



STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
REHABILITATION ADMINISTRATION
14TH & Jefferson ~ PO Box 45720 • Olympia WA • 98504-5720
(360) 902-8499 • (360) 902-8108 FAX

December 20, 2016

TO: JR Policy Holders

FROM:

A handwritten signature in blue ink that reads "John Clayton".

John Clayton, Assistant Secretary
Rehabilitation Administration

SUBJECT For Distribution: Policy 5.51, *Transferring Residential Youth to DOC*

The JR Policy Committee has completed the revision of Policy 5.51, *Transferring Residential Youth to DOC*. Policy 5.51 has been heavily revised to clarify populations who can be transferred to the Department of Corrections, identify the situations in which they can be transferred to DOC, and clearly describe the process for transferring youth, including decision making authority, in alignment with mandates in RCW and WAC. Please add this to your on-site policy manual.

The attached policy summary provides an overview of the policy. There are no changes to practice, only a revised presentation of the legal mandates.

This policy has a scheduled effective date of January 1, 2017. If you have questions regarding the policy, please contact JR's policy staff at jrapolicy@dshs.wa.gov.

Attachment: Policy 5.51

JUVENILE REHABILITATION - PROGRAM POLICY

Policy 5.51 – Transferring Residential Youth to DOC

Summary

- Provides guidelines for transferring youth to DOC in the event of an incident

Background:

The policy was updated to clarify populations who can be transferred to the Department of Corrections, identify the situations in which they can be transferred to DOC, and clearly describe the process for transferring youth, including decision making authority, in alignment with mandates in RCW and WAC.

Policy Summary

The policy was reorganized and rewritten to clearly present the legal mandates for this type of transfer. RCW allows for transfer of dual sentence youth (youth who have both a JR commitment and an adult sentence) and youth who only have a JR commitment when there is a continuing and serious threat to safety or there has been an incident of staff assault or a conviction for custodial assault. The policy presents the criteria for transfers for both situations of youth with a JR commitment, and outlines the legally mandated process for transfer. It addresses requirements for Administrative Review Boards, including due process rights for the youth during the Board hearing and provisions from WAC regarding the hearing. New sections have been added that outline returns to JR, notifications of transfer, adjustment of release date, completion of JR parole obligations, and requirements for documentation and tracking of the process.

Changes from Current Practice

- There are no changes to current practice.

Training Required: No

Policy Effective Date: January 1, 2017

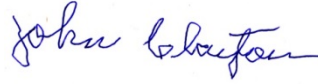
*Staff are responsible for reading and understanding the information contained in the full policy.
Review of this summary is not sufficient for full understanding.*

POLICY 5.51 TRANSFERRING RESIDENTIAL YOUTH TO DOC

Policy Committee Chair

Don Mead, Ed. D.
Superintendent, Echo Glen
Juvenile Rehabilitation

Approved



John Clayton, Assistant Secretary
Juvenile Rehabilitation
12/20/2016

Authorizing Sources¹

RCW 9A.36.100
RCW 13.40.210 (4) (c)
RCW 13.40.280
RCW 13.40.285
WAC 110-740-0070 (1)
WAC 110-745

Information Contact

Andrea Ruiz
Policy, Planning & Lean Administrator
Juvenile Rehabilitation

Effective Date *(Technical Edit 5/21/2020)*
1/1/2017

Sunset Review Date
1/1/2021

I. PURPOSE AND SCOPE

This policy establishes expectation regarding the transfers of youth from Juvenile Rehabilitation (JR) to the Department of Corrections (DOC). The policy supplements the Interagency Agreement between DOC and JR.

All staff, contractors, volunteers, and interns working in or for Juvenile Rehabilitation (JR) are responsible for reviewing and complying with JR policies.

II. POLICY

SITUATIONS FOR TRANSFER TO DOC

1. Youth who have both a JR commitment and a DOC sentence (dual sentence) may be transferred to DOC to serve the balance of the term of confinement ordered by the juvenile court based on safety, security, resource or programmatic needs.

1.1. Youth with a dual sentence will be maintained in the least restrictive setting possible.

2. Youth who only have a JR commitment may be transferred to DOC in the following situations:

2.1. If the youth presents a continuing and serious threat to the safety of the others in a JR residential facility.

2.2. If the youth commits staff assault or is adjudicated for custodial assault while in JR.

¹ 5/21/2020 Technical Edit: Removed inaccurate RCW.

Policy **5.51** **Transferring Residential Youth to DOC 1/1/2017****TRANSFERRING DUAL SENTENCE YOUTH TO DOC**

- 3. If there is a safety, security, resource or programmatic need which cannot be met by JR, a dual sentence youth may be transferred to DOC.**
 - 3.1. Residential Review Committee hearings are held only if an incident occurs where a dual sentence youth presents a continuing and serious threat to the safety of others in the residential facility.
 - 3.2. Administrative Review Board hearings are not required for transfers of dual sentence youth.
- 4. Transfer requests for dual sentence youth will be made by the Assistant Secretary to the DCYF Secretary, who will communicate the request to the DOC Secretary.**
- 5. Transfers may only occur with the consent of the DOC Secretary.**

TRANSFERRING JR YOUTH – CONTINUING AND SERIOUS THREAT

- 6. JR youth who present a continuing and serious threat to the safety of others may be transferred to DOC through the following process.**
 - 6.1. The Superintendent will convene a Residential Review Committee to conduct an initial review of the youth's case.
 - 6.2. If the Committee determines a transfer is necessary, the Residential Review Committee will recommend the Superintendent transfer the youth to DOC.
 - 6.3. The Superintendent will review the recommendation of the committee and, if the committee's recommendation is supported, will recommend to the Director of Institution Programs the youth be transferred to DOC.
 - 6.4. The Director will review the recommendation, and if the Superintendent's recommendation is supported, will convene an Administrative Review Board to review the case.
 - 6.5. The Administrative Review Board will review the case in accordance with the process outlined below, and issue a written recommendation to the Assistant Secretary.
 - 6.6. If the recommendation of the Review Board is for transfer to DOC, the Assistant Secretary will make the transfer request to the DCYF Secretary, who will communicate the request to the DOC Secretary.

Policy **5.51** **Transferring Residential Youth to DOC 1/1/2017****TRANSFERRING JR YOUTH – STAFF ASSAULT/CUSTODIAL ASSAULT****7. JR youth who commit a staff assault referred to local law enforcement while in JR custody may be transferred to DOC through the following process:**

- 7.1. The Superintendent will convene a Residential Review Committee to conduct an initial review of the youth's case following the staff assault.
- 7.2. If the Committee determines a transfer is necessary, the Residential Review Committee will recommend the Superintendent transfer the youth to DOC.
- 7.3. The Superintendent will review the recommendation of the committee and, if the committee's recommendation is supported, will recommend to the Director of Institution Programs the youth be transferred to DOC.
- 7.4. The Director will review the recommendation, and if the Superintendent's recommendation is supported, will convene an Administrative Review Board to review the case.
 - 7.4.1. The Administrative Review Board must be convened within 10 judicial working days of the referral.
- 7.5. The Administrative Review Board will review the case in accordance with the process outlined below, and issue a written recommendation to the Assistant Secretary.
- 7.6. If the recommendation of the Review Board is for transfer to DOC, the Assistant Secretary will make the transfer request to the DCYF Secretary, who will communicate the request to the DOC Secretary.

8. If a youth receives an adjudication or conviction for custodial assault (per RCW 9A.36.100) while in JR custody, a second review by the Administrative Review Board is required, if the youth has not already been transferred to DOC.

- 8.1. The Superintendent will report to the Director of Institution Programs the youth has been adjudicated or convicted of custodial assault.
- 8.2. The Director will convene a second Administrative Review Board to review the case.
- 8.3. The second Administrative Review Board must be held within five judicial working days of receiving the disposition or sentencing order.
- 8.4. The Administrative Review Board will recommend transfer to DOC if it is determined the youth represents a continuing and serious threat to the safety of others in the facility.
- 8.5. The Administrative Review Board will review the case in accordance with the process outlined below, and issue a written recommendation to the Assistant Secretary.
- 8.6. If the recommendation of the Administrative Review Board is for transfer to DOC, the Assistant Secretary will make the transfer request to the DCYF Secretary, who will communicate the request to the DOC Secretary.

Policy **5.51** **Transferring Residential Youth to DOC 1/1/2017****ADMINISTRATIVE REVIEW BOARDS**

- 9. Administrative Review Boards (ARB) will be convened by the Director when a transfer of a JR youth to DOC has been recommended.**
- 10. Youth must be given their due process rights during the transfer review process.**
 - 10.1. Youth must be notified at least five days in advance of any hearing. (WAC 110-745-020)
 - 10.1.1. The notification must include the reason the transfer is being considered and a copy of the rules related to the hearing.
 - 10.2. Youth must have access to legal representation during the hearing.
 - 10.2.1. Youth may only waive rights to legal representation upon the advice of an attorney.
 - 10.3. Youth and their attorney will be allowed access to any JR records relating to the proposed transfer, in accordance with Policy 1.40, *Maintaining JR Juvenile and Operations Records*. (WAC 110-745-020)
- 11. ARBs will be chaired by a JR Director, and will ensure participation of two additional administrators appointed by the Director. (WAC 110-745-030)**
- 12. Attendance at the ARB will be limited to parties directly concerned with the incident. (WAC 110-745-040)**
 - 12.1. The chair of the ARB may exclude additional persons unless the parties agree to their presence.
- 13. Parties have the right to present evidence, cross-examine witnesses, and make recommendations to the hearing panel. (WAC 110-745-040)**
- 14. All relevant material evidence is admissible, which, in the opinion of the chairperson, is the best evidence reasonably obtainable, having due regard for its necessity, availability and trustworthiness. (WAC 110-745-040)**
- 15. The youth has the burden to show cause for why the transfer to DOC should not occur.**
- 16. The ARB must be recorded manually or by mechanical, electronic or other device capable of transcription. (WAC 110-745-060)**
- 17. The ARB, once all evidence is presented, will make a decision regarding whether the youth will be best served by remaining in JR or being transferred to DOC. (WAC 110-745-050)**
- 18. The chair of the ARB will prepare a written decision which includes the reasons for the decision. (WAC 110-745-060)**

DECISION TO RETURN TO JR

- 19. A youth who has been transferred to DOC under this policy may be returned to a JR facility at the discretion of the DCYF Secretary and with the consent of the DOC Secretary. (RCW 13.40.280)**

Policy **5.51** Transferring Residential Youth to DOC 1/1/2017

NOTIFICATION OF TRANSFER

20. The Superintendent or designee will notify the parents or legal guardians, committing court, and JR regional office of assignment of the youth's transfer to DOC under this policy.

20.1. Notifications must be consistent with Policy 1.40, *Maintaining JR Juvenile and Operations Records*.

ADJUSTMENT OF RELEASE DATE

21. Youth with a JR commitment who are transferred to DOC through this process will have their release date adjusted to the maximum allowed by the juvenile court prior to the physical transfer to DOC.

21.1. The Superintendent may grant an exception if appropriate.

22. Youth transferred to DOC may earn time off their maximum release date, but may not go below the minimum release date.

23. Youth transferred to DOC under this policy must not remain at DOC beyond the maximum term of confinement imposed by the juvenile court. (RCW 13.40.280)

24. JR will notify DOC at least 60 days in advance of the youth's upcoming release date.

JR MANDATORY PAROLE OBLIGATIONS²

25. JR youth transferred to DOC with outstanding JR parole obligations who are under the age of 26 upon release from DOC must serve parole with JR. (Parole Standard 08: Discharging Youth From Parole Aftercare)³

25.1. Youth will not be discharged from JR until they complete their parole obligation or turn 26 years old.

DOCUMENTATION AND TRACKING

26. Residential Review Committee recommendations approved by the Superintendent, and Administrative Review Board decisions will be documented in a ROA in ACT.

27. The Superintendent must designate a staff who will track and monitor the transfer process at the time a Residential Review Committee is convened.

² 10/1/19 Technical Edit: Updated YOP age to 25 per legislative passage of E2SHB 1646.

³ 5/21/2020 Technical Edit: Added the term "mandatory" and reference to Parole Standard.

Policy **5.51** **Transferring Residential Youth to DOC 1/1/2017**

III. DEFINITIONS

Administrative Review Board: A formal board that conducts a hearing to determine if a recommendation should be made to the Rehabilitation Administration’s Assistant Secretary to transfer a JR youth to DOC.

Department of Corrections (DOC) Liaison: JR Central Office staff designated to manage and provide direction and oversight of JR and DOC agreements and protocols.

Dual Sentence Commitment: A circumstance when a youth has both a JR and a DOC sentence.

Residential Review Committee: A committee appointed by a Superintendent or Regional Administrator to conduct an informal review of the incident. An administrator at the level of the Community Programs Administrator, Associate Superintendent or above will chair the Committee.


IV. REFERENCES⁴

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| <p>Interagency Agreement between Department of Corrections and Department of Children, Youth & Families</p> | <p>Parole Standard 08: Discharging Youth From Parole Aftercare</p> <p>Parole Discharge Matrix</p> |
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V. RELATED JR POLICIES

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| <p>Policy 1.40 - Maintaining JR Juvenile and Operations Records</p> | <p>Policy 5.80 - Reviewing and Reporting Staff Assaults by Youth</p> |
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VI. FORMS AND DOCUMENTS

Document Title	Available In ACT	Link to Paper form
<p>No Bail Administrative Hold and/or Request for Notification</p>		<p>DCYF Form 20-251</p>

⁴ 5/21/2020 Technical Edit: Added Parole Standard and matrix resource links.