

Texas Juvenile Probation Commission
Title 37 Texas Administrative Code
Chapter 348. Juvenile Justice Alternative Education Programs
Effective Date 8/1/2011 for the 2011-2012 School Year

Subchapter A. PROGRAM OPERATIONS.

<*>348.100. Purpose. The purpose of this chapter is to establish minimum operational, programmatic, and educational standards for juvenile justice alternative education programs (JJAEP) in Texas.

<*>348.101. 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 JJAEPs operated under <*>37.011 of the Texas Education Code and who receive funds from the Texas Juvenile Probation Commission for the operation of a JJAEP. 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.

<*>348.102. Definitions. The words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

(1) Attendance Days--The actual number of instructional days a student is enrolled and in attendance at the JJAEP for a minimum of four (4) hours per day.

(2) Absent Days--The actual number of instructional days a student is enrolled and not in attendance at the JJAEP for a minimum of four (4) hours per day.

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

(4) Exit Reason--The reason a student exits the JJAEP program. A student shall be accounted for in only one of the following categories:

(A) Completed program/returned to home school--Student’s term of expulsion has expired or has been terminated early by the home school district.

(B) Completed program/term of probation expired--Student has returned to home school district due to expiration of probation order or term of probation placement in JJAEP ended.

(C) Completed program/term of placement ended--Student returned to home school district due to termination of expulsion status and probation status.

(D) GED Completion--Student has successfully tested and passed the high school equivalency examination.

(E) Graduated--Student has completed all necessary requirements to receive a high school diploma.

(F) Left Program Incomplete--Student has been terminated from the program due to:

(i) a probation modification or revocation;

(ii) an out-of-home placement;

(iii) being held in juvenile detention;

(iv) being held in jail;

(v) absconding (violation of conditions of release from detention or court order);

(vi) being committed to the Texas Youth Commission;

(vii) being committed to the Texas Department of Criminal Justice; or

(viii) being truant or a runaway.

(G) Other--A student who left program due to out of county move, death, medical reason, other non-delinquency reason or withdrew to enroll in another educational program that is not provided by the student's home district (i.e., expelling school).

(5) Inactive Status--Attendance status assigned to a student where the student is maintained as enrolled and not counted as absent or present from the JJAEP.

(6) Intensive Physical Activity—rigorous physical activity that involves rhythmic, repetitive physical activities that use large muscle groups with an increase in heart rate and respiration.

(7) JJAEP Staff--All full-time, part-time, temporary, seasonal employees and volunteers performing JJAEP related duties.

(8) Juvenile Justice Alternative Education Program (JJAEP)--An educational program operated by the juvenile board of a county to serve students pursuant to Chapter 37 of the Texas Education Code or student's under the jurisdiction of the juvenile court.

<*>348.104. Program Administration and Organization.

(a) Policy.

(1) The JJAEP shall have written policies and procedures that govern all facets of the operation of the program.

(2) The JJAEP shall be operated according to current written policies and procedures which address personnel, administration, programming, training, and standards under this chapter.

(b) Truancy and Failure to Attend. The JJAEP shall have a written policies concerning truancy as defined under the <*>51.03(b)(2) of the Texas Family Code and failure to attend under <*>25.094 of the Texas Education Code. The policies shall, at a minimum, contain the following:

(1) who is responsible for reporting truancy and failure to attend;

(2) to what enforcement agency truancy and failure to attend are to be reported; and

(3) the requirement to report truancy and failure to attend to the identified enforcement agency within two (2) school days.

(c) Performance Review. The juvenile board and the JJAEP administrator shall participate in an annual performance review of the JJAEP between the conclusion of the school year and prior to the beginning of the next school year to determine the effectiveness of the program.

(1) The review shall, at a minimum, include statistical information on the number of student program entries and exits, the reason for student entries and exits, student academic performance, attendance rates, assessment scores for math and reading, recidivism rates among students who exit the JJAEP, restraints, and the number of students with disabilities.

(2) Documentation of the review shall be maintained.

(d) Management Review. The JJAEP Administrator that oversees the daily functions of the JJAEP shall conduct an annual review of the overall operations of the JJAEP prior to the beginning of each school year.

(1) The review shall include, but is not limited to:

(A) safety and security;

(B) inter-local cooperation; and

(C) the student code of conduct.

(2) Existing policies and procedures shall be reviewed to determine their continued relevance to the mission of the JJAEP.

(3) Documentation of the review shall be maintained.

(e) Required Staff. The JJAEP shall maintain the required administration, programmatic and supervision staffing as required by this section.

(1) Administration. The juvenile board or chief juvenile probation officer shall designate a JJAEP administrator.

(A) Qualifications. The JJAEP administrator shall, at a minimum, hold a four-year degree from an accredited university and shall possess juvenile justice and/or education experience.

(B) Duties.

(i) The JJAEP administrator shall be responsible for the management of the JJAEP and shall ensure compliance with all applicable laws and rules related to JJAEPs.

(ii) The JJAEP administrator shall ensure compliance with contractual provisions of all contracts with the Commission related to JJAEPs.

(2) Instructional Staff. The JJAEP shall ensure adequate instructional staff are maintained to provide appropriate educational services to students while attending the JJAEP.

(A) The instructional staff for the JJAEP shall include, at a minimum, one Texas certified teacher.

(B) The JJAEP shall ensure the adequate number of special education teachers are maintained as required by federal law. A special education teacher shall meet the requirements of certification as required by the State Board for Educator Certification.

(C) Instructional staff shall, at a minimum, hold a four-year degree from an accredited university.

(D) Instructional staff to student Ratio. 1 to 16 preferred; 1 to 24 maximum.

(3) Caseworkers. The JJAEP shall ensure adequate caseworker staff are maintained.

(A) Caseworkers shall be either social workers, juvenile probation officers assigned to the JJAEP, counselors or other mental health professionals.

(B) Qualifications. All caseworkers shall meet the minimum professional requirements and shall be licensed or certified by the appropriate authority in their field.

(C) Caseworker Staff to Student Ratio. 1 to 25 preferred; 1 to 50 maximum.

(i) A minimum of one (1) caseworker shall be present during the operational hours of the JJAEP.

(ii) Any caseworker above the required one (1) shall be present at least four (4) hours of the JJAEP operational hours.

(iii) A substitute Caseworker is not required when the caseworker is absent for three (3) school days or less from a JJAEP. Alternative arrangements for a substitute caseworker are required if absence is more than three (3) days.

(iv) A caseworker who must leave the JJAEP site in order to complete a JJAEP related duty shall be considered present for ratio purposes.

(4) Supervision Staff.

(A) The JJAEP shall ensure adequate supervision staff are maintained. Supervision staff includes drill instructors, teacher aides, security personnel, caseworker aides, county employed juvenile supervision officers, and behavior management staff.

(B) Supervision staff shall, at a minimum, possess a high school diploma or Certificate of General Educational Development (GED).

(C) Any staff, excluding certified physical education teachers, who participates in the administration of intensive physical activity, shall be certified as a juvenile supervision officer under Chapter 344 of the Texas Administrative Code.

(D) County employed staff whose primary job function is supervision of JJAEP students may obtain certification as juvenile supervision officers.

(5) Operational Staff.

(A) Operational staff includes instructional staff, supervision staff, caseworkers, and JJAEP administrators.

(B) Operational Staff to Student Ratio. 1 to 8 preferred; 1 to 12 maximum.

(f) Verification Documentation.

(1) The JJAEP shall maintain a daily staff roster, staff sign-in sheet or other verification document that indicates all of the operational staff present in the program each day.

(2) The staff roster or sign-in sheet shall include, at a minimum, the date, the time of entry and exit, the staff member's full name and the staff member's position or title.

<*>348.106. Personnel Administration.

(a) Personnel Policies.

(1) Written policies and procedures shall be readily accessible to all JJAEP staff.

(2) Documentation of acknowledgement of receipt of the policies and procedures by all staff shall be maintained in the staff personnel or training file.

(b) Personnel Records. The JJAEP Administrator shall ensure that a personnel file is maintained for each employee or person working at the JJAEP who is included in any program ratio. The file shall, at a minimum, include:

(1) criminal history searches;

(2) training records;

(3) applicable personnel actions;

(4) documentation of the employee's education transcripts; and

(5) applicable certification verification.

(c) New Employee Orientation. All staff, including temporary, seasonal or substitute employees shall have orientation training prior to having sole contact with students.

(1) Orientation training shall occur within the first two weeks of employment.

(2) Documentation of new employee orientation training and agendas shall be maintained in the employee's personnel file or training file.

(3) Orientation training, at a minimum, shall include:

(A) safety and security procedures including, but not limited to, emergency exit drills and the JJAEP's safety disaster plan;

(B) child abuse, neglect and exploitation identification and reporting as required by Chapter 358 of the Texas Administrative Code;

(C) incident reports;

(D) student code of conduct;

(E) behavior management program;

(F) transporting students;

- (G) crisis intervention;
- (H) distribution of medication;
- (I) sexual harassment;
- (J) Personal Restraint policy;
- (K) student grievance procedures; and
- (L) job descriptions including duties and responsibilities of the assigned position.

(d) Criminal History Searches. The criminal history searches described in this subsection shall apply to individuals who begin employment or service provision on or after August 19, 2011. Current JJAEP employees shall complete the criminal history searches as described below by January 5, 2012.

(1) Fingerprint Search.

(A) Fingerprints shall be submitted through the Texas Department of Public Safety (DPS) Fingerprint Application Services of Texas (FAST) system.

(B) The juvenile board, chief administrative officer, JJAEP administrator or designee shall initiate a criminal history search prior to the first day of employment on all JJAEP staff.

(C) Continued employment shall be contingent upon the completion and review of the criminal history report as well as confirmation that the applicant has no disqualifying criminal history.

(2) Criminal History Clearinghouse. The Commission and the juvenile board or designee shall participate in the electronic clearinghouse and subscription service operated by the DPS. This service is known as the Fingerprint-Based Applicant Clearinghouse of Texas (FACT).

(3) Military History.

(A) When an applicant has prior military experience, the program or facility shall request from the applicant the long copy DD-214 to determine if the applicant has a disqualifying criminal history that martial law is not required to report to any state or federal criminal database.

(B) If the applicant does not have a long copy DD-214, the program or facility shall request the authorization of the applicant to obtain the document by completing the for SF-180 and submit said form to the corresponding address for the military branch found on the form.

(C) A copy of the log copy DD-214 shall be maintained in the applicant's confidential personnel file.

(4) Disqualifying Criminal History.

(A) An individual with the following criminal history shall not be eligible for continued employment or certification:

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

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

(iii) a current felony deferred adjudication, probation or parole;

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

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

(vi) a current jailable misdemeanor deferred adjudication, probation or parole; or

(vii) the requirement to register as a sex offender under Chapter 62 of the Texas Code of Criminal Procedure.

(B) The offense disposition date shall be used to determine applicable time frames.

(C) Variance of Disqualifying Criminal History. A variance under <*>349.200 of this title may not be requested for any class A misdemeanor or felony unless the person received a pardon based upon proof of innocence or the reversal of a finding of guilt by a trial or appellate court.

(5) Non-Certified Employees and Service Providers.

(A) Non-Licensed Service Providers. Departments who contract with a service provider that provides a significant portion of the JJAEP operations shall complete criminal history searches as defined above for a service provider and adhere to <*>411.083(b)(5)(A-D) of the Texas Government Code.

(B) State-Licensed Service Providers. The chief administrative officer or designee shall obtain documentation confirming that the provider's license is in good standing with the licensing entity. The JJAEP shall not contract for services with a provider whose license is not in good standing.

(C) Independent School District Employees. The chief administrative officer or designee shall obtain documentation from the school district confirming that fingerprint-based criminal history searches of criminal information databases maintained by the Federal Bureau of Investigation and by the State of Texas have been completed prior to the date of hire.

(D) Employees of Contracted JJAEP Providers. The chief administrative officer or designee shall conduct the required criminal history searches and confirm that the applicant has no disqualifying criminal history prior to the date of hire.

(6) Criminal History Records Retention. A copy of the initial criminal history report or documentation confirming it was completed is required in this section and any reports reflecting subsequent criminal activity shall be maintained for monitoring purposes for the duration of an individual's employment. These records shall be maintained in accordance with the county's established records retention schedule after the monitoring purpose has been fulfilled.

(e) Research Programs.

(1) The juvenile board shall review proposals for research to ensure conformity with departmental policy.

(2) Departmental policy shall forbid student participation in medical, pharmacological, and cosmetic research programs.

(3) Students may voluntarily participate in approved research programs with the written consent of the student's parent, guardian or custodian. A student's non-participation shall not have adverse consequences on the student.

<*>348.108. Management Information System.

(a) Data Collection. The JJAEP administrator shall ensure that statistical and programmatic data pertaining to each student admitted to a JJAEP are gathered, documented, maintained, and accurately reported to the Commission. The following is a list of data elements that are required:

- (1) headquarter county;
- (2) student's first name, middle name, last name;
- (3) student's social security number;
- (4) date of birth;
- (5) race;
- (6) gender;
- (7) PIEMS student ID;
- (8) student's personal identification number (PID), if applicable;
- (9) referral number;
- (10) sequence number, if applicable;
- (11) expulsion date;
- (12) campus ID;
- (13) expulsion offense;
- (14) entrance date;
- (15) grade level;
- (16) math tested grade level;
- (17) math standard score;
- (18) reading tested grade level;
- (19) reading standard score;
- (20) special education, if applicable;
- (21) special education type, if applicable;
- (22) exit date;
- (23) juvenile court disposition, if applicable;
- (24) math tested grade level-exit;

- (25) math standard score-exit;
- (26) reading tested grade level-exit;
- (27) reading standard score-exit;
- (28) expulsion ended, if applicable;
- (29) probation ended, if applicable;
- (30) total days attended;
- (31) total days absent; and
- (32) exit reason.

(b) Student Educational Data and Records. At a minimum, the following information shall be accurately documented and maintained in the case file for each student in the program:

- (1) current grade level;
- (2) notice of expulsion;
- (3) applicable court orders placing student into JJAEP;
- (4) police offense report, if applicable;
- (5) entry and exit transition plans;
- (6) education records to include special education determination, appropriate special educational records, statewide assessment scores, and home language survey;
- (7) admission and exit testing data, if applicable;
- (8) physical exam, as required under <*>348.112(f) of this chapter;
- (9) documentation of regular education program review of student as required by <*>37.011(d) of the Texas Education Code;
- (10) date of admission;
- (11) number of attendance days;
- (12) number of absence days;
- (13) date of release;
- (14) emergency notification contacts for the student;
- (15) special medical needs, if any, of the student;

(16) student immunization records; and

(17) medical release form.

<*>348.110. Curriculum.

(a) Required Courses. At a minimum, the JJAEP shall provide the following required courses at the JJAEP:

(1) English language arts;

(2) mathematics;

(3) social studies;

(4) science;

(5) high school equivalency program (GED); and

(6) self-discipline which may be integrated into the program and may include formal instruction in drug awareness, anger management, impulse control and cognitive skills.

(b) Recommended Courses. The following courses are recommended to be provided to all students in attendance at the JJAEP:

(1) life skills;

(2) physical fitness;

(3) vocational training; and

(4) other electives.

(c) Curriculum Development. Programs shall have a strong accelerated component to their instruction for all required areas of instruction.

(1) At least one certified teacher shall oversee the development and implementation of the curriculum in the JJAEP academic program.

(2) The JJAEP Administrator shall assure that course instruction is consistent with the essential knowledge and skills of each subject of the foundation curriculum as defined under the rules of the State Board of Education under <*>28.002(c) of the Texas Education Code.

(3) The high school equivalency program (GED) curriculum must address the elements required to pass the GED test.

(4) Program components may be integrated into the regular program curriculum.

<*>348.112. Program Requirements.

(a) Special Education. Students with disabilities who are placed in the JJAEP shall be afforded education services determined by a duly constituted admissions, review and dismissal committee to be appropriate for the student to receive a free and appropriate public education as defined by federal and state laws.

(b) English as a Second Language (ESL). English as a second language services and instruction shall be provided in the JJAEP and shall be appropriate to address the needs of those students who speak English as a second language or who are non-English speaking.

(c) General Educational Development Test (GED). Scores on each GED test administered shall be certified by a GED examiner.

(d) Counseling. Counseling services shall be available to all students enrolled and in attendance at the JJAEP.

(e) Meals.

(1) Policies and procedures shall ensure the provision of a lunch meal for each student in attendance at the JJAEP on each school day.

(2) A student shall not be denied a lunch meal as a sanction or disciplinary measure.

(f) Medical.

(1) The JJAEP shall have a medical release on file for each student in accordance with <*>32.001 of the Texas Family Code signed by the student's parent, guardian or custodian.

(2) Screening.

(A) A JJAEP that has an intensive physical fitness component shall require a medical screening for each student performed by a licensed physician, licensed physician assistant a registered nurse or doctor of chiropractic. Medical screenings completed within one (1) calendar year prior to the student's participation in intense physical activity shall be accepted.

(B) No student shall be permitted to participate in an intensive physical activity unless a licensed physician, licensed physician assistant, a registered nurse or doctor of chiropractic certifies in writing that the student has no physical limitations or conditions that would prohibit participation.

(3) In accordance with <*>142.005(a) of the Texas Human Resources Code, the JJAEP shall have written policies and procedures governing the storage, use and distribution of all medication to students. The policy shall specify which personnel are authorized to dispense medication to students.

(A) The student's parent, legal guardian or custodian shall provide a written request for the administration of the medication and the medication shall be in the original, properly labeled container.

(B) The JJAEP policies shall require that distribution of all medication be chronologically documented including the time administered, name of administrator, student's name, type of medication, and dosage.

(g) Physical Activity. A JJAEP that has an intensive physical activity component shall develop policies regarding extreme weather conditions. These policies shall address the following:

(1) gradual acclimatization to hot weather;

(2) student clothing for the various weather conditions;

(3) temperatures and weather conditions in which activity outside is unallowable; and

(4) the provision of a water break to students every 30 minutes during the intensive physical activity period.

<*>348.114. Student Attendance Accounting.

(a) The JJAEP administrator shall ensure that current attendance records for all students enrolled in the JJAEP are documented, maintained and accurately reported to the Commission.

(b) Aggregate attendance accounting.

(1) The program shall identify the expulsion category of each student enrolled on the student attendance records.

(2) A specific character on the student attendance record shall be used to identify a students' attendance, absence or inactive status.

(c) Student entry and exit accounting.

(1) The student's entry date is the first day the student is physically present at the JJAEP.

(2) A student's recorded withdrawal date shall represent the date in which the student is no longer enrolled in the program.

(3) The JJAEP shall maintain daily student sign-in sheets. The sign-in sheets shall be recorded daily and contain a student's printed name and signature.

(4) The time of entry or exit shall be noted on the student sign-in/sign-out sheet for a student who arrives late or leaves early on any school day.

(5) A student shall be considered present if in attendance for at least four hours of the school day.

(d) Inactive Status.

(1) A student shall be placed on Inactive Status as defined in <*>348.200 of this chapter. Inactive Status shall begin on the date noted on the verification documentation. The documentation shall be maintained in the student's file.

(2) A student shall be placed on Inactive Status if any of the following occur:

(A) is in juvenile detention or jail;

(B) is absent for a minimum of ten (10) consecutive school days;

(C) is a documented runaway; or

(D) has an extended illness or medical reason documented by a licensed physician or physician assistant.

(3) A student that is maintained on Inactive Status for 30 consecutive school days shall be withdrawn on the 31st day. A student shall not be maintained on Inactive Status for more than 30 consecutive school days.

<*>348.116. Inter-Local Cooperation.

(a) Parent, Guardian or Custodian.

(1) The JJAEP shall maintain written documentation of notification to a student's parent, guardian or custodian of the student's enrollment in and withdrawal from the JJAEP.

(2) Periodic progress reports shall be given to the student and the student's parent, guardian or custodian at a minimum of every 120 school days.

(b) School District.

(1) Student Entry and Exit Transition Plans.

(A) The JJAEP shall coordinate with the school district a written transition plan for entrance into the JJAEP.

(B) The JJAEP shall develop, provide and communicate to the school district a written exit transition plan. The exit transition plan shall inform the receiving school of the student's academic and behavioral improvements and provide the receiver information necessary for the student's continued success.

(C) The JJAEP shall provide the student's parent, guardian or custodian with a copy of the exit transition plan.

(D) Documentation of the entry and exit transition plans shall be maintained in each student's file.

(2) The JJAEP shall provide to each enrolled student's home school district the student's attendance records, grades, and transition plans as well as any other records upon the student's transition back to the home school. The JJAEP shall maintain documentation that the required information was provided to the home school upon the student's exit from the JJAEP.

(3) All students enrolled in the JJAEP shall take the statewide assessment as required under <*>39.023 of the Texas Education Code. The JJAEP shall have policies addressing the delivery of testing materials to and from the JJAEP and the provision of the statewide assessment to the students.

(c) Juvenile Probation Departments.

(1) The JJAEP and the local juvenile probation department shall cooperate in the coordination of providing needed social services for the students enrolled in the JJAEP.

(2) Local probation departments shall, at a minimum, provide information to the JJAEP regarding the probation status of the student, as well as the name of the student's probation officer.

(3) The JJAEP shall provide the local probation department with monthly attendance records of juvenile probationers enrolled in the JJAEP.

<*>348.118. Physical Plant.

(a) The JJAEP shall conform to all applicable federal, state, and/or local ordinances and codes. Each JJAEP shall have on file the most recent inspections (i.e., health and fire) conducted by the local governmental authority having jurisdiction.

(b) The population of the JJAEP shall not exceed the rated capacity as determined by the local fire marshal. Each JJAEP shall maintain the documentation of the rated capacity of each classroom from the appropriate fire authority.

(c) The classroom space, fixtures and common areas shall be adequate to meet the programmatic requirements for each student enrolled and in attendance in the JJAEP.

<*>348.120. Security and Control.

(a) Security Plan. The JJAEP shall have a written plan that addresses security:

- (1) within the JJAEP;
- (2) on the JJAEP campus;
- (3) at JJAEP sponsored events off campus property; and
- (4) during transportation of JJAEP students; if applicable.

(b) Transportation. Policies shall govern the use of motor vehicles to transport students enrolled in the JJAEP and address the following:

- (1) methods of transportation authorized;
- (2) security and supervision;
- (3) authorized transport personnel;
- (4) emergency procedures;
- (5) the requirement of auto liability insurance when transporting in personal vehicles; and
- (6) circumstances under which students will be allowed to drive a personal vehicle to the JJAEP campus.

(c) Emergency Situations.

(1) The JJAEP shall have written policies and procedures regarding emergency situations. Policies, at a minimum, shall address the following:

- (A) emergency evacuation plans;
- (B) assignment of staff responsibilities; and
- (C) notification of emergency services.

(2) Emergency situations include, but are not limited to:

- (A) fires;
- (B) bomb threats;
- (C) hazardous weather conditions; and
- (D) riots.

(d) Medical Emergencies. The JJAEP shall have written policies and procedures addressing medical emergencies. At a minimum, the policies shall include provisions regarding the following:

- (1) when emergency medical assistance shall be called;
- (2) securing medical assistance and notification to appropriate staff and the parent, guardian, or custodian of the student involved; and

(3) documentation of the incident.

(e) Cardio-Pulmonary Resuscitation (CPR) and First Aid. Each JJAEP shall have a minimum of two staff members on duty at all times certified in CPR and first aid. Proof of current certification shall be maintained in staff personnel or training files. Documentation shall reflect the day certification expires or the length of certification.

(f) Emergency Exit Drills. Unless otherwise required more frequently by local fire codes or ordinances, the JJAEP shall conduct two emergency exit drills during the school year. A minimum of one (1) of the emergency exit drills shall be conducted during the first half of the school year (August-December) and one (1) shall be conducted during the second half of the school year (January-June).

(1) Written documentation (i.e., fire drill log, etc.) of the emergency exit drills shall be maintained. Documentation shall include the date, time and staff involved in the emergency drill.

(2) JJAEPs shall post emergency exit routes in all classrooms and common areas.

(g) JJAEP Closure. The JJAEP shall have written policies and procedures addressing the cancellation of classes due to an emergency situation. The policy shall at a minimum address:

(1) the cancellation of school due to incimate weather and/or emergency situations;

(2) who is the responsible party in making that decision; and

(3) the methods in which the closure is to be communicated to the students and parents.

(h) Supervision.

(1) The JJAEP shall have a written policies and procedures that ensure students removed from the classroom for disciplinary purposes and placed in an unlocked isolation, administrative segregation, time-out, in-school suspension or other disciplinary removals from the regular classroom, are under continuous visual supervision by a JJAEP staff member.

(2) Policies and procedures shall prohibit the use of electronic monitoring equipment as a substitute for staff's continuous visual supervision.

(i) Searches.

(1) All students entering the JJAEP shall be subjected to a pat-down search or a metal detector screening on a daily basis.

(2) Searches shall be conducted in accordance with written policies limited to certain conditions. The policies shall address:

(A) when a search is appropriate and/or required;

(B) who is authorized to conduct the search;

(C) what types of searches are permissible;

(D) how the pat-down searches will be conducted; and

(E) what to do when contraband is found.

(3) Policies shall limit pat-down searches to be conducted only by staff of the same sex.

(4) Program written policies shall prohibit strip searches by JJAEP staff.

(j) Disciplinary Reports.

(1) Written policies and procedures shall require JJAEP staff to prepare a written disciplinary report for each incident occurring in the JJAEP that constitutes a major violation of the student code of conduct or JJAEP rules. The policies shall require that the written disciplinary report include the details of the incident, the violation that occurred, action taken by the staff member(s), the date and time of the incident and the outcome.

(2) The disciplinary report shall be forwarded to the JJAEP administrator within 24 hours or on the next working day. Documentation of a disciplinary report being forwarded to the JJAEP administrator shall be maintained. The documentation shall include the date and time the report was forwarded to the JJAEP administrator.

(k) Weapons. Only certified peace officers and certified juvenile probation officers acting in the scope of their authority may possess and carry weapons or chemical agents within the premises of the JJAEP.

(1) The JJAEP shall have a written policies that prohibit staff, other than a law enforcement officer acting in the scope of his or her official duty, from the possession of a weapon or a chemical agent as defined by the <*>46.01 of the Texas Penal Code on the JJAEP premises or at a JJAEP sponsored event.

(2) Under <*>142.006 of the Texas Human Resources Code, certified juvenile probation officers are authorized to carry a firearm. A program's firearm prohibition policies, procedures, and practices shall address situations involving armed certified juvenile probation officers who either work at the JJAEP or who may be visiting, delivering or retrieving students.

<*>**348.122. Personal Restraint Definitions.** The following words and terms when used in this chapter shall have the following meanings unless otherwise expressly defined:

(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. The approved personal restraint technique shall 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. The approved mechanical restraint devices shall be approved by the Commission. The following are Commission approved mechanical restraint devices:

(A) Ankle Cuffs--Metal, cloth or leather band designed to be fastened around the ankle to restrain free movement of the legs;

(B) Anklets--Cloth or leather band designed to be fastened around the ankle or leg;

(C) Handcuffs--Metal devices designed to be fastened around the wrist to restrain free movement of the hands and arms;

(D) Plastic Cuffs--Plastic devices designed to be fastened around the wrist or legs to restrain free movement of hands, arms or legs;

(E) 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

(F) Wristlets--A cloth or leather band designed to be fastened around the wrist or arm which may be secured to a waist belt.

(3) 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.

(4) 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.

(5) Physical Escort--Touching or holding a student with a minimum use of force for the purpose of directing the student's movement from one place to another. A physical escort is not considered a personal restraint.

(6) Protective Devices--Professionally manufactured devices used for the protection of students or staff that do not restrict the movement of a student. Protective devices are not considered mechanical restraint devices.

(7) Restraint--Application of an approved personal restraint technique, an approved mechanical restraint device, or chemical restraint to an individual to restrict the individual's freedom of movement or to modify the individual's behavior.

<*>348.124. Mechanical Restraint. Mechanical restraints shall only be used by certified juvenile probation or certified juvenile supervision officers in the manner defined under chapters 341 and 343 of this title.

<*>348.126. Requirements. The use of Restraints shall be governed by the following criteria:

(1) Restraints shall only be used by JJAEP staff certified in the use of the approved personal restraint technique;

(2) Prior to participating in any restraint, JJAEP staff shall be trained in the use of the JJAEPs specific verbal de-escalation policies, procedures and practices.

(3) Prior to participating in a personal restraint JJAEP staff shall have received training in the restraint used and have demonstrated competency in the use of that restraint used by the JJAEP;

(4) Restraints shall only be used in instances of threat of imminent self-injury, injury to others, or serious property damage;

(5) Restraints shall only be used as a last resort;

(6) Only the amount of force and type of restraint necessary to control the situation shall be used;

(7) Restraints shall be implemented in such a way as to protect the health and safety of the student and others;

(8) Restraints shall be terminated as soon as the student's behavior indicates that the threat of imminent self-injury, injury to others, or serious property damage has subsided;

(9) Restraints shall be administered in a manner specific or consistent to the approved personal restraint technique adopted by the JJAEP; and

(10) JJAEP staff shall be re-trained in the approved personal restraint technique at least every 365 calendar days.

<*>348.128. Prohibitions. Restraints that employ a technique listed below are prohibited:

(1) Restraints used for punishment, discipline, retaliation, harassment, compliance, or intimidation;

- (2) Restraints that deprive the student of basic human necessities including restroom privileges, water, food and clothing;
- (3) Restraints that are intended to inflict pain;
- (4) Restraints that place a student in a prone or supine position with sustained or excessive pressure on the back, chest or torso;
- (5) Restraints that place a student in a prone or supine position with pressure on the neck or head;
- (6) Restraints that obstruct the airway or impair the breathing of the student including a procedure that places anything in, on, or over the student's mouth or nose;
- (7) Restraints that interfere(s) with the student's ability to communicate;
- (8) Restraints that obstruct the view of the student's face;
- (9) Any technique that does not require the monitoring of the student's respiration and other signs of physical distress during the restraint; and
- (10) percussive or electrical shocking devices.

<*>348.130. Documentation. All restraints shall be fully documented and the documentation maintained. Written documentation regarding the use of restraints shall require, at a minimum:

- (1) name of student;
- (2) staff member(s) name and title(s) who administered the restraint;
- (3) date of the restraint;
- (4) duration of the restraint including notation of the time the restraint began and ended;
- (5) location of the restraint;
- (6) description of preceding activities;
- (7) behavior which prompted the initial and the continued restraint of the student;
- (8) type of restraint applied;
 - (A) specific type of personal restraint hold applied; and
 - (B) any type of mechanical restraint device(s) applied.
- (9) efforts made to de-escalate the situation and alternatives to restraint that were attempted; and
- (10) whether or not any injury occurred during the restraint and the description of the injury.

<*>348.132. Serious Incidents. All JJAEP programs shall adhere to the serious incident requirements set forth in chapters 350 and 358 of this title.

<*>348.134. Abuse, Exploitation and Neglect.

(a) All JJAEP programs shall adhere to the abuse, exploitation and neglect requirements set forth in chapters 350 and 358 of this title.

(b) All JJAEPs shall have a zero tolerance policies and practices regarding sexual abuse in accordance with the Prison Rape Elimination Act of 2003 that provides for administrative and/or criminal disciplinary sanctions.

<*>348.136. Student Code of Conduct.

(a) Adoption.

(1) The JJAEP student code of conduct shall be adopted by the juvenile board and shall describe and define in writing the JJAEP's behavior management system.

(2) The JJAEP administrator shall conduct an annual review of the student code of conduct between the conclusion of each school year and prior to the beginning of the next school year.

(b) Notice. The JJAEP student code of conduct shall be provided to each student and the student's parent, guardian or custodian upon admittance into the JJAEP.

(1) The student code of conduct shall be reviewed with each student and the student's parent, guardian or custodian and shall be translated if necessary to ensure understanding of the content by all parties.

(2) A signed acknowledgment of receipt of the student code of conduct by the student and their parent, guardian or custodian, shall be maintained in each student's file.

(3) JJAEP staff shall be provided a copy of the student code of conduct.

(A) Annually, JJAEP staff shall sign an acknowledgement of receipt of the student code of conduct. This acknowledgement shall be maintained in the staff's personnel file.

(c) Discipline and Sanctions. The JJAEP student code of conduct shall detail the sanctions and disciplinary procedures that may be applied to students for particular behaviors. Disciplinary procedures shall be carried out promptly and all students shall be afforded due process protections. The student code of conduct shall include, but not be limited to, the following:

(1) prohibited behaviors and conduct;

(2) disciplinary consequences for prohibited behaviors and conduct;

(3) description of circumstances that will allow removal from the classroom; and

(4) circumstances under which a JJAEP student may be placed into another educational setting.

(d) Prohibited Sanctions. The following sanctions shall be prohibited in the JJAEP and their prohibition shall be clearly noted in the student code of conduct:

(1) corporal punishment, physical abuse, humiliating punishment or hazing;

(2) deprivation of food and water;

(3) one student sanctioning another; or

(4) expulsion from a JJAEP.

(e) Dress Code. The JJAEP student code of conduct may require a reasonable dress code or uniforms for students in attendance.

(f) Grievance Procedures. Student grievance procedures shall be explained fully in the student code of conduct. The student code of conduct shall clearly state the process by which a student may file a grievance and how a grievance will be handled.

(1) Procedures and practices shall facilitate student complaints of mistreatment or complaints of programmatic issues and shall ensure students are protected against retaliation in any form.

(2) Grievance procedures shall ensure that each student is afforded at least one level of appeal on all grievance complaints.

(3) A copy of each grievance submitted by a student shall be provided to the student's parent, guardian or custodian within two (2) school days of submission.

(g) Sexual Abuse. The JJAEP shall have written policies and procedures regarding the Prison Rape Elimination Act of 2003. Policies, at a minimum, shall address the following information:

(1) prevention and intervention;

(2) methods of minimizing risk of sexual abuse;

(3) reporting sexual abuse and assault; and

(4) treatment and counseling.

<*>348.138. Waiver or Variance to Standards. Unless expressly prohibited by another standard, the juvenile board or chief administrative officer may make an application for waiver and 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. ACCOUNTABILITY.

<*>348.200. Mission of Program. Academically, the mission of the JJAEP shall be to allow students to perform at grade level. The JJAEP shall provide an instructional program that result in a level of student academic progress in the areas of reading and math. The mission statement shall be located in the program's policies and procedures manual and/or student code of conduct.

<*>348.202. Annual Performance Evaluation. A JJAEP's performance indicators shall be based primarily on non-academic and academic performance indicators. In evaluating a JJAEP, the Commission may consider other factors, including but not limited to, the recidivism rate of its students, classroom behaviors measured through a standardized methodology, total number of course credits earned and total number of courses passed.

(1) Non-Academic Indicator. Average rate of attendance for all JJAEP students shall not be less than seventy-five percent of the total number of student attendance days for the school year.

(2) Academic Indicator. The JJAEP shall use the assessment instrument as selected by the Commission in assessing student performance in the areas of reading and mathematics. The pre- and post-testing instruments shall be valid for measuring performance improvement for an individual student for a period of 90 school days or longer.

(A) Pre-Tests. Every student that will be enrolled in a JJAEP for 90 or more school days shall be assessed during the admission period. The pre-test shall be administered to appropriate JJAEP students no more than 15 school days after the student is enrolled in the JJAEP.

(B) Post-Tests. Post-tests shall evaluate the change in academic performance of the student while in attendance at the JJAEP in the areas of reading and mathematics. A JJAEP is not required to administer a post-test to:

(i) Those students whose exit reasons are "incomplete" or "other" as defined by <*>348.102 of this chapter.

(ii) Students who are not enrolled in a JJAEP for at least 90 instructional days.

(C) Passage rates in the statewide assessment as required under Chapter 39 of the Texas Education Code shall be used to demonstrate performance in the areas of reading and math. Performance of students who were enrolled for a period of 90 days or longer at the time the instrument was administered shall be compared to the students' previous performance on the same instrument.

(3) Re-Contact Rate. The rate of subsequent contact with the juvenile probation department.

(4) Establishment of Benchmarks. A benchmark analysis shall be conducted on each indicator over a three-year period. Thereafter, JJAEP benchmark computation and methodology shall be re-assessed every five years.

<*>348.204. Assessment Reliability and Safeguards.

(a) Written policy of the JJAEP shall describe the safeguards it will use to maintain the integrity of the assessment process so that all student scores reflect actual student progress.

(b) The JJAEP shall ensure that the on-site assessment process provides valid assessment test scores that have not been tainted.

(c) JJAEP policies and procedures, at a minimum, shall include the following:

(1) Maintaining the tests in a secure setting (e.g., a locked file cabinet) so that staff and students do not have access to the instrument except while the test is being administered during the actual testing time;

(2) Staff are prohibited from releasing copies of the test; and

(3) Staff are prohibited from teaching the specific questions on the test.

<*>348.206. Performance Reports.

(a) Each biennium the Commission shall provide statistical and performance data for each mandatory JJAEP. Performance data will indicate if the JJAEPs are impacting the measures being utilized in the evaluation.

(b) The JJAEP administrator shall provide the juvenile board, chairman of the board of trustees or superintendent of each school district that participates in a mandatory JJAEP and the regional education service center representing the area served by the mandatory JJAEP with a copy of the report.

(c) The report will examine changes in the following factors:

(1) Academic achievement in reading and mathematics as assessed by the statewide assessment for students enrolled at least 90 days;

- (2) Academic achievement as assessed by the pre- and post-assessment instrument in the areas of reading and mathematics for students enrolled at least 90 school days;
- (3) The average rate of attendance for all JJAEP students;
- (4) Percent of students who complete the program and return to their home school, graduate or complete their GED while in the program;
- (5) Percent of students who have a subsequent referral to the juvenile probation department one (1) year after leaving the JJAEP; and
- (6) Pre and Post JJAEP attendance rates and disciplinary referrals.