

Tyren Frazier, Chair
Robert Vilchez, Vice Chair
Dana G. Schrad, Secretary
David R. Hines
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Robyn D. McDougle
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COMMONWEALTH of VIRGINIA
Board of Juvenile Justice

BOARD MEETING

April 7, 2021  Virtual

A G E N D A

9:30 a.m. Board Meeting

1. **CALL TO ORDER and INTRODUCTIONS**
2. **CONSIDERATION of the December 1, 2020 (Pages 2-12) and March 11, 2021 MINUTES (Pages 13-15)**
3. **PUBLIC COMMENT**
4. **DIRECTOR'S CERTIFICATION ACTIONS (Pages 16-51)**
Ken Bailey, Certifications Manager, Department of Juvenile Justice
5. **OTHER BUSINESS**
 - A. **Consideration of Guidance Document Regarding Review and Approval of Data Requests and Research Proposals (Pages 52-69)** - Kristen Peterson, Regulatory and Policy Coordinator, Department of Juvenile Justice and Dhara Amin, Senior Research Associate, Department of Juvenile Justice
 - B. **Consideration of the Proposed Amendments to the State Reimbursement Regulation (Pages 70-101)** - Kristen Peterson, Regulatory and Policy Coordinator, Department of Juvenile Justice
 - C. **Consideration of the Virginia Juvenile Community Crime Control Act Plan Change for the City of Alexandria** - Jenna Easton, Program Manager, Department of Juvenile Justice
 - D. **Data Resource Briefing** - Jessica Schneider, Research Manager, Department of Juvenile Justice
6. **DIRECTOR REMARKS AND BOARD COMMENTS**
7. **NEXT MEETING DATE:** June 16, 2021, at 9:30 a.m.
8. **ADJOURNMENT**



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DRAFT MEETING MINUTES

December 1, 2020 *or* Virtual Meeting

Pursuant to amendments to the Budget Bill approved on April 24, 2020, and set forth in Item 4.0-0.1 and in light of the Governor's declaration of a state emergency to curb the spread of COVID-19, the Board of Juvenile Justice met by virtual videoconference on December 1, 2020. The Board considered a virtual video meeting necessary due to concerns that the nature and continuing spread of the virus throughout the Commonwealth rendered meeting at a single location unsafe for Board members, Department of Juvenile Justice personnel, and members of the public.

Board Members Present: Tyren Frazier, Scott Kizner, Robyn McDougle, Dana Schrad, Gregory Underwood, and Robert Vilchez

Board Members Absent: David Hines and Quwanisha Roman

Department of Juvenile Justice (Department) Staff Present: Dhara Amin, Ken Bailey, Melinda Boone, Valerie Boykin, Patrick Bridge, Kecia Brothers-Hayes, Ken Davis, Mike Favale, Robert Foster, Stephanie Garrison, Stephanie Green, Regina Harris, Wendy Hoffman, Lesley Hull, Dee Kirk, Andrea McMahon, Linda McWilliams, Roy Mitchell, Mike Morton, Margaret O'Shea (Attorney General's Office), Shaun Parker, Jamie Patten, Kristen Peterson, Romilda Smith, Beth Stinnett, James Towey, and Angela Valentine

Registered Guests: Deja Braxton (dLCV), James Braxton (RISE), Ellen Harrison (Department of Education), Cory Jones (RISE), Ashley Moore (Legal Aid Justice Center), Ginger Ploeger (Tidewater Youth Services Commission), Ed Reed (CAP Consulting), Shawn Sawyer (Tidewater Youth Services Commission), Valerie Slater (RISE), Nancy Tubbs (ISNV), and William Wimbish (Tidewater Youth Services Commission)

CALL TO ORDER

Chairman Tyren Frazier called the meeting to order at 9:33 a.m.

INTRODUCTIONS

Chairman Frazier welcomed those present and asked for Board member introductions. Director Valerie Boykin asked for staff introductions. Due to the media platform used for the meeting, guests were not able to make introductions.

APPROVAL OF September 16, 2020, MINUTES

The minutes of the September 16, 2020, Board meeting were presented for approval. On motion duly made by Robyn McDougle and seconded by Scott Kizner, the Board approved the minutes as presented. Roll Call: Tyren Frazier – Aye, Scott Kizner – Aye, Robyn McDougle – Aye, Dana Schrad – Aye, Greg Underwood – Aye, Robert Vilchez – Aye. The motion was carried.

PUBLIC COMMENT PERIOD

There was no public comment.

CONSIDERATION OF THE VIRGINIA JUVENILE COMMUNITY CRIME CONTROL ACT (VJCCCA) PLAN

Beth Stinnett, Statewide Program Manager, Department

The Board approved the York County combined VJCCCA plan (Gloucester, James City, and Poquoson) in June for the two-year biennium. The Board received an update at its September meeting on York County's decision to close the group home and shelter care facility, and the Board approved the reduction of the local contribution to reduce their maintenance of effort consistent with the state allocation. At the time of the September meeting, York County convened their stakeholders of court service unit directors and the judiciary to determine how to spend the cost savings from the closure of the group home and shelter care facility.

As a result of the cost savings associated with the closure of the group home and shelter care facility, the York County combined plan proposed to reallocate funding to continue outreach detention/electronic monitoring programming, law-related education, and substance abuse education. They will also add new programming to include a community service program, a restorative justice program, and community Aggression Replacement Training. The proposed changes and history are detailed on page 30 of the Board packet. Ms. Stinnett and her staff reviewed the proposal, and Ms. Stinnett noted their support. York County has met the requirements for revising the plan, including having a balanced budget, reallocating funding, convening stakeholders, and providing required letters of support from court service unit directors and the judiciary. The recommendation is for the Board to approve the revised York County combined plan for the full two-year biennium through June 30, 2022.

On motion by Dana Schrad and seconded by Robyn McDougle, the Board of Juvenile Justice approved the revised proposed VJCCCA Plan for York County (Combined) through June 30, 2022. Roll Call: Tyren Frazier – Aye, Scott Kizner – Aye, Robyn McDougle – Aye, Dana Schrad – Aye, Greg Underwood – Aye, Robert Vilchez – Aye. The motion was carried.

FY2020 HUMAN RESEARCH REPORT

Dr. Dhara Amin, Senior Research Associate, Department

The Human Research Review Committee reviewed four new research proposals in the past fiscal year, and none were denied. Dr. Amin updated the Board on pending reports.

Dr. Amin reminded the Board of the meeting last year describing research protocol violations being investigated by the Department. The investigation found that communication difficulties contributed to the violation with the Bureau of Justice Statistics (BJS) and Westat. Westat assumed they were allowed to use Spanish forms with Bon Air youth; however, that was not approved by the Human Research Review Committee. Appendix B on page 45 of the Board packet includes a letter from BJS on improvement areas.

- BJS will appoint a single primary point of contact.
- BJS will establish a central repository of survey materials to provide the Department an easier way to request documentation.
- BJS will make changes to the consent and focus group forms to ensure the Department can gather information on youth needs, especially translation services for Spanish speaking youth. BJS will ask parents, staff, and youth, to ensure that a translator is available when necessary in their next wave of research interviews.

Dr. Amin recalled a problematic study the VERA Institute was doing with Bon Air youth and staff regarding the Community Treatment Model and its implications. Unfortunately, the Department received word that due to major changes at VERA, their team's final research report for this study would not be available. The research team recorded this in case the VERA Institute submitted future proposals.

Board Member Schrad asked whether the VERA Institute did not complete the research or the report.

Dr. Amin responded that the research team from VERA completed the agreed upon project, but before the final research report was completed, VERA underwent major organizational changes. After multiple attempts to contact, it was believed that the *original* VERA research team was not available to provide a cohesive and coherent report summarizing all the data collected.

Board Member Schrad asked if the data collected would be useful to the Department without VERA's continued services.

Dr. Amin answered that because the data collected was one and one-half fiscal years ago, it is not clear how useful the data may be now. The recommendations may be outdated and would not take into account the impact of COVID-19 and the changes to the juvenile correctional center with the Community Treatment Model. Director Boykin noted that the research team will review the information and make certain it would not be useful in another capacity.

REQUEST AUTHORIZATION TO EXTEND VARIANCE FOR TIDEWATER YOUTH SERVICES COMMISSION, APARTMENT LIVING PROGRAM

Kristen Peterson, Policy and Regulatory Coordinator, Department

Ms. Peterson provided an overview of the Tidewater Youth Services Commission (TYSC) Apartment Living Program. TYSC operates the Apartment Living Program and is requesting an extension of its existing variance. The TYSC received a variance from the Board in 2016 exempting it from three specific regulatory requirements

in two different regulatory sections, 6VAC35-41-650, dealing with nutrition and 6VAC35-41-920, dealing with staff supervision of residents.

The Apartment Living Program is subject to the Regulation Governing Juvenile Group Homes and Halfway Houses in Chapter 41 of the Department's regulations. Residents are placed in apartment-style settings and taught independent living skills. For example, the residents are taught meal preparation and assistance with job placement and are given other tools needed to successfully live independently. Before TYSC opened the facility in 2016, they understood there would be difficulties with fulfilling some regulatory requirements, and therefore sought the initial variance before beginning operations. In 2016, the Board issued and approved the variance to the three regulatory requirements. Because the variance is set to expire on January 11, 2021, TYSC is seeking an extension.

The first variance request is from 6VAC35-41-650(C). The existing provision requires that menus of actual meals served be retained for six months. This is problematic for the Apartment Living Program because there is no food technician on the premises. The residents are required to do their own grocery shopping and to prepare their own meals. They are educated on nutritional food choices, meal planning, and preparation. Frequently, the residents may have extended or unpredictable work schedules, which may make adhering to those menus challenging. As a result, it is difficult for staff to monitor meals served and to retain documentation of those meals. TYSC is asking for a variance to that regulatory provision.

In addition, Subsection E of Section 650, prohibits facilities from allowing more than 15 hours to pass between the evening meal and breakfast the next morning. The regulation allows the facility administrator to extend that requirement to 17 hours on weekends and holidays. This is also a difficult provision for the Apartment Living Program to meet based on the same reasons provided regarding the menu retention requirement. There is no food technician on the premises, residents are responsible for their own grocery shopping and meal planning, but resident schedules may make it difficult to track meals and determine when residents had various meals, and how many hours extended between the evening meal and breakfast the next morning.

6VAC35-41-920 requires at least one direct care staff member present and responsible for supervising residents when there is at least one resident on the premises. Occasionally, there may be only one staff member responsible for covering the facility. Residents are encouraged to be in the community taking advantage of job and educational opportunities. Those residents may encounter an emergency while in the community that necessitates staff leaving the facility to attend to that resident. The current variance allows that staff member, in emergency situations, to leave the facility for a period not longer than an hour to attend to that resident.

This variance has been in place since 2016, and the TYSC is requesting an extension. The variance has been used monthly and is necessary to ensure the safety of those residents out in the community. The rationale for the variance is that there may be a greater risk to the resident in the community facing an emergency than to those residents left unsupervised back at the facility. The variance provides that if a staff member should leave the facility to attend to an offsite resident, then that direct care staff must notify the facility administrator or other supervisor before leaving the facility and provide information to the residents remaining on campus, including an emergency telephone number where a staff member can be reached or some other means of immediate communication with a staff member.

6VAC35-20-92 requires the Board to identify the scope and duration of any variance issued. The TYSC respectfully requests the Board to extend this variance for a five-year period or until such time as the concepts of the variance are incorporated and endorsed in the Regulation Governing Juvenile Group Homes and Halfway Houses. Ms. Peterson reminded the Board that they approved the proposed amendments to the Regulation Governing Juvenile Group Homes and Halfway Houses in May 2019 and that part of that approval was a proposed amendment incorporating the variance's concepts.

Board Member Schrad responded that these variances have been in place for almost five-years, the TYSC is asking for another five-year extension and asked, in light of the group home regulation and proposed amendments, whether the variance would be required in the future after the regulation is updated.

Ms. Peterson answered that the Board has already approved the proposed amendments that include the concepts of this variance. This variance request is a formality because the regulation has taken a long time to move through the regulatory process.

Board Member Schrad asked for an update on the regulation process. Ms. Peterson responded that the group home regulation is still in the Proposed Stage of the regulatory process, is currently in the Governor's Office, and may be delayed due to the pandemic and other high priority issues.

Board Member McDougle commented that ultimately when the regulation is approved by the Governor's Office, the five-year variance the Board is considering will be obsolete because the variance, with the new concepts, would be incorporated in the regulation.

Ms. Peterson agreed, explaining that TYSC acknowledged in their request that the variance would apply for five-years or until the new regulation with the amended language takes effect.

Chairman Frazier asked for more information on the Apartment Living Program's process when staff need to leave the facility and go offsite.

Ginger Ploeger, Deputy Director of the TYSC, and William Wimbish, Director of the Apartment Living Program, were introduced to provide more details of the program. Ms. Ploeger explained that the program has eight residents, the maximum at any given time, with youth ranging from 18 to 20. Ms. Ploeger introduced Mr. Wimbish, who explained that when staff on duty need to leave the facility for these purposes, they take a portable cell phone with access to the facility ground's camera system. A clipboard attached to the door lists emergency contacts for the director, assistant director, and administrative staff in case of emergency. Residents rarely have emergencies in the community. Examples include medical appointments that went awry or inclement weather. The facility is close to the ocean and tropical storms develop. Residents may be unable to leave work in inclement weather, and staff would need to pick them up.

On motion by Robyn McDougle and seconded by Robert Vilchez, pursuant to 6VAC35-20-92, the Board of Juvenile Justice approved the Tidewater Youth Services Commission's Apartment Living Program's request to extend the variance to subsections (C) and (E) of 6VAC35-41-650 and 6VAC35-41-920 regarding menu retention,

periods between meals, and staff supervision of residents, as agreed upon at the December 1, 2020, meeting. The variance shall remain in effect for five years or until the approved variance is adopted into the Regulation Governing Juvenile Group Homes and Halfway Houses (6VAC35-41), whichever occurs first. Roll Call: Tyren Frazier – Aye, Scott Kizner – Aye, Robyn McDougle – Aye, Dana Schrad – Aye, Greg Underwood – Aye, Robert Vilchez – Aye. The motion carried.

REQUEST FOR CONSIDERATION OF COMPULSORY MINIMUM TRAINING STANDARDS AND PERFORMANCE OUTCOMES FOR DIRECT CARE AND SECURITY EMPLOYEES

Kristen Peterson, Policy and Regulatory Coordinator, Department

Legislation passed during the 2019 and 2020 General Assembly sessions mandated that the Board adopt compulsory training standards for juvenile correctional officers. The language in the 2019 legislation directs the Board to establish entry level, in-service, and advanced training standards, as well as the time required to complete that training for juvenile correctional officers at juvenile correctional facilities.. During the 2020 legislative session, the General Assembly enhanced the requirement by mandating that the standards include training on the general care of pregnant residents. In order to carry out this legislative directive, the Department convened a workgroup to develop entry level, in-service, and advanced training standards.

The Department is seeking to use the fast-track regulatory process and to treat these standards as a separate regulatory chapter. Historically, when legislation directs the Board to develop standards, the Department has done so through regulations. The Department is asking to utilize the regulatory framework for these training standards, and to fast-track these regulations in order to have them take effect sooner.

Before 2012, the Board had the broad authority to adopt training requirements for juvenile correctional officers. At that time, the Department of Criminal Justice Services (DCJS) was responsible for providing oversight, with respect to training, of law enforcement agencies and correctional officer-type positions. It made sense for the Department to seek the same oversight from the DCJS. In 2012, the Department sought, and the General Assembly enacted, legislation that transferred the authority to adopt training standards to DCJS. In 2014, the Department began moving toward a more rehabilitative, therapeutic approach to juvenile justice. As part of this transformation, the Department adopted the Community Treatment Model and restructured what was then called the “juvenile correctional officer” position. In 2019, in order to align with the new roles given to direct care and security employees in the juvenile correctional centers, the Department sought legislation to transfer the authority to develop training standards back to the Board of Juvenile Justice. That legislation was approved, and the Department is presenting these standards for the Board’s consideration today.

The training standards consist of nine separate sections. The first section (Section 10) provides definitions for terms used in the standards. The definitions were borrowed from the current Regulation Governing Juvenile Correctional Center (JCC) regulation, as well as the proposed amendments to the regulations.

Section 20 sets out the applicability provisions that make it clear the regulation applies to juvenile correctional centers and not to local entities operating alternative direct care programs, such as juvenile detention centers or residential treatment centers. The training standards also will not apply to juvenile boot camps, which currently do not exist in the Commonwealth.

Section 30 requires that the training be provided by agency-approved instructors to ensure individuals are receiving Department-sanctioned training and not veering outside what is permissible by the Department.

Section 40 addresses the compulsory minimum training standards for entry level, in-service, and advanced standards. For the entry level standards, staff must receive a total of 180 hours of initial training, which includes the 120 hours of training required under the existing JCC regulation on specified topics. In addition, the standards require 24 hours of facility observation in the juvenile correctional center. There are provisions in the JCC regulation that mandate one direct care staff for every 10 or 8 residents in the facility. For purposes of determining staffing ratios, the individual participating in facility observation or staff observation cannot be counted in the ratios. An additional 36 hours of training is required in the juvenile correctional center housing unit, equivalent to field training. In addition, the standards require an unspecified volume of facility orientation hours. The initial 120 hours of training include specified training topics outlined in the JCC regulation including emergency preparedness, behavior management, mandatory reporting, and suicide prevention.

Legislation enacted during the 2020 General Assembly session imposed additional requirements on training dealing with pregnant residents. As part of that requirement, trainees shall receive training on the general care of pregnant residents, the impact restraints have on pregnant residents as well as on fetuses, the impact of room confinement and placement in restrictive housing on pregnant residents, and the impact of body cavity searches. The demographics of the Bon Air facility can evolve and change daily. In some instances, the facility may house female residents or pregnant residents. As the workgroup developed these standards, they wanted staff to be prepared, and so the requirement is for all staff to receive this training regardless of whether females reside in the juvenile correctional center. The standards require that such training be conducted by medical staff.

In addition to the entry-level training requirements, the standards mandate that applicable staff complete at least 40 hours of Department-approved annual training. This is refresher training typically conducted on an annual basis. A few training topics, such as first aid and CPR, are not required annually, but must be completed as often as necessary to maintain current certifications, which could mean every two years or every year depending on the program. In-service training topics are addressed in Section 170 of the JCC regulation.

The provisions for advanced or specialized training will only be required for direct care and security employees authorized to use mechanical restraints, the mechanical restraint chair, or protective devices. The Department wanted to ensure that advanced and specialized training is available to all staff, but that such training be mandated for those required to use mechanical restraints, the mechanical restraint chair, and protective devices because these items have specialized requirements with respect to their utilization. The Department will be required to make advanced training available to all staff to enhance their skills and expertise in given areas.

The legislation requires the Department to address the time required to complete the training. Per the standards, staff must complete the initial training before they may work directly with residents. An exception will allow trainees to work directly with residents if at least one other employee is present who has completed all applicable orientation and is supervising the resident. In-service training must be completed either on an annual or recurring basis as set out in Section 170 of the JCC regulation. Certain specified topics must be

completed annually or on a recurring basis. Advanced or specialized training is only required for the use of mechanical restraints, the mechanical restraint chair, and protective devices. Staff must complete that training before being authorized to use those items.

The workgroup also established provisions regarding testing and attendance. One provision requires staff to successfully pass all administered written and practical tests and to demonstrate mastery of physical restraint techniques. Staff also must achieve an acceptable level of attendance. This means staff may not miss 32 or more hours of training cumulatively during their first five weeks of initial training. If the trainees fail to meet these requirements, their service with the Department shall be terminated, and if they wish to be eligible for this position in the future, they must reapply.

In addition to the regulatory provisions, Section 80 requires the Department to establish performance outcomes. This is similar to what is done at DCJS. The workgroup tried to model what DCJS does and stay true to their foundation. The proposal requires the Department to develop performance outcomes of the knowledge and competencies staff must garner from the training. The regulation also assigns the Board responsibility for approving the performance outcomes. The performance outcomes are not regulations; rather, they are a separate stand-alone document that the Board will have authority to approve and amend at any time, and to set a timeline for implementation. The workgroup wanted to treat these performance outcomes as a guidance document rather than regulation. State law requires guidance documents to undergo a 30-day public comment period after being published in the *Virginia Register of Regulations*.

The last provision in Section 90 directs the Department to retain documentation of staff training for a three-year period.

Ms. Peterson then reviewed the performance outcomes and outlined some of the topics addressed as part of the Entry Level Outcomes, including *Professionalism, Law and Legal Issues, Communications, Security and Supervision, Safety, Conflict and Crisis Management, Emergency Response, and Pregnant Resident Issues*. Ms. Peterson also reviewed several topics addressed under Annual Outcomes, Recurring Outcomes, and Advanced or Specialized Outcomes.

Ms. Peterson introduced Patrick Bridge, the Director of Training for the Department. Mr. Bridge thanked Ms. Peterson and expressed that this was a big step forward for the Department. Prior to 2014, the Department did not have training standards, but instead had a list of training requirements. The Department's pace of transformation and the need to move quickly were at odds with relying on another agency for the administrative and regulatory process that accompanied establishing its own training regulations. The proposal allows the Department flexibility to make changes and deftly bring that to the Board for action as needed.

Board Member Kizner asked for more information about initiating a fast-track regulatory action. Ms. Peterson responded that there are a number of different ways for a regulation to come into effect in the Commonwealth of Virginia. The standard regulatory process involves three stages, the Notice of Intended Regulatory Action (NOIRA), the Proposed Stage, and the Final Stage. Currently, each of the Department's residential regulations are moving through the standard regulatory process. It is a lengthy process involving executive level review at each stage; the regulation could be held up in various review stages throughout the process. If a state agency

believes a regulatory action is not controversial, then it can utilize the fast-track process, which is an expedited process available for noncontroversial regulations that allows the Department to bypass stages in the standard regulatory process.

On motion by Scott Kizner and seconded by Robert Vilchez, the Board of Juvenile Justice authorized the Department of Juvenile Justice to initiate a fast-track regulatory action to create a new regulatory chapter, 6VAC35-210, that establishes compulsory minimum, in-service, and advanced training standards for direct care and security employees in juvenile correctional centers in accordance with Chapters 366 of the 2019 Acts of Assembly and 526 of the 2020 Acts of Assembly, and as agreed upon by the Board at the December 1, 2020, meeting. Roll Call: Tyren Frazier – Aye, Scott Kizner – Aye, Robyn McDougale – Aye, Dana Schrad – Aye, Greg Underwood – Aye, Robert Vilchez – Aye. The motion was carried.

On motion by Tyren Frazier and seconded by Robyn McDougale, the Board of Juvenile Justice approved the Performance Outcomes Guidance Document, including any amendments agreed to at the December 1, 2020, meeting and authorized the Department to proceed with filing the Guidance Document in accordance with § 2.2-4002.1 of the *Code of Virginia*. Roll Call: Tyren Frazier – Aye, Scott Kizner – Aye, Robyn McDougale – Aye, Greg Underwood – Aye, Robert Vilchez – Aye. The motion was carried.

DIRECTOR'S COMMENTS

Valerie Boykin, Director, Department

Director Boykin updated the Board on the agency's response to the worldwide pandemic. Until the previous week, Bon Air had gone from July 26 without a positive case among its residents. A recent transfer from a local detention center, upon arriving at Bon Air, showed symptoms and tested positive for COVID-19. This youth was in Bon Air's infirmary and has had little contact with any other youth. Protocols are in place with local detention centers for screenings. In the Department's efforts to follow up with the detention center that transferred the resident, the detention center began testing other youth in their care and discovered an outbreak. They had five youth test positive in the past few days and five staff test positive in the last week.

Over the past eight months, Bon Air reported a total of 35 youth testing positive and 34 youth recovering with only one active case. Bon Air's COVID-19 numbers, along with numbers of committed youth and staff in alternative placements, are posted on the Department's website. There are no current active youth cases in specialized placements, and four youth recovered. There are seven active staff in the specialized placements and 85 recovered. Five active cases of staff assigned to Bon Air are out on sick leave, and 28 have recovered.

Director Boykin suspended transfers into Bon Air as the number of positive cases increased across the Commonwealth. The positivity rate for Chesterfield County, where Bon Air is located, was over 20% last week. Out of an abundance of caution, Bon Air will not admit any young people for at least two weeks. Director Boykin will reassess transfers in mid-December. The Department suspended transfers in the spring for a number of months, but the positivity rate is even greater now.

The Department suspended visitation in March. The Department lifted the suspension on a trial basis, and tried outdoor visitation in early October that was successful. Bon Air resumed limited visitation on a unit-by-unit basis

in early November using social distancing. However, with the increased concerns and positivity rate, Director Boykin suspended in-person visitation and will reassess in a few weeks.

Video visitation is available, although not to the extent the Department would like. Personnel continue to work with a vendor to obtain a camera on Bon Air's GTL phone system. In light of this unexpected delay, personnel are using the GoToMeeting platform during counselor sessions with youth and their family when possible for visitation.

This has been a challenging year, and the Department's leadership has tried to maintain communication with all levels of staff throughout the process. At the beginning of the pandemic, daily and weekly communication went out to staff, but the messages began to wane. Now, the executive leadership has decided to circle back with staff not only because of the pandemic, but the economic challenges and social justice issues that have been prevalent around the country. A series of listening sessions was scheduled for November and December to open dialogue and to check in with staff, hear concerns, and applaud them for their accomplishments and tenacity in the face of these challenges. Four of the nine listening sessions have been completed and five additional sessions are scheduled with court service unit staff. The Department is planning a virtual Leadership Summit in December to wrap up the year's activities, check in with managers, look at accomplishments, and discuss goals for 2021.

Bon Air held a parent town hall meeting in the spring, which gave facility personnel an opportunity to provide parents with a COVID-19 and facility operations update and hear concerns. The second parent town hall occurred during school re-opening, and parents were provided updates on the first semester. The third parent town hall is scheduled for next week to discuss changes resulting from the pandemic. This communication tool has been useful, and DJJ hopes to continue to expand the participation of parents and family members.

The Department received an award for excellence in Virginia government from the L. Douglas Wilder School at Virginia Commonwealth University in the spring. The celebration ceremony was postponed and rescheduled for April 15, 2021. Board Member McDougle mentioned that the event will be virtual, and the link can be sent to anyone who would like to attend. Board Member McDougle noted that she recused herself from the Department's application, but said it was a phenomenal application and a well-deserved award.

Director Boykin introduced Dr. Melinda Boone, Deputy Director of Education for the Department, who presented a distinguished award. Roy Mitchell, who began teaching the art of quilting to residents at the Department's Yvonne B. Miller High School on the campus of the Bon Air Juvenile Correctional Center eight years ago, is one of 31 instructors in the Richmond metro area and surrounding counties of Chesterfield, Henrico and Hanover recognized in 2020 by the Community Foundation and the R.E.B. Foundation for teaching excellence. Mitchell fell in love with the art of quilting after seeing a display of quilts at a county fair and has since devoted himself to the craft and become one of the nation's premier quilt makers. He now teaches the art to students who never dreamed they would be interested in quilting and who become immediate devotees when they realized they are capable of creating beauty, along with experiencing a profound sense of accomplishment in the process. Considered among the best in their field, instructors honored by the Community Foundation and the R.E.B. Foundation demonstrate a sincere passion for teaching while also serving as mentors, coaches and champions for their students. They were selected from 109 nominees submitted by students,

parents, and colleagues. The R.E.B. Awards provide opportunities for area public school teachers to continue their own love of learning as they pursue adventures of a lifetime. Mr. Mitchell will use his \$11,200 share of the nearly \$200,000 in grant funds to learn more about Kente Clothe and the similarities in culture between African American and Hispanic students through travel to Ghana. An enthusiastic Mr. Mitchell accepted the award and showed a few of the youth's beautiful quilts.

NEXT MEETING DATE

April 7, 2021 at 9:30 a.m.

ADJOURNMENT

The meeting was adjourned at 10:53 a.m.



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DRAFT MEETING MINUTES

March 11, 2021 ☞ Virtual Meeting

Pursuant to amendments to the Budget Bill approved on April 24, 2020, and set forth in Item 4.0-0.1, and in light of the Governor's declaration of a state emergency to curb the spread of COVID-19, the Board of Juvenile Justice met by videoconference at its March 11, 2021, meeting. The Board considered a virtual meeting necessary due to concerns that the nature and continuing spread of the virus throughout the Commonwealth rendered meeting at a single location unsafe for Board members, Department of Juvenile Justice personnel, and members of the public.

Board Members Present: Tyren Frazier, David Hines, Scott Kizner, Robyn McDougle, Anita James Price, Dana Schrad, and Robert Vilchez

Board Members Absent: Quwanisha Roman and Gregory Underwood

Department of Juvenile Justice (Department) Staff Present: Valerie Boykin, Mike Favale, Wendy Hoffman, Joyce Holmon, Linda McWilliams, Julie Norris, Margaret O'Shea (Attorney General's Office), Jamie Patten, and James Towey

CALL TO ORDER

Chairperson Tyren Frazier called the meeting to order at 1:03 p.m.

INTRODUCTIONS

Chairperson Frazier welcomed those present and asked for introductions. Anita James Price, newly appointed Board member, introduced herself as a retired educator from Roanoke City schools and a recently retired member of the Roanoke City Council.

PUBLIC COMMENT

There was no public comment.

CONSIDERATION ON THE SALE OF NATURAL BRIDGE

James Towey, Legislative and Regulatory Affairs Manager, Department

On March 11, 2020, the Board approved the sale of the Natural Bridge Juvenile Correctional Center (Natural Bridge); however, the sale failed. The Board has convened for a special meeting to consider a new sales agreement with a closing date by March 15, 2021, and to sign the required resolution on the current sales agreement.

Pursuant to Virginia law, the Department of Juvenile Justice (Department) notified the Department of General Services (DGS) in 2013 that the property is surplus property given the needs of the Department and directs the property be sold. DGS has marketed the property and anticipates selling the property to Thunder Bridge Campground, LLC, pursuant to a sales agreement dated February 8, 2021. Virginia law requires the departments of the Commonwealth shall only sell surplus real property under certain circumstances and that the cognizant board or governing body of the agency or institution holding title or otherwise controlling the state-owned property shall approve, in writing, the proposed conveyance of the property. The Board is requested to adopt the resolution, and (i) approve that the property is surplus to the needs of the Department; (ii) approve the conveyance of the property to the purchaser; and (iii) approve and ratify the sale agreement and authorize the Director of the Department to execute such further documentation, including contracts and a deed, as may be necessary to complete the sale of the property to the purchaser.

The Board received a copy of the resolution and have a motion for consideration.

Board Member Dana Schrad assumed the property is sitting empty and asked what the property has been used for to date.

Department Deputy Director for Administration and Finance Jamie Patten responded the Natural Bridge property has been sitting vacant but maintained by the Department.

Board Member Schrad is not sure exactly where the property is located, and asked if there is any opposition from adjacent landowners opposed to the sale. Board Member Schrad wanted to ensure the Board consider negative comments.

Ms. Patten responded that the agency is not aware of any negative comments. The purchasers are a local family that have property a short distance from the Natural Bridge property. The community seems to be supportive of the purchase.

Department Director Valerie Boykin said the site is close to the actual Natural Bridge, and the agency has not operated the facility since 2009. Natural Bridge was also used as a wilderness camp for young people and staff. Director Boykin noted that the purchasers seem to be preserving the camping site.

Board Member Robert Vilchez recalled visiting Natural Bridge as a probation/parole officer for Arlington County and remarked that he never knew the land was over 90 acres. Mr. Towey said the exact acreage of the property is 99.08 acres.

Board Member Vilchez asked if Natural Bridge is the largest Department facility in the state.

Ms. Patten responded that the Bon Air complex is between 300 and 400 acres. Director Boykin said Natural Bridge is hard to note the size because the property is hilly and mountainous. The actual property utilized is much smaller, but sizable in nature.

Board Member Vilchez asked what will be done with the money from the sale. Mr. Towey said according to Virginia law, the money will be directed back into the general fund. Board Member Vilchez followed up asking if that includes funding for youth, resources, and services. Ms. Patten responded the sale of Department property goes back to the state, and the funds are not redirected specifically for the Department.

Board Member Anita James Prices asked about the Natural Bridge sale price. Ms. Patten answered that the sale price is approximately \$525,000. Closing has not occurred, so the sale of Natural Bridge is not a done deal.

On motion by Dana Schrad and seconded by Robyn McDougle, the Board of Juvenile Justice (i) approved that the property commonly known as the Virginia Natural Bridge Juvenile Correctional Center is surplus to the needs of the Department; (ii) approved the conveyance of the property to the purchaser, Thunder Bridge Campground, LLC; and (iii) ratified the Sale Agreement and authorized the Director of the Department to execute such further documentation, including contracts and a deed, as may be necessary to complete the sale of the property to the purchaser. Roll Call: Tyren Frazier – Aye, Dave Hines – Aye, Scott Kizner – Aye, Robyn McDougle – Aye, Anita James Price – Aye, Dana Schrad – Aye, and Robert Vilchez – Aye. Motion carried.

Mr. Towey asked Chairperson Frazier to return a signed copy of the resolution.

DIRECTOR'S COMMENTS

Director Boykin thanked the Board for attending the meeting virtually and said she looks forward to seeing the Board in April.

NEXT MEETING DATE

April 7, 2021, at 9:30 a.m.

ADJOURNMENT

The meeting was adjourned at 1:20 p.m.

DIRECTOR'S CERTIFICATION ACTIONS

January 11, 2021

DEPARTMENT CERTIFICATION ACTION: Certified Stepping Stones to July 13, 2023, with a status review in July 2021.

Pursuant to 6VAC35-20-100C.2, if the certification audit finds the program or facility in less than 100% compliance with all regulatory requirements and a subsequent status report, completed prior to the certification action, finds 100% compliance on all regulatory requirements, the director or designee shall certify the facility for a specific period of time, up to three years.

DEPARTMENT CERTIFICATION ACTION: Certified the 11th District Court Service Unit until September 12, 2023 with the Regional Program manager to follow-up on the contacts during juvenile's commitment.

Pursuant to 6VAC35-20-100C.2, if the certification audit finds the program or facility in less than 100% compliance with all regulatory requirements and a subsequent status report, completed prior to the certification action, finds 100% compliance on all regulatory requirements, the director or designee shall certify the facility for a specific period of time, up to three years.

DEPARTMENT CERTIFICATION ACTION: Certified the 23A (Roanoke City) Court Service Unit until October 18, 2023.

Pursuant to 6VAC35-20-100C.2, if the certification audit finds the program or facility in less than 100% compliance with all regulatory requirements and a subsequent status report, completed prior to the certification action, finds 100% compliance on all regulatory requirements, the director or designee shall certify the facility for a specific period of time, up to three years.

DEPARTMENT CERTIFICATION ACTION: Certified the 24th District Court Service Unit to January 29, 2024.

Pursuant to 6VAC35-20-100C.2, if the certification audit finds the program or facility in less than 100% compliance with all regulatory requirements and a subsequent status report, completed prior to the certification action, finds 100% compliance on all regulatory requirements, the director or designee shall certify the facility for a specific period of time, up to three years.

DEPARTMENT CERTIFICATION ACTION: Certified the 29th District Court Service Unit to September 14, 2023.

Pursuant to 6VAC35-20-100C.2, if the certification audit finds the program or facility in less than 100% compliance with all regulatory requirements and a subsequent status report, completed prior to the certification action, finds 100% compliance on all regulatory requirements, the director or designee shall certify the facility for a specific period of time, up to three years.

**CERTIFICATION AUDIT REPORT
TO THE
DEPARTMENT OF JUVENILE JUSTICE**

PROGRAM AUDITED:

Stepping Stones: A Therapeutic Journey for Boys
(formerly: Fairfax Boys Probation House)
10650 Page Avenue
(formerly: 4410 Shirley Gate Road)
Fairfax, VA 22030
(703) 591-0171
Misty Zdanski, Program Director
misty.zdanski@fairfaxcounty.gov

AUDIT DATES:

February 24-25, 2020

CERTIFICATION ANALYST:

Clarice T. Booker

CURRENT TERM OF CERTIFICATION:

July 14, 2017 – July 13, 2020

REGULATIONS AUDITED:

6VAC35-41 Regulation Governing Juvenile Group Homes

PREVIOUS AUDIT FINDINGS February 17, 2017

97.96% Compliance Rating
6VAC35-41-90 (B) Serious incident reports
6VAC35-41-300 (A) Orientation and training for volunteers or interns
6VAC35-41-460 (A) Maintenance of the buildings and grounds
6VAC35-41-565 (A) Vulnerable populations
6VAC35-41-850 (B) Daily log
6VAC35-41-860 (F) Individual service plan

CURRENT AUDIT FINDINGS – February 25, 2020:

96.04% Compliance Rating
One deficiency from previous audit*
6VAC35-41-90 (D) Serious incident reports
6VAC35-41-210 (C) Required Retraining
6VAC35-41-210 (H) Required Retraining
6VAC35-41-300 (A) Orientation and training for volunteers or interns*
6VAC35-41-300 (B) Orientation and training for volunteers or interns
6VAC35-41-350 (B) Buildings and inspections CRITICAL
6VAC35-41-490 (D) Emergency and evacuation procedures
6VAC35-41-490 (I) Emergency and evacuation procedures CRITICAL
6VAC35-41-680 (C) Recreation
6VAC35-41-860 (B) Individual Service Plan
6VAC35-41-1220 (B) Medical examinations and treatment CRITICAL
6VAC35-41-1280 (H) Medication CRITICAL
6VAC35-41-1320 (D) Physical restraint

DEPARTMENT CERTIFICATION ACTION January 11, 2021: Certified Stepping Stones to July 13, 2023, with a status review in July 2021.

Pursuant to 6VAC35-20-100C.2, if the certification audit finds the program or facility in less than 100% compliance with all regulatory requirements and a subsequent status report, completed prior to the certification action, finds 100% compliance on all regulatory requirements, the director or designee shall certify the facility for a specific period of time, up to three years.

TEAM MEMBERS:

Clarice T. Booker, Team Leader
John Adams, Central Office
Learna Harris, Central Office
Deborah Hayes, Central Office
Mark Lewis, Central Office
Shelia Palmer, Central Office

POPULATION SERVED:

Stepping Stones: A therapeutic Journey for Boys (formerly, Fairfax Boys Probation House) is a community-based group home for at-risk adolescent males between the ages of 14 and 18. It has a capacity of 12 residents. The facility is operated by Fairfax County and serves residents and families from Fairfax County, Fairfax City and surrounding Northern Virginia jurisdictions..

PROGRAMS AND SERVICES PROVIDED:

Stepping Stones is a community- based residential treatment program for court-involved males. It offers residents a structured living situation designed to meet the treatment needs of adolescent males who can no longer acceptably control their behavior at home, at school, or in the community, but who can benefit from maintaining regular contact with their family and community.

In addition to all mandated services Stepping Stones provides the following at the facility:

- Individual, group, and family counseling designed to decrease criminogenic risk while increasing functional strengths
- Basic food preparation and sanitation skills
- Life and prosocial skills groups
- Recreation
- Gender specific psychoeducation
- Mental health and substance abuse counseling by licensed or certified staff
- Community supervision on outings, home passes and during the transition phase

Stepping Stones interacts with the community in obtaining such services as:

- Alcohol and drug services
- Mental health services
- Education on-site through Fairfax County Public Schools
- Boy Scouts of America
- Summer Reading Program
- Therapeutic Recreational Program
- Summer Academy

**CORRECTIVE ACTION PLAN
TO THE
DEPARTMENT OF JUVENILE JUSTICE**

FACILITY/PROGRAM: Stepping Stones Program: A Therapeutic Journey for Boys

SUBMITTED BY: Misty Zdanski, Director

CERTIFICATION AUDIT DATES: February 24-25, 2020

CERTIFICATION ANALYST: Clarice T. Booker

Under Planned Corrective Action indicate; 1) The cause of the identified area of non-compliance. 2) The effect on the program. 3) Action that has been taken/will be taken to correct the standard cited. 4) Action that will be taken to ensure that the problem does not recur.

6VAC35-41-90 (D) Serious incident reports

The facility shall (i) prepare and maintain a written report of the events listed in subsections A and B of this section and (ii) submit a copy of the written report to the director or designee. The report shall contain the following information:

1. The date and time the incident occurred;
2. A brief description of the incident;
3. The action taken as a result of the incident;
4. The name of the person who completed the report;
5. The name or identifying information of the person who made the report to the placing agency and to either the parent or legal guardian, as appropriate and applicable; and
6. The name of or identifying information provided by the person to whom the report was made, including any law enforcement or child protective service personnel.

Audit Finding:

There was no documentation of name or identifying information of the person who made the report to the placing agency and to either the parent or legal guardian in four out of five applicable serious incident reports reviewed. There was no documentation of the name or identifying information provided by the person to whom the report was made, including any law enforcement or child protective service personnel in three out of five applicable serious incident reports reviewed.

Program Response

Cause:

Our SIR form was filled out incorrectly due to improper training of staff who filled out the form. The staff member did not include the staff name of who made the report to the identified person. Also, the name of the Law Enforcement Officer who took the report was not noted.

Effect on Program:

No effect on the program

Planned Corrective Action:

The SIR was updated to include a Contact Grid on the last page to ensure all parties are notified, the date and time of notification, the means of communication, and by who. The SIR was updated on 2/25/20. Since that time, DJJ has issued an updated SIR form that includes a similar grid. We have replaced our updated SIR with the updated DJJ SIR.

Completion Date:

2/25/20 initially; adopted the DJJ SIR form on 4/8/20

Person Responsible:

Misty Zdanski, Program Director
Ignacio Villas, Assistant Director

Current Status on July 21, 2020: Compliant

Three applicable serious incident reports were reviewed and the required documentation was included.

6VAC35-41-210 (C) Required Retraining

All direct care staff and staff who provide direct supervision of the residents while delivering services, with the exception of workers who are employed by contract to provide behavioral health or health care services, shall complete at least 40 hours of training annually that shall include training in the following areas:

1. Suicide prevention;
2. Child abuse and neglect;
3. Mandatory reporting;
4. Residents' rights, including, but not limited to, the prohibited actions provided for in 6VAC35-41-560 (prohibited actions);
5. Standard precautions; and
6. Behavior intervention procedures.

Audit Finding:

There was no documentation that three out of four staff completed at least 40 hours of training in FY2019 and one out of four staff did not complete 40 hours of training in FY2018.

Program Response

Cause:

Our program conducts annual trainings within the first four months of the new calendar year. We discuss one topic during a Wednesday staff meeting. Those staff that were not in attendance at the staff meeting failed to follow through and complete the training and Administration failed to follow through and check that the training was completed.

Effect on Program:

No effect on the program

Planned Corrective Action:

We are in the process of finishing up our annual trainings for 2020. We have given specific deadlines to complete the training identified. The Director and Assistant Director will follow up with any staff member who did not complete the training by the deadline to ensure it is done prior

to beginning their next scheduled shift.

Starting in 2021, we will hold an All Hands Staff mandatory meeting the last Saturday in February and review all the annual training requirements listed in 6VAC35-41-210 (C) Required Retraining. After that meeting, Administration will immediately follow up with any staff members who were unable to attend the All Hands Meeting and schedule a separate training time. A Training Roster will be used to monitor attendance and who still needs to complete the training by a specific deadline.

Completion Date:

4/1/20

Person Responsible:

Misty Zdanski, Program Director
Ignacio Villas, Assistant Program Director

Current Status on July 21, 2020: Not Determinable

The facility administrator reports that they are no longer documenting their training by fiscal year, but have changed to calendar year which ends in December 2020.

6VAC35-41-210 (H) Required Retraining

Staff who have not timely completed required retraining shall not be allowed to have direct care responsibilities pending completion of the retraining requirements.

Audit Finding:

Staff who did not complete the required retraining were allowed to have direct care responsibilities during the audit period.

Program Response

Cause:

Due to the Director position being vacated in December of 2019, the Acting Director was filling both roles of the Assistant Director and Director until June of 2020 when a new Assistant Director was appointed and started training. We also had to move to a new location in July causing some disruption in day-to-day operation and reorganizing. The training rosters were not monitored as rigorously as they typically are due to being understaffed and planning a program move to a new location and the Director failed to review the training roster to ensure compliance.

Effect on Program:

No effect on the program

Planned Corrective Action:

The identified staff were removed from the calendar until the missing trainings from 2019 were completed. A memo was submitted to each employee with the specific trainings needed. Once completed, they signed the form of understanding.

Ongoing corrective action includes the following:

The Director and Assistant Director will follow up with any staff member who did not complete the training by the deadline to ensure it is done prior to beginning their next scheduled shift.

Starting in 2021, we will hold an All Hands Staff mandatory meeting the last Saturday in February and review all the annual training requirements listed in 6VAC35-41-210 (C) Required Retraining. After that meeting, Administration will immediately follow up with any staff members who were unable to attend the All Hands Meeting and schedule a separate training time. A Training Roster will be used to monitor attendance and who still needs to complete the training by a specific deadline. They will not be allowed to provide direct care responsibilities until they meet with Admin and receive the annual trainings.

Completion Date:

2/26/20 (announced in staff meeting and included in staff notes)

Person Responsible:

Misty Zdanski, Program Director
Ignacio Villas, Assistant Program Director

Current Status on July 21, 2020: Compliant

One staff resigned and two staff were not allowed to work until their retraining was completed on 2/25/2020 and 3/4/2020, respectively.

6VAC35-41-300 (A) Orientation and training for volunteers or interns

Volunteers and interns shall be provided with a basic orientation on the following:

1. The facility;
2. The population served;
3. The basic objectives of the facility;
4. The facility's organizational structure;
5. Security, population control, emergency, emergency preparedness, and evacuation procedures;
6. The practices of confidentiality;
7. The residents' rights including, but not limited to the prohibited actions provided for in 6VAC35-41-560 (prohibited actions); and
8. The basic requirements of and competencies necessary to perform their duties and responsibilities.

Audit Finding:

There was no documentation that volunteers or interns were provided basic orientation in two out of three volunteer records reviewed.

Program Response

Cause:

The files lacked documentation of orientation and training for our volunteers. Prior to the volunteers starting, they are provided an orientation training. The training was done but the documentation was misplaced.

Effect on Program:

No effect on the program

Planned Corrective Action:

All volunteers were given a new orientation and retraining on our program and the new building. Documentation was placed in their personnel files. We have developed an onboarding training manual to ensure that we complete all trainings and fill out paperwork by the deadline with any new employees, volunteers, and interns.

Completion Date:

4/17/20 – Documentation has been signed by most volunteers and placed in file. We have not been able to have any face-to-face contact with volunteers since mid-March due to the pandemic. We are waiting to connect with a couple volunteers via video to provide the retraining and get the document signed. None of those volunteers have had contact with the residents since March. We will schedule a video call with the remaining volunteers on April 27th.

Person Responsible:

Misty Zdanski, Program Director
Ignacio Villas, Assistant Director

Current Status on July 21, 2020: Compliant

Three applicable new volunteer records were reviewed and each had completed the required orientation and training.

6VAC35-41-300 (B) Orientation and training for volunteers or interns

Volunteers and interns shall be trained within 30 days from their start date at the facility in the following:

- 1. Any procedures that are applicable to their duties and responsibilities; and**
- 2. Their duties and responsibilities in the event of a facility evacuation.**

Audit Finding:

There was no documentation of volunteers being trained within 30 days of their start date in two out of three applicable volunteer files reviewed.

Program Response

Cause:

The files lacked documentation of orientation and training for our volunteers. Prior to the volunteers starting, they are provided an orientation training. The training was done but the documentation was misplaced.

Effect on Program:

No effect on the program

Planned Corrective Action:

All volunteers were given a new orientation and retraining on our program and the new building. Documentation was placed in their personnel files. We have developed an onboarding training manual to ensure that we complete all trainings and fill out paperwork by the deadline with any new employees, volunteers, and interns.

Completion Date:

4/17/20 – Documentation has been signed by most volunteers and placed in file. We have not been able to have any face-to-face contact with volunteers since mid-March due to the pandemic. We are waiting to connect with a couple volunteers via video to provide the retraining and get the document signed. None of those volunteers have had contact with the residents since March.

Person Responsible:

Misty Zdanski, Program Director

Current Status on July 21, 2020: Compliant

Three applicable new volunteer records were reviewed and each had completed the required orientation and training.

6VAC35-41-350 (B) Buildings and inspections CRITICAL

A current copy of the facility's annual inspection by fire prevention authorities indicating that all buildings and equipment are maintained in accordance with the Virginia Statewide Fire Prevention Code (13VAC5-51) shall be maintained. If the fire prevention authorities have failed to timely inspect the facility's buildings and equipment, documentation of the facility's request to schedule the annual inspection as well as documentation of any necessary follow-up with fire prevention authorities shall be maintained.

Audit Finding:

Fire inspections were conducted in the facility on 5/16/17, 8/2/18, 9/12/18 and 11/22/19. There were more than 13 months between the 2017 and 2018 inspections, between the 2018 and 2019 inspections, and no documentation of requests to schedule the inspections.

Program Response

Cause:

Fire inspections were not completed within the 13-month time frame in two consecutive years and no documentation shown that an attempt was made to make an inspection. There was an attempt to schedule the 2018 inspection within the timeframe but had difficulty getting a date scheduled due to payment issues with finance. Unfortunately, this was not documented.

Effect on Program:

No effect on program

Planned Corrective Action:

A spreadsheet will be created to include Point of contact, phone number of contact, and due date. A 60day reminder will be scheduled on Outlook to ensure a date has been scheduled for the inspection. A log book will be created to document any phone calls or emails related to scheduling inspections.

Completion Date:

The binder has been created as of 2/26/20. The spreadsheet and log will be completed and placed in the binder by April 30th 2020.

Person Responsible:

Misty Zdanski, Director
Ignacio Villas, Assistant Director

Current Status on July 21, 2020: Compliant

The most recent fire inspection was completed on 11/22/2019 and the next one is due by 12/31/2020.

6VAC35-41- 490 (D) Emergency and evacuation procedures

The provider shall review and document the review of the emergency preparedness plan annually and make necessary revisions. Such revisions shall be communicated to employees, contractors, interns, and volunteers and incorporated into training for employees, contractors, interns, and volunteers and orientation of residents to services.

Audit Finding:

The procedures were reviewed and revised in June 2019, but there was no documentation that it was communicated to five out of five volunteers.

Program Response

Cause:

The program moved to a new building in July 2019. A new Emergency Action Plan was developed for the new program. An official training was not completed with the volunteers.

Effect on Program:

No effect on the program

Planned Corrective Action:

A training will be scheduled with the volunteers to complete the Emergency and Evacuation procedures in the new building.

Completion Date:

All volunteers will be trained by May 30th 2020.

Person Responsible:

Misty Zdanski, Program Director

Current Status on July 21, 2020: Compliant

Six applicable volunteer records were reviewed and each had completed training on the revised Emergency and Evacuation procedures.

6VAC35-41-490 (I) Emergency and evacuation procedures CRITICAL

At least one evacuation drill (the simulation of the facility's emergency procedures) shall be conducted each month in each building occupied by residents. During any three consecutive calendar months, at least one evacuation drill shall be conducted during each shift.

Audit Finding:

There was no evacuation drill at the facility in March 2018, and no drills on the 7 am - 3 pm shift between December 2017 and May 2018; on the 3 pm - 11 pm shift between April 2017 and July 2017, between August 2017 and December 2017; and on the 11 pm - 9 am shift between December 2017 and May 2018.

Program Response

Cause:

The Program Director is responsible for ensuring evacuation drills were conducted, neglected to complete one in March 2018. There was a day shift (8-4pm) drill conducted on December 21, 2017 at 3:24pm; missed in March 2018; and conducted on June 30, 2018 at 3pm. The 2-11pm shift, the following were completed on April 28, 2017 at 2:20pm and July 31, 2017 at 6:01pm. The 11pm-9am shift, the following were completed on November 30, 2017 at 7am; February 27, 2017 at 7am; and May 31, 2017 at 7am.

Effect on Program:

No effect on the program

Planned Corrective Action:

The Director will use the Fire Drill Audit form to ensure that fire drills are conducted during the appropriate shifts on a three-month rotating schedule. Since the missed drill in March of 2018, we have completed all required drills within the time frame required.

Completion Date:

2/28/20

Person Responsible:

Misty Zdanski, Program Director
Ignacio Villas, Assistant Director

Current Status on July 21, 2020: Compliant

Evacuation drills were reviewed since the audit and were compliant.

6VAC35-41-680 (C) Recreation

For all overnight recreational trips away from the facility, the provider shall document trip planning to include:

- 1. A supervision plan for the entire duration of the activity including awake and sleeping hours;**
- 2. A plan for safekeeping and distribution of medication;**
- 3. An overall emergency, safety, and communication plan for the activity including emergency numbers of facility administration;**
- 4. Staff training and experience requirements for each activity;**
- 5. Resident preparation for each activity;**
- 6. A plan to ensure that all necessary equipment for the activity is in good repair and appropriate for the activity;**
- 7. A trip schedule giving addresses and phone numbers of locations to be visited and how the location was chosen and evaluated;**
- 8. A plan to evaluate residents' physical health throughout the activity and to ensure that**

the activity is conducted within the boundaries of the resident's capabilities, dignity, and respect for self-determination;

9. A plan to ensure that a certified life guard supervises all swimming activities in which residents participate; and

10. Documentation of any variations from trip plans and reason for the variation.

Audit Finding:

There was no documentation that the facility addressed all of the required elements in the trip plan in an overnight trip, June 17-18, 2019.

Program Response

Cause:

We did not have the proper forms filled out for our camping trips to ensure all areas were addressed. The camping trips did not have any reported issues as a result.

Effect on Program:

No effect on the program

Planned Corrective Action:

A new Trip Plan form was created. The Lead Staff member will fill out the Trip Plan form with required documents (to include: campsite literature, activity literature, certifications (if needed), directions). The application consists of all 10 areas listed in code section 6VAC35-41-680 (C) Recreation

Completion Date:

02/28/20

Person Responsible:

Misty Zdanski, Director
Ignacio Villas, Assistant Director

Current Status on July 21, 2020: Not determinable

There have been no overnight trips since the audit. A new Trip Plan was submitted and reviewed. If the form is fully completed, it would address all elements as required.

6VAC35-41-860 (B) Individual Service Plan

Individual service plans shall describe in measurable terms the:

1. Strengths and needs of the resident;
2. Resident's current level of functioning;
3. Goals, objectives, and strategies established for the resident including a behavior support plan, if appropriate;
4. Projected family involvement;
5. Projected date for accomplishing each objective; and
6. Status of the projected discharge plan and estimated length of stay except that this requirement shall not apply to a facility that discharges only upon receipt of the order of a court of competent jurisdiction.

Audit Finding:

The resident's current level of functioning was not addressed in four out of four applicable service plans reviewed.

Program Response

Cause:

Misunderstanding of the code section that references Level of Functioning.

Effect on Program:

No effect on the program

Planned Corrective Action:

Our initial 30-day service plan has been updated to include a specific section for Level of Functioning to be filled out.

Completion Date:

2/28/20

Person Responsible:

Misty Zdanski, Director

Current Status on July 21, 2020: Compliant

One applicable service plan was reviewed and it did address the current level of functioning.

6VAC35-41-1220 (B) Medical examinations and treatment CRITICAL

Each resident shall have an annual physical examination by or under the direction of a licensed physician and an annual dental examination by a licensed dentist.

Audit Finding:

There was no documentation of an annual physical examination of a resident who was in the facility for more than 13 months.

Program Response

Cause:

A resident was in our program for more than 13 months and we failed to have the proper form filled out when he went to the doctor. He went to the doctor several times throughout his stay for different medical reasons.

Effect on Program:

No effect on the program

Planned Corrective Action:

During the regularly schedule 90-day file audits, the senior counselor will alert staff that a physical is needed within the next 90 days. The physical and TB date will also be listed on the Director's Tracking Sheet and will review it during monthly Treatment Teams to ensure we stay in

compliance.

Completion Date:

2/28/20

Person Responsible:

Misty Zdanski, Program Director

Current Status on July 21, 2020: Not determinable

There has been no resident in the program for more than 13 months since the audit.

6VAC35-41-1280 (H) Medication CRITICAL

In the event of a medication incident or an adverse drug reaction, first aid shall be administered if indicated. Staff shall promptly contact a poison control center, pharmacist, nurse, or physician and shall take actions as directed. If the situation is not addressed in standing orders, the attending physician shall be notified as soon as possible and the actions taken by staff shall be documented. A medical incident shall mean an error made in administering a medication to a resident including the following: (i) a resident is given incorrect medication; (ii) medication is administered to an incorrect resident; (iii) an incorrect dosage is administered; (iv) medication is administered at a wrong time or not at all; and (v) the medication is administered through an improper method. A medication error does not include a resident's refusal of appropriately offered medication.

Audit Finding:

There was no medication incident report in the case of a resident who did not receive his medication (Keflex 100 mg) as prescribed.

Program Response

Cause:

After a doctor's appt, the resident did not return to the program with his prescribed medication. Staff spoke to his mother and asked her to bring in the medication, but she failed to bring it and the program failed to ensure the resident received his medication. No medication error was filled out.

Effect on Program:

Fortunately, the resident did not have any continued issues with his injury. The program recognizes the importance of ensuring the residents have their prescribed medications.

Planned Corrective Action:

A staff training will be scheduled by May 30th to review our med policy to include when a Med Error report needs to be filled out and the steps that need to follow (contacting Admin, contacting the parent, and contacted the Physician if marked on the Treatment Summary)

Completion Date:

5/30/20

Person Responsible:

Misty Zdanski, Program Director
Ignacio Villas, Assistant Director

Current Status on July 21, 2020: Compliant

Four resident medical records were reviewed. There were two applicable medication errors since the audit and the medication incident reports were completed as required.

6VAC35-41-1320 (D) Physical restraint

Each application of physical restraint shall be fully documented in the resident's record including:

- 1. Date and time of the incident;**
- 2. Staff involved;**
- 3. Justification for the restraint;**
- 4. Less restrictive behavior interventions that were unsuccessfully attempted prior to using physical restraint;**
- 5. Duration;**
- 6. Description of method or methods of physical restraint techniques used;**
- 7. Signature of the person completing the report and date; and**
- 8. Reviewer's signature and date.**

Audit Finding:

The reviewer's signature and date was missing in three out of five physical restraint forms reviewed, and the other two out of five had the reviewer's initials but not the signature.

Program Response

Cause:

Misinterpretation of how to complete the Physical Restraint Form. Our form asks for initials instead of signatures. Lack of training on how to fill out the form since three out of five did not have any type of initials or signatures from the reviewer.

Effect on Program:

No effect on the program

Planned Corrective Action:

The Physical Restraint form was updated to include a signature. The Director and Assistant Director were trained on how to properly fill out the form to include signing when reviewed.

Completion Date:

February 25, 2020

Person Responsible:

Misty Zdanski, Director
Ignacio Villas, Assistant Director

Current Status on July 21, 2020: Compliant

One applicable physical restraint was completed since the audit and had the required documentation.

**CERTIFICATION AUDIT REPORT
TO THE
DEPARTMENT OF JUVENILE JUSTICE**

PROGRAM AUDITED:

11th District Court Service Unit (Petersburg)
200 North Sycamore Street
Suite 100
Petersburg, Virginia 23803
(804) 431-3250
Colleen Hazard Maxwell, Director
colleen.hazard@djj.virginia.gov

AUDIT DATES:

September 17, 2020

CERTIFICATION ANALYST:

Shelia L. Palmer

CURRENT TERM OF CERTIFICATION:

September 13, 2017 – September 12, 2020

REGULATIONS AUDITED:

6VAC35-150 Regulations for Nonresidential Services Available to Juvenile and Domestic Relations District Courts

PREVIOUS AUDIT FINDINGS – July 12, 2017

88.7% Compliance Rating

6VAC35-150-80 (A) Background checks

6VAC35-150-336 (A) Social histories

6VAC35-150-350 (A) Supervision plans for juveniles

6VAC35-150-350 (B) Supervision plans for juveniles

***6VAC35-150-420 Contacts during juvenile's commitment**

CURRENT AUDIT FINDINGS- September 17, 2020

95.7% Compliance Rating

* Repeated Deficiencies from previous audit: One

Number of Deficiencies-Two

6VAC35-150-355 (2) Supervision of juvenile on electronic monitoring

***6VAC35-150-420 Contacts during juvenile's commitment**

DEPARTMENT CERTIFICATION ACTION January 11, 2021: Certified the 11th District Court Service Unit until September 12, 2023 with the Regional Program manager to follow-up on the contacts during juvenile's commitment.

Pursuant to 6VAC35-20-100C.2, if the certification audit finds the program or facility in less than 100% compliance with all regulatory requirements and a subsequent status report, completed prior to the certification action, finds 100% compliance on all regulatory requirements, the director or designee shall certify the facility for a specific period of time, up to three years.

TEAM MEMBERS:

Shelia L. Palmer, Team Leader, Central Office
Clarice Booker, Central Office
Learna Harris, Central Office

Mark Lewis, Central Office

POPULATION SERVED:

The 11th District Court Service Unit serves the City of Petersburg and the Counties of Amelia, Dinwiddie, Nottoway, and Powhatan.

PROGRAMS AND SERVICES PROVIDED:

- Intake Services
- Investigations and Reports
- Domestic Relations
- Probation and Parole

The Unit interacts with the community in obtaining such services as:

- Family Assessment Planning Team (FAPT)
- Community Services Board
- Mentoring
- In-home counseling
- Substance abuse
- Individual and family counseling services
- 294 funded services
- Surveillance services
- VJCCCA services
- Diversion
- AMIKIDS
- First time offender programming
- Community service
- Law related education

**CORRECTIVE ACTION PLAN
TO THE
DEPARTMENT OF JUVENILE JUSTICE**

FACILITY/PROGRAM: 11th District Court Service Unit (Petersburg)

SUBMITTED BY: Colleen Hazard Maxwell, CSU Director

CERTIFICATION AUDIT DATES: September 17, 2020

CERTIFICATION ANALYST: Shelia L. Palmer

Under Planned Corrective Action indicate; 1) The cause of the identified area of non-compliance. 2) The effect on the program. 3) Action that has been taken/will be taken to correct the standard cited. 4) Action that will be taken to ensure that the problem does not recur.

6VAC35-150-355. Supervision of juvenile on electronic monitoring.

When a unit places a juvenile in an electronic monitoring program, use of the program shall be governed by approved procedures that shall provide for criteria for placement in the program, parental involvement, required contacts, consequences for tampering with and violating program requirements, and time limits.

Audit Finding:

355 (2) - Three of five applicable electronic monitoring cases did not have documentation that the parent or guardian were given written consent, given a thorough understanding of the operation of the electronic device, nor that the rules regarding tampering with or removal of the device without proper authority and related consequences were explained.

Program Response

Cause:

Irongate, one of the agencies that is used by the CSU for electronic monitoring, do not use a contract which covers all elements of the regulation nor was a copy of their contract available during the time of our audit.

Effect on Program:

Irongate may encounter difficulty having their equipment replaced at the youth's family's expense, the youth and family may not have had a clear understanding of the rules of the electronic monitoring program, how the unit works, and consequences for tampering with the unit or violating the conditions of electronic monitoring.

Planned Corrective Action

Sheryl Jackson-Wade contacted the vendor to see if they would be willing to use a contract that we created, which covers the required elements. The vendor agreed. The new form will be implemented the second week of November. In addition, the CSU will get a copy of the contract upon completion. All staff will be trained on the updated referral process during our virtual staff meeting on 11/06/20.

Completion Date:

11/09/2020

Person Responsible:

Colleen H. Maxwell, CSU Director and Sheryl Jackson-Wade, Probation Supervisor for localities that use Irongate EM.

Current Status on December 2, 2020: Not Determined

The 11th Court Service Unit (Petersburg) did not have any electronic monitoring cases during the status review period September 14, 2020 – December 2, 2020.

6VAC35-150-420. Contacts during juvenile's commitment

During the period of a juvenile's commitment, a designated staff person shall make contact with the committed juvenile, the juvenile's parents, guardians, or other custodians, and the treatment staff at the juvenile's direct care placement as required by approved procedures. The procedures shall specify when contact must be face-to-face contact and when contacts may be made by video conferencing or by telephone.

Audit Finding:

With Juvenile

Five out of nine applicable commitment files reviewed did not have documentation that the

probation officer during the monthly contact with the juvenile reviewed family planning, progress on family domain section of CRCP, comprehensive re-entry case plan (CRCP) goals and progress; educational goals and progress; behavior and adjustment; intervention strategies; re-entry/parole placement and service needs (e.g., benefits); review and update family transportation plan; and the established regular schedule for Probation Officer, counselor and juvenile monthly contact dates.

Five of nine applicable parole cases did not document the case staffing with the supervisor.

Five of nine applicable parole cases did not document a supervisory review at least once every 90 days.

Program Response

Cause:

Two separate issues caused the areas of non-compliance. The first area of non-compliance, that which specifies the required elements that need to be addressed during monthly contacts, was caused by a staff member who was still in training at the time the contacts were made. This was exacerbated by the fact that the CSU had no probation supervisors working at the time that she was still learning her position. During that timeframe, the CSU had a director but no probation supervisors. The director, who had been in her position for only three months at that point, had to cover all cases in all five localities. This was also the cause of the missed case staffing meetings and supervisory reviews.

Effect on Program:

Minimal impact – the youth were still receiving contacts and engaged in treatment activities. Pertinent issues were discussed with the director; however, the director failed to document these discussions in BADGE.

Planned Corrective Action:

The three cases that were non-compliant were older cases. Our staff now use a very detailed checklist for the contact and a template to ensure that all of the required elements are addressed. Now that we are fully staffed, supervisors are ensuring that cases are staffed in accordance with regulations and that they are being reviewed at least once every 90 days.

Completion Date:

These changes were put in place prior to the audit, so they are already complete.

Person Responsible:

Colleen Maxwell, CSU Director; Sheryl Jackson-Wade and Jamanda Byam, Probation Supervisors.

Current Status on December 2, 2020: Non-Compliant

Six out of six applicable commitment files reviewed documented that the probation officer during the monthly contact with the juvenile reviewed family planning, progress on family domain section of CRCP, comprehensive re-entry case plan (CRCP) goals and progress; educational goals and progress; behavior and adjustment; intervention strategies; re-entry/parole placement and service needs (e.g., benefits); review and update family transportation plan; and the established regular schedule for Probation Officer, counselor and juvenile monthly contact dates.

Three of four applicable parole cases did not document the case staffing with the supervisor.

Five of five applicable parole cases documented a supervisory review at least once every 90 days.

**CERTIFICATION AUDIT REPORT
TO THE
DEPARTMENT OF JUVENILE JUSTICE**

PROGRAM AUDITED:

23-A Court Service Unit (Roanoke City)
309 3rd Street, S.W., 3rd Floor
P.O. Box 112
Roanoke, Virginia 24002
(540) 853-2565
Tracy L. King, Director
tracy.king@djj.virginia.gov

AUDIT DATES:

September 3, 2020

CERTIFICATION ANALYST:

Shelia L. Palmer

CURRENT TERM OF CERTIFICATION:

October 17, 2017 – October 18, 2020

REGULATIONS AUDITED:

6AC35-150 Regulations for Nonresidential Services Available to Juvenile and Domestic Relations District Courts

PREVIOUS AUDIT FINDINGS – May 23, 2017:

90.0% Compliance Rating

* Repeated Deficiencies from previous audit

6VAC35-150-336 (A). Social histories

*6VAC35-150-350 (A). Supervision plans for juveniles

6VAC35-150-350 (B). Supervision plans for juveniles

6VAC35-150-410 (A). Commitment Information

6VAC35-150-420 Contacts during juvenile's commitment

CURRENT AUDIT FINDINGS – September 3, 2020:

91.30% Compliance Rating

*Repeated deficiencies from previous audit: Two

Number of Deficiencies: Four

6VAC35-150-300 (A). Predispositionally placed juvenile

6VAC35-150-300 (B). Predispositionally placed juvenile

***6VAC35-150-350 (A). Supervision plans for juveniles**

***6VAC35-150-420 Contacts during juvenile's commitment**

DEPARTMENT CERTIFICATION ACTION January 11, 2021: Certified the 23A (Roanoke City) Court Service Unit until October 18, 2023.

Pursuant to 6VAC35-20-100C.2, if the certification audit finds the program or facility in less than 100% compliance with all regulatory requirements and a subsequent status report, completed prior to the certification action, finds 100% compliance on all regulatory requirements, the director or designee shall certify the facility for a specific period of time, up to three years.

TEAM MEMBERS:

Shelia Palmer, Team Leader
Clarice Booker, Central Office
Mark Ivey Lewis, Central Office
Learna Harris, Central Office

POPULATION SERVED:

The 23-A District Court Service Unit serves the City of Roanoke.

PROGRAMS AND SERVICES PROVIDED:

The 23-A District Court Service Unit provides mandated services including:

- Intake Services
- Investigations and Reports
- Domestic Relations
- Probation Supervision
- Direct Care, Re-Entry and Parole supervision

- Primary Community Referrals: *(Include description of service)*
The 23A Court Service Unit's primary referral source is Youth Haven (VJCCCA). The programs provided through this source are funded by VJCCCA funds. All services are either court ordered or utilized in lieu of court intervention. Available services are:
 - Community Service
 - Substance Abuse Services
 - Outreach Detention
 - GPS Electronic Monitoring
 - Surveillance Officers
 - Anger Management
 - Employment Services
 - Mentoring
 - Emergency Shelter Care

- Other services:
The community has numerous services and programs available to youth and families who are before the Juvenile Domestic and Relations Court. The available services to which we refer to are listed, but not limited to the following:
 - Goodwill HQ
 - DePaul Family Services
 - Family Insights
 - Life Push, LLC
 - Total Action Against Poverty (GED program)
 - Intensive Outpatient Substance Abuse Services
 - Blue Ridge Behavioral Health
 - Family Preservation Services
 - Carilion Psychiatric Services
 - Job Readiness Training
 - Individual Counseling and Psychologists
 - The Young Adult Leadership Enhancement (Y.A.L.E.) program
 - Youth Build Program
 - Youth Heaven Brief Intervention Center
 - Impact

- United Way
-

**CORRECTIVE ACTION PLAN
TO THE
DEPARTMENT OF JUVENILE JUSTICE**

FACILITY/PROGRAM: 23-A District Court Service Unit (Roanoke)
SUBMITTED BY: Tracy L. King, CSU Director
CERTIFICATION AUDIT DATES: September 3, 2020
CERTIFICATION ANALYST: Shelia L. Palmer

Under Planned Corrective Action indicate; 1) The cause of the identified area of non-compliance. 2) The effect on the program. 3) Action that has been taken/will be taken to correct the standard cited. 4) Action that will be taken to ensure that the problem does not recur.

6VAC35-150-300 (A). Predispositionally placed juvenile.

In accordance with approved procedures, a representative of the CSU shall make contact, either face-to-face or via videoconferencing, with each juvenile placed in predispositional detention, jail, or shelter care pursuant to § 16.1-248.1 of the Code of Virginia, within five days of the placement. A representative of the CSU shall make contact with the juvenile at least once every 10 days thereafter either face-to-face or by telephone or videoconferencing. All such contacts shall include direct communication between the CSU staff and the juvenile.

Audit Finding:

Three of seven applicable cases did not document the five-day contact or the five-day contact was late.

Three of seven applicable cases did not document the 10-day contact or that the 10-day contact was late.

Program Response

Cause:

The former perception of the unit staff was that the Expeditor would conduct all detention visits and the perception of the Expeditor was that Probation Officers would conduct the detention visits with their assigned juveniles.

Effect on Program:

This miscommunication created a lapse in conducting the detention visit or a delay in conducting the detention visit.

Planned Corrective Action

Multiple layers will be implemented to address and ensure detention contacts are being completed according to regulation/standard 300 (A). The Expeditor will continue to conduct and document in the Badge Data System detention visits as scheduled once a week. The Probation Officer on call will conduct and document in the Badge Data System a detention visit for all 23A CSU detained juveniles during their on call duty week. Additionally, any Probation Officer that has a juvenile assigned to their caseload detained will conduct and document in the Badge Data System a detention visit to see all 23A CSU detained juveniles.

Completion Date:

September 15, 2020

Person Responsible:

Expeditor, Probation Officers, Probation Supervisors and CSU Director

Current Status on December 2, 2020: Compliant

Three of three applicable cases documented the five-day contact.

Three of three applicable cases documented the 10-day contact.

6VAC35-150-300 (B). Predispositionally placed juvenile.

The case of each predispositionally placed juvenile shall be reviewed at least every 10 days in accordance with approved procedures to determine whether there has been a material change sufficient to warrant recommending a change in placement.

Audit Finding:

Three of seven applicable cases did not document the supervisor's review at least every 10 days.

Program Response

Cause:

The former supervisor relied on the work of the Expeditor and information being delivered to the supervisor by the Probation Officers in order to complete the review to determine whether placement remained appropriate and there were no measures to ensure that supervisory reviews took place.

Effect on Program:

The previous measure did not allow for the proper review of cases in which the juvenile was detained and delayed an appropriate observation as to whether detention remained an appropriate placement or whether a "step down" program could be utilized in lieu of detention.

Planned Corrective Action

To address the compliance concerns for 300 (B), each supervisor will review badge Detention Module and print the Detention Daily Population Report and the Detention Admission Report for the 23A CSU every week to ensure all contacts are captured as indicated by admissions date. A

copy of these reports will be placed in a binder for future references. Each Probation Officer will submit to their supervisor the completed Weekly Detention Visitation Form for review and signature. The supervisor will then complete the form and compare with the Daily Population Sheet and Detention Admissions Report. The original signed document will be provided to the assigned Probation Officer to be placed in the file and a copy of the document will be placed in the binder.

Completion Date:

September 15, 2020

Person Responsible:

Probation Supervisors, Director

Current Status on December 2, 2020: Compliant

Three of three applicable cases documented the supervisor's review at least every 10 days.

(6VAC35-150-350 (A). Supervision plans for juveniles (9324)

To provide for the public safety and address the needs of a juvenile and that juvenile's family, a juvenile shall be supervised according to a written individual supervision plan, developed in accordance with approved procedures and timeframes, that describes the range and nature of field and office contact with the juvenile, with the parents or guardians of the juvenile, and with other agencies or providers providing treatment or services.

Audit Finding:

Four out of eight applicable case plans reviewed did not have documentation in the case narrative indicating that all parties discussed the supervision plan.

Five out of eight applicable case plans reviewed did not have documentation in the case narrative that the case plan was jointly developed by the probation officer, juvenile and family, discussed, and signed by all parties.

Program Response

Cause:

In this area, staff reported their perception was completing these areas was not a consistent expectation since the Supervision Plans were submitted to the Supervisor for review. In the absence of the required documentation, the Supervisor reviewed and approved the Supervision Plan. The previous perception of these measures was not implemented to meet standards/regulation as a result of not understanding the expectations.

Effect on Program:

This did not allow the Probation Officers to ensure after the development of the plan the juvenile and parent/guardian had a clear understanding of the expectations. This had the potential to increase and/or lead to sanctions for non-compliant behaviors.

Planned Corrective Action

For this area of non-compliance a three part template will be developed to assist the Probation Officers and Probation Supervisors in ensuring the completion of the steps regarding the development, approval, and review/discussion of the supervision plan with the juvenile and

parent/guardian. The Probation Officer and Probation Supervisor will meet to discuss the Supervision Plan prior to the Probation Supervisor's approval. The Supervisor and/or Director will conduct training on a quarterly basis in these areas.

Completion Date:
September 15, 2020

Person Responsible:
Probation Officers, Probation Supervisors, Director

Current Status on December 2, 2020: Compliant

One of one applicable case plans reviewed documented in the case narrative indicating that all parties discussed the supervision plan.

One of one applicable case plans reviewed documented in the case narrative that the case plan was jointly developed by the probation officer, juvenile and family discussed and signed by all parties.

6VAC35-150-420 Contacts during juvenile's commitment.

During the period of a juvenile's commitment, a designated staff person shall make contact with the committed juvenile, the juvenile's parents, guardians, or other custodians, and the treatment staff at the juvenile's direct care placement as required by approved procedures. The procedures shall specify when contact must be face-to-face contact and when contacts may be made by video conferencing or by telephone.

Audit Finding:
With Juvenile

Three out of seven applicable case files reviewed did not have documentation of the probation officer's monthly contact with the juvenile, either in person, via telephone, or via video conferencing to discuss progress, behavioral issues, and family updates.

Five out of seven applicable case files reviewed did not have documentation that during the monthly contact with juvenile, the probation officer: (1) reviewed family planning, (2) progress on family domain section of CRCP, (3) comprehensive re-entry case plan (CRCP) goals and progress; (4) educational goals and progress; (5) behavior and adjustment; (6) intervention strategies; (7) re-entry/parole placement and service needs (e.g., benefits); (8) review and update family transportation plan; and (9) established dates for probation officer, counselor and juvenile monthly contacts.

Program Response

Cause:

In review of the files that did not meet regulation regarding monthly contacts and discussion with previously responsible Parole Officer, there were indication that the Parole Officer completed the contacts and he failed to input the information in the Badge Data System. In regards, to the contact element requirements, the previous Parole Officer reported as the Badge Data Entries were in paragraph form, all elements were perceived to have been documented appropriately.

Effect on Program:

The perception of completed tasks resulted in limited information known to the Parole Office and Probation Supervisor.

Planned Corrective Action

For this area of non-compliance a template will be developed to assist the Parole Officer and Parole Supervisors in ensuring the completion of the elements of this regulation. The Parole Officer and Parole Supervisor will conduct a monthly file review during conference to review compliance measures. Training in this area will be conducted on a quarterly basis.

Completion Date:

September 15, 2020

Person Responsible:

Parole Officer, Supervisor, Director

Current Status on December 2, 2020: Compliant

Two out of two applicable case files reviewed documented that the probation officer during the monthly contact with the juvenile did review family planning, progress on family domain section of CRCP, comprehensive re-entry case plan (CRCP) goals and progress; educational goals and progress; behavior and adjustment; intervention strategies; re-entry/parole placement and service needs (e.g., benefits); review and update family transportation plan; and the established regular schedule for Probation Officer, counselor and juvenile monthly contact dates.

**CERTIFICATION AUDIT REPORT
TO THE
DEPARTMENT OF JUVENILE JUSTICE**

PROGRAM AUDITED:

24th District Court Service Unit (Lynchburg)
909 Court Street, Level B1
Lynchburg, Virginia 24504
(434) 455-2660
Stephanie Meehan, CSU Director
stephanie.meehan@djj.virginia.gov

AUDIT DATES:

November 15, 2020

CERTIFICATION ANALYST:

Shelia L. Palmer

CURRENT TERM OF CERTIFICATION:

January 30, 2018 – January 29, 2021

REGULATIONS AUDITED:

6VAC35-150 Regulations for Nonresidential Services Available to Juvenile and Domestic Relations District Courts

PREVIOUS AUDIT FINDINGS – August 10, 2017

89.79% Compliance Rating

CURRENT AUDIT FINDINGS – November 15, 2020:

95.65% Compliance Rating

*Repeated deficiencies from previous audit: Two

Number of Deficiencies: Two

***6VAC35-150-336 (A). Social histories.**

***6VAC35-150-420. Contacts during juvenile's commitment.**

DEPARTMENT CERTIFICATION ACTION January 11, 2021: Certified the 24th District Court Service Unit to January 29, 2024.

Pursuant to 6VAC35-20-100C.2, if the certification audit finds the program or facility in less than 100% compliance with all regulatory requirements and a subsequent status report, completed prior to the certification action, finds 100% compliance on all regulatory requirements, the director or designee shall certify the facility for a specific period of time, up to three years.

TEAM MEMBERS:

Shelia L. Palmer, Team Leader
Clarice T. Booker, Central Office
Mark Lewis, Central Office
Learna Harris, Central Office

POPULATION SERVED:

The 24th District Court Service Unit serves the City of Lynchburg and the counties of Amherst, Bedford, Campbell and Nelson.

PROGRAMS AND SERVICES PROVIDED:

The 24th District CSU provides mandated services including:

- Intake

- Probation supervision
- Direct care and parole supervision
- Investigative reports
- Custody Investigation

Other Services:

The Unit interacts with the community organizations listed below to obtain services:

- Family Assessment Planning Team
- YWCA of Central Virginia
- Horizon Behavioral Health
- Community Service Work
- Lynchburg Youth Group Home (boys and girls group home)
- Inpatient Mental Health through Centra Health in Krise 6
- Residential Mental Health (Bridges Treatment Center)
- Individual and Family Counseling
- Mentoring Services
- Anger Management
- In Home Therapy
- Multi Systemic Therapy (MST)
- Blueprints Home/Kindred Homes (therapeutic foster homes)
- JuDi Initiative
- Substance Abuse Programs
- Juvenile Drug Screening
- Sex Offender Services
- Post-Dispositional Detention Program
- Job Programs
- Parenting Programs
- Community Court
- Youthful Offender Initiative
- Lynchburg Boys and Girls Club
- Jubilee Center

**CORRECTIVE ACTION PLAN TO THE
DEPARTMENT OF JUVENILE JUSTICE**

FACILITY/PROGRAM: 24th District Court Service Unit (Lynchburg)

SUBMITTED BY: Stephanie Meehan, CSU Director

CERTIFICATION AUDIT DATES: November 15, 2020

CERTIFICATION ANALYST: Shelia Palmer

Under Planned Corrective Action indicate; 1) The cause of the identified area of non-compliance. 2) The effect on the program. 3) Action that has been taken/will be taken to correct the standard cited. 4) Action that will be taken to ensure that the problem does not recur.

6VAC35-150-336 (A). Social histories.

A social history shall be prepared in accordance with approved procedures (i) when ordered by the court, (ii) for each juvenile placed on probation supervision with the unit, (iii) for each juvenile committed to the Department, (iv) for each juvenile placed in a postdispositional detention program for more than 30 days pursuant to § 16.1-284.1 of the Code of Virginia, or (v) upon written request from another unit when accompanied by a court order. Social history reports shall include the following information:

1. Identifying and demographic information on the juvenile;
2. Current offense and prior court involvement;
3. Social, medical, psychological, and educational information about the juvenile;
4. Information about the family; and
5. Dispositional recommendations, if permitted by the court.

Audit Finding:

Per approved procedures, the following information was missing:

Three of six applicable social histories did not state under the "Mental and Physical Health" section the impact of any form of abuse (physical, emotional, mental, sexual)

Program Response

Cause:

Staff inadvertently left out the statement regarding the impact of any form of abuse (physical, emotional, mental, sexual). Staff reported that they mistakenly believed that the YASI generated summary included most required elements under the "Mental and Physical Health" section.

Effect on Program:

NONE

Planned Corrective Action:

The Director will hold a special audit review supervisor's meeting no later than December 15, 2020. The Director will review the requirements pursuant to **6VAC35-150-336 (A)** and the "Mental and Physical Health" section with the supervisors. Supervisors will be reminded to carefully complete each item on the social history checklist, with special attention being made to the Mental and Physical Health Section. Supervisors will then hold a staff meeting no later than 12/22/2020, to provide additional training/review of the social history information requirements with staff. Both supervisors and staff will acknowledge in writing that a review of the social history procedure (9230) and social history checklist has been completed. Supervisors will continue to provide quality assurance by reviewing and signing off on all social history reports to ensure compliance.

Completion Date:

December 22, 2020

Person Responsible:

CSU director, Supervisors and assigned staff

Status Review December 2, 2020: Compliant

Per approved procedures, the following information was missing:

One of one applicable social histories documented under the "Mental and Physical Health" section the impact of any form of abuse (physical, emotional, mental, sexual)

6VAC35-150-420. Contacts during juvenile's commitment.

During the period of a juvenile's commitment, a designated staff person shall make contact with the committed juvenile, the juvenile's parents, guardians, or other custodians, and the treatment staff at the juvenile's direct care placement as required by approved procedures. The procedures shall specify when contact must be face-to-face contact and when contacts may be made by video conferencing or by telephone.

Audit Finding:

Six of 10 parole case files reviewed did not have documentation that the rules of parole were reviewed with the juvenile and signatures obtained prior to release from the JCC or alternative placement.

Nine of 10 parole case files reviewed did not have documentation that the juvenile signed the CRCP prior to release from the facility.

Program Response

Cause:

Staff believed that parole rules and the CRCP plan could be signed the day of the juvenile's release from the JCC facility. Staff also report difficulty in connecting with JCC staff in order to have parole rules and the CRCP signed prior to the juvenile leaving the facility.

Effect on Program:

NONE

Planned Corrective Action:

The Director will hold a special audit review supervisor's meeting no later than December 15, 2020. The Director will review the requirements pursuant to **6VAC35-150-420**. The Director will review procedures 9330 with special emphasis on the signing of parole rules and the signing of the CRCP prior to the release of the juvenile with the supervisors. Supervisors will then hold a staff meeting no later than 12/22/2020, to provide additional training/review of procedure 9330, the parole rules and CRCP signatures prior to the juvenile's release. Staff will be reminded that before a parole case is accepted; both the parole rules and CRCP must be signed. Both supervisors and staff will acknowledge in writing that a review of procedure 9330 has been completed. Supervisors will continue to provide quality assurance by reviewing all parole acceptances to ensure compliance.

Completion Date:

December 22, 2020

Person Responsible:

CSU director, Supervisors and assigned staff

Status Visit December 2, 2020: Not Determined

The 24th Court Service Unit did not have any residents released during the Status Review period November 17, 2020 through December 2, 2020. The next scheduled release from the juvenile correctional facility is February 2021.

**CERTIFICATION AUDIT REPORT
TO THE
DEPARTMENT OF JUVENILE JUSTICE**

PROGRAM AUDITED:

29th District Court Service Unit (Tazewell)
140 School Street
Tazewell, VA 24651
(276) 385-1255
Jeffrey Thomas Brintle, CSU Director
jeffrey.brintle@djj.virginia.gov

AUDIT DATES:

October 19, 2020

CERTIFICATION ANALYST:

Clarice T. Booker

CURRENT TERM OF CERTIFICATION:

September 15, 2017 – September 14, 2020

REGULATIONS AUDITED:

6VAC35-150 Regulations for Nonresidential Services Available to Juvenile and Domestic Relations District Courts

PREVIOUS AUDIT FINDINGS – April 18, 2017:

92.3% Compliance Rating

CURRENT AUDIT FINDINGS – October 19, 2020:

96.37% Compliance Rating
No repeat deficiencies from previous audit.

6VAC35-150-336 (A) Social histories

6VAC35-150-350 (A) Supervision plans for juveniles

DEPARTMENT CERTIFICATION ACTION January 11, 2021: Certified the 29th District Court Service Unit to September 14, 2023.

Pursuant to 6VAC35-20-100C.2, if the certification audit finds the program or facility in less than 100% compliance with all regulatory requirements and a subsequent status report, completed prior to the certification action, finds 100% compliance on all regulatory requirements, the director or designee shall certify the facility for a specific period of time, up to three years.

TEAM MEMBERS:

Clarice Booker, Team Leader
Learna Harris, Central Office
Mark Ivey Lewis, Central Office
Shelia Palmer, Central Office

POPULATION SERVED:

The 29th District Court Service Unit serves:

- Buchanan County
- Dickenson County

- Russell County
- Tazewell County

PROGRAMS AND SERVICES PROVIDED:

The 29th District Court Service Unit provides mandated services including:

- Intake
- Probation supervision
- Direct care and parole supervision
- Investigative reports

The Unit interacts with the community in obtaining such services as:

- Outreach Detention
- Community Service
- Anger Management
- Substance Abuse Diversion
- Functional Family Therapy
- Parenting classes
- Moral Reconciliation Therapy
- Case Management and Counseling through local community service boards
- Internet Safety Seminar

**CORRECTIVE ACTION PLAN
TO THE
BOARD OF JUVENILE JUSTICE**

FACILITY/PROGRAM: 29th District Court Service Unit (Tazewell)
SUBMITTED BY: Jeffrey Brintle, Court Service Unit Director
CERTIFICATION AUDIT DATES: October 19, 2020
CERTIFICATION ANALYST: Clarice T. Booker

Under Planned Corrective Action indicate; 1) The cause of the identified area of non-compliance. 2) The effect on the program. 3) Action that has been taken/will be taken to correct the standard cited. 4) Action that will be taken to ensure that the problem does not recur.

6VAC35-150-336 (A) Social histories

A social history shall be prepared in accordance with approved procedures (i) when ordered by the court, (ii) for each juvenile placed on probation supervision with the unit, (iii) for each juvenile committed to the Department, (iv) for each juvenile placed in a postdispositional detention program for more than 30 days pursuant to § 16.1-284.1 of the Code of Virginia, or (v) upon written request from another unit when accompanied by a court order. Social history reports shall include the following information:

1. Identifying and demographic information on the juvenile;
2. Current offense and prior court involvement;
3. Social, medical, psychological, and educational information about the juvenile;
4. Information about the family; and

5. Dispositional recommendations, if permitted by the court.

Audit Finding:

Social history reports were not prepared in accordance with approved procedures and/or were missing the following element:

- **the impact of abuse under mental health in three out of four applicable reports reviewed**

Program Response

Cause:

Report writers and reviewers did not fully apply the standard in the 3 applicable reports to state the impact of physical and/or mental abuse on the youth.

Effect on Program:

There is no evidence that the omission of the impact on the youth had any adverse effects on either youth.

Planned Corrective Action:

CSU Director implemented the following corrective action on 10/20/20. Upon the completion of a social history by the Probation Officer, the report will be forwarded to their immediate supervisor or alternate, approved reviewer. The reviewer will fully utilize the supervisor's checklist to verify the required elements are fully met under the heading Mental Health. Emphasis was placed on the impact that abuse and/or neglect had on the youth. The social history will be provided to the reviewer either by encrypted email or in person.

Importance of compliance was emphasized by the CSU Director.

Step #1: CSU Director conducted a district wide staff meeting to share the results of the audit on 10/20/20. Staff were advised of this area of deficiency, and the corrective action plan was shared. Staff was reminded of the importance of following the proper social history format along with responding to all required elements. Emphasis was placed on the Mental Health heading and specifically the impact of abuse and/or neglect on the youth.

Step #2: CSU Director conducted a management team meeting on 10/20/20. Supervisors were directed to pay particular attention under the Mental Health heading of the social history and its required elements. They were reminded of the requirement to fully utilize the Social History Reviewer's Checklist, and to make certain the checklist is correctly applied, signed, dated prior to being made a part of the youth's case file.

Completion Date:

Corrective action occurred on 10/20/20 and will continue moving forward.

Person Responsible:

Step #1: Probation Officer will complete assigned social history within appropriate timeframes, and provide report to the assigned supervisor or approved reviewer.

Step #2: Supervisors and other approved reviewers will fully apply the Reviewer's Checklist while reviewing a social history. Upon the reviewer's approval, the checklist will be signed, dated and made a part of the youth's case file.

Step #3: CSU Director will review 10% of all social histories completed each month.

Step #4: The annual internal self-audit will place emphasis on this area of deficiency.

Current Status on December 1, 2020: Compliant

Five applicable social history reports reviewed and all documented the impact of abuse under the mental health heading.

6VAC35-150-350 (A) Supervision plans for juveniles

To provide for the public safety and address the needs of a juvenile and that juvenile's family, a juvenile shall be supervised according to a written individual supervision plan, developed in accordance with approved procedures and timeframes, that describes the range and nature of field and office contact with the juvenile, with the parents or guardians of the juvenile, and with other agencies or providers providing treatment or services.

Audit Finding:

The assessment of the juvenile and family's motivation for change was missing in three out of eight applicable supervision plans reviewed.

Program Response

Cause:

Probation Officers were allowed one (1) response to serve as the response for both the juvenile and parent. This in particular, if both the juvenile and parent were the same response. For example: Juvenile and parent were motivated for change, only one reply was noted on the supervision plan.

Effect on Program:

There is no evidence that the omission of the motivation for change on the 3 noted cases had any negative results.

Planned Corrective Action:

CSU Director implemented the following corrective action on 10/20/20. Upon the development of the supervision plan, the assigned Probation Officer will respond individually to the motivation for change for the youth and parent(s). The assigned supervisor will review each supervision plan to pay special attention that responses to each person is addressed.

Step #1: CSU Director conducted a district wide staff meeting to share the results of the audit on 10/20/20. Staff were advised of this area of deficiency, and the corrective action plan was shared. Staff was reminded of the importance of providing an appropriate response to the youth and parent(s) on the motivation to change in the supervision plan.

Step #2: CSU Director conducted a management team meeting on 10/20/20 at which time supervisors were directed to pay particular attention to the required individual responses for both the youth and the parent(s) motivation to change.

Completion Date:

Corrective action occurred on 10/20/20 and will continue moving forward.

Person Responsible:

Step #1: Probation Officer will pay special attention to the motivation to change for each youth and parent(s), and respond accordingly. This should be completed appropriately before submitting to Probation Supervisor.

29th District Court Service Unit (Tazewell)

Step #2: Probation Supervisor will give special attention to the motivation for change, and to make sure the plan includes a response for each the youth and the parent(s) prior to final submission/approval.

Step #3: CSU Director will review 10% of all the supervision plans completed each month.

Step #4: The annual internal self-audit will place emphasis on this area of deficiency.

Current Status on December 1, 2020: Compliant

One applicable supervision plan was reviewed and the motivation for change was assessed for both the juvenile and family.



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Director

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TO: State Board of Juvenile Justice

FROM: Virginia Department of Juvenile Justice

SUBJECT: Request Approval of Guidance Document Interpreting 6VAC35-170; Review and Approval of Data Requests and Research Proposals

DATE April 7, 2021

I. SUMMARY OF ACTION REQUESTED

The Department of Juvenile Justice (the department) respectfully requests the State Board of Juvenile Justice (board) to approve the attached Guidance Document Interpreting 6VAC35-170. The document serves as a supplement to the Regulation Governing Juvenile Data Requests and Research Involving Human Subjects set out at 6VAC35-170. In 2019, the board approved amendments to this regulation for submission through the fast-track regulatory process. The department expects these proposed amendments to take effect on April 15, 2021 and is seeking the board's approval to submit the accompanying guidance document to the Virginia Register of Regulations in accordance with § 2.2-4002.1 of the Code of Virginia.

II. BACKGROUND

Effective July 1, 2018 pursuant to legislation enacted by the Virginia General Assembly (2018 Acts of Assembly, Chapter 820), "guidance documents" are now subject to a 30-day public comment period after publication in the Virginia Register of Regulations. The statute defines "guidance document as "any document developed by a state agency or staff that provides information or guidance of general applicability to the staff or public to interpret or implement statutes or the agency's rules or regulations, excluding agency minutes or documents that pertain only to the internal management of agencies." The legislation requires the agency to certify that the document conforms to this definition. For purposes of this statute, guidance documents do not include (i) rulings and advisory opinions, (ii) forms and instructions, (iii) bulletins and legislative summaries, (iv) studies and reports, and (v) internal manuals and memoranda.

The statute directs agencies that receive a public comment asserting that the document conflicts with state law or regulation or is not eligible for exemption from the Administrative Process Act to delay the effective date of the document an additional 30-day period. While the statute does not mandate board approval of guidance documents, because all such documents will be published in the Virginia Register, the department is seeking the board's approval before proceeding with this submission.

III. GUIDANCE DOCUMENT CONTENT

The guidance document sets out the process for the submission, review, and approval of data requests and research proposals concerning youth under the care or supervision of the department or its regulated entities. Historically, much of the information contained in this proposed guidance document was captured in an administrative procedure. The procedure has been formatted as a guidance document pursuant to the requirements in § 2.2-4002.1 of the Code of Virginia and updated to reflect the recent proposed changes to the regulation and additional changes to agency practices that will impact the regulated entities. The following are the most pertinent topics addressed in the guidance document:

- The document provides additional information regarding the process for submitting data requests through the Virginia Longitudinal Data System (VLDS), including the process for requests in which the department is not serving as the sponsoring agency for such requests;
- The document sets out a new process that will involve obtaining the applicable deputy director's written endorsement before certain external data requests and research proposals can be approved and granting the director greater involvement in the review and approval of certain data requests and research proposals;
- The document identifies additional timeframes the Coordinator of External Research must observe in completing required reviews; and
- The document affirms the department's commitment to diversity in selecting members of the Human Research Review Committee responsible for overseeing human research proposals and provides additional information regarding the selection process and membership terms.



**Department of Juvenile Justice
Guidance Document Interpreting 6VAC35-170
Review and Approval of Data Requests and Research Proposals**

In accordance with § 2.2-4002.1 of the Code of Virginia, this proposed guidance document conforms to the definition of a guidance document in § 2.2-4101.

I. PURPOSE

This guidance document provides the process for the review and approval of four types of external data requests and research proposals. These include (1) external aggregate data requests, (2) Virginia Longitudinal Data System requests, (3) external case-specific data requests, and (4) human research proposals.

This guidance document implements and must be applied in conjunction with the Regulation Governing Juvenile Data Requests and Research Involving Human Subjects (6VAC35-170) issued by the Board of Juvenile Justice.

All research activities conducted within Virginia's juvenile justice system shall comply with all applicable state and federal laws and regulations and with medical, societal, and professional ethics; guarantee the safety, health, privacy, and confidentiality of clients and staff; and prohibit unauthorized access to and publication of information that identifies individuals or families. Research activities must not impede rehabilitation and treatment of juveniles and must not compromise the security of juvenile facilities or place the public safety at risk.

II. SCOPE AND GENERAL INFORMATION

This guidance document describes how data requests and research proposals will be submitted, reviewed, approved, and coordinated. This guidance document does not apply to quality or process improvement projects.

The department may charge requestors reasonable fees to offset costs incurred in supporting specific projects.

III. DEFINITION

The following words and terms, when used in this guidance document, shall have the following meanings unless the context clearly indicates otherwise:

Aggregate Data - Statistics that relate to broad classes, groups, or categories so that it is not possible to distinguish the properties of individuals within those classes, groups, or categories.

Case-specific Data - Nonaggregated data that provides information about individuals within a group.

Coordinator of External Research - The department employee in the research unit designated by the director to receive research proposals and data requests from external entities and to ensure that the proposals are reviewed in accordance with this guidance document and with 6VAC35-170.

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De-identified Data - Data with common identifiers, such as names, phone numbers, social security numbers, and addresses removed in order to eliminate the ability of an individual viewing the data to determine the identity of an individual.

Department - The Department of Juvenile Justice.

Director - The director of the department or the director's designee.

External Research - Research conducted at or using the resources of a facility, program, or organization that is owned, operated, or regulated by the department or the Board of Juvenile Justice by researchers who are not part of the department or under contract with the department, or who are not employees of another state agency conducting a study at the direction of the General Assembly.

Human Research - A systematic investigation, including research development, testing, and evaluation, utilizing human subjects that is designed to develop or contribute to generalized knowledge. Human research shall not be deemed to include research exempt from federal research regulation pursuant to 45 CFR 46.101(b).

Human Research Review Committee (HRRC) - The committee established by the department to oversee human research proposals and activities in accordance with 6VAC35-170-130 and § 32.1-162.19 of the Code of Virginia.

Human Subject - An individual who is under the department's care, custody, or supervision; under the care, custody, or supervision of a facility or program regulated by the department or the Board of Juvenile Justice; or a member of the family of such an individual and who is, or who is proposed to be, a subject of human research. For purposes of this definition, human subject also means an individual who is employed in or provides contractual services to a juvenile correctional center or other facility or program regulated by the department or the Board of Juvenile Justice and who is or who is proposed to be a subject of human research.

Informed Consent - The knowing and voluntary agreement without undue inducement or any element of force, fraud, deceit, duress, or other form of constraint or coercion of a person who is capable of exercising free choice. The basic elements necessary for informed consent regarding human research include:

1. A reasonable and comprehensible explanation to the person of the proposed procedures and protocols to be followed; their purposes, including descriptions of attendant discomforts; and the risks and benefits reasonably to be expected;
2. A disclosure of alternative procedures or therapies that might be helpful to the person;
3. An instruction that the person may withdraw consent and stop participating in the human research at any time without prejudice;
4. An explanation of costs or compensation that may accrue to the person and whether third party reimbursement is available for the proposed procedures or protocols; and
5. An offer to answer, and answers to, questions by the person about the procedures and protocols.

Internal Committee - The committee established by the department pursuant to 6VAC35-170-65 to oversee de-identified case specific data.

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Legally Authorized Representative - The parent having custody of a prospective subject; the legal guardian of a prospective subject; or any person or judicial or other body authorized by law to consent on behalf of a prospective subject to such subject's participation in the particular human research, including an attorney in fact appointed under a durable power of attorney, provided the power grants the authority to make such a decision. For purposes of this guidance document, "legally authorized representative" shall not include an official or employee of the institution or agency conducting or authorizing the research.

Minimal Risk - The risks of harm anticipated in the proposed research are not greater, considering probability and magnitude, than those ordinarily encountered in daily life or during the performance of routine physical or psychological examinations or tests.

Nontherapeutic Research - Human research in which there is no reasonable expectation of direct benefit to the physical or mental condition of the human subject.

Organizational Unit Head - The person in charge of a juvenile correctional center, court service unit, or other organizational unit of the department or a Board of Juvenile Justice-regulated facility, program, or service.

Principal Researcher - The individual who is responsible for the research design, research implementation, supervision of research staff, and research findings.

Research - The systematic development of knowledge essential to effective planning and rational decision-making. It involves the assessment of current knowledge on conceptual problems selected, the statement of those problems in researchable format, the design of methodologies appropriate to the problems, and the application of statistical techniques to organize and analyze data.

Researcher - An individual conducting research.

Research Project - The systematic collection of information, analysis of the data, and the preparation of a report of findings.

Sensitive Data - Data, the compromise of which, with respect to confidentiality, integrity, or availability, could have a material adverse effect on agency programs or the privacy to which individuals are entitled.

Virginia Longitudinal Data System (VLDS) - A data system that provides de-identified case-specific data from participating agencies to qualified researchers through a process that involves submission of requests and approval or denial by each sponsoring agency from which data are sought in an effort to create usable information for policy and generate cross-agency research.

Written - The required information is communicated in writing either in hard copy or electronic form.

IV. PROCEDURES

A. External Aggregate Data Requests

1. External aggregate data requests shall be submitted to the Research Manager or designee via a detailed email outlining the specific information requested.
2. The Research Manager or designee shall determine the following prior to approving aggregate data requests:
 - a. That the request meets the conditions for department approval of research identified in 6VAC35-170-30 and 6VAC35-170-50;
 - b. Whether the data requested is accessible;
 - c. An estimate of the time required to process the data request; and
 - d. Based on staff workload, whether staff resources are available to process the data request.
3. The Research Manager or designee, as the director's designee, may approve and coordinate the provision of data.
4. The Research Manager or designee, as the director's designee, shall notify the requestor of the approval or denial of the data request with the rationale for the decision within 20 business days of receiving the request.
5. If the data request is approved, the Research Manager or designee shall provide the requestor with an estimated timeline for receipt of the data.

B. VLDS Requests

1. If requesting the department as the sponsor agency of a VLDS data request, the forms and review process for external de-identified case-specific data requests, described in subsection C of this guidance document, shall be completed prior to submission using the VLDS portal. External case-specific data requests submitted through the VLDS with a different sponsor agency are not required to complete or submit the Research Proposal Form prior to submission using the VLDS portal.
2. All external case-specific data requests submitted through the VLDS shall be submitted to the department using the VLDS portal.
3. The researcher shall comply with all VLDS procedures in order to access data through the VLDS.
4. The chair of the HRRC shall have primary responsibility for reviewing and approving requests submitted through the VLDS portal. The chair of the HRRC may not approve an external case-specific data request unless the request meets the following requirements:
 - a. The request satisfies the conditions for department approval of research identified in 6VAC35-170-30 and 6VAC35-170-50;
 - b. The request is not a human research proposal and does not require the HRRC's review;
 - c. The request is in the required format and includes all required information;

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- d. The request complies with basic research standards and applicable laws; and
 - e. The data requested are accessible and available in the VLDS.
5. Upon reviewing the data request, the chair of the HRRC may restrict the scope of the data, provided the data requested are unrelated to the purpose of the research study.
 6. The following process shall be followed for requests to modify an approved VLDS project:
 - a. If sponsored by the department, the same process as described in this guidance document for modifications to external case-specific data requests shall be followed. Approval must occur prior to submitting an amendment in the VLDS portal.
 - b. If sponsored by a different agency, the researcher is not required to receive approval prior to submitting an amendment in the VLDS portal.

C. General Requirements for External De-Identified Case-Specific Data Requests and Human Research Proposals

1. External data requestors, external researchers, and department personnel proposing to conduct human research all will follow the same steps in submitting proposals for the department's consideration. If a project involves both an external de-identified case-specific data request and a human research proposal, the process for approving a human research proposal shall be followed to approve the project as a whole.
2. The department's website shall include information on requesting data and conducting research with the department, including instructions and forms for use by external data requestors and researchers.
3. External data requestors and researchers to whom juvenile record information is disclosed may not redisclose or otherwise reveal the juvenile record information of an individual, beyond the purpose for which the original disclosure was made. The prohibition on redisclosure shall not prevent the external data requestors and researchers from publishing research findings based on juvenile information, provided the findings are presented using aggregate data or data from which individually identifying information has been removed, encoded, or encrypted.
4. External de-identified case-specific data requests and research proposals shall be submitted to the Coordinator of External Research using the Confidentiality Agreement Form, the Research Proposal Form, the Research Agreement Form, and any required attachments. The principal researcher shall provide the Coordinator of External Research an electronic copy of the forms via email.
5. The Research Agreement Form must be signed by the principal researcher(s) and the student researcher (if applicable) at the time of submission.
6. The Confidentiality Agreement Form must be signed by every individual who may access the data.
7. The Research Proposal Form shall contain the following elements:

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- a. Name, address, telephone number, email address, title, and affiliation of the principal researcher(s) (for student projects, the principal researcher must be the academic advisor rather than the student);
 - b. Name, telephone number, and email address of the person who will coordinate the project, if different from the principal researcher;
 - c. Resume or Curriculum Vitae for principal researcher(s) and students (if applicable);
 - d. Funding source, if any;
 - e. Date of the proposal's submission to the department;
 - f. Title or descriptive name of the proposed project;
 - g. Statement of the specific purpose(s) of the proposed research project with anticipated results, including benefit to the department;
 - h. A concise description of the research design and techniques for data collection and analysis and of the likely effects of the research methodology on existing programs and institutional operations;
 - i. Timeframes indicating proposed beginning and ending dates for data collection, analysis, preliminary report, and final report;
 - j. A list of resources the researcher will require from the department or its units, such as staff, supplies, materials, equipment, work spaces, or access to clients and files;
 - k. Identification of the organizational unit where the research will be conducted and letter of support acknowledging the organizational unit's agreement to participate in research-related activities, if applicable.
 - i. Pursuant to the regulation, if the external research is proposed to take place in a particular organizational unit, the principal researcher shall present a preliminary research proposal to the organizational unit head and get the organizational unit head's written endorsement.
 - ii. The organizational unit head supporting the project is responsible for requesting a written endorsement from the deputy director of the appropriate division prior to the submission of the proposal packet to the Coordinator of External Research.);
 - l. Endorsement from the Institutional Review Board (IRB) of the institution or organization with which the researcher is affiliated; and
 - m. A signed and dated statement that the principal researcher and the research staff have read and understand 6VAC35-170, this guidance document, and the Research Agreement Form.
8. The Research Agreement Form shall outline the respective responsibilities of the parties and shall specify the following:
- a. The frequency with which progress reports shall be required;
 - b. The department's unrestricted authority to use the research findings in accordance with professional standards of research;
 - c. The principal researcher's obligation to submit a formal final report electronically, with an executive summary to the Coordinator of External Research;
 - d. Whether the department requires pre-review and approval by the department prior to external publications;
 - e. That, unless waived by the director, all external articles, reports, presentations, and publications made from the data collected shall be submitted electronically to the Coordinator of External Research within 30 days of the publication or presentation date, and all materials shall include the statement, "The findings of this study are the responsibility of the researchers,

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- and cooperation by DJJ in facilitating this research should not be construed as an endorsement of the conclusions drawn by the researchers”;
- f. That, if the statement above is waived, all external articles, reports, presentations, and publications shall be reviewed and approved by the department prior to being released. Materials shall be submitted to the Coordinator of External Research at least 30 days prior to the anticipated submission date; and
 - g. That the Research Agreement Form is not effective until signed by both the principal researcher and the director.
9. Industry standard levels of encryption shall be required to protect all juvenile record information provided to researchers.
10. The principal researcher must comply with the research plan stated in the Research Proposal Form, including the plan for disseminating findings. Requests for changes to the research plan must be submitted to the Coordinator of External Research and approved by the department before being implemented.
11. The Coordinator of External Research shall distribute the findings of all external research projects as appropriate.

D. External Case-Specific Data Requests

- 1. The department considers the following identifiers to be sensitive data and shall be removed from the data provided to researchers:
 - a. Names;
 - b. Dates of birth;
 - c. Postal street addresses;
 - d. Telephone numbers;
 - e. Email addresses;
 - f. Social security numbers;
 - g. Medical record numbers;
 - h. Biometric identifiers, including finger and voice prints; and
 - i. Full face photographic images and any comparable images.
- 2. The department may consider the following identifiers as sensitive data based on the details of the project and other information included in the data set, and may remove such identifiers from the data provided to researchers:
 - a. Dates (date of admission, date of release, etc.);
 - b. Location information more detailed than town or city, state, and zip code; and
 - c. Account numbers (Juvenile Number, Direct Care Number, etc.).
- 3. The director, on a case-by-case basis, may approve the dissemination of the identifiable data for research benefiting the department, provided the researcher agrees that any such information will be released or published only in aggregate form or kept confidential in accordance with the following requirements:

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- a. Research findings shall not identify individual subjects.
 - b. All records and all information given by research subjects or employees of the department shall be kept confidential in accordance with § 16.1-300 of the Code of Virginia and applicable rules and regulations regarding confidentiality of juvenile records.
 - c. Persons who breach confidentiality shall be subject to sanctions in accordance with applicable laws, regulations, policies, and procedures.
 - d. Confidentiality does not preclude reporting results utilizing de-identified data or giving raw data to the department for possible further analysis.
4. If sensitive data are provided, the researchers must follow the human research review process and must comply with appropriate security (e.g., Commonwealth's Information Security Standard SEC-501) and non-disclosure requirements. The department may require completion of additional forms or agreements for sensitive data requests.
5. Within 10 business days of receiving the data request, the Coordinator of External Research shall determine the following:
- a. The request meets the conditions for department approval of research identified in 6VAC35-170-30;
 - b. The proposal is not a human research proposal and is not required to be reviewed by the HRRC; however, requests that include sensitive data shall be reviewed by the HRRC;
 - c. The principal researcher has the appropriate academic or professional standing or job-related experience in the area to be studied;
 - d. The proposal is in the required format and includes all required information;
 - e. The proposal complies with basic research standards and applicable laws;
 - f. The data requested is accessible;
 - g. Department staff and resources are available to process the data request; and
 - h. An estimate of the time required to compile the data request.
6. The Research Manager shall assess staff workload and resources and determine if staff and resources are available to process the data request, as required.
7. An internal committee, chaired by the Research Manager who designates committee members, shall act on a research proposal within 20 business days. The internal committee may meet in person, by conference call, or via email. The internal committee shall determine that the proposal meets the following conditions set forth in 6VAC35-170-50:
- a. The department has sufficient financial and staff resources to support the request, and that on balance the benefits of the request justify the department's involvement;
 - b. The request will not interfere significantly with the department's programs or operations, particularly those of the operating units that would participate in the proposed research; and
 - c. The request is compatible with the purposes and goals of the juvenile justice system and with the department's organization, operations, and resources.
8. In addition, the internal committee shall:

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- a. Review the data requested and determine if it is necessary to restrict the scope of the information provided. The scope of information may be restricted for any reason.
 - b. Determine if the project is beneficial to the department.
 - c. Ensure juvenile confidential information will be protected adequately.
 - d. Make a written recommendation to the director to approve or disapprove the request.
9. The Coordinator of External Research shall submit the Research Proposal Form, the Research Agreement Form signed by the researcher, and the internal committee's recommendation to the director for review.
10. The director shall approve or deny the proposal within 10 business days of receiving the recommendation and shall communicate the approval or denial to the Research Manager and the Coordinator of External Research.
11. Within five business days of receiving the director's decision, the Coordinator of External Research shall:
 - a. Notify the researcher that the proposal was not approved and provide a rationale for the denial;
or
 - b. Provide the principal researcher a final copy of the Research Agreement Form containing the director's signature if the research proposal is approved.
12. The following process shall be followed for requests to modify an approved project:
 - a. The principal researcher shall submit a redline version (e.g., Track Changes) and clean version of the modified Research Proposal Form via email to the Coordinator of External Research.
 - b. Within 10 business days of receiving the research proposal, the Coordinator of External Research shall consult with the Research Manager to determine if the requested modifications substantively change the criteria considered in the original review or alter the scope of the study.
 - c. If the revision is substantive, a full review is required and shall follow the process described above for new proposals. If the revision is not substantive, the Research Manager may conduct an expedited review of the amendment. Additional review or approval by the internal committee or director shall not be required.
 - d. The Coordinator of External Research shall notify the principal researcher of the decision.

E. Human Research General Provisions

1. The following categories of human research are not subject to 6VAC35-170 nor this guidance document. Except as otherwise provided by law or regulation, these activities shall be subject to the nonhuman research review and approval process established by the department.
 - a. Activities of the Virginia Department of Health conducted pursuant to § 32.1-39 of the Code of Virginia.
 - b. Research or student learning outcomes assessments conducted in educational settings involving regular or special education instructional strategies; the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods; or the use of educational tests, whether cognitive, diagnostic, aptitude, or achievement, if the data from such tests are recorded in a manner so that subjects cannot be identified, directly or through identifiers linked to the subject.

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- c. Research involving solely the observation of public behavior, including observation by participants, or research involving survey or interview procedures unless subjects can be identified from the data either directly or through identifiers linked to the subjects, and either:
 - i. The information about the subject, if it became known outside the research, reasonably could place the subject at risk of criminal or civil liability or be damaging to the subject's financial standing or employability; or
 - ii. The research deals with sensitive aspects of the subject's own behavior, such as sexual behavior, drug or alcohol use, or illegal conduct.
 - d. The collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the subjects cannot be identified from the information either directly or through identifiers linked to the subjects.
 - e. Medical treatment of an experimental nature intended to save or prolong the life of the subject in danger of death, to prevent the subject from becoming disfigured or physically or mentally incapacitated, or to improve the quality of the subject's life.
 - f. Pursuant to 45 CFR 46.101, the exemptions outlined in this section shall not apply to research conducted upon individuals involuntarily confined in a penal institution, including individuals committed to a juvenile correctional center or juvenile secure detention center.
 - g. Pursuant to 45 CFR 46.101, the exemptions outlined in subdivision A(3) of this federal provision shall not apply to research conducted on children who have not attained age 18 years.
2. Human research that is not exempted by § 32.1-162.17 of the Code of Virginia requires endorsement from the IRB of the institution or organization with which the researcher is affiliated.
 3. Human research involving known and substantive physical, mental, or emotional risk to subjects, including the withholding of any prescribed program of treatment, and all experimental medical, pharmaceutical or cosmetic research, are specifically prohibited.
 4. No human research shall be conducted without the review of the HRRC and approval by the department.
 5. At the request of the researcher, the HRRC may conduct an expedited review when the proposed research involves no more than minimal risk to the human subjects and the proposal has been reviewed and approved by another agency's HRRC.
 6. Offering incentives to participate in research is discouraged but not prohibited. Incentives shall be appropriate to the juveniles' custodial status and proportionate to the situation.
 7. The principal researcher shall be responsible for the conduct of the research staff, the protection of the rights of subjects involved in the project, and the provision of information required by the coordinator of external research, organizational unit heads, and the HRRC.

F. Human Research Review Committee

1. The department shall establish an HRRC composed of persons representing diverse backgrounds relative to both work and life experience as well as race, ethnicity, gender, and other

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characteristics. The HRRC shall ensure the competent, complete, and professional review of human research activities conducted or proposed to be conducted or authorized by the department.

2. The Research Manager shall keep a current listing of members of the HRRC.
3. The HRRC shall consist of at least seven persons, including:
 - a. The Research Manager, who will serve as chair;
 - b. The Chief Psychologist of the department's Behavioral Services Unit;
 - c. At least three persons who are not employed by the department;
 - d. At least one person from a non-scientific profession (e.g., lawyer, ethicist, clergy person); and
 - e. At least one person with the background and experience to advocate for the welfare of human research subjects.
4. Committee members shall be chosen by the chair of the HRRC with input provided by current HRRC members and other department staff. Committee members shall serve two-year terms with the option to renew.
5. HRRC Operation:
 - a. The HRRC shall meet as often as necessary to give timely consideration to human research proposals. Whenever practicable, proposals shall be emailed to the HRRC members, who shall act on a research proposal within thirty business days of receipt.
 - b. An HRRC member who is directly involved in a research project or has administrative authority over a research project apart from the member's role on the HRRC may not vote on such research.
 - c. A simple majority of HRRC members constitutes a quorum. The HRRC may meet in person, by conference call, or via email.
 - d. The HRRC may consult with any person who has expertise or competence pertinent to the proposed research. Such persons may offer their opinions but may not vote when the HRRC makes its decision.
 - e. The HRRC may require additional information from the researcher before making a recommendation to the director.

G. Review of Human Research Proposals

1. Within 10 business days of receiving the research proposal, the Coordinator of External Research shall determine the following:
 - a. The proposal is in the required format and includes all required information;
 - b. The principal researcher has appropriate academic or professional standing or job-related experience in the area to be studied, or is directly supervised by a person with such standing or experience;
 - c. The research conforms to generally accepted ethical standards of professional societies such as the American Correctional Association, the American Psychological Association, the American Sociological Association, the National Association of Social Workers, the American Evaluation Association, or their equivalent;
 - d. The proposal complies with basic research standards and applicable laws;

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- e. The proposal supports the mission and goals of the department;
 - f. The proposal could reasonably comply with the criteria to be examined by the HRRC; and
 - g. The data requested is accessible, if applicable.
2. If the Coordinator of External Research, after consulting with the Research Manager, determines that these criteria cannot be satisfied through reasonable modifications to the proposal, the proposal will be denied and written notification sent to the principal researcher.
 3. If the proposal is not denied, the Coordinator of External Research will notify the principal researcher of any necessary changes, additional information, or clarifications.
 4. Within 10 business days of receiving a research proposal that complies with all criteria considered by the Coordinator of External Researcher, the proposal shall be distributed via email to the HRRC.
 5. The HRRC shall review the proposal within 30 business days and make a recommendation to the director.
 6. In reviewing a human research proposal, the HRRC must determine that the proposal meets the following conditions set forth in 6VAC35-170-50:
 - a. The department has sufficient financial and staff resources to support the request, and that on balance the benefits of the request justify the department's involvement;
 - b. The request will not interfere significantly with the department's programs or operations, particularly those of the operating units that would participate in the proposed research; and
 - c. The request is compatible with the purposes and goals of the juvenile justice system and with the department's organization, operations, and resources.
 7. In reviewing a human research proposal, the HRRC also shall consider whether:
 - a. The research's potential risks and benefits are adequately described;
 - b. The benefits to the human subjects outweigh the risks;
 - c. The methodology is adequate for the proposed research;
 - d. The nontherapeutic research presents more than a minimal risk to the human subjects;
 - e. The rights and welfare of the human subjects are adequately protected;
 - f. The researchers are appropriately competent and qualified;
 - g. The criteria for selecting subjects are valid and equitable;
 - h. The research complies with the requirements set out in 6VAC35-170 and this guidance document; and
 - i. Informed consent will be obtained by methods that are adequate, appropriate, and in accordance with the requirements of § 32.1-162.18 of the Code of Virginia, 6VAC35-170-80, and 6VAC35-170-160. Any form used must be understandable to potential participants.
 8. Informed Consent
 - a. Virginia law sets out the following requirements regarding informed consent for research involving human subjects:
 - i. Except as provided elsewhere in Chapter 5.1 of Title 32.1 (§ 32.1-162.16 et seq), no researcher may involve a human subject in human research without first obtaining the informed consent of the human subject or his legally authorized representative. A

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- researcher shall seek such consent only under circumstances that provide the human subject or the legally authorized representative sufficient opportunity to consider whether to participate and that minimize the possibility of coercion or undue influence.
- ii. If a human subject is competent, informed consent shall be given in writing by the subject and witnessed.
 - iii. If a human subject is not competent, informed consent shall be given in writing by the subject's legally authorized representative and witnessed.
 - iv. If a human subject is a minor who is otherwise capable of giving informed consent, informed consent shall be given in writing by both the minor and his legally authorized representative.
 - v. If two or more persons who qualify as legally authorized representatives with decision-making authority inform the researcher that they disagree as to the participation of the human subject, the subject shall not be enrolled in the human research that is the subject of the consent.
 - vi. Notwithstanding consent by a legally authorized representative, no person who is otherwise capable of giving informed consent shall be forced to participate in human research.
 - vii. A legally authorized representative may not consent to nontherapeutic research unless the HRRC determines that the research will present no more than a minimal risk to the human subject.
- b. The informed consent form shall not include any language through which the human subject waives or appears to waive any legal right, including the release of an individual, institution, or agency or any agent thereof from liability for negligence.
- c. The HRRC:
- i. Shall review and approve the consent process and all required consent forms for each proposed human research project before recommending approval to the director.
 - ii. May approve a consent procedure that omits or alters some or all of the basic elements of informed consent or waives the requirement to get informed consent if the HRRC finds and documents that:
 - a. The research involves no more than a minimal risk to the subjects;
 - b. The omission, alteration, or waiver will not adversely affect the rights and welfare of the subjects;
 - c. The research could not be performed practicably without the omission, alteration, or waiver; and
 - d. After participation, the subjects will be given additional pertinent information when appropriate.
 - iii. May waive the requirement that the researcher get written informed consent for some or all subjects if the principal risk would be potential harm resulting from a breach of confidentiality and the only record linking the subject and the research would be the consent document. The HRRC may require the researcher to give the subjects and legally authorized representatives a written statement explaining the research. Further, the

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researcher shall ask each subject whether he wants documentation linking him to the research, and the subject's wishes shall govern.

9. After reviewing the human research proposal, the HRRC may:
 - a. Recommend that the director approve the research;
 - b. Recommend that the director reject the research proposal as inconsistent with the provisions of §§ 32.1-162.16, et seq. of the Code of Virginia, inconsistent with the department's procedures, or incompatible with available resources; or
 - c. Defer a recommendation pending receipt of additional information or modification of the proposal by the principal researcher.
10. The Coordinator of External Research shall submit the Research Proposal Form, the Research Agreement Form signed by the researcher, and the HRRC's recommendation to the director.
11. The director shall approve or deny the proposal within 10 business days of receiving the recommendation and shall communicate the approval or denial to the Research Manager and the Coordinator of External Research. The director may reject the approval recommendation upon finding the research proposal is inconsistent with any of the provisions of §§ 32.1-162.16, et seq. of the Code of Virginia or the department's procedures, or is incompatible with available resources. The director also may set conditions on the research, which shall be put in writing.
12. Within five business days of receiving the director's decision, the Coordinator of External Research shall:
 - a. Notify the principal researcher of the director's final decision;
 - b. If the research proposal was approved, send the signed Research Agreement Form to the principal researcher.

H. Review of Modifications to Approved Human Research

1. The following process shall be followed to request and approve a modification to an approved project:
 - a. The principal researcher shall submit a redline version (e.g., Track Changes) and clean version of the modified Research Proposal Form via email to the Coordinator of External Research.
 - b. Within 10 business days of receiving the research proposal, the Coordinator of External Research shall consult the Research Manager to determine if the requested modifications substantively change the criteria considered in the original review or alter the scope of the study.
 - c. If the revision is substantive, a full review is required and shall follow the process described above for new proposals. If the revision is not substantive, the chair of the HRRC may conduct an expedited review of the amendment. Additional review or approval by the HRRC or director shall not be required.

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- d. The Coordinator of External Researcher shall notify the principal researcher of the final decision.

I. Review of Human Research in Progress

1. In accordance with § 32.1-162.19 of the Code of Virginia and 6VAC35-170-180, the HRRC shall review all human research activities at least annually to ensure that the project is conducted in conformance with the proposal as approved by the director.
2. The principal researcher shall report to the Coordinator of External Research all protocol violations, including (but not limited to) the reporting of adverse events, sponsor-imposed or IRB-imposed protocol suspensions, protocol deviations/violations, confidentiality breaches, and participant complaints. Reports must be submitted within five business days of the principal researcher's knowledge of the incident. The report shall include relevant dates, times, locations, personnel involved, event details, and actions taken and planned.
 - a. Within five business days of receiving the report, the Coordinator of External Research shall disseminate the report via email to the HRRC for review.
 - b. Within ten business days of receiving the report, the HRRC shall recommend further action to the director.
 - c. Within ten business days of the HRRC's recommendation, the director shall make a final determination of further action.
 - d. Within five business days of the director's determination, the Coordinator of External Research shall notify the principal researcher of the decision.
3. The following actions may be taken at any time if a research project deviates significantly from the proposal as approved or from any conditions imposed by the director or increases the level of harm to participants or others:
 - a. Require the investigator to submit a report to their IRB, copying the Coordinator of External Research on all correspondence;
 - b. Temporarily halt research activities until a corrective action plan can be approved and implemented; and
 - c. Revoke approval of the research in whole or part.

J. Researcher Non-Compliance

1. The researcher shall report noncompliance with the approved research proposal to the HRRC and the IRB.
2. If the HRRC determines that the research activities fail to comply with the approved proposal or violate the Code of Virginia or the Virginia Administrative Code, the department may restrict or terminate further research, prohibit the researcher from presenting or publishing the research results, and/or bar the researcher from conducting future studies.

K. Annual Reporting

The HRRC shall submit to the Governor, the General Assembly, the Board of Juvenile Justice, and the director at least annually a report on human research projects approved by the HRRC and the status of

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such research, including any significant deviation from the proposals as approved. The report shall include a summary of approved human research projects and the results of such projects and be posted on the department's website unless otherwise exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq. of the Code of Virginia).

V. RESPONSIBILITY

All organizational unit heads shall have primary responsibility for referring requestors to this guidance document. The Coordinator of External Research shall have primary responsibility for implementing and ensuring compliance with this guidance document.

VI. INTERPRETATION

The Deputy Director of Administration and Finance or designee shall be responsible for interpreting and granting any exceptions to this guidance document.

VII. REVIEW DATE

This guidance document shall remain in effect until rescinded or otherwise modified by the Board of Juvenile Justice.

Approved by:	Date:
Effective Date:	Office of Primary Responsibility: Research Manager; Data Manager; Coordinator of External Researcher



Valerie P. Boykin
Director

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TO: State Board of Juvenile Justice

FROM: Virginia Department of Juvenile Justice

SUBJECT: Request Authorization to Submit Amendments to the Regulation Governing State Reimbursement of Local Juvenile Residential Facility Costs for Advancement to the Proposed Stage of the Regulatory Process

DATE April 7, 2021

I. SUMMARY OF ACTION REQUESTED

The Department of Juvenile Justice (the department) respectfully requests the State Board of Juvenile Justice (board) to authorize amendments to the Regulation Governing State Reimbursement of Local Juvenile Residential Facility Costs (State Reimbursement Regulations) set out in 6VAC35-30 for advancement to the Proposed Stage of the regulatory process pursuant to the Administrative Process Act set forth in § 2.2-4000 et seq. of the Code of Virginia. The proposed amendments are intended to impact local juvenile detention centers and locally or regionally operated juvenile group homes and similar residential facilities regulated by the department pursuant to § 16.1-309.9 of the Code of Virginia.

The department respectfully requests the board to approve the submission of amendments to this chapter, as well as the addition of a new regulatory chapter (Regulation Governing the Process for Planning, Designing and Constructing Locally-Funded Juvenile Residential Facilities (6VAC35-35)) for advancement to the proposed stage of the regulatory process.

II. BACKGROUND OF THE REVIEWS

Section 16.1-309.5 of the Code of Virginia directs the Commonwealth of Virginia to reimburse localities for “one-half the cost of construction, enlargement, renovation, purchase or rental of a detention home or other facilities the plans and specifications of which were approved by the board and the Governor” in accordance with the statute. Additionally, the statute directs the board to promulgate regulations, including criteria for evaluating requests for such reimbursement and “to ensure the geographically equitable distribution of state funds provided for such purpose.” Pursuant to this statutory directive, the board has had regulations in place since 1992 that establish the process localities must follow when engaged in construction, renovation or similar projects for the development or modification of local juvenile detention centers, group homes, and similar facilities.

In November 2019, the board authorized the submission of a Notice of Intended Regulatory Action (NOIRA) to initiate the regulatory process for a comprehensive review of this regulation. The Department of Planning and Budget and Secretary of Public Safety and Homeland Security completed their reviews on January 16 and January 17, 2020, respectively, and the Governor's office completed its review on January 7, 2021. The NOIRA was published in the Virginia Register of Regulations on February 1, 2021, followed by a 30-day public comment period that ended on March 3, 2021 and generated no public comments.

The proposed amendments are the product of recommendations made by a committee consisting of representatives from several local juvenile detention centers as well as various departmental staff.

III. BACKGROUND OF PROPOSED CHANGES

Improper Incorporation by Reference: Effective January 1, 2016, pursuant to 1VAC7-10-140, state agencies may not incorporate their own documents into a regulation by reference unless the agency establishes the documents or circumstances are highly unusual. The current State Reimbursement regulations contain several provisions requiring locally and regionally operated juvenile facilities regulated by the department to comply with approved department procedures. In this regulatory chapter, these references are to the department's "Step-by-Step Procedures for Approval and Reimbursement for Local Facility Construction, Enlargement, and Renovation," which includes the Guidelines for Minimum Standards in Design and Construction of Juvenile Facilities. The department has not demonstrated that this Step-by-Step document is unique and highly unusual; therefore, the department believes that incorporating this document into the regulation violates 1VAC7-10-140. The committee is recommending striking such references in the following sections: 10 (*definition of substantive change*); 35 (*prescreening*), 90 (*preliminary design*); 100 (*construction documents*); 130 (*construction*), 150 (*record documents*), and 180 (*request for final reimbursement for all projects*). The proposal also removes the Step-by-Step document from the list of "Documents Incorporated by Reference" that follows this regulatory chapter. Finally, the proposal adds a new Section 185 that directs the department to establish guidelines governing the form and process for submitting documents required in this chapter. The regulations do not mandate compliance with these guidelines.

Moratorium on Reimbursements: Although the governing statute requires the Commonwealth to provide reimbursement to eligible localities, for several years the Appropriation Act has prohibited the board from approving funds for state reimbursement of applicable construction, enlargement, or renovation costs for these facilities. The Act allows an exception only for emergency maintenance projects needed to resolve immediate life safety issues and approved by the board and the Secretary of Public Safety and Homeland Security. While the current regulation references the moratorium, the provisions do not address the availability of reimbursement funds for emergency maintenance projects.

Repeal of Outdated or Inconsequential Sections and Language:

In response to the Registrar's directive that state agencies remove introductory statements from their regulatory chapters, the committee recommends repealing Section 10 (*introduction*), which explains the purpose of this chapter. The proposal also removes introductory language in Section 160 (*private construction of juvenile facilities*) that merely duplicates a statutory provision. Purpose statements and explanatory statutory recitations are unnecessary in the context of a regulation and better suited for departmental or local procedures.

IV. DEFINITIONAL CHANGES

Rearrange definition section: In order to comply with the Virginia Register of Regulations' Style Manual, the committee recommends moving the Definitions section, currently contained in Section 20 of this chapter to a new section 5, so that it becomes the first section in the chapter. The proposal repeals Section 20.

Some terms removed: The committee recommends eliminating certain terms that no longer require definition due to related changes in the regulation. The proposal strikes the following terms: area allowance per bed and board-approved funding formula.

Substantive content in definitions moved: Per the Style Manual, definitions should not contain substantive provisions. The proposal moves certain substantive provisions contained in the following definitions to the applicable content sections of the regulation:

- Needs assessment – *substantive provisions moved to Section 42.*
- Planning study – *substantive provisions moved to Section 42.*

New terms added: The proposal adds definitions for the following terms used frequently in the regulation but not currently defined: construction, Construction and Professional Services Manual or CPSM, day, emergency, enlargement or expansion, renovation, and written.

The proposal makes additional, minor changes to simplify definitions and concepts.

V. SUMMARY OF SUBSTANTIVE RECOMMENDATIONS – SIGNIFICANT IMPACT

The department proposes the following substantive changes. While the ability to obtain reimbursement funding is extremely limited due to the moratorium on board-approved funding pronounced in the Appropriations Act, these changes are expected to significantly impact the process for obtaining department and board approval for local facility construction and similar projects.

Change process for localities not seeking funding – Section 15; 6VAC35-20-69; 6VAC35-101-350:

The State Reimbursement Regulations currently apply to localities engaging in the construction, renovation, or similar modification of local juvenile residential facilities regulated by the department, regardless of whether the localities are seeking reimbursement. Similar provisions in the regulations that govern the department's certification process (6VAC35-20) and juvenile secure detention centers (6VAC35-101) direct local facilities pursuing these projects to comply with the State Reimbursement Regulations, irrespective of their intent to seek reimbursement. While these provisions have long been a part of the board's regulations, the department believes they may exceed the board's statutory authorization in § 16.1-309.5, which is limited to establishing a process for "evaluating requests for state reimbursements." In order to preserve the department's role in vetting such local projects to ensure compliance with applicable construction and security standards for cases where no reimbursement is sought, the committee recommends replacing these provisions with a new chapter that establishes a simplified, expedited process.

Proposal: The proposal adds an applicability section (Section 15) narrowing the application of the State Reimbursement Regulations to localities requesting reimbursement for eligible projects, either currently or in the future and makes conforming changes to Sections 30, 6VAC35-20-69 and 6VAC35-101-350.

Localities that have no intention of seeking reimbursement at any point will be subject to the expedited process in the new regulatory chapter, 6VAC35-35 (*see page 4 for additional information*).

Clarify process for emergency maintenance project reimbursements during moratorium – Section 45

The current regulation provides that while the moratoria on **construction** and reimbursement are in place, the sponsor must comply with the State Reimbursement Regulations and may pursue reimbursement thereafter either by legislative exception or by requesting reimbursement in the future should the legislature ever authorize project funding. The committee believes the moratorium does not extend to construction and recommends striking the construction reference. The committee also recommends additional language to address the process for seeking reimbursement for emergency maintenance projects, as authorized in the current Appropriations Act.

Proposal: Consistent with language in the Appropriations Act, the proposal allows reimbursement solely for emergency maintenance projects needed to address immediate life safety issues in a juvenile facility. In order to obtain reimbursement for such projects, the proposal directs localities to follow the prescreening provisions and all other provisions applicable to the specific category of projects under which the emergency maintenance project falls pursuant to Section 35. Additionally, localities must obtain board and Secretary of Public Safety approval. Finally, if the board approves the reimbursement, it must adopt an emergency resolution providing that reimbursement is contingent on funds being approved by the General Assembly.

Repeal complex funding formula –Section 65

The existing regulation requires localities seeking reimbursement to use a complex funding formula to determine the costs the locality incurred in constructing new facilities or modifying existing local juvenile facilities. The funding formula is a comparative formula that considers construction in other localities to establish a baseline cost. The formula includes the methodology used for calculating the adjusted median construction costs of a local facility. Initially, this formula helped to control construction and renovation costs for participating localities. Because so few facilities have completed renovation or construction projects in recent years, the department no longer has a reliable basis for these comparisons. Furthermore, portions of the funding formula relied on figures derived from jails, which is inconsistent with the shift in philosophy that many detention centers have taken.

Proposal: The committee recommends repealing the funding formula in its entirety and allowing the architect/engineer to determine construction costs based on its expertise. Conforming changes are made to Section 60. Additionally, the proposal strikes the R.S. Means Facilities Construction Document as a document incorporated by reference, since removing the funding formula eliminates the need to reference this document.

VI. SUMMARY OF SUBSTANTIVE RECOMMENDATIONS – MODERATE IMPACT

Prescreening – Section 35

As part of the prescreening process, the existing regulation requires sponsors (localities planning or engaged in applicable projects) to provide the department with a brief project description and a graphic showing the proposed structural changes. The committee explained that such graphics are not always available as early as the prescreening stage.

Per the existing regulation, once the sponsor submits this information, the department separates the request into one of three categories depending upon whether the proposed project: (1) will impact the facility's regulatory compliance; increase square footage, bed space or capacity, or change the facility's certification or licensure status; (2) is a facility enhancement not covered under the previous category; or (3) is a minor change, such as one made for routine maintenance. Category 1 projects must comply with all of the regulatory requirements in this chapter. Category 2 projects need only submit a project overview, cost estimates, and all other documentation required in written procedures and may proceed with their reimbursement requests pursuant to Section 180 without following any additional provisions in this chapter. The regulation does not address the information that should be included in the project overview. Category 3 projects are subject to department procedures rather than this chapter.

Proposal: The proposal requires an initial graphic only if such graphic is available. Additionally, the proposal clarifies that Category 1 projects include construction, enlargement, or other modification projects. Construction projects do not fall under Category 2. Additionally, the project overview submitted for Category 2 projects must provide a brief description of the project, justify its necessity, and include other pertinent information, as needed. Finally, the proposal eliminates Category 3 and moves to the applicability section (§ 15) the provision excluding minor projects from this chapter's jurisdiction. In so doing, the proposal clarifies that routine maintenance and other minor projects are not subject to the prescreening process mandated in this section.

Reimbursement requests – Section 40: Currently, the department must advise localities engaging in applicable projects of deadlines for submitting materials for approval and inclusion in DJJ's budget request to the Governor and for consideration during the next legislative session. The proposal clarifies that the advisement is only necessary where applicable (e.g., where state funding has been reinstated necessitating a budget request to the Governor and consideration by the General Assembly). The proposal also requires notification regarding the deadline for submissions necessary to obtain approval from the board.

As currently drafted, this section establishes the process for submitting a needs assessment and planning study. The proposal moves these provisions to a newly created separate section (Section 42) and amends the catchline to reflect this change.

Needs assessment and planning study requirements (New Section 42): This new section contains all of the requirements related to the process for submitting a needs assessment and planning study, previously contained in Section 40. The needs assessment evaluates local or regional trends and factors affecting local facility needs and assesses the locality's existing facilities and nonresidential programs. The planning study describes a proposed project. The Section 10 definitions establish the individual components comprising a needs assessment and planning study. The proposal moves these components to Section 42.

The proposal makes a number of changes to the needs assessment process. First, it sets a 45-day deadline for DJJ to review the assessment and advise the sponsor once a locality submits its needs assessments. Second, it directs the board to consider the needs assessment "as soon as reasonably practicable" following DJJ's review, rather than at its next regularly scheduled meeting to ensure the department has sufficient time to prepare materials. If the board approves the needs assessment, the proposal instructs the department to advise the sponsor of the project's approved advancement to the Planning Study phase pending the Governor's approval, rather than requiring the department to advise the locality of the deadline for submitting the planning study. Finally, the

proposal changes the deadline for the department's advisement regarding the board's decision from seven business days to 10 calendar days and requires the department to provide a record once the board adopts its minutes.

Similarly, the proposal amends the Planning Study process to require the board to consider the planning study "as soon as reasonably practicable following the department's review, rather than at its next regularly scheduled meeting. The proposal makes additional changes for clarification.

Criteria for board funding recommendation – 60: Under the existing regulation, once the board approves the Planning Study, it must recommend the state reimbursement amount using certain specified criteria. As an example, the board must review the economy of construction costs. The proposal allows the board to use comparable projects completed within the last five years as a basis for this review. Additionally, for renovation projects, the proposal directs the board to consider, among other information, whether the proposed changes are consistent with federal and state statutes and regulations as a basis for construction economy. Finally, the proposal clarifies the board's authority to make adjustments regarding the reimbursement request by providing that the board may adjust the estimated project cost eligible for reimbursement. This amendment more accurately reflects the process given that the amount the locality requests does not change based on the economy of construction costs; instead, after consideration, the board may adjust the amount eligible for reimbursement based on whether it deems such construction costs economical. Conforming changes are made in the four subdivisions that describe examples where increases and decreases in the estimated project cost are permitted.

In addition, the current regulation provides that any such board adjustment to funding must be based on the lesser of the gross square footage of the various conditions multiplied by a cost equal to the adjusted median cost of the proposed gross square foot cost of the facility. This provision is unnecessary given the removal of the funding formula.

The proposal also moves the language authorizing the sponsor to request reimbursement amounts in phases to Section 42 because the sponsor must make this request as part of the Planning Study. The proposal makes additional nonsubstantive changes to this section for clarification.

Preliminary design process – Section 90: The existing regulation fails to specify a deadline by which the department must review preliminary design documents submitted by the sponsor. The proposal clarifies that the department must complete this task within 45 days of receipt of the documents.

Change order process – Section 110: The existing regulation requires the board to suspend the review process if the scope of the project changes substantively, the estimated construction costs increase, or operational staff requirements change during the project development phase. This suspension continues until the locality resubmits the project to the board for further review. The proposal amends this provision by making the project's suspension discretionary rather than mandatory and by striking the provision that allows changes in operational staff to trigger the suspension. The proposal also provides that only those additional costs of construction for which the locality is seeking reimbursement can potentially trigger the suspension, and not any increase in the cost of construction. Finally, because the extent of changes in the project's scope can vary depending upon the project and to avoid having the sponsor seek board approval for the change, the proposal gives the department the discretion to determine next steps upon suspending the review process, including determining whether any regulatory requirements must be repeated.

Failure to initiate construction within three years – New Section 115: The proposal adds a new provision that invalidates the board’s approval of a planning study if a locality fails to execute a construction contract for the approved project within three years of the board’s approval, unless the sponsor seeks an extension from the board in writing. The board may grant the extension or require the sponsor to amend and resubmit its needs assessment and planning study pursuant to Section 42. This amendment recognizes the significant changes that may occur within a three-year time period.

Bidding: The existing regulation establishes a process for obtaining the department’s feedback regarding bids for construction. The locality submits materials to the department, DJJ responds within five business days, and the sponsor provides a subsequent written response within 10 business days of receiving DJJ’s comments. The proposal strikes this unnecessary 10 business-day deadline and changes the deadline for DJJ to respond to the sponsor from five business days to seven calendar days.

Construction – Section 130: The current regulation directs the sponsor to submit monthly inspection or progress reports to the department by the 15th day of the month following the inspection or following the progress report due date. Generally, contractors complete and submit progress reports to the owner to detail progress on the job. The architect/engineer generally performs the inspection to ensure buildings are being constructed in accordance with the construction drawings and specifications. Because having access to both of these reports monthly would give the department early notice of any issues that the sponsor is encountering, the proposal requires that **both** reports be submitted on a monthly basis. Additionally, if the monthly submission uncovers any issues, the proposal instructs the sponsor to explain the issues and the plans for addressing them. Rather than specifying the date on which the reports must be submitted, the proposal requires the sponsor to develop a schedule that sets out the due dates for such reports. Finally, the proposal removes language indicating that failure to submit the monthly inspection and progress reports may be grounds for denying the reimbursement, as this possibility is contemplated under Section 190 (compliance).

Under the current regulation, localities must submit any substantive change that occurs during the construction phase to the department for review and approval before executing the change. The proposal provides that a change will be deemed substantive if it either (i) increases the project cost by \$50,000 or more or (ii) has accumulated change orders that exceed 25% of the original contract amount. In such cases, the proposal directs the locality to submit the change orders to the department for review.

Currently, only the changes approved through the department’s approved procedure will be eligible for reimbursement, and a locality that fails to obtain approval of a substantive change may have their requested reimbursement denied. The proposal removes this language in its entirety because it violates the incorporation by reference rule, and because the provision establishing potential consequences for failure to seek approval is redundant, since that language is set out in Section 190. Finally, the proposal adds a new subsection C providing that additional reimbursement requests resulting from substantive changes are subject to the requirements in Section 180, which establishes the process for making final reimbursement requests.

Private construction of juvenile facilities – Sections 160 and 170: Under § 16.1-322.5 of the *Code of Virginia*, the board may allow localities to contract with private entities for the financing, site selection, acquisition, or design and construction of a local or regional detention home or other secure facility. The current regulation mandates that such localities receive state reimbursement in the same manner as that available for all other eligible local projects. Because, as a practical matter, reimbursement has never been available for these types of contractual arrangements and because § 16.1-309.5 does not expressly provide for reimbursement under these scenarios, the

proposal removes the reimbursement mandate for these private contracts in favor of language directing such localities to seek authorization from the board and to submit documentation demonstrating compliance with § 16.1-322.5 (moved from Section 170) before entering into any such contracts. The proposed amendment is more reflective of § 16.1-322.5's requirements. The proposal repeals Section 170, since its provisions were moved to Section 160.

Request for Final Reimbursement for All Projects – Section 180: Once the locality completes the project, the sponsor must submit to the department all documentation mandated in the department's written procedures. The proposal removes the reference to written procedures that violates the incorporation by reference rule and specifies that the information submitted to the department must include the written request for final reimbursement for the applicable project and any documentation supporting the request.

The current regulation provides that if the final requested reimbursement amount does not exceed the amount initially recommended, including the contingency, the department must authorize reimbursement within 90 days of receiving a complete reimbursement request. The form of the request must comply with department procedures. The proposal strikes the language referencing the contingency as unnecessary and removes the language referencing approved procedures. The proposal adds language clarifying that the reimbursement amount may not exceed 50% of the actual project costs.

Currently, if the locality's final reimbursement request exceeds the amount initially recommended, the sponsor must justify the cost increase and submit the adjusted reimbursement request to the board and Governor or his designee for approval. To avoid having the entire reimbursement amount withheld while the Governor and Board consider the amended request, the committee recommends modifying this provision to require the department to process the initial reimbursement amount, and to submit a written adjusted reimbursement request and justification for any increase over the amount of the initial board-approved reimbursement.

Finally, the proposal adds a new subsection D stipulating that funds for reimbursement are contingent on a legislative appropriation.

VII. SUMMARY OF RECOMMENDATIONS – MINOR IMPACT

Remove references to business days: Throughout the existing regulation, DJJ and affected localities are required to provide information within a certain specified number of business days. For simplification purposes, the workgroup recommends converting business days to calendar days in the following sections: Section 80,

Remove unnecessary terminology referenced in the CPSM: The proposal removes the parenthetical reference to the "bid documents phase" in the CPSM, set out in Section 100. This reference is intended to explain the term "bidding phase." Because the CPSM no longer references a "bid document phase" and because "bidding phase" is a commonly understood term in the construction industry, reference to the "bid documents phase is unnecessary.

Funding priorities – Section 70: The proposal strikes language in this section suggesting that the board's duty to give preference to requests for facilities serving fewer than three localities is not absolute in those situations where there is no health, safety, or welfare risk requiring priority. The proposal makes additional changes for clarity.

Final inspection – Section 140: Currently, the sponsor must establish a schedule for final inspection of the project once construction is complete, and certain information must be included on the schedule. Rather than focusing on

a schedule, the group agreed that this provision should ensure that a final inspection of the completed project occurs and that the tasks currently required for inclusion on the schedule should be part of the inspection process. The proposal strikes the language requiring the adoption of a schedule and replaces it with a requirement to ensure final inspection of the project.

VIII. NEW REGULATORY CHAPTER

While the governing statute's mandate regarding regulations does not appear to extend to projects for which localities are not seeking reimbursement, the committee understands the potential harm to localities and to youth in residential facilities that were not vetted by the department. The committee believes an alternative agency review process should be established to ensure local juvenile facility construction and renovation projects are subject to the same level of review. Therefore, the committee is recommending an alternative, expedited process localities constructing, renovating, or enlarging local juvenile facilities must follow to obtain DJJ certification. Because the process does not involve reimbursement, the committee recommends setting these provisions out in a new, separate regulatory chapter.

Definitions (Section 10):

- The new section defines the following terms that are substantively identical to the definitions in the state reimbursement regulation: board, board regulation, construction, day, department, enlargement or expansion, local facility or facility, project, routine maintenance, sponsor, substantive change, and written.
- The new section's definition for renovation differs from the state reimbursement regulations in that it does not include changes to equipment. Equipment is included definition for renovation in the state reimbursement provisions so that localities can include costs for renovating equipment into their reimbursement request calculations. In addition, unlike the definition in the state reimbursement regulations, renovation under this new section does not require alterations for the purpose of **modernizing**, as this may not be the intent for all renovations.
- The following terms used and defined in the state reimbursement regulations relate to reimbursement requests and are not used or defined in this chapter: 1) area allowance per bed; 2) board-approved funding formula; 3) CPSM; 4) efficiency ratio; 4) emergency; 5) needs assessment, and 6) planning study.

Prescreening and Project Overview (Sections 30 and 40): Localities will need to undergo a prescreening process similar to that required for localities seeking state reimbursement. The locality will need to submit the same materials required under the reimbursement process and undergo the same department classification determination. The department will classify the projects as falling under this chapter or the state reimbursement regulatory chapter, and if DJJ does not meet its 30-day deadline for making this determination, the locality may self-classify and proceed under the applicable regulatory chapter. Routine maintenance projects, projects not affecting the facility's compliance with other regulations, and projects making minor changes to the facility are not required to undergo this review.

For projects falling under this chapter, rather than completing a needs assessment and planning study, the sponsor must submit a project overview explaining the project's purpose and objective. The overview shall include descriptions of the existing or proposed program and proposed project, architectural and engineering drawings at the Schematic Design Document level, and the anticipated schedule for completing the project. The department shall review the project overview and provide written comments as to the project's compliance with applicable laws, regulations, and guidance documents. Departmental recommendations for changes to the construction documents shall be in writing, and the sponsor shall provide a written response to all such comments.

Construction documents (Section 50): Under this expedited process, sponsors also shall provide the department with working drawings, specifications, and required review approvals from local officials. The department shall review these documents to determine whether they comply with applicable statutes, regulations, and guidance documents, and may recommend changes, provided they are communicated in writing. The sponsor must respond to these comments in writing and address any identified issues before proceeding to the project's bidding phase. Because the locality is not seeking reimbursement, the department will have no role in the bidding phase. Once the sponsor has addressed all review comments, the department shall provide the sponsor with written notice that the project may progress to the construction phase.

Design Changes and Changes during Construction (Sections 60, 70): Like the reimbursement regulations, if a substantive change in the project's scope occurs during the project development stage, the department has the authority to suspend the review process and determine whether the locality must repeat any or all preceding requirements. Unlike reimbursement projects, substantive changes are not tied to project costs or the contract amount. If a substantive change occurs during the construction phase, the sponsor must submit a written explanation before executing such change. The department must review and comment, but has no authorization to approve or reject such changes during the construction phase. Unlike the state reimbursement regulations, monthly inspection or progress reports are not required during the construction phase.

Final Inspection (Section 80): The final inspection process for non-reimbursement projects is the same as required in the regulations governing projects seeking reimbursement. This process is important to ensure that the department's Certification and Capital Outlay units have a record of the facility's project process and completion.

Record documents: Like the reimbursement regulations, the sponsor must ensure that its architect modifies and marks as "Record" the original drawings and specifications so that they reflect the actual project construction. The proposal differs from the state reimbursement regulations in that these documents need not comply with the CPSM, given that state reimbursement funding is not a component of these requirements.

Compliance: The proposal includes language indicating that a locality that fails to comply with this chapter might forfeit its board certification or department approval to house residents in the facility.

CHAPTER 30

REGULATION GOVERNING STATE REIMBURSEMENT OF LOCAL JUVENILE RESIDENTIAL FACILITY COSTS

Part I. General Information

6VAC35-30-05. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Board" means the Board of Juvenile Justice.

"Board regulation" means a regulation or section or subsections of the regulation promulgated and approved by the board.

"Construction" means the act or process of erecting a new facility or replacing an outdated existing facility. For purposes of this definition, construction shall not include enlargement, expansion, or renovation of an existing facility.

"Construction and Professional Services Manual" or "CPSM" means the manual issued by the Commonwealth of Virginia's Department of General Services, Division of Engineering and Building, that sets forth the standards, policies, terms, conditions, and procedures that state agencies and institutions must follow in procuring professional design and construction services.

"Day" means calendar day unless otherwise specified.

"Department" means the Department of Juvenile Justice.

"Efficiency ratio" means the proportion of a building's net usable area to its gross floor area.

"Emergency" means a sudden, generally unexpected occurrence or set of circumstances demanding immediate action.

"Enlargement or expansion" means the extension of an existing facility through the erection of additional areas as may be determined by need or as required by law or regulation.

"Local facility" or "facility" means a juvenile residential facility that is or will be regulated by the board and is owned, maintained, or operated by a political subdivision or combination of political subdivisions of the Commonwealth, or a privately owned or operated juvenile residential facility that has contracted with a political subdivision or combination of political subdivisions of the Commonwealth and is or will be regulated by the board.

"Needs assessment" means an evaluation of trends and factors at the local or regional level that may affect current and future local facility needs and the assessment of local facilities and nonresidential programs available to meet such needs.

"Planning study" means an overall description of a proposed project consisting of construction, renovation of existing facilities, or both.

"Project" means a proposed or actual construction, renovation, enlargement, or expansion of a juvenile residential facility that is or will be subject to approval by the department or by board regulation.

"Renovation" means the alteration or other modification of an existing facility or piece of equipment for the purpose of changing the use or capability of such facility or equipment as may be determined by need or required by law or regulation. For purposes of this definition, renovation does not include work on or replacement of a facility or equipment that generally may be associated with normal wear and tear and included in routine maintenance.

"Routine maintenance" means the normal and usual type of repair or replacement necessary as the result of periodic maintenance inspections or normal wear and tear of a local facility or equipment.

"Sponsor" means a city, county, commission, or a combination of these entities, or a private entity under contract or arrangement with a city, county, commission, or a combination of these entities, that is actually building, renovating, expanding, or operating, or proposing to build, renovate, expand, or operate a local facility.

"Substantive change" means a deviation from an approved plan or design that will affect the operational and functional performance of the facility, that potentially impacts the facility's compliance with a board regulation, that would result in a change in capacity, or that would result in the sponsor seeking additional reimbursement.

"Written" means the required information is communicated in writing either in hard copy or electronic form.

6VAC35-30-10. Introduction. (Repealed)

~~Section 16.1-309.5 of the Code of Virginia requires the Board of Juvenile Justice and the Governor to evaluate all plans for, specifications of, and requests for reimbursement from a locality or localities for the construction, enlargement, purchase, or renovation of projects governed by this chapter. No reimbursements for costs and construction for such projects shall be made unless the plans, specifications, and construction are approved by the board and the Governor in accordance with the provisions contained herein.~~

~~Section 16.1-309.9 of the Code of Virginia further mandates the board to approve minimum standards for the construction and equipment of detention homes and other facilities governed by~~

~~this chapter. Any such project shall be subject to this regulation and all applicable statutes, regulations, and guidance documents, including, but not limited to, the following:~~

- ~~1. The Virginia Public Procurement Act, Chapter 43 (§ 2.2-4300 et seq.) of Title 2.2 of the Code of Virginia;~~
- ~~2. The Construction and Professional Services Manual (CPSM), October 2004, issued by the Department of General Services, Division of Engineering and Building;~~
- ~~3. The Step-by-Step Procedures for Approval and Reimbursement for Local Facility Construction, Enlargement, and Renovation, March 2001, issued by the Department of Juvenile Justice; and~~
- ~~4. The Agency Procurement and Surplus Property Manual (1VAC30-130), issued by the Department of General Services, Division of Purchases and Supply.~~

~~Such projects are best accomplished as a cooperative venture between a locality or localities and the Department of Juvenile Justice. Using regulations promulgated by the board and by working together as partners from project planning through project construction and program implementation, the locality or localities and the department ensure that the optimum number of children are provided high quality services at a minimum cost to the locality or localities and to the Commonwealth.~~

6VAC35-30-15. Applicability of this chapter.

~~This chapter applies to projects for which a locality is seeking reimbursement from the Commonwealth currently or for which the locality is seeking to preserve the option to obtain reimbursement in the future, either through legislative enactment or should funding become available. Projects for which the locality is not seeking reimbursement, either now or in the future, shall be subject to the requirements of 6VAC35-35, Regulation Governing the Process for Planning, Designing, and Constructing Locally Funded Juvenile Residential Facilities, unless otherwise specified.~~

Part II. Definitions

6VAC35-30-20. Definitions. (Repealed).

~~The following words and terms when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:~~

~~"Area allowance per bed" means the gross square footage of the facility divided by the facility's design capacity as provided herein.~~

~~"Board" means the Virginia Board of Juvenile Justice.~~

~~"Board approved funding formula" means the method by which construction costs are calculated as provided for in 6VAC35-30-65.~~

~~"Board regulation" means a regulation or section or subsections thereof promulgated and approved by the board.~~

~~"Department" or "DJJ" means the Department of Juvenile Justice.~~

~~"Efficiency ratio" means the proportion of a building's net usable area to its gross floor area.~~

~~"Local facility" or "facility" means a juvenile residential facility that is or may be regulated by the board and is owned, maintained, or operated by any political subdivision or combination of political subdivisions of the Commonwealth, or a privately owned or operated juvenile residential facility that has contracted with any political subdivision or combination of political subdivisions of the Commonwealth and is or may be regulated by the board.~~

~~"Needs assessment" means an evaluation of trends and factors at the local or regional level that may affect current and future local facility needs and the assessment of local facilities and nonresidential programs available to meet such needs. The needs assessment for each proposed project shall identify the target population, the specific need of the target population the project is seeking to address, why the specific need cannot be met with existing resources, all alternatives considered to meet identified need, and the reason for rejecting the alternatives.~~

~~"Planning study" means an overall description of a proposed project consisting of new construction, renovation of existing facilities, or both. The planning study shall include a program description and a program design as detailed in approved department procedures, architectural and engineering drawings at the Schematic Design (15%) Document level, the relationship of the project to existing facilities or structures, the project's schedule, a detail of the project's total projected design, construction, operation, maintenance costs, and a cost/benefit analysis.~~

~~"Project" means any proposed or actual new construction, renovation, enlargement, or expansion of a juvenile residential facility that is or will be subject to approval by the department or regulation by the board.~~

~~"Routine maintenance" means the normal and usual type of repair or replacement necessary as the result of periodic maintenance inspections or normal wear and tear of a local facility or equipment.~~

~~"Sponsor" means a city, county, commission, or any combination thereof, or any private entity under contract or arrangement with any a city, county, commission, or any combination thereof, that is actually or proposing to build, renovate, expand, or operate a local facility.~~

~~"Substantive change" means any deviation from an approved plan or design that will affect the operational and functional performance of the facility, that potentially impacts the facility's compliance with any board regulation, that would result in a change in capacity, or that would~~

~~result in the sponsor seeking additional reimbursement, as detailed in approved department procedures.~~

6VAC35-30-30. (Repealed.)

Part IIII. Procedures Reimbursement Request Process

6VAC35-30-35. Prescreening.

- A. ~~Any~~A sponsor planning ~~any~~ construction, renovation, enlargement, or expansion of a local facility ~~and seeking state reimbursement in accordance with § 16.1-309.5 of the Code of Virginia~~ shall submit an initial ~~writing~~ written request to the department that shall include ~~a graphic showing any proposed structural changes and~~ a brief description of the project including all operating capacity or programmatic changes to be accommodated by the structure ~~and a graphic showing the proposed structural changes, if available.~~ The department shall review the initial ~~writing~~ written request, ~~determine the appropriate classification in accordance with subsection B of this section, and provide a written notification to the sponsor as to~~ inform the sponsor in writing whether the project is subject to this ~~regulation chapter~~ as soon as practicable but no later than 30 days ~~from the receipt~~after receiving of the initial ~~writing~~ request from the sponsor. If the department fails to respond in the required time frame, the sponsor may proceed with the reimbursement request in accordance with this chapter.
- B. ~~The department shall determine under which of the following categories the request falls~~Any request shall be determined to be in one of the following categories:
1. ~~Projects subject to this entire chapter: For any new construction~~Construction, change~~enlargement, or other modifications of an existing local facility or piece of stationary equipment, including security related upgrades, for which the sponsor seeks reimbursement and that will affect the facility's compliance with a board regulation,~~ enlargement, or other modifications of an existing local facility or piece of stationary equipment, including security related upgrades, for which the sponsor seeks reimbursement and that will affect the facility's compliance with a board regulation, ~~result in a change in certification or licensure status,~~ result in a change in certification or licensure status, ~~or result in increased square footage, bed space, or capacity shall be subject to this regulation chapter.~~
 2. ~~Projects subject to 6VAC35-30-180: For any each facility enhancements not provided for in subdivision 1 of this subsection for which the sponsor seeks reimbursement, the sponsor shall submit to the board for approval a project overview that includes a brief description of the project, a justification for why the project is necessary, and any other pertinent information, as well as an and cost estimates estimate of the total projected cost of the project . to the board for approval and~~ Projects subject to 6VAC35-30-180: For any each facility enhancements not provided for in subdivision 1 of this subsection for which the sponsor seeks reimbursement, the sponsor shall submit to the board for approval a project overview that includes a brief description of the project, a justification for why the project is necessary, and any other pertinent information, as well as an and cost estimates estimate of the total projected cost of the project . to the board for approval and ~~The project shall be subject to the requirements of 6VAC35-30-180. The department and board may require additional documentation. This category shall not apply to construction, projects.~~
 3. ~~Minor changes, such as routine maintenance, shall not be subject to this regulation and shall be managed informally in accordance with department procedures.~~
- C. ~~A sponsor shall not be required to comply with the requirements of this section for the following projects:~~

1. Routine maintenance projects and other projects that involve minor changes to the facility.
2. Projects for which the locality is not seeking reimbursement now or in the future. These projects shall be subject to the requirements of 6VAC35-35, Regulation Governing the Process for Planning, Designing, and Constructing Locally Funded Juvenile Residential Facilities.

6VAC35-30-40. Reimbursement request deadlines.

A. Requests. For all projects subject to all or a portion of this regulation chapter, as classified in accordance with subdivision B(1) and B(2) of 6VAC35-30-35, the department shall advise the sponsor or his designated representative of the deadline for submissions necessary to obtain approval: (i) from the board; (ii) for inclusion in the department's budget request to the Governor, if applicable; and (iii) for consideration during the next General Assembly session, if applicable.

6VAC35-30-42. Needs assessment and planning study requirements.

BA. Needs assessment. Prior to the applicable deadline, for all projects classified under subdivision B(1) of 6VAC35-30-35, the sponsor shall, prior to the applicable deadline, submit a needs assessment that shall demonstrate the need for the particular service, program, or facility and that shall include the following information:

1. The target population the project is seeking to impact;
2. The specific need of the target population the project is seeking to address;
3. An explanation as to why the specific need cannot be met with existing resources;
4. All alternatives considered to meet the identified need; and
5. The reason for rejecting the alternatives.

B. The department shall have a maximum of 45 days from receipt of the needs assessment to conduct a review of the assessment and to advise the sponsor regarding next steps.

C. The board shall consider the needs assessment as soon as reasonably practicable following the department's review at its next regularly scheduled meeting and shall approve, reject, or return the needs assessment.

1. If the board approves the needs assessment ~~is approved by the board~~, the department shall advise the sponsor of the board's decision and of the deadline for submitting the planning study for the project's approved advancement to the Planning Study phase pending the Governor's approval.
2. If the board elects to return the needs assessment ~~is returned~~ to the sponsor, the board shall provide the sponsor with additional factors to be considered prior to resubmission.

3. The department shall advise the sponsor of the board's decision, ~~in writing,~~ within ~~seven 10 business days~~ and ~~provide a written record upon adoption~~ of the ~~applicable~~ board's ~~decision~~ minutes.

~~CD.~~ — ~~Planning study. The sponsor shall,~~ ~~u~~ Upon the board's approval of the needs assessment ~~by the board~~ and ~~prior to~~ before the applicable deadline, ~~the sponsor shall~~ submit a complete planning study ~~to the department~~ that shall explain ~~how why~~ the proposed project is the most appropriate and cost-effective response to the specific need identified in the needs assessment.

1. ~~The planning study shall include a program description; project description; architectural and engineering drawings at the Schematic Design Document level; the project's schedule; a detail of the project's total projected design, -construction, and operation, including personnel, and maintenance costs; and a cost/benefit analysis.~~
2. ~~1.~~ The planning study shall be accompanied by an estimate of the total amount of reimbursement to be requested ~~in accordance with Code of Virginia § 16.1-309.5~~ and a resolution from the governing body of the sponsor or sponsors requesting reimbursement.
3. ~~Requests for regional facilities also shall include a copy of the agreement between the participating localities that addresses how financial and operational responsibilities are allocated.~~
4. ~~When submitting the planning study for review, a sponsor may request to receive portions of the total project reimbursement based upon the completion of the project in phases.~~
5. The board shall consider the planning study ~~at its next regularly scheduled meeting~~ as soon as reasonably practicable following the department's review and shall utilize the criteria outlined in 6VAC35-30-60 when reviewing ~~a sponsor's~~ the planning study and accompanying materials. Upon approval of a planning study, the board shall recommend the amount of state reimbursement for the project ~~in accordance with Code of Virginia § 16.1-309.5~~ and shall forward the sponsor's submissions and the board's recommendation to the Governor or the Governor's designee for approval.
3. ~~Requests for regional facilities shall also include a copy of the agreement between the participating localities including the allocation of financial and operational responsibilities.~~

6VAC35-30-45. Effect of legislative moratorium.

- A. ~~If in such times when~~ the Virginia General Assembly has imposed a moratorium on ~~construction and~~ reimbursement of construction costs, the sponsor shall follow the requirements of this chapter ~~if the sponsor wants to preserve the option to seek reimbursement in the future.~~
- B. To obtain ~~any~~ reimbursement ~~thereafter~~, the sponsor ~~shall~~ may:

1. Pursue a legislative exception to the moratorium on ~~construction and~~ reimbursement of construction costs; or
2. Request reimbursement ~~at such time as when~~ the Virginia General Assembly authorizes funding for such projects.

C. If, through an Appropriation Act, the Virginia General Assembly permits an exception to the legislative moratorium established in subsection A for the reimbursement of funds used for emergency maintenance projects necessary to resolve immediate life safety issues in a juvenile residential facility, and a sponsor seeks reimbursement in accordance with the Appropriation Act, the following requirements shall apply:

1. The sponsor shall initiate the reimbursement process by complying with the prescreening requirements in 6VAC35-30-35 and shall be subject to any additional regulatory requirements contained in this chapter, based upon the category under which the project falls;
2. Eligibility for reimbursement shall be contingent upon approval by the board and the Secretary of Public Safety and Homeland Security; and
3. If the board votes to approve the exception, it shall adopt an emergency resolution authorizing the exception. The resolution shall provide that reimbursement is subject to the availability of funds and approval by the General Assembly at its next regular session.

6VAC35-30-50. (Repealed.)

6VAC35-30-60. Criteria for board funding recommendation.

- A. Demonstrated need. The board shall evaluate the need for the project as demonstrated by the information provided in the Needs Assessment and Planning Study.
- B. Operational cost efficiency. ~~The board shall take into consideration the operational cost efficiency of the facility's interior design of the facility with special concern for attention to the number of staff required, functional layout, material selection, and energy efficiency, with and~~ special emphasis on meeting the needs of youth and the mission of the facility.
- C. Construction cost. All sponsors shall calculate construction costs and provide documentation of the methodology. in accordance with the funding formula provided in 6VAC35-30-65. Construction economy shall be reviewed in relation to the adjusted median cost of local facilities.
- ~~D. The economy~~ Economy of construction costs. ~~is necessary and~~ The board shall be reviewed ~~consider the economy of construction costs in accordance with the following as follows:~~

1. Construction economy may be questioned and reviewed in relation to comparable projects completed within the last five years.

2. Economy of construction costs shall be reviewed~~Review~~ for efficiency.

- a. Projects or portions of projects involving renovation of existing facilities shall be reviewed for maximum efficiency. The board shall review ~~reviewed in relation to~~ the efficiency of the renovated spaces, the appropriateness of the proposed changes for the population served, and the relationship of the changes to the project facility ~~of as a whole, and whether the proposed changes are consistent with federal and state statutes and regulations.~~
- b. Construction projects ~~Projects of new construction~~ shall be reviewed for the building's appropriate efficiency ratio. The board may request further information from the sponsor on projects with a building's efficiency ratio of less than 65%.

23. The board may adjust the approved project cost eligible for reimbursement amount ~~being requested for reimbursement funding~~ as follows:

- a. A reduction decrease in funding the estimated project cost when functional areas of the facility, such as the kitchen, recreation area, educational facilities, visiting area, and or laundry facilities are not included in the project or are included at a size not in conformity ~~ance~~ with applicable regulations or normal practice;
- b. An increase in funding the estimated project cost when support services areas are proposed at sizes larger than necessary in anticipation of future enlargements or expansions of the facility;
- c. A decrease in funding the estimated project cost when the building's efficiency ratio is less than 65%; and
- d. An increase in funding the estimated project cost when the facility includes areas for extraordinary program activities.

3. ~~Any adjustments made by the board in funding shall be based upon the gross square footage of the various conditions multiplied by a cost equal to the adjusted median cost or the proposed gross square foot cost of the facility, whichever is less.~~

ED. Phased reimbursement of projects. A sponsor may request, when submitting the planning study for review, to receive portions of the total project reimbursement based upon the completion of the project in phases. In response to such requests, the board may approve reimbursement based on the total estimated cost of the project as if it were to be ~~The board may approve a sponsor's request to receive portions of the total project reimbursement completed as a single endeavor instead of a single payment; however, reimbursement will be in amounts payments will be~~ proportional to the phases of construction and ~~payment~~ will be made only as each approved phase is completed and that portion of the building is ready to be placed in service.

6VAC35-30-65. Funding formula. (Repealed)

A. ~~The following funding formula shall be used to calculate estimated construction costs at the Schematic Design (15%) Documents level in the planning study phase:~~

1. ~~A cost per square foot base figure shall be the national median square-foot cost for jails published in the 24th annual edition of R. S. Means Facilities Construction Cost Data 2009 (Means) with consideration taken of the "location factor," which is the materials and labor cost differential specific to the project's geographical location.~~

2. ~~The cost per square foot, adjusted using the location factor, must be in accordance with all applicable codes and standards and in accordance with the following formula:~~

- ~~— National cost per square foot (from Means)~~
- ~~— X Location Factor (from Means)~~
- ~~— X Area allowance per bed (as provided for in subsection B of this section)~~
- ~~— = Adjusted median construction cost of local facility.~~

3. ~~The total project cost shall include:~~

- ~~a. Construction cost;~~
- ~~b. Site and utilities (from Means);~~
- ~~c. Architectural and Engineering services (services as defined in the Construction and Professional Services Manual (CPSM));~~
- ~~d. Furnishing and equipment (as itemized by the sponsor);~~
- ~~e. Project inspection (services as defined in the CPSM);~~
- ~~f. Contingency (10.0%);~~
- ~~g. Inflation factor (yearly market inflation rate applied from January 1 of the year of the submitted design through the midpoint of construction, compounded);~~
- ~~h. Property purchased specifically for this facility; and~~
- ~~i. Other.~~

B. ~~The following area allowances per bed shall be used to calculate the adjusted median construction cost of a local facility:~~

1. ~~A maximum of 700 square feet per bed for facilities up to 35 residents;~~

2. ~~A maximum of 650 square feet per bed for facilities of 36 to 79 residents; and~~

3. ~~A maximum of 550 square feet per bed for facilities with 80 or more residents.~~

6VAC35-30-70. Funding priorities.

The board shall prioritize reimbursement requests in a manner ~~to that~~ ensures an equitable distribution of state funds across the Commonwealth; ~~and, a.~~ Absent a health, safety, or welfare risk requiring priority, the board shall ordinarily give preference to requests for reimbursement for regionalized local facilities. Regionalized local facilities shall normally serve three or more localities as determined by demonstrated in the needs assessment.

6VAC35-30-80. Board recommendations to the Governor.

- A. The department shall provide a written notification ~~notify to~~ the sponsor ~~in writing~~ within ~~seven business~~ 10 days of the board's decision to recommend or ~~not decline~~ to recommend a project for reimbursement. If the ~~recommendation board declines is not~~ to recommend reimbursement, the department shall briefly explain the rationale for the decision.
- B. The board shall submit to the Governor, or his designee, (i) its recommendations with respect to reimbursement requests and the rationale therefor; and (ii) such information as the Governor may require with respect to a request for approval of reimbursements.
- C. Final appropriations are subject to the Governor's approval and legislative enactment.

Part IVIII. Project Development

6VAC35-30-90. Preliminary design.

- A. The sponsor shall submit to the department preliminary design (35%) documents ~~to the department as defined in the CPSM and required by approved department procedures as outlined in the CPSM.~~
- B. The department shall review the preliminary ~~Preliminary~~ design (35%) documents within 45 days of receipt of the documents ~~shall be reviewed by the department~~ for compliance with applicable statutes, regulations, and any guidance documents that are incorporated ~~herein~~ into this chapter.
 1. If the department requires changes to the preliminary design (35%) documents, the department shall provide a written notification of all such required changes ~~shall be communicated in writing~~ to the sponsor.
 2. The sponsor shall ~~respond in writing~~ provide a written response to the department to all comments received from the department in the preliminary design review. The sponsor may incorporate Necessary-necessary revisions to the project documents ~~may be incorporated~~ in the submission of the construction documents (referred to as the "working drawings" in the CPSM); however, all issues ~~detailed-raised in these writings~~ the department's comments shall be resolved before the project is approved for advancement ~~advanced~~ to the construction document phase ~~(referred to as the "working drawings phase" in the CPSM).~~
- C. When all review comments have been addressed and resolved, the department shall notify the sponsor that the project has been approved to progressed ~~proceed~~ to the construction documents phase.

6VAC35-30-100. Construction documents.

- A. The sponsor shall submit to the department construction documents ~~to the department as defined outlined~~ in the CPSM ~~and required by approved department procedures~~. The construction documents shall include 100% complete working drawings, 100% complete specifications, and all required review approvals from local building, health, and fire officials.
- B. The department shall review the construction documents ~~shall be reviewed by the department~~ for compliance with applicable statutes, regulations, and any guidance documents incorporated ~~herein into this chapter~~, and for incorporation of all changes required by the department at the preliminary document review stage. This review ~~in no way releases~~ shall not release the sponsor from other applicable responsibilities and requirements.
1. If the department, upon conducting the review mandated in this subsection, requires changes to the construction documents, the department shall provide the sponsor with a written communication of all such required changes ~~shall be communicated in writing to the sponsor~~.
 2. The sponsor shall ~~respond in writing~~ provide the department with a written response to the department to all comments received from the department in the construction document review. All issues ~~detailed in these~~ raised in the department's comments writings shall be resolved before the project is approved for advancement ~~advanced~~ to the bidding phase.
- C. When ~~the all review comments have been~~ sponsor has addressed and resolved all review comments, the department shall approve the construction documents and advise the sponsor in writing, ~~as required in approved department procedures~~, that the project may progress to the bidding phase ~~(referred to as the "bid documents phase" in the CPSM)~~.

6VAC35-30-110. ~~Change order~~ Design change process.

If, during the project development stage, ~~any a~~ substantive change in the scope of the project ~~or, any an~~ increase in the estimated cost of construction, ~~or any change in the operational staff requirements~~ occurs, for which the sponsor will seek reimbursement, the department shall ~~may~~ suspend the review process ~~shall be suspended~~ and determine next steps. The department may require the sponsor to comply with any or all steps outlined in the preceding regulatory sections, until the project is resubmitted to the board for further review and possible change in the status of reimbursement recommendation.

6VAC35-30-115. Failure to initiate construction within three years

If a locality fails to execute a construction contract for the approved project within three years of the department's notice of approval of the planning study, the board approval shall expire unless the sponsor submits a written request to the board for an extension. The board may grant an extension or require the sponsor to amend the locality's needs assessment for resubmission in accordance with the process established in 6VAC35-30-42.

Part IV. Project Construction

6VAC35-30-120. Bidding.

After bids for construction have been received and opened and the sponsor has determined to proceed with the project, the sponsor shall submit to the department a bid tabulation, analysis, and recommendation as to the award of the contract. The department shall forward Any written comments by the department shall be forwarded in response to the sponsor within five-seven business days of receipt; and the sponsor shall respond to the comments in writing within 10 business days of receipt of the department's comments. The department's failure to respond in the required time frame shall serve as be deemed acceptance of the sponsor's recommendation as to the award of the contract.

6VAC35-30-130. Construction.

- A. During project-the construction of all projects, the sponsor shall submit monthly inspection or-and construction progress reports to the department in accordance with a schedule provided by the sponsor. The sponsor shall submit the reports to the department no later than the 15th day of the month following the inspection or when the progress report became due. If the sponsor identifies any issues as part of the monthly submission, the sponsor shall explain the issue and the plan of action for addressing the issue or problem. The department shall notify the sponsor in writing within 10-14 business days after receipt of the inspection or progress report regarding any issues or problems with the project or the reports. The department's failure to respond in the required time frame shall serve as be deemed as acceptance of the inspection and progress report. Any failure to timely submit the monthly inspection or progress reports may constitute grounds to deny the requested reimbursement, in whole or in part.
- B. Any substantive changeIf, during the construction phase of the project, a locality makes a change deemed substantive due to either: (i) an increase in the project cost of \$50,000 or more, or (ii) accumulated change orders that exceed 25% of the original contract amount, the sponsor shall submit shall be submitted the change orders in writing to the department for review and approval before implementing the changeany such change is executed. Only those changes that are approved through the approved department procedure shall be eligible for reimbursement. Any failure to seek and obtain approval of a substantive change may constitute grounds to deny the requested reimbursement, in whole or in part.
- C. Any substantive change for which the sponsor seeks additional reimbursement shall be subject to the requirements in subsection C of 6VAC35-30-180.

6VAC35-30-140. Final inspection.

- A. Upon construction completion, the sponsor shall ~~establish a schedule for~~ final inspection of the project, ~~which shall. This schedule shall~~ include: (i) notification to the department and all regulatory agencies that reviewed preliminary design or construction documents of the ~~schedule~~ project; (ii) a request to the personnel or agencies involved in the final inspection to submit comments or recommendations in writing to the sponsor and to the department; (iii) documentation of the correction of all deficiencies noted in the comments; and (iv) the submission of a report of completed actions to the appropriate reviewing agencies and to the department.
- B. Upon completion of the final inspection and corrective actions as required, the sponsor shall provide ~~to the department~~ with copies of all required regulatory agency letters verifying approval of the completed project and shall certify to the department the completion of the project.

6VAC35-30-150. Record documents.

The sponsor shall require its architect to modify original drawings and specifications to reflect the condition of the project as actually constructed, and such documents shall be marked "Record." The record documents shall be prepared as defined in the CPSM ~~and in accordance with approved department procedures.~~

Part VI. Private Construction of Juvenile Facilities

6VAC35-30-160. Private construction of juvenile facilities.

~~Section 16.1-322.5 of the Code of Virginia allows the board to authorize a county or city or any combination of counties, cities, or towns established pursuant to § 16.1-315 of the Code of Virginia to contract with a private entity for the financing, site selection, acquisition, or design and construction of a local or regional detention home or other secure facility. Localities authorized to contract for private construction of a juvenile detention facility or other secure facility pursuant to § 16.1-322.5 of the Code of Virginia shall receive state reimbursement authorized by § 16.1-309.5 of the Code of Virginia, in accordance with Parts I through VI of this chapter shall seek authorization from the board before entering into such contracts by certifying and submitting documentation to the board demonstrating that both the sponsor and the contractor have satisfied all applicable requirements mandated by § 16.1-322.5 of the Code of Virginia. The board shall review the documentation and may not approve any private contracts that do not satisfy the applicable requirements in § 16.1-322.5.~~

~~6VAC35-30-170. Requirements for contract authorization.~~

~~Prior to receiving the board's authorization to enter into a contract for private construction, sponsors shall certify and submit documentation demonstrating that all requirements mandated by § 16.1-322.5 of the Code of Virginia have been met by both the sponsor and the contractor.~~

Part VII. Final Reimbursement

6VAC35-30-180. Request for final reimbursement for all projects.

- A. Upon completion of the project, the sponsor shall submit to the department the a written request for final reimbursement for the applicable project, along with documentation supporting the request specified by approved department procedures to the department.
- B. If the final amount of reimbursement requested is not greater than the reimbursement amount initially recommended, including the contingency, the department shall authorize reimbursement within 90 days of receiving a complete reimbursement request. The reimbursement request shall be in the form specified by the department. In no case shall the reimbursement amount exceed 50% of the actual project costs.
- C. If the final amount of reimbursement requested is greater than the reimbursement amount initially recommended, the department shall process the initial reimbursement amount in accordance with subsection B. For any increase in costs over the amount of the initial board-approved reimbursement, the sponsor shall justify the cost increase and submit the a written adjusted reimbursement request, including justification for the cost increase to the board and the Governor, or his designee, for approval.
- D. The availability of funds for reimbursement, as approved, is contingent on the appropriation of funds by the General Assembly.

6VAC35-30-185. Guidelines for document submission.

In order to assist localities in complying with the requirements of this chapter, the department shall establish guidelines governing the form and process for submission of all documents required in this chapter.

6VAC35-30-190. Compliance.

Failure to comply with these regulations will delay the review process and recommendation for disbursement of funds, may result in the denial of reimbursement, and may result in the failure to obtain board certification or department approval to house residents in the facility as provided for in the Regulation Governing the Monitoring, Approval, and Certification of Juvenile Justice Programs and Facilities (6VAC35-20).

DOCUMENTS INCORPORATED BY REFERENCE (6VAC35-30)

The Step-by-Step Procedures for Approval and Reimbursement for Local Facility Construction, Enlargement, and Renovation, revised March 2001, Department of Juvenile Justice.

Construction and Professional Services Manual, Revision 40, ~~October 2004~~July 2020,
Department of General Services, Division of Engineering and Buildings.

~~R.S. Means Facilities Construction Cost Data 2009, 24th Annual Edition, R.S. Means-Reed
Construction Data (<http://rsmeans.reedconstructiondata.com>).~~

CHAPTER 20.
REGULATION GOVERNING THE MONITORING, APPROVAL, AND
CERTIFICATION OF JUVENILE JUSTICE PROGRAMS AND FACILITIES

6VAC35-20-69. Newly opened facilities and new construction, expansion, or renovation of residential facilities.

A. When a newly opened facility seeks certification to allow the admission of residents, the facility administrator shall contact the director or designee to request a review of the facility for conditional certification.

B. The facility administrator and the department shall follow the requirements of this chapter ~~and department procedures~~ in reviewing a facility prior to admission of residents. New construction, expansions, and renovations in all juvenile residential facilities, ~~whether or not the facility or its sponsor is seeking reimbursement for construction or operations,~~ shall conform to the governing provisions of the following regulations:

1. Regulation Governing Juvenile Correctional Centers (6VAC35-71);
2. Regulation Governing Juvenile Secure Detention Centers (6VAC35-101); and
3. Regulation Governing Juvenile Group Homes and Halfway Houses (6VAC35-41); ~~and~~
4. ~~Regulation Governing State Reimbursement of Local Juvenile Residential Facility Costs~~

C. ~~In addition to the requirements in subsection B, a juvenile residential facility seeking reimbursement for construction or operations pursuant to §16.1-309.5 of the Code of Virginia or seeking to preserve the option to obtain reimbursement in the future shall conform to the governing provisions of the Regulation Governing State Reimbursement of Local Juvenile Residential Facility Costs (6VAC35-30). A juvenile residential facility that is not seeking such reimbursement shall be subject to the governing provisions of the Regulations Governing the Process for Planning, Designing, and Constructing Locally Funded Juvenile Residential Facilities (6VAC35-35).~~

~~C.D.~~ A newly constructed, expanded, or renovated facility shall, except as provided in subsection ~~D-E~~ of this section, obtain conditional certification as provided in 6VAC35-20-100 prior to the placement of residents in the new facility or portion of an existing facility subject to the expansion or renovation.

D.E. The director or designee shall consider the request for certification within 60 days of receiving the request and report of the basic audit findings. Actions taken by the director or designee shall be governed by the provisions of 6VAC35-20-100.

CHAPTER 101 REGULATION GOVERNING JUVENILE SECURE DETENTION CENTERS

6VAC35-101-350. Buildings and inspections.

A. All newly constructed buildings, major renovations to buildings, and temporary structures shall be inspected and approved by the local building official. Approval shall be documented by a certificate of occupancy.

B. A current copy of the facility's annual inspection by fire prevention authorities indicating that all buildings and equipment are maintained in accordance with the Virginia Statewide Fire Prevention Code (13VAC5-51) shall be maintained. If the fire prevention authorities have failed to timely inspect the detention center's buildings and equipment, documentation of the facility's request to schedule the annual inspection as well as documentation of any necessary follow-up with fire prevention authorities shall be maintained.

C. A current copy of the detention center's annual inspection and approval, in accordance with state and local inspection laws, regulations, and ordinances, of the systems listed below shall be maintained. These inspections shall be of the:

1. General sanitation;
2. Sewage disposal system;
3. Water supply; and
4. Food service operations.

D. Building plans and specifications for new construction, change in use of existing buildings, and any structural modifications or additions to existing buildings shall be submitted to and approved by the regulatory authority and by other appropriate regulatory agencies. Any planned construction, renovation, enlargement, or expansion of a detention center for which the locality seeks or plans to seek reimbursement pursuant to § 16.1-309.5 of the Code of Virginia shall follow the submission and approval requirements of the Regulation Governing State Reimbursement of Local Juvenile Residential Facility Costs (6VAC35-30) and of any other applicable regulatory authorities. All other plans for construction, renovation, enlargement, or expansion of a detention center shall follow the submission and approval requirements of the Regulation Governing the Planning, Design, and Construction of Local Juvenile Residential Facilities (6VAC35-35).

CHAPTER 35 (6VAC35-35)

REGULATION GOVERNING THE PROCESS FOR PLANNING, DESIGNING, AND CONSTRUCTING LOCALLY FUNDED JUVENILE RESIDENTIAL FACILITIES

Part I. General Information

6VAC35-35-10. Definitions

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

“Board” means the Board of Juvenile Justice.

“Board regulation” means a regulation or section or subsections of the regulation promulgated and approved by the board.

“Construction” means the act or process of erecting a new facility or replacing an outdated existing facility. For purposes of this definition, construction shall not include enlargement, expansion, or renovation of an existing facility.

“Day” means calendar day unless otherwise specified.

“Department” means the Department of Juvenile Justice.

“Enlargement” or “expansion” means the extension of an existing facility through the erection of additional areas as may be determined by need or as required by law or regulation.

“Local facility” or “facility” means a juvenile residential facility that is or will be regulated by the board and is owned, maintained, or operated by a political subdivision or combination of political subdivisions of the Commonwealth, or a privately owned or operated juvenile residential facility that has contracted with a political subdivision or combination of political subdivisions of the Commonwealth and is or will be regulated by the board.

“Project” means a proposed or actual new construction, renovation, enlargement, or expansion of a juvenile residential facility that is or will be subject to approval by the department or by board regulation.

“Renovation” means the alteration or other modification of an existing facility for the purpose of changing the use or capability of such facility as may be determined by need or required by law or regulation. For purposes of this definition, renovation does not include work on or replacement of a facility that may be generally associated with normal wear and tear and included in routine maintenance.

“Routine maintenance” means the normal and usual type of repair or replacement necessary as the result of periodic maintenance inspections or normal wear and tear of a local facility or equipment.

“Sponsor” means a city, county, commission, or a combination of these entities, or a private entity under contract or arrangement with a city, county, commission, or a combination of these entities that is actually building, renovating, expanding, or operating or proposing to build, renovate, expand or operate a local facility.

“Substantive change” means a deviation from an approved plan or design that will affect the operational and functional performance of the facility, that potentially impacts the facility’s compliance with a board regulation, that would result in a change in capacity, or that would result in the sponsor seeking additional reimbursement.

“Written” means the required information is communicated in writing either in hard copy or in electronic form.

6VAC35-35-20. Applicability of this chapter.

This chapter applies to projects for which a locality is not seeking reimbursement from the Commonwealth of Virginia, either now or in the future. Projects for which a locality is seeking reimbursement from the Commonwealth currently or for which the locality is seeking to preserve the option to obtain reimbursement in the future should funding become available or through legislative enactment, shall be subject to the requirements of Chapter 30 (Regulation Governing State Reimbursement of Local Juvenile Residential Facility Costs).

Part II. Process for Projects

6VAC35-35-30. Prescreening

- A. A sponsor planning construction, renovation, enlargement, or expansion of a local facility, regardless of whether the sponsor is seeking reimbursement from the Commonwealth of Virginia pursuant to 16.1-309.5 of the Code of Virginia, shall submit an initial written request to the department that shall include a graphic, if available showing the proposed structural changes and a brief description of all operating capacity or programmatic changes to be accommodated by the structure.
- B. The department shall review the initial request, classify the request in accordance with the classifications established in subsection C of this section, and inform the sponsor in writing whether, based on these classifications, the project is subject to this chapter. The department shall notify the sponsor of the classification as soon as practicable but no later than 30 days after receiving the initial request from the sponsor.
- C. The department shall determine under which of the following categories the request falls.
 1. Projects subject to this chapter. Projects for which the locality is not seeking reimbursement now or in the future shall be subject to the requirements of this chapter.
 2. Projects subject to the State Reimbursement Regulations (6VAC35-30). Any construction, enlargement, renovation, or other modification of an existing local facility or piece of stationary equipment, including security related upgrades, for

which the sponsor seeks reimbursement shall be subject to the requirements of 6VAC35-30 (Regulations Governing State Reimbursement of Local Juvenile Residential Facility Costs).

D. If the department fails to respond within the 30-day timeframe, the sponsor may proceed with the reimbursement process established in 6VAC35-30 (Regulations Governing State Reimbursement of Local Juvenile Residential Facility Costs) or the process established under this chapter, as applicable.

E. A sponsor shall not be required to follow the requirements of this section for routine maintenance projects, projects that will not affect the facility's compliance with other board regulations, and other projects that involve minor changes to the facility. These projects shall not be subject to this chapter and shall be excluded from department review.

6VAC35-35-40. Project overview requirements.

A. If the department determines that the project is subject to this chapter pursuant to subsection C of 6VAC35-35-30 (prescreening), the sponsor shall prepare and submit to the department for review a project overview that shall explain the purpose of the proposed project and the need that the project is intended to address.

B. The project overview shall include a description of the facility's existing or proposed program, a description of the proposed project, architectural and engineering drawings at the Schematic Design Document level and the project's anticipated schedule for completion.

C. The department shall review the project overview upon receipt of the document and provide comments regarding the project's proposed compliance with statutes, regulations, and guidance documents applicable to this chapter.

1. If after conducting the review mandated in this subsection, the department recommends changes to the construction documents, all such recommended changes shall be communicated in writing to the sponsor.

2. The sponsor shall provide the department with a written response to all comments received from the department in the construction document review.

6VAC35-35-50. Construction documents.

A. The sponsor shall submit to the department construction documents, which shall include 100% complete working drawings, 100% complete specifications, and all required review approvals from local building, health, and fire officials.

B. The department shall review the construction documents for compliance with applicable statutes, regulations, and guidance documents. This review shall not release the sponsor from other applicable responsibilities and requirements.

1. If the department, upon conducting the review mandated in this subsection, recommends changes to the construction documents, all such changes shall be communicated in writing to the sponsor.

2. The sponsor shall provide the department with a written response to all comments received from the department in the construction document review. All issues raised in the department's comments shall be addressed before the project proceeds to the bidding phase.

C. When the sponsor has addressed all review comments, the department shall advise the sponsor in writing that the project may progress to the construction phase.

6VAC35-35-60. Design change process.

If, during the project development stage, a substantive change in the scope of the project occurs, the department may suspend the review process and determine next steps, which may include any or all steps outlined in the preceding regulatory sections.

6VAC35-35-70. Construction.

If a substantive change occurs during the construction phase, the sponsor shall submit a written explanation of the change to the department for review and comment before the change is executed.

6VAC35-35-80. Final inspection.

A. Upon construction completion, the sponsor shall ensure final inspection of the project, which shall include: (i) notification to the department and all regulatory agencies that reviewed preliminary design or construction documents of the project; (ii) a request to the staff or agencies involved in the final inspection to submit comments or recommendations in writing to the sponsor and to the department; (iii) documentation of the correction of all deficiencies noted in the comments, and (iv) the submission of a report of completed actions to the appropriate reviewing agencies and to the department.

B. Upon completion of the final inspection and corrective actions as required, the sponsor shall provide the department with copies of all required regulatory agency letters verifying approval of the completed project and shall certify to the department completion of the project.

6VAC35-35-90. Record documents.

The sponsor shall require its architect to modify original drawings and specifications to reflect the condition of the project as actually constructed and such documents shall be marked "Record."

6VAC35-35-100. Compliance.

Failure to comply with these regulations may prevent the facility from obtaining board certification or department approval to house residents in the facility as provided in § 16.1-309.9 of the Code of Virginia and the Regulation Governing the Monitoring, Approval, and Certification of Juvenile Justice Programs and Facilities (6VAC35-20).

DEPARTMENT OF JUVENILE JUSTICE REGULATORY UPDATE

April 7, 2021

ACTIONS WITH RECENT UPDATES:

6VAC35-170 Regulation Governing Juvenile Data Requests and Research Involving Human Subjects

Stage: (Fast-Track Process)

Status: This chapter was last amended effective December 1, 2016. This regulatory action seeks minor amendments to the process for requesting and approving requests for data and human research proposals. The fast-track action has undergone the applicable reviews with the Office of the Attorney General (OAG), the Department of Planning and Budget (DPB), the Secretary of Public Safety and Homeland Security (SPSHS), and the Governor's office. The action was published in the *Virginia Register of Regulations* on March 1, 2021, followed by a 30-day public comment period. As of March 24, 2021, the department had not received public comments regarding this action.

Next step: The public comment period is scheduled to end on March 31, 2021. Assuming none of the triggering events occurs that would preclude the board from proceeding under the fast-track regulatory process, the proposed changes will take effect on April 15, 2021.

6VAC35-30 Regulation Governing State Reimbursement of Local Juvenile Residential Facility Costs 6VAC35-35 Regulation Governing the Process for Planning, Designing, and Constructing Locally Funded Juvenile Residential Facilities (*New)

Stage: NOIRA (Standard Regulatory Process)

Status: This action involves a comprehensive overhaul of the process localities follow to obtain state reimbursement for local facility construction and renovation projects and proposes a new process for localities that have no plans to seek reimbursement for such projects. The NOIRA has undergone review by DPB, the SPSHS, and the Governor's office, and was published in the *Virginia Register* on February 1, 2021. The 30-day public comment period generated no comments.

Next step: The amendments will be presented for the board's consideration on April 7, 2021 for advancement to the Proposed Stage of the standard regulatory process. The department will have until the end of August to advance any approved amendments for Executive Branch review at the Proposed Stage.

6VAC35-200 Regulations Governing Youth Detained Pursuant to Federal Contracts (*New)

Stage: NOIRA (Standard Regulatory Process)

Status: This action seeks to establish new regulations applicable to programs for youth detained in juvenile correctional facilities pursuant to contracts with the federal government. The action is intended to carry out the legislative directive in Chapter 599 of the 2020 Acts of Assembly. The NOIRA action has undergone DPB, SPSHS, and Governor's Office review, was published in the *Virginia Register* on March 1, 2021, and the public comment period will end on March 31, 2021.

Next step: As of March 24, 2021, the department had not received public comments regarding this action. The proposed language is under development and, once complete, the action will be presented to the board for advancement to the Proposed Stage of the process.

ACTIONS PENDING

6VAC35-41 Regulation Governing Juvenile Group Homes and Halfway Houses

Stage: Proposed (Standard Regulatory Process)

Status: This regulation was last amended effective January 1, 2014. This action involves a comprehensive review of the regulatory requirements. The NOIRA was published in the *Virginia Register* on October 31, 2016. At the NOIRA stage, no public comments were submitted. The action was submitted through the proposed stage on April 17, 2020 and has undergone review by the OAG and the SPSHS. The action is currently being reviewed by the Governor's Office.

Next step: If the Governor's office approves the action at the Proposed Stage, the action will be published in the *Virginia Register*, followed by a 60-day public comment period.

6VAC35-71 Regulation Governing Juvenile Correctional Centers

Stage: Proposed (Standard Regulatory Process).

Status: This regulation became effective on January 1, 2014. This action involves a comprehensive review of the regulatory requirements. The NOIRA was published in the *Virginia Register* on October 3, 2016. At the NOIRA stage, no public comments were submitted. Now in the Proposed Stage, the action has been approved by DPB, the SPSHS, and the Governor's Office. The Proposed action was published in the *Virginia Register* on September 30, 2019, and the 60-day public comment period ended on November 29, 2019.

Next step: Due to the volume of changes made after the Proposed Stage, the department is preparing to advance the action through a Revised Proposed Stage.

6VAC35-101 Regulation Governing Juvenile Secure Detention Centers

Stage: Proposed (Standard Regulatory Process)

Status: This regulation became effective on January 1, 2014. This action involves a comprehensive review of the regulatory requirements. The NOIRA was published in the *Virginia Register* on October 17, 2016. At the NOIRA Stage, no public comments were submitted. The action was submitted through the Proposed Stage on September 3, 2019, has undergone OAG and SPSHS review, and currently is under review by the Governor's Office.

Next step: Once the Governor's Office completes its review, the action will be published in the *Virginia Register*, followed by a 60-day public comment period.

6VAC35-150-335 Regulation for Nonresidential Services, Diversion

Process: (Fast-track Regulatory Process)

Status: This chapter was last amended on July 1, 2011. The action seeks to remove the 90-day deadline for completing truancy diversions, consistent with Chapter 753 of the 2020 Acts of Assembly. The board approved the fast-track action on September 16, 2020, and the action is currently being reviewed by the OAG.

Next step: If the OAG approves the action, it will advance to the SPSHS for review.

6VAC35-180 Regulations Governing Mental Health Services Transition Plans for Incarcerated Juveniles

Stage: NOIRA (Standard Regulatory Process)

Status: This regulation became effective January 1, 2008 and has never been amended. This action involves a comprehensive overhaul of the regulatory requirements to ensure the continued provision of post-release services for incarcerated juveniles with a substance abuse, mental health, or other therapeutic need. The NOIRA has undergone review by DPB and the SPSHS, and currently is under review in the Governor's office.

Next step: Once the Governor's office completes its review, the action will be published in the *Virginia Register*, followed by a 30-day public comment period.