

Chapter 388-730 WAC

PLACEMENT OF JUVENILE OFFENDERS COMMITTED TO THE JUVENILE REHABILITATION ADMINISTRATION (JRA)

(Formerly chapter 275-46 WAC)

WAC

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WAC 388-730-0010 Definitions. As used in this chapter:

"Community facility" means a group care facility operated for the care of juveniles committed to the department under RCW 13.40.185. A county detention facility that houses juveniles committed to the department under RCW 13.40.185 pursuant to an interagency agreement with the department is not a community facility.

"Community placement eligibility requirements" means requirements developed by JRA that must be met by a youth to demonstrate progress in treatment and low public safety risk, which justify an institutional minimum or minimum security classification for the youth.

"Initial security classification assessment" means a written instrument, developed by JRA and administered by diagnostic staff, to determine to what extent a juvenile is a threat to public safety for the purpose of determining the juvenile's security classification when the juvenile initially is committed to JRA.

"JRA" means juvenile rehabilitation administration, department of social and health services.

"Juvenile" means a person under the age of twenty-one who has been sentenced to a term of confinement under the supervision of the department under RCW 13.40.185.

"Program administrator" means institution superintendent, regional administrator, or their designees.

"Residential treatment and care program" means a single family residence operated for the care of juveniles committed to the department under RCW 13.40.185.

"Separate living unit" means sleeping quarters and areas used for daily living activities not specific to treatment and education programs located in a building, wing, or on a different floor which separates resident groups.

"Service provider" means the entity that operates a community facility or is contracted to provide a residential treatment and care program.

"Specialized treatment program" means a program that addresses additional rehabilitation needs such as sex

offender treatment, drug/alcohol treatment, mental health interventions, gang intervention, gender/age specific intervention and other programs meeting specific rehabilitation needs of juveniles.

[Statutory Authority: RCW 13.40.460 and 72.05.150. 03-03-070, § 388-730-0010, filed 1/15/03, effective 2/15/03. Statutory Authority: Chapter 72.05 RCW. 00-22-019, recodified as § 388-730-0010, filed 10/20/00, effective 11/20/00. Statutory Authority: RCW 72.05.400, [72.05.]405, [72.05.]410, [72.05.]415, [72.05.]425, [72.05.]430, [72.05.]435, [72.05.]440, 74.15.210, 13.40.460 and [13.40.]480. 98-18-056, § 275-46-010, filed 8/31/98, effective 9/1/98. Statutory Authority: RCW 13.40.460. 96-18-041, § 275-46-010, filed 8/29/96, effective 9/29/96.]

WAC 388-730-0015 Assessment. (1) Risk assessment and treatment needs must be the basis of placement decisions involving juveniles.

(2) JRA must ensure juveniles are assessed to determine appropriate placement and treatment programming. Ongoing risk and needs assessment must occur during a juvenile's commitment to JRA.

(3) Risk assessment must include:

- (a) Risk to public safety;
- (b) Risk for sexually aggressive behavior; and
- (c) Risk for vulnerability to sexual aggression.

(4) JRA must use a security classification system to assist in placement decisions.

(5) Student records and information as described in RCW 72.05.425 are required for juvenile offender risk assessment, security classification assignment, and JRA community placement decisions. Designated school officials must ensure student records are provided to the identified juvenile court or JRA representative as required in RCW 28A.600.475 and 13.40.480.

[Statutory Authority: Chapter 72.05 RCW. 00-22-019, recodified as § 388-730-0015, filed 10/20/00, effective 11/20/00. Statutory Authority: RCW 72.05.400, [72.05.]405, [72.05.]410, [72.05.]415, [72.05.]425, [72.05.]430, [72.05.]435, [72.05.]440, 74.15.210, 13.40.460 and [13.40.]480. 98-18-056, § 275-46-015, filed 8/31/98, effective 9/1/98.]

WAC 388-730-0020 Security classifications. (1) There are four JRA security classifications:

- (a) Maximum;
- (b) Medium;
- (c) Institutional minimum; and
- (d) Minimum.

(2) A juvenile's initial security classification is determined using the initial security classification assessment. A juvenile's security classification may be changed at any time, and be reviewed at regular intervals as determined by JRA policy.

[Statutory Authority: Chapter 72.05 RCW. 00-22-019, recodified as § 388-730-0020, filed 10/20/00, effective 11/20/00. Statutory Authority: RCW 72.05.400, [72.05.]405, [72.05.]410, [72.05.]415, [72.05.]425, [72.05.]430, [72.05.]435, [72.05.]440, 74.15.210, 13.40.460 and [13.40.]480. 98-18-056, § 275-46-020, filed 8/31/98, effective 9/1/98. Statutory Authority: RCW 13.40.460. 96-18-041, § 275-46-020, filed 8/29/96, effective 9/29/96.]

WAC 388-730-0030 Maximum security. (1) A maximum security classification must be assigned to a juvenile if:

(a) Indicated by the initial security classification assessment; or

(b) Following the initial security classification, it is determined the juvenile:

(i) Does not meet the community placement eligibility requirements for minimum security; and

(ii) Requires maximum security restrictions to protect public safety, encourage the juvenile to participate in treatment and follow facility rules, or enhance the safe and orderly operation of the facility.

(2) A juvenile classified as maximum security must:

(a) Reside in an institution with the capability of:

(i) Security windows;

(ii) Locked exterior doors;

(iii) Lockable single-person rooms; and

(iv) A security fence.

(b) Be permitted movement between secured buildings only if accompanied by a close staff escort;

(c) Be confined to facility grounds, except for court appearances or emergencies, in which case a staff escort, and transportation in restraints and in a security vehicle, are required; and

(d) Be allowed authorized leave only for emergency and medical purposes pursuant to RCW 13.40.205.

[Statutory Authority: Chapter 72.05 RCW. 00-22-019, recodified as § 388-730-0030, filed 10/20/00, effective 11/20/00. Statutory Authority: RCW 72.05.400, [72.05.]405, [72.05.]410, [72.05.]415, [72.05.]425, [72.05.]430, [72.05.]435, [72.05.]440, 74.15.210, 13.40.460 and [13.40.]480. 98-18-056, § 275-46-030, filed 8/31/98, effective 9/1/98. Statutory Authority: RCW 13.40.460. 96-18-041, § 275-46-030, filed 8/29/96, effective 9/29/96.]

WAC 388-730-0040 Medium security. (1) A medium security classification must be assigned to a juvenile if:

(a) Indicated by the initial security classification assessment; or

(b) Following the initial security classification, it is determined the juvenile:

(i) Does not meet the community placement eligibility requirements for minimum security; and

(ii) Requires medium security restrictions to protect public safety, encourage the juvenile to participate in treatment and follow facility rules, or enhance the safe and orderly operation of the facility.

(2) A juvenile classified as medium security must:

(a) Reside in an institution with the capability of at least:

(i) Lockable exterior doors or fire exit doors fitted with alarms; and

(ii) A security fence or windows without egress.

(b) Receive during movement a staff escort, continuous visual surveillance, or telephone/radio staff verification of departures and arrivals, unless the program administrator determines such measures are unnecessary;

(c) Be confined to facility grounds, except for:

(i) Participation in work crews or other programs outside the facility that require a close staff escort; and

(ii) Court appearances or emergencies, in which case a staff escort, and transportation in a security vehicle and/or in restraints, are required.

(d) Be allowed authorized leave only for emergency or medical purposes pursuant to RCW 13.40.205.

[Statutory Authority: Chapter 72.05 RCW. 00-22-019, recodified as § 388-730-0040, filed 10/20/00, effective 11/20/00. Statutory Authority: RCW 72.05.400, [72.05.]405, [72.05.]410, [72.05.]415, [72.05.]425, [72.05.]430, [72.05.]435, [72.05.]440, 74.15.210, 13.40.460 and [13.40.]480. 98-18-056, § 275-46-040, filed 8/31/98, effective 9/1/98. Statutory Authority: RCW 13.40.460. 96-18-041, § 275-46-040, filed 8/29/96, effective 9/29/96.]

WAC 388-730-0050 Institutional minimum. (1) An institutional minimum classification must be assigned to a juvenile if:

(a) Indicated by the initial security classification assessment;

(b) Indicated by the community placement eligibility requirements unless a recent incident indicates the juvenile no longer meets these requirements; or

(c) The assistant secretary for JRA or designee approves an override of the medium security classification.

(2) Even if eligible under subsection (1) of this section, a juvenile must not receive an institutional minimum security classification if:

(a) The assistant secretary for JRA, or designee, signs an administrative override disapproving institutional minimum classification and assigning the juvenile a higher security classification; or

(b) The juvenile is a sex offender who meets the requirements for civil commitment referral under chapter 71.09 RCW or is classified as a risk level III under RCW 13.40.217.

(3) A juvenile classified as institutional minimum security:

(a) Must reside in an institution with the capability of at least:

(i) Lockable exterior doors or fire exit doors fitted with alarms; and

(ii) A security fence or windows without egress.

(b) May be permitted:

(i) Unescorted movement on facility grounds;

(ii) Participation in work crews or other programs outside the facility with a close staff escort;

(iii) Unescorted participation in community work, educational and community service programs, and family treatment or other activities to strengthen family ties, for up to twelve hours per day; and

(iv) Authorized leave pursuant to RCW 13.40.205.

(4) A juvenile on institutional minimum security must be transferred to minimum security upon the availability of an appropriate community placement if:

(a) Ten percent of the juvenile's sentence, and in no case less than thirty days, has been served in a secure facility; and

(b) All placement assessment requirements have been met.

[Statutory Authority: Chapter 72.05 RCW. 00-22-019, recodified as § 388-730-0050, filed 10/20/00, effective 11/20/00. Statutory Authority: RCW 72.05.400, [72.05.]405, [72.05.]410, [72.05.]415, [72.05.]425, [72.05.]430, [72.05.]435, [72.05.]440, 74.15.210, 13.40.460 and [13.40.]480. 98-18-056,

§ 275-46-050, filed 8/31/98, effective 9/1/98. Statutory Authority: RCW 13.40.460. 96-18-041, § 275-46-050, filed 8/29/96, effective 9/29/96.]

WAC 388-730-0060 Minimum security. (1) The provisions of WAC 388-730-0050 also apply to a juvenile classified as minimum security, except the juvenile must reside in a community facility, residential treatment and care program, or a community commitment program facility (CCP) rather than in an institution.

(2) Juveniles must not be placed in a community facility or residential treatment and care program until:

- (a) Ten percent of the juvenile's sentence, and in no case less than thirty days, has been served in a secure facility; and
- (b) All placement assessment requirements have been met.

(3) In addition to the provisions of WAC 388-730-0050 (3)(b)(iii), minimum security juveniles may be permitted unescorted participation in treatment programs in the community that do not involve the family for up to twelve hours per day.

[Statutory Authority: RCW 13.40.460 and 72.05.150. 03-03-070, § 388-730-0060, filed 1/15/03, effective 2/15/03. Statutory Authority: Chapter 72.05 RCW. 00-22-019, amended and recodified as § 388-730-0060, filed 10/20/00, effective 11/20/00. Statutory Authority: RCW 72.05.400, [72.05.]405, [72.05.]410, [72.05.]415, [72.05.]425, [72.05.]430, [72.05.]435, [72.05.]440, 74.15.210, 13.40.460 and [13.40.]480. 98-18-056, § 275-46-060, filed 8/31/98, effective 9/1/98. Statutory Authority: RCW 13.40.460. 96-18-041, § 275-46-060, filed 8/29/96, effective 9/29/96.]

WAC 388-730-0065 Special placement restrictions. Certain placement restrictions apply to community facilities and residential treatment and care programs that are commonly used by and under the jurisdiction of both JRA and the children's administration.

(1) When juveniles under commitment to JRA are assessed as a high to moderate risk for sexually aggressive behavior, they may not be placed in a community facility or residential treatment and care program with youths under the jurisdiction of children's administration unless:

(a) They are placed in a separate living unit solely for juveniles currently under the jurisdiction of JRA; or

(b) They are placed in a program that contracts specifically for the provision of services to sexually aggressive youth.

(2) Juveniles under commitment to JRA for a class A felony may not be placed in these community facilities unless:

(a) They are housed in a separate living unit solely for juveniles currently under the jurisdiction of JRA;

(b) They are placed in a community facility or residential treatment and care program that is a specialized treatment program and the juvenile is not assessed as sexually aggressive under RCW 13.40.470; or

(c) They are placed in a community facility or residential treatment and care program that is a specialized treatment program housing one or more sexually aggressive youth and the juvenile is not assessed as sexually vulnerable under RCW 13.40.470.

[Statutory Authority: RCW 13.40.460 and 72.05.150. 03-03-070, § 388-730-0065, filed 1/15/03, effective 2/15/03. Statutory Authority: Chapter 72.05 RCW. 00-22-019, recodified as § 388-730-0065, filed 10/20/00, effective 11/20/00. Statutory Authority: RCW 72.05.400, [72.05.]405, [72.05.]410, [72.05.]415, [72.05.]425, [72.05.]430, [72.05.]435, [72.05.]440, 74.15.-

(1/15/03)

210, 13.40.460 and [13.40.]480. 98-18-056, § 275-46-065, filed 8/31/98, effective 9/1/98.]

WAC 388-730-0070 Residential disciplinary standards. (1) Serious violations by a juvenile include:

- (a) Escape or attempted escape;
- (b) Violence toward others with intent to harm and/or resulting in significant bodily injury;
- (c) Involvement in or conviction of a criminal offense under investigation by law enforcement or awaiting adjudication for behavior that occurred during current placement;
- (d) Extortion or blackmail that threatens the safety or security of the facility or community;
- (e) Setting or causing an unauthorized fire with intent to harm self, others, or property, or with reckless disregard for the safety of others;
- (f) Possession or manufacture of weapons or explosives, or tools intended to assist in escape;
- (g) Interfering with staff or service providers in performing duties relating to the security and/or safety of the facility or community;
- (h) Intentional property damage in excess of one thousand five hundred dollars;
- (i) Possession, use, or distribution of drugs or alcohol, or use of inhalants;
- (j) Rioting or inciting others to riot;
- (k) Refusal of urinalysis or search; or
- (l) Other behaviors which threaten the safety or security of the facility, its staff, or residents or the community.

(2) Other violations by a juvenile placed in a community facility or residential treatment and care program include:

- (a) Unaccounted for time when a juvenile is away from the community facility or residential treatment and care program;
- (b) Violation of conditions of authorized leave;
- (c) Intimidation or coercion against any person;
- (d) Misuse of medication such as hoarding medication or taking another person's medication;
- (e) Self-mutilation, self tattooing, body piercing, or assisting others to do the same;
- (f) Intentional destruction of property valued at less than fifteen hundred dollars;
- (g) Fighting;
- (h) Unauthorized withdrawal of funds with intent to commit other violations;
- (i) Suspensions or expulsions from school or work;
- (j) Violations of school, employment or volunteer work agreements related to custody and security concerns;
- (k) Escape talk;
- (l) Sexual contact or any other behavior, not defined as a serious violation, resulting in a referral to the department of licensing, child protective services, or law enforcement; or
- (m) Lewd or disruptive behavior in the community.

(3) Juveniles must be held accountable when there is reasonable cause to believe they have committed a violation.

(a) Whenever a juvenile placed in a community facility or residential treatment and care program commits a serious violation, the juvenile must be returned to an institution. The JRA program administrator who receives a service provider report of a serious violation must make arrangements to transfer the juvenile to an institution as soon as possible.

Juveniles may be placed in a secure JRA or contracted facility pending transportation to an institution.

(b) Sanctions for serious violations committed by juveniles in an institution, and additional sanctions for serious violations committed by juveniles returned to an institution, must include one or more of the following:

- (i) Loss of privileges for up to thirty days;
- (ii) Loss of program level; or
- (iii) Room confinement up to seventy-two hours.

(c) Sanctions for serious violations may also include, but are not limited to, one or more of the following:

- (i) Change in release date;
- (ii) Referral for prosecution;
- (iii) Transfer to an intensive management unit;
- (iv) Increase in security classification;
- (v) Reprimand and loss of points;
- (vi) Restitution; or
- (vii) Community service.

(d) Sanctions for violations listed in WAC 388-730-0070(2) may include transfer to a higher security facility and must include one or more of the following:

- (i) Loss or privileges;
- (ii) Loss of program level;
- (iii) Room confinement up to seventy-two hours;
- (iv) Change in release date;
- (v) Reprimand and/or loss of points;
- (vi) Additional restitution; or
- (vii) Community service.

(4) When a sanction is imposed, the juvenile must also receive a counseling intervention to address the violation.

(5) If the proposed sanctions for any violation includes extending the juvenile's established release date, the juvenile must be entitled to:

(a) Notice of an administrative review to consider extension of the release date and a written statement of the incident;

(b) An opportunity to be heard before a neutral review chairperson;

(c) Present oral or written statements, and call witnesses unless testimony of a witness would be irrelevant, repetitive, unnecessary, or would disrupt the orderly administration of the facility;

(d) Imposition of the sanction only if the administrative review chairperson finds by a preponderance of the evidence that the serious violation did occur; and

(e) A written decision, stating the reasons for the decision, by the administrative review chairperson.

(6) Each superintendent, regional administrator and service provider must clearly post, or make readily available, the list of serious violations and possible sanctions in all living units.

(7) Each program administrator must adopt procedures for implementing the requirements of this section.

[Statutory Authority: RCW 13.40.460 and 72.05.150. 03-03-070, § 388-730-0070, filed 1/15/03, effective 2/15/03. Statutory Authority: Chapter 72.05 RCW. 00-22-019, amended and recodified as § 388-730-0070, filed 10/20/00, effective 11/20/00. Statutory Authority: RCW 72.05.400, [72.05.]405, [72.05.]410, [72.05.]415, [72.05.]425, [72.05.]430, [72.05.]435, [72.05.]440, 74.15.210, 13.40.460 and [13.40.]480. 98-18-056, § 275-46-070, filed 8/31/98, effective 9/1/98. Statutory Authority: RCW 13.40.460. 96-18-041, § 275-46-070, filed 8/29/96, effective 9/29/96.]

WAC 388-730-0080 Documenting and reporting violations committed by juveniles in residential facilities. (1) All serious violations and violations listed in WAC 388-730-0070(2) must be documented in an incident report. The incident report must include:

- (a) Circumstances leading up to the violation(s);
- (b) A description of the violation;
- (c) Response by staff;
- (d) Response by the juvenile(s) involved in the incident; and
- (e) Sanctions imposed or recommended for the violation(s).

(2) Service providers must:

(a) Forward all incident reports to the JRA program administrator no later than twenty-four hours after the behavior is discovered; and

(b) Verbally report serious violations to the JRA program administrator immediately.

[Statutory Authority: Chapter 72.05 RCW. 00-22-019, amended and recodified as § 388-730-0080, filed 10/20/00, effective 11/20/00. Statutory Authority: RCW 72.05.400, [72.05.]405, [72.05.]410, [72.05.]415, [72.05.]425, [72.05.]430, [72.05.]435, [72.05.]440, 74.15.210, 13.40.460 and [13.40.]480. 98-18-056, § 275-46-080, filed 8/31/98, effective 9/1/98.]

WAC 388-730-0090 Service provider penalty schedule. (1) Whenever a service provider contracts with the JRA to operate a community facility or residential treatment and care program, the contracted service provider must report any known violation as required in WAC 388-730-0080.

(2) If the contracted service provider fails to report violations within the prescribed time frames, the JRA must impose one or more of the following remedies:

(a) Imposition of a corrective action plan to be completed as determined by the program administrator.

(b) Imposition of the following monetary penalties:

(i) The first time fines are imposed on a service provider, the penalty must be at the rate of fifty dollars per day for each juvenile involved in a violation that was not reported as required. The penalty must be assessed for each day the report was late, and may continue until a corrective action plan is approved by the program administrator.

(ii) Subsequent fines imposed on the service provider during the same calendar year must be at the rate of seventy-five dollars per day for each juvenile involved in a violation that was not reported as required. The penalty must be assessed for each day the report was late, and may continue until a corrective action plan is approved by the program administrator.

(c) Order to stop placement until a corrective action plan is submitted, approved by the program administrator, and implemented.

(d) Termination of the contract for convenience if it is determined such termination is in the best interests of the department.

[Statutory Authority: RCW 13.40.460 and 72.05.150. 03-03-070, § 388-730-0090, filed 1/15/03, effective 2/15/03. Statutory Authority: Chapter 72.05 RCW. 00-22-019, amended and recodified as § 388-730-0090, filed 10/20/00, effective 11/20/00. Statutory Authority: RCW 72.05.400, [72.05.]405, [72.05.]410, [72.05.]415, [72.05.]425, [72.05.]430, [72.05.]435, [72.05.]440, 74.15.210, 13.40.460 and [13.40.]480. 98-18-056, § 275-46-090, filed 8/31/98, effective 9/1/98.]