

**RHODE ISLAND GOVERNMENT REGISTER**

**PUBLIC NOTICE OF PROPOSED RULEMAKING**

**AGENCY:** Department of Children, Youth and Families

**DIVISION:** Rhode Island Training School

**RULE IDENTIFIER:** 214-RICR-60-00-1

**REGULATION TITLE:** Rules and Regulations of the Rhode Island Training School

**RULEMAKING ACTION:** Regular rulemaking

**TYPE OF FILING:** Adoption

**TIMETABLE FOR ACTION ON THE PROPOSED RULE:**

Public Notice Date: **February 27, 2018**

Public comment will end on **March 30, 2018**

**SUMMARY OF PROPOSED RULE:** This rule is being promulgated to replace several existing Rhode Island Training School regulations.

R.I. Gen. Laws § 14-1-36.2 provides that children and youth placed in the custody of the Department of Children, Youth and Families receive suitable treatment, rehabilitation and care in the least restrictive environment.

The mission of the Rhode Island Training School (RITS) is to provide care in a secure facility to youth who are detained or adjudicated by order of the Family Court. The Training School promotes public safety and rehabilitation of residents through a comprehensive continuum of services provided in partnership with families, the community, and the Department in the least restrictive setting compatible with youth and community safety. Supervision, security, education, behavioral health, health and transition services are provided in an individualized, culturally, and gender sensitive manner.

**COMMENTS INVITED:**

All interested parties are invited to submit written or oral comments concerning the proposed regulations by **March 30, 2018** to the address listed below.

**ADDRESSES FOR PUBLIC COMMENT SUBMISSIONS:**

All written comments or objections should be sent to, Sarah St. Jacques, DCYF Policy Office, Rhode Island Department of Children, Youth and Families

**Mailing Address:** DCYF, 3rd Floor, 101 Friendship Street, Providence, RI 02903

**Email Address:** [Sarah.StJacques@dcyf.ri.gov](mailto:Sarah.StJacques@dcyf.ri.gov)

**WHERE COMMENTS MAY BE INSPECTED:**

**Mailing Address:** DCYF, 3rd Floor, 101 Friendship Street, Providence, RI 02903

**PUBLIC HEARING INFORMATION:**

If a public hearing is requested, the place of the public hearing is accessible to individuals who are handicapped. If communication assistance (readers/ interpreters/captioners) is needed, or any other accommodation to ensure equal participation, please call (401) 462-6266 or RI Relay 711 at least three (3) business days prior to the meeting so arrangements can be made to provide such assistance at no cost to the person requesting.

In accordance with R.I. Gen. Laws § 42-35-2.8, an oral hearing will be granted if requested by twenty-five (25) persons, by an agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within ten (10) days of this notice.

**FOR FUTURE INFORMATION CONTACT:**

Sarah St. Jacques, DCYF Policy Office, Rhode Island Department of Children, Youth and Families, 3rd Floor, 101 Friendship Street, Providence, RI 02903 or [Sarah.StJacques@dcyf.ri.gov](mailto:Sarah.StJacques@dcyf.ri.gov)

**SUPPLEMENTARY INFORMATION:**

**Regulatory Analysis Summary and Supporting Documentation:**

There are no new societal costs and benefits in the adoption of this rule.

**Authority for This Rulemaking:** R.I. Gen. Laws § 42-72-4

**Regulatory Findings:**

In the development of the proposed regulation, consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

**The Proposed Adoption:**

The Department of Children, Youth and Families proposes to adopt 214-RICR-60-00-1 as follows in the concise explanatory statement of proposed non-technical amendments below.

The Department of Children, Youth and Families proposes to repeal the following Rhode Island Training School regulations and reissue as Department Operating Procedures (DOPs). All DOP's are accessible to the public and may be viewed on the Department's website at: <http://www.dcyf.ri.gov/policyregs/>.

The proposed regulation would repeal and supersede the following rules:

- Administrative Classification to Restrictive Status 1200.1308 ERLID: 7256
- Administrative Responsibility 1200.0003 ERLID: 6180
- Administrator on Call 1200.0004 ERLID: 6181
- Behavior Report 1200.1305 ERLID: 6184
- Case Transfers between the Rhode Island Training School and Family Service Units or Juvenile Probation 1200.1620 ERLID: 7774
- Clinical Services at the Rhode Island Training School 1200.1110 ERLID: 7955
- Court Disposition 1200.0014 ERLID: 7785
- Culinary Equipment 1200.0838 ERLID: 6337
- Daily Census Report for the RI Training School 1200.0504 ERLID: 6237
- Discipline for Academic and Vocational Classes 1200.1310 ERLID: 6028
- Education Program at the RI Training School 1200.1701 ERLID: 7993
- Escape 1200.1608 ERLID: 6339
- Facility Capacity 1200.0002 ERLID: 7786
- Facility Management and Environmental Safety 1200.0718 ERLID: 6361
- Fifteen Minute Room Checks 1200.0839 ERLID: 6019
- Food Service 1200.0900 ERLID: 7787
- General Discipline 1200.1300 ERLID: 6020
- Incentive System-Points 1200.0103 ERLID: 7781
- Juvenile and Adult Offender Interactions 1200.0011 ERLID: 6182
- Lawful Detention or Confinement of Juveniles 1200.0010 ERLID: 7789
- Legal Assistance 1200.0017 ERLID: 6185
- Legal Establishment 1200.0000 ERLID: 7788
- Lock Up 1200.1307 ERLID: 7258

- Major Discipline Review 1200.1306 ERLID: 7259
- Master Control Center 1200.0857 ERLID: 6341
- Mission, Philosophy, Goals and Purpose 1200.0001 ERLID: 7508
- Movement of Residents on Grounds 1200.0809 ERLID: 6342
- Notice to Superintendent 1200.0702 ERLID: 6387
- Portable Radios 1200.0708 ERLID: 6343
- Post Assignments 1200.0847 ERLID: 6614
- Protecting and Preserving Evidence 1200.0835 ERLID: 6344
- Resident Grievance Procedure 1200.1206 ERLID: 6346
- Resident Handbook 1200.1301 ERLID: 6031
- Resident Personal Property 1200.1203 ERLID: 6241
- Resident Room Inspections 1200.1003 ERLID: 6347
- Resident Telephone Calls 1200.1402 ERLID: 7959
- RITS Personnel Administration 1200.0222 ERLID: 6396
- Safety and Emergency Procedures at the RI Training School 1200.0714 ERLID: 6357
- Search of a Resident of the RI Training School 1200.0819 ERLID: 6977
- Searches for Contraband 1200.0821 ERLID: 6348
- Suicide Prevention and Special Watches 1200.0709 ERLID: 6349
- Tool and Equipment Control at the RI Training School 1200.0855 ERLID: 6350
- Tours of the RI Training School 1200.0007 ERLID: 6115
- Transportation of Residents Off Grounds 1200.0240 ERLID: 6244
- Unusual Incident Report 1200.0827 ERLID: 6351
- Use of Physical Force/Corporal Punishment 1200.1207 ERLID: 6117
- Use of Restraint at the RI Training School 1200.0832 ERLID: 6978
- Use of State Vehicles 1200.0724 ERLID: 6352

## **SUMMARY OF NON-TECHNICAL CHANGES**

### **PROPOSED REGULATIONS FOR ADOPTION**

214-RICR-60-00-01

Title 214 – DEPARTMENT OF CHILDREN, YOUTH AND FAMILIES  
Chapter 60 – Rhode Island Training School

Subchapter 00 – N/A

Part 1 – Rules and Regulations of the Rhode Island Training School

#### ***Justification for regulatory changes:***

Language added to comply with federal provisions of the Prison Rape Elimination Act P.L. 108-79.

### **Section 1.1 Purpose**

No new provisions, language is from existing state statutes and Department policy.

### **1.2 Authority**

No new provisions, existing state statutes.

### **1.3 Application**

Section Added

### **1.4 Severability**

Section Added

### **1.5 Definitions**

New Definitions:

From Federal Law (Prison Rape Elimination Act): "Sexual Harassment means any verbal comment or gesture (welcome or not) of a sexual nature including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing or obscene language or gestures.

"Sick Call" means a scheduled time at which residents may report as sick to the RITS nurse.

From Federal Law (Prison Rape Elimination Act): "Voyeurism" means an invasion of privacy of a resident by staff for reasons unrelated to official duties, such as peering at a resident who is using a toilet to perform bodily functions; requiring a resident to expose his or her buttocks, genitals, or breasts; or taking images of all or part of a resident's naked body or of a resident performing bodily functions.

### **1.6 General Administration**

New language added to comply with the federal Prison Rape Elimination Act

- C. All Training School employees, and all contractors and consultants who do business at or in any of the components of the Training School, must undergo criminal background checks and must submit to the following criminal background checks every fifth (5<sup>th</sup>) year of their employment or contractual/consultant relationship with the Training School.
1. Such background checks are conducted during the anniversary month of the employee's date of hire or assignment to the Training School. In the case of contractors/consultants, such background checks are conducted during the anniversary month of the start of that individuals work with the Training School.
  2. Five-year criminal background checks include are done using State Bureau of Criminal Investigation (BCI) checks.
  3. For employees covered by this policy, failure to submit to these checks may be used as cause for disciplinary action, up to and including dismissal from employment with cause.
  4. For consultants and contractors covered by this policy, failure to submit to these checks may be used as cause for termination with cause of any and all agreements for consulting or contracting with the

Department, with the consultant/contractor forfeiting any and all future payments within their contract for services with the Department.

5. Any criminal information found in these checks are subject to administrative review and appropriate disposition.

### **1.6.1 Resident Handbook**

New language added to comply with the federal Prison Rape Elimination Act

1. The Resident Handbook includes information for youth on their rights and PREA safeguards and includes information on how to report sexual harassment and/or sexual abuse, and a place for the youth to sign acknowledging that the youth has received such information.

## **1.7 Prison Rape Elimination Act**

New language added to comply with the federal Prison Rape Elimination Act

- A. The RITS complies with the federal Prison Rape Elimination Act (PREA) to provide a safe and therapeutic environment for all youth. Department Operation Procedures outline and implement a comprehensive approach to preventing, detecting and responding to sexual abuse, including voyeurism, and sexual harassment.
- B. Any physical contact of a sexual or sexualized nature between any RITS provider, vendor, contractor, volunteer, or staff toward a youth detained or adjudicated at the RITS is deemed abusive; such contact is reported to the CPS Hotline and is investigated.
  1. The Department has zero tolerance for voyeurism or sexual harassment by any Department provider, contractor, volunteer or staff toward a youth detained or adjudicated at the RITS and includes voyeurism and/or sexual harassment as a form of sexual abuse.
- C. Any Department staff engaging in sexual abuse or harassment toward a child/youth in care or detained or adjudicated at the RITS is subject to discipline up to and including dismissal without warning and referred to law enforcement agencies unless the activity was clearly not criminal, and to relevant licensing bodies, as appropriate.

D. Any contractor, provider, intern or volunteer who violates Department sexual abuse or harassment policies is prohibited from contact with residents and reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies, as appropriate.

## 1.13 Visitation

Language amended to comply with the Prison Rape Elimination Act

- E. All visitors are subject to a criminal record background check and a clearance of agency activity check prior to being approved for visitation.
- F. All visitors are subjected to a search upon entry to the facility.
- G. Visitors are prohibited from bringing contraband in to the facility at any time. The contraband and search policy for visitors is posted at the entrance to the facility.
- K. ~~There are regular family forums at which families of detained youth may voice issues of concern, offer suggestion for improvement, and obtain needed information about institutional policies and practices.~~

## 1.15 Resident Searches

Updated to comply with the federal Prison Rape Elimination Act

- 4. Clothed Body Search;
- 5. Except in exigent circumstances, any search of a resident is conducted by a staff member of the same gender as the youth or, in the case of a transgender or intersex identified youth, by a staff member of the gender that the youth has identified as the preferred gender for this purpose. Any search of a resident complies in all respects with the requirements of the Prison Rape Elimination Act as detailed in Department Operating Procedure as well as in Department training.

**214-RICR-60-00-1**

**TITLE 214 – Department of Children, Youth, and Families**

**CHAPTER 60 – Rhode Island Training School**

**SUBCHAPTER 00 – N/A**

**PART 1 – Rules and Regulations of the Rhode Island Training School**

**1.1 Purpose**

- A. R.I. Gen. Laws § 14-1-36.2 provides that children and youth placed in the custody of the Department of Children, Youth and Families (hereinafter, the Department) receive suitable treatment, rehabilitation and care in the least restrictive environment.
- B. The mission of the Rhode Island Training School (RITS) is to provide care in a secure facility to youth who are detained or adjudicated by order of the Family Court. The Training School promotes public safety and rehabilitation of residents through a comprehensive continuum of services provided in partnership with families, the community, and the Department in the least restrictive setting compatible with youth and community safety. Supervision, security, education, behavioral health, health and transition services are provided in an individualized, culturally, and gender sensitive manner.

**1.2 Authority**

These regulations are promulgated pursuant to R.I. Gen. Laws Chapters 42-72, 42-72.1, R.I. Gen. Laws §§ 42-72-2, 42-72-3, 42-72-4, 42-72-5, 42-72-15, 42-72.6-1, 42-72.6-2, 42-72-17.2, 14-1-3, 14-1-6, 14-1-6.2, 14-1-27, 14-1-36.1, 14-1-36.2, 14-1-40, Prison Rape Elimination Act of 2003, Pub. L. No. 108-79, Juvenile Justice and Delinquency Prevention Act of 1974, Pub. L. No. 93-415, Individuals with Disabilities Education Act, Pub. L. No. 94-142.

**1.3 Application**

The terms and provisions of these regulations shall be liberally construed to permit the Department to effectuate the purposes of state law, goals and policies.

**1.4 Severability**

If any provision of these regulations or application thereof to any person or circumstance is held invalid by a court of competent jurisdiction, the validity of the remainder of the regulations shall not be affected thereby.

## **1.5 Definitions**

- A. “Department” means the Department of Children, Youth and Families.
- B. “RITS” means the Rhode Island Thomas C. Slater Training School for detained or adjudicated youth. Youth are placed at the RITS by order of the Family Court.
- C. “Sexual abuse” means any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:
1. Sexual contact;
  2. Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
  3. Any other intentional touching;
  4. Any attempt, threat, or request to engage in sexual activities;
  5. Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident; and
  6. Voyeurism by a staff member, contractor, or volunteer.
- D. “Sexual harassment” means any verbal comment or gesture (welcome or not) of a sexual nature including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing or obscene language or gestures.
- E. “Sick call” means a scheduled time at which residents may report as sick to the RITS nurse.
- F. “Voyeurism” means an invasion of privacy of a resident by staff for reasons unrelated to official duties, such as peering at a resident who is using a toilet to perform bodily functions; requiring a resident to expose his or her buttocks, genitals, or breasts; or taking images of all or part of a resident’s naked body or of a resident performing bodily functions.

## **1.6 General Administration**

- A. The Department of Children, Youth and Families is the governing authority for the Division of Juvenile Corrections.
- B. The Division of Juvenile Corrections maintains the Training School as required by statute to meet the rehabilitation and community safety needs of male and female youth placed by order of the Family Court.



C. All Training School employees, and all contractors and consultants who do business at or in any of the components of the Training School, must undergo criminal background checks and must submit to the following criminal background checks every fifth (5th) year of their employment or contractual/consultant relationship with the Training School.

1. Such background checks are conducted during the anniversary month of the employee's date of hire or assignment to the Training School. In the case of contractors/consultants, such background checks are conducted during the anniversary month of the start of that individuals work with the Training School.
2. Five-year criminal background checks are done using State Bureau of Criminal Investigation (BCI) checks.
3. For employees covered by this policy, failure to submit to these checks may be used as cause for disciplinary action, up to and including dismissal from employment with cause.
4. For consultants and contractors covered by this policy, failure to submit to these checks may be used as cause for termination with cause of any and all agreements for consulting or contracting with the Department, with the consultant/contractor forfeiting any and all future payments within their contract for services with the Department.
5. Any criminal information found in these checks are subject to administrative review and appropriate disposition.

D. The Superintendent and administrators of the Training School ensure that all employees and/or vendors providing services to residents are licensed and/or certified and/or qualified as required by the Department of Children, Youth, and Families, the Department of Health, and the Department of Elementary and Secondary Education.

E. R.I. Gen. Laws § 16-21-28 requires the establishment of a district wide coordinated school health and wellness subcommittee chaired by a full member of the school committee.

1. The RI Training School convenes a Wellness Committee that is composed of, at the minimum: an administrator, a representative from the kitchen, a physical education/health teacher and/or culinary arts teacher, a clinical team member, youth, parents/guardians, and community members when available. Members of the public, students, and community organizations are encouraged to attend these public meetings.
2. This committee will meet no less than four times during the school year.

F. In accordance with R.I. Gen. Laws § 42-72-17.2 the Training School has the following capacity requirements:

1. The capacity of the Training School is 96 beds, of which the maximum capacity of the female unit is 12 beds.
2. If the census approaches ninety-five percent (95%) of maximum population capacity, the Director of the Department notifies the Chief Judge of the Family Court.

G. Residents of the Training School confined to any facility must be provided with the following:

1. A room equipped with lighting sufficient for a resident to read by until time designated for "lights out" within the training school;
2. Sufficient clothing to meet seasonal needs;
3. Clean bedding, including blankets, sheets, pillows, and pillow cases;
4. Personal hygiene supplies, including soap, toothpaste, towels, toilet paper, and a toothbrush;
5. A change of undergarments and socks daily;
6. Minimum writing materials, paper, and envelopes;
7. Prescription eyeglasses, if needed;
8. Equal access to all books, periodicals and other reading materials located at the training school, and daily access in their rooms to their own books, periodicals, and other reading materials;
9. Reasonable access to phones to contact parent(s) and attorney;
10. Daily showers;
11. Daily recreational activities;
12. General correspondence privileges;
13. Visitation;
14. Education, counseling, psychological and psychiatric services which are court ordered and/or part of the resident's Comprehensive Assessment/Individual Treatment Plan; and
15. Three meals a day and regular access to canteen services. Residents are prohibited from storing food in his or her room.

H. Subject to budget appropriation, the Department establishes an account into which earnings of the residents are placed, monitored, and disbursed.

1. No individual, including family members, can contribute funds to residents in person during visits or through mail.

2. Residents are not permitted to carry cash at any time.

I. Residents are provided the ability to practice preferred religious services on a voluntary basis.

### **1.6.1 Resident Handbook**

A. Within 24 hours of a resident's admission, facility staff provide each resident a copy of the Resident Handbook and discuss the rules governing conduct at the institution, including chargeable offenses and the range of penalties and disciplinary procedures and incentives for good behavior.

1. The Resident Handbook includes information for youth on their rights and PREA safeguards and includes information on how to report sexual harassment and/or sexual abuse, and a place for the youth to sign acknowledging that the youth has received such information.

2. When a literacy or communication problem exists, a staff member assists the resident. Interpreters are available, as required. Staff or interpreters communicate with the resident in a manner that he/she understands.

## **1.7 Prison Rape Elimination Act**

A. The RITS complies with the federal Prison Rape Elimination Act (PREA) to provide a safe and therapeutic environment for all youth. Department Operating Procedures outline and implement a comprehensive approach to preventing, detecting and responding to sexual abuse, including voyeurism, and sexual harassment.

B. Any physical contact of a sexual or sexualized nature between any RITS provider, vendor, contractor, volunteer, or staff toward a youth detained or adjudicated at the RITS is deemed abusive; such contact is reported to the Child Protective Services (CPS) Hotline and is investigated.

1. The Department has zero tolerance for voyeurism or sexual harassment by any Department provider, contractor, volunteer or staff toward a youth detained or adjudicated at the RITS and includes voyeurism and/or sexual harassment as a form of sexual abuse.

C. Any Department staff engaging in sexual abuse or harassment toward a child/youth in care or detained or adjudicated at the RITS is subject to discipline up to and including dismissal without warning and referred to law

enforcement agencies unless the activity was clearly not criminal, and to relevant licensing bodies, as appropriate.

- D. Any contractor, provider, intern or volunteer who violates Department sexual abuse or harassment policies is prohibited from contact with residents and reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies, as appropriate.

## **1.8 Initial Assessments and Service Planning**

A. Intake includes but is not limited to administration of:

1. A validated mental health screening tool within 48 hours of detention that enables clinicians to determine the presence of acute mental health issues which may require prompt intervention.
2. A risk assessment instrument designed to structure appraisals of violence risk and risk management plans for adolescents, completed within 30 days of adjudication.

B. A validated comprehensive assessment is completed within 30 days of a youth's adjudication which evaluates a broad spectrum of mental health and substance abuse issues to determine necessary levels of treatment.

1. Treatment goals identified through the comprehensive assessment process are documented in the treatment planning section of RICHIST.
2. Documentation includes the status of a child's risk need areas including: disruptive behavior/personality, attitudes/orientation, emotional stability, substance abuse, family, peer relations, and education/employment as well as protective factors.

C. The assessment process includes parent(s)/caregiver(s) who have contact with the child and are providing care.

## **1.9 Education Program**

A. The RITS must provide residents educational programming approved by the Rhode Island Department of Elementary and Secondary Education that conforms to all state and federal laws. The RITS submits a detailed comprehensive education plan to RIDE for approval in compliance with R.I. Gen. Laws § 42-72.6-2.

1. The General Education Development Program (GED) provides residents with the opportunity to obtain an alternative diploma in conformance with state and federal law.

- a. Eligible residents are assessed for enrollment in the GED program. The assessment determines the resident's desire and ability to obtain a GED.
  - b. Residents meet the criteria established in the "Regulations of the Council on Elementary and Secondary Education Governing the Rhode Island High School Equivalency Program" to participate in GED programming and to receive a passing score.
  - c. The GED program is provided at no cost to residents.
2. Post-Secondary programming encourages residents to begin and/or complete degrees or certifications in a variety of fields related to career and technical educational areas (including the opportunity to participate in RITS on-site vocational programming) and improves residents' access to scholarships, fellowships, funding, stipends and other incentives during transition to the community and/or may provide an opportunity for an on-grounds paid job.
3. Special Education and Section 504
- a. In conformance with the federal law, the Alternative Education Program at the RITS ensures that students determined eligible for Special Education and/or Section 504 Rehabilitation Act Services are provided the supports and services to which they are entitled in accordance with law.
  - b. To classify a resident as learning disabled for Special Education purposes, the Education Program:
    - (1) Does not require a severe discrepancy between intellectual ability and achievement.
    - (2) Utilizes a resident's response to scientific, research-based intervention process, as required by the RI Department of Elementary and Secondary Education.
  - c. If a resident's response to intervention suggests he/she may be eligible for Special Education Services, necessary evaluations are conducted:
    - (1) Evaluations begin within ten school days of receipt of parental consent.
    - (2) Evaluations are completed within sixty calendar days of parental consent.
    - (3) An eligibility determination meeting is held.

- (4) A written report of the evaluation team is made available to the resident's home/ community school district and parents, as well as the IEP team, if it is determined that the resident is eligible for special education services.

## **1.10 Clinical Services**

- A. Providers of health, dental and behavioral health care are prepared and credentialed in conformance with the licensing and certification requirements of the RI Department of Health, RI Department of Children, Youth, and Families and/or the Department of Elementary and Secondary Education.
1. Final judgments regarding medical care for residents are made by a physician and regarding dental care by a dentist.
- a. Credentialed health care providers, including but not limited to registered nurses, nurse practitioners, physician assistants, registered dental hygienists and certified dental assistants, practice within the parameters defined by the RI Department of Health (RIDOH).
- b. Standing medical orders are written by physicians or nurse practitioners, are reviewed regularly and are revised as necessary.
2. The Training School maintains a centralized clinic with private examination facilities. Residents have daily access to medically necessary health, dental and behavioral health services and 24-hour access to emergency health, dental and behavioral health services.
- B. In the event of serious illness, injury or death, the resident's parents or legal guardians are notified as soon as possible. In addition, staff notify the Superintendent in compliance with § 1.8 of this Part.
- C. The content, quality and periodicity of health, behavioral health and dental care conforms to the relevant standards of the Rhode Island Department of Health, the American Psychiatric Association, the American Academy of Pediatrics, the American Dental Association and the U.S. Centers for Disease Control.
1. Interventions are individualized for each resident and calibrated to the seriousness and urgency of the presenting need.
2. Each resident is provided an explanation of interventions consistent with his or her cognitive and developmental capacity, language barriers or disabilities.

3. To ensure medical confidentiality, interventions are delivered in private.
  - a. Any exception to the medical confidentiality of a resident requires the finding by the Superintendent or designee that the safety or security of the resident or staff requires staff supervision.
  - b. When the safety or security requires the presence of staff during a routine or scheduled physical examination or intervention, supervision is provided by staff of the same sex as the resident.
- D. Staff secure appropriate consent before providing treatment to detained or adjudicated residents provided however that a resident may receive medically necessary emergency medical treatment before such consent is given.
  1. The consent of the resident's parent or legal guardian is required for residents under the age of 18 with the exception for the treatment of sexually transmitted infections or for the treatment of substance abuse.
  2. If medically necessary emergency medical treatment is provided before parents/legal guardians sign the Consent for Medical Treatment or Authorization for Medication Forms, parents are notified as soon as possible.
  3. If consent cannot be secured, treatment is rendered if the resident's condition poses an imminent danger to him/herself or others. In some cases, such as, when treatment is refused on personal or religious beliefs, a court order may be sought.
- E. Any resident grievance related to health care is deemed a potential emergency and managed in conformance with § 1.16 of this Part: "Resident Grievance Procedure".
- F. Medical, dental and behavioral health screening begins at intake to the RITS.
- G. Medically trained personnel monitor and respond to residents' health needs daily.
  1. Registered Nurses conduct sick call twice a day between the hours of 7:00 A.M. and 11:00 P.M., which is accessible to all residents for non-emergency care.
  2. Physicians and dentists are available to provide necessary treatment. In addition, a physician or physicians are on call twenty-four (24)

hours a day, seven days a week, to provide medically necessary evaluation and care as indicated by the nursing staff.

- a. In no circumstance is resident access to medical care denied by staff.
  - b. Health appraisal is conducted by qualified staff under the supervision of a physician or dentist and is completed in a uniform manner which conforms to standard medical or dental practice.
  - c. Review of results of medical or dental examinations, tests or the identification of problems is performed by a physician or dentist.
3. Pharmaceuticals are managed, prescribed and administered by qualified personnel pursuant to an appropriate examination of the resident.
  4. Behavioral health services, including pharmaceutical management, are provided by qualified professionals licensed by the Department of Health.
  5. Obstetrical and gynecological care is provided to female residents as needed.
  6. Medically necessary consultation and care are provided to residents by health care specialists.
  7. For residents requiring a special health program or close medical supervision, an individualized plan is developed.
  8. The Clinical Director, in collaboration with the Medical Director, annually reviews and approves protocols for the management of serious and infectious diseases. The RITS adheres to the recommendations of the RIDOH and the U.S. Centers for Disease Control.
- H. Health, behavioral health and dental records are managed in a manner compatible with the confidential relationship between a resident and his/her doctor as well as the security of the facility.
- I. Health Education is provided to residents. In addition, staff provide individualized information on sound health and hygiene practices related to each resident's needs during the provision of health, behavioral health and dental care.
- J. Resident participation in medical, cosmetic or pharmaceutical experimentation is prohibited because residents confined in a juvenile correctional facility are incapable of volunteering as a human subject without



hope of reward and, therefore, cannot do so on the basis of fully informed consent. A resident may participate in a clinical trial of a medical treatment specific to his/her individual treatment needs if the:

1. treatment is medically necessary; and
2. fully informed consent has been secured from the resident or parent in conformance with § 1.10(D) of this Part above;
3. prior, written permission of the Superintendent has been secured; and
4. clinical trial is conducted by appropriately credentialed providers in accredited facilities accredited pursuant to documented Internal Review Board's approval.

## **1.11 Resident Telephone Calls**

- A. Newly-admitted residents may call his or her parent(s) or legal guardian(s) at the time of admission. In addition, residents are also afforded an opportunity to call an attorney, if requested. Staff maintains visual supervision but does not monitor the conversation of the resident while he/she speaks to his/her attorney privately.
- B. A resident is afforded prompt access to the telephone if he/she asks to contact the Department's Child Protective Services Hotline. Staff maintains visual supervision but does not monitor the conversation of the resident while he/she speaks to the Child Protective Services Hotline privately.
- C. A resident is afforded prompt access to the telephone if he/she asks to contact the RI Office of the Child Advocate (hereinafter, OCA). Staff maintains visual supervision but does not monitor the conversation of the resident while he/she speaks to the OCA privately.
- D. Staff may not restrict calls to or from a resident's attorney at reasonable times.

## **1.12 Mail**

- A. All outgoing mail shall be transmitted without delay, unopened, uncensored and uninspected.
- B. All incoming mail may be opened and inspected for contraband only in the presence of the resident, but letters may not be read or delayed.
- C. The Superintendent may prohibit mail between a resident and someone other than an attorney, a member of the press, or public official if good cause is shown that said prohibition is necessary for the rehabilitation and treatment of said resident and provided that whenever mail is prohibited, the

resident shall be given an opportunity to object, personally or in writing, and he/she shall receive a final written decision with reasons from the Superintendent.

### **1.13 Visitation**

- A. Each resident is afforded an opportunity for at least one visit of at least one hour per week.
- B. The Unit Manager develops a visitation list with the resident upon entry to the facility. The Unit Manager explains to the resident any exclusion from the approved visitation list.
- C. Special visits may be approved to address scheduling conflicts or special events or special visitors or to accommodate a family event/emergency.
- D. The resident or family member requests such a visit from the clinical social worker or Unit Manager, who provides a timely response.
- E. All visitors are subject to a criminal record background check and a clearance of agency activity check prior to being approved for visitation.
  - 1. Individuals who pose a specific and credible threat to the safety of the residents or the security of the facility are excluded from visitation.
  - 2. Individuals who are identified in a no contact order involving a youth or a member of the youth's family issued by a court of competent jurisdiction are excluded from visitation.
- F. All visitors are subjected to a search upon entry to the facility.
- G. Visitors are prohibited from bringing contraband in to the facility at any time. The contraband and search policy for visitors is posted at the entrance to the facility.
- H. Visitors may ask questions or register complaints about the treatment of youth. Staff, the Unit manager on duty or administrators promptly reply to such questions or complaints. In addition, families may utilize the facility grievance procedure; refer to § 1.16 of this Part: Resident Grievance Procedure.
- I. Residents on disciplinary status are not deprived of visits as a punishment. Residents on disciplinary status may have visits as specified herein unless such visits would pose a threat to the safety of the residents and/or security of the facility.
- J. The resident may grieve a denial of any visit in conformance with § 1.16 of this Part: Resident Grievance Procedure.

## **1.14 Juvenile and Adult Offender Interaction**

- A. Only juveniles under the jurisdiction of the Family Court reside at the Training School.
- B. In the event that any contact or visitation is sought between a resident and a parent who is an adult offender, the permission of the Superintendent or designee is required.
  - 1. The unit Clinical Social Worker and Manager outlines the reasons why such contact and/or visitation is in the resident's best interest, the nature of the adult's offenses and his or her institutional adult record.
  - 2. If visitation is requested, the Manager and Clinical Social Worker include, if available, the names and titles of the Adult Correctional Institution (ACI) staff who will supervise the adult offender and the names of the Training School staff who will supervise the resident.
  - 3. If the Superintendent or designee approves contact and/or visitation, it is conducted in a setting that precludes interaction with Training School residents unrelated to the adult offender and in which supervision necessary to assure the resident's safety and well-being is continuously provided.

## **1.15 Resident Searches**

- A. A resident is subject to a search at any time, in accordance with Department Operating Procedures.
- B. Searches of residents are always conducted in strict conformance to departmental training and may include:
  - 1. Pat Down Search;
  - 2. Search utilizing electronic means including hand held or stationary metal detectors;
  - 3. Search upon detainment;
  - 4. Clothed Body Search; or
  - 5. Strip Search.
- C. Strip Searches
  - 1. No resident is subject to a strip search as harassment or for the purpose of punishment or discipline.

2. No resident is subject to a strip search upon detainment without an individualized determination that there is a reasonable suspicion based on specific and articulated facts to believe that he/she is concealing a weapon or possesses contraband. Reasonable suspicion may be based upon, but is not limited to the following:

  - a. Nature of the offense: violent delinquent offenses and drug possession offenses which provoke suspicion that the resident is concealing a weapon or contraband.
  - b. Appearance and demeanor: a resident presents an unusual and inordinately nervous demeanor, conducts himself/herself in a manner that suggests he/she is attempting to conceal something or appears to be under the influence of any narcotic drug or alcohol or otherwise acts in a suspicious manner.
  - c. Circumstances surrounding the arrest and apprehension: including the nature of any charges brought against the individuals with whom the resident was associating and degree of resistance offered at the time of this arrest.
  - d. The resident's prior record: a lengthy juvenile record, particularly for crimes of violence and narcotic offense, possession and/or use of firearms or other deadly weapons; and prior involvement in illegal drugs.
  - e. The resident's history at the Training School: a resident has been the subject of prior institutional discipline for the possession of weapons or other contraband or repeated, violent acts against staff and/or other residents.
  - f. The discovery of evidence of contraband or a weapon in plain view or in the course of a Pat Down or Electronic Search or Search upon Detainment.
3. An adjudicated or detained resident may be subject to a strip search following visitation or return from an off-ground transport only if an individualized, reasonable suspicion based on specific and articulated facts exists that he/she is concealing a weapon or possesses contraband.
4. Any authorized strip search must be conducted as follows:

  - a. A thorough pat down search and metal detection precedes the strip search.
  - b. A strip search is always conducted by staff of the same gender as the resident.

- c. Staff always conduct the search in a private place (one resident at a time) and in a professional manner that recognizes the human dignity of the resident.
  - d. Because strip searches are humiliating experiences and may trigger severe reactions, especially from youth with histories of abuse or disabilities, all strip searches are conducted in a manner that minimizes unnecessary distress to the resident.
  - e. Staff ensure that the resident is not on camera during the search. Staff stand in clear view of the camera during the search.
  - f. If it is not possible to position staff or the resident in a private place, staff search the resident in the presence of another staff. Both staff are of the same gender as the resident.
  - g. Any manual or instrument inspection of a resident's body cavities is conducted only by medical personnel with prior approval of the Superintendent. Staff notify parents or guardians if a resident is subject to a physical body cavity search.
5. Except in exigent circumstances, any search of a resident is conducted by a staff member of the same gender as the youth or, in the case of a transgender or intersex identified youth, by a staff member of the gender that the youth has identified as the preferred gender for this purpose. Any search of a resident complies in all respects with the requirements of the Prison Rape Elimination Act as detailed in Department Operating Procedure as well as in Department training.

## **1.16 Resident Grievance Procedure**

- A. Staff ensure that residents are informed of the grievance procedure.
- 1. Social Workers and Unit Managers inform each newly admitted resident of the existence of the grievance procedure, including the:
    - a. emergency grievance process,
    - b. steps that must be taken to use it, and
    - c. names of the persons or positions designated to resolve grievances.
  - 2. Staff provide the resident with the written grievance procedures and ask the residents whether they understand the grievance process.

3. Residents with limited cognitive or communication skills are provided assistance and/or translation services necessary to participate meaningfully in the process.
- B. A resident's family includes parents, immediate family members responsible for the resident's welfare, guardians, or other custodians of the resident.
1. A family member may assist the resident in submitting a grievance.
  2. If a resident's family member assists in initiating a grievance, the family member must be given an opportunity to participate in any formal meetings relevant to the grievance.
- C. Residents or family members acting on behalf of residents:
1. Initiate the grievance process by submitting the first level grievance forms, which are available and accessible to residents in their housing units, school, gym, health clinic, visiting areas, and upon request.
  2. Obtain and submit the Resident Grievance Form confidentially.
  3. Indicate on the Resident Grievance Form whether or not he or she wishes to have the assistance of a Resident Grievance Liaison, a staff member not involved in the incident being grieved, or a family member to help him/her in the process.
  4. Submit written grievances by placing them in a locked grievance box or by delivering them to the Unit Manager.
    - a. Each housing unit has one locked grievance box in an area of the unit accessible to residents.
    - b. The Unit Manager checks every grievance box in his/her unit at least one time during his or her regularly assigned work day.
  5. Residents receive responses to their grievances that are respectful, legible and address the issues raised.
  6. If a grievance is found valid, the Superintendent or designee ensures immediate and appropriate action to remedy the issue.
- D. Grievances and the results of grievance investigations are fully documented. The Superintendent or designee regularly analyzes Resident Grievance Forms (whether granted or denied) for patterns or trends.
- E. This grievance procedure does not apply to any allegations of criminal activity or abuse by staff or residents, whether physical, sexual or verbal.

1. These allegations are handled through the Office of the Child Advocate (OCA) and/or the Department's Child Protective Services and/or the RI State Police.

2. Residents and families are informed of this limitation.

F. If the Unit Manager determines that a Level I grievance challenges the interpretation or application of promulgated policy, he/she refers the grievance to a Deputy Superintendent and informs the resident, family member assisting the resident, the Grievance Liaison or designated staff of this decision.

1. The grievance commences as a Level II grievance.

2. The grievance is subject to the procedures set forth for each level of review, except that each decision maker is allowed thirty (30) days to provide a written response regarding a grievance or appeal to the resident and any individuals, including family members, who are assisting him/her.

G. Level I – Unit Level

1. The resident completes the Resident Grievance Form and places it in the locked grievance box or informs staff or a Resident Grievance Liaison, who assists him/her in completing the Resident Grievance Form.

2. This same process is utilized by a family member assisting the resident. When a family member files a grievance on behalf of a resident, he/she files the Resident Grievance Form with the Unit Manager or designee.

3. Upon receipt of the grievance, the Unit Manager or designee assigns a complaint number utilizing a sequential numbering system which includes the unit and the year (i.e., No. I-D-87).

4. If the resident requests assistance from the Resident Grievance Liaison or designated staff, the Unit Manager refers the resident and/or family member in assisting the resident to the pertinent individual within one (1) business day of receipt of the grievance.

5. Residents in detention have the right to request and receive the assistance of staff not involved in the matter being grieved.

6. The Unit Manager investigates the grievance and meets with the Resident Grievance Liaison or staff assisting the resident and the aggrieved resident within five (5) business days following the date the grievance was received.

- a. No staff alleged to be involved in the grievance investigates the grievance.
  - b. Any family member who is assisting the resident in the grievance process is informed of and may attend the meeting.
7. Within seven (7) business days following the date received, the Unit Manager or designee grants or denies the grievance.
- a. The Unit Manager informs the resident and any family member who is assisting the resident, the Resident Grievance Liaison or staff assisting the resident of the decision in writing.
  - b. The resident, any family member who is assisting the resident, the Resident Grievance Liaison or staff assisting the resident may file an appeal either by placing the Resident Grievance Form in the Unit's grievance lock box or informing the Unit Manager.
  - c. The Unit Manager records the outcome of each grievance and notes on the grievance form whether the grievance was satisfactorily resolved or whether the resident appealed the grievance decision.
  - d. If the decision is appealed, the grievance is forwarded to the Deputy Superintendent for Level II review.
  - e. The resident, family member assisting the resident, the Resident Grievance Liaison or staff assisting the resident receives a copy of the completed form.

#### H. Level II – Administrative Level

1. The Deputy Superintendent meets with the Resident Grievance Liaison or staff assisting the resident, the Unit Manager, and the aggrieved resident within seven (7) business days of the receipt of the appeal. Any family member assisting the resident is informed of and may attend this meeting.
2. The Deputy Superintendent discusses the grievance with the parties to attempt to resolve the matter.
3. If the grievance cannot be resolved, the Deputy Superintendent makes and documents a decision on the Resident Grievance Form within five business (5) days of the meeting.
4. A copy of the Deputy Superintendent's decision is forwarded to the resident, any family member assisting the resident and the Resident Grievance Liaison or staff assisting the resident.



5. If the aggrieved resident is not satisfied with the decision of the Deputy Superintendent, the resident, a family member who is assisting the resident in the grievance procedure, the Resident Grievance Liaison, or the staff assisting the resident files an appeal in the Unit's grievance lock box.

a. The Unit Manager forwards the appeal to the Deputy Superintendent within one (1) business day of receipt.

b. The Deputy Superintendent forwards the appeal to the Office of the Child Advocate for review within five (5) business days of receiving notice that the resident requests a Level III review.

I. Level III – Third Party Review

1. The Office of the Child Advocate (OCA) meets with the Unit Manager, the Deputy Superintendent, the aggrieved resident, the Resident Grievance Liaison or staff assisting the resident within ten (10) days of receiving the Level III review request.

2. Any family member assisting the resident in the process is informed of and may attend this meeting.

3. The OCA submits a written decision, which includes a recommendation for disposition of the grievance, to the Superintendent on the Resident Grievance Form no later than ten (10) days after his/her review.

4. Within seven (7) days of receipt of the OCA recommendation, the Superintendent issues a decision on the back of the Resident Grievance Form.

J. Level IV – Superintendent Review

1. If the Superintendent does not adopt the recommendation of the Advocate, he/she includes a statement explaining his or her decision to reject said recommendation.

2. The Superintendent considers whether the implementation of the recommendation would:

a. constitute a violation of law or promulgated policy;

b. create a security breach;

c. result in physical danger to any person;

d. require expenditure of funds not reasonably available; or,

- e. be detrimental to the public or the proper and effective accomplishment of the duties of the Division in the judgment of the Superintendent.
3. The Superintendent forwards a copy of his or her decision to the OCA, the Deputy Superintendent, the Unit Manager, the aggrieved resident, any family member who assisted the resident, and the Resident Grievance Liaison or staff assisting the resident.
4. If the Superintendent sustains the recommendations of the OCA, the Unit Manager implements the recommendation in accordance with the directions of the Superintendent.

#### K. Emergency Grievance Process

1. A resident may file an emergency grievance in the event of risk of serious bodily injury, possible breach of security, or the immediacy of an issue that cannot be addressed in a timely manner through the normal grievance process.
2. Any resident grievance related to health care is deemed a potential emergency; determination of emergency status is made in conformance with § 1.20(K)(3)(b) of this Part, below.
3. A resident may file a Resident Grievance Form with any staff.
  - a. An oral request by a resident to use the emergency grievance procedure is sufficient to initiate the process.
  - b. Staff receiving a Resident Grievance Form or oral request immediately notifies the Master Control Center (MCC). The MCC notifies the Superintendent or designee who determines whether the grievance constitutes an emergency.
  - c. If the emergency grievance process is commenced orally, the staff assists the resident in completing the Resident Grievance Form.
4. If the grievance constitutes an emergency, the Superintendent or designee immediately takes any corrective measures necessary to resolve the grievance, including preventing a risk of serious bodily injury or breach of security.
  - a. The Superintendent or designee immediately notifies the Unit Manager of the incident and any actions taken to resolve the grievance.
  - b. The Unit Manager meets with the resident as soon as possible to discuss the incident and ensure satisfactory resolution of the grievance.

5. If the grievance is determined not to constitute an emergency, it is handled through the grievance process beginning at the first level of review. A copy of the Resident Grievance Form is forwarded to the Unit Manager and the aggrieved resident to initiate the process.
6. The parent(s) or guardian(s) of a resident who files an emergency grievance receives a copy of the Resident Grievance Form and is informed of any action taken as a result of the grievance.

## **1.17 Food Service**

- A. Meals or snacks must never be withheld as a form of discipline.
- B. Food is stored and prepared in conformance with 216-RICR-50-10-2, Certification of Managers in Food Safety and 216-RICR-50-10-1, Rhode Island Food Code.
- C. Accurate records of meals planned and served as well as all documentation required by federal, state and local code regarding sanitation and food safety are maintained.
- D. Requests for special diets based on health needs of residents are made to the Principal Cook by medical personnel to provide a nutritional and medically appropriate diet for the resident.
- E. Requests for special diets for religious purposes are accommodated as much as possible.
- F. Residents are served meals in an appropriate setting with consistent supervision as well as safe, hygienic handling and storage of food.

## **1.18 Notice to Superintendent**

- A. Significant events or situations that threaten the safety or security of residents and/or staff must be reported immediately to the Superintendent, the Administrator-on-Call and the Chief of Staff of the Department of Children, Youth, and Families.
- B. Incidents include but are not limited to:
  1. Injury to employees or residents which involves emergency treatment
  2. Death of residents or staff
  3. Escape or attempts to escape
  4. Any fights between individuals involving a weapon
  5. Fires

6. Bomb scares that require evacuation
7. Major property loss or damage
8. Any behavior incident of a resident or group of residents that involves the assistance of State or Municipal Police
9. Suicide attempts

## **1.19 Discipline**

### **1.19.1 General Discipline**

- A. Staff attempt to re-direct residents to solve routine behavior problems through discussion and informal interaction with residents.
- B. Employees are prohibited from:
  1. Degrading a resident;
  2. Delaying or refusing a resident access to medical care, daily showers, clean laundry, clean linen, or meals or snacks as a form of discipline or while on discipline;
  3. Refusing residents reasonable access to the telephone to contact parents or attorney, or the Child Abuse Hotline as a means of disciplinary action or when on discipline status;
  4. Refusing residents visiting from parents, guardians or attorneys as a means of discipline or while on discipline status unless otherwise directed by the Superintendent;
  5. Withholding the incoming mail of residents or prohibiting outgoing mail as a means of discipline or while a resident is on discipline status unless otherwise directed by the Superintendent; and
  6. Any abusive, neglectful or harmful action against any resident.

### **1.19.2 Behavior Report**

- A. Juvenile Correctional Services staff utilize the Behavior Report process to respond to residents who commit minor offenses. This process ensures that the resident is afforded due process in determining that the infraction occurred, that any sanction is proportional to the infraction and that the resident understands the infraction and sanction.
- B. The Unit Manager or School Principal or designee may impose only one of the following sanctions, in addition to a referral for clinical intervention, if deemed necessary:

1. Warning and/or discussion of the incident with the resident.
  2. Participation in a restorative justice meeting with the person aggrieved by the resident's behavior if another resident or staff were adversely affected by the resident's behavior.
    - a. This may include reasonable restitution that does not exceed the value of damaged property.
    - b. Restitution is also based on the resident's ability to pay, and that amount will be taken from the resident's pay when applicable.
  3. Loss of a resident's points for one shift.
  4. Placing a resident in his/her room for a maximum of one (1) hour.
  5. Extra chores, special assignments, facility and public service assignments for up to a maximum of five (5) days.
  6. Sending a resident to his/her room before "lights-out", but not earlier than 8:00 PM, limited to one night for each incident; or one hour before the resident's normal bedtime.
  7. Loss of a resident's points for one day.
  8. Loss of the second scheduled weekly visit or any special visit for one week.
  9. Loss of one unit level.
- C. The Unit Manager or School Principal or designee explains the sanction to the resident before its imposition.
- D. The Unit Manager or School Principal or designee records the disposition on the Behavior Report and forwards to the Superintendent for review.

## **1.20 Major Discipline**

### **1.20.1 Major Discipline Review**

- A. The Major Discipline Review process responds to serious resident infractions or allegations of serious resident infractions of the facility's rules.
- B. Residents demonstrating the following behaviors may be subject to Major Discipline Review:
  1. Bullying or extortion;
  2. Refusing work assignments without good cause;

3. Physical assaults on other residents or staff;
  4. Escape;
  5. Destruction of property;
  6. Theft;
  7. Possession, use of, or selling drugs and/or contraband (which is anything illegal or anything that is specifically prohibited).
  8. Failure to obey any reasonable and lawful staff command (including refusal to continue participation in any court mandated treatment, rehabilitation, or training programs that are established in the resident's Service Plan (Individual Treatment Plan), or educational programs in which attendance is mandated by the compulsory school attendance laws);
  9. Using threatening language that would cause a reasonable person to be in fear of imminent physical harm;
  10. Using gestures that are intended to provoke other residents and/or staff and would cause a reasonable person to be provoked; and
  11. Any act in violation of the criminal laws of the State of Rhode Island.
- C. The Unit Manager or designee verbally informs the resident that his/her infraction is being recommended for a Major Discipline Review.
- D. The Superintendent or designee approves or disapproves the recommendation for a Major Discipline Review. If the Superintendent determines that a Major Discipline Review is warranted, the Shift Coordinator notifies the staff who submitted the request.
- E. Staff notify the resident that a Major Discipline Review Board has been approved. The resident is entitled to timely written notice of the violation with which he/she is charged, the alleged conduct giving rise to the violation, including the date, time and place of the alleged conduct and reason for the proposed disciplinary procedure. This notice will be given as soon as possible but no later than the end of the shift in which the incident occurred unless the Superintendent approves an extension of that time frame.
- F. If the Superintendent determines the resident is at risk for imminent harm to him/herself or others, the resident may be remanded to his/her room while maintaining all other basic entitlements.
- G. In any instance in which a resident is remanded to his room prior to the hearing, the Review Board must occur within twenty-four hours of the incident unless the resident requests an extension to allow his/her attorney to be present at the hearing.

- H. If there is no indication that the resident is at risk of imminent harm to him/herself or others, the Review Board hearing must occur with five (5) work days of the incident. No extension to the 5-day policy may occur unless the resident or his/her attorney requests it.
- I. If, during the period prior to the convening of the Review, the Unit Manager consults with the Superintendent or designee and determines that the alleged infraction may appropriately be addressed through a Behavior Report process and the Major Discipline Review procedure is discontinued.

### **1.20.2 Major Discipline Review Hearing**

- A. At the hearing the Major Discipline Reviewer reads and fully explains to the resident and his/her advocate the circumstances of the charge and/or reason for the Review. The Reviewer also informs the resident of his/her right to:
1. Be represented by an attorney, a social worker, another resident of his/her choosing or another community member or staff member of his/her choosing.
  2. Retain or use an attorney to represent him/her at his/her own expense.
  3. Admit, deny or remain silent regarding the stated charge(s).
  4. Privately make an initial statement to admit or deny the charges to the Reviewer in the absence of witnesses and/or staff the resident or his/her advocate.
  5. Disclosure of the evidence that will be presented against him/her during the Review hearing.
  6. Present evidence on his/her behalf that includes witnesses and documentation.
  7. Have all witnesses questioned in the presence of the resident. If the Reviewer finds that such questioning will jeopardize the physical safety of the witness, that witness may testify out of the presence of the resident, but in the presence of the resident's advocate when applicable.
  8. Testify (although the resident is not required to do so). In all cases, the resident shall be advised that if she/he wishes to testify, anything she/he says may be considered by the Major Discipline Reviewer as well as in future court proceedings, if any. The reviewer does not consider the resident's decision not to testify as an admission or indication of guilt or wrongdoing.

9. Cross-examine any witnesses that the resident does not present. The resident can also compel the presence of staff or other residents as witnesses by requiring that the Superintendent or designee require their presence at the hearing.
  10. The right to appeal the Review decisions and/or the imposed penalty to the Superintendent. All sanctions are suspended pending the outcome of the appeal.
- B. All witnesses testify only in the presence of the Major Discipline Reviewer, the resident and the resident's advocate unless the Major Discipline Reviewer determines that such testimony jeopardizes the safety of the witness.
  - C. The Reviewer may exclude evidence that is cumulative or presented solely to harass or delay the Review.
  - D. The Reviewer's decision is based solely on information obtained during the hearing process; the burden of proof is on the Division to demonstrate by clear and convincing evidence that the resident violated the rules of behavior.
  - E. The Reviewer submits the decision in writing no later than two (2) days after the close of the Review.
    1. The decision includes a brief summary of the evidence presented at the Review, the evidence that supports the finding(s) and the reasons for the decision and penalty imposed.
    2. The decision affirms that the resident's disciplinary record was considered in arriving at the sanction as well as the manner in which the record review affected the imposed sanction.
    3. The decision affirms that the resident's disciplinary history was not considered in determining guilt but only considered during the penalty phase of the Review.
  - F. If the resident is found guilty of the charge(s) his/her record may be used to determine the sanctions to be imposed.
    1. The sanctions are consistent with the requirement for progressive discipline.
    2. The resident's past discipline record is only considered after the Major Discipline reviewer determines that the resident is guilty of the charge(s). Further, the record can only be used to weigh the appropriateness of the sanctions.



3. When the resident's prior discipline record is used to determine penalties, the Reviewer discusses this in the presence of the resident and his/her advocate.
- G. The resident and his/her advocate receive a copy of the written decision upon its completion.
- H. Notification of the right to appeal is written on the face of the decision and provided verbally when the resident receives the written decision. The resident is also advised of the appeal procedure.
- I. A copy of the written decision is placed in the resident's record in RICHIST.
- J. At any point in the process, the Major Discipline Reviewer may make a referral for clinical intervention. As a result of a finding of guilty, the Major Reviewer may impose the following sanctions:
  1. A warning and/or discussion with the resident regarding the incident.
  2. A resident's participation in a restorative justice meeting with the person(s) who was adversely affected by the resident's actions. This may include reasonable restitution based on the resident's ability to pay and the value of the damaged property.
  3. Loss of a resident's points on one shift.
  4. Placing a resident in his/her room for a maximum of (1) hour.
  5. Extra chores, homework, book reports, facility and public assignments for up to a maximum of five (5) days.
  6. Sending a resident to his/her room before "lights-out" but not earlier than 8 PM (limited to one night for each incident; or one hour before the resident's customary bedtime).
  7. Loss of a resident's points for one day.
  8. Loss of the second scheduled weekly visit or any special visit for one week.
  9. Loss of one unit level.
  10. Remanding a resident to his/her room for time periods not to exceed 3 days.

### **1.20.3 Major Discipline Review Disposition and Appeal**

- A. Whether or not a resident appeals a Major Discipline Review decision, the Superintendent or designee reviews the Review disposition within seventy-two (72) hours and exerts a reasonable effort to conduct the review within

twenty-four (24) hours of the decision. The purpose of such review is to determine:

1. If the outcome is appropriate and to revise the outcome if inappropriate.
  2. Whether particular staff members are routinely or habitually initiating Major Discipline Review procedures in a manner or pattern which calls into question the appropriateness of the use of the Review procedures by such staff members.
- B. If a resident requests an appeal to the decision(s) of a Major Discipline Review hearing, the Major Discipline Reviewer assists him/her.
- C. Any sanctions imposed as a result of a Major Disciplinary Hearing are stayed until the conclusion of the appeal process.
- D. The Superintendent or designee has the discretion to:
1. Veto Behavior Report Sanctions.
  2. Veto Major Disciplinary Review hearing sanctions.
  3. Intervene at any time during a Major Disciplinary Review Process.
  4. Deny a resident's appeal.
  5. Decrease, but not increase, any sanction imposed and must state the reasons for the exercise of such discretion in writing on the relevant discipline papers/records.
- E. The Superintendent or designee notifies the resident in writing of the outcome of the appeal within twenty-four (24) hours of the resident's appeal.

#### **1.20.4 Lock Up**

- A. A resident may be remanded to his/her room (Lock Up) for no more than 72 continuous hours pursuant to a Major Discipline Review Board.
- B. Lock Up prior to the Major Discipline Board is only allowed in an emergency, which jeopardizes the safety and security by the Superintendent or Administrator on Call.
- C. A resident may be remanded to Lock Up with or without privileges.
- D. Staff ensure that Major Discipline Board decisions/penalties are implemented.
- E. Staff monitor residents placed in their rooms on Lock Up status at fifteen (15) minute intervals.

- F. As soon as possible, the unit Clinical Social Worker visits a resident who has been placed in Lock Up status and secure necessary psychiatric, counseling, clinical or educational services.
- G. At least once per day while in Lock Up, a resident is seen by the unit Clinical Social Worker or other clinical staff.
- H. Staff ensure that Lock Up time never exceeds the time that is ordered by the Major Discipline Board.
- I. Staff ensure that all residents in Lock Up status are provided with at least the following:
1. Daily showers;
  2. Hot meals served outside the resident's room;
  3. Medical care;
  4. Reasonable access to phones to contact attorneys, parents or guardians;
  5. Mail privileges;
  6. Religious observance;
  7. Large muscle group exercise;
  8. Visitation;
  9. Writing materials;
  10. Sufficient clothing;
  11. Clean and sufficient bedding;
  12. Personal hygiene supplies; and
  13. Education, counseling, psychological and psychiatric services which are court ordered and/or part of the resident's Comprehensive Assessment/Individual Treatment Plan.
- J. Staff ensure that residents on Lock Up status do not participate in off-grounds activities.
- K. The Superintendent or designee reviews the status of residents confined to Lock Up daily.
- L. The use of handcuffs on residents on Lock Up status is strictly prohibited as punishment and may only be used when necessary for safety reasons.

### **1.20.5 Restrictive Status**

- A. Restrictive status is a status of limited duration reserved for residents who cannot control their assaultive behavior or who present a danger to themselves or others.
- B. No resident is administratively classified to restrictive status unless he/she has been found guilty of an institutional infraction involving contraband, assaultive behavior or unauthorized absence from the Training School.
- C. For other serious infractions, such as destruction of property or larceny, other discipline procedures must have been tried and failed prior to classification to restrictive status.
- D. Administrative Classification to Restrictive Status is approved by the Superintendent or designee.
- E. Residents maintain the following rights during the period they are placed on Restrictive Status:
  - 1. Residents may attend school in a designated area.
  - 2. Residents are provided with meals within their housing unit.
  - 3. Residents may participate in daily gym and/or recreational activities.
  - 4. While on Restrictive Status, the clinical social worker from the sending unit will continue to serve as the resident's primary clinical social worker.
- F. A weekly review by RITS staff is required while a resident is on Restrictive Status.
- G. If a resident's placement on Restrictive Status exceeds fourteen (14) days, a full review of the treatment needs of the resident shall be promptly commenced, including a review of the clinical interventions proposed for the resident by the Clinical Director. The Superintendent's written approval shall be required for any placement on restrictive status that exceeds fourteen (14) days.

### **1.21 Escape**

- A. The Family Court remands residents to the care, custody and control of the Training School and determines whether the residents serve their sentence at the Training School or in Temporary Community Placement.
  - 1. Residents who leave either the Training School or Temporary Community Placement (TCP) without permission may be charged with escape.

2. Residents are informed of the seriousness of this offense and the penalties for it imposed by R.I. Gen. Laws § 11-25-16.
3. Notification to family, the RITS Master Control Center (MCC), law enforcement and the Attorney General is necessary to apprehend the resident as well as to protect him or her and ensure community safety.

## **1.22 Use of Restraint**

A. Restraint is used only when transporting residents on or off grounds, when a resident's actions demonstrate that he or she is a danger to self or others and no other intervention has been or is likely to be effective in averting danger, or if a resident is engaging in significant destruction of state property.

1. Staff utilize the least restrictive method of restraint consistent with resident and community safety.
2. A physical restraint is a behavior management technique involving the use of physical intervention as a means of restricting a resident's freedom of movement. Physical restraint may include:
  - a. Providing a resident with a physical escort. A physical escort is touching or holding of the hand, wrist, arm, shoulder or back for the purpose of inducing an acting out resident to walk to a safer location.
  - b. Holding resident in a standing, seated or horizontal position.
3. Handcuffs, leg irons and hobbles are mechanical restraints used to temporarily control behavior.
  - a. Residents are never handcuffed or shackled to any fixed or stationary object on or off Training School grounds.

### **B. Transporting Residents**

1. Mechanical restraints are used in movement of residents between the Training School's facilities and when necessary in transporting residents off grounds.
2. Residents with special needs include, but are not limited to, females who are pregnant or residents whose physical mobility is compromised.
  - a. The Training School limits the use of mechanical restraints on pregnant and postpartum girls to circumstances where the girl is a danger to herself or others or a flight risk and cannot

reasonably be contained by other means. Post-partum is defined as:

- (1) The period immediately following delivery, as determined by the attending physician, including the entire period of hospitalization and
- (2) Up to 72 hours after the birth whether or not the girl is hospitalized.

b. Belly/waist chains and/or mechanical restraints of the leg or ankle are not utilized with pregnant or post-partum girls.

c. When mechanical restraints are utilized with a pregnant or post-partum girl:

(1) If a qualified medical provider requests the removal of restraints for emergency medical care, Training School staff comply and notify the Superintendent or Administrator on Call as soon as possible.

(2) In other circumstances, if a qualified medical provider requests the removal of mechanical restraints, Training School staff request permission to seek guidance from the Superintendent or Administrator on Call. If the qualified medical provider states that the mechanical restraints must be removed immediately, Training School staff comply and notify the Superintendent or Administrator on Call as soon as possible.

d. Girls are notified upon admission to the Training School and when known to be pregnant of this policy regarding the use of mechanical restraints during pregnancy and in the post-partum period.

3. Mechanical restraints are applied within the building when residents are to be transported out of the building.

4. When moving groups, staff may handcuff residents in pairs or in a chain-like line manner.

5. When transported in a vehicle on a secure status on or off grounds, residents are handcuffed in front of the body for safety.

6. Mechanical restraints are not unlocked, loosened or removed by staff or residents in a vehicle or a busette, unless it is determined that there is an imminent risk to resident safety.

### C. Use of Restraint in Crisis Intervention

1. No resident is restrained for the purpose of punishment, discipline, convenience or retaliation by staff.
2. Staff utilize de-escalation strategies described in pre-service and in-service training to defuse a volatile situation, assist a resident to regain behavioral control and avoid a physical restraint.
3. Staff attempt verbal counseling, level system sanctions and direct warnings before resorting to a physical escort or restraint.
4. If interventions described in §§ 1.18(C)(2) and (3) of this Part above are not effective, staff may utilize a physical escort to move a non-compliant resident to a different location for the safety of the resident and the facility.
  - a. A safer location includes, but is not limited to, the resident's room or a location away from the general population.
5. The interventions described in §§ 1.18(C)(2) through (4) of this Part are not utilized when a resident attacks another person suddenly and/or without warning and/or presents an imminent danger to self or others and/or attempts to escape.
6. When circumstances allow, staff notify the Master Control Center of a situation that may require a resident to be restrained to ensure that a proper response can be developed and supported. In all cases, the Master Control Center is notified as soon as possible upon the use of a restraint.
7. When circumstances allow, staff remove other residents, potential weapons and other hazards from the area where a resident seems likely to be restrained.
8. The physical condition of a resident who is being restrained is monitored continuously by staff and this monitoring is documented in the Unit Log Book.
10. Staff may not position or hold the resident in a manner which restricts breathing. Staff immediately release a resident who exhibits any sign of significant physical distress, such as difficulty breathing during restraint and provide the resident with immediate medical assistance.
11. The clinic is notified and the resident is examined by a nurse as soon as practical after any restraint but in all cases within the same shift.
12. The resident is released from restraint at the earliest possible time that he/she can commit to safety and no longer poses a threat to self or others.

13. In instances involving resident and/or staff injury, medical personnel are notified immediately.
14. The physical condition of a resident who is being mechanically restrained is monitored continuously by staff.
15. Staff escort the resident to his/her room or to another safe area before releasing him/her from mechanical restraints. If the resident has not been released from mechanical restraint within fifteen (15) minutes, the Administrator on Call is contacted.
  - a. The Administrator on Call approves all uses of mechanical restraint exceeding fifteen (15) minutes in length.
  - b. Staff reassess the need for mechanical restraint every fifteen (15) minutes for the purpose of timely removal and documents this assessment through the filing of an Incident Physical Restraint Report.
16. If a resident is injured during a restraint, his/her parents are notified.
17. Staff document the use of physical or mechanical restraints in the Unit Log Book and on the Incident Physical Restraint Report.

D. Suicide prevention and Special Watches

1. The use of isolation, mechanical restraints, suicide gowns and or blankets, or removal of normal items of clothing and bedding are avoided and must be ordered by the mental health clinician evaluating the resident.

## **1.23 Use of Physical Force/Corporal Punishment**

- A. Staff must avoid unnecessary physical contact with residents.
- B. No staff may use corporal punishment with any resident under any circumstance.
  1. Corporal punishment is the intentional infliction of physical pain as a method of changing behavior.
  2. Corporal punishment may include but is not limited to hitting, slapping, punching, kicking, pinching, shaking, use of objects or painful body postures.
- C. Physical force is used only when staff or resident is in imminent risk of serious bodily harm and no other option is available.
  1. To avoid the use of physical force, staff employ techniques demonstrated in Department training, including but not limited to



verbal counseling or warning of the resident, putting physical distance between staff and resident and/or calling for assistance.

2. If no other option is available, staff utilize a level of force which is less than or equal to that displayed by the resident.
3. Staff desist from use of force as soon as the resident no longer presents the imminent threat of serious bodily harm.
4. Residents involved in an incident receive immediate physical examination and treatment.