



## Final Regulation Agency Background Document

<b>Agency name</b>	Department (Board) of Juvenile Justice
<b>Virginia Administrative Code (VAC) citation</b>	6VAC35-71
<b>Regulation title</b>	Regulation Governing Juvenile Correctional Centers
<b>Action title</b>	Comprehensive review of all regulatory provisions governing juvenile correctional centers that are currently contained in 6VAC35-51 and 6VAC35-140. Combines and streamlines the regulations into a single regulation (6VAC35-71).
<b>Date this document prepared</b>	January 12, 2012

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.*

This action (1) combines all regulatory requirements relating to juvenile correctional centers currently contained in (i) the Standards for Juvenile Residential Facilities (6VAC35-140) and (ii) the Standards for the Interim Regulation of Children's Residential Facilities (6VAC35-51) into one regulation and (2) includes a comprehensive review of all regulatory requirements for juvenile correctional centers. The proposed regulation has sections for: (1) general provisions; (2) administration and personnel; (3) physical environment; (4) safety and security; (5) residents' rights; (6) program operation; (7) work programs; (8) health care services; and (9) behavior management. Facility specific parts are included as needed; i.e., group homes/halfway houses have separate sections for subdivisions of facility programs and juvenile correctional centers have a section for boot camps.

The recommended changes since the proposed stage are in response to the public comments received. The majority of the changes relate to the adoption of requirements pertaining to the department's zero-tolerance policy regarding abuse in juvenile correctional centers in the training and residents' rights

sections. Other amendments relate to the reporting of serious incidents and suspected child abuse and neglect, staff and volunteer training and retraining, searches of residents, residents' rights, room confinement, and restraints.

**Statement of final agency action**

*Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.*

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On June 9, 2010, the Board of Juvenile Justice authorized the advancement of the Regulation Governing Juvenile Correctional Centers, 6VAC35-71, as amended, to the Final Stage of the regulatory process.

**Legal basis**

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter numbers, if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

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Section 66-13 of the Code of Virginia provides the department with the authority to "receive juveniles committed to it by the courts of the Commonwealth" and to "establish, staff and maintain facilities for the rehabilitation, training and confinement of such juveniles."

The Board of Juvenile Justice is entrusted with general authority to promulgate regulations by § 66-10 of the Code of Virginia, which states the board may "promulgate such regulations as may be necessary to carry out the provisions of this title and other laws of the Commonwealth administered by the Director or the Department."

Also contained in this regulation are the provisions governing privately operated juvenile correctional centers and boot camps. These facilities are mandated by Chapter 2.1 of Title 66 (Juvenile Corrections Private Management Act) and § 66-13 of the Code of Virginia, respectively.

The promulgating entity is the Board of Juvenile Justice.

**Purpose**

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.*

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The Board of Juvenile Justice regulates three distinct types of facilities: (1) juvenile correctional centers; (2) detention centers; and (3) group homes/halfway houses. At present, these facilities are regulated by the board and are governed by two separate regulations: (1) the Standards for Juvenile Residential Facilities (6VAC35-140) and (2) the Standards for the Interim Regulation of Children's Residential Facilities (6VAC35-51).

The department has had several ideations of regulations governing the residential facilities regulated by the board. Earlier, the department had five separate regulations governing secure detention homes, post-dispositional confinement in secure detention, pre- and post-dispositional group homes, and juvenile correctional centers. These regulations applied to the facilities in conjunction with the Standards for the Interdepartmental Regulation of Children's Residential Facilities (the "CORE" regulation), which went into effect in 1981.

The Standards for Juvenile Residential Facilities (6VAC35-140), promulgated by the board, was most recently reviewed and revised in May 2005, and consists of the board's regulations for all facilities it regulates. This regulation establishes the minimum standards for residential facilities in the Commonwealth's juvenile justice system and covers program operations, health care, personnel, facility safety, and physical environment. It contains additional provisions for secure custody facilities, boot camps, work camps, juvenile industries, and independent living programs.

The Standards for the Interim Regulation of Children's Residential Facilities (6VAC35-51) is a reenactment of the "CORE" regulation in its entirety as a board regulation. This regulation was adopted by the board in September 2008 in order to comply with the requirements of Chapter 873 of the 2008 Acts of the General Assembly, which mandated the repeal of the "CORE" regulation and action to be taken by the affected boards by October 31, 2009. This regulation has more expansive provisions than 6VAC35-140 and also contains minimum requirements for the different facilities regulated by the board.

Throughout the years, problems have been identified in implementing the requirements contained in these two separate regulations due to the distinct nature of the three types of facilities regulated by the board. Accordingly, the board has approved consolidating the current regulatory requirements for residential programs and separating them into three regulations governing (1) juvenile correctional centers; (2) detention centers; and (3) group homes/halfway houses. This revamping of the regulatory scheme was done in conjunction with a comprehensive review of the current provisions. The review was done with the goals of enhancing the clarity of the regulatory requirements and achieving improvements that are reasonable, prudent, and will not impose an unnecessary burden on its regulants or the public.

Having clear, concise regulations is essential to protecting the health, safety, and welfare of residents in juvenile correctional centers and citizens in the community. With clear expectations for the administrators running these facilities, they will be able to run the facilities more smoothly and can utilize any extra resources for supporting the needs of the residents, thus maintaining the overall rehabilitation and community safety goals of the department.

**Substance**

*Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.*

The primary intent of this regulatory overhaul is to reduce confusion in applying the regulatory requirements in each type of facility regulated by the board (juvenile correctional centers, secure detention centers, and group homes/halfway houses). Each provision was reviewed as to whether it was (1) appropriate for the type of facility; (2) clear in its intent and effect; and (3) necessary for the proper management of the facility. Amendments were made to accommodate the juvenile correctional centers' specific needs and to enhance program and service requirements to best provide for the residents.

**The following is a summary of the changes made to the regulation since the proposed stage:**

- Certification (6VAC35-71-30): Add the requirement that the certificate be posted in a conspicuous place.
- Serious incident reports (6VAC35-71-60):
  - Add the requirement that all reports be made "as soon as practicable, but no later than" 24 hours and "in accordance with department procedures."
  - Add requirement that any incident involving the death of a resident be reported "without undue delay."
- Suspected child abuse and neglect (6BAC35-71-70): Add a requirement that procedures include "measures to be taken to ensure the safety of the resident and staff" when child abuse or neglect is suspected.
- Reporting criminal activity (6VAC35-71-75): Add clarifying language that such reporting includes any physical abuse, sexual abuse, or sexual harassment.
- Grievance procedure (6VAC35-71-80): Add the requirement that the grievance procedure be posted in an area easily accessible to parents and legal guardians.
- Organizational communications (6VAC35-71-110): Delete the requirement that the juvenile correctional center (JCC) comply with department procedures requiring reports concerning major incidents, population data, employee vacancies, and other information as needed or required by department procedures.
- Required initial training (6VAC35-71-160):
  - Amend the required initial training requirements to clarify that such training must include the actions that are prohibited in facilities; i.e., abuse, discrimination, unsanitary living conditions, denial of health care.
  - Delete the requirement regarding health care training, and add the requirement that staff be trained in recognizing the signs and symptoms and knowledge of actions required in medical emergencies.
  - Add the requirement for training in adolescent development.
- Retraining (6VAC35-71-170): Amend the required initial training requirements to clarify that such training must include the actions that are prohibited in facilities; i.e., abuse, discrimination, unsanitary living conditions, denial of health care.
- Notification of change in driver's license status (6VAC35-71-200): Delete the requirement that a staff member, whose job involves transporting residents, must maintain a valid driver's license and must report any change in the license status.
- Volunteer and intern orientation and training (6VAC35-71-230): Add a requirement that training include the actions prohibited in facilities; i.e., abuse, discrimination, unsanitary living conditions, denial of health care.
- Toilet facilities (6VAC35-71-350): Remove duplicative language provided in subsection A.

- Disposal of garbage and management of hazardous materials (6VAC35-71-380): Add medical waste as materials that must be stored, used, and disposed of in appropriate receptacles in accordance with applicable federal, state, and local requirements.
- Security procedures (6VAC35-71-470): Clarify that searches may be of buildings, premises, and persons.
- Searches of residents (6VAC35-71-480): Add the requirement that all patdown and frisk searches must be conducted by staff of the same sex of the resident being searched, except in emergencies.
- Prohibited actions (6VAC35-71-550):
  - Add clarifying language that any form of "physical abuse, sexual abuse, or sexual harassment are prohibited."
  - Remove "involuntary" before "use of pharmacological restraints" as unnecessary language because use of any pharmacological restraint is prohibited. (Note: This does not include PRN or prescribed psychotropic medications.)
  - Remove the "physical" before "disability" describing a class where discrimination is prohibited.
  - Include a prohibition against discrimination on the basis of sexual orientation.\*
  - Move the provision regarding programs and activities to the section dealing with services and treatment (from subdivision 4 to 8).

\* NOTE: The language in subdivision 13 has changed since originally approved by the Board, after first approved by the Board in June 2010, through the Executive Branch Review, it was determined that the proposed language exceeding the Board's rulemaking authority. On January 10, 2012, the Board approved alternative language. The alternative language is in the proposed draft.
- Contact with attorneys, courts, and law enforcement (6VAC35-71-590): Remove the last two sentences in subsection A as the definition of legal representative is more appropriately addressed in department procedure.
- Residents' modesty (6VAC35-71-620): Change "privacy" to "modesty" and add exception for "exceptional security circumstances."
- Admission and orientation (6VAC35-71-680): Add requirement that residents be oriented on their rights including, but not limited to, the prohibited actions.
- Communication with parents (6VAC35-71-760): Add the requirement to provide parents with written notice and the opportunity to participate in any scheduled classification and staffing team meetings at the Reception and Diagnostic Center (RDC) and any scheduled treatment team meetings.
- Health care procedures (6VAC35-71-900), Health care training of direct care staff (6VAC35-71-910), and Health trained personnel (6VAC35-71-920): Rework sections by streamlining, consolidating, and removing duplicative and unnecessary language.
- The following changes are recommended in order to ensure that the facilities are following the current recommendations or guidance from the applicable agencies.

- Employee tuberculosis screening and follow-up and Tuberculosis screening (resident) (6VAC35-71-185 and 6VAC35-71-950): Remove the reference to the Department of Health's tuberculosis guidelines.
  - Nutrition (6VAC35-71-630): Remove the reference to U.S.D.A. guidelines.
  - Medication (6VAC35-71-1070): Remove the reference to the Board of Nurses' medication training curriculum.
  - Health screening at admission (6VAC35-71-940): Remove the requirements for facilities to use a specific form for the health screenings at admission.
- Moved certain sections to more appropriate parts.

**The following is a summary of the overall changes made from the current regulatory scheme (6VAC35-140 and 6VAC35-51):**

- Contains only those provisions relating to JCC operation and management.
- Removes any responsibilities of the department, regulatory authority, or the board currently included in the regulations; i.e., issuance of license/certificate and sanctions.
- Reorganizes the order of the regulatory provisions and groups the provisions with similar provisions. The proposed regulation has sections for: (1) general provisions; (2) administration and personnel; (3) physical environment; (4) safety and security; (5) residents' rights; (6) program operation; (7) work programs; (8) health care services; and (9) behavior management. Facility specific parts are included as needed; i.e., privately operated JCCs and boot camps.
- The following changes are proposed to General Provisions:
  - Deletes many definitions (such as the definition of "day" and "therapy"); changes definitions to correspond with those used in other regulations; and, where appropriate, incorporates definitions into the substantive provisions of the regulation. Adds definitions for "direct care," "direct supervision," "regulatory authority," and "written."
  - Cross-references the board's certification regulation (6VAC35-20) for consistency in application of variances.
  - Allows serious incident and child protective services reports to be noted in the resident's case record and documented elsewhere. Mirrors recent changes adopted by the Department of Social Services in its residential regulation.
  - Adds a resident advisory committee section requiring each JCC, except RDC, to have a resident advisory committee that meets monthly with the superintendent, or designee, to discuss facility issues affecting the residents.
- The following changes are proposed to Administration and Personnel:
  - Amends the provisions relating to community relationships, and adopts provisions specific to the type of setting and locations.
  - Amends the background check sections to conform with the board variance issued November 2008.
  - Reworks the training sections. Separates out (i) orientation; (2) required initial training; and (3) retraining.
  - Clusters together all provisions relating to volunteers.
  - Reworks the staff and resident tuberculosis screening requirements to conform with the language of the Division of Tuberculosis Control in the Department of Health.
  - Removes the requirement to retain face sheets permanently.

- Changes the requirements for administrative staff visiting the activity and living areas.
- Requires all direct care staff to be certified in first-aid and CPR and to keep these certifications current.
- Deletes sections relating to personnel records and human resources issues as these are governed by the Department of Human Resources Management and department personnel procedures.
- Deletes the provision requiring a procedure regarding political activity on the premises.
- The following changes are proposed to Physical Environment:
  - Amends requirements relating to fire inspections.
  - Groups all space utilization requirements into one section, and removes the current regulatory requirements to accommodate study space and all requirements relating to live-in staff.
  - Deletes the prohibition of having more than four residents in a sleeping area; does not require the sleeping environment to be conducive to sleep and rest.
  - Adds a hazardous chemicals section requiring a hazard communication plan.
  - Adopts board policy language regarding the facility's smoking prohibitions.
  - Requires food service operation maintenance and pest control plans.
  - Removes the prohibition on allowing residents to prepare food.
- The following changes are proposed to Safety and Security:
  - Clarifies the requirements for residents and contract workers in implementing and training on the emergency/evacuation plan.
  - Reworks the searches of residents section to address facility-specific issues.
  - Defers to written procedures regarding weapons on the premises.
- The following changes are proposed to Residents' Rights:
  - Changes requirement to mail visitation procedure from within 24 hours to by the end of "the next business day."
  - Adds a section titled "Contact with attorneys, courts, and law enforcement."
  - Removes the provisions regarding incontinent residents.
  - Removes the requirements for the facility to have a witness present when mail is examined by staff, to hold cash and stamps for the residents, and to review the procedures annually. Retains the requirement for the facility to provide two stamps per week and to allow correspondence with attorneys/courts.
  - Allows exception to the daily shower requirement for the management of maladaptive behaviors.
  - Allows exception to the privacy provision when mental health issues require constant supervision.
  - Allows exception to the diet schedule to manage maladaptive behaviors or for institutional security.
- The following changes are proposed to Program Operation:
  - Separates and reworks the sections regarding individual service plans and quarterly reports.
  - Adds language regarding the applicability and components of the classification plan.
  - Adds in the communication with parents section a requirement for each JCC to provide parents with the contact information for an individual at the facility.
  - Redefines "rest day" as the period during which the employee is scheduled off versus actually off.

- The following changes are proposed to Health Care Services:
  - Requires a dental examination upon admission to a JCC (derived from board policy 12-003).
  - Requires a resident's immunizations record to be updated, except when the resident qualifies for an exemption under state law (derived from board policy 12-003).
  - Requires health screenings when a resident is transferred between JCCs (derived from board policy 12-003).
  - Requires procedures for sick call and timely response to medical issues (derived from board policy 12-004).
  - Requires emergency health care services at JCCs (derived from board policy 12-007).
  - Requires the resident to have a physical 30 days prior to release (derived from board policy 12-003).
  
- The following changes are proposed to Behavior Management:
  - Changes the requirement for all residents to have a behavior support plan to a requirement for the development of a behavior support contract when there is a need for supports in addition to those provided for in the behavior management program.
  - Prohibits the use of chemical agents.
  - Reworks all provisions relating to room confinement, isolation, and administrative segregation.
  - Streamlines the process for monitoring residents in mechanical restraints.
  
- Redrafts confusing language, and deletes unnecessary verbiage.
  
- Makes other technical and stylistic changes, such as deleting provisions that are duplicative of other regulatory or statutory requirements; e.g., the restatement that the facility must comply with laws or procedures.
  
- Deletes those provisions that do not apply to JCCs.

**Issues**

*Please identify the issues associated with the proposed regulatory action, including:*

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

*If there are no disadvantages to the public or the Commonwealth, please indicate.*

The Board of Juvenile Justice serves as the regulatory authority for secure residential facilities, both juvenile correctional centers and local detention centers, and the group homes/halfway houses operated by or funded through the department. Currently, these facilities are governed by two separate regulations: (1) the Standards for Juvenile Residential Facilities (6VAC35-140) and (2) the Standards for the Interim Regulation of Children's Residential Facilities (6VAC35-51), unless specifically exempted.

The current regulatory scheme has several difficulties in application. Each regulation has the full force and effect of law. Unfortunately, some of the provisions are contradictory or conflict. Additionally, there are numerous exclusions for the different types of facilities from a variety of regulatory provisions. Sometimes it is unclear exactly which facilities are exempted and to which section or subsection such exceptions are applicable.



To address these issues the department considered two courses of action: (1) consolidate the two existing regulations into one or (2) separate the two regulations into three regulations, one for each different "type" of facility regulated by the board.

Due to the distinct characteristics of the types of facilities regulated by the Board of Juvenile Justice and the complexity of applying a single regulation to the appropriate facility, it was concluded that it would be difficult to regulate all such facilities in one single regulation. The board approved pursuing the second course of action. Thus, the department is proposing separate regulations for the three distinct types of facilities it regulates: (1) juvenile correctional centers; (2) detention centers; and (3) group homes/halfway houses.

Having clear, concise regulations is essential to protecting the health, safety, and welfare of residents in JCCs and citizens in the community. With clear expectations for the administrators running these facilities, they will be able to run the facilities more smoothly and can utilize any extra resources for supporting the needs of the residents, thus maintaining the overall rehabilitation and community safety goals of the department.

This regulation poses no known disadvantages to the public or the Commonwealth.

**Changes made since the proposed stage**

*Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar's office, please put an asterisk next to any substantive changes.*

Section number	Requirement at proposed stage	What has changed (since proposed stage)	Rationale for change
10	Definitions of health care record, health care services, health trained personnel and volunteer or intern.	Moves from other sections (870 and 210).	Technical change.
30		Reinserts the requirement to have the current certificate posted at all times in a place conspicuous to the public.	This is an existing requirement, and a public comment requested reinsertion.
55	Requirement for operational procedures.	Moves from other section (730).	Technical change.
60	Requires serious incidents, including death, to be reported within 24 hours.	Adds language that all serious incidents be reported as soon as practicable but not later than 24 hours and in accordance with department procedures. Added requirement that any incident involving the death of a resident be reported without undue delay. Other technical changes.	Clarify the importance of serious incident reporting; have regulatory provisions align with department procedures (which have tiered reporting requirements depending on the severity of the incident); separate incidents involving the death of a

Section number	Requirement at proposed stage	What has changed (since proposed stage)	Rationale for change
			resident as this circumstance requires special consideration.
70		Adds a requirement that measures be taken to ensure the safety of the resident and the staff when there is an incident involving suspected child abuse or neglect.	To ensure uniformity in procedures relating to a facility's response to an incident involving suspected child abuse or neglect.
75	Requires staff and the superintendent to report certain criminal activity by residents and staff.	Adds language specifying that the applicable criminal activity includes any physical abuse, sexual abuse, or sexual harassment of residents. Moves from other section (190).	Clarifying language on the scope of the applicable criminal activity. Other technical changes.
80		Reinserts the requirement for the grievance procedure to be posted in an area easily accessible to parents. Other technical changes.	This is an existing requirement, and a public comment requested reinsertion.
110	Requires the JCC to comply with Department of Juvenile Justice (DJJ) procedures regarding reporting certain information.	Deletes this requirement.	Reporting of serious incidents is currently required by section 60 and all other required reports are more appropriately contained in DJJ procedures (as JCCs are governed by DJJ).
160	Requires training on residents' rights.	Clarifies that the residents' rights training includes training on the right to be free of all forms of abuse.	Clarifying amendment (in accord with public comment and proposed Prison Rape Elimination Act [PREA] standards).
160	Requires health care training as provided in 6VAC35-71-901.	Deletes this requirement.	Current regulations require training on standard precautions, which is required by the next subdivision. The deleted language is unnecessary (see comment on section 910).
170	Requires retraining on residents' rights.	Clarifies that the residents' rights retraining includes training on the right to be free of all forms of abuse.	Clarifying amendment (in accord with public comment and proposed PREA standards).
185	Requires tuberculosis control practices to be in accordance with specific	Moves from other section (250). Deletes reference to specific Department of Health policies	This allows the facilities to follow the current guidance and

Section number	Requirement at proposed stage	What has changed (since proposed stage)	Rationale for change
	Department of Health policies and guidelines.	and guidelines.	recommendations of the Department of Health rather than stagnating with those guidelines in existence at the time the regulation becomes effective.
190		Moves to other section (75).	Technical change.
200	Requires staff whose job responsibilities involve transporting residents to report any change in driver's licensure status to the superintendent or designee.	Deletes this requirement.	Deletes this requirement as it is more appropriately addressed in DJJ procedures governing the JCCs.
210		Moves to other section (10).	Technical change.
240	Requires training on residents' rights.	Clarifies that the residents' rights training includes training on the right to be free of all forms of abuse.	Clarifying amendment (in accord with public comment and proposed PREA standards).
250		Moves to other section (185).	Technical change.
260	Requires records to be maintained in a certain manner.	Removes duplicative language.	Technical change.
350	Requires a certain number of toilet facilities per resident.	Removes duplicative language. Other technical changes.	Technical change.
390	Requires flammable, toxic, and caustic materials to be stored, used, and disposed of in accordance with applicable laws.	Adds "medical" to the list of materials.	Medical waste is currently managed in accordance with applicable changes. This change is in response to a public comment as it fits naturally in this section.
430	Requires a pest control plan and buildings to be reasonably free of pests. It also requires, if there is an infestation, documentation of efforts to eliminate any supporting environmental conditions.	Adds "as applicable" to the documentation requirements.	Technical change.
470	Requires security procedures for the searches of the buildings and premises (section 480 allows for the search of	Adds "and persons" to the required procedure components.	Response to public comment as the JCCs conduct searches of visitors, and procedures related thereto are in

Section number	Requirement at proposed stage	What has changed (since proposed stage)	Rationale for change
	residents).		place (and would now be required per the regulation).
480	Sets forth requirements for the searches of residents.	Adds a requirement that patdown and frisk searches be conducted by staff of the same sex as the resident being searched (except in emergencies). Other technical changes.	Corrects a drafting error, and brings this provision in line with the current regulatory requirements.
550	Lists the actions that may not be taken against residents.	Clarifies right to be free from any action that is abusive; includes the right to be free from sexual abuse, physical abuse, and sexual harassment.	Clarifying amendment (in accord with public comment and proposed PREA standards).
550	Prohibits the denial of equal access to programs and activities and the denial of appropriate services and treatment.	Merges the denial language regarding equal access to programs and activities with the denial language regarding services and treatment.	Technical changes.
550	Prohibits the use of involuntary pharmacological restraints.	Deletes duplicative language.	Technical change.
550	Prohibits discrimination against residents on the basis of race, religion, national origin, sex, or physical disability.	Expands the anti-discrimination clause to address all forms of disability and sexual orientation.	The change in disability scope aligns the language with federal law. The addition of sexual orientation is in response to public comment and in accord with the requirements of the proposed PREA standards. * NOTE: The language in subdivision 13 has changed since originally approved by the Board, after first approved by the Board in June 2010, through the Executive Branch Review, it was determined that the proposed language exceeding the Board's rulemaking authority. On January 10, 2012, the Board approved alternative language. The alternative language

Section number	Requirement at proposed stage	What has changed (since proposed stage)	Rationale for change
			is in the proposed draft.
590	Limits residents' access to attorneys who are court appointed or retained when there is evidence of such retention.	Deletes the requirement that the legal representative is retained and for documentation of such retention.	This is in response to public comment, is in accordance with the Constitutional right of residents' regarding access to counsel and the courts, and defers to DJJ procedures for additional guidance.
600	Requires clothes and shoes for indoor or outdoor use.	Requires clothes and shoes for indoor and outdoor use.	Reverts to existing language in response to a comment from the Department of Planning and Budget at the proposed stage.
600	Requires linens to be changed at a minimum of every seven days.	Adds language that the linens should be changed more often if needed.	Clarifying amendment added as requested in a public comment.
620	Requires residents to be provided with a level of privacy.	Changes "privacy" to "modesty." Adds an exception to opposite sex viewing in cases of "exceptional security circumstances."	The change in term "privacy" to "modesty" is seen as a technical change; the addition of the exception for exceptional security circumstances is in response to public comment and is reflective of the difficult population management issues in JCCs.
630	Requires meals to be in accordance with the nutritional requirements of the USDA guidelines.	Removes reference to the guidelines.	This allows the facilities to follow the current guidance and recommendations of the federal nutrition and dietary requirements rather than stagnating with those guidelines in existence at the time the regulation becomes effective.
680	Sets forth the requirements for resident admission and orientation.	Adds a requirement that residents are oriented on their rights including the prohibition actions including any form of abuse.	The change is in response to public comment and in accord with the proposed PREA standards.
730		Moves to another section (55).	Technical change.

Section number	Requirement at proposed stage	What has changed (since proposed stage)	Rationale for change
745 & 747		Moves from other sections (1090 and 1100).	Technical change.
760	Requires the facility to, if contacted by the resident's parent or legal guardian, provide information on certain meetings.	Removes the prerequisite contact by the parents, and requires notice of certain meetings to be provided to all parents/legal guardians.	This change is in response to public comment and reverts to the existing procedures.
780		Moves to another section (815).	Technical change.
805		Moves from another section (1010).	Technical change.
815		Moves from another section (780).	Technical change.
870		Moves to another section (10).	Technical change.
900		Moves the following two requirements from section 920: (1) the requirement that other health trained personnel provide care in accordance with their training and (2) the requirement for the facility to retain documentation on the training received by health trained personnel.	Clarifying and technical amendments.
910	Requires direct care staff to be trained in responding to health emergencies.	Deletes this section as it is duplicative of the requirement that all direct care staff receive training in CPR, first aid, and standard precautions.	Considered a technical amendment.
920		Moves requirements to section 900.	Considered technical amendments.
940	Requires a health screening at admission to be done using a health screening form.	Deletes the reference to a specific form.	Allows flexibility for the form to change.
950	Requires tuberculosis screening and control practices to be in accordance with specific Department of Health policies and guidelines.	Deletes reference to specific Department of Health policies and guidelines.	This allows the facilities to follow the current guidance and recommendations of the Department of Health rather than stagnating with those guidelines in existence at the time the regulation becomes effective.
1010		Moves to another section (805).	Technical change.
1070	Requires employees who administer medication to receive training in accord with the Department of	Removes reference to the specific curriculum and adds a reference to the governing statutes.	This allows the facilities to follow the current curriculum and recommendations of the

Section number	Requirement at proposed stage	What has changed (since proposed stage)	Rationale for change
	Health's curriculum.		Department of Health rather than stagnating with those guidelines in existence at the time the regulation becomes effective.
1090		Moves to another section (745).	Technical change.
1100		Moves to another section (747).	Technical change.
Forms and Incorporated Documents		Deletes all as references in applicable sections have been deleted.	See comments in applicable regulatory sections.
			Additional technical/nonsubstantive changes were made throughout the document.

**Public comment**

*Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.*

Commenter	Comment	Agency response
1- General comment.  MAJDC (Mid-Atlantic Juvenile Defender Center) JustChildren FAVY (Families & Allies of Virginia Youth) RJDC (Richmond Juvenile Detention Center)	The proposed Prison Rape Elimination Act (PREA) standards should be incorporated into the residential regulation.	Thank you for your comment. The Department has a policy of zero tolerance of any form of abuse against individuals residing in facilities regulated by the Board and agrees that keeping residents free from any form of abuse is of the utmost importance. The zero-tolerance policy is taken very seriously by the six juvenile correctional centers (JCCs). The JCCs have been strategically implementing the proposed PREA standards; however, the proposed PREA standards are not final and may be subject to amendment by the United States Department of Justice prior to adoption. Thus, the department, at this time, does not recommend incorporating the proposed PREA standards, in their entirety, into the JCC regulations. If such action were taken, it is possible that the state regulations would conflict with the

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		<p>federal regulations. Moreover, once the proposed PREA standards become final, the regulated facilities must abide by all provisions and a separate Board-adopted regulatory requirement in these regulations would not be necessary. The department anticipates, once the final standards are adopted, requesting the Board to issue a policy statement indicating its support of the standards. After the final standards are adopted and become mandatory, the auditing of compliance, separate and apart from the department's current certification process, of such standards will be subject to the requirements of the Prison Rape Elimination Act of 2003. The current proposed PREA standards require any audit to be "independent" and thus completed by a group other than the department's Certification Unit (as the Certification Unit does not meet the standard's definitional requirements to complete the audit). During this "independent" audit, each facility will be assessed specifically for compliance with the PREA standards. Consequently, incorporating the PREA requirements into the Board's residential standards would result in duplicative work as both the Certification Unit and the separate and independent auditors would be assessing compliance. This course of action is consistent with that involving other mandatory requirements. Historically, the Board has not incorporated the occupational and health, fire, and health standards into its residential regulations as compliance is assessed and measured by non-departmental groups; i.e., Department of Health and the Fire Marshal. As such, the department recommends that the board act accordingly in this instance to avoid duplicative work. The department wishes to express that this in no way</p>



Commenter	Comment	Agency response
		negates the importance of the PREA standards. When the proposed PREA standards are finalized, the department will be responsible for compliance; and such compliance will be of primary importance.
<p>2- General comment.</p> <p>JustChildren</p>	<p>The regulation should incorporate the following proposed PREA standards.</p> <p><b>PP-1 Zero tolerance of sexual abuse:</b> The agency has a written policy mandating zero tolerance toward all forms of sexual abuse and enforces that policy by ensuring all of its facilities comply with the PREA standards. The agency employs or designates a PREA coordinator to develop, implement, and oversee agency efforts to comply with the PREA standards. <i>Consider amending 6VAC35-71-550 (Prohibited actions).</i></p> <p><b>TR-1 Employee training:</b> The agency trains all employees to be able to fulfill their responsibilities under agency sexual abuse prevention, detection, and response policies and procedures; the PREA standards; and under relevant federal, state, and local law. The agency trains all employees to communicate effectively and professionally with all residents. Additionally, the agency trains all employees on a resident's right to be free from sexual abuse, the right of residents and employees to be free from retaliation for reporting sexual abuse, the dynamics of sexual abuse in confinement, and the common reactions of sexual abuse victims. Current employees are educated as soon as possible following the agency's adoption of the PREA standards, and the agency provides periodic refresher information to all employees to ensure that they know the agency's most current sexual abuse policies and procedures. The agency maintains written documentation showing employee signatures verifying that employees understand the training they have received. <i>Consider amending 6VAC35-71-160 (Required initial training) and 6VAC35-71-170 (Retraining).</i></p> <p><b>TR-2 Volunteer and contractor training:</b> The agency ensures that all volunteers and contractors who have contact with residents have</p>	<p>Thank you for your comment. Please see the response to the first comment regarding adopting the proposed PREA standards. Additionally, please be advised that the department recommends clarifying language be added to 6VAC35-71-550 (Prohibited actions), which will specifically list a prohibition against "physical abuse, sexual abuse, and sexual harassment." The department also recommends specific reference to the prohibited actions in the three training sections - 6VAC35-71-160 (Required initial training), 6VAC35-71-170 (Retraining), and 6VAC35-71-240 (Volunteer and intern orientation and training). Furthermore, the department recommends that a specific reference to training residents on their right to not be subjected to the prohibited acts be added to the resident orientation provided for in 6VAC35-71-680 (Admission and orientation).</p>

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	<p>been trained on their responsibilities under the agency's sexual abuse prevention, detection, and response policies and procedures; the PREA standards; and relevant federal, state, and local law. The level and type of training provided to volunteers and contractors is based on the services they provide and level of contact they have with residents, but all volunteers and contractors who have contact with residents must be notified of the agency's zero-tolerance policy regarding sexual abuse. Volunteers must also be trained in how to report sexual abuse. The agency maintains written documentation showing volunteer and contractor signatures verifying that they understand the training they have received. <b><i>Consider amending 6VAC35-71-240 (Volunteer and intern orientation and training).</i></b></p> <p><b>TR-3 Resident education:</b>                  During the intake process, staff inform residents of the agency's zero-tolerance policy regarding sexual abuse and how to report incidents or suspicions of sexual abuse in an age-appropriate fashion. Within a reasonably brief period of time following the intake process, the agency provides comprehensive, age-appropriate education to residents regarding their right to be free from sexual abuse and to be free from retaliation for reporting abuse, the dynamics of sexual abuse in confinement, the common reactions of sexual abuse victims, and agency sexual abuse response policies and procedures. Current residents are educated as soon as possible following the agency's adoption of the PREA standards, and the agency provides periodic refresher information to all residents to ensure that they know the agency's most current sexual abuse policies and procedures. The agency provides residents education in formats accessible to all residents, including those who are Limited English Proficiency (LEP), deaf, visually impaired, or otherwise disabled as well as inmates who have limited reading skills. The agency maintains written documentation of resident participation in these education sessions. <b><i>Consider amending 6VAC35-71-680 (Admission and orientation).</i></b></p> <p><b>TR-5 Specialized training: Medical and</b></p>	

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	<p><b>mental health care:</b>                      The agency ensures that all full- and part-time medical and mental health care practitioners working in its facilities have been trained in how to detect and assess signs of sexual abuse and that all medical practitioners are trained in how to preserve physical evidence of sexual abuse. All medical and mental health care practitioners must be trained in how to respond effectively and professionally to young victims of sexual abuse and how and to whom to report allegations or suspicions of sexual abuse. The agency maintains documentation that medical and mental health practitioners have received this specialized training. <i>Consider amending 6VAC35-71-160 (Required initial training) and 6VAC35-71-170 (Retraining).</i></p> <p><b>AP-2 Placement of residents in housing, bed, program, education, and work assignments:</b>                      Employees use all information obtained about the resident at intake and subsequently to make placement decisions for each resident on an individualized basis with the goal of keeping all residents safe and free from sexual abuse. When determining housing, bed, program, education, and work assignments for residents, employees must take into account a resident's age; the nature of his or her offense; any mental or physical disability or mental illness; any history of sexual victimization or engaging in sexual abuse; his or her level of emotional and cognitive development; his or her identification as lesbian, gay, bisexual, or transgender; and any other information obtained about the resident (AP-1). Residents may be isolated from others only as a last resort when less restrictive measures are inadequate to keep them and other residents safe and then only until an alternative means of keeping all residents safe can be arranged. <i>Consider amending 6VAC35-71-700 (Classification plan) and 6VAC35-71-1160 (Administrative segregation).</i></p> <p><b>RE-1 Resident reporting:</b>                      The facility provides multiple internal ways for residents to report easily, privately, and securely sexual abuse, retaliation by other residents or staff for reporting sexual abuse, and staff neglect or violation of responsibilities that may have</p>	

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	<p>contributed to an incident of sexual abuse. The facility also provides at least one way for residents to report the abuse to an outside public entity or office not affiliated with the agency that has agreed to receive reports and forward them to the facility head (RP-3). Staff accept reports made verbally, in writing, anonymously, and from third parties and immediately put into writing any verbal reports. <b>Consider adding section 6VAC35-71-80 (Resident reporting).</b></p> <p><b>RE-3 Resident access to outside support services and legal representation:</b>                      In addition to providing on-site mental health care services, the facility provides residents with access to outside victim advocates for emotional support services related to sexual abuse. The facility provides such access by giving residents the current mailing addresses and telephone numbers, including toll-free hotline numbers, of local, state, and/or national victim advocacy or rape crisis organizations and enabling reasonable communication between residents and these organizations. The facility ensures that communications with such advocates are private, to the extent allowable by federal, state, and local law. The facility informs residents, prior to giving them access, of the extent to which such communications will be private, confidential, and/or privileged. The facility also provides residents with unimpeded access to their attorney or other legal representation and their families. <b>Consider adding 6VAC35-71-1065 (Resident access to outside support services).</b></p> <p><b>IN-1 Duty to investigate:</b>                      The facility investigates all allegations of sexual abuse, including third-party and anonymous reports, and notifies victims and/or other complainants in writing of investigation outcomes and any disciplinary or criminal sanctions, regardless of the source of the allegation. If additional parties were notified of the allegation (OR-1), the facility notifies those parties in writing of investigation outcomes. All investigations are carried through to completion, regardless of whether the alleged abuser or victim remains at the facility and regardless of whether the source of the allegation recants his or her allegation. <b>Consider adding section</b></p>	

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<p>3- General comment.</p> <p>VA CURE (Virginia – Citizens United for the Rehabilitation of Errants)</p>	<p><b>6VAC35-71-81 (Duty to investigate).</b></p> <p>The following concepts should be incorporated in the proposed regulations:</p> <ul style="list-style-type: none"> <li>- Ongoing education of juveniles/residents on the importance of reporting incidents must be provided.</li> <li>- Easy access to reporting of problems by juveniles and staff must be available.</li> <li>- Education of staff on consequences of not reporting suspected child abuse must be emphasized, and staff should sign a document acknowledging the requirements.</li> <li>- Support background checks for volunteers and contractors as well as for DJJ staff.</li> <li>- No closets – the shoe closets at RDC, for example – or other spaces for potential assaults or sexual activities should be allowed in rooms used by juveniles.</li> <li>- Periodic unannounced room checks at all facilities should be performed by monitors.</li> </ul>	<p>Thank you for your comment. The department appreciates your concern for the safety of the residents.</p> <ul style="list-style-type: none"> <li>• Residents undergo an extensive orientation upon initial intake at the Reception and Diagnostic Center (RDC) and, when transferred, upon admission to any other JCC. The residents are oriented to their rights and the roles of the grievance procedure and the youth advisory council.</li> <li>• Additionally, the grievance procedure is posted in places easily accessible to residents. In addition to the informal mechanisms in place; i.e., frequent contact with counselors, residents may report problems via the grievance system, youth advisory counsel, hotline, and Office of the Ombudsman.</li> <li>• Staff are required to report any suspected child abuse and neglect and are trained as to the proper reporting of any suspected abuse or neglect and of any serious incidents. Moreover, staff are trained as to the rights of residents and the role of the grievance procedure.</li> <li>• To further reinforce the importance of the department's zero tolerance of abuse, the department recommends the training sections (6VAC35-71-160, 6VAC35-71-170, and 6VAC35-71-240) be amended to specifically require training on residents' rights, which includes the prohibition of any physical or sexual abuse or sexual harassment.</li> <li>• Documentation of such training is retained by the department's training unit. Furthermore, all staff must review, agree to, and sign the Code of Conduct, which prohibits any form of abuse.</li> <li>• All volunteers and contractors who will be alone with residents must undergo background checks and, if background checks are not completed,</li> </ul>

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		<p>the JCCs must follow procedures for the supervision of such persons (see 6VAC35-71-140 (D)).</p> <ul style="list-style-type: none"> <li>• Storage of necessary, surplus, and miscellaneous items is necessary for the proper functioning of a JCC. In fact, the regulations require storage space (see 6VAC35-71-410 (A)(6)). However, residents must be supervised, if access is allowed into such spaces, at all times (see 6VAC35-71-820 and 6VAC35-71-830) in order to sufficiently supervise and keep residents safe. In fact, JCC procedures require (1) staff to provide sight and sound supervision of all residents assigned at all times, (2) adequate staff at the facility at all times, and (3) staff to position themselves in areas with maximum supervision.</li> <li>• Finally, when residents are confined to a room, staff must check on the residents twice every half an hour, and the Certification Unit reviews room check logs to ascertain compliance with the applicable regulatory requirement (see 6VAC35-71-1140).</li> </ul>
<p>4- General comment.  RJDC</p>	<p>We also noticed that the reference to Accreditation by the American Correctional Association is not mentioned in this regulation. Will ACA Accreditation continue to be used as a measure of compliance with Board of Juvenile Justice (BJJ) standards for certification purposes?</p>	<p>Thank you for your comment. You are correct that the provision currently contained in 6VAC35-140-22 (National accreditation is deemed compliance with the standards) has been removed from the proposed regulation. This was decided because the (1) facility requirements, (2) certification audit procedures, and (3) monitoring process of the Board standards and those of the American Correctional Association (ACA) are not the same. Such accreditation would involve some, but not all Board standards, and, in assessing compliance, does not look at the same quality or quantity of measures of compliance. Accordingly, the department recommends maintaining the deletion to ensure continued facility monitoring and auditing in</p>

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		<p>accordance with the Board's certification regulation (6VAC35-20) of all regulatory requirements. However, this does not prohibit a facility from choosing dual certification.</p>
<p>5- General comment.  DJJ staff</p>	<p>In tuberculosis (TB) sections, remove reference to guidelines to ensure that facilities follow the up-to-date recommendations of the Department of Health (as it may not be in the form of "guidelines" and may change on a frequent basis depending on applicable trends and research).</p> <p>Applicable to: 6VAC35-71-250 and 6VAC35-71-950.</p>	<p>Thank you for the comment. The intent of referencing the requirements of the Department of Health's Division of Tuberculosis Control is to have a fluid document that allows the regulation to mirror the current recommendations of the Department of Health. As such, the department recommends removing the reference to a specific Department of Health policy (both in the regulation and in the documents incorporated by reference) and inserting language that would require regulated facilities to follow the current recommendations of the Virginia Department of Health for tuberculosis detection and screening.</p>
<p>6- 6VAC35-71-30. Certification.  DJJ staff</p>	<p>Reinsert the requirement to post the certificate.</p>	<p>Thank you very much for the comment. The certificates are currently posted in the JCCs, and the department recommends that this requirement be included in the proposed regulation.</p>
<p>7- 6VAC35-71-60. Serious incident reports.  RJDC</p>	<p>Standards are "soft" on required time frames for reporting; i.e., evaluation 72 hours. Unlikely major event would become public and notice should be immediate.</p> <p>Several of the standards require that serious incidents be reported to specific individuals within a specific time period. In this specific standard, for example, the juvenile detention center (JDC) is required to notify the court service unit (CSU), the parent, or legal guardian, and the DJJ Director or his or her designee within 24 hours in the event of a serious incident, accident, illness, injury to resident, death, suspected abuse, or fire or other emergency. In this day of "instant media," a resident's family, his or her parent, and the DJJ Director need to be notified within two hours of the event. These individuals should not learn of the incident via the media.</p>	<p>Thank you for the comment. The department has an intricate procedure that classifies types of offenses, of which the most serious require immediate notification. In order to clarify the regulatory requirement, the department recommends language be inserted into section 60 requiring any notice of serious incidents to be done "as soon as practicable but no later than 24 hours and in accordance with department procedures." The department also recommends distinguishing the reporting requirement for any incident resulting in the death of a resident. However, the department does not recommend changing the reporting time frames listed in the emergency and evacuation procedures as this is</p>

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	<p>The State of Florida, Department of Juvenile Justice, has specific reporting requirements for similar incidents that would be of great value to the Board and the Department. These requirements can be found at the Florida DJJ Website.</p>	<p>flexible given the necessity for stabilizing the emergency situation and is implemented in accordance with the department's COOP plan and serious incident notification procedure. The department also does not recommend any additional specificity be added to the regulation as this is operational and more appropriately addressed in department procedures.</p>
<p>8-6VAC35-71-60. Serious incident reports.  Murphy-Thomas</p>	<p>Should require that notice should be sent via first-class mail within 24 hours? Are parents/guardians going to receive a copy of the written report required by subsection C? If any incidents involve bodily harm, will the parents/guardians be part of the decision on health care?</p> <p>Parent should be notified when child is involved in incidents involving injury or assault.</p> <p>This section should be amended to clearly state when and how notice is provided to parents.</p>	<p>Thank you for the comment. The department has an intricate procedure that classifies types of offenses, of which the most serious require immediate notification and of which none of the notifications exceeds 24 hours.</p> <ul style="list-style-type: none"> <li>• The regulation and procedure require parents to be notified if a serious incident results in injury to their child, including those resulting from assaults.</li> <li>• If notice were required to be via first class mail, then the recipients of the notice would not receive it until approximately three days after the incident. The department does not wish to add any impediment or delay to the notification requirements.</li> <li>• While parents receive notice of any serious incident involving their child, a copy of the incident report is not required. These are operational and may involve confidential information; i.e., other residents.</li> <li>• Parents are involved in health care decisions as provided in § 54.1-2969 of the Code of Virginia. This statute contains numerous provisions regarding the age of consent, graduated consent, and the role of parents in the health care decisions when the child is in the physical custody of an agency of the Commonwealth. The department follows all relevant provisions.</li> </ul>
<p>9-6VAC35-71-60. Serious incident</p>	<p>Add a requirement to report any incidents or suspected incidents of sexual victimization as a serious incident report.</p>	<p>Thank you for your comment. The department has an intricate procedure that classifies types of offenses,</p>



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<p>reports.</p> <p>FAVY MAJDC</p>	<p>This is in line with the National Prison Rape Elimination Commission (NPREC) recommendations for juvenile facilities: "Upon receiving any allegation of sexual abuse, the facility head must immediately report the allegation to the agency head, the juvenile court that handled the victim's case or the victim's judge of record, and the victim's parents or legal guardians, unless the facility has official documentation showing the parents or legal guardians should not be notified."</p>	<p>which includes incidents of sexual abuse and sexual harassment and suspected child abuse or neglect. Accordingly, these incidents are already considered reportable serious incidents. Please see the response to the first comment for more details relating to the adoption of the proposed PREA standards.</p>
<p>10-6VAC35-71-60. Serious incident reports.</p> <p>VA CURE</p>	<p>Should the awful happen and a juvenile/resident die while incarcerated at a facility, or a staff member die while on duty at a facility, all parents of residents in that facility should be notified.</p>	<p>Thank you for your comment. The department recognizes the serious nature of any incident that results in the death of a resident or staff member at the facility and the concern it may cause for the parents of other residents at the facility. Unfortunately, given the nature and size of the JCCs, it is not feasible to contact the parents of all residents should such incident occur. Parents are provided contact information for the facility and the resident's counselor and may use this information to inquire as to the resident's status. Please note that the department recommends that incidents involving the death of a resident require expedited notice via a recommended amendment in section 60.</p>
<p>11-6VAC35-71-60. Serious incident reports.</p> <p>FAVY</p>	<p>Required reporting should include instances of:</p> <ul style="list-style-type: none"> <li>- Sexual victimization,</li> <li>- Restraints (physical and mechanical), and</li> <li>- Use of force.</li> </ul> <p>Incidents involving the use of force, physical restraints - and in the case of JCCs and detention centers, the use of mechanical restraints - should also be reported, unless the mechanical restraint is incidental to transporting a resident.</p> <p>These types of incidents may be implied by the phrase "serious incident," but since that term is not defined, it's better to have these explicitly listed as reportable events in each regulation.</p> <p>The proposed regulations on physical and</p>	<p>Thank you for your comment. The department has an intricate procedure that classifies types of offenses, which includes incidents of (i) sexual abuse and sexual harassment, (ii) injury to residents, including via an assault, and (iii) suspected child abuse or neglect. Accordingly, these incidents are already considered reportable serious incidents. Any restraints or use of force that are considered serious incidents; i.e., result in injury to a resident, are subject to the notice provision. However, the definition of restraint is very expansive. It includes any "application of behavior intervention</p>

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	<p>mechanical restraint (6VAC35-71-1130, 6VAC35-71-1180, and 6VAC35-101-1090) only call for uses of restraint to be documented in the resident's record (6VAC35-71-1180 adds the option of a central log book). Requiring them to be reported as serious incidents will enable the Board and the Department to monitor the use of these techniques and will appropriately inform families and CSUs.</p>	<p>techniques involving a physical intervention to prevent an individual from moving all or part of that individual's body." Thus, it includes any instance of placing a hand on a resident's body; i.e., shoulder or arm, to redirect movement. Requiring notice in accordance with section 60 for each such instance would be very burdensome. Accordingly, the department does not recommend any change to the proposed regulation relative to this comment.</p>
<p>12-6VAC35-71-60. Serious incident reports.  FAVY</p>	<p>In the proposed JCC regulation 6VAC35-71-60, the requirement to notify the parent or legal guardian should be moved up to put it alongside the notification to the Director, as in the other regulations. In its current position in section B, it is easier to miss.</p>	<p>Thank you very much for your comment. This comment is technical in nature and would not result in a substantive change in the regulatory provisions. Thus, the department does not recommend adopting the change.</p>
<p>13-6VAC35-71-70. Suspected child abuse or neglect.  RJDC</p>	<p>The standard is silent about what happens to staff or the child during the period of investigation. Staff should be removed from contact with children.</p> <p>This standard should include the steps that are being taken to ensure the continued safety and well being of the resident. This may include assigning the accused employee in a non-contact position pending the outcome of the investigation.</p>	<p>Thank you very much for your comment. While current practice requires the protection of the resident from the alleged abusing party, the department recognizes the importance of having this addressed in regulation. Accordingly, the department recommends adding a requirement that the procedures relating to suspected child abuse and neglect address the "measures to be taken to ensure the safety of the resident and the staff."</p>
<p>14-6VAC35-71-70. Suspected child abuse or neglect.  RJDC</p>	<p>The regulation should expand its specific requirements to staff, residents, and contractors on training, reporting of potential abuse, and on implementing periodic surveys of staff and juveniles in the regulations.</p>	<p>Thank you for your comment. Please note that the proposed regulation would require all staff to be oriented on the mandatory reporting requirements prior to working alone with residents (see 6VAC35-71-160); direct care staff and employees who will be responsible for the direct supervision of residents to complete initial training in mandatory reporting (see 6VAC35-71-160); direct care staff to be retrained on mandatory reporting (see 6VAC35-71-170); and volunteers and interns to be trained on their duties and responsibilities (see 6VAC35-71-250). Accordingly, the department does not recommend any</p>

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		<p>change in the training requirements. The department is unclear on the intent of the commenter's suggestion that the regulation should contain a specific requirement "on implementing periodic surveys of staff and juveniles in the regulations." However, the Certification Unit, in conducting audits and monitoring visits (as provided in 6VAC35-20), interviews both staff and residents regarding certain regulatory requirements. Also, please note that residents are asked about instances of abuse during their annual and exit physical examinations.</p>
<p>15-6VAC35-71-70. Suspected child abuse or neglect.  VA CURE</p>	<p>Should include all ways provided for in the Code for reporting.</p>	<p>Thank you for your comment. The current provision contains a cross-reference to the applicable Code section, thus providing an easy reference, if needed. Moreover, the requirements of the Code of Virginia supersede this regulation and do not need to be included in their entirety in regulations.</p>
<p>16-6VAC35-71-80. Grievance procedure.  JustChildren MAJDC</p>	<p>The grievance procedure for JCCs should be posted in an area easily accessible to parents and legal guardians.</p> <p>This information may be provided to families in current department procedures, but it should also be a requirement in this regulation.</p> <p>Youth often confide in their family members. When families understand the grievance process, they can encourage youth to use the process to resolve their concerns.</p> <p>We recommend that section C of the proposed regulation for JCCs (6VAC35-71-80) be amended to match section C of the detention center and group homes regulations.</p>	<p>Thank you for your comment. The grievance procedure is currently posted in the JCCs in places accessible to parents and legal guardians and the department recommends that this requirement be included in the proposed regulation. Please note that the packet sent to parents upon the resident's admission provides information on the grievance procedure and a pamphlet detailing the role of and contact information for the Office of the Ombudsman. This information is also available on the department's website.</p>
<p>17-6VAC35-71-80. Grievance procedure.  VA CURE</p>	<p>The grievance sections should be enhanced, particularly as a tool to prevent child abuse. Also, the DJJ Board should receive an aggregated report on grievances as well as a random selection of actual grievances to become familiar with the types of issues reported. Each facility should maintain all grievances and</p>	<p>Thank you for your comment. The role of and contact information for the Office of the Ombudsman may be accessed via the department's website and is sent to every parent or guardian in a pamphlet included in the intake packet. The board may, at any time,</p>

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	<p>provide periodic reports to the DJJ Board. As I have commented in response to earlier proposed regulations, the Ombudsman role needs major clarification in order to be accessible to juveniles, families, and staff. It is difficult to find the Ombudsman contact information from the DJJ website, and the line is answered with "Office of the Inspector General," which could affect the number and type of inquiries going to the Ombudsman. The DJJ Board should get quarterly reports on the number and types of issues raised to the Ombudsman through the phone line. I thank DJJ for making the number toll-free.</p>	<p>request a report on the number of grievances or usage of toll-free hotline. Such a requirement need not be included in the regulation and may result in the utilization of resources for a report about which the Board does not have an interest. Please note that facilities do retain documentation of grievances, and a sample of the grievances is reviewed during the Certification Unit audit process. Accordingly, the department does not recommend any changes to the proposed regulation.</p>
<p>18-6VAC35-71-90. Resident advisory committee.  VA CURE</p>	<p>Provide that juveniles who are elected by their residential units to represent their units in Resident Advisory Boards could be cultivated as potential future mentors or visitors to DJJ if they maintain a clear record post-release.</p>	<p>Thank you for your comment. There is nothing in the regulation to prohibit the requested practice. In fact, some former residents have returned to JCCs for special events. The department does not recommend including the requested provision in the regulation as it is more appropriately addressed in the volunteer procedures.</p>
<p>19-6VAC35-71-110 (A). Organizational communications.  DJJ staff</p>	<p>Delete subsection A. The requirement for reporting major incidents is covered in serious incident reporting. All other data collection and reporting is a performance expectation and should be included in EWPs. It would not be possible to audit these areas without addressing individual employee performance records.</p>	<p>Thank you for your comment. The department agrees that this is more appropriately addressed via intradepartmental communications and recommends the deletion of subsection A.</p>
<p>20-6VAC35-71-120. Community relationships.  VA CURE</p>	<p>Maintain the option for JCC Community Advisory Boards and add the provision that JDCs are permitted to have Community Advisory Boards (CABs) as well. We support the addition of a community liaison (in JCC regulation), however if there are interested community members such as volunteers, church/temple groups, local elected officials, etc., then they should be encouraged to form a CAB. The proposed regulations also should permit DJJ facilities to have occasional "Open Houses" for the community and parents so that other parts of the facility beyond the visitation room can be seen.</p> <p>The proposed regulation states that no one is interested in serving on a CAB. As one who is aware of a request for a CAB at a JDC that was rebuffed, I do not agree with the assessment that</p>	<p>Thank you for your comment. The regulation does not prohibit a JCC from having, and several currently have, a community advisory committee. However, some JCCs do not have members of the community interested in participating as required by the existing regulation. This regulation does not govern juvenile secure JDCs or the commissions or boards governing them. Given the differing situations of the JCCs, the department does not recommend mandating community advisory committees. The JCCs do have family days, visitation, and volunteer programs. Moreover, given the nature of the secure facilities, the department does not recommend</p>

Commenter	Comment	Agency response
	<p>no one is interested in JDCs/JCCs. The JDC Board in question allowed only two minutes per person/issue during public comment period at its Board meetings. Since those who requested an opportunity for a CAB had already provided hundreds of hours of volunteer service at the JDC, they were not disgruntled people. In fact they were vested in supporting the JDC to the point of acquiring a grant from a local corporation to support a literacy initiative. Therefore, please maintain the CAB option as well as the community liaison.</p>	<p>mandating community open houses via the residential regulation (as it may affect facility security or contradict the requirements of confidentiality).</p>
<p>21-6VAC35-71-140. Background checks.  RJDC</p>	<p>In some cases, employees have been arrested in another jurisdiction and have not reported their arrest to the detention administration. To protect residents and staff, the detention administrator should request that a local law-enforcement agency check employee names against the National Criminal Information Center (NCIC) to identify any employees who may have been arrested in the proceeding year.</p> <p>The standards should emphasize to the facility about mobility of staff and running annual police checks against the NCIC records.</p>	<p>Thank you for your comment. The current and proposed background check requirements mandate a check of the FBI criminal database. This check would indicate any out-of-state convictions and should address the commenter's concerns.</p>
<p>22-6VAC35-71-160. Required initial training.  RJDC</p>	<p>Should not prohibited actions (6VAC35-71-550) be included in the list of required initial training?</p> <p>Training should also be provided on the Prison Rape Elimination Act and how it applies to juvenile detention facilities. This could be included in the training on Maintaining Appropriate Professional Relationships.</p>	<p>Thank you for your comment. The department recommends that the initial training and retraining sections be amended to cross-reference training on the resident's rights, including, but not limited to, the prohibited actions provided for in 6VAC35-71-550.</p>
<p>23-6VAC35-71-160. Required initial training.  VA CURE</p>	<p>All DJJ staff, including Headquarters staff, should be required to visit a JDC or JCC so as to be generally familiar with the services and facilities that DJJ provides.</p>	<p>Thank you for your comment. There is nothing prohibiting staff from visiting JCCs and JDCs at the discretion of the facility. The proposed change appears to be addressing a performance issue that would be more appropriately addressed in procedures or performance reviews, particularly in light that such visits would not be of professional benefit to certain staff classes of employees; i.e., budget and accounting.</p>
<p>24-6VAC35-71-160. Required initial</p>	<p>Training of staff should involve awareness of and sensitivity on how to work with residents and appropriately communicate and talk about</p>	<p>Thank you for your comment. The required initial training requires staff to be trained in (1) maintaining</p>

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training.  Kauffman	parents who are lesbian, gay, bisexual, or transgender (LGBT).	appropriate professional relationships and (2) appropriate interaction among staff and residents. The proposed change would be inclusive in this training (and such training is currently available for staff participation). Moreover, the specific components of these trainings would be more appropriately addressed in procedures or curriculum.
25-6VAC35-71-160. Required initial training. and 6VAC35-71-170. Retraining.  FAVY MAJDC	<p>Training and retraining for direct care staff in all three types of facilities should include:</p> <ol style="list-style-type: none"> <li>1. Basic training in adolescent development (especially social, emotional, and psychological);</li> <li>2. Training in working appropriately and respectfully with lesbian, gay, bisexual, transgender, and questioning (LGBTQ) youth;</li> <li>3. Training in identifying, preventing, and reporting sexual victimization of youth.</li> </ol> <p>Training in these three areas should be specifically required so that direct care staff all have the knowledge and skills to understand and work appropriately with all youth in these facilities.</p> <p>Adolescents are not merely small adults. Those who work closely with them need to have a basic understanding of their development in order to respond to them appropriately.</p> <p>The Child Welfare League of America Best Practice Guidelines for Serving LGBTQ in Out-of-Home Care notes that agencies should "adopt a policy that explicitly prohibits harassment and discrimination on the basis of actual or perceived sexual orientation, gender identity and other protected categories." It further says that child welfare and juvenile justice agencies should "provide both initial and ongoing training to all agency personnel on the application of the nondiscrimination policy and on working with LGBT youth effectively. Training is a crucial aspect of creating cultural change because it reinforces the agency's commitment to providing appropriate and inclusive care."</p> <p>The proposed Prison Rape Elimination Act</p>	<p>Thank you for your comment. The department understands the importance of appropriate training for all staff working with residents and has a comprehensive three-week basic skills program mandated for all direct care staff. Inclusive of the curriculum is training on adolescent development. This is not currently required in regulation, and the department recommends changing the proposed regulation to include this requirement. The required initial training also, via the regulation, requires staff to be trained in (1) maintaining appropriate professional relationships and (2) appropriate interaction among staff and residents. The second proposed change would be inclusive in this training (and such training is currently available for staff participation). Moreover, the specific components of these trainings would be more appropriately addressed in procedures or curriculum. The third proposed change is reflective of a proposed PREA standard. For a comprehensive department response relating to all proposed PREA standards, please see the response to the first comment. Please note that staff from the Behavioral Services Unit, medical personnel, and facility counselors currently have training available to them for the identification, prevention, and reporting of sexual victimization of youth.</p>

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	standards mandate that agencies train all employees "to be able to fulfill their responsibilities under agency sexual abuse prevention, detection, and response policies and procedures; the PREA standards; and under relevant federal, state, and local law. The agency trains all employees to communicate effectively and professionally with all residents. Additionally, the agency trains all employees on a resident's right to be free from sexual abuse, the right of residents and employees to be free from retaliation for reporting sexual abuse, the dynamics of sexual abuse in confinement, and the common reactions of sexual abuse victims."	
26- Proposed section 185: Grievance against staff.  MAJDC	To protect youth from sexual and other abuse, personnel records and background checks should include any grievances made against the employee by residents, including a written explanation of the circumstances leading to the grievance, the administrative procedure followed, and the result of the grievance.	Thank you for your comment. Current practice includes maintaining a separate grievance file. Most grievances relate to procedural issues in the facility; however, if the grievance equates to suspected child abuse or neglect, the procedures for Child Protective Service (CPS) reporting and documentation are followed. If the CPS complaint is founded, it is maintained in the CPS registry. Also, if the grievance results in disciplinary action against staff, the documentation of that action is maintained in the employee's personnel file. Thus, the department does not recommend any change to the proposed regulation.
27- 6VAC35-71-190. Reporting criminal activity.  DJJ staff	Move to Part 1, General Provisions. This is more consistent with serious incident reporting.	Thank you for your comment. The department recommends adopting the proposed change as this regulatory requirement would be more appropriately placed in General Provisions (recommended to be moved to section 75).
28- 6VAC35-71-200. Notification of change in driver's license status.  DJJ staff	Remove. This is a staff performance issue. Conditions of employment require staff to have a valid driver's license and to report any revocations. Staff accountability is addressed via the Standards of Conduct; therefore, this requirement should be included in policy and procedures. Additionally, this would be difficult to audit.	Thank you for your comment. The department agrees that this is a performance/procedural issue, as state law requires all drivers to be licensed and the Code of Conduct requires reporting changes in status, and recommends deleting this provision from the proposed draft.
29- 6VAC35-71-200. Notification of	How soon after a conviction does a juvenile detention employee have to report any change in his or her driver's license status? If an employee	Thank you for your comment. The department recommends the deletion of section 200 (see comment above).

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<p>change in driver's license status.</p> <p>DJJ staff</p>	<p>is arrested for DUI, he or she should be required to report that to the detention administrator on the next working day.</p>	<p>However, please note that a DUI is a crime and must be reported as provided in 6VAC35-190 (recommended to be moved to section 75).</p>
<p>30- Proposed section 205: Physical health of employees.</p> <p>VA CURE</p>	<p>Some JCOs are noticeably overweight and are at risk of not being able to keep up with the juveniles. A minimum standard of on-going fitness should be established. All JCOs must be able to maintain a brisk walking pace for an indefinite amount of time.</p>	<p>Thank you for your comment. Direct care staff must be able to perform the basic functions of their positions; i.e., CPR and restraint training must be completed, but there is not a physical fitness requirement. Other issues may be related to other statutes, such as the Americans with Disabilities Amendment Act. The fitness and health of staff are very important to the department. However, they are not appropriate for the regulation.</p>
<p>31- 6VAC35-71-220. Selection and duties of volunteers and interns.</p> <p>RJDC</p>	<p>There appears to be an inconsistency between this standard and the standard that follows 6VAC35-71-230. In this standard, it states in paragraph D, "Volunteers and interns shall neither be responsible for the duties of direct care staff nor for the direct supervision of the residents."</p> <p>In standard 6VAC35-71-230, however, it states in paragraph A, "Any individual who (i) volunteers on a regular basis or is an intern and (ii) will be alone with a resident in the performance of that person's duties shall be subject to the background check requirements in 6VAC35-71-140 A (Employee and volunteer background checks)."</p>	<p>Thank you for your comment. The two provisions serve different goals. Background checks are required if the individual volunteers on a regular basis and will be alone with a resident. There may be individuals who do not meet these criteria but may meet confidentially with residents. In such cases, the individual (if no background check has been completed) will be under the visual supervision of direct care staff. However, under no circumstances will volunteers serve as direct care staff (responsible for the supervision of residents and the security of the facility). In all cases, the direct care staff will be visually supervising the residents; i.e., via camera or window.</p>
<p>32- 6VAC35-71-220. Selection and duties of volunteers and interns.</p> <p>Murphy-Thomas</p>	<p>Facilities should have provisions to allow for parents to volunteer, including a packet provided to them upon admission regarding volunteer opportunities.</p>	<p>Thank you for your comment. The regulation does not prohibit this action. Any such decision would be facility based, thus subject to the provisions applicable to volunteers. The department does not recommend including this mandate in the regulation. This would be more appropriately addressed in procedures.</p>
<p>33- 6VAC35-71-240. Volunteer and intern orientation and</p>	<p>Prohibited actions (6VAC35-71-550) should be included in this training as well.</p>	<p>Thank you for your comment. The department recommends that the initial training and retraining sections cross-reference the prohibited actions</p>



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training.  RJDC		section.
34-6VAC35-71-250. Employee TB screening and follow-up.  DJJ staff	Move to Part II, Administration and Personnel.	Thank you for your comment. The department agrees that these requirements would be more appropriately addressed in Part II and recommends moving it to proposed new section 185.
35-6VAC35-71-260. Resident records.  VA CURE	Virginia CURE supports the protection of the records. Add to the proposed regulations a provision that breaches of the confidentiality of the records, whether written or automated, be documented to the DJJ facility superintendent, DJJ information officers, juvenile/resident, and his or her parents.	Thank you for your comment. The department recognizes the importance of maintaining the confidentiality of residents' records and has included, in the proposed regulation, a cross-reference to the applicable citations in the Code of Virginia. Included in the notion that the records must be maintained confidentially is that any breach violates that requirement. Therefore, the department does not recommend adopting the proposed change.
36-6VAC35-71-300. Alternate power source.  RJDC	There is no requirement to test the alternate power source annually.	Thank you for your comment. Such equipment must be tested quarterly as provided in 6VAC35-71-290 (A)(2). Accordingly, the department does not recommend adopting the proposed change.
37-6VAC35-71-350. Toilet facilities.  RJDC	Paragraph B states, "There shall be toilet facilities available for resident use in all sleeping areas for each detention center constructed after January 1, 1998." Does this mean individual sleeping rooms should be equipped with a toilet and sink; i.e., wet rooms?  Paragraph C appears to be inconsistent with paragraph A. Paragraph A says, "There shall be at least one toilet, one hand basin, and one shower or bathtub in each living unit." Paragraph C provides ratios of one to four.	Thank you for your comment. The department agrees that the language is duplicative and recommends the deletion of subsection A from the proposed draft.
38-6VAC35-71-380. Disposal of garbage and waste.  VA CURE	Recycling. There is a requirement for disposal of refuse in the proposed regulations. We suggest the DJJ Board add recycling as a requirement for staff and juveniles.	Thank you for your comment. The regulations do not prohibit recycling in the facilities and does not recommend mandating it in the proposed regulation. Such practices would be more appropriately addressed in procedures.
39-6VAC35-71-390.	A third paragraph, "C" would probably be helpful to specifically address medical hazardous	Thank you for your comment. The department recommends adopting the

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<p>Hazardous materials and chemicals.</p> <p>RJDC</p>	<p>waste. It could read, "C. Medical hazardous waste shall be collected and disposed of in a manner consistent with applicable laws and regulations."</p>	<p>proposed change (adding medical to subsection B).</p>
<p>40-6VAC35-71-460. Emergency and evacuation procedures.</p> <p>RJDC</p>	<p>This standard needs to include in the emergency response procedures how residents will be transported to alternate sites. In addition, written memorandums of understanding should be required between juvenile detention centers when facilities are used as alternate sites during an evacuation.</p> <p>In paragraph F the standard says "the detention center first should respond and stabilize the disaster or emergency." This may not be possible. If a train derailed, for example, there may be only minutes to evacuate the building. There is no way the facility can "stabilize that situation." The standard also refers to notification of various parties, including the Director of DJJ. It refers to notification within 72 hours. Please refer to the Florida DJJ standards. The parties should be notified within two hours of the beginning of the evacuation.</p>	<p>Thank you for your comment. The department recognizes the importance of comprehensive emergency and evacuation plans. The Department of Emergency Management and an Executive Order require each facility to have a COOP plan, which requires these components to be addressed. Accordingly, the department does not recommend mandating such provisions in the proposed regulation.</p>
<p>41-6VAC35-71-470. Security procedures. and 6VAC35-71-480. Searches of residents.</p> <p>RJDC</p>	<p>The standards do not appear to address searching staff, visitors, interns, volunteers, and contractors.</p>	<p>Thank you for your comment. The department recommends adding "and persons" to subdivision 6 of 6VAC35-71-470 to ensure the scope of the regulation is clear.</p>
<p>42-6VAC35-71-470. Security procedures. and 6VAC35-71-480. Searches of residents.</p> <p>VA CURE</p>	<p>Visitors are searched when they arrive for visitation. Residents are periodically searched. Nevertheless, contraband, including chewing tobacco, money, CDs, and worse, are found on-site at DJJ facilities. Staff should also be searched on a spot basis to assure that all on-site individuals have the potential for unannounced searches.</p>	<p>Thank you for your comment. The department takes the existence of contraband at facilities very seriously and is vigilant in its efforts to eradicate any such practices. The regulation does not prohibit searches of staff (particularly in light of the change recommended in response to the previous comment) and the requested changes would be more appropriately addressed in procedures. Thus, the department does not recommend adopting the proposed changes.</p>
<p>43-6VAC35-71-480. Searches of</p>	<p>National Prison Rape Elimination Commission (NPREC) Standards for the Prevention, Detection, Response, and Monitoring of Sexual</p>	<p>Thank you for your comment. The department currently restricts cross-sex searches, except in emergencies,</p>

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<p>residents.</p> <p>JustChildren MAJDC</p>	<p>Abuse in Juvenile Facilities suggest: Except in the case of emergency or other extraordinary or unforeseen circumstances, the facility restricts nonmedical staff from viewing residents of the opposite gender who are nude or performing bodily functions and similarly restricts cross-gender pat-down searches. (PP-4 Limits to cross-gender viewing and searches).</p> <p>We recommend adoption of this standard for all three facility types.</p>	<p>and recommends incorporating the proposed change into section 480 of the proposed regulation.</p>
<p>44-6VAC35-71-570. Telephone calls.</p> <p>MAJDC VA CURE</p>	<p>MAJDC: The proposed regulations only provide emergency telephone access to staff and to residents away from the facility. To further provide protection to youth in the facilities, emergency, non-pay telephone access should be available to all youth 24 hours a day.</p> <p>VA CURE: Phone access to call family is very important. The regulation should establish a low threshold for affordability of phone calls to family by a DJJ resident and monitor it.</p>	<p>Thank you for your comment. The department has added a toll-free hotline for reporting sexual abuse, which may be accessed at any time by the residents. However, given the nature and size of the JCCs, it would be impractical to allow general access to telephones 24/7. The department very much supports maintaining strong family relationships. However, the department does not set the telephone rates as this is set by a third-party contractor.</p>
<p>45-6VAC35-71-550. Prohibited actions.</p> <p>RJDC</p>	<p>Training requirements should be added to this standard and cross-referenced with the training standards.</p>	<p>Thank you for your comment. The department recommends including the training requirement in all training sections (160, 170, and 240). Including a cross-reference in this section is not necessary.</p>
<p>46-6VAC35-71-550. Prohibited actions. #4, Denial of equal access to agency programs and activities.</p> <p>DJJ staff</p>	<p>Residents in administration segregation unit (ASU) and isolated segregation unit (ISU) programs do not participate in the same activities due to high levels of aggression or self-injurious behavior. Also the REACH program is not offered in these specialized units. Residents have access to all services offered at the institution but access is not equal. Example: educational services are provided on the unit; access is not the same as attending school.</p>	<p>Thank you for your comment. Operations in JCCs are subject to all Constitutional requirements, including the Equal Protection Clause. Residents in administrative segregation and isolation are not denied access. Administrative segregation provides programs in a different format, and residents in isolation are temporarily restricted from certain activities in order to advance legitimate penological interests; i.e., rehabilitation and security. Participation in such programs does have the precondition of certain conduct of the participants, and isolation temporarily removes certain residents who exhibit maladaptive behaviors and are subject to disciplinary actions (similar to</p>

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<p>47-6VAC35-71-550. Prohibited actions. #13, Involuntary use of pharmacological restraints.</p> <p>DJJ staff</p>	<p>Delete "involuntary." Residents cannot voluntarily request medication.</p>	<p>detention and suspension in the public schools).</p> <p>Thank you for your comment. The department recommends adopting the proposed change to reduce any confusion as to whether the use of pharmacological restraints to control behavior is prohibited.</p>
<p>48-6VAC35-71-550. Prohibited actions. #14</p> <p>FAVY</p>	<p>Add "actual or perceived sexual orientation and gender identity and expression" to the non-discrimination clause for each facility.</p> <p>The Child Welfare League of America and Lambda Legal note that "Many young people who are lesbian, gay, bisexual, transgender or questioning their sexual orientation or gender identity (LGBTQ) and in the custody of the juvenile justice and delinquency systems are unsafe in their placements....<sup>1</sup>" They go on to affirm that "LGBTQ youth should be placed in facilities that have LGBTQ-inclusive nondiscrimination policies and where qualified staff have been trained to protect and support LGBTQ youth."</p> <p>In Executive Directive 1 (2010), Governor McDonnell wrote: "The Virginia Human Rights Act recognizes the unlawfulness of conduct that violates any Virginia or federal statute or regulation governing discrimination against certain enumerated classes of persons. The Equal Protection Clause of the United States Constitution prohibits discrimination without a rational basis against any class of persons. Discrimination based on factors such as one's sexual orientation or parental status violates the Equal Protection Clause of the United States Constitution. Therefore, discrimination against enumerated classes of persons set forth in the Virginia Human Rights Act or discrimination against any class of persons without a rational basis is prohibited."</p> <p>Listing these additional categories will make it clear to staff, youth, and families that harassment and discrimination of LGBTQ youth is illegal</p>	<p>Thank you for your comment. The department recommends two changes to the nondiscrimination subdivision of this section. First, it recommends deleting the word "physical" before "disability" to ensure all disabled individuals are covered. Second, it recommends including "sexual orientation" as a factor by which residents may not be discriminated. The department must equally and appropriately serve all juveniles committed to it by the courts of the Commonwealth and seeks to ensure that all residents are subject to the same protections. Given the emphasis of such protection in the proposed PREA standards, the department supports its inclusion in the regulation. * NOTE: The language in subdivision 13 has changed since originally approved by the Board, after first approved by the Board in June 2010, through the Executive Branch Review, it was determined that the proposed language exceeding the Board's rulemaking authority. On January 10, 2012, the Board approved alternative language. The alternative language is in the proposed draft.</p>

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	and will not be tolerated.	
49-6VAC35-71-560. Residents' mail.  VA CURE	We support the requirement in the regulations that packages must be delivered to the resident within 48 hours as there have been reports of long hold-ups.	Thank you for your comment. This provision is already contained in the regulation at 6VAC35-71-560 (E).
50-6VAC35-71-580. Visitation.  RJDC	At a minimum, should visitation be scheduled at least once a week, unless security demands, health concerns, or other emergencies make visitation difficult? The standard needs to give some guidance for the auditors.	Thank you for your comment. The department supports maintaining strong family relationships during any period of commitment and, except in rare occasions; i.e., H1N1, weather, visitation is held weekly in all facilities. However, given the size and nature of the JCCs, conducting additional visitation may be difficult. Setting the operational standards for visitation should be managed at the procedural level and not in regulation.
51-6VAC35-71-580. Visitation.  Murphy-Thomas	Parents should be notified in advance of arrival at visitation of whether the resident is in "lockdown" and will have limited visitation.	Thank you for your comment. Incidents that give rise to a period of isolation may occur at any time of the day. Mandating parental contact prior to visitation based on unpredictable circumstances; i.e., incidents occurring the morning of visitation, could place a hardship on staff. Staff at the JCCs do make reasonable efforts to contact parents when such circumstances arise, but this may not be possible in all circumstances. Thus, the department does not recommend adopting the proposed change as this would be more appropriately addressed in procedures. Also, please note that residents serving isolation time are not denied visitation but may have restrictions placed upon its duration.
52-6VAC35-71-580. Visitation  MAJDC FAVY	MAJDC: We ask that 6VAC35-71-580(A) regarding visitation be amended to remove the word "immediate" from before "family members" so that visitation by all family members, not just immediate family members, is not subject to unreasonable limitations.  FAVY: Youth in DJJ facilities, especially those placed far from home, need to be able to "maintain strong family and community ties," as each regulation notes. These ties often include nontraditional family relationships, as well as	Thank you for your comment. The department supports maintaining strong family relationships during any period of commitment and has specific procedures for approving individuals who are not classified as immediate family members for visitation (relationship is confirmed via the CSU, and facility administration makes final determination of appropriateness, with the decision based on the

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	<p>relationships with non-family members, such as godparents, coaches, pastors, mentors, and friends.</p> <p>For this reason, the visitation language of 6VAC35-41-590(A), which does not suggest that visitation is limited to family or "immediate" family members, should be applied to JCCs and detention centers as well. This is consistent with the previous regulation on juvenile residential facilities, 6VAC35-140-90, which stated, "Residents in all juvenile residential programs shall be permitted to have visitors, consistent with written procedures, that take into account the need for security and order, the behavior of individual residents and visitors, and the importance of helping the resident maintain strong family and community ties."</p> <p>In the more secure facilities, written procedures can be used to implement a visitor approval process that maintains facility security and order as well as the welfare of the resident.</p>	<p>relationship and the role in the juvenile's life). Each request is considered a special circumstance and subject to individual determination. Given the nature and size of the JCCs, having visitation without restrictions may serve to be contrary to the rehabilitative and security goals of the facility. Accordingly, the department does not recommend adopting the proposed change.</p>
<p>53-6VAC35-71-590. Contact with attorneys, courts, and law enforcement.  MAJDC JustChildren</p>	<p>MAJDC: The proposed regulation requires proof that the attorney has been retained. This is a problem because generally an attorney and client have an initial meeting before the attorney is officially retained. The proposed regulation would prevent juveniles from initial consultations, retaining willing attorneys, and a guiding hand through the juvenile justice system.</p> <p>The definition of "legal representative" for the purposes of mail and contact with attorneys should be expanded to:</p> <p>"For the purpose of this section a legal representative is defined as an attorney licensed to practice law in the Commonwealth of Virginia or admitted pro hac vice for a specific case or a paralegal, investigator, or law student, or other representative from the attorney's office. Evidence that the attorney has been retained shall not be required prior to permitting access. A juvenile who wants to contact an attorney or other legal representative shall request and be provided assistance from DJJ staff at the facility."</p>	<p>Thank you for your comment. The department, as required by the Constitution, may place only reasonable limitations on contacts with attorneys; and this is not an issue about which the Department generally receives grievances or complaints. The current process requires confirmation of the relationship in order to protect confidentiality, the resident's interest, and the security of the facility; and, thereafter, the JCC facilitates arranging the visitation. The department acknowledges the restrictive nature of the proposed language (as consultations are generally required prior to retention) and, thus, recommends deleting the last two sentences in subsection A in order to defer to department procedures regarding contacts with attorneys.</p>

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	<p>To require that youth have a retainer agreement with counsel before they can even see them is an undue burden on the youth's ability to gain the assistance of counsel in order to access the courts since youth will generally need to talk to counsel before they can decide to retain them even if they are pro bono.</p> <p>JustChildren: Courts have recognized the rights that both youth and adult prisoners have to access the courts. While adult facilities have a number of ways they can assure meaningful access to the courts, including law libraries and other forms of assistance, in a juvenile setting we cannot expect children to serve as jailhouse lawyers.</p> <p>With regard to the requirement that attorneys present evidence that they have been retained prior to permitting access, we would like to make two points. First, the Virginia Department of Corrections does not require that a retainer be produced prior to the scheduling of a legal visit. Second, retainers are protected by attorney client confidentiality and are not to be shared outside of that relationship.</p> <p>While we appreciate DJJ's inclusion of this regulation, which allows youth access to counsel, we would recommend the following changes to insure that said access is appropriate and adequate.</p> <p>In 6VAC35-71-590(A) pertaining to juvenile correctional centers, make the following amendments: "For the purpose of this section a legal representative is defined as an attorney licensed to practice law in the Commonwealth of Virginia or admitted pro hac vice for a specific case or a paralegal, investigator, or law student, or other representative from the attorney's office. Evidence that the attorney has been retained shall not be required prior to permitting access. A juvenile who wants to contact an attorney or other legal representative shall request and be provided assistance from DJJ staff at the facility."</p>	
54-6VAC35-71-590.	The regulation should provide that residents who are victims of sexual abuse have unimpeded	Thank you for your comment. The department may not impose

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<p>Contact with attorneys, courts, and law enforcement.</p> <p>JustChildren</p>	<p>access to their attorneys or other legal representation.</p>	<p>unreasonable restrictions on a resident's access to counsel. However, "unimpeded" is not defined and, depending on the interpretation, may be unmanageable given the nature and size of the JCCs.</p>
<p>55-6VAC35-71-590.</p> <p>Contact with attorneys, courts, and law enforcement.</p> <p>VA CURE</p>	<p>Due to recent legislation that passed the General Assembly (below), if signed into law by the Governor, then DJJ staff must provide in regulations how DJJ staff should educate and protect juveniles who are wards of DJJ from self-incrimination. Access to attorneys for juveniles is important for this purpose as well as protection from abuse and for cases involving charges of alleged violations by an incarcerated resident, which could result in additional time on his or her length-of-stay.</p>	<p>Thank you for your comment. The commenter appears to be addressing administrative (versus criminal) proceedings in discussing a resident's right to counsel. The Length-of-Stay Guidelines, are required to be promulgated by § 66-10 of the Code of Virginia. The Guidelines establish projected lengths-of-stay; however, the Code specifically limits any indeterminate commitment, with the exception of murder and manslaughter, to 36 consecutive months. Any length-of-stay adjustments are administrative and do not conflict with the statutory requirements (see § 16.1-285 of the Code of Virginia). Please note the comments above regarding a resident's access to counsel and the department's procedures related thereto.</p>
<p>56-6VAC35-71-590.</p> <p>Contact with attorneys, courts, and law enforcement.</p> <p>VA CURE</p>	<p>Gang information reporting. If DJJ staff and/or police/Commonwealth's attorney anticipates talking with a juvenile about gang information, then the regulations should provide that an attorney be made available to discuss this with juveniles prior to an interview. Juveniles could divulge actual or "wanna-be" gang information that would place them on the Virginia State Police's Organized Criminal Gang File with results that will impact their reentry and future. There may be anonymous ways to achieve the same public safety goals, which do not harm DJJ residents who are in the juvenile system precisely because they can be rehabilitated. The regulations should provide that juveniles, their parents, and attorneys be informed if the juvenile/resident's name is forwarded to the State Police.</p>	<p>Thank you for your comment. Effective July 1, 2010, §§ 16.1-300, 16.1-309.1, and 52-8.6 of the Code of Virginia will be amended to mandate, in certain circumstances, that certain gang information be released to law enforcement. In effectuating the release of information, the department will be fulfilling its role in compliance with the statute, of which the resident should be aware. The department obtains gang related information through administrative actions; i.e., interview for reports, counseling, or general supervision, and not for the purpose of criminal investigation. Placement on VCIN and NCIC will not be considered criminal investigative information but available gang information, which may or may not be criminal, thus not implicating Constitutional</p>



Commenter	Comment	Agency response
		<p>protections. Moreover, providing notifications is not required by the statute and would be burdensome on the JCC staff. The department anticipates treating such release of information similar to the current reporting requirements to the Commonwealth's Attorney's Counsel (see § 66-3.2 of the Code of Virginia) or registration of sex offenders with the Virginia State Police (see § 16.1-278.7:02 of the Code of Virginia), which does not include an actual notice provision. Thus, the department does not recommend adopting the proposed change.</p>
<p>57-6VAC35-71-610. Showers.</p> <p>JustChildren VA CURE</p>	<p>JustChildren is generally opposed to the restriction of showers as a behavior management tool. Additionally, the restriction of daily showers in correctional centers for the purpose of maintaining facility security may result in the suspension of showers during a period of "lockdown" in the correctional center. These periods can last for more than a week at a time and can be due to issues unrelated to bad behavior or security threats such as this past year's record snowfall. We recommend that showers be allowed even under these conditions not less than every other day in light of close quarters and the risk of easily spread germs and unhygienic conditions.</p> <p>VA CURE: Relaxing a daily shower requirement in times of drought for 48 hours is reasonable. Beyond 48 hours, superintendents must make alternative arrangements. Leaving the time frame open-ended is not a good idea. Removing the daily shower requirement from JCCs without a public health determination of drought is unwarranted.</p> <p>Also, under prohibited acts (section 550), it provides that denial of showers can never be used as discipline. This contradicts the ability to withhold a shower due to "maladaptive behavior." This should not be permitted at all, and if the DJJ Board maintains that provision, the DJJ facility superintendent should be informed, not a designee.</p>	<p>Thank you for your comment. All new JCCs' buildings and isolation cells have wet cells with water access in the room allowing residents to do certain hygiene in the room. The exception for the management of maladaptive behaviors has procedural protections in the regulation (approval by the superintendent or a mental health professional). Additional requirements or restrictions would be operational and more appropriately addressed in procedures. Thus, the department does not recommend adopting the proposed change.</p>

Commenter	Comment	Agency response
58-6VAC35-71-620. Residents' privacy.  RJDC	The word "security" should be added to the following phrase, "except when constant supervision is necessary to protect the resident due to security or mental health issues."	Thank you for your comment. The department recommends adopting the proposed change with a restriction that the exception is limited to "exceptional security circumstances."
59-6VAC35-71-620. Residents' privacy.  JustChildren MAJDC	<p>While JustChildren appreciates the need to keep youth safe while in the care of DJJ, the privacy rights of these youth should be protected. National Prison Rape Elimination Commission (NPREC) Standards for the Prevention, Detection, Response, and Monitoring of Sexual Abuse in Juvenile Facilities suggest: Except in the case of emergency or other extraordinary or unforeseen circumstances, the facility restricts nonmedical staff from viewing residents of the opposite gender who are nude or performing bodily functions and similarly restricts cross-gender pat-down searches. (PP-4 Limits to cross-gender viewing and searches).</p> <p>We recommend adoption of this standard for all three facility types.</p>	Thank you for your comment. Section 620 does mandate, except in extraordinary circumstances, that residents' bathing, dressing, or conducting toileting activities are provided with privacy from cross-sex supervision. While the language is a little different from the proposed PREA standard, the effect is the same (including the recommended changes listed in the response to the previous comment). Thus, the department does not recommend adopting the proposed change. For a more detailed response regarding the adoption of the proposed PREA standards, please review the agency's response to the first comment above.
60-6VAC35-71-630. Nutrition.  RJDC	The American Correctional Association Standards state, "Written policy, procedure, and practice require that at least three meals, of which two are hot, are provided at regular meal times during each 24-hour period, with no more than 14 hours between the evening meal and breakfast. Provided basic nutritional goals are met, variations may be allowed based on weekend and holiday food service demands." (Standards for Juvenile Detention Facilities, Third Edition, 3-JDF-4A-13).	Thank you for your comment. The department is retaining the current regulatory requirement regarding timing of meals (though it is adding a requirement of two versus one hot meal). Facilities may choose to serve meals earlier than indicated in the regulation (as these are minimum requirements). Accordingly, the department does not recommend adopting the proposed change.
61-6VAC35-71-630. Nutrition.  VA CURE	<p>The proposed regulation references meeting the minimum requirements of the U.S. Dietary Guidelines. Please revise to state that DJJ menus must exceed the minimum requirements. Also, please require that the Dietary Guidelines being used are for growing adolescents, not adults. Also, please require that daily menus meet the U.S. Center for Disease Control and Prevention's "5-a-Day" serving of fruits and vegetables.</p> <p>All juveniles at intake who are found to be obese must have a special health plan to help improve health and reduce weight.</p> <p>The weight of each juvenile should be monitored</p>	Thank you for your comment. The department currently follows federal dietary guidelines and, when prescribed by a physician, accommodates special diets for weight gain, weight loss, and other special medical conditions. The federal guidelines are fluid and adopting specific menu provisions may result in this regulation being in conflict with that recommended by the USDA, CDC, or HHS. Thus, the department does not recommend adopting the proposed change.

Commenter	Comment	Agency response
	so that if a juvenile becomes obese while at a DJJ facility, a special health plan can be developed.	
<p>62-6VAC35-71-660. Recreation.</p> <p>VA CURE</p>	<p>Outdoor Recreation. Reports are that use of outdoor recreation is very limited at some facilities. Provide in the regulations for minimum once weekly outdoor exercise.</p> <p>Indoor Recreation. Require that active exercise options other than basketball are provided.</p>	<p>Thank you for your comment. The existing and proposed regulations require the JCCs to follow their recreation plans and provide outdoor recreation whenever practicable. The regulation also requires any deviations from the plan to be documented. The specific requirements of the plan; i.e., what types of indoor activities, are operational and would be more appropriately addressed in procedures. Moreover, mandating a specific weekly requirement may result in facilities being found in noncompliance for circumstances beyond their control; i.e., environmental conditions, security issues, gang problems. As such, the department does not recommend adopting the proposed change.</p>
<p>63- Education (removed from existing regulation)</p> <p>VA CURE</p>	<p>Retain the current requirement that residents be enrolled in school within five days. See 6VAC35-51-920. Education.</p> <p>Do not make the proposed change that allows for a five business day delay to get a child enrolled in school. It is too long, unless the state allows that length of time for parents to enroll children after relocations. At many facilities, school continues four quarters of the year. Also, the proposed regulation should provide that the Department of Correctional Education and DJJ have a process to enroll a juvenile should he or she arrive at a DJJ facility during a break. Please clarify which department is referred to as "facility staff" in the proposed regulation.</p>	<p>Thank you for your comment. Please note that each JCC has an educational program that is operated by the Department of Correctional Education (DCE). DCE is subject to the compulsory school education laws and is regulated by the Board of Education. As DCE is not subject to this regulation, the department does not recommend incorporating any requirements relating to DCE programs and services in this regulation.</p>
<p>64-6VAC35-71-680. Admission and orientation.</p> <p>Harris</p>	<p>Parents should be provided with the contact information of an individual at the facility who can be contacted to provide information and answer any questions.</p>	<p>Thank you for your comment. The proposed requirement is incorporated into subsection A of 6VAC35-71-760, which requires the facility to provide each parent or legal guardian with contact information for an individual at the facility to whom inquiries on assigned cases may be addressed.</p>
<p>65-6VAC35-71-700.</p>	<p>This is another area where the Prison Rape Elimination Act standards should be reviewed.</p>	<p>Thank you for your comment. Please see the agency response to the first</p>

Commenter	Comment	Agency response
Classification plan.  RJDC		comment above regarding incorporating the proposed PREA standards into the board's regulation.
66-6VAC35-71-700. Classification plan.  JustChildren MAJDC	<p>The regulation should adopt the Prison Rape Elimination Act standards and provide that all information obtained about the resident at intake, and subsequently, is used to make placement decisions for each resident on an individualized basis with the goal of keeping all residents safe and free from sexual abuse.</p> <p>When determining housing, bed, program, education, and work assignments for residents, the facility should take into account (1) a resident's age; (2) the nature of his or her offense; (3) any mental or physical disability or mental illness; (4) any history of sexual victimization or engaging in sexual abuse; (5) his or her level of emotional and cognitive development; (5) his or her identification as lesbian, gay, bisexual, or transgender; and (6) any other information obtained about the resident (AP-1).</p> <p>The regulation should state that residents may be isolated from others only as a last resort when less restrictive measures are inadequate to keep them and other residents safe, and then only until an alternative means of keeping all residents safe can be arranged. This could be addressed in 6VAC35-71-1160 (Administrative segregation).</p>	<p>Thank you for your comment. The department has an intricate classification system involving the consideration of more than 13 factors. The requirements related thereto are provided for in department procedures. Additionally, the department has specific procedures for use of isolation (in addition to those detailed in 6VAC35-71-1140 and 6VAC35-71-150). The department does not recommend adopting the recommended changes as they are more appropriately addressed in procedures. Please see the agency response to the first comment above regarding incorporating the proposed PREA standards into the board's regulation.</p>
67-6VAC35-71-730. Operational procedures.  DJJ staff	Move to Part 1, General Provisions.	Thank you for your comment. The department recommends moving this section to Part I as a more logical place for the requirement.
68-6VAC35-71-760. Communication with parents.  FAVY Murphy-Thomas	<p>FAVY: We commend the addition of a section requiring that parents or legal guardians of youth in JCCs be provided the opportunity to participate in RDC classification and staffing team meetings and scheduled treatment team meetings.</p> <p>However, we strongly object to the precondition that parents or guardians must first contact the facility before they will be provided with this opportunity.</p> <p>This is an unwarranted barrier and a stark</p>	<p>Thank you for your comment. The department recommends subsection B be amended to require the facility to give the parents or legal guardian "written notice of and an opportunity to participate in" scheduled classification, staffing, and treatment team meetings. Also, please note that this section requires the facility to provide the parents with the contact information of an individual to whom any questions or concerns may be addressed.</p>

Commenter	Comment	Agency response
	<p>contrast to the requirement that probation or parole officers "shall be invited" to such meetings. Parents and guardians of youth in JCCs are at a great disadvantage in understanding the inner workings of these facilities. Yet they are most often the youth's primary and permanent outside support. The JCCs, including RDC, should be required to pro-actively invite them to these meetings and should facilitate their participation by telephone or other means if they are interested but unable to travel to the facility.</p> <p>Murphy-Thomas: The regulation should require timely notice to parents if the meeting is postponed or rescheduled, with an invitation to any newly scheduled meetings. Such notice should be in writing. If parents cannot attend meetings, the information should be provided to the parents in advance to allow for comment.</p>	
<p>69-6VAC35-71-780. Daily log.  RJDC</p>	<p>Should the standard state that log books should be bound books with pre-numbered pages?</p>	<p>Thank you for your comment. The department does not recommend adopting the recommended change as this is operational and would be more appropriately addressed in procedures. The current proposed language allows facilities flexibility in the format of log books as most appropriately meets their needs.</p>
<p>70-6VAC35-71-780. Daily log.  DJJ staff</p>	<p>Move to Part VI, Article 3, Supervision.</p>	<p>Thank you for your comment. The department recommends moving this section to Part IV, new proposed section 815.</p>
<p>71-6VAC35-71-870. Definition. and 6VAC35-71-880. Local health authority – definition.  DJJ staff</p>	<p>Move to Part 1, General Provisions, Definitions.</p>	<p>Thank you for your comment. The department recommends moving the health care definitions to the general definition section in section 10.</p>
<p>72-6VAC35-71-910. Health care training of direct care staff.  DJJ staff</p>	<p>Move to Part II, Article 3, Employee Orientation and Training. #4 Training in the signs and symptoms of mental illness, retardation, and chemical dependency seems to be an inappropriate level of training for direct care staff.</p>	<p>Thank you for your comment. The department reviewed each component of section 160 and has the following recommendations:</p> <ul style="list-style-type: none"> <li>• Move subdivision 1 to section 160, to be included with all other training</li> </ul>

Commenter	Comment	Agency response
	#5 Language is too broad. What specific training is required?	requirements for direct care staff; <ul style="list-style-type: none"> <li>• Delete subdivision 2 as it is covered in section 160;</li> <li>• Delete subdivision 3 as it is included in the training requirements recommended for inclusion in section 160;</li> <li>• Delete subdivision 4 as it is over-inclusive as drafted and meant to address only issues related to communicable disease, which is addressed in the training related to standard precautions; and</li> <li>• Move the provisions from section 920 to section 900.</li> </ul>
73-6VAC35-71-960 Medical examinations. A. Within five days of arrival at a JCC, all residents....  DJJ staff	Change requirement to within seven days. This change would be consistent with the requirement for TB and dental screenings.	Thank you for your comment. The seven-day requirement for the physical examination and five-day requirement for TB and dental screenings are based on national standards. Nothing precludes a facility from performing the physical examination at the five-day mark if the intent is to have all medical intake time frames on the same cycle.
74-6VAC35-71-1010. Suicide prevention.  DJJ staff	Move to Part IV, Article 2, Programs and Services under 810.	Thank you for your comment. The department recommends moving this requirement to Part IV, proposed new section 805.
75-6VAC35-71-1010. Suicide prevention.  RJDC	The suicide prevention program should also include a walk-through of the facility by the administration to identify potential suicide hazards in the facility.	Thank you for your comment. The regulation does not prohibit a facility walk-through. The proposed requirements are operational and may be more appropriately addressed in procedures. Thus, the department does not recommend adopting the proposed change.
76-6VAC35-71-1060. Hospitalization and other outside medical treatment.  Murphy-Thomas FAVY	Murphy-Thomas: Parents should also be provided notification of and involved in health care decisions.  FAVY: The regulations should contain a provision for parents or legal guardians to be present when a resident needs non-emergency outside medical care, such as elective surgery, or when a resident is hospitalized. This enables youth to maintain their right to visits, allows parents and guardians to be present at an especially vulnerable time, and, in the case of	Thank you for your comment. The department accounts for security, health, and family relationship issues when residents receive treatment outside of the JCC. Parents are involved in health care decisions as provided in § 54.1-2969 of the Code of Virginia and are generally consulted regarding health care decisions and notified, in advance of treatment, in the majority of cases; but in some instances it may not be

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	<p>minors, to participate in treatment decisions as needed. Written procedures can ensure the continuing secure supervision of the resident during this time, whether parents or guardians are present or not.</p> <p>Note that the old regulation for juvenile residential facilities envisioned the possibility of parents or guardians accompanying youth in need of hospital care or other outside medical treatment:</p> <p>6VAC35-140-230. Hospitalization and other outside medical treatment of residents.</p> <p>A. When a resident of a juvenile residential facility needs hospital care or other medical treatment outside the facility,</p> <ol style="list-style-type: none"> <li>1. the resident shall be transported safely, and</li> <li>2. a parent or legal guardian, a staff member, or a law-enforcement officer, as appropriate, shall accompany the resident and stay at least during admission and, in the case of securely detained or committed residents, until appropriate security arrangements are made.</li> </ol> <p>B. If a parent or legal guardian does not accompany the resident to the hospital or other medical treatment outside the facility, the parent or legal guardian shall be informed that the resident was taken outside the facility for medical attention as soon as is practicable.</p>	<p>appropriate. Furthermore, this statute contains numerous provisions regarding the age of consent, graduated consent, and the role of parents in the health care decisions when the child is in the physical custody of an agency of the Commonwealth. The department follows all relevant provisions. Thus the determination of parental involvement generally involves a case-by-case determination and adopting the proposed regulatory change may result in a regulation in violation of the statute.</p>
<p>77-6VAC35-71-1090. Behavior management.</p> <p>DJJ staff</p>	<p>Move to Part IV, Article 2, Programs and Services under 740.</p>	<p>Thank you for your comment. The department recommends moving the section.</p>
<p>78-6VAC35-71-1100. Behavior support contract.</p> <p>DJJ staff</p>	<p>Move to Part IV, Article 2, Programs and Services, under 740.</p>	<p>Thank you for your comment. The department recommends moving the section.</p>
<p>79-6VAC35-71-1140, F. Room confinement.</p> <p>DJJ staff</p>	<p>Suggested change of wording - superintendent will designate staff responsible for making personal contact.</p>	<p>Thank you for your comment. The proposed language states the "director or designee," which means the director may designate staff to perform the regulatory requirement. As such, the department does not recommend the proposed change.</p>

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<p>80-6VAC35-71-1140, F. Room confinement.</p> <p>RJDC</p>	<p>Thirty-minute checks are not enough. ACA Standard 3-JDF-3E-04 states, "Juveniles placed in confinement are checked visually by staff at least every 15 minutes and are visited at least once each day by personnel from administrative, clinical, social work, religious, or medical units."</p>	<p>Thank you for your comment. The regulation does not preclude facilities' making checks at less than 30-minute intervals. In fact, department procedures require 15-minute checks. However, the department recommends retaining the existing standard to allow flexibility in operations; i.e., if the procedure changes to twice in a 30-minute period or more frequent.</p>
<p>81-6VAC35-71-1150. Isolation.</p> <p>RJDC</p>	<p>Paragraph C states, "During isolation, the resident is not permitted to participate in activities with other residents and all activities are restricted, with the exception of (i) eating, (ii) sleeping, (iii) personal hygiene, (iv) reading, (v) writing, and (vi) physical exercise...".</p> <p>School should be added to the activity that is not just "permitted" but required. Many times, a youth who has difficulty reading, writing, or doing math will create a disturbance or a problem that will result in room time, simply to avoid the embarrassment of "looking dumb" in front of his or her peers in the school setting. When a resident is given room confinement, provisions should be made to ensure that the resident continues to receive academic instruction. If a parent kept their child out of school for up to five days for disciplinary reasons, the parent would be getting a truancy notice.</p>	<p>Thank you for your comment. Please note that each JCC has an educational program that is operated by DCE. DCE is subject to the compulsory school education laws and is regulated by the Board of Education. As DCE is not subject to this regulation, the department does not recommend incorporating any requirements relating to DCE's programs and services in this regulation. Under current practice, participation in an educational program has a precondition of certain conduct of the participants, and isolation temporarily removes certain residents who exhibit maladaptive behaviors or are subject to disciplinary actions (similar to detention and suspension in the public schools). Thereafter, residents will return to educational programs.</p>
<p>82-6VAC35-71-1150. Isolation.</p> <p>JustChildren</p>	<p>JustChildren opposes the use of long-term isolation for punishment unless there has been an objective determination that the youth is of danger to himself or others. Youth held in isolation for extended periods of time are particularly vulnerable and are known to commit suicide at higher rates.</p> <p>JustChildren encourages the adoption of regulations that more closely mirror the following CJCA's Performance Based Standards (PBS) recommended regulations:</p> <p>OEP14: The facility staff must record when youths are held in isolation whether in an individual room or cell or whether it is an isolation/segregation unit or dorm.</p>	<p>Thank you for your comment. The department understands the importance of limitations on the use of isolation in juvenile facilities and supports the provisions in proposed sections 1140 and 1150, which limit the number of days a juvenile may be confined and requires additional supervision when confined. Currently, in procedures, the department does record when residents are held in isolation; and such isolation means, per proposed 6VAC35-71-1150 and existing regulations, a resident must be alone in the room. The department also requires due process and</p>



Commenter	Comment	Agency response
	<p>OEP15: All events and incidents resulting in isolation should be examined to determine if isolation could have been avoided or its use shortened.</p> <p>OEP16: The facility reviews all incidences of isolation routinely for appropriateness, length of isolation, and monitoring of youths in isolation.</p> <p>OEP17: Facility and agency administration make frequent spot checks of isolation rooms and units. These checks are conducted during off-hours inclusive of evenings, holidays, and weekends.</p> <p>OP10: Policies govern the use and duration of isolation and room confinement. This policy includes a provision calling for the internal review of each incidence of isolation. Such provision also requires that the oversight agency also conduct regular reviews of isolation inclusive of the monitoring of youths while in isolation.</p> <p>OP11: Staff is trained to follow policies governing the use and duration of isolation and room confinement.</p> <p>OP12: The adolescent development portion of staff training presents the negative repercussions and ineffectiveness of long-term isolation and the rationale for shorter brief isolation periods.</p> <p>OP13: Isolation is used to neutralize out of control behavior and redirects it into positive behavior and should not be used as punishment.</p>	<p>administrative review of all disciplinary actions, which includes all instances of isolation. And, if a juvenile is in isolation for 24-hours, the facility superintendent must be contacted, or for 72-hours, the director or designee must be contacted (see 6VAC35-71-1140). Additionally, the superintendent or designee must make daily contact with residents in confinement, and room checks are completed every 15 minutes by procedure and half an hour by regulation. The facility's administration reviews disciplinary reports and, during the audit process, the Certification Unit reviews a sample to ensure compliance with the regulatory requirements. All staff are trained on the behavior management program and behavior interventions (see 6VAC35-71-160) and adolescent development (see response above). Specific curriculum components are operational and would be more appropriately addressed in procedures. Please note the behavior management program must address work toward achieving positive behaviors (see 6VAC35-71-1090, proposed new section 745) and isolation is a behavioral intervention used to redirect and neutralize behavior as provided in the REACH program.</p>
<p>83-6VAC35-71-1190. Monitoring residents placed in mechanical restraints.</p> <p>RJDC DJJ staff</p>	<p>RJDC: When a resident is placed in mechanical restraints for more than two hours cumulatively in a 24-hour period, the health care provider or nurse should be consulted in addition to the consult with the mental health professional.</p> <p>DJJ Staff: This section is confusing and may conflict. I think subsection B was intended for medical consult for the checking of the restraints to ensure good circulation and not bad effects of being in restraints for an extended period of time. This is not reflected in the regulation.</p>	<p>Thank you for your comment. The regulation requires the staff to check a resident's circulation when restrained (see 6VAC35-71-1180). Staff who administer mechanical restraints are trained in checking circulation. Also staff are required to visually check on residents in restraints at least every 15 minutes. Should a medical condition be identified, medical personnel will be contacted. This is separate and apart from the required mental health evaluation intended to determine whether the etiology of the restraint is attributable to a mental health</p>

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		condition, which may be addressed more appropriately through other behavioral interventions or an involuntary mental health commitment.

**All changes made in this regulatory action**

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.*

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
10	Definitions. Defines the following terms: -Annual (uses 13 month definition as previously adopted in the Interdepartmental regulations). -Board (of Juvenile Justice). -Case record/record (resident's information). -Contraband (unauthorized items). -Department (of Juvenile Justice). -Direct care (individuals committed to the department). -Direct care staff (individuals responsible for the care of residents and security of the facility). -Direct supervision (working with residents while not in the presence of direct care staff). -Director (of the Department). -Emergency (unexpected events; examples provided). -Health care record (medical records). -Health care services (physical and mental health services.) -Health trained personnel (trained by health care provider for certain purposes).	The current definitions governing JCCs are provided in 6VAC35-51-10 and 6VAC35-140-10.	The proposed section defines the terms used in the regulation, which are distinct to JCCs or assume a specific meaning when applied in the current context. From the existing regulations the following changes were made: (1) Definitions were deleted because the terms are not unique (such as the definition of "day" or "therapy") or because the terms are not or are no longer used in the proposed regulation (such as the definition of "good character and reputation"). (2) Definitions used only once in the proposed regulation were moved to the applicable section, and definitions specific to volunteers and health care services were moved to the corresponding parts. (3) Definitions were modified to conform to changes in laws and other applicable regulations and to more appropriately reflect applicability in JCCs. (4) Definitions were added for terms used in the proposed regulation (such as "direct care," "direct supervision," and "written").

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	<ul style="list-style-type: none"> <li>-Individual service plan/service plan (goals and objectives for residents during commitment).</li> <li>-Juvenile correctional center/JCC/facility (regulated entity).</li> <li>-Living unit (where residents sleep and reside).</li> <li>-On duty (time when staff are responsible for the direct supervision of residents).</li> <li>-Parent/legal guardian (includes biological, adoptive, court appointed, and delegated).</li> <li>-Premises (tract of land and structure of JCC).</li> <li>-Reception and Diagnostic Center/RDC (intake and evaluation JCC).</li> <li>-Regulatory authority (the Board or the Department).</li> <li>-Resident (individual committed and residing in a JCC).</li> <li>-Rules of conduct (behavioral expectations and available sanctions).</li> <li>-Superintendent (responsible for the daily, on-site management of the facility).</li> <li>-Volunteer or intern (provides goods/services without competitive compensation).</li> <li>-Written (electronic or hard copy).</li> </ul>		
20	<p>Previous regulations terminated: Enactment of this Chapter will replace the current regulations governing JCCs (6VAC35-51 and 6VAC35-140).</p>	None.	<p>The proposed section indicates the effect of enacting this Chapter on the current regulatory scheme. This Chapter will replace 6VAC35-51 and 6VAC35-140 relating to the certification of JCCs.</p>
30	<p>Certification: Requires all JCCs to (i) demonstrate compliance with the board's Certification Regulation (6VAC35-20); (ii) maintain</p>	<p>6VAC35-20 governs the Board of Juvenile Justice's facilities' certification process. It provides the general</p>	<p>The proposed section states that JCCs are also subject to the board's Certification Regulation (6VAC35-20) and must comply with this Chapter and the</p>

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	<p>current certification demonstrating such compliance; (iii) retain documentation of such compliance for a minimum of three years; and (iv) post a copy of the certificate of certification in a conspicuous place.</p>	<p>requirements for certification. It requires facilities to be in substantial compliance with the regulation and to comply with terms of licensure, the regulation, other applicable laws and regulation, and its procedures. It also requires some reporting to the regulatory authority and a procedure manual to be accessible to staff and details some responsibilities of the regulatory authority. 6VAC35-51-240 states that facilities with adult residents must comply with the standards and provide separate accommodations as required by the regulatory authority.</p>	<p>Certification Regulation, maintain documentation of compliance, and keep (and post) a current certificate of compliance. The proposed regulation focuses solely on the responsibilities of the JCCs and does not address the responsibilities of the regulatory authority. By including a cross-reference to the Certification Regulation, this section clearly states the applicability and importance of complying with both this Chapter and the Certification Regulation.</p>
40	<p>Relationship to the regulatory authority: Requires JCCs to provide the regulatory authority with any reports or records necessary to establish compliance with this Chapter.</p>	<p>6VAC35-20 governs the Board of Juvenile Justice's facilities' certification process. It provides the general requirements for certification. It requires facilities to be in substantial compliance with the regulation and to comply with terms of licensure, the regulation, other applicable laws and regulation, and its procedures. It also requires some reporting to the regulatory authority and a procedure manual to be accessible to staff and details some responsibilities of the regulatory authority. 6VAC35-51-110 requires facilities to follow the</p>	<p>The proposed section clarifies the necessity of facilities to work with the regulatory authority in the certification process.</p>

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
		<p>terms of the certification, to request changes in operation in advance, and to not implement any change without prior approval.                      6VAC35-51-230 requires facilities to provide appropriate documentation to the regulatory authority and for any change in administration to be reported within five working days.</p>	
50	<p>Variations: Authorizes a facility superintendent to seek a variance in accordance with the board's Certification Regulation (6VAC35-20) and prohibits implementation of a variance prior to obtaining the approval of the board.</p>	<p>6VAC35-51-150 sets three criteria for the issuance of the variance. It also states that the variance must be approved prior to implementation.</p>	<p>The proposed section allows facilities to seek a variance to a regulatory requirement (under the conditions and provisions of the board's Certification Regulation). This section recognizes that special circumstances may warrant variances from certain provisions for specific facilities.</p>
55	<p>Operational procedures: Requires operational procedures to be accessible to staff (moved from section 730 at the proposed stage).</p>	<p>6VAC35-140-760 requires JCCs to maintain institutional operating procedures that are consistent with standard operating procedures.</p>	<p>The proposed section is consistent with the current regulatory provisions and department procedures.</p>
60	<p>Serious incident reports: Requires certain serious incidents, accidents, and illnesses to be reported to the director, a resident's parent/legal guardian, and supervising agency as soon as practicable but no later than 24 hours and in accordance with department procedures. Requires incidents involving the death of a resident to be reported without undue delay. Also requires documentation of such incidents and required reporting.</p>	<p>6VAC35-51-1030 requires serious incidents to be reported to the placing agency and the parent/guardian within 24 hours and serious illness or injuries to be reported to the regulatory authority within 24 hours. It lists components of the required documentation.</p>	<p>The proposed section requires the facilities to report certain serious incidents to the director, parents, and supervising court service unit (CSU). It also contains documentation requirements, including noting in the resident's record, but allows flexibility as to how the documentation is retained. It also cross-references reporting child abuse or neglect (section 70) so that all reports are done appropriately.</p>
70	<p>Suspected child abuse or neglect: Requires facilities to</p>	<p>Section 63.2-1509 of the Code of Virginia</p>	<p>The proposed section requires reporting of suspected child</p>

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	<p>report any suspected child abuse or neglect to the local department of social services as required by the Code of Virginia and to the director, CSU, and the parent. Also requires documentation of such cases and procedures for the handling of such complaints, including measures to be taken to protect the resident and staff when such abuse is suspected.</p>	<p>mandates the reporting of any suspected child abuse or neglect by staff in children's residential facilities. 6VAC35-51-1040 requires procedures for handling, reporting, and documenting Child Protective Services (CPS) allegations.</p>	<p>abuse or neglect in accordance with the governing statute. It also requires facilities to follow procedures for reporting to the director, CSU, and parents and for documenting and handling such complaints and investigations. It does allow flexibility as to how the documentation is retained (defers to procedures as long as it is noted in the resident's record).</p>
75	<p>Reporting criminal activity: Requires staff to report any criminal activity by staff or residents and the superintendent to report such activity as required by department procedure. Further requires staff to cooperate in any investigations (moved from section 190 at the proposed stage).</p>	<p>6VAC35-140-130 requires facilities to mandate staff report all known criminal activities by staff and residents.</p>	<p>The proposed section clarifies the responsibilities of the staff and superintendent regarding reporting criminal activity.</p>
80	<p>Grievance procedure: Requires the superintendent to ensure compliance with the department's grievance procedure. Also specifies certain requirements of the procedure, orientation of the residents to the procedure, and cooperation in handling any complaints. Further requires the procedure to be posted in an area easily accessible to parents/legal guardians.</p>	<p>6VAC35-51-1050 requires procedures governing grievances and lists required components. 6VAC35-140-70 requires residents to be oriented to and have continuing access to a grievance procedure. It requires the procedure to provide for resident participation, documentations, timely responses, one level of appeal, administrative review, protection from reprisal, emergency hearings, and document retention.</p>	<p>The proposed section, consistent with current regulatory requirements, requires facilities to follow certain specific procedures relating to the ability of residents to file grievances while at a facility. It retains the existing requirement that such procedures shall be posted in an area accessible to the parents and retains the requirement for residents to be orientated to the procedures and for the procedures to be posted in an area accessible to residents.</p>
90	<p>Resident Advisory Committee: Requires each facility to have a resident advisory committee that meets monthly to go over</p>	<p>Board policy 20-112 requires facilities to provide a means for residents to have input into areas of the</p>	<p>This new regulatory section is derived from board policy 20-112 and is consistent with department procedures.</p>

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	residents' concerns in areas of the residential program that affects their lives.	residential program that may affect their lives. It requires a committee, representative of the facility's population, to meet at least monthly under established bylaws.	
100	Administration and organization: Requires facilities to have organizational charts showing the functions, services, and activities of the administrative subunits.	6VAC35-140-713 requires each facility to have an organizational chart grouping similar functions, which is reviewed as needed.	The proposed section retains the requirement to have an organizational chart and for the review of such charts as needed.
110	Organizational communications: Requires the superintendent to meet monthly with department heads, and requires the superintendent or specific designated personnel to visit the living and activity areas weekly, with the requirement that the superintendent visit at least monthly.	6VAC35-140-715 requires each facility to comply with department procedures for reporting incidents, data, and information; requires the superintendent to meet monthly with department heads; and requires the superintendent or assistant superintendent and department heads to visit the living and activity areas weekly.	The proposed section retains the current requirements for monthly meetings. It modifies the requirements for visiting the living and activity areas to account for feasibility issues with weekly visits for all the designated personnel, particularly in the larger facilities. It also removes the requirement to comply with department procedures for reporting certain information (as the facilities must already follow department reporting procedures, and reporting of serious incidents is governed by section 60).
120	Community relationships: Requires facilities to have a designated community liaison and allows for a community advisory committee, if appropriate.	6VAC35-140-714 requires each JCC to have a community advisory committee.	The proposed section requires each JCC to have a community liaison and allows a community advisory committee, if appropriate. Under current provisions, each facility has a committee; however, at some facilities no community members participate. This section allows for flexibility in the manner of communications with the community.
130	Participation in human research: Prohibits the use of residents as subjects in human research except in accordance with applicable statutes and regulations.	6VAC35-51-660 requires procedures for resident participation in human research. Section 32.1-162.16 et seq. of the Code of	The proposed section brings the regulatory provision in compliance with the statute and regulation, which became effective after this regulation was last reviewed.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
		Virginia requires the department to establish regulations regarding residents as subjects of human research. 6VAC35-170 contains the applicable regulatory provisions.	
140	Background checks: Requires background checks to be performed, in accordance with § 63.2-1726 of the Code of Virginia for staff prior to working alone with residents. Also requires procedures for the supervision of non-employee persons who have contact with residents.	Sections 66-10 and 63.2-1726 of the Code of Virginia require background checks on all staff in children's residential facilities prior to such staff working alone with residents. 6VAC35-140-260 requires background checks to be completed on all staff who work alone with residents.	The proposed section has been changed in accordance with recent statutory changes (Chapter 873 of the 2008 Acts of the General Assembly) and a 2008 variance to the applicable regulation. This section allows the conditional hire of employees pending fingerprint results if the individual is informed such employment is contingent upon the successful completion of the background check and if that individual is not allowed to be alone with residents and is supervised by staff whose background checks are completed when working with residents pending return of the fingerprint results.
150	Required initial orientation: Requires all employees to be oriented on eight components specific to the facility before their eighth work day at the facility. Requires direct care staff to receive additional training (eight additional components) prior to working with residents while not under the supervision of fully-trained staff. Cross-references the volunteer orientation section.	6VAC35-140-280 requires initial orientation in accordance with the job description and an annual training plan. It requires orientation, prior to assuming job duties, in the program, rules, residents' rights, disciplinary procedures, emergency procedures, and documentation requirements.	The proposed section creates a separate orientation section with specific requirements for all employees and direct care staff. Staff in JCCs currently receive an extensive orientation during their first week of work. This section merely clarifies the requirements on which staff are currently being oriented.
160	Required initial training: Requires (1) all employees to have training necessary to be competent in their positions; (2) contractors to be trained to perform their positions in a correctional environment; (3)	6VAC35-51-310(A) requires initial training (1) within seven days for behavior management procedures; (2) within 14 days before being alone supervising residents for	The proposed section pulls together many current regulatory provisions. In the current scheme, there are many different deadlines for completing training (seven, 14, and 30 days, and before working with children).



Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	<p>direct care staff and staff with direct supervision responsibilities to have 120 hours of initial training including training in 14 specific areas; (4) administrative and managerial staff to have 40 hours of initial training; (5) clerical staff to have 16 hours of initial training; (6) staff who administer medications to complete required trainings prior to administering medication; and (7) medical staff to be trained in TB control practices. Allows contract providers to have credentials to satisfy the training requirement (although they must be oriented per the previous section and cross-references the volunteer training section).</p>	<p>emergency planning issues; and (3) within 30 days in CPS, reporting, maintaining relationships, suicide prevention, standard precautions, good neighbor, and siting. It addresses the medication training program and the quality improvement plan. It also requires enrollment in CPR/first-aid classes within 30 days. 6VAC35-140-280 requires direct care staff to be trained in the rules of conduct for residents, rationale for the rules, and applicable sanctions. 6VAC35-140-711 applies only to JCCs and requires initial training of 120 hours for direct care staff and professional specialists (administrative - 40 hours and clerical staff - 16 hours). It also requires library reference services be available at DJJ's training facility.</p>	<p>The timing for training requirements has been streamlined to require all trainings to be completed for direct supervision and direct care staff prior to being responsible for the supervision of residents. Direct care and direct supervision staff currently undergo extensive initial training (titled "basic skills"), which already incorporates the required components of this section.</p>
170	<p>Retraining: Requires all staff to receive retraining sufficient to meet any professional development needs, with direct care staff and staff who directly supervise residents to have 40 hours, administrative and managerial to have 40 hours, and clerical to have 16 hours annually. Contractors are to have retraining necessary to work in a correctional environment. All staff are required to be retrained in emergency procedures. Direct care staff and staff who provide direct supervision must have</p>	<p>6VAC35-51-310(B) requires staff, volunteers, and contractors to be retrained annually in emergency procedures; medication administrators to undergo medication administration retraining; direct care staff to undergo retraining in behavior management techniques; and all staff to be retrained in CPS reporting, maintaining relationships, and suicide prevention. Subsection (C) requires all full-time staff to undergo 15</p>	<p>The proposed section clearly details the retraining requirements. It retains the required hours of annual training from the current regulations. It also requires all direct care staff to maintain current certification in CPR/first-aid, which is not a current regulatory requirement.</p>

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	<p>retraining in eight specific areas. Direct care staff must keep their CPR and first-aid certifications current. Staff who administer medications must receive annual refresher training on the administration of medication. Staff who apply physical or mechanical restraints must receive annual retraining on such use. Allows contract providers to have credentials to satisfy the training requirement and specifies that failure to be properly retrained prohibits staff from working directly with residents.</p>	<p>additional hours of training. Subsection (D) requires procedures for other staff training, and (E) requires retraining based on needs and competencies. 6VAC35-140-280 requires 40 hours of training annually and retraining in the regulation, suicide prevention, special residents' medical needs, health screenings, and mechanical restraints.</p>	
180	<p>Code of ethics: Requires facilities to have standards of conduct available to all employees.</p>	<p>6VAC35-140-275 requires all facilities to have a code of ethics, which requires a provision prohibiting employees from using their official position to secure privileges or engaging in activities that constitute conflicts of interest.</p>	<p>Current regulations and procedures require a code of ethics. The proposed section merely deletes the specific requirement that the standards of conduct include a prohibition of using one's position for personal gain. This requirement is procedural and currently contained in the department's code of ethics.</p>
185	<p>Employee tuberculosis screening and follow-up: Requires staff to have an up-to-date TB screening before starting work at facilities. It also requires subsequent screenings under certain circumstances and requires all screenings, prevention, and treatment to be conducted in accordance with the requirements of the Division of TB Control at the Virginia Department of Health (VDH) and the federal government.</p>	<p>6VAC35-51-250 requires health information to be maintained on employees and residents in all facilities. It also requires TB testing and subsequent TB evaluations.</p>	<p>The proposed section allows flexibility in practice in order to conform with the recommendations and requirements of the Division of TB Control at VDH and the federal government.</p>
220	<p>Selection and duties of volunteers and interns: Requires JCCs to follow procedures regarding the selection and use of</p>	<p>6VAC35-51-400 requires procedures for the selection and use of volunteers; prohibits volunteers from</p>	<p>The proposed section consolidates the responsibilities regarding the selection and use of volunteers. It is consistent with current regulatory</p>

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	volunteers. The procedures must contain a provision for evaluating persons wishing to associate with residents. Also requires volunteers to have the appropriate qualifications for any services provided; requires any volunteer responsibilities to be clearly defined in writing; and prohibits volunteers for being responsible for the duties of direct care staff.	providing basic services; requires the responsibilities to be clearly defined in writing; and requires all volunteers/interns to be qualified for any services rendered. 6VAC35-51-950(B) requires facilities to implement procedures for evaluating groups/individuals to associate with residents and whether such association is in the residents' best interests.	requirements and with department procedures.
230	Volunteer and intern background checks: Requires individuals who volunteer on a regular basis or intern in JCCs or individuals designated as leaders of volunteer groups to undergo applicable background checks and such checks to be documented. Also requires JCCs to implement procedures for supervising volunteers who have contact with residents and have not had background checks.	Sections 66-10 and 63.2-1726 of the Code of Virginia require background checks on all individuals who volunteer on a regular basis and will be alone with residents. 6VAC35-51-300 requires personnel records to retain proof of the completed background checks. 6VAC35-140-260 requires background checks on personnel.	The proposed section requires background checks on volunteers and interns consistent with the requirements of the Code of Virginia, board regulations, and department procedures.
240	Volunteer and intern orientation and training: Requires certain volunteers and interns to be oriented on eight items and trained, within 30 days of their start date, on procedures applicable to their duties, the residents' rights, and responsibilities in the event of a facility evacuation.	6VAC35-51-310 and 6VAC35-140-280 require certain trainings/orientation for volunteers. 6VAC35-51-1060 requires volunteers to be trained in emergency procedures.	The proposed section extracts the orientation and training requirements for volunteers from the existing regulatory structure and consolidates them in one section.
260	Maintenance of residents' records: Requires a case record and a separate health care record to be maintained for each resident. The	6VAC35-51-640 requires a case record and a separate health record for each resident to be maintained uniformly and	The proposed section is consistent with current regulatory requirements and department procedures. It does not contain an existing provision

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	<p>records are to be kept confidential and released only in accordance with applicable Code of Virginia sections. A procedure shall govern the maintenance of the records and shall address specific requirements regarding confidentiality. Further requires the residents' case record and health records to be stored separately after release and to be retained as required by the Library of Virginia.</p>	<p>confidentially with governing procedures (components listed). The face sheet must be retained permanently.</p>	<p>regarding automated records as the department operates under a separate regulatory chapter (6VAC35-160). It also no longer requires records to be maintained in metal containers (as a cabinet or container that protects against fire and flood may now be of a substance other than metal). It also cross-references the statute governing confidentiality of residents' records in order to provide a reminder to facilities that any distribution of the records must be in accordance with these statutes.</p>
270	<p>Face sheet: Requires a face sheet to be maintained on each resident. Lists specific components on the document and requires it to be maintained as changes occur.</p>	<p>6VAC35-51-700 requires a face sheet and details specific components.</p>	<p>The proposed section removes some of the procedural language and requirements to maintain information on the face sheet that is already and more appropriately maintained elsewhere (thus reducing duplicity in practice). The face sheets are no longer required to be maintained permanently, which is consistent with the document retention policies of the Library of Virginia. The requirement to retain discharge information was moved to the discharge section (section 720).</p>
280	<p>Buildings and inspections: Requires new construction, major renovations, and temporary structures to be inspected and approved by appropriate building officials (as documented by a current certificate of occupancy). Requires facilities to maintain documentation of annual fire inspections (as required by the building code and interpreted by the State Fire Marshal's Office). Also requires annual inspections of sanitation, sewage, water, and food systems (in addition to</p>	<p>6VAC35-51-420 requires a certificate of occupancy for all buildings; annual fire inspections; annual inspections of sanitation, sewer, water, food service operations, and swimming pools; the buildings to be suitable to the designated purposes; and any building plans to be approved by the regulatory authority.</p>	<p>The proposed section clarifies what the facilities' responsibilities are regarding annual inspections. The current regulatory scheme requires fire inspections to be conducted annually (defined as once every 13 months). However, facilities do not conduct the fire inspections. For JCCs, these inspections are conducted by the State Fire Marshal. The Fire Marshal requires state facilities to be inspected once every nine to 15 months (thus having flexibility to schedule and to have a wide date range so</p>

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	any swimming pools).		facilities must remain prepared for such inspections at all times). As such inspections may exceed the 13-month maximum, the proposed regulation defers to the State Fire Marshal's definition of annual and requires facilities to (1) maintain documentation of the current certification and (2) document attempts to schedule inspections (and any necessary follow-up seeking inspections) should such inspections not be completed within the 13-month period.
290	Equipment and systems inspections and maintenance: Requires safety, emergency, and communications equipment and systems to be tested and maintained according to the manufacturer's requirements or procedure (but must be done at least quarterly). If such a system is defective, facilities must immediately repair, remove, or replace the defective equipment.	6VAC35-140-310 requires the inspection of safety, emergency, and communications systems at least quarterly and more frequently if required by the manufacturer's instructions. 6VAC35-140-320 requires facilities to take immediate steps to repair or replace defective equipment.	The proposed section is consistent with the current regulatory scheme and department procedures. It provides additional guidance by having the superintendent maintain a listing of all safety, emergency, and communications equipment and systems subject to the requirements of this section.
300	Alternate power source: Requires facilities to have access to an alternative power source to maintain essential services in an emergency.	6VAC35-140-615 requires secure facilities to have access to an alternative power source to maintain essential services in an emergency.	The proposed section is consistent with the current regulatory provision and department procedures.
310	Heating and cooling systems and ventilation: Requires heat to be distributed to all rooms so that the temperature is not below 68°F. It also requires rooms to be ventilated when temperatures exceed 80°F.	6VAC35-51-430 requires heat to be evenly distributed and to be no lower than 68°F, natural or mechanical ventilation to the outside in all rooms, and air-conditioning/fans in all rooms where temps exceed 80°F.	The proposed section is consistent with the current regulatory provision and department procedures.
320	Lighting: Requires sleeping and activity areas to have natural lighting; lighting to be sufficient for the activities	6VAC35-51-440 requires electric lighting to be sufficient for activities being performed,	The proposed section is consistent with the current regulatory provision and department procedures.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	being performed; and night lighting to be sufficient to observe residents. Also requires flashlights to be available for each direct care staff and outside entrances and parking areas to be lighted.	continuous at night, and in outside entrances and parking areas. It also requires flashlights to be available for each staff at night. 6VAC35-140-330 requires natural lighting in sleeping/activity areas and lighting at night to be sufficient to observe the residents.	
330	Plumbing and water supply; temperature: Requires plumbing to be operational, an adequate supply of hot and cold running water, and precautions to be taken to avoid scalding by hot water.	6VAC35-51-450 requires plumbing to be maintained in good operating condition, an adequate supply of running water, and precautions to be taken to prevent scalding (water temperature between 100-120°F).	The proposed section is consistent with the current regulatory provision and department procedures.
340	Drinking water: Requires all sleeping areas (in facilities constructed after 1/1/1998) and all activity areas to have fresh drinking water for residents' use.	6VAC35-140-520 requires fresh drinking water and toilet facilities in all sleeping and activities areas (applies only to secure facilities).	The proposed section is consistent with the current regulatory provision and department procedures.
350	Toilet facilities: Requires a specific number of toilets, sinks, and showers for a specific number of residents and staff; toilet facilities available in all sleeping areas (if constructed after 1/1/1998); and one bathtub in the facility.	6VAC35-51-460 sets the requirements for the number of toilets, sinks, showers, and tubs in a facility.	The proposed section is consistent with the current regulatory provision and department procedures. It no longer contains the provision that staff shall have a bathroom separate from those available for residents' use. In any future construction this would be governed by the requirements of the state's Bureau of Capital Outlay Management (DGS).
360	Sleeping areas: Requires separate sleeping areas for males and females; beds to be a certain distance apart (in facilities constructed after 7/1/1981) or to have an approved bed-placement plan (if built before 7/1/1981); mattresses to be fire retardant;	6VAC35-51-480 requires, in part, separate same-sex sleeping areas; no more than four residents to a room (except if allowed by the board in JCCs); three feet between beds; specific square footage	The proposed section addresses issues specific to resident sleeping areas. It removes the provision regarding no more than four residents to a room as the board has approved dormitory sleeping areas in the facilities built before 1981. Additionally, the proposed regulation

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	and sleeping areas to comply with square footage requirements.	requirements for bedrooms; and sleeping areas that are conducive to sleep and rest. 6VAC35-51-500 requires provisions for privacy from routine sight supervision, video, and audio monitoring by permission of regulatory authority.	addresses an issue at RDC where, due to facility design and the presence of concrete barriers in the sleeping areas, it is impossible to safely place the beds three or more feet apart. The board has previously issued a variance for these sleeping areas. The proposed regulation takes into account this situation by adding a date of construction caveat and imposes a check on any such practices by requiring any sleeping area where the beds are not three or more feet apart to have a bed-placement plan approved by the director or designee. It also removes the requirement for the sleeping environment to be "conducive to sleep and rest." The regulation currently requires lighting to be appropriate for the activities being performed. Also, such a requirement is subject to subjective application and assessment, particularly in light of the population at JCCs and that residents may act in a manner not conducive to sleep or rest during sleeping hours.
370	Furnishings: Requires furnishings to be safe, clean, and suitable for use.	6VAC35-51-590(A) requires all furnishings and equipment to be safe, clean, and suitable.	The proposed section is consistent with the current regulatory provision and department procedures.
380	Disposal of garbage: Requires the facility to provide for the collection and legal disposal of all garbage and waste materials.	6VAC35-51-600(B) requires facilities to provide for the legal disposal of waste.	The proposed section is consistent with the current regulatory provision and department procedures.
390	Hazardous materials and chemicals and medical materials: Requires each facility to have a hazardous communication plan governing the evaluation of potentially hazardous chemicals and communication of hazards to	6VAC35-140-340(B) requires facilities to have receptacles for disposal of flammable materials; and subsection (C) requires all flammable, toxic, and caustic materials to be stored in accordance with applicable laws.	The proposed section adds a requirement for a hazardous communication plan to the existing regulatory scheme. This provision is consistent with the requirements of the Occupational Safety and Health Administration and department procedures. Each JCC already

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	staff. Also requires all hazardous materials to be stored, used, and disposed of in appropriate receptacles.		has a hazardous communication plan.
400	Smoking prohibition: Prohibits residents from using tobacco products and staff from using tobacco products in any area where residents can see or smell the product.	6VAC35-51-490 prohibits smoking in living areas and areas where residents participate in programs. Board policy 20-107 prohibits use of tobacco products in locations where residents may see or smell such use.	The proposed section adopts the language from the board policy, which currently governs actions in JCCs.
410	Space utilization: Requires each facility to have space, which may be used interchangeably, for specific activities, including indoor and outside recreation, kitchen and dining, laundry, storage, visiting, administrative activities, educational programming, and medical practice.	6VAC35-51-510 requires group homes to have a living room with a "home-like" environment and all facilities to have indoor recreation space with appropriate materials and, if more than 13 residents, that space must be separate from the living room. 6VAC35-51-530(B) requires adequate kitchen facilities. 6VAC35-51-540 requires laundry areas, if done at the facility. 6VAC35-51-550 requires storage space. 6VAC35-51-570 requires office space for administrative activities. 6VAC35-51-580, in part, requires all facilities to have an outdoor recreation area. 6VAC35-51-580(C) requires outdoor recreation space. 6VAC35-140-90 requires residential facilities to have a designated visiting area. 6VAC35-140-100 requires facilities that	The proposed section consolidates numerous existing regulations.



Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
		operate school programs to provide school classrooms. 6VAC35-140-470 requires secure facilities to have a central medical room with examination facilities.	
420	Kitchen operation and safety: Requires JCCs to have a food operation maintenance plan that addresses four different procedural requirements. Also requires inventory and control of culinary equipment that is located in areas where residents are reasonably expected to have access; walk-in refrigerators to have emergency exits; and kitchen and dining linens to be cleaned in bleach.	6VAC35-51-530 requires meals to be served on tables and chairs, adequate kitchen facilities, and walk-in refrigerators to be equipped with emergency exits. 6VAC35-51-600(D) requires bleach to be used to launder bed, bath, table, and kitchen linens. 6VAC35-140-490, in part, requires all secure facilities to (i) have procedures governing access to food and utensils and (ii) the inventory and control of certain equipment.	The proposed section adds a requirement for a food operation maintenance plan to the existing regulatory scheme. This provision is consistent with the requirements of the federal school snack program and department procedures. Each JCC already has a food operation maintenance plan.
430	Maintenance of the buildings and grounds: Requires all buildings and grounds to be safe, maintained, and reasonably free of clutter, rubbish, and foul odors. Also requires a plan to control pests and vermin and corrective action to be taken immediately if any conditions conducive to breeding pests and vermin are identified.	6VAC35-51-580, in part, requires the buildings and grounds to be maintained. 6VAC35-51-600(A) and (C) require all buildings to be well-ventilated and free of odors, flies, and vermin.	The proposed section is consistent with the current regulatory sections and department procedures.
440	Animals on the premises: Requires any animals housed at the facility to have clean sleeping areas and adequate food and water and to be housed separate from sleeping and activity areas and the water supply. Any animals must be up to date on	6VAC35-51-610 requires animals maintained on the premises to be housed away from certain areas, provided clean quarters and adequate food/water, and tested/licensed. It also requires the premises to be free of stray	The proposed section is consistent with the current regulatory provisions and department procedures.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	any required testing and inoculations. The premises should be kept free of stray animals.	animals.	
450	Fire prevention plan: Requires a fire prevention plan that provides for adequate fire protection service.	6VAC35-140-340(A) requires each facility to have a fire prevention plan that provides for adequate fire protection service.	The proposed section is consistent with the current regulatory provisions and department procedures.
460	Emergency and evacuation procedures: Requires an emergency preparedness and response plan, which is reviewed annually, with six different components, including required procedures. Requires all employees to be trained and prepared to implement the plan; volunteers and contractors to be trained in their responsibilities in implementing the evacuation plan; and residents to be informed of their responsibilities in implementing emergency and evacuation procedures. Also requires notification to parents, the director, and the regulatory authority within 72 hours after the incident is stabilized; evacuation routes to be posted; evacuation drills to be conducted and documented; and a designated employee to ensure the plan and drill requirements are met.	6VAC35-51-480 requires, in part, special egress for physically handicapped residents. 6VAC35-51-1060 lists required components of each facility's emergency preparedness and response plan and mandates training, orientation, notice, drills, and review/monitoring. 6VAC35-140-620 requires secure facilities to (i) have a key control plan, (ii) to have fire/emergency keys instantly identifiable to the touch, and (iii) different master keys for internal and external doors.	The department and each facility currently have comprehensive emergency and evacuation plans. The proposed section is consistent with such plans, removes some procedural language, and adapts the responsibilities of residents, volunteers, and contractors to apply in the correctional environment.
470	Security procedures: Requires procedures governing post orders; population count; the control center; control of the perimeter; escapes and AWOLs; searches of the building, premises, and persons; and control and	6VAC35-140-120 requires facilities to have procedures for the control, detection, and disposition on contraband. 6VAC35-140-580 requires procedures for regular searches of the	The proposed section consolidates many existing regulatory provisions and removes procedural language.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	detection of contraband.	secure facilities, which provide for respecting residents' rights to their own property. 6VAC35-140-740 requires JCCs to have post orders for each security post detailing daily operations and to have staff permanently assigned to posts to read, sign, and date their shift assignments. 6VAC35-140-750 requires each JCC to have a procedure for counting residents for each shift, tracking resident movement, and maintaining a daily count sheet. 6VAC35-140-600 requires a control center, staffed 24 hours a day, in each secure facility. 6VAC35-140-630 requires secure facilities to have a written plan for the control of the perimeter and for pedestrians/vehicles to enter/exit at designated points. 6VAC35-140-640 requires secure facilities to have a procedure to govern actions taken after escapes/AWOLs.	
480	Searches of residents: Requires procedures to govern all searches in JCCs. It details specific required components of general procedures and specific procedures for strip and body cavity searches and prohibits certain actions.	6VAC35-51-850 prohibits strip searches unless allowed by other regulations or by court order; requires procedures if patdown searches are conducted; and lists required components of patdown procedures. 6VAC35-140-590	The proposed section clarifies the parameters and requirements for the searches of residents in a correctional setting.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
		requires procedures limiting searches to the minimum amount of touching necessary and restricting who may perform body cavity and strip searches.	
490	Communications systems: Requires a telephone to be accessible to staff in sleeping and activity areas; a means of communicating between the living units and the control center; and the ability for the facility to communicate in emergencies.	6VAC35-51-590(B) requires a telephone to be accessible to staff. 6VAC35-140-610 requires secure facilities to have a means for communication (i) between the living areas and the control center; (ii) in emergency situations; and (iii) between the facility and the community.	The proposed section is consistent with the current regulatory provisions and department procedures.
500	Emergency telephone numbers: Requires an emergency telephone number to be provided to the resident and the person responsible for the care of the resident when the resident is away from the facility and not under the supervision of direct care staff or law enforcement.	6VAC35-51-840 requires an emergency telephone number where staff may be reached at all times and for residents away from the facility to be provided with an emergency phone number.	The proposed section clarifies when an emergency number must be provided to the resident and responsible adults. It now requires a number to be provided to residents and the responsible party when a resident leaves the facility in the absence of staff or police and removes the existing requirement to maintain an emergency number to contact staff.
510	Weapons: Prohibits firearms or other weapons on facility premises and during facility activities except as provided in procedures.	6VAC35-51-220 requires procedures for the possession of firearms that must restrict use except if in possession of security/law enforcement, locked, or used by a resident with permission.	The proposed section defers to department procedures regarding weapons on the premises. Weapons are prohibited on the premises except when locked outside the secure perimeter and, at Beaumont and Hanover JCCs, when pre-approved for hunting. Due to the unique circumstances involving hunting on state property, deference to procedure was adopted to accommodate the different facility issues, with the ability for exceptions to the general prohibition.
520	Equipment inventory: Requires a procedure to	6VAC35-140-490 requires all secure	The proposed section is consistent with the current

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	govern the inventory and control of all security, maintenance, recreational, and medical equipment located in the facilities where residents may be present.	facilities to (i) have procedures governing access to food and utensils and (ii) the inventory and control of certain equipment.	regulatory provisions and department procedures.
530	Power equipment: Requires safety rules for the use and maintenance of power tools.	6VAC35-51-1010 requires safety rules for the maintenance of power equipment.	The proposed section is consistent with the current regulatory provisions and department procedures.
540	Transportation: Requires each facility to have transportation available for routine and emergency transportation; written safety rules for the transportation of residents and the use and maintenance of vehicles; and a procedure for the verification of appropriate licensure status for staff who transport residents.	6VAC35-51-1010(A) and (B) require transportation of residents to be done in accordance with applicable laws and for each facility to have safety rules for transportation and, in subsection (C), for the maintenance of vehicles. 6VAC35-140-140 requires the facility to have transportation available for routine and emergency transportation. 6VAC35-140-540(E) requires secure facilities to follow procedures for the transportation of residents outside the facility.	The proposed section is consistent with the current regulatory provisions and department procedures.
550	Prohibited actions: Lists 13 specific actions prohibited in the facilities with a broad statement that the Constitution must be followed.	6VAC35-51-880 lists 13 acts that are prohibited in all facilities. 6VAC35-140-50 requires procedures mandating nondiscrimination, equal programming, reasonable accommodation for residents with disabilities, and prohibiting cruel and unusual punishment.	The proposed section clarifies the actions prohibited in JCCs; adds nondiscrimination and use of pharmacological restraints to this section. It contains a broad statement reminder that the list is not exhaustive and any constitutionally prohibited actions are also prohibited.
560	Residents' mail: Details the specific circumstances and manner in which residents' mail may be delayed, reviewed, or withheld. Differentiates between legal and nonlegal mainly in its	6VAC35-140-75 details circumstances when mail may be read, censored, or rejected.	The proposed section contains some clarifying changes and is consistent with the current regulatory provisions and department procedures.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	requirements. Also contains requirements regarding outgoing mail, access to postage, and mail received after a resident has left the facility.		
570	Telephone calls: Requires telephone calls to be permitted in accordance with procedures that account for facilities' needs and resident behavior.	6VAC35-140-80 requires facilities to allow residents to have reasonable access to a telephone.	The proposed section is modified to account for the unique setting in a secure facility. The reasonable access language is changed to a requirement to be permitted use in accordance with procedures.
580	Visitation: Requires residents to have reasonable access to visitation with immediate family members and legal guardians. It requires visitation procedures that account for facility needs, resident and visitor behaviors, and a focus on strong family and community relationships. Also requires the procedure to provide for the accommodation of special circumstances; requires the procedure to be sent to the parent by the end of the next business day after admission; and prohibits visitation at the homes of staff.	6VAC35-51-990 requires procedures for flexible visitation unless governed by other regulations. It also sets time frames in which copies of the visitation procedure should be provided to the parents/guardians. 6VAC35-51-1000 requires written permission of the resident's family prior to any visit at the homes of staff. 6VAC35-140-90 requires visitation consistent with procedures in a designated visiting area with the ability for residents and visitors to have physical contact.	The proposed section clarifies the facilities' responsibilities relating to visitation at JCCs. It contains language that residents have a general right to visitation subject to reasonable limitations. From the current regulatory scheme, it changes the requirement to mail copies of the visitation procedure from 24 hours after admission to the end of the next business day after admission. It changes the language requiring flexible visiting hours to a requirement that accommodations be made for special circumstances. These proposed amendments reflect the unique circumstances occurring in JCCs, given their setting and population.
590	Contact with attorneys, courts, and law enforcement: Requires facilities to allow residents to have uncensored, confidential communications with their attorneys, subject to reasonable restrictions; prohibits denial of access to the courts; and requires procedures for when a resident consents to questioning by law enforcement that prohibits staff from coercing a	6VAC35-140-570 requires secure facilities to follow procedures for obtaining and documenting a resident's consent prior to questioning by the police. It also prohibits staff from playing "any role" in allowing contacts with police.	The proposed section adopts the major substantive components of the current regulation. It also adds parts relating to contact with attorneys and courts (both of which are constitutionally protected).

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
600	<p>resident's decision.</p> <p>Personal necessities: Requires the facility to provide the resident with four items of personal necessity at intake. The items must be clean and in good repair upon issuance and must be replenished as needed. Also requires linens to be changed or cleaned with bleach every seven days and blankets to be cleaned or changed as needed.</p>	<p>6VAC35-51-470 requires an adequate supply of personal necessities to be available to residents; washcloths and towels to be cleaned weekly; and incontinent residents to have special provisions. 6VAC35-51-480 requires, in part, clean mattresses, pillows, blankets, and linens; linens to be cleaned weekly. 6VAC35-51-960 requires provisions to be made for resident clothing; requires residents of group homes to have age and community appropriate clothing and to allow residents to participate in the selection of the clothes; and requires residents to be allowed to take personal clothing upon release/discharge.</p>	<p>The proposed section clarifies the cleaning and replacement provisions and incorporates several related parts of the current regulations into one section. It also alters the clothing section that residents in JCCs wear state-issued uniforms.</p>
610	<p>Showers: Requires residents to have the opportunity to shower daily unless approved by the regulatory authority or as deemed necessary to maintain security or order (if approved by the superintendent or a mental health provider).</p>	<p>6VAC35-140-300 requires facilities to give residents the opportunity to shower daily.</p>	<p>The proposed section adds a provision to allow showers to be restricted as necessary to maintain security of the facility or for the special management of maladaptive behavior. This provision provides some flexibility given the unique population in JCCs.</p>
620	<p>Residents' modesty: Requires residents to have a level of modesty from routine sight supervision by staff of the opposite sex when the resident is bathing, dressing, or conducting toilet activities. Allows exceptions when constant supervision is needed due (i) to a mental health condition or (ii) an exceptional security</p>	<p>6VAC35-51-500 requires provisions for privacy from routine sight supervision, video, and audio monitoring by permission of regulatory authority.</p>	<p>The proposed section adds an allowance for constant supervision if needed due to the resident's mental status. This provision is intended to address a quandary into which staff are currently placed regarding the necessary supervision of suicidal youth or to keep the facility secure in emergencies.</p>

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	circumstance.		
630	Nutrition: Requires facilities to provide residents with three nutritionally balanced meals, two of which are hot, daily. Allows special diets or alternative dietary schedules when ordered by a doctor, when necessary due to the residents' religious practices, and if needed to maintain security order or manage maladaptive behaviors (if approved by the superintendent or a mental health provider).	6VAC35-51-820 requires each facility to provide a nutritious daily diet, keep menus, provide special diets if ordered or religiously mandated, prohibit staff from eating other food in front of residents, limit the time between meals, provide earlier meals if necessary, and obtain approval to extend time between meals on evenings and weekends.	The proposed section adds the ability of a mental health provider or superintendent to modify meal schedules or order a special diet (which still must meet nutritional requirements) as needed to maintain institutional security or if needed due to the exhibition of maladaptive behavior. Any such changes in the schedule or form must be approved and documented. The proposed section also allows an extension of time between the evening and morning meal if authorized by the superintendent (under the current scheme, this could be authorized by the department, which has never denied a request). It also requires two hot meals (instead of one required under the current regulatory scheme).
640	Reading materials: Requires reading materials to be available to all residents.	6VAC35-140-500 requires reading materials to be available to all residents and for secure facilities to follow procedures governing youth access.	The proposed section removes the procedural language that is already contained in department procedures.
650	Religion: Prohibits residents from being required or coerced to participate in or be unreasonably denied participation in religious activities and for residents to be informed of these prohibitions.	6VAC35-51-930 requires procedures for resident participation in religious activities to be available to residents and for no resident to be coerced to participate in religious activities.	The proposed section clarifies the role of the department when dealing with resident participation in religion, as constitutionally required.
660	Recreation: Requires each facility to have a recreational program plan with four required components. Also requires the plan to address how residents will be screened for participation and supervised while participating.	6VAC35-51-940 requires a written description of the facility's recreation program and lists five required components. It also requires safety and specific overnight recreational and out-of-state trip procedures. 6VAC35-140-530	The current regulations and department procedures require a recreation plan. The proposed section streamlines the current requirements (from two separate sections into one).



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		<p>requires secure facilities to (i) have indoor and outdoor recreation areas (see sections 420 [JCCs] and 440 [DCs]); (ii) provide an opportunity for large muscle exercise daily; (iii) document circumstances prohibiting outdoor recreation; and (iv) provide a variety of fixed and movable equipment for indoor and outdoor recreation periods.</p>	
670	<p>Residents' funds: Requires residents' funds to be used only for three specific purposes.</p>	<p>6VAC35-51-970 requires JCCs and group homes to provide opportunities for residents to learn the value of money and to have procedures regarding allowances. It requires all facilities to have procedures for the management of residents' funds and for such funds to be used for the residents' benefit. 6VAC35-140-110 requires residents' funds to be used for their benefit, to pay court ordered fines/fees, or to pay restitution.</p>	<p>The proposed section streamlines the current regulatory provisions.</p>
680	<p>Admission and orientation: Lists what facilities must do upon admission of a resident. Has procedural requirements and lists the items on which residents must be oriented, including the residents' rights.</p>	<p>6VAC35-140-60 requires procedures governing admission and orientation to include verification of authority of placement, search of the resident, health screening, notice of admission, interview of the resident, explanation of the program, and assignment to a room. 6VAC35-140-65 requires an orientation to the facility covering the rules</p>	<p>The proposed section is consistent with the current regulatory provisions and department procedures.</p>

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
		and sanctions and requiring assistance to any resident with literacy difficulties.	
690	Residents' personal possessions: Requires facilities to inventory the residents' personal possessions upon admission and take one of three actions with the possessions at that time (discard contraband, inventory and store, or return to parent/legal guardian). Allows for the disposal of personal possessions if unclaimed for six months after a documented attempt to return the property.	6VAC35-140-480 requires secure facilities to inventory personal possessions upon admission and dispose of unclaimed property 90 days after a documented attempt to return the property.	The proposed section extends the time for retaining returned property to six months, which is consistent with department procedures.
700	Classification plan: Requires facilities to use an objective classification plan to determine the appropriate security level, needs, and services for the residents and for assigning residents to housing units. It also requires the residents' placements to be reviewed as necessary in light of the facilities' and residents' needs.	6VAC35-140-440 requires use of a classification plan for the assignment of sleeping rooms and living units in secure facilities. It also requires placements by the department to provide for a systematic decrease in supervision and increase in resident responsibility. Board policy 19-002 requires the department to utilize an objective classification system to assess residents' appropriate security and custody levels, determine appropriate services and programs, assign residents to appropriate housing placements, and assess residents for placement in community transition programs and for special needs. It also requires periodic review of classifications and re-classifications as	The proposed section adds language regarding the applicability and components of a classification plan, which allows the regulation to be consistent with board policy. It removes the language regarding a systematic decrease in supervision and increase in responsibility due to the limited resources of the JCCs' transitional programs.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
710	Resident transfer between and within JCCs: Requires a resident's case record to accompany the resident upon transfer to another JCC and the resident's family to be notified within 24 hours of any such transfer. Also requires safeguards and notifications when a resident is transferred to a more restrictive unit, program, or facility.	necessary. 6VAC35-51-730 requires documentation for intra-system transfers (unless by court order). Board policy 17-003 requires due process safeguards for residents transferred to a more restrictive unit, program, or facility while in direct care.	The proposed section adopts language for consistency with the board policy and department procedures.
720	Release: Requires residents to be released in accordance with procedures and lists required components of the residents' case records, including a discharge summary and a court order if the resident was serving a determinate commitment. Also requires information concerning each resident's current medications and needed services to be provided to the resident's legal guardian and the date of discharge and person to who the resident was discharged to be documented in the case record.	6VAC35-51-730 requires facilities to have criteria for discharge; retain discharge summary or court order and documentation of discharge/court order; release only to authorized person; and information for continuing care to be provided to the authorized person. 6VAC35-140-180 requires releases to be in accordance with procedures.	The proposed section contains clarifying amendments due to the distinct nature of determinate and indeterminate releases. It also removes procedural language and provisions that are not appropriate in secure facilities.
740	Structured programming: Requires each facility to have structured daily routines that are available to residents upon admission and appropriate to the residents' needs, provide appropriate supervision and services, and meet the requirements of residents' service plans.	6VAC35-51-710 requires an initial plan to be developed for all residents within three days of admission. 6VAC35-51-780(A) and (B) require a structured program of care and a daily routine. Subsection (F) requires the routine to account for appropriate sleep and rest; (G) requires the promotion of good hygiene; and (H) requires compliance with facility/local curfews.	The proposed section no longer requires a plan to be drafted within three days of admission. This requirement is replaced by the provision requiring residents to be able to participate in programming upon admission. Given the structured environment in JCCs, the requirement to develop a plan (which usually involves participating in the behavior management and educational programs) was evaluated as duplicative responsibilities for staff. Procedural language was

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
			also removed. The proposed section is consistent with department procedures.
745	Behavior management: Requires each JCC to implement a behavior management program and lists five required components of the program's governing procedures. Also requires any substantive revisions to the program to be provided to the residents and staff prior to implementation.	6VAC35-51-900(A), (B), and (C) require procedures on (i) the rules of conduct, (ii) the behavior management techniques, and (iii) training, orientation, and dissemination of information on the behavior management program. Subsections (K) and (L) require the procedures to be reviewed annually and for staff trained in the behavior management program to be present any time residents are present.	The proposed section maintains the major substantive components of the current regulatory provisions. It adds a requirement that the program be approved by the director or designee, in place of an administrative review of appropriateness, and deletes the provision regarding dissemination to parents or legal guardians.
747	Behavior support contract: Requires each facility to develop a behavior support contract when a resident needs supports in addition to those provided in the behavior management program. Also requires the contract to be provided to staff before they work with the resident.	6VAC35-51-860 requires a behavior support plan to be prepared within 30 days of admission for every resident with details of the required components of the plan and individuals to be involved in the development. It also requires staff to be knowledgeable of the plan and excludes detention centers and RDC.	The proposed section modifies the current regulatory provision that requires each resident to have a behavior support plan. The board has previously issued a variance to this provision allowing each facility's comprehensive behavior management program to serve as the "plan" for all residents with additional supports and contracts to be provided on an as-needed basis. The proposed provision is modeled on the board variance.
750	Communication with court service unit staff: Requires each facility to provide each resident's probation/parole officer with the information for a contact person at the facility and to invite that individual to participate in scheduled meetings.	6VAC35-140-720 requires RDC to notify the probation/parole officer of the scheduled staffing and JCCs to notify the probation/parole officer of treatment team meetings.	The proposed section is consistent with the current regulatory provisions and department procedures.
760	Communication with parents: Requires each facility to provide each resident's parent or legal guardian with the	None.	This section was added in response to NOIRA public comments. It is consistent with current practice in JCCs.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	information for a contact person at the facility and to provide the parent or legal guardian with notice of and the opportunity to participate in scheduled meetings.		
770	Case management services: Requires facilities to provide and document the provision of case management services that address the residents' adjustment, supportive counseling, transitional issues, and communications with staff, parents/legal guardians, the CSU, and community resources, as appropriate.	6VAC35-51-760 requires each facility (post-disposition only in detention centers) to provide case management services. It enumerates issues to be addressed and requires documentation.	The proposed section streamlines the language detailing the required case management services.
790	Individual service plans: Requires service plans to be developed within 30 days of admission (with an exception for RDC). Lists required components of the service plan, who must participate in the development, and who must be invited to participate in its development. Also requires the service plan to be reviewed quarterly and updated annually and copies of the original and any changes to be provided to certain individuals.	6VAC35-51-720(A), (B), and (C) require an individual service plan (ISP) to be developed within 30 days of admission and list required components. They also require progress to be documented and the ISP to be reviewed every 90 days. Subsection (F) requires the ISP to be signed and dated; (G) requires staff to be able to describe the ISP; (H) details who should be involved in the ISP development and updating; and (I) addresses who receives a copy.	The proposed section separates the requirements of service plans from quarterly reports and modifies the required participants to require invitations, as facilities do not have control over whether outside individuals choose to participate.
800	Quarterly reports: Requires the residents' progress in five specific areas to be reviewed quarterly. Also specifies with whom the review should be discussed and to whom copies should be provided.	6VAC35-51-720(D) requires the residents' progress to be reviewed every 90 days. Subsections (D) and (E) deal with components of the review; (F) requires it to be signed and dated; (H) details who should be	The proposed section modifies some procedural language from the regulation, which will streamline the review process.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
		involved; and (I) lists to whom copies should be provided.	
805	Suicide prevention: Requires a suicide intervention plan and staff to be trained in the suicide prevention program.	6VAC35-140-250 requires all facilities to implement a suicide prevention and intervention program.	The proposed section is consistent with the current regulatory provisions and department procedures.
810	Behavioral health services: Requires all persons performing behavioral health services to be a licensed professional or to be working under the supervision of a licensed clinician.	6VAC35-51-770 requires therapy to be provided by a licensed professional or someone supervised by a licensed professional (unless exempted).	The proposed section is consistent with the statutory requirements, as JCCs are exempted, and with the current practice in the behavioral services unit.
815	Daily log: Requires a daily log to be maintained to inform staff of issues experienced by the residents. Requires the log entries to have the date, time, and the name of the person writing the entry.	6VAC35-51-780(C), (D), and (E) require a daily communication log documenting significant happenings (including health complaints) and the identification of the author and time. 6VAC35-140-170 requires electronic log books to have protections to prevent entries from being overwritten.	The proposed section removes language security on any computers used for the daily log as the department's electronic records are under a separate regulatory chapter (6VAC35-160). The remaining proposed requirements are consistent with the current regulatory provisions and department procedures.
820	Staff supervision of residents: Requires staff supervision to be 24/7; staff not to work more than six consecutive days or 16 consecutive hours; and staff to be scheduled with an average of two rest days per week. Requires one trained direct care staff actively supervising residents; requires procedures for contingency staffing planning and to govern the movement of residents; and prohibits residents from controlling other residents.	6VAC35-51-830 prohibits direct care staff from working more than six consecutive days or more than 16 hours in a row; requires an average of two rest days per week every four weeks. Subsection (D) requires one trained direct care staff and a staff member certified in CPR/first-aid to be present when residents are present. Subsection (F) does not apply. 6VAC35-140-540(A) requires 24-hour, awake supervision. Subsection (B) sets requirements for supervision by a staff	The proposed section contains some variations from the current regulatory scheme, which include the definition of rest day (changed from not being responsible for "duties related to the facility" to "duties related to the operation of the facility") and to be scheduled with an average of two rest days per week rather than having an actual two rest days per week. Certain aspects of staffing are governed by the federal Fair Labor Standards Act (regarding payment, etc.), thus the additional provisions were removed from this section in order to accommodate staffing necessities in the larger facilities.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
		member of the opposite sex from the resident. Subsection (G) prohibits residents from controlling other residents unless part of an approved program.	
830	Staffing pattern: Requires a 1:10 staff-to-resident ratio during the day and a 1:16 ratio during hours residents are scheduled to sleep. Also requires one staff to be on duty in every building or living unit where residents are sleeping.	6VAC35-140-545 requires a 1:10 awake and 1:16 asleep staff-to-resident ratio. It requires one staff per floor and in each building.	The proposed section is consistent with the current regulatory provisions and department procedures.
840	Outside personnel: Requires staff to monitor any situation where outside personnel work in the presence of residents and prohibits adult inmates from having direct contact or interactions with residents.	6VAC35-140-290 requires facilities to monitor outside personnel performing work in the presence of residents and the separation of adult inmates from residents. 6VAC35-140-540(F) prohibits service personnel from working in secure facilities where they may have contact with residents (unless supervised). This provision was retained.	The proposed section is consistent with the current regulatory provisions and department procedures.
850	Facility work assignments: Requires work assignments to be appropriate to the age, health, ability, and service plan of residents and prohibits work assignments from interfering with school, meals, or sleep.	6VAC35-51-980 sets requirements for the assignment of chores and for work assignments outside the facility, including evaluating the fairness of pay.	The proposed section removes the requirement for superintendents to evaluate the fairness of pay. Juvenile industries and the juvenile work release programs are not under the primary control of the superintendent and are governed by state and federal labor laws.
860	Agreements governing juvenile industries work programs: Contains the requirements for any agreements with public and private partners participating in work release programs.	Section 66-25.1 of the Code of Virginia requires regulations to govern juvenile industries work programs. 6VAC35-140-800 lists requirements for agreements (with public/private entities and addressing roles and	The proposed section is consistent with the current regulatory provisions and department procedures.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
		responsibilities) governing juvenile work industry programs.	
880	Local health authority: Requires the facilities to designate a local health authority who organizes, plans, and monitors health care services.	6VAC35-140-460 requires secure facilities to designate a health authority.	The proposed section is consistent with the current regulatory provisions and department procedures.
890	Provision of health care services: Requires health care providers to be governed by the recommendations of the American Academy of Family Practice or the American Academy of Pediatrics and requires nursing staff to follow applicable laws and other health trained staff to provide care within their training and certification.	6VAC35-140-192 requires nurses to perform treatment pursuant to verbal or written orders.	The proposed section is consistent with the current regulatory provisions and department procedures.
900	Health care procedures: Requires procedures in five areas relating to the provision of routine and emergency services. Also requires certain information on each resident to be readily available in case of an emergency. Further requires health trained personnel to provide care appropriate to their level of training and for the facility to maintain documentation of such trainings or certifications.	6VAC35-51-790 requires certain health care procedures for routine and emergency services.	The proposed section is consistent with the current regulatory provisions and department procedures.
930	Consent to and refusal of health care services: Requires, if applicable, for parents to be advised of the material facts relating to any proposed health care procedures and for all procedures to be provided in accordance with § 54.1-2969 of the Code of Virginia. Also includes a provision that the resident may refuse care and	Section 54.1-2969(I) of the Code of Virginia gives the director the authority to consent to surgical/medical treatment with required "reasonable effort to notify the minor's parent or guardian of such action as soon as practicable." 6VAC35-140-210 requires facilities to have	The proposed section now cross-references the applicable statute and is consistent with the current regulatory provisions and department procedures.



Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	care may be rendered against a resident's will in accordance with applicable laws.	procedures to (i) obtain consent as required by law; (ii) allow a resident to refuse treatment; and (iii) to provide care against a resident's will consistent with applicable laws. Board policy 12-005 states a resident may refuse health care in accordance with applicable laws.	
940	Health screening at admission: Requires residents to be screened at admission and kept separate from the general population if the screening reveals residents pose a health risk to themselves or others. Requires immediate health care services to be provided if a resident is a risk.	6VAC35-140-190 requires facilities to perform a preliminary health screening on residents before being admitted to the general population; to separate residents who pose a risk; and to provide necessary health care immediately.	The proposed section clarifies that residents deemed to be presenting a risk are kept separate from the general population only until such time as they are no longer considered a risk.
950	Tuberculosis screening: Requires TB screening within seven days of placement and the screening to be in accordance with the recommendations of the Division of TB Control at VDH.	6VAC35-51-800(B) and (C) require TB screening at admission and annually.	The proposed section is modified in order to allow (1) the admission of residents with TB (since court ordered) but to keep such residents separate from the general population and (2) flexibility in practice in order to be in conformity with the recommendations and requirements of the Division of TB Control at VDH.
960	Medical examinations: Requires a medical examination to be performed in the first seven days after admission and lists certain required components of the examination. Provides an exception for intrasystem transfers and mandates annual physicals.	6VAC35-51-800(A) requires an entrance physical examination. The proposed regulation retains this requirement. Subsection (G) requires documentation on annual dental exams (except for respite, shelter care, and detention centers). 6VAC35-140-450 requires a physical examination within five days of admission and	The proposed section is consistent with the current regulatory provisions and department procedures.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
		states the detention centers are not financially responsible for the treatment of preexisting conditions.	
970	Dental examinations: Requires a dental examination within seven days of admission and annually thereafter.	Board policy 12-003 requires dental examinations upon admission to JCCs.	This section is consistent with the board policy and department procedures.
980	Immunizations: Requires residents' immunizations to be updated in accordance with applicable guidelines and laws.	Board policy 12-003 requires a resident's immunizations to be updated, except when the resident qualifies for an exemption under state law.	This section is consistent with the board policy and department procedures.
990	Health screening for intrasystem transfers: Requires residents transferred between JCCs to be screened upon admission and lists required components of the screening.	Board policy 12-003 requires a health screening for intrasystem transfers.	This section is consistent with the board policy and department procedures.
1000	Infectious or communicable diseases: Requires residents with known communicable diseases to be housed separate from the general population unless a physician certifies otherwise. Requires procedures for staff actions and training regarding communicable diseases and requires all medical staff to be trained in TB control practices.	6VAC35-51-800(F) prohibits admission of a resident with a communicable disease. 6VAC35-140-200 requires staff to be trained in universal precautions and on how to manage residents with communicable diseases.	The proposed section modifies the existing regulatory requirements to allow admission (since such admission is court ordered) but to keep such residents separate from the general population.
1020	Residents' health records: Requires residents' health records to be maintained and lists certain required contents. Also requires the health records to be kept confidential, accessible in case of emergencies, available to authorized staff as allowed by law, and all records to be retained in accordance with the	6VAC35-51-800(D) and (E) list contents of the health records. Subsection (H) requires notation of medical complaints and a summary of symptoms and treatment. 6VAC35-140-220 requires health records to be kept confidentially, accessible in case of	The proposed section includes requirements to maintain dental records, to keep health records separate from the case records, and for inactive records to be kept in accordance with the Library of Virginia's requirements.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	requirements of the Library of Virginia.	emergency, and available to authorized staff. It also requires the records to be retained in accordance with Library of Virginia requirements.	
1030	First aid kits: Requires each facility to have first aid kits maintained in accordance with written procedures governing content, location, and method of restocking. Also requires the first aid kits be accessible for use in emergencies.	6VAC35-51-800(K) requires a well-stocked first-aid kit.	The proposed section adds a requirement for procedures to address contents, location, and restocking.
1040	Sick call: Requires residents to have the opportunity to request health care services, which are documented, and to be responded to daily. Also requires the frequency and duration of the sick call to be sufficient to meet the health care needs of each facility's population.	Board policy 12-004 requires sick call in JCCs.	The proposed section is consistent with board policy and department procedures.
1050	Emergency medical services: Requires facilities to have access to 24/7 emergency health care services and lists six required components of the emergency procedures. Also requires staff who respond to health care emergencies to respond in accordance with written procedures.	Board policy 12-007 requires emergency health care services at JCCs.	The proposed section is consistent with board policy and department procedures.
1060	Hospitalization and other outside medical treatment of residents: Requires residents who receive out-of-facility treatment to be transported safely, accompanied by staff (unless being transported for involuntary inpatient psychiatric treatment). Also requires the parents or legal guardians to be notified of the treatment as soon as practicable.	6VAC35-140-230 requires residents needing health care services outside the facility to be transported safely and to be accompanied by appropriate persons. It also requires the parents/guardians to be notified of treatment outside the facility as soon as practicable.	The proposed section clarifies who may accompany residents for medical treatment outside the facility and when notification must occur.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
1070	<p>Medication: This section contains complex procedures regarding the maintenance of and administration of medication and protocol when medication is refused. Requires proper labeling and storage; staff who administer medication to be trained and annually retrained and informed of any known side effects of the medication; procedures for over-the-counter medication; all medication to be administered in accordance with physicians' orders; medication administration records, with specific required components, to be maintained; medication incidents (formerly referred to as medication errors) to be addressed, treated, and documented; medication refusals to be documented; unused medications to be legally disposed; the telephone numbers for poison control to be near each nonpay telephone; and syringes and other medical implements to be locked and inventoried.</p>	<p>6VAC35-51-810 details extensive procedures regarding medications.</p>	<p>The proposed section adds an allowance for medication to be on the person of the resident if ordered by the physician; i.e., inhalers, and requires the notation of administration and refusals. The provisions are consistent with the current regulatory provisions and department procedures.</p>
1080	<p>Release physical: Requires physical examinations to be administered within 30 days of release from JCCs.</p>	<p>Board policy 12-003 requires a physical within 30 days of release.</p>	<p>The proposed section is consistent with the board policy and department procedures.</p>
1110	<p>Disciplinary process: Requires JCCs to follow procedures for handling rule violations by residents. Lists specific requirements of the procedure including staff and resident orientation and training on the procedures and specific due process requirements (notice, ability to admit or deny, a</p>	<p>6VAC35-140-550 requires detention centers to have guidelines for resolving minor behavior issues and all secure facilities to follow procedures for rule violations. This section requires specific due process protections and protocols for handling</p>	<p>The proposed section maintains the major substantive components of the current provision but is modified to conform with best practices for JCCs. It is consistent with department procedures.</p>

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	disciplinary hearing, assistance if needed or requested, notice of the disposition, the right to appeal, the appeal process, administrative review, and required time frames for each step in the process.	rule violations.	
1120	Timeout: Requires facilities that use timeouts to follow procedures governing when, how, where, and for how long timeouts are utilized. Also requires residents in timeout to be able to communicate with staff, staff to check on residents in timeout every 15 minutes, and documentation of any use.	6VAC35-51-870 requires certain procedures if a facility uses timeouts.	The proposed section is consistent with the current regulatory provisions and department procedures.
1130	Physical restraint: Details when and how physical restraint may be used (as a last resort, when other interventions have failed, and necessary to control a risk to the safety of the resident, others, or the public). Requires specific procedures governing restraint to include training, documentation, review, and a focus on de-escalation.	6VAC35-51-900(D) through (J) require procedures governing the use of physical restraint, place restrictions on when and who may use restraints, and require documentation each time a resident is restrained.	The proposed section contains the major substantive components from the existing regulation and adds a requirement for training in crisis prevention and intervention techniques, the specific purpose for the review of the report (subdivision B(3)), and a requirement to identify the control techniques that are appropriate to identified levels of risk.
1140	Room confinement: Requires facilities to follow procedures on when and how residents may be confined to a locked room. Requires any such resident (i) to be visually observed every 30 minutes (or more frequently if needed); (ii) to have the opportunity for one hour of out-of-room exercise (unless circumstances justify otherwise); and (iii) have a means to communicate with staff. Also requires the superintendent to be notified if the resident is in the room	6VAC35-51-910 prohibits seclusion unless allowed by other regulations. 6VAC35-140-560 requires secure facilities to have procedures regarding when a resident may be confined to a room. It requires (i) 30-minute checks in all circumstances and 15-minute checks when residents are on suicide watch; (ii) confined residents to have the opportunity for one hour	The proposed section was modified from the current regulatory scheme to account for the population in JCCs. An exception to the hour of out-of-room exercise was added to account for maladaptive behavior, but any such exceptions must be documented. It also requires notice of confinement greater than 72 hours to a superintendent's supervisor (rather than to the regulatory agency or authority). It includes language regarding staff actions when confined residents exhibit self-injurious

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	for longer than 24 hours and someone in a position higher than the superintendent to be notified if confinement extends past 72 hours. The superintendent must make personal contact with confined residents daily; and, if residents exhibit self-injurious behaviors, the staff shall consult a mental health professional and monitor the resident according to procedures.	of exercise every 24 hours; (iii) the superintendent to be notified when residents are confined more than 24 hours and the regulatory authority when confinement exceeds 72 hours; and (iv) the director or designee to make personal contact with residents each day of confinement.	behaviors.
1150	Isolation: Prohibits confinement as a sanction to exceed five days and such residents from participating in activities with other residents with the exception of the six listed activities. Requires residents in isolation to be housed only one person to a room.	6VAC35-140-560(E) prohibits isolation from exceeding five days. 6VAC35-140-730(A) requires JCCs' residents in isolation to be in single person rooms.	The proposed section is consistent with the current regulatory provisions and department procedures and adds the list of activities that may not be restricted.
1160	Administrative segregation: Requires residents in administrative segregation (i) to be housed in single or double rooms, with single rooms reserved for special needs groups as necessary; and (ii) to be afforded the same basic living conditions as the general population.	6VAC35-140-560(G) requires the same basic living conditions and programming to be available to residents in administrative confinement as in the general population. 6VAC35-140-730(B) requires JCCs' residents in segregation to be no more than two to a room. Subsection (C) requires JCCs' residents with severe medical difficulties or severe mental illness (SMI), who are sexual predators, or who are likely to be exploited to be in single rooms when indicated.	The proposed section is consistent with the current regulatory provisions and department procedures.
1170	Chemical agents: Prohibits the use of chemical agents by staff in facilities.	6VAC35-140-660 allows use of pepper spray with board approval in certain circumstances.	The proposed section adopts the board policy language.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
		Board policy 18-005 prohibits staff from using chemical agents in facilities regulated by the board.	
1180	Mechanical restraints: Requires procedures governing the use of mechanical restraints to have six required components, including when, why, and how restraints shall be used. Also requires documentation of any use.	6VAC35-51-890 prohibits use of mechanical restraints unless allowed by other regulation and use of pharmacological restraints. 6VAC35-140-670 allows the use of mechanical restraints in secure facilities. It requires a procedure, notification, and documentation. It also prohibits such use for punishment or for residents to be attached to fixed objects with mechanical restraints. 6VAC35-140-680 requires staff to be trained in the use of mechanical restraints prior to applying them and specifies some training requirements.	The proposed section is consistent with the current regulatory provisions and department procedures.
1190	Monitoring residents placed in mechanical restraints: Requires residents in restraints to be visually checked every 15 minutes (and more often if warranted) and for staff to provide basic comforts to such residents. Also requires a mental health consultation for residents in restraints for more than two hours in a 24-hour period and if residents exhibit self-injurious behaviors.	6VAC35-140-690 requires secure facilities to follow procedures for ensuring residents' comfort, making personal checks every 15 minutes, and constantly supervising self-injurious behavior (SIB) cases when residents are in restraints. 6VAC35-140-700 requires secure facilities to consult with a mental health professional when residents have been restrained for more than two hours cumulative in a 24-hour period and if	The proposed section is consistent with the current regulatory provisions and department procedures and provides clarifying language for when residents in restraints exhibit self-injurious behaviors. .

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
		mental health problems are indicated.	
1200	Restraints for medical and mental health purposes: Requires a procedure to govern the use of restraints for medical and mental health purposes.	6VAC35-140-685 requires secure facilities to follow certain required procedures for the restraint of residents for medical and mental health purposes.	The proposed section is consistent with the current regulatory provisions and department procedures.
1210	Private contracts for JCCs: Requires privately operated JCCs to abide by the Juvenile Corrections Private Management Act, this regulation, and all applicable procedures.	The Juvenile Corrections Private Management Act (§ 66-25.3 et seq. of the Code of Virginia) requires the board to promulgate regulations for certain aspects of facilities' operations. 6VAC35-140-780(2) requires privately operated JCCs to follow the department's case management procedures and practices.	The proposed section clarifies the responsibilities of privately operated JCCs.
1220	Privately operated JCCs: Requires privately operated JCCs to house only properly transferred, committed residents.	6VAC35-140-780(1) requires privately operated JCCs to house only properly transferred, committed youth.	The proposed section is consistent with the current regulatory provisions.
1230	Definition of boot camp: Defines boot camps.	6VAC35-140-10 defines boot camps.	The proposed section is consistent with the current regulatory provisions.
1240	Staff physical and psychological qualifications: Requires boot camps to have position qualifications account for physical fitness levels and any psychological assessments or evaluations.	6VAC35-140-390 requires staff position qualifications to include physical fitness and a psychological evaluation/assessment prior to employment.	The proposed section is consistent with the current regulatory provisions.
1250	Residents' physical qualifications: Requires boot camp procedures to account for admission and discharge physical qualifications of residents.	6VAC35-140-400 requires procedures governing admission and discharge relative to a resident's physical condition and abilities.	The proposed section is consistent with the current regulatory provisions.
1260	Residents' nonparticipation: Requires boot camps to have procedures for addressing residents' nonparticipation.	6VAC35-140-410 requires procedures for dealing with residents' noncompliance with boot camp program	The proposed section is consistent with the current regulatory provisions.



Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
1270	Program description: Requires boot camps to have a written program description with four required components.	requirements. 6VAC35-140-420 requires boot camps to have a written program description detailing program components, duration, unit processes, and incentives and sanctions.	The proposed section is consistent with the current regulatory provisions.

**Completely deleted sections of existing regulations:**

- 6VAC35-51-20. Interdepartmental cooperation.
- 6VAC35-51-30. Applications. (Addresses applications to become a children's residential facility.)
- 6VAC35-51-40. Investigation. (Mandates DJJ to inspect and investigate children's residential facilities.)
- 6VAC35-51-50. Review of facilities. (Requires DJJ to review facilities during the period of certification to monitor compliance with the regulation and notify localities of any health/safety violations.)
- 6VAC35-51-60. Posting of information. (Requires DJJ to post information on its website.)
- 6VAC35-51-70. General requirements. (Lists requirements of providers regarding certification and some restrictions on issuing certificates.)
- 6VAC35-51-80. Written corrective action plans. (Requires plans to be submitted for each provision on which a facility is found noncompliant.)
- 6VAC35-51-90. Licenses/certificates. (Details terms of certification that may be issued by the board.)
- 6VAC35-51-100. Application fees. (Lists fees for initial application and renewal.)
- 6VAC35-51-110. Modification. (Addresses when and how certification may be modified; also states that a facility may not implement any contemplated change prior to approval of the regulatory authority.)
- 6VAC35-51-120. Denial. (Lists circumstances when an application for licensure may be denied.)
- 6VAC35-51-130. Revocation. (Lists when a certificate may be revoked.)
- 6VAC35-51-140. Summary suspension. (Details the procedure for the summary suspension of a facility's licensure.)
- 6VAC35-51-160. Investigation of complaints and allegations. (Requires the department to investigate complaints against a facility it regulates.)
- 6VAC35-51-190. Fiscal accountability. (Requires certain facilities to prepare end of the year financial documents, to have a bookkeeping system, and to have procedures for the handling of facility funds.)
- 6VAC35-51-200. Insurance. (Requires facilities to have liability insurance and provide documentation of vehicle insurance if they transport residents.)
- 6VAC35-51-260. Physical or mental health of personnel. (Allows a facility to require an employee to undergo an examination if a resident's safety is at risk and, if a condition is indicated, to remove the employee from contact with residents.)
- 6VAC35-51-270. Qualifications. (Requires position qualifications to be established and the Department of Human Resources Management to serve as the default qualifications absent one set by the provider.)
- 6VAC35-51-280. Job descriptions. (Requires job descriptions for each position.)
- 6VAC35-51-290. Written policies and personnel procedures. (Requires each facility to have provider-approved personnel policies accessible to staff. It further requires the facilities to implement procedures to ensure employees are qualified for the positions.)
- 6VAC35-51-300. Personnel records. (Requires updated personnel records, including separate health records.)
- 6VAC35-51-320. Staff supervision. (Requires procedures regarding the supervision of staff including type, frequency, and documentation.)

6VAC35-51-330. Applicant. (Lists requirements applicant must meet prior to consideration for initial licensure.)

6VAC35-51-340. Chief administrative officer. (Lists the responsibilities and qualifications of a CAO.)

6VAC35-51-350. Program director. (Lists the responsibilities and qualifications of a program director.)

6VAC35-51-360. Case manager. (Lists the responsibilities and qualifications of a case manager.)

6VAC35-51-370. Child care supervisor. (Lists the responsibilities and qualifications of a child care supervisor.)

6VAC35-51-380. Child care staff. (Lists the responsibilities and qualifications of a child care staff.)

6VAC35-51-390. Relief staff. (Allows qualified relief staff to be used as needed to meet programming needs.)

6VAC35-51-410. Support functions. (States direct care staff may perform other duties only if they do not interfere with supervisory responsibilities. It also prohibits residents from being solely responsible for support functions.)

6VAC35-51-650. Interstate Compact on the Placement of Children. (Details requirements when discharging a resident to a residence in another state.)

6VAC35-51-920. Education. (Requires residents to be enrolled in school within five days of admission and for providers to provide certain services related thereto; it also requires study time.)

6VAC35-51 FORMS

6VAC35-140-20. Other applicable standards. (Indicates these regulations coexist with the Interdepartmental regulations.)

6VAC35-140-22. National accreditation is deemed compliance with these standards. (Allows accreditation by ACA to show compliance with this chapter.)

6VAC35-140-23. Outcome-based and performance-based standards authorized. (Allows an exemption from a regulatory provision for the implementation of a performance-based alternative standard.)

6VAC35-140-24. Regulation establishes policy. (States the authority of the board to promulgate regulations.)

6VAC35-140-30. Applicability. (States applicability of the regulatory provisions.)

6VAC35-140-40. Previous regulations terminated. (States impact of regulation on other provisions.)

6VAC35-140-45. General requirement. (Requires facilities to comply with applicable laws and regulations.)

6VAC35-140-150. Nonresidential programs and services. (Requires nonresidential services offered by juvenile facilities to comply with applicable laws and regulations.)

6VAC35-140-160. Insurance. (Requires liability insurance for employees, volunteers, and the premises.)

6VAC35-140-270. Physical examination. (Requires pre-employment physicals when a position requires a particular set of physical abilities.)

6VAC35-140-295. Political activity. (Requires facilities to have procedures governing political activity [campaigning, lobbying, etc.] at the facility.)

Article 6.1 – Standards for Halfway Houses

6VAC35-140-385. Administration and organization. (Requires halfway houses to have a mission with programs and services appropriate to its mission.)

6VAC35-140-386. Review of collective service needs. (Requires halfway houses to, at least once every three years, review the service needs of residents.)

6VAC35-140-387. Program to reinforce positive behavior. (Requires halfway houses to implement a program to reward positive behaviors.)

6VAC35-140-388. Organizational communications. (Requires halfway houses to comply with procedures for reporting serious incidents, population data, employee vacancies, etc.)

6VAC35-140-389. Financial practices. (Requires halfway houses to comply with procedures regarding procurement, etc.)

6VAC35-140-712. Performance review. (Requires JCCs to review an employee's performance annually.)

6VAC35-140-770. Transfer file. (Requires JCCs to have a separate transfer file.)

6VAC35-140-790. Junior ROTC program. (Requires JROTC to have a description of criteria for entrance and retention, termination, and how discipline and sanctions will be applied.)

### Regulatory flexibility analysis

*Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

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The proposed regulation may affect small business in as much as a small business provides a program or service subject to this regulation. Having clear, concise, and consistent requirements across facilities (i) provides such entities with clear requirements and (ii) ensures consistency in such requirements throughout the Commonwealth. The proposed amendments would streamline the compliance and reporting requirements while not affecting the quality of services provided in facilities and to administrators subject to the regulation or the ability of the board or department to oversee such functioning and thus would benefit any affected small businesses.

### Family impact

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

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This regulatory action should have a positive impact on families when residents receive services through a facility's program or staff member. To the extent the regulation improves those services or promotes health and safety in those services, it should have a positive impact on families. The regulation will serve to bolster family relationships and communities given the focus on preventing delinquency and promoting youth development. The regulation is not expected to have any impact on disposable family income.