

Chapter: Rules for State-Operated Programs and Facilities Subchapter: Behavior Management and Youth Discipline Division: Due Process Hearings Procedures Rule: Procedure for Mental-Health-Status Review Hearing ACA: N/A Statutes: N/A	Effective Date: 10/1/15 Page: 1 of 2 Replaces: GAP.380.9571, 11/1/11,
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RULE

(a) **Purpose.**

This rule establishes the due process required to admit a youth into a Texas Juvenile Justice Department (TJJD) stabilization unit or to extend a youth's stay in a stabilization unit to provide treatment for a psychiatric disorder.

(b) **Applicability.**

- (1) For criteria for admission to a TJJD stabilization unit, see [§380.8767](#) of this title.
- (2) A mental-health-status review hearing is a Level II due process hearing with several procedural exceptions, as noted in this rule. See [§380.9555](#) of this title for Level II hearing procedures.

(c) **Procedure.**

(1) **Decision Makers.**

- (A) The facility administrator of the TJJD stabilization unit at which placement is sought appoints a mental health professional, as defined in [§380.9187](#) of this title, to conduct the review hearing and serve as the hearing manager.
- (B) The hearing manager must not have direct or primary responsibility in the youth's current treatment or diagnosis.
- (C) The hearing manager has the same authority and responsibility as that assigned to a hearing manager in §380.9555 of this title.
- (D) The hearing manager must be trained to conduct the review hearing.

(2) **Single-Function Hearing.**

The single function of a mental-health-status review hearing is to consider the facts presented relative to the criteria for admission or extension established in §380.8767 of this title.

(3) **Location.**

All mental-health-status review hearings must be conducted at a TJJD stabilization unit and are the responsibility of staff at that facility.

(4) **Advocate.**

The youth's advocate is appointed by the facility administrator or designee and must be a mental health professional or a case manager assigned to the stabilization unit.

(5) **Timing of Hearing.**

A mental-health-status review hearing must be held for each youth within 96 hours after the youth's arrival at the stabilization unit. If the 96-hour period ends on a Saturday, Sunday, or official holiday, the hearing must be held on the next regular work day. If the hearing manager determines an unavoidable absence would prevent a key witness or party from attending the hearing, the hearing may be rescheduled to the earliest possible time but not later than 96 hours from the original scheduled hearing.

(6) **Teleconference.**

The hearing may not be conducted by teleconference. However, testimony may be accepted via telephone if the hearing manager determines in-person testimony is impractical or unfeasible. If testimony is accepted via telephone, all persons required to be present at the hearing must be able to simultaneously hear the testimony.

(7) **Exclusion from the Hearing.**

To protect the confidential nature of the hearing, persons other than the youth, the youth's advocate, the staff representative, and the youth's parent(s) may be excluded from the hearing room at the discretion of the hearing manager. However, any person except the youth's advocate or staff representative may be excluded from the hearing room if his/her presence causes undue disruption or delay of the hearing or when matters being discussed are of a very sensitive nature. The reason(s) for the exclusions must be stated on the record.

(8) **Decision.**

- (A) Following the presentation of evidence, the hearing manager must announce his/her decision regarding whether criteria for admission or extension have been established.
- (B) A hearing manager's decision to admit or extend a youth in the stabilization unit must be supported by expert testimony of a psychiatrist that the youth meets the requisite criteria. The testimony should be given in person when feasible.
- (C) The youth must be informed of his/her right to appeal the decision to the executive director in accordance with [§380.9353](#) of this title. The hearing manager's decision will be implemented even if an appeal has been filed and a response is pending.

(9) **Hearing Report.**

- (A) A report that includes the hearing manager's findings and the basis for them must be completed within seven work days after the date of the hearing.
- (B) The facility administrator or designee must review the report to ensure accurate and consistent application of this rule. The person who conducted the hearing may not be the person who conducts this review. If necessary, the facility administrator or designee may return the report to the hearing manager for clarification or to reopen the hearing for the purpose of obtaining further information.

See [CMS.07.07](#) for implementation procedures.