

TEXT OF STANDARD	COMMENTARY
<p>Subchapter: A - Definitions</p> <p>§349.1 Definitions.</p> <p>The words and terms used in this subchapter shall have the following definitions unless the context clearly indicates otherwise.</p> <p>(1) Applicant--An individual applying for certification or recertification as a detention or probation officer.</p> <p>(2) Board--The governing board of the Texas Juvenile Probation Commission.</p> <p>(3) Certified Officer--Either a detention or probation officer who has met the minimum certification requirements and is currently certified by the Commission.</p> <p>(4) Chief Administrative Officer--Regardless of title, the person hired by a juvenile board who is responsible for oversight of the day-to-day operations of a single juvenile probation department or a multi-county judicial district.</p> <p>(5) Commission--The Texas Juvenile Probation Commission.</p> <p>(6) Department--A juvenile probation department.</p> <p>(7) Detention Officer--A person whose primary responsibility is the supervision of the daily activities of residents in either a secure detention facility or a post adjudication secure correctional facility. This may include the facility administrator, assistant facility administrator or a supervisor of juvenile detention officers. Other administrative, food services, janitorial, and auxiliary staff are not considered to be detention officers.</p> <p>(8) Distance Learning--Distance learning takes place when a teacher and student(s) are separated by physical distance, and technology (i.e., voice, interactive video, data, and print), is used to bridge the instructional gap. Distance learning does not include a course delivered by an accredited college or university using distance education methods.</p> <p>(9) Facility--Either a secure detention facility or a post-adjudication secure correctional facility.</p> <p>(10) Facility Administrator--Individual designated by the policy board of a private secure detention facility or a post adjudication secure correctional facility, or by the Chief Administrative Officer or juvenile board, as the program director or superintendent of a secure detention facility or post adjudication secure correctional facility.</p> <p>(11) NCIC--The National Crime Information Center (NCIC) is the Federal Bureau of Investigation (FBI) database utilized for the tracking of an individual's criminal history in the United States.</p> <p>(12) TCIC--Texas Crime Information Center (TCIC) is the Department of Public Safety database utilized for the tracking of an individual's criminal history in the state of Texas.</p> <p>(13) Training--An organized, planned and evaluated activity designed to achieve specific learning objectives.</p> <p>(14) Video Training--Pre-recorded non-interactive training materials or conferences. Video training does not include video teleconference.</p>	<p>Discussion and Interpretation:</p> <p>This section contains definitions of terms that are used throughout this chapter. These definitions will not be monitored independently but will be monitored within the context of the standard wherein the definition appears.</p> <p>Criminal Background Check</p> <p>"Criminal background check" refers to all required criminal history records checks (TCIC and NCIC), local sex offender registration records check, out-of-state criminal history records checks and out-of-state sex offender registration records checks, if applicable).</p> <p>Juvenile Detention Officer</p> <p>For the purposes of this chapter, a "juvenile detention officer" is an individual employed by a local governmental jurisdiction (e.g., juvenile board, county, municipality, etc.) or a private service provider that owns or operates a secure pre-adjudication detention facility or a post-adjudication correctional facility. A detention officer shall possess the requisite qualifications for employment as described in Section 343.15.</p> <p>Prior to 9/1/2003, the Commission had two separate certification categories for officers working in secure juvenile facilities which were "juvenile detention officer" and "juvenile corrections officer." These two categories required the same qualifications and educational requirements for Commission certification and the distinguishing factor was that "detention" officers worked in pre-adjudication detention facilities and/or short-term detention facilities, and "corrections" officers worked in post-adjudication correctional facilities. Beginning September 1, 2003 these two designations have been merged into one category which is "juvenile detention officer" and this category applies to any officer working in any secure juvenile facility (i.e., a pre-adjudication detention facility, short-term detention facility or post-adjudication correctional facility). All "corrections" officers were automatically converted to "detention" officers in the Commission's computer systems. All references within this chapter refer to "detention" officer.</p>

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To be considered and titled a "juvenile detention officer" for the purposes of these standards, an individual shall fall into one of the following categories:

A "juvenile detention officer trainee" is an individual that is in the process of completing the requisite training required for Commission certification as described in Section 349.15(c)(2). This individual has not completed the required training in Section 343.32(c)(3) and Section 343.47(c)(3) and thus does not count toward meeting any of the ratios in Chapter 343.

A "qualified juvenile detention officer trainee" is an individual who has received certification in first aid, cardio-pulmonary resuscitation (CPR) and an approved physical restraint technique (PRT). The officer shall have also received training in the recognition and reporting requirements in abuse, neglect and exploitation and in the implementation of the facility's suicide prevention plan.

A "juvenile detention officer certification candidate" is an individual who has completed the requisite training for Commission certification, but who has yet to submit a certification application or who has submitted a certification application and is pending Commission approval and certification.

An individual who fails to both complete the requisite training and/or submit an accurate application for certification within 180 calendar days after employment shall not meet the definition or sub-definitions of a juvenile detention officer and shall not carry the title of "juvenile detention officer". An officer's employment date shall be defined as the date when monetary compensation commenced.

A "certified juvenile detention officer" is an officer with an active Commission certification. This officer may maintain the title of certified juvenile detention officer so long as the officer remains employed in the capacity of a juvenile detention officer and maintains an active certification with the Commission.

Distance Learning

"Distance Learning" refers to training provided through the Internet, correspondence courses, interactive video conferencing or computer based technology. Training received using distance methods that is completed for college credit from a college or university is not considered distance learning for the purpose of these standards.

Facility

"Facility" refers to a secure pre-adjudication juvenile detention facility, a secure short-term detention facility (hold-over) or a secure post-adjudication correctional facility operated by or under the authority of a local juvenile board. This includes facilities operated by the juvenile probation department under a contract between juvenile boards or under a contract between a juvenile board and a private entity.

Training

"Training" refers to an organized, planned and evaluated activity designed to achieve specific learning objectives. Training includes those training activities and events that are provided through a variety of methods and forums including conferences, distance learning, college courses and other structured learning environments.

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY

Compliance Methodology:

N/A

Monitoring Methodology: N/A
Sample: N/A
Point Value: 0
Total Points Possible: 0
Scoring Methodology: N/A
Level: Level 0 - Not Monitorable

REFERENCE MATERIAL

Recommended Best Practices:

N/A

Sample Form(s):

N/A

Citation(s):

Title 37 Texas Administrative Code Part II
 Texas Juvenile Probation Commission
 Chapter 349 General Administrative
 Standards Rule §349.1

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
 28(14) TexReg 2951 Adopted Action

Cross Reference(s):

37 TAC Section 343.15 - Employment of
 Certified Juvenile Detention Officers

37 TAC Section 343.32(c)(3) - Supervision

37 TAC Section 343.47(c)(3) - Supervision

37 TAC Section 349.15(c)(2) - Certification
 Training

Board Opinion:

RFI Opinion:

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003
CRM Last Modified On: 9/1/2003

TEXT OF STANDARD

Subchapter: B - Waiver

§349.2 Waiver or Variance.

(a) Waiver.

(1) Who May Request. Unless expressly prohibited by another standard, the juvenile board, chief administrative officer or facility administrator may make an application for waiver of any standard or standards adopted by the Commission. If the chief administrative officer or facility administrator makes a request for waiver, the chief administrative officer or facility administrator shall in writing notify the juvenile board of the request simultaneous with the request's submission to the Commission.

(2) Contents of Request. The written request for waiver shall:

- (A) explain why compliance with standards cannot be achieved immediately;
- (B) explain the impact the waiver would have on compliance with other standards;
- (C) provide a plan to ensure compliance including how the health and safety of juveniles would be maintained during the duration of the waiver; and

(3) Length of Waiver. Waivers granted by the Commission under this Section shall not exceed one year. The juvenile board may request one subsequent waiver.

(4) Review of Request. In the event a request for waiver is denied, the juvenile board, or chief administrative officer may request a review by the Commission. The review of the waiver request shall occur at the next regularly scheduled Commission meeting.

- a. An explanation why compliance with the standard cannot be achieved immediately;
- b. An explanation of the impact the waiver will have on compliance with other standards;
- c. A detailed plan to ensure steps are taken to achieve compliance with the standard including how the health and safety of juveniles will be maintained during the duration of the waiver; and
- d. The length of time requested for the waiver. A waiver shall not be approved for a period exceeding one (1) year.

Subsequent Waivers

If a waiver has been previously approved for a standard, one subsequent waiver may be requested by the juvenile board for the same standard.

Requesting a Responsive Waiver

A juvenile board, the chief administrative officer or the facility administrator may request a waiver in response to a citation for non-compliance. All such waivers shall be requested using the Internet-based COMETS system. The request shall include the following:

- a. An explanation why compliance with the standard cannot be achieved immediately;
- b. An explanation of the impact the waiver will have on compliance with other standards;
- c. A detailed plan to ensure steps are taken to achieve compliance with the standard including how the health and safety of juveniles will be maintained during the duration of the waiver; and
- d. The length of time requested for the waiver. A waiver shall not be approved for a period exceeding one (1) year.

Submission of a Waiver Request

When a waiver request is submitted to the Commission by either the chief administrative officer or the facility administrator, the juvenile board shall be notified in writing of the request simultaneously with the submission of the request to the Commission.

COMMENTARY

Discussion and Interpretation:

This standard outlines the procedures for requesting a waiver of a particular standard. This standard is not monitored per se; however, all requirements and procedures in this standard relating to the request for a waiver shall be applicable to all waivers.

Waiver

Approved waivers allow for temporary (i.e., up to one year) exemption from the requirements set forth in a specific standard. A request for a waiver may be pre-emptive (i.e., in anticipation of a non-compliance) or it may be responsive (i.e., submitted in response to a formal finding of non-compliance). When requesting a waiver, a jurisdiction (represented by either the juvenile board, chief administrative officer or facility administrator) shall make an individual request for each specific standard for which a waiver is requested pursuant to the application process provided by the Commission using the Application for Temporary Waiver of Standards form found on the Commission's website at www.tjpc.state.tx.us or via the automated Compliance, Monitoring, Enforcement and Tracking System (COMETS).

Requesting a Pre-Emptive Waiver

The Commission has established the following procedures to use when requesting a temporary waiver from compliance with a standard:

1. The juvenile board, the chief administrative officer or the facility administrator shall complete the Application for Temporary Waiver of Standards form which may be found on the Commission's website. The waiver request shall include the following:

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Timeline for Consideration of Waiver Request

The Commission shall consider and make a decision on a waiver request within 45 calendar days after the waiver application is deemed to be complete by the Commission. The Commission may request any necessary supplemental information from the applicant regarding the waiver request. The Commission reserves the right to delay consideration of a waiver request if it is determined that there are other factors that must be considered prior to making the decision whether to grant or deny a request.

Criteria Used to Evaluate a Waiver Request

The burden of demonstrating clear justification for a waiver is the responsibility of the requesting party. The Commission will not approve waivers that it reasonably determines will pose a health and safety risk or security risk to juveniles under the supervision of the juvenile probation department or in any program or facility operated under the jurisdiction of the juvenile board.

Documentation of a Waiver Disposition

The Commission shall provide the department or facility with written documentation of the approval or denial of the waiver. This information shall be maintained in the department's records and made available for review upon request.

Review of Denied Waiver Request

If the Commission denies a waiver request, the juvenile board, the chief administrative officer or the facility administrator may request a review by the Commission's board. The request for review of a denied waiver shall be received no less than forty-five (45) calendar days prior to the next regularly scheduled Commission board meeting in order to be considered at that meeting. When a timely request for a review is received by the Commission, the review shall occur at the next regularly scheduled meeting unless the board's agenda does not so allow.

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY

Compliance Methodology:

N/A

Monitoring Methodology: N/A

Sample: N/A

Point Value: 0

Total Points Possible: 0

Scoring Methodology: N/A

Level: Level 0 - Not Monitorable

REFERENCE MATERIAL

Recommended Best Practices:

N/A

Sample Form(s):

Application for Temporary Waiver of Standards [TJPC-AGE-02-04]

Citation(s):

Title 37 Texas Administrative Code Part II Texas Juvenile Probation Commission Chapter 349 General Administrative Standards Rule §349.2(a)

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action

Cross Reference(s):

37 TAC Section 341.4 - Waiver or Variance to Standards - Texas Juvenile Probation Commission

37 TAC Section 343.14 - Waiver or Variance to Standards - Secure Juvenile Pre-Adjudication and Post-Adjudication Correctional Facilities

37 TAC Section 348.19 - Waiver or Variance to Standards - Juvenile Justice Alternative Education Programs

37 TAC Section 351.17 - Waiver or Variance to Standards- Short-Term Detention Facilities

Certification Guidelines Manual - www.tjpc.state.tx.us

Board Opinion:

RFI Opinion:

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003

CRM Last Modified On: 9/1/2003

TEXT OF STANDARD

Subchapter: B - Waiver

§349.2 Waiver or Variance.

(b) Variance.

(1) The TJPC Board may grant a permanent variance from a standard if the Board makes the following findings of fact:

(A) The juvenile board has shown by the substantial weight of the evidence that the health and safety of juveniles is maintained;

(B) The juvenile board has shown substantial compliance with the intent and purpose of the standard for which a variance is requested through alternative methods or means;

(C) The juvenile board has shown that compliance with the standard in question would be an undue hardship on the county; and

(D) The juvenile board has shown that issuing the variance would not put the juvenile board in violation of any state or federal law.

(2) The juvenile board shall submit an application for a variance to the TJPC Board on a Commission provided form.

(3) The Commission shall grant or deny the variance at the next scheduled board meeting.

COMMENTARY

Discussion and Interpretation:

This standard outlines the procedures for requesting a variance of a particular standard. This standard is not monitored per se; however, all requirements and procedures in this standard relating to the request for a variance shall be applicable to all variances.

Variance

A variance is a permanent exemption from the requirements of a standard and is intended to be used in limited, special circumstances when compliance with a standard will be an undue hardship on the county (e.g., financial hardship, etc.). The required standard of proof that an applicant shall meet to be considered for a variance is a high standard of proof requiring clear and convincing evidence, not simply a preponderance of the evidence. A request for a variance may be pre-emptive or responsive in origin. The Commission has established the following procedures to use when requesting a variance.

Requesting A Pre-Emptive Variance

A juvenile board may submit a pre-emptive variance application when it is evident that the county is in non-compliance with a standard. The juvenile board shall complete the Application for Permanent Variance From Standards form which is available on the Commission's website. The request shall include the following information:

1. Evidence that the health and safety of juveniles will be maintained;
2. Evidence of substantial compliance with the intent and purpose of the standard for which a variance is requested through alternative methods or means;
3. Evidence that compliance with the standard in question will be an undue hardship on the county (financial hardship, etc.); and

4. Evidence that issuance of the variance would not put the juvenile board in violation of any state or federal law.

Submission of a Responsive Variance

A variance application in response to a citation for non-compliance shall be submitted via the chief administrative officer or the facility administrator to the Commission using the Internet-based COMET System. The COMET System accepts a variance application from either the chief administrative officer or the facility administrator, but the Commission will only process an application for a variance upon receipt of the juvenile board's written approval of the request for a variance for the standard in question. The COMET System requires submission of the following information:

1. Evidence that the health and safety of juveniles is maintained;
2. Evidence of substantial compliance with the intent and purpose of the standard for which a variance is requested through alternative methods or means;
3. Evidence that compliance with the standard in question will be an undue hardship on the county (financial hardship, etc.); and
4. Evidence that issuance of the variance will not put the juvenile board in violation of any state or federal law.

Receipt of Application Timelines

A variance request shall be submitted in a timely manner so that requirements with the Texas Open Meetings Act may be met. A "timely" submission is defined as one received by the Commission no less than forty-five (45) calendar days prior to the Commission's next regularly scheduled board meeting.

The forty-five (45) calendar day advance request notification is required to allow the completion of the necessary public posting requirements. In addition, the forty-five (45) calendar day advance notification allows time for the Commission's staff to complete the required review and summary of the application, allows for the application item to be set on the board's agenda and allows information packets to be prepared for individual board members

Commission Action On A Variance Request

The Commission's board will review and take action on a timely submitted request for a variance at the next regularly scheduled board meeting. The Commission's board and executive management reserve the right to defer or postpone timely submitted and complete variance applications to subsequent board meetings if it is determined that there are other agenda items that demand prioritization and/or if either the Standards Variance Subcommittee or the Commission's board are lacking the required quorum.

Criteria Used to Evaluate a Variance Request

The burden of showing clear and convincing evidence supporting a request for a variance is the responsibility of the requesting party. The Commission's board will not approve variances that it reasonably determines will pose a health and safety risk or security risk to juveniles under the supervision of the juvenile probation department or in any program or facility operated under the jurisdiction of the juvenile board.

Burden of Proof

In order to receive a standards variance from the Commission's board, an applicant shall satisfactorily provide evidence on each of the four (4) criteria identified in the Application for Permanent Variance From Standards. In order to grant a variance, the Commission's board shall make an affirmative finding of fact on each of the four (4) required elements.

The burden to address each criterion and provide substantial evidence that clearly and convincingly supports each claim rests solely with the applicant. Criteria that are addressed through simple assertions, claims and declarations of philosophical statements will not be considered as factual evidence unless such assertions, claims and declarations are accompanied by supporting documentation that can be substantiated and verified.

Review of Application By Commission Staff

For each completed variance request received, the Commission's staff shall prepare a written summary of the application, which shall include an assessment of the evidence supporting the four (4) requisite findings of fact within the application and a staff recommendation to either grant or deny the request for variance.

The Commission's staff may request additional information and/or documentation from the applicant. If additional information is necessary, the applicant shall be contacted and informed about the need to provide additional information to process the request and given a reasonable amount of time to produce the information. Additionally, the Commission's staff may conduct either an announced or unannounced site visit to conduct a first hand assessment of the specific elements associated with the applicant's request.

The Commission's staff shall review the application and submit a written recommendation to the Commission's Executive Management within fifteen (15) calendar days from the date the request was determined by Commission staff to be complete. The staff recommendation shall include all of the following:

1. The name and identifying information of the applicant (i.e., county, juvenile probation department or facility, address, etc.);
2. The complete text of the standard and the legal citation for which the variance is being requested;
3. A description of the intent and purpose of the standard;
4. A summary or explanation of the applicant's justification for the variance and a synopsis of the evidence presented supporting the required four (4) findings of fact;
5. The Commission staff's recommendation as to whether the request for a variance should be granted. The recommendation shall include an explanation of the reasons for the recommendation, any conditions recommended if the request is granted and the recommended length of time if a conditional variance is granted; and

6. Any comments received from the public concerning the pending variance request.

A copy of the Commission staff's summary document shall be forwarded to the applicant at least seven (7) calendar days prior to the regularly scheduled Commission's board meeting at which the variance is to be discussed. The applicant may submit additional information in response to the Commission's staff recommendation and this information will be provided to the Commission's board if available prior to the mailing of the board packets which typically occurs ten (10) calendar days prior to the board meeting. If the applicant submits untimely information that cannot be included in the board packets, the information will be provided to the board when received or at the board meeting. The board shall have the option to table discussion of a variance request if any information is received from the applicant or the Commission's staff after the mailing of the board packets.

Initial Review by Standing Board Subcommittee

Prior to review by the Commission's board, a variance request will be presented to and reviewed by the Standards Variance Subcommittee in a posted meeting open to the public. The Subcommittee may ask either the applicant and/or the Commission's staff any questions relating to the variance request and their respective position. Additionally, the subcommittee may ask either party for additional documentation and/or evidence to support their respective positions. The subcommittee may make a recommendation to the full Commission board as to whether to grant, deny, modify or defer the variance to a later date.

Review by Commission Board

During the regularly scheduled board meeting, the Commission's board may ask either the applicant and/or the Commission's staff any questions relating to the variance request and their respective positions. Additionally, the board may ask either party for additional documentation and/or evidence to support their respective positions. At the conclusion of the discussion on the variance, the Commission's board may grant, modify or deny the variance or defer a final decision on the variance to a later date. The board's written decision shall be issued to the applicant within fifteen (15) calendar days of the Commission's board decision.

Conditional Variances

The Commission's board reserves the right to grant a variance based upon the representations made by the applicant and subject to the applicant agreeing to meet certain alternative standards or conditions which the Commission's board, in its discretion, determines are necessary. The failure of the applicant to comply with the conditions imposed by the Commission's board may result in the Commission's board rescinding the variance.

Situational Variances

The Commission's board may grant a variance based on a specific and/or unique circumstance, situation and/or staff person. For example, the Commission's board may issue a variance to allow a facility to house residents in a multiple occupancy housing configuration pending the completed construction of a new and larger detention facility. In this situation, the board may determine that the variance is appropriate for the existing facility, but that it will no longer be appropriate when the new facility becomes operational. Another example of a situational variance would include a variance granted because of a specific staff person's individual credentialing, education, etc. In this example the Commission's board could elect to make the variance contingent to the staff person's continued employment with the applicant. The variance shall automatically be rescinded if and when the specific staff person leaves employment or changes positions with the applicant. The applicant is responsible for notifying the Commission in writing of any and all material changes in the terms and/or conditions of the variance agreement within ten (10) calendar days of the change.

Non-Transferability of Variances

Variances that have been granted by the Commission's board for a secure facility are specific to that registered secure facility. Variances are not transferable from one secure facility to another nor from one private operator to another. In the case of privately owned or operated facilities, a new application for a variance shall be made when the facility undergoes a change in ownership and/or contractual operators.

Periodic Review

The Commission reserves the right to conduct periodic reviews of the terms and conditions of a variance agreement in an effort to determine continued applicability and compliance with any terms and conditions of the variance. Review schedules may be identified within the formalized variance document and/or conducted at the discretion of Commission's staff.

Rescission of a Variance Due to Fraud or Error

If the Commission's staff subsequently determines that the evidence supporting the granting of a variance was substantially inaccurate, misleading and/or false, a written report of these findings shall be submitted by the Commission's staff to the Commission's executive management. The Commission's executive management shall consider the merits and ramifications of the staff report and make a determination whether the matter should be forwarded to the Standards Variance Subcommittee for further review and recourse.

If the Standards Variance Subcommittee and full board determine that the variance was granted as a result of fraudulent or inaccurate information, then the board may rescind the variance or modify the variance immediately. A variance modification may be conditioned upon the applicant's agreement to follow specific conditions as determined appropriate by the Commission's board. Additionally, the Commission's board may also undertake the same actions if it determines that the applicant is not fully adhering to the conditions imposed in conjunction with an existing variance.

Appeal of a Board Decision

The Commission's board decision on a variance is final and there are no other available venues for an appeal and/or re-consideration of the request. The applicant may submit a new variance request if circumstances have changed.

Documentation of a Variance Disposition

The juvenile board will be provided formal written evidence of the Commission's board approval or denial of the variance. This information shall be maintained in the department's permanent records and made available for review upon request.

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY**Compliance Methodology:**

N/A

Monitoring Methodology: N/A**Sample:** N/A**Point Value:** 0**Total Points Possible:** 0**Scoring Methodology:** N/A**Level:** Level 0 - Not Monitorable**REFERENCE MATERIAL****Recommended Best Practices:**

N/A

Sample Form(s):

Application for Permanent Variance From Standards [TJPC-AGE-03-04]

Citation(s):Title 37 Texas Administrative Code Part II
Texas Juvenile Probation Commission
Chapter 349 General Administrative
Standards Rule §349.2(b)**Texas Register Publication Citation:**28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action**Cross Reference(s):**37 TAC Section 341.4 - Waiver or
Variance to Standards - Texas Juvenile
Probation Commission37 TAC Section 343.14 - Waiver or
Variance to Standards - Secure Juvenile
Pre-Adjudication and Post-Adjudication
Correctional Facilities37 TAC Section 348.19 - Waiver or
Variance to Standards - Juvenile Justice
Alternative Programs

General Administrative Standards

349.2(b)

37 TAC Section 351.17 - Waiver or Variance to Standards- Short-Term Detention Facilities

Certification Guidelines Manual - www.tjpc.state.tx.us

Board Opinion:

RFI Opinion:

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003

CRM Last Modified On: 9/1/2003

General Administrative Standards

349.7(a)

Effective date 9/1/2003

Latest Revision 9/1/2003, Title 37 Texas Administrative Code

TEXT OF STANDARD

Subchapter: C - Certification and Recertification

§349.7 Certification Eligibility.

(a) Basic Eligibility Requirements.

(1) In addition to the requirements in subsections (b) or (c) of this section an applicant is eligible for certification from the Commission if the applicant:

(A) is twenty-one years of age or older;

(B) does not have any of the following disqualifying criminal history:

(i) a felony conviction against the laws of this state, another state, or the United States within the past 10 years;

(ii) a deferred adjudication for a felony against the laws of this state, another state, or the United States within the past 10 years;

(iii) current felony probation or parole;

(iv) a jailable misdemeanor conviction against the laws of this state, another state or the United States within the past 5 years;

(v) a deferred adjudication for a jailable misdemeanor against the laws of this state, another state, or the United States within the past 5 years;

(vi) current misdemeanor probation or parole; or

(vii) registration as a sex offender under Chapter 62, Texas Code of Criminal Procedure.

(C) is not currently under an order of suspension issued under §349.27 or §349.31 of this chapter; and

(D) has never had any type of certification revoked from the Commission under §349.27(D)(3) of this chapter.

(2) A request for waiver may not be requested for any disqualifying criminal history under paragraph 1(B) of this subsection unless the person received a pardon based upon proof of innocence or the reversal of a finding of guilt by either the trial or an appellate court.

COMMENTARY

Discussion and Interpretation:

This standard details the basic eligibility requirements for an initial Commission certification as a juvenile probation or juvenile detention officer. An applicant shall meet all the requirements of this section to be a candidate for certification from the Commission.

Juvenile Probation Officer Certification

In order to be eligible for certification as a juvenile probation officer, an individual shall meet all of the basic eligibility requirements found in this section in addition to the education and work experience requirements set forth in Section 349.7(b) of this chapter and Section 141.061 of the Texas Human Resources Code.

Juvenile Detention Officer Certification

In order to be eligible for certification as a juvenile detention officer, an individual shall meet all the basic eligibility requirements found in this section in addition to the education and training requirements set forth in Section 349.7(c) of this chapter.

Certification Basic Eligibility Requirements

An individual who applies for certification as a juvenile probation officer and/or a juvenile detention officer shall meet certain criteria. The individual shall:

1. Be twenty-one (21) years of age or older on the date of hire;

2. Have no disqualifying criminal history as described in Subsections (a)(1)(B)(i) through (vii) of this section;

3. Not be the subject of a current order of certification suspension from the Commission; and

4. Not have had a certification revoked by the Commission.

Determination of Age

An individual shall provide proof of age in the form of one of the following acceptable types of identification:

1. Certified birth certificate

2. State issued driver's license or identification

3. United States passport, naturalization or immigration papers, work visa, or similar documents

4. Military service records

Determining if a Disqualifying Criminal History Exists

Commission standards prohibit the hiring of an individual for the position of a juvenile probation officer or a juvenile detention officer if the individual has certain disqualifying criminal history. (See Section 341.23(a) and Section 343.15(c)(1).) Additionally, this section prohibits the certification of individuals with certain disqualifying criminal history. Determining if a disqualifying criminal history exists that prohibits the hiring and certification of an individual requires looking first at the officer's date of employment (i.e., currently employed individuals) or the individual's potential date of employment (i.e., for individuals being considered for employment as a juvenile probation officer and/or a juvenile detention officer). The Commission's standards related to disqualifying criminal history events have been promulgated over several years and different standards have separate and distinct effective dates that shall be considered when determining if a disqualifying criminal history event will prohibit employment and/or certification. Please refer to the Commission's Disqualifying Criminal History Matrix which

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may be found on the Commission's website at www.tjpc.state.tx.us to determine if an individual has any disqualifying criminal history events which would prohibit employment and/or certification.

Waiver for Disqualifying Criminal History

A waiver for any disqualifying criminal history under Subsection (a)(1)(B) of this section may not be requested unless the person received a pardon based upon proof of innocence or the reversal of a finding of guilt by a trial or appellate court.

Criminal History Master File

The juvenile probation department and/or facility may elect to maintain returned criminal background checks in either the officer's personnel file or in a criminal history master file designated for that purpose. The juvenile probation department shall maintain the returned TCIC and NCIC criminal history records checks for employees of a private facility that operates under a contract with the juvenile board(s) responsible for certifying the facility. During the course of a monitoring visit or upon request from the Commission, all criminal history records checks and sex offender registration records checks shall be made available to the Commission's staff.

Additional information regarding certification procedures, including in-depth instructions related to conducting all criminal background checks, is contained in the Certification Guidelines Manual (CGM) which may be found on the Commission's website at www.tjpc.state.tx.us.

Reviewer Guidelines:

To determine compliance with this standard, the reviewer will:

1. On the day of the monitoring visit, generate a listing of all currently employed juvenile probation and detention officers who were certified on or after 9/1/2003 or in the 12-month period immediately preceding the date of the monitoring visit, whichever time frame is shorter, using the Commission's Automated Certification Information System (ACIS). Also using ACIS, print a listing of all officers subject to an order of certification suspension or revocation. Place the documents in the Reviewer Workbook.
2. Request and review a systematic sample of juvenile probation officer and detention officer personnel files to determine if the requirements of this standard have been met. The reviewer will:
 - a. Verify the officer is at least twenty-one (21) years of age by reviewing documentation of date of birth;
 - b. Verify the officer has no disqualifying criminal history by reviewing the officer's date of employment, the Commission's Disqualifying Criminal History Matrix and the officer's returned criminal background checks including TCIC, NCIC, local sex offender registration database checks and applicable out-of-state criminal history records checks;
 - c. Verify the officer is not currently under an order of certification suspension issued by the Commission; and
 - d. Verify whether the officer has ever had any type of certification revoked by the Commission.

Verification Documents:

1. ACIS listing of certified officers
2. ACIS listing of suspensions and revocations
3. Juvenile probation officer and/or detention officer personnel file and/or criminal history master file, if applicable:
 - a. Date of birth documentation
 - b. Criminal history records checks (TCIC, NCIC, and out-of-state records checks, if applicable)
 - c. Sex offender registration database records checks

d. Residency Verification Form or equivalent

4. Disqualifying Criminal History Matrix

METHODOLOGY

Compliance Methodology:

This standard will be monitored using a combination of sampling and non-sampling techniques. The non-sampling techniques may include the review and analysis of relevant written documentation, interviewing of selected personnel and personal visual observations of program operations made by the reviewer. Sampling techniques may include the use of block samples, systematic samples and/or random samples of pertinent files, records, documents or interviews. A program will be in compliance with the standard if all required elements of the standard are met and are verifiable by the reviewer during the monitoring visit using the results of both the sampling and non-sampling methods.

Systematic Sample. On the date of the monitoring visit, the reviewer will generate a listing of all currently employed juvenile probation and detention officers who were certified on or after 9/1/2003 or in the 12-month period immediately preceding the date of the monitoring visit, whichever time frame is shorter, using the Commission's Automated Certification Information System (ACIS). The reviewer will pull a computer-generated, non-sequential number (i.e., nth) of officer personnel files from the listing to arrive at the required sample size which will be determined by applying the approved Commission's sampling methodology. Each file in the sample will be reviewed for compliance with the required elements of the standard. If all files in the sample are in compliance with the requirements of the standard, the standard will be in compliance overall.

Monitoring Methodology: Yes/No
Sample: 11/12A/12B Personnel Files
Point Value: 10
Total Points Possible: 30
Scoring Methodology: 0 or 10
Level: Level 3 - Health & Safety

REFERENCE MATERIAL

Recommended Best Practices:

N/A

Sample Form(s):
 Disqualifying Criminal History Matrix
 [TJPC-CER-11-04]

General Administrative Standards

349.7(a)

Citation(s):

Title 37 Texas Administrative Code Part II Texas Juvenile Probation Commission
Chapter 349 General Administrative Standards Rule §349.7(a)

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action

Cross Reference(s):

- 37 TAC Section 341.20 - Employment of Certified Juvenile Probation Officers
- 37 TAC Section 341.23(a) - Disqualification from Employment
- 37 TAC Section 343.15(a) - Employment of Certified Juvenile Detention officers
- 37 TAC Section 349.7(b) - Certification Eligibility - Probation Officer
- 37 TAC Section 349.7(c) - Certification Eligibility - Detention Officer
- Texas Human Resources Code Section 141.061 - Minimum Standards For Juvenile Probation Officers
- Certification Guidelines Manual - www.tjpc.state.tx.us

Board Opinion:

RFI Opinion:

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003

CRM Last Modified On: 9/1/2003

General Administrative Standards**349.7(b)**

Effective date 9/1/2003

Latest Revision 9/1/2003, Title 37 Texas Administrative Code

TEXT OF STANDARD**Subchapter:** C - Certification and Recertification

§349.7 Certification Eligibility.

(b) Probation Officer.

(1) In addition to meeting the requirements under subsection (a) of this section, an applicant is eligible for certification as a probation officer if the applicant:

(A) meets the employment eligibility requirements under §341.20 of this title or has received an exemption under §341.21 of this title; and

(B) completes 40 hours of certification training in accordance with §349.15(c)(1) of this chapter within 18 months prior to the Commission's receipt of the certification application.

(2) An individual with a degree from a foreign college or university may apply one time for provisional certification as a probation officer under §349.9 of this chapter.

COMMENTARY**Discussion and Interpretation:**

This section addresses the requirements for initial certification as a juvenile probation officer. An applicant shall meet all the requirements of this section to be a candidate for certification by the Commission.

Basic Certification Eligibility Requirements

An applicant for juvenile probation officer certification shall meet a variety of requirements that are found in several different areas of the law. Section 349.7(b) summarizes the overall qualifications a juvenile probation officer shall meet to be eligible for certification by the Commission. These requirements are found in four (4) areas and together compose the basic certification eligibility requirements for an individual seeking probation officer certification from the Commission. The four (4) areas are:

1. Title 37 Texas Administrative Code Section 349.7(a). This section details the minimum age requirement for certification as a juvenile probation officer and/or a juvenile detention officer. Additionally, the section prohibits certification of individuals who have a disqualifying criminal history, who are currently under a certification suspension order or who have been the subject of a certification revocation by the Commission.

2. Title 37 Texas Administrative Code Section 349.7(b). This section requires a specified number of training hours including training in specific mandatory topics prior to the application for certification and authorizes a provisional certification in certain cases for individuals possessing a degree from a foreign college or university.

3. Title 37 Texas Administrative Code Section 341.20. This section codifies the requirements of the Texas Human Resources Code Section 141.061 regarding the required education and work experience or graduate study for an individual who is seeking employment as a juvenile probation officer.

4. Texas Human Resources Code Section 141.061. This section details minimum education requirements (i.e., a bachelor's degree) and work experience or graduate study requirements for an individual who is seeking employment as a juvenile probation officer.

Title 37 Texas Administrative Code
Section 349.7(a)

Section 349.7(a) provides that an individual who applies for certification as a juvenile probation officer and/or a juvenile detention officer shall meet certain criteria. The individual shall:

1. Be twenty-one (21) years of age or older on the date of hire;
2. Have no disqualifying criminal history as described in Subsections (a)(1)(B)(i) through (vii) of Section 349.7(a);
3. Not be the subject of a current order of certification suspension by the Commission; and
4. Not have had a certification revoked by the Commission.

Title 37 Texas Administrative Code
Section 341.20

Section 341.20 codifies the minimum requirements for juvenile probation officers found in Section 141.061 of the Texas Human Resources Code. The Human Resources Code defines the minimum education qualifications and work experience or graduate study requirements.

Section 141.061 states in pertinent part:

(a) To be eligible for appointment as a probation officer, a person who has not been employed as a probation officer since September 1, 1981, shall:

- (1) be of good moral character;
- (2) have acquired a bachelor's degree conferred by a college or university accredited by an accrediting organization recognized by the Texas Higher Education Coordinating Board;
- (3) have either:
 - (A) one year of graduate study in criminology, corrections, counseling, law, social work, psychology, sociology, or other field of instruction approved by the commission; or
 - (B) one year of experience in full-time case work, counseling, or community or group work:
 - (i) in a social service, community, corrections, or juvenile agency that deals with offenders or disadvantaged persons; and

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(ii) that the commission determines provides the kind of experience necessary to meet this requirement;

(4) have satisfactorily completed the course of preservice training or instruction required by the commission;

(5) have passed the tests or examinations required by the commission; and

(6) possess the level of certification required by the commission.

Graduate Study

Receipt of eighteen (18) graduate hours earned in criminology, corrections, counseling, law, social work, psychology, sociology or other behavioral sciences meets the requirement of graduate study for employment and certification as a juvenile probation officer. The Commission also approves graduate study in business, government, human resource management, education, medicine, political science and public administration.

Section 141.061(b) states, "The commission by rule may authorize the waiver of the requirement of a year of graduate study or full-time employment experience if the authority responsible for employing the officer establishes to the satisfaction of the commission that after a diligent search the authority cannot locate a person meeting that requirement to fill a job opening."

Prior Work Experience

Documentation of the required one (1) year work experience includes either a reference letter or other written documentation from past employers (e.g., performance appraisals, pay stubs, W-2 forms, personnel action forms, etc.). A documented reference check by the juvenile probation department or the county human resources department that shows the individual's dates of employment and the position held will be accepted as documentation of the prior work experience. A copy of the individual's employment application and/or resume will not be accepted as verification of the required work experience.

Employment Exemption Request

To be eligible for employment, an individual who does not have the one (1) year of related work experience or one (1) year of graduate study as required in Section 341.20 and the Texas Human Resources Code Section 141.061 shall have received an employment exemption from the Commission as authorized in Section 341.21 prior to being hired in a position requiring certification. All requests for exemption from the hiring qualifications shall be submitted using the Commission's Internet-based Automated Certification Information System (ACIS).

If an application is submitted for certification and it is determined that an employment exemption was required but not sought and approved prior to employment, the individual shall not be eligible for certification until such time as the individual meets all the requirements for employment. A non-compliance for failure to obtain an employment exemption prior to hiring of the individual shall be issued.

The employment exemption request requires the following information:

- Name of the individual for whom the employment exemption is sought; and
- Documentation of efforts made to hire a qualified individual (e.g., locations, number and types of job positings, candidates interviewed who met requirements but who were not hired, etc.).

Prior Law Enforcement Experience

Previous experience in law enforcement may apply toward meeting the one (1) year work experience requirement. Documentation from the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) shall exist reflecting that an applicant has put his or her commission on inactive status before the applicant is eligible for employment or certification as a probation officer. TCLEOSE can be contacted to obtain documentation on the status of a TCLEOSE certified officer at www.tclease.state.tx.us or at 512-936-7700. If the Commission determines that a certified juvenile probation or juvenile detention officer has a law enforcement commission on active status, the officer may be subject to disciplinary action which may include suspension or revocation of certification.

Internships

The Commission allows the use of internships to meet the work experience requirement for employment as a juvenile probation officer. Formal internship programs that include experience in activities as defined in Section 141.061(a)(3)(B) of the Texas Human Resources Code, through an accredited college or university or an internship program administered by a juvenile justice agency may be used to meet the one (1) year of experience. A juvenile justice agency is an agency that has custody or control over juvenile offenders as defined in the Texas Family Code Section 58.101.

Volunteer Experience

Individuals whose experience includes performing documented volunteer services working with the juvenile-age population can apply for an employment exemption of the one (1) year work experience requirement.

Combining Hours to Meet Work Experience

An individual may combine work experience, academic internships and volunteer work to meet the required 1,750 documented hours which the Commission has determined is the equivalent of one (1) year of work experience. Documented proof outlining the type of internship, the number of internship hours performed, the type and number of volunteer service hours performed and work related experience in juvenile related services shall be maintained in the department's personnel files. For example, an applicant can meet the one-year work experience requirement with 1,000 hours from an internship (juvenile detention center), 300 hours from volunteer work (Boy Scout volunteer) and 450 hours from paid work (juvenile residential facility).

Ineligibility for Employment

Section 141.065 of the Texas Human Resources Code states: "Persons Who May Not Act as Juvenile Probation, Detention, or Corrections Officers. A peace officer, prosecuting attorney, or other person who is employed by or who reports directly to a law enforcement or prosecution official may not act as a juvenile probation, detention, or corrections officer or be made responsible for supervising a juvenile on probation."

Title 37 Texas Administrative Code Section 349.7(b)

Prior to initial certification, an applicant shall receive forty (40) hours of certification training. All training intended to meet the certification requirements shall be completed within the eighteen (18)

months immediately prior to the date the certification application is submitted to the Commission. Any training received more than eighteen (18) months immediately prior to the submission of the certification application will not count toward meeting the training requirement. Certification training shall include the mandatory certification training topics found in Section 349.15(c)(1) of this chapter and listed below:

1. Role of the probation officer;
2. Case planning and management;
3. Officer safety;
4. Transportation;
5. Juvenile law;
6. Courtroom proceedings and presentation;
7. Law enforcement processing;
8. Local programs and services including access procedures;
9. Interagency collaborations and memoranda of understanding;
10. Code of ethics, disciplinary and revocation hearing procedures; and
11. Abuse, exploitation and neglect.

In addition to the mandatory topics, other topics related to the field of juvenile justice, criminal justice, behavioral sciences or topics approved by the Commission for certification training credit can be used towards the initial forty (40) hours of certification training. Training records are required to be maintained and will be monitored.

Foreign or Other Degree

Texas Human Resources Code Section 141.061(f) states, "The commission may waive the degree accreditation requirement in Subsection (a)(2) if the applicant possesses a foreign or other degree that the commission determines is the substantial equivalent of a bachelor's degree. The commission shall adopt rules defining the procedures to be used to request a waiver of the accreditation requirement in Subsection (a)(2)."

If an individual has a degree from a foreign country or from a college or university not accredited by an accrediting organization recognized by the Texas Higher Education Coordinating Board (THECB), the degree shall be evaluated as the substantial equivalent of a degree received from a college or university accredited by an accrediting organization recognized by the THECB in order to meet the education requirements for employment and certification.

An evaluation of the degree to ensure it is substantially equivalent to a degree received from a college or university accredited by an accrediting organization recognized by the THECB shall be completed by one of the education evaluation services approved by the Commission or by a college or university accredited by an accrediting organization recognized by the THECB. The steps to obtain an evaluation are detailed in the Certification Guidelines Manual (CGM) which can be found on the Commission's website at www.tjpc.state.tx.us.

Provisional Certification Pending Education Validation

An individual can apply for provisional certification under Section 349.7(b)(2) pending validation of the degree.

Grandfathered Juvenile Probation Officers

An individual who does not have a bachelor's degree but who was employed as a juvenile probation officer prior to 9/1/1981 receives the benefit of a grandfather clause and is exempt from meeting the education requirements of this standard subject to the following conditions:

1. A grandfathered officer who leaves the original county of employment and becomes employed by another juvenile probation department while his or her certification is still current continues to be exempt from the education requirements in the Texas Human Resources Code Section 141.061.

2. A grandfathered officer whose certification is allowed to expire for any reason shall meet the basic certification eligibility requirements as detailed in Section 349.7(a) and (b), including all education requirements, to be eligible for continued employment and certification as a juvenile probation officer.

Additional information on certification eligibility can be found in the CGM.

Reviewer Guidelines:

To determine compliance with this standard, the reviewer will:

1. On the day of the monitoring visit, generate a listing of all currently employed juvenile probation officers who were certified on or after 9/1/2003 or in the 12-month period immediately preceding the date of the monitoring visit, whichever time frame is shorter, using the Commission's Automated Certification Information System (ACIS).

2. Request and review a systematic sample of juvenile probation officer personnel files to determine if the work experience and education requirements of this standard have been met. The reviewer will:
 - a. Verify the education requirement by reviewing the following:
 - i. Grandfathered Officer List;
 - ii. A certified copy of the college or university transcript reflecting conferral of a bachelor's degree; and
 - iii. A completed copy of the College or University Accreditation Verification form verifying accreditation of the college or university that conferred the degree; or
 - iv. Evaluation documentation from an approved education evaluation service or a college or university accredited by an accrediting organization recognized by the THECB evidencing the officer's degree is the substantial equivalent of a bachelor's degree received from an accredited university or college accredited by an accrediting organization recognized by the THECB.
 - b. Verify the work experience requirement by reviewing one or more of the following:
 - i. Written documentation verifying the length and type of work experience;
 - ii. Written documentation from a college or university verifying the number of internship hours worked;

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iii. Written documentation from a juvenile justice agency verifying the number of internship hours worked; and/or

iv. Written documentation of volunteer hours worked with the juvenile-age population.

c. If applicable, verify successful completion of one (1) year graduate study in an appropriate topic as described in this section; and

d. Verify that the required forty (40) hours of certification training was received within the eighteen (18) months immediately prior to submission of the certification application.

Verification Documents:

1. ACIS listing of certified officers
2. Granfathered Officer List
3. Juvenile probation officer personnel/training file:
 - a. Education documentation
 - b. Employment documentation
 - c. Internship and/or volunteer documentation
 - d. Training records

METHODOLOGY**Compliance Methodology:**

This standard will be monitored using a combination of sampling and non-sampling techniques. The non-sampling techniques may include the review and analysis of relevant written documentation, interviewing of selected personnel and personal visual observations of program operations made by the reviewer. Sampling techniques may include the use of block samples, systematic samples and/or random samples of pertinent files, records, documents or interviews. A program will be in compliance with the standard if all required elements of the standard are met and are verifiable by the reviewer during the monitoring visit using the results of both the sampling and non-sampling methods.

Systematic Sample. On the date of the monitoring visit, the reviewer will generate a listing of all currently employed juvenile probation officers who were certified on or after 9/1/2003 or in the 12-month period immediately preceding the date of the monitoring visit, whichever time frame is shorter, using the Commission's Automated Certification Information System (ACIS). The reviewer will pull a computer-generated, non-sequential number (i.e., nth) of officer personnel files from the listing to arrive at the required sample size which will be determined by applying the approved Commission's sampling methodology. Each file in the sample will be reviewed for compliance with the required elements of the standard. Each file will either pass or fail the particular standard. The compliance grade for the standard will be a percentage of the total possible points based upon the number of files that are in compliance with the standard. For example, if the reviewer pulls 30 cases and 24 of the cases comply with the standard, the compliance grade will be 80 percent of the total points available for the particular standard. Example: For a Level 1 standard, 80 percent would equate to 8 of the possible 10 points; for a Level 2 standard, this would be 16 of the possible 20 points; and for a Level 3 standard, this would be 24 of the possible 30 points.

Monitoring Methodology: Sample %

Sample: 11 Personnel Files

Point Value: 10

Total Points Possible: 30

Scoring Methodology: 0 - 10

Level: Level 3 - Health & Safety

REFERENCE MATERIAL**Recommended Best Practices:**

Before hiring an individual who has a degree from a foreign college or university or from a college or university not accredited by an accrediting organization recognized by the THECB, the department should obtain written documentation showing that the degree is the substantial equivalent of one conferred by college or university accredited by an accrediting organization recognized by the THECB.

Sample Form(s):

College or University Accreditation Verification Form [TJPC-CER-08-04]

Citation(s):

Title 37 Texas Administrative Code Part II
Texas Juvenile Probation Commission
Chapter 349 General Administrative
Standards Rule §349.7(b)

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action

Cross Reference(s):

37 TAC Section 341.20 - Employment of
Certified Juvenile Probation Officers

37 TAC Section 341.21 - Employment
Exemption Request

37 TAC Section 349.7(a) - Certification
Eligibility

Texas Human Resources Code Section
141.061 - Minimum Standards For
Juvenile Probation Officers

Texas Human Resources Code Section
141.065 - Persons Who May Not Act as
Juvenile Probation, Detention, or
Corrections Officers

Texas Family Code Section 58.101 -
Definition of Juvenile Justice Agency

Attorney General Opinion - JC-0041-
Issued May 4, 1999 - Prohibition of Peace
Officer Simultaneously Serving as
Juvenile Probation Officer

Certification Guidelines Manual -
www.tjpc.state.tx.us

Texas Commission on Law Enforcement
Officer Standards and Education -
www.tcleose.state.tx.us

Board Opinion:**RFI Opinion:**

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003
CRM Last Modified On: 9/1/2003

PRE-MONITORING PREPARATION

Program Tour: False

Policy and Procedure: False

Pre-Monitoring Checklist: False

Pre-Monitoring Preparation Checklist:
N/A

Reviewer Preparation Checklist Required: True

Reviewer Preparation Checklist:
Prior to the monitoring visit, obtain a copy of the Grandfathered Officer List (GOL) from the Training Division and insert the list into the Reviewer Workbook.

TEXT OF STANDARD

Subchapter: C - Certification and Recertification

§349.7 Certification Eligibility.

(c) Detention Officer.

(1) In addition to meeting the requirements under subsection (a) of this section, an applicant is eligible for certification as a detention officer if the applicant:

(A) meets the employment eligibility requirements under §343.15 of this title;

(B) has completed 40 hours of certification training in accordance with §349.15(c)(2) of this chapter within 18 months prior to the Commission's receipt of the certification application;

(C) has one of the following:

(i) a high school diploma;

(ii) a general equivalency diploma from a high school or issuing authority within the United States of America;

(iii) a United States Military record that indicates the education level received is equivalent to a United States high school diploma or general equivalency diploma;

(iv) a foreign high school or home schooling diploma that meets the validation requirements under §349.9(b)(2) of this chapter; or

(v) unconditional acceptance into an accredited college or university accredited by an accrediting organization recognized by the Higher Education Coordinating Board.

(D) has current certification in:

(i) Cardiopulmonary Resuscitation (CPR);

(ii) First Aid; and

(iii) an approved physical restraint technique as defined by §343.60(1) of this chapter;

(2) An applicant with a high school diploma issued in a foreign country or who completed high school under home schooling may apply one time for provisional certification under §349.9 of this chapter.

suspension order or who have been the subject of a certification revocation by the Commission.

2. Title 37 Texas Administrative Code Section 349.7(c). This section requires a specified number of training hours including training in specific mandatory topics. Training and certification in cardiopulmonary resuscitation (CPR), first aid and an approved physical restraint technique is also required prior to submission of the application for certification. Additionally, this section authorizes a provisional certification in certain cases for individuals possessing a high school diploma from a foreign country or who were home schooled and do not have appropriate written documentation.

3. Title 37 Texas Administrative Code Section 343.15(a)(1). This section details the minimum age requirements for employment of an individual as a juvenile detention officer in addition to prohibiting certification of individuals who have a disqualifying criminal history, who are currently under a certification suspension order or who have been the subject of a certification revocation by the Commission.

Title 37 Texas Administrative Code Section 349.7(a)

Section 349.7(a) provides that an individual who applies for certification as a juvenile probation officer and/or juvenile detention officer shall meet certain criteria. The individual shall:

1. Be twenty-one (21) years of age or older on the date of hire;

2. Have no disqualifying criminal history as described in Subsections (a)(1)(B)(i) through (vii) of Section 349.7(a);

3. Not be the subject of a current order of certification suspension issued by the Commission; and

4. Not have had any type of certification revoked by the Commission.

Title 37 Texas Administrative Code Section 349.7(c)

Prior to initial certification as a juvenile detention officer, an individual shall receive forty (40) hours of certification training. All training intended to meet the certification requirements shall be completed within the eighteen (18) months immediately prior to the date the certification application is submitted to the Commission. Any training received more than eighteen (18) months immediately prior to the submission of the certification

COMMENTARY

Discussion and Interpretation:

This section addresses the requirements for initial certification as a juvenile detention officer. An applicant shall meet all the requirements of this section to be a candidate for certification from the Commission.

Basic Certification Eligibility Requirements

An applicant for juvenile detention officer certification shall meet a variety of requirements that are found in several different areas of the law. This section summarizes the overall qualifications a juvenile detention officer shall meet to be eligible for certification from the Commission. These requirements are found in three (3) areas and together compose the basic certification eligibility requirements for a juvenile detention officer seeking certification from the Commission. The three (3) areas are:

1. Title 37 Texas Administrative Code Section 349.7(a). This section details the minimum age requirement for certification as a juvenile probation officer and/or a juvenile detention officer. Additionally, the section prohibits certification of individuals who have a disqualifying criminal history, who are currently under a certification

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application will not count toward meeting the training requirement. Certification training shall include the mandatory certification training topics found in Section 349.15(c)(2) and listed below:

1. An introduction to juvenile detention;
2. Juvenile rights;
3. Abuse, exploitation and neglect;
4. Behavior observation and recording;
5. Suicide prevention and identification, including training on the facility's suicide prevention plan;
6. Legal liabilities;
7. Dynamics of youth with mental illness in detention centers;
8. Behavior management;
9. Risk management, safety, and security;
10. HIV/AIDS and other communicable diseases;
11. Medical and health services; and
12. Code of ethics, disciplinary and revocation procedures.

In addition to the mandatory topics, other topics related to the field of juvenile justice, criminal justice, behavioral sciences or topics approved by the Commission for certification training credit can be used towards the initial forty (40) hours of certification training. Training records are required to be maintained and will be monitored.

Education Requirements

A detention officer shall have completed a high school education to qualify for Commission certification. Written documentation verifying that an individual has met the education requirements is required prior to the certification application being submitted. One or more of the following can be used as proof of education:

1. A copy of a high school diploma, transcript or its equivalent, including one from a non-public school, issued in the United States, or a transcript for an individual who received a high school diploma through home schooling;
2. A General Education Development (GED) certificate, a General Equivalency Diploma (GED), or high school equivalency certificate received from either a high school or other issuing authority within the United States;
3. A copy of a certified transcript from a college or university accredited by an accrediting organization recognized by the Texas Higher Education Coordinating Board (THECB) showing completion of credit-hour course work and unconditional acceptance into a program of study or conferral of an associate, bachelor or advanced degree. Acceptance conditioned upon validation of a foreign degree or diploma, provision of educational documentation or upon passing a Test of English as a Foreign Language (TOEFL), passing the Graduate Record Examination (GRE), General Management Admissions Test (GMAT) or other such test is not unconditional acceptance.
4. A validated high school education through unconditional acceptance or admission into a college or university accredited by an accrediting organization recognized by the THECB. Acceptance conditioned upon validation of a foreign or home school diploma, provision of educational documentation or upon passing a Test of English as a Foreign Language (TOEFL) or other such test is considered conditional acceptance. Acceptance which requires the individual to maintain a certain grade point average is considered an unconditional acceptance. Proof of unconditional acceptance or admission requires written documentation in the form of a copy of an admission letter from a college or university or other official documentation (e.g., letter from the college Dean or Registrar, etc.).

5. A United States military service record indicating the education level is equivalent to a United States high school diploma, a General Education Development (GED) certificate, a General Equivalency Diploma (GED) or a high school equivalency certificate received from a high school or other issuing authority within the United States;

6. A validated high school diploma from a foreign country pursuant to the provisions of Section 349.9(b)(2) as the equivalent to a high school diploma received in the United States. A written evaluation shall be performed by a Commission approved evaluation service or a college or university accredited by an accrediting organization recognized by the THECB. A list of Commission approved evaluation services can be found in the Certification Guidelines Manual (CGM) which can be found on the Commission's website at www.tjpc.state.tx.us.

7. A validated home schooling education. An individual who completes a high school education through home schooling is not required to have the education validated unless a transcript showing successful completion of the course work cannot be provided. In the event that validation of a home school education is required, the validation shall be performed by either a Commission approved evaluation service or a college or university accredited by an accrediting organization recognized by the THECB.

Provisional Certification During Validation

An individual who is seeking validation of education may be provisionally certified for a period not to exceed 180 calendar days under the procedures and guidelines in Section 349.9.

CPR, First Aid, and an Approved Physical Restraint Technique

Current certification in cardiopulmonary resuscitation (CPR), first aid and a physical restraint technique approved by the Commission is required at the time of certification as a juvenile detention officer. The organizations that approve and/or sponsor training in CPR, first aid and the Commission approved physical restraint techniques have each established expiration dates for their certifications. These organizations require periodic training to maintain certification. Section 343.64 requires that juvenile detention officers shall receive recertification in an approved physical restraint technique at least every two (2) years.

Detention Officer Employed in Short-Term Detention Facilities (Hold-Over)

An individual who is employed in a secure short-term detention facility and who is responsible for supervising residents in the facility may be certified as a juvenile detention officer. An individual who is seeking certification shall meet the requirements for employment under Section 351.30, shall have all required training in accordance with Sections 351.31 and 349.15(c) and shall meet the requirements for continued employment under Section 351.32. According to Section 351.33, the facility administrator of a short-term detention facility may elect to seek certification of the facility's detention officers. If this decision is made, every detention officer employed by the facility shall comply with the certification standards found in this chapter.

Ineligibility for Employment and Certification

The Texas Human Resources Code Section 141.065 states: "Persons Who May Not Act as Juvenile Probation, Detention, or Corrections Officers. A peace officer, prosecuting attorney, or other person who is employed by or who reports directly to a law enforcement or prosecution official may not act as a juvenile probation, detention, or corrections officer or be made responsible for supervising a juvenile on probation."

Additional information regarding education, accreditation and provisional certification may be found in the CGM.

Reviewer Guidelines:

To determine compliance with this standard, the reviewer will:

1. On the day of the monitoring visit, generate a listing of all currently employed juvenile detention officers who were certified on or after 9/1/2003 or in the 12-month period immediately preceding the date of the monitoring visit, whichever time frame is shorter, using the Commission's Automated Certification Information System (ACIS).

2. Request and review a systematic sample of juvenile detention officer personnel files to determine if the requirements of this standard have been met. The reviewer will:

a. Verify the receipt of a high school diploma or its equivalent by reviewing one of the following forms of written documentation:

i. Copy of high school diploma, transcript or its equivalent or a home school transcript;

ii. Certified copy of college or university transcript showing unconditional acceptance into a college or university accredited by an accrediting organization recognized by the THECB;

iii. Copy of a letter or other written documentation showing unconditional acceptance into an educational program at a college or university accredited by an accrediting organization recognized by the THECB;

iv. Validation of foreign education or home schooling education from a Commission approved education evaluation service or a college or university accredited by an accrediting organization recognized by the THECB; or

v. United States military service records stating the education is the equivalent of a United States high school diploma.

b. Verify that forty (40) hours of certification training was received within eighteen (18) months immediately prior to the submission of the certification application; and

c. Verify current certification in cardiopulmonary resuscitation (CPR), first aid and a Commission approved physical restraint technique.

Verification Documents:

1. ACIS listing of certified officers

2. Juvenile detention officer personnel/training file:

a. Education documentation

b. Training records

METHODOLOGY**Compliance Methodology:**

This standard will be monitored using a combination of sampling and non-sampling techniques. The non-sampling techniques may include the review and analysis of relevant written documentation, interviewing of selected personnel and personal visual observations of program operations made by the reviewer. Sampling techniques may include the use of block samples, systematic samples and/or random samples of pertinent files, records, documents or interviews. A program will be in compliance with the standard if all required elements of the standard are met and are verifiable by the reviewer during the monitoring visit using the results of both the sampling and non-sampling methods.

Systematic Sample. On the date of the monitoring visit, the reviewer will generate a listing of all currently employed juvenile detention officers who were certified on or after 9/1/2003 or in the 12-month period immediately preceding the date of the monitoring visit, whichever time frame is shorter, using the Commission's Automated Certification Information System (ACIS). The reviewer will pull a computer-generated, non-sequential number (i.e., nth) of officer personnel files from the listing to arrive at the required sample size which will be determined by applying the approved Commission's sampling methodology. Each file in the sample will be reviewed for compliance with the required elements of the standard. Each file will either pass or fail the particular standard. The compliance grade for the standard will be a percentage of the total possible points based upon the number of files that are in compliance with the standard. For example, if the reviewer pulls 30 cases and 24 of the cases comply with the standard, the compliance grade will be 80 percent of the total points available for the particular standard. Example: For a Level 1 standard, 80 percent would equate to 8 of the possible 10 points; for a Level 2 standard, this would be 16 of the possible 20 points; and for a Level 3 standard, this would be 24 of the possible 30 points.

Monitoring Methodology: Sample %
Sample: 12A/12B Personnel Files
Point Value: 10
Total Points Possible: 30
Scoring Methodology: 0 - 10
Level: Level 3 - Health & Safety

REFERENCE MATERIAL

Recommended Best Practices:

Before hiring an individual who has a diploma from a foreign high school or who was home schooled and who cannot furnish a transcript, obtain written documentation showing that the education is the equivalent of a United States high school diploma.

Sample Form(s):

N/A

Citation(s):

Title 37 Texas Administrative Code Part II Texas Juvenile Probation Commission Chapter 349 General Administrative Standards Rule §349.7(c)

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action

28(14) TexReg 2951 Adopted Action

Cross Reference(s):

37 TAC Section 343.15 - Employment of Certified Juvenile Detention Officers

37 TAC Section 349.8 - Certification Procedures

37 TAC Section 349.9(b)(2) - Provisional Certification - Method of Validation

37 TAC Section 349.15(c)(2) - Training Hours

37 TAC Section 351.30 - Employment of Short-Term Detention Officers

37 TAC Section 351.31 - Training - Short-Term Detention Facilities

37 TAC Section 351.32 - Requirements for Continued Employment - Short-Term Detention Facilities

37 TAC Section 351.33 - Certification - Short-Term Detention Facilities

Texas Human Resources Code Section 141.061 - Minimum Standards for Juvenile Probation Officers

Certification Guidelines Manual - www.tjpc.state.tx.us

Board Opinion:**RFI Opinion:**

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003

CRM Last Modified On: 9/1/2003

TEXT OF STANDARD

Subchapter: C - Certification and Recertification

§349.8 Certification Procedures.

(a) Criminal History Checks.

(1) Prior to submitting a certification application, the following criminal history checks shall be conducted and returned on every certification applicant:

(A) a Texas criminal history background search (TCIC);

(B) a local law enforcement sex offender registration records check in the city or county where the applicant resides; and

(C) a Federal Bureau of Investigation (FBI) fingerprint based criminal history background search (NCIC).

(D) In addition to the requirements in paragraph (1)(A), (B), and (C) of this subsection, if the applicant currently resides in one of the following states, or resided in one of the following states within the 10 years prior to the date the certification application was made, a state criminal history background search and state sex offender registration check shall also be conducted where available:

(i) Hawaii;

(ii) Kansas;

(iii) Kentucky;

(iv) Louisiana;

(v) Maine;

(vi) Massachusetts;

(vii) New Hampshire;

(viii) Rhode Island;

(ix) Tennessee;

(x) Vermont; and

(xi) the District of Columbia.

2) An Internet based criminal background search shall not be used to conduct the background searches required under subsection (a)(1)(A) and subsection (a)(1)(C) of this section.

(3) A returned criminal history check under subsection (a)(1) of this section that is more than 90 calendar days old will not meet the certification eligibility requirement under §349.7(a)(1)(B) of this chapter.

(4) A copy of all returned criminal history checks shall be retained with the probation department's or facility's records.

Requests for Criminal Background Checks

Criminal background checks including the Texas Crime Information Center (TCIC), National Crime Information Center (NCIC), local sex offender registration records checks and applicable out-of-state records checks shall be completed before the individual's application for certification is submitted to the Commission.

Texas Law Enforcement
Telecommunications Systems Checks

If a criminal history records check is initiated and completed using the juvenile probation department's or local law enforcement's Texas Law Enforcement Telecommunications System (TLETS) terminal, a printout of the returned check is required for documentation purposes.

Out-of-State Checks

The Commission has developed a form titled Residency Verification Form which shall be used to determine and document whether an applicant has maintained residency in any of the ten (10) enumerated states and/or the District of Columbia. If the department has a form that is the substantial equivalent of the Residency Verification Form, it may be used in its place. Disclosure of out-of-state residency within ten (10) years of the date of employment in any of the listed states or the District of Columbia requires documentation of a criminal background check specific to that jurisdiction. If the individual has listed one of the states in this section as a place of residence in the ten (10) years prior to the date of the certification application, then a criminal history records check and a sex offender registration records check in that state or states shall be performed and returned prior to the submission of the certification application.

Local Sex Offender Registration Records Check

A "local" sex offender registration records check is a search of the sex offender registration records maintained by the local law enforcement agency in the jurisdiction where the individual resides. If the individual resides in the city limits, it is a check of the municipal law enforcement agency sex offender registry or database. If the individual resides outside the city limits or the city does not have a local law enforcement agency, it is a check of the sex offender registry or database maintained by the county sheriff's department. A check of the Sex Offender Registration database maintained by the Texas Department of Public Safety (DPS) is not considered to be a local sex

COMMENTARY

Discussion and Interpretation:

This standard lists the required criminal background checks that shall be performed by the juvenile probation department or its designee prior to the submission of an individual's application for certification as a juvenile probation or juvenile detention officer.

General Administrative Standards

349.8(a)

offender registration records check for purposes of this standard. However, the DPS Sex Offender Registration database may be used as a supplement to the local sex offender registration records check.

Special Note: Some local law enforcement websites provide a link or redirect the user to the DPS Sex Offender Registry Database. Caution should be used when accessing a local law enforcement Internet-based registry to ensure that the check is a local records check rather than a check of the DPS website.

Electronic/Internet Checks

The only electronic/Internet-based criminal history records checks authorized by this standard are those for out-of-state criminal history records checks, out-of-state sex offender registration records checks and local law enforcement sex offender registration records checks. For the purpose of this standard, the TLETS is not an Internet-based check.

A department may elect to use or access a local law enforcement Internet-based database to conduct sex offender registration records checks if one exists in the jurisdiction of the applicant's residence. For example, the Austin Police Department maintains a local sex offender registry on their website, which identifies those individuals who reside within the city limits of Austin and who are registered as sex offenders.

A check of the Convictions Database maintained by the DPS is not the equivalent of a TCIC criminal history records check as required in this standard and will not be accepted as the TCIC check.

Criminal History Records Checks Older Than 90 Calendar Days

This standard requires that criminal history records checks, sex offender registration records checks and applicable out-of-state criminal records checks be completed within the ninety (90) calendar days immediately prior to submission of the certification application. Submitting an application with the dates the criminal history records checks were initiated rather than the dates received from the DPS or the appropriate law enforcement entity will result in a citation for a non-compliance. If an officer is certified based on inaccurate dates being submitted to the Commission, the officer may be subject to disciplinary procedures including suspension or revocation of certification.

Return Date of Checks

The date used as the "return date" for the criminal history and sex offender registration records checks can be one of four (4) dates:

1. The official date stamp evidencing receipt of the criminal history records checks;
2. The typewritten date of the Federal Bureau of Investigation (FBI) or the DPS records checks according to the form or letter sent to the department;
3. The date stamped on the form by the DPS stating that a "search of the records failed to disclose", etc.; or
4. The date reflected on the computer printout of any electronic or Internet-based criminal history or sex offender registration records checks required by this standard.

Records Retention and Documentation

Copies of all returned criminal history and sex offender registration records checks shall be placed either in the employee's personnel file or in a criminal history master file and retained until replaced by a more current check. If written documentation is not in the file, the department will be cited for a non-compliance and the officer may be subject to disciplinary proceedings including suspension or revocation of certification. Copies of the NCIC fingerprint checks conducted for employees of a facility operated under a contract with the juvenile board(s) shall be maintained by the juvenile probation department. When the personnel files are monitored, the chief administrative officer or a designee shall be responsible for providing to the reviewer the relevant criminal history records checks applicable to the personnel files sampled.

If a local or out-of-state law enforcement electronic/Internet database is used, a formalized procedure for the department to document and retain the information provided by or through an electronic registry shall exist (e.g., printing relevant sections of registry information, formalized receipt or verification form completed by the staff performing the registry review, etc.).

Additional information on performing criminal history and local sex offender registration records checks, including the steps to take when fingerprints are rejected and information pertaining to conducting out-of-state criminal history records checks can be found in the Certification Guidelines Manual (CGM) which may be found on the Commission's website at www.tjpc.state.tx.us.

Reviewer Guidelines:

To determine compliance with this standard, the reviewer will:

1. Prior to the monitoring visit, run the Certification Submission Report using the Commission's Juvenile Justice Personnel System and place a copy in the Reviewer Workbook.
2. Review a systematic sample of juvenile probation and detention officer personnel files for officers certified from 9/1/03 through the day of the monitoring visit or within the 12-month period immediately preceding the monitoring visit, whichever time frame is shorter, to determine if the criminal history, local sex offender registration and applicable out-of-state records checks required for certification were performed as required by this standard. The reviewer will:
 - a. Review the Residency Verification Form or its equivalent to determine whether out-of-state criminal history and sex offender registration records checks were required. If so, the reviewer will:
 - i. Determine if the personnel file or the master criminal history file contains returned out-of-state criminal history and sex offender registration records checks.
 - ii. Determine if the individual had a disqualifying criminal history or was required to register as a sex offender. The reviewer will reference the Commission's Disqualifying Criminal History Matrix.
 - iii. Compare the return date on the returned criminal history and sex offender registration documents to the dates submitted in the certification application as reflected on the Certification Submission Report to determine if the checks were conducted within ninety (90) calendar days immediately preceding the submission of the application.

b. Review the personnel file or the criminal history master file to determine if the TCIC, NCIC and local sex offender registration records checks have been returned to the department. If so, the reviewer will:

i. Determine if the individual had a disqualifying criminal history or was required to register as a sex offender. The reviewer will reference the Commission's Disqualifying Criminal History Matrix.

ii. Compare the return date on the returned criminal history records checks and sex offender registration records checks to the dates submitted in the certification application as reflected on the Certification Submission Report to determine if the checks were conducted within ninety (90) calendar days immediately preceding the submission of the application.

Verification Documents:

1. Certification Submission Report
2. Juvenile probation and/or detention officer personnel file and/or criminal history master file:
 - a. Residency Verification Form or its equivalent
 - b. Criminal history records checks
 - c. Local sex offender registration records checks
 - d. Out-of-state criminal history and sex offender registration records checks (if applicable)
3. Disqualifying Criminal History Matrix

METHODOLOGY

Compliance Methodology:

This standard will be monitored using a combination of sampling and non-sampling techniques. The non-sampling techniques may include the review and analysis of relevant written documentation, interviewing of selected personnel and personal visual observations of program operations made by the reviewer. Sampling techniques may include the use of block samples, systematic samples and/or random samples of pertinent files, records, documents or interviews. A program will be in compliance with the standard if all required elements of the standard are met and are verifiable by the reviewer during the monitoring visit using the results of both the sampling and non-sampling methods.

Systematic Sample. Prior to the monitoring visit, the reviewer will generate a listing of all currently employed juvenile probation and detention officers who were certified on or after 9/1/2003 or in the 12-month period immediately preceding the date of the monitoring visit, whichever time frame is shorter, using the Commission's Automated Certification Information System (ACIS). The reviewer will pull a computer-generated, non-sequential number (i.e., nth) of officer personnel files from the listing to arrive at the required sample size which will be determined by applying the approved Commission's sampling methodology. Each file in the sample will be reviewed for compliance with the required elements of the standard. If all files in the sample are in compliance with the requirements of the standard, the standard will be in compliance overall.

Monitoring Methodology: Yes/No
Sample: 11/12A/12B Personnel Files
Point Value: 10
Total Points Possible: 30
Scoring Methodology: 0 or 10
Level: Level 3 - Health & Safety

REFERENCE MATERIAL

Recommended Best Practices:

Juvenile probation departments and private facilities should obtain returned criminal history records checks and local sex offender registration records checks showing no disqualifying criminal history record or requirement to register as a sex offender before an offer of employment is made.

Juvenile probation departments and private facilities should ensure that employment notices indicate that employment in a position requiring certification is contingent on the returned criminal history records check, local sex offender registration records check and out-of-state criminal history records checks that contain no disqualifying criminal history record or requirement to register as a sex offender.

The department and facility should conduct full criminal history records checks (i.e., NCIC, TCIC, local sex offender registration checks, out-of-state criminal history and out-of-state sex offender registration records checks, if applicable) on all department or facility staff, volunteers and interns following the guidelines on performing checks for certified officers. This is especially important for employees or individuals who may have direct contact with juveniles.

The department should stamp the returned checks with the date they are received by the department to clearly document the date of receipt. The department and any contracting private facility should jointly develop policies and procedures to address performing all required criminal history and sex offender registration records checks for private facility employees.

It is recommended that a check of the Convictions Database and the Sex Offender Registration Database maintained by the DPS be used as a supplement to the TCIC criminal history records check and local sex offender registration records check.

Sample Form(s):
 Residency Verification Form [TJPC-CER-09-04]

Disqualifying Criminal History Matrix [TJPC-CER-11-04]

Citation(s):
 Title 37 Texas Administrative Code Part II
 Texas Juvenile Probation Commission
 Chapter 349 General Administrative
 Standards Rule §349.8(a)

General Administrative Standards

349.8(a)

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
 28(14) TexReg 2951 Adopted Action

Cross Reference(s):

- 37 TAC Section 341.22 - Criminal Records Checks
- 37 TAC Section 343.15(b)(5) - Criminal Records Checks
- 37 TAC Section 349.7(a) - Disqualifying Criminal History
- Texas Code of Criminal Procedure Chapter 62 - Sex Offender Registration Program
- Texas Department of Public Safety - Sex Offender Registration Database - www.records.txdps.state.tx.us
- Texas Department of Public Safety - Conviction Database - www.records.txdps.state.tx.us
- Certification Guidelines Manual - www.tjpc.state.tx.us

Board Opinion:

RFI Opinion:

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003
CRM Last Modified On: 9/1/2003

PRE-MONITORING PREPARATION

Program Tour: False

Policy and Procedure: False

Pre-Monitoring Checklist: False

Pre-Monitoring Preparation Checklist:
 N/A

Reviewer Preparation Checklist Required: True

Reviewer Preparation Checklist:
 Prior to the monitoring visit, run the Certification Submission Report and place a copy in the Reviewer Workbook.

TEXT OF STANDARD

Subchapter: C - Certification and Recertification

§349.8 Certification Procedures.

(b) Submission of Certification Application.

(1) Probation Officer Certification.

(A) Probation Officers. The chief administrative officer or the chief administrative officer's designee shall submit the certification applications for probation officers and supervisors of probation officers.

(B) Chief Administrative Officers. Prior to submission of the chief administrative officer's certification application, the juvenile board shall review the certification documentation and approve in writing the submission of the certification application to the Commission.

COMMENTARY

Discussion and Interpretation:

This standard addresses the requirements for submission of an initial application for certification as a juvenile probation officer. The chief administrative officer or his or her designee shall submit the certification applications for all juvenile probation officers.

Chief Administrative Officer

The juvenile board shall review the chief administrative officer's certification application and approve the submission in writing prior to the application being submitted to the Commission. The juvenile board shall:

- a. Review the chief administrative officer's training records to ensure that the chief administrative officer has received the forty (40) hours of required certification training including the mandatory topics as detailed in Section 349.15(c)(1);
- b. Review the chief administrative officer's returned criminal background checks to verify that no disqualifying criminal history exists; and
- c. Authorize the submission of the certification application via the Automated Certification Information System (ACIS).

Judicial Districts with Multiple Juvenile Boards

The certification application for the chief administrative officer shall be approved by the juvenile board in the lead county (i.e., headquarters county) in a judicial district with multiple juvenile boards.

Open Meetings Act

When local juvenile boards take action they are required to comply with the Texas Open Meetings Act as codified in Texas Government Code Chapter 551. This Act provides that meetings of governmental bodies must be open to the public, except for expressly authorized executive sessions, and that the public must be given notice of the time, place and subject matter of meetings of governmental bodies. To be legally binding and enforceable, any action of a juvenile board must occur in a posted, open meeting that complies with the requirements of the Open Meetings Act. A quorum of the juvenile board is required to be present before the board may act and documentation of the action shall be reflected in the meeting minutes, formal written resolutions or other written documentation. The juvenile board may act to authorize the chairperson of the board or other designated board member to take certain action on behalf of the board as long as the initial action meets the requirements of the Open Meetings Act and is so documented.

Documentation of Board Action

The juvenile board shall take formal action authorizing the submission of the chief administrative officer's certification application. The action shall be documented in the board minutes, resolution or other written documentation. Official documentation of the juvenile board action approving the chief administrative officer's certification application shall be maintained in the chief administrative officer's personnel file.

If the juvenile board delegates the review authority to the board chair or other board member, written documentation shall be in the chief administrative officer's personnel file authorizing the board chair or designated board member to review the certification information including the criminal background checks and to authorize the submission of the certification application. The juvenile board chair or designated board member shall provide written documentation to the department authorizing the submission of the chief administrative officer's certification application to the Commission. The written documentation authorizing submission of the certification application shall be maintained in the chief administrative officer's personnel file.

On-Line Submission

Certification applications shall be submitted to the Commission through the Internet using ACIS. The individual submitting the certification application shall be a designated and authorized ACIS user. Unauthorized use of ACIS is a breach of the State Financial Assistance Contract and may be cited in a Non-Compliance Citation Report (NCCR).

Additional information on the submission of certification applications can be found in the Certification Guidelines Manual (CGM), which is located on the Commission's website at www.tjpc.state.tx.us.

Reviewer Guidelines:

To determine compliance with this standard, the reviewer will:

1. Prior to the monitoring visit, run the Certification Submission Report using the Commission's Juvenile Justice Personnel System and place a copy in the Reviewer Workbook.

General Administrative Standards**349.8(b)(1)**

2. Request and review the chief administrative officer's personnel file to verify:

a. The existence of the juvenile board minutes, resolution or other written documentation approving and authorizing submission of the chief administrative officer's certification application.

b. Compare the date on the Certification Submission Report to the date of the juvenile board documentation authorizing submission of the chief administrative officer's certification application to ensure pre-approval.

Verification Documents:

1. Certification Submission Report

2. Chief administrative officer's personnel file:

- a. Juvenile board minutes, resolution or other written documentation; or
- b. Juvenile board minutes, resolution or other documentation delegating approval authority for the chief administrative officer's certification application to the board chair or other board member; and
- c. Written documentation from the juvenile board chair or designated board member demonstrating review of the certification documentation and authorizing submission of the chief administrative officer's certification application.

METHODOLOGY**Compliance Methodology:**

This standard will be monitored using non-sampling techniques which may include the review and analysis of relevant written documentation, interviewing of selected personnel and personal visual observations of program operations made by the reviewer. A program will be in compliance with the standard if all required elements of the standard are met and are verifiable by the reviewer during the monitoring visit.

Monitoring Methodology: Yes/No

Sample: N/A

Point Value: 10

Total Points Possible: 10

Scoring Methodology: 0 or 10

Level: Level 1 - Administrative

REFERENCE MATERIAL**Recommended Best Practices:**

N/A

Sample Form(s):

N/A

Citation(s):

Title 37 Texas Administrative Code Part II Texas Juvenile Probation Commission Chapter 349 General Administrative Standards Rule §349.8(b)(1)

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action

28(14) TexReg 2951 Adopted Action

Cross Reference(s):

37 TAC Section 349.15(c)(1) - Training Hours

State Financial Assistance Contract

Texas Government Code Chapter 551 - Open Meetings Act

Certification Guidelines Manual - www.tjpc.state.tx.us

Board Opinion:
RFI Opinion:

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003
CRM Last Modified On: 9/1/2003

PRE-MONITORING PREPARATION

Program Tour: False

Policy and Procedure: False

Pre-Monitoring Checklist: False

Pre-Monitoring Preparation Checklist:
N/A

Reviewer Preparation Checklist Required: True

Reviewer Preparation Checklist:
Prior to the monitoring visit, run the Certification Submission Report and place a copy in the Reviewer Workbook.

INTERVIEW QUESTIONS MAY BE ADMINISTERED TO THE FOLLOWING:

Chief Administrative Officer: False

Professional Staff: False

Program/Facility Administrator: False

Juvenile Board Chair: False

Ancillary Staff: False

Juvenile: False

TEXT OF STANDARD**Subchapter:** C - Certification and Recertification

§349.8 Certification Procedures.

(b) Submission of Certification Application.

(2) Detention Officer Certification.

(A) Detention Officers. The facility administrator, chief administrative officer or either's designee shall submit a certification application to the Commission for all detention officers and supervisors of detention officers.

(B) Facility Administrators. Prior to submission of the facility administrator's certification application:

(i) the juvenile board shall review the certification documentation and approve in writing the submission of the certification application to the Commission; or

(ii) the chief administrative officer shall review the certification documentation and approve in writing the submission of the certification application to the Commission.

COMMENTARY**Discussion and Interpretation:**

This standard establishes the procedures for submitting the certification applications for detention officers. The facility administrator, chief administrative officer or either's designee shall submit the certification applications for all juvenile detention officers.

Facility Administrator

A facility administrator shall be certified as a juvenile detention officer in addition to meeting the qualifications of a juvenile probation officer pursuant to Sections 343.15(a)(2) and 343.16. The juvenile board or the chief administrative officer shall review and approve the facility administrator's certification application before the application is submitted to the Commission. The juvenile board or the chief administrative officer shall:

a. Review the facility administrator's training records to ensure that the facility administrator has received forty (40) hours of required certification training as detailed in Sections 349.7(c) and 349.15(c)(2); and

b. Review the facility administrator's returned criminal background checks to verify that no disqualifying criminal history exists; and

The facility administrator's personnel file shall contain written documentation that a review was performed and that the submission of the certification application was authorized by either the juvenile board or the chief administrative officer.

Juvenile Board Approval

If the juvenile board is approving the certification application of the facility administrator, it shall be approved by the same juvenile board that certified the facility pursuant to Texas Family Code Section 51.12.

Open Meetings Act

When local juvenile boards take action they are required to comply with the Texas Open Meetings Act as codified in Texas Government Code Chapter 551. This Act provides that meetings of governmental bodies must be open to the public, except for expressly authorized executive sessions, and that the public must be given notice of the time, place and subject matter of meetings of governmental bodies. To be legally binding and enforceable, any action of a juvenile board must occur in a posted, open meeting that complies with the requirements of the Open Meetings Act. A quorum of the juvenile board is required to be present before the board may act and

documentation of the action must be reflected in the meeting minutes, formal written resolutions or other written documentation. The juvenile board may act to authorize the chairperson of the board or other designated board member to take certain action on behalf of the board as long as the initial action meets the requirements of the Open Meetings Act and is so documented.

Documentation of Board Action

If the juvenile board reviews and authorizes the submission of the facility administrator's certification application, formal action by the board is required. The board action shall be documented in the board minutes, resolution or other written documentation. A copy of the written documentation shall be maintained in the facility administrator's personnel file.

If the juvenile board delegates the review authority to the board chair or other board member, written documentation shall be in the facility administrator's personnel file authorizing the board chair or other board member to review the certification information including the criminal background checks and to authorize the submission of the certification application. The juvenile board chair or other board member shall provide written documentation to the department authorizing the submission of the facility administrator's certification application to the Commission. The written documentation authorizing submission of the certification application shall be maintained in the facility administrator's personnel file.

On-Line Submission

Certification applications shall be submitted to the Commission through the Internet using ACIS. The individual submitting the certification application shall be a designated and authorized ACIS user. Unauthorized use of ACIS is a breach of the State Financial Assistance Contract and may be cited in a Non-Compliance Citation Report (NCCR).

Additional information on the submission of certification applications can be found in the Certification Guidelines Manual (CGM), which is located on the Commission's website at www.tjpc.state.tx.us.

Reviewer Guidelines:

To determine compliance with this standard, the reviewer will:

General Administrative Standards

349.8(b)(2)

1. Prior to the monitoring visit, run the Certification Submission Report using the Commission's Juvenile Justice Personnel System and place a copy in the Reviewer Workbook.
2. Request and review the facility administrator's personnel file to verify:
 - a. The existence of juvenile board minutes, resolution or other written documentation for approval of the facility administrator's certification information; or
 - b. The existence of written documentation from the chief administrative officer, juvenile board chair, or designated board member approving and authorizing submission of the facility administrator's certification application.

Verification Documents:

1. Certification Submission Report
2. Facility administrator's personnel file:
 - a. Written documentation from the chief administrative officer authorizing the submission of the facility administrator's certification application; or
 - b. Juvenile board minutes, resolution or other written documentation approving and authorizing submission of the facility administrator's certification application; or
 - c. Juvenile board minutes, resolution or other documentation delegating approval authority for the facility administrator's certification application to the board chair or other board member; and
 - d. Written documentation from the juvenile board chair or designated board member authorizing submission of the facility administrator's certification application.

Cross Reference(s):

- 37 TAC Section 343.15(a)(2) - Employment of Certified Juvenile Detention Officers
- 37 TAC Section 343.16 - Persons Who Must be Certified
- 37 TAC 349.7(c) - Certification Eligibility
- 37 TAC Section 349.15(c)(2) - Training Hours
- State Financial Assistance Contract
- Texas Government Code Chapter 551- Open Meetings Act
- Texas Family Code Section 51.12 - Place and Conditions of Detention

Certification Guidelines Manual - www.tjpc.state.tx.us

Board Opinion:
RFI Opinion:

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003
CRM Last Modified On: 9/1/2003

METHODOLOGY

Compliance Methodology:

This standard will be monitored using non-sampling techniques which may include the review and analysis of relevant written documentation, interviewing of selected personnel and personal visual observations of program operations made by the reviewer. A program will be in compliance with the standard if all required elements of the standard are met and are verifiable by the reviewer during the monitoring visit.

Monitoring Methodology: Yes/No
Sample: N/A
Point Value: 10
Total Points Possible: 10
Scoring Methodology: 0 or 10
Level: Level 1 - Administrative

REFERENCE MATERIAL

Recommended Best Practices:

The juvenile board and the chief administrative officer should establish a written policy pertaining to the approval of the facility administrator's certification application.

Sample Form(s):
N/A

Citation(s):
Title 37 Texas Administrative Code Part II Texas Juvenile Probation Commission Chapter 349 General Administrative Standards Rule §349.8(b)(2)

Texas Register Publication Citation:
28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action

PRE-MONITORING PREPARATION

- Program Tour:** False
- Policy and Procedure:** False
- Pre-Monitoring Checklist:** False
- Pre-Monitoring Preparation Checklist:** N/A
- Reviewer Preparation Checklist Required:** True
- Reviewer Preparation Checklist:** Prior to the monitoring visit, run the Certification Submission Report and place a copy in the Reviewer Workbook.

INTERVIEW QUESTIONS MAY BE ADMINISTERED TO THE FOLLOWING:

- Chief Administrative Officer:** False
- Professional Staff:** False
- Program/Facility Administrator:** False
- Juvenile Board Chair:** False
- Ancillary Staff:** False
- Juvenile:** False

FOR INTERNAL USE ONLY

FOR PROBATION DEPARTMENTAL USE ONLY
Compliance Assessment Checklist

List Supporting Documentation	Compliance Status
Primary Documentation:	<input type="checkbox"/> Compliance
_____	<input type="checkbox"/> Non-Compliance
_____	<input type="checkbox"/> Develop Program Improvement Plan
_____	<input type="checkbox"/> Request Waiver
_____	<input type="checkbox"/> Request Variance
Secondary Documentation:	<input type="checkbox"/> Need Policy and Procedure
_____	<input type="checkbox"/> Need Training
_____	<input type="checkbox"/> Standard Non-Applicable
Comments:	

Date Reviewed: _____	Department Reviewer Name: _____

General Administrative Standards

349.8(c)

Effective date 9/1/2003

Latest Revision 9/1/2003, Title 37 Texas Administrative Code

TEXT OF STANDARD	EFFECTIVE DATES
<p>Subchapter: C - Certification and Recertification</p> <p>§349.8 Certification Procedures.</p> <p>(c) Length of Certification. A certification is valid for two years from the date of approval by the Commission.</p>	<p>Standard's Effective Date: 9/1/2003 CRM Last Modified On: 9/1/2003</p>
COMMENTARY	
<p>Discussion and Interpretation:</p> <p>This standard establishes that Commission certification as a juvenile probation officer or juvenile detention officer is valid for two (2) years. This standard will not be monitored.</p> <p>Reviewer Guidelines:</p> <p>N/A</p> <p>Verification Documents:</p> <p>N/A</p>	
METHODOLOGY	
<p>Compliance Methodology:</p> <p>N/A</p> <p>Monitoring Methodology: N/A Sample: N/A Point Value: 0 Total Points Possible: 0 Scoring Methodology: N/A Level: Level 0 - Not Monitorable</p>	
REFERENCE MATERIAL	
<p>Recommended Best Practices:</p> <p>N/A</p> <p>Sample Form(s):</p> <p>N/A</p> <p>Citation(s): Title 37 Texas Administrative Code Part II Texas Juvenile Probation Commission Chapter 349 General Administrative Standards Rule §349.8(c)</p> <p>Texas Register Publication Citation: 28(6) TexReg 1126 Proposed Action 28(14) TexReg 2951 Adopted Action</p> <p>Cross Reference(s):</p> <p>N/A</p> <p>Board Opinion: RFI Opinion:</p>	

TEXT OF STANDARD

Subchapter: C - Certification and Recertification

§349.9 Provisional Certification.

(a) Requirements for Provisional Certification.

(1) Probation Officers. An individual will qualify for provisional certification as a probation officer if:

(A) all of the requirements for certification under §349.7(a) and (b) of this chapter are met except that the individual's college or university degree was issued in a foreign country; and

(B) the individual agrees to validate their foreign college or university degree under subsection (b)(1) of this section.

(2) Detention Officers. An individual will qualify for provisional certification as a detention officer if:

(A) all of the requirements for certification under §349.7(a) and §349.7(c) of this chapter except for subsection §349.7(c)(1)(C) of this chapter are met; and

(B) the individual agrees to complete a validation of their high school diploma under subsection (b)(2) of this section.

(b) Method of Validation.

(1) Probation Officers. An individual with provisional probation officer certification agrees to validate their education using one of the following methods:

(A) obtaining unconditional acceptance into a graduate program accredited by an accrediting organization recognized by the Texas Higher Education Coordinating Board;

(B) obtaining evaluation of the foreign college or university diploma as the equivalent to a bachelor's degree received within the United States of America by an educational evaluation service approved by the Commission; or

(C) providing documentation of the conferral of an advanced degree from a university or college accredited by an accrediting organization recognized by the Texas Higher Education Coordinating Board.

(2) Detention Officers. An individual with provisional detention officer certification agrees to validate their education using one of the following methods:

(A) obtaining unconditional acceptance into a college or university accredited by an accrediting organization recognized by the Texas Higher Education Coordinating Board;

(B) receiving a general equivalency diploma;

(C) obtaining evaluation of their high school diploma as the equivalent to a high school diploma received within the United States of America by an educational evaluation service approved by the Commission; or

(D) providing documentation of the conferral of a bachelor's or master's degree from a university or college accredited by an accrediting organization approved by the Texas Higher Education Coordinating Board.

(c) Certification Upon Validation.

(1) Upon the Commission's receipt of validation documentation, the Commission shall certify the individual as a detention or probation officer.

(2) Certification is valid for 2 years from the date the provisional certification was approved.

(d) Expiration of Provisional Certification.

(1) A provisional certification shall expire six months from the date of approval.

(2) An individual who has not yet validated their degree under subsection (b)(1) or (b)(2) of this section by the expiration date of the provisional certification may apply for certification after their education has been validated.

COMMENTARY

Discussion and Interpretation:

Provisional certification as a juvenile probation and/or a juvenile detention officer is allowed when an individual's education requires validation (e.g., a degree from an unaccredited university, etc.). This standard addresses the requirements for provisional certification, the method of validation, certification upon validation and the expiration of provisional certification. This standard will not be monitored during the course of a regularly scheduled monitoring visit but adherence to these requirements will be monitored in the certification approval process.

Requirements for Provisional Certification

An individual who is seeking validation of their education and who meets all other certification requirements may apply for provisional certification pursuant to this standard.

Juvenile Probation Officers

Certification as a juvenile probation officer requires a bachelor's degree from a college or university accredited by an accrediting organization recognized by the Texas Higher Education Coordinating Board (THECB). An individual who received a bachelor's degree from a foreign college or university or other college or university not accredited by an accrediting organization recognized by the THECB may seek a waiver of the degree accreditation requirement as authorized in the Texas Human Resources Code Section 141.061(f), which states:

"The commission may waive the degree accreditation requirement in Subsection (a)(2) if the applicant possesses a foreign or other degree that the commission determines is the substantial equivalent of a bachelor's degree. The commission shall adopt rules defining the procedures to be used to request a waiver of the accreditation requirement in Subsection (a)(2)."

General Administrative Standards

Juvenile Detention Officers

Certification as a juvenile detention officer requires a high school diploma or general equivalency diploma (certificate) as authorized in Section 349.7(c)(1)(C).

Method of Education Validation for Juvenile Probation Officers

An individual who is seeking evaluation of a foreign college or university degree or one received from a college or university not accredited by an accrediting organization recognized by the THECB shall provide one of the following:

1. Evidence of unconditional acceptance into a graduate program at a college or university accredited by an accrediting organization recognized by the THECB;
2. An evaluation of the foreign degree or of a degree received from a college or university that is not accredited by an accrediting organization recognized by the THECB. The evaluation shall be performed by one of the Commission approved education evaluation services or by a college or university accredited by an accrediting organization recognized by the THECB. The evaluation shall state that the degree is the substantial equivalent of a bachelor's degree received from an accredited college or university in the United States. The individual shall request that the evaluation service, college or university forward a copy of the evaluation directly to the juvenile probation department. The individual who seeks evaluation of a foreign degree or other degree shall initiate the evaluation and pay any required fees; or
3. A certified transcript evidencing conferral of an advanced degree received from a university or college accredited by an accrediting organization recognized by the THECB.

Method of Education Validation for Juvenile Detention Officers

A high school education that was successfully completed through home schooling requires no further validation if the individual can provide a transcript showing successful completion of the course work. In the event that a transcript cannot be provided, the home schooling education must be validated as discussed below. Individuals whose high school education was received from a foreign high school or who cannot provide a transcript showing successful completion of home schooling shall complete one of the following steps:

1. Obtain unconditional acceptance into a college or university accredited by an accrediting organization recognized by the THECB. The individual shall:
 - a. Provide the juvenile probation department or facility with a copy of the written notification or other documentation evidencing unconditional acceptance or admission into the college or university accredited by an accrediting organization recognized by the THECB; or
 - b. Provide a certified transcript from a college or university accredited by an accrediting organization recognized by the THECB which shows completion of course work with a passing grade or which evidences conferral of a bachelor's or graduate degree from the college or university for which the transcript is being provided;
2. Receive a high school equivalency certificate which was previously known as a general equivalency diploma (GED). The individual shall provide the juvenile probation department or facility a copy of the certificate of high school equivalency.
3. Obtain an evaluation of the foreign diploma or home schooling diploma evidencing that the high school education is the substantial equivalent of a high school education received in the United States. The evaluation shall be performed by either a Commission approved evaluation service or by a college or university accredited by an accrediting organization recognized by the THECB. If an evaluation service is used, the individual shall request the evaluation service to forward a copy of the results directly to the juvenile probation department or facility. The individual who seeks evaluation of a high school education shall initiate the evaluation and pay any required fees; or
4. Provide a United States military service record which evidences that the individual's education level is the equivalent of a high school diploma.

Documentation Requirements

A copy of the documentation (i.e., evaluation, certified transcript, military service records, etc.) used to validate a degree or a high school diploma shall be maintained in the juvenile probation and/or juvenile detention officer's personnel file.

Certification Upon Validation

When the education validation procedure is complete, a copy of the written documentation shall be forwarded to the Commission for review. If an evaluation service was used, the final report or evaluation shall indicate that the education credentials were evaluated from original or verified documents. An evaluation contingent on receiving verification of education documentation is not considered complete and shall not be accepted as proof of validation. If the education is validated as the substantial equivalent of the required education, the provisional condition of certification will be removed. The recertification period will be twenty-four (24) months from the date the application was first approved as a provisional certification.

Expiration of Provisional Certification

Individuals whose education credentials are pending documentation of validation are eligible to receive provisional certification for a period not to exceed 180 calendar days from the date of approval. During the time an officer is provisionally certified, the officer can perform the duties corresponding to their type of provisional certification (i.e., juvenile probation officer, juvenile detention officer).

Only one provisional certification shall be granted to an individual. If the education is not validated at the end of the 180 calendar day period, the individual shall no longer be certified nor perform the duties of a certified juvenile probation or certified juvenile detention officer.

Detailed information on provisional certification and validation of education credentials can be found in the Certification Guidelines Manual (CGM) which is on the Commission's website at www.tjpc.state.tx.us.

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY

Compliance Methodology:

N/A

Monitoring Methodology: N/A

Sample: N/A

Point Value: 0

Total Points Possible: 0

Scoring Methodology: N/A

Level: Level 0 - Not Monitorable

REFERENCE MATERIAL

Recommended Best Practices:

N/A

Sample Form(s):

N/A

Citation(s):

Title 37 Texas Administrative Code Part II Texas Juvenile Probation Commission
Chapter 349 General Administrative Standards Rule §349.9

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action

28(14) TexReg 2951 Adopted Action

Cross Reference(s):

37 TAC Section 349.7(a) - Certification Eligibility - Basic Eligibility Requirements

37 TAC Section 349.7(b) - Certification Eligibility - Probation Officer

37 TAC Section 349.7(c) - Certification Eligibility - Detention Officers

Texas Human Resources Code Section 141.061 - Minimum Standards For Juvenile Probation Officers

Certification Guidelines Manual (CGM) - www.tjpc.state.tx.us
Board Opinion:
RFI Opinion:

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003

CRM Last Modified On: 9/1/2003

TEXT OF STANDARD

Subchapter: C - Certification and Recertification

§349.10 Recertification Eligibility.

(a) Basic Eligibility Requirements.

(1) In addition to the requirements in subsections (b) or (c) of this section, an applicant is eligible for recertification from the Commission if the applicant:

(A) does not have any of the following disqualifying criminal history:

(i) a felony conviction against the laws of this state, another state, or the United States within the past 10 years;

(ii) a deferred adjudication for a felony against the laws of this state, another state, or the United States within the past 10 years;

(iii) current felony probation or parole;

(iv) a jailable misdemeanor conviction against the laws of this state, another state or the United States within the past 5 years;

(v) a deferred adjudication for a jailable misdemeanor against the laws of this state, another state, or the United States within the past 5 years;

(vi) current misdemeanor probation or parole; or

(vii) registration as a sex offender under Chapter 62, Texas Code of Criminal Procedure.

(B) is not currently under an order of suspension issued under §349.27(d)(2) or §349.31 of this chapter; and

(C) has never had any type of certification revoked from the Commission under §349.27(d)(3) of this chapter.

(2) A request for waiver may not be requested for any disqualifying criminal history under subsection (a)(1)(A) of this section unless the person received a pardon based upon proof of innocence or the reversal of a finding of guilt by either the trial or an appellate court;

COMMENTARY

Discussion and Interpretation:

This standard details the basic eligibility requirements for Commission recertification as a juvenile probation or juvenile detention officer. An applicant shall meet all the requirements of this section to be a candidate for recertification from the Commission.

Juvenile Probation Officer Certification

In order to be eligible for recertification as a juvenile probation officer, an individual shall meet all of the basic eligibility requirements found in this section in addition to the education and work experience requirements set forth in Section 349.7(b) of this chapter and Section 141.061 of the Texas Human Resources Code.

Juvenile Detention Officer Certification

In order to be eligible for recertification as a juvenile detention officer, an individual shall meet all the basic eligibility requirements found in this section in addition to the education and training requirements set forth in Section 349.7(c) of this chapter.

Recertification Basic Eligibility Requirements

An individual who applies for recertification as a juvenile probation officer and/or a juvenile detention officer shall meet certain criteria. The individual shall:

1. Be twenty-one (21) years of age or older on the date of hire;
2. Have no disqualifying criminal history as described in Subsections (a)(1)(B)(i) through (vii) of this section;
3. Not be the subject of a current order of certification suspension by the Commission; and
4. Not have had a certification revoked by the Commission.

Determining if a Disqualifying Criminal History Exists

Commission standards prohibit the hiring of an individual for the position of a juvenile probation officer or a juvenile detention officer if the individual has certain disqualifying criminal history. (See Section 341.23) Additionally, this section prohibits the recertification of individuals with certain disqualifying criminal history. Determining if a disqualifying criminal history exists that would prohibit the hiring and/or recertification of an individual requires looking first at the officer's date of employment (i.e., currently employed individuals) or the individual's potential date of employment (i.e., for individuals being considered for employment as a juvenile probation officer and/or a juvenile detention officer). The Commission's standards related to disqualifying criminal history events have been promulgated over several years and different standards have separate and distinct effective dates that shall be considered when determining if a disqualifying criminal history event will prohibit employment and/or recertification. Please refer to the Commission's Disqualifying Criminal History Matrix which may be found on the Commission's website at www.tjpc.state.tx.us to determine if an individual has any disqualifying criminal history events which would prohibit employment or recertification.

Waiver for Disqualifying Criminal History

A waiver for any disqualifying criminal history under Subsection (a)(1)(B) of this section may not be requested unless the person received a pardon based upon proof of innocence or the reversal of a finding of guilt by a trial or appellate court.

Criminal History Master File

The juvenile probation department and/or facility may elect to maintain returned criminal history records checks and sex offender registration records check, including out-of-state records checks (if applicable), in either a juvenile officer's personnel file or in a criminal history master file designated for that purpose. The juvenile probation department shall maintain the returned TCIC and NCIC criminal history records checks for employees of a private facility that operates under a contract with the juvenile board(s) responsible for certifying the facility. During the course of a monitoring visit or upon request from the Commission, the criminal history records checks and sex offender registration records checks shall be made available to the Commission's staff.

Additional information regarding certification procedures, including in-depth instructions related to conducting all criminal background checks, is contained in the Certification Guidelines Manual (CGM) which may be found on the Commission's website at www.tjpc.state.tx.us.

Reviewer Guidelines:

To determine compliance with this standard, the reviewer will:

1. On the day of the monitoring visit, generate a listing of all currently employed juvenile probation and detention officers who were recertified on or after 9/1/2003 or in the 12-month period immediately preceding the date of the monitoring visit, whichever time frame is shorter, using the Commission's Automated Certification Information System (ACIS). Also using ACIS, print a listing of all officers subject to an order of certification suspension or revocation. Place the documents in Reviewer Workbook.
2. Request and review a systematic sample of juvenile probation officer and detention officer personnel files to determine if the requirements of this standard have been met. The reviewer will:
 - a. Verify that the officer has no disqualifying criminal history by reviewing the officer's date of employment, the Commission's Disqualifying Criminal History Matrix and the officer's returned criminal background checks including TCIC, NCIC, local sex offender registration database checks and applicable out-of-state criminal history records checks.
 - b. Verify the officer is not currently under an order of certification suspension issued by the Commission; and
 - c. Verify whether the officer has ever had any type of certification revoked by the Commission.

Verification Documents:

1. ACIS listing of certified officers
2. ACIS listing of suspensions and revocations
3. Juvenile probation officer and/or detention officer personnel file and/or criminal history master file, if applicable:
 - a. Criminal history records checks (TCIC, NCIC)
 - b. Sex offender registration database records checks
 - c. Residency Verification Form or its equivalent
 - d. Out-of-state criminal history records checks (if applicable)
4. Disqualifying Criminal History Matrix

METHODOLOGY**Compliance Methodology:**

This standard will be monitored using a combination of sampling and non-sampling techniques. The non-sampling techniques may include the review and analysis of relevant written documentation, interviewing of selected personnel and personal visual observations of program operations made by the reviewer. Sampling techniques may

include the use of block samples, systematic samples and/or random samples of pertinent files, records, documents or interviews. A program will be in compliance with the standard if all required elements of the standard are met and are verifiable by the reviewer during the monitoring visit using the results of both the sampling and non-sampling methods.

Systematic Sample. On the date of the monitoring visit, the reviewer will generate a listing of all currently employed juvenile probation and detention officers who were recertified on or after 9/1/2003 or in the 12-month period immediately preceding the date of the monitoring visit, whichever time frame is shorter, using the Commission's Automated Certification Information System (ACIS). The reviewer will pull a computer-generated, non-sequential number (i.e., nth) of officer personnel files from the listing to arrive at the required sample size which will be determined by applying the approved Commission's sampling methodology. Each file in the sample will be reviewed for compliance with the required elements of the standard. If all files in the sample are in compliance with the requirements of the standard, the standard will be in compliance overall.

Monitoring Methodology: Yes/No

Sample: 11/12A/12B Personnel Files

Point Value: 10

Total Points Possible: 30

Scoring Methodology: 0 or 10

Level: Level 3 - Health & Safety

REFERENCE MATERIAL**Recommended Best Practices:**

N/A

Sample Form(s):

Disqualifying Criminal History Matrix [TJPC-CER-11-04]

Citation(s):

Title 37 Texas Administrative Code Part II
Texas Juvenile Probation Commission
Chapter 349 General Administrative
Standards Rule §349.10(a)

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action

Cross Reference(s):

Texas Code of Criminal Procedure
Chapter 62 - Sex Offender Registration
Program

37 TAC Section 349.7(c) - Certification
Eligibility - Detention Officers

General Administrative Standards

349.10(a)

37 TAC Section 341.23(a) - Disqualification from Employment

Certification Guidelines Manual - www.tjpc.state.tx.us

Board Opinion:

RFI Opinion:

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003

CRM Last Modified On: 9/1/2003

TEXT OF STANDARD

Subchapter: C - Certification and Recertification

§349.10 Recertification Eligibility.

(b) Probation Officer. In addition to meeting the requirements under subsection (a) of this section, an applicant is eligible for recertification as a probation officer if the applicant:

(1) has completed 80 hours of recertification training in accordance with §349.15(d) of this chapter within the two years following the date of the certification's or recertification's approval; and

(2) if the person applying for recertification is the chief administrative officer, 20 hours of the required recertification training shall be in management and supervisory skills.

COMMENTARY

Discussion and Interpretation:

This standard requires juvenile probation officers to receive eighty (80) hours of recertification training within the two-year (24 month) time period the certification or recertification is effective.

Recertification Training

Juvenile probation officers shall receive eighty (80) hours of recertification training in subjects related to the performance of their job responsibilities, the field of juvenile justice and other areas of study approved by the Commission. Recertification training shall be received during the two-year (24 month) period in which the certification is effective.

Management and Supervisory Skills

A chief administrative officer shall receive twenty (20) hours of management and supervisory skills training within the two-year (24 month) prior to recertification. Recommended topics include, but are not limited to, human resource and personnel management, strategic planning, budgeting and finance. The twenty (20) hours of management and supervisory skills training required for a chief administrative officer may be included as part of the eighty (80) hours of training required for recertification as a juvenile probation officer.

Training During An Extension Period

If an extension was granted in accordance with Section 349.11(c)(2)(B), all training received during the period of time the extension was in effect applies to the recertification period for which the extension was granted regardless of when the recertification application was actually submitted for approval.

The department shall place a copy of any approved or granted extension request in the individual's personnel file. The training for a chief administrative officer in management and supervisory skills may be received during the 90-calendar day period the extension is in effect.

Detailed information on recertification training requirements can be found in the Certification Guidelines Manual (CGM), which is located on the Commission's website at www.tjpc.state.tx.us.

Reviewer Guidelines:

To determine compliance with this standard, the reviewer will:

1. On the day of the monitoring visit, generate a listing of all currently employed juvenile probation officers who were recertified on or after 9/1/2003 or in the 12-month period immediately preceding the date of the monitoring visit, whichever time frame is shorter, using the Commission's Automated Certification Information System (ACIS).

2. Request and review the chief administrative officer's personnel file and a systematic sample of juvenile probation officer personnel files to determine if the recertification training requirements of this standard have been met. The reviewer will:

a. Verify that the required eighty (80) hours of recertification training was received within two years (24 months) certification period or within two years (24 month) period plus the ninety (90) day extension period if an extension had been granted; and

b. Verify that the chief administrative officer received the required 20 hours of management and supervisory skills training prior to the submission of the recertification application.

Verification Documents:

1. ACIS list of certified juvenile probation officers

2. Chief administrative officer personnel/training file:

a. Training documentation

b. Documentation showing grant of an extension (if applicable)

3. Juvenile probation officer personnel/training file:

a. Training documentation

b. Documentation showing grant of an extension (if applicable)

METHODODOLOGY

Compliance Methodology:

This standard will be monitored using a combination of sampling and non-sampling techniques. The non-sampling techniques may include the review and analysis of relevant written documentation, interviewing of selected personnel and personal visual observations of program operations made by the reviewer.

Sampling techniques may include the use of block samples, systematic samples and/or random samples of pertinent files, records, documents or interviews. A program will be in compliance with the standard if all required elements of the standard are met and are verifiable by the reviewer during the monitoring visit using the results of both the sampling and non-sampling methods.

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Systematic Sample. On the date of the monitoring visit, the reviewer will generate a listing of all currently employed juvenile probation officers who were recertified on or after 9/1/2003 or in the 12-month period immediately preceding the date of the monitoring visit, whichever time frame is shorter, using the Commission's Automated Certification Information System (ACIS). The reviewer will pull a computer-generated, non-sequential number (i.e., nth) of officer personnel files from the listing to arrive at the required sample size which will be determined by applying the approved Commission's sampling methodology. The reviewer will add to the sample the personnel file of the chief administrative officer if the officer was recertified in the applicable time frame. Each file in the sample will be reviewed for compliance with the required elements of the standard. Each file in the sample will be reviewed for compliance with the required elements of the standard. Each file will either pass or fail the particular standard. The compliance grade for the standard will be a percentage of the total possible points based upon the number of files that are in compliance with the standard. For example, if the reviewer pulls 30 cases and 24 of the cases comply with the standard, the compliance grade will be 80 percent of the total points available for the particular standard. Example: For a Level 1 standard, 80 percent would equate to 8 of the possible 10 points; for a Level 2 standard, this would be 16 of the possible 20 points; and for a Level 3 standard, this would be 24 of the possible 30 points.

Monitoring Methodology: Sample %

Sample: 11+1 Personnel Files

Point Value: 10

Total Points Possible: 30

Scoring Methodology: 0 - 10

Level: Level 3 - Health & Safety

REFERENCE MATERIAL**Recommended Best Practices:**

N/A

Sample Form(s):

N/A

Citation(s):

Title 37 Texas Administrative Code Part II Texas Juvenile Probation Commission Chapter 349 General Administrative Standards Rule §349.10(b)

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action

28(14) TexReg 2951 Adopted Action

Cross Reference(s):

37 TAC Section 349.11(c)(2)(B) - Grants of Extension

37 TAC Section 349.15(d) - Training Hours

Certification Guidelines Manual - www.tjpc.state.tx.us

Board Opinion:

RFI Opinion:

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003

CRM Last Modified On: 9/1/2003

TEXT OF STANDARD

Subchapter: C - Certification and Recertification

§349.10 Recertification Eligibility.

(c) Detention Officer. In addition to meeting the requirements under subsection (a) of this section, an applicant is eligible for recertification as a detention officer if the applicant:

(1) has completed 80 hours of recertification training in accordance with 349.15(d) of this chapter within the two years following the date of the certification's or recertification's approval; and

(2) if the person applying for recertification is the facility administrator, 20 hours of the required recertification training shall be in management and supervisory skills.

COMMENTARY

Discussion and Interpretation:

This standard requires juvenile detention officers to receive eighty (80) hours of recertification training within the two-year (24 month) time period the certification or recertification is effective.

Recertification Training

Juvenile detention officers shall receive eighty (80) hours of recertification training in subjects related to the performance of their job responsibilities, the field of juvenile justice and other areas of study approved by the Commission. Recertification training shall be received during the two-year (24 month) period in which the certification is effective.

Management and Supervisory Skills

A facility administrator shall receive twenty (20) hours of management and supervisory skills training within the two-year (24 month) period prior to recertification. Recommended topics include, but are not limited to, human resource and personnel management, strategic planning, budgeting and finance. The twenty (20) hours of management and supervisory skills training required for a facility administrator may be included as part of the eighty (80) hours of training required for recertification as a juvenile probation officer.

Training During An Extension Period

If an extension was granted for cause in accordance with Section 349.11(c)(2)(B), all training received during the period of time the extension was in effect applies to the recertification period for which the extension was granted regardless of when the recertification application was actually submitted for approval.

Detailed information on recertification training requirements can be found in the Certification Guidelines Manual (CGM), which is located on the Commission's website at www.tjpc.state.tx.us.

Reviewer Guidelines:

To determine compliance with this standard, the reviewer will:

1. On the day of the monitoring visit, generate a listing of all currently employed juvenile detention officers who were recertified on or after 9/1/2003 or in the 12-month period immediately preceding the date of the monitoring visit, whichever time frame is shorter, using the Commission's Automated Certification Information System (ACIS).
2. Request and review the facility administrator's personnel file and a systematic sample of juvenile detention officer personnel files to determine if the recertification training requirements of this standard have been met. The reviewer will:

a. Verify that the required eighty (80) hours of recertification training was received within two years (24 months) certification period or within the twenty-four (24) month period plus the ninety (90) day extension period if an extension for cause had been granted; and

b. Verify that the facility administrator received the required 20 hours of management and supervisory skills training prior to the submission of the recertification application.

Verification Documents:

1. ACIS list of certified juvenile detention officers
2. Facility administrator personnel /training file:
 - a. Training documentation
 - b. Documentation showing grant of an extension (if applicable)
3. Juvenile detention officer personnel /training file:
 - a. Training documentation
 - b. Documentation showing grant of an extension (if applicable)

METHODOLOGY

Compliance Methodology:

This standard will be monitored using a combination of sampling and non-sampling techniques. The non-sampling techniques may include the review and analysis of relevant written documentation, interviewing of selected personnel and personal visual observations of program operations made by the reviewer. Sampling techniques may include the use of block samples, systematic samples and/or random samples of pertinent files, records, documents or interviews. A program will be in compliance with the standard if all required elements of the standard are met and are verifiable by the reviewer during the monitoring visit using the results of both the sampling and non-sampling methods.

Systematic Sample. On the date of the monitoring visit, the reviewer will generate a listing of all currently employed juvenile detention officers who were recertified on or after 9/1/2003 or in the 12-month period immediately preceding the date of the monitoring visit, whichever time frame is shorter, using the Commission's Automated Certification Information System (ACIS). The reviewer will pull a

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computer-generated, non-sequential number (i.e., nth) of officer personnel files from the listing to arrive at the required sample size which will be determined by applying the approved Commission's sampling methodology. The reviewer will add to the sample the personnel file of the facility administrator if the administrator was recertified in the applicable time frame. Each file in the sample will be reviewed for compliance with the required elements of the standard. Each file in the sample will be reviewed for compliance with the required elements of the standard. Each file will either pass or fail the particular standard. The compliance grade for the standard will be a percentage of the total possible points based upon the number of files that are in compliance with the standard. For example, if the reviewer pulls 30 cases and 24 of the cases comply with the standard, the compliance grade will be 80 percent of the total points available for the particular standard. Example: For a Level 1 standard, 80 percent would equate to 8 of the possible 10 points; for a Level 2 standard, this would be 16 of the possible 20 points; and for a Level 3 standard, this would be 24 of the possible 30 points.

Monitoring Methodology: Sample %
Sample: 12A/12B+ 1 Personnel Files
Point Value: 10
Total Points Possible: 30
Scoring Methodology: 0 - 10
Level: Level 3 - Health & Safety

REFERENCE MATERIAL**Recommended Best Practices:**

N/A

Sample Form(s):

N/A

Citation(s):

Title 37 Texas Administrative Code Part II Texas Juvenile Probation Commission
 Chapter 349 General Administrative Standards Rule §349.10(c)(1)-(2)

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
 28(14) TexReg 2951 Adopted Action

Cross Reference(s):

37 TAC Section 349.11(c)(2) - Requests for Extension

37 TAC Section 349.15(d) - Training Hours

Certification Guidelines Manual - www.tjpc.state.tx.us**Board Opinion:****RFI Opinion:****EFFECTIVE DATES****Standard's Effective Date:** 9/1/2003**CRM Last Modified On:** 9/1/2003

TEXT OF STANDARD**Subchapter: C - Certification and Recertification**

§349.10 Recertification Eligibility.

(c) Detention Officer. In addition to meeting the requirements under subsection (a) of this section, an applicant is eligible for recertification as a detention officer if the applicant:

(3) has current certifications in:

(A) Cardiopulmonary Resuscitation (CPR);

(B) First Aid; and

(C) an approved physical restraint technique as defined by §343.60(1) of this title.

COMMENTARY**Discussion and Interpretation:**

This standard requires juvenile detention officers to possess a current certification in the required topics detailed in this section prior to submitting a juvenile detention officer recertification application.

Required CPR, First Aid and Physical Restraint Technique Certifications

To be eligible for recertification as a juvenile detention officer, an applicant shall possess current certification in cardiopulmonary resuscitation (CPR), first aid and a Commission approved physical restraint technique. Current certification in each of the three (3) areas is defined as being current at the time of the Commission's approval of the recertification application. Therefore, if a required certification expires before the Commission approves the officer's recertification application, the officer is ineligible for recertification.

Documentation

Appropriate documentation of CPR, first aid and an approved physical restraint technique shall be demonstrated by maintaining at least one of the following:

1. A current CPR, first aid and an approved physical restraint technique certificate or card issued and signed by the trainer/instructor that identifies the topic trained, date the certification was issued and/or the date the certification expires; or
2. A legible roster identifying who attended, completed and was issued a certification. In addition, the trainer/instructor shall document the topic trained, date the certification was issued and/or the date the certification expires. If documentation is demonstrated by maintaining a roster of the juvenile detention officers that attended the training(s) and who were subsequently certified in the topic(s), then a copy of the trainer/instructor's credentials shall be maintained along with the roster. A CPR and first aid instructor who maintains a current instructor's certification is considered to be certified in CPR and first aid.

Approved Physical Restraint Techniques

A juvenile detention officer shall maintain certification in a physical restraint technique approved by the Commission as defined in Section 343.60 and in accordance with Section 343.64. Currently, the Commission has formally approved four (4) physical restraint techniques which are:

Handle With Care (HWC)

Contact: Bruce Chapman, President
Phone: (845) 255-4031
Internet: www.HandleWithCare.com
E-mail: HWCBruce@aol.com

Crisis Prevention Institute, Inc. (CPI)
Contact: Terri Howard, Director of On-Site Training
Phone: (800) 558-8976
Internet: www.crisisprevention.com

The Mandt System (MANDT)
Contact: David Mandt & Associates
Phone: (972) 495-0755
Internet: www.mandtsystem.com

The Prevention and Management of Aggressive Behavior (PMAB)*
Contact: Duane Piety, Training Specialist, TDMHMR
Phone: (512) 206-4509

Formal Commission approval of a physical restraint technique shall come in the form of a written authorization issued by the Executive Director of the Commission to be effective and compliant with this standard. Additionally, the Commission's approval shall be withdrawn if the previously approved physical restraint technique has been altered and/or modified from its original content and design without prior Commission notification and approval.

The Commission is in the process of implementing a modified and updated approval process for physical restraint techniques which will incorporate the recent changes (i.e., September 1, 2003) to Commission standards. All currently approved physical restraint techniques will be re-evaluated using the new procedure. Upon completion of the re-evaluation process, the Commission will formally notify all facilities if any of the currently approved techniques are not re-approved and if additional techniques are approved. Until facilities are notified differently by the Commission, the four (4) currently approved techniques will continue to be authorized. Once the new approval process is implemented, the Commission will provide all facilities with detailed information about the procedures applicable to submitting new physical restraint techniques for approval.

*It should be noted that future Commission approval of PMAB is in question due to the fact that the originating entity may not authorize its use in probation departments and secure facilities.

Training Credit

The hours received for training in CPR, first aid and an approved physical restraint technique can be used as part of the required eighty (80) hours of recertification training.

General Administrative Standards**349.10(c)(3)**

Detailed information on these requirements can be found in the Certification Guidelines Manual (CGM), which is located on the Commission's website at www.tjpc.state.tx.us.

Reviewer Guidelines:

To determine compliance with this standard, the reviewer will:

1. On the day of the monitoring visit, generate a listing of all currently employed juvenile detention officers who were recertified on or after 9/1/2003 or in the 12-month period immediately preceding the date of the monitoring visit, whichever time frame is shorter, using the Commission's Automated Certification Information System (ACIS).
2. Request and review a systematic sample of juvenile detention officer personnel files to determine if the certification requirements for CPR, first aid and an approved physical restraint technique have been met. The reviewer will:
 - a. Verify that the detention officer possessed a current certification in CPR at the time the recertification application was approved;
 - b. Verify that the detention officer possessed a current certification in first aid at the time the recertification application was approved; and
 - c. Verify that the detention officer possessed a current certification in a Commission approved physical restraint technique at the time the recertification application was approved.

Verification Documents:

1. Juvenile detention officer personnel/training file:
 - a. CPR certification and expiration date
 - b. First aid certification and expiration date
 - c. Physical restraint technique certification and expiration date

METHODOLOGY**Compliance Methodology:**

This standard will be monitored using a combination of sampling and non-sampling techniques. The non-sampling techniques may include the review and analysis of relevant written documentation, interviewing of selected personnel and personal visual observations of program operations made by the reviewer. Sampling techniques may include the use of block samples, systematic samples and/or random samples of pertinent files, records, documents or interviews. A program will be in compliance with the standard if all required elements of the standard are met and are verifiable by the reviewer during the monitoring visit using the results of both the sampling and non-sampling methods.

Systematic Sample. On the date of the monitoring visit, the reviewer will generate a listing of all currently employed juvenile detention officers who were recertified on or after 9/1/2003 or in the 12-month period immediately preceding the date of the monitoring visit, whichever time frame is shorter, using the Commission's Automated Certification Information System (ACIS). The reviewer will pull a computer-generated, non-sequential number (i.e., nth) of officer personnel files from the listing to arrive at the required sample size which will be determined by applying the approved Commission's sampling methodology. The reviewer will add to the sample the personnel file of the facility administrator if the administrator was recertified in the applicable time frame. Each file in the sample will be reviewed for compliance with the required elements of the standard. Each file in the sample will be reviewed for compliance with the required elements of the standard. Each file will either pass or fail the particular standard. The compliance grade for the standard will be a percentage of the total possible points based upon the number of files that are in compliance with the standard. For example, if the reviewer pulls 30 cases and 24 of the cases comply with the standard, the compliance grade will be 80 percent of the total points available for the particular standard. Example: For a Level 1 standard, 80 percent would equate to 8 of the possible 10 points; for a Level 2 standard, this would be 16 of the possible 20 points; and for a Level 3 standard, this would be 24 of the possible 30 points.

Monitoring Methodology: Sample %
Sample: 12A/12B Personnel Files
Point Value: 10
Total Points Possible: 30
Scoring Methodology: 0 - 10
Level: Level 3 - Health & Safety

REFERENCE MATERIAL**Recommended Best Practices:**

Training in CPR and first aid should be provided by an instructor whose certification is from an organization recognized by either the Texas Department of State Health Services (formerly known as the Texas Department of Health), the Continuing Education Coordinating Board on Emergency Medical Services (CEBEMS), the American Red Cross or the American Heart Association.

The Health Service Authority and/or the Health Service Coordinator as defined in Section 343.10(a) are responsible for selecting an appropriate CPR and first aid technique for use in the facility.

The department and/or facility should have written documentation showing that the training on CPR and first aid which is being utilized by the department or facility is approved and/or recognized by either the Texas Department of Health, CECBEMS, the American Red Cross or the American Heart Association. Contact information for these organizations is listed below:

American Heart Association
 National Center
 7272 Greenville Avenue
 Dallas, TX 75231
<http://www.americanheart.org>

The American Red Cross National Headquarters
 2025 E Street, NW
 Washington, DC 20006
 Phone: (202) 303-4498
<http://www.redcross.org>

The Texas Department of State Health Services
 Bureau of Emergency Management
 1100 West 49th Street
 Austin, TX 78756-3199
 Phone: (512) 834-6700
 Fax: (512) 834-6736
<http://www.tdh.state.tx.us/hcqs/ems/about.htm>

The Continuing Education Coordinating Board for Emergency Medical Services (CEBEMS)
 5111 Mill Run Road
 Dallas, Texas 75244
 Phone: 972-387-2862
 Fax: 972-716-2007
www.cebems.com

General Administrative Standards

349.10(c)(3)

Sample Form(s):

N/A

Citation(s):

Title 37 Texas Administrative Code Part II Texas Juvenile Probation Commission
Chapter 349 General Administrative Standards Rule §349.10(c)(3)

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action

Cross Reference(s):

37 TAC Section 349.15(c) - Training Hours

37 TAC Section 343.60 - Restraints

37 TAC Section 343.10(a) - Health Care Services

Certification Guidelines Manual - www.tjpc.state.tx.us

Board Opinion:

RFI Opinion:

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003

CRM Last Modified On: 9/1/2003

TEXT OF STANDARD

Subchapter: C - Certification and Recertification

§349.11 Recertification Procedures.

(a) Criminal History Checks.

(1) Prior to submitting a recertification application, the following criminal history checks shall be conducted and returned on every applicant:

(A) a Texas criminal history background search (TCIC);

(B) a local law enforcement sex offender registration records check in the city or county where the applicant resides; and

(C) a Federal Bureau of Investigation (FBI) fingerprint based criminal history background search (NCIC).

(D) In addition to the requirements of paragraph (1) of this subsection, if the applicant currently resides in one of the following states, or resided in one of the following states within the 10 years prior to the date the recertification application was made, a state criminal history background search and state sex offender registration check shall also be conducted where available:

(i) Hawaii;

(ii) Kansas;

(iii) Kentucky;

(iv) Louisiana;

(v) Maine;

(vi) Massachusetts;

(vii) New Hampshire;

(viii) Rhode Island;

(ix) Tennessee;

(x) Vermont; and

(xi) the District of Columbia;

(2) An Internet based criminal background search shall not be used to conduct the background searches required under subsection (a)(1)(A) and subsection (a)(1)(C) of this section.

(3) A returned criminal history check under paragraph (1) of this subsection that is more than 90 calendar days old will not meet the recertification eligibility requirement under 349.10(a)(1) of this chapter.

(4) A copy of all returned criminal history checks shall be retained with the probation department or facility's records.

COMMENTARY

Discussion and Interpretation:

This standard lists the required criminal background checks that shall be performed by the juvenile probation department or its designee prior to the submission of an individual's application for recertification as a juvenile probation or juvenile detention officer.

Requests For Background Checks

Criminal background checks including the Texas Crime Information Center (TCIC), National Crime Information Center (NCIC), local sex offender registration checks and applicable out-of-state records checks shall be completed before the individual's application for recertification is submitted to the Commission.

Texas Law Enforcement
Telecommunications Systems Checks

If a criminal history records check is initiated and completed using the juvenile probation department's or local law enforcement's Texas Law Enforcement Telecommunications System (TLETS) terminal, a printout of the returned check is required for documentation purposes.

Out-of-State Checks

The Commission has developed a form titled Residency Verification Form which shall be used to determine and document whether an applicant has maintained residency in any of the ten (10) enumerated states and/or the District of Columbia. If the department has a form that is the substantial equivalent of the Residency Verification Form, it may be used in its place. Disclosure of out-of-state residency within 10 years of the date of employment in any of the listed states or the District of Columbia requires documentation of a criminal background check specific to that jurisdiction. If the individual has listed one of the states in this section as a place of residence in the ten (10) years prior to the date of the recertification application, then a criminal history records check and a sex offender registration records check in that state or states shall be performed and returned prior to the submission of the recertification application following the guidelines below:

1. If an out-of-state check was not completed at the time of employment and/or initial certification but the information furnished on the Residency Verification form or its equivalent indicates that an out-of-state check is required, the required out-of-state criminal history records checks shall be completed at the time of the first recertification after the effective date of this standard.

Documentation of the out-of-state criminal background checks shall be maintained in the employee's personnel file. An out-of-state criminal background check shall be completed only once unless the officer moves out-of-state; or

2. An out-of-state criminal background check shall be conducted each time an officer who lives out-of-state but who works in Texas is recertified (e.g., officer who lives in Louisiana but works in Texas).

Local Sex Offender Registration Records Check

A "local" sex offender registration records check is a search of the sex offender registration records maintained by the local law enforcement agency in the jurisdiction where the individual resides. If the individual resides in the city limits, it is a check of the municipal law enforcement agency sex offender registration registry or database. If the individual resides outside the city limits or the city does not have a local law enforcement agency, it is a check of the sex offender registration registry or database maintained by the county sheriff's department. A check of the Sex Offender Registration database maintained by the Texas Department of Public Safety (DPS) is not considered to be a local sex offender registry records check for purposes of this standard. However, the DPS Sex Offender Registration database may be used as a supplement to the local sex offender registration records check.

Special Note: Some local law enforcement websites provide a link or redirect the user to the DPS Sex Offender Registry Database. Caution should be used when accessing a local law enforcement Internet-based registry to ensure that the check is a local records check rather than a check of the DPS website.

Electronic/Internet Checks

The only electronic/Internet-based criminal history records checks authorized by this standard and accepted are those for out-of-state criminal history checks, out-of-state sex offender registration checks and local law enforcement sex offender registration checks. For the purpose of this standard, TLETS is not an Internet-based search.

A department may elect to use or access a local law enforcement Internet-based database to conduct sex offender registration checks if one exists in the jurisdiction of the applicant's residence. For example, the Austin Police Department maintains a local sex offender registry on their website, which identifies those individuals who reside within the city limits of Austin and who are registered as sex offenders.

A check of the Convictions Database maintained by the DPS is not the equivalent of a TCIC criminal history check as required in this standard and will not be accepted as the TCIC search.

Criminal History Records Checks Older Than 90 Calendar Days

This standard requires that criminal history records checks, sex offender registration records checks and applicable out-of-state criminal records checks be completed within the ninety (90) calendar days immediately prior to submission of the certification application. Submitting an application with the dates the criminal history records checks were initiated rather than the dates received from the DPS will result in a citation for a non-compliance. If an officer is certified based on inaccurate dates being submitted to the Commission, the officer may be subject to disciplinary procedures including suspension or revocation of certification.

Return Date Of Criminal History Records Checks

The date used as the "return date" for the criminal history and sex offender registration records checks can be one of four (4) dates:

1. The official date stamp evidencing the receipt of the criminal history records checks;
2. The typewritten date of the Federal Bureau of Investigation (FBI) or the DPS records checks according to the form or letter sent to the department;
3. The date stamped on the form by the DPS stating that a "search of the records failed to disclose", etc.; or
4. The date reflected on the computer printout of any electronic or Internet-based criminal history or sex offender registration records checks required by this standard.

Records Retention and Documentation

Copies of all returned criminal history and sex offender registration records checks shall be placed either in the employee's personnel file or in a criminal history master

and shall be maintained and retained until replaced by a more current check. If written documentation is not in the file, the department will be cited for a non-compliance and the officer may be subject to disciplinary proceedings including suspension or revocation of certification. Copies of the NCIC fingerprint checks conducted for employees of a facility operated under a contract with the juvenile board shall be maintained by the juvenile probation department. When the personnel files are monitored, the chief administrative officer or a designee shall be responsible for providing to the reviewer the relevant criminal history records checks applicable to the personnel files sampled. The department shall develop and implement policies and procedures to ensure the confidentiality of criminal background checks.

If a local or out-of-state law enforcement electronic/Internet database is used, a formalized way for the department to document and retain the information provided by or through an electronic registry shall exist (e.g., printing relevant sections of registry information, formalized receipt or verification form completed by the staff performing the registry review, etc.).

Additional information on performing criminal history and sex offender registration checks, including the steps to take when the fingerprints are rejected, and information pertaining to conducting out-of-state criminal history checks can be found in the Certification Guidelines Manual (CGM) which may be found on the Commission's website at www.tjpc.state.tx.us.

Reviewer Guidelines:

To determine compliance with this standard, the reviewer will:

1. Prior to the monitoring visit, run the Certification Submission Report using the Commission's Juvenile Justice Personnel System and place a copy in the Reviewer Workbook.
2. Review a systematic sample of juvenile probation and detention officer personnel files for officers recertified from 9/1/03 through the day of the monitoring visit or within the 12-month period immediately preceding the monitoring visit, whichever time frame is shorter, to determine if the criminal history, local sex offender registration and applicable out-of-state records checks required for recertification were performed as required by this standard. The reviewer will:

General Administrative Standards

349.11(a)

a. Review the Residency Verification Form or its equivalent to determine whether out-of-state criminal history and sex offender registration checks were required. If so, the reviewer will:

i. Determine if the personnel file or the master criminal history file contains returned out-of-state criminal history and sex offender registration records checks.

ii. Determine if the individual had a disqualifying criminal history or was required to register as a sex offender. The reviewer will reference the Commission's Disqualifying Criminal History Matrix.

iii. Compare the date on the returned criminal history and sex offender registration documents to the dates submitted in the recertification application as reflected on the Certification Submission Report to determine if the checks were conducted within ninety (90) calendar days immediately preceding the submission of the recertification application. If the dates on the returned criminal history checks and the dates submitted on the recertification application (as indicated on the Certification Submission Report) do not match, a non-compliance may be issued.

b. Review the personnel file or the master criminal history file to determine if the TCIC, NCIC and local sex offender registration records checks have been returned to the department. If so, the reviewer will:

i. Determine if the individual had a disqualifying criminal history or was required to register as a sex offender. The reviewer will use the Commission's Disqualifying Criminal History Matrix.

ii. Compare the return date on the returned criminal history and sex offender registration records checks to the dates submitted in the certification application as reflected on the Certification Submission Report to determine if the checks were conducted within ninety (90) calendar days immediately preceding the submission of the application.

Verification Documents:

1. Certification Submission Report
2. Juvenile probation and/or detention officer personnel file and/or criminal history master file:
 - a. Residency Verification Form or its equivalent
 - b. Criminal history records checks
 - c. Local sex offender registration checks
 - d. Out-of-state criminal history and sex offender registration checks (if applicable)
3. Disqualifying Criminal History Matrix

METHODOLOGY

Compliance Methodology:

This standard will be monitored using a combination of sampling and non-sampling techniques. The non-sampling techniques may include the review and analysis of relevant written documentation, interviewing of selected personnel and personal visual observations of program operations made by the reviewer. Sampling techniques may include the use of block samples, systematic samples and/or random samples of pertinent files, records, documents or interviews. A program will be in compliance with the standard if all required elements of the standard are met and are verifiable by the reviewer during the monitoring visit using the results of both the sampling and non-sampling methods.

Systematic Sample. Prior to the monitoring visit, the reviewer will generate a Certification Submission Report for currently employed juvenile probation and detention officers who were recertified on or after 9/1/2003 or in the 12-month period immediately preceding the date of the monitoring visit, whichever time frame is shorter, using the Commission's Automated Certification Information System (ACIS). The reviewer will pull a computer-generated, non-sequential number (i.e., nth) of officer personnel files from the listing to arrive at the required sample size which will be

determined by applying the approved Commission's sampling methodology. Each file in the sample will be reviewed for compliance with the required elements of the standard. If all files in the sample are in compliance with the requirements of the standard, the standard will be in compliance overall.

Monitoring Methodology: Yes/No

Sample: 11/12A/12B Personnel Files

Point Value: 10

Total Points Possible: 30

Scoring Methodology: 0 or 10

Level: Level 3 - Health & Safety

REFERENCE MATERIAL

Recommended Best Practices:

The department and facility should conduct full criminal history records checks (i.e., NCIC, TCIC, local sex offender registration checks, out-of-state criminal history and out-of-state sex offender registration records checks, if applicable) on all department or facility staff, volunteers and interns following the guidelines on performing checks for certified officers. This is especially important for employees or individuals who may have direct contact with juveniles.

The department should stamp the returned checks with the date they are received by the department to clearly document the date of receipt. The department and the contracting private facility should jointly develop policies and procedures to address performing the NCIC and TCIC checks for private facility employees.

It is recommended that a check of the Convictions Database and the Sex Offender Registration Database maintained by the DPS be used as a supplement to the TCIC criminal history check and local sex offender registration records checks.

Sample Form(s):

Residency Verification Form [TJPC-CER-09-04]

Citation(s):

Title 37 Texas Administrative Code Part II
Texas Juvenile Probation Commission
Chapter 349 General Administrative
Standards Rule §349.11(a)

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action

General Administrative Standards**349.11(a)****Cross Reference(s):**

37 TAC Section 343.15(b)(5) - Criminal Records Checks

37 TAC Section 349.7(a) - Disqualifying Criminal History

37 TAC Section 349.10 - Recertification Eligibility

Texas Department of Public Safety - Sex Offender Registration Database -
www.records.txdps.state.tx.usTexas Department of Public Safety - Conviction Database -
www.records.txdps.state.tx.us

Texas Code of Criminal Procedure Chapter 62 - Sex Offender Registration Program

Certification Guidelines Manual - www.tjpc.state.tx.us

Board Opinion:**RFI Opinion:****EFFECTIVE DATES****Standard's Effective Date:** 9/1/2003**CRM Last Modified On:** 9/1/2003**PRE-MONITORING PREPARATION****Program Tour:** False**Policy and Procedure:** False**Pre-Monitoring Checklist:** False**Pre-Monitoring Preparation Checklist:**

N/A

Reviewer Preparation Checklist Required: True**Reviewer Preparation Checklist:**

Prior to the monitoring visit, run the Certification Submission Report and place a copy in the Reviewer's Workbook.

INTERVIEW QUESTIONS MAY BE ADMINISTERED TO THE FOLLOWING:**Chief Administrative Officer:** False**Professional Staff:** False**Program/Facility Administrator:** False**Juvenile Board Chair:** False**Ancillary Staff:** False**Juvenile:** False

TEXT OF STANDARD

Subchapter: C - Certification and Recertification

§349.11 Recertification Procedures.

(b) Submission of Recertification Application.

(1) Probation Officer Recertification.

(A) Probation Officers. The chief administrative officer or the chief administrative officer's designee shall submit the recertification applications for all probation officers and supervisors of probation officers.

(B) Chief Administrative Officers. Prior to submission of the chief administrative officer's recertification application, the juvenile board shall review the recertification documentation and approve the submission of the recertification application to the Commission.

COMMENTARY

Discussion and Interpretation:

This standard addresses the requirements for submission of an application for recertification as a juvenile probation officer. The chief administrative officer or his or her designee shall submit the recertification applications for all juvenile probation officers.

Chief Administrative Officer

The juvenile board shall review the chief administrative officer's recertification application and approve the submission in writing prior to the application being submitted to the Commission. The juvenile board shall:

- a. Review the chief administrative officer's training records to ensure that the chief administrative officer received the eighty (80) hours of required recertification training;
- b. Review the chief administrative officer's returned criminal background checks to verify that no disqualifying criminal history exists; and
- c. Authorize the submission of the recertification application via the Automated Certification Information System (ACIS).

Judicial Districts with Multiple Juvenile Boards

The recertification application for the chief administrative officer shall be approved by the juvenile board in the lead county (i.e., headquarters county) in a judicial district with multiple juvenile boards.

Open Meetings Act

When local juvenile boards take action they are required to comply with the Texas Open Meetings Act as codified in Texas Government Code Chapter 551. This Act provides that meetings of governmental bodies must be open to the public, except for expressly authorized executive sessions, and that the public must be given notice of the time, place and subject matter of meetings of governmental bodies. To be legally binding and enforceable, any action of a juvenile board must occur in a posted, open meeting that complies with the requirements of the Open Meetings Act. A quorum of the juvenile board is required to be present before the board may act and documentation of the action shall be reflected in the meeting minutes, formal written resolutions or other written documentation. The juvenile board may act to authorize the chairperson of the board or other designated board member to take certain action on behalf of the board as long as the initial action meets the requirements of the Open Meetings Act and is so documented.

Documentation of Board Action

The juvenile board shall take formal action authorizing the submission of the chief administrative officer's recertification application. The action shall be documented in the board minutes, resolution or other written documentation. The juvenile board chair or designated board member shall provide written documentation to the department authorizing the submission of the chief administrative officer's recertification application to the Commission. The written documentation authorizing submission of the recertification application shall be maintained in the chief administrative officer's personnel file.

If the juvenile board delegates the review authority to the board chair or other board member, written documentation shall be in the chief administrative officer's personnel file authorizing the board chair or designated board member to review the recertification information including the criminal background checks and to authorize the submission of the recertification application. The juvenile board chair or designated board member shall provide written documentation to the department authorizing the submission of the chief administrative officer's recertification application to the Commission. The written documentation authorizing submission of the recertification application shall be maintained in the chief administrative officer's personnel file.

On-Line Submission

Recertification applications shall be submitted to the Commission through the Internet using the ACIS. The individual submitting the recertification application shall be a designated and authorized ACIS user. Unauthorized use ACIS is a breach of the State Financial Assistance Contract and may be cited in a Non-Compliance Citation Report (NCCR).

Additional information on submission of recertification applications can be found in the Certification Guidelines Manual (CGM), which is located on the Commission's website at www.tjpc.state.tx.us.

Reviewer Guidelines:

To determine compliance with this standard, the reviewer will:

1. Prior to the monitoring visit, run the Certification Submission Report using the Commission's Juvenile Justice Personnel System and place a copy in the Reviewer Workbook.

General Administrative Standards

349.11(b)(1)

2. Request and review the chief administrative officer's personnel file:
- a. Verify the existence of the juvenile board minutes, resolution or other written documentation approving and authorizing submission of the chief administrative officer's recertification application.
 - b. Compare the date on the Certification Submission Report to the date of the juvenile board documentation authorizing submission of the chief administrative officer's recertification application to ensure pre-approval.
 - c. Review the training documentation to ensure all requirements for initial certification have been met.

Verification Documents:

- 1. Certification Submission Report
- 2. Chief administrative officer's personnel file:
 - a. Juvenile board minutes, resolution or other written documentation; or
 - b. Juvenile board minutes, resolution or other documentation delegating approval authority for the chief administrative officer's recertification application to the board chair or other board member; and
 - c. Written documentation from the juvenile board chair or designated board member demonstrating review of the recertification documentation and authorizing submission of the chief administrative officer's recertification application

METHODOLOGY

Compliance Methodology:

This standard will be monitored using non-sampling techniques which may include the review and analysis of relevant written documentation, interviewing of selected personnel and personal visual observations of program operations made by the reviewer. A program will be in compliance with the standard if all required elements of the standard are met and are verifiable by the reviewer during the monitoring visit.

Monitoring Methodology: Yes/No
Sample: N/A
Point Value: 10
Total Points Possible: 10
Scoring Methodology: 0 or 10
Level: Level 1 - Administrative

REFERENCE MATERIAL

Recommended Best Practices:

N/A

Sample Form(s):
 Residency Verification Form [TJPC-CER-09-04]

Citation(s):
 Title 37 Texas Administrative Code Part II Texas Juvenile Probation Commission Chapter 349 General Administrative Standards Rule §349.11(b)(1)

Texas Register Publication Citation:
 28(6) TexReg 1126 Proposed Action
 28(14) TexReg 2951 Adopted Action

Cross Reference(s):
 State Financial Assistance Contract

Texas Government Code Chapter 551
 Open Meetings Act

Certification Guidelines Manual -
 www.tjpc.state.tx.us

Board Opinion:
RFI Opinion:

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003
CRM Last Modified On: 9/1/2003

PRE-MONITORING PREPARATION

Program Tour: False

Policy and Procedure: False

Pre-Monitoring Checklist: False

Pre-Monitoring Preparation Checklist:
 N/A

**Reviewer Preparation Checklist
 Required:** True

Reviewer Preparation Checklist:
 Prior to the monitoring visit, run the Certification Submission Report and place a copy in the Reviewer's Workbook.

INTERVIEW QUESTIONS MAY BE ADMINISTERED TO THE FOLLOWING:

Chief Administrative Officer: False

Professional Staff: False

Program/Facility Administrator: False

Juvenile Board Chair: False

Ancillary Staff: False

Juvenile: False

FOR INTERNAL USE ONLY

FOR PROBATION DEPARTMENTAL USE ONLY
Compliance Assessment Checklist

List Supporting Documentation	Compliance Status
Primary Documentation:	<input type="checkbox"/> Compliance
_____	<input type="checkbox"/> Non-Compliance
_____	<input type="checkbox"/> Develop Program Improvement Plan
_____	<input type="checkbox"/> Request Waiver
_____	<input type="checkbox"/> Request Variance
Secondary Documentation:	<input type="checkbox"/> Need Policy and Procedure
_____	<input type="checkbox"/> Need Training
_____	<input type="checkbox"/> Standard Non-Applicable

Comments:	

Date Reviewed: _____	Department Reviewer Name: _____

TEXT OF STANDARD

Subchapter: C - Certification and Recertification

§349.11 Recertification Procedures.

(b) Submission of Recertification Application.

(2) Detention Officer Recertification.

(A) Detention Officers. The facility administrator, chief administrative officer or either's designee shall submit the recertification applications to the Commission for all detention officers and supervisors of detention officers.

(B) Facility Administrators. Prior to submission of the facility administrator's recertification application:

(i) the juvenile board shall review the recertification documentation and approve the submission of the recertification application to the Commission; or

(ii) the chief administrative officer shall review the recertification documentation and approve the submission of the recertification application to the Commission.

COMMENTARY

Discussion and Interpretation:

This standard establishes the procedures for submitting the recertification applications for detention officers. The facility administrator, chief administrative officer or his or her designee shall submit the certification applications for all juvenile detention officers.

Facility Administrator

A facility administrator shall be recertified as a juvenile detention officer in addition to meeting the qualifications of a probation officer pursuant to Sections 343.15(a)(2) and 343.16. The juvenile board or the chief administrative officer shall review and approve the facility administrator's recertification application before the application is submitted to the Commission. The juvenile board or the chief administrative officer shall:

a. Review the facility administrator's training records to ensure that the facility administrator has received eighty (80) hours of required recertification training as detailed in Sections 349.7(c) and 349.15(c)(2); and

b. Review the facility administrator's returned criminal background checks to verify that no disqualifying criminal history exists; and

c. Authorize the submission of the recertification application via the Automated Certification Information System (ACIS).

The facility administrator's personnel file shall contain written documentation that a review was performed and that the submission of the recertification application was authorized by either the juvenile board or the chief administrative officer.

Juvenile Board Approval

If the juvenile board is approving the recertification application of the facility administrator, it shall be approved by the same juvenile board that certified the facility pursuant to Texas Family Code Section 51.12.

Open Meetings Act

When local juvenile boards take action they are required to comply with the Texas Open Meetings Act as codified in Texas Government Code Chapter 551. This Act provides that meetings of governmental bodies must be open to the public, except for expressly authorized executive sessions, and that the public must be given notice of the time, place and subject matter of meetings of governmental bodies. To be legally binding and enforceable, any action of a juvenile board must occur in a posted, open

meeting that complies with the requirements of the Open Meetings Act. A quorum of the juvenile board is required to be present before the board may act and documentation of the action must be reflected in the meeting minutes, formal written resolutions or other written documentation. The juvenile board may act to authorize the chairperson of the board or other designated board member to take certain action on behalf of the board as long as the initial action meets the requirements of the Open Meetings Act and is so documented.

Documentation of Board Action

If the juvenile board reviews and authorizes the submission of the facility administrator's recertification application, formal action by the board is required. The action shall be documented in the board minutes, resolution or other written documentation. Official documentation of the juvenile board action approving the facility administrator's recertification application shall be maintained in the facility administrator's personnel file.

If the juvenile board delegates the review authority to the board chair or other board member, written documentation shall be in the facility administrator's personnel file authorizing the board chair or designated board member to review the recertification information including the criminal background checks and to authorize the submission of the recertification application. The juvenile board chair or designated board member shall provide written documentation to the department authorizing the submission of the facility administrator's recertification application to the Commission. The written documentation authorizing submission of the recertification application shall be maintained in the facility administrator's personnel file.

On-Line Submission

Recertification applications shall be submitted to the Commission through the Internet using ACIS. The individual submitting the recertification application shall be a designated and authorize ACIS user. Unauthorized use of ACIS is a breach of the State Financial Assistance Contract and may be cited in a Non-Compliance Citation Report (NCCR).

Additional information on the submission of recertification applications can be found in the Certification Guidelines Manual (CGM), which is located on the Commission's website at www.tjpc.state.tx.us.

General Administrative Standards

349.11(b)(2)

Reviewer Guidelines:

To determine compliance with this standard, the reviewer will:

1. Prior to the monitoring visit, run the Certification Submission Report using the Commission's Juvenile Justice Personnel System and place a copy in the Reviewer Workbook.
2. Request and review the facility administrator's personnel file to verify:
 - a. The existence of juvenile board minutes, resolution or other written documentation for approval of the facility administrator's recertification information; or
 - b. The existence of written documentation from the chief administrative officer, juvenile board chair or designated board member approving and authorizing submission of the facility administrator's recertification application.

Verification Documents:

1. Recertification Submission Report
2. Facility administrator's personnel file:
 - a. Juvenile board minutes, resolution or other written documentation approving and authorizing submission of the facility administrator's recertification application;
 - b. Written documentation from the chief administrative officer authorizing the submission of the facility administrator's recertification application; or
 - c. Juvenile board minutes, resolution or other documentation delegating approval authority for the facility administrator's recertification application to the board chair; and
 - d. Written documentation from the juvenile board chair authorizing submission of the facility administrator's recertification application;
 - e. Criminal history records checks
 - f. Training records

METHODOLOGY

Compliance Methodology:

This standard will be monitored using non-sampling techniques which may include the review and analysis of relevant written documentation, interviewing of selected personnel and personal visual observations of program operations made by the reviewer. A program will be in compliance with the standard if all required elements of the standard are met and are verifiable by the reviewer during the monitoring visit.

Monitoring Methodology: Yes/No
Sample: N/A
Point Value: 10
Total Points Possible: 10
Scoring Methodology: 0 or 10
Level: Level 1 - Administrative

REFERENCE MATERIAL

Recommended Best Practices:

The juvenile board and the chief administrative officer should establish a written policy pertaining to the approval of the facility administrator's recertification application.

Sample Form(s):
N/A

Citation(s):
Title 37 Texas Administrative Code Part II Texas Juvenile Probation Commission Chapter 349 General Administrative Standards Rule §349.11(b)(2)

Texas Register Publication Citation:
28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action

Cross Reference(s):
37 TAC Section 343.15(a)(2) - Employment of Certified Juvenile Detention Officers

37 TAC Section 343.16 - Persons Who Must be Certified

37 TAC Section 349.7(c) - Certification Eligibility - Detention Officer

37 TAC Section 349.15(c)(2) - Training Hours

State Financial Assistance Contract

Texas Family Code Section 51.12 - Place and Conditions of Detention

Texas Government Code Chapter 551 - Open Meetings Act

Certification Guidelines Manual - www.tjpc.state.tx.us

Board Opinion:
RFI Opinion:

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003
CRM Last Modified On: 9/1/2003

PRE-MONITORING PREPARATION

Program Tour: False

Policy and Procedure: False

Pre-Monitoring Checklist: False

Pre-Monitoring Preparation Checklist:
N/A

Reviewer Preparation Checklist Required: True

Reviewer Preparation Checklist:
Prior to the monitoring visit, run the Certification Submission Report and place a copy in the Reviewer Workbook.

INTERVIEW QUESTIONS MAY BE ADMINISTERED TO THE FOLLOWING:

Chief Administrative Officer: False

Professional Staff: False

Program/Facility Administrator: False

Juvenile Board Chair: False

Ancillary Staff: False

Juvenile: False

FOR INTERNAL USE ONLY

FOR PROBATION DEPARTMENTAL USE ONLY
Compliance Assessment Checklist

List Supporting Documentation

Compliance Status

Primary Documentation:

- ____ Compliance
- ____ Non-Compliance
 - ____ Develop Program Improvement Plan
 - ____ Request Waiver
 - ____ Request Variance

Secondary Documentation:

- ____ Need Policy and Procedure
- ____ Need Training
- ____ Standard Non-Applicable

Comments:

Date Reviewed: _____

Department Reviewer Name: _____

TEXT OF STANDARD**Subchapter: C - Certification and Recertification**

§349.11 Recertification Procedures.

(c) Timeline for Submission.

(1) Unless a request for extension has been made and granted under paragraph (2) of this subsection, the recertification application shall not be sent more than 30 calendar days before or 60 calendar days after the certification expiration date.

(2) Requests for Extension.

(A) The juvenile board, chief administrative officer, facility administrator or either's designee may request an extension of time to allow a certified officer additional time to meet the recertification eligibility requirements under 349.10(a) and 349.10(b) or 349.10(c) of this chapter or for the submission of recertification applications listed in 349.11(b) of this chapter. The request shall include an explanation showing cause why an extension is needed.

(B) Grants of Extension. The Commission may grant an extension for a period not to exceed 90 calendar days from the date the certification expired.

(C) Failure to submit the recertification application before the extension period expires, shall result in the Commission's denial of the recertification application. In the event the recertification application is denied, an applicant may apply for certification under 349.8 of this chapter.

d) Length of Recertification. A recertification is valid for two years from the date of expiration of the previous certification or recertification.

Failure to Submit Recertification Applications Within Required Timelines

If the recertification application is not submitted within the timelines set forth in this standard or a request for an extension is denied and the certification expires, the individual shall submit a new certification application. The individual shall meet all the basic eligibility requirements for employment and certification including the requirement for a bachelor's degree if the person is seeking certification as a juvenile probation officer.

Requests for Extension

A request for an extension shall be submitted to the Commission no more than thirty (30) calendar days prior to the certification expiration date and no more than sixty (60) calendar days after expiration of the certification. All requests for extensions shall be submitted through ACIS. Extensions shall only be approved if the Commission determines that cause exists as indicated below.

Grants of Extension

The Commission may grant a ninety (90) day extension of time for a certified officer to obtain training, to obtain criminal history checks or to meet other criteria for certification when there is a showing of cause as to why the officer did not meet the requirement within the twenty-four (24) month certification period. Extensions are not automatically or routinely granted.

Extensions for Cause

Extenuating circumstances may prevent an officer from receiving the required number of training hours in a recertification period. In these situations, a department may request an extension for the officer to receive the necessary training. The Commission will not consider an extension request if the certified officer did not receive at least forty (40) of the required eighty (80) hours of recertification training in a recertification period prior to requesting the extension. This 40 hour minimum shall include any required training in CPR, first aid and physical restraint training to maintain certification for any officer employed in a detention center or facility. The Commission has identified the following as being acceptable reasons for approval of an extension:

1. Family Medical Leave Act (FMLA)
2. Worker's compensation absence
3. Officer's serious illness or injury

COMMENTARY**Discussion and Interpretation:**

This standard establishes the timeline for submission of recertification applications, the right to request an extension of a certification and the length of a recertification. This standard will not be monitored during the course of a regularly scheduled monitoring visit but adherence to these requirements will be monitored in the recertification approval process.

Timeline for Submission

Applications for recertification of a juvenile probation and/or juvenile detention officer shall be submitted to the Commission no more than thirty (30) calendar days prior to the expiration date of the certification. Applications shall be submitted no more than sixty (60) calendar days after the expiration date of the current certification unless an extension has been approved by the Commission. The sixty (60) day time frame allowed for submission of the application allows the department additional time to complete the processing of the application which may include the following:

1. Completing the required criminal history checks;
2. Documenting training;
3. Requesting an extension; and/or
4. Allowing board action on the recertification application of a chief administrative officer or the facility administrator.

An officer who attends training during the sixty (60) day time frame following the expiration of a certification cannot count that training for recertification unless an extension has been requested and approved by the Commission.

General Administrative Standards

349.11(c)-(d)

- 4. Active military duty
- 5. Delay in return of National Crime Information Center (NCIC) fingerprint checks
- 6. Death of immediate family member
- 7. Other extenuating circumstances for which the juvenile probation department or facility can document a compelling reason as to why the officer did not receive the required training hours.

Extension For NCIC Fingerprint Check

The Commission acknowledges the difficulties encountered in obtaining a NCIC fingerprint check. A request for an extension beyond the 90-day time frame established in this standard is evaluated on a case-by-case basis. In order for the Commission to grant an additional extension, the department shall provide evidence to the Commission documenting the efforts made to complete a NCIC check. Evidence of diligent effort is required and is discussed in the Certification Guidelines Manual (CGM) which can be found on the Commission's website at www.tjpc.state.tx.us.

Recertification Training

Recertification training received by an officer during the time an extension is in effect applies to the certification period which has been extended regardless of when the recertification application is actually submitted for approval. Recertification training received by an officer during the time an extension is in effect counts towards the next recertification period if the extension received was solely based on a delay in the receipt of the NCIC fingerprint check.

Extensions Due to Military Service

The Commission administratively freezes the certification of a juvenile probation and/or a juvenile detention officer who is called to active military duty. Upon return to the department, an extension of twelve (12) months shall be granted to any affected officer to allow adequate time to receive training.

Documentation of Grants of Extension

The department or facility shall place a copy of an approved extension in the individual's personnel file.

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY

Compliance Methodology:

N/A

Monitoring Methodology: N/A

Sample: N/A

Point Value: 0

Total Points Possible: 0

Scoring Methodology: N/A

Level: Level 0 - Not Monitorable

REFERENCE MATERIAL

Recommended Best Practices:

N/A

Sample Form(s):

N/A

Citation(s):

Title 37 Texas Administrative Code Part II
Texas Juvenile Probation Commission
Chapter 349 General Administrative
Standards Rule §349.11(c)-(d)

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action

Cross Reference(s):

37 TAC Section 349.8 - Certification
Procedures

37 TAC Section 349.10 - Recertification
Eligibility

Certification Guidelines Manual -
www.tjpc.state.tx.us

Board Opinion:

RFI Opinion:

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003

CRM Last Modified On: 9/1/2003

General Administrative Standards

349.12

Effective date 9/1/2003

Latest Revision 9/1/2003, Title 37 Texas Administrative Code

TEXT OF STANDARD

Subchapter: C - Certification and Recertification

§349.12 Expiration of Certification While Under Suspension.

(a) An individual whose certification expires while under a suspension order issued in accordance with 349.27(d)(2) of this chapter may apply for certification once the suspension period has expired and the individual meets the certification eligibility requirements listed under 349.7(a) and 349.7(b) or 349.7(c) of this chapter.

(b) An individual whose certification expires while under a suspension order issued in accordance with 349.31 of this chapter may apply for certification once TJPC has received an order issued under Texas Family Code 232.013, which either vacates or stays the suspension order and the individual meets the certification eligibility requirements listed in 349.7(a) and 349.7(b) or 349.7(c) of this chapter.

COMMENTARY

Discussion and Interpretation:

This standard addresses the expiration of a certification while an officer is under an order of suspension issued by the Commission. An individual may apply for initial certification when the suspension order has been stayed or vacated providing the individual meets the certification eligibility requirements. An individual whose certification expires while under a suspension which occurred as a result of a disciplinary hearing or as a result of a court order for failure to pay child support may apply for initial certification once the suspension order is lifted. This standard will not be monitored during the course of a regularly scheduled monitoring visit but adherence to these requirements will be monitored in the recertification approval process.

Disciplinary Hearing Suspension

An officer's certification may be suspended as a result of a disciplinary hearing conducted by the Commission (e.g., ethics violation, submission of inaccurate or fraudulent information, etc.). If the individual's juvenile probation and/or detention officer certification expires during the suspension time, the individual may apply for initial certification once the suspension period has expired. The individual shall meet all certification eligibility requirements under Sections 349.7(a), 349.7(b) and 349.7(c). If the individual was a certified juvenile probation officer who was covered under the education grandfather provision prior to suspension, the individual cannot be certified as a juvenile probation officer until all basic eligibility requirements, including the requirement of a bachelor's degree, have been met.

Suspension For Failure to Pay Child Support

The Texas Family Code Sections 232.008 and 232.009 require mandatory suspension of certification for failure to pay court ordered child support. If an order of suspension is issued in accordance with Section 349.31, the certification shall be suspended until the Commission receives an order vacating or staying the suspension order issued under Texas Family Code Section 232.013. If the certification expires during the period of suspension, the individual may apply for initial certification once the suspension has been lifted. The officer shall meet the certification eligibility requirements under Sections 349.7(a), 349.7(b) and 349.7(c). If the individual was a certified juvenile probation officer who was covered under the education grandfather provision prior to suspension, the individual cannot be certified as a juvenile probation officer until all basic eligibility requirements, including the requirement of a bachelor's degree, have been met.

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY

Compliance Methodology:

N/A

Monitoring Methodology: N/A

Sample: N/A

Point Value: 0

Total Points Possible: 0

Scoring Methodology: N/A

Level: Level 0 - Not Monitorable

REFERENCE MATERIAL

Recommended Best Practices:

N/A

Sample Form(s):

N/A

Citation(s):

Title 37 Texas Administrative Code Part II
Texas Juvenile Probation Commission
Chapter 349 General Administrative
Standards Rule §349.12

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action

Cross Reference(s):

37 TAC Section 349.7 - Certification
Eligibility

37 TAC Section 349.27(d)(2) - Disciplinary
Hearing

37 TAC Section 349.31 - Mandatory
Suspension For Failure to Pay Child
Support

Texas Family Code Section 232.008 -
Order Suspending License for Failure to
Pay Child Support

Texas Family Code Section 232.009 -
Default Order

Texas Family Code Section 232.013 -
Vacating or Staying Order Suspending
License

Board Opinion:

RFI Opinion:

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003

CRM Last Modified On: 9/1/2003

TEXT OF STANDARD

Subchapter: C - Certification and Recertification

§349.13 Transfer of Certification.

(a) Notification Upon Resignation or Termination. The facility administrator, chief administrative officer, the juvenile board or either's designee shall notify the Commission within 7 working days after a certified officer, including the chief administrative officer or facility administrator, resigns or is terminated from employment.

(b) Inactive Certifications.

(1) Upon receipt of notice under subsection (a) of this section, the Commission shall place the certified officer's certification on inactive status.

(2) A person may not perform the duties of a certified officer while on inactive status.

(c) Transfer of Certification.

(1) When a person with an inactive certification obtains employment in a position for which certification is required, the juvenile board, the chief administrative officer, facility administrator or either's designee in the hiring county may request a transfer of certification to active status.

(2) The request for certification transfer shall include verification that all criminal history checks were conducted in accordance with 349.8(a) of this chapter and returned within the 90 calendar days prior to submission of the transfer request.

(d) Expiration of Certification While On Inactive Status.

(1) If an officer's certification expires while on inactive status, the officer will not be eligible for transfer of certification.

(2) The officer whose certification expires while on inactive status may apply for certification after obtaining employment and meeting the eligibility requirements listed under 349.7(a) and 349.7(b) or 349.7(c) of this chapter.

(e) Transfer of Training Records. The chief administrative officer, facility administrator, juvenile board, or either's designee shall forward a certified officer's training records, upon a request from the chief administrative officer, facility administrator or juvenile board in the county where the officer's certification was transferred.

submitted to the Commission. If the form used to report terminations for non-certified individuals is completed for a certified officer, the officer's resignation was not accurately reported to the Commission and the officer will continue to appear on the list of certified officers.

A certified officer who goes on active military duty is not considered to be terminated from employment. Written notification to the Commission of military duty is required. The military policy can be found in the Certification Guidelines Manual (CGM) at www.tjpc.state.tx.us.

Inactive Certifications

The Commission places the certification of a juvenile probation officer and/or a juvenile detention officer on inactive status when a certified officer terminates his or her employment with a juvenile probation department or facility. If the individual becomes employed by another juvenile probation department or facility, the certification of that officer remains inactive until such time as all required criminal background checks have been completed and a transfer request for certification is submitted to the Commission and the request is approved by the Commission.

An individual shall not perform the duties of a certified juvenile probation or juvenile detention officer prior to the activation of their certification unless a waiver is requested and approved by the Commission. A waiver shall be approved if:

1. The department or facility provides evidence to the Commission that a local sex offender registration records check and the TCIC criminal history records check evidencing no disqualifying criminal history has been returned to the juvenile probation department;

2. Provides evidence to the Commission that the NCIC fingerprint-based criminal history records check and any required out-of-state criminal history and sex offender registration checks have been initiated prior to the submission of the waiver request; and

3. Provides a statement to the Commission that the department has reason to believe that a return of the NCIC fingerprint check will take a significant length of time (e.g., three weeks or more) and provides the basis for that belief. The juvenile probation department shall provide evidence that such a delay poses an undue hardship to the department or facility.

COMMENTARY

Discussion and Interpretation:

This standard details the required procedures that shall be followed when a certified officer (i.e., juvenile probation officer and/or juvenile detention officer) resigns or is terminated from their employment with a juvenile probation department or facility operated by or under the authority of a juvenile board.

Notice Upon Resignation or Termination

The chief administrative officer, the juvenile board or either's designee, or the facility administrator of a private facility shall, within seven (7) working days of a certified officer's resignation or termination, submit a notice of resignation or termination to the Commission via the Internet-based Automated Certification Information System (ACIS).

ACIS contains a form that is used to report the termination and/or resignation of those individuals who terminate employment prior to certification as well as a separate form used to report terminations and/or resignations of certified officers. When submitting a termination or resignation notice for a certified officer, extra care should be taken to ensure that the certified officer's record is accessed and a termination and/or resignation form is completed for that officer. If the correct termination or resignation form is submitted to the Commission, a certified officer who has left the department will not appear on the department's ACIS listing of certified officers once the form has been

In addition, if the request is for a waiver for a juvenile detention officer, the juvenile probation department or facility shall provide:

1. Written documentation reflecting that the individual has received training in those topics required under Sections 349.15 and 343.16 which are specific to the operation of the facility (e.g., facility's suicide plan, approved type of physical restraint used in the facility, etc.); and
2. Written documentation reflecting that a juvenile detention officer is currently certified in a physical restraint technique approved by the Commission and currently certified in CPR and first aid.

Transfer of Certification

The certification of an officer who is on inactive status may be transferred to active status when all required criminal background checks have been returned to the juvenile probation department or facility. Requests to activate the certification of an officer shall be submitted on-line through the Internet using the ACIS system by the chief administrative officer, the facility administrator or an authorized ACIS user.

When an officer transfers to a new department or facility, the new department shall perform the required criminal history records checks in accordance with Section 349.8. Criminal history records checks performed by another department or facility shall not be used by the employing department or facility. A transfer request shall include information verifying that the criminal history records checks were returned to the new department or facility within ninety (90) calendar days immediately preceding the submission of the transfer request.

Expiration of Certification While on Inactive Status

A certification that expires while an officer is on inactive status cannot be transferred. The individual shall apply for new certification and shall meet all basic eligibility requirements for employment and certification including training in the mandatory certification training topics.

Transfer of Training Records

A copy of a certified juvenile probation or juvenile detention officer's training records shall be transferred from the previous employer to the new employing juvenile probation department or facility upon receipt of a written request from the new employer. The assistance of the Commission may be requested in the event that a juvenile probation department or facility fails to release the requested records. A request for the Commission's assistance shall be in writing and accompanied by documentation of previous efforts to obtain the training records.

When a request for assistance has been received, the Commission shall notify the transferring county and request the release of a copy of the training records. Failure to release the requested records to the requesting county within ten (10) calendar days of a request by the Commission shall result in a non-compliance being issued to the department or facility who fails to release the training records.

Reviewer Guidelines:

To determine compliance with this standard, the reviewer will:

1. On the day of the monitoring visit, generate a listing of all certified juvenile probation and/or detention officers for the juvenile probation department and/or facility using the Commission's Automated Certification Information System (ACIS).
2. On the day of the monitoring visit, request the probation department and/or facility to provide a staff roster listing of all currently employed certified juvenile probation and detention officers.
3. Compare the ACIS listing of officers to the staff roster of certified officers prepared and provided by the juvenile probation department or facility. Note all officers who are listed by ACIS as being employed by the juvenile probation department or facility but who are not currently employed by the department or facility according to the staff roster furnished by the juvenile probation department or facility.
4. Interview the chief administrative officer or the facility administrator to determine if an officer whose name is on the ACIS listing but whose name is not listed on the staff roster is still employed by the juvenile probation department or facility.

5. If the officer has been terminated or resigned from the juvenile probation department or facility, determine by reviewing the personnel file of the officer in question if the termination occurred eight (8) days or more prior to the monitoring visit.

Verification Documents:

1. Staff roster
2. ACIS list of certified officers
3. Juvenile probation and/or detention officer personnel file:
 - a. Employment exit documentation

METHODOLOGY

Compliance Methodology:

This standard will be monitored using non-sampling techniques which may include the review and analysis of relevant written documentation, interviewing of selected personnel and personal visual observations of program operations made by the reviewer. A program will be in compliance with the standard if all required elements of the standard are met and are verifiable by the reviewer during the monitoring visit.

Monitoring Methodology: Yes/No

Sample: N/A

Point Value: 10

Total Points Possible: 10

Scoring Methodology: 0 or 10

Level: Level 1 - Administration

REFERENCE MATERIAL

Recommended Best Practices:

A termination or resignation notice should be completed and submitted on-line using ACIS during an employee's exit process. It is recommended that ACIS be reviewed weekly to ensure that all terminated individuals have been removed from the list of certified officers.

Sample Form(s):

N/A

Citation(s):

Title 37 Texas Administrative Code Part II
Texas Juvenile Probation Commission
Chapter 349 General Administrative
Standards Rule §349.13

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action

General Administrative Standards

349.13

Cross Reference(s):

37 TAC Section 341.29(b) - Duties of Certified Juvenile Probation Officers

37 TAC Section 343.16 - Persons Who Must Be Certified

37 TAC Section 349.7 - Certification Eligibility

37 TAC Section 349.8(a) - Certification Procedures

Certification Guidelines Manual (CGM) - www.tjpc.state.tx.us

Board Opinion:

RFI Opinion:

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003

CRM Last Modified On: 9/1/2003

PRE-MONITORING PREPARATION

Program Tour: False

Policy and Procedure: False

Pre-Monitoring Checklist: True

Pre-Monitoring Preparation Checklist:

N/A

Reviewer Preparation Checklist Required: False

Reviewer Preparation Checklist:

N/A

INTERVIEW QUESTIONS MAY BE ADMINISTERED TO THE FOLLOWING:

Chief Administrative Officer: False

Professional Staff: False

Program/Facility Administrator: False

Juvenile Board Chair: False

Ancillary Staff: False

Juvenile: False

FOR INTERNAL USE ONLY

FOR PROBATION DEPARTMENTAL USE ONLY
Compliance Assessment Checklist

List Supporting Documentation	Compliance Status
Primary Documentation:	<input type="checkbox"/> Compliance
_____	<input type="checkbox"/> Non-Compliance
_____	<input type="checkbox"/> Develop Program Improvement Plan
_____	<input type="checkbox"/> Request Waiver
_____	<input type="checkbox"/> Request Variance
Secondary Documentation:	<input type="checkbox"/> Need Policy and Procedure
_____	<input type="checkbox"/> Need Training
_____	<input type="checkbox"/> Standard Non-Applicable

Comments:	

Date Reviewed: _____	Department Reviewer Name: _____

General Administrative Standards

349.14

Effective date 9/1/2003

Latest Revision 9/1/2003, Title 37 Texas Administrative Code

TEXT OF STANDARD

Subchapter: C - Certification and Recertification

§349.14 Applicability.

Sections 349.7 through 349.13 of this chapter apply to all certification and recertifications received on or after the effective date of this subchapter. Any felony conviction, felony deferred prosecution, misdemeanor conviction, or misdemeanor deferred prosecution occurring before September 1, 2003 will not disqualify a certified officer who held an active certification on September 1, 2003 from receiving recertification under this subchapter.

COMMENTARY

Discussion and Interpretation:

This standard sets forth the applicability date of Sections 349.7 through 349.13 which relate to certification and recertification of juvenile probation and juvenile detention officers issued after September 1, 2003. This applicability clause shall be read in conjunction with all previous standards and the effective dates associated with prior criminal history standards promulgated by the Commission beginning in 1999. Subject to the eligibility requirements of the previous standards, this standard allows a certified officer who held an active certification on September 1, 2003 and who has disqualifying criminal history, including history of a misdemeanor conviction or misdemeanor deferred prosecution, to meet the eligibility requirements of the new standards. In other words, currently certified juvenile probation and/or juvenile detention officers on September 1, 2003 were provided the benefit of a grandfather clause as it relates to misdemeanor criminal history. Previous standards had provided various grandfather clauses beginning in 1999 through 2002 and it is essential to read all standards in light of the historical grandfather clauses that have come before.

Determining If a Disqualifying Criminal History Exists

The Commission's standards related to disqualifying criminal history events have been promulgated over several years and different standards have separate and distinct effective dates that must be considered when determining if a disqualifying criminal history event will prohibit an individual's employment, certification or recertification. Refer to the Commission's Disqualifying Criminal History Matrix which may be found on the Commission's website at www.tjpc.state.tx.us to determine if an individual has any disqualifying criminal history events which would prohibit employment, certification or recertification.

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY

Compliance Methodology:

N/A

Monitoring Methodology: N/A

Sample: N/A

Point Value: 0

Total Points Possible: 0

Scoring Methodology: N/A

Level: Level 0 - Not Monitorable

REFERENCE MATERIAL

Recommended Best Practices:

N/A

Sample Form(s):

Disqualifying Criminal History Matrix [TJPC-CER-11-04]

Citation(s):

Title 37 Texas Administrative Code Part II
Texas Juvenile Probation Commission
Chapter 349 General Administrative
Standards Rule §349.14

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action

Cross Reference(s):

N/A

Board Opinion:

RFI Opinion:

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003

CRM Last Modified On: 9/1/2003

TEXT OF STANDARD

Subchapter: C - Certification and Recertification

§349.15 Training Hours.

(a) Approval. The Commission reserves the right to refuse to grant approval for training hours that do not comply with the guidelines under this subchapter.

(b) Hour Limitations.

(1) Training Topic. No more than 40 training hours in one topic may count toward certification or recertification.

(2) Video Training.

(A) No more than 15 hours of video training may count toward certification requirements.

(B) No more than 30 hours of video training may count toward recertification requirements.

(3) Distance Learning.

(A) No more than 15 hours of distance training may count toward certification requirements.

(B) No more than 30 hours of distance training may count toward recertification requirements.

(4) Training Hours for Trainers. An individual who provides approved officer training under subsection (a) of this section may claim up to 20 hours per certification period for the development of course curriculum.

(5) College Courses. A three-hour course delivered by an accredited college or university may count as 40 hours of recertification training.

COMMENTARY

Discussion and Interpretation:

This standard addresses approval of training hours, limitations on training topics and limitations on the number of hours accepted for certification and recertification. Additionally, it discusses training hours for trainers and college courses. Training and certification records will be reviewed to ensure that training submitted for certification or recertification does not exceed the hour limitations.

Approval of Training

A course submitted for training credit shall be an organized, planned and evaluated activity designed to achieve specific learning objectives. Training shall be related to job responsibilities, the field of juvenile justice or fields of study approved by the Commission in order to be considered for approval. The Commission has the right to refuse to grant approval for training hours that do not comply with this section.

Training Topics

No more than forty (40) training hours in any one topic may be used for certification or recertification. For example, if an officer attends eighty (80) hours of training in physical restraint training, only forty (40) of the eighty (80) hours can be used for recertification.

Video Training

Video training is defined as pre-recorded non-interactive training materials or conferences. Video training does not include video teleconferences. No more than fifteen (15) hours of video training can be used for an initial certification and no more than thirty (30) hours of video training can be used for recertification.

Distance Learning

Distance learning takes place when a teacher and student(s) are separated by physical distance and technology is used to bridge the instructional gap (i.e., voice, interactive video, data and print). No more than fifteen (15) hours of distance learning can be used for an initial certification and no more than thirty (30) hours of distance learning can be used for recertification. A distance education college course taken through the use of technology (e.g., Internet based course, etc.) which is taken for college credit-hours is not subject to the limitations on distance learning.

Training Hours for Trainers

Recertification training credit for trainers is awarded for the development of course curriculum up to a maximum of twenty (20) hours of training credit in any recertification period regardless of the number of hours spent on curriculum development or the number of courses developed. The credit for course development is subject to the following guidelines:

a. Credit is not awarded for delivery of training, presentations, teaching of juvenile justice, probation, detention, management or other courses;

b. Documentation of course development is required. Documentation includes, but is not limited to, a written record of time spent on development, copies of curriculum developed, copies of lesson plans and training materials;

c. Individuals who are certified instructors of CPR and first aid who meet the criteria set forth by the certifying organization for the CPR and first aid training can count eight (8) hours of personal training credit for course delivery. The instructor shall provide training records to verify that the requested training is for actual delivery of the course rather than course development;

d. A course developed by an individual cannot be used for certification training hours for his or her own initial certification.

College Courses

A course taken for college credit which is received from an accredited college or university accredited by an accrediting organization recognized by the Texas Higher Education Coordinating Board (THECB) may be used for recertification training credit following these guidelines:

- a. A maximum of forty (40) hours credit for a three (3) hour college course may be used for recertification training;
- b. The course shall be in a field of study approved by the Commission. The Commission approves courses in criminology, corrections, counseling, law, social work, psychology, sociology, business, government, human resource management, education, medicine, political science and public administration. Courses in other fields of study are subject to the approval of the Commission.
- c. In order to be accepted by the Commission, the individual shall complete the course with a passing grade and shall receive credit from the college or university. Courses that are given a grade of "incomplete" shall not be submitted for certification credit.
- d. The credit awarded for a course shall be reflected on a certified copy of a college transcript.
- e. A college course taken for the purpose of qualifying for employment in a position requiring certification cannot be used for initial certification purposes. For example, if a juvenile detention officer completes a bachelor's degree and the department seeks to employ him or her as a juvenile probation officer, college courses that were completed as part of the bachelor's degree requirement cannot be used for initial certification.
- f. The number of hours eligible for recertification training credit for a college course taken for non-credit is limited to the number of Continuing Education Units (CEUs) awarded. If CEUs are not awarded, the number of actual classroom hours may be submitted subject to the forty (40) hour limitation.

Detailed information on training can be found in the Certification Guidelines Manual (CGM), which is located on the Commission's website at www.tjpc.state.tx.us.

Reviewer Guidelines:

To determine compliance with this standard, the reviewer will:

1. On the day of the monitoring visit, generate a listing of all currently employed juvenile probation and detention officers who were certified or recertified on or after 9/1/2003 or in the 12-month period immediately preceding the date of the monitoring visit, whichever time frame is shorter, using the Commission's Automated Certification Information System (ACIS).
2. Request and review a systematic sample of juvenile probation and detention officer personnel files to verify that the required training was received in accordance with the requirements and limitations of this standard prior to submission of the certification or recertification application.

Verification Documents:

1. ACIS listing of certified officers
2. Juvenile probation officer and/or detention officer personnel/training file:
 - a. Training documentation

METHODOLOGY**Compliance Methodology:**

This standard will be monitored using a combination of sampling and non-sampling techniques. The non-sampling techniques may include the review and analysis of relevant written documentation, interviewing of selected personnel and personal visual observations of program operations made by the reviewer. Sampling techniques may include the use of block samples, systematic samples and/or random samples of pertinent files, records, documents or interviews. A program will be in compliance with

the standard if all required elements of the standard are met and are verifiable by the reviewer during the monitoring visit using the results of both the sampling and non-sampling methods.

Systematic Sample. Prior to the monitoring visit, the reviewer will generate a listing of all currently employed juvenile probation and detention officers who were certified or recertified on or after 9/1/2003 or in the 12-month period immediately preceding the date of the monitoring visit, whichever time frame is shorter, using the Commission's Automated Certification Information System (ACIS). The reviewer will pull a computer-generated, non-sequential number (i.e., nth) of officer personnel files from the listing to arrive at the required sample size which will be determined by applying the approved Commission's sampling methodology. Each file in the sample will be reviewed for compliance with the required elements of the standard. If all files in the sample are in compliance with the requirements of the standard, the standard will be in compliance overall.

Monitoring Methodology: Sample %
Sample: 11/12A/12B Personnel Files
Point Value: 10
Total Points Possible: 10
Scoring Methodology: 0 - 10
Level: Level 1 - Administration

REFERENCE MATERIAL**Recommended Best Practices:**

Individuals should receive training in a broad range of topics.

A department or facility should ensure that no more than a combined total of fifteen (15) hours of video and distance learning be used for initial certification and no more than a combined total of thirty (30) hours of video and distance learning be used for recertification training.

It is recommended that any mandatory training topic provided via video or distance learning methods be supplemented with face-to-face instruction to ensure that the training provided is specific to Texas and Texas law.

The Commission recommends that only one (1) college course be used for recertification training in any recertification period.

Training Documentation

Training documentation should verify that the training event includes the following components:

General Administrative Standards**349.15(a)-(b)**

1. Organized – Training is based on a written curriculum which includes specified learning objectives, training methods and evaluation techniques;
2. Planned – Training is scheduled and conducted in a predetermined location;
3. Evaluated – Training is evaluated to measure achievement of goals and objectives and the transfer of knowledge during training.

Examples of documentation include: training curricula, agendas, certificates of completion, registration receipts, evaluations, sign-in sheets or rosters.

Legal Liabilities

Departments should ensure that training is provided by qualified instructors. Copies of vitae, resumes, certifications, and other documentation of credentials should be maintained in the department's files.

Training Evaluation

Departments should ensure that all training is evaluated. According to training expert Donald Kirkpatrick, the purpose of a training evaluation is to examine the value or worth of the actual training program to see if the performance objectives have been met and to determine if the overall goal has been reached. Training evaluation should occur at four levels:

1. Reaction – asking participants at various points what they thought;
2. Knowledge – testing (cognitive and psychomotor) to see if participants “got it” before they leave the training;
3. Behavior – testing, observing, interviewing to see if participants are actually using what they learned back on the job;
4. Results – determining whether problems identified during the needs assessment were affected by the training.

Training for Trainers

Departments should ensure that staff who are providing training within the department are trained in effective delivery techniques. The Commission provides training designed to to develop qualified trainers or instructors. This training is made available to juvenile probation departments and/or facilities upon request.

Sample Form(s):

N/A

Citation(s):

Title 37 Texas Administrative Code Part II Texas Juvenile Probation Commission Chapter 349 General Administrative Standards Rule §349.15(a) - (b)

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action

Cross Reference(s):

Certification Guidelines Manual - www.tjpc.state.tx.us

References:

Kirkpatrick, Donald L. Evaluating Training Programs: The Four Levels. San Francisco: Berrett-Koehler, 1994

National Institute of Corrections, Trainer Foundation Skills: The Design of Training, 2003 - www.nicic.org

Board Opinion:**RFI Opinion:****EFFECTIVE DATES**

Standard's Effective Date: 9/1/2003
CRM Last Modified On: 9/1/2003

TEXT OF STANDARD**Subchapter:** C - Certification and Recertification

§349.15 Training Hours.

(c) Certification Training.

(1) Probation Officers. Certification training for probation officers shall include but not be limited to the following subjects:

- (A) role of the probation officer;
- (B) case planning and management;
- (C) officer safety;
- (D) transportation;
- (E) juvenile law;
- (F) courtroom proceedings and presentation;
- (G) law enforcement processing;
- (H) local programs and services including access procedures;
- (I) interagency collaborations and memoranda of understanding;
- (J) code of ethics, disciplinary and revocation hearing procedures; and
- (K) abuse, exploitation and neglect.

COMMENTARY**Discussion and Interpretation:**

This standard establishes the mandatory certification training topics required to be received by juvenile probation officers prior to initial certification. Training in case planning and management, juvenile law, law enforcement processing, code of ethics, disciplinary and revocation hearing procedures and abuse, exploitation and neglect shall include their applicability to Texas.

Training Submitted for Certification Credit

The mandatory topics are comprehensive in nature and some contain multiple components. Certification applications submitted to the Commission shall verify that training was provided in all the required components of the mandatory certification training. For example, training for probation officers under Section 349.15(c)(1)(j) requires training in the code of ethics AND disciplinary AND revocation procedures.

Failure to Provide Required Certification Training

If a juvenile probation officer certification was issued to an individual based on a certification application that reflected the required training had been provided to the individual and it is subsequently determined that the training was not provided as required, the officer may be subject to a disciplinary hearing which may include suspension or revocation of certification and the department may be cited for a non-compliance.

Detailed information on training requirements can be found in the Certification Guidelines Manual (CGM), which is located on the Commission's website at www.tjpc.state.tx.us.

Reviewer Guidelines:

To determine compliance with this standard, the reviewer will:

1. On the day of the monitoring visit, generate a listing of all currently employed juvenile probation officers who were certified on or after 9/1/2003 or in the 12-month period immediately preceding the date of the monitoring visit, whichever time frame is shorter, using the Commission's Automated Certification Information System (ACIS).
2. Request and review a systematic sample of juvenile probation officer personnel/training files to determine if the initial certification training requirements of this standard have been met. The reviewer will:
 - a. Review the training records and ensure that training was received in the mandatory certification training topics.

Verification Documents:

1. ACIS listing of certified officers
2. Juvenile probation officer personnel/training file:
 - a. Training documentation (e.g., agendas, certificates of completion, rosters, etc.)

METHODOLOGY**Compliance Methodology:**

This standard will be monitored using a combination of sampling and non-sampling techniques. The non-sampling techniques may include the review and analysis of relevant written documentation, interviewing of selected personnel and personal visual observations of program operations made by the reviewer. Sampling techniques may include the use of block samples, systematic samples and/or random samples of pertinent files, records, documents or interviews. A program will be in compliance with the standard if all required elements of the standard are met and are verifiable by the reviewer during the monitoring visit using the results of both the sampling and non-sampling methods.

Systematic Sample. On the date of the monitoring visit, the reviewer will generate a listing of all currently employed juvenile probation officers who were certified on or after 9/1/2003 or in the 12-month period immediately preceding the date of the monitoring visit, whichever time frame is shorter, using the Commission's

General Administrative Standards**349.15(c)(1)**

Automated Certification Information System (ACIS). The reviewer will pull a computer-generated, non-sequential number (i.e., nth) of officer personnel files from the listing to arrive at the required sample size which will be determined by applying the approved Commission's sampling methodology. Each file in the sample will be reviewed for compliance with the required elements of the standard. Each file in the sample will be reviewed for compliance with the required elements of the standard. Each file will either pass or fail the particular standard. The compliance grade for the standard will be a percentage of the total possible points based upon the number of files that are in compliance with the standard. For example, if the reviewer pulls 30 cases and 24 of the cases comply with the standard, the compliance grade will be 80 percent of the total points available for the particular standard. Example: For a Level 1 standard, 80 percent would equate to 8 of the possible 10 points; for a Level 2 standard, this would be 16 of the possible 20 points; and for a Level 3 standard, this would be 24 of the possible 30 points.

Monitoring Methodology: Sample %

Sample: 11 Personnel Files

Point Value: 10

Total Points Possible: 30

Scoring Methodology: 0 - 10

Level: Level 3 - Health & Safety

REFERENCE MATERIAL**Recommended Best Practices:**

The Commission has developed training/performance objectives related to the mandatory topics pursuant to Sections 349.15(c)(1) and 349.15(c)(2). The use of these training/performance objectives is recommended as a guide for developing courses and preparing curriculum in the mandatory topics. The Commission and Sam Houston State University, through the use of Resource Training Officers, have established minimum time allotments for all mandatory topics. It is recommended these time allotments be taken into consideration when curriculum is being developed at the local level to ensure the quality of the training is not compromised.

Sample Form(s):

N/A

Citation(s):

Title 37 Texas Administrative Code Part II Texas Juvenile Probation Commission Chapter 349 General Administrative Standards Rule §349.15(c)(1)

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action

28(14) TexReg 2951 Adopted Action

Cross Reference(s):

37 TAC Section 341.30 - Code of Ethics

37 TAC Section 349.21 et. seq. - Disciplinary Hearings

Certification Guidelines Manual (CGM) - www.tjpc.state.tx.us

Sam Houston State University - www.shsu.edu

Board Opinion:**RFI Opinion:****EFFECTIVE DATES**

Standard's Effective Date: 9/1/2003

CRM Last Modified On: 9/1/2003

TEXT OF STANDARD

Subchapter: C - Certification and Recertification

§349.15 Training Hours.

(c) Certification Training.

(2) Detention Officers. Certification training for detention officers shall include but not be limited to the following subjects:

- (A) an introduction to juvenile detention;
- (B) juvenile rights;
- (C) abuse, exploitation and neglect;
- (D) behavior observation and recording;
- (E) suicide prevention and identification, including training on the facility's suicide prevention plan;
- (F) legal liabilities;
- (G) dynamics of youth with mental illness in detention centers;
- (H) behavior management;
- (I) risk management, safety, and security;
- (J) HIV/AIDS and communicable diseases;
- (K) medical and health services; and
- (L) Code of Ethics, disciplinary and revocation procedures.

COMMENTARY

Discussion and Interpretation:

This standard establishes the mandatory certification training topics required to be received by juvenile detention officers prior to initial certification. Training in an introduction to juvenile detention, juvenile rights, abuse, exploitation and neglect, behavior observation and recording, legal liabilities, risk management, safety, and security and code of ethics, disciplinary and revocation procedures shall include their applicability to Texas.

Training Submitted for Certification Credit

The mandatory topics are comprehensive in nature and some contain multiple components. Certification applications submitted to the Commission shall verify that training was provided in all the required components of the mandatory certification training. For example, training for probation officers under Section 349.15(c)(2)(L) requires training in the code of ethics AND disciplinary AND revocation procedures.

Failure to Provide Required Certification Training

If a detention officer certification was issued to an individual based on a certification application that reflected the required training had been provided to the individual and it is subsequently discovered that the training was not provided as required, the officer may be subject to a disciplinary hearing which may include suspension or revocation of certification and the department may be cited for a non-compliance.

Detailed information on training requirements can be found in the Certification Guidelines Manual (CGM), which is located on the Commission's website at www.tjpc.state.tx.us.

Reviewer Guidelines:

To determine compliance with this standard, the reviewer will:

1. On the day of the monitoring visit, generate a listing of all currently employed juvenile detention officers who were certified on or after 9/1/2003 or in the 12-month period immediately preceding the date of the monitoring visit, whichever time frame is shorter, using the Commission's Automated Certification Information System (ACIS).
2. Request and review a systematic sample of juvenile detention officer personnel/training files to determine if the initial certification training requirements of this standard have been met. The reviewer will:
 - a. Review the training records and ensure that training was received in the mandatory certification training topics.

Verification Documents:

1. ACIS listing of certified officers
2. Juvenile detention officer personnel/training file:
 - a. Training documentation (e.g., agendas, certificates of completion, rosters, etc.)

METHODOLOGY

Compliance Methodology:

This standard will be monitored using a combination of sampling and non-sampling techniques. The non-sampling techniques may include the review and analysis of relevant written documentation, interviewing of selected personnel and personal visual observations of program operations made by the reviewer. Sampling techniques may include the use of block samples, systematic samples and/or random samples of pertinent files, records, documents or interviews. A program will be in compliance with the standard if all required elements of the standard are met and are verifiable by the reviewer during the monitoring visit using the results of both the sampling and non-sampling methods.

Systematic Sample. On the date of the monitoring visit, the reviewer will generate a listing of all currently employed juvenile detention officers who were certified on or after 9/1/2003 or in the 12-month period immediately preceding the date of the monitoring visit, whichever time frame is shorter, using the Commission's

General Administrative Standards**349.15(c)(2)**

Automated Certification Information System (ACIS). The reviewer will pull a computer-generated, non-sequential number (i.e., nth) of officer personnel files from the listing to arrive at the required sample size which will be determined by applying the approved Commission's sampling methodology. Each file in the sample will be reviewed for compliance with the required elements of the standard. Each file in the sample will be reviewed for compliance with the required elements of the standard. Each file will either pass or fail the particular standard. The compliance grade for the standard will be a percentage of the total possible points based upon the number of files that are in compliance with the standard. For example, if the reviewer pulls 30 cases and 24 of the cases comply with the standard, the compliance grade will be 80 percent of the total points available for the particular standard. Example: For a Level 1 standard, 80 percent would equate to 8 of the possible 10 points; for a Level 2 standard, this would be 16 of the possible 20 points; and for a Level 3 standard, this would be 24 of the possible 30 points.

Monitoring Methodology: Sample %
Sample: 12A/12B Personnel Files
Point Value: 10
Total Points Possible: 30
Scoring Methodology: 0 - 10
Level: Level 3 - Health & Safety

REFERENCE MATERIAL**Recommended Best Practices:**

The Commission has developed training/performance objectives related to the mandatory topics pursuant to Sections 349.15(c)(1) and 349.15(c)(2). The use of these training/performance objectives is recommended as a guide for developing courses and preparing curriculum in the mandatory topics. The Commission and Sam Houston State University, through the use of Resource Training Officers, have established minimum time allotments for all mandatory topics. It is recommended these time allotments be taken into consideration when curriculum is being developed at the local level to ensure the quality of the training is not compromised.

Sample Form(s):
N/A

Citation(s):
Title 37 Texas Administrative Code Part II Texas Juvenile Probation Commission Chapter 349 General Administrative Standards Rule §349.15(c)(2)

Texas Register Publication Citation:
28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action

Cross Reference(s):
37 TAC Section 343.32(c)(3) - Supervision

37 TAC Section 343.17 - Code of Ethics

37 TAC Sections 349.21 through 349.30 - Disciplinary Hearings

Certification Guidelines Manual - www.tjpc.state.tx.us

Sam Houston State University - www.shsu.edu

Board Opinion:
RFI Opinion:

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003
CRM Last Modified On: 9/1/2003

General Administrative Standards

349.15(d)-(e)

Effective date 9/1/2003

Latest Revision 9/1/2003, Title 37 Texas Administrative Code

TEXT OF STANDARD

Subchapter: C - Certification and Recertification

§349.15 Training Hours.

(d) Recertification Training. Recertification training shall be related to job responsibilities, the field of juvenile justice, or fields of study approved by the Commission.

(e) Applicability. This standard applies to all training hours accrued on or after the effective date of this subchapter.

COMMENTARY

Discussion and Interpretation:

This standard establishes the criteria for acceptance of training hours for recertification of juvenile probation and juvenile detention officers.

Recertification Training

Training accepted for recertification shall be related to the officer's job responsibilities, the field of juvenile justice or fields of study approved by the Commission. A course submitted for recertification training credit is subject to the review and approval of the Commission. The Commission approves courses of study in the following areas: criminology, corrections, counseling, law, social work, psychology, sociology, business, government, human resource management, education, medicine, political science and public administration. Courses in other fields of study are subject to the approval of the Commission. Courses that relate to the employment of the individual (e.g., training in the retirement plan, employee benefits, payroll, etc.) cannot be used for recertification training credit unless the individual is a supervisor of juvenile probation and/or detention officers and that training relates to their supervisory duties.

Reviewer Guidelines:

To determine compliance with this standard, the reviewer will:

1. On the day of the monitoring visit, generate a listing of all currently employed juvenile probation and detention officers who were recertified on or after 9/1/2003 or in the 12-month period immediately preceding the date of the monitoring visit, whichever time frame is shorter, using the Commission's Automated Certification Information System (ACIS).
2. Request and review a systematic sample of juvenile probation and detention officer personnel files to verify that the required training was received in accordance with the requirements and limitations of this standard prior to submission of the recertification application.

Verification Documents:

1. ACIS listing of certified officers
2. Juvenile probation and/or detention officer personnel/training file:
 - a. Training documentation (e.g., agendas, certificates of completion, transcripts, etc.)

METHODOLOGY

Compliance Methodology:

This standard will be monitored using a combination of sampling and non-sampling techniques. The non-sampling techniques may include the review and analysis of relevant written documentation, interviewing of selected personnel and personal visual observations of program operations made by the reviewer. Sampling techniques may include the use of block samples, systematic samples and/or random samples of

pertinent files, records, documents or interviews. A program will be in compliance with the standard if all required elements of the standard are met and are verifiable by the reviewer during the monitoring visit using the results of both the sampling and non-sampling methods.

Systematic Sample. On the date of the monitoring visit, the reviewer will generate a listing of all currently employed juvenile probation and detention officers who were recertified on or after 9/1/2003 or in the 12-month period immediately preceding the date of the monitoring visit, whichever time frame is shorter, using the Commission's Automated Certification Information System (ACIS). The reviewer will pull a computer-generated, non-sequential number (i.e., nth) of officer personnel files from the listing to arrive at the required sample size which will be determined by applying the approved Commission's sampling methodology. Each file in the sample will be reviewed for compliance with the required elements of the standard. Each file in the sample will be reviewed for compliance with the required elements of the standard. Each file will either pass or fail the particular standard. The compliance grade for the standard will be a percentage of the total possible points based upon the number of files that are in compliance with the standard. For example, if the reviewer pulls 30 cases and 24 of the cases comply with the standard, the compliance grade will be 80 percent of the total points available for the particular standard. Example: For a Level 1 standard, 80 percent would equate to 8 of the possible 10 points; for a Level 2 standard, this would be 16 of the possible 20 points; and for a Level 3 standard, this would be 24 of the possible 30 points.

Monitoring Methodology: Sample %
Sample: 11/12A/12B Personnel Files
Point Value: 10
Total Points Possible: 30
Scoring Methodology: 0 - 10
Level: Level 3 - Health & Safety

REFERENCE MATERIAL

Recommended Best Practices:

Pre-approval of a topic may be requested if there is doubt that the training will be acceptable for certification or recertification credit.

Sample Form(s):
 N/A

General Administrative Standards

349.15(d)-(e)

Citation(s):

Title 37 Texas Administrative Code Part II Texas Juvenile Probation Commission
Chapter 349 General Administrative Standards Rule §349.15(d)-(e)

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action

Cross Reference(s):

N/A

Board Opinion:

RFI Opinion:

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003

CRM Last Modified On: 9/1/2003

TEXT OF STANDARD

Subchapter: D - Disciplinary Hearings

§349.21 Requests for Disciplinary Hearing.

(a) Department, Facility or Juvenile Board Requests.

(1) Code of Ethics Violations. The chief administrative officer, facility administrator or juvenile board shall forward a copy of an internal investigation based on a code of ethics violation to the Commission. The internal investigation shall serve as a request for a disciplinary hearing. If the chief administrative officer or facility administrator makes the request for a disciplinary hearing, the chief administrative officer or facility administrator shall notify in writing the juvenile board of the request simultaneous with the request's submission to the Commission.

(2) Criminal Conduct.

(A) The chief administrative officer, facility administrator or the juvenile board shall in writing request a certification revocation from the Commission within 10 working days after obtaining notice that a certified officer has been convicted or given deferred adjudication for any offense listed under §349.7(a)(1)(B) of this chapter.

(B) A request for waiver under §349.2 of this chapter may not be requested for this section unless the certified officer, chief administrative officer or facility administrator received a pardon based upon proof of innocence or the guilty verdict was overturned by a trial or appellate court.

(b) Public Requests.

(1) Code of Ethics Violations. In the event the Commission receives notice from a member of the public that a certified officer has violated the code of ethics, the Commission shall notify in writing the chief administrative officer or the facility administrator and the local juvenile board. Upon receipt of notification from the Commission, the chief administrative officer, facility administrator or the juvenile board may conduct an internal investigation.

(2) Criminal Conduct. In the event the Commission receives notice from a member of the public that a certified officer has been convicted or given deferred adjudication for any offense listed under §349.7(a)(1)(B) of this chapter, the Commission shall in writing notify the facility administrator, chief administrative officer or the juvenile board. Upon receiving notice from the Commission, the facility administrator, chief administrative officer, or juvenile board shall investigate and if disqualifying criminal history exists request certification revocation in accordance with subsection (a)(2) of this section.

the chief administrative officer, facility administrator or the juvenile board of the alleged violation. The chief administrative officer, facility administrator or juvenile board will decide whether or not to conduct an investigation into the allegation. If the chief administrative officer, facility administrator or juvenile board decide to conduct an investigation into the alleged code of ethics violation and the investigation reveals that the certified officer did violate the code of ethics, a copy of the investigation must be forwarded to the Commission. An investigation is a probe into facts that determines whether an allegation is true or not. The forwarding of a copy of the investigation serves as a juvenile probation department's, juvenile detention facility's or juvenile board's request that the Commission initiate disciplinary action against the certified officer for the alleged code of ethics violation. A copy of the investigation proving a code of ethics violation is forwarded to the Commission by either certified mail with return receipt requested, hand delivered, faxed or emailed to:

Texas Juvenile Probation Commission
Attention: Certification Officer
4900 N. Lamar, 5th floor
Austin, Texas 78711

Facsimile: (512) 424-6717

Email Address:
CertificationOfficer@tjpc.state.tx.us

An investigation that is forwarded to the Commission shall contain sufficient information that clearly shows that the allegation of the code of ethics occurred. The investigation does not have to be in any specific form and may include information such as documents, certified documents, photographs, tangible objects and sworn witness statements. Commission staff that will present the investigation at the disciplinary hearing may assist the juvenile probation department, juvenile facility or juvenile board in the gathering of information for the investigation.

Disqualifying Criminal Conduct

A disciplinary hearing shall be requested when the chief administrative officer, facility administrator or juvenile board receives knowledge that a certified officer has engaged in disqualifying criminal conduct. A request for disciplinary action must be requested within 10 days of verifying that the certified officer has engaged in disqualifying criminal conduct. Generally, disqualifying criminal conduct is

COMMENTARY

Discussion and Interpretation:

This standard provides a juvenile probation department, juvenile detention facility or juvenile board with a process for initiating disciplinary action against a certified officer who is alleged to have violated the code of ethics or engaged in prohibited criminal conduct. This standard will not be monitored during the course of a regularly scheduled monitoring visit.

Code of Ethics Violations

The code of ethics is found in Commission standards Section 341.30 and Section 343.17. The Commission requires that all certified officers follow the code of ethics. When the chief administrative officer, facility administrator or juvenile board receives information that a certified officer may have violated the code of ethics, they decide whether or not to conduct an investigation to determine whether the officer violated the code of ethics. If the Commission receives information from the public that a specific officer violated the code of ethics, the Commission will notify

a felony conviction, felony deferred adjudication probation, regular felony probation or parole within the past 10 years, current felony probation or parole, a jailable misdemeanor conviction within the past 5 years, current jailable misdemeanor deferred adjudication probation, regular probation or parole or a conviction that requires registration as a sex offender under Article 62 of the Texas Code of Criminal Procedure. Please refer to the Commission's Disqualifying Criminal History Matrix which may be found on the Commission's website at www.tjpc.state.tx.us to determine if an individual has any disqualifying criminal history events.

If the Commission receives notice, by any means, of disqualifying criminal conduct by a certified officer, the Commission shall notify the chief administrative officer, facility administrator or juvenile board of the certified officer's alleged conduct. After notice by the Commission, the chief administrative officer, facility administrator or juvenile board shall investigate the allegation and determine the veracity of the information and notify the Commission of the investigation results. If the allegation is verified, the chief administrative officer, facility administrator or juvenile board must send a copy of the investigation verifying the allegation that the certified officer engaged in prohibited criminal conduct. Notices of the disqualifying criminal conduct must be addressed to the Commission's certification officer and sent to the above address. The information sent to the Commission shall include certified court documents proving the disqualifying criminal conduct. After receiving the information, if the allegation that the certified officer engaged in prohibited criminal conduct is verified by the Commission, the Commission will initiate a disciplinary hearing.

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY**Compliance Methodology:**

N/A

Monitoring Methodology: N/A**Sample:** N/A**Point Value:** 0**Total Points Possible:** 0**Scoring Methodology:** N/A**Level:** Level 0 - Not Monitorable**REFERENCE MATERIAL****Recommended Best Practices:**

N/A

Sample Form(s):

N/A

Citation(s):

Title 37 Texas Administrative Code Part II Texas Juvenile Probation Commission Chapter 349 General Administrative Standards Rule §349.21

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action

28(14) TexReg 2951 Adopted Action

Cross Reference(s):

N/A

Board Opinion:**RFI Opinion:****EFFECTIVE DATES****Standard's Effective Date:** 9/1/2003**CRM Last Modified On:** 9/1/2003

General Administrative Standards

349.22

Effective date 9/1/2003

Latest Revision 9/1/2003, Title 37 Texas Administrative Code

TEXT OF STANDARD

Subchapter: D - Disciplinary Hearings

§349.22 Commission Initiated Hearings.

The Commission may initiate a disciplinary hearing when:

(1) the Commission discovers through a monitoring visit, compliance audit or as a result of receiving notice in any other manner that an individual currently certified by the Commission does not meet the requirements under §349.7(a) and §349.7(b) or §349.7(c) of this chapter; or

(2) the Commission designates a certified officer as a perpetrator in an investigation of abuse, exploitation or neglect investigation conducted under subchapter F of this chapter.

COMMENTARY

Discussion and Interpretation:

This standard provides a process for the Commission to initiate disciplinary action against a certified officer in two situations. This standard will not be monitored during the course of a regularly scheduled monitoring visit but Commission staff will adhere to these requirements.

First, the Commission may initiate disciplinary action against a certified officer when the Commission receives information that a certified officer does not meet the qualifications for certification under Subchapter C of this chapter. The Commission may receive information by any means alleging that the certified officer does not qualify for certification under Section 349.7(a) and Section 349.7 (b) or Section 349.7(c). "Any means" include but are not limited to phone calls made to the Commission by any person, knowledge received by a Commission employee during a monitoring visit, compliance audit review or any contact with the field.

Second, the Commission may initiate disciplinary action against a certified officer when the Commission's abuse, neglect or exploitation investigation under Subchapter F of this chapter results in a Reason-to-Believe disposition and the certified officer has been designated as a perpetrator.

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY

Compliance Methodology:

N/A

Monitoring Methodology: N/A

Sample: N/A

Point Value: 0

Total Points Possible: 0

Scoring Methodology: N/A

Level: Level 0 - Not Monitorable

REFERENCE MATERIAL

Recommended Best Practices:

N/A

Sample Form(s):

N/A

Citation(s):

Title 37 Texas Administrative Code Part II
Texas Juvenile Probation Commission
Chapter 349 General Administrative
Standards Rule §349.22

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action

Cross Reference(s):

N/A

Board Opinion:

RFI Opinion:

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003

CRM Last Modified On: 9/1/2003

General Administrative Standards

349.23

Effective date 9/1/2003

Latest Revision 9/1/2003, Title 37 Texas Administrative Code

TEXT OF STANDARD

Subchapter: D - Disciplinary Hearings

§349.23 Effect of Request for Disciplinary Hearing.

When the Commission receives a request for disciplinary hearing under §349.21 of this chapter, or when the Commission initiates a disciplinary hearing under §349.22 of this chapter, the Commission shall give the officer subject to the disciplinary hearing written notice of a hearing conducted by a hearings examiner in accordance with §349.25 of this chapter.

Citation(s):

Title 37 Texas Administrative Code Part II
Texas Juvenile Probation Commission
Chapter 349 General Administrative
Standards Rule §349.23

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action

Cross Reference(s):

N/A

Board Opinion:

RFI Opinion:

COMMENTARY

Discussion and Interpretation:

When the Commission receives a copy of an investigation into the allegation of a certified officer's code of ethics violation or a certified officer's involvement in prohibited criminal conduct, the receipt of the complete copy of the investigation will serve as a request for the Commission to take disciplinary action against the certified officer. This standard will not be monitored during the course of a regularly scheduled monitoring visit but Commission staff will adhere to these requirements. Commission staff will review the investigation and may initiate disciplinary action against the certified officer.

When a disciplinary hearing is conducted, this standard requires the Commission to provide the certified officer notice of the disciplinary hearing. When the chief administrative officer, an administrative officer or a juvenile board forwards a copy of the investigation to the Commission, it must also include the certified officer's last known official address. Notice will be sent to the certified officer at the address provided to the Commission. The Commission is required to give the certified officer written notice of the date, time, location the matter will be heard and the name of the hearings examiner that will conduct the disciplinary hearing.

Reviewer Guidelines:

N/A

Verification Documents:

N/A

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003
CRM Last Modified On: 9/1/2003

METHODOLOGY

Compliance Methodology:

N/A

Monitoring Methodology: N/A

Sample: N/A

Point Value: 0

Total Points Possible: 0

Scoring Methodology: N/A

Level: Level 0 - Not Monitorable

REFERENCE MATERIAL

Recommended Best Practices:

N/A

Sample Form(s):

N/A

General Administrative Standards

349.24

Effective date 9/1/2003

Latest Revision 9/1/2003, Title 37 Texas Administrative Code

TEXT OF STANDARD

Subchapter: D - Disciplinary Hearings

§349.24 Procedure for Disciplinary Hearing.

(a) Hearings under this Section shall be conducted pursuant to the Administrative Procedure Act, Texas Government Code Annotated, Chapter 2001.

(b) The Commission shall have the power to take depositions, administer oaths or affirmations, examine witnesses, receive evidence, conduct hearings and issue subpoenas or summons.

(c) Nothing in this subchapter precludes the Commission from making an informal disposition, including entering into an agreed order, as provided by the Administrative Procedure Act, Texas Government Code Annotated, Chapter 2001.

COMMENTARY

Discussion and Interpretation:

This standard establishes that the procedures for certified officer disciplinary hearings are subject to applicable requirements imposed on state agencies by Chapter 2001 of the Texas Government Code referred to as the Texas Administrative Procedure Act (TAPA). A disciplinary hearing is considered a contested issue. TAPA sets out minimum requirements for agencies to follow regarding contested issues. The principal legal requirements of TAPA have been incorporated into these disciplinary hearing standards. This standard will not be monitored during the course of a regularly scheduled monitoring visit. Requirements of TAPA include such matters as the procedure for providing notice of the disciplinary hearing to the certified officer and notice of the certified officer's right to appeal a Commission's final decision.

This standard also incorporates TAPA provisions relating to certain powers granted to the Commission in preparation for a disciplinary hearing. The Commission through its hearings examiner has the authority to administer oaths, conduct depositions for gathering evidence and issue subpoenas or summons to compel witnesses to appear at the disciplinary hearing.

Subsection (c) of this standard incorporates an informal disposition process for the resolution of a disciplinary action without the necessity of a formal hearing. The Commission is authorized to enter into an informal disposition agreement with the certified officer that resolves the disciplinary action. The hearings examiner will offer the certified officer an opportunity to answer the allegation and attempt to settle the matter without the necessity of a formal hearing by conducting an informal conference with the certified officer and Commission staff. The informal conference may dispose of the disciplinary matter by agreed settlement or consent order. The Commission and certified officer may agree to dispose the disciplinary action by agreement of any or all of the issues involved, including the final outcome of the disciplinary matter. By reaching an agreement, the certified officer waives his right to a formal hearing and appeal.

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY

Compliance Methodology:

N/A

Monitoring Methodology: N/A

Sample: N/A

Point Value: 0

Total Points Possible: 0

Scoring Methodology: N/A

Level: Level 0 - Not Monitorable

REFERENCE MATERIAL

Recommended Best Practices:

N/A

Sample Form(s):

N/A

Citation(s):

Title 37 Texas Administrative Code Part II
Texas Juvenile Probation Commission
Chapter 349 General Administrative
Standards Rule §349.24

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action

Cross Reference(s):

Texas Government Code Chapter 2001 -
Texas Administrative Procedure Act

Board Opinion:

RFI Opinion:

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003

CRM Last Modified On: 9/1/2003

General Administrative Standards

349.25

Effective date 9/1/2003

Latest Revision 9/1/2003, Title 37 Texas Administrative Code

TEXT OF STANDARD

Subchapter: D - Disciplinary Hearings

§349.25 Notice.

(a) The Commission shall provide a minimum of 10 calendar days notice to the certified officer subject to a disciplinary hearing. Notice shall be sent by certified mail return receipt requested.

(b) The notice shall include:

- (1) a statement of the date, time, place, and nature of the hearing;
- (2) a statement of the legal authority and jurisdiction under which the hearing is to be held;
- (3) a reference to the particular Sections of the statutes and rules involved; and
- (4) a short plain statement of the matters asserted.

Sample Form(s):

N/A

Citation(s):

Title 37 Texas Administrative Code Part II
Texas Juvenile Probation Commission
Chapter 349 General Administrative
Standards Rule §349.25

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action

Cross Reference(s):

Texas Government Code Chapter 2001,
Section 2001.051 - Texas Administrative
Procedure Act

Board Opinion:

RFI Opinion:

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003

CRM Last Modified On: 9/1/2003

COMMENTARY

Discussion and Interpretation:

This standard incorporates Section 2001.051 of the Government Code, Texas Administrative Procedure Act, that requires the Commission to give the certified officer at least 10 calendar days notice before conducting a hearing that will address a disciplinary action against a certified officer. This standard will not be monitored during the course of a regularly scheduled monitoring visit but Commission staff will adhere to these requirements. The notice shall include the date, time and location of the disciplinary hearing, along with the Commission's legal authority to conduct the disciplinary hearing including the citation of specific standards and statutes related to the alleged violation. The notice shall also include a statement containing sufficient facts that convey the nature of the matter that will be heard at the disciplinary hearing.

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY

Compliance Methodology:

N/A

Monitoring Methodology: N/A

Sample: N/A

Point Value: 0

Total Points Possible: 0

Scoring Methodology: N/A

Level: Level 0 - Not Monitorable

REFERENCE MATERIAL

Recommended Best Practices:

N/A

General Administrative Standards**349.26**

Effective date 9/1/2003

Latest Revision 9/1/2003, Title 37 Texas Administrative Code

TEXT OF STANDARD**Subchapter:** D - Disciplinary Hearings

§349.26 Right to Counsel.

- (a) An individual subject to a disciplinary hearing under this subchapter is entitled to the assistance of counsel during the hearing. The officer is responsible for all costs of obtaining counsel.
- (b) The officer may expressly waive the right to the assistance of counsel.
- (c) The officer may also be represented by a designated person.
- (d) Written notice at least 5 calendar days in advance of the hearing shall be given by each party intending to be represented, including the name of the representative.
- (e) Failure to give such notice may result in postponement of the hearing.

COMMENTARY**Discussion and Interpretation:**

This standard incorporates the Texas Administrative Procedure Act's, Texas Government Code Chapter 2001, requirement that provides for the right to assistance of counsel to any person subject to an adverse action by a state agency. This standard will not be monitored during the course of a regularly scheduled monitoring visit but Commission staff will adhere to these requirements. Under this standard, a certified officer who is subject to disciplinary action is entitled to representation during the disciplinary action process and at the disciplinary hearing. Representation may be by an attorney or any other person designated by the certified officer. The designee does not have to be an attorney and may be any person the certified officer chooses. The certified officer subject to the disciplinary action is responsible for all costs incurred as a result of the representation including attorney's fees. If a certified officer will be represented by an attorney or other person, the Commission shall be notified. Notice advising the Commission of the name of the person and whether the person is an attorney shall be received by the Commission at least 5 calendar days before the date of the hearing and may be mailed, faxed or emailed to:

Texas Juvenile Probation Commission
 Attention: Hearings Examiner
 4900 N. Lamar, 5th floor
 Austin, Texas 78711

Facsimile: (512) 424-6717

Email Address: Legal@tjpc.state.tx.us

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY**Compliance Methodology:**

N/A

Monitoring Methodology: N/A
Sample: N/A
Point Value: 0
Total Points Possible: 0
Scoring Methodology: N/A
Level: Level 0 - Not Monitorable

REFERENCE MATERIAL**Recommended Best Practices:**

N/A

Sample Form(s):

N/A

Citation(s):

Title 37 Texas Administrative Code Part II
 Texas Juvenile Probation Commission
 Chapter 349 General Administrative
 Standards Rule §349.26

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
 28(14) TexReg 2951 Adopted Action

Cross Reference(s):

N/A

Board Opinion:

RFI Opinion:

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003
CRM Last Modified On: 9/1/2003

TEXT OF STANDARD

Subchapter: D - Disciplinary Hearings

§349.27 Disciplinary Hearing.

(a) The certified officer or his/her representative, shall be given the opportunity to show compliance with the code of ethics and all requirements of the law, including Commission standards.

(b) The hearing shall be conducted before a hearings examiner appointed by the executive director with only designated Commission staff, the certified officer, the chief administrative officer, the facility administrator, their representatives and such witnesses as may be called in attendance, unless the officer requests that it be open. Witnesses may be excluded from the hearing until it is their turn to present evidence.

(c) The conduct of the hearing shall be under the hearings examiner's control, and in general, shall be conducted in accordance with the following steps:

(1) The hearing shall begin with the presentation of investigatory findings by the Commission, supported by such proof as is deemed necessary.

(2) The certified officer or his/her representative may cross-examine any witnesses for the Commission;

(3) The certified officer or his/her representative may then present such testimonial or documentary proof as desired in rebuttal or in support of the contention that the officer violated the code of ethics;

(4) The Commission may cross-examine any witnesses for the certified officer and offer rebuttal testimony of the certified officer's witnesses;

(5) Each party may make closing arguments;

(6) The hearing shall be recorded and transcribed by means including but not limited to a stenographic record of the proceedings.

(d) Findings. The hearings examiner may consider only such evidence as is presented at the hearing. If the hearings examiner determines that the evidence presented is insufficient, the hearings examiner may ask for additional information from the certified officer, or the Commission and may ask questions on the hearing examiner's own motion. After all the evidence has been presented, the hearings examiner shall issue to the Board for its approval findings of fact and conclusions of law and a proposed disposition. The proposed disposition may include one of the following:

(1) Written Reprimand;

(2) Suspension for a specified period not to exceed 24 months; or

(3) Revocation.

(e) Commission's Approval. Based on the findings of fact and conclusions of law the Board by order may approve or amend the proposed disposition.

(f) Notice of Order. The Commission shall notify an individual whose conduct was the subject of a disciplinary hearing of the final order. The Commission may notify the individual either in person or by certified mail return receipt requested. The notice of order shall include:

(1) which acts or omissions by the officer, if any, violated the code of ethics;

(2) a statement of the evidence relied upon;

(3) a statement of which Section or Sections of the code of ethics, if any, were violated by the acts or omissions of the officer;

(4) the Board's disposition concerning the officer's certification; and

(5) the individual's right to rehearing and appeal.

COMMENTARY

Discussion and Interpretation:

This standard establishes the procedure for disciplinary hearings and how the Commission renders a final decision regarding a disciplinary action against a certified officer. This standard will not be monitored during the course of a regularly scheduled monitoring visit but Commission staff will adhere to these requirements. The disciplinary hearing is provided for the purpose of affording the certified officer due process of law.

Hearings Examiner

This standard requires a hearings examiner to conduct the disciplinary hearing. The Commission's Executive Director appoints the hearings examiner. The hearings examiner is an impartial person who has not participated in any aspect of the case being appealed. The hearings examiner presides over the disciplinary hearing and has the duty to provide a fair hearing and ensures that the available and relevant testimony and evidence is presented in an orderly manner. The hearing is conducted as an informal proceeding. The hearing is a closed hearing and only certain persons may attend unless the certified officer requests that the hearing be open to the public. The certified officer shall give the hearings examiner at least 5 calendar days notice that the officer requests the hearing be open to the public. The notice requesting an open hearing may be mailed, faxed or emailed to:

Texas Juvenile Probation Commission
Attention: Hearings Examiner
4900 N. Lamar, 5th floor
Austin, Texas 78711

Facsimile: (512) 424-6717
Email Address: Legal@tjpc.state.tx.us

Conduct of the Disciplinary Hearing

If the certified officer does not request in a timely manner that the hearing be open to the public, attendance will be limited to

Commission staff, the certified officer subject to the disciplinary action, the chief administrative officer, facility administrator or their representatives and any witnesses. The certified officer or hearings examiner may prohibit any witness from attending the hearing by invoking the rule. By invoking the rule, the witnesses will be excluded from the hearing until they are to testify.

The Commission may be represented by an attorney or a member of the Commission staff. The Commission has the burden to show that the officer is in violation of the code of ethics or Commission standards. The Commission may present evidence that was provided to the Commission by the juvenile probation department, juvenile detention facility or juvenile board and any other information gathered by the Commission. The certified officer or representative will be provided with all evidence and a list of witnesses that the Commission will present at the hearing at least 10 (ten) calendar days prior to the date of the hearing. The hearing will begin with the Commission staff's presentation of their evidence. The certified officer or representative will be afforded an opportunity to cross examine the Commission staff who is presenting the evidence and any witness called by the Commission. After the Commission completes its presentation of their evidence, the certified officer or representative will have the opportunity to rebut the allegation by presenting relevant evidence. Relevant evidence may include documents, sworn written statements from witnesses and any relevant testimony. After the certified officer has completed the presentation of his evidence, the Commission will be allowed to cross examine the certified officer and any witnesses presented by the certified officer. The certified officer and the Commission will be allowed to make a closing argument. The closing argument may be limited to a specific time and only argue facts presented to the hearings examiner.

Record

The hearings examiner is responsible for recording the disciplinary hearing either by audio or videotape or may employ the services of a certified stenographer. The record consists of the investigation conducted by juvenile probation department, juvenile detention facility or juvenile board submitted to the Commission, any documents related to the case, exhibits and statements presented at the hearing and the recording of the hearing. A copy of the recording shall be provided to the certified officer upon request at no charge. The Commission will not prepare a transcription of the disciplinary hearing unless the certified officer seeks judicial review. The record is the sole property of the Commission. The Commission or its designated agent shall retain the record, whether written or recorded, in accordance with the State Records Retention Schedule for the agency. Following the close of the disciplinary hearing, the Commission will take custody of all exhibits introduced at the disciplinary hearing and shall retain those exhibits with the record in accordance with the State Records Retention Schedule for this agency.

Commission's Final Decision

This standard also addresses how a final decision is made regarding the certified officer's disciplinary action. The hearings examiner considers all the evidence presented at the disciplinary hearing. The hearings examiner may request additional information from the Commission or certified officer if the additional information is required for a proper decision. After the disciplinary hearing has been completed the hearings examiner will submit to the Commission's Board a written proposed disposition containing findings of fact and conclusions of law. The hearings examiner may propose to give the certified officer a written reprimand without a suspension or revocation of his or her certification, suspend the certified officer's certification for a period not to exceed 24 months or permanent revocation of the certification. The Commission's Board will consider the hearings examiner's proposed disposition at the next regularly scheduled board meeting. The Commission's Board members will be provided with the written proposed decision prior to the next regularly scheduled meeting. At the Board meeting, the Commission's Board approves or amends the hearings examiner's proposed decision and issues a final order. The Commission's Board must issue an order for the disposition to be final. The Board's order must contain a statement that the Board approves or amends the hearings examiner's proposed disposition based on the findings of fact and conclusions of law submitted to it by the hearings examiner. The order shall include the specific acts or omissions proved at the hearing which constitute a violation of the Commission's standards, a statement of the evidence relied upon by the hearings examiner to find that the certified officer violated the

Commission's standards, what specific Commission's standards were violated by the certified officer and the Board's final disposition.

The Commission is required to give notice to the certified officer of the Board's final order regarding the disciplinary action. The Commission will provide notice to the certified officer in person or via certified mail. The notice shall contain all the information contained in the Board's order and advise the certified officer of his or her rights to file a motion for rehearing and appeal.

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY

Compliance Methodology:

N/A

Monitoring Methodology: N/A

Sample: N/A

Point Value: 0

Total Points Possible: 0

Scoring Methodology: N/A

Level: Level 0 - Not Monitorable

REFERENCE MATERIAL

Recommended Best Practices:

N/A

Sample Form(s):

N/A

Citation(s):

Title 37 Texas Administrative Code Part II
Texas Juvenile Probation Commission
Chapter 349 General Administrative
Standards Rule §349.27

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action

Cross Reference(s):

N/A

Board Opinion:

RFI Opinion:

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003

CRM Last Modified On: 9/1/2003

General Administrative Standards**349.28**

Effective date 9/1/2003

Latest Revision 9/1/2003, Title 37 Texas Administrative Code

TEXT OF STANDARD**Subchapter: D - Disciplinary Hearings**

§349.28 Motion for Rehearing.

(a) An individual wishing to appeal the Commission's final order may file a motion for rehearing with the Commission no later than the 20th calendar day after receiving notice of disposition.

(b) The Commission shall rule on the Motion for Rehearing no later than the 45th calendar day after receiving the motion.

COMMENTARY**Discussion and Interpretation:**

In accordance with Government Code Chapter 2001, the Texas Administrative Procedure Act, a person who has exhausted all administrative remedies available within a state agency and who is not satisfied with the agency's final decision is entitled to judicial review. This standard will not be monitored during the course of a regularly scheduled monitoring visit but Commission staff will adhere to these requirements. This standard provides an opportunity for a certified officer to have a district court in Travis county review the final decision of the Commission's Board. An officer who wishes to pursue judicial review shall first file a motion for rehearing with the Commission's Board in order to seek judicial review.

After the Board has issued a final decision regarding the disciplinary action against a certified officer, if the certified officer is not in agreement with the Board's final decision and wishes to contest the final decision the certified officer shall ask the Board to reconsider the final decision by filing a motion for rehearing. This is done by submitting a written request to the Commission. The written request shall be submitted within 20 calendar days of the receipt of the Board's final decision. If the certified officer does not file a timely motion for rehearing, the certified officer waives his right to judicial review. The written request must state specifically the matters the officer wishes to raise for appeal and must notify the Commission of the error claimed so that the Commission may correct or defend the error. The written request may be mail, faxed or emailed to:

Texas Juvenile Probation Commission
Attention: Rehearing
4900 N. Lamar, 5th Floor
Austin, Texas 78711

Facsimile: (512) 424-6717

Email: Legal@tjpc.state.tx.us

The Board must respond to the request within 45 calendar days from the date of receiving the motion for rehearing. If the Board does not respond within the 45 calendar days, the request for a rehearing is denied as a matter of law. If the Board grants the motion for rehearing and decides to reconsider the matter, the matter will be heard at the next regularly scheduled board meeting. At the board meeting, the Board will rule whether to refer the matter to the hearings examiner with instructions for a rehearing or may amend any previously rendered final decision.

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY**Compliance Methodology:**

N/A

Monitoring Methodology: N/A**Sample:** N/A**Point Value:** 0**Total Points Possible:** 0**Scoring Methodology:** N/A**Level:** Level 0 - Not Monitorable**REFERENCE MATERIAL****Recommended Best Practices:**

N/A

Sample Form(s):

N/A

Citation(s):

Title 37 Texas Administrative Code Part II
Texas Juvenile Probation Commission
Chapter 349 General Administrative
Standards Rule §349.28

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action

Cross Reference(s):

Texas Government Code Chapter 2001-
Texas Administrative Procedure Act

Board Opinion:**RFI Opinion:****EFFECTIVE DATES****Standard's Effective Date:** 9/1/2003**CRM Last Modified On:** 9/1/2003

General Administrative Standards**349.29**

Effective date 9/1/2003

Latest Revision 9/1/2003, Title 37 Texas Administrative Code

TEXT OF STANDARD**Subchapter:** D - Disciplinary Hearings

§349.29 Judicial Review.

An individual whose certification has been suspended or revoked and whose motion for rehearing has been denied by the Board is entitled to judicial review of the Commission's action.

Board Opinion:
RFI Opinion:**EFFECTIVE DATES****Standard's Effective Date:** 9/1/2003
CRM Last Modified On: 9/1/2003**COMMENTARY****Discussion and Interpretation:**

In accordance with the Texas Administrative Procedure Act, Government Code Chapter 2001, a person who has exhausted all administrative remedies available within a state agency and who is not satisfied with the agency's final decision is entitled to judicial review. This standard will not be monitored during the course of a regularly scheduled monitoring visit but Commission staff will adhere to these requirements. This standard provides an opportunity for a certified officer to have a District Court in Travis County review the final decision of the Commission's Board. A person who wishes to appeal the final decision of the Board must file the lawsuit within 30 calendar days from the date the motion for rehearing is denied.

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY**Compliance Methodology:**

N/A

Monitoring Methodology: N/A**Sample:** N/A**Point Value:** 0**Total Points Possible:** 0**Scoring Methodology:** N/A**Level:** Level 0 - Not Monitorable**REFERENCE MATERIAL****Recommended Best Practices:**

N/A

Sample Form(s):

N/A

Citation(s):

Title 37 Texas Administrative Code Part II Texas Juvenile Probation Commission Chapter 349 General Administrative Standards Rule §349.29

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action

28(14) TexReg 2951 Adopted Action

Cross Reference(s):

Texas Government Code Chapter 2001 - Texas Administrative Procedure Act

Title 37 Texas Administrative Code Chapter 349

General Administrative Standards

349.30

Effective date 9/1/2003

Latest Revision 9/1/2003, Title 37 Texas Administrative Code

TEXT OF STANDARD

Subchapter: D - Disciplinary Hearings

§349.30 Record.

The Commission shall create a record for each hearing conducted. The record shall include:

- (1) the request for disciplinary hearing received under §349.21 of this chapter;
- (2) the transcript of the hearing conducted by the hearings examiner,
- (3) the transcript of the hearing conducted by the Board, which may take the form of the minutes of the Board meeting;
- (4) any documentary proof submitted during the hearing;
- (5) all staff memoranda and documentation submitted to the Board in making its decision;
- (6) a copy of the final order issued by the Board;
- (7) any motions for rehearing; and
- (8) the Board's ruling on any motions for rehearing.

COMMENTARY

Discussion and Interpretation:

The Commission is required to develop and maintain a record regarding the disciplinary action process of a certified officer. The Commission or its designated agent shall retain the record whether written or recorded. This standard will not be monitored during the course of a regularly scheduled monitoring visit but Commission staff will adhere to these requirements. Following the close of the disciplinary hearing, the Commission will take custody of all exhibits introduced at the disciplinary hearing and shall retain those exhibits with the record in accordance with the State Records Retention Schedule for this agency.

The record regarding the disciplinary action process of a certified officer consists of all documents collected by the Commission during the entire disciplinary action process. This will include a copy of the investigation forwarded to the Commission, all notices sent by the Commission to the certified officer, correspondence between the Commission and the certified office, all pleadings filed with the Commission and the hearings examiner, the disciplinary hearing record consisting of the audio or video recording, all evidence admitted at the disciplinary hearing, all matters officially noticed by the hearings examiner, the pleadings filed by the parties, the proposed findings of fact and disposition submitted to the Board by the hearings examiner, transcripts of Board minutes for any meetings that the disciplinary action matter was considered, motions for rehearing filed by the certified officer, the Board's response to motion for rehearing and the final decision of the Commission. The Commission is required to forward the entire contents of the record to the appropriate Travis County District Court when a petition for judicial review is filed by the certified officer.

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY

Compliance Methodology:

N/A

Monitoring Methodology: N/A

Sample: N/A

Point Value: 0

Total Points Possible: 0

Scoring Methodology: N/A

Level: Level 0 - Not Monitorable

REFERENCE MATERIAL

Recommended Best Practices:

N/A

Sample Form(s):

N/A

Citation(s):

Title 37 Texas Administrative Code Part II
Texas Juvenile Probation Commission
Chapter 349 General Administrative
Standards Rule §349.30

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action

Cross Reference(s):

N/A

Board Opinion:

RFI Opinion:

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003

CRM Last Modified On: 9/1/2003

TEXT OF STANDARD

Subchapter: D - Disciplinary Hearings

§349.31 Mandatory Suspension for Failure to Pay Child Support.

(a) Upon receipt of an order suspending licensure for failure to pay child support issued under Texas Family Code §232.008 or §232.009, the Commission shall suspend the certified officer's certification.

(b) Notice of Suspension.

(1) The Commission shall notify the certified officer subject to a suspension order received under subsection (a) of this section that the agency has formally suspended the individual's certification.

(2) The notice shall also instruct the individual that he or she may not perform the duties of a certified officer while the suspension order is in effect.

(3) The Commission shall also notify the chief administrative officer or facility administrator and the juvenile board of the employing juvenile probation department or facility of the suspension.

(c) Length of Suspension. A certification suspension shall remain in effect until the Commission receives an order issued under Texas Family Code §232.013 that either vacates or stays the certification's suspension.

(d) An individual subject to a suspension order issued under subsection (a) of this section may not be hired, certified, or recertified while the suspension order remains in effect.

(e) A request for waiver or variance under §349.2 of this title may not be requested for this standard.

(f) An individual subject to a suspension order issued under subsection (a) of this section may not appeal the suspension order to the Commission.

department or juvenile detention facility of the suspension. The notice will advise the officer and employer, that he or she is prohibited from performing any duties that are required to be performed by a certified officer until the suspension order is vacated or stayed by the family court that issued the suspension. A juvenile board, chief administrative officer, or facility administrator cannot request a waiver or variance for a certification that has been suspended as a direct result of an order suspending licensure under Chapter 232 of the Family Code. An officer does not qualify for employment as a certified officer while his certification is suspended by order of a family court under the Texas Family Code Chapter 232 and may not be hired by a juvenile probation department, juvenile detention facility or juvenile board while the suspension is in effect. The Commission is prohibited from certifying or recertifying an officer while the order of suspension remains in effect and can only be certified or recertified upon receipt of an order vacating or staying the suspension.

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY

Compliance Methodology:

N/A

Monitoring Methodology: N/A**Sample:** N/A**Point Value:** 0**Total Points Possible:** 0**Scoring Methodology:** N/A**Level:** Level 0 - Not Monitorable

REFERENCE MATERIAL

Recommended Best Practices:

N/A

Sample Form(s):

N/A

Citation(s):

Title 37 Texas Administrative Code Part II
Texas Juvenile Probation Commission
Chapter 349 General Administrative
Standards Rule §349.31

COMMENTARY

Discussion and Interpretation:

Chapter 232 of the Texas Family Code provides for the suspension of certain licenses issued by state agencies for failure to pay court ordered child support. This standard will not be monitored during the course of a regularly scheduled monitoring visit but Commission staff will adhere to these requirements. The Commission is made subject to Chapter 232 in Section 232.002. Chapter 232 provides the procedure for the suspension of a certified officer's certification issued by the Commission. The suspension process is initiated with the filing of a petition in the family court that ordered the child support by either the obligee or the Attorney General's Office. The certified officer is afforded an opportunity to a hearing in the family court before the suspension of his certification. This standard requires the Commission to suspend the certification of an officer when the Commission receives a court order suspending the certification of a certified officer. The Commission cannot provide any appeal rights to the certified officer concerning this mandatory suspension of the certification. The Commission shall abide by the court's order. The matter of certification suspension is between the certified officer and the family court that rendered the order. The Commission cannot interfere with the order. The suspension order remains in effect until the Commission receives notice from the relevant family court that has vacated or stayed the order of suspension.

After the Commission receives the order from the family court ordering the suspension of the officer's certification, the Commission shall provide notice to the certified officer that the Commission has suspended the certification. The Commission shall also advise the officer's employer, the juvenile probation

General Administrative Standards

349.31

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action

Cross Reference(s):

Texas Family Code Chapter 232-Suspension of License

37 TAC Section 349.2-Waiver of Variance

Board Opinion:

RFI Opinion:

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003

CRM Last Modified On: 9/1/2003

General Administrative Standards

349.32

Effective date 9/1/2003

Latest Revision 9/1/2003, Title 37 Texas Administrative Code

TEXT OF STANDARD

Subchapter: D - Disciplinary Hearings

§349.32 Applicability.

The mandatory revocation procedures enacted in this subchapter apply to all felony convictions, felony deferred adjudications, or convictions or deferred adjudications that require sex offender registration under Chapter 62 Texas Code of Criminal Procedure that occur on or after September 1, 2003.

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action

Cross Reference(s):

Code of Criminal Procedure Chapter 62 - Sex Offender Registration Program

37 TAC Section 349.21 (a) (2) - Criminal Conduct

37 TAC Section 349.21 (b) (2) - Criminal Conduct

37 TAC Section 349.22 - Commission Initiated Hearings

Board Opinion:

RFI Opinion:

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003

CRM Last Modified On: 9/1/2003

COMMENTARY

Discussion and Interpretation:

Please refer to the commentary in Section 349.14 and the Commission's Disqualifying Criminal History Matrix which may be found on the Commission's website at www.tjpc.state.tx.us to determine if an individual has any disqualifying criminal history events. This standard will not be monitored during the course of a regularly scheduled monitoring visit but Commission staff will adhere to these requirements.

This standard reiterates the mandatory initiation of a disciplinary action against a certified officer in accordance with Section 349.21(a)(2), Section 349.21(b)(2) and Section 349.22. Under these standards, the Commission, the chief administrative officer, the facility administrator or juvenile board must initiate a disciplinary hearing when they verify that a certified officer has disqualifying criminal conduct.

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY

Compliance Methodology:

N/A

Monitoring Methodology: N/A

Sample: N/A

Point Value: 0

Total Points Possible: 0

Scoring Methodology: N/A

Level: Level 0 - Not Monitorable

REFERENCE MATERIAL

Recommended Best Practices:

N/A

Sample Form(s):

N/A

Citation(s):

Title 37 Texas Administrative Code Part II Texas Juvenile Probation Commission Chapter 349 General Administrative Standards Rule §349.32

TEXT OF STANDARD

Subchapter: E - Complaints Against Juvenile Boards

§349.37 Complaint Process.

(a) When the Commission receives a complaint about a juvenile board, the Commission shall review the circumstances surrounding the complaint to determine whether the juvenile board has violated the rules or standards of the Commission.

(b) If the Commission determines the complaint is about the juvenile services within the discretion of the juvenile board, the complaint shall be referred to the juvenile board. The complainant shall be notified in writing of the referral by the Commission.

(c) If the Commission determines the juvenile board has violated the Commission's rules or standards, the juvenile board shall be notified in writing of the violation. If, within 90 calendar days of the date on which the juvenile board received written notice of the Commission's determination, the juvenile board does not propose its own means of achieving compliance or the plan is not acceptable to the Commission, the Commission will attempt to negotiate a mutually agreeable solution.

(d) Upon written notice of the violation, the juvenile board shall be given 90 calendar days to achieve compliance or propose a plan to achieve compliance acceptable to the Commission.

(e) If the Commission and the juvenile board cannot reach an agreement, the Commission will give the juvenile board written notice of its intent to refuse, reduce, or suspend state aid, under authority of the Texas Human Resources Code, §141.085 Upon receipt of the above notice, the juvenile board shall have 15 calendar days to:

(1) notify in writing the Commission's Executive Director of the juvenile boards compliance;

(2) propose in writing an alternate solution; or

(3) provide a written appeal of the Commission's action(s) to the Executive Director.

(f) The juvenile board's appeal must state specifically its differences of opinion with the Commission's staff concerning the facts in dispute and the solution necessary under the standards or rules of the Commission. The appeal shall state whether the juvenile board requests a hearing before the Commission's board.

(g) The Commission shall set the appeal on the agenda for its next regularly scheduled meeting. If the juvenile board has requested a hearing, the juvenile board and the Commission's staff may appear and make oral presentations concerning the appeal. If the juvenile board does not request a hearing before the Commission, the Commission's board will make its decision based upon the record.

(h) The complainant shall be notified in writing upon receipt of the complaint and upon resolution.

complaint made involving a juvenile board may originate from a complaint against a specific juvenile probation officer or juvenile probation department or can be a direct complaint against the juvenile board.

Most complaints received by the Commission are complaints involving particular juvenile probation officers or juvenile probation departments. When the Commission receives a complaint involving a certified officer or a juvenile probation department, the Commission will advise the complainant that the complaint must be handled at a local level before any Commission involvement. The complainant will be provided information regarding the function of the Commission, the kind of complaints investigated by the Commission, when the Commission becomes involved and how to file a complaint that involves a certified officer or juvenile probation department. The complainant will also be provided with a brochure on complaints involving juvenile probation programs and services in Texas published by the Commission and available on the Commission's website at: www.tjpc.state.tx.us.

All departments must post a notice that informs the public about the complaint process and provides contact information for the submission of complaints relating to specific juvenile probation officers or juvenile probation departments. If the complaint concerns a specific certified officer, the complainant files a written complaint with the chief administrative officer. The chief administrative officer is allowed reasonable time to address the complaint. If the complaint involves the chief administrative officer or is not resolved to the complainant's satisfaction, the complainant must then file a written complaint with the chairman of the juvenile board for consideration at the next scheduled juvenile board meeting. The complainant should be allowed to be heard in person or through the written complaint at the juvenile board meeting. If the juvenile board is unable to resolve the matter, the complainant may file a written complaint with the Commission. Complaints to the Commission may be mailed, faxed or emailed to:

Texas Juvenile Probation Commission
4900 N. Lamar, 5th floor
Attention: Legal Division
Austin, Texas 78711

Facsimile: (512) 424-6717

Email Address: Legal@tjpc.state.tx.us

COMMENTARY

Discussion and Interpretation:

This standard generally provides the procedure the Commission follows when it receives information constituting a complaint against a juvenile board. This standard will not be monitored during the course of a regularly scheduled monitoring visit but Commission staff will adhere to these requirements. A

When the Commission receives a complaint, at this point a complaint originally against a specific certified officer or juvenile probation department becomes a complaint against the juvenile board.

This standard requires the Commission to initiate an inquiry into the complaint against the juvenile board received by the Commission. The Commission will inquire into the facts and could possibly conduct an on-site monitoring visit to the county that is the subject of the complaint. The Commission will determine whether the complaint involves juvenile services within the juvenile board's authority. The Commission will then notify the juvenile board of the nature of the complaint. The Commission will formally refer the complaint to the juvenile board. The Commission will provide the complainant a written notice of the referral.

If the information gathered by the Commission reveals that the juvenile board is in violation of any Commission standards, the Commission will send notice to the juvenile board stating each violation. As soon as practical, but not later than 90 calendar days after the juvenile board receives the Commission's notice to the standard violation, the juvenile board shall submit a proposed plan to achieve compliance. If the Commission finds that the proposed plan is not acceptable the Commission will attempt to negotiate a mutually acceptable solution. In the event that an acceptable plan cannot be agreed to, the Commission will give written notice of intent to refuse, reduce or suspend state aid. The notice of intent will be sent to the juvenile board certified mail with return receipt requested. Within 15 calendar days of the juvenile board's receipt of the notice of intent, the juvenile board must notify the Commission's Executive Director that it proposes an alternate plan or that it wishes to appeal the finding of non-compliance to the Commission's Board.

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY

Compliance Methodology:

N/A

Monitoring Methodology: N/A

Sample: N/A

Point Value: 0

Total Points Possible: 0

Scoring Methodology: N/A

Level: Level 0 - Not Monitorable

REFERENCE MATERIAL

Recommended Best Practices:

N/A

Sample Form(s):

N/A

Citation(s):

Title 37 Texas Administrative Code Part II Texas Juvenile Probation Commission Chapter 349 General Administrative Standards Rule §349.37

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action

28(14) TexReg 2951 Adopted Action

Cross Reference(s):

N/A

Board Opinion:

RFI Opinion:

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003

CRM Last Modified On: 9/1/2003

General Administrative Standards**349.42**

Effective date 9/1/2003

Latest Revision 9/1/2003, Title 37 Texas Administrative Code

TEXT OF STANDARD**Subchapter:** F - Abuse, Neglect and Exploitation Investigations

§349.42 Applicability.

This chapter applies to investigations conducted by the Commission of allegations of abuse, exploitation and neglect that occur in or involve an employee, volunteer or intern of a juvenile justice program, juvenile probation department, secure detention facility, short-term detention facility, post-adjudication secure correctional facility or juvenile justice alternative education program.

COMMENTARY**Discussion and Interpretation:**

This standard establishes guidelines for Commission investigators and applies to all investigations of alleged abuse, neglect and exploitation conducted by the Commission. This standard will not be monitored during the course of a regularly scheduled monitoring visit but all Commission investigators shall adhere to these requirements.

The Commission's primary purpose for conducting investigations shall be the protection of the juveniles under the jurisdiction of the juvenile court in accordance with the Texas Family Code Section 261.401.

Employees

The Commission investigates allegations of abuse, neglect and exploitation made against employees of juvenile probation departments, programs and facilities under the jurisdiction of the juvenile board. The term "employees" applies to all staff employed by the juvenile probation department, program or facility under the jurisdiction of the juvenile board including teachers, nurses, janitorial staff, kitchen staff, etc.

Volunteers and Interns

Volunteers and interns are held to the same standard of accountability as paid employees and may be the subject of a Commission investigation if alleged to be a perpetrator of abuse, neglect or exploitation.

Departments, Programs and Facilities

In accordance with the Texas Family Code Section 261.405, the Commission shall conduct an investigation of alleged abuse, neglect or exploitation in any department, program or facility operated by or under the jurisdiction of the juvenile board.

Programs

The term juvenile justice program includes programs operated wholly or partly by the juvenile board or by a private vendor under a contract with a juvenile board that serves juveniles under juvenile court jurisdiction. This includes juvenile justice alternative education programs and non-residential programs that serve juvenile offenders under the jurisdiction of the juvenile court.

Facilities

The term juvenile justice facility includes facilities operated wholly or partly by the juvenile board or by a private vendor under a contract with the juvenile board or county that serves juveniles under juvenile court jurisdiction. This includes public or private juvenile pre-adjudication secure detention facilities, including holdover facilities (short-term detention), public or private juvenile post-adjudication secure correctional facilities except for facilities operated solely for children committed to the Texas Youth Commission and public or private non-secure juvenile post-

adjudication residential treatment facilities that are not licensed by the Department of Protective and Regulatory Services (Department of Family and Protective Services as of September 1, 2003) or the Texas Commission on Alcohol and Drug Abuse (Department of State Health Services as of September 1, 2003).

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY**Compliance Methodology:**

N/A

Monitoring Methodology: N/A**Sample:** N/A**Point Value:** 0**Total Points Possible:** 0**Scoring Methodology:** N/A**Level:** Level 0 - Not Monitorable**REFERENCE MATERIAL****Recommended Best Practices:**

N/A

Sample Form(s):

N/A

Citation(s):

Title 37 Texas Administrative Code Part II
Texas Juvenile Probation Commission
Chapter 349 General Administrative
Standards Rule §349.42

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action

Cross Reference(s):

Texas Family Code Section 261.401 -
Agency Investigation

Texas Family Code Section 261.405 -
Investigations in Juvenile Justice
Programs and Facilities

Board Opinion:**RFI Opinion:****EFFECTIVE DATES****Standard's Effective Date:** 9/1/2003**CRM Last Modified On:** 9/1/2003

TEXT OF STANDARD

Subchapter: F - Abuse, Neglect and Exploitation Investigations

§349.43 Definitions.

The Commission applies the statutory definitions of "abuse," "exploitation" and "neglect" that appear in the Texas Family Code Chapter 261. In addition, the words and terms used in this subchapter shall have the following definitions unless the context clearly indicates otherwise.

- (1) Administrative Closure--Allegation disposition used when further Commission intervention is unwarranted.
- (2) Allegation Disposition--The finding made at the conclusion of an investigation about each individual allegation of abuse, exploitation or neglect that was identified at intake or during the investigation.
- (3) Alleged Perpetrator--A person alleged as being responsible for the abuse, exploitation or neglect of a juvenile.
- (4) Alleged Victim--A juvenile alleged as being a victim of abuse, exploitation or neglect.
- (5) Collateral--Anyone other than the alleged perpetrator or alleged victim that may have any information relevant to an investigation.
- (6) Designated Perpetrator--Role assigned to the individual the investigator concludes is responsible for the abuse, exploitation or neglect of a juvenile when an allegation disposition is reason to believe.
- (7) Designated Victim--Role assigned to the juvenile the investigator concludes was abused, exploited or neglected when the allegation disposition is reason to believe.
- (8) Initiate--First contact or attempted contact by the Commission by phone, fax or e-mail with a representative of the juvenile probation department, secure detention facility, short-term detention facility, post-adjudication secure correctional facility, juvenile justice program, juvenile board or law enforcement agency or member of the public in response to an allegation of abuse, exploitation or neglect.
- (9) Internal Investigation--An investigation conducted by a juvenile justice program, secure detention facility, short-term detention facility, post-adjudication secure correctional facility, juvenile probation department or juvenile justice alternative education program in response to an allegation of abuse, exploitation, or neglect.
- (10) Juvenile--Regardless of age, any participant in a juvenile justice program, JJAEP, or any resident of a secure detention facility, short-term detention facility or post-adjudication secure correctional facility.
- (11) No Role--Designation assigned by an investigator to a person alleged as a victim or as a perpetrator when the allegation disposition is administrative closure or ruled out.
- (12) Notice of TJPC Standards Non-Compliance--Formal report issued by the Commission that states the standards with which the facility, program or department were non-compliant.
- (13) Unable to Determine--Allegation disposition where, based on the lack of sufficient evidence, the investigator could not determine if the abuse, exploitation or neglect occurred.
- (14) Unknown--Role assigned by the investigator to the alleged perpetrator and alleged victim where the allegation disposition was unable to determine.

(15) Reason to Believe--Allegation disposition where, based on a preponderance of the evidence, the investigator concludes that abuse, exploitation or neglect has occurred.

(16) Report--An allegation of abuse, exploitation, or neglect of a juvenile.

(17) Reporter--An individual who makes a report alleging the abuse, exploitation or neglect of a juvenile. If more than one individual makes a report of the same allegation, all such individuals shall have the designation of reporter.

(18) Risk Assessment--Documentation issued by the Commission during the course of an investigation that notifies a department, facility or program that a current policy, procedure, practice or other circumstance may lead to or contribute to abuse, neglect or exploitation.

(19) Ruled Out--Allegation disposition where, based on a preponderance of evidence, the investigator determines that the abuse, exploitation or neglect did not occur.

(20) Serious Incident Report--Report by a facility, or program informing the Commission of a suicide, attempted suicide, escape, serious injury of a juvenile or youth-on-youth assault.

(21) Witness--A person other than the alleged perpetrator or alleged victim, who has either seen or heard an incident that was the basis of a report of abuse, exploitation or neglect.

COMMENTARY**Discussion and Interpretation:**

This standard establishes guidelines for Commission investigators and applies to all investigations of alleged abuse, neglect and exploitation conducted by the Commission. This standard will not be monitored during the course of a regularly scheduled monitoring visit but all Commission investigators shall adhere to these requirements.

Administrative Closure

"Administrative Closure" is a disposition used when further Commission intervention is unwarranted as determined by a Preliminary Investigation.

General Administrative Standards

349.43

Collateral

A "collateral" is a person(s) who may have relevant information to an investigation and is not a witness, the alleged perpetrator or the alleged victim. A collateral is usually the chief administrative officer, facility administrator or other person(s).

Designated Perpetrator

If an individual is designated as a perpetrator, the Commission shall request a disciplinary hearing to seek the revocation of the individual's certification in accordance with Section 349.22. The designated perpetrator is the only person who may request an administrative review of the Commission's investigation findings in accordance with Section 349.52.

Notice of TJPC Standards Non-Compliance

The Notice of TJPC Standards Non-Compliance is now referred to as a "Non-Compliance Citation Report (NCCR)". A Non-Compliance Citation Report shall be issued for all standards found to be in non-compliance during a Commission investigation of an allegation of abuse, neglect or exploitation. The response to a Non-Compliance Citation Report from a juvenile probation department, program or facility shall be submitted using the internet based Compliance Monitoring, Enforcement and Tracking System (COMETS).

Report

A report is the formal notification to the Commission of an allegation of abuse, neglect or exploitation of a juvenile under the jurisdiction of the juvenile court. A report shall be made to the Commission in accordance with Title 37 Texas Administrative Code Chapters 341, 343, 348 and 351.

Reporter

A reporter is the individual who first learns of or suspects that a juvenile under the jurisdiction of the juvenile court has been abused, neglected or exploited. The reporter is also the individual who completes the TJPC Incident Report Form or completes a written statement that is attached to the TJPC Incident Report Form.

Risk Assessment

Risk Assessment is now referred to as a "Notice of Risk". A Notice of Risk shall be issued regarding any information received during a Commission investigation that does not rise to the level of a standards non-compliance. A Notice of Risk is written formal technical assistance from the Commission issued when circumstances do not rise to the level of a standards non-compliance but pose a potential risk to staff and/or juveniles under the jurisdiction of the juvenile court. The purpose of the Notice of Risk is to provide assistance to departments, programs or facilities to improve the health and safety conditions of the departments, programs or facilities and juveniles under the jurisdiction of the juvenile court. A formal response to the Commission is not required; however, it is recommended that the department, program or facility take any necessary protective and corrective action relating to the Notice of Risk.

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY

Compliance Methodology:

N/A

Monitoring Methodology: N/A

Sample: N/A

Point Value: 0

Total Points Possible: 0

Scoring Methodology: N/A

Level: Level 0 - Not Monitorable

REFERENCE MATERIAL

Recommended Best Practices:

N/A

Sample Form(s):

TJPC Incident Report Form [TJPC-ANE-05-04]

Citation(s):

Title 37 Texas Administrative Code Part II
Texas Juvenile Probation Commission
Chapter 349 General Administrative
Standards Rule §349.43

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action

Cross Reference(s):

37 TAC Chapter 341 - Treatment and
Safety

37 TAC Chapter 343 - Treatment and
Safety

37 TAC Chapter 348 - Abuse, Exploitation
and Neglect

37 TAC Section 349.22 - Commission
Initiated Hearings

37 TAC Section 349.49 - Investigation
Process, Disposition and Roles

37 TAC Section 349.51 - Notice of TJPC
Standards Non-Compliance and Risk
Assessment

37 TAC Section 349.52 - Administrative
Review and Appeal of Investigation
Findings

37 TAC Chapter 351 - Treatment and
Safety

Texas Family Code Chapter 261 -
Investigation of Report of Child Abuse or
Neglect

Compliance Monitoring, Enforcement and
Tracking System (COMETS)

State Financial Assistance Contract

Board Opinion:

RFI Opinion:

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003

CRM Last Modified On: 9/1/2003

General Administrative Standards**349.44**

Effective date 9/1/2003

Latest Revision 9/1/2003, Title 37 Texas Administrative Code

TEXT OF STANDARD**Subchapter:** F - Abuse, Neglect and Exploitation Investigations

§349.44 Serious Incident Reports.

- (a) The Commission shall maintain a database of all serious incident reports.
- (b) The Commission shall screen all serious incident reports and may open an investigation of abuse, exploitation or neglect based on any information contained in the serious incident report that leads the Commission to believe a juvenile may have been abused, exploited or neglected.

COMMENTARY**Discussion and Interpretation:**

This standard establishes guidelines for Commission investigators and applies to all investigations of alleged abuse, neglect and exploitation conducted by the Commission. This standard will not be monitored during the course of a regularly scheduled monitoring visit but all Commission investigators shall adhere to these requirements.

In accordance with Title 37 Texas Administrative Code Chapters 341, 343, 348 and 351, juvenile probation departments, programs and facilities under the jurisdiction of the juvenile board are required to submit a TJPC Incident Report Form on all serious incidents. Upon receipt by the Commission, all serious incident reports are assessed by a Commission investigator and are maintained in the Commission's database for statistical purposes.

If during assessment it appears that an allegation of abuse, neglect or exploitation exists, an investigation shall be initiated in accordance with Section 349.48.

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY**Compliance Methodology:**

N/A

Monitoring Methodology: N/A**Sample:** N/A**Point Value:** 0**Total Points Possible:** 0**Scoring Methodology:** N/A**Level:** Level 0 - Not Monitorable**REFERENCE MATERIAL****Recommended Best Practices:**

N/A

Sample Form(s):

TJPC Incident Report Form [TJPC-ANE-05-04]

Citation(s):

Title 37 Texas Administrative Code Part II
Texas Juvenile Probation Commission
Chapter 349 General Administrative
Standards Rule §349.44

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action

Cross Reference(s):

37 TAC Section 349.48 - Investigation
Steps

Board Opinion:**RFI Opinion:****EFFECTIVE DATES****Standard's Effective Date:** 9/1/2003**CRM Last Modified On:** 9/1/2003

General Administrative Standards**349.45**

Effective date 9/1/2003

Latest Revision 9/1/2003, Title 37 Texas Administrative Code

TEXT OF STANDARD**Subchapter:** F - Abuse, Neglect and Exploitation Investigations

§349.45 Notification to Law Enforcement.

(a) The Commission shall report an allegation of abuse, exploitation or neglect to a law enforcement agency within 24-hours from the time the allegation is received by the Commission.

(b) Allegations involving serious physical or sexual abuse shall be investigated jointly with local law enforcement in accordance with the Texas Code of Criminal Procedures Article 2.27.

COMMENTARY**Discussion and Interpretation:**

This standard establishes guidelines for Commission investigators and applies to all investigations of alleged abuse, neglect and exploitation conducted by the Commission. This standard will not be monitored during the course of a regularly scheduled monitoring visit but all Commission investigators shall adhere to these requirements.

In accordance with the Texas Family Code Section 261.105, upon receipt of an allegation of abuse, neglect or exploitation, the Commission shall notify the appropriate law enforcement agency. The Commission shall notify law enforcement via phone, fax or email. The Commission determines the appropriate law enforcement agency based upon the information provided by the jurisdiction on the TJPC Incident Report Form.

The Commission's requirement to notify law enforcement is separate and distinct from the local jurisdiction's requirement to notify law enforcement in accordance with Title 37 Texas Administrative Code Chapters 341, 343, 348 and 351 and the Texas Family Code Section 261.103.

The Commission investigates all allegations of abuse, neglect or exploitation in cooperation with the appropriate local law enforcement agency. However, in accordance with the Texas Code of Criminal Procedure Article 2.27, upon receipt of an allegation of serious physical or sexual abuse of a juvenile under the jurisdiction of the juvenile court, a Commission investigator shall conduct a joint investigation of an allegation with the appropriate law enforcement agency.

Although the Commission and local law enforcement work in cooperation when conducting investigations of abuse, neglect and exploitation, each agency's primary objective differs. The Commission's primary objective is the protection of the juveniles under the jurisdiction of the juvenile court, whereas the law enforcement investigation focuses on any potential criminal law violations. Additionally, the Commission makes recommendations to improve health and safety conditions of the juvenile probation department, program or facility and juveniles under the jurisdiction of the juvenile court and assists the departments, programs and facilities in the improvement of compliance with Commission standards.

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY**Compliance Methodology:**

N/A

Monitoring Methodology: N/A**Sample:** N/A**Point Value:** 0**Total Points Possible:** 0**Scoring Methodology:** N/A**Level:** Level 0 - Not Monitorable**REFERENCE MATERIAL****Recommended Best Practices:**

N/A

Sample Form(s):

TJPC Incident Report Form [TJPC-ANE-05-04]

Citation(s):

Title 37 Texas Administrative Code Part II
Texas Juvenile Probation Commission
Chapter 349 General Administrative
Standards Rule §349.45

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action

Cross Reference(s):

37 TAC Chapter 341 - Treatment and Safety

37 TAC Chapter 343 - Treatment and Safety

37 TAC Chapter 348 - Abuse, Exploitation and Neglect

37 TAC Chapter 351 - Treatment and Safety

Texas Family Code Section 261.103 - Report Made to Appropriate Agency

Texas Family Code Section 261.105 - Referral of Report by Department or Law Enforcement

Texas Code of Criminal Procedure Article 2.27 - Investigations of Certain Reports Alleging Child Abuse

Board Opinion:**RFI Opinion:****EFFECTIVE DATES****Standard's Effective Date:** 9/1/2003**CRM Last Modified On:** 9/1/2003

General Administrative Standards

349.46

Effective date 9/1/2003

Latest Revision 9/1/2003, Title 37 Texas Administrative Code

TEXT OF STANDARD

Subchapter: F - Abuse, Neglect and Exploitation Investigations

§349.46 Priorities for Investigation.

(a) The Commission shall assign each report of abuse, exploitation or neglect to one of two priority groups:

(1) Priority I. Reports concerning juveniles who appear to face an imminent risk of abuse, exploitation or neglect that could result or did result in death or serious harm.

(2) Priority II. All reports of abuse, exploitation or neglect that are not assigned to Priority I.

(b) The Commission shall initiate an investigation:

(1) within 24 hours of receiving a Priority I report; and

(2) within 10 working days of receiving a Priority II report.

COMMENTARY

Discussion and Interpretation:

This standard establishes guidelines for Commission investigators and applies to all investigations of alleged abuse, neglect and exploitation conducted by the Commission. This standard will not be monitored during the course of a regularly scheduled monitoring visit but all Commission investigators shall adhere to these requirements.

Upon assessment by a Commission investigator of a report of an allegation of abuse, neglect or exploitation, the case shall be assigned as either a Priority 1 or Priority 2. The assigned priority is based on the imminent risk or potential risk of abuse, neglect or exploitation of any juvenile under the jurisdiction of the juvenile court.

All cases involving the death of a juvenile in custody are assigned as Priority 1. Cases assigned as Priority 1 may include, but are not limited to allegations of sexual abuse, broken limbs or serious injuries related to restraints, etc. Within 24 hours of assessment of a case as Priority 1, a Commission investigator shall initiate an investigation.

Cases not assigned as Priority 1 are Priority 2. A Commission investigator shall initiate a Priority 2 investigation within ten (10) working days of receiving the case for investigation.

The initiation time frame is calculated by the time and date the Commission investigator receives the case. The Commission's investigation is initiated when the first contact or attempted contact is made by a Commission investigator via phone, fax or email with a representative of the juvenile probation department, program, facility, juvenile board, law enforcement agency or member of the public.

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY

Compliance Methodology:

N/A

Monitoring Methodology: N/A

Sample: N/A

Point Value: 0

Total Points Possible: 0

Scoring Methodology: N/A

Level: Level 0 - Not Monitorable

REFERENCE MATERIAL

Recommended Best Practices:

N/A

Sample Form(s):

N/A

Citation(s):

Title 37 Texas Administrative Code Part II
Texas Juvenile Probation Commission
Chapter 349 General Administrative
Standards Rule §349.46

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action

Cross Reference(s):

37 TAC Section 349.43 - Definitions

Board Opinion:

RFI Opinion:

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003

CRM Last Modified On: 9/1/2003

General Administrative Standards

349.47

Effective date 9/1/2003

Latest Revision 9/1/2003, Title 37 Texas Administrative Code

TEXT OF STANDARD

Subchapter: F - Abuse, Neglect and Exploitation Investigations

§349.47 Roles Assigned at Assessment.

Each person named in the report shall be assigned a role in the alleged abuse, exploitation or neglect. Roles assigned at the initial assessment of the report are:

- (1) Alleged victim
- (2) Alleged perpetrator
- (3) Witness

Sample Form(s):
N/A

Citation(s):
Title 37 Texas Administrative Code Part II
Texas Juvenile Probation Commission
Chapter 349 General Administrative
Standards Rule §349.47

Texas Register Publication Citation:
28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action

Cross Reference(s):
37 TAC Section 349.43 - Definitions

Board Opinion:
RFI Opinion:

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003
CRM Last Modified On: 9/1/2003

COMMENTARY

Discussion and Interpretation:

This standard establishes guidelines for Commission investigators and applies to all investigations of alleged abuse, neglect and exploitation conducted by the Commission. This standard will not be monitored during the course of a regularly scheduled monitoring visit but all Commission investigators shall adhere to these requirements.

For the purpose of this standard, the alleged victim in a Commission investigation is always a juvenile under the jurisdiction of the juvenile court.

For the purpose of this standard, the alleged perpetrator is always an employee, volunteer or intern of a juvenile probation department, program or facility and is never a juvenile.

For the purpose of this standard, witnesses can be adults or juveniles not otherwise named as the alleged perpetrator or the alleged victim (e.g., juvenile probation officers, juvenile detention officers, ancillary staff, residents, etc.).

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY

Compliance Methodology:

N/A

Monitoring Methodology: N/A

Sample: N/A

Point Value: 0

Total Points Possible: 0

Scoring Methodology: N/A

Level: Level 0 - Not Monitorable

REFERENCE MATERIAL

Recommended Best Practices:

N/A

TEXT OF STANDARD

Subchapter: F - Abuse, Neglect and Exploitation Investigations

§349.48 Investigation Steps.

(a) The investigator shall provide for the protection of the juvenile as specified in Texas Family Code §261.101(d).

(b) The investigator shall determine if the Commission has jurisdiction to conduct the investigation.

(c) Basic Steps. In conducting an investigation, the investigator may, but is not limited to:

(1) make contact with any collateral;

(2) obtain the internal investigation from the facility or program in which the alleged abuse, exploitation or neglect occurred;

(3) examine or obtain an examination of:

(A) the alleged victim(s); and

(B) each juvenile who may be at risk of abuse, exploitation or neglect

(4) interview:

(A) the alleged victim;

(B) each juvenile who may be at risk of abuse, exploitation or neglect;

(C) the alleged victim's parents;

(D) the alleged perpetrator(s);

(E) collateral sources, including but not limited to, facility administrators, teachers, medical personnel, staff, volunteers and interns;

(F) every juvenile who may have information that will help determine whether any juvenile has been or is at risk of abuse, exploitation or neglect;

(G) an interview may occur through a recorded telephone conversation so long as the person being interviewed knows the telephone interview is being recorded.

(5) make a department, facility or program visit;

(6) conduct a criminal background check on the alleged perpetrator;

(7) obtain written statements from the alleged victim(s), alleged perpetrator(s) and collateral sources;

(8) take photographs that are deemed necessary to the investigation;

(9) issue a risk assessment; and

(10) notify the placing juvenile court and juvenile probation department immediately, if during the course of an investigation, the investigator determines a juvenile is in need of a medical examination.

(d) On-Site Investigations. If an investigator decides to make a visit under subsection (c)(5) of this Section, the investigator:

(1) may announce the visit on the basis of the nature of the allegation and the need to protect the juvenile;

(2) shall at the first face-to-face contact with the chief administrative officer or his/her designee and the alleged perpetrator(s):

(A) identify himself/herself using the Commission identification

(B) explain the nature of the complaint or the reason for the contact;

(C) explain the Commission's role, legal responsibilities in the investigation, and procedures for conducting the investigation;

(D) discuss each allegation in the report;

(E) explain that the law requires the Commission to refer all reports of alleged abuse, exploitation or neglect to a law enforcement agency for a separate determination of whether a criminal violation occurred;

(F) explain a designated perpetrator's right to file a complaint with the Commission or to request a review of the findings made by the Commission in the investigation;

(G) explain the alleged perpetrator's or designated perpetrator's right to review all records of the investigation unless the review would jeopardize an on-going criminal investigation;

(H) explain the right to seek legal counsel; and

(I) provide a copy of the signed Formal Notification of the TJPC Investigation.

COMMENTARY

Discussion and Interpretation:

This standard establishes guidelines for Commission investigators and applies to all investigations of alleged abuse, neglect and exploitation conducted by the Commission. This standard will not be monitored during the course of a regularly scheduled monitoring visit but all Commission investigators shall adhere to these requirements.

In accordance with the Texas Family Code Section 261.401, the Commission's primary purpose for conducting investigations shall be the protection of the juveniles under the jurisdiction of the juvenile court. Commission investigators protect juveniles through efficient and detailed investigations of all allegations of abuse, neglect and exploitation.

General Administrative Standards**349.48**

Jurisdiction is determined by a Commission investigator during the assessment process for each allegation received.

Basic Steps

In every investigation a Commission investigator shall review the report of the allegation, make contact with a representative of the juvenile probation department, program or facility and obtain and review the department's, program's or facility's internal investigation report and assign a disposition based on the information obtained during the investigation.

If the Commission investigator is unable to arrive at a disposition using the information acquired during the above mentioned steps, the investigator shall take additional steps as listed in Subsections (c)(3) and (4) of this standard and may request the local law enforcement's investigation report.

If the Commission investigator requires additional information in order to make an appropriate disposition finding, the investigator shall take steps as listed in Subsections (5) through (10) of this standard.

On-Site Investigations

Commission investigators have the discretion to conduct on-site investigations on all allegations of abuse, neglect and exploitation and to determine if the on-site investigation will be announced or unannounced. On-site investigations are conducted when a Commission investigator determines that the risk to the juvenile is more substantial than initially determined or when the information that has been received is insufficient to make a disposition finding.

At the beginning of all on-site investigations, the Commission investigator shall utilize the TJPC Notice of Investigation of Alleged Abuse, Neglect and Exploitation to inform the chief administrative officer and/or facility administrator or their designee of the requirements specified in Subsections (A) through (H) of this standard.

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY**Compliance Methodology:**

N/A

Monitoring Methodology: N/A**Sample:** N/A**Point Value:** 0**Total Points Possible:** 0**Scoring Methodology:** N/A**Level:** Level 0 - Not Monitorable**REFERENCE MATERIAL****Recommended Best Practices:**

N/A

Sample Form(s):

TJPC Notice of Investigation of Alleged Abuse, Neglect and Exploitation [TJPC-ANE-04-04]

Citation(s):Title 37 Texas Administrative Code Part II
Texas Juvenile Probation Commission
Chapter 349 General Administrative
Standards Rule §349.48**Texas Register Publication Citation:**28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action**Cross Reference(s):**37 TAC Section 349.49 - Investigation
Process, Disposition and RolesTexas Family Code Section 261.401 -
Agency Investigation**Board Opinion:****RFI Opinion:****EFFECTIVE DATES****Standard's Effective Date:** 9/1/2003**CRM Last Modified On:** 9/1/2003

TEXT OF STANDARD

Subchapter: F - Abuse, Neglect and Exploitation Investigations

§349.49 Investigation Process, Disposition and Roles.

All investigations conducted by the Commission shall be conducted and disposed of in one of the following ways:

(1) Preliminary Investigation.

(A) Unless the Commission does not have jurisdiction to complete a Preliminary Investigation, the investigator shall:

- (i) make contact with a collateral; and
- (ii) receive an internal investigation.

(B) A Preliminary Investigation shall be disposed of as "Administrative Closure" when:

- (i) the situation no longer appears to meet the statutory definitions of abuse, exploitation or neglect;
 - (ii) the allegation has already been investigated by the Commission;
 - (iii) another authorized entity, such as law enforcement or another state agency such as the Texas Department of Protective and Regulatory Services, Texas Department of Health, Texas Commission of Alcohol and Drug Abuse, Texas Youth Commission or the Texas Department of Mental Health and Mental Retardation will be conducting an investigation;
 - (iv) the Commission does not have the authority to finish the investigation because the alleged abuse, exploitation or neglect did not occur in a facility or program within the jurisdiction of the Commission in accordance with Texas Family Code §261.405; or
 - (v) the internal investigation received by the investigator substantiates the allegation and further agency intervention is unwarranted.
- (C) The role assigned to the alleged victim(s) and the alleged perpetrator(s) in a Preliminary Investigation with an allegation disposition of administrative closure shall be "No Role".

(2) Abbreviated Investigation.

(A) To complete an Abbreviated Investigation, the investigator shall:

- (i) interview and/or examine the alleged victim;
- (ii) interview at least one collateral;
- (iii) assess and document the impact of any risk factors; and
- (iv) determine that abuse, exploitation or neglect did not occur.

(B) An Abbreviated Investigation shall only be assigned a disposition of "Ruled Out".

(C) The role assigned to the alleged victim(s) and the alleged perpetrator(s) in an Abbreviated Investigation shall be "No Role".

(3) Thorough Investigation.

(A) A Thorough Investigation shall be conducted for all cases assessed as Priority I and may be conducted for any case assessed as Priority II.

(B) A Thorough Investigation shall include:

- (i) an on-site visit;
- (ii) an interview and/or examination of the alleged victim(s);
- (iii) an interview with at least one collateral;
- (iv) an interview with the alleged perpetrator unless:
 - (I) the alleged perpetrator is in police custody and the investigator was unable to obtain authorization from the investigating law enforcement entity before conducting the interview or;
 - (II) the alleged perpetrator declines the interview.

(C) A Thorough Investigation may be assigned a disposition of:

- (i) Reason-to-Believe;
- (ii) Ruled Out; or
- (iii) Unable-to-Determine

(D) The roles assigned to the alleged victim(s) and alleged perpetrator(s) in a Thorough Investigation shall be:

- (i) "Designated Victim" and "Designated Perpetrator" if the disposition is "Reason-to-Believe";
- (ii) "No Role" if the disposition is "Ruled Out"; and
- (iii) "Unknown" if the disposition is "Unable-to-Determine".

COMMENTARY**Discussion and Interpretation:**

This standard establishes guidelines for Commission investigators and applies to all investigations of alleged abuse, neglect and exploitation conducted by the Commission. This standard will not be monitored during the course of a regularly scheduled monitoring visit but all Commission investigators shall adhere to these requirements.

Based on the assigned priority level, the Commission investigator shall determine the type of investigation that will be conducted.

Preliminary Investigation

"Preliminary Investigations" shall be conducted on all Priority 2 cases and require a minimum of one (1) contact with a representative of the juvenile probation department, program or facility and receipt of an internal investigation report. Preliminary Investigations shall only be disposed of as "Administrative Closure" in accordance with Subsection (1)(B)(i) through (v) of this standard and the alleged victim and alleged perpetrator shall be assigned "No Role".

Abbreviated Investigation

An "Abbreviated Investigation" shall be conducted on any Priority 2 case in which the Preliminary Investigation revealed the need for a more in-depth investigation. During an Abbreviated Investigation the requirements specified in Subsection (2)(A)(i) through (iii) of this standard shall be met. Abbreviated Investigations shall only be assigned a disposition of "Ruled Out" and the alleged victim and the alleged perpetrator shall be assigned "No Role". If the investigator is unable to assign a disposition of "Ruled Out", a Thorough Investigation shall be conducted.

Thorough Investigation

A "Thorough Investigation" may be conducted on any case, but shall be conducted on all Priority 1 cases. All Thorough Investigations shall meet the requirements of Subsection (3)(B)(i) through (iv) of this standard. If, based on a preponderance of the evidence, it is determined that the allegation occurred, a Thorough Investigation shall be assigned the disposition of "Reason-To-Believe" and the alleged perpetrator and the alleged victim assigned the roles of "Designated Perpetrator" and "Designated Victim". A Thorough Investigation shall be assigned a disposition of "Ruled Out" and the alleged perpetrator and alleged victim assigned "No Role" in a case in which, based on a preponderance of the evidence, it is determined the allegation did not occur. A Thorough Investigation shall be assigned a disposition of "Unable To Determine" and the alleged perpetrator and alleged victim assigned the role of "Unknown" in a case in which, based on a lack of sufficient evidence, it cannot be determined whether the allegation occurred.

All Thorough Investigations shall include a final investigation report. Investigations disposed of as Reason-to-Believe shall be reviewed and approved by the Commission's Legal Division prior to final disposition.

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY**Compliance Methodology:**

N/A

Monitoring Methodology: N/A**Sample:** N/A**Point Value:** 0**Total Points Possible:** 0**Scoring Methodology:** N/A**Level:** Level 0 - Not Monitorable**REFERENCE MATERIAL****Recommended Best Practices:**

N/A

Sample Form(s):

N/A

Citation(s):

Title 37 Texas Administrative Code Part II
Texas Juvenile Probation Commission
Chapter 349 General Administrative
Standards Rule §349.49

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action

Cross Reference(s):

37 TAC Section 349.43 - Definitions

37 TAC Section 349.48 - Investigation
Steps

Board Opinion:**RFI Opinion:****EFFECTIVE DATES****Standard's Effective Date:** 9/1/2003**CRM Last Modified On:** 9/1/2003

TEXT OF STANDARD

Subchapter: F - Abuse, Neglect and Exploitation Investigations

§349.50 Notification of Disposition.

(a) Preliminary Investigation. When a Preliminary Investigation is disposed of, the Commission shall notify in writing the following parties about the disposition of the investigation:

- (1) the juvenile board of the placing county;
- (2) the chief administrative officer of the placing county;
- (3) the juvenile board of the county in which the alleged abuse, exploitation or neglect occurred;
- (4) the chief administrative officer of the county in which the alleged abuse, exploitation or neglect occurred;
- (5) the facility administrator; and
- (6) the reporter, if requested.

(b) Abbreviated or Thorough Investigation. When an Abbreviated or Thorough Investigation is disposed of, the Commission shall notify in writing the following parties about the disposition of the investigation:

- (1) the parents of the alleged/designated victim(s);
- (2) the alleged/designated perpetrator(s);
- (3) the chief administrative officer of the placing county;
- (4) the juvenile board of the county in which the alleged abuse, exploitation or neglect occurred;
- (5) the chief administrative officer of the county in which the alleged abuse, exploitation or neglect occurred;
- (6) the facility administrator;
- (7) the reporter, if requested; and
- (8) the juvenile board of the placing county.

COMMENTARY

Discussion and Interpretation:

This standard establishes guidelines for Commission investigators and applies to all investigations of alleged abuse, neglect and exploitation conducted by the Commission. This standard will not be monitored during the course of a regularly scheduled monitoring visit but all Commission investigators shall adhere to these requirements.

All cases are assigned a disposition and disposition letters are distributed. For the purposes of this standard, disposition letters shall be distributed to the appropriate persons in accordance with the type of investigation conducted.

Disposition letters of cases disposed of as "Reason-To-Believe" shall be distributed via certified mail with return receipt requested and regular mail and shall be accompanied by a TJPC Explanation of Reason-to-Believe Disposition Notice. It is presumed that the designated perpetrator received the Notice of Investigation Findings on the date of delivery as indicated on the certified mail return receipt. If

the certified mailing is returned unclaimed, but the regular mailing is not returned, the Notice of Investigation Findings is presumed received on the third business day following the date the notice was mailed to the designated perpetrator's last known address.

A "TJPC Explanation of Disposition Notices" shall accompany all disposition letters not disposed of as Reason-To-Believe.

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY

Compliance Methodology:

N/A

Monitoring Methodology: N/A

Sample: N/A

Point Value: 0

Total Points Possible: 0

Scoring Methodology: N/A

Level: Level 0 - Not Monitorable

REFERENCE MATERIAL

Recommended Best Practices:

N/A

Sample Form(s):

TJPC Explanation of Disposition Notices [TJPC-ANE-09-04]

TJPC Explanation of Reason-to-Believe Disposition [TJPC-ANE-10-04]

Citation(s):

Title 37 Texas Administrative Code Part II
Texas Juvenile Probation Commission
Chapter 349 General Administrative
Standards Rule §349.50

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action

Cross Reference(s):

N/A

Board Opinion:

RFI Opinion:

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003
CRM Last Modified On: 9/1/2003

General Administrative Standards**349.51**

Effective date 9/1/2003

Latest Revision 9/1/2003, Title 37 Texas Administrative Code

TEXT OF STANDARD**Subchapter:** F - Abuse, Neglect and Exploitation Investigations

§349.51 Notice of TJPC Standards Non-Compliance and Risk Assessment.

At the conclusion of an investigation the Commission may issue a:

- (1) Notice of TJPC Standards Non-Compliance; or
- (2) Risk Assessment.

COMMENTARY**Discussion and Interpretation:**

This standard establishes guidelines for Commission investigators and applies to all investigations of alleged abuse, neglect and exploitation conducted by the Commission. This standard will not be monitored during the course of a regularly scheduled monitoring visit but all Commission investigators shall adhere to these requirements.

Notice of TJPC Non-Compliance

The Notice of TJPC Standards Non-Compliance is now referred to as a "Non-Compliance Citation Report" (NCCR). A Non-Compliance Citation Report shall be issued for all standards found to be in non-compliance during a Commission investigation of an allegation of abuse, neglect or exploitation. The response to a Non-Compliance Citation Report from a juvenile probation department, program or facility shall be submitted using the internet based Compliance Monitoring, Enforcement and Tracking System (COMETS).

Risk Assessment

Risk Assessment is now referred to as a "Notice of Risk". A Notice of Risk shall be issued regarding any information received during a Commission investigation that does not rise to the level of a standards non-compliance. A Notice of Risk is written formal technical assistance from the Commission issued when circumstances do not rise to the level of a standards non-compliance but pose a potential risk to staff and/or residents. The purpose of the Notice of Risk is to provide assistance to departments, programs and facilities to improve the health and safety conditions of the departments, programs and facilities and juveniles under the jurisdiction of the juvenile court. A formal response to the Commission is not required; however, it is recommended that the department, program or facility take any necessary protective action relating to the Notice of Risk.

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY**Compliance Methodology:**

N/A

Monitoring Methodology: N/A
Sample: N/A
Point Value: 0
Total Points Possible: 0
Scoring Methodology: N/A
Level: Level 0 - Not Monitorable

REFERENCE MATERIAL**Recommended Best Practices:**

N/A

Sample Form(s):

N/A

Citation(s):

Title 37 Texas Administrative Code Part II
 Texas Juvenile Probation Commission
 Chapter 349 General Administrative
 Standards Rule §349.51

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
 28(14) TexReg 2951 Adopted Action

Cross Reference(s):

37 TAC Section 349.43 - Definitions

Board Opinion:**RFI Opinion:****EFFECTIVE DATES**

Standard's Effective Date: 9/1/2003
CRM Last Modified On: 9/1/2003

TEXT OF STANDARD

Subchapter: F - Abuse, Neglect and Exploitation Investigations

§349.52 Administrative Review and Appeal of Investigation Findings.

- (a) Anyone whom the Commission designates as a perpetrator of abuse, exploitation or neglect as specified in §349.49(3)(D)(i) of this chapter may request an administrative review of the Commission's allegation disposition of whether abuse, exploitation or neglect occurred.
- (b) The designated perpetrator shall request the review in writing within 45 calendar days after receiving the Commission's written notice of findings.
- (c) If civil or criminal court proceedings related to an allegation that the Commission has investigated are pending when a designated perpetrator requests an administrative review, or if such proceedings are initiated before the Commission begins the review, the Commission may postpone the review until the proceedings are completed.
- (d) The designated perpetrator has a right to:
- (1) appear in person at the review;
 - (2) invite a representative to speak on his or her behalf; and
 - (3) submit relevant written material.
- (e) If the designated perpetrator does not speak English or is hearing impaired, the Commission shall provide a certified interpreter unless the designated perpetrator chooses to provide a certified interpreter of his or her own.
- (f) The designated perpetrator is responsible for all costs incurred in connection with the review, including the cost of an interpreter if he or she chooses to provide one.
- (g) The administrative review shall be conducted by a Commission hearings examiner. The hearings examiner shall confirm or revise the Commission's original dispositions based on the same policies that the Commission applied during the original investigation. Within 30 calendar days after completing the review, the hearings examiner shall notify the designated perpetrator of the outcome of the review.
- (h) The hearings examiner's notification must inform the designated perpetrator that he or she can appeal to the State Office of Administrative Hearings if he or she is dissatisfied with the decision. To this end, the notification must explain the procedure for making an appeal.
- (i) If the hearings examiner or the State Office of Administrative Hearings revises the Commission's original findings or advises the Commission to take any other actions in the case, the Commission must:
- (1) enter the revised findings into the investigation record;
 - (2) notify each person who was notified of the original findings about the revised findings, except for reporters who report in a non-professional capacity; and
 - (3) take the other actions specified by the reviewer, if any.

administrative review process rather than following the outlined order of the standard. This standard will not be monitored during the course of a regularly scheduled monitoring visit but the Commission shall adhere to these requirements.

Levels of Appeal

When the Commission designates a perpetrator in an investigation of abuse, neglect or exploitation, the designated perpetrator has a right to contest and appeal the investigation findings. If the designated perpetrator wishes to appeal the investigation finding, he or she must first request an administrative review from the Commission. The administrative review is the first level of the appeal process. If the designated perpetrator is not satisfied with the final result of the administrative review, the designated perpetrator may then proceed to the second level of the appeal process. The second level of appeal is a hearing held by the State Office of Administrative Hearings (SOAH).

Notice

Upon the completion of an investigation of abuse, neglect or exploitation, the investigator gives written notification of the investigation findings to the designated perpetrator as set out in Section 349.50. Notification is mailed to the designated perpetrator's last known address via regular and certified mail with return receipt requested. It is presumed that the designated perpetrator received the Notice of Investigation Findings on the date of delivery as indicated on the certified mail return receipt. If the certified mailing is returned unclaimed, but the regular mailing is not returned, the Notice of Investigation Findings is presumed received on the third business day following the date the notice was mailed to the designated perpetrator's last known address.

Representation and Requests for Administrative Review

A request for administrative review must be made in writing and postmarked within forty-five (45) calendar days of the date the written Notice of Investigation Findings is received by the designated perpetrator. The designated perpetrator may be represented by an attorney or another person during the administrative review process. Only a designated perpetrator or their representative can request an administrative review. If the designated perpetrator designates a representative,

COMMENTARY**Discussion and Interpretation:**

This standard explains the process of an administrative review. All substantive points of this standard are explained chronologically as they occur in the

the designated perpetrator must give the Commission written notice when making a request for an administrative review or as soon as the designated perpetrator knows who will represent him or her.

A request for administrative review must be made in writing and can be mailed, e-mailed, hand delivered, or faxed to:

Texas Juvenile Probation Commission
Attention: Administrative Review of Investigation Findings
P.O. Box 13547
Austin, Texas 78711

Facsimile (512) 424-6717

Email address: Legal@tjpc.state.tx.us

Action by Hearings Examiner

A hearings examiner designated by the Executive Director of the Commission conducts the administrative review. The purpose of the administrative review is to provide the designated perpetrator a review of the investigation by an impartial person. Upon the Commission's receipt of the request for administrative review, the hearings examiner will send the designated perpetrator and the Commission's Investigations Unit a written notice of the administrative review. The notice of the administrative review is mailed at least ten (10) calendar days before the administrative review is scheduled. The designated perpetrator's notice will include a copy of the investigation file. The written notice shall include the date, time and location of the administrative review and a statement of the matter to be heard.

Rescheduling an Administrative Review

An administrative review may be rescheduled if a civil or criminal court proceeding relating to the abuse, neglect or exploitation case is pending or filed at any time after the administrative review is requested or if good cause exists. The administrative review may be rescheduled at any time following the initiation of an administrative review process and prior to the commencement of the administrative review if a request showing good cause from the designated perpetrator is submitted to the hearings examiner prior to the date of the administrative review. The hearings examiner determines if good cause exists. If a request for rescheduling is denied, the administrative review will be conducted on the previously scheduled date. If the designated perpetrator does not appear at the scheduled administrative review and has not requested that the administrative review be rescheduled, the hearings examiner will conduct an administrative review without the presence of the designated perpetrator. If the administrative review is rescheduled, it will be rescheduled within forty-five (45) calendar days of the original administrative review date or after the completion of the civil or criminal proceeding. The hearings examiner will provide written notice to the designated perpetrator and the Commission's Investigation Unit of the rescheduled administrative review date.

Conduct of the Administrative Review

The hearings examiner has the duty to provide a fair and impartial administrative review and ensure that the available and relevant testimony and evidence is presented in an orderly manner. The designated perpetrator is entitled to have an interpreter if he or she cannot speak English or is hearing impaired. The Commission will provide a certified interpreter upon determination of need or request by the designated perpetrator. The designated perpetrator may, at his or her own expense, provide a certified interpreter. The issues presented before the hearings examiner will be limited to the issues raised in the investigation. The administrative review is closed to the public and only the hearings examiner, the investigator, the designated perpetrator and their representative may be in attendance. The designated perpetrator is allowed to offer any relevant written materials including sworn statements from witnesses and offer any testimony that is relevant to the case. The investigator that conducted the investigation will appear at the administrative review and must be available for any questions by the designated perpetrator or the hearings examiner. If the investigator is unavailable, the Commission's Director of Field Services or designee shall appear and be prepared to answer questions regarding the investigation at issue. Formal rules of

evidence do not apply. Live testimony from witnesses other than the designated except from the

Record

The hearings examiner develops and maintains the official record of the administrative review. The record consists of the investigation file with the reporter's identity redacted, any documents related to the case, exhibits and statements presented at the administrative review and the recording of the administrative review. The administrative review will be recorded by audio or videotape in order to preserve the record. A copy of the recording shall be provided to the designated perpetrator upon request. The Commission will not prepare a transcription of the administrative review tape unless the designated perpetrator seeks a hearing before SOAH. The record is the sole property of the Commission. The Commission or its designated agent shall retain the record in accordance with the State Records Retention Schedule for the agency. Following the close of the administrative review, the Commission will take custody of all exhibits introduced at the administrative review and shall retain those exhibits with the record in accordance with the State Records Retention Schedule for the Commission.

Investigation Reopened

The hearings examiner may re-open the investigation if he or she determines that further investigation is required before a decision can be made. If the hearings examiner re-opens the case, the administrative review will be continued until after the investigation is completed. The hearings examiner shall set a deadline for completion of the investigation. Once the investigator has completed the investigation as requested by the hearings examiner, the investigator shall submit a final report regarding the investigation to the hearings examiner. A copy of the additional investigation final report shall be mailed to the designated perpetrator via regular and certified mail with return receipt requested.

Notice of Hearings Examiner's Decision and Right to Appeal

The hearings examiner determines if the current findings are supported by a preponderance of the evidence presented at the administrative review. The hearings examiner may confirm or revise the findings. The hearings examiner shall issue a final written decision within thirty (30) calendar days of the date of the administrative review. The final written decision shall include findings of fact and conclusions of law. A copy of the hearings

examiner's final decision shall be mailed via regular and certified mail with return receipt requested to the designated perpetrator and all individuals who were sent the original investigation findings in accordance with Section 349.50.

Along with the notice of the hearings examiner's decision, the hearings examiner shall inform the designated perpetrator of his or her right to appeal and have a hearing before SOAH if the designated perpetrator is not in agreement with the hearings examiner's final decision. The notice of decision and the notice of the right to appeal will be sent both regular and certified mail with return receipt requested. It is presumed that the designated perpetrator received the notice of final decision on the date of delivery as indicated on the certified mail return receipt. If the certified mailing is returned unclaimed, but the regular mailing is not returned, the notice of final decision is presumed received on the third business day following the date the notice was mailed to the designated perpetrator's last known address. A request for a SOAH hearing is requested, the designated perpetrator must make the request within twenty (20) business days after the official notice of the hearings examiner's decision is received by the designated perpetrator or the right to a hearing before SOAH is forfeited. Upon timely receipt by the Commission of the designated perpetrator's request for a SOAH hearing, the Commission shall file with SOAH, the Request to Docket Case Form and the record of the case. Upon the Commission's receipt of the SOAH hearing date, the Commission shall mail the notice of the hearing date to the designated perpetrator via regular and certified mail return receipt requested.

If after a SOAH hearing, SOAH revises the hearings examiner's original findings or advises that the Commission take any other actions in the case, the Commission shall enter the revised findings into the investigation record, notify each person who was notified of the original findings about the revised findings and take any other actions specified by SOAH. Notice is mailed to the designated perpetrator's last known address via regular and certified mail with return receipt requested.

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY

Compliance Methodology:

N/A

Monitoring Methodology: N/A

Sample: N/A

Point Value: 0

Total Points Possible: 0

Scoring Methodology: N/A

Level: Level 0 - Not Monitorable

REFERENCE MATERIAL

Recommended Best Practices:

N/A

Sample Form(s):

N/A

Citation(s):

Title 37 Texas Administrative Code Part II Texas Juvenile Probation Commission Chapter 349 General Administrative Standards Rule §349.52

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action

28(14) TexReg 2951 Adopted Action

Cross Reference(s):

N/A

Board Opinion:

RFI Opinion:

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003

CRM Last Modified On: 9/1/2003

General Administrative Standards**349.57**

Effective date 9/1/2003

Latest Revision 9/1/2003, Title 37 Texas Administrative Code

TEXT OF STANDARD

Subchapter: G - Confidentiality and Release of Abuse, Exploitation and Neglect Investigation Records

§349.57 Purpose.

The purpose of this subchapter is to clarify to whom and under what circumstances the Commission may disclose information made confidential under Texas Family Code §261.201.

Citation(s):

Title 37 Texas Administrative Code Part II
Texas Juvenile Probation Commission
Chapter 349 General Administrative
Standards Rule §349.57

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action

Cross Reference(s):

Texas Family Code Section 261.102 -
Emergency Order Authorizing Possession
of Child

Board Opinion:

RFI Opinion:

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003

CRM Last Modified On: 9/1/2003

COMMENTARY**Discussion and Interpretation:**

Chapter 261 of the Texas Family Code makes all information gathered by the Commission during an investigation of an allegation of abuse, exploitation or neglect confidential. This standard will not be monitored during the course of a regularly scheduled monitoring visit. Section 261.102 allows for the release of this confidential information under certain circumstances. Subchapter G, Confidentiality and Release of Abuse, Exploitation and Neglect Investigation Records, sets out to clarify the following:

1. What is confidential information;
2. Who may have access to this confidential information;
3. How a person who is authorized to have access to this information makes a request for this information; and
4. How this confidential information is released.

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY**Compliance Methodology:**

N/A

Monitoring Methodology: N/A

Sample: N/A

Point Value: 0

Total Points Possible: 0

Scoring Methodology: N/A

Level: Level 0 - Not Monitorable

REFERENCE MATERIAL**Recommended Best Practices:**

N/A

Sample Form(s):

N/A

TEXT OF STANDARD

Subchapter: G - Confidentiality and Release of Abuse, Exploitation and Neglect Investigation Records

§349.58 Definitions.

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

(1) Case records--All records described in Texas Family Code §261.201(a) which were collected, developed, or used in an abuse, exploitation or neglect investigation, which are under the control of the Commission. The term case records, as used in this subchapter, shall include investigation records, facility records as well as all juvenile court and probation department records in the control of the Commission which relate to the placement of a juvenile or which relate to the provision of other services to a juvenile or the juvenile's family.

(2) Code--The Texas Family Code.

(3) Investigation Records--That portion of the records described in Texas Family Code §261.201(a) which were collected, developed, or used in an abuse, exploitation or neglect investigation and which are under the control of the Commission. The term investigation records, as used in this subchapter, shall not include those records under the control of the Commission that relate solely to the placement of a juvenile or to the provision of services to a juvenile or the juvenile's family.

(4) Parent--Adoptive parent, possessory conservator, temporary or permanent managing conservator, legal guardian, or other legal representative of the juvenile, provided that the requestor's parental or other legal relationship to the juvenile has not been terminated at the time the request for information is made.

(5) Report--A report of alleged abuse, exploitation or neglect

(6) Reporter--An individual who makes a report to the Commission alleging the abuse, exploitation or neglect of a juvenile. If more than one individual makes a report alleging abuse, exploitation or neglect of the same juvenile, all such individuals shall have the designation of reporter.

COMMENTARY

Discussion and Interpretation:

This standard defines the terms used in the Commission's investigation of an allegation of abuse, neglect or exploitation. Any reference to the term "Code" in this standard refers to the Texas Family Code. This standard will not be monitored during the course of a regularly scheduled monitoring visit.

Case records include all documents collected, developed or used during an abuse, neglect or exploitation investigation plus other information that was developed before the initiation of the investigation relating to the juvenile (e.g., information on placement and juvenile services provided to the juvenile, court orders, social histories, common applications, etc.).

Investigation records include all information gathered by the Commission during an investigation of abuse, neglect or exploitation. Information gathered by the Commission during an investigation include but are not limited to an internal investigation report, written statements, photographs, transcripts of interviews, etc.

A report is information that alleges or suspects that abuse, neglect or exploitation of a juvenile has occurred in any juvenile justice program or facility.

The reporter is the individual who first learns or suspects that a juvenile under the jurisdiction of the juvenile court has been abused, neglected or exploited. The reporter is also the individual who completes the TJPC Incident Report Form or completes a written statement that is attached to the TJPC Incident Report Form.

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY

Compliance Methodology:

N/A

Monitoring Methodology: N/A

Sample: N/A

Point Value: 0

Total Points Possible: 0

Scoring Methodology: N/A

Level: Level 0 - Not Monitorable

REFERENCE MATERIAL

Recommended Best Practices:

N/A

Sample Form(s):

TJPC Incident Report Form [TJPC-ANE-05-04]

Citation(s):

Title 37 Texas Administrative Code Part II
Texas Juvenile Probation Commission
Chapter 349 General Administrative
Standards Rule §349.58

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action

Cross Reference(s):

Texas Family Code Section 261.201(a) -
Confidentiality and Disclosure of
Information

Board Opinion:

RFI Opinion:

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003

CRM Last Modified On: 9/1/2003

TEXT OF STANDARD

Subchapter: G - Confidentiality and Release of Abuse, Exploitation and Neglect Investigation Records

§349.59 Access to Confidential Information.

(a) To the extent required by state or federal law, or to the extent deemed necessary by the Commission for the protection and care of juveniles, the Commission may release case record information made confidential under Texas Family Code §261.201(a) to the following listed persons or entities:

- (1) the juvenile board and the chief administrative officer that placed the alleged victim;
 - (2) the juvenile board, the chief administrative officer and the facility administrator of the county in which the facility, juvenile justice program or juvenile justice alternative education program is located;
 - (3) law enforcement officials for the purpose of investigating allegations of abuse, exploitation or neglect or for the purpose of investigating allegations of false or malicious reporting of alleged abuse, exploitation or neglect;
 - (4) a physician who suspects a juvenile may be the victim of abuse, exploitation or neglect and requires this information for diagnosis, prognosis, or treatment of the juvenile;
 - (5) a government official when specifically required by law;
 - (6) a grand jury;
 - (7) an attorney, attorney ad litem, guardian ad litem, or court appointed special advocate of an alleged victim;
 - (8) a court in a criminal or civil case arising out of an investigation of abuse, exploitation and neglect;
 - (9) the attorney general of the state, or a county attorney or district attorney, when such attorney represents the state in a proceeding arising out of an investigation;
 - (10) a member of the state legislature when necessary to carry out that member's official duties; and
 - (11) any other person or entity, when in the discretion of the Commission, such information is necessary to properly meet the juvenile's needs.
- (b) Upon written request, the Commission shall provide access to case records to the parent or other legal guardian of the alleged/designated victim provided that the records are redacted in accordance with §349.60.
- (c) The Commission may release case records, or information contained therein, to a minor child who is the subject of those records if the Commission deems the release to be in the best interest of the minor child.
- (d) Upon written request, the Commission shall provide access to investigation records to an alleged or designated perpetrator.
- (e) An individual not otherwise entitled to have access to records under this section, but who participated in, cooperated with, or otherwise contributed to an investigation may have access to only that portion of the case records obtained directly from or pertaining directly to that individual.

COMMENTARY**Discussion and Interpretation:**

Under this standard, the Commission either has the discretion to release confidential information or is required to release the information depending on who has requested access to the confidential information. This standard will not be monitored during the course of a regularly scheduled monitoring visit but the appropriate Commission staff shall adhere to these requirements. Access to abuse, neglect or exploitation investigation information made confidential under the Texas Family Code Chapter 261 is excepted from the Texas Government Code Chapter 552, the Public Information Act. Section 552.101 of the Government code provides that information made confidential by a specific statute is excepted from public disclosure. Release of confidential information is made according to this standard and Chapter 261. If a person makes a request for confidential information under the Public Information Act, the requestor will be denied the information and the Commission will seek an Attorney General's decision on the request according to Texas Government Code Chapter 552.

Information can only be released after an investigation is completed and finalized in accordance with Subchapter F. Any information that is released will be redacted to remove the reporter's identity. The Commission may release confidential information to the juvenile child who is the subject of the information when the Commission determines that the release is in the juvenile's best interest.

A person who is authorized to have access to confidential information shall submit the request for confidential information in writing to the Commission. A written request for confidential information may be mailed, hand delivered, faxed or emailed to:

Texas Juvenile Probation Commission
Attention: Legal Division
P.O. Box 13547
Austin, Texas 78711

Facsimile: (512) 424-6717

E-mail address: Legal@tjpc.state.tx.us

General Administrative Standards

349.59

The Commission has the discretion to release confidential information to certain persons listed in Subsection (a) of this standard. The Commission shall release confidential information to persons listed in Subsection (a) of this standard if required by law or if the Commission determines after reviewing the situation surrounding the request that the release is necessary for the protection or care of the juvenile that is the subject of the investigation. When the Commission receives a written request from a person listed in Subsection (a) of this standard the request shall specify or detail the records that are being requested and state the purpose for requesting the records.

Under Subsection (b), the Commission is required to release confidential information to the parent or other legal guardian of the alleged or designated victim and the alleged or designated perpetrator after the Commission receives a written request for the confidential information.

A person who is not entitled to confidential information but who has provided information to the Commission during an investigation of abuse, neglect or exploitation may be entitled to receive only those portions of the records that pertain to the information they have provided (e.g., witness statements, transcription of interview, etc.).

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY

Compliance Methodology:

N/A

Monitoring Methodology: N/A

Sample: N/A

Point Value: 0

Total Points Possible: 0

Scoring Methodology: N/A

Level: Level 0 - Not Monitorable

REFERENCE MATERIAL

Recommended Best Practices:

N/A

Sample Form(s):

N/A

Citation(s):

Title 37 Texas Administrative Code Part II Texas Juvenile Probation Commission Chapter 349 General Administrative Standards Rule §349.59

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action

28(14) TexReg 2951 Adopted Action

Cross Reference(s):

37 TAC Section 349.60 - Redaction of Records Prior to Release

Texas Family Code Section 261.201(a) - Confidentiality and Disclosure of Information

Texas Government Code Chapter 552 - Public Information

Board Opinion:

RFI Opinion:

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003

CRM Last Modified On: 9/1/2003

General Administrative Standards

349.60

Effective date 9/1/2003

Latest Revision 9/1/2003, Title 37 Texas Administrative Code

TEXT OF STANDARD

Subchapter: G - Confidentiality and Release of Abuse, Exploitation and Neglect Investigation Records

§349.60 Redaction of Records Prior to Release.

(a) Redaction of Reporter's Identity.

(1) Unless otherwise permitted by law, prior to the release of investigation or case records, the Commission shall redact the name, address, and any other information in the record that tends to reveal the identity of the reporter.

(2) In the event that the reporter also provided a witness statement or other evidence, the reporter's identity as a witness and the information provided in the role of witness will be released. Any information which might identify that individual as the reporter shall be redacted from the record prior to its release.

(b) The Commission shall withhold the release of any records obtained from another source, if the release of those records to the requestor is specifically prohibited under state or federal law. Information which may be withheld under this section includes, but is not limited to, the following:

(1) all medical records subject to the Medical Practices Act, Texas Civil Statutes, Article 4495(b), unless release to the requestor is authorized under that Act;

(2) HIV information unless release to the requestor is authorized under the Health and Safety Code, Chapter 81;

(3) criminal history or arrest records obtained from a law enforcement entity unless their release to the requestor is specifically authorized under state and federal law;

(4) adult or juvenile probation records, as well as juvenile arrest records, unless their release to the requestor is specifically authorized under state and federal law; and

(5) polygraph exam reports, unless their release to the requestor is specifically authorized under the Polygraph Examiners Act, Texas Civil Statutes, Article 4413(29cc), §19A.

(c) Notwithstanding any other provision in this chapter, the Commission may withhold any information in its records if, in the judgment of the Commission, the release of that information would endanger the life or safety of any individual. The Commission shall keep a record of any information so withheld and shall document the specific factual basis for its belief that the release of the information would be likely to endanger the life or safety of an individual.

(d) Information withheld from a requestor under this subsection, as well as the documented basis for withholding information under subsection (b) of this section, may be released only upon a court order.

information provided as a witness will be released; however, any information identifying the witness as the reporter must be redacted from the record prior to its release.

A Commission investigator and a Commission attorney shall determine whether the information to be released would endanger the life or safety of an individual. If it is determined that the release would endanger the life or safety of any individual, the information shall be withheld. If the Commission investigator and attorney choose to withhold such information, a record of that information shall be kept with documentation of the factual basis for which the Commission believes the release of that information would endanger the life or safety of any individual.

Information withheld from a requestor shall be released upon a court order that authorizes a release. Section 261.201(b) of the Texas Family Code provides the procedure for obtaining a court order for the release of withheld information. The court after a hearing must determine that the safety of any individual is not endangered by the release.

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY

Compliance Methodology:

N/A

Monitoring Methodology: N/A

Sample: N/A

Point Value: 0

Total Points Possible: 0

Scoring Methodology: N/A

Level: Level 0 - Not Monitorable

REFERENCE MATERIAL

Recommended Best Practices:

N/A

Sample Form(s):

N/A

COMMENTARY

Discussion and Interpretation:

Prior to releasing confidential information, the Commission shall remove all information that reveals the identity of the reporter. This is required under Texas Family Code Chapter 261. This standard will not be monitored during the course of a regularly scheduled monitoring visit but the appropriate Commission staff shall adhere to these requirements. The Commission shall redact the name, address and any other information that may reveal the identity of the reporter. Redaction of records refers to editing information to remove the reporter's identity, including the reporter's name, address and any other information that may reveal the reporter's identity. If the reporter provided information as a witness regarding an allegation of abuse, neglect or exploitation, the reporter's identity as a witness and the

General Administrative Standards

349.60**Citation(s):**

Title 37 Texas Administrative Code Part II Texas Juvenile Probation Commission
Chapter 349 General Administrative Standards Rule §349.60

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action

Cross Reference(s):

Texas Family Code Section 261.201 - Confidentiality and Disclosure of Information

Board Opinion:**RFI Opinion:****EFFECTIVE DATES**

Standard's Effective Date: 9/1/2003

CRM Last Modified On: 9/1/2003

General Administrative Standards**349.61**

Effective date 9/1/2003

Latest Revision 9/1/2003, Title 37 Texas Administrative Code

TEXT OF STANDARD

Subchapter: G - Confidentiality and Release of Abuse, Exploitation and Neglect Investigation Records

§349.61 Procedures for Requesting Access to Confidential Information.

(a) Subject to the exception in §349.63 upon written request for copies of records, and a determination that the requestor is entitled to have access to those records, the Commission will provide copies of the requested records.

(b) Notwithstanding any other provision in this subchapter, the Commission shall not disclose any record or information, which, if released to the requestor, would interfere with an ongoing criminal investigation or prosecution.

(c) Records will not be released until the investigation of an allegation of abuse, exploitation or neglect is complete.

(d) Notwithstanding any other provision in this subchapter, if the Commission has been sued by any party and the Commission determines that the release of the requested records might interfere with its defense of that litigation, the Commission may require that a requestor seek access to records under the appropriate rules of civil procedure rather than these rules.

COMMENTARY**Discussion and Interpretation:**

This standard will not be monitored during the course of a regularly scheduled monitoring visit but the appropriate Commission staff shall adhere to these requirements. After receiving a written request for information, the Commission shall determine whether it is appropriate to release the confidential information. A release of confidential information is appropriate when all the following have been satisfied:

- 1) the investigation must be completed and approved by the legal division;
- 2) the requestor is a person that the Commission has determined is entitled to the information;
- 3) the Commission has no knowledge of a pending criminal investigation or prosecution; and
- 4) the Commission has determined that the release of confidential information will not interfere with any litigation the Commission may be involved in relating to the information being requested.

A written request for confidential information may be mailed, hand delivered, faxed or emailed to the Commission at:

Texas Juvenile Probation Commission
Attention: Legal Division
P.O. Box 13547
Austin, Texas 78711

Facsimile: (512) 424-6717

Email: Legal@tjpc.state.tx.us

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY**Compliance Methodology:**

N/A

Monitoring Methodology: N/A

Sample: N/A

Point Value: 0

Total Points Possible: 0

Scoring Methodology: N/A

Level: Level 0 - Not Monitorable

REFERENCE MATERIAL**Recommended Best Practices:**

N/A

Sample Form(s):

N/A

Citation(s):

Title 37 Texas Administrative Code Part II
Texas Juvenile Probation Commission
Chapter 349 General Administrative
Standards Rule §349.61

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action

Cross Reference(s):

N/A

Board Opinion:**RFI Opinion:****EFFECTIVE DATES**

Standard's Effective Date: 9/1/2003

CRM Last Modified On: 9/1/2003

General Administrative Standards**349.62**

Effective date 9/1/2003

Latest Revision 9/1/2003, Title 37 Texas Administrative Code

TEXT OF STANDARD

Subchapter: G - Confidentiality and Release of Abuse, Exploitation and Neglect Investigation Records

§349.62 Public Information.

The Commission shall compile statewide statistics on the incidence of abuse, exploitation and neglect as required by Texas Family Code §261.402. The following information is available to the public upon request:

- (1) the number of allegations of abuse, exploitation and/or neglect;
- (2) whether the allegation was abuse, exploitation or neglect; and
- (3) the allegation dispositions.

COMMENTARY**Discussion and Interpretation:**

Chapter 261 of the Texas Family Code imposes upon the Commission the duty to prepare and keep on file a compilation of statistical information gathered during each investigation of an allegation of abuse, neglect or exploitation. This standard will not be monitored during the course of a regularly scheduled monitoring visit but the appropriate Commission staff shall adhere to these requirements. This statistical information does not contain case specific information but is aggregate case information. This information is public information and may be released pursuant to the Texas Public Information Act, Government Code Chapter 552. The Commission maintains a database containing statewide statistical information relating to the incidents of abuse, neglect and exploitation occurring in juvenile probation departments, programs and facilities operated by or under the authority of a juvenile board. The database must contain the number, type and disposition of all allegations of abuse, neglect and exploitation received during each fiscal year. Requests for this information must be made to the Commission's Public Information Officer in writing. A written request for public information may be mailed, hand delivered, faxed or emailed to the Commission at:

Texas Juvenile Probation Commission
Attention: Public Information Officer
P.O. Box 13547
Austin, Texas 78711

Facsimile: (512) 424-6717

E-mail address: Legal@tjpc.state.tx.us

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY**Compliance Methodology:**

N/A

Monitoring Methodology: N/A
Sample: N/A
Point Value: 0
Total Points Possible: 0
Scoring Methodology: N/A
Level: Level 0 - Not Monitorable

REFERENCE MATERIAL**Recommended Best Practices:**

N/A

Sample Form(s):

N/A

Citation(s):

Title 37 Texas Administrative Code Part II
Texas Juvenile Probation Commission
Chapter 349 General Administrative
Standards Rule §349.62

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action

Cross Reference(s):

Texas Government Code Chapter 552-
Texas Public Information Act

Texas Family Code Chapter 261-
Investigation of Report of Child Abuse or
Neglect

Board Opinion:

RFI Opinion:

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003
CRM Last Modified On: 9/1/2003

General Administrative Standards

349.63

Effective date 9/1/2003

Latest Revision 9/1/2003, Title 37 Texas Administrative Code

TEXT OF STANDARD

Subchapter: G - Confidentiality and Release of Abuse, Exploitation and Neglect Investigation Records

§349.63 Videotapes, Audiotapes and Photographs.

(a) Individuals authorized under §349.59 of this chapter have access to investigation records or case records and may view and/or listen to any videotapes, audiotapes, or photographs which are a part of those records.

(1) Access will be permitted only in areas, designated by the Commission, at a time mutually convenient to the requestor and the Commission.

(2) When viewing or listening to these records, the requestor may not be accompanied by any individual who would not otherwise be entitled to have access to these records, unless the participation of this individual is deemed by the Commission to be appropriate under the circumstances surrounding the request.

(b) Copies of videotapes, audiotapes, and photographs may be provided to the individuals or entities identified in §349.59(a) of this chapter, only if, in the judgment of the Commission the provision of a copy is essential to the investigation, prosecution, or resolution of a case.

COMMENTARY

Discussion and Interpretation:

This standard will not be monitored during the course of a regularly scheduled monitoring visit but the appropriate Commission staff shall adhere to these requirements. Videotapes, audiotapes and photographs developed or obtained by a Commission investigator during the course of an investigation of abuse, neglect or exploitation may be reviewed by individuals or entities specified in Section 349.59. A person entitled to access confidential information shall submit a request in writing to the Commission according to Section 349.59.

When the Commission receives a request for access to videotapes, audiotapes and photographs a Commission investigator and a Commission attorney shall determine whether the request for review of media is appropriate. Only persons authorized under Section 349.59 or their attorneys will be allowed access to the media.

Copies shall not be provided to persons listed in Section 349.59(a) unless the Commission determines that the provision of the copy of the media is necessary for the completion of the investigation, civil litigation, prosecution of a criminal case or resolution of a contested matter.

If the Commission determines that the media may be reviewed by the requestor, the Commission will designate a mutually convenient time and location for the review. When reviewing the media, the requestor may not be accompanied by any person who is not entitled to have access to the media as specified in Section 349.59(a), unless the Commission determines that the person accompanying the requestor has legitimate access to the media.

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY

Compliance Methodology:

N/A

Monitoring Methodology: N/A

Sample: N/A

Point Value: 0

Total Points Possible: 0

Scoring Methodology: N/A

Level: Level 0 - Not Monitorable

REFERENCE MATERIAL

Recommended Best Practices:

N/A

Sample Form(s):

N/A

Citation(s):

Title 37 Texas Administrative Code Part II
Texas Juvenile Probation Commission
Chapter 349 General Administrative
Standards Rule §349.63

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action

Cross Reference(s):

37 TAC Section 349.59 - Access to
Confidential Information

37 TAC Section 349.61 - Procedures for
Requesting Access to Confidential
Information

Board Opinion:

RFI Opinion:

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003

CRM Last Modified On: 9/1/2003

General Administrative Standards**349.64**

Effective date 9/1/2003

Latest Revision 9/1/2003, Title 37 Texas Administrative Code

TEXT OF STANDARD

Subchapter: G - Confidentiality and Release of Abuse, Exploitation and Neglect Investigation Records

§349.64 Charges for Copies of Records.

The Commission may charge a fee for records provided under §349.59(a) of this chapter using the same fee structure as that used by the Commission when assessing charges under Chapter 552, Texas Government Code.

Monitoring Methodology: N/A
Sample: N/A
Point Value: 0
Total Points Possible: 0
Scoring Methodology: N/A
Level: Level 0 - Not Monitorable

REFERENCE MATERIAL**Recommended Best Practices:**

N/A

Sample Form(s):

N/A

Citation(s):

Title 37 Texas Administrative Code Part II
 Texas Juvenile Probation Commission
 Chapter 349 General Administrative
 Standards Rule §349.64

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
 28(14) TexReg 2951 Adopted Action

Cross Reference(s):

Texas Government Code Section
 552.2615 - Required Itemized Estimate of
 Charges

Board Opinion:

RFI Opinion:

EFFECTIVE DATES

Standard's Effective Date: 9/1/2003
CRM Last Modified On: 9/1/2003

COMMENTARY**Discussion and Interpretation:**

Subchapter F of Government Code Chapter 552, the Public Information Act, Charges for Providing Copies of Public Information, provides the guideline for governmental entities when accessing charges for producing public information. This standard authorized the Commission to access fees for records that are provided under Section 349.59 (a) according to the Public Information Act. This standard will not be monitored during the course of a regularly scheduled monitoring visit but the appropriate Commission staff shall adhere to these requirements. It is the practice of the Commission to waive charges under \$15.00. Requestors are notified in advance and in writing if a request is estimated to be over \$40.00 as specified in the Texas Government Code, Section 552.2615. The written notification will contain the following:

1. An itemized statement of estimated charges;
2. A statement advising the requestor that there is a less expensive alternative, such as inspecting the records;
3. A choice to accept the charges, which must be signed and dated;
4. An opportunity to modify the request; and
5. A statement advising the requestor that if no answer is received within ten (10) calendar days from the date of the letter, the request will be considered automatically withdrawn by operation of the law.

Additionally, the notification may contain a statement advising the requestor that a deposit may be required if the estimated charges are more than \$100.00. If charges are less than \$40.00, the requestor is advised of charges by phone and the copies are sent with a bill.

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY**Compliance Methodology:**

N/A

General Administrative Standards**349.69**

Effective date 9/1/2003

Latest Revision 9/1/2003, Title 37 Texas Administrative Code

TEXT OF STANDARD**Subchapter:** H - Memoranda of Understanding

§349.69 Memorandum of Understanding--Coordinated Services for Multi-problem Children and Youth.

(a) The Commission adopts by reference a joint memorandum of understanding with the Texas Commission for the Blind, Texas Department of Health, Texas Department of Protective and Regulatory Services, Texas Department of Mental Health and Mental Retardation, Texas Education Agency, Texas Rehabilitation Commission, and the Texas Youth Commission concerning coordinated services for multi-problem children and youth which provides for the implementation of a system of community resource coordination groups.

(b) The memorandum of understanding was published in the November 15, 1988, issue of the Texas Register (13 TexReg 5727) by the Texas Department of Human Services, 40 TAC §72.701. Copies of the memorandum of understanding are available from the Texas Juvenile Probation Commission.

COMMENTARY**Discussion and Interpretation:**

The Commission is one of seven state agencies required during the 70th Legislative Session in 1987 to enter into a memorandum of understanding (MOU) concerning statewide coordinated services for multi-problem children and youth. This standard will not be monitored during the course of a regularly scheduled monitoring visit. The original goal of the MOU was to implement a system of community resource coordination groups and eliminate the duplication of effort and improve services to multi-problem children and youth. Originally published in the Texas Register in November 1988 (13 TexReg 5727), the Commission has adopted the MOU by reference in this standard. A copy of the MOU is available upon request from the Commission or can be viewed on the Commission's website at:

<http://www.tjpc.state.tx.us/publications/forms/TJPCAGE1404.pdf>

During the 78th Texas Legislative Session in 2003, some state agency MOU participants were renamed or merged with other agencies as a result of government reorganization. Under House Bill 2292, the duties of 12 health and human services agencies were transferred to four divisions under the larger umbrella of the Health and Human Services Commission (HHSC). Effective September 1, 2003, the new divisions are the Department of State Health Services, the Department of Aging and Disabilities Services, the Department of Assistive and Rehabilitative Services and the Department of Family and Protective Services. The implementation process is in its early stages and many of the administrative and functional responsibilities of the affected state agencies have yet to be determined. Therefore, the Commission is uncertain of the ramifications of government reorganization on the MOUs discussed in this standard. For more information, see the HHSC reorganization flowchart on the Commission's website: www.tjpc.state.tx.us.

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY**Compliance Methodology:**

N/A

Monitoring Methodology: N/A**Sample:** N/A**Point Value:** 0**Total Points Possible:** 0**Scoring Methodology:** N/A**Level:** Level 0 - Not Monitorable**REFERENCE MATERIAL****Recommended Best Practices:**

N/A

Sample Form(s):

N/A

Citation(s):

Title 37 Texas Administrative Code Part II
Texas Juvenile Probation Commission
Chapter 349 General Administrative
Standards Rule §349.69

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action

Cross Reference(s):

40 TAC Section 72.701 - Coordinated
Services for Multi-problem Children and
Youth

Board Opinion:**RFI Opinion:****EFFECTIVE DATES****Standard's Effective Date:** 9/1/2003**CRM Last Modified On:** 9/1/2003

General Administrative Standards**349.70**

Effective date 9/1/2003

Latest Revision 9/1/2003, Title 37 Texas Administrative Code

TEXT OF STANDARD**Subchapter:** H - Memoranda of Understanding

§349.70 Memorandum of Understanding--Service Delivery to Dysfunctional Families.

(a) The Commission adopts by reference a joint memorandum of understanding with the Texas Department of Human Services and the Texas Youth Commission regarding service delivery to dysfunctional families.

(b) The memorandum of understanding was published in the Texas Register by the Texas Department of Human Services on October 29, 1991 (16 TexReg 6126). Copies of the memorandum of understanding are available from the Texas Juvenile Probation Commission.

COMMENTARY**Discussion and Interpretation:**

The Texas Juvenile Probation Commission, the Texas Youth Commission and the Texas Department of Human Services were required during the 71st Legislative Session in 1989 to adopt a memorandum of understanding regarding service delivery to dysfunctional families. This standard will not be monitored during the course of a regularly scheduled monitoring visit. Under the law, the MOU requires, among other things, that the three agencies contract to provide dysfunctional families with training in parenting skills, coping skills for children and support groups for both parents and children. First published in the Texas Register in October 1991 (16 TexReg 6126), the Commission has adopted the MOU by reference in this standard. A copy of the MOU is available upon request from the Commission or on the Commission's website at:

<http://www.tjpc.state.tx.us/publications/forms/TJPCAGE1304.pdf>.

During the 78th Texas Legislative Session in 2003, some state agency MOU participants were renamed or merged with other agencies as a result of government reorganization. Under House Bill 2292, the duties of 12 health and human services agencies were transferred to four divisions under the larger umbrella of the Health and Human Services Commission (HHSC). Effective September 1, 2003, the new divisions are the Department of State Health Services, the Department of Aging and Disabilities Services, the Department of Assistive and Rehabilitative Services and the Department of Family and Protective Services. The implementation process is in its early stages and many of the administrative and functional responsibilities of the affected state agencies have yet to be determined. Therefore, the Commission is uncertain of the ramifications of government reorganization on the MOUs discussed in this standard. For more information, see the HHSC reorganization flowchart on the Commission's website: www.tjpc.state.tx.us

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY**Compliance Methodology:**

N/A

Monitoring Methodology: N/A
Sample: N/A
Point Value: 0
Total Points Possible: 0
Scoring Methodology: N/A
Level: Level 0 - Not Monitorable

REFERENCE MATERIAL**Recommended Best Practices:**

N/A

Sample Form(s):

N/A

Citation(s):

Title 37 Texas Administrative Code Part II
 Texas Juvenile Probation Commission
 Chapter 349 General Administrative
 Standards Rule §349.70

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
 28(14) TexReg 2951 Adopted Action

Cross Reference(s):

40 TAC Section 72.901 - Service Delivery
 to Dysfunctional Families

Board Opinion:**RFI Opinion:****EFFECTIVE DATES**

Standard's Effective Date: 9/1/2003
CRM Last Modified On: 9/1/2003

General Administrative Standards**349.71**

Effective date 9/1/2003

Latest Revision 9/1/2003, Title 37 Texas Administrative Code

TEXT OF STANDARD**Subchapter:** H - Memoranda of Understanding

§349.71 Memorandum of Understanding--Transition Planning for Students Receiving Special Education Services.

(a) The Commission adopts by reference a joint memorandum of understanding with the Texas Education Agency and other state agencies regarding transition planning for students receiving special education services.

(b) The memorandum of understanding is published in Title 19 Texas Administrative Code §89.1110.

COMMENTARY**Discussion and Interpretation:**

The Commission is one of 13 participating state agencies required to enter into a memorandum of understanding regarding the provision of services necessary to prepare students receiving special education services for a successful transition to life outside the public school system. The Commission has adopted the MOU by reference in this standard. The text of the MOU is published in Title 19 Texas Administrative Code Section 89.1110. This standard will not be monitored during the course of a regularly scheduled monitoring visit

During the 78th Texas Legislative Session in 2003, some state agency MOU participants were renamed or merged with other agencies as a result of government reorganization. Under House Bill 2292, the duties of 12 health and human services agencies were transferred to four divisions under the larger umbrella of the Health and Human Services Commission (HHSC). Effective September 1, 2003, the new divisions are the Department of State Health Services, the Department of Aging and Disabilities Services, the Department of Assistive and Rehabilitative Services and the Department of Family and Protective Services. The implementation process is in its early stages and many of the administrative and functional responsibilities of the affected state agencies have yet to be determined. Therefore, the Commission is uncertain of the ramifications of government reorganization on the MOUs discussed in this standard. For more information, see the HHSC reorganization flowchart on the Commission's website: www.tjpc.state.tx.us

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY**Compliance Methodology:**

N/A

Monitoring Methodology: N/A**Sample:** N/A**Point Value:** 0**Total Points Possible:** 0**Scoring Methodology:** N/A**Level:** Level 0 - Not Monitorable**REFERENCE MATERIAL****Recommended Best Practices:**

N/A

Sample Form(s):

N/A

Citation(s):

Title 37 Texas Administrative Code Part II
Texas Juvenile Probation Commission
Chapter 349 General Administrative
Standards Rule §349.71

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action

Cross Reference(s):

19 Texas Administrative Code Section
89.1110 - Transition Planning for Students
Receiving Special Education Services.

Board Opinion:**RFI Opinion:****EFFECTIVE DATES****Standard's Effective Date:** 9/1/2003**CRM Last Modified On:** 9/1/2003

General Administrative Standards**349.72**

Effective date 9/1/2003

Latest Revision 9/1/2003, Title 37 Texas Administrative Code

TEXT OF STANDARD**Subchapter:** H - Memoranda of Understanding

§349.72 Memorandum of Understanding--Interagency Coordination of Special Education Services to Students with Disabilities in Residential Facilities.

(a) The Commission adopts by reference a joint memorandum of understanding with the Texas Education Agency and other state agencies regarding the coordination of special education services to students with disabilities in residential facilities.

(b) The memorandum of understanding is published in Title 19 Texas Administrative Code §89.1115.

COMMENTARY**Discussion and Interpretation:**

The Commission is one of nine participating state agencies required to enter into a memorandum of understanding (MOU) regarding the provision of a free appropriate public education (FAPE), as required by the Individuals with Disabilities Education Act (IDEA), including the requirements for children with disabilities who reside in those facilities. The Commission has adopted the MOU by reference in this standard. The text of the MOU is published in Title 19 Texas Administrative Code Section 89.1115. This standard will not be monitored during the course of a regularly scheduled monitoring visit but the Commission shall adhere to these requirements.

During the 78th Texas Legislative Session in 2003, some state agency MOU participants were renamed or merged with other agencies as a result of government reorganization. Under House Bill 2292, the duties of 12 health and human services agencies were transferred to four divisions under the larger umbrella of the Health and Human Services Commission (HHSC). Effective September 1, 2003, the new divisions are the Department of State Health Services, the Department of Aging and Disabilities Services, the Department of Assistive and Rehabilitative Services and the Department of Family and Protective Services. The implementation process is in its early stages and many of the administrative and functional responsibilities of the affected state agencies have yet to be determined. Therefore, the Commission is uncertain of the ramifications of government reorganization on the MOUs discussed in this standard. For more information, see the HHSC reorganization flowchart on the Commission's website at: www.tjpc.state.tx.us.

Reviewer Guidelines:

N/A

Verification Documents:

N/A

METHODOLOGY**Compliance Methodology:**

N/A

Monitoring Methodology: N/A**Sample:** N/A**Point Value:** 0**Total Points Possible:** 0**Scoring Methodology:** N/A**Level:** Level 0 - Not Monitorable**REFERENCE MATERIAL****Recommended Best Practices:**

N/A

Sample Form(s):

N/A

Citation(s):

Title 37 Texas Administrative Code Part II
Texas Juvenile Probation Commission
Chapter 349 General Administrative
Standards Rule §349.72

Texas Register Publication Citation:

28(6) TexReg 1126 Proposed Action
28(14) TexReg 2951 Adopted Action

Cross Reference(s):

19 Texas Administrative Code Section
89.1115 - Interagency Coordination of
Special Education Services to Students
with Disabilities in Residential Facilities

Board Opinion:**RFI Opinion:****EFFECTIVE DATES****Standard's Effective Date:** 9/1/2003**CRM Last Modified On:** 9/1/2003