

Policy Considerations: Youth Rights and Access to Counsel

The intent of this policy consideration is to evoke discussion within your jurisdiction regarding best practices and key elements to include in policies and procedures. Jurisdictions should consider these policies in the context of their unique juvenile justice system structure; state and local mandates; risk tolerance level; and other individual needs.

Throughout the policy considerations the acronym “PP” is used. This stands for “policy and/or procedure.”

General

- The PP has a clear statement that describes the importance and intent of the policy and/or procedure and/or how it relates/ties to the agency’s mission.
- The PP includes clear definitions of key concepts in the policy and/or procedure (i.e. can be understood, differences between related words/concepts are clear, etc.).
- The PP mentions how staff will be trained on relevant topic areas – mandatory new employee and ongoing training (*if applicable*).
- The PP clearly describes an effective quality assurance process such as include quarterly case file reviews, annual onsite audits, regular performance evaluations from supervisors, staff skills assessments and training, etc. (*if applicable*).
- The PP includes a description of how the agency will use data to ensure it is meeting targets in the policy and/or procedure area (i.e. indicators of success, how often these data will be reviewed, how the data will be used and by whom, etc.) (*if applicable*).
- The PP will be available to staff for review.
- The PP reviewed for revision/modifications at least annually.

Youth Rights Education

- The PP clearly describes key areas regarding youth rights (i.e. be respected, clean living environment, access to food, clothing, access to attorneys, free of retaliation for making a complaint/grievance, confidentiality, etc.).
- The PP requires that youth be made aware of these basic rights verbally (i.e., staff presentation, video) and in written format (i.e., youth handbook, posters) at intake (or within 48 hours of arrival).
- The PP requires materials available for limited English proficient youth.
- The PP allows youth to retain copies of youth handbook and orientation material, including information regarding youth rights.
- The PP requires posting basic right information throughout the facility in common areas.
- The PP requires youth to sign a document acknowledging receiving information regarding these rights and how to report abuse and/or grieve any perceived violation of these rights and provided an opportunity to ask questions. The signed document shall be placed in the youth’s file.

Emotional Safety

- The PP includes a declaration that youth will be free and protected from physical and psychological harm.
- The PP states youth will be free from abuse and or harassment from staff and other youth (i.e. facility's Zero Tolerance policy (PREA)).
- The PP states youth will be free from retaliation, especially following the youth making a report/allegation of sexual abuse and/or sexual harassment.
- The PP declares youth have the right to be free from discrimination on the basis of race, gender, religion, language, sexual orientation, gender identity, personal beliefs, disabilities, etc.
- The PP provides youth the opportunity for youth to speak their own language and describes the rare circumstances in which they will be prohibited (i.e. threats to youth and staff safety exist).
- The PP affords youth opportunity to practice their religious beliefs as long as these practices do not threaten the safety of the facility.
- The PP states that youth are not required to participate in religious activities.

Physical Safety

- The PP states that youth will be afforded a safe and clean physical environment.
- The PP states youth will be provided a single bed for sleeping.
- The PP states youth will be provided an initial set of clean linens.
- The PP states bed linens are cleaned at least once a week.
- The PP states that youth are provided with clean underclothing and socks daily.
- The PP states that youth are provided with clean outer clothing not less than twice a week.
- The PP prohibits depriving youth of basic rights (i.e., food, sleep, or basic hygiene items) as a form of discipline.
- The PP explains all youth will be provided with basic hygiene products at intake and on a continuous basis (i.e. toothbrush, shampoo, soap, toothpaste, toilet paper, deodorant, hairbrush/comb, hair tie, etc.).
- The PP states youth will not be required to perform purposeless or degrading work.
- The PP requires youth are offered three (3) meals that are nutritionally balanced (following state and federal nutritional guidelines and health safety regulations).
- The PP requires youth be provided with clean clothes and specifically describes which items (i.e. six shirts, five pairs of pants, etc.).
- The PP describes youth will be provided an opportunity to launder their clothes and linens or have them laundered on a weekly basis.
- The PP explains youth will be permitted to shower daily.
- The PP requires youth to be able to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine checks (PREA 115.315).
- The PP requires youth be provided with at least one hour of large muscle exercise every weekday and at least two hours of large muscle exercise each weekend day.

- The PP declares that if a youth is placed in isolation, his/her basic rights will not be taken away (unless deemed by the treatment team to be unsafe to youth) – i.e. food, clothing, sleep, bedding, mail, personal hygiene items, reading materials, programming, recreation, personal visits, legal visits, phone calls, medical/mental health/dental services, showers, access to toilets, religious services, treatment, education, etc.
- The PP allows youth to keep personal property inside the secure facility with specific restrictions outlined (i.e. items that can be used as a weapon, etc.) and with the caveat that some items will be stored in a staff-secured location and provided to youth when reasonable and appropriate to do so.
- The PP states that youth will only be strip searched in specific circumstances as outlined in the agency's comprehensive search policy, if at all.

Education, Medical, and Mental Health Access

- The PP states youth have the right to access to medical, behavioral health, and dental care.
- The PP states that youth have a right to screening and assessment. Youth plans will be individual and developed based upon the screening and assessment.
- The PP requires that youth have the ability to submit request for medical, mental health and dental care.
- The PP specifically requires youth have access to sick call and will be seen by a qualified medical professional in a timely manner.
- The PP states youth will be provided access to qualified mental health professionals as required by youth's treatment plan (i.e., weekly, monthly) and as urgent or emergent needs arise.
- The PP states youth will be provided with gender specific services as necessary.
- The PP requires youth have access to the federal and state required educational services. The educational services and materials comparable to those available to public school students, including but not limited to textbooks, art materials, computers and other education-related technology, except where security concerns make it unsafe to use those materials at the facility.
- The PP explains confidentiality and the limits to confidentiality with regard to medical, mental health, and education documents and records.
- The PP allows youth access to routine and emergency medical/mental health care.

Grievances

- The PP states that youth will have access to and an explanation of the grievance process, including emergency grievances, that offers fair consideration and resolution of complaints about any aspect of the facility (verbal report and written format).
- The PP describes the grievance process (or refers to an agency policy that addresses this area) to include timely response to youth grievances, where responses to grievances are documented, and the appeal process.
- The PP allows for third party individual to submit a grievance on behalf of a youth.
- The PP allows youth the right to file a grievance on medical/mental health services.
- The PP requires posting grievance process throughout the common areas.

- The PP allows youth ability to submit grievance without staff assistance.

Telephone

- The PP allows youth cost-free regular access to telephone calls for all approved individuals (for example, approved by the Facility Director).
- The PP explains phone privileges (i.e. frequency of calls; call duration limits; when calls are made; long-distance calls are free, opportunities to schedule calls if needed, accommodations for youth with disabilities and family members with disabilities, etc.).
- The PP requires youth to communicate with attorneys as often as needed and affords youth privacy when youth is speaking with their attorney.
- The PP prohibits counting calls with attorneys as contributing towards the total number of weekly phone calls permitted.
- The PP requires youth to have privacy when calling victim advocacy organizations.

Mail

- The PP describes a youth's right to receive and send mail on regular basis (i.e. daily or as often as needed, etc.).
- The PP explains when and how privacy will be maintained and how mail to/from youth will be searched (routinely or as needed).
- The PP will afford confidentiality when youth is communicating with his/her attorney as well as local community victim advocates (as required by PREA standards).
- The PP explains the limits of privacy regarding mail – i.e. legal mail will not be searched; other mail may be searched if suspected contraband (agency may refer to a separate policy which provides more detailed guidance in this area).
- The PP (or another agency policy) explains youth be notified if mail is searched.
- The PP stated that if mail is withheld for any reason, staff inform the youth, log the date and time of notification and reason for the action.
- The PP identifies persons with whom youth may correspond, including incarcerated family members unless a specific security reason.
- The PP makes accommodations for youth with disabilities who cannot communicate via mail by making arrangements through other methods.
- The PP requires youth access to a writing instruments, supplies and postage for correspondence.

Visitors

- The PP requires facilities to ensure a broad definition of “family” members who may qualify as visitors as defined by the parent/guardian and youth.
- The PP upholds the youth has the right to visit with “family” members and requires facilities to accommodate schedules based on individual needs as feasible (i.e. allowing visits outside of formal visitation hours)
- The PP affords youth the right to have approved visitors and the right to refuse visitors.
- The PP affords youth access to video technology to facilitate family visits.

- The PP explains youth visits with approved visitors will not be taken away for disciplinary reasons (unless there are serious safety concerns).
- The PP allows youth to visit and speak with their attorneys and legal counsel as often requested.
- The PP requires youth be afforded a private area for youth to communicate with their attorney.
- The PP allows attorneys/legal counsel to bring in materials that assist them in representing their clients (for example, legal files, laptops, etc.)

Money

- The PP describes youth's right to earn money while in the program.
- The PP ensures that youth will not be assigned to dangerous or inappropriate work assignments.
- The PP describes the process for youth receiving money from family members and approved individuals (i.e. cannot be given directly to youth, must be placed in the trust account, etc.)
- The PP explains youth's right to make purchases from the canteen and describes the process for doing so.

Other

- The PP requires written consent from youth and parent/guardian if youth wishes to be interviewed by the media.
- The PP affords youth over the age of 18 the right to vote and requires the facility to ensure youth applies for an absentee ballot in time for the election.
- The PP upholds that the agency and facility will prohibit the release of personally identifiable information including but not limited to the youth's name, social security number, family's contact information (phone number, home address, etc).