

## Chapter 343. Secure Juvenile Pre-Adjudication Detention and Post-Adjudication Correctional Facilities

### Published Standards Without Commentary

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#### Subchapter A. Definitions and Applicability.

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

(1) Behavioral Health Assessment--A mental health assessment conducted by a Masters-level mental health professional with Texas State licensure (i.e., LPC, LMFT and LCSW) or a mental health paraprofessional that includes information from testing, review of background information and clinical interview(s). See the Commission's commentary of 343.600 of this chapter for a complete listing of the specific elements required to be addressed in this assessment.

(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) Commission--The Texas Juvenile Probation Commission (TJPC).

(4) Common Activity Area--Area inside the facility to which residents have access and in which activities are conducted. This area includes, but is not limited to dayrooms, covered recreation areas, recreation rooms, education rooms, counseling rooms, testing rooms, visitation areas, and medical or dental rooms.

(5) 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 or family members of a resident.

(6) Date and Time of Admission--The date and time a juvenile has been authorized for detention in a secure pre-adjudication detention facility by an individual who is

authorized by the juvenile board in accordance with 53.02 of the Texas Family Code. If the decision to detain was made prior to the juvenile's arrival to the facility, the date and time of admission shall be the same as the date and time of entry.

(7) Date and Time of Entry--The date and time a juvenile has been presented by law enforcement or county juvenile probation officer to a pre-adjudication secure detention facility for processing and authorization of detention.

(8) Design Capacity--The number of people that can safely occupy a building or space as determined by the current architectural design and any building modifications, licensing, accreditation, regulatory authorities, and applicable building codes.

(9) Designee--The person authorized to perform a specific duty as assigned by the facility administrator.

(10) Detention--The temporary secure custody of a child as defined in and authorized by Title 3 of the Texas Family Code.

(11) Disciplinary Seclusion--The separation of a resident from other residents for disciplinary reasons, and the placement of the resident alone in an area from which egress is prevented for more than 90 minutes.

(12) 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.

(13) Furlough--A period of time during which a resident is allowed to leave the facility premises and go into the community unsupervised for various purposes consistent with public interest.

(14) Hazardous Material--Any substance which is explosive, flammable, combustible, poisonous, corrosive, irritating or otherwise harmful and is likely to cause injury or death.

(15) Health Administrator--A person, who by virtue of education, experience or certification, is capable of assuming responsibility for arranging all levels of health care and ensuring quality and accessible health services for juveniles.

(16) Health Assessment--The process whereby the health status of an individual is evaluated, which may include questioning the patient regarding symptoms.

(17) Health Care Professional--A term that includes physicians, physician assistants, nurses, nurse practitioners, dentists, medical and nursing care assistants, emergency medical technicians (EMT), and others who, by virtue of their

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education, credentials and experience, are permitted by law to evaluate and care for patients.

(18) 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.

(19) Housing Area--An area within a secure juvenile facility that contains any single occupancy housing unit or units (SOHU) and/or multiple occupancy housing unit or units (MOHU).

(20) 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).

(21) Individual Resident Sleeping Quarter--A cell or room designed and constructed to securely house one resident.

(22) Intra-Jurisdictional Custodial Transfer--The transfer of a resident from a pre-adjudication secure detention facility into a post-adjudication secure correctional facility under the same administrative authority.

(23) Isolation--The separation of a resident from other residents and the placement of the resident alone in an area from which egress is prevented for assessment, medical, or protective purposes.

(24) 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.

(25) 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 juvenile board.

(26) 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.

(27) Medical Entity--An agency or organization that is primarily composed of health care professionals.

(28) Medical Treatment--Medical care, including diagnostic testing (e.g., x-rays, laboratory testing, etc.), performed or ordered by a physician, physician assistant or performed by a licensed nurse practitioner, emergency medical technician (EMT), paramedic or licensed vocational nurse (LVN) according to their respective licensure.

(29) Mental Health Paraprofessional--An individual who is able to perform tasks requiring significant knowledge, but without having the license or certification to perform at a

professional level, including students, interns, fellows, post-doctorates, or other approved students in an official training program in psychology or a related field under the supervision of an authorized mental health professional.

(30) Mental Health Professional--An individual who has met the educational requirements and is licensed or certified by one or more of the following governmental entities:

(A) the Texas State Board of Examiners of Psychologists;

(B) the Texas State Board of Examiners of Professional Counselors;

(C) the Texas State Board of Examiners of Marriage and Family Therapists;

(D) the Texas Department of State Health Services;

(E) the Texas Medical Board;

(F) the Texas State Board of Social Worker Examiners provided that the licensure is Licensed Clinical Social Work; or

(G) the Texas State Board of Social Worker Examiners provided that the licensure is Licensed Master Social Work accompanied with written recognition by the board for independent practice.

(31) 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.

(32) Military-Style Program--A program or component in a post-adjudication secure correctional facility for juvenile offenders that features military-style discipline and structure as an integral part of its treatment and rehabilitation program.

(33) Multiple Occupancy Housing Unit (MOHU)--A housing unit designed and constructed for multiple occupancy sleeping which is self-contained and includes appropriate sleeping, sanitation, and hygiene equipment or fixtures.

(34) Non-Program Hours--Time period when all scheduled resident activity for the entire resident population in the facility has ceased for the day.

(35) 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).

(36) 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 professional as described on the MAYSI-2 reference card.

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(37) Post-Adjudication Secure Correctional Facility ("Facility" or "Secure Facility")--A secure facility administered by a governing board that includes construction and fixtures designed to physically restrict the movements and activities of the residents and is intended for the treatment and rehabilitation of youth who have been adjudicated. Subchapters A, B, D and E of this chapter apply to all post-adjudication secure correctional facilities. A post-adjudication secure correctional facility does not include any non-secure residential program operating under the authority of a governing board.

(38) Pre-Adjudication Secure Detention Facility ("Facility" or "Secure Facility")--A secure facility administered by a governing board that includes construction and fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in the facility and is used for the temporary placement of any juvenile or other individual who is accused of having committed an offense and is awaiting court action, an administrative hearing, or other transfer action. Subchapters A, B, C and E of this chapter apply to all pre-adjudication secure detention facilities. A pre-adjudication secure detention facility does not include a short-term detention facility as defined by <\*>51.12(j) of the Texas Family Code.

(39) Premises--A building(s) together with its grounds or other appurtenances.

(40) Primary Control Room – A restricted or secure area from which entrance into and exit from a secure facility is controlled. The primary control room also contains the emergency, monitoring, and communications systems and is staffed 24 hours each day that residents are in the facility.

(41) Professionals--The following persons are considered professionals for limited purposes:

(A) teachers certified as educators by the State Board for Educator Certification including teachers certified by the State Board for Educator Certification with provisional or emergency certifications;

(B) educational aides or paraprofessionals certified by the State Board for Educator Certification;

(C) health care professionals licensed or certified by:

(i) the Texas Board of Nursing;

(ii) the Texas Medical Board;

(iii) the Texas Physician Assistant Board;

(iv) the Texas Department of State Health Services; or

(v) the Texas State Board of Dental Examiners;

(D) mental health professionals as defined herein;

(E) qualified mental health professional as defined herein;

(F) mental health paraprofessional as defined herein;

(G) social workers licensed by the Texas Board of Social Worker Examiners;

(H) juvenile probation officers certified by the Texas Juvenile Probation Commission; and

(I) commissioned law enforcement personnel.

(42) Protective Isolation--The exclusion of a threatened resident from the group by placing the resident in an individual room that minimizes contact with the residents from a specific group.

(43) Program Hours--The time period of no less than ten hours when the resident population has scheduled activities and any shift changes that occur during the time period when the resident population has scheduled activities.

(44) 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.

(45) Rated Capacity--The maximum number of beds available in a facility that were architecturally designed as a housing unit.

(46) Resident--A juvenile or other individual that has been lawfully admitted into a juvenile pre-adjudication secure detention facility or a post-adjudication secure correctional facility.

(47) Room Restriction-- The separation of a resident from other residents for behavior modification, and the placement of the resident alone in an area from which egress is prevented for 90 minutes or less.

(48) 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.

(49) Serious Mental Illness--A professional diagnosis of the following disorders: psychoses, schizophrenia, bipolar with psychotic features, depression with psychotic features, severe post-traumatic stress disorder, and schizoaffective disorders.

(50) Single Occupancy Housing Unit (SOHU)--A housing unit designed and constructed with separate and secure individual resident sleeping quarters and includes appropriate sleeping, sanitation, and hygiene equipment or fixtures.

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(51) Standard Screening Instrument--An instrument approved by the Commission that screens the juvenile's needs in the area of mental health.

(52) Volunteer--Individuals agreeing to perform services without compensation, who have regular or periodic supervised contact or unsupervised contact with juveniles under the direction of the pre-adjudication and post-adjudication secure juvenile facility.

(53) 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 herein:

(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 herein under any circumstances. Consent may not be implied regardless of the age of the juvenile.

<\*>343.102. Interpretation and Applicability.

(a) Headings. The headings in this chapter are for convenience only and are not intended as a guide to the interpretation of the standards herein.

(b) Including. The word "including", when following a general statement or term, is not to be construed as limiting the general statement or term to any specific item or manner set forth or to similar items or matters, but, rather, as permitting the general statement or term to refer also to all other items

or matters that could reasonably fall within its broadest possible scope.

(c) Applicability. This chapter applies to all secure juvenile pre-adjudication detention facilities and post-adjudication correctional facilities in this State, except for a facility operated or certified by the Texas Youth Commission. This chapter does not apply to a facility that is licensed by a state governmental entity or that is exempt from licensure by state or federal law. Furthermore, all standards requiring written policies and procedures are expected to be implemented and practiced.

(d) Compliance Resource Manual and Implementation of Agency Policy. The Commission may establish by administrative rule or other reasonable agency policy, the required guidelines, procedures, and documentation necessary to ensure compliance and verification of the standards set forth in this chapter.

<\*>343.104. Waiver. Unless expressly prohibited by another standard, the governing board, the chief administrative officer, or facility administrator may make an application for waiver of any standard or standards adopted by the Commission in accordance with Chapter 349 of this title.

<\*>343.106. Variance. Unless expressly prohibited by another standard, the juvenile board may make an application for variance of any standard or standards adopted by the Commission in accordance with <\*>349.200 of this title.

#### Subchapter B. Pre-Adjudication and Post-Adjudication Secure Facility Standards.

<\*>343.200. Authority to Operate Secure Juvenile Facility. Pursuant to Texas Family Code Title 3, a pre-adjudication secure detention facility and a post-adjudication secure correctional facility for juvenile offenders 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.

<\*>343.202. Acceptance of Residents. A facility may only accept and admit a child, as that term is defined in <\*>51.02(2) of the Texas Family Code, who:

(1) has been charged with or adjudicated of an offense or offenses against the laws of this State;

(2) is authorized to be detained or confined pursuant to Title 3 of the Texas Family Code; or

(3) is a juvenile adjudicated of offenses committed against the laws of another state or the United States whose confinement is authorized pursuant to Chapter 342 of this title.

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**343.204. Facility Governing Board.** Each facility shall have a governing board that functions in an oversight capacity to the facility. The governing board shall be a governmental unit 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.

**343.206. Certification and Registration of Facility.** Before admitting residents, the juvenile board in the county where the facility is located, shall:

(1) certify the facility in compliance with **51.12** or **51.125** of the Texas Family Code;

(2) designate the number of pre-adjudication and post-adjudication beds in the facility certification;

(3) register the facility with the Commission in compliance with **51.12** or **51.125** of the Texas Family Code; and

(4) post within a public area of the facility the current facility certification and the Commission's facility registration.

**343.208. Policy, Procedure, and Practice.** The governing board of the facility shall require that written policies and procedures exist governing the operation of all secure juvenile pre-adjudication detention and post-adjudication correctional facilities in the county. The policies, procedures, and practices of the facility shall include:

(1) a policy in the following areas strictly prohibiting:

(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;

(C) violations of the juvenile supervision officer code of ethics and code of conduct as outlined in Chapter 345 of this title;

(D) violations of any professional code of ethics or 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 provides for administrative and/or criminal disciplinary sanctions.

**343.210. Designation and Qualifications of Facility Administrator.**

(a) The chief administrative officer or the governing board of the facility or their designee shall designate a single facility administrator for each secure facility.

(b) The facility administrator shall:

(1) have acquired a bachelor 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 the Commission; or

(B) one year of experience in full-time case work, counseling, or community or group work:

(i) in a social service, community, corrections, or juvenile agency that deals with offenders or disadvantaged persons; and

(ii) the Commission determines the kind of experience necessary to meet this requirement; and

(3) maintain an active Commission certification as a juvenile supervision officer.

**343.212. Duties of Facility Administrator.**

(a) The facility administrator shall be responsible for the daily operations of the facility and shall maintain an office at 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 every 365 calendar days and maintain documentation of this review.

(e) The facility administrator shall make available the policies and procedures manual 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) provided or made available, in a written or electronic format, all changes or modifications to the policies and procedures manual in a timely manner.

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(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;
- (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 shall provide the presiding officer of the juvenile board or governing board 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, mechanical and chemical);
- (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 the Commission in an electronic format or other format as requested by the Commission.

(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.

<\*>343.214. Data Collection. The facility administrator or chief administrative officer shall maintain and report to the Commission 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 chemical restraint incidents;
- (5) total number of non-ambulatory restraint incidents;

(6) total number of disciplinary seclusions; and

(7) total number of detention staff injuries resulting from interaction with residents.

<\*>343.218. Location and Operations.

(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.

(1) All pre-adjudication programs shall be operated separately from any post-adjudication programs.

(2) Where a pre-adjudication program and a post-adjudication program are located in the same building or on the same grounds, contact between the two populations shall be kept to a minimum.

(c) Non-Secure Programming on Facility Premises. Any youths who participate in day programming on the facility premise who are not residents of the facility shall be kept physically separated from residents of the facility at all times.

<\*>343.220. Population. The population of the facility shall not exceed the rated capacity of the facility.

<\*>343.222. Heating and Ventilation.

(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 in case regular power is interrupted.

<\*>343.224. Alternate Power Source.

(a) The facility shall have an alternate source(s) of electrical power that provides for the simultaneous operations of life safety systems including:

- (1) emergency lighting;
- (2) illuminated emergency exit lights and signs;
- (3) emergency audible communication systems and equipment;
- (4) fire detection and alarm systems;

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(5) ventilation and smoke management systems; and

(6) all secure door locking mechanisms which operate exclusively on electric current.

(b) The alternate power source system shall be tested at least every 15 calendar days to ensure the system is in working condition.

(c) The alternate power system (e.g., the alternate power source and the life safety systems required to be operated) shall be inspected at least every 365 calendar days. This inspection must be completed by a person with qualifications established through work experience, relevant training, specialized licensure or certification.

(d) All of the aforementioned tests shall be documented to minimally include 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.

#### <\*>343.226. Lighting.

(a) Lighting. Adequate lighting shall be provided to all areas of the facility.

(b) Natural Lighting. All housing units shall provide natural light available from a source within the housing unit. This standard also applies to all specialized housing.

<\*>343.228. Dining Area. The dining area shall provide a minimum of 15 square feet of floor space per diner.

<\*>343.230. Specialized Housing. Any room utilized for the disciplinary seclusion, protective isolation, assessment isolation, or medical isolation of residents from the general population during program hours shall be equipped with:

- (1) an operable toilet above floor level;
- (2) a washbasin with hot and cold running water; and
- (3) a bed above floor level.

<\*>343.232. Housing for Residents with Physical Disabilities. 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.

<\*>343.234. Program Areas. The facility shall provide space for:

- (1) visitation;
- (2) religious activities;

(3) interviewing and counseling; and

(4) educational instruction.

#### <\*>343.236. Secure Storage Areas.

(a) Cleaning Supplies. Storage of cleaning supplies and equipment shall be locked 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. Space shall be provided for secure storage of the resident's personal property.

#### <\*>343.238. Hazardous Materials.

(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) The facility shall prohibit the use of all hazardous materials by residents.

(c) Exceptions. Materials manufactured specifically for cleaning purposes may be used by residents for cleaning areas of the facility under the constant supervision of the juvenile supervision officer. The resident must be provided instruction on the use of the hazardous material and the proper equipment as prescribed by the MSDS.

(d) Any use of hazardous materials shall be used according to the manufacturer's instructions.

#### <\*>343.240. Safety Codes.

(a) The facility shall conform to the provisions set forth in the Life Safety Code, National Fire Protection Association (NFPA) 101 and/or any applicable state and local fire safety codes. The Life Safety Code may be substituted with local government ordinances or codes only if said ordinances or codes are specifically written to include building occupancy for detention and 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 365 calendar days from the date of previous inspection.

(d) Each Life Safety Code/fire safety inspection shall result in a written report that minimally contains the following information:

- (1) the identification of the specific code(s) used to complete the inspection. The code(s) in question will either be the NFPA's Life Safety Code 101 or the applicable state,

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municipal, or county specific fire code adopted by the jurisdiction;

(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.

#### <\*>343.242. Fire Safety Plan.

(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.

#### <\*>343.244. Fire Safety Officer. The fire safety officer shall:

- (1) ensure maintenance of a current fire drill log;
- (2) ensure that fire drills are conducted as required by <\*>343.246 of this chapter;
- (3) ensure the posting of a plan for prompt evacuation of the facility as required by <\*>343.246 of this chapter;
- (4) implement procedures for proper disposal of combustible refuse; and
- (5) implement procedures for the use and control of flammable, toxic, and caustic materials.

#### <\*>343.246. Fire Drills.

(a) Required Fire Drills. The fire safety officer or designee shall conduct fire drills on all shifts at least every 90 calendar days.

(b) All staff on duty in the facility shall participate in the fire drills.

(c) Exits. Facility exits shall be clear of obstruction and properly marked for evacuation in the event of fire or emergencies.

(d) Evacuation Plans. Facility emergency evacuation plans shall be posted in resident restricted areas.

<\*>343.248. Non-Fire Emergency Preparedness Plan. 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:

- (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.

#### <\*>343.249. Internal Security. **[AMENDED: Effective 01/01/2011]**

(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 secure area of the facility; and

(5) provisions for coordination with law enforcement authorities in the case of escape or other situations requiring assistance from city, county or state law enforcement agencies.

(b) Carrying of Firearms in Secure 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

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Human Resources Code from entering a secure area of the facility with a firearm.

(c) Documentation.

(1) The facility administrator or designee shall ensure the documentation of all special incidents, including, but not limited to the taking of hostages, escapes, and assaults.

(2) A copy of the report shall be placed in the permanent file of any resident(s) involved in the incident.

(d) Video and Audio Surveillance. Video and audio monitoring devices may be utilized for security purposes but shall not substitute for required levels of supervision by a juvenile supervision officer.

<\*>343.250. External and Perimeter Security.

(a) The facility shall be constructed so that residents remain within the premises and the general public is denied access without authorization.

(b) Perimeter security shall be maintained at all times. Any outdoor area in which residents are permitted shall be enclosed by a permanently erected fence or wall to help prevent resident escapes and unauthorized public entry to the facility grounds.

<\*>343.260. Resident Searches.

(a) Residents shall only be subjected 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, 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; and

(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; and

(c) Every effort shall be made to prevent embarrassment or humiliation of the resident.

<\*>343.262. Hygiene Plan. Residents shall be given appropriate instruction on personal and oral hygiene and shall be provided the necessary articles to maintain proper personal cleanliness.

<\*>343.264. Personal Hygiene. Residents shall be provided the opportunity to shower daily or after participating in strenuous exercise.

<\*>343.266. Bedding.

(a) Each resident shall be provided suitable clean bedding, including two sheets, a pillow and a pillowcase, a mattress, and a blanket. Mattresses with an integrated pillow may be substituted for a separate pillow and a pillowcase.

(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 <\*>343.340(a)(8) of this chapter.

(d) In no case, shall residents on suicide supervision be denied appropriate bedding substitutions.

(e) If the resident has demonstrated a pattern of misuse of bed linens or if staff have reason to believe the resident will misuse the bed linens, which includes but is not limited to using the sheets as a weapon, the sheets may be substituted with a blanket.

<\*>343.268. Towels. A clean towel shall be issued to each resident daily.

<\*>343.270. Clothing.

(a) Clean clothing shall be provided to each resident upon admission into the facility.

(b) Clean and disinfected undergarments and socks shall be issued daily and other clean clothing shall be issued at least twice per week.

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(c) Climate appropriate clothing shall be provided to all residents in the facility for any outdoor programming or activities.

(d) A resident on suicide supervision status may have their clothing requirements modified per the facility's suicide prevention plan in <\*>343.340 of this chapter. However, in no case, shall residents on suicide supervision be left in an unnecessary state of undress.

<\*>343.272. Facility Maintenance, Cleanliness and Appearance.

(a) Housekeeping Plan. The facility shall have a written and implemented housekeeping plan for the maintenance of a clean and sanitary facility that promotes a safe and secure environment for residents.

(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 facility staff.

(b) Maintenance. The facility administrator shall be responsible for ensuring that the interior physical plant, exterior grounds, and all equipment are in proper repair and safely 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 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.

<\*>343.274. Resident Discipline Plan. Each facility shall develop and implement a written resident discipline plan that provides for the fair and consistent application of resident rules and sanctions. A resident discipline plan shall minimally include:

(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 institutional 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 institutional order and safety;

(2) provisions to ensure that rule infractions or resident behaviors which constitute probable cause for an offense of a class B misdemeanor or above shall be referred to the law enforcement agency with applicable jurisdiction for possible investigation and/or prosecution;

(3) a listing of prohibited sanctions for residents that minimally includes:

(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 and mental health services; and

(I) physical exercises imposed for the purposes of compliance, intimidation, or discipline with the exception of practices allowed in <\*>343.710 of this chapter;

(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 shall include established guidelines that provide instruction for residents and staff in using this informal process to review

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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 of when to initiate formal disciplinary reviews and any ensuing appeals. The facility's policies and procedures shall not deny or restrict a formalized disciplinary review or appeal when one is requested by a resident with eligible standing; and

(7) provisions for the administrative review and closure of formal disciplinary reviews that are not disposed of prior to a resident's discharge from the facility.

**343.276. Formal Disciplinary Reviews for Major Rule Violations.** Residents that receive a major rule violation or sanction are eligible to request a formal disciplinary review. Upon such a request, a resident shall receive a formal disciplinary review within ten calendar days.

**343.278. Disciplinary Reviews for Residents in Disciplinary Seclusion.**

(a) Residents in disciplinary seclusion shall receive the following due process reviews during the period of their seclusion. The reviews in paragraphs (1) and (2) of this subsection shall be conducted in a face-to-face setting by supervisory-level staff which shall not include any staff member involved in the alleged rule violation or the imposed sanction(s). Each of these two review procedures shall be appropriately documented and the corresponding documentation shall be retained in the resident's file. The following procedures shall be conducted:

(1) If a resident is secluded for at least 24 hours, then the resident shall receive an informal disciplinary review which includes an overview of the facility's formal disciplinary review process. If the 24<sup>th</sup> hour of seclusion occurs during non-program hours, then the informal review shall be conducted no later than two hours after the start of ensuing day's program hour schedule.

(2) A resident assigned to an extended period of seclusion beyond 24 hours shall have a formal disciplinary review no later than his or her 72<sup>nd</sup> hour of seclusion per **343.280** of this chapter. If the 72<sup>nd</sup> hour of seclusion occurs during non-program hours, then the formal disciplinary review shall be conducted no later than two hours after the start of the ensuing day's program hour schedule.

(b) A resident may choose to waive the right to a disciplinary review provided proper notification is given prior to the signing of the waiver. The waiver shall include the applicable rule violation and sanction plan.

**343.280. Formal Disciplinary Review Process.** 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 either 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 on his or her behalf.

(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.

**343.282. Resident Appeals.** A resident may appeal the findings of a disciplinary review. The facility's resident discipline plan shall minimally include:

(1) provisions for a documented appeals process before a neutral and impartial person or persons not a member of the disciplinary board. The appeals process shall afford each of the due process provisions enumerated in **343.280(2) - (7)** of this chapter;

(2) provisions that require the resident to submit the 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 of 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.

**343.286. Room Restriction.**

(a) Room restriction may be used in increments of up to 90 minutes for behavior modification.

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(b) During room restriction, a juvenile supervision officer shall personally observe and record the resident's behavior at random intervals not to exceed 15 minutes.

<\*>343.288. Disciplinary Seclusion.

(a) Disciplinary seclusion may be used when a resident commits a major rule violation or poses an imminent physical threat to self or others.

(b) A written disciplinary report which 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 seclusion occurs. The report shall be submitted immediately to the facility administrator for review.

(c) Seclusion in excess of 24 hours shall be approved in writing by the facility administrator. The written approval of the facility administrator shall also be required for each subsequent 24-hour extension.

(d) The seclusion of a resident with a known diagnosis of a serious mental illness requires consultation with a mental health professional prior to the authorization of any seclusion beyond a 24-hour period. If the seclusion occurs on a holiday or weekend and no mental health professional is available, the facility administrator or designee shall make a referral to a mental health professional and notify the mental health professional of the seclusion. The facility administrator shall consult with the mental health professional as soon as possible after the referral.

(e) During disciplinary seclusion, a juvenile supervision officer shall personally observe and record the resident's behavior at random intervals not to exceed 15 minutes.

(f) In addition to the requirements enumerated in subsections (a) - (c) and (e) of this section, the facility shall provide the secluded resident the disciplinary review mechanisms contained in <\*>343.278 of this chapter.

<\*>343.290. Protective Isolation.

(a) Protective isolation may be ordered when a resident is physically threatened by a resident or a group of residents.

(b) This decision shall be approved in writing by the facility administrator or designee.

(c) While in protective isolation, a juvenile supervision officer shall observe and record the resident's behavior at random intervals not to exceed 15 minutes.

(d) If the protective isolation of a resident exceeds 72 hours, the facility administrator or designee shall immediately conduct a documented review of the circumstances surrounding the level of threat faced by the resident and make a determination as to whether other less restrictive protective measures are appropriate and available. If continued protective isolation is approved, the facility

administrator or designee shall ensure that the formalized written review document includes an alternative service delivery plan to ensure the isolated resident is afforded all required program services during their period of protective isolation.

<\*>343.300. Nutritional Requirements. Meals shall meet the dietary requirements of the United States Department of Agriculture (USDA).

<\*>343.302. Menu Plans.

(a) The facility shall develop and follow daily written menu plans. Menu plans shall be reviewed and approved at least every 365 calendar days 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 (USDA).

(b) If a facility staff determines that there is a legitimate need to deviate from an already approved written menu plan (e.g., delayed food delivery, spoiled/expired food, etc.), the reason for the deviation and menu substitution shall be fully documented. When menu substitutions are made, the substitution shall be of equal portions and nutritional value.

<\*>343.304. Menu Content. Menus shall contain a variety of foods.

<\*>343.306. Modified Diets. Modified diets shall be provided upon the recommendation of a health care professional or when a resident's religious beliefs require it.

<\*>343.308. Mealtime Prohibitions. Residents shall not eat meals in their rooms unless it is necessary for facility safety and security (i.e., assignment to disciplinary seclusion, medical isolation, or assessment isolation or during riot or rebellion).

<\*>343.310. Staff Meals. 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.

<\*>343.312. Daily Meal Schedule.

(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.

<\*>343.314. On-site Food Preparation. A facility that prepares food on site shall maintain a valid permit and any

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required licenses issued by the local health department or the Texas Department of State Health Services.

<\*>343.316. Off-site Food Preparation. A facility that receives food from an off-site source shall maintain a copy of the source's valid permit and any required licenses issued 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.

<\*>343.320. Health Service Authority. 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.

<\*>343.322. Health Care Services.

(a) Health Service Plan. The facility shall have 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 for all residents.

(b) Review of Health Service Plan. The health service plan shall be reviewed at least every 24 months in consultation with the health service authority.

<\*>343.324. Health Services Coordinator.

(a) The facility shall have a designated health services coordinator on staff to coordinate health care delivery in the facility.

(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 detention and correctional facilities and be familiar with local health care providers and facilities.

<\*>343.326. Medical Referral. If a staff member observes any resident to be in need of medical attention or if a resident requests medical attention, the resident shall be referred for medical services. The resident may not be denied access to health care if the resident will only disclose the condition or reason for the treatment request to a health care professional.

<\*>343.328. Consent for Medical Treatment.

(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.

<\*>343.330. Medical Treatment for Victims of Sexual Abuse. Testing for sexually transmitted diseases, including HIV-AIDS, shall be made available to a resident who, at the conclusion of an internal investigation or Commission investigation of abuse, neglect or exploitation, is found to have been abused, neglected or exploited in a manner by which any physical injuries may have occurred or any sexually transmitted disease may have been contracted. The cost of the testing services and any subsequent medical treatment services shall not be assessed to the resident or the resident's family.

<\*>343.332. Behavioral Health Care Services for Sexual Abuse Victims. A mental health professional shall assess any resident who, at the conclusion of an internal investigation or Commission investigation of abuse, neglect or exploitation that occurred in the facility, is found to have been the victim of a sexual assault. The mental health professional shall assess the need for crisis intervention counseling and any subsequent long-term, follow-up or counseling services. The cost of the assessment and any subsequent counseling services shall not be assessed to the resident or the resident's family.

<\*>343.334. Confidentiality.

(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 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 during medical treatment;
- (3) if the health care professional or resident requests the presence of a juvenile supervision officer during the treatment; or
- (4) if the circumstances or situation indicate the presence of a juvenile supervision officer is necessary and prudent.

<\*>343.336. Prescription Medication.

(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.

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(b) Medication Policy. The juvenile board or governing board of the facility shall adopt a policy concerning the administration of medication to residents. The policy shall specify which facility personnel are authorized to administer medication to residents.

(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.

<\*>343.338. Medical Isolation. Medical isolation 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 isolation of a resident shall be documented and a copy placed in the resident's file.

(2) A resident that has been placed on medical isolation by a facility administrator shall be seen by a health care professional within 12 hours of the initial medical isolation.

(3) During medical isolation, a juvenile supervision officer shall personally observe and record the resident's behavior at random intervals not to exceed 15 minutes.

<\*>343.340. Suicide Prevention Plan.

(a) Plan. The facility shall have a written suicide prevention plan developed in consultation with a mental health professional that, at a minimum, addresses the following components:

(1) definitions of moderate and high risk for suicidal behavior;

(2) a screening methodology to assess and assign a resident's risk of suicide upon admission into the facility, and upon any indication a resident previously screened may now be at moderate or high risk for suicidal behavior. The screening methodology shall include specific provisions regarding the assessment of risk when a resident refuses or is unable to cooperate with the screening process;

(3) communication protocols among facility staff, mental health professionals, the resident's juvenile probation officer, the resident and the resident's parent, legal guardian, or custodian, including communication regarding observations or indications a resident previously screened may now be at moderate or high risk for suicidal behavior;

(4) level of supervision for residents assigned to moderate or high risk for suicidal behavior;

(5) policies and procedures for intervening in suicide attempts;

(6) reporting of resident suicides and attempted suicides, in accordance with any applicable state law, administrative standard, or local policy or ordinance;

(7) staff training on the contents and implementation of the suicide prevention plan;

(8) housing of residents assigned to moderate or high risk for suicidal behavior, including the removal from the resident's presence any dangerous objects which may include clothing and bedding items; and

(9) mortality reviews designed to review the facility's compliance and possible needed revisions to the suicide prevention plan following a resident's suicide.

(b) Implementation. The facility shall implement the suicide prevention plan, and all residents shall be screened and assessed for suicide risk upon admission and as necessary thereafter.

<\*>343.342. Review and Dissemination of Suicide Prevention Plan.

(a) The suicide prevention plan shall be reviewed every 365 calendar days in consultation with a mental health professional.

(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.

<\*>343.346. Mental Health Referral of High Risk Suicidal Youth.

(a) The facility shall refer a resident classified as high risk for suicidal behavior to a mental health professional or mental health agency within 24 hours from the time the resident is classified as such.

(b) The facility shall maintain written documentation that the referral was made. The documentation shall include:

(1) the name and title of the person who notified the mental health professional;

(2) the name and title of the mental health professional or name of the mental health agency notified;

(3) the date and time of the notification;

(4) the method of notification; and

(5) a brief description of the response provided by the mental health professional or a responsive document from the mental health professional.

<\*>343.348. Supervision of High Risk Suicidal Youth.

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(a) Observation. During non-program hours, or any time a resident classified as high risk for suicidal behavior is secluded from the general population:

(1) the resident shall be under the continuous, uninterrupted visual supervision of a juvenile supervision officer; and

(2) the supervising juvenile supervision officer shall document his or her personal observations of a high-risk resident at intervals not to exceed 30 minutes.

(b) Required Documentation. The following documentation shall be maintained for high-risk 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 up to the resident's classification as high risk for suicidal behavior;

(4) name and title of the juvenile supervision officer 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 high risk for suicidal behavior; and

(7) the name and title of the mental health professional or physician who recommended the reclassification of the resident as no longer being high risk for suicidal behavior.

(c) Reclassification. Reclassification of a resident designated as high 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 paraprofessional, a mental health professional or a licensed physician.

(1) Prior to recommending reclassification, a qualified mental health professional, mental health paraprofessional, mental health professional 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 re-classify 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 paraprofessional, mental

health professional 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 paraprofessional, mental health professional or licensed physician prior to reclassifying a resident as no longer 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 subsection.

<\*>343.350. Supervision of Moderate Risk Suicidal Youth.

(a) Observation. Any time a resident is classified as a moderate risk for suicidal behavior and is in individual sleeping quarters, a juvenile supervision officer shall personally observe and record the resident's behavior at random intervals not to exceed ten minutes.

(b) Required Documentation. When providing supervision at random intervals, the juvenile supervision officer 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 and title of the juvenile supervision officer 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.

(c) Reclassification. Only the facility administrator or designee shall authorize the reclassification of a resident classified as moderate risk for suicidal behavior under this section.

<\*>343.352. Visitation.

(a) Residents have the right to receive visitors and to communicate subject only to the limitations authorized in <\*>343.354 of this chapter.

(b) Residents shall be allowed visitation by a parent, legal guardian or custodian at least once every seven calendar days for at least thirty 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.

(d) A registry of all visitors shall be maintained to document the name and relationship to the resident.

<\*>343.354. Limitations on Visitation.

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(a) The policies, procedures, and practices of the facility may limit a resident's visitation rights only to the extent required to maintain control and security 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.

<\*>343.356. Access to Attorney. Residents shall be permitted reasonable confidential contact with the resident's attorney and their designated representatives through telephone, uncensored letters, and personal visits.

<\*>343.358. Telephone.

(a) A resident shall be provided the opportunity for at least one five minute phone call every seven calendar days.

(b) Restrictions on a resident's telephone usage shall not be imposed as a disciplinary sanction.

(c) The parent, legal guardian, or custodian of the resident shall be provided a copy of the facility's policy regarding telephone usage.

<\*>343.360. Mail.

(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) Money received in the mail shall be held for the resident in their personal property inventory, with receipt provided, or returned to the sender.

<\*>343.362. Limitations on Mail.

(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 escape from the facility, or to violate 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 guardians or custodians indicating who they feel should not communicate with the resident.

(b) Returning Mail. Such incoming correspondence as identified in 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.

<\*>343.364. Legal Correspondence. Residents shall be furnished adequate postage for legal correspondence during their confinement in the facility.

<\*>343.366. Inspection of Mail. Mail may be opened by staff only in the presence of the resident with inspection limited to searching for contraband.

<\*>343.368. Illegal Discrimination. Residents shall not be subjected to discrimination based on race, national origin, religion, sex, sexual orientation, gender identity, or disability.

<\*>343.370. Prohibited Supervision. Residents shall not be subjected to supervision and control by other residents.

<\*>343.372. Work by Residents.

(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.

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(d) A resident's work assignments shall be excused or temporarily suspended if medically contra-indicated.

(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.

#### <\*>343.374. Experimentation and Research Studies.

(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 juvenile board subject to the following guidelines:

(1) The juvenile board shall promulgate approved 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 juvenile board.

(3) Research studies approved by the juvenile board shall be reported to the Commission in a format prescribed by the Commission prior to the commencement of the study.

(4) The results of the study shall be made available to the Commission upon request from the facility administrator, chief administrative officer, or juvenile board.

(5) Policies governing research studies shall adhere to all federal requirements governing human subjects and confidentiality.

<\*>343.376. Resident 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) Residents' ability to submit a grievance with full access to the process;

(2) A written response and resolution to all grievances:

(A) shall be resolved no later than ten calendar days from the date the grievance is received by pre-adjudication staff; or

(B) shall be resolved no later than 30 calendar days from the date the grievance is received by post-adjudication staff;

(3) Confidentiality of grievance without fear of reprisal;

(4) The designation of at least one grievance officer;

(5) At least one level of appeal to an administrative-level staff person or to an administrative-level appeals board or panel;

(6) The resident's ability to participate in the resolution of a grievance, including the use of an intermediary and the ability to request witnesses;

(7) Periodic formal reviews of the grievance process and dispositions by administrative-level staff;

(8) A tracking system and grievance log that accounts for all grievances submitted; and

(9) Unresolved grievances submitted by any resident who is released shall be forwarded to the facility administrator or designee to determine if any action is needed.

#### <\*>343.378. Grievance Appeals.

(a) The appeal shall be decided in a timely manner after receipt.

(b) The resident shall promptly be notified in writing of the resolution.

<\*>343.380. Grievance Officer. The duties of a grievance officer shall include:

(1) the maintenance of a current grievance log;

(2) the collection of grievances;

(3) responding to the resident after receiving the grievance;

(4) providing a written resolution to the resident; and

(5) forwarding all appeals to the administrative staff responsible for determining appeals.

<\*>343.382. Grievance Form. The grievance form shall contain the following elements:

(1) the name of the resident;

(2) the housing unit or cell;

(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;

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(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.

<\*>343.384. Religious Services. Residents shall not be required to participate in religious services and religious counseling.

<\*>343.386. Volunteers and Interns. 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) the selection and termination criteria, including disqualification based on specified criminal history;

(3) the orientation and training requirements, including training on recognizing and reporting abuse, neglect, and exploitation;

(4) a requirement that volunteers and interns meet minimum professional requirements if applicable; and

(5) 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 their visit.

#### Subchapter C. Secure Pre-Adjudication Detention Facility Standards

<\*>343.400. Intake and Admission.

(a) Intake. An intake officer authorized by the juvenile board shall be on duty at the facility or on-call 24 hours a day.

(b) Pre-Admission Assessment. 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 detention and 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 into detention.

(2) The referring person shall be directed to a health care facility to have the individual evaluated and treated.

(c) Subsequent admission into detention is contingent upon written medical clearance provided by a health care or mental health professional.

(d) Intoxicated or Chemically-Impaired Individuals. Each facility shall have written policies and procedures addressing intoxicated or chemically-impaired juveniles being admitted into detention and their need for specialized supervision.

(e) Intoxicated or chemically-impaired individuals who have been medically cleared for admission should be placed under medical isolation in accordance with <\*>343.338 of this chapter.

(f) A juvenile who has been taken into custody by law enforcement and presented for detention at a secure pre-adjudication detention facility shall:

(1) not be left unsupervised; and

(2) be admitted into detention immediately but no later than six hours from the time of entry.

<\*>343.402. Intake Assessment Period.

(a) Residents shall be assigned to the general program as soon as possible after admittance into the facility.

(b) Assessment isolation for periods of time longer than necessary to assess the risks and needs of a resident is prohibited. Assessment isolation shall not exceed 24 hours.

(c) If a resident is confined in his or her room at admission for assessment purposes, juvenile supervision officers shall document the assessment of the resident during this 24-hour period and retain this documentation in the resident's file.

(d) A juvenile supervision officer shall personally observe and record the behavior of a resident during the assessment period at random intervals not to exceed 15 minutes.

<\*>343.404. Mental Health Screening and Referral.

(a) Mental Health Screening. The standard screening instrument shall be administered to each resident that is admitted into detention within 48 hours.

(b) Positive screening and mental health referral. A resident who scores a positive screening on the standard 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 professional or licensed physician within 48 hours.

(B) If the secondary screening substantiates that the initial positive screening was false, then no further mental health intervention is required; or

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(2) referred to a qualified mental health professional or mental health paraprofessional for consultation by the end of the following workday to determine if further intervention is warranted.

(A) The facility shall maintain documentation of the consultation in the resident's file.

(B) If the qualified mental health professional or mental health paraprofessional recommends that further mental health intervention is needed, then the resident must be referred to a mental health professional or a licensed physician within 48 hours.

(c) Documentation of recommendations or referrals specific to the juvenile's positive screening on the standard screening instrument shall be forwarded to the supervising juvenile probation officer if the juvenile is released at any point during the proceedings initiated in subsection (b)(1) and (2) of this section. If the juvenile is released and no further juvenile justice intervention is required, then the documentation shall be forwarded to the juvenile's parent, legal guardian, or custodian.

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

#### <\*>343.406. Health Screening and Assessment.

(a) Health Screening. A health screening shall be conducted on each resident within two hours of admission by either a health care professional or an individual who has received specific training on administering the facility's health screening. The health screening instrument shall include:

- (1) mental health problems;
- (2) suicide risk assessment in accordance with the facility's suicide prevention plan;
- (3) current state of health including:
  - (A) allergies;
  - (B) tuberculosis;
  - (C) other chronic conditions;
  - (D) sexually transmitted diseases;
  - (E) other infectious diseases;
  - (F) history of gynecological problems or pregnancies; and
  - (G) recent injuries at or near the time of arrest;
- (4) current use of medication including type, dosage, and prescribing physician;

(5) visual observation of teeth and gums and notation of any obvious dental problems;

(6) vision problems;

(7) drug and alcohol use;

(8) physical or developmental disabilities;

(9) evidence of physical trauma;

(10) a determination of the need for medical detoxification from alcohol or other substances or mental health services; and

(11) the resident's weight.

(b) Referral for Assessment. If the health screening indicates that a resident is in need of further medical evaluation, the resident shall be referred to a health care professional for further assessment within 24 hours, excluding holidays and weekends, from the date and time of the completed screening.

(c) Mandatory Health Assessment. If a resident has not had a health assessment by a health care professional within the 12 months immediately preceding admission into the facility, the resident shall be given a health assessment by a health care professional within 30 calendar days after admission into the facility.

(d) Results of Screening and Assessment. The results of the health screening and health assessment shall be communicated to appropriate staff.

(e) 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 isolation until proper medical clearance is obtained.

<\*>343.408. Personal Hygiene. Residents shall be required to surrender their clothing and to shower upon admission into the facility.

<\*>343.410. Personal Property. A resident's personal property shall be collected, inventoried, and securely stored while the resident is housed in the facility. Documentation that is signed by the resident and the juvenile supervision officer shall be maintained in the resident's file.

<\*>343.412. Orientation.

(a) Each resident shall be provided a verbal orientation within 12 hours of admission into the facility.

(b) The verbal orientation shall include an explanation of the facility's:

- (1) procedures to access health care and services available;

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(2) program rules with corresponding and maximum disciplinary sanctions;

(3) grievance policies and procedures;

(4) procedures to access mental health care and services available; and

(5) information required by the Prison Rape Elimination Act of 2003 including:

(A) prevention and intervention;

(B) methods of minimizing risk of sexual abuse;

(C) reporting sexual abuse and assault; and

(D) treatment and counseling;

(6) information regarding the reporting of suspected abuse, neglect, or exploitation of a child in a juvenile justice facility; and

(7) policy that states the resident is ensured the right of confidentiality with regard to the items included in paragraphs (3), (5) and (6) 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 of 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 of admission.

(e) Each resident shall be provided a written copy of the orientation materials upon completion of the orientation process.

<\*>343.414. Behavioral Screening. Prior to placing a resident into a housing unit, the resident shall be screened for potential vulnerabilities or tendencies of acting out with sexually aggressive or assaultive behavior. Housing assignments shall be made accordingly.

<\*>343.416. Classification Plan. All facilities with more than one housing unit shall have a classification plan that takes, at least, the following into account:

(1) age;

(2) sex;

(3) offense;

(4) behavior; and

(5) any other special considerations including a resident's potential vulnerabilities for sexual abuse that are discovered during the resident's behavioral health screening.

<\*>343.418. Admission Records. The facility shall have the following information which shall be obtained at the time the resident is admitted into the facility:

(1) date and time of entry;

(2) date and time of admission;

(3) name;

(4) nicknames and aliases;

(5) social security number;

(6) current address;

(7) detention criteria as required by <\*>53.02(b) of the Texas Family Code;

(8) referring offense;

(9) name of attorney;

(10) name, title, and signature of delivering individual;

(11) gender;

(12) race;

(13) date of birth;

(14) place of birth;

(15) citizenship;

(16) current education level;

(17) last school attended;

(18) name, relationship, address, and phone number of parents, legal guardians, or custodians; and

(19) primary language of the resident and the resident's parent, legal guardian, or custodian.

<\*>343.420. Format and Maintenance of Records.

(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.

<\*>343.422. Content of Resident Records. Each resident's record shall include the following:

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(1) the offense narrative, arrest warrant, or directive to apprehend;

(2) the inventory of cash and property surrendered;

(3) the list of approved visitors;

(4) the name of the assigned probation officer;

(5) the behavioral record, including any special incidents, discipline, or grievances;

(6) the referrals to other agencies; and

(7) the final release or transfer report.

<\*>343.424. Housing Records. 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 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 (e.g., the location where the resident sleeps) of all residents in the facility; and

(E) the numerical total of the resident population for each day.

<\*>343.426. Release Procedures. Prior to the release of a resident from the facility, the authorized officer shall:

(1) verify the identity of the person receiving custody;

(2) verify the release authorization documents;

(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.

<\*>343.428. Resident Supervision. A juvenile supervision officer may provide resident supervision if they:

(1) are currently certified as a juvenile supervision officer; or

(2) have been employed by the facility less than 180 calendar days;

(A) have passed the competency evaluation exam as detailed in Chapter 344 of this title; and

(B) have completed a minimum of 40 hours of training, which shall include the mandatory topics as outlined in Chapter 344 of this title, as well as certification in CPR, first aid, and a personal restraint technique approved by the Commission.

<\*>343.430. Minimum Facility Supervision. At least two juvenile supervision officers shall be on duty at any time the facility has a resident. At least one of the officers shall be certified.

<\*>343.432. Gender Supervision Requirement.

(a) If residents of both genders are housed within the facility, juvenile supervision officers of both genders shall be on duty and available to the residents for every shift.

(b) A juvenile supervision officer of one gender shall be prohibited from supervising and visually observing a resident of the opposite gender during showers, physical searches (i.e., strip searches), disrobing of residents (suicidal or not), or when personal hygiene practice (i.e., onset of menstrual cycle, etc.) requires the presence of a juvenile supervision officer of the same gender.

(c) Juvenile supervision officers of one gender shall be the sole supervisors of residents of the same gender during showers, physical searches, pat downs, disrobing of suicidal youth, or during other times in which personal hygiene practices or needs would require the presence of a juvenile supervision officer of the same gender.

<\*>343.434. Facility-Wide Ratio. The facility-wide juvenile supervision officer-to-resident ratio shall not be less than:

(1) one juvenile supervision officer to every eight residents during program hours; and

(2) one juvenile supervision officer to every 18 residents during non-program hours.

<\*>343.436. Supervision Ratio--SOHU. In a SOHU, the juvenile supervision officer-to-resident ratio shall not be less than:

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(1) one juvenile supervision officer to every 12 residents during program hours; and

(2) one juvenile supervision officer to every 24 residents during non-program hours.

<\*>343.438. Level of Supervision--SOHU.

(a) Program Hours. While residents are located in a SOHU, they shall be in constant physical presence of a juvenile supervision officer unless they are placed in their individual sleeping quarters during shift change, in which case, a juvenile supervision officer shall observe and document each resident's behavior at random intervals not to exceed 15 minutes.

(b) Non-Program Hours. During non-program hours, in a SOHU, a juvenile supervision officer shall visually observe each resident at random intervals not to exceed 15 minutes.

(c) Juvenile supervision officers shall document each visual observation made. The documentation shall include the time of the observation and generally describe the resident's behavior.

<\*>343.440. Supervision Ratio--MOHU. MOHUs shall maintain a juvenile supervision officer to resident ratio of no less than one juvenile supervision officer to every eight residents in the housing unit.

<\*>343.442. Level of Supervision--MOHU.

(a) For MOHUs designed and operated after June 5, 2001, during program and non-program hours, residents, while physically located in a MOHU, shall be under the constant visual observation of a juvenile supervision officer.

(b) If juvenile supervision officers supervise residents behind an architectural barrier, the barrier shall provide a complete and unobstructed view of the entire multiple occupancy housing unit. The barrier, with or without the assistance of an electronic device, shall allow for constant auditory monitoring of the unit.

(c) Juvenile supervision officers shall document general observations of dorm activity at intervals not to exceed 30 minutes.

<\*>343.444. Supervision On and Off Premises of Facility.

(a) On-Premises Supervision. Subject to <\*>343.436 of this chapter, residents participating in any programming or activities on the facility premises, but outside of a single or multiple occupancy housing unit, shall be in the constant physical presence of a juvenile supervision officer at all times.

(b) Required Ratio. There shall be at least one juvenile supervision officer to every 12 residents participating in the program or activity.

(c) Off-Premises Supervision. A facility shall have written policies and procedures that establish specific resident supervision practices for residents allowed to temporarily leave the secure confines of the facility or the facility's secure grounds. The policies and procedures shall minimally include:

(1) designations of which staff may supervise youth off-premises;

(2) gender-specific requirements;

(3) staff-to-resident ratios when more than one resident is involved;

(4) personnel authorized to use approved restraint practices; and

(5) staff training requirements.

(d) The established policies and procedures shall be written to adequately provide an appropriate level of protection for the public and involved staff and residents.

(e) Exceptions. This standard does not apply to furlough and formal discharge.

(f) If a juvenile probation officer transports a resident off the facility premises, the juvenile probation officer must be currently certified in CPR, First Aid and, if authorized to use, a Commission-approved personal restraint technique.

<\*>343.446. Exceptions to General Levels of Supervision. A resident shall be in the constant physical presence of a juvenile supervision officer with the exception of the following:

(1) Small Groups. No more than three residents may be supervised by a professional when the professional is working with the residents in a capacity that relates to the professional's licensure, certification, professional training, or education.

(2) Small Therapeutic Groups. A juvenile supervision officer shall provide constant visual supervision of any small group between four and eight residents when those residents are working with a qualified mental health professional, a mental health paraprofessional, or a mental health professional as defined by <\*>343.100(30) of this chapter.

(3) Visitation. Private visitation between one resident and an attorney, authorized visitor, or clergy does not require the constant physical presence of a juvenile supervision officer.

<\*>343.448. Primary Control Room. A juvenile supervision officer stationed in and assigned to the facility's primary control room(s) shall not count toward meeting any required ratios prescribed by this subchapter.

<\*>343.450. Single Occupancy Housing Units – SOHU.

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(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.

#### <\*>343.452. Spatial Requirements – SOHU.

(a) Individual resident sleeping quarters shall have a minimum ceiling height of 7.5 feet.

(b) Individual resident sleeping quarters shall have a minimum of 60 square feet of floor space.

<\*>343.454. Shower Facilities – SOHU. All SOHUs shall contain at least one operable shower with hot and cold running water for every ten beds in the housing unit.

<\*>343.456. Toilet Facilities – SOHU. All SOHUs shall contain at least one operable toilet above floor level for every 12 beds in male housing units and one for every eight beds in female housing units.

(1) For facilities constructed after March 1, 1996, the ratio shall be one toilet for every six beds in the housing unit.

(2) Urinals may be substituted for up to one-half of the toilets in housing units permanently designed as all-male units.

<\*>343.458. Washbasin Requirements – SOHU. All SOHUs constructed and in operation on or after September 1, 2003, shall contain a washbasin with hot and cold running water.

<\*>343.460. Drinking Fountain – SOHU. All SOHUs shall contain a drinking fountain.

<\*>343.462. Pre-Assignment Screening Process – MOHU. Residents shall not be admitted into MOHUs directly from the intake process. Classification, screening, and behavioral observation shall occur for at least 72 hours before the decision is made to admit the resident into a MOHU.

<\*>343.464. Administrative Approval – MOHU. The placement of any resident into a MOHU shall be approved by the facility administrator or designee.

<\*>343.468. Classification Plan – MOHU. Facilities with multiple occupancy housing units shall have a written classification plan that determines how residents are grouped in housing units. Residents shall, at a minimum, be classified for grouping by age and sex.

#### <\*>343.470. Eligibility Criteria – MOHU.

(a) A formalized and objective written classification assessment shall be completed prior to a resident being assigned to a MOHU. The classification assessment

process shall minimally include a review and weighting of the following criteria:

(1) Physical health--A review of all available health documentation in the facility staffs' possession with an emphasis on assessing any diagnosed or suspected infectious or contagious diseases;

(2) Mental health--A review of all available mental health documentation in the facility staffs' possession with an emphasis on assessing mental health or mental illness diagnoses that could be exacerbated by, or that would not be conducive to, multiple occupancy housing settings;

(3) Sexual behavior--An assessment of the resident's potential to be sexually abused by other residents and his or her potential to be sexually abusive;

(4) Aggressive or assaultive behaviors--An assessment of resident's history of, or propensity for, aggressive (both verbal and physical) and assaultive behaviors. This assessment shall minimally include a review of the resident's formal referral history (both alleged and disposed charges) as well as institutional behavior records;

(5) Susceptibility to acts of peer abuse, harassment, and exploitation--This shall minimally include an assessment of a resident's physical stature, emotional maturity, enemies of record, and social functioning information;

(6) Institutional behavior or discipline records--This assessment shall include a review of a resident's behavior records for the current term of detention as well as any available behavior records from previous institutional custody periods provided by the assessing jurisdiction; and

(7) Special needs or circumstances that may compromise the resident's, or other MOHU residents' physical safety and successful service delivery processes.

(b) The completed classification assessment document shall include an objective assessment score or recommendation for or against a MOHU assignment, the date the assessment process was completed, the signature of the person completing the assessment, and the signature of the supervisory-level staff that reviewed and approved the assessment.

#### <\*>343.472. Multiple Occupancy Housing Units – MOHU.

(a) The utilization of MOHUs shall have prior written approval and authorization from the governing board of the facility.

(b) Sections 343.462, 343.464, 343.468, 343.470, 343.472, 343.474, 343.476, 343.478, 343.480 and 343.482 of this chapter apply only to MOHUs designed and operating as such on or after June 5, 2001.

(c) MOHUs shall be designed to contain no more than eight beds in each housing unit.

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(d) The capacity of MOHUs shall not exceed 25 percent of the design capacity of the facility.

(e) MOHUs shall have one bed above floor level for every resident assigned to the unit.

(f) MOHUs shall contain residents of the same sex.

<\*>343.474. Spatial Requirements – MOHU.

(a) MOHUs shall have a minimum ceiling height of 7.5 feet.

(b) MOHUs shall have a minimum of 35 square feet of unencumbered floor space per bed in the housing unit.

<\*>343.476. Shower Facilities – MOHU. All MOHUs shall contain at least one operable shower with hot and cold running water for every eight beds in the housing unit.

<\*>343.478. Toilet Facilities – MOHU. All MOHUs shall contain at least one operable toilet above floor level for every four beds in the housing unit.

<\*>343.480. Washbasin Requirements – MOHU. All MOHUs shall contain at least one washbasin with hot and cold running water.

<\*>343.482. Drinking Fountain – MOHU. All MOHUs shall contain a drinking fountain.

<\*>343.484. Exercise and Common Activity Areas.

(a) Exercise Area. The facility shall provide space for an exercise area.

(b) Common Activity Area. The facility's total common activity area shall encompass no less than 100 square feet of floor space per resident.

<\*>343.486. Program Hours. 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 seclusion, room restriction, protective isolation, medical isolation, or assessment isolation may receive modification to their respective program schedule.

(3) The facility shall maintain documentation of any program schedule deviation or modification.

<\*>343.488. Educational Program.

(a) The facility administrator shall ensure that there is an educational program that requires all residents to participate. The educational program provided shall be administered in accordance with rules adopted by the Texas Education Agency (TEA).

(b) The facility administrator shall ensure that the education provider has access to residents so that the educational program is afforded to all residents, in accordance with rules adopted by the TEA.

<\*>343.489. Educational Curriculum. Students shall be provided coursework that is aligned with the Texas Essential Knowledge and Skills (also known as the TEKS test), in accordance with rules adopted by the TEA.

<\*>343.490. Instructional Days. 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 TEA for fewer days or the number of educational days coincides with the local school district calendar.

<\*>343.491. Special Education.

(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(d).

(c) The facility administrator or designee shall send notification of a student placement in a residential facility to the LEA as required by <\*>29.012 of the Texas Education Code and shall retain documentation of this notice.

<\*>343.492. Educational Space. The facility administrator shall ensure that educational space is adequate to meet the instructional requirements for each resident.

<\*>343.493. Educational Staff Safety. All permanent educational staff, excluding temporary substitutes, 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.

<\*>343.494. Supervision During Educational Program. Educational staff shall not be counted in staff-to-resident ratios.

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<\*>343.496. Reading Materials. Age-appropriate reading materials shall be available to all residents.

<\*>343.498. Recreation and Exercise.

(a) Supplies. Recreational equipment and supplies shall be provided to the residents.

(b) The recreational schedule shall offer the following programming:

(1) Large Muscle Exercise. At least one hour of large muscle exercise shall be scheduled each day.

(2) Open Recreational Activity. 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 contra-indicated for medical reasons;

(2) the resident is in disciplinary seclusion, room restriction, protective isolation, medical isolation, or assessment isolation;

(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. Utilization of this provision shall require the written approval of the facility administrator.

#### Subchapter D. Secure Post-Adjudication Correctional Facility Standards

<\*>343.600. Required Pre-Admission Records. Prior to a resident's admission, the facility shall receive the following from the referring agency:

(1) except when the facility is operated by the referring agency, a detailed summary of the juvenile's history on the designated form provided by the Commission that includes, but is not limited to the following:

(A) the juvenile's demographic information;

(B) the referring agency's impression of the juvenile;

(C) a description of the juvenile's strengths;

(D) the juvenile's special needs, problems and behaviors;

(E) the juvenile's juvenile justice history;

(F) the juvenile's placement history;

(G) the juvenile's substance abuse history;

(H) the juvenile's history of abuse and neglect;

(I) family or parental involvement with the juvenile and history;

(J) the juvenile's educational history;

(K) a description of the juvenile's physical health and disabilities;

(L) a description of the juvenile's mental health;

(M) the referring agency's recommendation on the level of care;

(N) a copy of the juvenile's birth certificate; and

(O) other pertinent information.

(2) a psychological evaluation, or behavioral health assessment (as defined in the CRM), completed within 365 calendar days prior to the resident's admission date;

(3) a signed disposition order or TYC commitment order;

(4) a current immunization record;

(5) a medical examination that was completed within 30 calendar days prior to the resident's admission date;

(6) documentation that a tuberculosis test was administered and results were received no more than 365 calendar days prior to the resident's admission date;

(7) a dental evaluation that was completed within 30 calendar days prior to the resident's admission date;

(8) services needed for the disabled;

(9) primary language of the resident and the resident's parent, legal guardian or custodian; and

(10) school records.

<\*>343.602. Intake and Admission.

(a) Pre-Admission Assessment. 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 mental health services.

(1) Anyone presented for admission into the facility and 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 into the facility.

(2) The referring person shall be directed to a health care facility to have the individual evaluated and treated.

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(3) Subsequent admission into the facility is contingent upon written medical clearance provided by a health care or mental health professional.

(b) Intoxicated or Chemically-Impaired Individuals. Each facility shall have written policies and procedures addressing intoxicated or chemically-impaired juveniles being admitted into the facility and their need for specialized supervision.

(c) Intoxicated or chemically-impaired individuals who have been medically cleared for admission should be placed under medical isolation in accordance with <\*>343.338 of this chapter.

<\*>343.604. Health Screening and Assessment.

(a) Health Screening. A health screening shall be conducted on each resident within two hours of admission by either a health care professional or an individual who has received specific training on administering the facility's health screening. The health screening instrument shall include:

- (1) mental health problems;
- (2) suicide risk in accordance with the facility's suicide prevention plan';
- (3) current state of health including:
  - (A) allergies;
  - (B) tuberculosis;
  - (C) other chronic conditions;
  - (D) sexually transmitted diseases;
  - (E) other infectious diseases; and
  - (F) history of gynecological problems or pregnancies;
- (4) current use of medication including type, dosage, and prescribing physician;
- (5) visual observation of teeth and gums and notation of any obvious dental problems;
- (6) vision problems;
- (7) drug and alcohol use;
- (8) physical and developmental disabilities;
- (9) evidence of physical trauma; and
- (10) a determination of the need for medical detoxification from alcohol or other substances or mental health intervention.

(b) Referral for Assessment. If the health screening indicates that a resident is in need of further medical evaluation, the

resident shall be referred to a health care professional for further assessment within 24 hours, excluding holidays and weekends, from the date and time of the completed screening.

(c) Results of Screening and Assessment. The results of the health screening and health assessment shall be communicated to appropriate staff.

(d) 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 reported immediately to the facility administrator, and the affected resident shall be placed in medical isolation until proper medical clearance is obtained.

(e) Intra-Jurisdictional Custodial Transfer. For intra-jurisdictional custodial transfer of residents, the only items required for the health screening at admission into a post-adjudication secure correctional facility are items enumerated in subsection (a)(2) and (a)(9) of this section.

<\*>343.606. Orientation.

(a) Each resident shall be provided a verbal orientation within 12 hours of admission into the facility.

(b) The verbal orientation shall include an explanation of the facility's:

- (1) procedures to access health care and services available;
- (2) program rules with corresponding and maximum disciplinary sanctions;
- (3) grievance policies and procedures;
- (4) procedures to access mental health care and services available; and
- (5) information required by the Prison Rape Elimination Act of 2003 including:
  - (A) prevention and intervention;
  - (B) methods for minimizing risk of sexual abuse;
  - (C) reporting sexual abuse and assault; and
  - (D) treatment and counseling;
- (6) information regarding the reporting of suspected abuse, neglect, or exploitation of a child in a juvenile justice facility; and
- (7) information stating that the resident is ensured the right of confidentiality with regard to the items included in paragraphs (3), (5), and (6) of this subsection and will not face reprisal for participating in the procedures included in these items.

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(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 of 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.

(e) Each resident shall be provided a written copy of the orientation materials upon completion of the orientation process.

<\*>343.608. Classification Plan. All facilities with more than one housing unit shall have a classification plan that takes into account at least the following:

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

<\*>343.610. Classification Plan – Segregation. The classification plan shall require that residents assigned to progressive sanctions level 5 and below be physically segregated from residents assigned to progressive sanctions levels 6 and 7.

<\*>343.612. Admission Records. 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) adjudicated offense;
- (7) name of attorney;
- (8) name, title, and signature of delivering individual;
- (9) gender;
- (10) race;
- (11) date of birth;

(12) citizenship;

(13) place of birth;

(14) name, relationship, address, and phone number of parents, legal guardians, or custodians; and

(15) primary language of resident and resident's parent, legal guardian, or custodian.

<\*>343.614. Format and Maintenance of Records.

(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.

<\*>343.616. Content of Resident Records. Each resident's record shall include the following:

- (1) delinquent 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) progress reports; and
- (7) final release and transfer report.

<\*>343.618. Housing Records. 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 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.

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<\*>343.620. Release Procedures. Prior to the release of each resident from the facility, the authorized officer shall:

- (1) verify the identity of the person receiving custody;
- (2) verify the release authorization documents;
- (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 person receiving custody.

<\*>343.622. Resident Supervision. A juvenile supervision officer may provide resident supervision if they:

- (1) are currently certified as a juvenile supervision officer; or
- (2) have been employed by the facility less than 180 calendar days;
  - (A) have passed the competency evaluation exam as detailed in Chapter 344 of this title; and
  - (B) have completed a minimum of 40 hours of training, which shall include the mandatory topics as outlined in Chapter 344 of this title as well as certification in CPR, first aid, and a personal restraint technique approved by the Commission.

<\*>343.624. Minimum Facility Supervision. At least two juvenile supervision officers shall be on duty at any time the facility has a resident. At least one of the officers shall be certified.

<\*>343.626. Gender Supervision Requirement.

- (a) If residents of both genders are housed within the facility, juvenile supervision officers of both genders shall be on duty and available to the residents for every shift.
- (b) A juvenile supervision officer of one gender shall be prohibited from supervising and visually observing a resident of the opposite gender during showers, physical searches (i.e., strip searches), disrobing of residents (suicidal or not) or when personal hygiene practice (e.g., onset of menstrual cycle, etc.) requires the presence of a juvenile supervision officer of the same gender.

(c) Juvenile supervision officers of one gender shall be the sole supervisors of residents of the same gender during showers, physical searches, pat downs, disrobing of suicidal youth, or during other times in which personal hygiene practices or needs would require the presence of a juvenile supervision officer of the same gender.

<\*>343.628. Facility-Wide Ratio. The facility-wide juvenile supervision officer-to-resident ratio shall not be less than:

- (1) one juvenile supervision officer to every 8 residents during program hours;
- (2) one juvenile supervision officer to every 20 residents during non-program hours; and
- (3) one juvenile supervision officer to every 18 residents during non-program hours if a post-adjudication facility is located in the same building as a pre-adjudication facility.

<\*>343.630. Supervision Ratio. The juvenile supervision officer-to-resident ratio shall not be less than:

- (1) one juvenile supervision officer to every 12 residents during program hours;
- (2) one juvenile supervision officer to every 24 residents during non-program hours.

<\*>343.632. Level of Supervision – SOHU.

(a) Program Hours. While residents are located in a SOHU, they shall be in the constant physical presence of a juvenile supervision officer unless they are placed in their individual sleeping quarters during shift change, in which case, a juvenile supervision officer shall observe and document each resident's behavior at random intervals not to exceed 15 minutes.

(b) Non-Program Hours. During non-program hours, in a SOHU, a juvenile supervision officer shall visually observe each resident at random intervals not to exceed 15 minutes.

(c) Juvenile supervision officers shall document each visual observation made. The documentation shall include the time of the observation and generally describe the resident's behavior.

<\*>343.634. Level of Supervision – MOHU.

(a) While physically located in a MOHU, residents shall be under the constant visual observation of a juvenile supervision officer during program and non-program hours.

(b) Juvenile supervision officers shall document general observations of dorm activity at intervals not to exceed 30 minutes.

<\*>343.636. Supervision On and Off Premises of Facility.

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(a) On-Premises Supervision. Subject to <\*>343.628 of this chapter, residents participating in any programming or activities on the facility premises, but outside of a single or multiple occupancy housing unit, shall be in the constant physical presence of a juvenile supervision officer at all times.

(b) Required Ratio. There shall be at least one juvenile supervision officer to every 12 residents participating in the program or activity.

(c) Off-Premises Supervision. A facility shall have written policies and procedures that establish specific resident supervision practices for residents allowed to temporarily leave the secure confines of the facility or the facility's secure grounds. The policies and procedures shall minimally include:

- (1) applicable staff designations (i.e., which staff may supervise youth off site);
- (2) gender-specific requirements;
- (3) staff-to-resident ratios when more than one resident is involved;
- (4) personnel authorized to use approved restraint practices; and
- (5) staff training requirements.

(d) The established policies and procedures shall be written to adequately provide an appropriate level of protection for the public and involved staff and residents.

(e) Exceptions. This standard does not apply to furlough and formal discharge.

<\*>343.638. Exceptions to General Levels of Supervision. A resident shall be in the constant physical presence of a juvenile supervision officer with exception of the following:

- (1) Small Groups. No more than three residents may be supervised by a professional when the professional is working with the residents in a capacity that relates to the professional's licensure, certification, professional training, or education.
- (2) Small Therapeutic Groups. A juvenile supervision officer shall provide constant visual supervision of any small group between four and eight residents when those residents are working with a qualified mental health professional, a mental health paraprofessional, or a mental health professional as defined by <\*>343.100(30) of this chapter.
- (3) Visitation. Private visitation between one resident and an attorney, authorized visitor, or clergy does not require the constant physical presence of a juvenile supervision officer.

<\*>343.640. Primary Control Room. A juvenile supervision officer stationed in and assigned to the facility's primary

control room(s) shall not count toward meeting any required ratios prescribed by this subchapter.

<\*>343.642. Single Occupancy Housing Units – SOHU.

(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.

<\*>343.644. Spatial Requirements – SOHU.

(a) Individual resident sleeping quarters shall have a minimum ceiling height of 7.5 feet.

(b) Individual resident sleeping quarters shall have a minimum of 60 square feet of floor space.

<\*>343.646. Shower Facilities – SOHU. All SOHUs shall contain at least one operable shower with hot and cold running water for every ten beds in the housing unit.

<\*>343.648. Toilet Facilities – SOHU. All SOHUs shall contain at least one operable toilet above floor level for every 12 beds in male housing units and one for every eight beds in female housing units.

(1) For facilities constructed after March 1, 1996, the ratio shall be one toilet for every six beds in the housing unit.

(2) Urinals may be substituted for up to one-half of the toilets in housing units permanently designed as all-male units.

<\*>343.650. Washbasin Requirements – SOHU. All SOHUs constructed and in operation on or after September 1, 2003, shall contain a washbasin with hot and cold running water.

<\*>343.652. Drinking Fountain – SOHU. All SOHUs shall contain a drinking fountain.

<\*>343.654. Multiple Occupancy Housing Units – MOHU.

(a) MOHUs shall be constructed 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.

(d) If bunk beds are utilized, they shall not exceed two levels.

<\*>343.656. Spatial Requirements--MOHU.

(a) MOHUs shall have a minimum ceiling height of 7.5 feet.

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(b) MOHUs shall have a minimum of 35 square feet of unencumbered floor space per bed in the housing unit.

<\*>343.658. Shower Facilities – MOHU. All MOHUs shall contain at least one operable shower with hot and cold running water for every ten beds in the housing unit.

<\*>343.660. Toilet Facilities – MOHU. All MOHUs shall contain at least one operable toilet above floor level for every 12 beds in male housing units and one for every eight beds in female housing units.

(1) For facilities constructed after March 1, 1996, the ratio shall be one toilet for every six beds in the housing unit.

(2) Urinals may be substituted for up to one-half of the toilets in housing units permanently designed as all-male units.

<\*>343.662. Washbasin Requirements – MOHU. All MOHUs constructed and in operation on or after September 1, 2003, shall contain a washbasin with hot and cold running water.

<\*>343.664. Drinking Fountain – MOHU. All MOHUs shall contain a drinking fountain.

<\*>343.666. Exercise and Day Room Areas.

(a) Exercise Areas. The facility shall provide an area for indoor and outdoor exercise.

(b) Day Rooms.

(1) Day rooms shall provide a minimum of 35 square feet of space for every resident using the day room at one time, excluding lavatories, showers, and toilets.

(2) Day rooms shall provide sufficient seating and writing surfaces for every resident using the day room at one time.

<\*>343.668. Program Hours. 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 seclusion, room restriction, protective isolation, medical isolation, or assessment isolation may receive modification to their respective program schedule.

(3) The facility shall maintain documentation of any program schedule deviation or modification.

<\*>343.670. Educational Program.

(a) The facility administrator shall ensure that there is an educational program that requires all residents to participate. The educational program provided shall be administered in

accordance with rules adopted by the Texas Education Agency (TEA).

(b) The facility administrator shall ensure that the education provider has access to residents so that the educational program is afforded to all residents, in accordance with rules adopted by the TEA.

<\*>343.671. Educational Curriculum. Students shall be provided coursework that is aligned with the Texas Essential Knowledge and Skills (also known as the TEKS test), in accordance with rules adopted by the TEA.

<\*>343.672. Instructional Days. 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 TEA for fewer days or the number of educational days coincides with the local school district calendar.

<\*>343.673. Special Education.

(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 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(d).

(c) The facility administrator or designee shall send notification of a student placement in a residential facility to the LEA as required by <\*>29.012 of the Texas Education Code and shall retain documentation of this notice.

<\*>343.674. Educational Space. The facility administrator shall ensure that educational space is adequate to meet the instructional requirements for each resident.

<\*>343.675. Educational Staff Safety. All permanent educational staff, excluding temporary substitutes, 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.

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<\*>343.676. Supervision During Educational Program. Educational staff shall not be counted in staff-to-resident ratios.

<\*>343.677. Vocational Training Program. The facility administrator shall ensure that a vocational training program offered to residents, that is not administered by the school and through which no academic credit is gained, is administered by appropriately qualified persons to provide instruction or mentoring in the vocational skills.

<\*>343.678. Reading Materials. Age-appropriate reading materials shall be available to all residents.

<\*>343.680. Recreation and Exercise.

(a) Supplies. Recreational equipment and supplies shall be provided for use by residents.

(b) The recreational schedule shall offer the following programming:

(1) Large Muscle Exercise. At least one hour of large muscle exercise shall be scheduled each day.

(2) Open Recreational Activity. 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 contra-indicated for medical reasons;

(2) the resident is in disciplinary seclusion, room restriction, protective isolation, medical isolation, or assessment isolation;

(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. Utilization of this provision shall require the written approval of the facility administrator.

<\*>343.686. Rehabilitative Services. The social services program shall provide for the availability of:

(1) professional counseling services (individual and group);

(2) substance abuse prevention education; and

(3) HIV/AIDS prevention education.

<\*>343.688. Residential Case Plan.

(a) The initial case plan shall be completed no later than 30 calendar days from the resident's date of placement.

(b) The case plan shall contain written documentation acknowledging that the plan was developed in consultation with the resident, the resident's parent, legal guardian, or custodian, and the supervising juvenile probation officer.

(c) The case plan shall contain specific goals for at least the following nine domains:

(1) medical and dental;

(2) safety and security;

(3) recreational;

(4) educational;

(5) mental and behavioral health;

(6) relationship;

(7) socialization;

(8) permanency; and

(9) parent and child participation.

(d) The case plan shall be signed by the resident, the resident's parent, legal guardian, or custodian, the facility's designee and the supervising juvenile probation officer.

(e) The date of the facility designee's signature on the case plan shall be the case plan completion date.

(f) The case plan shall be retained in the resident's case file with written documentation verifying that copies were provided to the resident, the resident's parent, legal guardian, or custodian and the supervising juvenile probation officer.

<\*>343.690. Residential Case Plan Review.

(a) Case plans shall be reviewed 90 calendar days from the date of completion of the initial case plan or case plan review and every 90 calendar days thereafter.

(b) The case plan review shall contain written documentation acknowledging that the review was conducted in consultation with the resident, the resident's parent, legal guardian or custodian, and the supervising juvenile probation officer.

(c) The case plan reviews shall measure the resident's progress toward meeting his/her goals using the six-point scale outlined in Title 1, Part 15, <\*>351.13 of the Texas Administrative Code.

(d) The case plan review shall document any newly identified needs, goals, and interventions for the juvenile and the juvenile's family.

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(e) The case plan review shall be signed by the resident, the resident's parent, legal guardian, or custodian, the facility's designee and the supervising juvenile probation officer.

(f) The date of the facility designee's signature on the case plan review shall be the case plan review completion date.

(g) The case plan review shall be retained in the resident's case file with written documentation verifying that copies were provided to the resident, the resident's parent, legal guardian, or custodian, and the supervising juvenile probation officer.

<\*>343.700. Physical Training Program. Sections 343.700, 343.702, 343.704, 343.706, 343.708, 343.710, and 343.712 of this chapter apply to those facilities that have a physical training program.

<\*>343.702. Governing Board Approval. Facilities that utilize a physical training program shall have written authorization from the governing board prior to operation.

<\*>343.704. Pre-Admission Requirements. 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 approving the resident's participation in the facility's physical training program;

(2) the physician's acknowledgement of the components of the physical training program; and

(3) a psychological evaluation, or behavioral health assessment (as defined in the CRM), which should indicate in writing the appropriateness for the child's placement at the facility based on the needs and/or limitations of the child (i.e., mental illness, history of abuse, etc.).

<\*>343.706. Physical Training Program Plan. 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 minimal 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.

<\*>343.708. Injury and Illness. If a resident is, at any time, deemed unfit to participate in the physical training program due to medical reasons, to return the resident to the program, the facility must obtain a written release signed by a physician indicating that the resident is fit to resume program activities.

<\*>343.710. Disciplinary Sanctions. The facility shall have written policies and procedures, including guidelines, parameters, and limitations, on the types of physical activity that may be utilized 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 seclusion).

<\*>343.712. Physical Fitness Screening Tool.

(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.

**Subchapter E. Restraints**

<\*>343.800. Definitions. The following words and terms, when used in this chapter, shall have the following meanings, unless otherwise expressly defined in the chapter:

(1) 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 the Commission.

(2) Approved Mechanical Restraint Devices--A professionally manufactured and commercially available mechanical device designed to aid in the restriction of a person's bodily movement. Mechanical restraint devices shall first be approved by the Commission. The following are Commission-approved mechanical restraint devices:

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- (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) Restraint Bed--A professionally manufactured and commercially available bed, or integrated bed attachment(s), specifically designed to facilitate safe human restraint applications.
- (E) Restraint Chair--A professionally manufactured and commercially available restraint apparatus specifically designed for safe human restraint. The device's design facilitates the almost complete immobilization of a subject in an upright sitting position by restricting the subject's extremities, upper leg area, and torso through the application of soft-restraints. The apparatus may be fixed or wheeled for re-location;
- (F) 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
- (G) Wristlets--A cloth or leather band designed to be fastened around the wrist, which may be secured to a waist belt or used in a non-ambulatory mechanical restraint.
- (3) Chemical Restraint--The application of a chemical agent on a resident or residents.
- (4) Four-Point Restraint--The use of approved mechanical restraint devices applied to each of a resident's wrists and ankles to secure a resident in a supine position to a restraint bed.
- (5) 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.
- (6) 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 acceptable non-ambulatory mechanical restraints.
- (7) Personal Restraint--The application of physical force alone, restricting the free movement of the whole or a portion of an individual's body to control physical activity.
- (8) 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.

(9) 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.

(10) 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.

(11) Riot--A situation in which three or more persons 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.

(12) Soft Restraints--Non-metallic wristlets and anklets used as stand-alone restraint devices or in conjunction with a restraint bed or restraint chair. These devices are designed to reduce the incidence of skin, nerve, and muscle damage to the restrained subject's extremities.

<\*>343.802. Requirements.

(a) Restraints shall only be used by juvenile supervision and probation officers.

(b) Prior to participating in any restraint, juvenile probation officers 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 and juvenile supervision officers shall have received training and demonstrated competency in the Commission-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, or to prevent escapes.

(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.

<\*>343.804. Prohibitions. Restraints that employ a technique listed below are prohibited:

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(1) restraints used for punishment, discipline, retaliation, harassment, compliance, intimidation, or as a substitute for an appropriate disciplinary seclusion;

(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; and

(10) percussive or electrical shocking devices.

<\*>343.806. Documentation. Except for <\*>343.818 of this chapter, all restraints shall be fully documented and maintained. Written documentation regarding the use of restraints shall, at a minimum, require:

(1) the name of the resident;

(2) the staff member(s) name and title(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.

<\*>343.808. Personal Restraint. In addition to the requirements found in <\*>343.802, 343.804, and 343.806 of this chapter, 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 and probation officers shall be re-trained in the approved personal restraint technique at least every 365 calendar days.

<\*>343.810. Mechanical Restraint.

(a) Requirements.

(1) Only the 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 every 365 calendar days, with all faulty or malfunctioning devices 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.

(3) A mechanical restraint shall not secure a resident in a prone, supine, or lateral position with his or her 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, except when complete immobilization is required by use of a four-point restraint or a restraint chair.

(6) A resident in an approved mechanical restraint device shall not participate in any physical activity.

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(7) Plastic cuffs shall only be used in emergency situations.

#### <\*>343.812. Non-Ambulatory Mechanical Restraints.

(a) Non-ambulatory mechanical restraints shall only be used in response to a resident's overt behavior specific to self injury and only when other less restrictive interventions, or other forms of physical restraint, have been deemed to be inappropriate or ineffective.

(b) The initial use of non-ambulatory mechanical restraints shall receive incident-specific authorization from the facility administrator or designee. Standing orders authorizing non-ambulatory mechanical restraints are prohibited.

(c) Non-ambulatory mechanical restraints shall be conducted in an area or room which is not visible to other residents but in a location that is readily accessible to health care professionals or specially-trained staff with supervisory responsibilities specific to the oversight of the non-ambulatory mechanical restraints.

(d) Rooms or cells with fixed or static non-ambulatory mechanical restraint fixtures, mechanisms, etc. (e.g. anchoring points or devices), shall not be used to house residents not being restrained in a non-ambulatory mechanical restraint unless they are being provided constant supervision.

(e) Non-ambulatory mechanical restraints shall be restricted to only standards-compliant restraint beds, restraint chairs and soft restraint devices.

(f) A written recommendation from a health care professional or a mental health professional is required in order for a non-ambulatory mechanical restraint to continue longer than one hour.

(g) Non-ambulatory mechanical restraints lasting two hours in duration shall be considered a behavioral health crisis and shall result in an immediate referral to a mental health professional or a mental health facility for assessment and possible treatment.

(h) Under no circumstances shall a non-ambulatory mechanical restraint exceed three hours in duration within a 24 hour period.

(i) Residents in a non-ambulatory mechanical restraint shall be provided:

(1) constant visual supervision by a juvenile supervision officer;

(2) an opportunity for expanded physical motion or movement of not less than five minutes at every 30 minute interval;

(3) an opportunity to drink water every hour;

(4) regularly prescribed medications, unless otherwise ordered by a physician; and

(5) bathroom privileges offered at least every hour.

(j) Requirements enumerated in subsection (i)(1) - (5) of this section shall be fully documented and retained in the facility record or resident file.

(k) The following documentation shall be retained in the facility record or resident file:

(1) an assessment of the resident's circulation, positioning, and breathing conducted at least every ten minutes by a specially-trained juvenile supervision officer or a health care professional; and

(2) documented checks, performed by a health care professional, or specially-trained staff, of the physical condition of the resident and the placement of the mechanical restraint devices within the first 30 minutes of the restraint and every hour thereafter.

(l) The officer responsible for providing the constant visual supervision of a resident in a non-ambulatory mechanical restraint shall have physical possession of the key or other mechanism for releasing the resident from the restraint.

(m) Any juvenile probation officer or juvenile supervision officer authorized to place a resident in a non-ambulatory mechanical restraint, shall be trained in topics that include, but are not limited to:

(1) monitoring the vital signs and critical circulation points of a resident placed in the non-ambulatory mechanical restraint; and

(2) emergency procedures for the removal of a resident from the non-ambulatory mechanical restraint.

<\*>343.816. Chemical Restraints. In addition to the requirements found in <\*>343.802, 343.804, and 343.806 of this chapter, the use of chemical restraints shall be governed by the following criteria:

(1) chemical restraints shall only be used in response to episodes of resident riot and only then when other forms of approved restraints are deemed to be inappropriate or ineffective;

(2) the use of chemical restraints shall receive incident-specific authorization from the facility administrator. Standing orders authorizing chemical restraints are prohibited;

(3) chemical restraints are restricted to professionally manufactured and commercially available defense sprays and vaporizing agents containing either Oleoresin Capsicum (i.e., OC pepper sprays) or Orthochlorobenzalmalonoitrile (i.e., tear gas);

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(4) chemical restraint deployment devices shall be stored in a locked area, and the issuance of these devices to juvenile supervision officers shall not commence until the facility administrator's authorization has been provided;

(5) chemical restraints shall not be used on a resident when he or she is in a personal or mechanical restraint, or otherwise under control;

(6) immediately following the use of a chemical restraint, the exposed resident shall be visually or physically examined by a health care professional and provided treatment if necessary; and

(7) chemical agent compatible neutralizers or decontaminants shall be readily available for use on residents who have been exposed to chemical restraints.

<\*>343.818. Preventative Mechanical Restraints. 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 <\*>343.802(d) of this chapter. 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 secure confines of the facility; or

(4) The routine, preventative mechanical restraint applications used in this section are exempt from the documentation requirements contained in <\*>343.806 of this chapter, except when the resident's cooperation is compelled through the use of a personal or chemical restraint; when the resident receives an injury in relation to the restraint event or restraint devices; or when the resident's behavior escalates to the imminent threat criteria listed in <\*>343.802(d) of this chapter.