

Title 9. Family Law

Chapter V. Division of Youth Services, Department of Human Services

Subchapter A. Generally

Part 100. Operations Manual

Subpart 1. Administration and Management

9 CAR § 100-101. General administration — Mission.

(a) The Division of Youth Services works with judges, providers, schools, and other stakeholders to provide a continuum of individualized rehabilitative services and sanctions for at-risk and adjudicated youth and their families.

(b) Services will:

- (1) Provide alternatives to confinement or commitment to the division; and
- (2) Support transition of youth back into their homes, schools, and communities.

(c) Treatment plans for both youth and families will rely on results of individualized risk and needs assessment and promote:

- (1) Positive growth;
- (2) Educational and vocational development;
- (3) Self-sufficiency; and
- (4) Accountability.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-102. General administration — Core beliefs.

The Division of Youth Services believes that:

(1) Youth are best served in least-restrictive settings located close to home when appropriate evidence-based rehabilitative services are available, and removing youth from the home should be the option of last resort;

(2) Families, schools, law enforcement, and courts need a wide array of service options, including graduated sanctions outside the courtroom;

- (3) Decision-making, programs, and services should be supported by data demonstrating their effectiveness in improving outcomes for youth and families;
- (4) Effective community-based services can reduce the use of confinement and commitment to the division and result in significant fiscal savings in state revenue;
- (5) Treatment and placement decisions should:
 - (A) Be individualized and based on a comprehensive, standardized assessment; and
 - (B) Actively involve youth and families in the planning processes;
- (6) All youth in the division custody should be provided effective education and vocational training opportunities;
- (7) Collaboration with local school districts is critical to successful prevention, aftercare, and re-entry for the division youth;
- (8) Funding allocation across residential and community-based services must be rebalanced; and
- (9) All children and youth in the state should have equal opportunities for services and success, without regard to:
 - (A) Gender;
 - (B) Race;
 - (C) Ethnicity;
 - (D) Disability;
 - (E) Geographic location; or
 - (F) Income level.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-103. Accounting — Accounting procedures — Asset management.

- (a) The Division of Youth Services shall:
 - (1) Abide by Department of Human Services Financial Authority Policy 1064 or any such successor policy in which the Office of Finance and Administration of the

Department of Human Services is responsible for establishing uniform Department of Human Services-wide financial policies and procedures; and

(2) Comply with the:

(A) Department of Finance and Administration's Financial Management Guide;

(B) General Accounting and Budgetary Procedures Law, Arkansas Code § 19-4-101 et seq.;

(C) Generally accepted governmental accounting principles; and

(D) Professional accounting practices through development of financial policies and procedural requirements for use by all divisions.

(b)(1) The division shall abide by Department of Human Services Policy 2000 (Department of Human Services Capital Asset System Policy) and utilize Department of Human Services Form 1036 (Missing Assets).

(2) The Department of Human Services Office of Information Technology:

(A) Is responsible for the overall supervision and maintenance of the property inventory of electronic equipment throughout the division; and

(B) Shall make necessary visits and inspections to ensure full compliance with state laws and rules.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-104. Accounting — Youth funds.

(a)(1) Division of Youth Services employees and nonemployee persons shall not provide any financial transactions between youths, youths and staff, and youths and nonemployees or volunteers unless specifically permitted as part of a division-sanctioned event or other approved purpose.

(2)(A) The sales of approved products, merchandise, or services shall not be permitted when the sales are in direct competition with an existing facility or agency provider, such as the facility's cafeteria, which either provides or has the jurisdiction to provide the same or similar goods and services.

(B) Subdivision (a)(2)(A) of this section shall also apply when the requested activity is in competition with services provided by a business holding a contract with the division to provide goods and services such as food or clothing.

(b)(1) The division is responsible for providing all housing needs, care, clothing, meals, medical services, treatment, and supervision of youths in division custody.

(2) Division staff shall not make emergency loans or provide any financial assistance to youths in division custody, including without limitation:

- (A) Allowances;
- (B) Monetary gifts; or
- (C) Bribes.

(3) This policy does not:

(A) Prohibit youths from selling goods and services they create for a division-sanctioned event or other approved purpose; and

(B) Apply to gifts or prizes youths may receive for:

- (i) Christmas and other holidays;
- (ii) Birthdays;
- (iii) Youth conferences or training; and
- (iv) Other similar occasions.

(c) Youths in division custody shall not receive any outside funds for goods or services.

(d)(1) Division youths may receive funds from participation in approved:

- (A) Educational studies;
- (B) Programs; or
- (C) Other work-related activities.

(2) Any funds received from participation in these activities on their behalf shall be properly accounted for and will be disbursed to the youths upon their release from division custody.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-105. Training — Definitions.

(a) As used in this part, "training" means an organized, planned, and evaluated activity designed to achieve specific learning objectives that may occur:

- (1) On-site;
- (2) At an academy or training center;
- (3) At an institution of higher learning;
- (4) Through contract service;
- (5) At professional meetings; or
- (6) Through closely supervised on-the-job training.

(b) "Training" includes meetings of professional associations when there is clear evidence of the above elements in subsection (a) of this section.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-106. Training — Policy.

(a)(1)(A) The Division of Youth Services shall provide its employees and the employees of its contracted providers with training required by applicable state and federal laws and other training identified by the agency as appropriate in order for employees to obtain the knowledge and skills needed for the successful performance of their job duties.

(B) All full-time volunteers shall receive the same training as full-time employees who work in a similar capacity.

(C) Part-time volunteers and contract vendors shall receive training appropriate to their assignments.

(2)(A) The division and its contracted providers shall use training locations and environments that promote the effective acquisition of new knowledge and skills.

(B) Each location shall be:

- (i) Easily accessible to staff;
- (ii) Free from distractions; and
- (iii) Beyond observation by youth.

(3)(A) Both new and current employees in positions that are responsible for daily or routine direct care of youth shall successfully complete the training requirements for those positions before being approved for sole supervision of youth.

(B) To maintain sole-supervision status, an employee shall successfully complete all formal training hours, including preservice, annual, and specialized training, in accordance with the division training requirements.

(b) The division Training Coordinator shall:

(1) Establish training requirements that:

(A) Are aligned with the mission of the division; and

(B) Meet or exceed standards set by state and federal laws;

(2) Ensure that the training program is:

(A) Responsive to:

(i) Requirements of staff positions;

(ii) Professional development needs;

(iii) Current issues and trends, including evidence- or research-based practices; and

(iv) New theories, techniques, and technologies; and

(B) Facilitated by qualified individuals;

(3) Perform site audits of training records at each facility twice a year to ensure fidelity of training curriculum conducted at the facilities; and

(4) Verify that each division facility also has a designated space for training.

(c)(1) A course may be offered as a classroom course or as a computer-based course.

(2) Senior management shall determine the most appropriate method of delivery for courses to be included in the training requirements for each position.

(d)(1) Each facility shall have a minimum of one (1) assigned facility training specialist who is responsible for coordinating all aspects of the training program at the facility.

(2) These duties shall include:

(A) Collaborating with appropriate administrators in preparing the facility's quarterly training calendar;

(B) Establishing training compliance goals in coordination within the facility and division administrators; and

(C) Maintaining records of each course trained in accordance with:

(i) Division management directives; and

(ii) The Department of Human Services records retention schedule.

(3) A facility training specialist may be asked to facilitate additional training initiatives to support the agency's mission.

(4) At the conclusion of each training course, the facility training specialist shall provide to all participants a method for evaluating the course.

(5)(A) Each division employee, employee of its contracted provider, and volunteer shall receive credit for successfully completing each training course.

(B) The facility training specialist shall determine whether an employee successfully completed a training course based on criteria established by the division Training Coordinator.

(C)(i) An employee, employee of its contracted provider, or volunteer who disrupts program activities shall be dismissed from training and instructed to return to his or her work site.

(ii) The authority to dismiss an employee from a training session rests with the individual conducting the training.

(6)(A) The facility training specialist shall compile and submit a monthly training compliance report for the division Training Coordinator and division administration by the tenth of each month.

(B) At a minimum, the report shall contain:

(i) A summary of the previous month's training provided with the number of participants attended and courses completed;

(ii) A copy of the training schedule for the upcoming month;

(iii) Any upcoming specialized training that will be held onsite;

(iv) A list of employees whose training is overdue; and

(v) Any other relevant information or issues that management should be aware of, including a request for any additional action needed.

(e) A meeting, including without limitation a staff meeting or shift briefing, review, or discussion of policy and procedure or other instructional or informational topic is not considered a training activity unless supporting documentation indicates that all or part of the meeting was designated solely for the purpose of training.

(f)(1) The following table containing a description of general job categories should be used in determining minimum training requirements as outlined in the standards.

(2) Contract or part-time employees shall receive training similar to full-time employees in their particular category and pertinent to their role in working with youths.

(3) The division follows ACA standards for training hour requirements as listed below.

CATEGORY	TYPICAL POSITION TITLES	BASIC ORIENTATION	FIRST YEAR ON THE JOB	EACH YEAR THERE AFTER
CLERICAL/ SUPPORT (Minimum Contact)	Secretaries, clerks, typists, computer/warehouse personnel, accountants, personnel staff	yes	16	a 16
SUPPORT (Regular or Daily Contact)	Food service, industry work supervisors, maintenance work supervisors	yes	40	40

PROFESSIONAL SPECIALIST	Case managers, counselors, social workers, psychologists, teachers, librarians, medical personnel, chaplains, recreation specialists	yes	40	40
CHILDCARE SUPERVISION STAFF	All staff assigned to full-time child care and/or supervision duties	yes	120	40
ADMINISTRATIVE MANAGEMENT PERSONNEL	Superintendents, deputy or assistant superintendents, business managers, personnel directors, care supervisors, shift supervisors	yes	40	40

Authority. Arkansas Code § 9-28-203.

Codification Notes. "ACA" means American Correctional Association.

9 CAR § 100-107. Confidentiality and privacy — Records.

(a) Division of Youth Services staff and contracted providers shall fully comply with applicable state and federal law governing the confidentiality of records and information pertaining to the custody, care, and treatment of youth served by the division, including without limitation:

(1) Confidentiality provisions in the Arkansas Juvenile Code of 1989, Arkansas Code § 9-27-301 et seq.;

(2) The Health Insurance Portability and Accountability Act;

(3) The Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g; and

(4) Department of Human Services policies relating to:

(A) Privacy;

(B) Confidentiality and secure communications; and

(C) Records storage and disposition.

(b) The provisions contained in this part are not intended to restrict the ability of the division to provide any contract facility or contracted providers with full and complete information on any juvenile that is committed to that facility.

(c) All records pertaining to youths charged as delinquent and adjudicated delinquent are confidential and shall only be released if authorized under the provisions of Arkansas Code § 9-28-217.

(d) If records contain protected health information (PHI) or information concerning the treatment of a substance use disorder, then release of records shall comply with division Policy 4009.

(e) Division staff and contracted providers shall observe the following guidelines in protecting the privacy of youth and families served by the division:

(1) All release of records to outside parties shall be authorized by:

(A) The division Records Manager;

(B) A division assistant director;

(C) The Office of Chief Counsel; or

(D) Another person designated by the Director of the Division of Youth

Services;

(2) Any youth records maintained in hard copy, including in the division Records Unit or at a program site or facility, shall be:

(A) Marked "Confidential"; and

(B) Stored in a locked cabinet when not in use;

(3) Access to youth records, even by authorized staff, shall require, at a minimum, a log to record all access to the file;

(4) Youth information, including photographs, placement, or personal details, shall not be publicized in any way, whether deidentified or not, including on social media or in marketing materials, without prior written notice to and approval by the director or his or her designee;

(5) Where possible, records and data shall be deidentified or aggregated in a way that prevents discovery of any individual youth's identity;

(6) Secure email and electronic records servers shall be utilized to ensure privacy protections remain intact during storage and transmission of youth's information;

(7) The division and contracted provider staff should receive privacy training no less frequently than annually, including training on when and how to report privacy breaches; and

(8) To ensure transparency and open communication between members of an individual youth's treatment team and family, youth shall be assigned a unique identifier number at intake which may be used to verify an individual's authority to receive protected information regarding the youth.

(f) Failure to observe strict compliance of this part at all levels of the division system may result in disciplinary action against staff, or penalties up to and including monetary damages or cancellation of provider contracts.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-108. Volunteer services — Mission.

(a) The mission of the Division of Youth Services Volunteer Services Program is to

maximize community resources and utilize volunteers to provide opportunities that enable youth to become responsible and productive citizens.

(b) Community volunteers have the ability to enhance lives of youth by providing meaningful activities and resources that promote:

- (1) Prosocial, educational, emotional, and spiritual growth; and
- (2) Healthy family relationships.

(c)(1) Volunteers can serve in capacities that include mentoring or tutoring.

(2)(A) Volunteer mentors make a significant impact on the rehabilitation of our youth.

(B) The goal of mentoring is to develop a trusting, supportive relationship between a mature adult and a carefully matched youth in which the youth is encouraged to:

- (i) Reach his or her potential;
- (ii) Discover his or her strengths; and
- (iii) Develop self-confidence.

(3) Tutors provide additional assistance to division youth who are working on earning their high school diplomas or GEDs.

Authority. Arkansas Code § 9-28-203.

Codification Notes. "GED" means General Educational Development test.

9 CAR § 100-109. Volunteer services — Volunteer services program.

(a) Each volunteer services program is administered by the Division of Youth Services Facilities Operations Coordinator in conjunction with the Facility Services Liaison at each juvenile treatment center.

(b) The division Facilities Operations Coordinator shall establish standards in granting access to division youth, facilities, and information as well as screening prospective volunteers and carefully matching selected individuals to a suitable assignment.

(c) A volunteer assignment is contingent upon the satisfactory completion of:

- (1) A volunteer application;
- (2) A criminal and driving record check;
- (3) Fingerprinting;
- (4) Personal character references;
- (5) A face-to-face interview;
- (6) Agreement of confidentiality and release of liability;
- (7) Comprehensive new volunteer orientation;
- (8) Job-specific training; and
- (9) Issuance of identification and personnel file.

(d) The division Facilities Operations Coordinator shall:

(1)(A) Provide volunteers with a comprehensive orientation to the agency and the volunteer program, as well as job-specific training.

(B)(i) Part-time volunteers (less than forty (40) hours per week) receive training appropriate to their assignments.

(ii) Full-time volunteers (forty (40) hours per week) receive the same training as full-time staff in a similar capacity; and

(2) Assign volunteers to work with:

- (A) Individual youth;
- (B) Groups of youth; or
- (C) Division staff members.

(e) A volunteer assignment shall not eliminate the requirement for division employee supervision of youth or in any way change the supervision ratio of staff to youth as determined by policy.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-110. Volunteer services — Employee participation.

(a) Employees and former employees may participate in the Division of Youth Services volunteer program.

(b) Current employees may participate during off-duty hours and outside the scope of normal job duties.

(c) An employee is not eligible for volunteer involvement if the employee is currently under probation, suspension with or without pay, or investigation by the Department of Human Services or law enforcement authorities.

(d) Former division employees who are classified as ineligible for rehire are not eligible for volunteer enrollment.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-111. Volunteer services — Volunteers generally.

(a)(1) The Division of Youth Services Facilities Operations Coordinator shall:

- (A) Write a volunteer job description based on the referral form;
- (B) Carefully match a suitable volunteer to the job description;
- (C) Discuss the job assignment with the volunteer; and
- (D) Have the volunteer sign the VLS-015 and the appropriate

confidentiality agreements during orientation.

(2) If the volunteer agrees to the assignment, the division Facilities Operations Coordinator shall file the original copies of these forms in the volunteer's personnel record and give a copy to the volunteer.

(b) Confidentiality does not apply to communications by youth involving:

(1) Confessions or allegations of:

- (A) Abuse;
- (B) Neglect; or
- (C) Exploitation;

(2) An imminent escape; or

(3) Intentional harm to self or others.

(c) The requirement to report alleged abuse, neglect, or exploitation applies without exception to a volunteer whose personal communications may otherwise be considered privileged.

(d)(1) The Facility Services Liaison, in consultation with the division Clinical Director, may grant a volunteer access to confidential information to better serve the volunteer's assigned youth.

(2) The Facility Services Liaison will schedule a meeting for the volunteer to meet with both the youth and the staff member who will monitor the assignment.

(e)(1) The division Facilities Operations Coordinator shall make every effort to ensure fair and consistent treatment of each volunteer.

(2) If a volunteer feels the need to report an interaction that he or she experiences during a visit at a facility, he or she may report it to the Facility Services Liaison or the Facility Operations Coordinator for resolution.

(f) If there is documented behavior by a volunteer or volunteer organization that threatens the order, security, or safety of the facility, the Facilities Operations Coordinator, in consultation with the facility administrator and division central office administration, shall consider curtailing, suspending, or terminating the services of the volunteer or group.

Authority. Arkansas Code § 9-28-203.

Subpart 2. Physical Plant

9 CAR § 100-201. Physical plant — Definition.

As used in this part, "unencumbered space" means:

- (1) Usable space that is not encumbered by furnishings or fixtures; and
- (2) At least one (1) dimension of which shall be no less than the minimal square footage specified by the American Correctional Association standards.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-202. Physical plant — Facility size and design.

- (a) The Division of Youth Services and its facility size and design shall meet the

needs for effective programming, safety, and quality of life.

(b)(1) Facility design shall:

(A) Encourage staff and client interaction; and

(B) Support safety, control, and positive staff interaction.

(2) Staff effectiveness is limited if the only staff available are isolated in control centers as observers or technicians in charge of electronic management systems.

(c)(1) The division facility size shall meet the recommended number of youth housed in each living unit in the facility in accordance with fire code and American Correctional Association Standards.

(2) The division supports small living units more conducive to youth and staff interaction.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-203. Physical plant — Rated capacity.

(a)(1) The number of youth shall not exceed the facility's rated bed capacity.

(2) Rated bed capacity is the original design, plus or minus capacity changes resulting from building additions, reductions, or revisions.

(b) For new construction only, the facility shall be located to facilitate the use of community-based services and continued contact between the youth and his or her family.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-204. Physical plant — Sleeping area.

(a) Each sleeping room shall have, at a minimum, the following:

(1) Some degree of privacy for the youth;

(2) Square footage of unencumbered space per occupant;

(3) Sleeping area partitions if more than four (4) people are in one (1) sleeping area, as specified by American Correctional Association standards;

(4) Access to toilets and a wash basin with hot and cold running water twenty-four (24) hours a day;

(5) A bed, mattress, and pillow;

(6) A desk and a chair or stool;

(7) Adequate storage space;

(8) Natural light; and

(9) Temperatures that are appropriate to summer and winter comfort zones.

(b) Natural lighting shall be available either by room windows to the exterior or from a source within twenty feet (20') of the room.

(c) The bed shall be elevated from the floor and have a clean, covered mattress with blankets, as needed.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-205. Physical plant — Dayrooms.

Living rooms or recreation rooms with space for varied activities shall be available.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-206. Physical plant — Furnishings.

Youth shall be permitted to decorate their living and sleeping quarters with personal possessions within designated areas.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-207. Physical plant — Toilets.

(a) The facility shall have at least one (1) operable toilet for every eight (8) youths.

(b) Urinals may be substituted for up to one-half (1/2) of the toilets in all-male facilities.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-208. Physical plant — Showers.

(a) The facility shall have at least one (1) operable shower or bathing facility with hot and cold running water for every eight (8) youths.

(b) Water temperatures shall be thermostatically controlled.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-209. Physical plant — Laundry.

The facility shall have at least one (1) operable washer and one (1) operable dryer for every sixteen (16) youths, or an equivalent laundry capacity.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-210. Physical plant — Heating and cooling.

(a) Temperatures in indoor living and work areas shall be appropriate to summer and winter comfort zones.

(b) Temperature and humidity shall be capable of being mechanically raised or lowered to an acceptable comfort level in keeping with the general community standards.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-211. Physical plant — Accessibility for disabled youths.

The facility shall maintain strict adherence to local health codes requiring proper lighting and ventilation.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-212. Physical plant — Accessibility to disabled persons.

(a) All services of the facility that are accessible to the public shall be accessible to and usable by disabled staff and visitors in accordance with the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq.

(b)(1) Disabled youths shall be housed in a manner that provides for their safety and security.

(2) Appropriate facility programs and activities shall be accessible to disabled youths in the facility according to applicable law.

(c) Disabled youths shall not be isolated because of their conditions.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-213. Physical plant — Juvenile safety.

(a) The facility shall be controlled by appropriate means to:

(1) Provide that youths remain safe within the facility; and

(2) Prevent access by the general public without proper authorization.

(b) The means chosen to ensure controlled access shall reflect the facility's needs based on its size and the degree of security required.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-214. Building and safety codes — Policy.

(a) The Division of Youth Services and its facility contractors shall maintain compliance with professional zoning, building, and fire safety codes to ensure the safety of all persons within the facility.

(b)(1) A residential facility shall be licensed by a state or local jurisdiction, thereby indicating the facility complies with all building codes.

(2) If a license is not issued, letters or certificates of compliance are acceptable.

(3) If the facility is not subject to city or county building codes, state codes shall be applied to the facility.

(c) Operators of the Division of Youth Services-owned and/or managed facilities shall make no structural modifications to any building or grounds without first obtaining Division of Youth Services approval, contingent on review and approval by the Building Authority Division of the Department of Shared Administrative Services.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-215. Building and safety codes — Zoning ordinances.

The facility shall conform to all applicable zoning ordinances or, through legal means, is attempting to comply with or change such laws, codes, or zoning ordinances.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-216. Building and safety codes — Fire safety codes.

Exits in the facility shall be in compliance with state or local fire authorities or the authority having jurisdiction of the facility.

Authority. Arkansas Code § 9-28-203.

Subpart 3. Facility Operations

9 CAR § 100-301. Use of force — Definitions.

As used in this section and 9 CAR §§ 100-301 – 308:

(1) "Nonphysical intervention" means skills or strategies that promote a culture of gentleness and teach staff to help an individual calm before a situation escalates;

(2)(A) "Physical intervention" means the minimum application of reasonable and necessary force to physically restrict a person who is exhibiting physical aggression.

(B) "Physical intervention" includes the use of direct or indirect force

through bodily, physical, or mechanical means in an effort to limit another person's movement; and

(3) "Reasonable force" means the least amount of force that a trained staff, in like circumstances, would reasonably believe to be necessary to maintain order and safety as authorized under this policy.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-302. Use of force — Policy.

(a)(1) An employee shall:

(A) Attempt to verbally de-escalate a youth prior to engaging in the use of physical intervention; and

(B)(i) Use physical intervention only when necessary to control the escalated behavior in order to provide a safe and secure environment for:

(a) The youth;

(b) Other persons;

(c) The juvenile facility;

(d) State property; and

(e) The community.

(ii) Physical intervention with the use of force shall be used only as temporary control measures and only when necessary.

(iii) Physical intervention is not intended to and shall never be used as a means for punishment.

(iv) The physical intervention program utilized by Division of Youth Services is a nationally accredited methodology.

(2) Violations of this policy can result in disciplinary action, including termination.

(b)(1) If a staff member observes a use of force in violation of this policy, the staff member shall protect the youth from harm.

(2) As a mandated reporter, all employees and contractors of the division shall

report any violations of this policy to the Child Abuse Hotline.

(3) Division employees will follow procedure and also notify their immediate supervisors, facility administration, and the division Internal Affairs Investigator.

(c)(1) Nonphysical intervention is necessary to control a youth's behavior by verbal commands directing a youth to immediately stop the inappropriate behavior or to comply with lawful instructions.

(2) Alternatives to force must be used whenever practical to assist a youth in maintaining or regaining self-control.

(3) All employees are prohibited from using humiliating punishment, including verbal harassment, to manage youth behavior.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-303. Use of force — Physical intervention.

(a) Trained staff overseeing the health and safety of youth may resort to using physical intervention only when absolutely necessary to maintain order and safety.

(b) The use of physical intervention by trained employees is justified only under the following instances:

(1) To prevent injury of an employee;

(2) To prevent injury of a youth or others;

(3) To prevent damage to property;

(4) To prevent a clear and immediate escape attempt; and

(5) To move a disruptive youth or one who fails to obey lawful commands, including without limitation the movement of a resistant youth within the facility when the youth's behavior is substantially disruptive and the youth refuses to stop the behavior.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-304. Use of force — Prohibited restraint techniques.

Prohibited restraint techniques include the following:

- (1) Restricting respiration in any way, such as applying a chokehold or pressure to a youth's back or chest or placing a youth in a position that is capable of causing positional asphyxia;
- (2) Using any method that is capable of causing loss of consciousness or harm to the neck;
- (3) Pinning down with knees to the torso, head, or neck;
- (4) Slapping, punching, kicking, or hitting;
- (5) Lifting a youth's arms behind the back, while in mechanical restraints, in a manner that is capable of causing injury to the shoulder;
- (6) Securing a youth to another youth or to a fixed object; or
- (7) Using other youth or untrained staff to assist with the restraint.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-305. Use of force — Requirements for use of mechanical restraints.

- (a) Only restraint equipment approved by the Director of the Division of Youth Services or his or her designee may be used in division facilities.
- (b) All restraint equipment shall be used in a manner consistent with its design and intended purpose.
- (c) Mechanical restraint equipment shall not be secured so tightly as to interfere with circulation or so loosely as to permit chafing of the skin.
- (d)(1) When mechanical restraints are employed on a youth in a prone position, the youth shall be placed on his or her side as soon as practical in order to help ensure adequate respiration and circulation.
 - (2) The youth must be allowed to sit up as soon as his or her behavior is under control.
- (e) When mechanical restraints are applied, staff shall:
 - (1) Check the youth for adequate respiration and circulation every fifteen (15)

minutes;

(2) Provide regularly scheduled meals and drinks;

(3) Provide opportunity for elimination of bodily waste at least once every two (2) hours; and

(4) Provide continuous visual supervision and appropriate assistance until the mechanical restraint is terminated.

(f) All incidents resulting in a youth being placed in mechanical restraints due to noncompliant behaviors shall be documented on the division Mechanical Restraint Reporting Log.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-306. Use of force — Mechanical restraint use for transportation.

(a) Mechanical ankle and wrist restraints shall be used during transportation when a youth is being transported outside any Division of Youth Services facility.

(b) Mechanical ankle and wrist restraints attached to a waist belt by a lead chain may be used when transporting an aggressive or assaultive youth off campus, with permission from the:

(1) Assistant Director for Youth and Family Case Management;

(2) Assistant Director of Residential Services; or

(3) Clinical Director.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-307. Use of force — Restrictions on mechanical restraints during or after childbirth.

(a) Unless determined medically necessary by the attending physician, Division of Youth Services staff shall not use mechanical restraints to control the movement of a youth:

- (1) Who is in labor;
- (2) During delivery; or
- (3) During recovery from delivery.

(b) If the use of mechanical restraint is also approved by the Director of the Division of Youth Services or designee, staff shall use the least restrictive type and method of restraint necessary to achieve the purpose of the restraint.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-308. Use of force — Reporting physical intervention and use of force.

(a) The utilization of physical intervention with the use of force and all use of mechanical restraints and confinement for control shall be fully documented and reported via the electronic system.

(b)(1) After a physical intervention with the use of force incident has occurred, the primary staff involved shall complete a Division of Youth Services Incident Report and submit a complete written report to the shift supervisor for data entry into the electronic system.

(2) The Assistant Facility Director or Facility Director or designee will ensure that all aspects of the division Incident Reporting Policy have been followed.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-309. Isolation — Definitions.

As used in this section and 9 CAR § 100-310:

(1)(A) "Isolation" means the involuntary confinement of a youth in a locked room with authorization and staff supervision.

(B) If the door is not locked, the confinement is not considered to be isolation.

(C) Isolation does not include when doors are routinely locked (e.g.,

during sleeping hours) and isolation has not otherwise been imposed;

(2)(A) "Line-of-sight supervision" means a youth remaining visible to a staff member at all times.

(B) Staff does not have to be looking directly at the youth, but staff must be able to see and notice all movement; and

(3) "Seriously disruptive or dangerous behavior" means a youth acts or threatens to act to disrupt a unit or poses an immediate safety or security risk to anyone in the unit.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-310. Isolation — Policy.

(a) The Division of Youth Services allows for temporary involuntary isolation of a youth when less restrictive interventions have failed and the youth:

- (1) Exhibits seriously disruptive behavior; or
- (2) Poses an immediate physical danger to others.

(b)(1) A youth shall not be placed in isolation in accordance with this policy while on any suicide watch status.

(2) Isolation shall not be used as a disciplinary consequence.

(c) Staff shall maintain at least line-of-sight supervision of youth in isolation.

(d) Youth in isolation shall receive appropriate physical, psychological, and medical services.

(e) Isolation shall be:

- (1) The youth's private sleeping quarters; or
- (2) A room specifically designated for isolation.

(f)(1) Staff shall obtain reauthorization for maintaining a youth in isolation every thirty (30) minutes.

(2) If a youth's placement in isolation reaches one (1) hour, staff shall consult with the Facility Director or Assistant Director to determine if alternative solutions are necessary.

(3) A youth's placement in isolation shall not exceed four (4) hours unless approved by the division Assistant Director for Service Delivery, Compliance, and Quality Assurance.

(g) Isolation shall be terminated as soon as a youth regains self-control.

(h)(1) The utilization of isolation shall be fully documented and reported.

(2) After the use of isolation has occurred, the primary staff involved shall:

(A) Complete a division incident report; and

(B) Submit a complete written report to the shift supervisor for data entry into an electronic system.

(3) The assistant facility director or facility director shall ensure that all aspects of the division Incident Reporting Policy have been followed.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-311. Searches in secure residential facilities of youth —

Definitions.

As used in this section and 9 CAR §§ 100-311 – 320:

(1)(A) "Contraband" means any item or article that is:

(i) Found or located:

(a) In the possession of a person;

(b) Within the facility; or

(c) On facility property; and

(ii) Not issued by the Division of Youth Services;

(iii) Prohibited from being brought into the facility; or

(iv) In violation of a statute.

(B) "Contraband" includes without limitation:

(i) Tobacco products;

(ii) Lighters or matches;

(iii) Glass containers;

(iv) Cameras or video equipment;

(v) Personal cell phones;
(vi) Personal storage devices not issued by the Division of Youth Services; and

(vii) Excessive amounts of approved items.

(C) "Contraband" does not include an item or article that is specifically approved by the Director of the Division of Youth Services;

(2)(A) "Illegal contraband" means an item that is illegal for any person to possess within a facility.

(B) "Illegal contraband" includes without limitation:

(i) Weapons;

(ii) Alcohol;

(iii) Illegal drugs;

(iv) Unauthorized cellular devices or accessories;

(v) Personal tools; or

(vi) Any other item perceived by searching staff as dangerous;

(3) "Pat search" means a search during which the staff pat down or frisk various areas of the person's body while the person remains clothed;

(4) "Persons" mean any of the following who is providing a service or visiting the facility for any purpose:

(A) Division of Youth Services or Department of Human Services staff, visiting or permanently assigned;

(B) Contracted provider;

(C) Family member;

(D) Visitor; or

(E) Vendor;

(5) "Professional visit" means an approved visit for the youth from:

(A) An attorney;

(B) A member of the clergy;

(C) A social worker or therapist;

(D) A caseworker; or

(E) Professional staff of the Division of Youth Services or a provider;

(6)(A) "Reasonable suspicion" means sufficiently reliable information used to objectively reach a common sense conclusion that a youth has engaged in conduct in violation of the law or Division of Youth Services rules or policies, including without limitation:

(i) Being in possession of contraband, weapons, or drugs; or

(ii) Having engaged in behavior that poses a risk to the youth or others.

(B) "Reasonable suspicion" does not require absolute certainty, but rather sufficiently particularized probability, the type of common-sense conclusion about human behavior upon which reasonable and prudent people are entitled to rely;

(7) "Secure residential treatment facility" means a Division of Youth Services facility, or a facility operated by a provider under contract with the Division of Youth Services, characterized by:

(A) Locked entrances and exits;

(B) Physically restrictive construction, including without limitation locked bedrooms; and

(C) Procedures intended to prevent a youth from departing without the approval of the Division of Youth Services or the provider; and

(8) "Strip search" means a search during which:

(A) The youth is asked to disrobe completely;

(B) The staff manually inspects the youth's clothing; and

(C) The staff visually inspect the youth's body without touching the youth.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-312. Searches in secure residential facilities of youth — Policy.

(a) The Division of Youth Services shall conduct searches of all youth entering a secure residential treatment facility for the purposes of:

- (1) Security of the facility and its operations;
 - (2) Identification of youth mental or physical health concerns; and
 - (3) Prevention of injurious behavior.
- (b) Searches may be conducted to:
- (1) Find weapons, drugs, contraband, or any other items that youths or visitors may use to:
 - (A) Hurt themselves or others; or
 - (B) Use to engage in illegal or prohibited activities; or
 - (2) Identify mental or physical health concerns.
- (c) A search under this section may include a search of:
- (1) His or her person;
 - (2) His or her vehicle; and
 - (3) Any property he or she brings into the facility.
- (d) Searches shall be conducted in a professional manner to avoid embarrassment or indignity to those being searched.
- (e) Division facility staff may also conduct searches when there is reasonable suspicion to believe that a person is in possession of prohibited items.
- (f) Notices of mandatory pat searches will be posted at the entranceway of all secure residential treatment facilities.
- (g) Upon entering the grounds of the secure residential treatment facility, all staff, visitors, and vendors will report directly to the administration building to be searched.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-313. Searches in secure residential facilities of youth — Cell phones.

- (a) Except as provided in subsection (c) of this section, cell phones and accessories shall be considered contraband within secure residential treatment facilities.
- (b) Staff shall not possess personal cell phones within secure residential treatment facilities, regardless of their interaction with youth.

(c)(1) Staff may possess cell phones that are issued by Department of Human Services for business purposes.

(2)(A) The Director of the Division of Youth Services may approve contracted providers to allow staff cell phones within the facility.

(B) A list of these approved contracted providers will be maintained at the facility.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-314. Searches in secure residential facilities of youth — Pat searches.

(a) Pat searches may be conducted on a client as part of routine procedure and without individualized reasonable suspicion to believe that a particular client is in possession of a weapon, drugs, or contraband.

(b)(1) Pat searches shall be conducted by personnel of the same gender as the client and in the presence of a witness.

(2) Clients shall remove any:

(A) Clothing covering their head, hands, and feet; and

(B) Outer garments such as coats and scarves.

(3) Upon request of a client, a pat search shall, to the extent possible, be conducted in an area which is not observable by others.

(c) During a pat search, staff shall pat search the client in the manner that they have been taught pursuant to Division of Youth Services Policy "Training and Professional Development".

(d) Staff who have not been trained in pat search techniques will not pat search a client except in an emergency.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-315. Searches in secure residential facilities of youth —

Strip searches.

(a) A strip search may be conducted on a youth upon initial admission to a facility as part of routine procedure and without individualized reasonable suspicion to believe that a particular client is in possession of:

- (1) A weapon;
- (2) Drugs; or
- (3) Contraband.

(b) After the initial admission to the facility, a client may be subject to a strip search conducted as part of routine procedure and without individualized reasonable suspicion in the following readmission situations unless the client has been continuously observed by the Division of Youth Services or provider program employees from the time the client leaves the facility until the client returns to the facility:

- (1) Transportation from court;
- (2) Transportation from medical appointments;
- (3) Transportation from hospital visits;
- (4) Transportation from a youth detention facility or program;
- (5) Return after the client's liberty has been revoked;
- (6) Return from an unsupervised pass outside the facility; or
- (7) Transportation from another state agency.

(c) A client may be subject to a strip search conducted as part of routine procedure and without individualized reasonable suspicion after a contact visit that is not a professional visit.

(d) Strip searches may be conducted when staff has individualized reasonable suspicion to believe that a particular client is in possession of:

- (1) A weapon;
- (2) Drugs; or
- (3) Contraband.

(e)(1) Strip searches shall be conducted:

- (A) By personnel of the same gender as the client; and
- (B) In the presence of a witness.

(2) Strip searches must, to the extent possible, be conducted in an area which is not observable by others.

(3) If the witness is of a different gender than the client being searched, the witnessing staff:

(A) Must be positioned so they can only observe the staff conducting the search; and

(B) May not assist in the search.

(f)(1) Staff shall ask the client to remove his or her clothing and conduct an inspection of the client's removed clothing.

(2) Staff shall not touch a client as part of a strip search.

(3) Staff shall conduct a visual inspection of the client in the manner that they have been trained pursuant to Division of Youth Services policy, "Training and Professional Development".

(4) The training curriculum shall be prepared by the Division of Youth Services Director of Training and approved by the Division of Youth Services Assistant Director of Residential Operations.

(5) Staff who have not been trained in strip search techniques will not strip search a client except in an emergency.

(g)(1) Each time a client is strip searched, staff performing the strip search shall complete a body map diagram.

(2) Items noted on the body map shall include without limitation:

(A) Bruises;

(B) Cuts;

(C) Swelling;

(D) Amputations;

(E) Bandages;

(F) Casts;

(G) Scars;

(H) Tattoos;

(I) Injuries;

- (J) Discolorations;
- (K) Birthmarks;
- (L) Scratches;
- (M) Piercings; or
- (N) Any other marks.

(3)(A) During any subsequent strip searches, the staff shall compare the client's condition with the most recent body map.

(B) If the staff observes new physical characteristics during a strip search, staff shall update the body map.

(C) Staff doing the strip search shall report to the clinical staff any indicia of:

- (i) Physical abuse;
- (ii) Self-abuse;
- (iii) Drug use;
- (iv) Ill health; or
- (v) Other condition that may require medical or other professional

attention.

(h) Any contraband, weapons, or drugs discovered during a strip search shall be:

- (1) Documented in a search log to be kept at each facility; and
- (2) Confiscated.

(i) While conducting a strip search, if staff discover evidence leading them to believe that a client has been abused or neglected, staff shall report to the Division of Arkansas State Police, Child Abuse Hotline.

Authority. Arkansas Code § 9-28-203.

**9 CAR § 100-316. Searches in secure residential facilities of youth —
Room searches.**

(a)(1) Room searches may be conducted at the discretion of the facility director or designee, without individualized reasonable suspicion to believe that a particular client

is in possession of:

- (A) A weapon;
- (B) Drugs; or
- (C) Contraband.

(2) In addition, the shift supervisor may order room searches without seeking approval of the facility director whenever staff has reasonable suspicion to believe that a client is hiding weapons, drugs, or contraband in his or her room.

(b)(1) Each facility shall establish a written procedure for conducting room searches.

(2) The written procedure shall:

(A) Establish, in detail, the process for conducting room searches, including:

- (i) What is to be searched; and
- (ii) The order in which it ordinarily should be searched;

(B) Include a requirement to document all room searches in the search log to be kept at each facility; and

(C) Be approved by the Division of Youth Services Assistant Director for Service Delivery, Compliance, and Quality Assurance.

(c) Searches of client rooms shall be conducted with at least two (2) staff present.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-317. Searches in secure residential facilities of youth — Searches of common areas.

(a) Searches of common areas may be conducted at the discretion of the shift supervisor without individualized reasonable suspicion to believe that a particular client is in possession of:

- (1) A weapon;
- (2) Drugs; or
- (3) Contraband.

(b)(1) Each facility shall establish a written procedure for conducting searches of common areas.

(2) The written procedure shall:

(A) Establish, in detail, the process for conducting such searches, including:

(i) What areas are to be searched; and

(ii) The order in which they ordinarily should be searched;

(B) Include a requirement to document all searches; and

(C) Be approved by the Division of Youth Services Assistant Director for Service Delivery, Compliance, and Quality Assurance.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-318. Searches in secure residential facilities of youth — Unit shakedowns.

(a)(1) Unit shakedowns may be conducted at:

(A) The discretion of the facility director or designee, without individualized reasonable suspicion to believe that a particular client is in possession of:

(i) A weapon;

(ii) Drugs; or

(iii) Contraband; and

(B) At random times and intervals without advance notice to clients.

(2) During a shakedown, the entire unit may be searched, with the exception of staff and clinical offices.

(3) All clients shall be briefed immediately prior to the shakedown with respect to how the process will occur.

(b)(1) Each facility shall establish a written procedure for conducting searches during unit shakedowns.

(2) The written procedure shall:

(A) Establish, in detail, the process for conducting such searches,

including:

(i) What areas are to be searched; and

(ii) The order in which they ordinarily should be searched;

(B) Include a requirement to document all unit shakedowns; and

(C) Be approved by the Division of Youth Services Assistant Director for Service Delivery, Compliance, and Quality Assurance.

(c) Searches of client rooms during a unit shakedown shall be conducted with at least two (2) staff present.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-319. Searches in secure residential facilities of youth — Training on search techniques.

(a) All Division of Youth Services and provider staff with the potential for direct care of clients and all staff attending basic training in accordance with "Training and Professional Development," shall be trained in the proper techniques for searching persons and personal property.

(b)(1) The division Director of Training shall prepare a written curriculum on the proper techniques for conducting searches.

(2) The curriculum shall be reviewed and approved by the division Assistant Director for Service Delivery, Compliance, and Quality Assurance.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-320. Searches in secure residential facilities of youth — Documentation, storage, and disposal of contraband, weapons, or drugs.

(a) The documentation, storage, and disposal of search-related contraband, weapons, or drugs shall proceed in accordance with the requirements of Division of Youth Services Policy "Incident Reporting".

(b)(1) Whenever contraband, weapons, or drugs are found during a search, the

shift supervisor shall document the event in the search log.

(2) Documentation in the search log shall include the:

- (A) Type of search;
- (B) Date and time of the search;
- (C) Contraband, weapon, or drug found;
- (D) Name of the staff discovering the contraband, weapon, or drugs;
- (E) Location of the item when found;
- (F) Name of the person who had possession of the contraband, weapon,

or drug; and

(G) Details of how staff have stored, transferred, returned, or disposed of the items.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-321. Searches in secure residential facilities of staff and visitors — Definitions.

As used in this section and 9 CAR §§ 100-321 – 324:

(1)(A) "Contraband" means any item or article that is:

- (i) Found or located:
 - (a) In the possession of a person;
 - (b) Within the facility; or
 - (c) On facility property; and
- (ii) Not issued by the Division of Youth Services;
- (iii) Prohibited from being brought into the facility; or
- (iv) In violation of a statute.

(B) "Contraband" includes without limitation:

- (i) Tobacco products;
- (ii) Lighters or matches;
- (iii) Glass containers;
- (iv) Cameras or video equipment;

(v) Personal cell phones;
(vi) Personal storage devices not issued by the Department of Human Services; and

(vii) Excessive amounts of approved items.

(C) "Contraband" does not include an item or article that is specifically approved by the Director of the Division of Youth Services.

(2)(A) "Illegal contraband" means an item that is illegal for any person to possess within a facility.

(B) "Illegal contraband" includes without limitation:

(i) Weapons;

(ii) Alcohol;

(iii) Illegal drugs;

(iv) Cellular devices or accessories;

(v) Personal tools; or

(vi) Any other item perceived by searching staff as dangerous;

(3) "Pat search" means a search during which the staff pat down or frisk various areas of the person's body while the person remains clothed;

(4) "Persons" mean any of the following who are providing a service or visiting the facility for any purpose:

(A) Division of Youth Services or Department of Human Services staff, visiting or permanently assigned;

(B) Contracted provider;

(C) Family member;

(D) Visitor; or

(E) Vendor;

(5) "Professional visit" means an approved visit for the youth from:

(A) An attorney;

(B) A member of the clergy;

(C) A social worker or therapist;

(D) A caseworker; or

(E) Professional staff of the Division of Youth Services or a provider;

(6)(A) "Reasonable suspicion" means sufficiently reliable information used to objectively reach a common sense conclusion that a youth has engaged in conduct in violation of the law or Division of Youth Services rules or policies, including without limitation:

(i) Being in possession of contraband, weapons, or drugs; or

(ii) Having engaged in behavior that poses a risk to the youth or

others.

(B) "Reasonable suspicion" does not require absolute certainty, but rather sufficiently particularized probability, the type of common-sense conclusion about human behavior upon which reasonable and prudent people are entitled to rely; and

(7) "Secure residential treatment facility" means a Division of Youth Services facility, or a facility operated by a provider under contract with the division, characterized by:

(A) Locked entrances and exits;

(B) Physically restrictive construction, including without limitation locked bedrooms; and

(C) Procedures intended to prevent a youth from departing without the approval of the division or the provider.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-322. Searches in secure residential facilities of staff and visitors — Policy.

(a) The Division of Youth Services shall conduct searches of all persons entering a secure residential treatment facility for the purposes of:

(1) Security of the facility and its operations;

(2) Identification of youth mental or physical health concerns; and

(3) Prevention of injurious behavior.

(b) Searches may be conducted to:

(1) Find weapons, drugs, contraband, or any other items that youth or visitors may use

to:

(A) Hurt themselves or others; or

(B) Use to engage in illegal or prohibited activities; or

(2) Identify mental or physical health concerns.

(c) This search may include a search of his or her person, vehicle, and any property he or she brings into the facility.

(d) Searches shall be conducted in a professional manner to avoid embarrassment or indignity to those being searched.

(e) Division facility staff may also conduct searches when there is reasonable suspicion to believe that a person is in possession of prohibited items.

(f) Notices of mandatory pat searches shall be posted at the entranceway of all secure residential treatment facilities.

(g) Upon entering the grounds of the secure residential treatment facility, all staff, visitors, and vendors will report directly to the administration building to be searched.

(h)(1) Persons may stop a search at any time before completion, with the consequence that the visitor must exit the facility immediately without having the visit.

(2) If a person stops a search before completion, staff shall notify the shift supervisor, who shall fill out a serious incident report form.

(i)(1) Staff shall use hand-held or walk-through metal detectors, and pat searches to screen all persons entering the facility.

(2) Staff shall search persons in the manner that they have been trained.

(j) Visitors may bring items for youth they are seeing but must yield to the discretion of the facility staff.

(k)(1) Visitors in possession of contraband, weapons, or drugs shall surrender it to staff immediately.

(2) A visitor's failure to surrender contraband, weapons, or drugs to staff shall

result in the visitor being required to exit the facility immediately.

(3) When a visitor refuses to surrender objects or refuses to exit the facility at the request of the staff, the facility shift supervisor or designee shall fill out a Serious Incident report form.

(l) When a visitor is the attorney of record for the youth, the staff shall inspect and open any packages or objects that the attorney wishes to bring to the youth, but will not read any of the attorney's written materials.

(m)(1) Pat searches shall be conducted on all persons entering the facility.

(2) Each person shall give written consent to the pat search.

(3) If the person does not give written consent to a pat search, the person will be refused entrance into the facility.

(n) Pat searches of visitors shall only be conducted:

(1) By personnel of the same gender as the visitor; and

(2) In the presence of a staff witness.

(o) The facility director or designee may refuse entry to a facility to any person for noncompliance with any portion of this policy.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-323. Searches in secure residential facilities of staff and visitors — Training on search techniques.

(a) All Division of Youth Services and provider staff with the potential for direct care of youth and all staff attending basic training in accordance with Training and Professional Development shall be trained in the proper techniques for searching persons and personal property.

(b)(1) The division Director of Training shall prepare a written curriculum on the proper techniques for conducting searches.

(2) The curriculum shall be reviewed and approved by the division Assistant Director for Service Delivery, Compliance, and Quality Assurance.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-324. Searches in secure residential facilities of staff and visitors — Cell phones.

(a) Except as provided in subsection (c) of this section, cell phones and accessories shall be considered contraband within secure residential treatment facilities.

(b) Staff shall not possess personal cell phones within secure residential treatment facilities, regardless of their interaction with youth.

(c)(1) Staff may possess cell phones that are issued by the Department of Human Services for business purposes.

(2)(A) The Division of Youth Services Director may approve contracted providers to allow staff cell phones within the facility.

(B) A list of these approved contracted providers will be maintained at the facility.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-325. Absent without leave (AWOL) youths — Definitions.

As used in this section and 9 CAR § 100-326:

(1) "Absent without leave" or "AWOL" means when a youth leaves his or her placement without authorization; and

(2) "Identifying and descriptive information" means any information pertaining to a youth that is necessary to safeguard public safety and aid in the apprehension of the youth, including without limitation:

(A) A photo of the youth;

(B) The name of the youth;

(C) The age of the youth; and

(D) A felony offense for which the youth is committed to the custody of the Division of Youth Services.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-326. Absent without leave (AWOL) youths — Policy.

(a) The Division of Youth Services and its providers shall follow state and federal law as applicable to Absent Without Leave (AWOL) youths from Division of Youth Services residential facilities.

(b) When a youth that is committed to the Division of Youth Services goes AWOL from his or her placement, the contracted provider shall:

- (1) Immediately notify the Division of Youth Services on-call personnel; and
- (2) Provide the following information:

- (A) Name of youth;
- (B) Photograph of the youth;
- (C) Committing county;
- (D) Residential county of the youth;
- (E) Location of the youth at the time of the escape;
- (F) Time and date of escape;
- (G) General direction the youth was headed;
- (H) Accomplices inside or outside the facility;
- (I) When staff became aware of the escape;
- (J) The means or method of escape used by the youth, if known;
- (K) Description of the youth's clothing; and
- (L) Any other information that may help in the capture of the youth.

(c)(1) The facility director shall ensure proper staff supervision of youth by employees.

(2) Case management or administration shall notify direct care staff of any abnormal occurrences among youth.

(d) All employees shall be alert to the risk of youth attempting to escape during movement or transportation of youth throughout the facility.

(e) Any employee who suspects an AWOL attempt or observes an AWOL shall notify the facility administration.

(f)(1) Pursuit of the escaping youth must begin immediately.

(2) All staff may be utilized in searches for escaped youth.

(g) The Division of Youth Services on-call personnel shall:

(1) Notify the Division of Youth Services on-call administrator immediately; and

(2) Initiate the request for completion and submission of a pick-up order to the Division of Arkansas State Police and subsequent law enforcement personnel.

(h) The Director of the Division of Youth Services, or his or her designee, shall notify the Department of Human Services Chief of Communications and Community Engagement or his or her designee to release the identifying and descriptive information of the AWOL youth to the general public if the youth:

(1) Is committed to the Division of Youth Services for an offense that would be a felony if the offense were committed by an adult;

(2) Poses a serious threat to public safety or a member of the public; or

(3) Is at a heightened risk of harm if he or she is not apprehended immediately due to his or her:

(A) Age;

(B) Disability;

(C) Medical condition;

(D) Mental capacity; or

(E) Other emergency circumstance; or

(4) Is committed to the Division of Youth Services under extended juvenile jurisdiction.

(i)(1) The director, assistant directors, and the department communications team shall:

(A) Review the identifying and descriptive information and Arkansas Code § 9-28-215; and

(B) Notify each facility to send out notifications via the Rave Alert system.

(2)(A) Within one (1) hour of the AWOL, the youth's parents or guardians shall be notified by the facility director or assistant facility director.

(B) All attempts at notification shall be documented in the JJIS.

(3)(A) The Division of Youth Services on-call administrator shall notify the Division of Youth Services legal unit.

(B)(i) The Division of Youth Services Legal Unit shall notify the committing juvenile court of the AWOL within twenty-four (24) hours.

(ii) The Legal Unit shall send the following information:

(a) Copy of the RS-10; and

(b) Copy of the Division of Arkansas State Police pick-up order.

(j)(1) After the AWOL attempt or AWOL has occurred, the primary staff involved shall:

(A) Complete a Division of Youth Services incident report; and

(B) Submit a complete written report to the shift supervisor for data entry into the JJIS by the end of shift.

(2) The facility director or assistant facility director shall ensure that all aspects of the Division of Youth Services incident reporting policy have been followed.

(k) All AWOL attempts and AWOLs shall be reported to the Division of Youth Services Internal Affairs Investigator and the Division of Youth Services Monitoring Unit for investigation of the circumstances of the escape.

(l) Once the youth is apprehended:

(1) The case coordinator shall notify the:

(A) Parents or guardians of the youth; and

(B) The Division of Youth Services Legal Unit; and

(2) The Division of Youth Services Legal Unit shall send written notification to the committing court.

Authority. Arkansas Code § 9-28-203.

Codification Notes. "JJIS" means Juvenile Justice Information System.

9 CAR § 100-327. Youth bill of rights — Definitions.

As used in this section and 9 CAR § 100-328:

(1) "Secure residential treatment facility" means a Division of Youth Services facility, or a facility operated by a provider under contract with the division, characterized by:

(A) Locked entrances and exits;

(B) Physically restrictive construction, including without limitation locked bedrooms; and

(C) Procedures intended to prevent a youth from departing without the approval of the division or the provider; and

(2) "Youth" means an individual between the ages of ten (10) and (20):

(A) Committed by a circuit court to the physical custody of the Division of Youth Services; and

(B) Receiving services at a secure residential treatment facility or program operated by the division or a vendor under contract with the division.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-328. Youth bill of rights — Policy.

(a) The Division of Youth Services adopts the following Youth Bill of Rights, to be posted prominently in English and Spanish in Division of Youth Services facilities and contracted programs, including in:

(1) Dorms;

(2) Classrooms;

(3) Dining areas;

(4) Visitation areas; and

(5) Administrative areas.

(b) **Youth Bill of Rights.**

(1) I have a right to be viewed as a person deserving of dignity and respect, and capable of changing, growing, and becoming positively connected to my community.

(2) I have a right to experience success, to help define success for myself, and

to have support connecting previous successes to future goals.

(3) I have a right to fair and equal access to treatment, placement, care, and services that build on my strengths and to participate in the selection of those services.

(4) I have a right to have my culture included as a strength, and services offered which honor and respect my cultural beliefs.

(5) I have a right to a program of developmentally and age-appropriate education that meets the requirements of the law.

(6) I have a right to receive adequate, appropriate, and accessible basic necessities, including:

(A) Food that is nutritious and healthy for me;

(B) Housing and shelter that is clean and safe;

(C) Clothing that is clean, weather-appropriate, and in good condition;

(D) Time set aside every day for sleep, exercise, and personal care and hygiene;

(E) Personal hygiene products and facilities that offer reasonable privacy;

(F) Necessary dental, vision, and medical services, including preventative services and services for chronic conditions; and

(G) Mental health services that address diagnosed emotional, psychiatric, psychological, and developmental needs.

(7) I have the right to feel safe and to be free from:

(A) Abuse or neglect;

(B) Arbitrary or unreasonable punishment or discipline, including the denial of any of the rights listed here as a form of discipline; and

(C) Discrimination or harassment by any person based on my or my family's:

(i) Gender;

(ii) Race;

(iii) Ethnicity;

(iv) National origin;

(v) Skin color;

- (vi) Religion;
- (vii) Sexual orientation;
- (viii) Disability; or
- (ix) HIV status.

(8) I have the right to communicate with other people, including regular contact through visits, telephone calls, and mail with:

- (A) Parents and guardians;
- (B) Biological children;
- (C) Attorneys;
- (D) Advocates appointed by law, or by myself or my legal guardian; and
- (E) Other adults with whom I have a familial or mentoring relationship,

including:

- (i) Clergy;
- (ii) Caseworkers;
- (iii) Teachers; and
- (iv) Other persons approved by the court or the division.

(9) I have the right to communicate confidentially with:

- (A) My attorneys and their staff;
- (B) Members of the clergy;
- (C) My Division of Children and Family Services caseworker;
- (D) The Juvenile Ombudsman; and
- (E) Representatives of state-designated protection and advocacy

organizations.

(10) I have the right to feel hopeful about my situation, to feel seen as an individual, and to understand every day what I must do to succeed.

Authority. Arkansas Code § 9-28-203.

Codification Notes. "HIV" means human immunodeficiency virus.

9 CAR § 100-329. Family bill of rights — Definitions.

As used in this section and 9 CAR § 100-330:

(1) "Family" means a youth's legal guardian or legal custodian, including custodial parent, or other adult recognized by the Division of Youth Services or the court as having a bona fide relationship in loco parentis with the youth; and

(2) "Youth" means an individual between the ages of ten (10) and twenty (20):

(A) Committed by a circuit court to the physical custody of the Division of Youth Services; and

(B) Receiving services at a secure residential treatment facility or program operated by the division or a vendor under contract with the division.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-330. Family bill of rights — Policy.

(a) The Division of Youth Services adopts the following Family Bill of Rights, to be posted prominently in English and Spanish in division facilities and contracted programs, including in visitation areas, and administrative areas.

(b) Family Bill of Rights.

(1) You have the right to be treated fairly regardless of your or your child's:

(A) Gender;

(B) Race;

(C) Ethnicity;

(D) National origin;

(E) Skin color;

(F) Religion;

(G) Sexual orientation;

(H) Disability;

(I) Age; or

(J) HIV status.

(2) You have the right to know the status of the safety, health, and welfare of your child.

(3) You have the right to have regular communication with your child through:

(A) Scheduled face-to-face visitation;

(B) Telephone calls; and

(C) Letters.

(4) You have the right to request your child's medical, health, and education records until your child reaches the age of eighteen (18).

(5) You have the right to advocate for the best interest of your child.

Authority. Arkansas Code § 9-28-203.

Codification Notes. "HIV" means human immunodeficiency virus.

9 CAR § 100-331. Youth grievance and appeals — Definitions.

As used in this section and 9 CAR § 100-332:

(1) "Authorized family member" means a youth's legal guardian or legal custodian, including custodial parent, or other adult recognized by the Division of Youth Services or the court as having a bona fide relationship in loco parentis with the youth;

(2) "Grievance" means a formal, written complaint by a youth or his or her representative;

(3) "Grievance officer" means a trained and impartial employee designated by the Division of Youth Services to review, investigate, and respond to a grievance;

(4) "Grievant" means the youth on whose behalf a grievance is submitted; and

(5) "Youth" means an individual between the ages of ten (10) and twenty (20):

(A) Committed by a circuit court to the physical custody of the Division of Youth Services; and

(B) Receiving services at a secure residential treatment facility or program operated by the Division of Youth Services or a vendor under contract with the Division

of Youth Services.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-332. Youth grievance and appeals — Policy.

(a)(1) Division of Youth Services facilities and contracted programs shall afford youth in division custody the right to submit a grievance regarding any action, condition, or circumstance the youth considers to be unjust.

(2) Grievable actions include without limitation:

(A) Placement;

(B) Treatment plan issues;

(C) Medical care;

(D) Education;

(E) Disciplinary actions;

(F) Quality of life; and

(G) Any action or injury caused by a division staff, contractor, volunteer, or other youth.

(b)(1) Grievance procedures shall:

(A) Provide for the review and resolution by one (1) or more impartial persons;

(B) Establish timelines for resolution not to exceed fifteen (15) days for nonemergency grievances; and

(C)(i) Establish timelines for emergency grievances to be addressed by medical personnel within twenty-four (24) hours of receipt of the written grievance.

(ii) If no medical personnel are available on Saturday or Sunday, then those days shall be excluded from the twenty-four-hour calculation.

(2) Grievance procedures shall not impede the division from taking immediate action to protect the health and safety of youth.

(3) Any decision by the Director of the Division of Youth Services shall be considered final.

(c)(1) Division facilities and contracted programs may establish their own formal or informal practices for resolution of grievances, subject to division approval, but shall not require youth to exhaust those remedies before submitting a grievance under this policy.

(2) A facility, program, staff member, or contractor shall not impede a youth in submitting a grievance under this policy.

(d) Authorized family members, attorneys, advocates, and other representatives may submit grievances on behalf of youth who lack capacity to submit on their own behalf.

(e)(1) Grievance rights and procedures shall be posted prominently in English and Spanish in facility:

- (A) Dorms;
- (B) Classrooms;
- (C) Dining areas;
- (D) Visitation areas; and
- (E) Administrative areas.

(2) Youth and authorized family members shall be informed of these procedures orally and in writing within twenty-four (24) hours of placement at a facility or program.

(f) Youth who file a grievance shall not be subject to discipline or any adverse action pertaining to or in retaliation for filing the grievance, regardless of the outcome.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-333. Antbullying — Definitions.

As used in this section and 9 CAR § 100-334:

(1)(A) "Bullying" means the intentional harassment, intimidation, humiliation, ridicule, defamation, or threat or incitement of violence by a student against another student or the Division of Youth Services or provider school employee by a written, verbal, electronic, or physical act that may address an attribute of the other student or

staff member or disrupt the operation of the division facility.

(B) The physical acts under subdivision (1)(A) of this section may cause:

- (i) Physical harm or damage to the person's property; or
- (ii) Substantial interference within the division's facility.

(C) "Bullying" includes cyberbullying;

(2)(A) "Cyberbullying" means without limitation a communication or image transmitted by means of an electronic device, including without limitation a telephone, wireless communications device, computer, or pager that results in the substantial disruption of the orderly operation of the school or educational environment.

(B)(i) "Cyberbullying" includes any form of communication sent by an electronic act that is to:

- (a) Harass;
- (b) Intimidate;
- (c) Humiliate;
- (d) Ridicule;
- (e) Defame; or
- (f) Threaten or incite violence.

(ii) An electronic act under this subdivision includes those acts whether or not they originated on school property or with school equipment, if the electronic act:

(a) Is directed specifically at students or school personnel and maliciously intended for the purpose of disrupting school; and

(b) Has a high likelihood of succeeding in that purpose; and

(3) "Harassment" means a pattern of unwelcome verbal or physical conduct relating to another person's constitutionally or statutorily protected status that causes, or reasonably should be expected to cause, substantial interference with the other's performance in the school environment.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-334. Anti-bullying — Policy.

(a)(1) The Division of Youth Services and its contract provider shall follow state and federal laws, rules, and regulations as applicable to students in division residential facilities.

(2) As a system of education, the division shall follow all applicable rules as set forth by the Department of Education.

(3) The division is committed to providing students and staff at its residential facilities, whether operated by the division or its contracted providers, with a safe environment free from discrimination and harassment.

(b)(1) Residential program staff shall actively encourage students to report any behavior they consider to be bullying, whether directed at themselves or another student.

(2) Students shall be advised that reports of bullying may be made verbally or in writing to any division or provider, including without limitation to any:

- (A) Teacher;
- (B) Principal;
- (C) Counselor; or
- (D) Residential unit staff.

(3) The reports under this subsection may be made anonymously.

(4) A division incident report shall be filed in the JJIS outlining the alleged incident.

(c) A school principal or his or her designee who receives a report or complaint of bullying shall:

- (1) Promptly investigate the complaint or report; and
- (2) Make a record of the investigation and any action taken as a result of the investigation to the School Superintendent and facility director.

(d) Teachers, staff members, or other employees who have witnessed bullying or have received a report that a student has been a victim of behavior considered to be bullying shall make a written report of the behavior to the facility director.

(e) Facility staff shall conduct an investigation as soon as reasonably practicable,

but no later than five (5) days from the date of the written report of the alleged incident.

(f)(1) A record of investigation shall be entered into the JJIS.

(2) The record under subdivision (f)(1) of this section shall:

(A) Include a detailed description of the alleged incident;

(B) Include a detailed summary of the statement from all material witnesses; and

(C) Discuss the services offered to the youth involved.

(g) Once the investigation is complete, the division or a provider may:

(1) Provide intervention services;

(2) Establish training programs to reduce bullying;

(3) Impose discipline on any of the parties involved in the incident;

(4) Recommend counseling for any of the parties involved in the incident; or

(5) Take or recommend other appropriate action.

(h) The person or persons reporting behavior they consider to be bullying shall not be subject to retaliation or reprisal in any form.

(i)(1) If at any time a staff member believes a student is at imminent risk of serious physical, psychological, or emotional harm as a result of bullying, immediate action shall be taken in accordance with facility procedures to protect that student.

(2) This section does not require any division or provider staff to complete an investigation before taking protective action.

(j)(1) A report shall be made to a parent or legal guardian of any student believed to be the victim of an incident or credible report or complaint of bullying.

(2) The report under subdivision (j)(1) of this section shall be entered into the JJIS and:

(A) Be made within five (5) business days after the completion of the investigation;

(B) State the following:

(i) That a credible report or complaint exists;

(ii) Whether the report was found to be true; and

(iii) Whether action was taken; and

(C) Include information regarding the reporting of another incident of bullying.

(k)(1) A report shall be made to the parent or legal guardian of the youth who is determined to have been the perpetrator of bullying.

(2) The report under subdivision (k)(1) of this section shall be entered into the JJIS and:

(A) Be made within five (5) days after the completion of the investigation; and

(B) State information regarding the consequences of continued incidents of bullying.

(l)(1) Notice of what constitutes bullying, the division's prohibition against bullying, and the consequences for students who bully shall be conspicuously posted in every:

- (A) Classroom;
- (B) Cafeteria;
- (C) Restroom;
- (D) Gymnasium;
- (E) Auditorium; and
- (F) Transportation vehicle.

(2) Parents, students, school volunteers, and employees shall be given copies of the notice under subdivision (l)(1) of this section.

(m) Division staff or provider staff found to be in violation of this part shall be subject to disciplinary action.

Authority. Arkansas Code § 9-28-203.

Codification Notes. "JJIS" means Juvenile Justice Information System.

Subpart 4. Facility Services

9 CAR § 100-401. Access to health care — Definitions.

As used in this section and 9 CAR § 100-402:

(1)(A) "Elective medical care" means any medical treatment recommended by a physician which may be postponed without subjecting the client to:

- (i) Significant pain;
- (ii) Deterioration of the condition;
- (iii) Complications; or
- (iv) Irreparable harm.

(B) "Elective medical care" includes procedures that:

- (i) Are usually medically necessary; and
- (ii) May be major but are beyond the scope of procedures outlined in

routine or emergency care;

(2) "Emergency medical treatment" means medical, dental, or psychiatric treatment that is recommended immediately and, if postponed, may result in:

- (A) Permanent injury;
- (B) Loss of function; or
- (C) Death;

(3) "Informed consent" means the:

(A) Person who will perform or oversee the treatment will give information to the patient youth or parent or guardian about:

- (i) The reasons for the treatment;
- (ii) Potential benefits of the treatment; and
- (iii) Any risks associated with and without the treatment; and

(B) Parent or guardian of the youth must agree to the treatment unless the youth is of the age and maturity to consent to his or her own treatment;

(4)(A) "Invasive medical care" means any test or treatment that carries a significant risk of harm or major side effect.

(B) "Invasive medical care" includes without limitation:

- (i) All medications prescribed for psychiatric or behavioral treatment;

- (ii) All surgical procedures; and
- (iii) Any procedure that requires more than local or topical

anesthesia; and

(5)(A) "Routine treatment" means routine medical and dental examinations such as:

- (i) Routine blood, urine, or other tests;
- (ii) Routine x-rays; or
- (iii) Other noninvasive tests.

(B) "Routine treatment" includes:

(i) Immunizations currently recommended by the Centers for Disease Control and Prevention; and

(iii) All medical or dental treatments, including medication for common or minor illnesses or minor injuries.

(6) All definitions under this section are intended to be consistent with Arkansas Medicaid rules, and where they conflict, Medicaid rules supersede these definitions.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-402. Access to health care — Policy.

(a) It is the policy of the Division of Youth Services to afford informed and unimpeded access to appropriate health care for all youth in its legal and physical custody.

(b)(1) All youth shall have access to necessary medical and dental care.

(2) The process by which a youth accesses medical care and services may vary as long as timely unimpeded access is not denied.

(c)(1) The division, contracted staff, and contracted healthcare providers shall provide access to routine and specialized medical care and services as needed for youth residing within secure residential facilities and programs overseen by the division.

(2) Each facility under division jurisdiction or contract shall collaborate with

professional community healthcare providers to obtain necessary emergency and specialized medical care and services.

(d)(1)(A) Informed consent is required for all medical care except for emergency medical treatment.

(B) Consent is not required for emergency medical treatment.

(2) When the consent of a parent or guardian cannot be obtained, the division may provide approval for all reasonable and necessary medical services, including hospitalization, during the period of a youth's physical custody with the division.

(e)(1) A parent, guardian, or the youth may consent to routine treatment.

(2) Only the parent, guardian, or the youth, if the youth is eighteen (18) years of age or older, may consent to elective or invasive medical care.

(f) During the first seventy-two (72) hours of a youth's initial commitment to the division's physical custody, division-designated staff shall contact the youth and provide him or her with a general healthcare orientation that contains information on how to access or request access to healthcare services.

(g) During the first twenty-four (24) hours of a youth's admission to a residential program, designated staff shall provide the juvenile with both verbal and written information on how to access or request access to healthcare services.

(h) The general healthcare orientation shall include written information about:

(1) How to access emergency or routine medical, mental health, vision, or dental services;

(2) The identity and facility location of onsite medical and mental health staff;

(3) How to access or obtain follow up on any prior medical, mental health, vision, or dental services; and

(4) How to access the grievance process for health-related complaints.

(i)(1) Access to health services information shall be presented and communicated in a language and manner clearly understood by each youth.

(2) Each youth shall be allowed opportunity to:

(A) Ask questions;

(B) Seek additional clarity; or

(C) Express related concerns.

(j) Each division-operated or contract facility shall have special procedures in place to assist any youth who have language barriers or difficulty with communication or comprehension on how to access healthcare services.

(k) A sign or poster explaining how to access healthcare services shall be posted in all dorms, cottages, housing units, and common areas in which juveniles routinely receive programmatic services, supervision, and care.

(l) All policies under this section are intended to be consistent with Arkansas Medicaid rules, and where they conflict, Medicaid rules supersede these policies.

(m) Where policies under this section conflict with state or federal law, the law shall supersede these policies.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-403. Chronic and convalescent — Definitions.

As used in this section and 9 CAR § 100-404:

- (1) "Chronic" means constant, continuing, or long-term in nature;
- (2) "Convalescent" means gradual recovery of strength, health, and wellness after illness or injury; and
- (3) "Medical preventive" means measures taken for prevention of disease or possibly illness.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-404. Chronic and convalescent — Policy.

It is the policy of the Division of Youth Services that when medically indicated, chronic, convalescent, or medical preventive care will be provided to all youths placed in division custody and housed in either a division-operated or contracted facility.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-405. Consent to treat — Definitions.

As used in this section, 9 CAR §§ 100-405, and 100-406:

(1) "Affiliated healthcare provider" means the individuals or healthcare staff responsible for the facility's healthcare and medical services, including:

(A) Arrangements for all levels of youth health care; and

(B) Ensuring of quality and accessibility to all health services needed by a youth;

(2) "Assent" means an informal but joint decision-making process in which the youth, to the extent of his or her capacity, is involved in discussions about his or her health care and focus to improve long-term outcomes;

(3) "Committed youth" means a juvenile who has been placed in the legal custody and control of the Division of Youth Services for purposes of:

(A) Supervision;

(B) Treatment; and

(C) Rehabilitation;

(4)(A) "Elective medical care" means any medical treatment recommended by a physician which may be postponed without subjecting the client to:

(i) Significant pain;

(ii) Deterioration of the condition;

(iii) Complications; or

(iv) Irreparable harm.

(B) "Elective medical care" includes procedures that:

(i) Are usually medically necessary; and

(ii) May be major but are beyond the scope of procedures outlined in routine or emergency care;

(5) "Emergency medical treatment" means medical, dental, or psychiatric treatment that is recommended immediately and, if postponed, may result in:

(A) Permanent injury;

(B) Loss of function; or

(C) Death;

(6) "Informed consent" means the:

(A) Person who will perform or oversee the treatment will give information to the patient youth or parent or guardian about:

(i) The reasons for the treatment;

(ii) Potential benefits of the treatment; and

(iii) Any risks associated with and without the treatment; and

(B) Parent or guardian of the youth must agree to the treatment unless the youth is of the age and maturity to consent to his or her own treatment;

(7)(A) "Invasive medical care" means any test or treatment that carries a significant risk of harm or major side effect.

(B) "Invasive medical care" includes without limitation:

(i) All medications prescribed for psychiatric or behavioral treatment;

(ii) All surgical procedures; and

(iii) Any procedure that requires more than local or topical anesthesia; and

(8)(A) "Routine treatment" means routine medical and dental examinations such as:

(i) Routine blood, urine, or other tests;

(ii) Routine x-rays; or

(iii) Other noninvasive tests.

(B) "Routine treatment" includes:

(i) Immunizations currently recommended by the Centers for Disease Control and Prevention; and

(ii) All medical or dental treatments, including medication for common or minor illnesses or minor injuries.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-406. Consent to treat — Policy.

(a)(1) It is the policy of the Division of Youth Services to afford all youth, and parents or guardians of youth, informed consent and voluntary agreement in regard to proposed elective or invasive medical treatments.

(2) Exceptions shall be limited to emergency medical treatments where failure or delay in receiving medical services would result in a more adverse outcome.

(b) Youth and parents or guardians shall be provided medical facts regarding the nature, consequences, risks, and alternatives of proposed medical treatment.

(c) Youth shall not be denied appropriate health care, including medications, based solely on an inability to contact a parent or guardian.

(d) In accordance with provisions afforded by a juvenile commitment order, the division may provide all reasonable and necessary medical services, including hospitalization, during the period of commitment.

(e) Division-designated staff shall inform youth and parents or guardians of their right to informed consent during the first seventy-two (72) hours of a youth's initial commitment to division custody.

(f) Division-affiliated and contract healthcare providers shall conduct the consent process with youth and, as necessary, parents or guardians before undertaking any elective or invasive medical care.

(g)(1) The affiliated healthcare provider shall oversee the consent process in cases of need to either obtain assent from the youth or consult with the division on the matter of informed consent.

(2) Steps to obtain assent shall include the following:

(A) Helping the youth to arrive at and understand a developmentally appropriate awareness of his or her condition and needs;

(B) Telling the youth what he or she can expect with:

(i) Tests;

(ii) Examinations;

(iii) Treatments; or

(iv) Procedures;

(C) Determining an impression on the youth's understanding; and

(D) Soliciting an expression or feedback on the youth's willingness to accept or continue while also allowing opportunity for the youth to:

- (i) Ask questions;
- (ii) Seek additional clarity; or
- (iii) Express concerns.

(h) Informed consent information provided to parents or guardians shall include the following:

(1) An explanation in understandable language on the nature, condition, and proposed diagnostic steps, treatments, and procedures;

(2) The risks involved and the potential benefits and of any recommended alternative treatments, including the choice of no treatment; and

(3) An assessment of parent or guardian understanding of all information provided while allowing opportunity for them to:

- (A) Ask questions;
- (B) Seek additional clarity; or
- (C) Express concerns.

(i) Where policies under this section conflict with state or federal law, the law shall supersede these policies.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-407. Consent to treat — Refusal of treatment.

(a)(1) Youth and parents or guardians may refuse treatment or procedures.

(2) Youth who refuse routine or nonemergency treatment or medical procedures shall be counseled as to the possible health consequences of their refusal.

(3) Documentation of refusal shall be made in the youth's healthcare record.

(4)(A) The youth shall be given the opportunity to sign and date the healthcare record indicating their refusal.

(B) Should the youth refuse to sign his or her healthcare record indicating their refusal, the healthcare staff shall witness, sign, and date the healthcare record

along with another facility staff member.

(b) The treating or prescribing physician shall be notified if the youth refuses at least three (3) consecutive prescribed medications or medical treatments.

(c)(1) Youth shall not be forced to accept any medication or medical intervention.

(2) In situations where the youth is an imminent danger to self or others, the involved healthcare provider or staff shall consult with designated Division of Youth Services staff.

(d) Where policies under this section conflict with state or federal law, the law shall supersede these policies.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-408. Termination of pregnancy — Policy.

(a) While a youth is in Division of Youth Services care:

(1) The Department of Human Services shall:

(A) Neither consent to or approve the termination of a pregnancy nor authorize the expenditure of state funds for the purpose of paying for the termination of a pregnancy; and

(B) Allow for the termination of a pregnancy to save the life of the pregnant female or as required by federal law; and

(2) The pregnant female, her family, or a third party shall be responsible for all costs related to the termination of her pregnancy, except as required by federal law, including:

(A) Transportation costs;

(B) Costs incurred for medical appointments; or

(C) Subsequent health care determined necessary.

(b) The department may be involved in any court proceeding related to the consideration to approve the termination of a pregnancy for any female in the custody of the state.

(c) The department shall report annually to the Senate Committee on Public

Health, Welfare, and Labor and the House Committee on Public Health, Welfare, and Labor the number of terminations of pregnancies that occurred for females in the custody or guardianship of state.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-409. Dental screening and examination — Policy.

(a) It is the policy of the Division of Youth Services that dental screenings shall be provided to all juveniles placed in custody of the division.

(b) Dental screenings and examinations shall be performed by trained and qualified healthcare personnel and will include examination of a youth's:

- (1) Mouth;
- (2) Lips;
- (3) Tongue;
- (4) Teeth;
- (5) Gums; and
- (6) Tissue.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-410. Emergency health care — Definition.

As used in this section and 9 CAR § 100-411, "emergency health care" means health treatment, services, or accommodations provided to an injured or ill person for the sudden onset of a medical condition or illness.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-411. Emergency health care — Policy.

It is the policy of the Division of Youth Services to have active provisions in place for the as-needed delivery of both emergency and twenty-four-hour health care to

youth who are:

- (1) Placed in division custody; and
- (2) Housed in either a division-operated or contracted facility.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-412. Health screening and examination — Definitions.

As used in this section and 9 CAR § 100-413:

(1) "Dental screening" means a physical examination of youth's mouth, including the:

- (A) Lips;
- (B) Tongue;
- (C) Teeth;
- (D) Gums; and
- (E) Tissue;

(2) "Medical screening" means a strategy or steps used in a population to identify the presence of an as-yet undiagnosed disease or illness in individuals without signs or symptoms; and

(3) "Mental health screening" means a structured way of dynamically observing an individual's cognitive and behavioral functioning, in addition to their:

- (A) Affect;
- (B) Mood;
- (C) Speech;
- (D) Perception;
- (E) Insight; and
- (F) Judgment.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-413. Health screening and examination — Policy.

(a) It is the policy of the Division of Youth Services that all juveniles placed in custody of the division shall receive medical, dental, and mental health screenings.

(b) The screenings shall be performed by qualified healthcare personnel, as deemed by the appropriate licensing authority.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-414. Health trained staff — Policy.

It is the policy of the Division of Youth Services that coordination and delivery of healthcare services to juveniles in the custody of the division and placed in division facilities will be performed by qualified healthcare-trained personnel, as deemed by appropriate licensing authority.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-415. Management of chemical dependency — Policy.

It is the policy of the Division of Youth Services that active monitoring against the occurrence of alcohol or drug abuse by youth in division custody shall occur at all division-operated or contract facilities in which division juveniles are housed.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-416. Mental health services — Policy.

(a) It is the policy of the Division of Youth Services to provide mental health services to all juveniles who are committed and placed in custody of the division.

(b) The mental health services shall be:

- (1) Multifaceted in terms of prevention and intervention; and
- (2) Provided by qualified and licensed professionals.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-417. Participation in research — Policy.

(a) The Division of Youth Services is committed to assisting in the research and advancement of best practices in juvenile justice and the rehabilitation of youth.

(b) When presented with an opportunity to participate in bona fide research, the division may share deidentified or aggregated data to the extent permitted by state and federal law.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-418. Participation in research — Consent to participate.

(a) The Division of Youth Services will not consent on behalf of any youth or custodian to an identifiable youth's participation in research.

(b)(1) Youth under the age of eighteen (18) must have consent of a legal custodian or court with jurisdiction to participate in any research where the youth's identity may be disclosed or inferred.

(2) This includes but is not limited to any research studies where the youth has direct contact with researchers.

(c) Youth aged eighteen (18) and over may consent on their own behalf, unless they are under a court-ordered guardianship for lack of mental capacity.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-419. Participation in research — Payment prohibited.

(a) Youth committed to the Division of Youth Services will not be permitted to volunteer or participate for payment in any medical, pharmaceutical, or cosmetic experiments, even with consent of a legal custodian.

(b) This does not preclude individual treatment of a juvenile based on his or her need for a specific medical procedure that is not generally available.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-420. Personnel — Policy.

(a) It is the policy of the Division of Youth Services that only qualified healthcare personnel will determine and supervise the provision of healthcare procedures to youth in the secure custody of the division.

(b) Qualified healthcare personnel shall have written position descriptions inclusive of specific qualifications required of their professional position and of their particular role within the division's healthcare delivery system.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-421. Prosthesis — Definition.

As used in this section and 9 CAR § 100-422, "prosthesis" means a device either external or implanted that substitutes for or supplements a missing or defective part of the body.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-422. Prosthesis — Policy.

It is the policy of the Division of Youth Services that either a medical or dental prosthesis shall be made available to youth placed in secure custody of the division who have been determined by a qualified or responsible physician to be in need of such medical or dental prosthesis.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-423. Qualifications — Policy.

It is the policy of the Division of Youth Services that delivery of all mental health services to juveniles placed in the custody of the division shall be provided by qualified

professionals who meet the educational, licensure, and certification criteria specified for their professional discipline.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-424. Responsible healthcare authority — Definition.

As used in this section and 9 CAR § 100-425, “health authority” means an individual, agency, or organization qualified to provide medical and healthcare services.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-425. Responsible healthcare authority — Policy.

(a)(1) It is the policy of the Division of Youth Services to have a designated health authority with responsibility for assurance of healthcare provision to all youths in division facilities.

(2) The designated health authority may be:

- (A) A contracted physician;
- (B) A health administrator; or
- (C) An agency.

(b) The division shall ensure that the designated health authority clearly and fully understands the importance of arranging for and ensuring that juveniles have access to health care.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-426. Serious and infectious diseases — Definition.

As used in this section and 9 CAR § 100-427, “infectious disease” means disorders caused by germs or organisms such as:

- (1) Bacteria;
- (2) Viruses;

- (3) Fungi; or
- (4) Parasites.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-427. Serious and infectious diseases — Policy.

It is the policy of the Division of Youth Services to:

- (1) Ensure the existence and monitoring of active practices and procedures aimed at management of serious and infectious diseases; and
- (2) Protect the medical health and welfare of all juveniles placed in custody of the division and housed at either a division-operated or contracted facility.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-428. Special diets — Definition.

As used in this section and 9 CAR § 100-429, “special diet” means meal plans that control the intake of certain foods or nutrients.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-429. Special diets — Policy.

- (a) The Division of Youth Services shall provide special diets to youths:
 - (1) If the special diet is prescribed by a:
 - (A) Treating physician;
 - (B) Dentist; or
 - (C) Responsible health official; and
 - (2) Who have designated religious beliefs or dietary requirements.
- (b) The division shall ensure that special diets:
 - (1) Are kept as simple as possible; and
 - (2) Reasonably conform to foods served to all other juveniles.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-430. Health record maintenance and transmission — Policy.

The Division of Youth Services is committed to maintaining complete and accurate health records on all youth in its physical custody.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-431. Health record maintenance and transmission — Health record.

(a) A health record file on each youth shall be maintained at the facility or program where the youth is placed in a format approved by:

- (1) The Department of Health; or
- (2) Other health authority with oversight and in a manner that complies with

state and federal privacy law.

(b) The health record shall contain, at a minimum, the following information:

(1) A health screen completed at the time the youth was received at the facility or program;

(2) A copy of the youth's medical treatment plan, if any, including:

- (A) Diagnoses;
- (B) Orders for physical therapy;
- (C) Occupational therapy;
- (D) Prescription and over-the-counter medication;
- (E) Nutrition plans; and
- (F) Other medical intervention;

(3) All current pharmaceutical prescriptions and medication administration log;

(4) A log of place, date, and time of all health encounters;

(5) Health service reports, including:

- (A) Medical;

- (B) Dental;
- (C) Optometric; and
- (D) Psychiatric;
- (6) All health appraisal data forms;
- (7) All consent and refusal forms; and
- (8) The signature and title of the documenter.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-432. Health record maintenance and transmission — Health summary — Medication and medical equipment.

(a)(1) When a youth leaves a Division of Youth Services or contracted facility or program for any overnight period, the facility or program shall complete a health summary form and transmit that form in hard copy with the youth.

(2) The health summary form shall contain, at a minimum, the following information:

(A) All medical and behavioral conditions for which the youth receives treatment or which may impact the youth's health and safety, including without limitation:

- (i) Allergies;
- (ii) Acute and chronic illness; and
- (iii) Disabilities;

(B) A list of prescribed medications with dosage and administration instructions;

- (C) Any special nutritional needs or diet;
- (D) Any scheduled appointments; and
- (E) Name and contact information for the youth's legal custodian.

(b)(1) In addition to the health summary form, the facility or program shall send, in secure packaging, all of the youth's current medication and any medical equipment used by or purchased for the youth, including:

- (A) Epinephrine pens;
- (B) Eyeglasses;
- (C) Retainers;
- (D) Inhalers or atomizers; and
- (E) Other medication or medical equipment use by or purchased for the

youth.

(2) An inventory slip of all medications and medical equipment shall be included in the package and receipt signed by the facility, program, or individual receiving the youth.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-433. Discharge.

When a youth discharges from a facility or program, a complete and accurate copy of the health record shall be sent in hard copy or electronic format to the Division of Youth Services Records Unit within five (5) business days.

Authority. Arkansas Code § 9-28-203.

Subpart 5. Juvenile Services

9 CAR § 100-501. General education — Definition.

As used in this section and 9 CAR §§ 100-502 – 506, “marking period” means each quarter as designated on the school calendar.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-502. General education — Policy.

(a)(1) The Division of Youth Services and its providers shall follow state and federal rules and regulations as applicable to educating students in division residential facilities.

(2) As a special school system with all of the powers, privileges, and authority of any other public school district, the division shall follow all applicable rules set forth by the Department of Education.

(b) If any student's individualized education program (IEP) or 504 plan conflicts with this policy, the requirements of the student's IEP or 504 plans take precedence.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-503. General education — Parent or guardian and teacher conferences.

(a)(1) Parents or guardians shall be kept informed concerning the progress of their child.

(2) The evaluation of each student's performance on a regular basis serves to give the parents or guardians, students, and the school necessary information to help effect academic improvement.

(b)(1) If the progress of a student is unsatisfactory in a subject, the teacher shall attempt to schedule a parent or guardian and teacher conference.

(2) Parents or guardians may request conferences with teachers.

(c) Parent or guardian and teacher conferences shall be held as scheduled on the school calendar.

(d) Teachers shall utilize conferences as an opportunity to explain the reasons for difficulties and will develop, cooperatively with the parents, a plan for remediation to help the student succeed.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-504. General education — Grading.

(a) The grading scale for grades six through twelve (6-12) are as follows:

(1) A = 90-100;

(2) B = 80-89;

- (3) C = 70-79;
- (4) D = 60-69; and
- (5) F = 59 and below.

(b) For the purpose of determining grade point averages, the numeric value of each letter grade shall be:

- (1) A = 4 points;
- (2) B = 3 points;
- (3) C = 2 points;
- (4) D = 1 point; and
- (5) F = 0 points.

(c)(1) The final grades of students who transfer into a Division of Youth Services facility school for part of a semester shall be determined by blending the grades earned from the student's previous school district with those earned at the division facility.

(2)(A) Each final grade shall be determined by:

(i) Calculating the percentage of the days in the grading period that were spent in another public school district multiplied by the grade earned from the other public school district; and

(ii) Calculating the percentage of the days in the grading period inside the division school facility multiplied by the grade earned inside the division school facility.

(B) The product of each of these calculations is then added together to determine the student's final grade.

Example: The grading period had forty (40) days. A student transferred into a division school with a grade of eighty-three percent (83%) earned in ten (10) days at the previous school. The student had a grade of seventy-five percent (75%) in our district's school earned in the remaining thirty (30) days of the grading period. Ten (10) days is twenty-five percent (25%) of forty (40) days while thirty (30) days is seventy-five percent (75%) of forty (40) days. Thus the

final grade would be $.25 (83) + .75 (73) = 75.5\%$.

(d) The grades of a child shall not be lowered due to an absence caused by:

- (1) A change in the child's school enrollment;
- (2) The child's attendance at court; or
- (3) The child's attendance at counseling or treatment.

(e) Any grades, course credits, or promotions received by a student while enrolled in the division system of education shall be considered transferable in the same manner as those grades, course credits, and promotions from other accredited Arkansas public educational entities.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-505. General education — Student promotion — Retention.

(a) The Division of Youth Services shall:

- (1) Evaluate each student's educational progress at each marking period; and
- (2) Individually address situations in which students are not performing at their appropriate grade levels.

(b)(1) Notice of a student's possible retention or required retaking of a course shall be included with the student's grades sent home to each parent or guardian until the student is eighteen (18) years of age or older.

(2) If there are concerns raised about the promotion or retention of a student or his or her required retaking of a course, a conference shall be held before a final decision is made.

(3) The conference shall include the following individuals:

- (A) Division principal or division designee;
- (B) The student's teachers;
- (C) Case managers;
- (D) A 504 or special education representative, if applicable;
- (E) The student's parents or guardians; and

(F) The student.

(4)(A) This required educational conference shall be held at a time and place that best accommodates those participating in the conference.

(B) The school will document participation or nonparticipation in required conferences.

(5) If the conference attendees fail to agree concerning the student's placement or receipt of course credit, the final decision shall rest with the division principal or division designee.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-506. General education — Permanent records.

(a) Permanent school records, as required by the Department of Education, shall be maintained for each student enrolled in the district until the student:

- (1) Receives a high school diploma or its equivalent; or
- (2) Is beyond the age of compulsory school attendance.

(b) A copy of the student's permanent record will be provided to the receiving school district within five (5) work days after the date a request from the receiving school district is received.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-507. Special education — Policy.

(a) The Department of Human Services shall provide oversight of the Division of Youth Services special education program.

(b) The department shall ensure that a free and appropriate public education (FAPE) inclusive of necessary related services is provided to eligible students with disabilities residing within the residential youth treatment facilities, as required by state and federal law.

(c) The special education program is composed of five (5) main elements, to

include:

- (1) Individualized education program (IEP);
- (2) Least restrictive environment;
- (3) Appropriate evaluation;
- (4) Parent and teacher participation; and
- (5) Procedural safeguards.

(d) The department shall ensure that students who have a disability are identified, evaluated, and provided with appropriate accommodations as needed.

(e) The department shall ensure that procedures for formal identification, evaluation, placement, and delivery of services to students with disabilities as provided in both state and federal law governing special education are implemented.

(f) A FAPE will be provided in accordance with the IEP of each student formally identified with a disability and a corresponding need for special education and related services.

(g) The department shall ensure that proper procedures are in place for the implementation of special education programs and services to conform to the requirements of state and federal law.

(h) The department's Special Education Services will be responsible for monitoring special education programs, services, and responsibilities regarding students with disabilities within the secure residential treatment facilities under division jurisdiction.

(i) The department shall ensure compliance at the facility level with the due process provisions of the Individuals with Disabilities Education Act of 2004, 20 U.S.C. § 1400 et seq., to enable the provision of a FAPE to eligible students with a disability who qualify for special education services.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-508. Dyslexia screening and reading intervention services — Screening.

(a) Within thirty (30) calendar days, excluding holidays, of being committed to the

Division of Youth Services, a:

- (1) Youth shall have his or her reading proficiency level assessed; and
- (2) Dyslexia screening shall be delivered with fidelity, as defined in Arkansas

Code § 6-41-602.

(b) If a juvenile fails the dyslexia screener, a Level II dyslexia assessment will be administered.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-509. Dyslexia screening and reading intervention services — Services.

(a)(1) If a reading assessment or the dyslexia assessment indicates that a youth is reading below the level of proficiency required to be a high-functioning reader, the youth shall be provided evidence-based reading intervention based on the science of reading and dyslexia intervention that is evidence-based according to the Department of Education compilation of appropriate intervention programs.

(2) An intervention plan provided for a youth who is reading below the level of proficiency shall be administered with fidelity by a teacher who has:

(A) Been trained in the science of reading; and

(B) Demonstrated proficient knowledge and skills to teach reading consistent with the best practices of scientific reading instruction as required under the Right to Read Act, Arkansas Code § 6-17-429.

(b) Juveniles currently committed to the Division of Youth Services shall be:

(1) Provided with information that explains what dyslexia is in common and easily understandable language;

(2) Offered and encouraged to submit to dyslexia screening; and

(3) Provided with dyslexia intervention with fidelity, as defined in Arkansas Code § 6-41-602, in the same manner as required for newly committed juveniles.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-510. Use of technology — Definitions.

As used in this section and 9 CAR § 100-511:

(1) "Electronic device" means anything that can be used to transmit or capture:

- (A) Images;
- (B) Sound; or
- (C) Data;

(2) "Harmful to minors" means any picture, image, graphic file, or other visual depiction that:

(A) Taken as a whole and with respect to minors, appeals to a prurient interest in:

- (i) Nudity;
- (ii) Sex; or
- (iii) Excretion;

(B) Depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors:

- (i) An actual or simulated sexual act or sexual contact;
- (ii) An actual or simulated normal or perverted sexual act; or
- (iii) A lewd exhibition of the genitals; and

(C) Taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors; and

(3) "Social media" means forms of electronic communication such as websites and applications that enable users to:

- (A) Create and share:
 - (i) Information;
 - (ii) Ideas;
 - (iii) Personal messages; or
 - (iv) Other content; or
- (B) Participate in online communities and social networking.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-511. Use of technology — Policy.

(a)(1) The Division of Youth Services and its providers shall follow all state and federal laws as applicable to the education of juveniles by the way of the internet and virtual classes.

(2) The division shall also follow guidelines and rules established by the Department of Education and the Department of Human Services.

(b) The use of electronic devices is for educational or instructional purposes only.

(c) The division shall utilize internet filtering software designed to prevent users from the following, defined in the Children’s Internet Protection Act, Pub. L. No. 106-554, Arkansas law, or division policy:

(1) Accessing material on the internet that is considered:

- (A) Obscene;
- (B) Pornographic; or
- (C) Harmful to minors; or

(2) Contact by individuals outside of the facility, such as:

- (A) In chat rooms;
- (B) On Facebook or other social media; and
- (C) In emails.

(d) Students’ devices shall be monitored on a continuous basis.

(e) In an effort to help protect student welfare, the division shall work to educate students about appropriate online behavior, including:

(1) Interacting with other individuals on social networking websites and in chat rooms; and

(2) Cyber bullying awareness and response.

(f) The division shall prohibit youth from contacting individuals outside of the facility via:

(1) Chat rooms;

- (2) Social media; or
- (3) Email.

(g) Students who misuse electronic devices in any way shall face disciplinary consequences without removal of access to education.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-512. Final release — Policy.

It is the policy of the Division of Youth Services that the administrative release of youth from division custody shall occur in a manner that reflects fairness in the application of division release authority or discretion, in accordance with Arkansas Code § 9-28-210 and provisions of the American Correctional Association.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-513. Mail and inspection of packages — Policy.

(a) The Division of Youth Services requires every youth placed in its custody to be afforded the opportunity to communicate with:

- (1) Their parents or guardians;
- (2) Immediate family members; and
- (3) Other positive individuals in their lives.

(b)(1) Youth shall be allowed to exchange written correspondence with any person or source, provided that such correspondence:

- (A) Is not detrimental to the youth's well-being or treatment; and
- (B) Does not jeopardize the safety or security of:
 - (i) The facility or program; or
 - (ii) Persons within or without the facility or program.

(2) There shall be no limitation as to the person or source with whom a youth may correspond, except in the cases where the youth's treatment team considers that corresponding with a particular person or source would be, in their professional opinion,

in some way detrimental to the youth.

(3) Any limitation and the reason for the limitation shall be stated in the youth's individual treatment plan.

(4) Each facility or program shall furnish postage and writing materials to allow each youth to write a minimum of three (3) letters per week.

(5) Excluding weekends and holidays:

(A) Incoming youth correspondence shall be made available to the youth within twenty-four (24) hours of receipt at the facility; and

(B) Outgoing youth correspondence shall be forwarded within twenty-four (24) hours of receipt from the youth.

(6) Facility staff shall maintain a log sheet for each youth's incoming and outgoing mail.

(c)(1) Youth correspondence, including packages, shall be opened to inspect for money and contraband.

(2) Staff members may not read correspondence unless there is clear and convincing evidence that materials contained within may be detrimental to the well-being, safety, or security of the:

(A) Youth;

(B) Facility;

(C) Personnel; or

(D) Others.

(d)(1) Under no circumstances shall a youth be denied the opportunity to correspond with attorneys or the court.

(2) Correspondence to attorneys, court, or other legal agencies shall be:

(A) Mailed at state expense; and

(B) In addition to the three (3) letters per week limitation.

(e) While in division custody, youth shall not have access to:

(1) Email;

(2) Social media; or

(3) Other forms of electronic communication.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-514. Reception and orientation — Intake — Placement.

(a)(1) The Division of Youth Services shall assign youth to their initial juvenile treatment center upon completion of the intake and assessment process at the reception center.

(2) Multiple factors such as treatment needs, risk level, and originating geographic location are used in determining a youth's placement.

(3) The division does not discriminate against any youth in its custody based on:

- (A) Race;
- (B) Religion;
- (C) National origin;
- (D) Gender; or
- (E) Disability.

(b)(1) The division Family Advocate shall contact the parents or legal guardians of a youth within ten (10) business days of the youth's arrival to their initial juvenile treatment center.

(2)(A) A youth or his or her legal guardian may request the reason why he or she was placed at a particular treatment center.

(B) The request shall be made in writing via the division Family Advocate.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-515. Reception and orientation — Handbook.

(a) During the intake and orientation process, youth will receive a copy of the Division of Youth Services student handbook, in his or her native language.

(b) The division shall:

- (1) Review the division student handbook with the youth; and
- (2) Place a copy of the receipt page signed by the youth in the youth's master file.

(c) The division student handbook shall include information such as:

- (1) Program rules;
- (2) Daily schedules;
- (3) Disciplinary practices;
- (4) Eligibility criteria for discharge; and
- (5) Staff expectations.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-516. Reception and orientation — Orientation.

(a) Facility staff shall conduct a facility orientation that will be documented as part of the admission process.

(b) If necessary, facility staff will assist the youth in understanding the orientation materials.

(c) Facility staff shall conduct a review of the programs and services available at their respective facility, including:

- (1) An educational and vocational program;
- (2) Individual and group counseling activities;
- (3) Assistance with transportation;
- (4) Mental health services;
- (5) Recreation and leisure activities;
- (6) Family involvement opportunities;
- (7) Medical and health services;
- (8) Employment counseling; and
- (9) Transitional services.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-517. Reception and orientation — Progress.

(a) The multidisciplinary team shall conduct a quarterly progress review on all youth within the juvenile treatment centers.

(b) Parents or legal guardians shall receive a written report focusing on the areas of growth and factors required for a successful transition home.

(c) If, after completing six (6) months in the program, a youth is showing signs of decline or stagnation in treatment, the multidisciplinary team shall submit a written report to the Division of Youth Services Assistant Director of Case Management outlining their reasons for keeping the youth in the program.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-518. Religious participation — Policy.

(a) Division of Youth Services staff and contracted providers shall accommodate youths' exercise of sincerely held religious beliefs where such exercise does not:

- (1) Present a security risk; or
- (2) Interfere in the safe and efficient operation of the facility or program.

(b) Participation in religious education programs, services, and counseling is voluntary.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-519. Religious participation — Accommodation.

(a)(1) Youth, legal custodians, or other advocates may request religious accommodation at any time using the form provided by the Division of Youth Services.

(2) The person making the request shall demonstrate that the accommodation is necessary to the exercise of a sincerely held religious belief, such as by providing:

- (A) Affirmation of prior practice by a member of clergy;
- (B) Reference to religious texts requiring the requested activity or

restriction; or

(C) Other verifiable evidence of a bona fide connection to religious practice.

(b)(1) Where a request is made for a special diet to accommodate religious exercise, the special diet shall:

(A) Conform as closely as possible to the diet served to other youth; and

(B) Comply with federal regulations with respect to nutrition.

(2) When a request for a special diet is granted, the division Nutrition Manager shall:

(A) Complete a meal plan for the youth on a monthly basis; and

(B) Provide that plan to the facility.

(3) Facility staff shall not modify the meal plan without approval by the division Nutrition Manager.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-520. Religious participation — Speaking to clergy.

(a) Requests to speak to clergy are not:

(1) Required to be made in writing; and

(2) Considered an accommodation under this part.

(b) Youth may receive visits from their personal clergy member any day of the week after reasonable arrangements have been made.

(c)(1) The Division of Youth Services shall provide adequate space and supervision for the visit.

(2) The division shall ensure the space allows the youth to have confidential conversation with his or her personal clergy, but facility staff shall maintain line-of-sight supervision.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-521. Religious participation — Grievances.

Any denial of a request for religious participation or accommodation may be appealed under the Division of Youth Services Grievance Policy.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-522. Revocation — Definition.

As used in this section and 9 CAR § 100-523, “revocation” means the cancelling of a privilege or status that was previously granted by a local or state authority.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-523. Revocation — Policy.

It is the policy of the Division of Youth Services that the division shall work in conjunction with the respective court systems and its community supervising partners in all cases where petition to pursue revocation of division juvenile release may be deemed necessary for the best interest of the juvenile and the protection of the public.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-524. Telephone communications — Policy.

(a) The Division of Youth Services requires every youth placed in division custody to be afforded the opportunity to communicate via telephonic methods with:

- (1) The youth’s parents or guardians;
- (2) The youth’s immediate family members; and
- (3) Other positive individuals in the youth’s life.

(b) During the intake and assessment process:

(1)(A) The youth’s approved telephone list shall be compiled by the division Services Coordinator.

(B) Any changes made to the approved telephone list shall be completed by the youth's facility case manager; and

(2) Youth shall be made aware of the telephone communication procedures as outlined in the division Student Handbook.

(c)(1) Each facility or program shall allow a youth to make one (1) telephone call per week to his or her immediate family or any other approved person.

(2) The opportunity to make additional calls shall be afforded as a privilege in the behavior management system.

(d) Youth shall not be permitted to speak with incoming callers until the caller's identity has been authenticated.

(e)(1) Under no circumstances shall a youth be denied the opportunity to communicate with his or her attorneys or the court.

(2) Calls to attorneys or the courts shall not be monitored.

(f) Facility staff shall maintain a telephone call log sheet for all incoming and outgoing telephone calls that the youth makes.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-525. Visitation and family participation — Policy.

(a) The Division of Youth Services requires every youth placed in its custody to be afforded the opportunity to receive visits from:

- (1) The youth's parents or guardians;
- (2) The youth's immediate family members; and
- (3) Other positive individuals in the youth's life.

(b) Youth may refuse to receive visitors.

(c) Visitors shall be required to abide by the rules governing visitation to ensure the safety, security, and integrity of the facility.

(d) In all cases visitors shall be treated with courtesy and respect.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-526. Visitation and family participation — Visitor list.

(a)(1) During the intake and assessment process, the youth's approved visitor list shall be compiled by the Division of Youth Services Case Coordinator.

(2) Any changes made to the approved visitors list shall be completed by the youth's facility case manager.

(b)(1) The division may deny placements of a person's name on an approved visitor list if there is reasonable cause to believe the person would:

(A) Pose a risk to the safety or security of the facility; or

(B) Interfere with a youth's treatment, rehabilitation, or successful reestablishment in the community.

(2) The following individuals will not be granted visitation:

(A) Any person who is restricted from contact with a division youth by a valid court order;

(B) A former or current division youth, unless the former division youth is an immediate family member; or

(C) A parent whose parental rights have been terminated by a court, but only if the youth the parent is seeking to visit is under eighteen (18) years of age.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-527. Visitation and family participation — Visitation generally.

(a) Normal visitation days are:

(1) Each Saturday and Sunday; and

(2) Major holidays.

(b)(1) The facility or program shall provide two (2) eight-hour visitation days per week.

(2) Visitation for youth is up to two (2) hours per each visitation.

(c) Special visitation may be provided to accommodate visitors with special

circumstances including without limitation:

- (1) Long-distance travel requirements;
- (2) Parent work schedules that preclude visiting during normal hours; or
- (3) Bereavement.

(d)(1) Visitations are limited to four (4) guests.

(2) However, accommodations for large families, step-families, etc., shall be made on a case-by-case basis.

(e)(1) If there is a compelling risk, visitation may be denied or terminated.

(2) This may include circumstances in which the youth is:

- (A) Exhibiting out-of-control behavior;
- (B) Engaging in violence or threatening violent conduct; or
- (C) Engaging in misconduct during visitation.

(f)(1) Parents or legal guardians shall be notified prior to a visitation if it has been determined that a youth will not participate in a normal visitation schedule.

(2) An alternate location and time will be provided to the parent or legal guardian to allow them the opportunity to visit.

(g)(1) The facility shall post the visitation rules and procedures in English and Spanish on a central bulletin board in the visitation area.

(2) Facility staff shall assist non-English speaking individuals to understand posted rules, as needed.

(3) The visitation rules shall:

(A) Address all pertinent issues, including without limitation:

- (i) Visitation days and hours;
- (ii) Required identification;
- (iii) Visitor dress code;
- (iv) Prohibited contraband;
- (v) Items authorized in visitation area; and
- (vi) Expected demeanor of visitors; and

(B) Be sent with the admission letter to each youth's parents or legal guardian and include the grievance process.

- (h)(1) Adequate space shall be provided for visitation.
 - (2) Outdoor visitation may be allowed if safety and weather permit.
- (i) The Division of Youth Services Family Advocate shall:
 - (1) Encourage family participation in visitation; and
 - (2) Provide in the division family welcome packet:
 - (A) The division parent handbook;
 - (B) A division quarterly family newsletter; and
 - (C) An annual calendar of all quarterly family day events.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-528. Intake — Policy.

(a) The Division of Youth Services shall establish and adhere to procedures regarding the intake, assessment, and placement of youth lawfully committed to its custody.

(b)(1) Upon receipt of an order committing a youth to its custody, the division Intake Manager or designee shall review the commitment order to ensure the division has:

- (A) Proper authority to take physical custody of the youth; and
- (B) The information necessary to keep the youth safely and securely.

(2) If additional information is needed from the committing court before taking physical custody of the youth, the division Intake Manager or designee shall:

- (A) Notify the court officials immediately; and
- (B) Provide any guidance needed to obtain the information.

(c)(1) If, at any time, the division determines that it lacks the authority to take or maintain custody of a youth, the division shall immediately notify the committing court and all parties or counsel in the underlying delinquency or criminal case.

(2) If the division has not yet taken physical custody of the youth, the division shall refrain from doing so until proper authority is established.

(3) If the division takes physical custody of the youth before discovering the

lack of proper authority, the division shall make arrangements for the safe and expedient discharge of the youth either by returning the youth to the custody of the committing county or to his or her legal custodian, unless proper authority is established before discharge can be effected.

(4) The division shall not refuse to take physical custody of a youth because of missing information unless:

- (A) That information relates to the legal authority to hold the youth; or
- (B) Doing so will place the youth at risk of harm.

(d)(1) Once it is determined that the commitment order and accompanying information is sufficient, the division Intake Unit shall arrange to receive the youth at the intake and assessment unit.

(2) If no space is available in the intake and assessment unit, the Intake Unit staff shall arrange for the transport of the youth to another appropriate facility for secure holding until an intake and assessment bed is available.

(3) Any facility used by the division for holding youth in its physical custody shall meet state standards for the residential care of juveniles, including standards established in division policy, in terms of:

- (A) Health and safety;
- (B) Supervision;
- (C) Security; and
- (D) Quality of life.

(4) Every youth in division custody, regardless of where they are held, shall receive age and developmentally appropriate services with respect to:

- (A) Education;
- (B) Medical care; and
- (C) Mental health counseling and support.

(e) Within one (1) business day of a youth's arrival at the intake and assessment unit, the Intake Unit staff shall conduct an interview and record review to ensure the following information is included in the youth's master case file:

- (1) Name;

- (2) Address;
- (3) Date of birth;
- (4) Sex;
- (5) Race or ethnicity;
- (6) Committing charges;
- (7) Legal custodian or emergency contact;
- (8) Committing county;
- (9) Committing judge;
- (10) Defense and prosecuting attorney names and contact information;
- (11) Probation officer name and contact information;
- (12) Social history;
- (13) Last school attended and grade;
- (14) Special medical problems or needs;
- (15) Special case status, such as:
 - (A) Extended juvenile jurisdiction;
 - (B) Criminal division commitment;
 - (C) Sex offender status; or
 - (D) Dual custody status;
- (16) Photograph;
- (17) Any immediate concerns or needs of the youth; and
- (18) A complete copy of the file-marked commitment order signed by the committing judge.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-529. Case planning and classification of youth — Case plans.

(a) Youth committed to the custody of the Division of Youth Services shall receive comprehensive case plans individually tailored to address the issues that contribute to their delinquent and risky behavior.

(b) Case plans shall:

- (1) Describe needs and prescribe interventions with respect to:
 - (A) Individual residential treatment for the youth;
 - (B) Rehabilitative and supportive services for the family; and
 - (C) Surveillance and supportive reintegration aftercare services for both the youth and family;
- (2) Cover six (6) main realms of services as follows:
 - (A) Mental health and substance abuse;
 - (B) Safety and security;
 - (C) Work and life skills;
 - (D) Education;
 - (E) Medical care; and
 - (F) Community reintegration;
- (3) Be developed by a comprehensive, multidisciplinary team that includes:
 - (A) Professionals, including at least one (1) licensed mental health professional;
 - (B)(i) Parents or guardians of the committed youth.
 - (ii) Parents or guardians may participate in the multidisciplinary team by phone or in-person; and
 - (C) The committed youth shall participate in case planning and review discussions to help the multidisciplinary team determine the most appropriate services, placement, and other interventions; and
- (4) Be informed by:
 - (A) Formal assessments;
 - (B) Prior treatment records;
 - (C) Behavioral observation; and
 - (D) Interviews with the youth and other stakeholders.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-530. Case planning and classification of youth — Risk

category.

(a) Within the first ten (10) days after commitment, each youth shall be classified into a risk category to determine the most appropriate placement.

(b) Risk level shall be determined by:

(1) A validated risk assessment performed by qualified Division of Youth Services or court personnel;

(2) The type of offense for which the youth is committed; and

(3) Any risk factors identified by the court.

(c) The risk categories are as follows:

(1) Very high risk, which includes:

(A) Hardware secure facility with a perimeter fence;

(B) Population segregated by age, gender, and vulnerable status;

(C) Highly aggressive or predatory youth posing a serious risk of imminent harm to persons in the community; and

(D) Programming prohibits any unsupervised movement outside the facility;

(2) High risk, which includes:

(A) Staff-secure or hardware-secure facility, with or without a perimeter fence;

(B) Population segregated by age and gender;

(C) Aggressive youth or those with elevated flight risk and risk of harm to persons in the community; and

(D) Programming prohibits unsupervised movement outside the facility without prior approval from the Director of the Division of Youth Services or his or her designee;

(3) Moderate risk, which includes:

(A) Staff secure or nonsecure therapeutic program without a perimeter fence;

(B) Average or low flight risk;

(C) Any community risk is primarily to property; and

(D) Programming may permit unsupervised movement outside the facility pursuant to a plan approved by the multidisciplinary team; and

(4) Low risk, which includes:

(A) Outpatient services or nonsecure therapeutic program;

(B) Low flight risk;

(C) Low risk to the community; and

(D) Unsupervised movement may be restricted pursuant to a safety plan or curfew, but otherwise does not require division approval.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-531. Case planning and classification of youth — Case plan reviews.

(a) Formal case plan reviews shall be conducted by the youth's multidisciplinary team on a schedule determined by the team:

(1) But no less frequently than every ninety (90) days; and

(2) On an ad hoc basis upon request by any team member or authorized representative or advocate for the youth.

(b) The youth's assigned program case manager shall review and report on the youth's service encounters and progress at least biweekly.

(c) Case plans may be modified at any time during the service period by the multidisciplinary team upon determination that service goals, needs, or responsibility factors have changed.

Authority. Arkansas Code § 9-28-203.

9 CAR § 100-532. Case planning and classification of youth — Appeals.

(a) Except as provided in subsection (b) of this section, case plans are not appealable through the Division of Youth Services grievance process.

(b) Risk-level findings and placement determinations may be appealed separately.

Authority. Arkansas Code § 9-28-203.