

Chapter: Rules for State-Operated Programs and Facilities Subchapter: Admission, Placement, Release, and Discharge Division: Movement Before Program Completion Rule: Movement Before Program Completion ACA: 4-JCF-3A-24, 5I-04 Statute(s): HR Code §245.051 ; Family Code §54.0491 Reference(s): <i>Morales v Turman</i> Settlement Agreement Section (V)(H)	Effective Date: 4/1/14 Page: 1 of 5 Replaces: GAP.380.8545, 7/1/11
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RULE

(a) **Purpose.**

The purpose of this rule is to establish criteria and procedures for moving youth who have not met program completion requirements to placements of equal or lesser restriction.

(b) **General Provisions.**

Prior to a transition, a youth may request and in doing so will be granted a Level II hearing.

(c) **Transition Movements Before Initial or Revocation Minimum Length of Stay.**

(1) **Eligibility.**

The following youth are not eligible for transition movement before completion of the initial or revocation minimum length of stay:

- (A) sentenced offenders; and
- (B) sex offenders with court orders deferring their sex offender registration requirements who have not successfully completed an assigned sexual behavior treatment program.

(2) **Transition Movement Criteria.**

Youth in a high restriction facility may be eligible for transition to a medium restriction facility before completion of the initial or revocation minimum length of stay when the following criteria have been met:

- (A) no major rule violations confirmed through a Level II due process hearing:
 - (i) within 60 days before the exit review or during the approval process, for youth with committing offenses of low or moderate severity; or
 - (ii) within 120 days before the exit review or during the approval process, for youth with committing offenses of high severity; and
- (B) completion of the following:
 - (i) for youth who have not completed the initial minimum length of stay:
 - (I) youth with a committing offense of low severity must complete six months of the initial minimum length of stay in high restriction facilities; or
 - (II) youth with a committing offense of moderate severity must complete nine months of the initial minimum length of stay in high restriction facilities; or
 - (III) youth with a committing offense of high severity must complete all but six months of the initial minimum length of stay in high restriction facilities; or

- (ii) for youth placed in a high restriction facility following revocation of parole, the youth must complete at least 2/3 of the revocation minimum length of stay; and
 - (C) participation in or completion of assigned specialized treatment programs or curriculum as required under [§380.8751](#) of this title; and
 - (D) completion of the following rehabilitation program requirements:
 - (i) for TJJJ-operated facilities, assignment by the multi-disciplinary team to the second highest stage in the assigned rehabilitation program as described in §380.8703 of this title, which reflects that the youth is currently:
 - (I) consistently participating in academic and/or workforce development programs commensurate with abilities as reflected in the youth's educational plan; and
 - (II) consistently participating in skills development groups, as reflected in the youth's individual case plan; and
 - (III) consistently demonstrating learned skills, as reflected in the documentation of the youth's behavior; or
 - (ii) for facilities operated under contract with TJJJ, completion of requirements for transition to a community residential placement as defined in the TJJJ-approved approved rehabilitation program; and
 - (E) completion of a draft community reintegration plan (or equivalent in a contract facility), to be finalized at the medium restriction facility, that demonstrates the youth's:
 - (i) understanding of his/her risk and protective factors; and
 - (ii) development of skills, abilities, and knowledge to reduce risk factors and increase protective factors; and
 - (iii) identification of goals and a plan of action to achieve goals in the medium restriction placement; and
 - (iv) identification of obstacles that may hinder successful community re-entry and plans to deal with those obstacles in the medium restriction placement; and
 - (F) completion of a criminal street gang intervention program, if required by court order.
- (3) **Decision Authority for Approval of Transition.**

The final decision authority ensures, before approving the transition, that the youth meets all transition criteria and the community re-entry/transition plan adequately addresses risk factors.

- (A) For youth with committing offenses of low or moderate severity, the final decision authority is the:
 - (i) facility administrator if the youth is assigned to a TJJJ-operated facility; or
 - (ii) division director over residential services or his/her designee if the youth is assigned to a facility operated under contract with TJJJ.
- (B) For youth with a committing offense of high severity, the final decision authority is the division director over residential services or his/her designee.

(d) Transition Movements after Completion of Initial or Revocation Minimum Length of Stay.**(1) Eligibility.**

The following youth are not eligible for transition movement after completion of the initial or revocation minimum length of stay:

- (A) sentenced offenders; and
- (B) sex offenders with court orders deferring their sex offender registration requirements who have not successfully completed an assigned sexual behavior treatment program.

(2) Transition Movement Criteria.

Youth in a high restriction facility may be eligible for transition to a medium restriction facility after completion of the initial or revocation minimum length of stay when the following criteria have been met:

- (A) no major rule violations confirmed through a Level II due process hearing within 30 days before the exit review or during the approval process;
- (B) participation in or completion of assigned specialized treatment programs or curriculum as required under [§380.8751](#) of this title; and
- (C) completion of a criminal street gang intervention program, if required by court order.

(3) Decision Authority for Approval of Transition.

The final decision authority ensures, before approving the transition, that the youth meets all transition criteria and the community re-entry plan adequately addresses risk factors. The final decision authority for approving transitions after completion of the initial or revocation minimum length of stay is:

- (A) the staff member identified in subsection [\(c\)\(3\)](#) of this section if the youth meets all criteria in subsection [\(c\)\(2\)](#) of this section but is past his/her minimum length of stay; or
- (B) the division director over residential services or his/her designee for all other youth.

(e) Population Control Movements.

- (1) When overpopulation occurs in a high restriction facility and other remedial actions are not successful in managing facility populations, non-sentenced offender youth who do not otherwise qualify may be released or transitioned. In such cases, the executive director establishes the criteria, taking into account factors including, but not limited to, the following:

- (A) progress in the rehabilitation program;
- (B) amount of the minimum length of stay completed;
- (C) severity of the committing offense;
- (D) completion of required specialized treatment programs;
- (E) participation in or completion of any statutorily required rehabilitation programming; and
- (F) current risk assessment.

- (2) Youth will be transitioned to a suitable TJJD-operated medium restriction placement or contract care facility or will be released to a suitable home or home substitute.

(f) Administrative Transfers.

Administrative transfers may be made for non-disciplinary, programmatic purposes among facilities of equal restriction without a due process hearing. An administrative transfer may not be made in lieu of a disciplinary transfer for which a due process hearing is mandatory.

(g) Reassignment of Youth Initially Eligible for Placement in a Medium Restriction Facility.

- (1) A youth may be reassigned to a medium restriction facility if the youth was initially eligible for such placement under §380.8521 of this title but was placed in a high restriction facility in order to address one or more placement system factors that could not be appropriately addressed in a medium restriction facility. Such youth are not required to meet transition criteria set forth in subsections (c) or (d) of this section.
- (2) The division director over residential services or his/her designee is the final decision authority for approving the facility reassignment.

(h) Conditional Placements.

(1) Eligibility.

The following youth are not eligible for conditional placement:

- (A) sentenced offenders; and
- (B) sex offenders with court orders deferring their sex offender registration requirements who have not successfully completed an assigned sexual behavior treatment program.

(2) Criteria for Conditional Placement.

(A) Before the Initial Minimum Length of Stay.

To be considered for a conditional placement before completing the initial minimum length of stay, a youth must meet all program completion criteria set forth in §380.8555 of this title, with the exception of the requirement to complete the minimum length of stay.

(B) After the Initial Minimum Length of Stay.

A youth may be considered for a conditional placement after completing the initial minimum length of stay when the following criteria have been met:

- (i) the youth's treatment team has determined that, due to the youth's treatment needs, the conditional placement would be in the youth's best interests;
- (ii) the youth has participated in or completed assigned specialized treatment as required under §380.8751 of this title; and
- (iii) the youth has completed a criminal street gang intervention program, if required by court order.

(3) Decision Authority for Approval of Conditional Placement.

The division director over residential services or his/her designee is the final decision authority for approving the conditional placement.

(4) Conclusion of Conditional Placement.

A conditional placement ends when:

- (A) the youth is assigned to a medium restriction facility or home placement because the youth:
 - (i) earns parole status under §380.8555 of this title or is placed on parole status under §380.8557 of this title;
 - (ii) is transitioned to a medium restriction facility under subsection (c) or (d) of this section; or
 - (iii) is reassigned to a medium restriction facility under subsection (g) of this section;

- (B) the youth is discharged under [§380.8557](#) or [§380.8595](#) of this title; or
- (C) the youth is returned to the sending facility through a Level II due process hearing held in accordance with §380.9555 of this title for reasons including, but not limited to:
- (i) commission of a rule violation listed in [§380.9503](#) or [§380.9504](#) of this title;
 - (ii) violation of the conditional placement agreement; or
 - (iii) the conditional placement is no longer viable.

(i) **Hardship Cases.**

In hardship cases, the executive director or his/her designee may approve placing a non-sentenced offender youth on parole status without meeting program completion criteria.

(j) **Youth with Mental Illness or Mental Retardation.**

Pursuant to [§380.8779](#) of this title, certain youth may be discharged following application for appropriate services to address their mental illness or mental retardation.

(k) **Notification.**

(1) TJJJ provides the committing juvenile court a copy of the youth's community re-entry/transition plan and a report concerning the youth's progress while committed to TJJJ no later than 30 days before the date of the youth's release. Additionally, if on release the youth is placed in another state or a county other than a county served by the committing juvenile court, TJJJ provides the community re-entry/transition plan and progress report to a juvenile court having jurisdiction over the county of the youth's residence.

(2) TJJJ notifies the following at least ten calendar days before the youth's release or transition:

- (A) the committing juvenile court;
- (B) the prosecuting attorney;
- (C) the youth's parole officer;
- (D) the chief juvenile probation officer in the county to which the youth is being moved; and
- (E) any entity that has issued an active warrant for the youth.

(l) **Individual Exceptions.**

The executive director or his/her designee may make exceptions to provisions of this rule on a case-by-case basis, based on a consideration of the youth's best interests and public safety.

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- See [CMS.03.11](#) for procedures relating to the criminal street gang intervention program.
 - See [CMS.02.40](#) for procedures relating to administrative transfers.
 - See [CMS.02.47](#) for procedures relating to transition movement prior to completion of initial minimum length of stay.
 - See [CMS.02.48](#) for procedures relating to transition movement following completion of the initial minimum length of stay.
 - See [CMS.02.46](#) for procedures relating to reassignment of youth initially eligible for placement in medium restriction facilities.
 - See [CMS.02.38](#) for procedures relating to conditional placements.
 - See [CMS.02.63](#) for procedures relating to the 10-day release/transition notice.