

DECLARATION OF EMERGENCY
Office of Juvenile Justice
Licensing Section
Juvenile Detention Facilities
(LAC 67.V.Chapter 75)

The Office of Juvenile Justice (OJJ) has exercised the emergency provisions of the Administrative Procedure Act, R.S. 49:962 to amend LAC 67:V, Subpart 8, Chapter 75, Sections 7501 to 7525. This emergency rule shall be effective July 24, 2024, and shall remain in effect for a period of 180 days.

Chapter 75, Juvenile Detention Facilities is being amended in accordance with R.S. 15:1110.3 which requires transfer of licensure and regulation from the Department of Children and Family Services to OJJ. This law requires the amendment of licensing standards for juvenile detention facilities to promulgated and in place by July 2024. All juvenile detention facilities are mandated to be licensed.

Regulatory functions have been amended to prevent imminent peril to health, safety, or welfare of youth, support staff, and the general public. Emergency action is necessary to ensure that OJJ is in compliance with the above mentioned statute.

Title 67

SOCIAL SERVICES

Chapter 75. Juvenile Detention Facilities

§7503. Authority

A. - B.2. ...

C. Waiver Request

1. In specific instances, the deputy secretary of OJJ DCFS may waive compliance with a minimum standard if it is determined that the economic impact is sufficiently great to make compliance impractical, as long as the health and well-being of the staff and/or youth are not imperiled.

a. ...

b. An application for a waiver shall be submitted by a provider using the request for waiver from licensing standards form. The form shall be submitted to the OJJ DCFS Licensing Section. A request for a waiver shall provide the following information: a statement of the provisions for which the waiver is being requested, an explanation of the reasons why the provisions cannot be met, including information demonstrating that the economic impact is sufficiently great to make compliance impractical, and a description of alternative methods proposed for meeting the intent of the regulation sought to be waived.

c. All requests for a waiver will be responded to in writing by the OJJ DCFS deputy secretary or designee. A copy of the waiver decision shall be kept on file at the facility and presented to licensing staff during all licensing inspections.

d. A waiver is issued at the discretion of the deputy secretary and continues in effect at his/her pleasure. The waiver may be revoked by the deputy secretary at any time, either upon violation of any condition attached to it at issuance, or upon failure of any of the statutory prerequisites to issuance of a waiver (i.e., the cost of compliance is no longer so great as to be impractical or the health or safety of any staff or any child in care is imperiled), or upon his/her determination that continuance of the waiver is no longer in the best interest of OJJ DCFS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1559 (July 2012), amended LR 39:1006 (April 2013), effective July 1, 2013, repromulgated LR 39:1264 (May 2013), amended by the Department of Children and Family Services, Licensing Section, LR 47:230 (February 2021), effective March 1, 2021, amended LR 50:

§7505. Definitions

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Chemical Agent—any product which is dispensed by means of an aerosol spray to control an individual's combative and/or resistive behavior.

* * *

Department (OJJ)—Office of Juvenile Justice

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1559 (July 2012), amended LR 39:1006 (April 2013), effective July 1, 2013, amended LR 42:395 (March 2016), amended by the Department of Children and Family Services, Licensing Section, LR 45:652 (May 2019), effective June 1, 2019, amended LR 50:

§7507. Licensing Requirements

A. - A.1.b. ...

2. Effective July 1, 2013, it is mandatory to obtain a license from the department prior to beginning operation. Effective July 1, 2024, all juvenile detention facilities, including facilities owned or operated by any governmental, for profit, nonprofit, private or public agency, shall be licensed and regulated by the Office of Juvenile Justice.

3. - 4. ...

5. The provider shall allow representatives of OJJ DCFS access to the facility, the youth, and all files and records at any time during hours of operation and/or anytime youth are present. OJJ DCFS staff shall be allowed to interview any staff member or youth. OJJ DCFS staff shall be admitted immediately and without delay, and shall be given access to all areas of a facility, including its grounds. If any portion of a facility is set aside for private use by the facility's owner, OJJ DCFS representatives shall be permitted to verify that no youth is present in that portion and that the private areas are inaccessible to youth.

6. - 11. ...

12. OJJ DCFS is authorized to determine the period during which the license shall be effective. A license shall be valid until the expiration date shown on the license, unless the license is modified, extended, revoked, suspended, or terminated.

13. Once a license has been issued, OJJ DCFS shall conduct licensing inspections at intervals (not to exceed one year) deemed necessary by OJJ DCFS to determine compliance with licensing standards, as well as other required statutes, laws, ordinances, rules, and regulations. These inspections shall be unannounced.

14. Whenever OJJ DCFS is advised or has reason to believe that any person, agency, or organization that holds a license or has applied for a license is operating in violation of the JDF regulations or laws, OJJ DCFS shall conduct an investigation to ascertain the facts.

15. ...

a. When an individual is listed on the licensing application submitted and/or registered as an officer of the board with the Louisiana Secretary of State and does not have access to children/youth in care or children/youth who receive services from the provider and/or who is not present, unless directly supervised by a paid employee of the facility ~~at any time on the facility premises when children/youth are present,~~ a OJJ DCFS approved attestation form signed and dated by the individual is acceptable in lieu of the state central registry clearance and a satisfactory fingerprint based CBC from LSP. The attestation form shall be accepted for a period of one year from the date individual signed attestation form.

B. Initial Licensing Application Process

1. An initial application for licensing as a JDF shall be obtained from OJJ DCFS. A completed initial license application packet along with a fee as required by law shall be submitted to and approved by OJJ DCFS prior to an applicant providing JDF services. The completed initial licensing packet shall include:

B.1.a. - 2. ...

C. Initial Licensing Inspection

1. In accordance with R.S. 15:1110(E), prior to the initial license being issued to the JDF, an initial licensing inspection shall be conducted on-site at the JDF to assure compliance with all licensing standards. No youth shall be provided services by the JDF until the initial licensing inspection has been performed and OJJ DCFS has issued a license. The licensing inspection shall not be completed if the provider is found in operation prior to the issuance of a license and the application shall be denied.

2. In the event the initial licensing inspection finds the JDF is compliant with all licensing laws and standards, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees, OJJ DCFS may issue a license to the JDF. The license shall be valid until the expiration date shown on the license, unless the license is modified, extended, revoked, suspended, or terminated.

3. ...

D. Fees

1. An annual fee as established by R.S. 15:1110(F), shall be payable to OJJ DCFS prior to the date of expiration of the current license by certified check, or money order. Non-payment of fee prior to the date of expiration of the current license shall result in the nonrenewal of the license. The licensee is responsible for ensuring receipt of the annual fee by the Licensing Section.

* * *

D.2. - F.2. ...

3. When a facility changes ownership, the current license is not transferable. A change of ownership occurs when the license and/or facility is transferred from one natural or juridical person to another, or when an officer, director, member, or shareholder not listed on the initial application exercises or asserts authority or control on behalf of the entity. The addition or removal of members of a board of directors shall not be considered a change of ownership where such addition or removal does not substantially affect the entity's operation and shall require only notice be given to the OJJ DCFS of such addition or removal.

a. - a.viii. ...

ix. documentation of a fingerprint-based satisfactory criminal record clearance for all staff, including owners and operators. CBC shall be dated no earlier than 60 30 days before the application has been received by the Licensing Section. The prior owner's documentation of satisfactory criminal background checks is not transferrable; and

a.x. - e. ...

4. The JDF shall provide written notification to the department within 30 calendar days of changes in the administrator. A statement with supporting documentation of qualifications for the new administrator shall be submitted to OJJ DCFS.

G. - G.1.j. ...

k. a history of non-compliance with licensing statutes or standards, including but not limited to failure to take prompt action to correct deficiencies, repeated citations for the same deficiencies, or revocation or denial of any previous license issued by OJJ DCFS;

l. - o. ...

H. Disqualification of Facility and/or Provider

1. If a facility's license is revoked or not renewed due to failure to comply with state statutes or licensing rules or surrendered to avoid adverse action, OJJ DCFS may elect not accept a subsequent application from the provider for that facility, or any new facility, up to but not exceeding a period of 24 months after the effective date of revocation, non-renewal due to adverse action, or surrender to avoid adverse action, or for a period up to but not exceeding 24 months after all appeal rights have been exhausted, whichever is later (the disqualification period). The effective date of a revocation, denial, or non-renewal of a license shall be the last day for applying to appeal the action, if the action is not appealed. Any pending application by the same provider shall be treated as an application for a new facility for purposes of this section and may be denied and subject to the disqualification period. Any subsequent application for a license shall be reviewed by the secretary or designee prior to a decision being made to grant a license. OJJ DCFS reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

2. - 3. ...

4. If the applicant has had a history of non-compliance, including but not limited to revocation of a previous license, operation without a license, or denial of one or more previous applications for licensure, OJJ DCFS may refuse to accept a subsequent application from that applicant for a minimum period of 24 months after the effective date of denial.

5. ...

6. If a facility's license was revoked due solely to the disapproval from any agency whose approval is required for licensure or due solely to the facility being closed and there are no plans for immediate re-opening within 30 calendar days and no means of verifying compliance with minimum standards for licensure, the disqualification rule (or period) may not apply. OJJ DCFS may accept a subsequent application for a license that shall be reviewed by the secretary or designee prior to a decision being made to grant a license. OJJ DCFS reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

7. In the event a license is revoked or renewal is denied, (other than for cessation of business or non-operational status), or voluntarily surrendered to avoid adverse action any owner, officer, member, manager, or administrator of such licensee may be prohibited from owning, managing, or operating another licensed facility for a period of not less than 24 months from the date of the final disposition of the revocation or denial action. The lapse of 24 months shall not automatically restore a person disqualified under this provision eligibility for employment. OJJ DCFS, at its sole discretion, may determine that a longer period of disqualification is warranted under the facts of a particular case.

I. Appeal Process

1. The OJJ DCFS Licensing Section, shall advise the administrator or owner in writing of the reasons for non-renewal or revocation of the license, or denial of an application, and the right of appeal. If the administrator or owner is not present at the facility, delivery of the written reasons for such action may be made to any staff of the facility. Notice to a staff shall constitute notice to the facility of such action and the reasons therefore. A request for appeal shall include a copy of the letter from the

Licensing Section that notes the reasons for revocation, denial, or non-renewal, together with the specific areas of the decision the appellant believes to be erroneous and/or the specific reasons the decision is believed to have been reached in error, and shall be mailed to: **Office of Juvenile Justice, Licensing Section, P.O. Box 66458, Audubon Station, Baton Rouge, LA 70806** ~~Department of Children and Family Services, Appeals Section, P.O. Box 2944, Baton Rouge, LA 70821-9118.~~

2. - 4. ...

5. The OJJ Legal ~~DCFS Appeals~~ Section shall notify the Division of Administrative Law of receipt of an appeal request. Division of Administrative Law shall conduct a hearing. The appellant will be notified by letter of the decision, either affirming or reversing the original decision.

6. If the decision of **OJJ DCFS** is affirmed or the appeal dismissed, the provider shall terminate operation of the JDF immediately. If the provider continues to operate without a license, the **OJJ DCFS** may file suit in the district court in the parish in which the facility is located for injunctive relief.

7. If the decision of **OJJ DCFS** is reversed, the license will be re-instated and the appellant may continue to operate.

J. Corrective Action Plan (CAP)

1. A corrective action plan (CAP) shall be submitted for all deficiencies noted by Licensing Section staff regarding any licensing law or standard, or any other required statute, ordinance, or standard. The request for submission of the CAP does not restrict the actions which may be taken by **OJJ DCFS**. If the department does not specify an earlier timeframe for submitting the CAP, the CAP shall be submitted within 10 calendar days from receipt of the deficiencies. Receipt of the deficiencies by any staff person constitutes notice to the juvenile detention facility. The CAP shall include a description of how the deficiency will be corrected, the date by which correction(s) will be completed, and outline the steps the juvenile detention facility provider plans to take in order to prevent further deficiencies from being cited in these areas and the plan to maintain compliance with the licensing standards. If the CAP is not sufficient and/or additional information is required, the provider shall be notified and informed to submit additional information within five calendar days.

2. ...

3. The statement of deficiencies for which a review has been requested will not be placed on the internet for viewing by the public until a decision has been reached. As a result of the licensing deficiency review request, a deficiency may be upheld with no changes, the deficiency may be removed, or the deficiency may be upheld and revised to include pertinent information that was inadvertently omitted. Once a decision has been reached, provider will be informed in writing of the decision and the reason for the decision. If information within the deficiency was cited in error or the cited deficiency is revised by the **OJJ DCFS** Licensing Section staff, provider will receive a revised "statement of deficiencies" with the decision letter. If any enforcement action was imposed solely because of a deficiency or finding that has been deleted through the licensing deficiency review process, the action will be rescinded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1561 (July 2012), amended LR 38:3104 (December 2012), LR 39:1006 (April 2013), effective July 1, 2013, amended LR 42:395 (March 2016), amended by the Department of Children and Family Services, Licensing Section, LR 45:652 (May 2019), effective June 1, 2019, LR 49:848 (May 2023), effective June 1, 2023,

§7508. State Central Registry

A. ...

B. Current Owners as of November 1, 2018

1. Effective November 1, 2018, and in accordance with R.S. 15:1110.2, provider shall submit a state central registry request, **or applicable attestation form**, for each owner/operator including board members who meet the definition of an owner to DCFS

child welfare to conduct a check of the state central registry. The request shall be submitted to child welfare no later than November 16, 2018. For owners/operators including board members who meet the definition of an owner who have resided in another state within the proceeding five years, provider shall submit a request to that state's child abuse and neglect registry no later than November 16, 2018. Documentation of request shall be available for review.

1.a. - 2. ...

3. Provider shall submit a state central registry request to child welfare every five years from the issue date noted on the state central registry clearance form for all owners/operators who meet the definition of an owner and at any time upon the request of OJJ DCFS when reasonable suspicion exists that an individual may be listed on the state central registry. If an owner resides in another state and is licensed to operate a juvenile detention facility in the state of Louisiana, provider shall submit a state central registry request to that state's child abuse and neglect registry every five years from the issue date noted on the previous year's registry clearance form.

B.4. - C.2. ...

3. Provider shall submit a state central registry request to child welfare every five years from the issue date noted on the state central registry clearance form for all owners/operators including board members who meet the definition of an owner and at any time upon the request of OJJ DCFS if reasonable suspicion exists that an individual may be listed on the state central registry. If an owner resides in another state and is licensed to operate a juvenile detention facility in the state of Louisiana, provider shall submit a state central registry request to that state's child abuse and neglect registry every five years from the issue date noted on the previous year's registry clearance form.

C.4. - D.4. ...

3. Provider shall submit a state central registry request to child welfare every five years from the issue date noted on the state central registry clearance form for all staff and at any time upon the request of OJJ DCFS if reasonable suspicion exists that a staff may be listed on the state central registry. If a person resides in another state and is employed at a juvenile detention facility in the state of Louisiana, provider shall submit a state central registry request to that state's child abuse and neglect registry every five years for this staff from the issue date noted on the previous year's registry check form.

D.4.a. - E. ...

1. Effective November 1, 2018, and in accordance with R.S. 15:1110.2, an inquiry of the state central registry for all staff (paid, non-paid and volunteers) shall be conducted prior to employment being offered to a potential hire or volunteer services provided. For staff persons who have resided in another state within the preceding five years, provider shall request a state central registry from that state's child abuse and neglect registry prior to hire. While awaiting the results of the out of state central registry results, the individual shall be directly supervised by a paid staff (employee) of the juvenile detention facility at any and all times when he/she is on the premises and/or in the presence of a child/youth. The employee responsible for supervising the individual shall not also be awaiting the results of an out of state central registry clearance. Under no circumstances shall the individual awaiting out of state central registry results be left alone and unsupervised with a child/youth pending the official determination from that state that the individual is or is not listed on the state central registry. Louisiana state central registry clearances shall be dated no earlier than 60 45 days prior to the staff being present on the premises or having access to children/youth. Out-of-state state central registry clearances shall be dated no earlier than 120 days prior to staff being present on the premises or having access to children/youth in the facility.

1.a. - 2. ...

3. Provider shall submit a state central registry request to child welfare every five years for staff from the issue date noted on the state central registry clearance form and at any time upon the request of OJJ DCFS if reasonable suspicion exists that a staff

may be listed on the state central registry. If a person resides in another state and is employed at a juvenile detention facility in the state of Louisiana, provider shall submit a state central registry request to that state's child abuse and neglect registry every five years for this staff from the issue date noted on the previous year's registry clearance form.

E.3.a. - F.2. ...

3. Provider shall submit a state central registry request to child welfare every five years for contractors and LDE staff from the issue date noted on the state central registry clearance form and at any time upon the request of OJJ DCFS when reasonable suspicion exists that an individual may be listed on the state central registry. If a contractor or LDE staff resides in another state and provides services in a juvenile detention facility in the state of Louisiana, provider shall submit a state central registry request to that state's child abuse and neglect registry every five years for this contractor or LDE staff from the issue date noted on the previous year's registry clearance form.

F.2.a. - G.

1. Effective November 1, 2018, and in accordance with R.S. 15:1110.2, an inquiry of the state central registry for all contractors and LDE staff shall be conducted prior to providing contracted services or having access to children/youth. For contractors and LDE staff who have resided in another state within the preceding five years, provider shall request a state central registry check from that state's child abuse and neglect registry prior to the individual providing services or having access to children/youth. While awaiting the results of the out of state central registry results, the individual shall be directly supervised by a paid staff (employee) of the juvenile detention facility at any and all times when he/she is on the premises and/or in the presence of a child/youth. The employee responsible for supervising the individual shall not also be awaiting the results of an out of state central registry clearance. Under no circumstances shall the individual awaiting out of state central registry results be left alone and unsupervised with a child/youth pending the official determination from that state that the individual is or is not listed on the state central registry. Louisiana state central registry clearances shall be dated no earlier than 60 45 days prior to the individual providing services or having access to children/youth. Out-of-state state central registry clearances shall be dated no earlier than 120 days prior to contractors and LDE staff being present on the premises or having access to children/youth in the facility.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

2. ...

3. Provider shall submit a state central registry request to child welfare every five years for contractors and LDE staff from the issue date noted on the state central registry clearance form and at any time upon the request of OJJ DCFS if reasonable suspicion exists that an individual may be listed on the state central registry. If a contractor or LDE staff resides in another state but provides services in a juvenile detention facility in the state of Louisiana, provider shall submit a state central registry request to that state's child abuse and neglect registry every five years for the contractor or LDE staff from the issue date noted on the previous year's registry clearance form.

4. ...

5. The state central registry clearance form shall be dated no earlier than 60 45 days of the individual being present on the juvenile detention facility premises or having access to children/youth.

G.6. - H.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.2.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:653 (May 2019), effective June 1, 2019, amended LR 47:1850 (December 2021).

§7509. Administration

A. - B.1. ...

2. The administrator, or designee, shall be accessible to OJJ DCFS 24 hours per day, seven days per week.

C. - E.5.c. ...

d. If a case is referred to a law enforcement agency for possible investigation and/or prosecution, efforts shall be made as soon as possible to notify or attempt to notify the parent/guardian, and the attorney of record of the incident and referral.

F. - F.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1564 (July 2012), amended LR 39:1007 (April 2013), effective July 1, 2013.

§7511. Facility Responsibilities

A. - A.3.e. ...

B. Background Clearances

1. No staff of the facility shall be hired until such person has submitted his/her fingerprints to the Louisiana Bureau of Criminal Identification and Information so that it may be determined whether or not such person has a criminal conviction of a felony, or a plea of guilty, or nolo contendere of a felony, or a plea of guilty or nolo contendere to any offense included in R.S. 15:587.1, or any offense involving a juvenile victim. CBC shall be dated no earlier than 60 30 days prior to the date of hire. If it is determined that such a person has a conviction or has entered a plea of guilty or nolo contendere to a crime listed in R.S. 15:587.1(C) or any offense involving a juvenile victim, that person shall not be hired. No staff shall be present on the JDF premises until such a clearance is received.

2. ...

3. A criminal record check shall be conducted on all volunteers that interact with the youth. No volunteer of the facility shall be allowed to work with youth until such person has submitted his/her fingerprints to the Louisiana Bureau of Criminal Identification and Information so that it may be determined whether or not such person has a criminal conviction, or a plea of guilty or nolo contendere to any offense included in R.S. 15:587.1, or any offense involving a juvenile victim. CBC shall be dated no earlier than 60 30 days prior to the volunteer being present on the JDF premises. If it is determined that such a person has a conviction or has entered a plea of guilty or nolo contendere to a crime listed in R.S. 15:587.1(C) or any offense involving a juvenile victim, that person shall not be allowed to volunteer with youth at the JDF. No volunteer shall be present on the JDF premises until such a clearance is received.

4. - 5.a. ...

b. For the first school year that a LDE staff person or local school district staff person provides services to a child, that LDE staff person or local school district staff person shall provide documentation of a fingerprint based satisfactory criminal record check as required by §7511.B.5 or shall provide the original, completed, signed, notarized, OJJ DCFS -approved affidavit to the provider prior to being present and working with a child or children at the facility. If the LDE Staff person has a break of employment for more than one year, a new CBC or affidavit shall be completed. A photocopy of the original affidavit shall be kept on file at the facility. This affidavit will be acceptable for the entire school year noted in the text of the affidavit and expires on May 31 of the current school year. For all subsequent school years following the first year, the LDE staff or local school district staff person shall present a new affidavit or an original, completed, and signed letter from the superintendent of the school district or designee or superintendent of LDE or designee. The provider will need to view the original letter presented by the LDE staff or local school district staff person and keep a photocopy of the original letter on file at the facility. This letter will be acceptable for

the entire school year noted in the text of the letter and expires on May 31 of the current school year. The letter is acceptable only if the following conditions are met:

- ~~i. the LDE staff person or local school district staff person has remained employed with the same school district as noted in the affidavit the provider has on file;~~
- ~~ii. the provider has maintained a copy of the affidavit on file; and~~
- ~~iii. the letter is presented on school district letterhead or LDE letterhead and signed by the superintendent of the school district or designee or superintendent of LDE or designee.~~

B.5.c. - F.3.a.ii.(j). ...

b. All support (non-direct care) staff shall receive an additional 14 40 hours of training during their first year of employment. The training shall include, at a minimum, the following:

- ~~i. philosophy, organization, program, practices and goals of the facility;~~
- ~~ii. specific responsibilities of assigned job duties;~~
- ~~iii. youth's rights;~~
- i iv. detecting and reporting suspected abuse and neglect (mandatory reporting guidelines);
- ~~v. infection control to include blood borne pathogens;~~
- ~~vi. confidentiality;~~
- ~~vii. reporting of incidents;~~
- ~~viii. discipline and due process rights of incarcerated youth;~~
- ii ix. sexual misconduct including but not limited to the following:
 - (a). youth's rights to be free from sexual misconduct, and from the retaliation for reporting sexual misconduct;
 - (b). dynamics of sexual misconduct in confinement;
 - (c). common reactions of sexual misconduct victims; and
 - (d). agency policy for prevention and response to sexual misconduct;
- iv x. first aid/ CPR; and
- v xi. basic safety and security practices.

H.4. - I.1.b.ii. ...

- iii. OJJ DCFS Licensing Section management staff; and;
- ~~iv. defense counsel for the youth; and~~
- iv v. judge of record.

I.1.c. - L.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1565 (July 2012), amended LR 39:1007 (April 2013), effective July 1, 2013, amended LR 42:396 (March 2016), amended by the Department of Children and Family Services, Licensing Section, LR 45:657 (May 2019), effective June 1, 2019, LR 49:849 (May 2023), effective June 1, 2023

§7515. Youth Protections

A. - E.5.b. ...

F. Staff Intervention/Restraints

1. The provider shall have written policies and procedures and practices regarding the progressive response for a youth who poses a danger to themselves, others, or property. Approved physical escort techniques, physical restraints and mechanical restraint devices are the only types of interventions that may be used in the facility. Physical, chemical agents, and mechanical restraints

may shall only be used in instances where the youth's behavior threatens imminent harm to the youth or others, or serious property destruction, and shall only be used as a last resort. Plastic cuffs shall only be used in emergency situations. Use of any percussive or electrical shocking devices or chemical restraints is prohibited.

2. Chemical Agent Usage

- a. Facility director may authorize the use of chemical agents when the situation is such that the youth:
 - i. is armed /and/or barricaded; or
 - ii. can be approached without danger of bodily harm to self or others; and it is determined that a delay in bringing the situation under control would constitute a serious hazard to the youth or others, or would result in a major disturbance or serious property damage.
- b. Chemical agents must not be used upon youth for purely punitive or malicious purposes – use must be justified upon circumstances that meet the standards
- c. Chemical agents shall be stored in a secured locker with inventory and Safety Data Sheets nearby.
 - i. After an incident involving the use of chemical agents, all chemical agent containers shall be weighed and the weight recorded. If an inventory check reveals more than a .1 gram in weight difference in the amount of chemical agent stored in a container from the last inventory check, additional documentation is needed to explain the difference in weight. Internal investigation shall be completed to determine justification of dispensed chemical agent.
- d. Qualified health personnel shall be consulted prior to staff using chemical agents unless the circumstance require an immediate response. If possible, the youth's medical file must be reviewed by qualified health personnel to determine whether the youth has any diseases or conditions which would be dangerously affected if chemical agents are used. This includes, but is not limited to: asthma, emphysema, bronchitis, tuberculosis, obstructive pulmonary disease, angina pectoris, cardiac myopathy or congestive heart failure.
- e. For staff to be able to use chemical agents, they must be fully trained and current in certification for Defensive Tactics and chemical agents.
- f. The highest ranking officer on duty shall be the person to administer the chemical agent.
- g. During an event involving the use of chemical agents, the following procedures shall be followed.
 - i. Staff shall try to first de-escalate the situation. When possible, staff shall seek assistance of mental health and/or qualified health personnel at the onset of violent behavior to assist staff with attempts to de-escalate.
 - ii. If staff is not able to de-escalate the situation, staff shall seek authorization for use of chemical agents. Authorization must be obtained from the Facility Administrator.
 - iii. All attempts to receive authorization shall be logged as well as from whom the authorization was received, including date and time.
 - iv. Video recording is required during an event that involves the use of chemical agents.
 - v. Upon gaining physical control, staff shall seek the assistance of qualified health personnel who shall examine the youth and treat any injuries. If any staff involved in a use of chemical agents event reports an injury, qualified health personnel should provide an immediate examination and initial emergency treatment as required.
 - vi. After an event involving the use of chemical agents, the cell, room, or common area cannot again be used until the area has been cleaned and disinfected and the agent or agents neutralized.

3 2. Restraints shall not be used for punishment, discipline, retaliation, harassment, intimidation or as a substitute for room restriction or confinement.

4.3. When a youth exhibits any behavior that may require staff intervention, the following protocol shall be adhered to when implementing the intervention unless the circumstances do not permit a progressive response:

- a. Staff shall begin with verbal calming or de-escalation techniques.
- b. Staff shall use an approved physical escort technique when it is necessary to direct the youth's movement from one place to another.
- c. Staff shall use the least restrictive physical or mechanical restraint necessary to control the behavior.
- d. If physical force is required, the use of force shall be reasonable under the circumstances existing at the moment the force is used and only the amount of force and type of restraint necessary to control the situation shall be used.
- e. Staff may proceed to a mechanical restraint only when other interventions are inadequate to deal with the situation.
- f. Staff shall stop using the intervention as soon as the youth regains self-control.

5.4. During the period of time a restraint is being used:

- a. the youth shall be checked by a staff member at least every 15 minutes. Documentation of these checks shall be recorded and maintained in the youth's file. If the use of the restraint exceeds 60 minutes, a health professional must authorize the continued use of the restraint. However, restraints cannot be used for longer than four hours;
- b. there shall be a means for the youth to communicate with staff at all times;
- c. staff shall not withhold food while a youth is in a mechanical restraint;
- d. the youth shall have access to bathroom facilities, including a toilet and washbasin.

6.5. In all situations in which a restraint or chemical agent is used, staff involved shall record an incident report with the shift supervisor by the end of the shift. The report shall outline in detail the presenting circumstances and a copy shall be kept in a central incident report file. At a minimum, the incident report shall contain the following:

- a. the name of the youth;
- b. the date, time, and location the intervention was used;
- c. the type of intervention used;
- d. the name of the staff member requesting use of the intervention;
- e. the name of the supervisor authorizing use of the intervention;
- f. a brief description of the incident and the reason for the use of the intervention;
- g. the efforts made to de-escalate the situation and alternatives to the use of intervention that were attempted;
- h. any other youth and/or staff involved in the incident;
- i. any injury that occurred during the intervention restraint and immediate treatment provided if any;
- j. the date and time the youth was released from the intervention;
- k. the name and title of the health professional authorizing continued use of a restraint if necessary beyond 60 minutes;
- l. signature of the staff completing report; and
- m. any follow-up required.

7.6. The youth shall receive a list of the prohibited practices. There shall be documentation of acknowledgement of receipt of the list of prohibited practices by the youth in the youth's file.

8.7. Facility staff shall not use physical restraints or mechanical restraints unless they have been trained in the use of such restraints. Training shall include methods of monitoring and assessing a restrained youth for injuries and loss of circulation as a result of the use of mechanical restraint.

9.8. After any incident of use of a restraint, medical follow-up shall occur as soon as a qualified medical professional is available at the facility, or sooner if medically necessary as determined by the facility administrator.

G. Prohibited Practices When Using Restraints

1. The provider shall have a written list of prohibited practices by staff members when using a restraint. The following are prohibited:

- a. restraints that are solely intended to inflict pain;
- b. restraints that put a youth face down with sustained or excessive pressure on the back, chest cavity, neck or head;
- c. restraints that obstruct the airway or impair the breathing of the youth;
- d. restraints that restrict the youth's ability to communicate;
- e. restraints that obstruct a view of the youth's face;
- f. any technique that does not allow monitoring of the youth's respiration and other signs of physical distress during the restraint;
- g. any use of four or five-point restraints, straightjackets, or restraint chairs;
- h. mechanical restraint devices that are so tight they interfere with circulation or that are so loose they cause chafing of the skin;
- i. use of a waistband restraint on a pregnant youth;
- j. use of a mechanical restraint that secures a youth in a position with his/her arms and/or hands behind the youth's back (hog-tied) or front, with arms or hands secured to the youth's legs;
- k. use of a mechanical restraint that affixes the youth to any fixed object, such as room furnishings or fixtures; and/or
- l. ~~use of any maneuver that involves punching, hitting, poking, pinching, or shoving.~~

2. A youth in mechanical restraints shall not participate in any physical activity, other than walking for purposes of transportation.

3. A list of these prohibitions shall be posted in the facility.

4. The youth shall receive a list of the prohibitions when using a restraint. There shall be documentation of acknowledgement of receipt of the list of prohibitions in the youth's file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1572 (July 2012), amended LR 42:399 (March 2016).

§7517. Facility Services

A. - A.2. ...

3. Prior to the end of the first official school day following admission, the youth shall receive a brief educational history screening with respect to their school status, special education status, **and** grade level, ~~grades, and history of suspensions or expulsions.~~ Staff shall use this information to determine initial placement in the facility educational program.

4. ...

5. Within three school days of the youth's arrival at the facility, the provider shall request educational records from the youth's previous school. ~~If records are not received within ten school days of the request, the administrator shall report in writing on the eleventh day to the local school district from which records were requested that the information has been requested and not received. If the records are not received within the following seven school days of notifying the local school district, the administrator shall file a written complaint with the Board of Elementary and Secondary Education (BESE) on the eighth day.~~

6. The youth shall attend the facility school at the earliest possible time but within three **school** calendar days of admission to the facility.

~~7. The youth's admission assessment shall identify if the youth has any disabilities. Youth with disabilities shall be identified to the local school district.~~

7 8. The provider shall ensure youth have access to vocational training, GED programs, and other alternative educational programming if available from the local school district.

8 9. Youth in restricted, disciplinary, or high security units shall receive an education program comparable to youth in other units in the facility consistent with safety needs.

9 10. When youth are suspended from the facility school, the suspension shall comply with local jurisdiction due process requirements.

10 11. Behavior intervention plans shall be developed for a youth whose behavior interferes with their school attendance and progress.

11 12. The provider shall have available reading materials geared to the reading levels, interests, and primary languages of confined youth.

12 13. The school classes shall be held in classrooms/multi-purpose rooms. The provider shall ensure that the educational space is adequate to meet the instructional requirements of each youth.

13 14. The provider shall ensure that youth are available for the minimum minutes in a school day required by law.

14 15. The administrator shall immediately report in writing to the local school district if the facility school is not being staffed adequately to meet state student to teacher ratios for education, including not but not limited to, special education staff and substitute teaching staff. ~~If the issue is not resolved within five school days by the local school district, then the administrator shall file a written complaint on the sixth day with BESE and cooperate with any subsequent directives received from BESE.~~

B. - D.1.d. ...

e. Each provider shall provide **an appropriate** ~~a dedicated~~ room or rooms for examinations.

2. Medical Care

a. - f. ...

~~g. The provider shall ensure that any medical examination and treatment conforms to state laws on medical treatment of minors, who may give informed consent for such treatment, and the right to refuse treatment.~~

g h. Medical staff shall obtain informed consent from a youth and/or parent/legal guardian as required by law, and shall honor refusals of treatment.

h i. When medical and/or mental health staff believe that involuntary treatment is necessary, the treatment shall be conducted in a hospital and not at the facility after compliance with legal requirements.

i j. Staff shall document the youth and/or parent/legal guardian's consent or refusal, including counseling with respect to treatment, in the youth's medical file.

j k. Pregnant youth shall be provided prenatal care. Any refusal for prenatal care by the pregnant youth shall be documented in their file.

k l. Youth who are victims of sexual assault shall receive immediate medical treatment, counseling, and other services.

l m. Files of all medical examinations, follow-ups and services, together with copies of all notices to a parent/legal guardian shall be kept in the youth's medical file.

m n. Youth placed in medical isolation shall participate in programming as determined by the facility's qualified medical professional.

D.3. - E.3.

4. The provider shall provide functioning recreational equipment and supplies for physical education activities.

5. Youth shall be provided unstructured free time. There shall be an adequate supply of games, cards, writing, and art materials for use during unstructured recreation time.

E.6. - F.5. ...

6. Youth shall not be permitted to drive facility vehicles, unless part of a certified driver's education program and under the supervision of a certified instructor through the State of Louisiana.

7. - 16. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1575 (July 2012), amended LR 42:398 (March 2016).

§7523. Safety Program

A. - B.1. ...

2. Staff shall accompany private contractors, who have not received the appropriate background checks, and CANS check, when in the presence of youth.

3. The provider shall ensure that a properly equipped first aid kit is located near available in each living unit.

C. - C.2.a.ii.

iii. ~~at least one escort must be the same sex and/or gender of youth during movement;~~

iv. staff shall conduct a periodic head count;

iv v. instruction shall be provided for staff escorting youth within and outside the facility;

v vi. prohibition of the supervision of youth by youth; and

vi vii. shift assignments, including the use, location, and scope of assignment.

3. - 5.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1581 (July 2012).

§7525. Data

A. - A.1.c.iii.

d. ~~youth participation in Families in Need of Services (FINS) program:~~

~~i. dates of participation in FINS (formal or informal); and/or~~

~~ii. referrals to FINS (formal or informal).~~

B. - B.1.c. ...

C. Detention Screening Data

1. ~~If a provider conducts a~~ The provider shall maintain accurate records on all risk assessment instrument (RAI) on new admissions, ~~it shall maintain an accurate record of~~ conducted, to include the following data fields:

a. - d.ii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1582 (July 2012).


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