



Memorandum

To: TJJJ Board Members

From: Shandra Carter, Executive Director
Kaci Singer, Deputy General Counsel

Subject: Discussion, consideration, and possible approval to adopt on an emergency basis new 37 TAC §343.261 (Resident Supervision), as well as approval to publish the same new rule in the *Texas Register* for a public-comment period of at least 30 days and possible conditional approval to adopt the final rule

Date: November 8, 2024

Before the Board for consideration is new §343.261 (relating to resident supervision). An abbreviated summary follows, and a more detailed summary is provided below:

- Added a section to address obstructing observation windows in facilities.

The Board's approval is requested to adopt the new rule on an emergency basis as allowed by §2001.034, Government Code. That statute allows an agency to adopt an emergency rule without prior notice, or with abbreviated notice, if the agency finds that an imminent peril to the public health, safety, or welfare or a requirement of state or federal law requires adoption of a rule on fewer than 30 days' notice. Given that the impetus of these proposed changes is to ensure the safety and security of youth within facilities, staff requests the Board find that a requirement of state law requires the adoption of the rule on fewer than 30 days' notice and approve the emergency rulemaking.

The Board's approval is also requested to publish the proposed new rule in the *Texas Register* for the standard public-comment period of at least 30 days and to adopt the final rule after the public comment period has ended, but only if the conditions listed in the accompanying resolution are met.

Attached to this memo please find:

- the text of the rule; and
- a resolution for board action.

Summary of Proposed New Section:

- Explains that facilities must have a policy prohibiting the blocking of windows used to observe residents and instructing staff of what actions to take when observation windows are blocked.
- Provides that refusal to remove an item blocking a window is considered a serious threat to the safety and/or security of the facility.

Texas Administrative Code

Title 37 Public Safety and Corrections
Part 11 Texas Juvenile Justice Department

Chapter 343 Secure Juvenile Pre-Adjudication Detention and Post-Adjudication Correctional Facilities

DRAFT 10/28/24
PERTINENT SECTION ONLY; NOT THE FULL CHAPTER

Subchapter B Pre-Adjudication and Post-Adjudication Secure Facility Standards

[§343.200 Authority to Operate Secure Juvenile Facility](#)
[§343.202 Acceptance of Residents](#)
[§343.204 Facility Governing Board](#)
[§343.206 Certification and Registration of Facility](#)
[§343.208 Policy, Procedure, and Practice](#)
[§343.210 Designation of Facility Administrator](#)
[§343.212 Duties of Facility Administrator](#)
[§343.214 Data Collection](#)
[§343.218 Location and Operations](#)
[§343.220 Population](#)
[§343.222 Heating, Cooling, and Ventilation](#)
[§343.224 Alternate Power Source](#)
[§343.226 Lighting](#)
[§343.228 Dining Area](#)
[§343.230 Specialized Housing](#)
[§343.232 Housing for Residents with Physical Disabilities](#)
[§343.234 Program Areas](#)
[§343.236 Secure Storage Areas](#)
[§343.238 Hazardous Materials](#)
[§343.240 Safety Codes](#)
[§343.242 Fire Safety Plan](#)
[§343.244 Fire Safety Officer](#)
[§343.246 Fire Drills](#)
[§343.248 Non-Fire Emergency Preparedness Plan](#)
[§343.249 Internal Security](#)
[§343.250 External and Perimeter Security](#)
[§343.260 Resident Searches](#)

[§343.261 Resident Supervision](#)
[§343.262 Hygiene Plan](#)
[§343.264 Resident Showers](#)
[§343.266 Bedding](#)
[§343.268 Towels](#)
[§343.270 Clothing](#)
[§343.272 Facility Maintenance, Cleanliness, and Appearance](#)
[§343.274 Resident Discipline Plan](#)
[§343.276 Formal Disciplinary Reviews for Major Rule Violations](#)
[§343.280 Formal Disciplinary Review Process](#)
[§343.282 Resident Appeals](#)
[§343.284 Disciplinary Review Log](#)
[§343.285 Disciplinary Seclusion](#)
[§343.286 Room Restriction](#)
[§343.287 Resident-Initiated Separation](#)
[§343.288 Safety-Based Seclusion](#)
[§343.289 Safety-Based Seclusion Reviews](#)
[§343.290 Protective Isolation](#)
[§343.294 Separation Status Log](#)
[§343.300 Nutritional Requirements](#)
[§343.302 Menu Plans](#)
[§343.306 Modified Diets](#)
[§343.308 Mealtime Prohibitions](#)
[§343.310 Staff Meals](#)
[§343.312 Daily Meal Schedule](#)
[§343.314 On-Site Food Preparation](#)
[§343.316 Off-Site Food Preparation](#)
[§343.320 Health Service Authority](#)
[§343.322 Health Service Plan](#)
[§343.324 Health Services Coordinator](#)
[§343.326 Medical Referral](#)
[§343.328 Consent for Medical Treatment](#)

[§343.330 Medical Treatment for Victims of Abuse](#)
[§343.332 Behavioral Health Care Services for Sexual Abuse Victims](#)
[§343.334 Confidentiality](#)
[§343.336 Medication Administration](#)
[§343.338 Medical Isolation](#)
[§343.340 Suicide Prevention Plan](#)
[§343.342 Review and Dissemination of Suicide Prevention Plan](#)
[§343.346 Mental Health Referral of High-Risk Suicidal Youth](#)
[§343.348 Supervision of High-Risk Suicidal Youth](#)
[§343.350 Supervision of Moderate-Risk Suicidal Youth](#)
[§343.351 Suicidal Youth Log](#)
[§343.352 Visitation](#)
[§343.354 Limitations on Visitation](#)
[§343.356 Access to Attorney](#)
[§343.358 Telephone](#)
[§343.360 Mail](#)
[§343.362 Limitations on Mail](#)
[§343.364 Legal Correspondence](#)
[§343.366 Inspection of Mail](#)
[§343.368 Illegal Discrimination](#)
[§343.370 Prohibited Supervision](#)
[§343.372 Work by Residents](#)
[§343.374 Experimentation and Research Studies](#)
[§343.376 Resident Grievance Process](#)
[§343.378 Grievance Appeals](#)
[§343.380 Grievance Officer](#)
[§343.382 Grievance Documentation](#)
[§343.384 Religious Services](#)
[§343.386 Volunteers and Interns](#)

Texas Administrative Code

Subchapter B

Pre-Adjudication and Post-Adjudication Secure Facility Standards

§343.261 Resident Supervision

Effective Date: XXXXXX

- (1) Facility policy must prohibit the blocking of viewing windows that are used to observe residents. The policy must instruct staff of the actions to take if a viewing window is blocked.
- (2) The refusal to remove an item obstructing the viewing window is considered a serious threat to facility safety and/or security.



**Texas Juvenile Justice Department
RESOLUTION**

A RESOLUTION FOR APPROVAL TO ADOPT ON AN EMERGENCY BASIS NEW 37 TAC §343.261 (RESIDENT SUPERVISION), AS WELL AS APPROVAL TO PUBLISH THE SAME NEW RULE IN THE TEXAS REGISTER FOR A PUBLIC-COMMENT PERIOD OF AT LEAST 30 DAYS AND POSSIBLE CONDITIONAL APPROVAL TO ADOPT THE FINAL RULE

On this **8th day of November 2024**, a duly called and lawfully convened meeting of the Texas Juvenile Justice Board was held in the City of Austin, Texas, pursuant to the Texas Open Meetings Act. A quorum of the Members was present, to wit:

BOARD MEMBER	PRESENT	ABSENT	YES	NO	ABSTAIN
Edeska Barnes, Jr.					
Joe Barton					
Jerry Bullard					
William Durham					
Stephanie House					

BOARD MEMBER	PRESENT	ABSENT	YES	NO	ABSTAIN
Luis Leija					
Scott Matthew					
Manny Ramirez					
Cynthia Wheless					
Motion:			Second:		

Where, among other matters, came up for consideration and adoption the following Resolution:

WHEREAS, Human Resources Code §221.002 requires the board to adopt rules to govern juvenile boards, probation departments, probation officers, programs, and facilities; and

WHEREAS, the safety of juveniles who are in single-occupancy rooms in juvenile facilities is dependent on having unobstructed visual access to the juvenile’s room; and

WHEREAS, TJJD standards require that timely visual checks be conducted through an unobstructed viewing window but do not require that the viewing window remain unobstructed at all times; and

WHEREAS, the Texas Juvenile Justice Board finds that there is an imminent peril to public health, namely the safety of juveniles in local facilities, that requires this rule be adopted on an emergency basis; and

WHEREAS, it has been proposed that the Board adopt the new rule listed above; and

WHEREAS, Section 2001.034, Government Code, allows a state agency to adopt an emergency rule without prior notice or hearing if the agency finds that a requirement of state law requires adoption of a rule on fewer than 30 days’ notice and states in writing the reasons for its findings; and

WHEREAS, Government Code §§2001.023 and 2001.029 require a state agency to give at least 30 days’ notice of its intention to adopt a rule and to allow all interested persons a reasonable opportunity to submit data, views, or arguments orally or in writing;

NOW, THEREFORE BE IT RESOLVED THAT, for the above-referenced rule, the Board grants approval to adopt the rule on an emergency basis, as well as to publish the proposal in the *Texas Register* for a 30-day public comment period; and

BE IT FURTHER RESOLVED THAT, for the above-referenced rule, the Board grants approval to adopt the final rule text after the comment period has ended if: (1) no public comments are received; (2) any additional revisions to the rule text are limited to technical, stylistic, or grammar changes or corrections of typographical errors; and (3) the Board has not otherwise directed that final adoption must occur in a subsequent Board meeting.

The foregoing Resolution was lawfully moved, duly seconded, and adopted by the Texas Juvenile Justice Board.

Signed this 8th day of November 2024.

Texas Juvenile Justice Board

The Honorable Scott Matthew, Chair