

CR 81-133

CERTIFICATE

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STATE OF WISCONSIN)
)
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Donald E. Percy, Secretary of the Department of Health and Social Services and custodian of the official records of said department, do hereby certify that the annexed rules relating to planning for youth whose legal custody is transferred to the department for correctional purposes were duly approved and adopted by this department on August 24, 1982.

I further certify that said copy has been compared by me with the original on file in this department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the department at the State Office Building, 1 W. Wilson Street, in the city of Madison, this 24th day of August, A.D. 1982.



Donald E. Percy, Secretary
Department of Health and Social Services

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ORDER OF THE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
ADOPTING RULES

To create HSS 331, planning for youth whose legal custody is transferred to the Department of Health and Social Services for correctional purposes.

Analysis Prepared by the Department of Health and Social Services

These rules provide for the initial planning decisions to meet the needs of youth in the legal custody of the Department and for ongoing decision-making relating to a youth's program. This chapter includes rules on purpose of planning, applicability, definitions, purposes and duration of reception, orientation during reception, orientation upon transfer or placement in alternate care, evaluation during reception, procedure for joint planning and review conference at the conclusion of reception, criteria for planning, implementation of plan, program assignment, procedure for review, treatment review, transfers, and parole planning.

Pursuant to the authority vested in the Department of Health and Social Services by s. 227.014(2), Stats., the Department of Health and Social Services hereby adopts rules interpreting s. 46.03(1), (4), and (6) and ch. 48, Stats., as follows:

SECTION 1. Chapter HSS 331 of the Wisconsin Administrative Code is created to read:

The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, as provided in s. 227.026(1), Stats.

Dated: 8-24-82

Department of Health and Social Services

By: _____

Donald E. Percy
Secretary

SEAL:

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF CORRECTIONS

CHAPTER HSS 331

Planning for Youth in
Correctional Custody

August, 1982

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HSS 331.01 PURPOSE.

Planning for youth in Wisconsin corrections shall be consistent with s. 48.01, Stats. The following goals are relevant to the fulfillment of the purposes stated in that section:

- (1) To identify the short term and long term needs of each individual youth and to individually care for, treat, and motivate that youth in a manner that meets those needs, while maintaining the least possible restriction on a youth's liberty;
- (2) To provide for the degree of care and control of a youth required for protection of the public;
- (3) To provide a safe, human, caring environment designed to foster normal mental and physical growth and development by giving each youth the opportunity to:
 - (a) Enhance individuality and self respect;
 - (b) Have privacy;
 - (c) Develop intellectual and vocational abilities;
 - (d) Retain family and other personal ties;
 - (e) Express cultural identity;
 - (f) Relate and socialize with peers;
 - (g) Practice religious beliefs;

- (h) Explore political, social, and philosophical ideas;
 - (i) Have a nutritious and varied diet;
 - (j) Receive dental and medical care;
 - (k) Have a choice of recreational activities; and
 - (l) Be safe from physical and psychological attack and abuse;
- (4) To insure that all youth have access to educational services, opportunities, and programs required for their individual needs, consistent with available resources;
- (5) To undertake early planning for each youth and maintain continuity of planning throughout the time a youth is under the custody of the department of health and social services to achieve the goal of successful reintegration into the community;
- (6) To provide opportunities for counties to be involved and to undertake responsibility in cooperation with the division for information-gathering and service delivery to youth in the division's custody; and
- (7) To assure fairness in the treatment of youth by maintaining flexibility for correctional staff to supervise each youth on an individual basis, while protecting the legal right of the youth to have a hearing prior to placing severe limitations on the youth's personal freedom and other important interests.

NOTE: Youth corrections in Wisconsin is governed by ch. 48, Stats. Chapter 48 creates a responsibility for care, treatment, and education that meets the

individual needs of each youth while protecting the public interest. The emphasis on individualized treatment for youth corrections under ch. 48, stats., creates special responsibilities for the division. The entire youth correctional process must be structured to provide sufficient flexibility to allow staff to treat each youth on an individual basis, applying appropriate rewards and sanctions on the basis of individual achievement. It is important to eliminate arbitrariness and yet permit staff to make frequent individualized decisions.

This section sets out seven goals that should characterize planning for youth in Wisconsin youth corrections. These goals should be reflected in the rules throughout this chapter and all the youth rules.

Developing an individualized treatment plan for each youth requires identification of the needs of that youth. Subsection (1) states this as a goal. All planning must take into account the degree of control required for protection of the public. Subsection (1) recognizes this public protection duty and further states that the exercise of this duty should be accomplished in the least restrictive setting available given the behavior and needs of particular youth.

Subsection (3) identifies factors that are relevant to providing an environment in which youth may develop normally. This subsection fulfills the legislative purpose under s. 48.01(1)(b) and (c), Stats. The factors identified are similar to the opportunities available to youth in their own homes. They are ingredients for an environment that meets basic human needs necessary for normal growth and development. The goal of this subsection is recognized in IJA-ABA Standards, standard 4.9, infra.

It is necessary to begin treatment of youth as soon as possible to achieve successful reintegration into the community. Subsection (5) recognizes that individualized treatment is successful only if planning begins early in the process and continuity of treatment is maintained.

Obviously, fairness is a goal in the treatment of youth. The goal stated under subsection (7) recognizes that fair treatment requires that a balance be struck allowing sufficient flexibility for individualized treatment decisions, while protecting the youth against arbitrary alteration in the youth's status, placement, or personal freedom. The formal hearings required for major decisions referred to in subsection (7) are intended to fulfill the essential elements of due process. These elements are that the youth be given notice of the kind of decision about to be made, have an opportunity to be heard, and be given reasons for the decision that is ultimately made. Fairness can be achieved without unnecessary formality. Subsection (7) substantially fulfills the due process recommendations for youth corrections contained in Institute of Judicial Administration - American Bar Association, Juvenile Justice Standards Project, Standards Relating to Corrections Administration, (1980) (hereinafter "IJA-ABA Standards") standard 4.5; and s. 48.01(1)(a), Stats.

HSS 331.02 APPLICABILITY.

This chapter applies to the department of health and social services and every youth whose legal custody is transferred to it under s. 48.34(4m), Stats. Legal custody is defined in s. 48.02(12), Stats. This chapter is adopted under the authority of s. 227.014(2), Stats., and interprets ch. 48 and s. 46.03(1), (4), and (6), Stats.

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HSS 331.03 DEFINITIONS.

The definitions in chs. HSS 333 and 337, Wis. Adm. Code, apply to this chapter.

In addition:

- (1) "Alternate care" means the status of a youth released to a child care facility, group home, foster home, or relative foster placement.
- (2) "Cottage" means a residential unit to which a youth is assigned while in a correctional institution.
- (3) "Designated receiving center" means Lincoln Hills School or Ethan Allen School. These are the receiving centers for all youth committed to the division.
- (4) "Housing unit" is a housing facility to which a youth is assigned while in an institution.
- (5) "Institution" means a correctional institution for youth which is operated by the division, such as Lincoln Hills School or Ethan Allen School.
- (6) "JORP" means the juvenile offender review program of the department of health and social services which is responsible with the JPRC for reviewing the youth's status upon institutional commitment for program

purposes and for determining when a youth is ready for aftercare status.

- (7) "JPRC" means the joint planning and review committee which makes short-term and long term planning recommendations for youth. Voting members consist of an institution representative, a representative of a county department or an agent representing field staff or both, and a JORP representative. The program review coordinator is a nonvoting chairperson. A member of the education staff attends to inform the committee of the educational needs of the youth.
- (8) "Program review coordinator" or "PRC" means the division's staff person responsible for coordinating activities of key decision makers and others in carrying out planning for youth, or that person's designee.
- (9) "Reception" means the initial process upon admission of the youth for orientating and evaluating the youth, and developing an interim plan for him or her.
- (10) "Superintendent" means the head of a correctional institution for youth, or that person's designee.

HSS 331.04 PURPOSES AND DURATION OF RECEPTION.

- (1) The purposes of reception are the following:
 - (a) To verify the legal authority to detain the youth;
 - (b) To notify the family of the youth that the youth has been admitted;
 - (c) To conduct a comprehensive assessment of the youth's social background, court disposition, court report under s. 48.33, Stats., and academic and vocational achievements;
 - (d) To evaluate and make recommendations for the short and long term academic, vocational, medical, dental, social, psychological, and security needs of the youth;
 - (e) To provide orientation to the programs and rules applicable to the youth;
 - (f) To promote the social reintegration of the youth through planning which aids the youth to use available resources effectively, develop socially acceptable life goals, and permits correctional staff to make efficient use of available resources;
 - (g) To provide answers to questions a youth may have;

- (h) To assist youth in notifying their families of their admission and the procedures for mail and visiting;
 - (i) To assign the youth to a housing unit; and
 - (j) To develop an interim plan for the youth for the reception period.
- (2) The reception period for a youth should be completed within 21 days from the date a youth arrives at a designated receiving center. In no case may the reception period be longer than 35 days from the date a youth arrives at the center.

NOTE: Every youth whose legal custody is transferred to the department is admitted to the receiving center designated by the court for orientation, evaluation, plan development and assignment to an institution or expeditious placement in alternate care. These purposes of reception substantially conform to American Correctional Association Manual of Standards for Juvenile Detention Schools and Services (1979) (hereinafter "ACA Juvenile Standards"), standards 9447, 9448, 9449 and 9452.

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HSS 331.05 ORIENTATION DURING RECEPTION.

(1) The purposes of orientation are:

- (a) To initiate the correctional process in a constructive and positive manner;
- (b) To communicate to the youth the objectives of the correctional process;
- (c) To motivate the youth to involve himself or herself in the correctional process constructively; and
- (d) To communicate to youth the commitment of the whole staff to the achievement of these correctional objectives and of their desire to help youth achieve these and other appropriate life goals.

(2) Orientation shall include oral information communicated to youth which:

- (a) Describes programs available to the youth in institutions and the field;
- (b) Identifies the criteria used in development of a long-term treatment plan and for assignment to programs along with privileges that can be earned or withdrawn;

- (c) Explains the procedure and criteria for transfer;
- (d) Explains the procedure and criteria for release to aftercare;
- (e) Describes the resources and activities available to youth within the contemplated program;
- (f) Explains the rules of conduct for the total institution and the individual cottages as well as the procedures and other rules the youth is required to observe;
- (g) Describes the mechanisms available for youth input into:
 - 1. Planning for his or her own treatment, program, and placement;
 - 2. Administration and staff evaluations;
 - 3. Amendment or repeal of rules; and
 - 4. Procedures; and
- (h) Explains the grievance procedure under ch. HSS 340, Wis. Adm. Code.

- (3) Information under sub. (2) shall be made accessible to youth.
- (a) Each youth shall receive a copy of the rules of conduct that the youth is required to follow at the institution in which he or she resides, the cottage in which he or she is placed, and the school.
- (b) There shall be available for inspection during reception and thereafter written materials containing all the information required to be communicated during orientation under sub. (2), the administrative rules of the division and any available institutional handbooks.
- (c) A recording of the rules of conduct for the institution and the mechanisms available for youth to get input to and feedback from staff and administration as described in sub. (2)(g) and (h), shall be made available to the youth for listening. These recordings shall be in Spanish and English.
- (4) Handicapped youth shall be provided with an orientation program that communicates the information specified in sub. (2), in accordance with their particular needs.
- (5) Orientation sessions may be led by youth, with approval of the superintendent.

NOTE: No time may be more important to the young person in determining later attitudes and patterns of behavior than that person's first weeks in the institution.

A youth is encouraged to participate in planning for the short and long term decisions affecting him or her. Meaningful participation by youth in setting their goals and objectives and taking advantage of opportunities in the system obviously requires an understanding of what is available.

Oral orientation is essential for youth because many youth have reading disabilities that could prevent them from obtaining information necessary to successfully participate in planning for their future or learn what is expected of them. Subsection (2) lists several areas of oral orientation that are required and section (3) provides that information communicated must be written. As a practical matter, the oral orientation may be the only effective means of fulfilling the purposes under subsection (1). It is important for staff to recognize this and encourage youth to ask questions of any staff member throughout the time they are in custody.

Subsection (3)(c) requires that the rules of conduct the youth is required to observe and the mechanisms available to the youth for input and feedback to staff and administration to be recorded and available to the youth for listening. These recordings are akin to an oral presentation, but do not replace oral communication. Rather, they additionally aid youth who may have trouble reading, or for whom English is not the native language. The information should be transmitted to the youth in a manner that fosters understanding in their native language, if necessary.

Orientation is a time for youth to learn what staff expects of them and what the youth can expect. It is an opportunity for informal questions and answer periods, to clarify policy, elaborate on points, and stress particularly important areas.

Subsection (3)(a) requires that each youth receive a written copy of the disciplinary rules. This policy was adopted because these rules are of such immediate importance to youth that they need a ready reference source. Other policies must be available in writing under subsection (3)(b), so a youth can use them to better understand areas of interest.

The written policy governing orientation under this section substantially conforms to standard 8343, ACA Juvenile Standards. Youth are not required to sign a statement documenting completion of orientation, considered essential under ACA Juvenile Standards, Standard 9450, because the division considered this requirement unnecessarily coercive and, therefore, undesirable.

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HSS 331.06 ORIENTATION UPON TRANSFER OR PLACEMENT IN ALTERNATE CARE.

- (1) When a youth is transferred from one institution to another, or placed in alternate care, the youth shall receive orientation at the institution or alternate care site in which the youth is placed. This orientation shall include:
 - (a) An oral description of the programs available at the institution or alternate care placement site;
 - (b) A copy of the rules of conduct the youth is required to observe, and an oral summary of them; and
 - (c) A description of appropriate channels for input and feedback to staff on youth needs, staff's procedures, and formal grievance procedure, when appropriate.
- (2) There shall be available for inspection by each youth a written description of the programs available at the institution or alternate care site.

NOTE: Youth are transferred from one correctional institution to another or placed in alternate care at the end of reception and at other times. Orientation which is specific to the alternate care placement site or institution is required under this section. Although the youth will receive a general orientation under HSS 331.05, he or she will need to be informed more specifically of the particular requirements of the new institution or alternate care placement site. Correctional staff should be responsible to see that an orientation for placements in alternate care is conducted.

HSS 331.07 EVALUATION DURING RECEPTION.

(1) PURPOSE OF EVALUATION. Every youth admitted to a designated receiving center shall be evaluated to determine the needs of the youth so that a plan most beneficial for meeting those needs can be prepared.

(2) EVALUATION AT RECEIVING CENTER.

(a) The following examinations and evaluations of the youth shall be made at the receiving center:

1. Institution evaluation, including but not limited to, psychological and educational testing and the consideration of the youth's perceptions or explanations, unless the youth refuses to provide them;
2. Physical examination by the division of health;
3. Examination and evaluation of the youth's adjustment while in the designated receiving center and effective intervention and resulting growth observed; and
4. Other examinations considered desirable for individual youth.

(b) Following examination and evaluation under par. (a), a written recommendation for education, treatment and placement shall be made by staff conducting the examination and evaluation.

- (c) The results of the examinations and evaluations under par. (a) along with the recommendations made under par. (b) shall be included in the reception center admissions report which shall be forwarded to the JPRC.

(3) EVALUATION BY FIELD STAFF OR COUNTY WORKER.

- (a) For every youth admitted to a designated receiving center, a report shall be prepared for the JPRC by field staff or by the designated county worker, as appropriate, which shall consist of a field history which includes, but is not limited to, reliable information about the following elements:

1. Offense history and facts underlying the offense;
2. Prior placement history;
3. Previous physical aggressiveness, including specific underlying facts of each event and mitigating circumstances;
4. Runaway patterns, including underlying facts;
5. School history, including but not limited to, facts about truancy, special educational needs, grade achievement and other relevant matters;

6. Personal and family history; and

7. Parental and community attitudes.

(b) Field staff shall write letters introducing themselves to youth assigned to them. Field staff are encouraged to meet personally with the youth assigned to them prior to writing the evaluative report required under par. (a).

(c) The report required of field staff under par. (a) shall be completed as soon as possible but not later than 15 days after the date the youth is received at the reception center, unless an extension not to exceed 10 working days is granted by the supervisor. The supervisor shall notify the program review coordinator of any extension.

(d) In the event that a county has not provided its reported under par. (a) within 14 days of the youth's arrival at the designated receiving center, the program review coordinator shall remind the county to submit the report.

NOTE: This section requires an evaluation of all youth whose legal custody is transferred to the division in order to determine the correct placement for each youth. It interprets s. 48.50, Stats. In making the evaluation required under this section the department, under s. 48.50(1), Stats., may use any facilities, public or private, which offer aid to it in the determination of the correct placement for the child.

The information compiled during examinations under subsection (2) must be written in a report. This report is used to provide background factual information for the planning decision under HSS 331.08(3)(e). Under subsection HSS 331.07(3) staff conducting the examinations must also make a recommendation for the appropriate overall plan and a specific placement for the youth. This gives the joint planning and review conference a perspective of how staff view the youth. For example, the field agent may consider certain facts more or less important than an institution staff member will, and it is up to the JPRC to make a final recommendation based on the various perspectives offered by the staff, the youth, and the youth's parents.

This section substantially conforms to ACA Juvenile Standards, standard 9449.

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HSS 331.08 JOINT PLANNING AND REVIEW CONFERENCE AT THE CONCLUSION OF RECEPTION
AND PLANNING AND REVIEW PROCESS FOR YOUTH REMAINING IN INSTITUTIONS.

- (1) As soon as possible after receipt of the reports referred to in s. HSS 331.07(2)(c) and (3)(a), the joint planning and review committee (JPRC) shall be convened to make planning recommendations.

- (2) In a timely manner, prior to the joint planning and review conference, JORP shall notify the youth's field representative, the program review coordinator, institution representative, county representative, institution education representative, the youth and the youth's parents of the date, time, and place of the conference. In addition:
 - (a) Notice to the youth shall be written and include the date, criteria for review, the issues to be considered, the fact that the youth has a right to appear unless the youth's conduct becomes a physical danger to self or others or severely disruptive, and a statement encouraging the youth to work on a plan with specific goals to be presented in writing or verbally at the JPRC. The written notice shall be read and explained to the youth by a staff member. Staff members shall encourage youth to seek staff help in formulating these specific goals.

 - (b) The youth's parents shall be informed of their right to be present at the scheduled conference and encouraged to contribute ideas for planning for the youth.

- (3) The procedure for the joint planning and review conference shall be as follows:
- (a) The program review coordinator or designee shall act as chairperson of the conference and convene the JPRC. The PRC shall explain the purposes of the JPRC and introduce members to those in attendance. The JPRC shall review the reception center admissions report and the field report, and orally discuss their concerns.
 - (b) The parents, if present, shall be invited to appear before the JPRC to present ideas and suggestions regarding planning. The JPRC members may ask the parents questions.
 - (c) The youth shall have the opportunity to appear. The youth shall be given the opportunity to discuss his or her desires. Each participant may question the youth. In the event the youth is unable to represent himself or herself, the institution social worker shall act as an advocate.
 - (d) The parents and the youth shall be seen separately and may be seen jointly if the JPRC determines that this would be helpful.
 - (e) The JPRC shall develop recommendations under pars. (f) and (g), applying the criteria of s. HSS 331.09 to the particular facts of the case in a manner consistent with the goals of s. HSS 331.01. The recommendations shall be made after participants discuss the relative merits and points of parallel thinking, conflicting

opinion and differing approaches in an attempt to meet consensus. The recommendations shall include an immediate, transitional, and long range plan with tentative timelines for each phase during the term of the youth's commitment. The youth and parents shall receive a copy. The youth and the youth's parents shall be given an oral explanation of the recommendation. The recommendations shall be forwarded to JORP and the division for action and distributed to all members of JPRC.

- (f) 1. The JPRC shall make recommendations to JORP under par. (e) concerning:
- a. Placement of the youth in an institution, alternate care, foster care or own home; and
 - b. Whether a recommendation should be made to the court concerning extension of the dispositional order.
2. A unanimous recommendation of the JPRC is in effect a decision because JORP, the final decisionmaker, is part of JPRC.
3. If there is disagreement among JPRC members regarding JPRC recommendations under subd. 1, JORP shall make the final decisions on the issues.

- (g) 1. The JPRC shall establish program goals and objectives within the context of existing resources and shall make recommendations to the institution under par. (e) concerning:
- a. Services and intervention strategies;
 - b. Clinical evaluation;
 - c. Special program needs. In this connection, the JPRC may recommend placement in a program for treatment of runaway and passive resistance patterns as described in s. HSS 333.79, Wis. Adm. Code, if the program is housed somewhere other than in a security cottage, or placement in a program for extremely dangerous youth as described in s. HSS 333.82, Wis. Adm. Code, if the youth is in administrative confinement under ch. HSS 334, Wis. Adm. Code, during reception;
 - d. Transfer to mental health facility;
 - e. Furlough;
 - f. Trial visit;
 - g. Work and school program; and
 - h. Inter-institution transfer.

2. Decisions on JPRC recommendations under subd. 1.a. to c. and e. to g. shall be made by the institution. Any member of the JPRC may appeal a decision of the institution to the superintendent of the institution, and thereafter, if need be, to the director of the bureau of juvenile services for final resolution.
 3. Decisions on JPRC recommendations under subd. 1.d. shall be made by the department. Decisions on JPRC recommendations under subd. 1.h. shall be made by the director of the bureau of juvenile services.
- (4) If the recommendations and decisions made under sub. (3)(f) and (g) are unobtainable after implementation is attempted under s. HSS 331.10, this shall be documented and referred to the JPRC. Any JPRC member who believes it is necessary may ask the JORP representative to schedule a JPRC meeting in advance of the next regularly scheduled JPRC meeting.
- (5) The question of extensions of custody shall be initially considered by the entire JPRC at least 90 days prior to expiration of commitment when practicable. JORP has final decision-making authority.
- (6) Every 90 days there shall be a JPRC review under ss. HSS 331.13 and 331.14.

NOTE: The reception planning and review conference is a significant decision making point for the youth. The long-term, transitional and immediate placement decisions are made at this conference. The procedure for the conference is contained in this section. The criteria for the decision are contained in HSS 331.09.

HSS 331.08 reflects a conscious effort to design a fair decision making process that provides the youth with notice of what is to be considered, an opportunity to be heard on the issues being decided, the decision, and the reasons for it. The process contains the essential elements of due process. It is designed to involve the youth in planning for his or her future in a constructive manner, free from reliance on adversary proceedings. Experience in youth corrections teaches that unduly adversary procedures involving right to call witnesses, cross examination, and legal assistance seriously detracts from the correctional process immediately confronting the youth and frustrates goals of institutional adjustment and successful reintegration into the community. The process is also designed to include all who can and should contribute to informed planning.

It is desirable to have the youth involved in planning, for he or she may have essential information, present accurate facts not reflected in the reception center admissions report, and may develop amenability to treatment due to involvement in planning.

The process provides the basic concepts of due process and formality recommended by IJA-ABA Standards, standard 4.5 and ACA Juvenile Standards, standards 9458 and 9459.

HSS 331.09 CRITERIA FOR PLANNING.

The criteria for long-term planning, the transitional plan, and immediate placement of the youth shall include only the following:

(1) Offenses:

- (a) Nature and severity of the offense for which the youth was adjudged delinquent, including underlying facts and mitigating factors, and
- (b) Prior offenses and behavioral history, including date of occurrence, judicial processing determination, other disposition, and consideration of underlying facts and mitigating factors;

(2) Prior placement history;

(3) Physical aggressiveness;

(4) Runaway pattern. Evaluation of the significance of this pattern shall be weighed in relation to the severity of the offense under sub. (1) to determine potential risk to youth and members of the public, and the youth's perception of the reasons for running, the circumstances in the past in which the youth has chosen not to run from or stay at a placement, and the reasons for this choice;

(5) Needs, including need for treatment, education, and medical attention. Evaluation of needs shall include consideration of whether a youth's positive development would be fostered through:

- (a) Enhancement of the youth's survival skills;
 - (b) Achievement of educational goals of a remedial, academic, or vocational nature;
 - (c) Development of job skills and work habits;
 - (d) A higher level of emotional maturity and impulse control;
 - (e) A significantly higher degree of tolerance and acceptance of authority;
 - (f) Increasing the youth's ability to form and maintain positive present and future close interpersonal relationships;
- (6) The youth's attitude toward the offense, motivation for the offense, and the rehabilitation process;
- (7) The youth's perception of needs;
- (8) Effective interventions and resulting growth observed;
- (9) The youth's conduct and adjustment in the reception center;
- (10) Reintegration alternatives into either the family unit or another stable living arrangement; and
- (11) Agent's and county representative's estimate of community receptivity to the youth.

NOTE: HSS 331.09 sets forth the only criteria which may be used to make the decisions under HSS 331.08(3)(e) about the components of the long-term, transitional, and immediate placement for the term of the youth's commitment.

Under sub. (1), underlying facts may be more important for correctional decisions than the label put on the offense. For example, whether an offense posed physical danger to another can be considered and may be important.

Prior placement history is significant because the statutory policy of choosing the least restrictive alternative consistent with protection of the public requires an evaluation of whether those placements are appropriate to the youth's needs. Subsection (2) makes this history relevant for planning.

Subsection (3) makes physical aggressiveness a criterion. Experience indicates that there are very few placement settings that can handle the aggressive youth. Consequently, when hyper-aggressiveness is identified as a significant behavior problem, assignment to an institution may be most appropriate. This factor like others, however, must be carefully assessed to assure that there is a truly demonstrable behavior pattern of physical aggressiveness. If circumstances indicate an isolated instance, efforts to determine if there was a high degree of provocation involved should be made. The latter analysis may provide a clue as to the probability of future acts occurring at some other placements.

A runaway pattern under subsection (4), like aggressiveness, is very difficult for many placement settings to handle. It is, therefore, a significant criterion, especially when viewed in relation to the threat the youth poses to protection of the public.

Subsection (5) makes rehabilitation needs a relevant factor in planning because the primary goal of youth corrections is to change attitudes, values, and behavior so a youth's chance of becoming further involved in delinquent activity

is reduced and he or she has a better chance of reintegration into the community.

The youth's attitude toward the offense, motivation for the offense, and attitude towards the rehabilitation process are relevant. If a youth shows no remorse and believes that the rehabilitation process has no value, that person may require closer supervision. Subsection (6) permits these factors to be considered.

The youth's perception of needs sometimes determines his or her attitude toward the offense and the rehabilitation process. Subsection (7) recognizes this concern. A youth who readily accepts responsibility for his or her behavior and acknowledges the benefits of appropriate programming may be a youth ready for progressive programming.

The youth's conduct and adjustment in the reception center is a criterion under subsection (9). The reception center offers the first opportunity to observe a youth's adjustment to correctional institutionalization. Positive adjustment may indicate a willingness to accept the correctional rehabilitation process. Youth who develop leadership roles may be encouraged to develop these skills to enhance their own self concept and to further overall institution treatment goals. Negative adjustment may indicate that a highly structured and supervised program of high security is best for the youth, though this is not always true.

Given the importance of the family unit to normal growth and development, a primary goal of planning efforts is to assure preservation and strengthening of the family unit. The assessment of the family prepared under HSS 331.07(2) and (3) for the JPRC is critical in the development of a plan relative to the potential for and possible time of return to the family home. Subsection (10)

makes this a significant factor in the planning decision. This is consistent with the legislative purpose of s. 48.01(1)(b), Stats. The importance of parental attitude toward reintegration into the family cannot be overemphasized. Where there is parental rejection, a plan is to be developed to help the youth deal with this fact, so the youth can be helped to an alternate placement. If a family is seen to possess the desire and necessary strengths for reintegration, a plan is to be developed which provides the youth and parents with knowledge and skill necessary to give the youth direction, control, and support to avoid future involvement in delinquent activity.

Subsection (11) permits perceived community attitudes to be considered in deciding what plan is in the best interests of the youth. Since return to the home is a goal, the community in which the home is situated can have a positive or negative affect on reintegration. Where the effects of negative attitudes would directly affect the youth's adjustment, consideration would need to be given to planning other placement options. For example, if the youth wants and needs to complete his or her education, and the school personnel attitudes are very negative and can't be changed, the youth's chances of successful reintegration into school would be severely handicapped. In such circumstances the most appropriate planning decision may be to consider alternate placements to integrate the youth in a positive atmosphere.

The specification of criteria conforms to ACA Juvenile Standards, standard 9458.

HSS 331.10 IMPLEMENTATION OF PLAN.

- (1) The plan recommended under s. HSS 331.08(3)(e), as approved, shall be implemented as soon as possible.
 - (a) If immediate placement in an institution is planned, the superintendent or designated institution programming authority shall implement the appropriate plan recommended and approved under s. HSS 331.08.
 - (b) For other than interdepartmental transfer, if immediate placement outside the institution is planned, an individual responsible for implementation of the plan shall be designated at the time the recommendation is made.
- (2) If the recommended placement is not obtainable within 30 days from days from the date of the decision:
 - (a) The staff person with implementation responsibility shall notify JORP in writing of this fact and the reasons. The institution shall be notified, either in writing or by phone, and the institution is responsible for informing the youth of the fact and the reasons. JORP shall see that the information provided is shared with the appropriate division personnel and county representative; and

- (b) The youth shall stay at an institution while the state agent or county worker continues to attempt placement in the category decided upon. In such cases the institution program staff shall attempt to fulfill the goals and elements of the plan that can be fulfilled at the institution consistent with available resources.

NOTE: When the decision by the JORP is to release a youth to alternate care, the responsible party must find a specific placement that fulfills the general specifications of the decision. However, actual placement in a group or foster home or child caring institution cannot be accomplished without acceptance of the youth by the home or institution. If, for example, a particular group home of the type specified in the planning decision will not accept a youth, the responsible party must attempt to find another group home that offers the specifications contained in the plan. Other examples which may prevent implementation are as follows:

- 1) the unique nature of the child's needs, with background;
- 2) identifiable gaps in the service system;
- 3) lack of or capacity filled alternatives;
- 4) need for additional time;
- 5) need for additional intensive family work before or concurrent with the youth's return which is unavailable;
- 6) other identifiable reasons; or
- 7) unidentifiable reasons with justification for this designation.

If the responsible party is unsuccessful in finding any placement within 30 days of the recommended decision under HSS 331.08(3)(e), the responsible party must document the reasons and notify the appropriate parties under subsection (2)(a).

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HSS 331.11 INSTITUTION PROGRAM ASSIGNMENT.

This section applies only to individual programs within an institution. Institution staff shall carry out application of the criteria under sub. (2).

- (1) Unless an emergency exists, each youth shall be offered a program assignment consistent with available resources, security needs, interests, and abilities of the youth, and the treatment goals.
- (2) The criteria for assigning a youth to a program and keeping him or her in a program shall include only the following:
 - (a) The criteria for planning under HSS 331.09.
 - (b) The youth's individual abilities, interests and limitations, including the youth's:
 1. Institutional adjustment;
 2. Past performance in programs; and
 3. Past community adjustment.
 - (c) The level of security required.
 1. Institution staff may assign a youth to the program for extremely dangerous youth described in s. HSS 333.82, Wis. Adm. Code, upon receipt of reliable information that the

youth is implicated in a particularly violent physical offense which occurred prior to the youth's reception at the institution.

2. The placement in subd. 1. by institution staff shall be reviewed by the JPRC within 21 days, either in formal conference or via written or telephone consultation.
- (3) The institution shall review program assignments and make new assignments as appropriate under the criteria in sub. (2).
Assignments are reviewable by JPRC under s. HSS 331.14.

NOTE: Whereas a plan may call for the youth to go to school part-time and work part-time, the program assignment will be to a specific job and course of study. Every youth is eligible under this section for any school, vocational, job or other program within the youth correctional system, provided he or she is appropriately placed. The goal of having sufficient resources so every youth has an opportunity to participate in programs that meet individual needs is implicit. However, population pressures and particular security needs may make this difficult.

HSS 331.12 TREATMENT REVIEW.

- (1) Every youth placed in an institution and assigned to a housing unit shall be reviewed and evaluated by the institution. This review may be made by a person designated by the institution or may be made by a treatment team within the living unit. Subsequent progress reviews shall occur at least once a week.

- (2) The purposes of treatment review are:
 - (a) To provide systematic review of the youth's needs and progress toward fulfillment of the goals of the treatment plan;

 - (b) To establish an individual program for each youth assigned to a living unit and to review the youth's progress towards fulfilling the objectives of the program;

 - (c) To decide the specific privileges the youth is to receive within the living unit and make changes in the level of privileges based upon the youth's behavior, attitude, interests and progress in attaining treatment goals; and

 - (d) To recommend to the JPRC or other programming authority major program changes for the youth.

- (3) (a) Every living unit within an institution is encouraged to form a treatment team. A treatment team shall consist of regular members of the education staff, residential care staff, and social work staff directly in contact with the youth.
- (b) Decisions of the treatment team shall be by majority vote.
- (c) All decisions of the treatment team shall be in writing with reasons for the decision together with the underlying facts upon which the decision was based. A youth shall be informed of the decision.
- (d) The youth shall be present at the initial meeting of the treatment team. The youth may be present at the subsequent meetings at the discretion of the treatment team. If the youth is not present, the youth shall have the opportunity for input.
- (4) Any member of the treatment team or person designated to do treatment review may suspend a part of the youth's cottage privileges until the full team has had the opportunity to review the suspension at the next meeting.
- (5) A youth is encouraged to and may talk to any member of a treatment team about any factor the youth considers relevant for a decision by the team. A youth may request early review by the team.

NOTE: Following a decision under HSS 331.13 and 331.14, every youth must be evaluated by the institution. This may be done at a treatment review in the living unit to which the youth is assigned to determine the appropriate specific

program needs of the youth. The day to day program decisions are made at the treatment review. The specific elements of the cottage program appropriate for each youth differ and the progress of each youth within the cottage program is based upon individual achievement. Consequently, those persons who work with the youth on a day to day basis must make immediate decisions about the youth's program.

Experience with youth teaches that adjustments in the specific program privileges based upon the youth's accomplishment of specified goals must be made in a short period of time following the demonstrated improvement. Youngsters perceive time spans much differently than adults. If progress and good behavior are to be rewarded by increased privileges in a cottage, for example, that decision must be made quickly for it to be relevant to the youth and for it to be a positive correctional decision. The same principle holds true for determination and consequent privilege withdrawal. This difference between youth and adults necessitates the involvement of a treatment team or other institution program authority in specific programming on a weekly basis and sometimes more frequently.

The purposes of the treatment review are set forth in subsection (2). These are similar to the purposes of the JPRC programming except for the more specific nature of the treatment review decisions. The treatment review makes specific decisions within the program recommended by the JPRC and decided upon by the institution programming authority. Staff making the treatment review and implementing the overall treatment plan should work closely with the JPRC and may recommend that the JPRC meet to review major changes in the youth.

Subsection (3) requires the people making the treatment review to include regular members of the education, residential care, and social work staff.

Regular involvement by one individual from each of these areas is required so that the members are familiar with the progress of each youth. In this way they will know each youth as an individual and be better able to make decisions affecting that person. Subsection (5) states that youth may talk to members and encourages them to do so. Since a youth has no right to appear at the meeting, personal conversation with members insures that the youth's opinions may be expressed.

Treatment review substantially complies with ACA Juvenile Standards, standard 9457.

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HSS 331.13 JPRC REVIEW.

(1) Every youth who remains at an institution by a decision of the juvenile offender review program (JORP) shall be reviewed and evaluated by JORP or by the full JPRC under HSS 331.08, which shall make recommendations to JORP and the division relative to the goals under s. HSS 331.01, the criteria of ss. HSS 331.09 and 331.11(2), and the treatment plan. Progress review shall occur not more than 90 days from the initial planning and review conference or a previous review.

Any member of the JPRC may request a conference to review recommendations made concerning the youth's plan. The JORP representative shall schedule the conference.

(2) The purposes of the progress review are:

- (a) To provide systematic review of the youth's needs and progress toward fulfillment of the goals of the treatment plan provided that the youth had reasonable access to staff resources necessary to meet the goal;
- (b) To recommend institution program placement, changes in placement, and release recommendations consistent with the original plan;
- (c) To recommend placement changes following evaluation;
- (d) To provide recommendations regarding security needs; and

- (e) To make recommendations for placement in specialized treatment units within the institution in concert with appropriate staff in the treatment unit.
- (3) JORP may schedule a progress review earlier than the designated 90 days:
- (a) At the request of a JPRC member; or
 - (b) At the request of the youth or a parent, provided there is a significant change of circumstances and it is approved by JORP. The youth's request for early review shall be made to the youth's social worker who shall forward it to JORP. A parent's request shall be made to the county representative or the JPRC or to the institution social worker, who shall forward it to JORP.
- (4) Reviews under this section shall be conducted after receiving relevant input from the following sources:
- (a) The institution representative who shall provide accurate information received relative to residential care and treatment;
 - (b) A member of the education staff at the institution who shall provide information and recommendations about education;
 - (c) The state or county agent who shall provide information about the family and the community; and

(d) Other parties who have requested and received approval from JORP.

NOTE: Subsection (1) requires the JPRC to review and evaluate every youth who is placed in an institution. This review is necessary to properly implement the decision by deciding which institution programs, security needs and treatment needs are consistent with the conference committee's decision. Subsequent progress reviews are required under subsection (1) to enable the JPRC to periodically evaluate the extent to which the decisions made about the youth are consistent with the long term plan for the youth.

When a major change in a youth's institution program is implemented, the JPRC shall be notified through progress summaries. Day to day decisions about cottage life and privileges the youth is entitled to are made under the superintendent's authority under HSS 331.12 by the treatment team or some other institution programming authority.

Because it is essential that program review be meaningful and that there be informed decision makers, it is required under subsection (4) that the programming authority obtain relevant information from the designated staff.

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HSS 331.14 PROCEDURE FOR JORP OR JPRC REVIEW.

- (1) Before a youth is reviewed by JPRC or JORP under s. HSS 331.08 or s. HSS 331.13, the youth's social worker shall interview the youth and inform the youth orally of the approximate date of evaluation, the applicable criteria, the facts to be considered, and the fact that the youth has an option to appear.
- (2) Prior to the scheduled review, the institution representative shall make a written recommendation to the JPRC as to appropriate immediate and long-term action, making use of information about the youth received from the treatment team including staff in the areas of residential care, social service, education, health care, the field and any other relevant source. The institution educational representative or designee shall make a written recommendation about education.
- (3) The youth shall be properly informed and given the opportunity to be heard during the review.
 - (a) The youth shall be informed of the facts being considered, the criteria for decision making, and the recommendation of the institution representative and educational representative.
 - (b) The youth has a right to present additional facts, dispute facts being considered and state an opinion of the appropriate action to be taken.

- (4) The criteria to be applied are those under ss. HSS 331.09 and 331.11(2).
- (5) The recommendation shall be made by those members participating in the review.
 - (a) The JORP reviewer, or each JPRC member in the case of a JPRC conference, shall state specifically what his or her position is.
 - (b) Recommendations for placement in specialized cottages or treatment programs within the institution also require approval of the appropriate staff in the treatment unit.
- (6) JORP shall make the decision to place the youth in an institution, alternate care or own home.
- (7) Written copies of the decision shall be given to the youth and shall include the specific facts relied upon and the criteria applied to those facts in reaching the decision.

NOTE: JPRC and other reviews have a substantial impact on the life of a youth and may be significant in a release decision. Therefore, the role of the institution representative in explaining the process to the youth is crucial to the youth's developing an understanding of the process and the kind of recommendation being made.

The entire procedure under this section is designed to promote fairness in making these important decisions about youth. This effort is reflected in

subsections (1) to (6) by the requirements of subsections (1) and (3)(a) about notice and explanation of the review; the fact in subsection (3)(b) that the youth may be present and dispute facts, state an opinion and present additional facts; and the requirement in subsection (7) that decisions with specific facts and criteria relied upon must be written and given to the youth.

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HSS 331.15 TRANSFERS.

- (1) Transfer from one division facility to another requires the approval of the director of the bureau of juvenile services upon recommendation of the JPRC. If transfer is to a facility other than Lincoln Hills School or Ethan Allen School, the programming authority of a receiving division facility or the appropriate authority of a public or private service provider utilized by the division facility may reject the transfer.
- (2) No youth may be transferred prior to completion of the planning conference under s. HSS 331.08 except as provided in sub. (5)(a).
- (3) The criteria for transfer recommendation and decision are those under ss. HSS 331.09 and HSS 331.11(2), and the following:
 - (a) Maintaining and restoring the family unit;
 - (b) Distance from the committing county;
 - (c) Program and treatment needs of the youth;
 - (d) Capability of the receiving institution to provide needed services;

- (e) Attitude towards the treatment program at the receiving facility by youth and parents; and
 - (f) Compatibility of transfer with overall treatment plan.
- (4) (a) The JPRC may consider a youth for transfer due to a disciplinary infraction only after disposition of the disciplinary infraction is completed at a hearing held under ch. HSS 333, Wis. Adm. Code.
- (b) Before a review under par. (a), the youth has a right to a disciplinary hearing under ch. HSS 333, Wis. Adm. Code. After such hearing, the hearing officer shall forward to the institution programming authority the results and specific findings of fact relating to the alleged disciplinary violation. The institution programming authority may consider this information and shall consider all the criteria under ss. HSS 331.09, 331.11(2), and sub. (3).
- (5) (a) A youth may be temporarily transferred at any time for a medical or general security emergency under ch. HSS 336, Wis. Adm. Code.
- (b) The decision under par. (a) to transfer a youth shall be reviewed within 7 days by the programming authority of the institution from which they were transferred.

HSS 331.16 PLANNING FOR AFTERCARE.

- (1) The JPRC may recommend to JORP the release of any youth from the institution to community supervision.
- (2) A JPRC recommendation for release to community supervision shall include but is not limited to the following elements:
 - (a) Placement;
 - (b) Educational goals and programs developed in consultation with local education providers willing to participate and to participate in a timely fashion;
 - (c) Conditions of community supervision; and
 - (d) Reasons why the recommendation is consistent with the plan developed under s. HSS 331.08(3)(e).
- (3) The JPRC consideration of release to community supervision shall be as provided in ss. HSS 331.13 and 331.14.
- (4) JORP shall have final decision making authority regarding aftercare questions.
- (5) Planning for aftercare shall include and consider the views and feelings of the affected youth.

NOTE: The agent's plan should contain the agent's opinion as to whether release is appropriate. The report should include the elements required for the JPRC recommendation under subsection (2). For specific discussion of the agent's role, see ch. HSS 345, Wis. Adm. Code.

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