

Chapter: Rules for State-Operated Programs and Facilities	<b>Effective Date: 10/1/15</b>
Subchapter: Behavior Management and Youth Discipline	
Division: Behavior Management	Page: 1 of 7
<b>Rule: Rules and Consequences for Residential Facilities</b>	Replaces: GAP.380.9503, 5/31/13
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Statutes: N/A	

**RULE**

(a) **Purpose.**

This rule establishes the actions that constitute violations of the rules of conduct for residential facilities. Violations of the rules may result in disciplinary consequences that are proportional to the severity and extent of the violation. Appropriate due process, including a consideration of extenuating circumstances, must be followed before imposing consequences.

(b) **Applicability.**

This rule applies to youth assigned to residential facilities operated by the Texas Juvenile Justice Department.

(c) **Definitions.**

The following terms, as used in this rule, have the following meanings unless the context clearly indicates otherwise.

- (1) **Bodily Injury**--physical pain, illness, or impairment of physical condition. Fleeting pain or minor discomfort does not constitute bodily injury.
- (2) **Multi-Disciplinary Team**--has the meaning assigned by [§380.8501](#) of this title.
- (3) **Residential Facility**--includes high and medium restriction residential facilities.
- (4) **Attempting to Commit**--engaging in conduct that amounts to more than mere planning, but failing to commit the intended rule violation.
- (5) **Serious Bodily Injury**--bodily injury that involves:
  - (A) a substantial risk of death;
  - (B) extreme physical pain;
  - (C) protracted and obvious disfigurement; or
  - (D) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(d) **General Provisions.**

- (1) Rules in this policy may be restated or otherwise adapted to accommodate a particular program to help clarify expected behavior in that program. All adapted or restated rules must remain consistent with the general rules of conduct.
- (2) The rules of conduct must be posted in a visible area that is accessible to youth in each facility and program.
- (3) Repeated violations of any rule of conduct may result in more serious disciplinary consequences.

- (4) Youth may be issued more than one disciplinary consequence for a rule violation proven in a Level II or Level III due process hearing held in accordance with [§380.9555](#) or [§380.9557](#) of this title, respectively.
  - (5) Major rule violations require the completion of a formal incident report.
  - (6) A youth's disciplinary record consists only of rule violations that are proven through a Level I or Level II due process hearing in accordance with [§380.9551](#) or §380.9555 of this title, respectively.
  - (7) An appropriate investigation must be started within 24 hours after a report of a major rule violation or a minor rule violation resulting in a referral to the security unit. Based on available evidence, the facility administrator or designee must determine whether to hold a Level II due process hearing in order to pursue major consequences and/or placement of the violation on the youth's disciplinary record.
  - (8) When a youth is found to be in possession of prohibited money as defined in this rule, a Level II due process hearing is required to seize the money. Seized money must be placed in the student benefit fund in accordance with §380.9555 of this title.
  - (9) Except as noted in paragraph (10) of this subsection, minor rule violations must be documented on the appropriate activity log. A formal incident report is not required.
  - (10) A minor rule violation that escalates to the point that the current program/activity cannot continue due to the disruption or that poses a substantial risk to personal safety or facility security must be documented on a formal incident report. In high restriction facilities, this type of minor rule violation also includes a referral to the security unit.
  - (11) Any time a formal incident report is prepared for an alleged rule violation, a copy of the incident report must be given to the youth within 24 hours after the alleged violation.
  - (12) Although certain rule violations may not result in immediate disciplinary consequences, a rule violation proven through a Level II due process hearing may be considered upon expiration of the youth's minimum length of stay in determining whether a youth is in need of additional rehabilitation.
  - (13) For youth who receive privilege suspensions, the multi-disciplinary team may:
    - (A) lessen the duration of the suspension; or
    - (B) extend (one time only) or modify an on-site privilege suspension issued by direct care staff if warranted by the youth's behavior.
- (e) **Consequences for High Restriction Facilities.**
- (1) **Major Disciplinary Consequences.**
    - (A) **Placement in the Phoenix Program**--in accordance with [§380.9535](#) of this title, a youth may be placed in the Phoenix program when it is found that the youth engaged in certain aggressive behavior.
    - (B) **Major Suspension of Privileges**--a youth has all privileges suspended for 30 calendar days from the date of the hearing. This consequence may be issued only for minor rule violations resulting in a referral to the security unit or major rule violations, and only if the rule violation is proven through a Level II due process hearing in accordance with §380.9555 of this title.
    - (C) **Loss of Transition Eligibility**--a youth who has not completed the minimum length of stay serves an additional month in high restriction facilities before becoming eligible for transition to a medium restriction facility under [§380.8545](#) of this title. This consequence may be issued

only if it is proven through a Level II due process hearing that the youth committed a major rule violation.

- (D) **Stage Demotion**--a youth's assigned stage in the agency's rehabilitation program is lowered by one or more stages. This consequence may be issued only if it is proven through a Level II due process hearing that the youth committed a major rule violation.

(2) **Minor Disciplinary Consequences.**

- (A) **Suspension of Privileges by Multi-Disciplinary Team**--a youth has one or more privileges removed for up to 14 calendar days from the date of the multi-disciplinary team meeting. This consequence may be issued for major or minor rule violations. In order to issue this consequence, the multi-disciplinary team must:
- (i) meet with the youth to discuss the youth's behavior and potential consequences;
  - (ii) consider any on-site suspension of privileges already imposed for the behavior; and
  - (iii) document the discussion of the youth's conduct and consequence imposed.
- (B) **On-Site Suspension of Privileges**--a youth has one specific privilege removed for up to seven calendar days from the date of the violation or all privileges removed for up to three calendar days. This consequence may be issued by a staff member with direct supervisory responsibility for the youth after witnessing a major or minor rule violation. This consequence should be issued only after non-disciplinary interventions have been attempted. The staff member must document the conduct and consequence and discuss the consequence and the reasons for it with the youth.

(f) **Consequences for Medium Restriction Facilities.**

(1) **Major Consequences.**

- (A) **Disciplinary Transfer**--a youth assigned to a medium restriction facility is transferred to a high restriction facility. Disciplinary transfer may be issued only for major rule violations that are proven through a Level II due process hearing in accordance with [§380.9555](#) of this title. This consequence does not apply to youth who are on parole status in a medium restriction facility.
- (B) **Placement in the Phoenix Program**--in accordance with [§380.9535](#) of this title, a youth on institutional status may be transferred to a high restriction facility and placed in the Phoenix program when the youth has been found to have engaged in certain aggressive behavior.
- (C) **Major Suspension of Privileges**--a youth has all privileges suspended for 30 calendar days from the date of the hearing. This consequence may be issued only for major rule violations that are proven through a Level II due process hearing.
- (D) **Stage Demotion**--a youth's assigned stage in the agency's rehabilitation program is lowered by one or more stages. This consequence may be issued only if it is proven through a Level II due process hearing that the youth committed a major rule violation.

(2) **Minor Consequences.**

Minor disciplinary consequences include but are not limited to consequences described in this paragraph. Minor consequences may be imposed only after a Level III due process hearing held in accordance with [§380.9557](#) of this title.

- (A) **Privilege Suspension**--a suspension of one or more privileges for no more than 14 calendar days.

- (B) **Community Service Hours**--disciplinary assignment of up to 40 hours in an approved community service assignment.
- (C) **Trust Fund Restriction**--youth is restricted from accessing his/her accrued personal funds for up to seven calendar days.
- (D) **Facility Restriction**--youth is restricted for up to 48 hours from participating in any activity outside the assigned placement other than approved constructive activities.

(g) **Review and Appeal of Consequences.**

- (1) All minor disciplinary consequences issued by staff other than the youth's multi-disciplinary team must be reviewed for policy compliance by the youth's assigned case manager, dorm supervisor, facility administrator, or other designee within one workday after issuance.
- (2) The facility administrator or designee:
  - (A) must review any minor consequence issued for longer than 14 days within three workdays after issuance of the consequence; and
  - (B) may overturn or modify any privilege suspension determined to be excessive or not validly related to the nature or seriousness of the conduct.
- (3) Youth may appeal major disciplinary consequences by filing an appeal in accordance with [§380.9555](#) of this title. Youth may grieve minor disciplinary consequences by filing a grievance in accordance with [§380.9331](#) of this title.

(h) **Placement Disposition Options.**

In accordance with [§380.9517](#) of this title, youth in high restriction facilities may be placed in the Redirect program when the youth is found to have engaged in certain major rule violations. Placement in the Redirect program is not a disciplinary consequence.

(i) **Major Rule Violations.**

It is a violation to knowingly commit, attempt to commit, or help someone else commit any of the following:

- (1) **Assault - Unauthorized Physical Contact with Another Youth (No Injury)**--intentionally making unauthorized physical contact with another youth that does not result in bodily injury, such as, but not limited to, pushing, poking, and grabbing.
- (2) **Assault - Unauthorized Physical Contact with Staff (No Injury)**--intentionally making unauthorized physical contact with a staff member, contract employee, or volunteer that does not result in bodily injury, such as, but not limited to, pushing, poking, and grabbing.
- (3) **Assault Causing Bodily Injury to Another Youth**--intentionally and knowingly or recklessly engaging in conduct that causes another youth to suffer bodily injury.
- (4) **Assault Causing Bodily Injury to Staff**--intentionally and knowingly or recklessly engaging in conduct that causes a staff member, contract employee, or volunteer to suffer bodily injury.
- (5) **Attempted Escape**--committing an act that amounts to more than mere planning but that fails to effect an escape.
- (6) **Chunking Bodily Fluids**--causing a person to contact the blood, seminal fluid, vaginal fluid, saliva, urine, and/or feces of another with the intent to harass, alarm, or annoy another person.
- (7) **Distribution of Prohibited Substances**--distributing or selling any prohibited substances or items.

- (8) **Escape**--leaving a high or medium restriction residential placement without permission or failing to return from an authorized leave.
- (9) **Extortion or Blackmail**--demanding or receiving favors, money, actions, or anything of value from another in return for protection against others, to avoid bodily harm, or in exchange for not reporting a violation.
- (10) **Fighting Not Resulting in Bodily Injury**--engaging in a mutually instigated physical altercation with another person or persons that does not result in bodily injury.
- (11) **Fighting that Results in Bodily Injury**--engaging in a mutually instigated physical altercation with another person or persons that results in bodily injury.
- (12) **Fleeing Apprehension**--running from or refusing to come to staff when called and such act results in disruption of facility operations.
- (13) **Two or More Failures to Comply with Written, Reasonable Request (for Youth in Medium Restriction Residential Placement)**--failing on two or more occasions to comply with a written, reasonable request of staff. If the expectation is daily or weekly, the two failures to comply must be within a 30-day period. If the expectation is monthly, the two failures to comply must be within a 90-day period.
- (14) **Misuse of Medication**--using medication provided to the juvenile by authorized personnel in a manner inconsistent with specific instructions for use, including removing the medication from the dispensing area.
- (15) **Participating in a Major Disruption of Facility Operations**--intentionally participating with two (2) or more persons in conduct that poses a threat to persons or property and substantially disrupts the performance of facility operations or programs.
- (16) **Possession of Prohibited Items**--possessing the following prohibited items:
  - (A) cellular telephone;
  - (B) matches or lighters;
  - (C) jewelry, unless allowed by facility rules;
  - (D) money in excess of the amount or in a form not permitted by facility rules (see §380.9555 of this title for procedures concerning seizure of such money);
  - (E) pornography;
  - (F) items which have been fashioned to produce tattoos or body piercing;
  - (G) cleaning products when the youth is not using them for a legitimate purpose; or
  - (H) other items that are being used inappropriately in a way that poses a danger to persons or property or threatens facility security.
- (17) **Possession of a Weapon**--possessing a weapon or item(s) that has been made or adapted for use as a weapon.
- (18) **Possession or Use of Prohibited Substances and Paraphernalia**--possessing or using any unauthorized substance, including controlled substances or intoxicants (including alcohol and tobacco), medications not prescribed for the juvenile by authorized medical or dental staff, tobacco products, similar intoxicants, or related paraphernalia such as that used to deliver or make any prohibited substance.
- (19) **Refusing a Drug Screen**--refusing to take a drug screen when requested to do so by staff or tampering with or contaminating the urine sample provided for a drug screen. (Note: If the youth says he/she cannot provide a sample, the youth must be given water to drink and two hours to provide the sample.)
- (20) **Refusing a Search**--refusing to submit to an authorized search of person or area.

- (21) **Sexual Misconduct**--intentionally and knowingly engaging in any of the following:
- (A) causing contact, including penetration (however slight), between the penis and the vagina or anus; between the mouth and penis, vagina or anus; or penetration (however slight) of the anal or genital opening of another person by hand, finger, or other object;
  - (B) touching or fondling, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of another person;
  - (C) kissing for sexual stimulation;
  - (D) exposing the anus, buttocks, breasts, or genitals to another or exposing oneself knowing the act is likely to be observed by another person; or
  - (E) masturbating in an open and obvious way, whether or not the genitals are exposed.
- (22) **Stealing**--intentionally taking property with an estimated value of \$100 or more from another without permission.
- (23) **Tampering with Safety Equipment**--intentionally tampering with, damaging, or blocking any device used for safety or security of the facility. This includes, but is not limited to, any locking device or item that provides security access or clearance, any fire alarm or fire suppression system or device, video camera, radio, telephone (when the tampering prevents it from being used as necessary for safety and/or security), handcuffs, or shackles.
- (24) **Tattooing/Body Piercing**--engaging in tattooing or body piercing of self or others. Tattooing is defined as making a mark on the body by inserting pigment into the skin.
- (25) **Threatening Another with a Weapon**--intentionally and knowingly threatening another with a weapon. A weapon is something that is capable of inflicting bodily injury in the manner in which it is being used.
- (26) **Vandalism**--intentionally causing \$100 or more in damage to state property or personal property of another.
- (27) **Violation of Any Law**--violating a Texas or federal law that is not already defined as a major or minor rule violation.

(j) **Minor Rule Violations.**

It is a violation to knowingly commit, attempt to commit, or help someone else commit any of the following:

- (1) **Breaching Group Confidentiality**--disclosing or discussing information provided in a group session to another person not present in that group session.
- (2) **Disruption of Program**--engaging in behavior that requires intervention to the extent that the current program of the youth and/or others is disrupted. This includes, but is not limited to:
- (A) disrupting a scheduled activity;
  - (B) being loud or disruptive without staff permission;
  - (C) using profanity or engaging in disrespectful behavior toward staff or peers; or
  - (D) refusing to participate in a scheduled activity or abide by program rules.
- (3) **Failure to Abide by Dress Code**--failing to follow the rules of dress and appearance as provided by facility rules.
- (4) **Failure to do Proper Housekeeping**--failing to complete the daily chores of cleaning the living environment to the expected standard.
- (5) **Gang Activity**--participating in an activity or behavior that promotes the interests of a gang or possessing or exhibiting anything related to or signifying a gang, such as, but not limited to, gang-related literature, symbols, or signs.

- (6) **Gambling or Possession of Gambling Paraphernalia**--engaging in a bet or wager with another person or possessing paraphernalia that may be used for gambling.
  - (7) **Horseplay**--engaging in wrestling, roughhousing, or playful interaction with another person or persons that does not rise to the level of an assault. Horseplay does not result in any party getting upset or causing injury to another.
  - (8) **Improper Use of Telephone/Mail/Computer**--using the mail, a computer, or the telephone system for communication that is prohibited by facility rules, at a time prohibited by facility rules, or to inappropriately access information.
  - (9) **Lending/Borrowing/Trading Items**--lending or giving to another youth, borrowing from another youth, or trading with another youth possessions, including food items, without permission from staff.
  - (10) **Lying/Falsifying Documentation/Cheating**--lying or withholding information from staff, falsifying a document, and/or cheating on an assignment or test.
  - (11) **Possession of an Unauthorized Item**--possessing an item the youth is not authorized to have (possession of which is not a major rule violation), including items not listed on the youth's personal property inventory. This does not include personal letters or photographs.
  - (12) **Refusal to Follow Staff Verbal Instructions**--deliberately failing to comply with a specific reasonable verbal instruction made by a staff member.
  - (13) **Stealing**--intentionally taking property with an estimated value under \$100 from another without permission.
  - (14) **Threatening Others**--making verbal or physical threats toward another person or persons.
  - (15) **Undesignated Area**--being in any area without the appropriate permission to be in that area.
  - (16) **Vandalism**--intentionally causing less than \$100 in damage to state or personal property.
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