

Chapter: Rules for State-Operated Programs and Facilities Subchapter: Admission, Placement, Release, and Discharge Division: Program Completion and Release Rule: Discharge of Sentenced Offenders upon Transfer to TDCJ or Expiration of Sentence ACA: 4-JCF-5I-01 Statutes: HR Code §§244.014, 244.015, 245.054	Effective Date: 12/1/16 Page: 1 of 4 Replaces: GAP.380.8565, 4/1/14
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RULE

(a) **Purpose.**

This rule establishes criteria and an approval process for:

- (1) requesting court approval to transfer sentenced offenders to adult prison; and
- (2) discharging sentenced offenders:
 - (A) whose sentences have expired; or
 - (B) who did not previously qualify for release or transfer by completing required programming.

(b) **Applicability.**

- (1) This rule applies only to the disposition of a youth's determinate sentence(s).
- (2) This rule applies only to sentenced offenders.
- (3) This rule does not apply to:
 - (A) sentenced offenders who qualify for release or transfer to parole by completing required programming. See [§380.8559 of this title](#); or
 - (B) sentenced offenders adjudicated for capital murder. See [§380.8569 of this title](#).

(c) **General Requirements.**

- (1) By law, a sentenced offender is transferred from the custody of the Texas Juvenile Justice Department (TJJD) no later than the youth's 19th birthday.
- (2) A youth must serve the entire minimum period of confinement that applies to the committing offense in a high-restriction facility unless:
 - (A) the youth is transferred by the committing court to the Texas Department of Criminal Justice - Correctional Institutions Division (TDCJ-CID);
 - (B) the youth is approved by the committing court to attain parole status before completing the minimum period of confinement;
 - (C) the youth's sentence expires before the minimum period of confinement expires; or
 - (D) the executive director waives such placement.
- (3) TJJD reviews each youth's progress:
 - (A) six months after admission to TJJD;

- (B) when the minimum period of confinement is complete;
 - (C) when the youth becomes 16 years of age;
 - (D) when the youth becomes 18 years of age and again at 18 years and six months of age to determine eligibility or make a recommendation for transfer to TDCJ-CID or to the Texas Department of Criminal Justice - Parole Division (TDCJ-PD);
 - (E) within 45 days after revocation of parole, if applicable; and
 - (F) at other times as appropriate, such as after a major rule violation has been confirmed through a Level II hearing.
- (4) TJJD notifies the youth, the youth's parent/guardian, any designated advocate for the youth, and any identified victim(s) of a pending exit review at least 30 days before the date of the review. The notification informs the recipients that they have the opportunity to submit written comments to TJJD and specifies the date by which the comments must be received. The notification also informs the parent/guardian and any identified victim(s) that they may present information in person during the youth's exit review process and specifies the date by which a request to present in-person information must be received. Any information received from a youth's family members, victims, local officials, staff, or the general public is considered by TJJD and included in the release packet.
- (5) TJJD jurisdiction is terminated and a youth is discharged when:
- (A) the youth is transferred to TDCJ; or
 - (B) the youth's sentence has expired, except when the youth is committed to TJJD under concurrent determinate and indeterminate commitment orders as described in [§380.8525 of this title](#).

(d) Transfer Criteria.

(1) Transfer to TDCJ-CID for Youth Whose Conduct Occurs While on Parole Status.

TJJD may request a juvenile court hearing to recommend transfer of a youth to TDCJ-CID if all of the following criteria are met:

- (A) the youth's parole has been revoked or the youth has been adjudicated or convicted of a felony offense occurring while on parole status;
- (B) the youth is at least age 16;
- (C) the youth has not completed his/her sentence; and
- (D) the youth's conduct indicates that the welfare of the community requires the transfer.

(2) Transfer to TDCJ-CID for Youth Whose Conduct Occurs While in a High-Restriction Facility.

TJJD may request a juvenile court hearing to recommend transfer of a youth in a high-restriction facility to TDCJ-CID if the following criteria are met:

- (A) the youth is at least age 16; and
- (B) the youth has spent at least six months in high-restriction facilities, which is counted as follows:
 - (i) if the youth received a determinate sentence for conduct that occurred in the community, the six months begins upon admission to TJJD; or
 - (ii) if the youth received a determinate sentence for conduct that occurred in a TJJD or contract facility, the six months begins upon the youth's initial admission to TJJD, regardless of whether the initial admission resulted from a determinate or indeterminate commitment; and

- (C) the youth has not completed his/her sentence; and
- (D) the youth meets at least one of the following behavior criteria:
 - (i) the youth has committed a felony or Class A misdemeanor while assigned to a residential facility; or
 - (ii) the youth has committed major rule violations as confirmed through a Level II due process hearing on three or more occasions; or
 - (iii) the youth has engaged in conduct that has resulted in at least five Security Program admissions or extensions in one month or ten in three months (see [§380.9740 of this title](#) for information on the Security Program); or
 - (iv) the youth has demonstrated an unwillingness to progress in his/her rehabilitation program due to persistent non-compliance with objectives; and
- (E) alternative interventions have been tried without success; and
- (F) the youth's conduct indicates that the welfare of the community requires the transfer.

(3) Transfer to TDCJ-PD for Youth in Residential Facilities.

A youth in a residential facility who has not met program completion criteria in [§380.8559 of this title](#) and who has not received court approval for transfer to TDCJ-CID must be transferred to TDCJ-PD to complete his/her sentence no later than the youth's 19th birthday.

(4) Transfer to TDCJ-PD for Youth on TJJD Parole.

A youth on TJJD parole who has not completed his/her sentence must be transferred to TDCJ-PD no later than the youth's 19th birthday.

(e) Transfer Recommendation for Youth Who Will Not Complete the Minimum Period of Confinement before Age 19.

TJJD requests a court hearing for any youth who cannot complete his/her minimum period of confinement by his/her 19th birthday. The purpose of the hearing is to determine whether the youth will be transferred to TDCJ-CID or to TDCJ-PD. Notwithstanding the criteria in subsection (d)(2) of this section, TJJD considers the following factors in forming a recommendation for the committing court:

- (1) length of stay in TJJD;
- (2) youth's progress in the rehabilitation program;
- (3) youth's behavior while in TJJD;
- (4) youth's offense/delinquent history; and
- (5) any other relevant factors, such as:
 - (A) risk factors and protective factors the youth possesses as identified in his/her psychological evaluation; and
 - (B) the welfare of the community.

(f) Discharge Criteria.

TJJD discharges youth from its jurisdiction when one of the following occurs:

- (1) expiration of the sentence imposed by the juvenile court, unless the youth is under concurrent commitment orders as described in [§380.8525 of this title](#); or
- (2) the youth has been transferred to TDCJ-CID under court order or transferred to TDCJ-PD.

(g) **Decision Authority for Approval to Transfer.**

- (1) TJJJD does not transfer youth from a high-restriction facility to TDCJ-PD until the executive director or his/her designee determines the youth's community re-entry/transition plan adequately addresses risk factors.
- (2) When a determination has been made that the youth meets criteria for requesting a hearing for transfer to TDCJ-CID or cannot complete his/her minimum period of confinement before age 19, the executive director or his/her designee approves the staff request for a hearing by the committing juvenile court.
- (3) The committing juvenile court is the final decision authority for transferring a youth to TDCJ-CID.

(h) **Notification.**

- (1) TJJJD notifies the following at least ten calendar days before the youth's discharge due to expiration of sentence or transfer to TDCJ-PD without a transfer/release hearing:
 - (A) the committing juvenile court;
 - (B) the prosecuting attorney;
 - (C) the youth's TJJJD parole officer;
 - (D) the chief juvenile probation officer in the county to which the youth is being moved; and
 - (E) any entity that has issued an active warrant for the youth.
- (2) TJJJD notifies any entity that has issued an active warrant for the youth at least ten calendar days before:
 - (A) the youth's transfer to TDCJ-PD resulting from a transfer/release hearing; or
 - (B) the youth's transfer to TDCJ-CID.

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- See [CMS.02.57](#) for procedures relating to transfer to TDCJ-PD.
 - See [CMS.02.58](#) for procedures relating to transfer to TDCJ-CID.
 - See [CMS.02.77](#) for procedures relating to transfer/discharge of youth with non-immigration detainees.
 - See [CMS.02.75](#) for procedures relating to transfer/discharge of undocumented foreign nationals.
 - See [CMS.02.63](#) for procedures relating to the 10-day release/transition notice ([CCF-186](#)).