

Chapter: Rules for State-Operated Programs and Facilities	Effective Date: 10/1/15
Subchapter: Behavior Management and Youth Discipline	
Division: Due Process Hearings Procedures	Page: 1 of 2
Rule: Definitions – Due Process Hearings	Replaces: GAP.380.9550, 9/1/09
ACA: N/A	
Statutes: N/A	

RULE

The following words and terms, as used in this subchapter, have the following meanings unless the context clearly indicates otherwise.

- (1) **Advocate**--a TJJD employee, contract employee, or enrolled volunteer assigned to represent the youth at a Level II, III, or IV hearing who is trained by TJJD to serve as an advocate.
- (2) **Community Detention**--temporary placement of a youth in a community detention facility pending a Level I or II hearing.
- (3) **Community Detention Facility**--a local detention facility designed for juveniles or adults, including jails.
- (4) **Detention Hearing**--the court hearing required by the Texas Family Code to determine whether conditions exist to justify the detention of a juvenile.
- (5) **Due Process**--the constitutional concept that proceedings must be fair and that a person is entitled to, at a minimum, notice and an opportunity to be heard by a neutral decision maker when the person's liberty or property is at stake.
- (6) **Extenuating Circumstances**--facts that do not rise to the level of a legal defense but that do provide a reasonable explanation for the youth's behavior, such as:
 - (A) the only property involved in the offense was of minimal value and the youth returned it undamaged to its owner;
 - (B) the only bodily injury intended or inflicted by the youth consisted of brief or minor discomfort;
 - (C) the youth's conduct was an impulsive response to perceived provocation and posed no threat to persons or property; or
 - (D) the youth was persuaded to participate in the offense by a parent or other authority figure.
- (7) **Hearing Examiner**--an attorney employed by the Texas Juvenile Justice Department (TJJD) who determines if there is a preponderance of evidence presented at a Level I hearing to prove the youth committed an alleged rule violation. The hearing examiner also determines if the requested dispositions will be imposed.
- (8) **Hearing Manager**--an impartial person who determines if there is a preponderance of evidence presented at a Level II hearing to prove the youth committed an alleged rule violation. The hearing manager also determines if the requested dispositions will be imposed.
- (9) **High-Restriction Facility**--has the meaning assigned under [§380.8527](#) of this title.
- (10) **Institution Detention**--temporary placement of youth in the security unit at a high-restriction facility as described in [§380.9559](#) and [§380.9561](#) of this title.
- (11) **Institutional Status**--the status assigned to all youth who have not yet been released on parole or who have had their parole status revoked through a Level I hearing. Youth may be on institutional status while assigned to high- or medium-restriction placements.

- (12) **Non-Disciplinary Reasons**--reasons not related to a violation of rules that transfer to a higher restriction assignment is necessary, such as:
- (A) the youth has treatment, educational, medical, or other needs that cannot be met at the current placement; or
 - (B) there is no longer a home placement available for the youth.
- (13) **Parole Status**--the status assigned to all youth who have been released on parole. Youth may be on parole status while assigned to a medium-restriction placement or an approved home or home substitute.
- (14) **Preponderance of Evidence**--a standard of proof meaning the greater weight and degree of credible evidence admitted at the hearing (e.g., whether the credible evidence makes it more likely than not that a particular proposition is true).
- (15) **Staff Representative**--the person assigned to assemble and present the allegation(s) and evidence at a hearing.
- (16) **Referring Staff**--the TJJD employee or contract employee who requests detention for a youth.
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