



Transmittal Memo

TO: TJJJ Staff
FROM: Executive Office, Policy and Standards Section
SUBJECT: GAP Transmittal
DATE: May 16, 2023

Please be advised that changes have been made to the General Administrative Policy (GAP) Manual. These changes will go into effect on **May 19, 2023**.

Summary of Changes

GAP.380.8501 Definitions

- Deleted the following terms: *Indicator, Objective, Program Completion, and Stage*.
- Added definitions for the following terms: *Program Completion Criteria and Risk Level*.
- Modified the definitions of the following terms: *Community Reentry/Transition Plan, Home Placement, Initial Placement, Release under Supervision, Revocation Offense, and Transition*.
- Made non-substantive revisions to the definitions of the following terms: *Discharge, Final Decision Authority, Most Serious of the Relevant Offenses, Parole Status, and Transfer*.

GAP.380.8521 Facility Assignment System

- Added a statement that TJJJ seeks to place youth in the least restrictive setting possible to address the youth's treatment needs while considering public safety.
- Added that this rule applies to placements made *after* initial commitment or recommitment (rather than *upon release from an intake unit*).
- Added intellectual impairment as a factor that is considered in determining an appropriate facility assignment.
- Added *reduction in risk level* as a reason youth may be assigned to a subsequent placement.
- Revised the list of factors that contribute to the risk assessment (i.e., added *age at first offense*, deleted *age at first referral*, and deleted *behavior at the orientation and assessment unit or while on parole*) and added that these are examples, not required factors.
- Added that the *executive director or designee* (rather than the division director over residential services or designee) may waive certain facility restriction levels required by this rule.

GAP.380.8702 Rehabilitation Program Overview

- Added that the rehabilitation provided by TJJJ is for the purpose of reducing future delinquent behavior and increasing *public safety* (rather than *youth accountability*).
- Added that TJJJ provides a trauma-informed rehabilitative program that is focused on delivering needed treatment, assessing behavioral progress, assessing increases in protective factors and decreases in risk factors, and assessing the ability of youth to use skills learned in treatment and

programming (rather than each TJJD facility using an integrated, system-wide rehabilitative program that offers a menu of therapeutic techniques, tools, and program components to help individual youth increase their ability to be productive citizens and to avoid re-offending).

- Added that all treatment and programming is delivered in the least restrictive setting appropriate to the youth, consistent with the rules of this chapter.
- Removed references to which staff members are responsible for reviewing and assessing youth.
- Removed a reference to another TJJD rule.
- Added that TJJD facilities maintain a *structured daily schedule* (rather than a *16-hour day*).
- Specified that youth are *given the opportunity* to participate (rather than *must participate*) in regular large-muscle exercise and recreation programs.
- Removed the provision stating that TJJD facilities provide and youth are required to participate in skills development groups.

GAP.380.8703 Rehabilitation Program Stage Requirements and Assessment

GENERAL THEMES OF THE PROGRAM

- Replaced the section relating to the general themes of the rehabilitation program. Added areas such as educational/vocational activities, treatment/intervention activities, therapeutic tools, individual goals, and safe behavior as areas of focus, in addition to risk and protective factors. Removed a reference to engaging the youth's family in the section on general themes.

STAGE ASSESSMENTS

- Removed a description of specific items that are reviewed and/or discussed during a stage assessment.
- Added that, following a stage assessment, the youth is assigned to the most appropriate stage, *which could be more than one stage higher than the current stage*.
- Added that each youth's specific needs and responsivity must be considered when assessing a youth's stage. If a youth fails to progress through the stages, staff must conduct a review for responsivity needs and, if appropriate, implement individualized interventions.
- Removed a reference to demotion of a youth's stage as a disciplinary consequence, and added that lowering a youth's stage is allowed after a determination that behavior proven in a Level II hearing indicates the youth no longer meets the requirements of the currently assigned stage.
- Added that, if a youth loses release eligibility under §380.8555 or §380.8559, the youth is no longer designated as having completed the rehabilitative program and will be assigned to stage 4.
- Removed a statement referring to updating case plans following a stage assessment meeting.

STAGE DESCRIPTIONS

- Revised the descriptions of each stage and the factors indicating completion of each stage.
- Added that the objectives for each stage of the program are provided in writing to the youth.

OTHER CHANGES

- Removed statements relating to how long it may take to complete each stage and to complete the entire program with reasonable effort by the youth.
- Added that youth will be *reassessed and placed the most appropriate stage based on the youth's current behavior and progress in the program* (rather than automatically placed on a pre-set

stage level) when a youth is recommitted to TJJD for a new offense or returned to a TJJD facility for disciplinary reasons.

- Removed the requirement to reassess a youth's stage assignment when the youth is returned to a TJJD facility for non-disciplinary reasons.
- Removed the section on appeals relating to stage assessments or opportunities to demonstrate completion of requirements.

GAP.380.8751 Specialized Treatment

REQUIREMENT TO PARTICIPATE IN OR COMPLETE SPECIALIZED TREATMENT

- Added that, for youth who have specialized treatment requirement as part of transition or release criteria, a youth may qualify for the transition or release *if a designee of the executive director with appropriate expertise determines that the youth has made sufficient progress toward treatment goals or that the goals can be addressed in a non-high-restriction setting*. This replaces requirements that the youth must:
 - be scheduled to begin the specialized treatment in a medium-restriction facility or on parole, as documented in the youth's most recent treatment plan, with a requirement to complete treatment included in the youth's conditions of release; or
 - make sufficient progress in the assigned treatment program with a corresponding reduction in risk to allow for the youth to continue treatment in a non-high-restriction setting, with a requirement to complete treatment included in the youth's conditions of release.

OTHER CHANGES

- Removed the requirement that youth receiving intensive treatment programs must reside in the same dorm. Added that treatment in such programs is generally delivered in specialized groups.
- Specified that moderate-intensity treatment programs are *generally* delivered in specialized groups. Removed the statement that such programs include individual counseling, and renamed these programs as *moderate-intensity* (rather than *short-term*) treatment programs.
- Clarified that TJJD's specialized treatment programs are *designed* (rather than *shown*) to reduce risk to reoffend.
- Clarified that, when a youth cannot be provided the type of specialized program designed in this rule for the youth's assessed need level, the youth will be provided with the most appropriate alternate form of *intervention* (rather than *specialized intervention*).
- Removed a provision stating that the orientation and assessment unit is where all assessments of specialized treatment needs are conducted.
- Removed a provision stating that upon arrival at the initial placement is when the youth's comprehensive plan for specialized treatment is completed.
- Added that the mental health needs assessment and intellectual disability diagnosis is provided by *mental health* staff (rather than *psychology or psychiatry* staff).
- Specified that youth with a moderate mental health need are placed at a facility offering the necessary clinical *and/or* psychiatric (rather than clinical *and* psychiatric) support.
- Modified the descriptions of youth with a low mental health need or no mental health need to be based on whether the youth requires follow-up mental health or psychiatric services, *regardless of whether the youth has a diagnosis*.

- Added that a *mental health professional* (rather than only a *psychologist*) may refer a youth for a determination of need for capital and serious violent offender treatment, and that the determination of need is based on a *clinical* (rather than *psychological*) assessment.
- Added that the assessment of need for substance use services is conducted by *mental health staff or a chemical dependency counselor* (rather than a *psychologist or mental health professional*).
- Added that youth are provided specialized aftercare as needed and as available. This replaces a listing of the programs that, if completed, would qualify the youth for specialized outpatient aftercare as needed, as recommended, and as available.

GAP.380.9503 Rules and Consequences for Residential Facilities

RULE VIOLATIONS

- Changed the definitions of *Assault of Youth (No Injury)* and *Assault of Staff (No Injury)* to require intent to cause injury.
- Added *Unauthorized Physical Contact with Another Youth (No Injury)* and *Unauthorized Physical Contact with Staff (No Injury)* as minor rule violations.
- Changed the definition of *Escape* to be limited to high-restriction facilities (rather than applying also to medium-restriction facilities).
- Added *Unauthorized Absence* as a major rule violation, which means leaving a medium-restriction facility without permission or failing to return from an authorized leave.
- Clarified that *Attempted Escape* requires that youth have a specific intent to escape.
- Added *Possessing, Selling, or Attempting to Purchase Ammunition* as a major rule violation.
- Modified the definition of *Possession of a Weapon* to include selling or attempting to purchase a weapon.
- Added *Tampering with Monitoring Equipment* to the list of major rule violations.
- Added that the violation involving repeated non-compliance with staff applies when a youth fails to comply with a monthly requirement twice in a *60-day period* (rather than a 90-day period.)
- Clarified that several rule violations contain the element that the youth intentionally, *knowingly, or recklessly* engaged in the prohibited conduct (rather than doing so only intentionally, or in some cases, intentionally *and* knowingly or recklessly).
- Clarified that the violations *Sexual Misconduct* and *Tampering with Monitoring Equipment* contain the element that the youth intentionally *or* knowingly (rather than intentionally *and* knowingly) engaged in the prohibited conduct.
- Added that, for disciplinary purposes, directing someone to commit a rule violation is treated the same as committing that violation. Also added a definition for "direct someone to commit" a violation.

DISCIPLINARY CONSEQUENCES

- Removed the list of specific disciplinary consequences and added a list of types of discipline that are prohibited.
- Added a requirement for TJJD to establish each specific disciplinary consequences in writing in its procedural manuals.
- Added a list of examples of types of discipline that may be used.
- Added that a consequence may be imposed only if it is established in writing before the occurrence of the conduct for which the consequence is being issued.

- Specified that a Level II due process hearing is required before imposing a consequence that materially alters a youth's living conditions and that TJJD will specify in its procedural manuals which consequences require this hearing.
- Added that consequences requiring a Level II hearing are considered major consequences.
- Specified the amount of due process required before issuing a consequence if a Level II hearing is not required.
- Specified that *all* disciplinary consequences (rather than just certain minor consequences) must be reviewed for policy compliance and that the reviews must be conducted within three calendar days.
- Added that the staff member reviewing discipline for policy compliance shall not be the staff member who issued the discipline.

OTHER CHANGES

- Added a definition for the term *Possession*.
- Added that the term *Attempt to Commit* requires that youth have *specific intent* to commit a rule violation and engage in conduct that amounts to more than mere planning *that tends but fails to effect the commission of the intended rule violation*.
- Clarified that an incident report is not proof that a youth committed a rule violation and that rule violations are considered proven only through a Level I or Level II due process hearing.
- Added that an incident report cannot be appealed or grieved; however, discipline that results from an incident report may be appealed or grieved.
- Clarified that youth may appeal *any* consequence (rather than major consequences) issued through a Level II hearing.
- Specified that youth in high-restriction facilities may grieve *any consequence issued without a Level II hearing* (rather than minor consequences).
- Added that youth in medium-restriction facilities may appeal any consequences issued through a Level III hearing, in accordance with GAP.380.9557.
- Removed the requirement to begin an investigation into certain alleged rule violations within 24 hours.
- Removed a reference to which staff member decides to hold a Level II hearing; however, requests to hold such hearings are addressed in GAP.380.9555.
- Added that formal incident reports are written for alleged rule violations as required by internal operational procedures rather than specifying the instances in which they must be written.
- Removed the requirement for a youth to be provided a copy of any incident report prepared for an alleged rule violation.
- Removed the requirement for rules of conduct to be physically posted in facilities.
- Removed a statement about issuing more than one consequence for a violation.
- Removed a provision concerning the multidisciplinary team's authority to reduce, extend, or modify certain privilege suspensions; however, GAP.380.9555 addresses the treatment team's ability to reduce or suspend the imposition of a consequence for violations proven in a Level II hearing.
- Removed a provision allowing requirements in this rule to be restated or adapted to accommodate a particular program.
- Removed a statement concerning the possibility of repeated violations of the same rule leading to more serious consequences.
- Removed a reference to a non-disciplinary placement option (i.e., placement in the Redirect Program).
- Removed definitions for terms that are no longer used in the rule and a term for which a definition is unnecessary.

GAP.380.9510 Intervention Program - NEW

- New rule that includes certain elements of the former 380.9517 (Redirect) and 380.9535 (Phoenix), plus some new content.
- Establishes three levels of intervention within an overarching behavior management program.
- Allows youth to be moved between levels based on conduct while in the program.
- Requires a rule violation to be proven through a Level II due process hearing before a youth can be assigned to the top two levels of the program.

GAP.380.9517 Redirect Program – REPEALED

- Some content has been included in the new GAP.380.9510.

GAP.380.9520 Cooling-Off Period for Youth Out of Control

- Changed the maximum duration of segregation for youth in TJJJ institutions to 90 minutes (rather than 55 minutes).
- Changed the maximum duration of segregation for youth in TJJJ halfway houses to 90 minutes (rather than two hours).

GAP.380.9510 Phoenix Program – REPEALED

- Some content has been included in the new GAP.380.9510.

GAP.380.9551 Level I Hearing Procedure

- Clarified that, except in certain limited circumstances, a Level I hearing on any allegation must be *requested* (rather than scheduled) as soon as possible but no later than seven days after the date of the alleged offense, excluding weekends and holidays, unless it was impossible, impractical, or inappropriate to have scheduled it timely.
- Clarified that a hearing examiner may direct a Level I hearing to be held in a location other than the community where the alleged rule violation occurred provided the examiner *determines that doing so will not deprive the youth of his/her due process rights*.
- Added that, with the consent of the parties involved, witnesses may appear via telephone or video conference unless the hearing examiner determines that doing so will deprive the youth of his/her due process rights.
- Added that, if a witness appears via telephone or video conference, all required participants must be able to simultaneously hear one another.

GAP.380.9555 Level II Hearing Procedure

REQUESTS AND SCHEDULING

- Removed that, when a youth in a residential facility is alleged to have committed a major rule violation or a minor rule violation requiring a security referral, an investigation into the alleged violation must be started within 24 hours after the alleged offense, completed within 24 hours after the time started, and conducted by a staff member other than the one who reported the alleged violation.
- Removed the requirement that a decision on whether to pursue a Level II hearing must be made within 24 hours after the completion of an investigation.
- Added that the appropriate staff person, *as specified in TJJJ procedural manuals*, must request permission to schedule a hearing.

- Added that a Level II hearing must be *requested and scheduled* (rather than conducted) as soon as practical but no later than seven days, excluding weekends and holidays, after the alleged violation or discovery of the alleged violation.
- Removed the five-day timeframe for Level II hearings involving youth being held in a security unit due to potential interference with a pending Level II hearing.

DISPOSITION

- Added that, during the disposition phase, the youth will be given the opportunity to present evidence of extenuating circumstances.
- Added that a finding of extenuating circumstances does not prohibit placement of a youth in the intervention program under §380.9510, but the admission review shall take the finding into account.
- Added that, if extenuating circumstances are found, the youth may not be assigned *any consequence designated as a major consequence in accordance with §380.9503* (rather than the requested disciplinary dispositions or any other major consequences).
- Clarified that, during disposition, if no extenuating circumstances are found, the hearing manager must make *the disposition finding the youth was given notice of* (instead of the disposition recommended by staff).
- Removed a statement regarding the appropriate administrator's approval of a hearing manager's decision to transfer a youth.
- Removed a statement regarding the approval by facility administration of a hearing manager's decision to demote a youth's stage in the rehabilitation program.
- Added that a hearing manager's decision to impose a disciplinary consequence is final, subject to appeal, but a youth's treatment team may reduce or suspend the imposition of the consequence if warranted.

OTHER CHANGES

- Added that a Level II hearing is required before placing a youth in the moderate or intensive level of the intervention program (rather than in the Redirect Program).
- Clarified that a Level II hearing is required before transferring an *institutional-status* youth who was initially at a medium-restriction facility to a high-restriction facility for non-disciplinary reasons.
- Added that the criteria for placing a youth in the *moderate or intensive level of the intervention program* (rather than placing a youth in the Redirect Program) include finding that the youth committed an eligible rule violation.
- Clarified that a hearing manager must find that a youth committed an eligible rule violation and that there are not extenuating circumstances in order to have contraband money *seized and* placed in the student benefit fund.
- Added that, if a youth hires his or her own counsel, no advocate will be appointed.
- Clarified that, not later than 24 hours before a hearing, the youth and the youth's advocate must be given *written notice* of the proposed action to be taken and *written notice and copies of* the evidence to be relied upon.
- Added that video created by TJJJ is generally considered "readily available" and shall be shown to the youth if used as evidence during a hearing.
- Clarified that a hearing may be held by conference call or *videoconference*.
- Added that, when a hearing is held by conference call or videoconference, all required participants must be able to simultaneously hear one another.
- Removed the requirement for the hearing manager to determine that holding a hearing by conference call will not deprive the youth of his/her due process rights.

- Removed a provision stating that, if a youth waives his/her presence, the hearing may be conducted by teleconference, which conflicted with an existing provision allowing any hearing to be held by teleconference.
- Specified that youth in all contract placements (whether secure or non-secure) must be given the hearing packet at least 24 hours before the hearing.
- Added that a youth's failure to testify shall not create a presumption *or inference* against the youth.
- Clarified that a victim who appears as a witness should be provided a waiting area where he/she is not likely to come in contact with the youth *or the youth's parent/guardian* except during the hearing.
- Replaced one reference of the term *parent(s)* with *parent/guardian*.

GAP.380.9557 Level III Hearing Procedure

GENERAL CHANGES

- Divided the procedures into those to be used when determining admission to or extension in the security program and those to be used when determining disciplinary consequences.
- Removed references to *minor* disciplinary consequences and explained which disciplinary consequences can be imposed through this hearing type.

APPEALS INVOLVING DISCIPLINARY CONSEQUENCES

- Clarified that, if it is determined that *there were not reasonable grounds to believe* the youth committed the violation (instead of determining that the youth *did not commit* the violation), *the fact that the violation was overturned will be documented appropriately* (instead of stating that the youth's behavioral record will be updated).
- Clarified that, if it is determined that the youth did commit the violation but *the imposed disciplinary measure* (instead of the disciplinary decision) was inappropriate:
 - that fact *will be documented appropriately* (instead of stating only that the violation will remain on the youth's behavioral record); and
 - the appeal authority shall determine some form of equitable relief for a youth who has started or completed serving the disciplinary measure and may impose a different disciplinary measure if the youth has not yet started serving the disciplinary measure.

GAP.380.9729 Directives to Apprehend

- Added that a directive to apprehend may be also issued when a youth has an unauthorized absence from a halfway house or has failed to comply with the conditions of placement.
- Added that, when TJJD issues a directive to apprehend, TJJD may notify the Texas Missing Persons Clearinghouse and the National Center for Missing and Exploited Children. If the youth is at high risk for victimization due to human trafficking, sexual assault, exploitation, abuse, or neglectful supervision, these notifications must be made.