

Wisconsin Department of Corrections

Governor Tony Evers | Secretary Kevin A. Carr

Report From Agency

REPORT FROM AGENCY

PUBLIC NOTICE

NOTICE OF SUBMITTAL OF RULE TO LEGISLATURE

On this ____ day of _____ 2021, the Department of Corrections submitted CR 20-030, a proposed rule in final draft form, to the chief clerk of each house of the legislature pursuant to s. 227.19 (2), Wis. Stats.

The scope statement for this rule, SS #040-19, was approved by the Governor on April 29, 2019, published in 760B, on May 6, 2019, subject to a preliminary public hearing on June 7, 2019 in Milwaukee and Madison, and approved by the Wisconsin Department of Corrections Secretary on June 24, 2019.

SUBJECT: Creation of Chapter DOC 347, relating to Secured Residential Care Centers for Children and Youth.

CLEARINGHOUSE RULE #: 20-030

ADM. CODE REFERENCE: Chapter DOC 347

APPROVED BY GOVERNOR: December 18, 2020

Dated this ____ day of _____, 2021

STATE OF WISCONSIN
DEPARTMENT OF CORRECTIONS

By _____
Kevin A. Carr, Secretary
Department of Corrections

WISCONSIN DEPARTMENT OF CORRECTIONS

PROPOSED RULE MAKING ORDER

INTRODUCTORY CLAUSE

The statement of scope for this rule, SS #040-19, was approved by the Governor on April 29, 2019, published in the Wisconsin Administrative Register Number 760B, on May 6, 2019, subject to a preliminary public hearing on June 7, 2019, in Milwaukee and Madison, and approved by Department of Corrections Secretary Kevin Carr on June 24, 2019.

The Wisconsin Department of Corrections proposes an order:

to create ch. DOC 347, relating to secured residential care centers for children and youth.

RULE SUMMARY

1. Statutes interpreted:

Sections 301.36, 301.37, 938.22 (2) (a), 938.22 (2) (d), and 938.48 (16) (b), Stats.

2. Statutory authority to promulgate the rule:

Sections 301.36, 301.37, 938.22 (2) (a), 938.22 (2) (d), and 938.48 (16) (b), Stats.

3. Explanation of agency authority:

Pursuant to ss. 938.22 (2) (a) and 938.48 (16) (b), the Department of Corrections has responsibilities imposed by statute for establishing standards for the approval, design, construction, repair, maintenance, and operation of a Secure Residential Care Center for Children and Youth. The department also has responsibility to establish standards for services, programming, and uniform data reporting requirements for these facilities.

4. Related statute or rule:

Not Applicable.

5. Plain language analysis:

Pursuant to 2017 Wisconsin Act 185, the Department of Corrections is required to promulgate rules for Secured Residential Care Center for Children and Youth operated by a county, Indian tribe, or child welfare agency. This rule establishes standards for the approval, design, construction, repair, maintenance, and operation of a Secure Residential Care Center for Children and Youth. The rule also establishes standards for services, programming, and uniform data reporting requirements for these facilities. It further recognizes the need to protect the health, safety, and welfare of youth placed in these facilities and incorporates the Department of Corrections' initiatives towards successful reentry of youth into the community. This rule:

- a. Creates provisions to protect and provide security to youth and staff.
- b. Incorporates trauma-informed principles and best youth correctional practices.

c. Establishes structured programs and services that incorporate community partnerships, vocational opportunities, independent living, life skills, leisure, and recreation activities.

- d. Provides youth access to family and social supporters and involves them in programming and activities.
- e. Establishes opportunities for family and social supporters to provide recommendations to the facility concerning programs, services, and operations.
- f. Establishes complaint and grievance procedures for youth and family members.
- g. Includes various definitions and provisions relating to the operation and design of a facility.
- h. Establishes procedures for entities to request a variance of a standard under the chapter.
- i. Incorporates minimum construction and physical environment requirements.
- j. Establishes case planning and treatment that incorporates evidence-based practices which engages youth, family, and social supporters in an overall treatment approach.
- k. Ensures facilities coordinate with local school districts to ensure youth have access to education.
- l. Provides standards for documenting education of youth.
- m. Establishes uniform data reporting requirements as required by the Department of Corrections.
- n. Establishes admission criteria, screening, classification, assessment, release, and reentry standards.
- o. Establishes minimum staffing and training requirements for facilities.
- p. Incorporates health and mental health care requirements including screening, assessments, medical and dental care, mental health care, informed consent, suicide and self-harm prevention, and the administration of medication.
- q. Provides records storage, reporting, and documentation requirements.
- r. Requires entities to establish a youth conduct system that includes incentives for positive behavior and prohibits dispositions that are contrary to the rehabilitation of youth.
- s. Establishes requirements concerning hygiene and sanitation.
- t. Provides flexibility for facilities to be physically collocated with other facility types and identifies specified physical spaces that can be shared.
- u. Disallows physical and visual contact between youth and adult inmates.
- v. Requires an approved written operation plan and identifies required policy and procedures within the plan.

6. Summary of, and comparison with, existing or proposed federal regulations that are intended to address the activities to be regulated by the proposed rule:

The federal regulations for the Prison Rape Elimination Act imposes standards for the analysis of the incidence and effects of prison rape in federal, state, and local institutions, and to provide information, resources, recommendations and funding to protect individuals from prison rape. The applicable standards imposed by Prison Rape Elimination Act are incorporated and required in this rule.

The Juvenile Justice and Delinquency Prevention Act provides support to state and local governments to prevent and control juvenile delinquency and to improve the juvenile justice system, including the sight and sound separation of juveniles from adult inmates in a secured institution. The applicable standards imposed by the Juvenile Justice and Delinquency Prevention Act are incorporated and required in this rule.

7. Comparison with similar rules in adjacent states:

Illinois & Iowa. Illinois and Iowa do not have rules governing long-term youth correctional orders that are operated by counties or tribes. Rules in these states more closely align to ch. DOC 346 governing short-term juvenile detention or ch. DCF 52 governing non-secure residential care centers for children and youth. Other rules govern state-operated facilities with youth for long term correctional orders similar to chapters DOC 371, DOC 373, DOC 374, DOC 375, DOC 376, DOC 379, DOC 380, and DOC 381.

Minnesota. Minnesota establishes standards governing certain facilities similar to secured residential care centers for children and youth including provisions governing licensing, resident rights, policies and procedures, construction and physical plant requirements, lock and key control, admission and release, discharge, use of dangerous materials and hazardous substances, restrictive procedures, personnel, programming and services, programming outcomes, and facility evaluations.

Michigan. Michigan establishes standards governing certain facilities similar to secured residential care centers for children and youth including provisions governing records and reporting, policy and procedures, facility plans, licensing, environmental health, fire safety requirements, admission and release, staffing, food service and nutrition, health care, mental health care, resources for children and youth, programming and services, and discipline.

8. Summary of the factual data and analytical methodologies:

2017 WI Act 185 amended s. 938.22 (2) (a), Stats. to require the Department of Corrections to promulgate rules establishing minimum requirements for the approval and operation of secured residential care centers for children and youth. The Department has created this proposed rule order to reflect these statutory changes, which did not require the use of any factual data or analytical methodologies.

9. Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

Not applicable.

10. Effect on small businesses:

The Department of Corrections has determined that the rule will not have a significant economic impact on a substantial number of small businesses since the rule does not regulate small businesses as that term is defined in s. 227.114, Stats.

11. A copy of any comments and opinion prepared by the Board of Veterans Affairs:

Not applicable.

12. Agency contact person:

Jared Hoy, Administrative Rules Committee
P.O. Box 7925, Madison, WI 53707
Phone: (608) 240-5055
Email: DOCAdministrativeRulesCommittee@wisconsin.gov

13. Place where comments are to be submitted:

Written comments on the proposed rule must be received by October 9, 2020 and should be mailed or emailed to:

Mail: Administrative Rules Committee **Email:** DOCAdministrativeRulesCommittee@wisconsin.gov

Jared Hoy
P.O. Box 7925
Madison, WI 53707

TEXT OF PERMANENT RULE

SECTION 1: Chapter DOC 347 is created to read:

Chapter DOC 347

SECURED RESIDENTIAL CARE CENTERS FOR CHILDREN AND YOUTH

Subchapter I – General Provisions

DOC 347.01 Purpose. The purpose of this chapter is to:

- (1) Establish minimum standards for the approval, design, construction, repair, maintenance, and operation of secured residential care centers for children and youth.
- (2) Establish minimum standards for services, programming, and uniform data reporting requirements for counties or Indian tribes that operate or contract with a child welfare agency to operate a secured residential care center for children and youth.

DOC 347.02 Authority. This chapter is promulgated under the authority of ss. 301.36 (1), 301.37 (1), 938.22 (2) (a), and 938.48 (16) (b), Stats.

DOC 347.03 Applicability. The provisions of this chapter apply to secured residential care centers for children and youth.

DOC 347.04 Definitions. In this chapter:

- (1) "Administrative confinement" means an involuntary non-punitive confinement of a youth because the youth's behavior presents a danger to others or poses a serious risk to facility security, including but not limited to escape, risk, or disturbance.
- (2) "Assessment" means a process for identifying the risks, needs, and protective factors of youth by using an objective and validated assessment tool.
- (3) "Body cavity search" means a manual inspection of the anal or vaginal cavity of a youth conducted by means of any instrument, apparatus, finger, or object.
- (4) "Classification" means a process for determining the needs and requirements of those for whom confinement has been ordered and for assigning them to living units and programs according to their needs and existing resources.

- (5)** "Dayroom" means an area contiguous to each living unit that is usable and accessible by youth and designed and used for leisure activities but not for sleeping purposes.
- (6)** "Department" means the department of corrections.
- (7)** "Detention strength" means strong enough to resist damage youth could inflict and to maintain safety and security and prevent youth from harming themselves and others.
- (8)** "Direct supervision" means a method of youth management that ensures continuing direct contact between youth and staff by posting staff inside each living unit and other areas where youth are present.
- (9)** "Dormitory" means a room used for sleeping purposes and designed for occupancy by 3 or more persons.
- (10)** "Force" means intentional physical contact between staff and youth to overcome resistance or to compel youth to act or to refrain from acting in a particular way.
- (11)** "Health care assessment" means a process whereby an individual's health status is evaluated by a qualified health care professional through a physical examination, including questioning the patient about symptoms.
- (12)** "Holding room" means a secure room designed for holding one or more youth of the same gender for the purpose of processing admissions, releases, investigations, or court appearances, not to exceed 4 hours.
- (13)** "Informed consent" means the agreement of the youth to undergo a treatment, examination, or procedure after the youth understands the material facts about the treatment, examination, or procedure; its consequences and risks; the alternatives; and the prognosis if it is not undertaken.
- (14)** "Mechanical restraint" means any device attached to a youth's body that restricts freedom of movement or normal access to the youth's body.
- (15)** "Multipurpose room" means an activity area designed and used for programming and services. "Multipurpose room" does not include a sleeping room, dayroom, dormitory, classroom, visiting space, or recreation space.
- (16)** "Natural light" means direct or indirect illumination as provided by the sun or daylight.
- (17)** "Pat down search" means an inspection by running the hands over the clothed body of a youth by a staff member to determine whether the youth possesses contraband.
- (18)** "Privileged mail" means any written communication between a youth and an attorney.
- (19)** "Qualified health care professional" means a physician, physician assistant, nurse, nurse practitioner, dentist, mental health professional, and others who by virtue of their education, credentials, and experience are permitted by law to evaluate and care for patients.
- (20)** "Qualified mental health professional" means a psychiatrist, psychologist, psychiatric social worker, psychiatric nurse, and others who by virtue of their education, credentials, and experience are permitted by law to evaluate and care for the mental health needs of patients.
- (21)** "Quiet space" means a specialized area designed for youth to provide sensory stimulation that helps facilitate relaxation and develop self-regulation routine to cope with stressful situations.
- (22)** "Receiving room" means a secure room designed and used as a sleeping room for one youth during admission, release, observation, or investigatory purposes, not to exceed 72 continuous hours.
- (23)** "Recreation space" means a room or an area in a facility that is dedicated for youth exercise and recreation.
- (24)** "Sally port" means a secure, controlled entryway to a facility.
- (25)** "Secure perimeter" means the secure outer boundaries of a secured residential care center for children and youth.
- (26)** "Secured residential care center for children and youth" or "facility" has the meaning given in s. 938.02 (15g), Stats.
- (27)** "Security staff" means staff who are responsible for providing direct supervision of and interacting with youth in living units, recreational areas, dining areas, and other program areas of the facility.

(28) "Sleeping room" means a room designed and used as a sleeping room for one youth confined in a facility except when the facility meets the conditions for double occupancy under s. DOC 347.10 (3) (b).

(29) "Social supporters" includes parents or guardians, foster parents, legal custodians, siblings, other family members, the parent of a youth's child, the youth's child, mentors, community-based service providers, educators, clergy members, and other caring and supportive individuals who are a reliable presence for the youth.

(30) "Strip search" means a search, as defined under s. 968.255 (1) (b), Stats.

(31) "Trauma-informed care" means a system that realizes the widespread impact of trauma and understands potential paths for recovery; recognizes the signs and symptoms of trauma in youth, social supporters, staff and others involved with the system; and responds by fully integrating knowledge about trauma into policies, procedures and practices; and seeks to actively resist re-traumatization.

(32) "Unencumbered space" means usable floor space that is not obstructed by furnishings or fixtures.

(33) "Youth" means any individual placed or transferred to a secured residential care center for children and youth under the provisions of s. 301.08 or ch. 938, Stats.

DOC 347.05 Variance.

(1) The department may grant a variance to a requirement found in this chapter, except that no variance may be granted for any requirement to the provisions of s. DOC 347.10 (3) (b), or requirements specifically imposed by Wisconsin Statutes or federal law or regulation.

(2) In order to obtain a variance, a county, tribe, or child welfare agency that operates or intends to operate a facility shall demonstrate in writing that the variance provides equivalent or better protection for the health, safety, rights, and welfare of youth or the public.

(3) The department may impose specific conditions including reasonable time limits on a variance in order to protect the health, safety, rights, and welfare of youth and the public.

(4) Violation of any condition of a variance by the facility constitutes a violation of this chapter. Upon finding that there has been a violation of a condition of a variance, the department may revoke the variance and require strict enforcement of the rule.

(5) Any variance granted does not set a precedent.

DOC 347.06 Records and reporting.

(1) REGISTER OF YOUTH. Each facility shall keep a register of all youth. The register shall contain identifying information on each youth including name, residence, age, sex, race, court order, time and cause of placement, placing authority, and time of release and releasing authority.

(2) STORAGE OF RECORDS. Records shall be kept in a secure location and maintained in a confidential manner in accordance with s. 938.396, Stats., and any other applicable federal or state law.

(3) REPORTING REQUIREMENTS. The facility shall notify the department's regional detention facilities specialist within 48 hours after any of the following events occur:

(a) A youth dies.

(b) A youth is admitted to a hospital.

(c) A youth receives off-site medical attention due to an assault or use of force.

(d) A staff member is admitted to the hospital due to an injury caused by youth assault or use of force.

(e) A youth escapes or attempts to escape from secure custody.

(f) There is significant damage to the facility affecting the safety or security of the facility.

(4) DEPARTMENT REQUESTS. The facility shall promptly furnish to the department all requested information.

DOC 347.07 Data reporting. The facility shall enter data into a uniform data collection system, as determined by the department, that can be accessed by authorized juvenile justice officials in order to monitor facility compliance with all applicable regulations and assess facility performance in successfully rehabilitating youth.

DOC 347.08 Operational plan.

(1) Before a facility may accept youth, the facility shall develop a written operational plan that has been approved by the department under s. 938.22 (2) (a), Stats. The facility may not implement any plan until the department has approved the plan.

(2) The operational plan shall contain policies and procedures for the operation of the facility. The policies and procedures shall include the standards set forth in ss. DOC 347.06, 347.13, 347.16, 347.19, 347.20, 347.21, 347.22, 347.23, 347.25, 347.26, 347.27, 347.28, 347.29, 347.30, 347.32, 347.33, 347.34, 347.35, 347.36, 347.38, 347.39, 347.41, 347.44, 347.45, 347.47, 347.48, 347.49, 347.50, 347.51, 347.52, 347.53, 347.54, 347.55, 347.57, and 347.58.

(3) The operational plan shall comply with the standards specified in this chapter.

(4) The facility shall implement the operational plan consistent with the requirements of this chapter.

Subchapter II – Facility and Physical Environment

DOC 347.09 Construction plans.

(1) An entity that intends to build or remodel a facility shall file a letter of intent with the department before design development begins.

(2) An entity shall provide copies of original and updated drawings of the area within the secure perimeter of the facility to the department.

(3) All sites, plans, and specifications for construction or remodeling of a facility shall comply with the Wisconsin Commercial Building Code under chs. SPS 361 to 366.

(4) Prior to publication of bid documents, one complete set of plans and specifications shall be forwarded to the department for review and approval.

(5) Any proposed changes to the approved plans must be submitted to the department for review and approval.

DOC 347.10 Physical environment.

(1) **TRAUMA-INFORMED.** Trauma-informed principles shall be considered in the physical environment of the facility.

(2) **FURNITURE AND FIXTURES.** Furniture and fixtures used in a facility shall be of detention strength materials or be of secure type to ensure safety for staff and youth.

(3) **YOUTH HOUSING.**

(a) Sleeping rooms.

1. Except if par. (b) applies, each room shall be designed and used only for single occupancy.

2. Except if par. (b) applies, each room shall have a floor area of at least 35 square feet of unencumbered space. The distance between the floor and ceiling may not be less than 8 feet, and the distance between opposite walls may not be less than 6 feet.

3. Each room shall have a bed.

(b) Double sleeping rooms.

1. A facility may use rooms for double occupancy.

2. Youth assigned to a double room shall meet the criteria under s. DOC 347.13 (1) (b).
3. Each double occupancy room shall have all of the following:
 - a. Floor area of at least 50 square feet of unencumbered space. The distance between the floor and ceiling may not be less than 8 feet, and the distance between opposite walls may not be less than 6 feet.
 - b. A bed for each youth.

(c) Dayrooms.

1. All sleeping rooms and dormitories shall be provided with one or more dayrooms in their immediate vicinity that are accessible to youth.
2. Dayrooms shall provide a minimum of 35 square feet per youth.
3. Each dayroom shall have tables and seating for the number of youth that have access to the dayroom.

(d) Dormitories.

1. Youth assigned to a dormitory shall meet the criteria under s. DOC 347.13 (1) (b).
2. Each dormitory shall have a minimum floor area of 35 square feet of unencumbered space per youth for sleeping purposes.
3. In addition, each dormitory shall have a minimum floor area of 35 square feet per youth for the purpose of a dayroom.
4. Each dormitory shall have a floor to ceiling height of not less than 12 feet.
5. Each dayroom shall have tables and seating for the number of youth.
6. A bed shall be provided for each youth.
7. An area for personal property shall be provided for each youth.
8. Each dormitory shall provide showers, toilets, and washbasins for youth. Each dormitory shall have hot and cold running water.

(e) Toilets, washbasins, and showers.

1. The facility shall provide toilets, washbasins, and showers accessible for youth that meet all of the following conditions:
 - a. The washbasin and toilet may be combined in one unit.
 - b. The washbasin and shower shall have hot and cold running water.
 - c. The washbasin area shall include a mirror that is not removable.
2. The number of showers and toilets provided shall be in compliance with the Wisconsin Commercial Building Code under chs. SPS 361 to 366.
3. Toilets and showers shall provide for individual privacy.

(f) Lighting. Light fixtures shall provide at least 10 foot-candles of illumination, 30 inches above the floor. The facility shall have the ability to reduce lighting to allow for comfortable sleeping while remaining adequate for wellness checks.

(4) RECEIVING ROOMS.

- (a)** All receiving rooms shall be designed and used for single occupancy.
- (b)** Each receiving room shall have a floor area of at least 35 square feet of unencumbered space. The distance between the floor and ceiling may not be less than 8 feet, and the distance between opposite walls may not be less than 6 feet.
- (c)** Each receiving room shall have all of the following:
 1. A bed.
 2. A toilet and washbasin with hot and cold running water.

3. Light fixtures that provide at least 10 foot–candles of illumination, 30 inches above the floor. The facility shall have the ability to reduce lighting to allow for comfortable sleeping while remaining adequate for wellness checks.

(5) HOLDING ROOMS.

(a) A holding room shall have a minimum floor area of at least 50 square feet with an additional 10 square feet for each occupant above 5.

(b) Each holding room shall have all of the following:

1. Seats or benches.
2. A toilet and washbasin with hot and cold running water.
3. Light fixtures that provide at least 10 foot–candles of illumination, 30 inches above the floor.

(6) MULTIPURPOSE ROOMS.

(a) Each facility shall provide dedicated space for programming and services.

(b) Multipurpose rooms shall be of sufficient size to accommodate a variety of programming and services and shall have a minimum combined floor area of 300 square feet.

(7) CLASSROOM SPACE.

(a) Each facility shall provide dedicated classroom space to meet the educational needs of the youth population.

(b) Classroom space shall be designed in conformity with any state and local educational requirements.

(8) QUIET SPACE.

(a) Each facility shall provide a dedicated quiet space that promotes a positive behavior adjustment opportunity for a youth.

(b) The quiet space shall not be locked or used for discipline.

(9) INDOOR RECREATION SPACE.

(a) Each facility shall provide a dedicated space for indoor exercise and recreation.

(b) The indoor recreation space shall be of sufficient size to accommodate a variety of individual and group aerobic and large-muscle exercise activities and physical education.

(10) OUTDOOR RECREATION SPACE.

(a) Each facility shall provide a dedicated space for outdoor exercise and recreation.

(b) The outdoor recreation space shall be of sufficient size to accommodate a variety of individual and group aerobic and large-muscle exercise activities and physical education.

(c) The outdoor recreation space must ensure the privacy of the youth and the perimeter shall be secured.

(11) HEALTHCARE SPACE.

(a) Each facility shall provide dedicated space for healthcare.

(b) There shall be sufficient space, equipment, and supplies for the performance of health care services in a confidential manner.

(12) FOOD SERVICE SPACE. A facility that prepares meals on-site shall have dedicated food service space.

(13) RECEIVING SPACE.

(a) Each facility shall provide dedicated space for youth privacy during searches, showering, and processing.

(b) There shall be sufficient space for storage of clothing and property.

(14) VISITATION SPACE. Each facility shall provide dedicated contact visitation space.

(15) EXTERIOR WINDOWS. All of the following apply to windows that lead to the exterior of the facility or to an area outside the secure perimeter of the facility:

- (a) Each window shall have security glass of sufficient strength to resist breakage and maintain safety and security to prevent youth from harming themselves and others and to prevent escape.
- (b) Each window shall be mounted in a detention strength frame and designed to prevent escape and the passage of contraband.
- (c) Each window shall prevent persons outside the secure perimeter from entering the facility or observing youth.

(16) EXTERIOR DOORS AND APPROACHES.

- (a) Every door exit that leads to the exterior of the facility or to an area outside the secure perimeter shall have detention strength framing and a threshold designed to prevent the introduction of contraband.
- (b) Every door entering into the secure perimeter shall be of detention strength. Each of these doors shall have a vision panel or other means of observation to permit identification of individuals before they enter an area within the secure perimeter of the facility and to allow observation of an area before entering it.
- (c) Each entry into and from the secure perimeter shall include a sally port system.
- (d) The exterior of the facility and approaches to the facility shall be well lighted at night to permit observation of persons approaching the building.

(17) WALLS.

- (a) Exterior walls shall be constructed of reinforced concrete or fully grouted concrete block at least 8 inches thick, or the walls shall be constructed of materials of similar strength that provide equivalent security.
- (b) Interior walls shall be constructed of reinforced concrete or fully grouted concrete block at least 6 inches thick, or the walls shall be constructed of materials of similar strength that provide equivalent security.
- (c) Interior walls between youth housing areas are to be constructed tight to the structure.

(18) CEILINGS. Ceilings in areas accessible to youth shall be constructed of high impact detention strength materials that are escape resistant, resist damage or breakage to prevent youth from harming themselves and others, and prevent passage of contraband.

(19) ACCESS TO CONTROLS. Youth shall not have unauthorized access to plumbing, wiring, vents, thermostats, or facility controls. Any youth accessible outlets shall be under facility control.

(20) NATURAL LIGHT.

- (a) Youth shall have access to natural light and exterior views.
- (b) All youth housing areas shall provide youth with access to natural light.
- (c) Artificial light may not be used as an alternative to the natural light requirements pursuant to the Wisconsin Commercial Building Code, chs. SPS 361 to 366.

(21) INTERCOM. Two-way audio communication capability shall be provided between any remotely controlled security gate or door and its control point.

Subchapter III – Admission and Release

DOC 347.11 Admission criteria.

(1) Youth may only be placed in a secured residential care center for children and youth under the provisions of s. 301.08, 938.34 (4m), or 938.357, Stats.

(2) Persons who are 18 years of age or older may not be admitted or held in a secured residential care center for children and youth unless they are currently only under juvenile court jurisdiction under ch. 938,

Stats.

DOC 347.12 Admission and screening.

- (1) No youth may be admitted in a secured residential care center for children and youth unless the facility meets the requirements of this chapter and is approved by the department.
- (2) An approved facility shall receive youth 24 hours a day, 7 days a week.
- (3) A youth who appears to be seriously ill or injured, who exhibits significant mental or emotional distress, or who appears intoxicated or incapacitated due to controlled substance or alcohol use may not be confined in the facility unless a qualified health care professional or qualified mental health professional has treated and approved the youth for admission.
- (4) The facility's admission procedure shall include a process for determining if a youth is limited English proficient.
- (5) The facility shall have appropriate and reliable interpretation services available for limited English proficient youth and youth who are deaf or hard of hearing. The facility shall not charge for interpretation services.
- (6) Upon admission, the facility shall complete a health screening under s. DOC 347.21.
- (7) Upon admission, youth shall receive both a written and verbal or video orientation to facility rules and procedures and grievance procedure. Staff shall document the youth's receipt of these materials.
- (8) Following admission, each youth shall be provided the opportunity to shower as soon as practicable.

DOC 347.13 Classification.

(1) OBJECTIVE CLASSIFICATION SYSTEM.

- (a) The facility shall use an objective classification system for youth based on gender, age, behavior, information concerning present offense, current and prior correctional placement history, medical and mental health condition, and other criteria designed to provide for the protection and safety of youth, staff, and the community.
- (b) The classification system shall identify specific criteria for the exclusion of youth from being housed in a double occupancy room under s. DOC 347.10 (3) (b) or dormitory under s. DOC 347.10 (3) (d).
- (c) Staff completing the youth classification shall be trained on the use of the objective classification system in par. (a).
- (d) Lesbian, gay, bisexual, transgender, or intersex youth shall not be placed in a particular living unit, bed, or other assignments solely on the basis of such identification or status, nor shall agencies consider lesbian, gay, bisexual, transgender, or intersex identification or status as an indicator of the likelihood of being sexually abusive.

(2) CLASSIFICATION OF YOUTH. Following a youth's admission and prior to room assignment, the facility shall do all of the following:

- (a) Complete the youth classification.
- (b) Document the classification decision.

(3) RECLASSIFICATION. Reclassification shall occur a minimum of every 3 months after initial classification.

(4) REVIEW. All classification and reclassification decisions shall be reviewed and documented by a supervisor as soon as practicable.

DOC 347.14 Assessment. The initial assessment of the youth's treatment and service needs shall be completed within 10 days of admission.

DOC 347.15 Off-grounds leave. A facility must develop policies and procedures relating to off-grounds leave.

DOC 347.16 Release. A facility shall do all of the following prior to releasing a youth from the facility:

- (1) Verify the identity of the youth.
- (2) Verify the authority to release the youth.

Subchapter IV – Staffing

DOC 347.17 Staffing. The facility shall develop, implement, and document a staffing plan that identifies and provides for sufficient staff at the facility to provide adequate and continuous supervision of youth including all of the following:

- (1) A supervisor or designee physically on-site during every shift at the facility.
- (2) Adequate staff to provide for the direct supervision of youth in living units and other areas where youth are present. The use of a video monitoring system shall not be used to replace direct staff supervision.
- (3) Staff ratios of a minimum of one staff member supervising 8 youth during waking hours and one staff member supervising 16 youth during sleeping hours, except during exigent circumstances. The facility shall document the exigent circumstances.
- (4) Whenever there is a youth in the facility, at least one staff member of the same gender as the youth on duty at the facility.

DOC 347.18 Training.

(1) **ORIENTATION.** Before a new staff member is permitted to work independently with youth, the facility shall provide at least 40 hours of orientation training for the new staff member including all of the following areas:

- (a) Facility policies and procedures.
- (b) Facility operations and facility emergencies.
- (c) Rules under this chapter.
- (d) Youth grievance procedures under s. DOC 347.38.
- (e) First aid, use of an automated external defibrillator, and use of other emergency equipment.
- (f) Adolescent brain development.
- (g) Trauma-informed care and resiliency.
- (h) Positive behavior management, de-escalation techniques, and conflict management.
- (i) Sexual abuse and sexual harassment prevention, detection, and response.
- (j) Sex trafficking.
- (k) Suicide and self-harm prevention.
- (L) Laws on confidentiality of personally identifiable information.
- (m) Mandatory reporting requirements under s. 48.981 (2), Stats.

(2) **INITIAL SECURITY STAFF TRAINING.** In addition to the training required under sub. (1), security staff shall receive at least 120 hours of training during the first year of employment. On-the-job training does not count toward the hours of required initial training for security staff.

(3) **ANNUAL TRAINING.** Security staff shall receive at least 24 hours of annual training including all of the following:

- (a) Care and custody of youth.
- (b) Trauma-informed care and resiliency.

- (c) Two hours of suicide and self-harm prevention.
 - (d) Mental health and crisis intervention.
 - (e) Administration of medications.
 - (f) Health screening of youth at the time of admission.
 - (g) Use of restraints and security control devices.
 - (h) Fire safety, evacuation procedures, and use of self-contained breathing apparatus.
 - (i) Positive behavior management, de-escalation techniques, and conflict management.
 - (j) The facility's use of force policies and procedures.
- (4) DOCUMENTATION. All staff training shall be documented.

Subchapter V – Food Service and Nutrition

DOC 347.19 Food service.

- (1) SANITATION. The kitchen area and all equipment shall be maintained in a sanitary condition.
- (2) FOOD SAFETY.
- (a) Food items shall be stored at least 6 inches off the floor. Opened food packages shall be stored in airtight containers that are labeled and dated. Food items shall be stored in appropriate locations and temperatures.
 - (b) All persons who work in food service areas shall wear clean garments and clean caps or hairnets and shall keep their hands clean at all times when engaged in the handling of food, drink, utensils, or equipment.
 - (c) Food and drink shall be protected from contamination. Meals shall be covered during transit to and within the facility.
 - (d) Food temperatures shall be properly maintained and documented daily.
 - (e) Kitchen storage and dishwashing equipment temperatures shall be monitored and documented daily.
 - (f) Garbage containers shall be covered, emptied daily, and kept clean.
 - (g) Cleaning agents shall be stored separately from food service items.
- (3) INVENTORY. There shall be a documented inventory accounting for all sharps, tools, and utensils at all times.
- (4) INSPECTION.
- (a) Internal monthly inspection of all food service areas shall be conducted and documented.
 - (b) Annual inspection of all full-production and service kitchens by a qualified, independent outside source documenting that the food service area meets applicable health and safety codes shall be conducted.

DOC 347.20 Meals.

- (1) The facility shall provide nutritious and quality food for all youth.
- (2) The facility shall develop menus that satisfy generally accepted nutritional standards.
- (3) An annual menu review by a qualified nutritionist or dietician shall be completed and maintained in the facility files. Any change or substitution to the menu shall be documented.
- (4) A youth may abstain from any foods that violate the youth's religion. Consistent with available resources, the facility shall provide a substitute from other available foods from the menu served at the meal. The substitutions shall be consistent with sub. (2).

- (5) Special diets are provided as prescribed by a qualified health care professional.
- (6) Youth shall receive 3 nutritious meals and a snack daily, with no more than 12 hours between the evening meal and breakfast. Two of the meals shall be hot, including the entrée.
- (7) Youth shall eat meals in a cafeteria or common area unless approved by a supervisor or designee.

Subchapter VI – Health and Mental Health Care

DOC 347.21 Health screening.

- (1) The facility shall use a health screening form that is developed in conjunction with qualified health care professionals and is completed at the time of admission for each youth to record information about current and past medical, mental health, and dental conditions, physical and developmental disabilities, recent injuries or physical trauma, alcohol or other drug abuse problems, and suicide or self-harm risk. The health screening form shall be documented.
- (2) A youth whose screening under sub. (1) is not completed within one hour of admission shall be under constant staff supervision until the screening is completed. Section DOC 347.26 applies if a youth screens positive for risk of suicide or self-harm.
- (3) The health screening shall be conducted in a confidential setting upon the youth's admission.
- (4) If urgent concerns are identified during the health screening, referrals to medical, mental health, or supervisory staff shall be immediate.
- (5) A qualified health care professional shall review the health screening within 72 hours. The review shall be documented.
- (6) Within 72 hours of admission, a qualified health care professional shall offer the youth sexually transmitted infection testing, and all female youth shall be offered pregnancy testing.
- (7) Documentation of health screening results and subsequent review of the health screening form shall be maintained in the youth's confidential medical record.

DOC 347.22 Health care assessment.

- (1) All youth shall receive a full health care assessment by a qualified health care professional within 7 days of admission. The assessment shall be documented.
- (2) A health care assessment is not required for a youth readmitted to the facility when the last health care assessment was performed within 90 days and when the youth's new admission health screening shows no change in health status.
- (3) Documentation of health care assessment results shall be maintained in the youth's confidential medical record.

DOC 347.23 Medical care.

- (1) The facility shall provide youth medical care under s. 938.505 (1), Stats.
- (2) The facility shall provide youth with a schedule of access to medical care to be provided under sub. (1).
- (3) The facility shall provide access and arrange for transportation to emergency medical care services.
- (4) All licensed or certified health care professionals shall provide services in accordance with the standards of practice established by the applicable regulatory body.
- (5) Health care staff shall be in compliance with state and federal licensure certification and registration. Verification of compliance shall be maintained at the facility.
- (6) A youth may refuse specific health evaluations and treatments in accordance with applicable federal and state law. All refusals shall be documented and maintained in the youth's confidential medical record.

- (7) The facility shall allow for submission and screening of medical requests on a daily basis.
- (8) When practicable, the facility shall be in contact with a youth's personal physician.
- (9) The facility's provision of medical care shall ensure access to all of the following:
 - (a) Pregnancy management.
 - (b) Acute and chronic medical conditions management.
 - (c) Communicable disease and infection control.
 - (d) Detoxification and withdrawal care.
 - (e) Immunizations.

DOC 347.24 Informed consent.

- (1) At admission, the facility shall obtain the name and contact information of an adult family member or guardian who can provide information about a youth's health and mental health history.
- (2) The facility shall ensure all medical and mental health examinations and services conform to applicable state laws for informed consent and the right to refuse treatment.
- (3) The facility shall obtain informed consent using a language that is understandable to the youth and the youth's parent or guardian.

DOC 347.25 Mental health care.

- (1) The facility shall provide youth with mental health services from a qualified mental health professional.
- (2) All qualified mental health professionals shall have training on and be knowledgeable about the assessment of mental health disorders, trauma, and suicide risk among adolescents and age-appropriate interventions.
- (3) All qualified mental health professionals shall provide services in accordance with recognized standards of practice.
- (4) Licensed mental health professionals shall be in compliance with state and federal licensure certification and registration. Verification of compliance shall be maintained at the facility.
- (5) All youth shall receive a mental health assessment by a qualified mental health professional within 7 days of admission. The assessment shall be documented.
- (6) The mental health assessment shall be conducted in a confidential setting.
- (7) The facility shall have sufficient service hours from qualified mental health professionals to timely meet the needs of youth in the facility.
- (8) The facility shall have a schedule of access to on-site mental health care services.
- (9) Qualified mental health professionals shall develop individual mental health treatment plans for youth with identified mental health needs.
- (10) Qualified mental health professionals shall work with facility staff to provide guidance, insight, and direction on managing and understanding the needs and behavior of youth.
- (11) The facility shall provide access to emergency mental health care and transportation, if necessary.

DOC 347.26 Suicide and self-harm prevention.

- (1) RISK OF SERIOUS HARM. The facility shall do all of the following:
 - (a) Obtain documented information from a transporting agency's observation pertaining to a youth's mental health and potential for suicide or self-harm.
 - (b) Determine whether the youth has ever considered or engaged in self-harm or attempted suicide.
 - (c) Require staff to immediately notify qualified medical and mental health professionals of all incidents

of self-harm or attempted self-harm. The notification and incident shall be documented.

(d) Require staff to immediately notify qualified medical and mental health professionals of youth who have communicated having ideation, plan, or intent to engage in self-harm or suicide. The notification and incident shall be documented.

(2) SUICIDE OR SELF-HARM WATCH. The facility shall do all of the following:

(a) Identify designated supervisory staff to be notified if a youth is determined to be a suicide or self-harm risk.

(b) Designate areas within the facility and provide security precautions for youth who are placed on suicide or self-harm watch.

(c) Establish monitoring procedures for youth on suicide or self-harm watch, including frequency and documentation of wellness checks under s. DOC 347.48.

(3) YOUTH SUPERVISION. The facility shall do all of the following:

(a) Identify staff who may initiate a suicide or self-harm watch.

(b) Require notification to qualified mental health professionals when the youth is placed on suicide or self-harm watch. Assessment by a qualified mental health professional shall be completed as soon as practicable.

(c) Identify qualified mental health professionals who are authorized to remove a youth from a suicide or self-harm watch status after an in-person assessment.

(d) Establish requirements for the frequency of communication between health care and facility staff regarding the status of a youth who is on suicide or self-harm watch.

(e) Establish an intervention protocol during an apparent suicide or self-harm attempt, including life-sustaining measures.

(f) Notify the youth's parent or legal guardian any time a youth is placed on suicide or self-harm watch.

(g) Notify the youth's case worker in the county or tribe of supervision any time a youth is placed on suicide or self-harm watch.

(h) Identify persons to be notified in case of attempted or completed suicides or self-harm.

(4) DOCUMENTATION. The facility shall document actions taken and decisions made regarding youth who are at risk of attempting suicide or self-harm, including all of the following:

(a) Individual initiating the suicide or self-harm watch.

(b) Date and time watch was initiated.

(c) Reason watch was initiated.

(d) Date, time, and name of supervisor contacted.

(e) Date and time of referral to a qualified mental health professional.

(f) Written documentation from the qualified mental health professional removing a youth from a suicide or self-harm watch including name, date, and time.

(g) Date and time of notification to youth's parent or legal guardian under sub. (3) (f).

(h) Date and time of notification to youth's case worker in the county or tribe of supervision under sub. (3) (g).

(5) SUPPORT SERVICES. The facility shall provide access to debriefing and support services for youth and staff following a suicide or self-harm incident.

DOC 347.27 Dental health care.

(1) A dental screening shall be performed by a licensed dentist or a qualified healthcare professional within 7 days of admission.

(2) An oral examination shall be performed by a licensed dentist within 60 days of admission and every 6

months thereafter, unless the facility obtains information that the youth received a dental examination within the previous 6 months.

(3) The facility shall provide access to emergency dental care and transportation to those services, as needed.

DOC 347.28 Medications.

(1) The facility shall comply with state and federal law regarding procuring, prescribing, dispensing, delivering, administering, and disposing of prescription and nonprescription medications.

(2) All medications brought into the facility shall be verified, inventoried, and maintained in a designated secure storage area.

(3) Designated trained staff may administer or deliver prescribed doses of medication at prescribed times. Annual documented training shall be provided to facility staff that deliver medications.

(4) Staff shall administer or deliver medications under circumstances that protect the youth's confidentiality.

(5) Prescription and nonprescription medication administered or delivered to a youth shall be documented, including who prescribed the medication, who administered or delivered the medication, and the date and time of administration or delivery.

(6) All refusals of recommended or prescribed medications by a youth shall be documented.

(7) The facility shall inventory and return or dispose of unused medications upon the youth's release or transfer.

(8) All medication errors shall be documented.

DOC 347.29 Medical records.

(1) Youth medical records shall be kept separate from other records, including custodial records, and shall be maintained in a confidential manner in accordance with ss. 146.81 to 146.83, Stats., and all other applicable state and federal laws.

(2) Records shall be securely maintained and accessible only by designated staff.

(3) No person except those authorized under s. 51.30 or 146.82, Stats., or other applicable state and federal laws, may have access to information in the records or be permitted to inspect the records.

Subchapter VII – Resources for Youth

DOC 347.30 Clothing, towels, and bedding.

(1) CLOTHING.

(a) If youth are not permitted to wear personal clothing, all of the following shall be provided upon admission:

1. A set of clean clothing.
2. Clean socks and undergarments.
3. Clean footwear.

(b) All clothing provided shall be of appropriate size for the youth.

(c) All clothing provided shall be appropriate to the season.

(d) Clothing shall be laundered at a minimum of 2 times per week, and on a more frequent basis as required by the nature of work assignments and programmed activities.

(e) Undergarments and socks shall be laundered as necessary to provide clean undergarments and socks daily. Youth shall receive the same set of undergarments and socks back after laundering.

(2) TOWELS AND BEDDING.

- (a)** Staff shall provide each youth with a clean towel and washcloth daily.
- (b)** Staff shall provide youth with clean bed linens at least once per week.
- (c)** Staff shall provide youth with a clean blanket at least once per month.

(3) MATTRESSES AND PILLOWS.

- (a)** Staff shall provide youth with a clean mattress and pillow.
- (b)** Each mattress and each pillow shall be covered with a fire retardant, waterproof, easy-to-sanitize material.
- (c)** Mattresses and pillows shall be kept in good repair and in a clean and sanitary condition. Staff shall repair or remove from circulation any mattresses with holes or cracks.
- (d)** Mattresses and pillows shall be cleaned and sanitized before reissue.

DOC 347.31 Commissary services. If a facility provides commissary, vending, or other similar services for youth, the facility shall develop policies and procedures relating to these services.

DOC 347.32 Mail.

- (1)** The facility shall not limit the amount of correspondence sent and received by youth.
- (2)** The facility shall deliver incoming mail to youth on the same day that it is received at the facility.
- (3)** Outgoing youth mail shall be posted daily excluding weekends and holidays.
- (4)** Appropriate writing materials shall be provided to youth upon request.
- (5)** Postage for a minimum of 2 non-privileged letters a week shall be provided for each youth.
- (6)** Postage for privileged mail may not be limited.
- (7)** The facility shall establish parameters for inspecting privileged and non-privileged mail.
- (8)** If mail is withheld, staff shall inform the youth and send a written notice to the sender explaining the reason for withholding. Staff shall log the date, time, reason, and disposition of the mail, including any money or items of personal property; save the mail; and inform the youth.
- (9)** Mail addressed to a released youth shall be forwarded unopened to the youth or returned to the sender or post office if no forwarding address is available.

DOC 347.33 Communication.

- (1)** Upon admission, youth shall be given an opportunity as soon as possible to communicate with social supporters.
- (2)** Youth shall have the opportunity to communicate with approved individuals external to the facility no less than once per day.
- (3)** The facility may not charge youth to communicate.
- (4)** The facility shall make accommodations for youth with hearing or speech disabilities or limited English proficiency.
- (5)** The facility shall inform youth if external communication is withheld or monitored.
- (6)** The facility may not monitor conversations between youth and their attorneys.
- (7)** Youth may speak with social supporters in their language of choice regardless of staff comprehension.

DOC 347.34 Visitation.

(1) ACCESS.

- (a)** The facility shall provide visitation hours sufficient to accommodate daily contact visits for youth.

Visiting hours shall be designated during both the day and the evening with a minimum of 3 hours before 5:00 p.m. and 2 hours after 5:00 p.m.

(b) The facility shall provide for individually scheduled visits outside of normal visiting hours with prior approval.

(c) The facility shall post visitation policies and procedures, including visitation schedule, in a place readily accessible to visitors and youth.

(d) Areas used for visitation shall accommodate groups of varying sizes, be child-friendly, and offer interactive toys, games, and children's books to promote social supporter interaction.

(e) Staff may not impose non-contact visits absent a documented security threat.

(f) The facility may conduct searches of visitors entering the facility.

(2) VISITOR LIST.

(a) The facility shall maintain an approved visitor list for each youth. Youth shall have access to the current approved visitor list.

(b) Except as otherwise provided in this chapter, only visitors on a youth's approved list will be permitted to visit the youth.

(c) Except as provided in par. (e), staff shall permit youth to visit with social supporters.

(d) Youth or others may request an addition to the list of approved visitors, and if the request is not approved by the facility, both the youth and the person will be notified of the reasons for the action in writing.

(e) The facility may deny a person's inclusion on the approved visitor list or remove a person from the approved visitors list. Justification to deny a person's inclusion on or removal from the visitor list may include any of the following:

1. There are reasonable grounds to believe that the visitor has attempted to bring contraband into the facility in the past 12 months.
2. There are reasonable grounds to believe the visitor poses a threat to the safety and security of visitors, staff, youth, or the facility.
3. There are reasonable grounds to believe that the youth may victimize the proposed visitor or the proposed visitor may victimize the youth.
4. There is a court order prohibiting a visit.

DOC 347.35 Publications.

(1) The facility shall provide access to reading materials of general interest including books, newspapers, and magazines to all youth.

(2) The facility may not limit access to reading materials except when reasonably related to the security of the facility or the health and development of the youth.

DOC 347.36 Religious practices.

(1) The facility may not discriminate against a youth on the basis of the youth's religious beliefs.

(2) Youth shall have the opportunity to participate in religious practices, services, and programming, and have access to property of their religious practices consistent with existing state and federal law.

(3) Staff and individuals who provide religious programming or services may not compel youth participation in or adoption of a particular religion.

(4) The facility shall notify youth of the schedule of religious services available.

DOC 347.37 Legal access. The facility shall provide youth access to the courts, attorneys, and legal materials

and research.

DOC 347.38. Grievance procedure.

(1) GENERAL.

(a) The facility shall provide all youth with access to a grievance procedure that provides an opportunity for resolution of complaints.

(b) The facility shall provide a process by which youth can submit grievances in a confidential manner that is only accessible by a supervisor or designee.

(2) PROCEDURE.

(a) The facility shall screen all grievances within 24 hours of receipt, excluding weekends and holidays. Priority shall be given to grievances concerning health and safety.

(b) The facility shall, within 7 days of receipt of the grievance, issue a written response and provide a copy to the youth. The response shall state the issue, the facts upon which any decision is based, the decision, and the reasons for the decision.

(c) The facility shall provide at least one level of appeal.

(d) The facility shall maintain a grievance log that includes all of the following:

1. The date and time each grievance is received.
2. The nature of the grievance.
3. The date of the response.
4. The individual issuing a response.
5. Status of any appeal.

(3) RETALIATION. The facility shall prohibit retaliation for use of the grievance procedure.

Subchapter VIII – Programs and Services

DOC 347.39 General. Programs and services under this subchapter shall conform to the following requirements:

(1) The facility shall do all of the following:

(a) Provide programming that consists of structured treatment, leisure, recreational, exercise, and educational activities.

(b) Incorporate evidence-based practices and trauma-informed and science aligned principles in programs and services.

(c) Provide programs and services that are responsive to the genders, sexual orientations, disabilities, socioeconomic statuses, cultural, racial and ethnic backgrounds, experiences, interests, and primary languages of youth.

(d) Post and adhere to a daily schedule of programs and services in each living unit. Reasons for any deviations from scheduled activities shall be documented.

(e) Encourage youth to be out of their rooms and engaged in programming.

(f) Ensure youth have daily access to the facility's outdoor recreation space under s. DOC 347.10 (10), weather permitting.

(2) Programming may be provided by staff, volunteers, contractors, or community groups.

(3) If a facility uses volunteers, the operational plan under s. DOC 347.08 shall contain policies and procedures relating to the use of volunteers, including the completion of criminal background checks, orientation and training, and extent of supervision and responsibilities.

(4) The facility shall ensure that equitable gender-responsive programming exists for youth in the facility. The facility shall not limit access to recreation and vocational opportunities on the basis of gender.

(5) Youth are not required to participate in uncompensated work assignments unless the work is related to housekeeping, maintenance of the facility or grounds, personal hygienic needs, or part of an approved training or community service program.

DOC 347.40 Community partnerships for programming.

(1) The facility shall pursue partnerships with community organizations to enhance available services and resources in the facility.

(2) Youth may volunteer and participate in programs and services within the community in accordance with s. DOC 347.15.

DOC 347.41 Education. The facility shall do all of the following:

(1) Ensure that youth have access to education, as provided by the school district in which the facility is located.

(2) Notify the school district in which the facility is located when youth are placed in the facility.

(3) Cooperate with the school district in which the facility is located in the implementation of an educational program.

(4) Communicate to the department of public instruction concerns regarding adequacy of educational programming within facilities.

(5) Document on a daily basis all of the following:

(a) Number of hours of instruction by a teacher.

(b) Number of youth receiving instruction.

(c) Names of youth who refused to participate in education.

(d) Names of youth who were unable to participate and the reasons for the inability.

DOC 347.42 Vocational opportunities. The facility shall do all of the following:

(1) Provide youth the opportunity to receive vocational and career counseling.

(2) Provide training on soft skills and work readiness.

(3) Offer eligible youth vocational opportunities consistent with available resources.

(4) Provide eligible youth the opportunity to pursue post-secondary education.

DOC 347.43 Independent living and life skills programming. The facility shall provide youth with structured experience in independent living and life skills that may include the following components:

(1) INDEPENDENT LIVING.

(a) Ability to find safe, stable, and affordable housing.

(b) Basic home maintenance and cleaning skills.

(c) Meal planning and cooking skills.

(d) Transportation skills.

(e) Obtaining medical, dental, and mental health care.

(f) Money management.

(2) LIFE SKILLS.

(a) Development of youths' emotional regulation, self-responsibility, and resilience.

- (b) Development of appropriate pro-social relationships.
- (c) Fostering protective skills against victimization.

DOC 347.44 Leisure activities, recreation, and exercise.

- (1) LEISURE ACTIVITIES. The facility shall offer youth a range of leisure activities.
- (2) RECREATION. The facility shall do all of the following:
 - (a) Have a supervised and scheduled recreation and exercise program.
 - (b) Ensure all youth have access to at least one hour of large muscle exercise every weekday and at least two hours of large muscle exercise each Saturday and Sunday in a space outside of their own rooms.
 - (c) Have and maintain supplies and equipment to provide a variety of recreational and exercise activities.

DOC 347.45 Youth, family, and social supporter engagement.

- (1) ORIENTATION AND ACCESS.
 - (a) *Orientation and information.* The facility shall provide a parent, guardian, or legal custodian orientation materials upon admission.
 - (b) *Access to youth.* The facility shall provide youth access to social supporters in accordance with s. DOC 347.34.
- (2) OPPORTUNITIES FOR INPUT. The facility shall do all of the following:
 - (a) Provide multiple methods for social supporters to provide recommendations regarding facility programming, services, and operations.
 - (b) Provide opportunities for social supporters to submit a formal complaint regarding facility programming, services, visitation, and operations. The facility shall respond to formal complaints within 7 days, excluding weekends and holidays.
 - (c) Provide multiple methods for youth to provide recommendations regarding facility programming, services, and operations.
- (3) INTERACTIONS. Subject to s. DOC 347.46, the facility shall provide opportunities for youth and social supporter interactions through a variety of activities.

DOC 347.46 Case plan and treatment.

- (1) CASE PLAN.
 - (a) The facility shall develop a written case plan for the youth within 30 days of admission based on the assessment in s. DOC 347.14.
 - (b) Case planning teams shall, at a minimum, consist of all of the following:
 1. The youth.
 2. The youth's identified family or legal guardian.
 3. A clinical staff member.
 4. A case manager.
 5. A security staff member.
 - (c) The case plan shall incorporate evidence-based practices and trauma-informed care and science-aligned principles.
 - (d) The facility shall engage each youth to identify positive social supporters in the community.
 - (e) The case plan may include involvement of social supporters, treatment providers, and other programming organizations in the community.

- (f) The case plan shall be time-limited, goal-oriented, and individualized to meet the specific needs of the youth as identified from the assessment.
- (2) REASSESSMENT. At least once every 3 months, professional staff shall conduct a reassessment of the youth and the case plan to determine progress toward meeting the plan goals.
 - (a) The facility shall conduct an individual case plan review at least every three months and revise the plan as needed, consistent with the youth's needs, case plan goals, and the permanency planning goals of the placing person or agency.
 - (b) Professional staff shall document the results of all youth reassessments and case plan reviews to include the date of each review and the names of participants.
- (3) TREATMENT PROGRAMMING. The facility shall provide treatment programming as identified in the case plan.

Subchapter IX – Safety and Security

DOC 347.47 Security practices.

- (1) KEY CONTROL.
 - (a) All keys assigned to staff shall be stored in a secure area when not in use and accessible in the event of an emergency.
 - (b) All keys assigned to staff shall be inventoried and documented at shift change.
 - (c) Youth are not permitted to handle or utilize keys assigned to staff.
 - (d) Keys issued to youth shall be inventoried when issued and returned.
- (2) WEAPONS CONTROL.
 - (a) The facility shall establish protocols for the introduction, availability, inventory, and storage of other security control devices and specify the level of authority required for access and use.
 - (b) Firearms, electronic control devices, and chemical agents are not permitted in the facility except when brought in by law enforcement in emergency situations.
- (3) TOOL CONTROL. Tool control shall include the introduction, use, storage, and inventory of all tools brought into the facility or stored on-site.
- (4) SEARCHES.
 - (a) *Youth.*
 1. Searches shall not be conducted as a form of harassment, punishment, or discipline.
 2. Searches of youth, except in exigent circumstances, shall be conducted by a staff member of the same gender as the youth. The facility's transgender protocol must be followed for youth when this applies.
 3. Body cavity searches shall be conducted by a qualified health care professional.
 4. The facility shall document the reason for all youth strip, body cavity, and cross-gender pat down searches and any items discovered through the search.
 5. All youth strip, body cavity, and cross-gender pat down searches shall require the documented approval of a supervisor or designee.
 - (b) *Visitors.* The facility shall develop protocols for the searching of visitors and their possessions.
 - (c) *Facility.* At a minimum, monthly facility searches of all youth accessible areas shall be conducted and documented to control the existence of contraband.
- (5) DOOR AND LOCK INSPECTIONS. Monthly inspections shall be conducted and documented to determine if all facility doors and locks within and to the secure perimeter of the facility are in good working order.
- (6) FACILITY REPAIR. Any damage to the facility that compromises safety or security shall be promptly and securely repaired.

DOC 347.48 Observation of youth.

- (1) A youth may be placed in their room only for any of the following purposes:
 - (a) Sleeping purposes.
 - (b) Healthcare reasons.
 - (c) Upon a voluntary request.
 - (d) To maintain the safety and security of other youth, staff, and the facility during an emergency situation.
 - (e) Administrative confinement.
- (2) The facility shall have a system for providing wellness checks of youth. All youth shall be personally observed by facility security staff at staggered intervals not to exceed any of the following:
 - (a) Thirty minutes for youth in the general population.
 - (b) Fifteen minutes for any of the following:
 1. Youth on a suicide or self-harm watch.
 2. Youth in administrative confinement.
 3. Youth in a receiving room or holding room.
 4. Youth voluntarily requests.
- (3) Each wellness check shall be documented.
- (4) A video monitoring system may be used to supplement but not replace personal observations.
- (5) Staff shall provide direct continuous personal observation when a youth is mechanically restrained.
- (6) The facility shall conduct and document formal physical counts of youth at least 3 times per day, with a minimum of one count per shift.
- (7) The facility shall ensure there is no physical or visual contact between youth and adult inmates.
- (8) The facility shall ensure there is no sustained sound contact between youth and adult inmates.

DOC 347.49 Administrative confinement.

- (1) Administrative confinement may only be used for a youth who poses a serious risk of imminent physical harm to others or facility security.
- (2) The facility shall designate on-site supervisory staff who may initiate administrative confinement and remove youth from administrative confinement.
- (3) If at any point the youth no longer poses a risk of imminent physical harm, the youth must be immediately returned to general population.
- (4) An initial period of administrative confinement may not exceed 4 hours for a youth posing a risk of imminent physical harm to others.
- (5) Administrative confinement may be extended 4 hours with one additional 4-hour extension thereafter (for a total of up to 12 hours) if all of the following occur:
 - (a) A qualified mental health professional recommends continued confinement because the youth poses a risk of imminent physical harm to others.
 - (b) A plan is commenced to either promptly return the youth to general population or transfer the youth to another facility.
- (6) Administrative confinement time limits may be tolled from 8 p.m. to 8 a.m.
- (7) Administrative confinement may only be used beyond 24 hours to effectuate transfer of the youth to another facility under a commenced plan.
- (8) The facility shall notify the following individuals of an administrative confinement placement as soon as practicable:

- (a) A qualified mental health professional.
 - (b) A qualified health care professional.
 - (c) Affected facility staff.
 - (d) The youth's parent or guardian.
 - (e) The county or tribe of placement.
- (9) The facility shall document all actions and decisions regarding youth in administrative confinement to include all of the following:
- (a) Date, time, and name of supervisor making placement.
 - (b) Reason placement is initiated or extended.
 - (c) Date, time, names of individuals notified, and method of notification to the individuals in sub. (8).
 - (d) Date, time, reason, and name of qualified mental health professional extending the placement.
 - (e) Date, time, and name of supervisor removing placement.

DOC 347.50 Use of force.

(1) GENERAL PROVISIONS.

- (a) Physical force may be used as a last resort and in accordance with appropriate statutory authority.
- (b) Staff may only use the amount of force reasonably necessary to achieve the objective for which force is used.
- (c) Staff shall only use physical force by employing the least restrictive appropriate means and only for the amount of time necessary to bring the situation under control.
- (d) Using physical force for punishment, discipline, retaliation, or as a substitute for treatment is prohibited.

(2) INCIDENT REPORTING.

- (a) Any staff member who uses force or witnesses a use of force shall submit a written report describing the incident to their supervisor for review. The report shall include all known relevant facts and be submitted by the end of the shift.
- (b) A supervisor shall review and document all use of force incidents.
- (c) The facility shall conduct and document a multi-disciplinary operational review following a use of force.
- (d) Facility procedures shall address the role, notification, and follow-up of qualified health care and mental health professionals following use of force incidents.

DOC 347.51 Use of mechanical restraints.

- (1) Youth may never be restrained to a fixed object, unless specifically ordered by a qualified mental health professional to attempt to prevent active self-harm.
- (2) Mechanical restraints may only be applied to youth if staff determine that they are the least restrictive means of addressing an imminent threat of physical harm to self or others or damage to property.
- (3) Mechanical restraints must be removed immediately upon the youth regaining composure and when the threat of harm or the safety concern has abated.
- (4) Mechanical restraints may never be used as punishment.
- (5) A youth may be placed in the least restrictive mechanical restraints when leaving the secure perimeter of the facility to prevent harm to youth or staff.
- (6) Except under circumstances described in sub. (5), the incident reporting procedure outlined in s. DOC 347.50 (2) shall apply if a youth is mechanically restrained.
- (7) A staff person shall be assigned to monitor a youth who is placed in mechanical restraints and shall

remain in continuous auditory and visual contact with the youth. Observations of the youth's behavior and any staff interventions shall be documented at least once every 15 minutes, with the actual time of the observation or intervention recorded.

DOC 347.52 Fire safety and emergency preparedness.

- (1) The facility shall comply with applicable federal, state, and local fire safety codes.
- (2) The facility shall have and shall properly maintain self-contained breathing apparatuses and fire extinguishers sufficient to support the need of the facility as determined by the local fire department. The facility shall place the equipment in accordance with the advice of the local fire department.
- (3) The facility shall maintain a record of all fire inspections conducted as required under sub. (1).
- (4) Staff shall conduct and document monthly fire safety inspections of the facility.
- (5) The facility shall have the means to evacuate youth in the event of fire or other emergency.
- (6) A written fire evacuation plan shall be developed and maintained in accordance with recommendations from the local fire department. The evacuation routes developed as a part of the evacuation plan shall be posted in a conspicuous place for staff.
- (7) Fire drills shall be conducted at least quarterly on each shift and documented.
- (8) The facility shall develop and maintain an emergency operation procedure. The procedure shall be readily accessible for staff to reference and include instructions for all of the following:
 - (a) Major disturbances.
 - (b) Natural disasters.
 - (c) Physical plant disruptions.
- (9) First aid kits and other emergency response equipment shall be available in designated areas of the facility. Inventories shall be conducted and documented monthly.
- (10) The facility shall have access to an alternate power source to maintain essential services in an emergency. Quarterly tests of the alternate power source shall be conducted and documented.

Subchapter X – Behavior Management

DOC 347.53 Youth conduct.

- (1) The facility shall have a system of incentives for positive youth behavior.
- (2) The facility shall have written rules of behavior for youth.

DOC 347.54 Discipline.

- (1) At the time of admission, each youth shall be notified of and provided access to the rules of behavior required in the facility and the potential disciplinary actions imposed for violation of the rules. Youths' receipt of the facility rules shall be documented.
- (2) The facility shall have a graduated array of dispositions to address youth rule violations.
- (3) Disciplinary action shall be determined on an individual basis. Staff may not use group punishment as a sanction for the negative behavior of an individual youth.
- (4) Only staff may administer youth rule violation dispositions.
- (5) Staff shall consider whether a youth's disability, mental illness, special education status, or limited English proficient status contributed to the behavior when assigning consequences for violations of the facility's rules. Staff should consult with a qualified mental health professional when making that decision.
- (6) Staff may restrict a youth's privileges for a rule violation if all of the following occur:

- (a) The youth is given the opportunity to explain the circumstances of the alleged violation. The youth's statement or refusal shall be documented. A supervisor shall document their review of the rule violation, the youth's statement, and restriction within 24 hours.
- (b) Any restriction shall be directly related to the violation.
- (7) Dispositions may not include any of the following:
 - (a) Room restriction.
 - (b) Withholding of basic necessities such as food, water, toilet, clothing, sleep, or the use of materials necessary to maintain a basic level of personal hygiene.
 - (c) Restriction of access to religious worship, attorneys, privileged mail, courts, legislators, and medical and mental health services.
 - (d) Restriction of exercise.
 - (e) Corporal, unusual, or humiliating punishment.
 - (f) Use of mechanical restraints.

DOC 347.55 Disciplinary procedures.

- (1) A staff member who observes a youth committing a rule violation shall inform the youth of the rule that was violated and the disciplinary procedure.
- (2) A staff member shall offer the youth the opportunity to provide a statement. Staff shall document the youth's statement or their refusal to provide a statement.
- (3) Staff shall inform the youth that the disciplinary report and statement will be forwarded to the supervisor or designee for review and determination of disposition.
- (4) An impartial supervisor or designee shall immediately review the disciplinary report and youth's statement, render a decision, and notify the youth immediately. If the supervisor finds that no violation occurred, the youth shall be notified that the charge has been dismissed. The supervisor shall document their review.
- (5) The youth shall be notified of their right to appeal the supervisor's decision.
- (6) The youth may appeal the decision within 24 hours of receipt of the decision.
- (7) The youth shall receive a written decision no later than 24 hours after receipt of an appeal.
- (8) The facility shall document information on each rule violation by a youth, each disciplinary action taken by the facility, and each appeal. The documentation shall be maintained in the youth's record.

DOC 347.56 Review of behavior management. At least quarterly, the facility shall review the use of behavior management. The review shall include:

- (1) Any patterns indicated by similarities in the time of day, day of the week, duration of the use of procedure, individuals involved, or other factors associated with the use of discipline or administrative confinement.
- (2) Actions needed to correct identified deficiencies in the facility's implementation of youth discipline or administrative confinement.
- (3) A review of current options available for addressing and supporting behavior management.
- (4) The quarterly review shall be documented.

Subchapter XI – Hygiene and Sanitation

DOC 347.57 Hygiene. The facility shall do all of the following:

- (1) Permit youth to shower at least once per day.
- (2) Provide hygiene and toiletry supplies sufficient for maintenance of cleanliness of the youth including toothpaste, toothbrush, soap and shampoo, shaving materials, comb or hair brush, and feminine hygiene materials.

(3) Provide youth adequate time to conduct appropriate hygiene practices, including opportunities to groom themselves before court appearances and other important events.

DOC 347.58 Sanitation.

(1) Vermin and pests shall be controlled with an effective, documented program. Containers of poisonous compounds used for exterminating rodents or insects shall be prominently and distinctly labeled for easy identification of contents. Poisonous compounds shall be stored independently and separately from food and kitchenware in a locked area not accessible to youth.

(2) The facility shall provide youth access to cleaning materials daily.

(3) Tables used for common use and meals shall be kept sanitized.

(4) Safety and sanitation inspections of the facility shall be completed and documented at a minimum of once monthly.

(5) Common use grooming tools shall be disinfected and cleaned before reissue and are stored in a secure area.

(6) Property storage containers shall be sanitized before reuse.

(7) Trash shall be removed daily.

Subchapter XII – Collocated Facilities

DOC 347.59 Staffing of collocated facilities.

(1) This section applies to facilities located in a portion of a secure juvenile detention facility or a Type 1 juvenile correctional facility under s. 301.37 (1m), Stats.

(2) Staff responsible for the supervision of youth held in a facility may have responsibility for supervision of youth confined in a secure juvenile detention facility or Type 1 facility provided all of the following are met:

(a) The staff member has successfully completed required training specific to each type of facility.

(b) The facility is able to meet the applicable staffing plan of each facility type.

DOC 347.60 Physical space of collocated facilities.

(1) This section applies to secured residential care centers for children and youth located in a portion of a secure juvenile detention facility or a Type 1 juvenile correctional facility under s. 301.37 (1m), Stats.

(2) A secured residential care center for children and youth may share any of the following areas with a secure juvenile detention facility or a Type 1 juvenile correctional facility:

(a) Receiving room.

(b) Holding room.

(c) Healthcare space.

(d) Receiving space.

(e) Visitation space.

(3) With the exception of special events, a secured residential care center for children and youth may share, but not concurrently use, any of the following areas in a secure juvenile detention facility or a Type 1 juvenile correctional facility:

(a) Multipurpose room.

(b) Classroom space.

(c) Quiet space.

(d) Indoor recreation space.

(e) Outdoor recreation space.

(f) Cafeteria or common space for meals.

(g) Food service space under s. DOC 347.10 (12) when used for programming.

(4) A secured residential care center for children and youth shall not share youth housing with a secure juvenile detention facility or a Type 1 juvenile correctional facility.

SECTION 2. EFFECTIVE DATE: The proposed rules contained in this order shall take effect on the first day of the month commencing after the date of publication in the Wisconsin Administrative Register, as provided in sub. 227.22 (2) (intro.), Stats.

**WISCONSIN DEPARTMENT OF CORRECTIONS
REPORT FROM AGENCY**

RULEMAKING REPORT TO LEGISLATURE

BASIS AND PURPOSE OF PROPOSED RULE

The Wisconsin Department of Corrections proposes an order to create ch. DOC 347, relating to secured residential care centers for children and youth.

SUMMARY OF PUBLIC COMMENTS AND AGENCY RESPONSE TO THOSE COMMENTS, AND AN EXPLANATION OF ANY MODIFICATION MADE IN THE PROPOSED RULE AS A RESULT OF PUBLIC COMMENTS OR TESTIMONY RECEIVED AT A PUBLIC HEARING

Public Comment or Testimony	Department Response
Comment was related to DOC 347.60 – physical space of collocated facilities. This standard delineates which areas of a collocated facility can be concurrently used by secured residential care centers for children and youth, secure juvenile detention facilities, and Type 1 juvenile correctional facilities. The request is to expand the amount of allowable shared spaces for youth.	Rejected. This standard was reviewed extensively during the rule making process by various subject matter experts and a determination was made which areas of a collocated facility could be concurrently used by short-term detention and long-term youth. Current research articulates that there is a need for long-term youth to be provided with intensive programming that will differ from short-term detention youth and that mixing populations for programs could negatively impact positive outcomes for both populations. Additionally, this standard affords a collocated facility flexibility by allowing youth to occupy the same areas during special events.
Comment was related to DOC 347.60 – physical space of collocated facilities. This standard delineates which areas of a collocated facility can be concurrently used by secured residential care centers for children and youth, secure juvenile detention facilities, and Type 1 juvenile correctional facilities. The request is to expand the amount of allowable shared spaces for youth.	Rejected. This standard was reviewed extensively during the rule making process by various subject matter experts and a determination was made which areas of a collocated facility could be concurrently used by short-term detention and long-term youth. Current research articulates that there is a need for long-term youth to be provided with intensive programming that will differ from short-term detention youth and that mixing populations for programs could negatively impact positive outcomes for both populations. Additionally, this standard affords a collocated facility flexibility by allowing youth to occupy the same areas during special events.
Comment was related to DOC 347.60 – physical space of collocated facilities. This standard delineates which areas of a collocated facility can be concurrently used by secured residential care centers for children and youth, secure juvenile detention facilities, and Type 1 juvenile correctional facilities. The request is to expand the amount of allowable shared spaces for youth.	Rejected. This standard was reviewed extensively during the rule making process by various subject matter experts and a determination was made which areas of a collocated facility could be concurrently used by short-term detention and long-term youth. Current research articulates that there is a need for long-term youth to be provided with intensive

Comment was related to DOC 347.17(1) – staffing. This standard requires a supervisor or designee to be physically on-site during every shift at the facility. The request is to have a supervisor available by telephone or to have a facility develop policies and procedures related to the chain of command.

Comment was related to DOC 347.17(2) – staffing. This standard requires staff to provide direct supervision of youth in living units and other areas where youth are present. The request is for the rule to make a distinction between when youth are in sleeping rooms versus outside of sleeping rooms.

programming that will differ from short-term detention youth and that mixing populations for programs could negatively impact positive outcomes for both populations. Additionally, this standard affords a colocated facility flexibility by allowing youth to occupy the same areas during special events.

Rejected. Requiring a supervisor to be on-site is consistent with correctional best practices. At this time, the DOC is unaware of any facility (juvenile or adult) that does not maintain a staff member on each shift that is not responsible for decision-making authority. Additionally, this standard affords the facility flexibility with assigning a designee.

Rejected. National experts in the field of youth justice have consistently maintained that direct supervision is the most appropriate form of supervision for youth in a confined setting. The DOC agrees. The direct supervision model allows staff to be more present and responsive to youth concerns and, in particular, when youth are in their sleeping rooms. This is also personified by DOC 347 requiring a staffing ratio of 1:8 during waking hours and 1:16 during sleeping hours. This enables youth to be in direct interaction with staff 24/7.

PERSONS SUBMITTING PUBLIC COMMENTS OR APPEARING/REGISTERING AT HEARING

A Public Hearing was held on September 9, 2020 from 1:00 p.m. – 2:00 p.m. at 3099 E. Washington Avenue, Madison, WI 53704 via Zoom and teleconference.

LIST OF PERSONS WHO APPEARED OR REGISTERED FOR OR AGAINST THE PROPOSED RULE AT THE PUBLIC HEARINGS, OR SUBMITTED WRITTEN COMMENTS

Antonio Chavez
John Bauman
Sarah Deidrick-Kasdorf

CHANGES TO RULE ANALYSIS AND FISCAL ESTIMATE

No changes were made to the rule analysis or the fiscal estimate and economic impact analysis.

RESPONSE TO LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

Legislative Council Comment/Suggestion	Department Response
In the caption for the proposed rule, the format for identifying the new chapter should be revised, and a relating clause to identify the subject matter of the proposed rule should be inserted. For example, the caption could appear as follows: “ to create ch. DOC 347, relating to secured residential care centers for children and youth”. Also, the last sentence in the paragraph that introduces the caption could be removed, as it provides the same information. [s. 1.02 (1) (a) and (Example), Manual.]	Agree. Corrected.
In the rule summary’s listing of statutory authority, the citation to s. 227.11 (2), Stats., could be removed, as the other cited sections provide more specific authority to promulgate the rule. [s. 1.02 (2m) (a), Manual.]	Agree. Corrected.
In the rule summary’s description of the factual data and analytical methodologies used in preparing the rule, the description should be revised to provide an overview of the process in developing the proposed rule, and the entry regarding small business should be moved to the next heading. For example, the description should state if a review and comparison was made among the text of other current rules, the statutory directives on the issue, and federal guidance. Any other aspects of the analytical process used in developing the proposed rule should also be briefly identified.	Agree. Corrected. ODF moved the economic impact information from 8. to 10. Effect on small businesses per recommendation and provided description for 8. Information regarding current rules and federal guidance is found in 6. and 7.
In the rule summary’s listing of the place to submit comments, a deadline should be given to submit the comments. [s. 1.02 (2) (a) 13., Manual.]	Agree. Corrected.
Section DOC 347.10 (3) (b) 3. (intro.) and a. includes duplicative language and could be edited to appear as follows: 3. Each double occupancy room shall have all of the following: a. Floor area of at least 50 square feet of unencumbered space. The distance between the	Agree. Corrected.

floor and ceiling may not be less than 8 feet, and the distance between opposite walls may not be less than 6 feet.

The subsection language of s. DOC 347.17 does not follow from the introductory language, and could be edited to appear as follows:

DOC 347.17 Staffing. The facility shall develop, implement, and document a staffing plan that identifies and provides for sufficient staff at the facility to provide adequate and continuous supervision of youth including all of the following:

- (1) A supervisor or designee physically on-site during every shift at the facility.
- (2) Adequate staff to provide for the direct supervision of youth in living units and other areas where youth are present. The use of a video monitoring system shall not be used to replace direct staff supervision.
- (3) Staff ratios of a minimum of one staff member supervising 8 youth during waking hours and one staff member supervising 16 youth during sleeping hours, except during exigent circumstances. The facility shall document the exigent circumstances.
- (4) Whenever there is a youth in the facility, at least one staff member on duty of the same gender as the youth at the facility.

Agree. Corrected (1), (2), and (3).

Agree. Corrected (4) and removed “there shall be”.

Rejected. Moving the words “on duty” in (4) would cause loss of clarity and meaning.

Section DOC 347.26 (4) (g) and (h) refer to a different subsection within the same rule. The format for the citations used in sub. (4) (g) and (h) need only refer to the subsection and paragraph and not to the entire rule. For example, par. (g) should read as follows: “Date and time of notification to youth’s parent or legal guardian under **sub. (3) (f).**”.

Agree. Corrected.

Section DOC 347.48 (1) should be edited and reformatted into an introduction and paragraphs as follows:

DOC 347.48 Observation of youth.

- (1) A youth may be placed in his or her room only for any of the following purposes:
- (a) Sleeping purposes.
 - (b) Healthcare reasons.
 - (c) Upon a voluntary request.
-

Agree. Corrected. However, DOC does not agree to changing “their” to “his or her” in (1). The use of “their” instead of “his or her” is intentional. Numerous recommendations were received from trauma informed care advocates to be mindful to use gender neutral language. This was also requested from the LBGTI community to reflect a gender neutral connotation.

(d) To maintain the safety and security of other youth, staff, and the facility during an emergency situation.

(e) Administrative confinement.

Section DOC 347.04 defines “strip search” by citing to s. 968.255, Stats. This citation should more precisely cite to s. 968.255 (1) (b), Stats., which is the definition appearing in the statute.

Agree. Corrected.

Chapter DOC 347 should be checked in its entirety for use of the plural “their” when referring to an individual or single youth. When used in the singular, consider revising “their” to “his or her”, or using the article “the”, “a”, or “an”. See, for example, ss. DOC 347.48 (1) and 347.55 (5).

Rejected. The use of “their” instead of “his or her” is intentional. Numerous recommendations were received from trauma informed care advocates to be mindful to use gender neutral language. This was also requested from the LGBTI community to reflect a gender neutral connotation.

Section DOC 347.05 allows the department to grant a variance to any requirement within the chapter, other than those imposed by state statute or federal law and requirements relating to double occupancy rooms. Does the department intend to consider variance applications that do not meet the minimum requirements of the commercial building code (and as required in construction plans pursuant to s. DOC 347.09 (3))? If not, this should also be included as an exception within s. DOC 347.05 (1).

Rejected. The DOC cannot grant variances to other state or federal agency code requirements that impact buildings and can only provide for exceptions found in this chapter. Given that external agency code requirements can, and often do, change at various points in time would require the DOC to continuously have to request the re-opening of this permanent rule to make modifications.

Section DOC 347.06 (4) requires a secure residential care center for children and youth to “promptly furnish to the department all requested information”. This statement is extremely vague. Does this mean that, upon request by any department employee, a center must supply all information requested by that employee?

Yes. The department has statutory responsibility for the regulation of the facilities as set forth in Wisconsin Statutes 301.36 and 301.37. Wisconsin statutes do not delineate who within the “department” is being discussed. However, DOC has designated the Office of Detention Facilities as the designee for requesting information from the counties. Currently, other “department” entities do request county information, particularly employees within the Division of Community Corrections and Division of Juvenile Corrections, for example.

Section DOC 347.10 (3) should be reviewed and revised to provide clarity regarding whether dormitories and other facilities may provide baths instead of showers. Paragraph (d) 8. requires each dormitory to provide “showers

Agree. Clarified by removing bathtubs/baths.

or bathtubs”, par. (e) 1. requires that “the facility” must provide “showers”, and par. (e) 3. refers to “baths or showers” in requiring individual privacy. If the intention is for all facilities to provide either showers or bathtubs, then par. (e) 1. should be revised to indicate which of the requirements also apply to bathtubs.

Section DOC 347.15 requires a facility that allows off-grounds leave to “develop policies and procedures”. Are the policies and procedures for determining which youth will be granted leave? Are they for approving the particular activities that a youth may engage in while off grounds? The department should consider including more explanatory language. At a minimum, the rule should state that a facility must develop policies and procedures “relating to off-grounds leave”.

Agree. Corrected.

Section DOC 347.25 (7) states that a center must have “sufficient service hours of qualified mental health professionals to timely meet the needs of youth...”. This should be revised to refer to “qualified mental health service hours” or “service hours from qualified mental health professionals”.

Agree. Corrected.

Section DOC 347.27 (2) should be revised to read: “An oral examination **shall be** performed by a licensed dentist...”.

Agree. Corrected.

Section DOC 347.32 (1) provides that a center cannot “limit the number of correspondence sent and received by youth”. This subsection should be revised to refer to the “amount” or “volume” of correspondence.

Agree. Corrected.

Section DOC 347.36 (2) should state that “youth shall have the opportunity to participate in **religious** practices, services, and programming...”.

Agree. Corrected.

Section DOC 347.46 (1) (b) 3. to 5. lists individuals who must be on a case planning team. Each provision should be revised to include the word “A” before the identified individual. For example: “A clinical staff member”.

Agree. Corrected.

Section DOC 347.46 (2) (intro.) relates to reassessment and requires professional staff to conduct a reassessment of the case plan at least every three months. Paragraph (a) requires the facility to conduct an “individual case plan review” and revise the plan as needed. Is the individual case plan review required every three months as part of the reassessment? Or, is the individual case plan review something separate from a reassessment of the case plan? If it is a separate review, how often must it be conducted? This should be clarified.

Agree. Clarified.

Section DOC 347.49 (8) lists individuals who should be notified if a youth is given an administrative confinement placement. Each provision should be revised to include the word “A” or “The” before the identified individual or government in pars. (a), (b), and (e). For example: “A qualified mental health professional” and “The county or tribe of placement”.

Agree. Corrected.

Section DOC 347.51 (5) states that a youth may be placed in mechanical restraints “to prevent the harm of youth or staff”. This should be amended to read: “to prevent **harm to** youth or staff”.

Agree. Corrected.

Section DOC 347.51 (7) relates to use of mechanical restraints and requires that a staff person be assigned to monitor “the youth and shall remain in continuous auditory and visual contact with the youth”. The provision presumably applies while a youth is placed in mechanical restraints, but the language does not state this directly. The provision should be amended to clarify. For example: “A staff person shall be assigned to monitor a youth who is placed in mechanical restraints and shall remain in continuous auditory....”

Agree. Corrected/clarified.

FINAL REGULATORY FLEXIBILITY ANALYSIS

The department of corrections has determined that the rule will not have a significant economic impact on a substantial number of small businesses since the rule does not regulate small businesses as that term is defined in s. 227.1145, Stats.



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Anne Sappenfield
Legislative Council Director

Margit Kelley
Clearinghouse Assistant Director

CLEARINGHOUSE RULE 20-030

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]

2. Form, Style and Placement in Administrative Code

a. In the caption for the proposed rule, the format for identifying the new chapter should be revised, and a relating clause to identify the subject matter of the proposed rule should be inserted. For example, the caption could appear as follows: “**to create** ch. DOC 347, relating to secured residential care centers for children and youth”. Also, the last sentence in the paragraph that introduces the caption could be removed, as it provides the same information. [s. 1.02 (1) (a) and (Example), Manual.]

b. In the rule summary’s listing of statutory authority, the citation to s. 227.11 (2), Stats., could be removed, as the other cited sections provide more specific authority to promulgate the rule. [s. 1.02 (2m) (a), Manual.]

c. In the rule summary’s description of the factual data and analytical methodologies used in preparing the rule, the description should be revised to provide an overview of the process in developing the proposed rule, and the entry regarding small business should be moved to the next heading. For example, the description should state if a review and comparison was made among the text of other current rules, the statutory directives on the issue, and federal guidance. Any other aspects of the analytical process used in developing the proposed rule should also be briefly identified.

d. In the rule summary's listing of the place to submit comments, a deadline should be given to submit the comments. [s. 1.02 (2) (a) 13., Manual.]

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e. Section DOC 347.10 (3) (b) 3. (intro.) and a. includes duplicative language and could be edited to appear as follows:

3. Each double occupancy room shall have all of the following:

a. Floor area of at least 50 square feet of unencumbered space. The distance between the floor and ceiling may not be less than 8 feet, and the distance between opposite walls may not be less than 6 feet.

f. The subsection language of s. DOC 347.17 does not follow from the introductory language, and could be edited to appear as follows:

DOC 347.17 Staffing. The facility shall develop, implement, and document a staffing plan that identifies and provides for sufficient staff at the facility to provide adequate and continuous supervision of youth including all of the following:

(1) A supervisor or designee physically on-site during every shift at the facility.

(2) Adequate staff to provide for the direct supervision of youth in living units and other areas where youth are present. The use of a video monitoring system shall not be used to replace direct staff supervision.

(3) Staff ratios of a minimum of one staff member supervising 8 youth during waking hours and one staff member supervising 16 youth during sleeping hours, except during exigent circumstances. The facility shall document the exigent circumstances.

(4) Whenever there is a youth in the facility, at least one staff member on duty of the same gender as the youth at the facility.

g. Section DOC 347.26 (4) (g) and (h) refer to a different subsection within the same rule. The format for the citations used in sub. (4) (g) and (h) need only refer to the subsection and paragraph and not to the entire rule. For example, par. (g) should read as follows: "Date and time of notification to youth's parent or legal guardian under **sub. (3) (f)**".

h. Section DOC 347.48 (1) should be edited and reformatted into an introduction and paragraphs as follows:

DOC 347.48 Observation of youth.

(1) A youth may be placed in his or her room only for any of the following purposes:

(a) Sleeping purposes.

(b) Healthcare reasons.

(c) Upon a voluntary request.

(d) To maintain the safety and security of other youth, staff, and the facility during an emergency situation.

(e) Administrative confinement.

4. Adequacy of References to Related Statutes, Rules and Forms

Section DOC 347.04 defines “strip search” by citing to s. 968.255, Stats. This citation should more precisely cite to s. 968.255 (1) (b), Stats., which is the definition appearing in the statute.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. Chapter DOC 347 should be checked in its entirety for use of the plural “their” when referring to an individual or single youth. When used in the singular, consider revising “their” to “his or her”, or using the article “the”, “a”, or “an”. See, for example, ss. DOC 347.48 (1) and 347.55 (5).

b. Section DOC 347.05 allows the department to grant a variance to any requirement within the chapter, other than those imposed by state statute or federal law and requirements relating to double occupancy rooms. Does the department intend to consider variance applications that do not meet the minimum requirements of the commercial building code (and as required in construction plans pursuant to s. DOC 347.09 (3))? If not, this should also be included as an exception within s. DOC 347.05 (1).

c. Section DOC 347.06 (4) requires a secure residential care center for children and youth to “promptly furnish to the department all requested information”. This statement is extremely vague. Does this mean that, upon request by any department employee, a center must supply all information requested by that employee?

d. Section DOC 347.10 (3) should be reviewed and revised to provide clarity regarding whether dormitories and other facilities may provide baths instead of showers. Paragraph (d) 8. requires each dormitory to provide “showers or bathtubs”, par. (e) 1. requires that “the facility” must provide “showers”, and par. (e) 3. refers to “baths or showers” in requiring individual privacy. If the intention is for all facilities to provide either showers or bathtubs, then par. (e) 1. should be revised to indicate which of the requirements also apply to bathtubs.

e. Section DOC 347.15 requires a facility that allows off-grounds leave to “develop policies and procedures”. Are the policies and procedures for determining which youth will be granted leave? Are they for approving the particular activities that a youth may engage in while off grounds? The department should consider including more explanatory language. At a minimum, the rule should state that a facility must develop policies and procedures “relating to off-grounds leave”.

f. Section DOC 347.25 (7) states that a center must have “sufficient service hours of qualified mental health professionals to timely meet the needs of youth...”. This should be revised to refer to “qualified mental health service hours” or “service hours from qualified mental health professionals”.

g. Section DOC 347.27 (2) should be revised to read: “An oral examination **shall be** performed by a licensed dentist...”.

h. Section DOC 347.32 (1) provides that a center cannot “limit the number of correspondence sent and received by youth”. This subsection should be revised to refer to the “amount” or “volume” of correspondence.

i. Section DOC 347.36 (2) should state that “youth shall have the opportunity to participate in **religious** practices, services, and programming...”.

j. Section DOC 347.46 (1) (b) 3. to 5. lists individuals who must be on a case planning team. Each provision should be revised to include the word “A” before the identified individual. For example: “A clinical staff member”.

k. Section DOC 347.46 (2) (intro.) relates to reassessment and requires professional staff to conduct a reassessment of the case plan at least every three months. Paragraph (a) requires the facility to conduct an “individual case plan review” and revise the plan as needed. Is the individual case plan review required every three months as part of the reassessment? Or, is the individual case plan review something separate from a reassessment of the case plan? If it is a separate review, how often must it be conducted? This should be clarified.

l. Section DOC 347.49 (8) lists individuals who should be notified if a youth is given an administrative confinement placement. Each provision should be revised to include the word “A” or “The” before the identified individual or government in pars. (a), (b), and (e). For example: “A qualified mental health professional” and “The county or tribe of placement”.

m. Section DOC 347.51 (5) states that a youth may be placed in mechanical restraints “to prevent the harm of youth or staff”. This should be amended to read: “to prevent **harm to** youth or staff”.

n. Section DOC 347.51 (7) relates to use of mechanical restraints and requires that a staff person be assigned to monitor “the youth and shall remain in continuous auditory and visual contact with the youth”. The provision presumably applies while a youth is placed in mechanical restraints, but the language does not state this directly. The provision should be amended to clarify. For example: “A staff person shall be assigned to monitor a youth who is placed in mechanical restraints and shall remain in continuous auditory...”.



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Anne Sappenfield
Legislative Council Director

Margit S. Kelley
Clearinghouse Assistant Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE **20-030**

AN ORDER to create DOC chapter 347, relating to secured residential care centers for children and youth.

Submitted by **DEPARTMENT OF CORRECTIONS**

07-28-2020 RECEIVED BY LEGISLATIVE COUNCIL.

08-20-2020 REPORT SENT TO AGENCY.

MSK:KBO

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

DOC 347

3. Subject

Writing Chapter DOC 347, related to Secure Residential Care Centers for Children and Youth

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

none

6. Fiscal Effect of Implementing the Rule

No Fiscal Effect Increase Existing Revenues Increase Costs
 Indeterminate Decrease Existing Revenues Could Absorb Within Agency's Budget

 Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

State's Economy Specific Businesses/Sectors
 Local Government Units Public Utility Rate Payers

 Small Businesses (if checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

9. Policy Problem Addressed by the Rule

The DOC is directed by 2017 Wisconsin Act 185 and 2019 Act 8 to promulgate a rule to establish standards for the approval, design, construction, repair, maintenance, operation, standards of service, programming, and uniform data reporting requirements for secured residential care centers for children and youth.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

There should be no impact for the private sector or public sector as the rule applies to facilities that do not currently exist. Future operators of facilities governed by this rule will incur costs associated with operating a facility but those costs are presently indeterminate. Legislative acts may have resulted in a fiscal impact on the private sector or public sector but this rule will result in no further fiscal impact.

11. Identify the local governmental units that participated in the development of this EIA.

No local government units needed to participate in the development of this statement because no local government units currently operate facilities that are governed by this rule.

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

The proposed rule is not anticipated to have significant adverse or material economic impact on small businesses. The Department determined this rule would not adversely affect in a material way the economy, a sector of the economy, productivity, jobs, or the overall economic competitiveness of the state.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The benefit of this rule is providing future operators of secure residential care centers for children and youth with standards in accordance with the DOC's authority under 2017 Wisconsin Act 185. The alternative to this is to do nothing.

14. Long Range Implications of Implementing the Rule

Promulgation of this rule will enable counties and/or tribes to establish facilities required under 2017 Wisconsin Act 185 and 2019 Act 8.

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

15. Compare With Approaches Being Used by Federal Government

There are various federal laws that relate to the provisions created in the proposed chapter that affect the management and operation of secure residential care centers. Provisions of the Juvenile Justice and Delinquency Act (JJDP) generally prohibit sight and sound contact between juveniles and adults in correctional facilities. Additionally, the Prison Rape Elimination Act (PREA) imposes certain supervision and monitoring standards. PREA also imposes staffing requirements (staff to youth), such as a minimum of 1:8 during resident waking hours and 1:16 during resident sleeping hours.

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

In most cases, requirements vary moderately between the adjacent states and those of Wisconsin as proposed. For a detailed analysis, please refer to the proposed rule-making order submitted by the Department associated with this rule.

17. Contact Name

Dawn Woeshnick

18. Contact Phone Number

(608) 240-5417

This document can be made available in alternate formats to individuals with disabilities upon request.

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

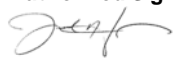
- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
-

2019 Session		Administrative Rule Number DOC 347
FISCAL ESTIMATE DOA-2048 N(R06/99)		<input checked="" type="checkbox"/> ORIGINAL <input type="checkbox"/> UPDATED <input type="checkbox"/> CORRECTED <input type="checkbox"/> SUPPLEMENTAL
Subject Secure Residential Care Centers for Children and Youth		
Fiscal Effect		
State: <input checked="" type="checkbox"/> No State Fiscal Effect Check columns below only if bill makes a direct appropriation or affects a sumsufficient appropriation.		<input type="checkbox"/> Increase Costs - May be possible to Absorb Within Agency's Budget <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Increase Existing Appropriation <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Appropriation <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Create New Appropriation	<input type="checkbox"/> Decrease Costs	
Local: <input checked="" type="checkbox"/> No local government costs		
1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	5. Types of Local Governmental Units Affected: <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities <input checked="" type="checkbox"/> Counties <input type="checkbox"/> Others _____ <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S		Affected Chapter 20 Appropriations
Assumptions Used in Arriving at Fiscal Estimate The DOC is directed by 2017 Wisconsin Act 185 and 2019 Act 8 to promulgate a rule to establish standards for the approval, design, construction, repair, maintenance, operation, standards of service, programming, and uniform data reporting requirements for secured residential care centers for children and youth. The Department estimates there will be no fiscal impact as a result of this rule as it applies to facilities that do not currently exist. Future operators of facilities governed by this rule will incur costs associated with operating a facility but those costs are presently indeterminate. Individual pieces of legislation may have had some fiscal impact, but these rule changes alone have no fiscal impact.		
Long-Range Fiscal Implications Indeterminate.		
Prepared by: Dawn Woeshnick	Telephone No. 608-240-5417	Agency DOC
Authorized Signature: 	Telephone--No. 608-240-5055	Date 7/24/20