

# Texas Administrative Code

**Title 37**  
**Part 11**  
**Chapter 355**

**Public Safety and Corrections**  
**Texas Juvenile Justice Department**  
**Non-Secure Correctional Facilities**

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## Subchapter A Definitions

### §355.100. Definitions.

Effective Date: 11/15/13

The following words and terms when used in this chapter shall have the following meanings, unless otherwise expressly defined within the chapter or the context clearly indicates otherwise.

- (1) **Behavioral Health Assessment**--A mental health assessment conducted by a masters-level mental health provider who is licensed by one of the boards listed in paragraph (22) of this section and qualified by training to conduct all required elements of a behavioral health assessment. At a minimum, a behavioral health assessment must include the following elements:
  - (A) Clinical interview;
  - (B) Psycho-social evaluation, to include:
    - (i) family history;
    - (ii) community/living environment;
    - (iii) peer relationships; and
    - (iv) academic/vocational history;
  - (C) Review of the following files and associated records in the possession of the juvenile probation department:
    - (i) juvenile probation records;
    - (ii) mental health records;
    - (iii) medical records;
    - (iv) previous mental health testing records; and
    - (v) educational records;
  - (D) Parent/guardian interview, unless the parent/guardian is unwilling to participate, and any other collateral interviews the mental health provider deems appropriate, such as a teacher or the child's juvenile probation officer;
  - (E) Psychometric testing, to include:
    - (i) Achievement assessment, only if there is no record of an achievement assessment within the last three years;
    - (ii) Personality assessment, only if there is no record of a personality assessment within the last three years;
    - (iii) Intellectual assessment, only if:
      - (I) there is no record of an intellectual assessment within the last three years; or
      - (II) a new intellectual assessment is indicated by:
        - (-a-) pervasive use of drugs known to impair thought processes;
        - (-b-) traumatic brain injury;
        - (-c-) the child was age 12 or younger on the date of the most recent psychometric testing; or
        - (-d-) obvious impairment in cognitive or interpersonal functioning; and
  - (F) Review of risks, strengths, and recommendations for intervention.

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- (2) **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 juvenile probation department for a single county or a multi-county judicial district.
- (3) **Contraband**--Any item not issued to employees for the performance of their duties and which employees have not obtained supervisory approval to possess. Contraband also includes any item given to a resident by an employee or other individual which a resident is not authorized to possess or use. Specific items of contraband include, but are not limited to:
  - (A) firearms;
  - (B) knives;
  - (C) ammunition;
  - (D) drugs;
  - (E) intoxicants;
  - (F) pornography; and
  - (G) any unauthorized written or verbal communication brought into or taken from an institution for a resident, former resident, associate of a resident, or family members of a resident.
- (4) **Date and Time of Admission**--The date and time a juvenile was admitted into a non-secure correctional facility.
- (5) **Disciplinary Restriction**--The removal of a resident from other residents for behavior modification and the placement of the resident alone for 90 minutes or less.
- (6) **Disciplinary Separation**--The removal of a resident from program activities or other residents for 24 hours or less because of a major rule violation or an imminent physical threat to self or others.
- (7) **Facility Administrator**--The individual designated by the chief administrative officer or governing board of the facility who has the ultimate responsibility for managing and operating the facility. This definition includes the certified juvenile supervision officer who is designated in writing as the acting facility administrator during the absence of the facility administrator.
- (8) **Facility Staff**--All full-time, part-time, temporary, and seasonal staff who are employed or contracted to perform facility-related duties.
- (9) **Governing Board**--A governmental unit (typically a juvenile board) or a board of trustees appointed by the governmental unit that establishes and operates or contracts for the establishment and operation of the facility. The governing board for the facility shall provide oversight of facility operations, policies, and procedures.
- (10) **Hazardous Material**--Any substance that is explosive, flammable, combustible, poisonous, corrosive, irritating, or otherwise harmful and is likely to cause injury or death.
- (11) **Health Assessment**--The process whereby the health status of an individual is evaluated, which may include questioning the patient regarding symptoms.
- (12) **Health Care Professional**--A term that includes physicians, physician assistants, nurses, nurse practitioners, dentists, medical assistants, emergency medical technicians, and others who, by virtue of their education, credentials, and experience, are permitted by law to evaluate and care for patients.
- (13) **Health Service Authority**--The agency, organization, entity, or individual responsible for consulting and collaborating with the facility administrator and/or the health services coordinator to ensure a coordinated and adequate health care system is available to residents of the facility.
- (14) **Housing Area**--An area within the non-secure correctional facility that contains residents.
- (15) **Housing Unit**--A unit within the housing area that may be designed and constructed as either a single occupancy housing unit (SOHU) or a multiple occupancy housing unit (MOHU).

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- (16) **Intra-Jurisdictional Custodial Transfer**--The transfer of a resident from a pre-adjudication or post-adjudication secure facility into a non-secure correctional facility under the same administrative authority.
- (17) **Juvenile**--A person who is under the jurisdiction of the juvenile court, confined in a juvenile justice facility, or participating in a juvenile justice program administered or operated under the authority of the juvenile board.
- (18) **Juvenile Supervision Officer**--A person whose primary responsibility and essential function is the supervision of juveniles in a juvenile justice facility or a juvenile justice program operated by or under contract with the governing board.
- (19) **Material Safety Data Sheet (MSDS)**--A document prepared by the supplier or manufacturer of a product clearly stating its hazardous nature, ingredients, precautions to follow, health effects, and safe handling/storage information.
- (20) **Medical Separation**--The removal of a resident from program activities or other residents for medical purposes in accordance with §355.524 of this title.
- (21) **Medical Treatment**--Medical care, including diagnostic testing (e.g., x-rays, laboratory testing, etc.), performed or ordered by a physician or physician assistant or performed by a licensed nurse practitioner, emergency medical technician, paramedic, registered nurse (RN), or licensed vocational nurse (LVN) according to their respective licensure.
- (22) **Mental Health Provider**--An individual who is licensed or otherwise authorized to provide mental health services by one or more of the following licensing boards:
  - (A) Texas State Board of Examiners of Psychologists;
  - (B) Texas State Board of Examiners of Professional Counselors;
  - (C) Texas State Board of Examiners of Marriage and Family Therapists;
  - (D) Texas Department of State Health Services;
  - (E) Texas Medical Board; or
  - (F) Texas State Board of Social Worker Examiners.
- (23) **Mental Health Screening**--A process that includes a series of questions that are designed to identify a resident who is at an increased risk of having mental health disorders that warrant attention and a professional review.
- (24) **Multiple-Occupancy Housing Unit (MOHU)**--A housing unit designed and constructed for multiple-occupancy sleeping.
- (25) **Non-Program Hours**--The time period when the facility's scheduled resident activity has ceased for the day.
- (26) **Non-Secure Correctional Facility**--Any public or private residential facility operated by or under contract with a juvenile board in which the construction fixtures, hardware, staffing models, and procedures do not restrict the egress of residents from the facility.
- (27) **Physical Training Program**--Any program that requires participants to engage in and perform structured physical training and activity. This does not include recreational team activities or activities related to the educational curriculum (i.e., physical education).
- (28) **Positive Screening**--A scored result of a completed mental health screening instrument (i.e., MAYSI-2) recommending services requiring a primary service by a mental health provider as described on the MAYSI-2 reference card.
- (29) **Premises**--A building(s) together with its grounds or other appurtenances.
- (30) **Program Hours**--The time period when the facility schedules activities for the resident population.

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- (31) **Qualified Individual**--A person who may supervise residents when working with residents in a capacity that relates to the person's qualifications.
- (32) **Qualified Mental Health Professional**--An individual employed by the local mental health authority or an entity who contracts as a service provider with the local mental health authority who meets the guidelines of the Texas Department of State Health Services.
- (33) **Rated Capacity**--The maximum number of beds available in a facility that were architecturally designed or redesigned as a housing unit.
- (34) **Resident**--A juvenile who is placed in the non-secure correctional facility.
- (35) **Riot**--A situation in which three or more residents in the facility intentionally participate in conduct that constitutes a clear and present danger to persons or property and substantially obstructs the performance of facility operations or a program therein. Rebellion is a form of riot.
- (36) **Secondary Screening**--A triage process that is brief and designed to clarify if a resident is in need of intervention or a more comprehensive assessment and what type of intervention or assessment is needed.
- (37) **Single-Occupancy Housing Unit (SOHU)**--A housing unit designed and constructed with separate and individual resident sleeping quarters.
- (38) **TJJD**--The Texas Juvenile Justice Department.
- (39) **Volunteer**--An individual who agrees to perform services without compensation and may have regular or periodic supervised contact with juveniles under the direction of the non-secure correctional facility.
- (40) **Youth Activities Supervisor**--Regardless of title, an individual whose primary responsibility and essential job function is the supervision of juveniles strictly in a non-secure setting within a juvenile justice program or facility other than a juvenile justice alternative education program.
- (41) **Youth-on-Youth Sexual Conduct**--Two or more juveniles, regardless of age, who engage in deviate sexual intercourse, sexual contact, sexual intercourse, or sexual performance as those terms are defined in subparagraphs (A)–(D) of this paragraph:
  - (A) "Deviate sexual intercourse" means:
    - (i) any contact between any part of the genitals of one person and the mouth or anus of another person; or
    - (ii) the penetration of the genitals or the anus of another person with an object.
  - (B) "Sexual contact" means the following acts, if committed with the intent to arouse or gratify the sexual desire of any person:
    - (i) any touching by a person, including touching through clothing, of the anus, breast, or any part of the genitals of a person; or
    - (ii) any touching of any part of the body of a person, including touching through clothing, with the anus, breast, or any part of the genitals of a person.
  - (C) "Sexual intercourse" means any penetration of the female sex organ by the male sex organ.
  - (D) "Sexual performance" means acts of a sexual or suggestive nature performed in front of one or more persons, including simulated or actual sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, sado-masochistic abuse or lewd exhibition of the genitals, the anus, or any portion of the female breast below the top of the areola.
  - (E) A juvenile may not consent to the acts as defined in this paragraph under any circumstances. Consent may not be implied regardless of the age of the juvenile.

## Subchapter B Applicability and General Provisions

### **§355.200. Applicability.**

Effective Date: 11/15/13

- (a) Except as specified in subsections (b) and (c) of this section, this chapter applies to all non-secure juvenile correctional facilities in this state.
- (b) Non-secure correctional facilities designated for detention by the juvenile board pursuant to Texas Family Code §51.12 are subject to Chapter 351 of this title.
- (c) A non-secure correctional facility is subject only to §355.206 of this title and exempt from the rest of this chapter if:
  - (1) the facility is licensed by another state governmental entity; and
  - (2) the facility's governing board has determined the facility will operate solely under the license of the other state governmental entity.

### **§355.202. Waiver or Variance.**

Effective Date: 11/15/13

Unless expressly prohibited by another standard, an application for waiver or variance of any standard in this chapter may be submitted in accordance with §349.200 of this title.

### **§355.204. Authority to Operate Non-Secure Correctional Facility.**

Effective Date: 11/15/13

Pursuant to Texas Family Code §51.126, a non-secure correctional facility may only be operated by:

- (1) a governmental unit in this State; or
- (2) a private entity under a contract with a governmental unit in this State.

### **§355.206. Certification and Registration of Facility.**

Effective Date: 11/15/13

Before the facility admits residents, the juvenile board in the county or district where a non-secure correctional facility is located shall ensure:

- (1) the facility is certified in compliance with §51.126 of the Texas Family Code;
- (2) the number of beds is designated in the facility certification;
- (3) the facility is registered with TJJD in compliance with §51.126 of the Texas Family Code; and
- (4) the current facility certification and TJJD's facility registration are posted within a public area of the facility.

### **§355.210. Acceptance of Residents.**

Effective Date: 11/15/13

- (a) A non-secure correctional facility that is not licensed by another state agency may only accept and admit a child, as that term is defined in §51.02(2) of the Texas Family Code, who is under the jurisdiction of the juvenile court.
- (b) In addition to children admitted under subsection (a) of this section, a non-secure correctional facility that is licensed by another state agency may accept and admit children as permitted by the facility's license.

### §355.220. Facility Governing Board.

Effective Date: 11/15/13

Each facility shall have a governing board.

### §355.226. Location and Operations.

Effective Date: 11/15/13

#### (a) Co-located Facilities.

- (1) If the facility is located in the same building or on the grounds of any type of adult corrections facility, it shall be a separate, self-contained unit.
- (2) All applicable federal and state laws pertaining to the separation of juveniles from adult inmates shall apply.
- (3) The facility shall submit information and agree to monitoring from the Office of the Governor and/or the contract representative.

#### (b) Separate Operations.

Where a non-secure correctional facility is located in the same building or on the same grounds as a secure pre-adjudication detention or post-adjudication correctional facility, the following shall apply:

- (1) Direct verbal interaction and/or physical interaction shall be kept to a minimum. Sight and sound separation is not required.
- (2) During program hours, any situation where secure and non-secure populations are sharing the same physical space and/or program activity, there shall be separate and distinct supervision ratios maintained according to standards.
- (3) During non-program hours, a single juvenile supervision officer may simultaneously satisfy the supervision ratios for both secure and non-secure populations as long as the facility uses single occupancy housing units (SOHUs).

### §355.230. Criminal History Searches.

Effective Date: 11/15/13

All staff, including contract staff, volunteers, and interns, shall have criminal history searches in accordance with Chapter 344 of this title.

### §355.232. Serious Incidents.

Effective Date: 11/15/13

All non-secure correctional facilities shall adhere to the requirements set forth in Chapter 358 of this title regarding serious incidents.

### §355.234. Abuse, Neglect, and Exploitation.

Effective Date: 11/15/13

All non-secure correctional facilities shall adhere to requirements set forth in Chapter 358 of this title regarding abuse, neglect, and exploitation.

### §355.236. Data Collection.

Effective Date: 11/15/13

The facility administrator or chief administrative officer shall maintain and report to TJJJ electronically, or in the format requested, accurate statistics in the following areas:

- (1) total number of grievances;
- (2) total number of personal restraint incidents;
- (3) total number of mechanical restraint incidents;

- (4) total number of disciplinary separations; and
- (5) total number of staff injuries resulting from interaction with residents.

### Subchapter C Physical Plant and Fire Safety

#### **§355.300. External and Perimeter Security.**

Effective Date: 11/15/13

The facility shall be constructed so:

- (1) the general public is denied access without authorization; and
- (2) egress for residents is unimpeded by architectural barriers.

#### **§355.304. Single-Occupancy Housing Units--SOHUs.**

Effective Date: 11/15/13

- (a) SOHUs shall be constructed to contain no more than 24 beds in each housing unit.
- (b) Individual resident sleeping quarters shall be utilized as single-occupancy only, and at no time may more than one resident be placed in an individual resident sleeping quarter.
- (c) Individual resident sleeping quarters shall contain a bed above floor level.

#### **§355.306. Multiple-Occupancy Housing Units--MOHUs.**

Effective Date: 11/15/13

- (a) MOHUs shall be designed to contain no more than 24 beds in each housing unit.
- (b) MOHUs shall have one bed above floor level for every resident assigned to the unit.
- (c) MOHUs shall contain residents of the same sex.

#### **§355.310. Program Areas.**

Effective Date: 11/15/13

The facility shall provide access to space for:

- (1) visitation;
- (2) religious activities;
- (3) interviewing and counseling;
- (4) educational instruction;
- (5) exercise; and
- (6) common activities.

#### **§355.312. Housing for Residents with Physical Disabilities.**

Effective Date: 11/15/13

All housing areas used by residents with a physical disability shall be designed for their use and provide for their safety and security in accordance with state and federal law.

### **§355.314. Shower Facilities.**

Effective Date: 11/15/13

Residents shall have access to shower facilities with hot and cold running water within the non-secure correctional facility.

- (1) Non-secure correctional facilities shall contain one operable shower for every eight beds.
- (2) The facility shall have policies and procedures regarding residents' access to shower facilities and their supervision during the use of shower facilities.

### **§355.316. Toilet Facilities.**

Effective Date: 11/15/13

- (a) Residents shall have access to toilet facilities within the non-secure correctional facility.
- (b) Non-secure correctional facilities shall contain at least one operable toilet above floor level for every eight beds.
- (c) Urinals may be substituted for up to one-half of the toilets in housing areas permanently designed as all-male units.
- (d) The facility shall have policies and procedures regarding residents' access to toilet facilities and their supervision during the use of toilet facilities.

### **§355.318. Washbasins.**

Effective Date: 11/15/13

- (a) Residents shall have access to washbasins within the non-secure correctional facility.
- (b) Non-secure correctional facilities shall contain one operable washbasin for every 12 beds.
- (c) All washbasins shall have hot and cold running water.

### **§355.320. Drinking Water.**

Effective Date: 11/15/13

- (a) Residents shall have access to clean and fresh drinking water within the non-secure correctional facility.
- (b) The facility shall have policies and procedures regarding residents' access to drinking water.

### **§355.324. Heating and Ventilation.**

Effective Date: 11/15/13

- (a) The facility shall provide fully functioning heating, cooling, and ventilation systems adequate for the square footage of the facility.
- (b) Alternate means of ventilation in the facility shall be maintained.

### **§355.326. Lighting.**

Effective Date: 11/15/13

Adequate lighting shall be provided to all areas of the facility.

### **§355.330. Alternate Power Source.**

Effective Date: 11/15/13

- (a) The facility shall have at least one alternate source of electrical power that provides for the simultaneous operation of life safety systems including:
  - (1) emergency lighting;
  - (2) illuminated emergency exit lights and signs;

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- (3) emergency audible communication systems and equipment; and
- (4) fire detection and alarm system.
- (b) The alternate power source system shall be tested at least once every 15 calendar days to ensure the system is in working condition.
- (c) The alternate power source system (e.g., the alternate power source and the life safety systems required to be operated) shall be inspected at least once each year, no later than the last day of the calendar month of the previous year's inspection. This inspection must be completed by a person with qualifications established through work experience, relevant training, specialized licensure, or certification.
- (d) Each test of the alternate power source system shall be documented and include, at a minimum, the test date and test results.
- (e) Any system malfunctions or maintenance needs that are identified during a test or at any other time shall require that a written maintenance request be immediately submitted to the appropriate personnel.

### §355.334. Secure Storage Areas.

Effective Date: 11/15/13

- (a) **Cleaning Supplies.** Cleaning supplies and equipment shall be stored in a locked area and not accessible to residents.
- (b) **Restraint Devices.** There shall be a location for secure storage of restraining devices and related security equipment. This equipment shall be readily accessible to authorized persons.
- (c) **Personal Property.** The facility shall maintain written policies and procedures that addresses the process for secure storage of any personal property as needed.

### §355.336. Hazardous Materials.

Effective Date: 11/15/13

- (a) The facility shall maintain an inventory and a copy of the Material Safety Data Sheet (MSDS) for all hazardous materials located in the facility.
- (b) Materials manufactured for cleaning purposes or those used in the training process of a vocational training program or another program may be used by residents under the general supervision of a certified staff member or qualified individual. The resident must be provided instruction on the use of the hazardous material and the proper equipment as prescribed by the MSDS. Facility policies and procedures shall detail the requirements and restrictions of materials described in this standard.
- (c) Any use of hazardous materials shall be used according to the manufacturer's instructions.

### §355.340. Safety Codes.

Effective Date: 11/15/13

- (a) The facility shall conform to the provisions set forth in the Life Safety Code (i.e., National Fire Protection Association (NFPA) 101) and/or any applicable state and local fire safety codes. Local government ordinances or codes may substitute for the Life Safety Code only if the local ordinances or codes are specifically written to include building occupancy for correctional usage.
- (b) A formalized Life Safety Code/fire safety inspection shall be completed prior to the facility becoming operational.
- (c) All subsequent Life Safety Code/fire safety inspections shall be conducted no later than the last day of the calendar month of the previous year's inspection.
- (d) Each Life Safety Code/fire safety inspection shall result in a written report that contains at least the following information:
  - (1) the identification of the specific code(s) used to complete the inspection. The code(s) used must be the Life Safety Code or the applicable state, municipal, or county specific fire code adopted by the jurisdiction;

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- (2) the name of the governmental entity that conducted the inspection;
  - (3) the identification of any applicable code violations or infractions and the corresponding corrective action requirements;
  - (4) the name and title of the person conducting the inspection; and
  - (5) the date(s) of the inspection.
- (e) Any deficiencies noted in the annual inspection report shall be immediately addressed by the facility administrator or designee. The facility administrator shall develop and document a corrective action plan to rectify all deficiencies.

### **§355.342. Fire Safety Plan.**

Effective Date: 11/15/13

- (a) The facility shall have in effect and available to all supervisory personnel written copies of a fire safety plan for the protection of all persons in the event of a fire for their evacuation to areas of refuge and for their evacuation from the building if necessary.
- (b) The fire safety plan shall be coordinated with and reviewed by the fire department whose jurisdiction includes the facility. The coordination and review efforts required in this standard shall be validated by written documentation prepared or attested to by a representative of the applicable fire department.
- (c) The fire safety plan shall require that all employees be instructed to ensure the following:
  - (1) proper disposal of combustible refuse;
  - (2) prompt evacuation of the facility; and
  - (3) procedures for the use and control of flammable, toxic, and caustic materials.

### **§355.344. Fire Safety Officer.**

Effective Date: 11/15/13

The fire safety officer shall:

- (1) ensure maintenance of a current fire drill log;
- (2) ensure that fire drills are conducted as required by §355.346 of this title;
- (3) ensure the posting of a plan for prompt evacuation of the facility as required by §355.346 of this title;
- (4) implement procedures for proper disposal of combustible refuse; and
- (5) implement procedures for the use and control of flammable, toxic, and caustic materials.

### **§355.346. Fire Drills.**

Effective Date: 11/15/13

- (a) Fire drills shall be conducted on all shifts at least every 90 calendar days. The facility shall maintain documentation of the date, time, and name of the staff conducting each fire drill.
- (b) All staff on duty in the facility shall participate in the fire drills.
- (c) Facility exits shall be clear of obstructions and properly marked for evacuation in the event of fire or emergencies.
- (d) Facility emergency evacuation plans shall be posted in all common and housing areas.

### **§355.350. Emergency Preparedness Plan.**

Effective Date: 11/15/13

The facility shall have an emergency preparedness plan that includes, but is not limited to, severe weather, natural disasters, disturbances or riots, national security issues, and medical emergencies. The plan shall address:

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- (1) the identification of key personnel and their specific responsibilities during an emergency or disaster situation;
- (2) agreements with other agencies or departments; and
- (3) transportation to pre-determined evacuation sites.

### §355.360. Facility Maintenance, Cleanliness, and Appearance.

Effective Date: 11/15/13

- (a) **Housekeeping Plan.** The facility shall have a written and implemented housekeeping plan for the maintenance of a clean and sanitary facility.
  - (1) The plan shall contain the following:
    - (A) a schedule for periodic and routine cleaning and housekeeping including:
      - (i) the identification of staff and resident responsibilities; and
      - (ii) the regular cleaning and disinfection of toilet and shower areas currently in use;
    - (B) a schedule for pest and vermin control; and
    - (C) a requirement for the weekly cleaning, safety, and maintenance inspection by facility staff of all areas of the facility that are currently in use.
  - (2) The housekeeping plan shall be accessible to staff.
- (b) **Maintenance.** The facility administrator shall be responsible for ensuring that the interior physical plant, exterior grounds, and all equipment are safe and properly functioning including, but not limited to, the following:
  - (1) repairs shall be made promptly to all furniture, fixtures, and equipment currently in use that are not in safe working order;
  - (2) all surfaces in facility areas currently being used shall be regularly maintained and repaired if damaged and shall be reasonably free from graffiti and markings, excluding minor damage from reasonable and expected wear and tear from normal use; and
  - (3) all exterior grounds currently used for programmatic purposes or accessed by staff, residents or visitors are free from any health and safety hazards and are appropriately maintained to ensure the safe use by residents, staff and visitors.
- (c) **Cleanliness.** All areas of the facility where residents reside or participate in programming or services shall be clean, sanitary, and reasonably free from debris, rodents, insects and strong, offensive or foul odors.

## Subchapter D Facility Management and Operations

### §355.400. Policy, Procedure, and Practice.

Effective Date: 11/15/13

The governing board of the facility shall require that written policies and procedures exist governing the operation of all non-secure juvenile correctional facilities in the county or district, as applicable. The policies, procedures, and practices of the facility shall include:

- (1) a policy that strictly prohibits the following:
  - (A) physical, sexual or emotional abuse, neglect, or exploitation of a resident by any individual having contact with a resident of the facility;
  - (B) youth-on-youth sexual conduct between residents;

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- (C) violations of the juvenile justice professionals' code of ethics as outlined in Chapter 345 of this title;
  - (D) violations of any professional code of ethics or code of conduct by any individual providing services to or having contact with residents of the facility; and
- (2) a zero-tolerance policy and practice regarding sexual abuse in accordance with the Prison Rape Elimination Act of 2003 that provide for administrative and/or criminal disciplinary sanctions.

### **§355.404. Designation and Qualifications of Facility Administrator.** Effective Date: 11/15/13

- (a) The chief administrative officer or the governing board of the facility or the governing board's designee shall designate a single facility administrator for each non-secure facility.
- (b) The facility administrator shall:
  - (1) 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;
  - (2) have either:
    - (A) one year of graduate study in criminology, corrections, counseling, law, social work, psychology, sociology, or other field of instruction approved by TJJD; or
    - (B) one year of experience in full-time case work, counseling, or community or group work in a social service, community, corrections, or juvenile agency that deals with offenders or disadvantaged persons, as determined by TJJD; and
  - (3) maintain an active TJJD certification as a juvenile supervision officer.

### **§355.406. Duties of Facility Administrator.** Effective Date: 11/15/13

- (a) The facility administrator shall be responsible for the daily operations of the facility and shall maintain an office on the grounds of the facility.
- (b) The facility administrator shall designate a certified juvenile supervision officer to be in charge during his or her absence from the facility.
- (c) The facility administrator shall develop, implement, and maintain a policies and procedures manual for the facility and shall ensure the daily facility practice conforms to the policies and procedures detailed in the manual.
- (d) The facility administrator shall review the facility's policies and procedures manual at least once each year, no later than the last day of the calendar month of the previous year's review, and maintain documentation of this review.
- (e) The facility administrator shall make the policies and procedures manual available to all employees of the facility.
- (f) The facility administrator shall ensure that all employees of the facility are:
  - (1) trained on the policies and procedures manual provisions relevant to the employee's job functions during new employee orientation or prior to beginning service at the facility and maintain documentation of that training; and
  - (2) notified of all changes or modifications to the policies and procedures manual in a timely manner.
- (g) The facility administrator or designee shall ensure that current, accurate, and confidential personnel records are maintained for each employee which shall include:
  - (1) proof of age;
  - (2) documentation of criminal background checks conducted as required by this title;

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- (3) the completed application for employment;
  - (4) training records; and
  - (5) documentation of promotion, demotion, termination and other personnel actions.
- (h) The facility administrator or chief administrative officer of a private entity under contract with a governmental unit in this state shall provide the presiding officer of the juvenile board with jurisdiction of the facility with periodic updates on the operation of the facility, including the following information to be provided at least every quarter:
- (1) facility population/capacity reports;
  - (2) number of serious incidents by category that occurred in the facility;
  - (3) number of resident restraints by type (e.g., personal and mechanical);
  - (4) number of injuries to residents requiring medical treatment; and
  - (5) number of injuries to staff requiring medical treatment.
- (i) The facility administrator or chief administrative officer shall ensure the accurate and timely submission of statistical data to TJJJ in an electronic format or other format as requested by TJJJ.
- (j) The facility administrator or chief administrative officer shall ensure that all individuals employed by the facility who have unsupervised contact with residents are subjected to all required criminal history background checks as required by Chapter 344 of this title.

### §355.410. Internal Security.

Effective Date: 11/15/13

- (a) **Policies and Procedures.** Written policies and procedures for security and control of the facility shall include the following:
- (1) continued operations in the event of a work stoppage;
  - (2) key control;
  - (3) control of the use of:
    - (A) tools;
    - (B) medical equipment; and
    - (C) kitchen tools;
  - (4) provisions to prevent firearms from entering the facility; and
  - (5) provisions for coordination with law enforcement authorities in the case of situations requiring assistance from city, county, or state law enforcement agencies.
- (b) **Carrying of Firearms in Facility Prohibited.** The policy set forth in subsection (a)(4) of this section shall include a provision to prohibit a juvenile probation officer authorized to carry a firearm under §142.006 of the Texas Human Resources Code from entering the facility with a firearm.
- (c) **Documentation.**
- (1) The facility administrator or designee shall ensure all incidents that affect the physical safety of residents or staff or otherwise significantly affect the operation of the facility are documented.
  - (2) A copy of the documentation shall be placed in the file of any resident(s) involved in the incident.

### **§355.414. Population.**

Effective Date: 11/15/13

- (a) The population of the facility shall not exceed the rated capacity of the facility.
- (b) A daily population roster shall be maintained in chronological order by date and shall be available for TJJD monitoring purposes. The population roster shall include at a minimum:
  - (1) the date and time the roster was compiled;
  - (2) the names of all residents in the facility;
  - (3) the sex of all residents in the facility;
  - (4) the housing assignment location (e.g., multiple/single occupancy housing unit, assigned pod, bay, etc.) of all residents in the facility; and
  - (5) the total resident population for each day.

### **§355.416. Classification Plan.**

Effective Date: 11/15/13

All facilities shall have a classification plan that takes at least the following into account:

- (1) age;
- (2) sex;
- (3) offense;
- (4) behavior;
- (5) resident's potential vulnerabilities for sexual abuse that are discovered during the resident's behavioral health screening; and
- (6) any other special considerations.

### **§355.420. Admission Records.**

Effective Date: 11/15/13

The facility shall obtain and record the following information at the time the resident is admitted into the facility:

- (1) date and time of admission;
- (2) name;
- (3) nicknames and aliases;
- (4) social security number;
- (5) last known address;
- (6) document(s) authorizing legal admission;
- (7) admitting offense;
- (8) name of attorney;
- (9) name, title, and signature of delivering individual;
- (10) sex;
- (11) race;
- (12) date of birth;
- (13) citizenship;
- (14) place of birth;
- (15) current education level;

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- (16) last school attended;
- (17) name, relationship, address, and phone number of parents, legal guardians, or custodians; and
- (18) primary language of resident and resident's parent, legal guardian, or custodian.

### **§355.422. Content of Resident Records.**

Effective Date: 11/15/13

Each resident's record shall include the following:

- (1) offense history;
- (2) inventory of cash and property surrendered;
- (3) list of approved visitors;
- (4) name of the assigned probation officer;
- (5) behavioral record, including any special incidents, discipline, or grievances;
- (6) referrals to other agencies; and
- (7) final release or transfer report.

### **§355.424. Format and Maintenance of Records.**

Effective Date: 11/15/13

- (a) Resident records shall be maintained in a uniform format for identifying and separating files.
- (b) Each facility shall have written policies and procedures to ensure the confidentiality of resident files.

### **§355.426. Housing Records.**

Effective Date: 11/15/13

For each housing unit in the facility, the following documentation shall be maintained:

- (1) a daily chronological log or electronic record documenting the resident's or housing unit's activity that identifies the juvenile supervision officers or youth activities supervisors supervising the residents;
- (2) a daily report of admissions and releases; and
- (3) a population roster compiled as of 5:00 a.m. each day that shall include at a minimum:
  - (A) the date and time the roster was compiled;
  - (B) the name of all residents in the facility;
  - (C) the sex of all residents in the facility;
  - (D) the housing assignment location (i.e., the location where the resident sleeps) of all residents in the facility; and
  - (E) the numerical total of the resident population for each day.

### **§355.428. Qualifications to Provide Resident Supervision.**

Effective Date: 11/15/13

A juvenile supervision officer or youth activities supervisor may provide resident supervision if he or she:

- (1) is currently certified as a juvenile supervision officer or youth activities supervisor; or
- (2) has been employed by the facility less than 180 calendar days and has completed at least 40 hours of training, which shall include the mandatory topics as outlined in Chapter 344 of this title, as well as current certification in CPR, first aid, and a personal restraint technique approved by TJJD.

### §355.430. Supervision Requirements.

Effective Date: 11/15/13

- (a) **Ratios.** Ratios of juvenile supervision officers or youth activities supervisors to residents on facility premises shall adhere to the requirements set forth in this standard and be documented in policies and procedures.
- (1) Regardless of the ratio requirements established in paragraphs (2)-(3) of this subsection, at least one juvenile supervision officer shall be on duty at all times.
  - (2) During program hours, the ratio shall be at least one juvenile supervision officer or youth activities supervisor for every 12 residents.
  - (3) During non-program hours, the ratio shall be at least one juvenile supervision officer or youth activities supervisor for every 24 residents.
  - (4) A juvenile supervision officer or youth activities supervisor may be counted in the ratio only if requirements of §355.428 of this title are met.
- (b) **Same-Gender Supervision Requirement.**
- (1) Policies and practice shall ensure at least one juvenile supervision officer or youth activities supervisor of each gender represented in the resident population is on duty and available to the residents on every shift.
  - (2) Cross-gender supervision shall be prohibited during showers, physical searches, pat downs, disrobing of suicidal residents, or other times in which personal hygiene practices or needs would require the presence of a staff member of the same gender. However, if the resident is behind a closed, windowless door to shower or care for other personal hygiene needs, a same-gender staff member is not required. The requirements of this standard shall be detailed in the facility's policies and procedures.
- (c) **Level of Supervision.**
- (1) **Program Hours.**
    - (A) A juvenile supervision officer or youth activities supervisor shall provide direct supervision for residents during all program activities occurring on the facility's premises, except as described in paragraph (2) of this subsection.
    - (B) The facility shall conduct two documented resident counts during program hours. To count a resident as present, the staff member shall visually observe the resident. Each count shall include:
      - (i) the physical location of each resident;
      - (ii) for residents who are on the facility's premises, the resident's current activity; and
      - (iii) for residents who are off the facility's premises, the reason for the off-premises activity.
  - (2) **Groups Supervised by Qualified Individuals.** Residents may be supervised by a qualified individual when the individual is working with the residents in a capacity that relates to the individual's:
    - (A) work experience;
    - (B) relevant training;
    - (C) specialized licensure; or
    - (D) certification.
  - (3) **Non-Program Hours.**
    - (A) A juvenile supervision officer or youth activities supervisor shall visually observe and document each resident at random intervals not to exceed 15 minutes in a SOHU.

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- (B) A juvenile supervision officer or youth activities supervisor shall have constant visual observation of residents in a MOHU and shall document general observations of dorm activity at intervals not to exceed 30 minutes. If the physical configuration of the MOHU does not allow for constant visual observation of all residents, a juvenile supervision officer or youth activities supervisor shall visually observe and document each resident at random intervals not to exceed 15 minutes.
- (C) A juvenile supervision officer or youth activities supervisor shall document each visual observation made of residents. The documentation shall include the time of the observation.

### **§355.434. Primary Control Room.**

Effective Date: 11/15/13

A juvenile supervision officer or youth activities supervisor stationed in and assigned to the facility's primary control room(s) shall not count toward meeting any required ratios required by this subchapter.

### **§355.440. Nutritional Requirements.**

Effective Date: 11/15/13

Meals shall contain a variety of foods and meet the dietary requirements of the United States Department of Agriculture.

### **§355.442. Menu Plans.**

Effective Date: 11/15/13

- (a) The facility shall develop and follow daily written menu plans. Menu plans shall be reviewed and approved at least once each year, no later than the last day of the calendar month of the previous year's approval. The review and approval shall be conducted by a licensed or provisionally licensed dietician to ensure that the menu plans meet or exceed the requirements of the United States Department of Agriculture.
- (b) All deviations from the menu plan shall be documented.

### **§355.444. Modified Diets.**

Effective Date: 11/15/13

Modified diets shall be provided upon the recommendation of a health care professional or when a resident's religious beliefs require it.

### **§355.446. Mealtime Seating.**

Effective Date: 11/15/13

Each resident shall have access to a chair and table during mealtimes.

### **§355.448. Staff Meals.**

Effective Date: 11/15/13

Facility staff members on duty where residents are eating are not required to eat, but if they do, they shall eat the same food served to the residents unless a special diet has been ordered by a health care professional or a staff's religious beliefs require it.

### **§355.450. Daily Meal Schedule.**

Effective Date: 11/15/13

- (a) Three meals shall be provided daily to each resident in the facility.
- (b) At least two of the meals shall be hot.
- (c) No more than 14 hours may elapse between the evening meal and breakfast unless a snack is provided.
- (d) Residents shall be allowed no less than ten minutes to eat once they have received their food.

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### **§355.452. On-Site Food Preparation.**

Effective Date: 11/15/13

A facility that prepares food on site shall maintain a valid permit and any required licenses issued by the local health department or the Texas Department of State Health Services.

### **§355.454. Off-Site Food Preparation.**

Effective Date: 11/15/13

- (a) Except as provided in subsection (b) of this section, a facility that receives food from an off-site source shall maintain a copy of any permit and/or license required by the local health department or the Texas Department of State Health Services. The transfer of such food to the facility shall be conducted in a manner to prevent contamination or adulteration.
- (b) If the facility receives food from an off-site source on a special occasion, the facility is not required to maintain a copy of any required permits or licenses for the additional off-site source. The facility shall not accept food from residents' family members.

### **§355.458. Personal Hygiene.**

Effective Date: 11/15/13

- (a) Residents shall be given appropriate instruction on personal and oral hygiene and shall be provided the necessary articles to maintain proper personal cleanliness.
- (b) Residents shall be provided the opportunity to shower daily and after participating in strenuous exercise.

### **§355.460. Bedding.**

Effective Date: 11/15/13

- (a) Each resident shall be provided suitable clean bedding, including at least one mattress cover, one sheet, one blanket, one pillow and pillowcase, and a mattress. Mattresses with an integrated pillow may be substituted for a separate pillow and pillowcase. An additional blanket may substitute for one sheet.
- (b) Clean bed linens shall be issued at least every seven calendar days.
- (c) Modifications to a resident's bedding items may be made in accordance with the facility's suicide prevention plan.

### **§355.462. Towels.**

Effective Date: 11/15/13

A clean towel shall be issued to each resident daily.

### **§355.464. Clothing.**

Effective Date: 11/15/13

- (a) Residents shall have access to clean and appropriate clothing upon admission into the facility.
- (b) Residents shall have access to clean undergarments and socks daily and shall have access to other clean clothing at least twice per week.
- (c) Residents shall have access to climate-appropriate clothing for any outdoor programming or activities.
- (d) Modifications to a resident's clothing requirements may be made in accordance with the facility's suicide prevention plan.

### §355.470. Resident Searches.

Effective Date: 11/15/13

- (a) Residents shall be subjected only to the following searches:
  - (1) a pat-down or frisk search as necessary for facility safety and security;
  - (2) an oral cavity search to prevent concealment of contraband and to ensure the proper administration of medication;
  - (3) a strip search in which the resident is required to surrender their clothing based on the reasonable belief that the resident is in possession of contraband or if there is reasonable belief that the resident presents a threat to the facility's safety and security;
    - (A) a strip search shall be limited to a visual observation of the resident and shall not involve the physical touching of a resident;
    - (B) a strip search shall be performed in an area that ensures the privacy and dignity of the resident; and
    - (C) a strip search shall be conducted by a staff member of the same gender as the resident being searched;
  - (4) an anal or genital body cavity search only if there is probable cause to believe that they are concealing contraband;
    - (A) an anal or genital body cavity search shall be conducted only by a physician. The physician shall be of the same gender as the resident, if available;
    - (B) all anal and genital body cavity searches shall be conducted in an office or room designated for medical procedures; and
    - (C) all anal and genital body cavity searches shall be documented with the documentation being maintained in the resident's file.
- (b) During searches, the residents shall not be touched any more than necessary to conduct a comprehensive search.
- (c) Every effort shall be made to prevent embarrassment or humiliation of the resident.

### §355.476. Volunteers and Interns.

Effective Date: 11/15/13

- (a) Facilities utilizing a volunteer or internship program shall have written policies and procedures that contain the following components:
  - (1) a description of the authority, responsibility, and accountability of volunteers and interns who work with the department;
  - (2) provisions that govern the use of volunteers and interns who have regular or periodic supervised and unsupervised contact with residents regardless of the frequency of contact;
  - (3) the selection and termination criteria, including disqualification based on specified criminal history;
  - (4) the orientation and training requirements, including training on recognizing and reporting abuse, neglect, and exploitation;
  - (5) a requirement that volunteers and interns meet minimum professional requirements if applicable; and
  - (6) a written volunteer and intern registry, log, or other documentation that details all dates and times a volunteer or intern is present on the premises of the facility as well as the purpose of his or her visit.
- (b) This rule does not apply to an individual who performs volunteer services only once per year, and only under the supervision of facility staff.

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- (c) Facilities may use volunteers and interns whose criminal history does not meet the requirements as described in Chapter 344 of this title; however, in no case shall these volunteers and interns be allowed to have unsupervised contact with residents.

### **§355.480. Release Procedures.**

Effective Date: 11/15/13

Prior to the release of a resident from the facility, the authorized staff member shall:

- (1) verify the identity of the person receiving custody;
- (2) verify the release authorization documents or document the authorization if a judge or juvenile probation officer authorized the release by telephone;
- (3) secure a signed release by the individual receiving the resident's personal property;
- (4) provide information to a parent, legal guardian, or custodian regarding:
  - (A) all medication prescribed while the resident was in the facility that the resident is currently taking, and the name and contact information of the prescribing physician;
  - (B) any pending medical, mental health, or dental appointments; and
  - (C) any present concerns regarding the resident; and
- (5) secure a receipt signed by the person receiving custody.

## **Subchapter E Resident Health and Safety**

### **§355.500. Pre-Admission Assessment for Injury, Illness, or Intoxication.**

Effective Date: 11/15/13

- (a) Each facility shall have written policies and procedures addressing the admission of juveniles who are in need of emergency medical care due to injury, illness, or intoxication or who are in need of emergency mental health services.
- (1) Anyone presented for admission into the non-secure correctional facility who is in need of emergency medical care due to injury, illness, or intoxication, or is in need of mental health intervention shall not be admitted.
  - (2) The referring person shall be directed to a health care facility to have the individual evaluated and treated.
- (b) Subsequent admission into the facility is contingent upon written medical clearance provided by a health care or mental health provider.
- (c) Each facility shall have written policies and procedures addressing intoxicated or chemically-impaired juveniles being admitted into the non-secure correctional facility and their need for specialized supervision.
- (d) Intoxicated or chemically-impaired individuals who have been medically cleared for admission should be placed under medical separation in accordance with §355.524 of this title.
- (e) Residents shall be assigned to the general program as soon as possible after admittance into the facility.

### §355.502. Mental Health Screening and Referral.

Effective Date: 11/15/13

(a) **Screening.**

- (1) Unless the exception in subsection (b) of this section applies, a mental health screening instrument approved by TJJJD shall be administered to each resident that is admitted into the non-secure correctional facility within 24 hours after admission. Documentation of administration shall be maintained to include, at a minimum, the date and time administered and the name and title of the person administering the screening.
- (2) The individual administering the screening instrument is not required to be a juvenile supervision officer or a certified juvenile probation officer, but the individual shall have either received training from TJJJD in administering the screening instrument or training from an individual who is documented to have received training from TJJJD on administering the screening instrument.

(b) **Exceptions.**

- (1) A mental health screening is not required if the referral documents that arrive with the resident contain a TJJJD-approved mental health screening instrument completed within the previous 14 calendar days or a psychological evaluation or behavioral health assessment completed within the previous 365 days. However, if the resident experienced a significant event (such as adjudication or removal from his/her home county) after the mental health screening was conducted, a new screening is required within 24 hours of admission.
- (2) A facility that chooses to administer a clinical assessment conducted by a mental health provider within 48 hours of a resident's admission is exempted from the screening instrument required by this standard. However, if a resident is released prior to the 48-hour time frame, a mental health screening shall be conducted prior to release.
- (3) If the facility uses the mental health screening instrument for the suicide risk assessment required in §355.504 of this title, the mental health screening instrument shall be administered within two hours after a resident's admission into the facility.

(c) **Referral.** A resident who scores a positive screening on the screening instrument shall be:

- (1) administered a secondary screening immediately to assist in clarifying the resident's need for mental health intervention;
  - (A) If the secondary screening confirms the positive screening and that mental health intervention is warranted, then a referral shall be made to a mental health provider or licensed physician within two hours from the completion of the initial mental health screening.
  - (B) If the secondary screening substantiates that the initial positive screening was false, then no further mental health intervention is required; or
- (2) referred to a qualified mental health professional within two hours for consultation to determine if further mental health intervention is warranted;
  - (A) The facility shall maintain documentation of the consultation in the resident's file.
  - (B) If the qualified mental health professional recommends further mental health intervention is needed, then the resident must be referred to a mental health provider or licensed physician within 48 hours; or
- (3) referred directly to a mental health provider or licensed physician within two hours.

(d) Documentation of secondary screening and referrals specific to the juvenile's positive screening on the screening instrument shall be maintained and forwarded to the resident's supervising juvenile probation officer.

(e) Documentation of referrals, completed assessments, and evaluations, including dates and times, shall be retained in the resident's file and forwarded to the resident's supervising juvenile probation officer.

### §355.504. Health Screening and Assessment.

Effective Date: 11/15/13

- (a) **Timing of Health Screening.** A health screening shall be conducted on each resident within two hours after admission.
- (b) **Persons Qualified to Conduct Health Screening.** The health screening shall be conducted by:
  - (1) an appropriately supervised licensed vocational nurse (LVN), a registered nurse (RN), a nurse practitioner, a physician assistant, or a physician;
  - (2) a qualified and properly trained person who is operating under delegation from a physician in accordance with Texas Occupations Code §157.001, including, but not limited to, a medical assistant, emergency medical technician, or paramedic; or
  - (3) an individual who has been trained on administering the facility's health screening by a person listed in paragraph (1) or (2) of this subsection.
- (c) **Training Requirements for Health Screening.** The training must include, at a minimum, instruction on:
  - (1) how to take medical history;
  - (2) how to make the required observations;
  - (3) how to determine the appropriate disposition of a resident based on observations and responses to questions; and
  - (4) how to document the findings on the screening instrument.
- (d) **Health Screening Instrument.** The health screening instrument shall be approved by an RN, nurse practitioner, physician assistant, or physician and shall include, at a minimum:
  - (1) mental health conditions and treatment, including any hospitalizations;
  - (2) suicide risk assessment in accordance with the facility's suicide prevention plan;
  - (3) observation of the following, at a minimum:
    - (A) general appearance, such as sweating, tremors, anxious, disheveled, or appropriate;
    - (B) behavior, such as disorderly, erratic, or appropriate;
    - (C) state of consciousness, such as alert, responsive, or lethargic;
    - (D) ease of movement, such as ability to walk and move limbs, gait, and bodily deformities;
    - (E) breathing, such as persistent cough, hyperventilation, or normal; and
    - (F) skin condition, such as lesions, swelling, yellowing, rashes, scars, tattoos, bruises, and/or needle marks;
  - (4) history of or current serious infectious disease including, at a minimum, tuberculosis;
  - (5) recent communicable illness symptoms, such as chronic cough, coughing up blood, lethargy, weakness, weight loss, loss of appetite, fever, and/or night sweats;
  - (6) history of or current sexually transmitted infections;
  - (7) history of or current illnesses or chronic health conditions including, at a minimum:
    - (A) allergies;
    - (B) asthma or other respiratory problems;
    - (C) dermatological conditions;
    - (D) seizure disorder;
    - (E) eye conditions; and
    - (F) other acute or chronic conditions as determined by the health service authority;

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- (8) history of or current gynecological problems;
  - (9) current or recent pregnancy;
  - (10) current use of medication(s) including, at a minimum, name, dosage, frequency, time of last dose taken, and name of prescribing physician;
  - (11) dental problems;
  - (12) use of alcohol or illegal drugs, including, at a minimum, type, amount, time of last use, and past treatment;
  - (13) drug withdrawal symptoms;
  - (14) special health requirements, such as dietary needs, physical disabilities, or prosthetics;
  - (15) evidence of physical trauma;
  - (16) recent injuries;
  - (17) weight and height; and
  - (18) any other health concerns reported by the resident.
- (e) **Screening Methodology.** The health screening shall be administered through directly questioning the resident, observing the resident's behavior and physical condition, and review of any available records. If any of the information is unknown at the time of the health screening, the screener shall indicate this by entering "unknown," "not applicable," or a line in the space or electronic field provided for this information on the health screening form.
- (f) **Disposition and Medical Referral.**
- (1) The individual who completes the screening shall:
    - (A) document the disposition of the youth, such as referral to emergency services or placement in the general population with later referral for medical follow up; and
    - (B) sign the screening instrument and document his/her title and the date and time of the screening.
  - (2) For residents who are identified by the screening instrument as requiring follow-up consultation with a health care professional, facility staff shall:
    - (A) contact the health care professional designated by the screening instrument as soon as possible but no later than 24 hours after completion of the screening, unless the screening instrument provides otherwise; and
    - (B) ensure the resident receives follow-up medical care as directed by the health care professional.
  - (3) The facility shall maintain and implement written policies and procedures to ensure that residents identified with potential medical problems (e.g., asthma, diabetes) are appropriately supervised until medical follow-up is received.
  - (4) For residents who report taking prescription medication, facility staff shall document whether the resident's parent, guardian, or custodian has provided the facility with the medication and a written request to administer the medication. If the medication or written request has not been provided, facility staff shall contact a health care professional within 24 hours after completion of the screening to receive instruction.
- (g) **Mandatory Health Assessment.** Each resident shall receive a health assessment within 30 days after admission into the facility. The health assessment shall be conducted by:
- (1) an appropriately supervised licensed vocational nurse, a registered nurse, a nurse practitioner, a physician assistant, or a physician; or

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- (2) a qualified and properly trained person who is operating under delegation from a physician in accordance with Texas Occupations Code §157.001, including, but not limited to, a medical assistant, emergency medical technician, or paramedic.
- (h) **Results of Screening and Assessment.** The results of the health screening and health assessment shall be communicated to appropriate staff.
- (i) **Contagious or Infectious Disease.** Any finding of the health screening that indicates a significant potential health risk to the staff or residents from a contagious or infectious disease shall be immediately reported to the facility administrator, and the affected resident shall be placed in medical separation until proper medical clearance is obtained.
- (j) **Intra-Jurisdictional Custodial Transfer.** A health screening is not required for intra-jurisdictional custodial transfer of residents if the non-secure facility receiving the resident is located within the same premises as the sending facility. If the two facilities are not located within the same premises, the only items required for the health screening are items enumerated in subsection (d)(2) and (15) of this section.

### §355.506. Behavioral Screening.

Effective Date: 11/15/13

- (a) Before being assigned to housing, the juvenile shall be screened for potential vulnerabilities or tendencies of acting out with sexually aggressive or assaultive behavior. Documentation of the screening shall be maintained. Housing assignments shall be made accordingly.
- (b) The behavioral screening shall take into consideration and address the following information:
  - (1) age;
  - (2) current charge(s) and offense history;
  - (3) physical size/stature;
  - (4) current state of mind;
  - (5) sexual orientation;
  - (6) prior sexual victimization or abuse;
  - (7) level of emotional and cognitive development;
  - (8) physical disabilities;
  - (9) mental disabilities, including emotional, intellectual, and developmental disabilities; and
  - (10) any other pertinent information.
- (c) The admission form shall contain the date of the behavioral screening and a written acknowledgement signed by the staff member who completed the behavioral screening stating that the information in the behavioral screening was taken into consideration when making a housing assignment.

### §355.510. Health Service Authority.

Effective Date: 11/15/13

The facility shall have a designated health service authority responsible for the development and implementation of health care protocols within the facility. The health service authority shall be a physician, physician assistant, registered nurse, nurse practitioner, health administrator, or a medical entity. When a medical entity is designated as the health service authority, an individual shall be identified as the primary point of contact.

### §355.512. Health Service Plan.

Effective Date: 11/15/13

- (a) **Health Service Plan.** The facility shall have and implement a written health service plan developed in consultation with the designated health service authority. The health service plan shall establish the facility's health care delivery system and detail the protocols for the delivery of medical, mental health, and dental services for all residents. The plan(s) shall include, at a minimum:
- (1) procedures for conducting health screenings and health assessments;
  - (2) procedures for the referral of residents in need of medical attention, either self-reported or identified by staff, for medical, mental, and dental services;
  - (3) procedures for emergency health care services;
  - (4) procedures to ensure continuity of care in accordance with the instructions of the medical provider including, but not limited to, the delivery of treatment, medication, referrals, follow up, and medically modified diets;
  - (5) procedures relating to informed consent for medical, dental, psychological, and surgical treatment, as well as consent relating to immunizations and counseling services;
  - (6) procedures relating to procurement, distribution, dispensing, disposal, and accounting of prescription and over-the-counter medication;
  - (7) procedures for performing all examinations, treatments, and other procedures in a confidential setting consistent with facility operations and security;
  - (8) procedures for patient transportation and evacuation;
  - (9) procedures for identification and control of communicable diseases;
  - (10) procedures for staff education and training relating to the facility's health care delivery system;
  - (11) procedures relating to first aid kit contents, location, and periodic inspections; and
  - (12) procedures for pregnant residents to receive timely and appropriate prenatal care, specialized obstetrical services when indicated, and postpartum care. These procedures shall also include procedures for the safe and appropriate restraint (both physical and mechanical) of pregnant residents.
- (b) **Review of Health Service Plan.** The health service plan shall be reviewed at least once every 24 months in consultation with the health service authority.

### §355.514. Health Services Coordinator.

Effective Date: 11/15/13

- (a) The facility shall have a designated health services coordinator on staff to coordinate health care delivery in the facility. The health services coordinator may be a contract employee as long as this staff member is on site.
- (b) If the health services coordinator is not a health care professional, the health services coordinator shall receive special training in health care and health care service delivery topics relevant to non-secure correctional facilities and be familiar with local health care providers and facilities. The facility shall work in conjunction with the health service authority to determine the topics of the specialized training required by this standard.

### §355.516. Medical Referral.

Effective Date: 11/15/13

If a staff member observes any resident to be in need of medical attention or if a resident requests medical attention, the health care concern shall be addressed in accordance with the health service plan. The resident may not be denied access to health care if the resident will disclose the condition or reason for the treatment request only to a health care professional.

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### §355.518. Consent for Medical Treatment.

Effective Date: 11/15/13

- (a) Consent for medical treatment shall be secured in accordance with Chapter 32 of the Texas Family Code.
- (b) Documentation of consent for medical treatment received, in accordance with Chapter 32 of the Texas Family Code, shall be maintained in the applicable resident files.

### §355.520. Confidentiality of Healthcare Encounters.

Effective Date: 11/15/13

- (a) All medical and mental health screenings and assessments shall be conducted in a confidential setting consistent with facility operations and security.
- (b) All interactions between a resident and a health care professional that involve treatment or an exchange of confidential medical information shall be conducted in private. The facility's policies and procedures may authorize a juvenile supervision officer or youth activities supervisor to be present in the following situations:
  - (1) if the resident poses a substantial risk to the safety of the health care professional or others;
  - (2) if the facility has a written policy requiring the presence of a juvenile supervision officer or youth activities supervisor during medical treatment;
  - (3) if the health care professional or resident requests the presence of a juvenile supervision officer or youth activities supervisor during the treatment; or
  - (4) if the circumstances or situation indicate the presence of a juvenile supervision officer or youth activities supervisor is necessary and prudent.

### §355.522. Medication Administration.

Effective Date: 11/15/13

- (a) **Use of Medication.** Except upon the order of a physician, physician assistant, dentist, or nurse practitioner, no stimulant, tranquilizer, or psychotropic drug shall be administered to residents.
- (b) **Medication Policy.** The governing board of the facility shall adopt a policy concerning the administration of medication to residents. The policy shall:
  - (1) specify which facility personnel are authorized to administer medication to residents;
  - (2) include medication that is brought into the facility by the resident's parent, guardian or custodian, in which case the facility administrator shall have a written request from the resident's parent, guardian or custodian to administer the medication and the medication shall be in the original, properly labeled container; and
  - (3) include the dispensing of all prescription medication prescribed to the resident during the resident's stay in the facility.
- (c) **Non-prescription Medication.** Only staff who have had appropriate training in the administration of medication shall administer non-prescription medication (i.e., over-the-counter medication). The medication shall be administered according to the product instructions unless otherwise instructed by the health services coordinator. A health services coordinator who orders deviations from the product's directions shall be a health care professional. Deviations and the reason for the deviations shall be documented.
- (d) **Documentation.** Written documentation of all dispensed medication shall be maintained.

### §355.524. Medical Separation.

Effective Date: 11/15/13

Medical separation may be authorized as a health precaution at the direction of a health care professional or the facility administrator.

- (1) The reasons for the medical separation of a resident shall be documented and a copy placed in the resident's file.
- (2) If a resident has been placed in medical separation by a facility administrator for over 24 hours, the health care concern shall be addressed by a health care professional in accordance with the health service plan. Upon completion of the health care professional's evaluation, the facility shall obtain a written recommendation as to the need for the resident's continued medical separation and ongoing treatment services from the health care professional.
- (3) During medical separation, a juvenile supervision officer or youth activities supervisor shall personally observe and record the resident's behavior at random intervals not to exceed 15 minutes if the youth is placed behind an architectural barrier.

### §355.530. Suicide Prevention Plan.

Effective Date: 11/15/13

#### (a) Plan.

- (1) The facility shall have a written suicide prevention plan developed in consultation with a mental health provider. The mental health provider's consultation services shall be documented and retained. Acceptable documentation includes, but is not limited to, the mental health provider's written name, signature, title, and professional credentials or licensing designation (e.g., LPC, LMSW, etc.).
- (2) The plan shall address at least the following components:
  - (A) definitions of moderate risk and high risk for suicidal behavior;
  - (B) a listing of the facility-specific criteria associated with each of the two risk classifications and the identification of staff with the authority and responsibility for assigning or determining a resident's risk classification;
  - (C) a screening methodology which shall include, at a minimum:
    - (i) policies and procedures relating to suicide screening at intake/admission and at other times during the resident's stay at the facility;
    - (ii) identification of the specific suicide screening instrument, specific elements of the screening process, and identification of the person(s) responsible for the screening process;
    - (iii) specific provisions regarding the assessment of risk when a resident refuses or is unable to cooperate with the screening process; and
    - (iv) policies and procedures relating to how completed screening information and results are used in determining a resident's risk for suicidal behavior;
  - (D) communication protocols which shall include, at a minimum:
    - (i) policies and procedures specific to the internal and external communications directly related to residents who have been or are currently classified as moderate risk or high risk for suicidal behavior. For purposes of this standard, communications are defined as any written or verbal communications specific to the circumstances relating to the resident's status as a moderate risk or high risk for suicidal behavior; and
    - (ii) policies and procedures for notifying the sending agency or a mental health provider as required in §355.534 of this title for youth classified as high risk for suicidal behavior. The policies and procedures shall identify what information must be communicated, who is responsible for initiating the communication, who is required to receive the

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information, and how the information must be communicated (e.g., direct contact, telephone, email, etc.);

- (E) level of supervision for residents assigned to moderate risk or high risk for suicidal behavior;
  - (F) policies and procedures for intervening in an active suicide attempt, which shall identify, at a minimum:
    - (i) staff responsibilities specific to the administration of first aid (e.g., cardiopulmonary resuscitation, etc.) and emergency notification of other facility staff for assistance and contact of outside emergency medical services;
    - (ii) the process by which emergency medical services personnel are to gain access to the facility and how they are to be guided or escorted to the resident; and
    - (iii) any life-saving and emergency equipment (e.g., first aid kit, Ambu-bag, rescue tools, ladder, etc.) that will be made available for staff to use in their intervention efforts, the location of such equipment, and staff responsible for maintaining, issuing, and using the equipment;
  - (G) reporting of resident suicides and attempted suicides:
    - (i) to TJJD as a serious incident within the time frames established in Chapter 358 of this title; and
    - (ii) in accordance with any other applicable state law, administrative rule, or local policy or ordinance;
  - (H) policies and procedures for staff training on the contents and implementation of the suicide prevention plan. The policies and procedures shall address, at a minimum, the training topics, curriculum to be used, and timeline for initial training and any follow-up training;
  - (I) housing of residents assigned to moderate risk or high risk for suicidal behavior, including removal of any dangerous objects, which may include clothing and bedding items, from the resident's presence; and
  - (J) formal mortality reviews following a resident's suicide to examine the specific circumstances that occurred prior to, during, and after the suicide to determine if there is a need for modified policies, procedures, and physical plant configurations. The mortality review plan shall, at a minimum:
    - (i) require a review process that is separate and distinct from any and all formal investigations (e.g., investigations conducted by the facility, law enforcement, TJJD, etc.);
    - (ii) identify the person or position who is responsible for leading the mortality review and any other applicable review team members (identified by name, position, or agency);
    - (iii) identify how the findings and recommendations of the mortality review are to be recorded; and
    - (iv) identify how the findings and any subsequent recommendations are to be relayed to the facility's governing board.
- (b) **Implementation.** The facility shall implement the suicide prevention plan. All residents shall be screened and assessed for suicide risk upon admission and as necessary thereafter.

### §355.532. Review and Dissemination of Suicide Prevention Plan.

Effective Date: 11/15/13

- (a) The suicide prevention plan shall be reviewed in consultation with a mental health provider at least once each year, no later than the last day of the calendar month of the previous year's review. Documentation of the review shall be maintained on the actual plan or in the form of a dated and signed letter from the mental health provider indicating the individual's title and the date that the review occurred. The documentation shall include the mental health provider's signature, title, and date of the review.

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- (b) The suicide prevention plan shall be disseminated or made available to all facility staff having responsibilities named or enumerated in the facility's suicide prevention plan.

### §355.534. Mental Health Referral of High-Risk Suicidal Youth.

Effective Date: 11/15/13

- (a) If a resident is classified as high risk for suicidal behavior, the facility shall immediately notify the sending agency for transfer or release. Documentation of this notification shall be maintained including the date, time, name, and jurisdiction of the person notified.
- (b) If immediate transfer or release is not possible, the facility shall refer the resident classified as high risk for suicidal behavior to a mental health provider or mental health care facility for further assessment or intervention. The referral shall be made within two hours after classification. The facility shall maintain written documentation of the referral that includes:
- (1) the name and title of the mental health provider or mental health care facility notified;
  - (2) the date and time of the referral;
  - (3) the method of referral; and
  - (4) a brief description of the response provided by the mental health provider or the responsive document from the mental health provider.

### §355.536. Supervision of High-Risk Suicidal Youth.

Effective Date: 11/15/13

- (a) **Supervision.** Residents classified as high risk for suicidal behavior who are awaiting an assessment by a mental health provider or transfer or release or as described in §355.534(b) of this title shall be:
- (1) provided constant, uninterrupted supervision by a certified juvenile probation officer, certified juvenile supervision officer, or certified youth activities supervisor; and
  - (2) the supervising staff member shall document his or her personal observations of the high-risk resident at intervals not to exceed 30 minutes.
- (b) **Required Documentation.** The following documentation shall be maintained for high-risk suicidal residents:
- (1) the date and time the resident was classified as high risk for suicidal behavior;
  - (2) name and title of the person who classified the resident as high risk for suicidal behavior;
  - (3) a description of the resident's behavior and/or factors that led to the resident's classification as high risk for suicidal behavior;
  - (4) name of the certified juvenile probation officer, certified juvenile supervision officer, or certified youth activities supervisor providing supervision of the resident;
  - (5) the location of the resident's supervision;
  - (6) the date and time the resident was reclassified as no longer being at high risk for suicidal behavior; and
  - (7) the name and title of the mental health provider or physician who recommended the reclassification of the resident as no longer being at high risk for suicidal behavior.

### §355.538. Supervision of Moderate-Risk Suicidal Youth.

Effective Date: 11/15/13

- (a) **Observation.** Any time a resident is classified as a moderate risk for suicidal behavior and is not under constant visual observation, a juvenile supervision officer or youth activities supervisor shall personally observe and record the resident's behavior at random intervals not to exceed ten minutes.

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- (b) **Required Documentation.** When providing supervision at random intervals, the juvenile supervision officer or youth activities supervisor shall document:
- (1) the date and time the resident was classified as moderate risk for suicidal behavior;
  - (2) the location of the resident's supervision;
  - (3) the name of the juvenile supervision officer or youth activities supervisor providing supervision of the resident;
  - (4) each visual observation made and the time of the observation; and
  - (5) a general description of the resident's behavior.

### **§355.540. Reclassification of High- or Moderate-Risk Suicidal Youth.** Effective Date: 11/15/13

Reclassification of a resident designated as high or moderate risk for suicidal behavior to a lower risk level shall only be determined by the facility administrator with the recommendation of a qualified mental health professional, a mental health provider, or a licensed physician.

- (1) Prior to recommending reclassification, a qualified mental health professional, mental health provider, or a licensed physician shall conduct a review of the resident's current suicide risk and issue a written recommendation which addresses the following:
  - (A) the need to reclassify the resident's suicide risk level;
  - (B) the need for intervention strategies and/or services during the resident's period of confinement within the facility; and
  - (C) the need for additional assessment(s), screening(s) or evaluation(s).
- (2) The written recommendation of the qualified mental health professional, mental health provider, or licensed physician shall be maintained in the resident's record.
- (3) The facility administrator or designee shall review the written recommendation of the qualified mental health professional, mental health provider, or licensed physician prior to reclassifying a resident as no longer being at high risk for suicidal behavior.
- (4) Only the facility administrator or designee shall authorize the reclassification of a resident classified as high risk for suicidal behavior under this section.

## Subchapter F Resident Rights and Programming

### **§355.600. Visitation.** Effective Date: 11/15/13

- (a) Residents have the right to receive visitors and to communicate subject only to the limitations authorized in §355.602 of this title.
- (b) Residents shall be allowed visitation by a parent, legal guardian, or custodian at least once every seven calendar days for at least 30 minutes or the equivalent over multiple visits.
- (c) The parent, legal guardian, or custodian of the resident shall be provided a copy of the visitation schedule as soon as possible after the resident's admission to the facility.
- (d) A registry of all visitors shall be maintained to document the name and relationship to the resident.
- (e) A parent, legal guardian, or custodian shall not be denied private, in-person communication with his or her child for reasonable periods of time. The time, place, and conditions of the private, in-person

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communication may be regulated only to prevent disruption of scheduled activities and to maintain the safety of the facility/program.

### **§355.602. Limitations on Visitation.**

Effective Date: 11/15/13

- (a) The policies, procedures, and practices of the facility may limit a resident's visitation rights only to the extent required to maintain safety of the facility.
- (b) Restrictions on a resident's visitation rights shall not be imposed as a disciplinary sanction.
- (c) The facility administrator or designee shall provide written documentation justifying any restriction placed on a resident's visitation rights.
- (d) A resident shall not be denied communication or visitation with a parent, legal guardian, or custodian for a prescribed period of time after admission into the facility.

### **§355.604. Access to Attorney.**

Effective Date: 11/15/13

A resident shall be permitted reasonable opportunities for confidential contact with the resident's attorney and the attorney's designated representatives through telephone, uncensored letters, and personal visits. A facility does not need to suspend visual supervision to accommodate this provision.

### **§355.610. Telephone.**

Effective Date: 11/15/13

- (a) Each facility shall have written policies and procedures regarding the rules for reasonable and fair telephone access by residents. The policy shall detail the specific telephone number(s), time of day, and length of phone calls allowed.
- (b) Restrictions on a resident's telephone rights shall not be imposed as a disciplinary sanction.
- (c) At a minimum, residents shall be provided the opportunity to complete at least one five-minute phone call every seven calendar days.
- (d) Facility staff shall document any restriction placed on a resident's telephone usage and maintain this documentation in the resident's file.
- (e) The facility's policies and procedures shall ensure the resident's parent, guardian, or custodian be provided with a copy of the policy regarding telephone privileges as soon as possible after the resident's admission to the facility.

### **§355.612. Mail.**

Effective Date: 11/15/13

- (a) Residents shall be provided access to writing materials and postage for no fewer than two letters every seven calendar days.
- (b) When a resident is released or transferred from the facility, his or her mail shall be forwarded to the resident's new address.
- (c) Each facility shall maintain written policies and procedures regarding the disposition of property received in the mail.

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### §355.614. Limitations on Mail.

Effective Date: 11/15/13

- (a) **Authorized Limitations.** A resident's rights to privacy and correspondence may not be limited except when:
- (1) a reasonable belief exists to suspect that the correspondence is part of an attempt to formulate, devise, or otherwise effectuate a plan to violate a court order or state or federal laws. If such cause exists, then facility staff shall:
    - (A) ask the resident's permission to read the letter;
    - (B) if permission is denied, request a search warrant prior to opening and reading the letter; and
    - (C) if a search warrant request is denied, the correspondence shall be provided to the resident;
  - (2) correspondence with certain individuals is specifically forbidden by:
    - (A) the resident's juvenile court-ordered rules of probation or parole;
    - (B) the facility's rules of separation; or
    - (C) a specific list of individuals furnished by a resident's parents, legal guardian, or custodian indicating who they feel should not communicate with the resident.
- (b) **Returning Mail.** Incoming correspondence described by subsection (a)(2) of this section shall be returned unopened to the sender.
- (c) **Withholding Mail.** When mail is withheld from the resident, the reasons shall be documented and a copy placed in the resident's file.

### §355.616. Legal Correspondence.

Effective Date: 11/15/13

Residents shall be furnished adequate postage for legal correspondence during their stay in the facility.

### §355.618. Inspection of Mail.

Effective Date: 11/15/13

Mail may be opened by staff only in the presence of the resident with inspection limited to searching for contraband.

### §355.620. Illegal Discrimination.

Effective Date: 11/15/13

Residents shall not be subjected to discrimination based on race, national origin, religion, sex, sexual orientation, gender identity, or disability.

### §355.624. Prohibited Supervision.

Effective Date: 11/15/13

Residents shall not be subjected to supervision and control by other residents.

### §355.626. Facility Orientation.

Effective Date: 11/15/13

- (a) Each resident shall be provided a verbal orientation within 12 hours after admission into the facility.
- (b) The verbal orientation shall include an explanation of the facility's:
- (1) procedures to access health care and available services;
  - (2) program rules with corresponding and maximum disciplinary sanctions;
  - (3) grievance policies and procedures;

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- (4) procedures to access mental health care and available services;
  - (5) information regarding the reporting of suspected abuse, neglect, or exploitation of a child in a juvenile justice facility; and
  - (6) policy that states the resident is ensured the right of confidentiality with regard to the items included in paragraphs (3) and (5) of this subsection and will not face reprisal for participating in the procedures included in these items.
- (c) If the resident is not sufficiently fluent in English, arrangements shall be made to provide the resident with an orientation in the resident's primary language within 48 hours after admission.
- (d) When a literacy problem prevents a resident from understanding written rules, a staff member or translator shall assist the resident within 48 hours after admission.
- (e) The facility shall:
- (1) provide each resident a written copy of the orientation materials upon completion of the orientation process; and/or
  - (2) post the orientation information in an accessible area in the housing unit such as on a wall or in a binder.

### **§355.630. Resident Discipline Plan.**

Effective Date: 11/15/13

Each facility shall develop and implement a written resident discipline plan that provides for the fair and consistent application of resident rules and sanctions. The resident discipline plan shall include, at a minimum, the following:

- (1) resident rule violations categorized into minor infractions and major violations as well as the corresponding sanctions available to staff. Minor infractions shall be limited to those rules which do not represent serious behavior against persons or property and behavior that does not pose a serious threat to facility order and safety. Major violations shall be limited to those rules which constitute serious behavior against persons or property and behavior that poses a serious threat to facility order and safety;
- (2) provisions to ensure that rule infractions or resident behaviors which constitute probable cause for a class B misdemeanor offense or above shall be referred to the law enforcement agency with jurisdiction for possible investigation and/or prosecution;
- (3) a listing of prohibited sanctions for residents that includes at least:
  - (A) corporal punishment;
  - (B) humiliating punishment including verbal harassment of a sexual nature or that relates to a resident's sexual orientation or gender identity;
  - (C) allowing or directing one resident to sanction another;
  - (D) group punishment for the acts of individuals;
  - (E) deprivation or modification of required meals and snacks;
  - (F) deprivation of clean and appropriate clothing;
  - (G) deprivation or intentional disruption of scheduled sleeping opportunities;
  - (H) deprivation or intentional delay of medical or mental health services;
  - (I) physical exercise imposed for the purposes of compliance, intimidation, or discipline with the exception of practices allowed in §355.710 of this title; and
  - (J) placement in a locked area or room during disciplinary restriction or disciplinary separation;
- (4) provisions that a resident shall be provided written notice of the alleged major rule violation against him or her no more than 24 hours after the violation;

- (5) provisions for an informal process for residents to resolve conflict with rule infractions and the corresponding sanctions, if the facility chooses to employ such a process. This process shall include established guidelines that provide instruction for residents and staff in using this informal process to review and resolve resident concerns. In no case shall a resident be sanctioned or retaliated against for electing to forego the informal disciplinary review process when they are eligible for formal disciplinary reviews;
- (6) provisions for disciplinary reviews for major rule violations, including established requirements for when to initiate formal disciplinary reviews and any ensuing appeals; and
- (7) provisions for the administrative review and closure of formal disciplinary reviews and appeals that are not disposed of prior to a resident's discharge from the facility.

### **§355.632. Formal Disciplinary Reviews for Major Rule Violations.**

Effective Date: 11/15/13

Residents who are charged with a major rule violation shall receive a formal disciplinary review unless waived in writing by the resident. The formal disciplinary review shall occur within ten calendar days after the date the resident received notice of the violation.

### **§355.634. Formal Disciplinary Review Process.**

Effective Date: 11/15/13

The formal disciplinary review process shall, at a minimum, adhere to the following requirements:

- (1) Disciplinary reviews must be before a neutral and impartial person or board that shall not include any staff member directly involved in the alleged rule violation or the imposed sanction.
- (2) Provisions shall be made for the disclosure of the evidence against the resident accused with a rule violation. A facility may choose not to disclose all evidence against a resident when the facility can document that the evidence would likely:
  - (A) interfere with a corresponding criminal investigation or prosecution;
  - (B) create a significant breach of facility security; and/or
  - (C) compromise the physical safety of a resident.
- (3) A resident shall have the opportunity to be heard in person and to present evidence on his or her behalf.
- (4) A resident shall have the opportunity to request relevant witnesses on his or her behalf.
- (5) A resident shall have the opportunity to secure the aid of a staff member if the resident is illiterate, disabled, or otherwise unable to understand the nature of the proceedings.
- (6) If the disciplinary review determines that the resident did not commit a rule violation or that the corresponding sanction was inappropriate, facility staff shall restore or reinstate any denied or modified resident privileges.
- (7) At the conclusion of a disciplinary review, a written statement by the individual who conducted the disciplinary review or disciplinary board shall be prepared indicating the evidence relied upon and justification for the disposition. The statement shall be made available to the resident for review and a copy shall be retained in the resident's file.

### **§355.636. Appeal of Disciplinary Review.**

Effective Date: 11/15/13

A resident may appeal the findings of a disciplinary review. The facility's resident discipline plan shall include at least the following:

- (1) provisions for a documented appeals process before a neutral and impartial person or persons who are not members of the disciplinary board. The appeals process shall afford each of the due process provisions enumerated in §355.634(2) - (7) of this title;

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- (2) provisions that require the resident to submit the written request for an appeal no later than seven calendar days after a disposition is rendered in the disciplinary review;
- (3) provisions that require the resident's appeal to be heard within 30 calendar days after resident's request; and
- (4) provisions for a written statement by the appeals officer or appellate board at the conclusion of the review indicating the evidence relied upon and justification for the disposition. The statement shall be made available to the resident for review and a copy shall be retained in the resident's file.

### §355.638. Disciplinary Restriction.

Effective Date: 11/15/13

- (a) Disciplinary restriction may be used for minor rule infractions, major rule violations, imminent physical threat, or preventive behavior modifications. Disciplinary restriction shall not exceed 90 minutes for the same incident.
- (b) If the resident is behind an architectural barrier during the period of restriction, a juvenile supervision officer or youth activities supervisor shall personally observe and record the resident's behavior at random intervals not to exceed 15 minutes.

### §355.640. Disciplinary Separation.

Effective Date: 11/15/13

- (a) Disciplinary separation may be used only when a resident commits a major rule violation or poses an imminent physical threat to self or others. Disciplinary separation shall not exceed 24 hours for the same incident.
- (b) A written disciplinary report that describes the resident's precipitating behavior and identifies the staff's response shall be completed promptly, but no later than the end of the shift on which the disciplinary separation occurs. The report shall be submitted immediately to the facility administrator for review.
- (c) If the resident is behind an architectural barrier during the period of disciplinary separation, a juvenile supervision officer or youth activities supervisor shall personally observe and record the resident's behavior at random intervals not to exceed 15 minutes.
- (d) Any time period a resident is placed in disciplinary separation shall be continuous and shall include non-program hours.

### §355.644. Resident Grievance Process.

Effective Date: 11/15/13

- (a) **Grievance Process.** Written policies and procedures, as well as actual practices, shall demonstrate that there is a formalized grievance process to address residents' complaints about their treatment and facility services. At a minimum, the formalized grievance process shall include the following policy, procedural, and practice elements:
  - (1) the residents' ability to submit a grievance and have full access to the process;
  - (2) a written response and resolution to all grievances no later than 10 calendar days from the date the grievance is received by staff;
  - (3) confidentiality of grievance without fear of reprisal;
  - (4) the resident's ability to participate in the resolution of a grievance, including the use of an intermediary and the ability to request witnesses;
  - (5) periodic formal reviews of the grievance process and dispositions by administrative-level staff;
  - (6) a tracking system and grievance log that accounts for all grievances submitted; and
  - (7) post-release forwarding of a resident's unresolved grievance to the facility administrator or designee to determine if any action is needed.

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- (b) **Grievance Appeals.** A resident may appeal a grievance resolution. The facility shall have written policies and procedures that include appeal provisions. The provisions shall include at least the following:
- (1) The resident shall have at least one level of appeal.
  - (2) The resident shall have the ability to appeal to a supervisory or higher-level staff member who is not named in the grievance and who did not provide the initial grievance resolution.
  - (3) A written response and resolution shall be provided to the resident within ten calendar days after the resident's appeal request.
  - (4) A copy of the final disposition shall be retained in the resident's file.
- (c) **Grievance Form.** The grievance form shall contain the following elements:
- (1) the name of the resident;
  - (2) the housing assignment;
  - (3) the date of the grievance;
  - (4) the grievance tracking identification;
  - (5) the nature or description of the grievance;
  - (6) the date and time of receipt;
  - (7) the name and title of the person receiving the grievance;
  - (8) the response or resolution to the grievance;
  - (9) the date and time of the response;
  - (10) the name and title of the person responding to the grievance; and
  - (11) a space for a written request to appeal the grievance response.

### §355.648. Religious Services.

Effective Date: 11/15/13

Residents shall not be required to participate in religious services and religious counseling. Residents who refuse to participate in religious services or religious counseling shall not be subjected to disciplinary sanctions.

### §355.650. Program Hours.

Effective Date: 11/15/13

Each facility shall have a daily written program schedule outlining the stated activities during program hours.

- (1) Each resident shall be provided a minimum of ten hours of structured and unstructured activities.
- (2) **Exceptions.** Residents who are in disciplinary separation, disciplinary restriction, or medical separation may receive modification to their program schedule.
- (3) The facility shall maintain documentation of any program schedule deviation or modification.

### §355.654. Residential Case Plan and Case Plan Review.

Effective Date: 11/15/13

A case plan shall be completed and reviewed for every adjudicated youth in the facility in accordance with requirements of §341.37 and §341.39 of this title.

### §355.658. Recreation and Exercise.

Effective Date: 11/15/13

- (a) **Supplies.** Recreational equipment and supplies shall be provided to the residents.
- (b) **Schedule.** The recreational schedule shall offer the following programming:

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- (1) at least one hour of large muscle exercise shall be scheduled each day; and
  - (2) at least one hour of open recreational activity shall be scheduled each day.
- (c) **Exceptions.** A resident's recreational schedule may be altered under the following conditions:
- (1) participation by the resident is contraindicated for medical reasons;
  - (2) the resident is in disciplinary separation, disciplinary restriction, or medical separation;
  - (3) the resident has a scheduled appointment;
  - (4) extenuating circumstances exist that impede the recreational schedule; or
  - (5) the resident presents an imminent danger to self or others. Use of this provision shall require the written approval of the facility administrator.

### **§355.660. Educational Program.**

Effective Date: 11/15/13

- (a) The facility administrator shall ensure that there is an educational program that:
  - (1) requires participation by all residents who have not attained a high school diploma or GED; and
  - (2) provides educational services that comply with federal and state laws and regulations and that are commensurate with educational services provided to other students attending the educational provider's main campus.
- (b) When a resident is admitted to the facility, the facility administrator shall notify the school district in which the facility is located of the admission promptly, but no later than three business days after the admission.
- (c) The facility administrator shall ensure that the education provider has access to residents so that the educational program is afforded to all residents.

### **§355.662. Educational Curriculum.**

Effective Date: 11/15/13

Students shall be provided coursework that is aligned with the Texas Essential Knowledge and Skills, in accordance with rules adopted by the Texas Education Agency.

### **§355.664. Instructional Days.**

Effective Date: 11/15/13

The facility administrator shall ensure that the educational program provides for at least 180 days of instruction unless a waiver has been granted by the Texas Education Agency for fewer days or the number of educational days coincides with the local school district calendar.

### **§355.668. Special Education.**

Effective Date: 11/15/13

- (a) The facility administrator, through a cooperative effort with the Local Education Agency (LEA), will ensure that residents with disabilities are provided a free and appropriate public education as determined by the Admission, Review, and Dismissal committee in order to meet the individual educational needs of the student as defined by federal and state laws.
- (b) The facility administrator, through a cooperative effort with the Local Education Agency (LEA), will ensure that residents with disabilities have available an instructional day commensurate with that of students without disabilities, in accordance with requirements contained in 19 TAC §89.1075.

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### §355.670. Educational Space.

Effective Date: 11/15/13

If the educational program is administered on facility premises, the facility administrator shall ensure that educational space is adequate to meet the instructional requirements for each resident.

### §355.672. Educational Staff Orientation.

Effective Date: 11/15/13

- (a) If the educational program is administered on facility premises, all permanent educational staff shall receive a facility orientation prior to performing instructional duties. Orientation shall include:
- (1) security procedures;
  - (2) emergency procedures;
  - (3) behavior management system and prohibited sanctions; and
  - (4) reporting abuse, neglect, and exploitation.
- (b) A substitute educational staff member shall receive the orientation described in subsection (a) of this section prior to performing instructional duties if he/she is providing sole supervision of residents.

### §355.674. Reading Materials.

Effective Date: 11/15/13

Age-appropriate reading materials shall be available to all residents.

### §355.678. Vocational Training Program.

Effective Date: 11/15/13

If the facility offers a vocational training program that is not administered by the school and through which no academic credit is gained, the facility administrator shall ensure that appropriately qualified individuals provide instruction or mentoring in the vocational skills.

### §355.680. Work by Residents.

Effective Date: 11/15/13

- (a) Residents may be required to perform the following types of work responsibilities without monetary compensation:
- (1) assignments which are part of a formalized vocational training curriculum;
  - (2) tasks performed as a community service pursuant to a juvenile court order; and
  - (3) routine housekeeping chores which are shared by all youth in the facility, including general facility maintenance.
- (b) Residents shall not be permitted to perform any work prohibited by state or federal regulations pertaining to child labor.
- (c) Repetitive, purposeless, or degrading make-work is prohibited.
- (d) A resident's work assignments shall be excused or temporarily suspended if medically contraindicated.
- (e) Residents shall be provided with the necessary supervision, appropriate tools, cleaning implements, and clothing to safely and effectively complete their assignments.
- (f) Residents shall not perform personal services for staff.

### §355.684. Experimentation and Research Studies.

Effective Date: 11/15/13

- (a) **Experimentation.** Participation by residents in medical, psychological, pharmaceutical, or cosmetic experiments is prohibited.

- (b) **Research Studies.** Participation by residents in medical, psychological, pharmaceutical, or cosmetic research is prohibited unless the research study is approved in writing by the governing board subject to the following guidelines:
- (1) The governing board shall promulgate policies that govern all authorized research studies. Studies that include medically invasive procedures shall be prohibited.
  - (2) Approved research studies shall adhere to all applicable policies of the authorizing governing board.
  - (3) Research studies approved by the governing board shall be reported to TJJD in a format prescribed by TJJD prior to the commencement of the study.
  - (4) The results of the study shall be made available to TJJD upon request from the facility administrator, chief administrative officer, or governing board.
  - (5) Policies governing research studies shall adhere to all federal requirements governing human subjects and confidentiality.

### Subchapter G Physical Training Programs

#### **§355.700. Physical Training Program.**

Effective Date: 11/15/13

- (a) A non-secure correctional facility shall not operate a physical training program if the facility accepts non-adjudicated juveniles.
- (b) This subchapter applies only to facilities that operate a physical training program.

#### **§355.702. Governing Board Approval of Physical Training Program.**

Effective Date: 11/15/13

- (a) Facilities that utilize a physical training program shall have written authorization from the governing board prior to operation.
- (b) The governing board's operational authorization process and written authorization shall be separate and distinct from the juvenile board's annual certification of the facility required by Texas Family Code §51.126.
- (c) The governing board's written authorization shall be retained as long as the physical training program remains operational.

#### **§355.704. Pre-Admission Requirements for Physical Training Programs.**

Effective Date: 11/15/13

- (a) Prior to admitting a resident into the facility, the following documentation shall be reviewed by the facility administrator or designee:
  - (1) a medical release signed and dated by a physician, physician assistant, or nurse practitioner approving the resident's participation in the facility's physical training program;
  - (2) acknowledgement of the physician, physician assistant, or nurse practitioner of the components of the physical training program; and
  - (3) a psychological evaluation, or behavioral health assessment, which shall indicate in writing the appropriateness for the juvenile's placement at the facility based on the needs and/or limitations of the child, including the juvenile's mental capabilities and limitations.
- (b) The documentation required by this rule shall be maintained in the resident's file or the resident's medical file.

### **§355.706. Physical Training Program Plan.**

Effective Date: 11/15/13

The facility shall have a written physical training program plan developed in consultation with the facility's health service authority and approved by the governing board. The plan shall include:

- (1) a physical fitness screening tool that addresses whether the resident has the physical capability to fully participate in the physical training program. The tool shall be selected or developed by the facility administrator or designee;
- (2) a curriculum that addresses the specific types of exercises authorized to be used within the program. The curriculum shall:
  - (A) define the time limitations of the individual exercises used in the physical training program; and
  - (B) define the set number of repetitions of each exercise per session;
- (3) specific, minimum criteria to determine when outdoor weather conditions are too extreme or dangerous for physical training. The criteria shall address scheduling changes when necessary to ensure the safety of residents (e.g., seasonal scheduling changes to accommodate for weather patterns);
- (4) adjustments for increased dietary allowances in the residents' menu plan to accommodate the need for modified caloric intake and hydration; and
- (5) protocols for removal from the program if a resident becomes unfit to participate in the physical training program due to medical or mental health reasons.

### **§355.708. Injury and Illness of Residents in Physical Training Programs.**

Effective Date: 11/15/13

If a resident is deemed unfit to participate in the physical training program at any time due to medical reasons, to return the resident to the program, the facility must obtain a written release signed by a physician, nurse practitioner, or physician assistant indicating that the resident is fit to resume program activities.

### **§355.710. Disciplinary Sanctions in Physical Training Programs.**

Effective Date: 11/15/13

- (a) The facility shall have written policies and procedures, including guidelines, parameters, and limitations, on the types of physical activity that may be used for discipline or refocusing purposes (e.g., physical activities used to discipline for non-compliant behavior or as a substitute for write-ups or disciplinary separation).
- (b) Physical exercise used for intimidation shall be prohibited in all facilities. This rule allows for physical exercise to be used for discipline in non-secure correctional facilities that incorporate a physical training program.
- (c) Residents shall not receive sanctions that cause bodily duress (i.e., physical punishment to the body).

### **§355.712. Physical Fitness Screening Tool.**

Effective Date: 11/15/13

- (a) The resident shall not participate in the physical training program until the initial physical fitness screening tool has been completed and evaluated.
- (b) Every 30 calendar days, the facility shall administer the physical fitness screening tool to re-evaluate the resident's ability to participate in the physical training program.
- (c) The results of the resident's physical fitness screening and the facility designee's evaluation of the screening results shall be maintained in the resident's file.

## Subchapter H Restraints

### §355.800. Restraint Definitions.

Effective Date: 11/15/13

The following words and terms, when used in this chapter, shall have the following meanings, unless otherwise expressly defined within the chapter.

- (1) **Approved Mechanical Restraint Device**--A professionally manufactured and commercially available mechanical device designed to aid in the restriction of a person's bodily movement. TJJD-approved mechanical restraint devices are limited to the following for non-secure correctional facilities:
  - (A) **Ankle Cuffs**--A metal band designed to be fastened around the ankle to restrain free movement of the legs;
  - (B) **Handcuffs**--Metal devices designed to be fastened around the wrist to restrain free movement of the hands and arms;
  - (C) **Plastic Cuffs**--Plastic devices designed to be fastened around the wrists or legs to restrain free movement of hands, arms or legs;
  - (D) **Waist Belt**--A cloth, leather, or metal band designed to be fastened around the waist used to secure the arms to the sides or front of the body; and
  - (E) **Wristlets**--A cloth or leather band designed to be fastened around the wrist which may be secured to a waist belt.
- (2) **Approved Personal Restraint Technique**--A professionally trained, curriculum-based, and competency-based restraint technique that uses a person's physical exertion to completely or partially constrain another person's body movement without the use of mechanical restraints. Personal restraint techniques shall first be approved for use by TJJD.
- (3) **Chemical Restraint**--The application of a chemical agent on a resident or residents.
- (4) **Mechanical Restraint**--The application of an approved mechanical restraint device which restricts or aids in the restriction of the movement of the whole or a portion of an individual's body to control physical activity.
- (5) **Non-Ambulatory Mechanical Restraint**--A method of prohibiting a resident's ability to stand upright and walk with the use of a combination of approved mechanical restraint devices, cuffing techniques, and the subject's body positioning. The four-point restraint and a restraint chair are examples of non-ambulatory mechanical restraints.
- (6) **Personal Restraint**--The application of physical force alone, restricting the free movement of the whole body or a portion of an individual's body to control physical activity.
- (7) **Physical Escort**--Touching or holding a resident with a minimum use of force for the purpose of directing the resident's movement from one place to another. A physical escort is not considered a personal restraint.
- (8) **Protective Devices**--Professionally manufactured devices used for the protection of residents or staff that do not restrict the movement of a resident. Protective devices are not considered mechanical restraint devices.
- (9) **Restraint**--The application of an approved personal restraint technique, an approved mechanical restraint device, or a chemical restraint to an individual so as to restrict the individual's freedom of movement or to modify the individual's behavior.

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- (10) **Soft Restraints**--Non-metallic wristlets and anklets used as stand-alone restraint devices. These devices are designed to reduce the incidence of skin, nerve, and muscle damage to the restrained subject's extremities.

### **§355.802. Restraint Requirements.**

Effective Date: 11/15/13

- (a) Restraints shall only be used by juvenile supervision officers, youth activities supervisors, and probation officers.
- (b) Prior to participating in any restraint, juvenile probation officers, youth activities supervisors, and juvenile supervision officers shall be trained in the use of the facility's specific verbal de-escalation policies, procedures, and practices.
- (c) Prior to participating in a restraint, juvenile probation officers, youth activities supervisors, and juvenile supervision officers shall have received training and demonstrated competency in the TJJD-approved restraint used by the facility.
- (d) Restraints shall only be used in instances of an imminent threat of self-injury, injury to others, or serious property damage.
- (e) Restraints shall only be used as a last resort.
- (f) Only the amount of force and type of restraint necessary to control the situation shall be used.
- (g) Restraints shall be implemented in such a way as to protect the health and safety of the resident and others.
- (h) Restraints shall be terminated as soon as the resident's behavior indicates that the imminent threat of self-injury, injury to others, serious property damage, or the threat of escape has subsided.

### **§355.804. Restraint Prohibitions.**

Effective Date: 11/15/13

Restraints that employ a technique listed in this section are prohibited:

- (1) restraints used for punishment, discipline, retaliation, harassment, compliance, intimidation, or as a substitute for an appropriate disciplinary separation;
- (2) restraints that deprive the resident of basic human necessities, including restroom privileges, water, food, and clothing;
- (3) restraints that are intended to inflict pain;
- (4) restraints that place a resident in a prone or supine position with sustained or excessive pressure on the back, chest, or torso;
- (5) restraints that place a resident in a prone or supine position with pressure on the neck or head;
- (6) restraints that obstruct the resident's airway, including a procedure that places anything in, on, or over the resident's mouth or nose;
- (7) restraints that interfere with the resident's ability to communicate;
- (8) restraints that obstruct the view of the resident's face;
- (9) any technique that does not require the monitoring of the resident's respiration and other signs of physical distress during the restraint;
- (10) percussive or electrical shocking devices;
- (11) chemical restraints; and
- (12) non-ambulatory restraints.

### §355.806. Restraint Documentation.

Effective Date: 11/15/13

- (a) Except for restraints described in §355.818 of this title, all restraints shall be fully documented and the documentation shall be maintained. Written documentation regarding the use of restraints shall, at a minimum, require:
- (1) the name of the resident;
  - (2) the name and title of the staff member(s) who administered the restraint;
  - (3) the date of the restraint;
  - (4) the duration of each type of restraint, including notation of the time each type of restraint began and ended;
  - (5) the location of the restraint;
  - (6) the description of the preceding activities;
  - (7) the behavior which prompted the initial and the continued restraint of the resident;
  - (8) the type of restraint(s) applied;
    - (A) the specific type of personal restraint hold applied;
    - (B) the type of mechanical restraint device(s) applied; and
    - (C) the type of chemical restraint(s) utilized;
  - (9) de-escalation efforts as well as all restraint alternatives attempted; and
  - (10) whether or not any injury occurred during the restraint and the description of the injury.
- (b) Any deviations from the holds as trained in the TJJD-approved personal restraint technique shall also be documented.

### §355.808. Personal Restraint.

Effective Date: 11/15/13

In addition to the requirements found in §§355.802, 355.804, and 355.806 of this title, the use of personal restraints shall be governed by the following criteria:

- (1) Personal restraints shall be administered in a manner specific, or consistent, to the approved personal restraint technique adopted by the facility.
- (2) Juvenile supervision officers, youth activities supervisors, and probation officers shall be retrained in the approved personal restraint technique selected by the facility according to the requirements of the particular technique or at least every 365 calendar days, whichever time frame is shorter.

### §355.810. Mechanical Restraint.

Effective Date: 11/15/13

(a) **Requirements.**

- (1) Only approved mechanical restraint devices shall be used by a facility.
- (2) Mechanical restraint devices shall only be used in a manner consistent with their intended use.
- (3) All mechanical restraint devices shall be inspected at least once each year, no later than the last day of the calendar month of the previous year's inspection. All faulty or malfunctioning devices shall be restricted from use until they are repaired or replaced.

(b) **Prohibitions.**

- (1) Approved mechanical restraint devices shall not be altered from the manufacturer's design.
- (2) A resident shall not be placed in a prone position while restrained in any mechanical restraint for a period of time longer than necessary to apply the restraint device.

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- (3) A mechanical restraint shall not secure a resident in a prone, supine, or lateral position with the resident's arms and hands behind the resident's back and secured to the resident's legs.
- (4) Approved mechanical restraint devices shall not be secured so tightly as to interfere with circulation or so loosely as to cause chafing of the skin.
- (5) Approved mechanical restraint devices shall not be secured to a stationary object.
- (6) A resident in an approved mechanical restraint device shall not participate in any physical activity.
- (7) Plastic cuffs shall only be used in emergency situations.

### §355.818. Preventative Mechanical Restraints.

Effective Date: 11/15/13

- (a) For resident, staff, and public safety purposes, a resident may be placed in ankle cuffs, handcuffs, wristlets, or a waist belt absent the imminent threat requirements enumerated in §355.802(d) of this title. These types of preventative mechanical restraints are authorized under the following circumstances:
  - (1) **Intra-facility relocation.** Mechanical restraints may be used when moving a resident from point to point within a secure facility. The mechanical restraint devices shall be removed upon completion of the resident's relocation.
  - (2) **Vehicular transport.** A resident shall not be secured to:
    - (A) any part of the vehicle; or
    - (B) another resident.
  - (3) **Off-site activities.** Mechanical restraints may be used when a resident is required to leave the facility premises.
- (b) The routine, preventative mechanical restraint applications used in this section are exempt from the documentation requirements contained in §355.806 of this title, except when:
  - (1) the resident's cooperation is compelled through the use of a personal restraint;
  - (2) the resident receives an injury in relation to the restraint event or restraint devices; or
  - (3) the resident's behavior escalates to the imminent threat criteria listed in §355.802(d) of this title.