



Transmittal Memo

TO: TJJJ Staff
FROM: Office of the General Counsel, Policy and Standards Section
SUBJECT: GAP Transmittal
DATE: April 28, 2022

Please be advised that changes have been made to the General Administrative Policy (GAP) Manual. These changes will go into effect on **May 1, 2022**.

Summary of Changes

GAP.380.8501 Definitions

- Deleted the following terms: *Community Re-Integration Plan*, *Exit Review*, and *Multi-Disciplinary Team*.
- Removed the requirement for youth with determinate sentences and youth with committing offenses of high severity to participate in a face-to-face interview as part of the process used to determine if the youth meets criteria for transition or release.
- Added definitions for the following terms: *Determinate Sentence Review*, *Final Decision Authority*, *Program Completion Review*, and *Transition Review*.
- Modified the definitions of the following terms: *Committing Offense* and *Risk and Protective Factors*.

GAP.380.8545 Movement before Program Completion

- Removed the requirement for a youth to have completed a draft community reintegration plan in order to be eligible to transition to a less restrictive placement before the initial or revocation minimum length of stay is completed.
- Removed the description of certain youth actions and behaviors that would qualify the youth for assignment to the second-highest stage in the agency's rehabilitation program.
- Removed the designations of which staff members serve as the final decision authority for approving various types of movements described in this rule.
- Removed the section that refers to the documents TJJJ provides to juvenile courts at least 30 days before a youth's release.
- Removed the section that refers to the notices TJJJ provides to various entities at least 10 days before a youth's transition or release, with the exception of the notice provided to any entity that has an active warrant for the youth.
- Removed a reference to which staff members assign a youth to a particular stage in the rehabilitation program.
- Clarified that disciplinary transfers always require a due process hearing.
- Removed a reference to which staff determine that a conditional placement would be in a youth's best interests.
- Renamed the "exit review" as the "transition review."
- Replaced the term "mental retardation" with "intellectual disability."
- Clarified that major rule violations are *proven* (rather than *confirmed*) at Level II due process hearings.

GAP.380.8555 Program Completion for Non-Sentenced Offenders

Program Completion Criteria

- Removed the requirement for a youth to have completed a community reintegration plan in order to be eligible for parole.
- Removed the description of certain youth actions and behaviors that would qualify the youth for assignment to the highest stage in the agency's rehabilitation program.
- Removed a reference to which staff members assign a youth to a particular stage in the rehabilitation program.

Exit Review

- Renamed the "exit review" and "release review" as the "program completion review."
- Removed the requirement that the program completion review be conducted by the treatment team.
- Removed the requirement to notify various parties before this review is held and to notify various parties of the result of the review.
- Removed the specific number of days before expiration of the minimum length of stay that a youth must be reviewed to determine if program completion requirements have been met.

Process for Approving Release or Referral to Release Review Panel

- Clarified that the process for reviewing a youth upon completion of the initial minimum length of stay is used also when a youth completes an extension to the minimum length of stay and when a youth completes the minimum length of stay given upon parole revocation.
- Clarified that a youth's case is referred to the final decision authority if the youth *appears to meet* (rather than "does meet") program completion criteria.
- Added that, when a youth's case is referred to the Release Review Panel, staff will discuss with the youth the reasons for that decision.
- Removed the designation of which staff members serve as the final decision authority for approving release to parole under this rule.
- Specified that one reason a youth's case will be referred to the Release Review Panel is *if the youth loses eligibility for release after the program completion review and before release to parole* (rather than losing eligibility before the minimum length of stay date and requiring that the treatment team confirm the youth no longer meets criteria).

Other Changes

- Removed the section that refers to the documents TJJD provides to juvenile courts at least 30 days before a youth's release.
- Removed the section that refers to notices TJJD provides to various entities at least 10 days before a youth's release, with the exception of the notice provided to any entity that has an active warrant for the youth.
- Clarified that major rule violations are *proven* (rather than *confirmed*) at Level II due process hearings.

GAP.380.8557 Release Review Panel

Definitions

- Added a definition for the term *Victim*.
- Removed the definition of *Progress Review Team*.

General Provisions

- Removed the statement that allowed only factors *other than rule violations* to be considered by the panel irrespective of the form of the evidence. Added that the panel may review any information relevant to the youth's progress and rehabilitation, *irrespective of the form of the information*.
- Added that documented behaviors that do not result in a rule violation being proven true in a due process hearing may still provide evidence of continuing conduct that the panel may consider in making its decision.

- Removed *any advocate chosen by the youth* from the list of people who may submit information for the panel's consideration and from the list of people from whom a youth may request assistance in communicating with the panel.
- Clarified that, when notified that *an attorney or other representative* (rather than "*a representative*") is assisting the youth with the review, the panel must notify the representative of any scheduled interviews with the youth prior to conducting the interview.
- Specified that, if the panel approves a request from a parent/guardian, victim, or youth representative to have personal communication with a member of the panel, the panel will schedule the communication, which may be in person, via telephone, or via videoconference (rather than stating the panel will establish the time, place, and manner of communication).
- Clarified that the deadline for releasing or discharging a youth may be extended when a request for reconsideration of the release or discharge order has been filed.

Completion of Minimum Length of Stay

- Removed information regarding the facility-level review that is held before referring a youth to the panel, which is addressed, in part, in GAP.380.8555.
- Removed the designations of which staff members are responsible for notifying certain parties that a youth's case has been referred to the panel and for providing the panel with information about the youth.
- Removed a reference to the requirement for staff to discuss with the youth the reasons the youth's case was referred to the Panel. This requirement has been added to GAP.380.8555.
- Added that the panel's determination may include an assessment of whether there are any public safety issues related to releasing or discharging the youth.
- Added that the youth, parent/guardian, victim, and any attorney or representative of the youth are notified of the panel's determination regarding extension of stay, release, or discharge.
- Clarified that, if the panel extends the length of a youth's stay, any *attorney or representative of the youth* (rather than a *designated advocate*) is among those who will receive a written report explaining the reason for the extension.

Completion of Extension Length of Stay

- Removed the requirement to notify the victim when a youth is referred to the panel upon completion of an extension length of stay.
- Added the youth's representative or attorney, if any, to the list of individuals who must be notified when a youth's case is pending review by the panel upon completion of an extension length of stay. Removed references to which staff members are responsible for sending these notices, and removed the deadline for sending them.
- Removed information regarding the facility-level review that is held before referring a youth to the panel upon completion of an extension length of stay. Information has been added to GAP.380.8555 to address this item.
- Added a statement requiring staff, before the expiration of a youth's extension length of stay, to make available to the panel any information relevant to the decision on whether the youth needs additional rehabilitation in a residential placement.
- Added that the panel will *send* (rather than *mail*) notification to *the youth, the youth's parent/guardian, any victims, and the attorney or representative of the youth* (rather than "*all parties*") of the panel's decision regarding a youth who has completed an extension of stay.

Request for Reconsideration of an Extension Order

- Clarified that one of the individuals who may request a reconsideration of an extension order is *an attorney or other representative for the youth* (rather than *the youth's designated advocate*).
- Added that the TJJD ombudsman may request a reconsideration of an extension order.
- Added that requests for reconsideration *must* (rather than *should*) be received no later than the stated deadline, *and that any requests for reconsideration received after the stated deadline may be considered at the discretion of the panel.*
- Removed *advocate* from the list of individuals from whom the youth may request assistance in completing a request for reconsideration.

- Clarified that, when the panel conducts a reconsideration of an extension order, the panel shall provide *the youth, the youth's parent/guardian, the attorney or representative of the youth, and the person who submitted the request for reconsideration* (rather than *all parties*) with a written explanation of the panel's decision.
- Added that, if the reconsideration results in a decision to release or discharge the youth, any victims shall be notified.

Request for Reconsideration of a Release or Discharge Order

- Expanded this section of the rule to include the following:
 - Added that, for youth in a high-restriction facility, a release or discharge order is considered conditional until the youth has been physically released from the facility.
 - Added that, for youth in a medium-restriction facility, a release order is considered conditional until the youth's status has been changed from institutional to parole status, and a discharge order is considered conditional until the youth has been physically released from the facility.
 - Added that the executive director, chief inspector general, general counsel, deputy executive director for state services, chief of staff, staff designated by the executive director, and TJJD ombudsman (in addition to the facility administrator and contract-care monitoring staff) may request a reconsideration of a release or discharge order.
 - Specified that a request for reconsideration of a release or discharge order may be made as *long as the release or discharge order is still conditional* (rather than any time prior to the youth's release or discharge).
 - Added that staff designated by the executive director must request reconsideration of a release or discharge order if, while the release or discharge order is still conditional, the youth is alleged to have committed a major rule violation or new information becomes available that indicates the youth is likely in need of further rehabilitation at a TJJD facility. Such requests are no longer at the discretion of the facility administrator or contract-care monitoring staff.
 - Removed a reference to which staff members are responsible providing the youth with a copy of a request for reconsideration of a release or discharge order.
 - Added that the youth shall be provided a copy of the request for reconsideration *before the panel makes its decision regarding the reconsideration*. If the youth is represented by an attorney or other representative, that person shall also be provided with a copy of the request for reconsideration and given an opportunity to provide information to the panel.
 - Added that the panel shall provide the youth, the youth's parent/guardian, the requestor, and facility staff with a written explanation of the panel's decision no later than 15 calendar days after receipt of the request. The reply shall include an indication that the panel has considered the information submitted in the request. If the reconsideration results in a change in the original panel decision, any victims shall be notified.
 - Added that, if reconsideration of a release or discharge order results in a decision to extend the youth's length of stay, a request for reconsideration of the new extension order may be filed according to procedures previously mentioned in this rule. That reconsideration decision exhausts all administrative remedies.

GAP.380.8559 Program Completion for Youth with Determinate Sentences

Program Completion Criteria

- Removed the requirement for a youth to have completed a community reintegration plan in order to be eligible for parole.
- Removed the description of certain youth actions and behaviors that would qualify the youth for assignment to the highest stage in the agency's rehabilitation program.
- Removed a reference to which staff members assign a youth to a particular stage in the rehabilitation program.

Exit Review

- Renamed the “exit review” and “exit interview” as the “program completion review.”
- Removed the requirement to notify the victim and any designated advocate for the youth before TJJD holds a program completion review.
- Removed the specific number of days in advance TJJD must notify certain individuals of a pending review.
- Removed the specific number of days after a youth meets program completion criteria that TJJD must hold the review.
- Added that the notice provided to the youth and parent/guardian of a pending program completion review includes, among other items, the date by which a request to present in-person information must be submitted.

Process for Approving Release or Transfer

- Removed the provision stating that any information received from a youth’s family members, victims, local officials, staff, or the general public is considered by TJJD and included in the release/transfer packet.
- Removed the designation of which staff member serves as the final decision authority for approving release or transfer to parole under this rule.
- Added that, for youth who will be released to TJJD parole, the youth must be released within 60 days *after the youth is approved for release* (rather than 60 days after the youth met program completion criteria).

Losing Eligibility for Release or Transfer

- Clarified that one reason a youth would lose eligibility for release or transfer is if the youth is *no longer assigned to the highest stage in the rehabilitation program* (rather than no longer meeting “the required rehabilitation program criteria”).
- Removed the reference to which staff members would determine that a youth no longer meets required rehabilitation criteria.
- Removed the requirement for a subsequent exit review/interview to confirm that a youth is again eligible for release or transfer after eligibility was lost.

Other Changes

- Clarified that the provision allowing the executive director to waive the requirement for a youth to complete the entire minimum period of confinement in a high-restriction facility does not allow a youth to be placed on parole status.
- Added that TJJD reviews a youth’s progress when the youth is past the minimum period of confinement and appears to meet program completion criteria.
- Removed the provision stating that the scheduled progress reviews are for the purpose of determining each youth’s eligibility for release or transfer.
- Removed the section that refers to the documents TJJD provides to juvenile courts at least 30 days before a youth’s release.
- Removed the section that refers to the notices TJJD provides to various entities at least 10 days before a youth’s release, with the exception of the notice provided to any entity that has an active warrant for the youth.
- Clarified that major rule violations are *proven* (rather than *confirmed*) at Level II due process hearings.

GAP.380.8565 Discharge of Youth with Determinate Sentences upon Transfer to TDCJ or Expiration of Sentence

Exit Review

- Renamed the “exit review” as the “determinate sentence review.”
- Added that a determinate sentence review is held before a recommendation is made to transfer a youth to prison or to adult parole.
- Removed the requirement to notify the victim and any designated advocate for the youth before TJJD holds a determinate sentence review.

- Removed the specific number of days in advance TJJJ must notify certain individuals of a pending review.

Process for Approving Transfer

- Removed the provision stating that any information received from a youth's family members, victims, local officials, staff, or the general public is considered by TJJJ and included in the release packet.
- Added that approval from the final TJJJ decision authority is required before staff requests a hearing with the committing juvenile court or initiating a transfer to the adult parole system (rather than stating that the executive director or designee approves the staff request for a hearing when a determination has been made that the youth meets criteria for requesting a hearing for transfer to the adult prison system or that the youth cannot complete the minimum period of confinement before age 19).
- Specified that TJJJ requests a hearing with the committing juvenile court when a youth cannot complete the minimum period of confinement before age 19.
- Clarified that the TJJJ final decision authority ensures the youth's community reentry/transition plan adequately addresses risk factors before approving transfer to the adult parole system (rather than stating that TJJJ does not transfer youth to adult parole until the executive director or designee determines the plan adequately addresses risk factors).

Other Changes

- Added that the other relevant factors that may be considered by TJJJ when forming a recommendation for the committing court include the youth's participation in statutorily required programming, including the reading improvement program, the positive behavior support system, and gang intervention education.
- Clarified that the provision allowing the executive director to waive the requirement for a youth to complete the entire minimum period of confinement in a high-restriction facility does not allow a youth to be placed on parole status.
- Removed the sections that refer to the notices TJJJ provides to various entities at least 10 days before a youth's transfer or release, with the exception of the notice provided to any entity that has an active warrant for the youth.
- Clarified that major rule violations are *proven* (rather than *confirmed*) at Level II due process hearings.

GAP.380.8569 Transfer of Youth with Determinate Sentences Adjudicated for Capital Murder

Program Completion Criteria

- Removed the requirement for TJJJ to review youth adjudicated for capital murder to determine if the youth have completed the TJJJ program.
- Added that the factors listed in the rule are used by TJJJ when forming a recommendation to the committing court *before a youth turns 19* (rather than being used when youth do not meet program completion criteria).

Exit Review

- Removed the terms "exit review" and "exit interview" and instead used the term "determinate sentence review."
- Added that a determinate sentence review is held before a recommendation is made to transfer a youth to prison or to adult parole.
- Removed the requirement to notify the victim and any designated advocate for the youth before TJJJ holds a determinate sentence review.
- Removed the specific number of days in advance TJJJ must notify certain individuals of a pending review.

Process for Approving Transfer

- Removed the provision stating that any information received from a youth's family members, victims, local officials, staff, or the general public is considered by TJJJ and included in the transfer packet.
- Added that approval from the final TJJJ decision authority is required before staff request a hearing with the committing juvenile court.

- Removed a provision that requires the executive director or designee to do the following at least five months before a youth reaches age 19: (1) determine whether the youth meets criteria for transfer to prison or to adult parole and to approve a staff request for a hearing; and (2) approve staff's request for a juvenile court hearing to request transfer to prison or to adult parole.
- Added that a youth may not be transferred to prison unless the committing court orders the transfer (rather than stating that the court is the final decision authority for transferring a youth to adult parole or prison).
- Added that the final TJJD decision authority ensures the youth's community reentry/transition plan adequately addresses risk factors before approving the transfer from a high-restriction TJJD facility to adult parole.

Other Changes

- Added that the other relevant factors that may be considered by TJJD when forming a recommendation for the committing court include the youth's participation in statutorily required programming, including the reading improvement program, the positive behavior support system, and gang intervention education.
- Removed the requirement for TJJD to review each youth's progress when the minimum period of confinement is complete, as youth adjudicated for capital murder cannot complete the minimum period of confinement while at TJJD.
- Clarified that major rule violations are *proven* (rather than *confirmed*) at Level II due process hearings.

GAP.380.8703 Rehabilitation Program Stage Requirements and Assessment

- Clarified that this rule does not apply to youth on parole status.
- Removed all requirements for a youth to develop and complete a community reintegration plan in order to attain various stages within the rehabilitation program.
- Clarified that the youth's participation in *development* of the case plan or case plan objectives is not a part of stage promotion criteria, but *completing* the case plan objectives is a part of those criteria.
- Removed references to which staff members conduct stage assessments and determine whether individual requirements for completing a stage have been met.
- Removed a description of the duties of the multi-disciplinary team, the case manager, and other staff in conducting stage assessments.
- Removed a requirement to interview the youth to confirm stage progression.
- Removed a reference to which staff member contacts the parent/guardian and parole officer before each stage assessment meeting.
- Clarified that the parent/guardian and parole officer are *allowed to provide input* into stage assessment meetings (rather than the case manager *ensuring* that they provide input).
- Specified that the youth and the parent/guardian are notified of the results of the stage assessment, but this notification is not required to take place *after* the meeting.
- Added that youth who return to a TJJD facility due to parole revocation, recommitment, or disciplinary transfer may be promoted more than one stage at the first stage assessment following the return or recommitment.
- Specified that, when a youth appeals the results of a stage assessment or the lack of opportunity to complete requirements of a stage, the person assigned to respond must *not be a staff member who was involved in the assessment being grieved* (rather than not being a member of the multi-disciplinary team or a person who has been involved in the youth's current assessment).
- Removed the reference to which staff members a youth must work with in targeting specific skills for development on Stage 2.
- Removed the reference to which staff members assign skill lessons to youth on Stage 3.
- Specified that Stage 4 is considered the second-highest stage for purposes of youth being eligible to transition to a less restrictive placement under GAP.380.8545.
- Specified that Stage YES-Active is considered the highest stage for purposes of youth meeting program completion requirements under GAP.380.8555 and GAP.380.8559.

- Specified that the objectives on Stage YES for “other areas of programming” are the same as those for Stages 1–4, specifically:
 - consistently participate in groups and individual counseling sessions (rather than “attend all scheduled groups”);
 - consistently participate in specialized treatment programs, if applicable (rather than “participate in specialized treatment program(s) or supplemental groups, if applicable”);
 - consistently participate in academic and workforce development programs (rather than “participate in academic and workforce development programs commensurate with abilities”); and
 - consistently participate in application of learned skills in daily behavior (rather than “consistently apply learned skills in daily behavior”).

GAP.385.8135 Rights of Victims

- Added that the invitation extended by TJJJD is for the victim to participate in the *release review process* (rather than in TJJJD’s Special Services Committee or Release Review Panel review).
- Added that, if a victim requests permission to provide input in person *or by videoconference or teleconference* and that request is granted, the victim is provided an opportunity to do so, *but this opportunity is no longer tied to participating in the staff meeting where release under supervision is considered.*
- Added that information provided to TJJJD by a victim shall be considered, not just before a youth is released under supervision, released to a community placement, or transferred to prison or adult parole, but more specifically:
 - when evaluating the youth’s progress in the rehabilitation program, to include when determining if the youth has successfully completed the rehabilitation program or should be transitioned to a placement of less than high restriction;
 - by the Release Review Panel when determining if the youth should be paroled, discharged, or extended in a facility; and
 - when making decisions about possible transfer to prison or adult parole.
- Added that any information obtained from or about a victim may not be shared with youth and may be disclosed only as provided by law (rather than stating that “any victim involvement while the youth is in TJJJD custody is confidential.”)
- Added the following, based on recently enacted statutes:
 - Any information that identifies an individual as a victim of an offense under Section 20A.02, 20A.03, 21.02, 21.11, 22.011, 22.021, 43.05, or 43.25, Penal Code, or of any other offense that is part of the same criminal episode as one of those offenses is confidential and may be disclosed only as provided by law.
 - Any information that identifies an individual as a victim of an offense that was committed when the victim was younger than 18 is confidential and may be disclosed only as provided by law.