized, detention center staff shall report  
50 the disaster or emergency to the parents or legal guardians and the director no later than 24 hours  
51 after the incident occurs in accordance with 6VAC35-200-80. Additionally, the facility

1 administrator or the facility administrator's designee shall report to the director or the director's  
2 designee within 24 hours of the incident the conditions at the detention center.

3 G. Floor plans showing primary and secondary emergency exits shall be posted on each floor  
4 in locations where they are clearly visible to staff and residents.

5 H. The resident's responsibility to implement the emergency and evacuation procedures shall  
6 be communicated to all residents within seven days following admission or a substantive change  
7 in the procedures.

8 I. The detention center shall conduct at least one evacuation drill in which its emergency  
9 procedures are simulated each month in each building occupied by residents. During any three  
10 consecutive calendar months, at least one evacuation drill shall be conducted during each shift.

11 J. Evacuation drills shall include, at a minimum:

- 12 1. Sounding of emergency alarms;
- 13 2. Practice in evacuating buildings;
- 14 3. Practice in alerting emergency authorities;
- 15 4. Simulated use of emergency equipment; and
- 16 5. Practice in accessing resident emergency information.

17 K. A record shall be maintained for each evacuation drill and shall include the following:

- 18 1. The building in which the drill was conducted;
- 19 2. The date and time of the drill;
- 20 3. The amount of time taken to evacuate the buildings;
- 21 4. The specific problems encountered, if applicable;
- 22 5. The staff tasks completed, including head counts and practice in notifying emergency  
23 authorities;
- 24 6. The name of the staff members responsible for conducting and documenting the drill  
25 and preparing the record.

26 L. One staff member shall be assigned who shall ensure that all requirements regarding the  
27 emergency preparedness and response plan and the evacuation drill program are met.

#### 28 29 **6VAC35-200-140. Escapes.**

30 Written procedures shall govern the actions staff must take to address a resident's escape or  
31 unauthorized absence from the facility.

#### 32 33 **6VAC35-200-150. Transportation of residents.**

34 A. Except as otherwise provided in 6VAC35-200-160, detention center staff shall follow the  
35 requirements of this section if a resident in a federal program requires transportation.

36 B. Each detention center shall have transportation available or make the necessary  
37 arrangements for facility-approved and emergency transportation of residents.

- 38 1. Each detention center shall be responsible for transporting federal residents to all local  
39 medical and dental appointments and all local psychological and psychiatric evaluations,  
40 as applicable.
- 41 2. Unless otherwise provided by agreement, the detention center shall not be required to  
42 transport youth to appointments that are outside of the geographical boundaries of the  
43 Commonwealth or that are more than 25 miles from the facility in one direction.
- 44 3. A facility administrator may assign its own staff to transport a federal resident or may  
45 enter into an agreement or contract with a public or private agency to provide the  
46 transportation services for the juvenile.

47 C. Written safety and security procedures shall be implemented governing the use of vehicles  
48 and the transportation of residents outside the detention center and from one jurisdiction to  
49 another. At a minimum, the written procedures shall provide the following:

- 50 1. No juvenile federal resident shall be transported with an adult suspected of or charged  
51 with a criminal act.



1 2. If a person or entity other than the detention center assumes custody of the resident for  
2 purposes of transportation, the detention center shall:

3 a. Provide the person or entity, except the resident's parent or guardian, with a written  
4 document that identifies any pertinent information known to the detention center  
5 concerning the resident's immediate medical needs or mental health condition that  
6 reasonably could be considered necessary for the resident's safe transportation and  
7 supervision, including the resident's recent suicidal ideations or suicide attempts. Any  
8 such information shall remain confidential in the same manner as records protected  
9 under § 16.1-300 of the Code of Virginia and applicable rules and regulations  
10 regarding confidentiality of juvenile records.

11 b. Provide the individual transporting the resident with any medication the resident  
12 may be required to take during transport or while absent from the facility.

13 3. The frequency and manner of searches of residents, the manner by which  
14 communications will be accomplished during transit, the ratio of staff to residents, and the  
15 parameters for use of mechanical restraints shall be in accordance, respectively, with  
16 6VAC35-101-560, 6VAC35-101-580, 6VAC35-101-900, and 6VAC35-200-270, and shall  
17 accord with written procedures.

18 4. If the vehicle transporting the resident becomes inoperable, is involved in an accident,  
19 or encounters a similar emergency, the individual transporting the resident shall notify the  
20 individual's agency immediately and contact local law enforcement for assistance, if  
21 necessary. Detention center staff transporting residents shall observe the required staffing  
22 ratios and shall never leave a resident unattended.

23 5. If a juvenile absconds during transport, the detention center staff conducting the  
24 transport shall report the incident immediately in accordance with 6VAC35-200-80.

25 6. If a juvenile requires a meal during transit, the detention center shall provide a bagged  
26 lunch, if feasible.

27 D. Written procedure shall provide for the verification of appropriate licensure for staff whose  
28 duties involve transporting residents.

29 E. The detention center shall observe the following if a resident requires transport to a local  
30 medical or dental appointment:

31 1. If detention center staff transport the detained juvenile to a local medical or dental  
32 appointment as authorized in subdivision B 3 of this section, the detention center shall not  
33 be obligated to pay for any costs associated with the appointment, unless provided for  
34 otherwise by agreement.

35 2. The detention center may require notice of the date and time of the local medical  
36 appointment, dental appointment, or psychological and psychiatric evaluation at least 72  
37 hours in advance.

38 F. When the medical staff of a detention center have made a written determination that a  
39 resident's medical condition can be treated without transporting the resident to a routine or  
40 previously scheduled appointment, the detention center is not required to transport the resident  
41 unless ordered by a court.

42  
43 **6VAC35-200-160. Transportation of violent or disruptive youth or youth traveling to**  
44 **specified destinations.**

45 A. Only juvenile detention center staff or law-enforcement personnel, excluding the  
46 Department of the State Police, may transport violent and disruptive juveniles.

47 B. Consistent with the requirements in § 16.1-345 of the Code of Virginia, if a court commits  
48 a federal resident to a mental hospital or training center for observation, the committing court shall  
49 designate the appropriate law-enforcement agency or other agency or party, other than the  
50 Department of State Police, to transport the juvenile.

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2 **Article 4 – Residents’ Rights**  
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4 **6VAC35-200-170. Visitation.**

5 A. A resident's contacts and visits with family or legal guardians shall not be subject to  
6 unreasonable limitations, and any limitations shall be implemented only as permitted by written  
7 procedures, other applicable regulations, the supervising federal entity, or by order of a court.

8 B. Residents shall be permitted reasonable visiting privileges and, whenever possible, flexible  
9 visiting hours, consistent with written procedures that take into account (i) the need for security  
10 and order, (ii) the behavior of the residents and visitors, and (iii) the importance of helping the  
11 resident maintain strong family and community ties.

12 C. Visitation procedures shall be provided upon request to the parent or legal guardian, as  
13 appropriate and applicable, other approved or verified individuals, and the residents.  
14

15 **6VAC35-200-180. Reading materials.**

16 A. Reading materials that are appropriate to residents' ages and levels of competency shall  
17 be available to all residents. Staff shall make reasonable efforts to provide the materials in a  
18 language the resident can understand.

19 B. Written procedure shall be developed and implemented governing resident access to  
20 publications.  
21

22 **6VAC35-200-190. Fundraising.**

23 Residents shall not be used in fundraising activities without the written permission of  
24 the parent or legal guardian, as applicable, and the appropriate federal entity, and without the  
25 written consent of the residents.  
26

27  
28 **Article 5 – Program Operation**  
29

30 **6VAC35-200-200. Admission and orientation.**

31 A. Written procedure governing the admission and orientation of residents in federal programs  
32 shall provide for the following:

- 33 1. Verification of legal authority for placement;
- 34 2. Search of the resident and the resident's possessions, including inventory and storage  
35 or disposition of property, as appropriate and required by this section and 6VAC35-101-  
36 810;
- 37 3. A general assessment of the resident's physical condition by staff. The facility  
38 administrator or the facility administrator's designee shall not admit for custody an  
39 individual who is (i) visibly under the influence of alcohol or drugs and deemed to require  
40 medical attention; or (ii) in need of immediate emergency medical attention, until the  
41 individual has received written medical clearance from a physician or mental health  
42 clinician in an outside medical setting.
- 43 4. Health screening of the resident as required by 6VAC35-101-980.
- 44 5. Mental health screening of the resident as required by 6VAC35-200-210;
- 45 6. Notice to the parent or legal guardian of admission, during which facility staff shall ask  
46 whether the resident has any immediate medical concerns or conditions;
- 47 7. Provision to the parent or legal guardian of information on (i) visitation, (ii) how to  
48 request information, and (iii) how to register concerns and complaints with the facility.
- 49 8. Interview with the resident to answer questions and obtain information; and
- 50 9. Explanation to the resident of program services and schedules.

51 B. The resident shall receive an orientation to the following:

- 1 1. The behavior management program as required by 6VAC35-101-1070.
  - 2 a. During the orientation, residents shall be given written information describing rules
  - 3 of conduct, the sanctions for rule violations, and the disciplinary process. This
  - 4 information shall be explained to the resident and documented by the dated signature
  - 5 of the resident and staff.
  - 6 b. If substantive revisions are made to the behavior management program, the facility
  - 7 administration shall ensure that residents and direct care employees receive notice of
  - 8 these revisions in writing prior to implementation.
- 9 2. The grievance procedure as required by 6VAC35-200-100;
- 10 3. The disciplinary process as required by 6VAC35-101-1080;
- 11 4. The resident's responsibilities in implementing the emergency procedures as required
- 12 by 6VAC35-200-130;
  - 13 a. These responsibilities shall be communicated to residents in federal programs
  - 14 within seven days following admission or a substantive change in the procedures.
  - 15 b. Facility staff shall conduct and document an annual review of the emergency
  - 16 preparedness plan, and revisions shall be made as deemed necessary. Revisions to
  - 17 the plan shall be incorporated into orientation of residents to services.
- 18 5. The residents' rights, including the following:
  - 19 a. The prohibited actions listed in 6VAC35-101-650;
  - 20 b. The right to have additional precautions in place for residents identified as being a
  - 21 member of a vulnerable population pursuant to 6VAC35-101-655;
  - 22 c. The protections provided for resident mail pursuant to 6VAC35-101-660;
  - 23 d. The right to telephone calls pursuant to 6VAC35-101-670;
  - 24 e. The right to reasonable visitation, limited only as permitted in 6VAC35-200-170;
  - 25 f. The right to have (i) uncensored, confidential contact with their legal representatives,
  - 26 (ii) access to the courts; and (iii) freedom from compulsory questioning by law
  - 27 enforcement pursuant to 6VAC35-101-690;
  - 28 g. The right to those personal necessities specified in 6VAC35-101-700;
  - 29 h. The right to daily opportunities to shower, except as limited in 6VAC35-101-710;
  - 30 i. Protection from routine sight supervision by certain staff members while bathing,
  - 31 dressing, or conducting toileting activities in accordance with 6VAC35-101-730;
  - 32 j. Daily nutritionally balanced meals in accordance with 6VAC35-101-740;
  - 33 k. Availability of reading materials appropriate to the residents' ages and level of
  - 34 competency, as set out in 6VAC35-200-180;
  - 35 l. The reasonable right to participate in religious activities and freedom from coerced
  - 36 religious participation in accordance with 6VAC35-101-760;
  - 37 m. Availability and access to a recreational program plan that satisfies the
  - 38 requirements of 6VAC35-101-770; and
  - 39 n. Protection of residents' funds, to be used only in accordance with 6VAC35-101-780;
  - 40 and
- 41 6. The record information available to the residents while residing in the facility, how to
- 42 access the information, and the recourse available when record information requests are
- 43 denied.

44 C. Detention center staff shall ensure that all information provided to the resident pursuant to  
45 this section is explained in a developmentally appropriate manner and is available in a format that  
46 is accessible to all residents, including those who are deaf, hard of hearing, visually impaired, or  
47 otherwise disabled or impaired or who have limited English reading skills or limited English  
48 proficiency.

49 **6VAC35-200-210. Mental health screening.**  
50

1 A. Each resident shall undergo a mental health screening administered by trained staff to  
2 ascertain the resident's suicide risk level and need for a mental health assessment or emergency  
3 intervention.

4 B. The mental health screening shall include the following:

- 5 1. A preliminary mental health screening at the time of admission, consisting of a  
6 structured interview and observation, as provided in facility procedures; and
- 7 2. The administration of an objective, department-approved mental health screening  
8 instrument within 48 hours of admission. The facility may supplement the screening  
9 instrument with additional questions or observations, as authorized in the facility's written  
10 procedures.

11 C. If the mental health screening indicates that a mental health assessment is needed, the  
12 assessment shall be conducted within 24 hours of the determination.

13 D. If the preliminary or subsequent mental health screening indicates significant suicide risk  
14 or the need for emergency intervention, staff shall implement the facility's suicide prevention  
15 program or take other steps as determined by a mental health clinician.

16  
17 **6VAC35-200-220. Release from federal programs.**

18 A. Residents shall be released from a federal program only in accordance with written  
19 procedure.

20 B. Each resident's record shall contain a copy of the documentation authorizing the  
21 resident's release.

22 C. Residents shall be released only as directed by the federal entity.

23 D. As applicable and appropriate, information concerning current medications, therapeutic  
24 interventions provided in the program, educational status, and other items important to the  
25 resident's continuing care shall be provided to the parent, legal guardian, or legally authorized  
26 representative.

27  
28 **6VAC35-200-230 Structured programming**

29 A. Each facility operating a federal program shall implement a comprehensive, planned, and  
30 structured daily routine, including appropriate supervision, designed to:

- 31 1. Meet the residents' physical, emotional, and educational needs;
- 32 2. Provide protection, guidance, and supervision; and
- 33 3. Ensure the delivery of program services.

34 B. The structured daily routine shall be followed for all weekday and weekend programs and  
35 activities. Deviations from the schedule shall be documented.

36  
37 **Article 6 – Room Restriction and Physical Restraints**

38 **6VAC35-200-240. Room restriction.**

39 A. Written procedures governing room restriction shall address the following:

- 40 1. The actions or behaviors that may result in room restriction;
- 41 2. The factors that should be considered before placing a resident in room restriction, such  
42 as age, developmental level, or disability;
- 43 3. The circumstances under which a debriefing with the resident should occur, the party  
44 that should conduct the debriefing, and the topics that should be discussed in the  
45 debriefing, including the cause and impact of the room restriction and the appropriate  
46 measures post-release to support positive resident outcomes; and
- 47 4. When and under what conditions staff must consult with a mental health professional  
48 and monitor the resident as directed by the mental health clinician if a resident placed in  
49 room restriction exhibits self-injurious behavior.

50 B. Whenever a resident is placed in room restriction, staff shall check the resident visually at  
51 least every 15 minutes and more often if indicated by the circumstances.

1 C. Residents who are placed in room restriction shall be afforded the opportunity for at least  
2 one hour of large muscle activity outside of the locked room every calendar day unless the  
3 resident's behavior or other circumstances justify an exception. The reasons for any such  
4 exception shall be approved by the facility administrator or the facility administrator's designee  
5 and shall be documented.

6 D. Unless a resident is placed in disciplinary room restriction, as provided in 6VAC35-200-  
7 250, the resident shall be afforded the same opportunities as any other resident in general  
8 population, including treatment, education, and as much time out of the resident's room as  
9 security considerations allow. Exceptions may be made in accordance with established  
10 procedures when justified by clear and substantiated evidence.

11 E. If a resident is placed in room restriction for any reason for more than 24 hours, the facility  
12 administrator or the facility administrator's designee shall be notified and shall provide written  
13 approval for the continued room restriction. The written approval shall include a rationale of why  
14 the continued room restriction is necessary.

15 F. If the room restriction extends to more than 72 hours, the (i) restriction and (ii) steps being  
16 taken or planned to resolve the situation shall be reported immediately to the director or the  
17 director's designee. If this report is made verbally, it shall be followed immediately with a written,  
18 faxed, or secure email report in accordance with written procedures. For room restriction  
19 anticipated to exceed 72 hours, the medical and mental health status of the resident shall be  
20 assessed by a qualified medical health professional or mental health clinician within the initial 72-  
21 hour room restriction period and on a daily basis after the 72-hour period has elapsed until the  
22 resident is released from room restriction.

23 G. Room restriction shall not exceed five consecutive days except when ordered by a medical  
24 provider or a mental health clinician.

25 H. When placed in room restriction, the resident shall have a means of communication with  
26 staff, either verbally or electronically.

27 I. The facility administrator or the facility administrator's designee shall make daily personal  
28 contact with each resident who is placed in room restriction in order to ensure that all such  
29 residents, with the exception of those placed in disciplinary room restriction, are restricted only  
30 for the minimum amount of time required to address the resident's negative behavior or threat.  
31 During the daily visit, the facility administrator shall assess and document (i) whether the resident  
32 is prepared to return to the general population, unless the resident is placed in disciplinary room  
33 restriction for a specified time period; and (ii) whether the resident requires a mental health  
34 evaluation.

35 J. Residents who are placed in room restriction shall be housed no more than one to a room.

36 K. The provisions of this section shall apply to all forms of room restriction, including  
37 disciplinary room restriction, unless otherwise provided.

38  
39 **6VAC35-200-250. Disciplinary room restriction.**

40 A. Unless otherwise provided, when a resident is placed in disciplinary room restriction, the  
41 provisions of 6VAC35-200-240 shall apply.

42 B. Written procedures governing disciplinary room restriction shall:

43 1. Specify that residents may be placed in room restriction only after application of the  
44 disciplinary process, as provided for in 6VAC35-101-1080; and

45 2. Comply with the behavior management requirements set out in 6VAC35-101-1070.

46 C. Residents placed in disciplinary room restriction generally shall not be permitted to  
47 participate in activities with other residents, and all activities are restricted unless an exception is  
48 issued by the facility administrator or the facility administrator's designee. The following activities,  
49 however, shall not be restricted: (i) eating, (ii) sleeping, (iii) personal hygiene, (iv) any legally  
50 required educational programming or special education services; and (v) large muscle activity,  
51 except as permitted in 6VAC35-101-1100 C. The facility administrator or the facility administrator's

1 designee shall provide opportunities for residents placed in disciplinary room restriction to engage  
2 in reading or writing activities in accordance with the safety and security needs of the resident.

3  
4 **6VAC35-200-260. Physical restraint.**

5 A. Physical restraint shall be used as a last resort only after less restrictive interventions have  
6 failed or to control residents whose behavior poses a risk to the safety of the resident, staff, or  
7 others.

8 1. Staff shall use the least force deemed reasonably necessary to eliminate the risk or to  
9 maintain security and order and shall never use physical restraint as punishment or with  
10 the intent to inflict injury.

11 2. Physical restraint may be implemented, monitored, and discontinued only by staff who  
12 have been trained in the proper and safe use of restraint in accordance with the  
13 requirements in 6VAC35-101-190 and 6VAC35-101-200.

14 B. Each detention center shall implement written procedures governing the use of physical  
15 restraint, which shall include:

16 1. The staff position that will write the report and time frame for completing the report;

17 2. The staff position that will review the report and time frame for completing the review;

18 3. Methods to be followed should physical restraint, less intrusive interventions, or  
19 measures permitted by other applicable state regulations prove unsuccessful in calming  
20 and moderating the resident's behavior; and

21 4. An administrative review of the use of each physical restraint to ensure conformity with  
22 the procedures.

23 C. Each application of physical restraint shall be fully documented in the resident's case  
24 record. The document shall include:

25 1. Date and time of the incident;

26 2. Staff involved;

27 3. Justification for the restraint;

28 4. Less restrictive behavior interventions that were unsuccessfully attempted before using  
29 physical restraint;

30 5. Duration of the restraint;

31 6. Description of the method or methods of physical restraint techniques used;

32 7. Signature of the person completing the report and

33 8. Reviewer's signature and date.

34  
35 **Article 7 – Mechanical Restraints and Protective Devices**

36 **6VAC35-200-270. Mechanical restraints and protective devices.**

37 A. Mechanical restraints and protective devices may be used on federal residents for the  
38 following purposes subject to the restrictions enumerated in this section: (i) to control residents  
39 whose behavior poses an imminent risk to the safety of the resident, staff, or others; (ii) for  
40 purposes of controlled movement, either from one area of the facility to another or to a destination  
41 outside the facility, and (iii) to address emergencies.

42 B. A detention center that uses mechanical restraints or protective devices on federal  
43 residents shall observe the following general requirements:

44 1. Mechanical restraints and protective devices shall be used only for as long as necessary  
45 to address the purposes established in subsection A. Once the imminent risk to safety has  
46 abated, the federal resident has reached the intended destination within the facility or has  
47 returned to the facility from a destination offsite, or the emergency situation has been  
48 resolved, the mechanical restraint or protective device shall be removed;

49 2. The facility administrator or the administrator's designee shall be notified immediately  
50 upon using mechanical restraints or protective devices in an emergency;

1 3. The facility may not use mechanical restraints or protective devices as a punishment or  
2 a sanction;

3 4. Federal residents may not be restrained to a fixed object or restrained in an unnatural  
4 position. For purposes of this section, securing a resident to a hospital bed or wheelchair  
5 may be permitted in an outside medical setting upon written approval by the facility  
6 administrator.

7 5. A mental health clinician or other qualifying licensed medical professional may order  
8 termination of a mechanical restraint or protective device at any time upon determining  
9 that the item poses a health risk.

10 6. Each use of a mechanical restraint or protective device, except when used to transport  
11 a federal resident or during video court hearing proceedings, shall be recorded in the  
12 resident's case file or in a central log book; and

13 7. A written system of accountability shall be in place to ensure routine and emergency  
14 distribution of mechanical restraints and protective devices.

15 8. All staff who are authorized to use mechanical restraints or protective devices shall  
16 receive training in such use in accordance with 6VAC35-101-190 and 6VAC35-101-200;  
17 and only trained staff shall use restraint or protective devices.

18 C. A detention center that uses a mechanical restraint to control a resident whose behavior  
19 poses a safety risk in accordance with subdivision A i of this section shall notify a health care  
20 provider and a mental health clinician before continuing to use the restraint and, if applicable, the  
21 accompanying protective device, if the imminent risk has abated, but facility staff deem continued  
22 use of the mechanical restraint necessary to maintain security due to the resident's ongoing  
23 credible threat of self injury or injury to others. This may include instances in which the federal  
24 resident verbally expresses the intent to continue the actions that required the restraint.

25 D. Detention center staff may not use a protective device on a federal resident unless such  
26 use is in connection with a restraint and shall remove the device when the resident is released  
27 from the restraint.

28 E. In addition to the requirements in subsections A through D of this section, if staff in a juvenile  
29 detention center use a spit guard to control a federal resident's behavior, they shall observe the  
30 following requirements:

31 1. Staff may not use a spit guard on a federal resident unless it possesses the following  
32 characteristics:

33 a. The spit guard's design may not inhibit the resident's ability to breathe;

34 b. The spit guard must be constructed to allow for visibility; and

35 c. The spit guard must be manufactured and sold specifically for the prevention of  
36 biting or spitting.

37 2. The spit guard may be used only on a federal resident who: (i) previously has bitten or  
38 spit on a person at the facility, or (ii) in the course of a current restraint, threatens or  
39 attempts to spit on or bite or actually spits on or bites a staff member;

40 3. The spit guard must be applied in a manner that will not inhibit the resident's ability to  
41 breathe.

42 4. While the spit guard remains in place, staff shall provide for the resident's reasonable  
43 comfort and ensure the resident's access to water and meals, as applicable.

44 5. Staff must employ constant supervision of the resident while the spit guard remains in  
45 place to observe whether the resident exhibits signs of respiratory distress. If any sign of  
46 respiratory distress is observed, staff shall take immediate action to prevent injury and to  
47 notify supervisory staff.

48 6. Staff may not use a spit guard on a resident who is unconscious, vomiting, or in obvious  
49 need of medical attention.  
50

51 **6VAC35-200-280. Monitoring residents placed in mechanical restraints.**

1 A. Written procedure shall provide that if a resident in a federal program is placed  
2 in mechanical restraints, except when being transported offsite, staff shall:

3 1. Provide for the resident's reasonable comfort and ensure the resident's access to water,  
4 meals, and toilet; and

5 2. Make a face-to-face check on the resident at least every 15 minutes and more often if  
6 the resident's behavior warrants. Staff shall attempt to engage verbally with the resident  
7 during each periodic check. These efforts may include explaining the reasons for which  
8 the resident is being restrained or the steps necessary to be released from the restraint or  
9 otherwise attempting to deescalate the resident. During each check, a health-trained staff  
10 member shall monitor the resident for signs of circulation and for injuries.

11 B. If a resident remains in a mechanical restraint for a period that exceeds two hours, except  
12 when being transported offsite, staff shall permit exercise of the resident's limbs for a minimum of  
13 10 minutes every two hours to prevent blood clots.

14 C. When a resident is placed in mechanical restraints for more than two hours cumulatively in  
15 a 24-hour period, except during routine transportation of residents, staff immediately shall consult  
16 with a health care provider and a mental health clinician. This consultation shall be documented.

17 D. If the resident, after being placed in mechanical restraints, exhibits self-injurious behavior,  
18 staff shall (i) take appropriate action to ensure the threat or harm is stabilized; (ii) consult  
19 with a mental health clinician immediately thereafter and document the consultation; and (iii)  
20 monitor the resident in accordance with established protocols, including constant supervision, if  
21 appropriate.

22  
23 **6VAC35-200-290. Written procedures regarding mechanical restraints and protective**  
24 **devices.**

25 A detention center that uses mechanical restraints or protective devices shall develop and  
26 implement written procedures approved by the facility administrator that reflect the requirements  
27 established in this article.

28  
29 **Article 8 – Mechanical Restraint Chair**

30 **6VAC35-200-300. Mechanical restraint chair; general provisions.**

31 A detention center that utilizes a mechanical restraint chair in a federal program shall observe  
32 the following requirements, regardless of whether the chair is used for purposes of controlled  
33 movement in accordance with 6VAC35-200-310 or for other purposes in accordance with  
34 6VAC35-200-320:

35 1. The restraint chair shall never be applied as punishment or as a sanction.

36 2. All staff authorized to use the restraint chair shall receive training in such use in  
37 accordance with 6VAC35-101-190 and 6VAC35-101-200.

38 3. The facility administrator or the administrator's designee shall provide approval before  
39 a resident may be placed in the restraint chair.

40 4. Staff shall notify the health authority, designated in accordance with 6VAC35-101-930,  
41 immediately upon placing the resident in the restraint chair to assess the resident's  
42 medical and mental health condition, to ascertain whether the restraint is contraindicated  
43 based on the resident's physical condition or behavior or whether other accommodations  
44 are necessary, and to advise whether, on the basis of serious danger to self or others, the  
45 resident should be in a medical or mental health unit for emergency involuntary treatment.  
46 The requirements of this subdivision shall not apply when the restraint chair is requested  
47 by a resident for whom such voluntary use is part of an approved plan of care by a mental  
48 health clinician in accordance with subsection C of 6VAC35-200-320.

49 5. If the resident, after being placed in the mechanical restraint chair, exhibits self-injurious  
50 behavior, staff shall (i) take appropriate action to ensure the threat or harm is stabilized;



1 and (ii) consult a mental health clinician immediately thereafter and obtain approval for  
2 continued use of the restraint chair;

3 6. The health authority, a mental health clinician, or another qualifying licensed medical  
4 professional may order termination of restraint chair use at any time upon determining that  
5 use of the chair poses a health risk;

6 7. Each use of the restraint chair shall constitute a serious incident, to which the provisions  
7 of 6VAC35-200-80 shall apply;

8 8. Each use of the restraint chair shall be documented in the resident's case file or in a  
9 central logbook. The documentation shall include:

10 a. Date and time of the incident;

11 b. Staff involved in the incident;

12 c. Justification for the restraint;

13 d. Less restrictive interventions that were attempted or an explanation of why the  
14 restraint chair is the least restrictive intervention available to ensure the resident's safe  
15 movement;

16 e. Duration of the restraint;

17 f. Signature of the person documenting the incident and date;

18 g. Indication that all applicable approvals required in this article have been obtained;  
19 and

20 h. Reviewer's signature and date.

21 9. Staff shall conduct a debriefing of the restraint after releasing the resident from the  
22 chair.  
23

24 **6VAC35-200-310. Mechanical restraint chair use for controlled movement; conditions.**

25 A. Detention center staff shall be authorized to use a mechanical restraint chair in a federal  
26 program for purposes of controlled movement of a resident from one area of the facility to another,  
27 provided the following conditions are satisfied:

28 1. The resident's refusal to move from one area of the facility to another poses a direct  
29 and immediate threat to the resident or others or interferes with required facility operations;  
30 and

31 2. Use of the restraint chair is the least restrictive intervention available to ensure the  
32 resident's safe movement.

33 B. When the facility utilizes the restraint chair in accordance with this section, staff shall  
34 remove the resident from the chair immediately upon reaching the intended destination. If staff,  
35 upon reaching the intended destination, determine that continued restraint is necessary, staff shall  
36 consult with a mental health clinician for approval of the continued restraint.  
37

38 **6VAC35-200-320. Mechanical restraint chair use for purposes other than controlled  
39 movement; conditions for use.**

40 A. Detention center staff shall be authorized to use a mechanical restraint chair in a federal  
41 program for purposes other than controlled movement provided the following conditions are  
42 satisfied:

43 1. The resident's behavior or actions present a direct and immediate threat to the resident  
44 or others;

45 2. Less restrictive alternatives were attempted but were unsuccessful in bringing the  
46 resident's behavior under control or abating the threat;

47 3. The resident remains in the restraint chair only for as long as necessary to abate the  
48 threat or help the resident gain self-control.

49 B. Once the direct threat is abated, if staff determines that continued restraint is necessary to  
50 maintain security due to the resident's ongoing credible threat of self-injury or injury to others,  
51 staff shall consult a mental health clinician for approval of the continued restraint. The ongoing

1 threat may include instances in which the resident verbally expresses the intent to continue the  
2 actions that required the restraint.

3 C. Detention center staff shall be excused from the requirements in subsections A and B of  
4 this section when the restraint chair is requested by a resident for whom such voluntary use is  
5 part of an approved plan of care by a mental health clinician.

6 D. Whenever a resident is placed in a restraint chair for purposes other than controlled  
7 movement, staff shall observe the following monitoring requirements:

8 1. Employ constant, one-on-one supervision until the resident is released from the chair.  
9 Staff shall attempt to engage verbally with the resident during the one-on-one supervision.  
10 These efforts may include explaining the reasons for which the resident is being restrained  
11 or the steps necessary to be released from the restraint or otherwise attempting to  
12 deescalate the resident;

13 2. Ensure that a health-trained staff monitors the resident for signs of circulation and for  
14 injuries at least once every 15 minutes in accordance with written procedures; and

15 3. Ensure that the resident is reasonably comfortable and has access to water, meals, and  
16 toilet.

17  
18 **6VAC35-200-330. Monitoring residents placed in a mechanical restraint chair.**

19 A. If a resident remains in the restraint chair for a period of two hours or more, the resident  
20 shall be permitted to exercise the resident's limbs for a minimum of 10 minutes every two hours  
21 to prevent blood clots.

22 B. A detention center shall ensure that a video record of the following is captured and retained  
23 for a minimum of three years in accordance with 6VAC35-101-40:

24 1. The placement of a resident in a restraint chair when a resident is restrained for  
25 purposes of controlled movement;

26 2. The entire restraint, from the time the resident is placed in the restraint chair until the  
27 resident's release when restrained in the chair for purposes other than controlled  
28 movement. Detention center staff may satisfy this requirement by positioning the  
29 restraint chair within direct view of an existing security camera.  
30

31 **6VAC35-200-340. Department monitoring visits; annual reporting; board review.**

32 A. If detention center staff use a mechanical restraint chair to restrain a resident in a federal  
33 program, regardless of the purpose or duration of the use, the detention center shall be subject  
34 to a monitoring visit conducted by the department pursuant to the authority provided in 6VAC35-  
35 20-60. The purpose of the monitoring visit shall be to assess the detention center's compliance  
36 with the provisions of this article.

37 B. Upon completion of the monitoring visit, the department shall provide the detention center  
38 with a written report of its findings in accordance with 6VAC35-20-90. A detention center cited for  
39 noncompliance with a regulatory requirement pursuant to this monitoring visit may request a  
40 variance or appeal the finding of noncompliance in accordance with 6VAC35-20-90.

41 C. The department shall document each monitoring visit conducted pursuant to subsection A  
42 and provide a written report to the board annually that details, at a minimum, the following  
43 information regarding each separate incident in which the restraint chair is used:

44 1. The facility in which the chair is used, with specific reference to the federal program;

45 2. The date and time of the use;

46 3. A brief description of the restraint, including the purpose for which the restraint was  
47 applied, the duration of the restraint, and the circumstances surrounding the resident's  
48 release from the restraint;

49 4. The extent to which detention center staff complied with the regulatory requirements  
50 related to mechanical restraint chair use, as set forth in Sections 300 through 350 of this  
51 chapter; and

1           5. The plans identified to address findings of noncompliance, if applicable.

2           D. The annual report shall be placed on the agenda for the next regularly scheduled board  
3 meeting for the board's consideration and review.

4

5 **6VAC35-200-350. Written procedures regarding mechanical restraint chairs.**

6           A detention center that uses a mechanical restraint chair to restrain a resident shall develop  
7 and implement written procedures approved by the facility administrator that reflect the  
8 requirements established in this article. The procedures shall provide that if staff are prohibited  
9 from using restraint chairs on residents in other programs in the facility, such use also shall be  
10 prohibited in the federal program.

**PART III – FEDERAL PROGRAMS IN JUVENILE CORRECTIONAL CENTERS**  
**Article 1 – General Provisions**

**6VAC35-200-360. Contracts between the department and federal governmental entities**

A. When the director enters into an agreement with a federal governmental entity for the purpose of operating a federal program in a juvenile correctional center, the agreement shall satisfy the following requirements:

1. The agreement shall be in writing;
2. The agreement shall require the federal program's compliance with 6VAC35-20, Regulation Governing the Monitoring, Approval, and Certification of Juvenile Justice Programs and Facilities and this chapter; and
3. For purposes of demonstrating compliance with this chapter, the agreement shall allow the department the same access to juveniles in the federal program and to their records and reports as is authorized currently under § 16.1-309.10 of the Code of Virginia and 6VAC35-20 for all other residents in the juvenile correctional center.

B. Nothing in this section shall prevent the director and the federal governmental entity from agreeing that services and treatment for juveniles in the federal program shall exceed the requirements in this chapter.

**6VAC35-200-370. Serious incident reports.**

A. The following events shall be reported to the director or the director's designee as soon as practicable, but no later than 24 hours after the incident:

1. A serious illness, incident, injury, or accident involving the serious injury of a federal resident;
2. A federal resident's absence from the facility without permission; and
3. The facility's use of the mechanical restraint chair, regardless of the purpose or duration of use.

B. As appropriate and applicable, facility staff shall, as soon as practicable, but no later than 24 hours after the incident, report the incidents listed in subsection A of this section to (i) the parent or legal guardian and (ii) the supervising federal entity.

C. Any incident involving the death of a federal resident shall be reported to the individuals specified in subsections A and B of this section without undue delay.

D. Facility staff shall prepare and maintain a written report of the events listed in subsections A and C of this section that shall contain the following information:

1. The date and time the incident occurred;
2. A brief description of the incident;
3. The action taken as a result of the incident;
4. The name of the person who completed the report;
5. The name or identifying information of the person who made the report to the supervising agency and to the parent or legal guardian; and
6. The name or identifying information of the person to whom the report was made, including any law-enforcement officer, local department of social services staff, or representative of another applicable agency.

E. The department shall establish written procedures that address any additional serious incidents that must be reported, the process for notifying the parties identified in subsection B of this section, and the steps for completing and submitting the written report required in subsection D. The JCC administration shall ensure the written procedures are accessible to JCC staff.

F. The federal resident's case record shall contain a written reference (i) that an incident occurred and (ii) of all applicable reporting.

G. In addition to the requirements of this section, any suspected child abuse and neglect shall be governed by 6VAC35-200-350.

**6VAC35-200-380. Suspected child abuse or neglect.**

A. When there is reason to suspect that a resident in a federal program is an abused or neglected child, the matter shall be reported immediately to the local department of social services or to the Virginia Department of Social Services toll-free child abuse and neglect hotline as required by § 63.2-1509 of the Code of Virginia.

B. Any case of suspected child abuse or neglect occurring in a JCC federal program, occurring during a JCC-sponsored event or excursion, or involving JCC staff shall be reported within 24 hours to (i) the director or the director's designee, (ii) the supervising federal entity, and (iii) the resident's parent or legal guardian, as appropriate and applicable.

C. When a case of suspected child abuse or neglect is reported in accordance with subsection A of this section, a record shall be maintained at the facility that contains the following information:

1. The date and time the suspected abuse or neglect occurred;
2. A brief description of the suspected abuse or neglect;
3. The action taken as a result of the suspected abuse or neglect;
4. The name or identifying information of the person to whom the report was made, including any law-enforcement officer, local department of social services staff, or individual at another applicable agency;
5. A statement of the victim of the alleged abuse or neglect;
6. Statements of all staff and residents who observed the alleged abuse or neglect or who have knowledge relevant to the investigation; and
7. Medical records, if a medical examination occurred.

D. The resident's case record shall contain a written reference that a report was made.

E. If a serious incident alleging child abuse or neglect is reported and facility staff determine that video footage associated with the allegation can be accessed and extracted from a running video record, staff shall extract and maintain the video footage until the investigation for the underlying allegation has concluded, but for a period of at least three years after the conclusion of the investigation.

F. Written procedures shall be accessible to staff regarding the following:

1. Handling accusations of child abuse or neglect, including those made against staff;
2. Reporting consistent with requirements of the Code of Virginia and documenting suspected cases of child abuse or neglect to the local child protective services unit;
3. Cooperating during any investigation; and
4. Measures to be taken to ensure the safety of the resident and the staff.

**6VAC35-200-390. Grievance procedure.**

A. The department shall have in place a grievance procedure that provides for the following:

1. Resident participation in the grievance process, with assistance from staff upon request;
2. Investigation of the grievance by an impartial and objective employee who is not the subject of the grievance;
3. Documented-responses to all grievances with the supporting reasons for the decision;
4. At least one level of appeal;
5. Administrative review of grievances;
6. Protection of residents from retaliation or the threat of retaliation for filing a grievance; and
7. Immediate review of grievances that pose an immediate risk of harm to a resident, with resolution as soon as practicable but no later than eight hours after the initial review and review and resolution of all other grievances as soon as practicable but no later than 30 business days after receipt of the grievance. For purposes of this subdivision, a grievance may be deemed resolved once facility staff have addressed, corrected, or referred the issue to an external organizational unit.

B. Residents shall be oriented to the grievance procedure in an age and developmentally appropriate manner.

C. The grievance procedure shall be (i) written in clear and simple language, (ii) posted in an area accessible to residents, and (iii) available in an area easily accessible to parents and legal guardians.

D. Staff shall assist and work cooperatively with other employees in facilitating the grievance process.

**6VAC35-200-400. Other applicable regulations.**

In addition to the applicable requirements in this chapter, federal programs in juvenile correctional centers shall comply with each section of the Regulations Governing Juvenile Correctional Centers (6VAC35-71) except the following provisions:

1. 6VAC35-71-15
2. 6VAC35-71-60
3. 6VAC35-71-70
4. 6VAC35-71-80
5. 6VAC35-71-260
6. 6VAC35-71-270
7. 6VAC35-71-680
8. 6VAC35-71-690
9. 6VAC35-71-750
10. 6VAC35-71-1140
11. 6VAC35-71-1175
12. 6VAC35-71-1180
13. 6VAC35-71-1190
14. 6VAC35-71-1195
15. 6VAC35-71-1203
16. 6VAC35-71-1204
17. 6VAC35-71-1205
18. 6VAC35-71-1206
19. 6VAC35-71-1207
20. 6VAC35-71-1208

**Article 2 – Administrative Provisions**

**6VAC35-200-410. Maintenance of case records.**

A. A separate written case record shall be maintained for each resident in a federal program, which shall include all correspondence and documents generated or received by the federal program relating to the care of the resident and documentation of all case management services provided.

B. Separate health care records shall be kept on each resident and maintained in accordance with 6VAC35-71-1020 and applicable statutes and regulations. Behavioral health records may be kept separately from other health care records.

C. Each case record and health care record shall be kept (i) up to date, (ii) in a uniform manner, and (iii) confidential from unauthorized access.

D. The facility shall have written procedures in place for the maintenance and management of case records in federal programs. The procedures for managing resident written records shall address confidentiality, accessibility, security, and retention of records pertaining to residents including:

1. Access, duplication, dissemination, and acquisition of information, restricted to persons legally authorized according to applicable federal and state laws;
2. Security measures to protect records from loss, unauthorized alteration, inadvertent or unauthorized access, disclosure of information, and transportation of records between service sites;
3. Security measures to protect records during transportation between service sites;
4. Designation of the person responsible for records management;
5. Explanation of the record information available to the resident, how to access that information, and the recourse available to residents when their record information requests are denied;
6. Disposition of records when a resident is discharged from the federal program; and
7. Disposition of records if a juvenile correctional center ceases to operate or the department terminates its contract with the applicable federal governmental entity.

E. Facility staff shall maintain documentation of the program's authority to retain, release, transfer, or destroy any records maintained by the federal program.

F. Active and closed records shall be kept in secure locations or compartments that are accessible only to authorized employees and shall be protected from unauthorized access, fire, and flood.

G. Each resident's written case and health care records shall be stored separately subsequent to the resident's discharge in accordance with applicable statutes and regulations.

#### **6VAC35-200-420. Face sheet.**

A. At the time of admission, each resident's record shall include, at a minimum, a completed face sheet that contains the following: (i) the resident's full name, last known residence, birth date, birthplace, sex, gender identity, race, primary language, preferred language, social security number or other unique identifier, religious preference, and admission date; and (ii) the names, addresses, and telephone numbers of the resident's legal guardians, supervising agency, emergency contacts, and parents, if available and appropriate.

B. The face sheet shall be updated when changes occur and maintained as a part of the resident's record.

### **Article 3 – Program Operation**

#### **6VAC35-200-430. Admission and orientation.**

A. Written procedures governing the admission and orientation of residents to a federal program shall provide for the following:

1. Verification of legal authority for placement;
2. Search of the resident and the resident's possessions, including inventory and storage or disposition of property, as appropriate and required by 6VAC35-200-400;
3. Health screening of the resident as required by 6VAC35-71-940;
4. Notice to the parent or legal guardian of the resident's admission;
5. Provision to the parent or legal guardian of information on (i) visitation, (ii) how to request information, and (iii) how to register concerns and complaints with the facility;
6. Interview with the resident to answer questions and obtain information;
7. Explanation to the resident of program services and schedules; and
8. Assignment of the resident to a housing unit and sleeping area or room.

B. Residents in federal programs shall receive an orientation to the following:

1. The behavior management program as required by 6VAC35-71-745.
  - a. During orientation, residents shall be given written information describing rules of conduct, the system of privileges and sanctions for rule violations, and the

disciplinary process. This information shall be explained to the resident and documented by the dated signature of the resident and staff;

b. If substantive revisions are made to the behavior management program, the facility administration shall ensure that residents and direct care employees receive notice of these revisions in writing before implementation.

2. The grievance procedure, as required by 6VAC35-71-80;
3. The disciplinary process as required by 6VAC35-71-1110;
4. The resident's responsibilities in implementing the emergency procedures as required by 6VAC35-71-460.
  - a. Within seven days following admission or within seven days after a substantive change in procedures, facility staff shall communicate to federal residents the resident's responsibilities in implementing the emergency and evacuation procedures;
  - b. Annually, facility staff shall document the review of the emergency preparedness plan, required pursuant to subsection A of 6VAC35-71-460, and make necessary revisions. The revisions shall be communicated to residents and incorporated into resident orientation.
5. The residents' rights, including the following:
  - a. The prohibited actions listed in 6VAC35-71-550;
  - b. The right to have additional precautions in place for residents identified as being a member of a vulnerable population pursuant to 6VAC35-71-555;
  - c. The protections provided for resident mail pursuant to 6VAC35-71-560. The facility administration also shall ensure that written procedures governing resident mail are made available to all residents and updated as needed;
  - d. The right to telephone calls pursuant to 6VAC35-71-570;
  - e. The right to reasonable visitation, limited only as permitted in 6VAC35-71-580;
  - f. The right to have (i) uncensored, confidential contact with their legal representatives, (ii) access to the courts; and (iii) freedom from compulsory questioning by law enforcement pursuant to 6VAC35-71-590;
  - g. The right to those personal necessities specified in 6VAC35-71-600;
  - h. The right to daily opportunities to shower, except as limited in 6VAC35-71-610;
  - i. Protection from routine sight supervision by certain staff members while bathing, dressing, or conducting toileting activities in accordance with 6VAC35-71-620;
  - j. Daily nutritionally balanced meals in accordance with 6VAC35-71-630;
  - k. Availability of reading materials appropriate to the residents' ages and level of competency, as set out in 6VAC35-71-640;
  - l. The reasonable right to participate in religious activities and freedom from coerced religious participation in accordance with 6VAC35-71-650;
  - m. Availability and access to a recreational program plan that satisfies the requirements of 6VAC35-71-660; and
  - n. Protection of residents' funds, to be used only in accordance with 6VAC35-71-670.
6. The record information available to the residents while residing in the facility, how to access the information and the recourse available when record information requests are denied.
7. The student government association and its constitution and bylaws in accordance with 6VAC35-71-90.

C. The facility administration shall ensure that all information provided to the federal resident pursuant to this section is explained in a developmentally appropriate manner and is available in a format that is accessible to all residents, including those who are deaf, hard of hearing, visually impaired, or otherwise disabled or impaired, or who have limited English reading skills or limited English proficiency.



D. The facility administration shall maintain documentation that the requirements of this section have been satisfied.

**6VAC35-200-440. Resident personal possessions.**

A. JCC administration shall inventory each federal resident's personal possessions upon admission and document the information in the resident's case records.

B. The department shall have written procedures for the disposition or storage of items that the resident is not permitted to possess in the facility. At a minimum, the procedures shall require that if the items are nonperishable property that the resident may otherwise legally possess, staff shall: (i) securely store the property and return it to the resident upon release or (ii) make reasonable, documented efforts to return the property to the resident or the resident's parent or legal guardian.

C. The department shall have written procedures in place regarding the disposition of personal property unclaimed by residents after release from a federal program.

**6VAC35-200-450. Discharge from federal program.**

A. The case record of each resident discharged from a federal program shall contain the following:

1. Documentation that the discharge was discussed with the parent or legal guardian, if applicable and appropriate, the supervising agency, and the resident; and
2. As soon as possible, but no later than 30 days after discharge, a comprehensive discharge summary, which also shall be sent to the persons or agency that made the placement. The discharge summary shall review:
  - a. Services provided to the resident;
  - b. The resident's progress toward meeting individual service plan objectives;
  - c. The resident's continuing needs and recommendations for further services and care, if any;
  - d. The name of the person to whom the resident was discharged;
  - e. Dates of admission and discharge; and
  - f. The date the discharge summary was prepared and the identification of the person preparing it.

B. In addition to the requirements in subsection A of this section, the case record of each resident discharged from a federal program shall contain a copy of the documentation authorizing the resident's release.

C. As appropriate and applicable, documentation concerning current medications, need for continuing therapeutic interventions, educational status, and other items important to the resident's continuing care shall be provided to the legal guardian or legally authorized representative.

D. Upon discharge, the (i) date of discharge and (ii) name of the person to whom the resident was discharged, if applicable, shall be documented in the case record.

**Article 4 – Room Confinement and Physical Restraints**

**6VAC35-200-460. Room confinement.**

A. Written procedures governing room confinement shall address the following issues:

1. The actions or behaviors that may result in room confinement;
2. The factors, such as age, developmental level, or disability, that should be considered prior to placing a resident in room confinement;
3. The process for determining whether the resident's behavior threatens the safety and security of the resident, others, or the facility; the protocol for determining whether the

threat necessitating room confinement has abated; and the necessary steps for releasing the resident from room confinement after the threat has abated; and

4. The circumstances under which a debriefing with the resident should occur after the resident is released from confinement; the party who should conduct the debriefing; and the topics that should be discussed in the debriefing, including the cause and impact of the room confinement and the appropriate measures post-confinement to support positive resident outcomes.

B. If a resident is placed in room confinement, regardless of the duration of the confinement period or the rationale for the confinement, staff shall take measures to ensure the continued health and safety of the confined resident. At a minimum, the following measures shall be taken:

1. Staff shall monitor the resident visually at least every 15 minutes and more frequently if indicated by the circumstances. If a resident is placed on suicide precautions, staff shall conduct additional visual checks as determined by the mental health clinician.

2. A qualified medical health professional or mental health clinician shall visit with the resident at least once daily to assess the resident's medical and mental health status.

3. The resident shall have a means of immediate communication with staff, either verbally or electronically, throughout the duration of the confinement period.

4. The resident shall be afforded the opportunity for at least one hour of large muscle activity outside of the locked room every calendar day unless the resident displays behavior that is threatening, presents an imminent danger to self or others, or other circumstances prevent the activity. The reasons for the exception shall be approved by the superintendent or the superintendent's designee and documented.

5. If the resident exhibits self-injurious behavior while in room confinement, staff shall (i) take appropriate action in response to the behavior to prevent further injury and to notify supervisory staff; (ii) consult with a mental health clinician immediately after the threat has abated and document the consultation; and (iii) adjust the frequency of face-to-face checks, as needed, never allowing more than 15 minutes to pass between checks.

C. Room confinement may be imposed only in response to the following situations:

1. If a resident's actions threaten facility security or the safety and security of residents, staff, or others in the facility;

2. In order to prevent damage to real or personal property when the damage is committed with the intent of fashioning an object or device that may threaten facility security or the safety and security of residents, staff, or others in the facility; or

3. If the resident admits in writing to a charge for or is found guilty of one of the following offenses pursuant to the disciplinary process in 6VAC35-71-1120 and is placed in disciplinary room confinement as a sanction:

a. Escape, attempted escape, or Absent Without Leave (AWOL),

b. Possession or use of an unauthorized item that has the potential to threaten the security of the facility,

c. Assault,

d. Fighting,

e. Sexual misconduct, or

f. Sexual abuse.

D. A resident may not receive a sanction for disciplinary room confinement that exceeds five consecutive days.

E. Except when a resident is placed in disciplinary room confinement in accordance with subdivision C 3, room confinement may be imposed only after less restrictive measures have been exhausted or cannot be employed successfully. Once the threat necessitating the confinement has abated, staff shall initiate the process for releasing the resident from confinement.

F. If a resident is placed in room confinement, the resident shall be provided medical and mental health treatment, as applicable, education, daily nutrition in accordance with 6VAC35-71-630, and daily opportunities for bathing in accordance with 6VAC35-71-550.

G. Within the first three hours of a resident's placement in room confinement, a designated staff member shall communicate with the resident to explain (i) the reasons for which the resident has been placed in confinement; (ii) the expectations governing behavior while in room confinement; and (iii) the steps necessary for the resident to be released from room confinement.

H. A resident confined for six or fewer waking hours shall be afforded the opportunity at least once during the confinement period to communicate, wholly apart from the communications required in subsection F of this section, with a staff member regarding the resident's status or the impact of the room confinement. A resident confined for a period that exceeds six waking hours shall be afforded an opportunity twice daily during waking hours for these communications.

I. The superintendent or the superintendent's designee shall make personal contact with every resident who is placed in room confinement each day of confinement.

J. If a resident is placed in room confinement for 24 hours, the superintendent or the superintendent's designee shall be notified and shall provide written approval for any continued room confinement beyond the 24-hour period.

K. The facility superintendent's supervisor shall provide written approval before any room confinement may be extended beyond 48 hours.

L. The administrator who is two levels above the superintendent in the department's reporting chain of command shall provide written approval before any room confinement may be extended beyond 72 hours. The administrator's approval shall be contingent upon receipt of a written report outlining the steps being taken or planned to resolve the situation. The facility administration shall convene a treatment team consisting of stakeholders involved in the resident's treatment to develop this plan. The department shall establish written procedures governing the development of this plan.

M. Room confinement periods that exceed five days shall be subject to a case management review that adheres to the following requirements:

1. A facility-level review committee shall conduct a case management review at the committee's next scheduled meeting immediately following expiration of the five-day period.
2. If the facility-level case management review determines a need for the resident's continued confinement, the case shall be referred for a case management review at the division-level committee meeting, which shall occur no later than seven business days following the referral.
3. Upon completion of the initial reviews in subdivisions L 1 and L 2 of this section, any additional time that the resident remains in room confinement shall be subject to a recurring review by the facility-level review committee and the division-level review committee, as applicable, until either committee recommends the resident's release from room confinement. Upon written request of the division-level review committee, the administrator who is two levels above the superintendent in the department's reporting chain of command shall be authorized to reduce the frequency of or waive the division-level reviews. The rationale for the waiver shall be documented and placed in the resident's record.

#### **6VAC35-200-470. Physical restraints**

A. Physical restraint shall be used as a last resort only after less restrictive behavior intervention techniques have failed or to control residents whose behavior poses a risk to the safety of the resident, staff, or others.

1. Staff shall use the least force deemed reasonably necessary to eliminate the risk or to maintain security and order and shall never use physical restraint as punishment or with intent to inflict injury.
  2. Physical restraint may be implemented, monitored, and discontinued only by staff trained in the proper and safe use of restraint in accordance with the requirements in 6VAC35-71-160 and 6VAC35-71-170.
- B. The JCC administration shall have written procedures in place governing use of physical restraint that shall:
1. Require training in crisis prevention and behavior intervention techniques that staff may use to control residents whose behaviors pose a risk;
  2. Identify the staff position that will write the report and timeframe for completing the report;
  3. Identify the staff position that will review the report for continued staff development for performance improvement and the timeframe for this review; and
  4. Identify the methods to be followed should physical restraint, less intrusive behavior interventions, or measures permitted by other applicable state regulations prove unsuccessful in calming and moderating the resident's behavior.
- C. Each application of physical restraint shall be fully documented in the resident's record. The documentation shall include the:
1. Date and time of the incident;
  2. Staff involved in the incident;
  3. Justification for the restraint;
  4. Less restrictive behavior interventions that were attempted unsuccessfully prior to using physical restraint;
  5. Duration of the restraint;
  6. Description of the method of physical restraint techniques used;
  7. Signature of the person completing the report and date; and
  8. Reviewer's signature and date.

## Article 5 – Mechanical Restraints and Protective Devices

### **6VAC35-200-480. Mechanical restraints and protective devices.**

A. Mechanical restraints and protective devices may be used in federal programs for the following purposes subject to the restrictions enumerated in this section: (i) to control federal residents whose behavior poses an imminent risk to the safety of the resident, staff, or others; (ii) for purposes of controlled movement, either from one area of the facility to another or to a destination outside the facility; and (iii) to address emergencies.

B. When JCC staff use mechanical restraints or protective devices, they shall observe the following general requirements:

1. Mechanical restraints and protective devices shall be used only for as long as necessary to address the purposes established in subsection A. Once the imminent risk to safety has abated, the federal resident has reached the intended destination within the facility or has returned to the facility from a destination offsite, or the emergency has been resolved, the mechanical restraint or protective device shall be removed.
2. The superintendent or the superintendent's designee shall be notified immediately upon using mechanical restraints or protective devices in an emergency.
3. The facility administration may not use mechanical restraints or protective devices as a punishment or a sanction.
4. Federal residents shall not be restrained to a fixed object or restrained in an unnatural position.

5. A mental health clinician or other qualifying licensed medical professional may order termination of a mechanical restraint or protective device at any time upon determining that the item poses a health risk to the resident.

6. Each use of a mechanical restraint or protective device, except when used to transport a resident or during video court hearing proceedings, shall be documented in the resident's case record and in the daily housing unit log;

7. A written system of accountability shall be in place to document routine distribution of mechanical restraints and protective devices;

8. All staff who are authorized to use mechanical restraints or protective devices shall receive training in such use in accordance with 6VAC35-71-160 and 6VAC35-71-170, as applicable; and only trained staff shall use restraints or protective devices.

C. If staff in a JCC use a mechanical restraint to control a federal resident whose behavior poses a safety risk in accordance with subdivision (A)(i) of this section, they shall notify a qualified health care professional and a mental health clinician before continuing to use the restraint and, if applicable, the accompanying protective device if the imminent risk has abated, but staff determine that continued use of the mechanical restraint is necessary to maintain security due to the resident's ongoing credible threat of self-injury or injury to others. This may include instances in which the resident verbally expresses the intent to continue the actions that required the restraint.

D. Staff in a juvenile correctional center may not use a protective device on a federal resident unless the use is in connection with a restraint and shall remove the device when the resident is released from the restraint.

E. In addition to the requirements in subsections A through D of this section, if staff in a juvenile correctional center use a spit guard to control a federal resident's behavior, they shall observe the following requirements:

1. Staff may not use a spit guard unless it possesses the following characteristics:

a. The spit guard's design may not inhibit the federal resident's ability to breathe;

b. The spit guard must be constructed to allow for visibility;

c. The spit guard must be manufactured and sold specifically for the prevention of biting or spitting.

2. The spit guard may be used only on a federal resident who: (i) previously has bitten or spit on a person at the facility, or (ii) in the course of a current restraint, threatens or attempts to spit on or bite or actually spits on or bites a staff member.

3. The spit guard must be applied in a manner that will not inhibit the federal resident's ability to breathe.

4. While the spit guard remains in place, staff shall provide for the federal resident's reasonable comfort and ensure the resident's access to water and meals, as applicable;

5. Staff must employ constant supervision of the federal resident while the spit guard remains in place to observe whether the resident exhibits signs of respiratory distress. If any sign of respiratory distress is observed, staff shall take immediate action to prevent injury and to notify supervisory staff.

6. Staff may not use a spit guard on a federal resident who is unconscious, vomiting, or in obvious need of medical attention.

#### **6VAC35-200-490. Monitoring residents placed in mechanical restraints.**

A. Written procedures shall provide that if a federal resident is placed in mechanical restraints, except when being transported offsite, staff shall:

1. Provide for the resident's reasonable comfort and ensure the resident's access to water, meals, and toilet; and

2. Conduct a face-to-face check on the resident at least every 15 minutes, and more often if the resident's behavior warrants. During each check, a staff member trained in the use of mechanical restraints shall monitor the resident for signs of circulation and for injuries.

3. Attempt to engage verbally with the resident during each periodic check. These efforts may include explaining the reasons for which the resident is being restrained or the steps necessary to be released from the restraint or otherwise attempting to deescalate the resident.

B. If a federal resident remains in a mechanical restraint for a period of two hours or more, except during transportation of residents offsite:

1. The resident shall be permitted to exercise the resident's limbs for a minimum of 10 minutes every two hours in order to prevent blood clots; and

2. A medical staff member shall conduct a check on the resident at least once every two hours.

C. When a federal resident is placed in mechanical restraints for more than one continuous hour in a 24-hour period, with the exception of use in routine off-campus transportation of residents, staff shall consult with a mental health clinician. This consultation shall be documented.

D. If the federal resident exhibits self-injurious behavior after being placed in mechanical restraints, staff shall (i) take appropriate action in response to the behavior to prevent further injury and to notify supervisory staff; (ii) consult with a mental health clinician and medical staff immediately thereafter and document the consultation; and (iii) adjust the frequency of face-to-face checks as needed.

**6VAC35-200-500. Written procedures regarding mechanical restraints and protective devices.**

The department shall develop written procedures approved by the director that reflect the requirements established in this article.

**Article 6 – Mechanical Restraint Chair**

**6VAC35-200-510. Mechanical restraint chair; general provisions.**

If staff in a JCC utilize a mechanical restraint chair in a federal program, they shall observe the following requirements, regardless of whether the chair is used for purposes of controlled movement in accordance with 6VAC35-200-520 or for other purposes in accordance with 6VAC35-200-530:

1. The restraint chair shall never be applied as punishment or as a sanction.

2. All staff authorized to use the restraint chair shall receive training in such use in accordance with 6VAC35-71-160 and 6VAC35-71-170.

3. Before placement in the chair, the health authority or the health authority's designee shall ensure that the resident's medical and mental health condition are assessed to determine whether the restraint is contraindicated based on the resident's physical condition or behavior and whether other accommodations are necessary.

4. The superintendent or the superintendent's designee shall provide approval before a resident may be placed in the restraint chair.

5. Staff shall notify the health authority or designee immediately upon placing the resident in the restraint chair. The health authority or designee also shall ensure that a mental health clinician conducts an assessment to determine whether, on the basis of serious danger to self or others, the resident should be in a medical or mental health unit for emergency involuntary treatment. The requirements of this subdivision shall not apply when the restraint chair is requested by a resident for whom such voluntary use is part of an approved plan of care by a mental health clinician in accordance with subsection C of 6VAC35-200-530.

5. If the resident exhibits self-injurious behavior after being placed in the mechanical restraint chair, staff shall: (i) take appropriate action in response to the behavior to prevent further injury and to notify supervisory staff and (ii) consult a mental health clinician immediately thereafter and obtain approval for continued use of the restraint chair;
6. The health authority or his designee, a mental health clinician, or other qualifying licensed medical professional may order termination of restraint chair use at any time upon determining that use of the chair poses a health risk;
7. Each use of the restraint chair shall constitute a serious incident, to which the provisions of 6VAC35-200-80 shall apply;
8. Each use of the restraint chair shall be documented in the resident's case record and in the daily housing unit log. The documentation shall include the:
  - a. Date and time of the incident;
  - b. Staff involved in the incident;
  - c. Justification for the restraint;
  - d. Less restrictive interventions that were attempted or an explanation of why the restraint chair is the least restrictive intervention available to ensure the resident's safe movement;
  - e. Duration of the restraint;
  - f. Signature of the person documenting the incident and date;
  - g. Indication that all applicable approvals required in this article have been obtained; and
  - h. Reviewer's signature and date.
9. Staff involved in the use of the chair, together with supervisory staff, shall conduct a debriefing after each use of the restraint chair.

**6VAC35-200-520. Mechanical restraint chair use for controlled movement; conditions.**

A. JCC staff shall be authorized to use a mechanical restraint chair in federal programs for purposes of controlled movement of a resident from one area of the facility to another, provided the following conditions are satisfied:

1. The resident's refusal to move from one area of the facility to another poses a direct and immediate threat to the resident or others or interferes with required facility operations; and
2. Use of the restraint chair is the least restrictive intervention available to ensure the resident's safe movement.

B. When facility staff utilize the restraint chair in accordance with this section, staff shall remove the resident from the chair immediately upon reaching the intended destination. If staff determine upon reaching the intended destination that continued restraint is necessary, staff shall consult with a mental health clinician for approval of the continued restraint.

**6VAC35-200-530. Mechanical restraint chair use for purposes other than controlled movement; conditions for use.**

A. JCC staff shall be authorized to use a mechanical restraint chair in federal programs for purposes other than controlled movement provided the following conditions are satisfied:

1. The resident's behavior or actions present a direct and immediate threat to the resident or others;
2. Less restrictive alternatives were attempted but were unsuccessful in bringing the resident under control or abating the threat;
3. The resident remains in the restraint chair only for as long as necessary to abate the threat or help the resident gain self-control.

B. Once the direct threat is abated, if staff determine that continued restraint is necessary to maintain security due to the resident's ongoing credible threat of self-injury or injury of others,

staff shall consult a mental health clinician for approval of the continued restraint. The ongoing threat may include instances in which the resident verbally expresses the intent to continue the actions that required the restraint.

C. JCC staff shall be excused from the requirements in subsections A and B of this section when the restraint chair is requested by a resident for whom such voluntary use is part of an approved plan of care by a mental health clinician.

D. Whenever a resident is placed in a restraint chair for purposes other than controlled movement, staff shall observe the following monitoring requirements:

1. Employ constant, one-on-one supervision until the resident is released from the chair;
2. Attempt to engage verbally with the resident during the one-on-one supervision. These efforts may include explaining the reasons for which the resident is being restrained or the steps necessary to be released from the restraint or otherwise attempting to deescalate the resident;
3. Ensure that a licensed medical provider monitors the resident for signs of circulation and for injuries at least once every 15 minutes; and
4. Ensure that the resident is reasonably comfortable and has access to water, meals, and toilet.

**6VAC35-200-540. Monitoring residents placed in a mechanical restraint chair.**

A. If a resident remains in the restraint chair for a period of two hours or more, the resident shall be permitted to exercise the resident's limbs for a minimum of 10 minutes every two hours to prevent blood clots.

B. The JCC administration shall ensure that a video record of the following is captured and retained for a minimum of three years in accordance with 6VAC35-71-30:

1. The placement of a resident in a restraint chair when a resident is restrained for purposes of controlled movement;
2. The entire restraint from the time the resident is placed in the restraint chair until the resident's release when restrained in the chair for purposes other than controlled movement. The JCC staff may satisfy this requirement by positioning the restraint chair within direct view of an existing security camera.

**6VAC35-200-550. Department monitoring visits; annual reporting; board review**

A. If staff in a JCC federal program use a mechanical restraint chair to restrain a resident, regardless of the purpose or duration of the use, the JCC shall be subject to a monitoring visit conducted by the department pursuant to the authority provided in 6VAC35-20-60. The purpose of the monitoring visit shall be to assess staff compliance with the provisions of this article.

B. Upon completion of the monitoring visit, the department shall provide the JCC administration with a written report of its findings in accordance with 6VAC35-20-90.

C. The department shall document each monitoring visit conducted pursuant to subsection A of this section and provide a written report to the board annually that details at a minimum the following information regarding each separate incident in which the restraint chair is used:

1. The facility in which the chair is used with specific reference to the federal program;
2. The date and time of the use;
3. A brief description of the restraint, including the purpose for which the restraint was applied, the duration of the restraint, and the circumstances surrounding the resident's release from the restraint;
4. The extent to which the JCC complied with the regulatory requirements related to mechanical restraint chair use as set forth in Sections 510 through 560 of this chapter; and
5. The plans identified to address findings of noncompliance, if applicable.



D. The annual report shall be placed on the agenda for the next regularly scheduled board meeting for the board's consideration and review.

**6VAC35-200-560. Written procedures regarding mechanical restraint chairs.**

Department staff shall develop written procedures approved by the director that reflect the requirements established in this article. The procedures shall provide that if staff in a juvenile correctional center are prohibited from placing residents in restraint chairs in other programs in the facility, such use also shall be prohibited in the federal program.



Amy M. Floriano  
Director

**COMMONWEALTH OF VIRGINIA**  
*Department of Juvenile Justice*

P.O. Box 1110  
Richmond, VA 23218  
(804) 371.0700  
Fax: (804) 371.6497  
www.djj.virginia.gov

**MEMORANDUM**

**TO:** Board of Juvenile Justice

**FROM:** Virginia Department of Juvenile Justice

**DATE:** September 21, 2022

**SUBJECT:** Merrimac Juvenile Detention Center Variance Request Regarding Behavior Management Program and Disciplinary Protocol

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**I. Summary of Action Requested**

The Department of Juvenile Justice (the department) respectfully requests that the Board of Juvenile Justice (the board) consider granting a variance to the Merrimac Juvenile Detention Center (Merrimac) in accordance with 6VAC35-20-92. Merrimac is requesting variances to the regulatory requirements set out in 6VAC35-101-1070(B)(3) and 6VAC35-101-1080(B), (C), and (D) regarding behavior management programs and the required disciplinary process applicable to rule infractions for which room confinement may be imposed as a sanction. Merrimac has submitted this request in order to continue the successful and effective operation of the Cognitive Behavioral Training Program (CBT Program) that has been in place at the facility for 15 years and for which prior variances have been issued. The CBT Program seeks to reduce criminogenic behaviors by modifying the individual thought patterns that drive such behaviors. The CBT Program's protocols for addressing these behaviors conflict with the aforementioned regulatory provisions.

The department requests that the board consider whether to issue a variance similar to those previously issued to Merrimac in 2008, 2014, and 2017 and, if issued, whether the variance should remain in effect permanently or should be limited to a period of five years or some other specified period.

**II. Background**

The board's Regulation Governing Juvenile Secure Detention Centers requires regulated facilities to implement a behavior management program to help residents achieve positive behaviors and to address and correct inappropriate behaviors constructively and safely. The regulation requires that all secure juvenile detention centers adopt written procedures governing these programs. These procedures must identify available sanctions, which may include a *cooling off period*, limited to 60 minutes, as set forth below:

**6VAC35-101-1070. Behavior Management.**

*...(B) Written procedures governing this program shall provide the following: ...3) The definition and listing of a system of privileges and sanctions that is used and available for use. Sanctions (i) shall be listed in the order of their relative degree of restrictiveness; (ii) may include a "cooling off" period where a resident is placed in a room for no more than 60 minutes; and (iii) shall contain alternatives to room confinement.*

The regulation also addresses the disciplinary process detention centers must implement and follow to ensure that due process protections are in place for residents who fail to adhere to the rules of the facility and are subject to room confinement as a sanction. Among the components of the disciplinary process, detention centers must: i) complete a disciplinary report on residents alleged to have violated any rule for which room confinement may be imposed; ii) ensure that an impartial party conducts a review of the report; iii) allow for an appeal from the impartial party's decision; and iv) ensure that the report for a resident deemed guilty of the offense is retained in the resident's case record. The relevant portions of the regulation are set forth below:

*(A). Procedures. Written procedures shall govern the disciplinary process that shall contain the following:*

- 1. Graduated sanctions and progressive discipline;*
- 2. Training on the disciplinary process and rules of conduct; and*
- 3. Documentation on the administration of privileges and sanctions as provided in the behavior management program.*

*(B). Disciplinary report. A disciplinary report shall be completed when it is alleged that a resident has violated a rule of conduct for which room confinement, including a bedtime earlier than that provided on the daily schedule, may be imposed as a sanction.*

- 1. All disciplinary reports shall contain the following:*
  - a. A description of the alleged rule violation, including the date, time, and location;*
  - b. A listing of any staff present at the time of the alleged rule violation;*
  - c. The signature of the resident and the staff who completed the report; and*
  - d. The sanctions, if any, imposed.*
- 2. A disciplinary report shall not be required when a resident is placed in his room for a "cooling off" period, in accordance with written procedures, that does not exceed 60 minutes.*

*(C). Review of rule violation. A review of the disciplinary report shall be conducted by an impartial person. After the resident receives notification of the alleged rule violation, the resident shall be provided with the opportunity to admit or deny the charge.*

- 1. The resident may admit the charge, in writing, and accept the sanction (i) prescribed for the offense or (ii) as amended by the impartial person.*
- 2. The resident may deny the charge and the impartial person shall:*
  - a. Meet in person with the resident;*
  - b. Review the allegation with the resident;*
  - c. Provide the resident with the opportunity to present evidence, including witnesses;*
  - d. Provide, upon the request of the resident, for an impartial staff member to assist the resident in the conduct of the review;*

- e. Render a decision and inform the resident of the decision and rationale supporting this decision;*
- f. Complete the review within 12 hours of the time of the alleged rule violation, including weekends and holidays, unless the time frame ends during the resident's scheduled sleeping hours. In such circumstances, the delay shall be documented and the review shall be conducted within the same time frame thereafter;*
- g. Document the review, including any statement of the resident, evidence, witness testimony, the decision, and the rationale for the decision; and*
- h. Advise the resident of the right to appeal the decision.*

*(D). Appeal. The resident shall have the right to appeal the decision of the impartial person.*

- 1. The resident's claim shall be reviewed by the facility administrator or designee and shall be decided within 24 hours of the alleged rule violation, including weekends and holidays, unless the time frame ends during the resident's scheduled sleeping hours. In such circumstances, the delay shall be documented and the review shall be conducted within the same time frame thereafter. The review by the facility administrator may be conducted via electronic means.*
- 2. The resident shall be notified in writing of the results immediately thereafter.*

*(E). Report retention. If the resident is found guilty of the rule violation, a copy of the disciplinary report shall be placed in the case record. If a resident is found not guilty of the alleged rule violation, the disciplinary report shall be removed from the resident's case record and shall be maintained as required by 6VAC35-101-330.*

The board granted Merrimac a variance on January 9, 2008, to the now repealed 6VAC35-140-550, which preceded the current regulation and contained substantially similar requirements. The current requirements took effect on January 1, 2014, as a result of a comprehensive overhaul of the residential regulations. The board approved Merrimac's request for a variance to the above requirements on April 9, 2014, for a period of three years, and again on November 8, 2017, for a period of five years or until the applicable regulatory provisions might be changed. The current variance expires on November 8, 2022.

Updates to 6VAC35-101 currently are undergoing Executive Branch review for the final stage of the standard regulatory process and are anticipated to become effective in the near future. The pertinent regulatory provisions are substantially the same in this update and will not impact Merrimac's need to obtain a variance for these provisions.

### **III. Rationale**

Under Merrimac's CBT Program, residents who fail to adhere to behavioral expectations are subject to a *disciplinary response* rather than a punishment. The response involves removing the resident from any reinforcing stimuli and having the resident serve a temporary time-out or cooling-off period. Residents may be required to serve one of the following:

- A five-minute time-out in the program area for inappropriate behavior;
- A "30-5," consisting of 30 minutes of room confinement followed by a five-minute time-out period served outside of the room; or
- A "30-30-5," consisting of 60 minutes of room confinement followed by a five-minute time-out period served outside the room. The "30-30-5" is imposed in response to actual, attempted, or verbal

threats to the physical safety and security of staff, other youth, or the facility. The resident is required to spend the last 30 minutes of the 60-minute confinement period completing a written self-analysis in which the resident considers the impact of their behavior, accepts responsibility for failing to meet facility expectations, and explores alternatives for addressing the trigger situation.

While serving any time-out period, if the resident fails to meet the applicable behavioral expectations, such as sitting quietly, remaining awake, or completing the report when applicable, the time-out period may be extended, in some cases beyond 60 minutes.

Sections 1070 and 1080 of 6VAC35-101 limit cooling-off periods to no more than 60 minutes, require alternatives to room confinement, and require detention centers to provide due process protections to residents who may be subjected to room confinement. This includes completing a disciplinary report, having the report reviewed by an impartial person, affording the resident an opportunity to admit or deny the charge, and providing the resident with an opportunity to appeal the final decision.

Merrimac's administration asserts that these regulatory requirements conflict directly with the provisions and goals of the CBT Program. The facility administration does not view Merrimac's responses to disciplinary issues as sanctions, and residents are not charged with offenses. Protections are in place to ensure that decisions to impose room confinement are reviewed and the resident is provided an opportunity to object to the confinement. All room confinements of whatever duration require the supervisor on duty to be notified immediately. A room confinement of 60 minutes or more requires immediate review by an impartial shift supervisor and review by a director within 24 hours or the next business day. Residents may file a grievance if they deem the confinement unfair.

#### IV. Proposed Variance

The proposed variance would apply only to Merrimac and would enable the facility to continue operating the CBT Program. The department recommends the following revisions, applicable only to Merrimac, to 6VAC35-101-1070(B):

##### **6VAC35-101-1070. Behavior Management.**

...(B) Written procedures governing this program shall provide the following:...3) The definition and listing of a system of privileges and ~~sanctions~~ consequences that is used and available for use. ~~Sanctions~~ Consequences ~~(i) shall be listed in the order of their relative degree of restrictiveness;~~ (ii) may include a "cooling off period" where a resident is placed in a room for the time period necessary to address the failure to adhere to behavioral expectations no more than 60 minutes; and ~~(iii) shall contain alternatives to room confinement.~~

Further, the department recommends substituting 6VAC35-101-1080 in its entirety with the following language, applicable only to Merrimac:

##### **6VAC35-101-1080. Disciplinary Process.**

A. Written procedures shall govern the disciplinary process and shall contain the following:

1. Training on the disciplinary process and rules of conduct; and

2. Information on the administration of privileges and consequences as provided in the behavior management program.

B. If a resident is required to serve a cooling off period, the resident shall be authorized to file a grievance addressing any confinement the resident feels is unfair or is in violation of program policy. The grievance shall be reviewed by the shift supervisor immediately and by a director within 24 hours or the next business day. The review shall include an examination of any recordings and interviews with any staff or residents with direct knowledge of the incident. The supervisor shall document the findings, and the report shall be forwarded to the Deputy Director of Programs.

C. The Assistant Director or designee shall review the results of the Supervisor's report and approve or reject the findings or request additional information.

D. Documentation of confinements that are deemed to violate the program guidelines shall be removed from the resident's record.

## **V. Request**

The department respectfully requests that the board consider whether to issue to Merrimac a variance, pursuant to 6VAC35-20-92, to allow Merrimac to continue its CBT Program.

## **VI. Requested Duration of Variance**

Since this variance has been in place since 2008 in one form or another, and since it has not resulted in life, health, or safety issues, the department requests that, if approved again by the Board, it remain in effect permanently or until such time as (i) Merrimac discontinues its CBT Program or alters the program's cooling off parameters or (ii) any or all of the regulatory provisions set forth in 6VAC35-101-1070(B)(3) and 6VAC35-101-1080(B), (C), and (D) are amended in such a way as to make the variance unnecessary.

# Middle Peninsula Juvenile Detention Commission

Merrimac Center  
9300 Merrimac Trail  
Williamsburg, VA 23185  
757-887-0225

## MEMORANDUM

TO: Virginia Board of Juvenile Justice

FROM: Gina Mingee, Executive Director, Merrimac Center

SUBJECT: Request for Amendment to 6VAC35-101-1070 (B) (3) and  
Variance from 6VAC35-101-1080 (B), (C), and (D)

DATE: September 1, 2022

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### I. Action Requested

Merrimac Center is requesting the State Board of Juvenile Justice approve an amendment to 6VAC35-101-1070 (B) (3) and a variance from 6VAC35-101-1080 (B), (C), and (D). Some of the tenets of the evidenced-based Cognitive Behavioral Training Program (CBT), currently the behavior management program at Merrimac Center, are inconsistent with these regulatory requirements as written. The Center cannot foresee a way to comply with these requirements and continue to operate this evidenced-based program. The time period for the requested variance is permanently or a minimum of five years. The Center's CBT program has been in effect for 15 years with no plans for modification.

### II. Background

Merrimac Center implemented the CBT program in March 2007. A variance from the previous Department of Juvenile Justice (DJJ) Standard 6VAC35-140-550 was granted by the Board of Juvenile Justice (BJJ) on January 9, 2008 and again in 2014 when the new regulatory standards were implemented by DJJ [6VAC35-101-1080 (B), (C), and (D)]. An amendment to 6VAC35-101-1070 (B) (3) was also granted in 2014. The variances were again granted in 2017 for a period of five years.

### III. Rationale

The Merrimac Center implemented a behavior management program predicated upon cognitive behavioral and behavior modification interventions in March of 2007. The impetus for the implementation of this program was a response to experiential knowledge and the research that long periods of room confinement do not result in improved behavior or learning important life skills to manage one's own behavior. Trauma research tells us room confinement and restraint will exacerbate a person's trauma. Data from the Massachusetts Youth Screening Instrument – 2<sup>nd</sup> Version (MAYSI-2) tells us that 75% of our detention population have experienced or witnessed traumatic events.

Given this knowledge, Merrimac Center searched for ways to reduce room time and teach pro-social skills. Several detention facilities across the country have been using the program model based on the Cognitive Learning Theory. This model has been found to reduce room confinement, conflict and stress in the facility, and recidivism. The Cognitive Behavioral Training (CBT) program is based on "what works research," summarized by David W. Roush, Ph.D. and Edward Latessa, Ph.D. that provides empirical evidence that CBT interventions are the most promising to have a significant impact on delinquent and criminal behavior.

David Roush's most recent book, Recalibrating Juvenile Detention: Lessons Learned from the Court-Ordered Reform of the Cook County Juvenile Temporary Detention Center, accounts what was learned from the US District Court-ordered reform of the Cook County Juvenile Temporary Detention Center in Illinois, serving Chicago's highest risk and most disadvantaged youth. The reform occurred after years of litigation surrounding the egregious and unconstitutional conditions of juvenile detention. The book includes an analysis of a major evaluation research report done by the University of Chicago Crime Lab and explains how and why this reform of conditions achieved successful outcomes unlike others that have failed.

The Chicago Crime Lab findings are considered the "gold standard" evidence-based research of detention and validate that detention reform based on CBT programming produces statistically significant reductions in detention violence and recidivism, as well as positively influences certain life outcomes for juvenile detainees. The approach that was evaluated was the CBT program, including all the interventions, that Merrimac follows with fidelity to the model.

The cognitive model states that prior to all human behaviors, a person is presented with an antecedent situation. Based on that situation, a person has certain self-talk (thoughts) that give rise to feelings and then to behavior. This behavior then results in consequences which introduces a new antecedent situation, and the cycle repeats itself ad infinitum. For the purposes of behavior modification, we seek to change individual thinking patterns and, therefore, the behaviors and consequences that result.

Research indicates that criminogenic thinking and attitudes are risk factors for re-offending. Therefore, we use the cognitive model because its goal is to change such thinking. It uses techniques to monitor thought patterns, recognize the connections between thinking and behavior, and replace distorted thinking with rational thinking in order to foster more appropriate behavior. We challenge our residents to pay attention to the thought patterns they have and



the behaviors and consequences that result. This further challenges residents to reduce “automatic” thinking and recognize the thoughts that put them at risk of doing something hurtful or irresponsible.

We also use the principles of **behavior modification** to create an environment that manages consequences to key behaviors. Using these principles, the probability of more appropriate and pro-social behaviors can be increased, while the probability of inappropriate and anti-social behaviors can be decreased.

The behavior modification portion of our program uses **POSITIVE REINFORCEMENT** (the presentation of a reward or desirable event after the target behavior) and **EXTINCTION** (a non-response to a given behavior). The use of positive reinforcement and extinction leads to a behavior management system that is focused on *discipline* rather than on *punishment*.

A punishment (or “sanction”) is an undesirable event that is delivered upon the completion of an undesirable or inappropriate behavior. The problem with “punishers” is that the entire punishment situation, including persons and places, often leads to strong feelings (fear/anger) being generated by the individual who is being punished. Thus, the punishment creates an emotional response that complicates the behavior change process. Further, while punishment may reduce the probability of a given undesirable behavior, it does nothing to replace it with a more desirable behavior. Very likely, another undesirable behavior rises to take its place.

In contrast, discipline refers to using extinction to extinguish a negative behavior by circumventing positive reinforcement of the behavior. Discipline is also a system that teaches new behaviors through self-control and self-management of one’s own behavior. Using CBT and behavior modification interventions, we focus on:

1. Generating and strengthening appropriate behaviors
2. Weakening or eliminating inappropriate behaviors
3. Generating self-control
4. Safeguarding human rights within the institutional setting
5. Developing pro-social attitudes and values
6. Providing juveniles with the tools that will enable success within society

The CBT program at Merrimac Center is focused on positive rather than negative responses to behavior. Therefore, there are no rules stating what a resident can’t do, but rather there are expectations of behavior. The basic behavior expectations are divided into five areas. The program uses a point system that grades behaviors in each area during short periods of time. These include “talk”, “ignore”, “cooperate/participate”, “area”, and “gestures”.

When residents do not meet these expectations, they can earn a disciplinary response based on extinction rather than punishment. If expectations are not followed, the resident is immediately removed from any reinforcing stimuli, such as laughing from peers, arguing from staff, etc. to serve a time-out / “cooling off period”. The behavior management plan uses four forms of discipline.

### 1. 5-Minute Timeout

The five-minute timeout is the most minimal and common type of consequence we have. This timeout occurs in the program area, not in a room. A five-minute timeout is earned for any type of minor inappropriate behavior rather than a "rule violation". These behaviors include arguing, talking on quiet time, interrupting others, failing to follow directions on the first prompt, etc.

### 2. Thirty and Five (30-5)

The 30-5 is thirty minutes of room confinement and a five-minute time out served outside the room and is a mid-level consequence. A 30-5 can be earned for refusing a five-minute time-out, refusing to take responsibility for the inappropriate behavior, horseplay with other residents, stealing, and name-calling.

### 3. Thirty, Thirty and Five (30-30-5)

The 30-30-5 is thirty minutes in room confinement and thirty minutes to complete a written report of the situation (completed in room confinement). This is the highest-level consequence. The report is processed with a staff member and the resident then completes the five-minute time-out outside of the room. A 30-30-5 can be earned for threats of or actual assault, behavior that causes a physical restraint, serious property damage, gang-related behavior, or possession of dangerous contraband.

The report completed in the 30-30-5 is the Rational Self-Analysis (RSA) (see attached). This is a report detailing their thinking, rational and irrational thoughts, how the behavior impacted others, and a more appropriate way of responding to the trigger situation. The expectation is that the resident must write their report appropriately and demonstrate that they are accepting responsibility for their inappropriate behavior, or their 30-30-5 will start over from the beginning. Residents who do not have the reading and writing skills to complete the form will be assisted by staff. Processing the form and verbalizing its various components is a critical part of the 30-30-5, as it is where most of the learning can take place.

The expectations for the 30-5 and the 30-30-5 are that the resident will sit quietly while remaining awake and will not engage in talking, banging, yelling, or walking around.

***Any room confinement beyond sixty minutes is the choice made by the resident who is oriented and aware of the time-out guidelines upon admission and repeatedly thereafter. Reasons typically associated with the time-out going beyond 60 minutes include:***

- a. Refusal of the residents to take responsibility for their own behavior on the Rational Self-Analysis (RSA) form or process the RSA with a staff, which starts the time-out over again.***
- b. Non-compliance with time-out expectations including extended sleeping while in time-out.***
- c. Yelling or banging on the door before beginning the time-out which extends the time-out.***
- d. Pacing before beginning the time-out.***
- e. Getting up from the bunk in the middle of the time-out to talk to a staff or peer passing the room causing the time-out to start over.***

#### 4. *Strategic Program Modification (SPM)*

Occasionally, a juvenile may not experience success within the context of the regular behavioral management program:

- a. the resident's behavior in a single incident has had significant impact on the juvenile's relationships with others or has affected the operations of the facility.
- b. the resident demonstrates a consistent and worsening pattern of observed behavior that is harmful to the resident, his relationships, or facility operations.

The SPM is not a permanent status but a time-limited intervention where the goal is to increase the skill level of the resident for maintaining appropriate behavioral control and thus enable him/her to work within the standard program. The resident must agree with the SPM plan, as indicated by his/her signature on the SPM Form (see attached). The residents are also allowed to request placement on SPM to self-improve their behavior. A SPM must be approved by the Deputy Director or Director as requested by a supervisor and/or mental health counselor. Thought is given to the particular behaviors and thinking that has proved problematic for the juvenile. Mental health staff develop the individualized SPM based on the problematic behavior, the resident is moved to a camera room, removed from program, and level status changed to SPM. The particular type of SPM determines the appropriate course of action. The goal is to get the resident to full program participation as quickly as possible. During the course of the SPM the resident completes and processes various CBT forms to resolve their irrational thinking patterns.

The discipline strategies, behavioral expectations, cognitive behavioral concepts, reinforcement structure, and time-out guidelines are not only reviewed with the residents at orientation, but also throughout each day and during 21 groups per week that help them focus on various CBT-related topics. These include addictions, anger management, girls' growth, goal setting, health/self-care, life skills, moral decision making, rational behavior training, relationships, restorative justice, risk management, social skills training, Aggression Replacement Training (ART), and Girls' Circle groups. The residents also receive praise at a 5:1 ratio (five praises to one correction) and positive reinforcement on a continuous basis in various forms for appropriate behavior.

Data on the number and type of mid- and high-level consequences as well as the lengths of room time has been collected since the inception of the behavior management program. As referenced in the table below, barring the month of April 2020, the amount of room time per consequence, the overall number of consequences over a three-month period, particularly high-level consequences, and the amount of room time exceeding 60 minutes has continued to decrease. In April 2020, on one day there were ten 30-5s and during one consequence the resident chose to sleep for close to 5 hours rather than completing the 30-30-5. These two dates in April 2020 skewed the overall results of "maximum time in room" and amount of 30-5s in April. The number of restraints has remained fairly constant since 2012.

Also, to note Merrimac served 189 CAP, Re-Entry, and Community Placement Program youth committed to The Department of Juvenile Justice from April of 2012 to June of 2016. While these youth typically have more serious charges, are repeat offenders and can stay for years at

a time, our April 2020 data indicates that there was no adverse effect on our goal of reducing room-time, high-level consequences, and average room time per consequence. In addition, although the population has steadily decreased, the average room time per consequence, continues to decrease.

	April 2006	April 2008	April 2012	April 2016	April 2020	Apr-Jun 2008	Apr-Jun 2012	Apr-Jun 2016	Apr-Jun 2020
<b>Average room time per consequence</b>	48 hours	51 minutes	40 minutes	45 minutes	36 minutes	47 minutes	41 minutes	40 minutes	36 minutes
<b>30-5s served</b>		97	30	29	56	347	172	171	117
<b>30-30-5s</b>		48	18	19	13	117	67	58	27
<b>Maximum time in room</b>		233 minutes = 3.88 hours	227 minutes = 3.78 hours	165 minutes = 2.75 hours	349 minutes = 5.82 hours	325 minutes = 5.42 hours	227 minutes = 3.78 hours	165 minutes = 2.75 hours	349 minutes = 5.82 hours
<b>Physical restraints</b>	3	9	5	6	7	18	10	14	13
<b>Number of room times over 60 minutes</b>		13	4	2	2	48	18	7	2

Since 2007, all staff have become proficient with the continuation of the CBT program and receive refresher training annually. Anecdotally, the staff and residents report satisfaction with the program and increased staff morale. Staff are also invested in the CBT program because of the changes they see in the residents on an ongoing basis. Via our Parent Survey, parents report overall satisfaction with the Center, the staff interactions, and the program.

Standard 6VAC35-101-1080, as written, is in direct contradiction to the objectives we are trying to accomplish: to reduce room confinement and to teach pro-social skills. Room confinement/ "cooling off periods" as well as the five-minute time outs are never punishments or sanctions but rather are opportunities to identify, take responsibility, and process one's own behavior. The juvenile is not being "charged" with an offense. In summary, the Merrimac Center cannot see a way to comply with the following requirements and continue to operate our behavior management program which is evidenced-based and a model program for the state of Virginia. Therefore, we are requesting the following:

1. An amendment of requirement 6VAC35-101-1070 (B) (3):
  - **6VAC35-101-1070 (B). Behavior management.**

B. Written procedures governing this program shall provide the following:

1. A listing of the rules of conduct and behavioral expectations for the resident;
2. Orientation of residents as required by 6VAC35-101-800 (admission and orientation);
3. The definition and listing of a system of privileges and sanctions that is used and available for use. Sanctions (i) shall be listed in the order of their relative degree of restrictiveness; (ii) may include a "cooling off" period where a resident is placed in a room for no more than 60 minutes; and (iii) shall contain alternatives to room confinement;
4. The specification of the staff members who may authorize the use of each privilege and sanction;
5. Documentation requirements when privileges are applied and sanctions are imposed;
6. The specification of the processes for implementing such procedures; and
7. Means of documenting and monitoring of the program's implementation including, but not limited to, an on-going administrative review of the implementation to ensure conformity with the procedures.

Justification for amendment: As stated above, The Merrimac Center does not impose "sanctions" with a degree of restrictiveness as a part of the behavior management program. It only imposes disciplinary responses of no more than 60 minutes as a time-out/ "cooling off" period.

2. A variance from requirement 6VAC35-101-1080 (B) (C) (D):

• **6VAC35-101-1080 (B). Disciplinary process.**

B. Disciplinary report. A disciplinary report shall be completed when it is alleged that a resident has violated a rule of conduct for which room confinement, including a bedtime earlier than that provided on the daily schedule, may be imposed as a sanction.

1. All disciplinary reports shall contain the following:
  - a. A description of the alleged rule violation, including the date, time, and location;
  - b. A listing of any staff present at the time of the alleged rule violation;
  - c. The signature of the resident and the staff who completed the report; and
  - d. The sanctions, if any, imposed.
2. A disciplinary report shall not be required when a resident is placed in his room for a "cooling off" period, in accordance with written procedures, that does not exceed 60 minutes.

Justification for variance: Behaviors earning a sixty-minute time-out of room confinement, or "cooling off period" are the result of actual, attempted, or verbal threats to the physical safety and security of the staff, other youth, or the facility as verified on video/ audio surveillance rather than a "rule violation". Residents are **never** imposed with a sanction of room confinement to exceed 60 minutes or early bedtime.

To teach pro-social skills, the resident who is confined for sixty minutes must complete a self-analysis form that identifies the inappropriate behavior, the thinking and feelings that caused the resident to act, consequences to the "community", and alternative ways to get their needs

met. This form describes in detail the reason for the confinement. A 5-minute time-out is then completed outside of the room.

- **6VAC35-101-1080 (C). Disciplinary process.**

C. Review of rule violation. A review of the disciplinary report shall be conducted by an impartial person. After the resident receives notification of the alleged rule violation, the resident shall be provided with the opportunity to admit or deny the charge.

1. The resident may admit the charge, in writing, and accept the sanction (i) prescribed for the offense or (ii) as amended by the impartial person.
2. The resident may deny the charge and the impartial person shall:
  - a. Meet in person with the resident;
  - b. Review the allegation with the resident;
  - c. Provide the resident with the opportunity to present evidence, including witnesses;
  - d. Provide, upon the request of the resident, for an impartial staff member to assist the resident in the conduct of the review;
  - e. Render a decision and inform the resident of the decision and rationale supporting this decision;
  - f. Complete the review within 12 hours of the time of the alleged rule violation, including weekends and holidays, unless the time frame ends during the resident's scheduled sleeping hours. In such circumstances, the delay shall be documented and the review shall be conducted within the same time frame thereafter;
  - g. Document the review, including any statement of the resident, evidence, witness testimony, the decision, and the rationale for the decision; and
  - h. Advise the resident of the right to appeal the decision.

Justification: All confinements or the placement of a resident in a locked room require the Supervisor on Duty be notified immediately. Confinements of sixty minutes or more are reviewed immediately by the shift supervisor (an impartial person) and reviewed by a director within 24 hours or the next business day. The review includes review of video and audio recordings as well as interviews with staff and residents. Residents may file a grievance if they feel they have been treated unfairly by being placed in room confinement. All reviews are documented on the internal incident report, as well as the grievance status. Residents are **never** "charged" with an offense.

#### IV. Proposed Effect of the Variance

Merrimac Center will be allowed to continue to function within the parameters of the CBT behavior management program based on the variance originally granted by DJJ in January, 2008. The functioning of the staff and residents will continue with operations as usual using a "best-practices" model that utilizes appropriate discipline, reduces room confinement, decreases physical restraints, enhances residents' sense of personal responsibility, encourages residents to change their thinking patterns, teaches appropriate social skills, and rewards positive behavior.

Attachments:

Rational Self-Analysis (RSA-III)

Strategic Program Modification Plan (SPM Plan)

RSA III (Rational Self-Analysis or Thinking Report) Name: \_\_\_\_\_ Date: \_\_\_\_\_ Staff processing: \_\_\_\_\_ Unit: \_\_\_\_\_

**IRRATIONAL SIDE**

<p><b>A. FACTS AND EVENTS</b> (Situation as you saw it; what happened before you felt or did anything)</p>	<p><b>B2. HOT THOUGHTS.</b> Go back to B1 and circle or underline the hot thoughts. (2 or 3 thoughts that really pushed the feelings/behavior, and that will help you understand the underlying core beliefs)</p>
<p><b>B1. SELF-TALK</b> (All the thoughts/thinking that went through your head right BEFORE THE BEHAVIOR THAT EARNED THE 30-30-5; don't focus on just the initial thoughts that include a lot of "venting" but look for thoughts that really empowered or drove the feelings and behavior that followed; list at least 5)</p>	<p><b>C1. FEELINGS</b> (What did you feel? Use "I" statements!)</p>
	<p><b>C2. BEHAVIOR</b> (What did you do?)</p>
	<p><b>C3. CONSEQUENCES</b> (What happened to you? To Others? What did others do? How did they feel? How do you think they saw you? What happened in the past when you did this behavior? What may happen in the future if you continue to do this?)</p>
	<p><b>C4. UNDERLYING CORE BELIEFS</b> (These are basic ways of looking at what happens around you, your "game book" for life, your expectations, how you think you and other people should act)</p>



**RATIONAL SIDE**

<p><b>D1. CAMERA CHECK OF "A"</b> (What is the objective (rational/non-emotional) view of the situation? What would a video camera have seen and heard?)</p>	<p><b>E1. MORE HEALTHY FEELINGS IN THE FUTURE</b> (What would your feelings be if you changed to more rational self-talk and core beliefs?)</p>
<p><b>D2. RATIONAL CHALLENGE OF "B2" OR "HOT THOUGHTS"</b> (Use AFROG to check to see if your hot thoughts are rational, and select the general category of irrational thinking))</p> <p>A-Does my self talk help keep me <b>ALIVE</b> and healthy?          F-Does my self talk help me <b>FEEL</b> better and have healthy feelings?          R-Is my self talk <b>REAL</b>, based on reality and <b>FACT</b>?          O-Does my self talk help me get along with <b>OTHERS</b>?          G-Does my self talk help me reach my <b>GOALS</b>?</p> <p>#1—Alive <input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> Feel <input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> Real <input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> Others <input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> Goals <input type="checkbox"/> Y <input type="checkbox"/> N          #2—Alive <input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> Feel <input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> Real <input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> Others <input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> Goals <input type="checkbox"/> Y <input type="checkbox"/> N          #3—Alive <input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> Feel <input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> Real <input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> Others <input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> Goals <input type="checkbox"/> Y <input type="checkbox"/> N</p> <p>Which irrational thinking category do your hot thoughts represent?  <input type="checkbox"/> Namby-pamby <input type="checkbox"/> Doomsday <input type="checkbox"/> Fairy Tale <input type="checkbox"/> I stink <input type="checkbox"/> You stink <input type="checkbox"/> Robot</p>	<p><b>E2. MORE APPROPRIATE BEHAVIOR IN THE FUTURE</b> (What would you do in the future, with different thinking and feeling?)</p> <p><b>E3. MORE SUCCESSFUL CONSEQUENCES THE FUTURE</b> (What would happen to you? To others? What would others do? How would they feel? How would they see you? What happen in the future if you do not change your thinking and behavior?)</p>
<p><b>D3. RATIONAL ALTERNATIVE TO "B2" OR "HOT THOUGHTS"</b> (What are self-talk alternatives that are more rational and would lead to better consequences? In what way can you think differently about the situation?)</p>	<p><b>E4. PATTERNS</b> (When does this irrational thinking and inappropriate behavior occur? What situations like this are risky for you (lead to this thinking, behavior and consequences)?)</p>
<p><b>D4. NEW CORE BELIEFS</b> (What new core beliefs would be more rational and get you more success in the future?)</p>	<p><b>E5. STOP-LOOK-LISTEN</b> (How can you see this kind of situation coming? What are the warning signs? How can you talk yourself into doing something different in the future? What can you do differently right now? What can you do differently in the next few days to try this out?)</p>

**STRATEGIC PROGRAM MODIFICATION PLAN**

Resident: \_\_\_\_\_ Date: \_\_\_\_\_

Behavior requiring SPM: \_\_\_\_\_

Date & Time of behavior: \_\_\_\_\_

Date & Time of 30-30-5: \_\_\_\_\_ Time served: \_\_\_\_\_

Requesting Supervisor/Mental Health Clinician: \_\_\_\_\_

Approving Director: \_\_\_\_\_

Projected release date from SPM: \_\_\_\_\_

Staff assigned to process SPM Plan: \_\_\_\_\_

\_\_\_\_\_  
*Staff signature, time and date of completion*

\_\_\_\_\_  
*Resident Signature*

**Resident will complete Thinking Tools including Resident Analysis of Problem (RAP), Personal Self Change Exercise, Targeted Thinking Report and Scope of Consequences Worksheet by:**

\_\_\_\_\_

**Staff assigned to process Resident Analysis of Problem (RAP):** \_\_\_\_\_

\_\_\_\_\_  
*Staff signature, time and date of completion*

\_\_\_\_\_  
*Resident Signature*

**Staff assigned to process Personal Self Change Exercise:** \_\_\_\_\_

\_\_\_\_\_  
*Staff signature, time and date of completion*

\_\_\_\_\_  
*Resident Signature*

**Staff assigned to process Thinking Report:** \_\_\_\_\_

\_\_\_\_\_  
*Staff signature, time and date of completion*

\_\_\_\_\_  
*Resident Signature*

**Staff assigned to process Scope of Consequences Worksheet:** \_\_\_\_\_

\_\_\_\_\_  
*Staff signature, time and date of completion*

\_\_\_\_\_  
*Resident Signature*

**Resident will meet with other party involved and group:** *(Names and frequency)* \_\_\_\_\_  
\_\_\_\_\_ **to restore relationships before returning to Program.**

**Staff assigned to process with other parties:** \_\_\_\_\_

\_\_\_\_\_  
*Staff Signature, time and date of completion*

\_\_\_\_\_  
*Resident Signature*

**Staff assigned to process with group:** \_\_\_\_\_

\_\_\_\_\_  
*Staff Signature, time and date of completion*

\_\_\_\_\_  
*Resident Signature*

**Resident will have activities restricted/ permitted as follows:**

**Actual release date from SPM:** \_\_\_\_\_

***Return to program on level 1***



Amy M. Floriano  
Director

**COMMONWEALTH OF VIRGINIA**  
*Department of Juvenile Justice*

P.O. Box 1110  
Richmond, VA 23218  
(804) 371.0700  
Fax: (804) 371.6497  
www.djj.virginia.gov

**MEMORANDUM**

**TO:** State Board of Juvenile Justice

**FROM:** Virginia Department of Juvenile Justice

**SUBJECT:** Request Extension of Variance Applicable to Juvenile Correctional Centers; Security Staff Supervision of Residents during Transportation

**DATE:** September 21, 2022

---

**I. SUMMARY OF ACTION REQUESTED**

Bon Air Juvenile Correctional Center (the JCC) respectfully requests the State Board of Juvenile Justice (the board) to approve an extension of the variance submitted on behalf of the JCC and last approved by the board on June 19, 2019, pursuant to 6VAC35-20-92. The JCC seeks this extension of the variance to various regulatory requirements that collectively prevent staff classified as “security staff” from supervising residents during routine and emergency transportation without a direct care staff present.

**II. BACKGROUND**

On June 19, 2019, the board approved a request submitted on behalf of the JCC seeking to extend a September 2016 variance to the regulatory requirement provided for in 6VAC35-71-830(A). The regulation section provides:

During the hours that residents are scheduled to be awake, there shall be at least one direct care staff member awake, on duty, and responsible for supervision of every 10<sup>1</sup> residents, or portion thereof, on the premises or participating in off-campus, facility-sponsored activities.

The regulation defines “direct care staff” in 6VAC35-71-10 as

[T]he staff whose **primary job responsibilities** are for (i) maintaining the safety, care, and well-being of residents; (ii) implementing the structured program of care and the behavior management program; and (iii) maintaining the security of the facility.

---

<sup>1</sup> Proposed amendments to the regulation that are underway modify these staffing ratios to 1:8 to comply with federal juvenile facility standards mandated by the Prison Rape Elimination Act (PREA).

Although the current regulations do not define ‘security staff,’ the term has been operationalized in the department’s standard operating procedures to mean: “staff who are responsible for maintaining the safety care, and well-being of residents and the safety and security of the facility to provide residents and staff with a safe living and work environment.”

The issue necessitating the 2016 variance arose in large part due to the department’s implementation of the Community Treatment Model (CTM) in the JCCs in 2015. As part of this implementation, the department reclassified the majority of the direct care staff positions, formerly juvenile correctional officers, so that security staff constituted a separate category from direct care staff. Direct care staff, in addition to their supervisory and security functions, were given enhanced programmatic responsibilities consistent with the goals of developing communities and providing treatment within each correctional center unit, including leading therapeutic structured activities, facilitating and ensuring positive group interactions through coaching and mentoring residents, and serving as accessible role models and advocates to assigned residents. Security staff were assigned tasks primarily involving facility security, such as conducting perimeter checks, operating the central control center, and performing searches at the security entrance. More recently, some security staff have also been tasked with providing coverage in the individual living units to address shortages on the units. Even in these expanded roles, however, security staff are not primarily responsible for direct care duties, and therefore, in the absence of direct care staff, do not satisfy the staffing ratio requirements needed to transport residents on and off-campus.

### **III. PROPOSED VARIANCE**

The proposed variance extension would continue to allow security staff to supervise residents during routine or emergency transportation without direct care staff being present. The provisions of the proposed variance mirror those approved by the board in 2019.

#### **6VAC35-71-10. Definitions.**

“Security staff” means staff who are responsible for maintaining the safety, care, and well-being of residents and the safety and security of the facility to provide residents and staff with a safe living and work environment. Security staff shall include resident specialists, security coordinators, and security managers.

#### **6VAC35-71-540. Transportation.**

- A. Each JCC shall have transportation available or make the necessary arrangements for routine and emergency transportation.
- B. There shall be written safety rules for transportation of residents and for the use and maintenance of vehicles.
- C. Written procedure shall provide for the verification of appropriate licensure for staff whose duties involve transporting residents.
- D. Residents shall be supervised by security staff or direct care staff during routine and emergency transportation.

#### **6VAC35-71-830. Staffing pattern.**

- A. During the hours that residents are scheduled to be awake, there shall be at least one direct care staff member awake, on duty, and responsible for supervision of every ten residents, or portion thereof, on the premises or participating in off-campus, facility-sponsored activities, excluding routine and emergency transportation.
- B. During the hours that residents are scheduled to sleep, there shall be no less than one direct care staff member on duty and responsible for supervision of every 16 residents, or portion thereof, on the premises.
- C. There shall be at least one direct care staff member on duty and responsible for the supervision of residents in each building or living unit where residents are sleeping.

#### **IV. RATIONALE**

While security employees do not meet all the elements for classification as direct care staff under Section 10 of 6VAC35-71, there are compelling reasons to continue to allow them to transport residents outside the presence of direct care staff. First, under the department's current procedures, security staff are required to receive the same volume of training hours as direct care staff. Security staff receive 120 hours of training initially and 40 hours of training annually on the same topics as direct care staff.

Second, the temporary nature of transportation eliminates the need for supervision by direct care staff primarily tasked with implementing the Community Treatment Model (CTM). Unlike the CTM housing units, which depend upon consistent staffing by employees whose primary duties involve implementing behavior management, it is not necessary for security who are supervising residents during routine or emergency transportation to have the heightened qualifications needed to successfully lead group discussions and activities, facilitate group interactions, or satisfy other requirements related to treatment. Those security staff who do not have these heightened qualifications will continue to possess the training and skills needed to maintain the security of the facility and the safety of residents during transport.

Finally, by acceding to the department's request to incorporate the substance of the variance into the proposed amendments to 6VAC35-71, the board already has demonstrated its approval of the provisions in this variance. This variance has been in place since 2016, with some modifications in 2019, and has remained an effective tool for administering the CTM and ensuring that important activities and services are not interrupted when residents require transportation on or off-campus.

#### **V. DURATION OF VARIANCE**

In order to avoid additional requests for extension if the proposed amendments to the JCC regulation are delayed, Bon Air Juvenile Correctional Center requests that the variance be granted and remain in effect for an additional five years or until conforming amendments to 6VAC35-71 take effect, whichever occurs first.



Amy M. Floriano  
Director

**COMMONWEALTH OF VIRGINIA**  
*Department of Juvenile Justice*

P.O. Box 1110  
Richmond, VA 23218  
(804) 371-0700  
Fax: (804) 371-6497  
www.djj.virginia.gov

July 28, 2022

Joyce Holmon  
Deputy Director of Residential Services  
Bon Air Juvenile Correctional Center  
1900 Chatsworth Avenue  
Richmond, Virginia 23235

**VIA ELECTRONIC MAIL**

Dear Ms. Holmon:

This letter responds to your request for a waiver to the regulatory requirement in 6VAC35-71-830 related to staffing ratio requirements during routine and emergency transportation of residents. On behalf of the Bon Air Juvenile Correctional Center (JCC) you are requesting that I grant a waiver authorizing security staff to continue to transport residents on and offsite outside the presence of direct care staff. You seek this waiver pursuant to my authority under 6VAC35-20-93.

The basis for your request involves a variance that had been in place for the Bon Air Juvenile Correctional Center since 2019 and that expired on June 16, 2022. The variance, originally approved in September of 2016, allowed security staff to conduct routine and emergency transportation of residents both within the perimeter of Bon Air and offsite without a direct care employee being present during the transportation. DJJ's Policy and Legislation Division plans to present a request for extension of this variance to the Board of Juvenile Justice (board) at the September 21, 2022, board meeting.

Pursuant to 6VAC35-20-93, the Director of the Department of Juvenile Justice has the authority to issue a waiver to a noncritical regulatory requirement, provided: (i) the requirement is not mandated by statute or by federal or state regulations other than those issued by the board; (ii) noncompliance with the regulatory requirement will not result in a threat to the health, welfare, or

Joyce Holmon  
July 28, 2022  
Page Two

safety of residents, the community or staff; (iii) enforcement of the regulatory requirement will create an undue hardship; (iv) juveniles' care or services would not be adversely affected; and (v) emergency conditions or circumstances make compliance with the regulatory requirement impossible or impractical. Based on my review of this request, it appears that the JCC is presented with such circumstances. While the federal Prison Rape Elimination Act standards impose staffing ratios for juvenile correctional centers, the proposed variance does not conflict with these federal standards. Furthermore, the variance has been in place since September 2016, and the department has seen no evidence to suggest that application of the variance threatens the health, welfare, and safety of residents. Rather, the variance has helped to ensure that direct care staff can assume their normal posts and carry out their duties of implementing the behavior management program without any disruption related to transportation responsibilities. Additionally, I agree with your concern that enforcing the variance for the short period of time until the September board meeting will create an undue hardship for direct care staff at Bon Air by requiring them to modify practices that have been in place for over five years and are needed to preserve the existing CTM structure. Finally, I do not anticipate this waiver adversely affecting residents' care or services, as it will continue to ensure that direct care staff can focus their efforts on their programmatic responsibilities without interruption.

I find that your request meets the regulatory criteria for issuance of a waiver, and I grant your request accordingly. The waiver will expire when the board makes a determination on your variance request on September 21, 2022. I will forward your variance request to the board for consideration at the meeting.

Sincerely,



Amy M. Floriano

cc: Tyren Frazier  
Board of Juvenile Justice





Amy M. Floriano  
Director

**COMMONWEALTH OF VIRGINIA**  
*Department of Juvenile Justice*

P.O. Box 1110  
Richmond, VA 23218  
(804) 371.0700  
Fax: (804) 371.6497  
www.djj.virginia.gov

**MEMORANDUM**

**TO:** State Board of Juvenile Justice

**FROM:** Virginia Department of Juvenile Justice

**SUBJECT:** Request Extension of Variance Applicable to Direct Supervision Staff in Juvenile Correctional Centers; Training

**DATE** September 21, 2022

---

**I. SUMMARY OF ACTION REQUESTED**

The Department of Juvenile Justice (the department) respectfully requests the State Board of Juvenile Justice (board) to approve an extension of the variance submitted on behalf of the Bon Air Juvenile Correctional Center and last approved by the board on November 13, 2019. The variance authorizes non-security staff classified as "direct supervision staff" to receive a portion of their mandated training hours prior to working with residents and the remaining hours before the close of their first year of employment with the department.

**II. BACKGROUND**

On November 13, 2019, the board granted the department an extension on a variance originally issued in November 2014. The variance applied to certain non-security staff in the Bon Air Juvenile Correctional Center and relieved them of the requirement to comply with certain provisions in **6VAC35-71-160**. Subsection B of the regulation provides:

**B. Direct care staff and employees responsible for the direct supervision of residents shall, before that employee is responsible for the direct supervision of a resident, complete at least 120 hours of training, which shall include training in the following areas:**

1. Emergency preparedness and response;
2. First aid and cardiopulmonary resuscitation, unless the individual is currently certified, with certification required as applicable to their duties;
3. The facility's behavior management program;
4. The residents' rules of conduct and the rationale for the rules;
5. The facility's behavior interventions, with restraint training required as applicable to their duties;
6. Child abuse and neglect;
7. Mandatory reporting;
8. Maintaining appropriate professional relationships;

9. Appropriate interaction among staff and residents;
10. Suicide prevention;
11. Residents' rights, including but not limited to the prohibited actions provided for in 6VAC35-71-550;
12. Standard precautions;
13. Recognition of signs and symptoms and knowledge of actions required in medical emergencies;
14. Adolescent development;
15. Procedures applicable to the employees' position and consistent with their work profiles; and
16. Other topics as required by the department and any applicable state or federal statutes or regulations.

The variance currently in place authorizes non-security, direct supervision staff (interpreted by the department to include counselors, teachers, mental health providers, and recreational staff) to receive 40 of the 120 hours of mandated initial training required pursuant to 6VAC35-71-160 before assuming direct supervision responsibility. The remaining 80 hours of training must be completed before the end of the employee's first year of employment with the department. Under the variance, direct supervision staff must receive the initial 40 hours of training in the 16 various topics enumerated in subsection B of Section 160 before they may provide services to residents.

The department originally sought the variance in order to address the logistical challenges associated with providing training to non-security staff. Unlike the staff classified as "direct care" or "security staff," who are hired in mass and are trained as a group, non-security staff have a different rate of attrition, are hired as the positions become vacant, and often have rolling start dates. Before the board approved the initial variance, these issues created a significant delay in the provision of important educational, mental health, and other mandated services. At the time, classroom training sessions conducted by the department's Training and Organizational Development Unit were offered on a limited basis due to unpredictable participation rates. Non-security staff often waited months before a new training session opened for them, and by regulation, were prohibited from assuming direct supervision responsibilities until their mandated training hours were completed. This frequently disrupted vital behavioral health, educational, and other services while applicable staff waited for training to become available.

To address this issue, the department has made 40 hours of institutional training available to direct supervision staff in the 16 enumerated topics. New direct supervision employees receive this training prior to working directly with residents and obtain the additional 80 hours of training with the department's Training and Organizational Development Unit before the end of their first year of employment.

### **III. PROPOSED VARIANCE**

The proposed variance would allow the department to maintain the status quo by authorizing new direct supervision staff to receive 40 hours of training before assuming their direct supervision responsibilities and the remaining 80 hours before the close of their first year of employment. Direct care staff and security staff would remain subject to the current regulatory requirements. The specific provisions of the variance are provided below:

## 6VAC35-71-160. Required initial training

~~B. Direct care staff and security staff, and employees responsible for the direct supervision of residents shall, before that employee is responsible~~ assuming responsibility for the direct supervision of a resident, shall complete at least 120 hours of training, which shall include training in the following areas:

1. Emergency preparedness and response;
2. First aid and cardiopulmonary resuscitation, unless the individual is currently certified, with certification required as applicable to their duties;
3. The facility's behavior management program;
4. The residents' rules of conduct and the rationale for the rules;
5. The facility's behavior interventions, with restraint training required as applicable to their duties;
6. Child abuse and neglect;
7. Mandatory reporting;
8. Maintaining appropriate professional relationships;
9. Appropriate interaction among staff and residents;
10. Suicide prevention;
11. Residents' rights, including but not limited to the prohibited actions provided for in 6VAC35-71-550 (prohibited actions);
12. Standard precautions;
13. Recognition of signs and symptoms and knowledge of actions required;
14. Adolescent development;
15. Procedures applicable to the employees' position and consistent with their work profiles; and
16. Other topics as required by the department and any applicable state or federal statutes or regulations.

C. Employees responsible for the direct supervision of residents shall complete at least 40 hours of training, including training in the topics set out in subdivisions (B)(1) through (B)(16) of this section before they may assume their direct supervision responsibilities. An additional 80 hours of training must be completed before the end of the employee's first year of employment.

## IV. RATIONALE

A variance continues to be necessary to ensure the security and well-being of residents and is not expected to threaten the safety of residents or staff.

Since its initial issuance in 2014, the variance has prevented the interruption of essential services to residents. Without the variance, non-security direct supervision staff could be delayed in assuming direct supervision responsibilities for several months while awaiting the next available training opportunity or would need another employee who has completed the required training to be present while services are provided. Neither alternative would resolve the issue. The department continues to confront staff shortage and retention challenges, and relying on the presence of additional staff during the provision of essential counseling, education, or other important services may exacerbate these challenges, as well as hinder efforts to maintain confidentiality.

The proposed variance also exceeds national standards for juvenile correctional staff established by the American Correctional Association (ACA). Currently, the ACA directs all new juvenile careworkers to receive 120 hours of training in such topics as security procedures, suicide prevention, use of force, safety procedures, and key

control **during their first year of employment**. The standards do not require that a specified volume of training hours be satisfied before direct care staff or staff responsible for the direct supervision of residents may assume the provision of care or services. By mandating that non-security direct supervision staff receive an initial 40 hours of training in the 16 topics, the variance has implemented additional safeguards to ensure that staff who may not have experience in a confinement setting are sufficiently trained in the required topics. Under the existing and proposed extended variance, direct supervision staff will need to continue to receive training in the 16 topics enumerated under Subsection B before assuming their direct supervision responsibilities.

Finally, if granted, the variance will continue to exceed the regulatory requirements applicable to juvenile correctional centers before the last amendments to the regulation took effect in 2014. Prior to January 2014, the only training non-security staff were required to complete prior to working with residents was emergency preparedness and response.

## **VI. DURATION OF VARIANCE**

The department requests that this variance be granted and remain in effect for an additional five years or until conforming amendments are made to 6VAC35-71, whichever occurs first.



Amy M. Floriano  
Director

**COMMONWEALTH OF VIRGINIA**  
*Department of Juvenile Justice*

P.O. Box 1110  
Richmond, VA 23218  
(804) 371.0700  
Fax: (804) 371.6497  
www.djj.virginia.gov

**TO:** State Board of Juvenile Justice

**FROM:** Virginia Department of Juvenile Justice

**SUBJECT:** Request Amendment of Two Policies: 02-002 (Media Relations) and 02-024 (Collaboration with Colleges and Universities); Request Rescission of One Policy: 20-106 (Behavior Management)

**DATE:** September 21, 2022

---

## **I. SUMMARY OF ACTION REQUESTED**

The Department of Juvenile Justice (the Department) respectfully requests the State Board of Juvenile Justice (the Board) to approve the amendment of two existing Board policies and the rescission of one existing Board policy pursuant to the authority established in Code of Virginia § 66-10.

## **II. BACKGROUND OF THE REQUEST**

Code of Virginia § 66-10 contains three provisions that empower the Board to establish certain policies and give rise to duties related to policies. The statute provides in pertinent part:

The Board shall have the following powers and duties:

1. To establish and monitor policies for the programs and facilities for which the Department is responsible under this law;
2. To ensure the development of a long-range youth services policy;
3. To monitor the activities of the Department and its effectiveness in implementing the policies developed by the Board...

Pursuant to this statutory authority, the Board currently has 36 active policies in place ranging in subject matter from overall administration of the Department to operations within facilities and programs regulated by the Department. Many of these policies were initially established in the early 1990s and were last reviewed or updated more than ten years ago.

At the April 2022 Board meeting, the Department informed the Board of its intent to conduct a comprehensive review of each existing Board policy and to make a formal recommendation to the Board to retain, amend, or rescind each one based upon the review. The Department noted its plan to recommend retaining or amending the policies that are mandated by statute or that provide additional guidance above and beyond what is

mandated by regulation and to recommend rescinding the policies that have been subsumed into regulation, that duplicate existing law, or that are obsolete

Since the April Board meeting, the Department has continued its comprehensive review of the Board policies and is recommending action on three additional policies for the Board's consideration. The policies and summaries are contained in Parts IV and V of this memorandum.

### III. DIFFERENCES BETWEEN BOARD POLICIES AND BOARD REGULATIONS

Code of Virginia § 2.2-4001, which provides definitions for terms used in the Administrative Process Act (§ 2.2-4000 et. seq.) (the Act), defines the term "regulation" as "any statement of general application, having the force of law, affecting the rights or conduct of any person, adopted by an agency in accordance with the authority conferred on it by applicable basic laws." The Act makes it clear that all regulations are subject to the requirements contained in the Act unless an exception or exemption applies.

In contrast, policies are neither defined nor expressly addressed in the Act. Furthermore, while policies may be enforced by the authorized body to the extent that they do not collide with a law or regulation, they do not have the same force and effect of law afforded to regulations.<sup>1</sup> It is the Department's understanding, therefore, that policies are not regulations subject to the requirements of the Act. This means that the authority to establish, amend, and rescind Board policies rests solely with the Board, and additional involvement or approval by other executive branch agencies is not required, nor must the Board consider any public comments before taking action to amend or rescind such policies.

### IV. SUMMARY OF POLICIES IDENTIFIED FOR AMENDMENT

#### Current Policy

02-002	<b>Media Relations</b>
<p>The Board of Juvenile Justice recognizes and affirms the public's right to be informed about the causes and consequences of delinquent behavior and the philosophy, programs, services, and activities of the Commonwealth's juvenile justice system and its component parts consistent with the statutory requirements to protect the confidentiality of individual juveniles in the system.</p>	
<p>Recognizing that the communications media serve as important conduits for information to the public, the Board of Juvenile Justice is committed to maintaining a relationship of cooperation and mutual respect with the news media.</p>	
<p>Further, it is the policy of the Board to encourage residential and non-residential programs in Virginia's juvenile justice system to properly and accurately communicate information to the news media, without compromising facility security or the confidentiality of individual.</p>	
<p><i>Effective Date:</i> May 9, 1993 <i>Most Recent Review:</i> November 14, 2007</p>	

<sup>1</sup> 2011 Op. Va. Att'y Gen. 99, 102.

**Recommendation:** Amend

**Proposed Amended Policy**

**02-002      Media Relations**

The Board of Juvenile Justice recognizes and affirms the public's right to be informed about the causes and consequences of delinquent behavior and the philosophy, programs, services, and activities of the Commonwealth's juvenile justice system and its component parts consistent with the statutory requirements to protect the confidentiality of individual juveniles in the system.

Recognizing that the communications media serve as important conduits for information to the public, the Board of Juvenile Justice is committed to maintaining a relationship of cooperation and mutual respect with the news media.

Further, it is the policy of the Board to encourage residential and non-residential programs in Virginia's juvenile justice system to interact with the media in a courteous and professional manner and to handle all media inquiries in accordance with applicable laws, regulations, and procedures, without compromising facility security or the confidentiality of individuals.

*Effective Date: May 9, 1993    Most Recent Review: September 21, 2022*

**Rationale for Recommendation:** In its current form, the policy fails to provide programs with any guidance on what is meant in the final sentence by "properly" communicating information to the news media. This omission could tend toward making the policy overly broad or permissive. The amended version points to "applicable laws, regulations, and procedures" to remind programs of their statutory and regulatory obligations and to encourage them to refer to their own internal procedures in determining how to handle media requests for information. Importantly, the amended version retains the original language concerning the priority given to facility security and confidentiality. This amendment provides programs with more direction while safeguarding the flexibility required for individual programs to handle media inquiries in the manner most appropriate for them.

**Current Policy**

**02-024      Collaboration with Colleges and Universities**

The Board recognizes that institutions of higher education offer opportunities for research, student internships, academic coursework for Department employees, and assistance with seminars and conferences – all of which can enhance the services offered to youth and their families.

The Department and its organizational units are encouraged to collaborate with colleges, universities, and other institutions of higher learning in programs and projects of mutual concern.

*Effective Date: May 1, 1994    Most Recent Review: September 21, 2022*

**Recommendation:** Amend

**Proposed Amended Policy**

**02-024 Collaboration with Colleges and Universities**

The Board recognizes that institutions of higher education offer opportunities for research, student internships, academic coursework for Department employees and committed youth, and assistance with seminars and conferences. These opportunities can enhance the services offered to youth and their families and equip the department with additional resources to carry out its mission.

The Department and its organizational units are encouraged to collaborate with colleges, universities, and other institutions of higher learning in programs and projects of mutual concern and benefit.

*Effective Date:* September 21, 2022 *Most Recent Review:* September 21, 2022

**Rationale for Recommendation:** The Department recognizes that educational institutions play an integral role in enhancing the skillset of its employees and interns and in performing research in topics that may inform the agency's work. As such, the Department supports retaining this document. While the current policy acknowledges the benefits of educational institutions, including providing academic coursework opportunities for Department employees, it fails to identify committed youth as potential beneficiaries of these opportunities. In addition, the department believes that any collaboration with educational institutions should involve projects or programs that mutually benefit both entities. The proposed amendments reflect this philosophy.

**V. SUMMARY OF POLICIES IDENTIFIED FOR RESCISSION**

**Current Policy**

**20-106 Behavior Management**

The Department shall develop procedures and practices that will reward the positive behavior of individual residents in facilities operated by or under contract with the Department and encourage residents who behave negatively to correct their behavior.

*Effective Date:* September 9, 2009 *Most Recent Review:* September 21, 2022

**Recommendation:** Rescind

**Rationale for Recommendation:**

The Board's current regulations require juvenile correctional centers and juvenile detention centers to implement behavior management programs. The regulations define "behavior management" as "those principles and methods employed to help a resident achieve positive behavior and to address and correct a resident's inappropriate behavior in a constructive and safe manner."



In accordance with these regulatory requirements, the Department's Community Treatment Model (CTM), which is established and described in the agency's written procedure, serves as the Bon Air Juvenile Correctional Center's behavior management program. The CTM program allows residents to progress through a system of phases, and such residents are awarded privileges, such as an increased number of outgoing phone calls, later bedtimes, and participation in approved unit leisure activities or off-campus trips, as they advance to higher phases. Residents may be frozen on their current phase if they commit certain behavioral infractions or fail to comply with certain facility expectations, and in such case, may be denied the privileges associated with their current phase.

Alternative direct care programs operating in juvenile detention centers are not required to implement the CTM, but all such programs have implemented a behavior management program in accordance with the regulatory requirements that apply to juvenile detention centers. They also have entered into memoranda of agreement with the Department requiring them to incorporate incentives, sanctions, and interventions to address and change residents' behavior. Other alternative direct care programs operating in group homes or residential treatment centers also have similar behavior management programs in place.

The department believes that these regulatory mandates alongside the provisions in the MOAs render this policy unnecessary and is therefore recommending that the Board agree to rescind this policy. If the Board adopts the Department's recommendation, the applicable juvenile correctional center and alternative direct care programs would continue to utilize a behavior management program that allows for a system of privileges to reward positive behavior and sanctions to discourage negative behavior in order to comply with their regulatory and contractual mandates.

## **VI. IMPACT AND EFFECTIVE DATE OF BOARD ACTION**

If the Board votes in support of the Department's recommendations in Parts IV and V of this memorandum, the proposed amendments and rescissions will take effect immediately. Amending the two Board policies, as recommended in Part IV, will ensure that the general public remains informed regarding the juvenile justice system within the confines of the law and that the department continues to maintain collaborative partnerships with educational institutions. For the reasons set forth in Part V of this memo, rescinding 20-106 is not expected to impact juvenile correctional centers or the alternative direct care programs in place for committed juveniles. These institutions will continue to operate their behavior management programs as contemplated in the policy.