

Chapter: Rules for State-Operated Programs and Facilities	Effective Date: 5/1/22
Subchapter: Admission, Placement, Release, and Discharge	Page: 1 of 4
Division: Movement before Program Completion	Replaces: GAP.380.8545, 4/1/14
Rule: Movement before Program Completion	
Statutes: HR Code §245.051 ; Family Code §54.0491	
References: <i>Morales v Turman</i> Settlement Agreement Section (V)(H)	

RULE

(a) **Purpose.**

The purpose of this rule is to establish criteria and procedures for moving youth who have not met program completion requirements to placements of equal or lesser restriction.

(b) **General Provisions.**

Prior to a transition, a youth may request and in doing so will be granted a Level II hearing.

(c) **Transition Movements before Initial or Revocation Minimum Length of Stay.**

(1) **Eligibility.**

The following youth are not eligible for transition movement before completion of the initial or revocation minimum length of stay:

- (A) sentenced offenders; and
- (B) sex offenders with court orders deferring their sex offender registration requirements who have not successfully completed an assigned sexual behavior treatment program.

(2) **Transition Movement Criteria.**

Youth in a high-restriction facility may be eligible for transition to a medium-restriction facility before completion of the initial or revocation minimum length of stay when the following criteria have been met:

- (A) no major rule violations proven at a Level II due process hearing:
 - (i) within 60 days before the transition review or during the approval process, for youth with committing offenses of low or moderate severity; or
 - (ii) within 120 days before the transition review or during the approval process, for youth with committing offenses of high severity; and
- (B) completion of the following:
 - (i) for youth who have not completed the initial minimum length of stay:
 - (I) six months of the initial minimum length of stay in high-restriction facilities if the youth has a committing offense of low severity; or
 - (II) nine months of the initial minimum length of stay in high-restriction facilities if the youth has a committing offense of moderate severity; or
 - (III) all but six months of the initial minimum length of stay in high-restriction facilities if the youth has a committing offense of high severity; or
 - (ii) for youth placed in a high-restriction facility following revocation of parole, at least two-thirds of the revocation minimum length of stay; and

- (C) participation in or completion of assigned specialized treatment programs or curriculum as required under [§380.8751 of this chapter](#); and
- (D) completion of the following rehabilitation program requirements:
 - (i) for TJJD-operated facilities, assignment to the second-highest stage in the assigned rehabilitation program as described in [§380.8703 of this chapter](#); or
 - (ii) for facilities operated under contract with TJJD, completion of requirements for transition to a community residential placement as defined in the TJJD-approved rehabilitation program; and
- (E) completion of a criminal street gang intervention program, if required by court order.

(3) **Decision Authority for Approval of Transition.**

The final decision authority ensures, before approving the transition, that the youth meets all transition criteria and the community reentry/transition plan adequately addresses risk factors.

(d) **Transition Movements after Completion of Initial or Revocation Minimum Length of Stay.**

(1) **Eligibility.**

The following youth are not eligible for transition movement after completion of the initial or revocation minimum length of stay:

- (A) sentenced offenders; and
- (B) sex offenders with court orders deferring their sex offender registration requirements who have not successfully completed an assigned sexual behavior treatment program.

(2) **Transition Movement Criteria.**

Youth in a high-restriction facility may be eligible for transition to a medium-restriction facility after completion of the initial or revocation minimum length of stay when the following criteria have been met:

- (A) no major rule violations proven at a Level II due process hearing within 30 days before the transition review or during the approval process;
- (B) participation in or completion of assigned specialized treatment programs or curriculum as required under §380.8751 of this chapter; and
- (C) completion of a criminal street gang intervention program, if required by court order.

(3) **Decision Authority for Approval of Transition.**

The final decision authority ensures, before approving the transition, that the youth meets all transition criteria and the community reentry/transition plan adequately addresses risk factors.

(e) **Population Control Movements.**

- (1) When overpopulation occurs in a high-restriction facility and other remedial actions are not successful in managing facility populations, non-sentenced offender youth who do not otherwise qualify may be released or transitioned. In such cases, the executive director establishes the criteria, taking into account factors including, but not limited to, the following:
 - (A) progress in the rehabilitation program;
 - (B) amount of the minimum length of stay completed;

- (C) severity of the committing offense;
- (D) completion of required specialized treatment programs;
- (E) participation in or completion of any statutorily required rehabilitation programming; and
- (F) current risk assessment.

(2) Youth will be transitioned to a suitable TJJJ-operated medium-restriction placement or contract-care facility or will be released to a suitable home or home substitute.

(f) Administrative Transfers.

Administrative transfers may be made for non-disciplinary, programmatic purposes among facilities of equal restriction without a due process hearing. An administrative transfer may not be made in lieu of a disciplinary transfer. A due process hearing is required for a disciplinary transfer.

(g) Reassignment of Youth Initially Eligible for Placement in a Medium-Restriction Facility.

A youth may be reassigned to a medium-restriction facility if the youth was initially eligible for such placement under [§380.8521 of this chapter](#) but was placed in a high-restriction facility in order to address one or more placement system factors that could not be appropriately addressed in a medium-restriction facility. These youth are not required to meet transition criteria set forth in subsections [\(c\)](#) or [\(d\)](#) of this section.

(h) Conditional Placements.

(1) Eligibility.

The following youth are not eligible for conditional placement:

- (A) sentenced offenders; and
- (B) sex offenders with court orders deferring their sex offender registration requirements who have not successfully completed an assigned sexual behavior treatment program.

(2) Criteria for Conditional Placement.

(A) Before the Initial Minimum Length of Stay.

To be considered for a conditional placement before completing the initial minimum length of stay, a youth must meet all program completion criteria set forth in [§380.8555 of this chapter](#), with the exception of the requirement to complete the minimum length of stay.

(B) After the Initial Minimum Length of Stay.

A youth may be considered for a conditional placement after completing the initial minimum length of stay when the following criteria have been met:

- (i) staff have determined that, due to the youth's treatment needs, the conditional placement would be in the youth's best interests;
- (ii) the youth has participated in or completed assigned specialized treatment as required under [§380.8751 of this chapter](#); and
- (iii) the youth has completed a criminal street gang intervention program, if required by court order.

(3) Conclusion of Conditional Placement.

A conditional placement ends when:

- (A) the youth is assigned to a medium-restriction facility or home placement because the youth:
- (i) earns parole status under [§380.8555 of this chapter](#) or is placed on parole status under [§380.8557 of this chapter](#);
 - (ii) is transitioned to a medium-restriction facility under subsection (c) or (d) of this section; or
 - (iii) is reassigned to a medium-restriction facility under [subsection \(g\) of this section](#);
- (B) the youth is discharged under §380.8557 or [§380.8595 of this chapter](#); or
- (C) the youth is returned to the sending facility through a Level II due process hearing held in accordance with [§380.9555 of this chapter](#) for reasons including, but not limited to:
- (i) commission of a rule violation listed in [§380.9503](#) or [§380.9504 of this chapter](#);
 - (ii) violation of the conditional placement agreement; or
 - (iii) the conditional placement is no longer viable.

(i) **Hardship Cases.**

In hardship cases, the executive director or designee may approve placing a non-sentenced offender youth on parole status without meeting program completion criteria.

(j) **Youth with Mental Illness or Intellectual Disability.**

Pursuant to [§380.8779 of this chapter](#), certain youth may be discharged following application for appropriate services to address their mental illness or intellectual disability.

(k) **Active Warrants.**

At least ten calendar days before the youth's transition or release, TJJJD notifies any entity that has issued an active warrant for the youth.

(l) **Individual Exceptions.**

The executive director or designee may make exceptions to provisions of this rule on a case-by-case basis, based on a consideration of the youth's best interests and public safety.

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- See [CMS.03.11](#) for procedures relating to the criminal street gang intervention program.
 - See [Case Management Standards Manual, Chapter 2](#), for procedures relating to administrative transfers, transition movements, conditional placements, and reassignment of youth initially eligible for medium-restriction placement.