

Chapter: Rules for State-Operated Programs and Facilities Subchapter: Treatment Division: Programming for Youth with Specialized Treatment Needs Rule: Discharge of Non-Sentenced Offenders with Mental Illness or Intellectual Disability ACA: N/A Statute(s): Hum. Res. Code §§244.011, 244.012	Effective Date: 12/1/14 Page: 1 of 2 Replaces: GAP.380.8779, 4/15/10
---	---

RULE

(a) **Purpose.**

The purpose of this rule is to provide criteria and a process for the Texas Juvenile Justice Department (TJJD) to discharge from its custody non-sentenced offender youth who have completed length of stay requirements and who are unable to progress in TJJD's rehabilitation programs because of mental illness or intellectual disability.

(b) **Applicability.**

This rule does not apply to sentenced offender youth.

(c) **Definitions.**

As used in this rule, the following terms have the following meanings:

- (1) **Intellectual Disability**--means "mental retardation" as used in Texas Human Resources Code [§244.011](#) and [§244.012](#) and has the definition assigned by Texas Health and Safety Code [§591.003](#).
- (2) **Mental Illness**--has the meaning assigned by Texas Health and Safety Code [§571.003](#).

(d) **General Provisions.**

- (1) A determination of whether a youth is able to progress in TJJD's rehabilitation programs is made on an individualized basis, considering factors such as the youth's level of functioning, abilities, strengths, needs, and past progress. The determination also includes a review of the supplemental interventions and/or program adaptations used to accommodate the youth's disability.
- (2) All discharges under this rule require the approval of the executive director.

(e) **Discharge Eligibility Criteria.**

- (1) Youth with a mental illness who meet the following criteria must be discharged:
 - (A) the youth has completed the initial minimum length of stay;
 - (B) the youth has been diagnosed with a mental illness by a licensed psychologist or psychiatrist based on the most recent edition of the Diagnostic and Statistical Manual of the American Psychiatric Association (e.g., psychotic disorder, bipolar disorder, major depressive disorder, organic disorder, severe neurological deficit); and
 - (C) the youth is not able to progress in TJJD's rehabilitation programs primarily because of the youth's mental illness.
- (2) Youth with an intellectual disability who meet the following criteria must be discharged:
 - (A) the youth has completed the initial minimum length of stay;

- (B) the youth has been diagnosed with an Intellectual Developmental Disorder by a licensed psychologist based upon the most recent edition of the Diagnostic and Statistical Manual of the American Psychiatric Association; and
- (C) the youth is not able to progress in TJJD's rehabilitation programs primarily because of the intellectual disability.

(f) Referrals for Follow-Up Services.

- (1) Before a youth is discharged due to mental illness, a psychiatrist must examine the youth to determine whether the youth is in need of inpatient or outpatient mental health services.
- (2) Before a youth is discharged due to mental illness, TJJD must:
 - (A) file an application for court-ordered mental health services as provided in Subchapter C, Chapter 574, Health and Safety Code, if the youth is not receiving such services; and
 - (B) refer the youth to the local Mental Health Authority in the youth's home county for mental health services.
- (3) Before a youth is discharged due to intellectual disability, TJJD must refer the youth to the Local Authority (LA) in the youth's home county for intellectual disability services.
- (4) Prior to discharge, all youth discharged under this rule must be referred:
 - (A) to the Texas Correctional Office on Offenders with Medical or Mental Impairments for continuity of care services; and
 - (B) for staffing with the Community Resource Coordination Group that serves the county to which the youth will be discharged.

(g) Effective Date of Discharge.

- (1) **Mental Illness Discharge.**
 - (A) If the youth is already receiving court-ordered mental health services, discharge is effective immediately upon becoming eligible for discharge under subsection [\(e\)](#) of this section.
 - (B) If the youth is not receiving court-ordered mental health services, discharge is effective the date the court enters an order regarding an application for court-ordered mental health services, or the 30th day after the application is filed, whichever occurs first.
- (2) **Intellectual Disability Discharge.**
 - (A) Discharge is effective on the date any action by the home county LA is taken on the agency's application for intellectual disability services or 30 days from the date of the application, whichever occurs first.
 - (B) If the youth is already receiving services for the intellectual disability, discharge is effective immediately upon becoming eligible for discharge under subsection [\(e\)](#) of this section.