

Critical Regulatory Requirements for the Residential Regulations

Detention Centers 6VAC35-101

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

A. The following events shall be reported , in accordance with department procedures, within 24 hours to (i) the applicable court service unit; (ii) either the parent or legal guardian, as appropriate and applicable; and (iii) the director or designee:

1. Any serious incident, accident, illness, or injury to the resident;
2. The death of a resident;
3. Any suspected case of child abuse or neglect at the detention center, on a detention center-sponsored event or excursion, or involving detention center staff as provided in 6VAC35-101-90 (suspected child abuse and neglect).

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

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 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.

6VAC35-101-260. Physical or mental health of personnel.

When an individual poses a direct threat 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 direct care or direct 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 direct care or direct supervision of residents. The results of any medical information or documentation of any disability-related inquiries shall be maintained separately from the employee's personnel records maintained in accordance with 6VAC35-101-310 (personnel records). For the purpose of this section a direct threat means a significant risk of substantial harm.

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

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 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.

6VAC35-101-450 (A). Disposal of garbage and management of hazardous materials.

A. Provision shall be made for the collection and legal disposal of all garbage and waste materials.

6VAC35-101-450 (B). Disposal of garbage and management of hazardous materials.

B. All flammable, toxic, medical, and caustic materials within the facility shall be stored, used, and disposed of in appropriate receptacles and in accordance with federal, state, and local requirements.

6VAC35-101-480 (B). Kitchen operation and safety.

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

6VAC35-101-510 (A). Emergency and evacuation procedures.

A. A written emergency preparedness and response plan shall be developed. The plan 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 detention center in an emergency;
2. Analysis of the detention center's capabilities and potential hazards, including natural disasters, severe weather, fire, flooding, work place 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 provision of administrative direction and management of response activities; coordination of logistics during the emergency; communications; life safety of employees, contractors, interns, volunteers, visitors, and residents; property protection; fire protection service; community outreach; and recovery and restoration;
4. Written emergency response procedures for assessing the situation; protecting residents, employees, contractors, interns, volunteers, and visitors; equipment and vital records; and restoring services.

Emergency procedures shall address:

- a. Communicating with employees, contractors, and community responders;
 - b. Warning and notification of residents;
 - c. Providing emergency access to secure areas and opening locked doors;
 - d. Conducting evacuations to emergency shelters or alternative sites and accounting for all residents;
 - e. Relocating residents, if necessary;
 - f. Notifying parents and legal guardians, as applicable and appropriate;
 - g. Alerting emergency personnel and sounding alarms;
 - h. Locating and shutting off utilities when necessary; and
 - i. Providing for a planned, personalized means of effective egress for residents who use wheelchairs, crutches, canes, or other mechanical devices for assistance in walking.
5. Supporting documents that would be needed in an emergency, including emergency call lists, building and site maps necessary to shut off utilities, designated escape routes, and list of major resources such as local emergency shelters; and
6. Schedule for testing the implementation of the plan and conducting emergency preparedness drills.

6VAC35-101-510 (B). Emergency and evacuation procedures.

B. Emergency preparedness and response training shall be developed for all employees to ensure they are prepared to implement the emergency preparedness plan in the event of an emergency. Such training shall be conducted in accordance with 6VAC35-101-180 (required initial orientation) through 6VAC35-101-200 (retraining) and include the employees' responsibilities for:

1. Alerting emergency personnel and sounding alarms;
2. Implementing evacuation procedures, including evacuation of residents with special needs (i.e., deaf, blind, non-ambulatory);
3. Using, maintaining, and operating emergency equipment;
4. Accessing emergency information for residents including medical information; and
5. Utilizing community support services.

6VAC35-101-510 (I). Emergency and evacuation procedures.

I. At least one evacuation drill (the simulation of the detention center's emergency procedures) shall be conducted 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.

6VAC35-101-650 (A). Prohibited actions

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, or abusive, 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 and treatment;
10. Application of aversive stimuli, except as 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
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

6VAC35-101-740 (A). 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 and an evening snack, (ii) includes an adequate variety and quantity of food for the age of the resident, and (iii) meets minimum applicable federal nutritional requirements.

6VAC35-101-820 (A). Mental health screening.

A. Each resident shall undergo a mental health screening, as required by § 16.1-248.2 of the Code of Virginia, administered by trained staff, to ascertain the resident's suicide risk level and need for a mental health assessment. Such screening shall include the following:

1. A preliminary mental health screening, at the time of admission, consisting of a structured interview and observation as provided in facility procedures; and
2. The administration of an objective mental health screening instrument within 48 hours of admission.

6VAC35-101-900 (D). Staffing pattern.

D. At all times, there shall be no less than one direct care staff member with current certifications in standard first aid and cardiopulmonary resuscitation on duty for every 16 residents, or portion thereof, being supervised by staff.

6VAC35-101-930. Health authority.

The facility administrator shall designate a physician, nurse, nurse practitioner, government authority, health administrator, health care contractor, or health agency to serve as the facility's health authority responsible for organizing, planning, and monitoring the timely provision of appropriate health care services, including arrangements for all levels of health care and the ensuring of quality and accessibility of all health services, consistent with applicable statutes and regulations, prevailing community standards, and medical ethics.

6VAC35-101-950 (A). Health care procedures.

A. Written procedures shall be developed and implemented for:

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 on-going and follow-up medical and dental services after admission;
3. Providing or arranging for the provision of dental services for residents who present with acute dental concerns;
4. Providing emergency services for each resident as provided by statute or by the agreement with the resident's legal guardian;
5. Providing emergency services for any resident experiencing or showing signs of suicidal or homicidal thoughts, symptoms of mood or thought disorders, or other mental health problems; and
6. Ensuring that the required information in subsection B of this section is accessible and up to date.

6VAC35-101-980 (A). Health screening at admission.

A. To prevent newly arrived residents who pose a health or safety threat to themselves or others from being admitted to the general population, all residents shall immediately upon admission undergo a preliminary health screening consisting of a structured interview and observation by health care personnel or health-trained personnel, as defined in 6VAC35-101-10 (definitions), as approved by the health authority.

6VAC35-101-980 (B). Health screening at admission.

B. Residents admitted who pose a health or safety threat to themselves or others shall be separated from the detention center's general population but provision shall be made for them to receive comparable services.

6VAC35-101-980 (C) . Health screening at admission.

C. Immediate health care is provided to residents who need it.

6VAC35-101-990 (A). Tuberculosis screening.

A. Within five days of admission to the facility each resident shall have had a screening assessment for tuberculosis. The screening assessment can be no older than 30 days.

6VAC35-101-990 (B). Tuberculosis screening.

B. A screening assessment for tuberculosis shall be completed annually on each resident.

6VAC35-101-1010 (A). Infectious or communicable diseases.

A. A resident with a communicable disease shall not be housed in the general population unless a licensed physician certifies that:

1. The facility is capable of providing care to the resident without jeopardizing residents and staff; and
2. The facility is aware of the required treatment for the resident and the procedures to protect residents and staff.

6VAC35-101-1020. Suicide prevention.

Written procedure shall provide for (i) a suicide prevention and intervention program developed in consultation with a qualified medical or mental health professional and (ii) all direct care staff to be trained and retrained in the implementation of the program.

6VAC35-101-1030 (A). Residents' health care records.

A. Each resident's health 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) documentation of the provision of follow-up medical care recommended by the physician or as indicated by the needs of the resident.

6VAC35-101-1060 (A). 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.

6VAC35-101-1060 (B). Medication.

B. All medication shall be securely locked, except (i) as required by 6VAC35-101-1250 (delivery of medication in postdispositional programs) or (ii) if otherwise ordered by a physician on an individual basis for keep-on-person or equivalent use.

6VAC35-101-1060 (C). Medication.

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, in accordance with the provisions of § 54.1-3408 of the Code of Virginia, either (i) have successfully completed a medication training program approved by the Board of Nursing or (ii) be licensed by the Commonwealth of Virginia to administer medications before they can administer medication as stated in 6VAC35-101-190 (required initial training). Such staff members shall undergo an annual refresher training as stated in 6VAC35-101-200 (retraining).

6VAC35-101-1060 (E). Medication.

E. A program of medication, including procedures regarding the use of over-the-counter medication pursuant to written or verbal orders issued by personnel authorized by law to give such orders, shall be initiated for a resident only when prescribed in writing by a person authorized by law to prescribe medication.

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

H. In the event of a medication incident or an adverse drug reaction, first aid shall be administered if indicated. Staff shall promptly contact a poison control center, 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. A medication incident shall mean an error made in administering a medication to a resident including the following: (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 a wrong time or not at all; and (v) the

medication is administered through an improper method. A medication error does not include a resident's refusal of appropriately offered medication.

6VAC35-101-1060 (J). Medication.

J. Medication refusals shall be documented including action taken by staff. The facility shall follow procedures for managing such refusals which shall address:

1. Manner by which medication refusals are documented; and
2. Physician follow-up, as appropriate.

6VAC35-101-1060 (M). Medication.

M. Syringes and other medical implements used for injecting or cutting skin shall be locked and inventoried in accordance with facility procedures.

6VAC35-101-1090 (A). Physical restraint.

A. Physical restraint shall be used as a last resort only after less restrictive interventions have failed or to control residents whose behavior poses a risk to the safety of the resident, others, or the public.

1. Staff shall use the least force deemed reasonable to be necessary to eliminate the risk or to maintain security and order and shall never use physical restraint as punishment or with the intent to inflict injury.
2. Staff may physically restrain a resident only after less restrictive behavior interventions have failed or when failure to restrain would result in harm to the resident or others.
3. Physical restraint may be implemented, monitored, and discontinued only by staff who have been trained in the proper and safe use of restraint.
4. For the purpose of this section, physical restraint shall mean the application of behavior intervention techniques involving a physical intervention to prevent an individual from moving all or part of that individual's body.

6VAC35-101-1090 (B). Physical restraint.

B. Written procedures shall govern the use of physical restraint and shall include:

1. The staff position who will write the report and time frame;
2. The staff position who will review the report and time frame;
3. Methods to be followed should physical restraint, less intrusive interventions, or measures permitted by other applicable state regulations prove unsuccessful in calming and moderating the resident's behavior; and
4. An administrative review of the use of physical restraints to ensure conformity with the procedures.

6VAC35-101-1150. Restraints for medical and mental health purposes.

Written procedure shall govern the use of restraints for medical and mental health purposes. Written procedure shall identify the authorization needed; when, where, and how restraints may be used; for how long; and what type of restraint may be used.

6VAC35-101-1120. Chemical agents.

Staff are prohibited from using pepper spray and other chemical agents to manage resident behavior or maintain institutional security.