

## Chapter DOC 373

### YOUTH CONDUCT IN TYPE 1 SECURED CORRECTIONAL FACILITIES

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**Note:** Chapter HSS 333 as it existed on June 30, 2000 was repealed and a new Chapter DOC 373 was created, Register, June, 2000, No. 534, effective July 1, 2000.

#### Subchapter I — General Provisions

**DOC 373.01 Authority and purpose.** This chapter is promulgated under the authority of ss. 227.11 (2), 301.025 and 938.48 (16), Stats., and section 9126 (23) (e) of 1995 Act 27 to provide for rules governing the conduct of youth in type 1 secured correctional facilities operated by the department, and for the discipline of youth who violate those conduct rules. In this chapter, the department seeks to achieve all of the following:

- (1) To provide for the protection of the public, staff and youth.
- (2) To operate orderly facilities.
- (3) To deter each youth from committing further delinquent acts.

(4) To provide a uniform disciplinary process for all facilities which enhances the constructive, individualized programming for youth by doing all of the following:

- (a) Giving each youth prior notice of all conduct rules that apply to the youth.

(b) Describing all conduct rules in clear, unambiguous language.

(c) Describing all forms of discipline allowable for violations of the conduct rules.

(d) Structuring the exercise of discretion by staff in responding to youth misconduct while retaining flexibility in decision-making and preserving fairness.

(e) Ensuring that each youth is in the appropriate setting necessary to achieve the objectives of ch. 938, Stats., and that discipline be imposed only by staff designated by the superintendent to ensure fair, appropriate and consistent decision-making.

(f) Provide for routine review of the restrictions placed on a youth to assure that the restrictions are appropriately based on the seriousness of violations by the youth; the youth's subsequent behavior; and the risk posed by the youth to self, others or facility security.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00; **CR 24-040: am. (1), (2), (4) (intro.), (e), (f) Register June 2025 No. 834, eff. 7-1-25.**

**DOC 373.02 Applicability.** This chapter applies to the department and all youth who are under its supervision in a type

1 secured correctional facility consistent with the requirements of law.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 373.03 Definitions.** In this chapter:

(2) “Authorized” means any of the following:

- (a) Permitted under department rules.
- (b) Permitted under posted policies and procedures.
- (c) Permitted by staff.

(5) “Consent” means words or overt actions by a competent person indicating a freely given agreement.

(6) “Contraband” means any item or items introduced or found in the facility whether illegal or legal that are expressly prohibited by the department or facility policy.

(7) “Day” means a calendar day.

(8) “Department” means the department of corrections.

(9) “Disturbance” means any of the following that has occurred:

- (a) A group disturbance.
- (b) An incident, as defined in s. DOC 376.03 (16).
- (c) A youth has taken a hostage.

(10) “Facility” means a type 1 juvenile correctional facility, as defined in s. 938.02 (19), Stats.

(10m) “Group disturbance” means the disruption or interference of normal facility operations resulting from 3 or more youth participating in actions, threats, demands, or suggestions to advocate disruption or disturbance almost akin to a riot.

(11) “Harass” means to annoy or irritate repeatedly.

(12) “Hearing officer” means a staff member designated by the superintendent to conduct disciplinary hearings and perform other functions under this chapter.

**Note:** Subsection (12) was inadvertently left in by rule CR 24-040 and will be removed in future rulemaking.

(14) “Intentionally” means that a youth had a purpose to carry out an act or cause the result specified, or believed that the act, if successful, would cause the result specified.

(15) “Intimate part” means anus, groin, penis, testicles, buttocks, pubic or vaginal area or breast.

(16) “Knowingly” means only that it is reasonable to conclude that a youth believes that a specified fact exists.

(23) “Negligently” means that a youth did an act or failed to do an act and thereby failed to exercise that degree of care appropriate for the circumstances.

(24) “Recklessly” means that a youth did an act or failed to do an act and thereby created an unreasonable risk that another might be injured. The act or failure to act shall demonstrate both a conscious disregard for the safety of another and a willingness to take known chances of perpetrating an injury.

(24m) “Security threat group” means a group of individuals who threaten, intimidate, coerce, or harass others or who engage in any activity that violates or encourages the violation of statutes, administrative rules, or department policy.

(25) “Staff” means a state employee or a person under contract with the department or the facility where a youth is housed.

(26) “Superintendent” means the superintendent of a facility or designee.

(27) “Supervisor” means staff designated by the superintendent to perform supervisory functions under this chapter.

(27m) “Treatment-based response” means a nonpunitive intervention to provide youth with activities or opportunities to improve social, emotional, or behavioral skill development.

(28) “Type 1 secured correctional facility” has the meaning given in s. 938.02 (19), Stats.

(29) “Youth” means a person or persons supervised by the department in a facility consistent with the requirements of law and regardless of age.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00; CR 24-040: r. (1), (3), (4), r. and recr. (6), (9), (10), cr. (10m), r. (13), (17) to (22), cr. (24m), am. (25), (26), cr. (27m), am. (29) Register June 2025 No. 834, eff. 7-1-25; correction in (9) (intro.) made under s. 35.17, Stats., Register June 2025 No. 834.

**DOC 373.04 Responsibilities of youth.** Youth placed under department supervision have the opportunity to learn and to demonstrate constructive values and behaviors. By conducting themselves according to the rules and policies of the facility, youth will not only avoid the consequences of misconduct as outlined in this chapter, but will also earn a progressively greater degree of independence during the time of facility placement. Youth shall do all of the following:

- (1) Allow others to have privacy.
- (2) Respect the property of others.
- (3) Refrain from physically or verbally abusing, exploiting or otherwise harming other youth, staff, or any other person.
- (4) Accept adult guidance, support and supervision.
- (5) Know the rules of the facility and ask questions of staff if unsure of the meaning of a rule.
- (6) Be supportive of efforts by other youth to involve themselves in individual programs and assist others in their efforts to obey facility rules.
- (7) Respect the race, gender, age, disabilities, religious background, and culture of other persons.
- (8) Participate in major decision-making affecting the youth’s life.
- (9) Carry out the youth’s part of the individual case plan.
- (10) Use the complaint procedures to address problems that cannot be handled on an informal basis.
- (11) Maintain good personal hygiene and strive to maintain good health.
- (12) Participate in an active, positive manner in the assigned program.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00; CR 19-124: am. (7) Register June 2020 No. 774, eff. 7-1-20; CR 24-040: am. (intro.), (5), (6) Register June 2025 No. 834, eff. 7-1-25.

**DOC 373.05 Conduct rules.** Conduct rules define prohibited youth conduct and are described under ss. DOC 373.14 to 373.65. The conduct rules apply to each youth at all times while assigned to the supervision of a facility, regardless of where the violation was committed or attempted.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00; CR 24-040: am. Register June 2025 No. 834, eff. 7-1-25.

**DOC 373.06 Conduct rule violations.** (1) A youth may not violate conduct rules.

(2) Violations of the conduct rules shall be resolved in accordance with this chapter.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 373.07 Attempted violation of conduct rules.** (1) A youth is guilty of an attempt to violate a conduct rule if all of the following are true:

- (a) The youth intended to do something that would have been a conduct rule violation.
- (b) The youth committed an act that demonstrated intent to violate a conduct rule.

(2) The penalty for an attempt to violate a conduct rule is the same as the penalty for violating that conduct rule.

(3) A youth may be charged with both a substantive conduct rule violation and with an attempt to commit that conduct rule violation, based on the same incident, but may be found guilty of only one.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 373.08 Aiding, abetting or knowing of conduct rule violations.** (1) A youth is guilty of aiding and abetting a conduct rule violation if the youth intentionally does any of the following:

(a) Encourages, directs, commands, hires, coerces, requests or signals another youth to commit a conduct rule violation.

(b) Assists another person, prior to a conduct rule violation, in planning or preparing for committing a conduct rule violation, with intent that the conduct rule violation be committed.

(c) Assists another person during commission of a conduct rule violation, whether or not this assistance was planned in advance.

(d) Destroys evidence of a conduct rule violation committed by another person or otherwise helps to prevent discovery of a conduct rule violation or of the person who committed the violation.

(2) If a youth knows of a plan to commit a conduct rule violation or knows of the commission of a conduct rule violation, failure of the youth to report the plan or commission is a conduct rule violation.

(3) A youth may be charged with both a substantive conduct rule violation and aiding and abetting or knowing of that conduct rule violation, based on the same incident, but may be found guilty of only one.

(4) A youth may be charged and found guilty of aiding and abetting or knowing of a conduct rule violation even if no one is charged or found guilty of committing the conduct rule violation.

(5) The penalty for aiding and abetting or knowing of a conduct rule violation shall normally be the same as for the substantive conduct rule violation.

(6) The penalty for a youth who aids and abets or knows of a conduct rule violation need not be based in any way on the penalty, if any, for the youth who actually committed the conduct rule violation.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 373.09 Defenses.** The following, if established by a youth by a preponderance of the evidence are complete de-

fenses to alleged violations of the conduct rules under this chapter:

(1) **MENTAL INCAPACITY.** At the time of the conduct, the youth, as a result of mental disease or defect, lacked substantial capacity either to appreciate the wrongfulness of the conduct or to conform to the conduct rules.

(2) **INVOLUNTARY INTOXICATION.** At the time of the conduct, the youth, as a result of involuntary intoxication, lacked substantial capacity either to appreciate the wrongfulness of the conduct or to conform to the conduct rules. This subsection does not afford a defense if the intoxicant was taken voluntarily, unless the intoxicant was taken consistent with a proper prescription.

(3) **MISTAKE.** The youth honestly erred and the error negates the existence of a state of mind essential to the conduct rule violation.

(4) **SELF-DEFENSE.** A youth may use the minimum amount of force necessary to prevent death or bodily injury to self or in defending a third person. A youth may not continue to exercise self-defense after an order by staff to stop. In determining whether the minimum force was used in exercising self-defense, staff shall consider:

(a) Whether the aggressor used a weapon.

(b) The size of the youth invoking a self-defense claim in relation to the size of the aggressor.

(c) The opportunity of the youth who claims self-defense to flee or to obtain assistance from staff.

(d) Whether staff were nearby.

(5) **ORDERS.** A youth may disobey a conduct rule when expressly authorized to disobey it by staff.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 373.10 Youth access to conduct rules.** (1) The superintendent shall provide youth with an orientation to department conduct rules as part of the assessment and evaluation of youth under s. DOC 371.05 (1) (d).

(2) The superintendent shall provide a youth with a written copy of the conduct rules.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00; correction in (1) made under s. 13.93 (2m) (b) 7., Stats., Register, June, 2000, No. 534.

**DOC 373.12 Lesser-included conduct rule violations.** Certain prohibited acts have lesser-included acts associated with them. A youth alleged to have violated a conduct rule is also considered to have allegedly violated a lesser-included conduct rule. No youth may be found to have committed both an act and its lesser-included act based upon the same incident. Table 373-A lists the lesser-included conduct rule violations of each conduct rule violation.

**Table 373-A**  
**LESSER-INCLUDED CONDUCT RULE VIOLATIONS**

Conduct Rule Violation		Lesser-Included Conduct Rule Violation	
DOC 373.14	Causing the Death of Another	DOC 373.19	Battery
DOC 373.15	Sexual Intercourse	DOC 373.16	Sexual Contact
DOC 373.16	Sexual Contact	DOC 373.27	Inappropriate Sexual Conduct
DOC 373.18	Fighting	DOC 373.28	Obstruction
		DOC 373.33	Disruptive Conduct
DOC 373.19	Battery	DOC 373.18	Fighting
		DOC 373.28	Obstruction
		DOC 373.33	Disruptive Conduct
DOC 373.21	Inciting a Disturbance	DOC 373.23	Unauthorized Group Activity
DOC 373.22	Participating in a Disturbance	DOC 373.24	Group Resistance
		DOC 373.33	Disruptive Conduct

DOC 373.23 Unauthorized Group Activity

DOC 373.24 Group Resistance

DOC 373.26 Escape

DOC 373.28 Obstruction

DOC 373.33 Disruptive Conduct

DOC 373.39 Theft

DOC 373.41 Arson

DOC 373.42 Causing an Explosion

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

## Subchapter II — Conduct Rules Relating to Bodily Security

**DOC 373.14 Causing the death of another.** A youth may not intentionally, negligently or recklessly cause the death of another person.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 373.15 Sexual intercourse. (1)** In this section, “sexual intercourse” means any penetration, however slight, by the penis into the mouth, vagina, or anus of another person, or any penetration, however slight, by any part of the body or an object into the anus or vagina of another person.

**(2)** A youth may not engage in sexual intercourse.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 373.16 Sexual contact.** A youth may not intentionally touch with a body part or an object any intimate part of another person, either directly or through clothing, or cause it to be touched by another with or without the consent of that person.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 373.17 Restraint of another.** Unless authorized, a youth may not seize, restrain or confine another person.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 373.18 Fighting. (1)** In this section, “fight” means any situation where 2 or more persons are trying to injure each other by any physical means including, but not limited to, hitting, biting, kicking, scratching, throwing or swinging objects or using weapons.

**(2)** A youth may not participate in a fight.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 373.19 Battery.** A youth may not intentionally cause injury, physical pain, illness or any impairment of physical condition to another person.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 373.20 Threats.** A youth may not communicate to another person verbally, in writing or by gesture, symbol or action to do any of the following:

**(1)** Harm or harass that person or someone else.

**(2)** Cause damage to or loss of that person’s or another person’s property.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 373.205 Bullying.** A youth may not participate in unwanted aggressive behavior that involves a real or perceived power imbalance through verbal behavior, physical behavior, or

DOC 373.24 Group Resistance

DOC 373.33 Disruptive Conduct

DOC 373.33 Disruptive Conduct

DOC 373.51 Leaving An Assigned Area

DOC 373.62 Violations of Conditions of Leave

DOC 373.29 Disobeying Orders

DOC 373.33 Disruptive Conduct

DOC 373.30 Disrespect

DOC 373.44 Transfer of Property or Services

DOC 373.42 Causing an Explosion

DOC 373.43 Creating a Safety Hazard

DOC 373.43 Creating a Safety Hazard

social behavior, or a combination, that intends to cause physical or psychological harm or both.

**History:** CR 24-040: cr. Register June 2025 No. 834, eff. 7-1-25; correction made under s. 35.17, Stats., Register June 2025 No. 834.

## Subchapter III — Conduct Rules Relating to Facility Security

**DOC 373.21 Inciting a disturbance.** A youth may not encourage, direct, command, hire, coerce, request or signal one or more persons to participate in a disturbance.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 373.22 Participating in a disturbance.** A youth may not do any of the following:

**(1)** Intentionally or recklessly participate in a disturbance, as defined in s. DOC 373.03(9).

**(2)** Remain in a group that has been ordered to disperse if some members of the group are participating in a disturbance.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00; CR 24-040: am. (1) Register June 2025 No. 834, eff. 7-1-25.

**DOC 373.23 Unauthorized group activity. (1)** In this section, “group” means a gang, cult or faction or other formal or informal association of youth.

**(2)** A youth may not do any of the following:

**(a)** Encourage, direct, command, hire, coerce, recruit or signal another person to participate in a group not authorized by the superintendent.

**(b)** Communicate verbally, in writing or by gesture, symbol or action about an unauthorized group matter or to demonstrate affiliation with an unauthorized group.

**(c)** Wear, display or have in the youth’s possession the clothing, jewelry, colors or other symbols of an unauthorized group to demonstrate affiliation with the group. This includes the cutting, styling or wearing of the youth’s hair or the wearing of clothes in a manner which demonstrates affiliation with an unauthorized group, or the depiction of the symbols of the group affiliation on a person’s body or on things including arts and crafts projects.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 373.24 Group resistance.** A youth may not do any of the following:

**(1)** Participate in any group action with other youth, contrary to this chapter, facility policies and procedures or a verbal directive from staff, whether or not the group action creates a serious danger of harm to persons or property.

**(2)** Join in or solicit another to join in any group petition, gathering, or statement, except that the following actions are not prohibited:

**(a)** Group complaints authorized by s. DOC 380.04 (5).

**(b)** Group petitions to courts.

**(c)** Authorized actions by authorized groups.



(3) Participate in any activity associated with any security threat group or possess any written materials, symbols, or symbolism related to a security threat group.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00; CR 24-040: am. (1), cr. (3) Register June 2025 No. 834, eff. 7-1-25.

**DOC 373.25 Disguising identity.** A youth may not do any of the following:

(1) Conceal, alter or disguise personal appearance in an attempt to prevent identification.

(2) Use any items or materials to make a representation of himself or herself without authorization of staff.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 373.26 Escape.** Unless authorized, a youth may not do any of the following:

(1) Leave the facility.

(2) Violate the directives of staff as to where the youth may be and for what time period the youth may be at the designated place.

(3) Fail to return to the facility or other designated facility from any approved leave.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00 CR 24-040: am. (1), (3) Register June 2025 No. 834, eff. 7-1-25.

#### Subchapter IV — Conduct Rules Relating to Order

**DOC 373.27 Inappropriate sexual conduct.** A youth may not engage in any of the following inappropriate sexual conduct:

(1) Requesting, soliciting, hiring or communicating with another person in any manner, including orally or in writing, to have sexual intercourse, as defined in s. DOC 373.15 or sexual contact, as described in s. DOC 373.16.

(2) Exposing, touching or gesturing to the youth's own intimate parts to attract the attention of another person or using sexually explicit communication.

(3) Touching an animal for the purpose of causing sexual arousal or gratification to the youth or another person.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00; CR 24-040: r. (2) Register June 2025 No. 834, eff. 7-1-25; (1) renumbered to (intro.) under s. 13.92 (4) (b) 1., Stats., Register June 2025 No. 834.

**DOC 373.28 Obstruction.** (1) In this subsection, "obstruct or resist" means to try to prevent or impede a change in placement location by passive or aggressive use of one's body or another object. A youth may not physically obstruct or resist staff's attempt to change the physical location of the youth or another youth.

(2) In this subsection, "obstruct or impede" means to try to diminish staff's ability to visually monitor or supervise a youth by use of one's body, another person or an object. A youth may not obstruct or impede staff's ability to visually monitor the youth or another youth.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 373.29 Refusal to comply.** A youth may not refuse to comply with any verbal or written directive from staff.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00; correction made under s. 13.93 (2m) (b) 7., Stats., Register, June, 2000, No. 534; CR 24-040: r. and recr. Register June 2025 No. 834, eff. 7-1-25.

**DOC 373.30 Disrespect.** A youth may not show disrespect for another person by behavior directed at that person, whether or not the person is present, which is audible or observable and includes, but is not limited to, derogatory or profane writing, oral remarks, gestures, name-calling or yelling.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 373.31 Soliciting staff.** Unless authorized, a youth may not do any of the following:

(1) Give or offer to give anything having more than nominal value to staff or family of staff.

(2) Request or accept anything having more than nominal value from staff or family of staff.

(3) Buy, rent, lease or borrow anything from, or sell, rent, lease or lend anything to staff or family of staff.

(4) Request that staff or family of staff buy, rent, lease or borrow anything for the youth.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 373.32 Lying.** A youth may not do any of the following:

(1) Make an oral or written statement that the youth knows is false or misleading.

(2) Withhold or misrepresent information.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00; CR 24-040: r. and recr. Register June 2025 No. 834, eff. 7-1-25.

**DOC 373.33 Disruptive conduct.** A youth may not engage in or cause conduct within the sight or hearing of others which is unusually loud, offensive or vulgar, including arguments, yelling, loud noises, horseplay, loud talking and other behavior, which may disrupt the normal functioning of the facility, any area within the facility or any other area to which the youth is assigned.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00; CR 24-040: am. Register June 2025 No. 834, eff. 7-1-25.

**DOC 373.34 Violating boundaries.** A youth may not do any of the following:

(1) Intentionally touch with a body part or an object any part of another person, either directly or through clothing, or cause it to be touched by another with or without the consent of that person.

(2) Intentionally make staff feel uncomfortable through verbal or nonverbal communication, including comments of a sexual nature or comments regarding the personal lives of staff.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00; CR 24-040: r. and recr. Register June 2025 No. 834, eff. 7-1-25.

**DOC 373.35 Unauthorized forms of communication.** A youth who does any of the following is guilty of unauthorized forms of communication:

(1) Communicates with another person by a method or with a device not authorized by the department.

(2) Communicates with persons where a court order exists prohibiting contact.

(3) Communicates with persons with whom the department has prohibited contact.

(4) Communicates with a victim of a crime for which the youth has been convicted, or a read-in-offense, or victim's family unless approved by the superintendent.

(5) Communicates in a manner that harms, harasses, or intimidates any person.

(6) Communicates in a manner that is intended to be in code or in a manner that hinders staff's ability to readily translate, understand or interpret the communication.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00; CR 24-040: r. and recr. Register June 2025 No. 834, eff. 7-1-25.

**DOC 373.36 Enterprise and fraud.** (1) A youth may not engage in any unauthorized activity involving the exchange of money, property, or service. Any youth who was engaged in any lawful business or enterprise prior to admission shall disengage

from the operation of it in a manner determined by the superintendent.

(2) A youth may not offer to buy or order any item intending not to pay for it.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

## Subchapter V — Conduct Rules Relating to Property

**DOC 373.37 Counterfeiting and forgery.** (1) A youth may not make or alter any of the following:

(a) Any document so that it appears to have been made, signed, initialed or stamped either by someone else, or at a different time or with different provisions.

(b) Any postage stamp or postal cancellation mark.

(2) A youth may not knowingly use a forged, counterfeit, or altered document, postage stamp or postal cancellation mark.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 373.38 Unauthorized use of or access to records.** Unless authorized, a youth may not read, gather or disclose information in facility records about another youth.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00; **CR 24-040: am. Register June 2025 No. 834, eff. 7-1-25.**

**DOC 373.39 Theft.** In this section, “steal” means obtain or retain the possession of or title to the property of another with intent to deprive the owner of it without the consent of the owner. A youth may not steal the property of another person or the state.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 373.40 Property damage or alteration.** (1) A youth may not intentionally, negligently or recklessly damage, destroy or alter the property of another person or state property.

(2) Unless authorized, a youth may not damage or destroy his or her personal property.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 373.41 Arson.** A youth may not start a fire unless authorized by staff.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 373.42 Causing an explosion.** A youth may not cause an explosion.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 373.43 Creating a safety hazard.** A youth may not create a safety hazard. This includes, but is not limited to, the misuse of electrical outlets, electrical equipment and machinery or activities such as tampering with doors or locks or rendering floors slippery with water or another agent.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 373.44 Transfer of property or services.** Unless authorized, a youth may not do any of the following:

(1) Give, sell or lend property or services to another person.

(2) Receive, accept, buy or borrow property or services from another person.

(3) Barter or exchange property or services with another person.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

## Subchapter VI — Conduct Rules Relating to Contraband

**DOC 373.45 Unauthorized possession of money.** (1) In this section:

(a) “Negotiable instrument” means a check or other written

statement, signed by the maker or drawer, which contains an unconditional promise to pay which is payable on demand or at a specified time and which is payable to the order of the bearer.

(b) “Possess” means have on a youth’s person, in the youth’s quarters, in the youth’s locker or otherwise under the youth’s control in the facility.

(2) Unless authorized, a youth may not possess coins or paper money, a check, money order, savings bond or any other negotiable instrument.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00; **CR 24-040: am. (1) Register June 2025 No. 834, eff. 7-1-25.**

**DOC 373.46 Intoxicants and paraphernalia.** (1) In this section, “intoxicating substance” means anything which, if taken into the body, may alter or impair normal mental or physical functions or is represented to do so, including, but not limited to, alcoholic drinks, lysergic acid diethylamide, also known as LSD, heroin, cocaine, marijuana, alcohol, paint thinner and unauthorized glues. Medications taken consistent with a proper prescription in accordance with law are not intoxicating substances.

(2) A youth may not knowingly possess, transfer, manufacture, distribute or use an intoxicating substance, or have knowledge of, but fail to report another person’s possession, transfer, manufacture, distribution or use of an intoxicating substance.

(3) A youth may not knowingly possess any chemical laboratory equipment or homemade device used in the manufacture of an intoxicating substance or any device used to take an intoxicating substance into the body, including, but not limited to, a still, hollow needle, small spoon, roach clip or marijuana or hashish pipe.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00; **CR 24-040: am. (2) Register June 2025 No. 834, eff. 7-1-25.**

**DOC 373.47 Weapons.** (1) A youth may not possess or transfer any item that can be used as a weapon with intent to use it as a weapon against another person or to damage property.

(2) A youth may not make or alter any item with intent to make it suitable for use as a weapon.

(3) A youth may not knowingly possess or transfer an item that is designed to be used as a weapon or to be used in the manufacture of a weapon.

(4) Any item found which apparently violates this section may be confiscated. If a youth is found not guilty of violating this section and the item is not contraband, the item shall be returned to the youth.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00; **CR 24-040: am. (1), (3) Register June 2025 No. 834, eff. 7-1-25.**

**DOC 373.48 Unauthorized possession or use of tobacco or smoking materials.** A youth may not smoke tobacco or any other substance or possess tobacco or any other smoking materials.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 373.49 Unauthorized property.** (1) A youth may not possess stolen property or property a youth may not knowingly possess under the laws of Wisconsin, the United States or the rules of the department.

(2) Each facility shall post a list of all types of personal property which youth are allowed to possess in accordance with s. DOC 379.10 (2). All property that is not on the posted list is unauthorized.

(3) All property which is not on a youth’s property inventory, consistent with s. DOC 379.10 (4), is unauthorized.

(4) A youth may not knowingly violate this section or facility policies and procedures relating to personal property.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00; **CR 24-040: am. (2), (4) Register June 2025 No. 834, eff. 7-1-25.**

**DOC 373.50 Unauthorized use of the mail.** (1) A youth may not use the U.S. postal service to communicate with a person the youth may not correspond with under s. DOC 379.04.

(2) A youth may not send through the mail any item that the youth is not allowed to possess, except that items in safekeeping and items which have been seized may be sent out through the mail or by other means at the youth's expense.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 373.505 Misuse of state or federal property.** Any youth who uses government property in an unauthorized manner is guilty of misuse of state or federal property.

**History:** CR 24-040: cr. Register June 2025 No. 834, eff. 7-1-25.

## Subchapter VII — Conduct Rules Relating to Movement

**DOC 373.51 Leaving an assigned area.** A youth may not leave a room or area where the youth is attending any scheduled activity such as, but not limited to, a class, meal, religious service, group meeting or the immediate area of work or school assignment without authorization or a valid pass.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 373.53 Entry of an unauthorized room or area.** (1) In this section, "enter" means reach into, lean into or put any object or part of the body into a room or area.

(2) Unless authorized, a youth may not enter another youth's room or permit another youth to enter the youth's own room.

(3) Unless authorized, a youth may not enter any area other than an area to which the youth has been assigned.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 373.54 Tardiness and absence.** Unless authorized, a youth may not be tardy or absent from any event, work, class, meeting, meal, appointment or other program related activity.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

## Subchapter VIII — Conduct Rules Relating to Safety and Health

**DOC 373.55 Creating an unsanitary condition.** (1) In this section, bodily fluids or secretions include saliva, blood, feces, semen, urine and vomit.

(2) A youth may not intentionally throw, expel, or otherwise cause the youth's own bodily secretions or fluids, or the secretions or fluids of another youth to come into contact with another person.

(3) A youth may not recklessly or negligently dispose of the youth's own bodily secretions or fluids, or the secretions or fluids of another youth.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 373.56 Misuse of medication.** (1) A youth may not possess or take medication except as properly prescribed for the youth, and in the amount and manner authorized.

(2) A youth may not distribute any medications, including over-the-counter medications, to another youth.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 373.58 Room disorder.** (1) Each facility or resi-

dential area of a facility shall adopt and post specific policies and procedures regulating the organization, neatness and cleanliness of youth living quarters.

(2) A youth may not violate facility policies and procedures regarding organization, neatness and cleanliness of a youth's living quarters.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00; **CR 24-040: am. Register June 2025 No. 834, eff. 7-1-25.**

**DOC 373.59 Poor self-maintenance.** (1) A youth may not fail to follow facility standards or directives regarding personal cleanliness or grooming when the youth has been informed by staff that he or she does not meet the standards or directives.

(2) A youth may not fail to shower at least every 7 days or more frequently if required by the facility.

(3) A youth performing a work assignment may be required to maintain suitably cut hair or to wear protective headgear or a net.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00; **CR 24-040: am. (1), (2) Register June 2025 No. 834, eff. 7-1-25.**

## Subchapter IX — Miscellaneous Conduct Rules

**DOC 373.60 Violation of clothing policy.** Each facility shall post specific policies and procedures describing the clothing to be issued to youths, how clothing shall be worn, and when it shall be worn. A youth may not violate the facility policies and procedures regarding clothing.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00; **CR 24-040: am. Register June 2025 No. 834, eff. 7-1-25.**

**DOC 373.61 Gambling.** A youth may not wager money, services or anything else of value on the outcome of all or any part of a game of skill or chance, an athletic contest, the outcome of any event, or anything else.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 373.64 Failure to cooperate with program.** In this section, "fail to cooperate" includes, but is not limited to, failure of a youth to work appropriately toward completion of case plan objectives or program goals or to respond appropriately to any discipline imposed. A youth may not intentionally fail to cooperate with an assigned program.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 373.65 Facility policies and procedures.** (1) Each facility shall make specific policies and procedures relating to talking, clothing, movement within the facility, conditions of leave from the facility, personal property, personal hygiene and conditions of living quarters. These policies and procedures shall be consistent with the purposes stated in s. 938.01, Stats., and the goals of youth corrections in s. DOC 371.01 (2). No facility policy or procedure may conflict with any provision of this chapter or be stricter than any provision of this chapter.

(2) The facility may solicit the views of youth prior to the adoption of a facility policy or procedure.

(3) Discipline may be imposed for violation of a facility policy or procedure only if at least one of the following apply:

(a) The policy or procedure was posted on a facility bulletin board or in a facility handbook and a youth had actual knowledge of the facility policy or procedure at the time of the violation.

(b) There is a violation of a facility policy or procedure in a facility handbook or other document that was received by a youth, in which case the youth is presumed to have knowledge of the policy or procedure in the absence of a preponderance of evidence to the contrary.

(4) Each facility shall maintain at least one bulletin board for

bulletins of general applicability. Bulletin boards shall be located so that every youth has an opportunity to read all bulletins that apply to youth. Bulletins that are no longer in effect shall be removed from the bulletin board.

(5) A handbook of all current policy and procedure bulletins under sub. (1) shall be maintained at the facility and be readily accessible to youth.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00; CR 24-040: am. Register June 2025 No. 834, eff. 7-1-25.

### Subchapter X — Disposition of Conduct Rule Violations

**DOC 373.66 Conduct rule violations: possible dispositions.** The conduct rule violations described in ss. DOC 373.14 to 373.65 may be dealt with by staff only in the following ways:

(1) A youth may be counseled and warned, consistent with s. DOC 373.67 or disciplined summarily, consistent with s. DOC 373.68.

(2) In lieu of or in addition to a warning or summary disposition, facility staff may issue a treatment-based response to address any conduct rule violation.

(3) Violations of the criminal law may be referred under s. DOC 373.83 to law enforcement authorities for prosecution.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00; CR 24-040: am. (1), r. and recr. (2) Register June 2025 No. 834, eff. 7-1-25.

**DOC 373.67 Conditions under which youth who violate conduct rules are not disciplined.** (1) Under any of the following conditions, staff may inform a youth about conduct that violates a conduct rule, discuss that conduct and give a warning:

- (a) The youth is unfamiliar with the conduct rule.
- (b) The youth has not violated the same or a closely related rule recently, whether or not discipline was imposed.
- (c) The youth is unlikely to repeat the conduct rule violation if warned and counseled.
- (d) Although the youth technically violated a conduct rule, the purpose of this chapter would not be served by disciplining a youth in the particular situation.

(2) No record or official report of a disposition under sub. (1) is required.

(3) The superintendent may overrule a determination that a violation has occurred. [The decision by the superintendent to overrule or not overrule is not reviewable by a hearing officer.]

**Note:** The bracketed material was inadvertently left in by rule CR 24-040 and will be removed in future rulemaking.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00; CR 24-040: am. (1) (intro.), r. (4) Register June 2025 No. 834, eff. 7-1-25.

**DOC 373.68 Summary disciplinary dispositions.**

(1) A youth may be disciplined summarily for a conduct rule violation in accordance with this chapter. When a youth is disciplined summarily under this section, staff shall make an appropriate record.

(2) When staff who have the responsibility for supervising a youth believe that a penalty listed in sub. (3) is appropriate, staff shall do all of the following:

- (a) Inform the youth of the nature of the alleged infraction and the potential disposition.
- (b) Obtain the youth's version of the underlying facts.
- (c) Make a finding as to whether the youth violated a conduct rule, communicate this finding to the youth and impose discipline consisting of one or more of the disciplinary actions under sub. (3).

(3) Discipline imposed by staff under this section shall be limited to one or more of the following disciplinary actions:

- (a) An oral or written reprimand.
- (c) Exclusion from the youth's room for a maximum of 5 hours.
- (d) Loss of a specific privilege for up to one week or loss of participation in a special event.
- (e) A disposition, which may include:
  - 1. Counseling and a warning.
  - 2. Extra duty related to the misconduct.
  - 3. Apology for the misconduct.
  - 4. Monetary restitution.
  - 5. A period of positive behavior.

(4) A supervisor shall review the findings of fact and discipline within one day, excluding weekends and holidays, of imposition of the discipline. The supervisor may affirm, modify or reverse the findings of staff or reduce the discipline. The supervisor may make any adjustment, consistent with this chapter, in the discipline imposed or in the imposition of future consequences, but may not increase the level of discipline imposed by staff unless the requirements of sub. (10) are met.

(5) A youth has no right to be present at the supervisor's review.

(6) Imposition of discipline is not suspended while the matter is under review. A youth shall be credited for any confinement served during the review.

(7) A youth may appeal the decision of the supervisor to the superintendent consistent with s. DOC 373.81.

(8) The record of a conduct rule violation which is dealt with by a summary disposition shall be approved by the supervisor before being entered in a youth's official records.

(9) Within a reasonable time following disposition, staff shall counsel the youth about the incident that occurred.

(10) More restrictive forms of discipline than those authorized in sub. (3), for a conduct rule violation may be imposed by a supervisor under this subsection as follows:

(a) Discipline imposed under this subsection is limited to the discipline authorized in sub. (3), modified as follows:

- 2. Loss of a specific privilege for not more than 2 weeks or the loss of 2 occurrences of a special event.
- 3. Loss of an off grounds activity for no longer than 30 days.
- (b) Before a youth is disciplined under this subsection, the supervisor shall do all of the following:

- 1. Obtain a statement of facts with a recommendation from staff.
- 2. Inform the youth of the nature of the alleged infraction and the range of discipline.
- 3. Request that the youth relate the facts concerning the matter at issue.

(c) A disposition under this section shall be imposed consecutive to other dispositions under this section.

(e) Within a reasonable time following a disposition under this subsection, staff shall talk to the youth and offer counseling about the incident that occurred.

(f) A youth may appeal the supervisor's decision under this section consistent with s. DOC 373.81.

(11) Any contraband related to the incident shall be disposed of in accordance with s. DOC 376.17.

(12) If a youth commits a conduct rule violation during the course of a visit, the visiting privileges may be suspended as a disposition, under s. DOC 379.07 (9) (b).



(13) If a conduct rule violation occurred as a result of misuse of the mail, the mail privileges may be suspended as a disposition, under s. DOC 379.04 (6).

(14) If a conduct rule violation occurred as a result of misuse of federal or state property, the federal or state property privileges may be suspended as a disposition under ch. DOC 379.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00; **CR 24-040: am. (1), r. (3) (b), am. (4), (10) (intro.), r. (10) (a) 1., am. (10) (c), r. (10) (d), renum. (12), (13) from DOC 373.11 (7), (8) and am., cr. (14) Register June 2025 No. 834, eff. 7-1-25.**

**DOC 373.79 Recordkeeping.** (1) A record of a conduct rule violation may be included in a youth's permanent record only if the youth was found guilty by summary disciplinary procedure, as provided in s. DOC 373.68.

(2) Following an appeal in which the finding of guilty is reversed, all records of the conduct rule violation shall be removed from the youth's records.

(3) No record of an alleged violation of the conduct rules which has been dismissed may be maintained in any official record or considered in making program or release decisions. Information concerning the alleged violation may be retained for statistical or administrative purposes only, but without personal identifiers.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00; **CR 24-040: am. (1), (3) Register June 2025 No. 834, eff. 7-1-25.**

**DOC 373.81 Discipline: review by superintendent.**

(1) A youth who has received summary discipline may appeal the decision to the superintendent within 7 days of the day the youth was notified of the decision. A youth who has difficulty preparing a written appeal shall be assisted by staff when requested to do so by the youth.

(2) The superintendent shall issue a final decision on the appeal within 7 days of receipt of the appeal. Failure to issue a final decision upholds the decision to discipline.

(3) The superintendent may do any of the following:

(a) Affirm both the finding of guilt and the discipline imposed.

(b) Affirm the finding of guilt, but reduce the discipline.

(c) Reverse the finding of guilt.

(4) Whether or not there is an appeal, the superintendent shall review all findings of guilt and the discipline imposed within 2 days, excluding weekends and holidays, of the time that the decision is imposed and may review the findings and discipline at any time thereafter. In either case, the superintendent may reverse the finding of guilt or reduce the discipline.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00; **CR 24-040: am. (1), r. (3) (d), am. (4), r. (5) Register June 2025 No. 834, eff. 7-1-25.**

**DOC 373.83 Referral for prosecution.** (1) The superintendent of each facility shall develop, in conjunction with local law enforcement authorities, a policy regarding conduct rule violations to be considered for referral for prosecution.

(2) When a conduct rule violation which is also a crime is alleged, the superintendent shall review the incident in light of the policy to determine if the case should be referred for prosecution and if necessary, shall order an investigation to determine if sufficient evidence exists for referral.

(3) Whether or not the review described in sub. (2) results in prosecution, the incident may be handled as a conduct rule violation.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00; **CR 24-040: am. (1) Register June 2025 No. 834, eff. 7-1-25.**

**DOC 373.84 Harmless error.** If a procedural requirement under this chapter is not adhered to by staff, the error may be deemed harmless and disregarded if it does not prejudice a fair proceeding involving a youth.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.