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## Final Regulation Agency Background Document

<b>Agency name</b>	Board (Department) of Juvenile Justice
<b>Virginia Administrative Code (VAC) citation</b>	6 VAC 35-140
<b>Regulation title</b>	Standards for Juvenile Residential Facilities
<b>Action title</b>	Amend the regulation to provide standards for post-dispositional detention in accordance with the 2000 Appropriations Act, item 476.A.3. Also, to reinstate certain historical standards that conform closely to nationally accepted standards.
<b>Document preparation date</b>	

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.*

The regulation sets operating standards for residential facilities in Virginia's juvenile justice system, including group homes, detention homes and juvenile correctional centers.

Two broad categories of amendments are proposed. The first category includes new or expanded standards for post-dispositional detention programs, as required by Code of Virginia § 16.1-284.1.D: "Standards for these facilities shall require juveniles placed pursuant to this section for a period which exceeds thirty calendar days to be provided separate services for their rehabilitation, consistent with the intent of this section."

The second category includes new or expanded standards closely tracking those of national accrediting organizations. Generally, the proposed standards follow those of the American Correctional Association, but in a few places relating to health care, the proposed standards

follow the language of the National Commission on Correctional Health Care. Most of the proposed new standards will affect only juvenile correctional centers and halfway houses operated by the Department; with one or two exceptions, the proposed new standards will impose no additional burden on locally operated programs. It should be noted that many of the proposed "new" standards, or substantially similar requirements, were in effect and applicable to juvenile correctional centers prior to January 1998, when the regulation was simplified to give juvenile residential facilities greater operational flexibility. While the Department has generally continued to operate in accordance with many of those nationally recognized standards, their removal from Virginia regulations has meant that those historical standards have also been removed from the certification audit process, which is the primary means by which the Board exercises its statutory oversight responsibilities. As a consequence, the Department cannot always demonstrate that it continues to operate in accordance with the nationally recognized standards. By reinstating some of those historical standards into the regulation, the Board is affirming that it is the policy of the Commonwealth to operate its juvenile correctional facilities in accordance with nationally recognized standards in juvenile corrections, and is providing a routine means to document and demonstrate compliance with those national standards.

### 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.*

(To be completed upon final action by the Board of Juvenile Justice)

### 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.*

Code of Virginia § 66-10 (6) provides that the Board shall have the power and duty "[t]o 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."

Code of Virginia § 16.1-309.9(A) directs the State Board of Juvenile Justice to "develop, promulgate and approve standards for the development, implementation and evaluation of the range of community-based programs, services and facilities authorized by this article." In addition, Code of Virginia § 16.1-248.1 (D) provides that "A juvenile may only be ordered confined pursuant to this section to a facility in compliance with standards established by the State Board for such placements. Standards for these facilities shall have regard for reasonable utilization of these facilities and the requirements of § 16.1-309.4, consistent with the intent of this section."

## 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 regulation establishes operational standards for residential facilities housing juveniles in Virginia's juvenile justice system. The public safety is enhanced by providing residential placements for juveniles whose delinquent behavior makes them a threat to persons or property. In addition, the regulation sets standards to ensure that such juveniles are provided a safe and humane environment; are appropriately and adequately supervised; and receive meaningful programs and services.

## 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.*

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6 VCAC 35-140-10 includes several amended definitions to bring this regulation into closer compliance with nationally recognized standards.

6 VAC 35-140-20 contains new paragraph B, which commits the Board and the Department to consider standards of the American Correctional Association in developing Virginia's regulation.

6 VAC 35-140-22. is NEW, providing that accreditation by the American Correctional Association is deemed compliance with this regulation.

6 VAC 35-140-23 is NEW. It authorizes outcome-based and performance-based standards.

6 VAC 35-140-24 in NEW. It states that this regulation establishes policy of the Commonwealth.

6VAC35-140-30 is AMENDED to indicate that each section of the regulation indicates the class of residential facility to which it applies.

6 VAC 35-140-45 is NEW. It requires that all juvenile residential facilities comply with all applicable laws and regulations.

6 VAC 35-140-50, 60, 65 and 70 contain minor editorial changes.

6VAC35-140-75 is substantially AMENDED, dealing with the inspection of ward mail for contraband and the censoring of ward mail for security reasons.

6VAC35-140-80 contains minor editorial changes.

6VAC35-140-90 is amended to include a provision that visiting facilities permit informal communication between residents and visitors, including opportunity for physical contact.

6VAC35-140-110 and 120 contain minor changes.

6VAC35-140-130 is AMENDED, removing the requirement that any felony committed by residents or staff OFF PREMISES be reported to the facility administrator and law enforcement.

6VAC35-140-140 and 150 contain only minor changes.

6VAC35-140-170, 180 and 190 contain only minor changes.

6VAC35-140-192, Provision of health care, is new. The language follows that of the National Commission on Correctional Health Care.

6VAC35-140-200 and 210 contain only minor changes.

6VAC35-140-220 is AMENDED. The term “health record” replaces “medical record.”

6VAC35-140-230 is AMENDED to include any off-site medical treatment, and to remove the reference to being transported in a “timely manner.” New paragraph B is added in response to public comment, adding a requirement to notify parent or guardian when a juvenile is hospitalized.

6VAC35-140-250, Suicide prevention, is AMENDED to refer to a “qualified medical or mental health professional.”

6VAC35-140-260 is AMENDED to specify what elements are required to be part of the employee background investigation, and to add a requirement regarding the supervision of non-staff working in the facility, and to clarify conditions under which new hires may work pending receipt of the FBI fingerprint check.

6VAC35-140-270 is AMENDED. New language provides the legal basis for conducting annual physical exams of employees.

6 VAC 35-140-275 is new, requiring a written Code of Ethics for employees.

6VAC35-140-280 is AMENDED, requiring that staff be trained on the rules of juvenile conduct, the rationale for the rules, and the sanctions available.

6 VAC 35-140-290 contains only minor editorial changes for clarity.

6 VAC 35-140-295 is NEW, requiring written policy regarding campaigning, lobbying and political activities by employees.

6 VAC 35-140-300 contains only minor editorial changes for clarity.

6VAC35-140-310 is AMENDED to require at least quarterly tests of emergency and communications systems.

6 VAC 35-140-320, 330 and 340 contain only minor editorial changes for clarity.

6 VAC 35-140-350 is AMENDED to add hygiene and nutrition to the curriculum of independent living programs.

6VAC35-140-385 is NEW, requiring each halfway house to have, and to operate in accordance with, a written statement of its mission and role.

6VAC35-140-386 is NEW, requiring a triennial review of the collective service needs of the halfway house population.

6 VAC 35-140-387 is NEW, requiring that each halfway house implement a program to reinforce positive behavior of residents.

6VAC35-140-388 is NEW, requiring that halfway houses demonstrate compliance with Department procedures requiring communications and reports.

6VAC35-140-389 is NEW, requiring each halfway house to demonstrate compliance with department procedures and state policies governing financial practices .

6 VAC 35-140-400 corrects the name of the American Pediatric Society.

6 VAC 35-140-430 is amended to clarify that a “screening” tool is intended in part 1, while an “assessment” continues to be required in part 2.

6 VAC 35-140-440 contains minor editorial change in paragraph A for clarity. Paragraph B is added in response to public comment and provides for guidance for transitioning wards from more restrictive conditions to less restrictive conditions in preparation for release.

6VAC35-140-450 is amended to provide that a full medical examination is not required if there is documented evidence of a complete health appraisal within the previous 90 days.

6 VAC 35-140-460 and 470 contain minor editorial changes for clarity.

6VAC35-140-480 is AMENDED to allow reasonable flexibility in disposing of residents' disallowed or abandoned personal possessions.

6 VAC 35-140-490 contains minor editorial change for clarity.

6VAC35-140-500 is amended, requiring each detention home and juvenile correctional center to have and follow written policy and procedure governing youth access to publications.

6VAC35-140-510 is deleted from its current location and moved to new section 707, where it becomes part of a series of standards relating to postdispositional detention.

6VAC35-140-530 is amended to require both indoor and outdoor recreation areas, to require that large muscle activity be available daily, to allow flexibility in scheduling outdoor activities, and to require that a variety of fixed and movable equipment be available.

6VAC35-140-540 is AMENDED as to staff supervision of residents of the opposite sex; staff control of the movement of juveniles; supervised transportation of juveniles; supervision of outside personnel working in the facility. Juveniles may not supervise or control other youths except when practicing leadership skills as part of an approved program under staff supervision.

6 VAC 35-140-545 is NEW to this regulation, but merely adopts the standard currently in effect in the STANDARDS FOR THE INTERDEPARTMENTAL REGULATION OF CHILDREN'S RESIDENTIAL FACILITIES, which applies to all juvenile residential facilities in Virginia.

6VAC35-140-550 is substantially amended to clarify provisions that were found to be confusing in practice. Additional guidance, drawn from ACA standards, is added.

6VAC35-140-560 is amended: references to "regional manager" and "chief of operations" are replaced with more appropriate procedural instructions. Following ACA standards, the living conditions of juveniles in isolation or room confinement must approximate those of the general population. The proposed change to require 15 minute checks when a resident is placed in room confinement or isolation is rescinded based on public comments, and the current standard requiring checks every 30 minutes is retained.

6VAC35-140-570 is amended. Based on public comments, the regulation now prohibits questioning by certain authorities when the juvenile does not consent, and requires procedures whereby facility can establish the juvenile's consent or non-consent.

6 VAC 35-140-580, 590, 600 and 610 contain minor editorial change for clarity.

6 VAC 35-140-615 is NEW, requiring an alternate power source for secure facilities.

6 VAC 35-140-620 contains minor editorial change for clarity.

6VAC35-140-630 is AMENDED, giving more specific guidance as to what is required to control the facility perimeter.

6VAC35-140-660, Chemical agents, is AMENDED to remove any reference to tear gas or mace.

6VAC35-140-670 is AMENDED to clarify who was intended by the term “regulatory authority.” “Mobile restraint chair” is listed as a possible restraint. The use of restraints must be documented.

6 VAC 35-140-680 contains minor editorial change for clarity.

6VAC35-140-685 is new, governing the use of restraints for medical and mental health purposes.

6 VAC 35-140-690 contains minor editorial change for clarity.

6VAC35-140-700 is AMENDED, requiring consultation with a mental health professional, not necessarily a mental health “authority.”

6VAC 325-140-701 through 709 are NEW and apply to post-dispositional detention programs.

NEW 6VAC 325-140-701 requires specific approval by the Board of a post-dispositional detention program.

NEW 6VAC 35-140-702 requires each post-dispositional program to request a written agreement with the court services unit, defining working relationships and responsibilities.

NEW 6 VAC 35-140-703 requires each post-dispositional detention program to have a written program description.

NEW 6 VAC 35-140-704 permits and sets standards for paid employment of post-dispositional residents.

NEW 6 VAC 35-140-705 requires the post-dispositional program staff to check with the appropriate licensing authority to verify that professionals providing services are appropriately licensed.

NEW 6 VAC 35-140-706 authorizes the facility administration to limit contact with juveniles by persons who may have a physical, mental or emotional condition that might jeopardize the safety of juveniles.

NEW 6VAC35-140-707 requires written policies, procedure and practice ensuring that the facility is available for pre-dispositional detention as well as the post-dispositional program; specifies the information to be obtained from the court service unit; requires a written plan with the CSU to access treatment programs or for work release; requires programs not generally available to pre-dispositionally detained youth; and addresses the statutorily required assessment as to whether a juvenile is an appropriate candidate for post-dispositional placement.

NEW 6 VAC 325-140-708 authorizes facility policy and procedure that either permits or prohibits self-medication by post-dispositional residents.

NEW 6 VAC 35-140-709 identifies specific standards that appear in the Standards for the Interdepartmental Regulation of Children’s Residential Facilities that apply to post-dispositional detention programs.

The remaining standards deal exclusively with juvenile correctional centers.

6 VAC 35-140-711 is NEW. It details training requirements for staff of juvenile correctional centers and requires library and reference services to supplement the training program.

6 VAC 35-140-712 is NEW. It requires that all employees of juvenile correctional centers receive an annual performance review.

6VAC35-140-713 is NEW. It requires each juvenile correctional center to have a written document describing its organization.

6VAC35-140-714 is NEW. It mandates that every juvenile correctional center have a community-facility advisory committee.

6VAC35-140-715 is NEW. It establishes minimum requirements for administrators to visit various areas of the facility, meet with staff, and send reports to the Department’s central administration.

6VAC35-140-730 is AMENDED. Reference to “personal control unit” is removed. Availability of single occupancy rooms is required for certain wards.

6VAC35-140-740 is amended to require annual review of post orders, and to require that employees who are permanently assigned to a post read and sign the post orders.

6VAC35-140-750 contains minor editorial change for clarity.

6VAC35-140-760 is amended to remove unnecessary approval requirements.

6VAC35-140-770 contains minor editorial change for clarity.

Proposed 6 VAC 35-140-805 is withdrawn, based on public comments.

## 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.*

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The regulation governs the operation of juvenile residential facilities. The primary advantage to the general public in adopting these revised standards is to protect the public safety by providing secure facilities in which to confine juveniles who may be a threat to others or to property.

There are no known significant advantages or disadvantages to businesses of implementing the amended provisions.

There may be significant advantages to individual citizens, particularly to the juveniles who are placed in such residential facilities and their families, inasmuch as the regulation sets standards that provide for residents’ safety, health care, educational and vocational programming, psychological and other treatment programs, etc.

The primary advantage to the Department and to local and regional operators of juvenile residential facilities in adopting the proposed amendments is that the facilities will be better able to demonstrate, through the board’s certification process, compliance with nationally recognized standards for the operation of juvenile correctional facilities. Demonstrated compliance with national standards can be a significant advantage in litigation over agency policies, procedure and practice, and should reduce the facilities’ liability exposure.

**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.*

<b>Section number</b>	<b>Requirement at proposed stage</b>	<b>What has changed</b>	<b>Rationale for change</b>
10	Definition of “health trained staff person” and “legal correspondence”	Minor clarifications do not change the substance of the definitions	Changes are made for clarity
23	Authorizes performance-based and outcome-based standards	Possible forms and models for the substitute standards are offered as examples.	To guide facilities that might be interested in developing substitute standards
60	Notification of family of certain information upon a child’s admission	Adds requirement to inform parents how to request information and register concerns and complaints with the facility];	Added in response to public comment.
75	Paragraph B required notification of ward when mail is withheld.	Permits notification “in accordance with written procedures,” to permit delay in notification in certain cases, such as on-going investigations.	Added in response to comment offered by correctional center personnel
75	Paragraph D amended provisions governing the reading of privileged mail	Substantially returns to the language of the current regulation. Adds protective clarification that the Director or his designee must make	Comments from correctional center personnel indicated the proposed changes were

		determination that facility security is threatened.	more confusing than helpful.
90	Paragraph A required that residents be permitted to have visitors	Adds to the elements to be considered in developing visitation procedures “importance of helping the resident maintain strong family and community ties”	In response to public comment.
90	Paragraph C required that informal communication and contact visits be permitted	Adds provision that physical contact visits should be governed by written procedures	In response to comments by juvenile correctional center personnel that physical contact may need to be limited at times for security reasons
230	Paragraph A required that juveniles, when hospitalized, should be accompanied by staff, parents, etc.	Adds paragraph B, requiring that, when parents do not accompany the juvenile to hospital, they are informed of the juvenile’s hospitalization.	In response to comment from a parent of a juvenile.
260	Deleted volunteers and interns from the <u>list</u> of persons who work with children who must receive a background check, but did not remove them from the requirement itself.	Adds the word “person” to indicate more clearly that ALL individuals who work directly with children (including volunteers and interns) must receive a background check.	In response to comments from juvenile correctional center personnel that the proposed change was unclear.
280	Paragraph D required 40 hours of training annually, in addition to orientation training	Allows the 40 hours of annual training to include the first year’s orientation training.	In response to comments from juvenile correctional center personnel that the current practice of counting orientation training in the annual total is adequate and appropriate.
280	Paragraph D referred to Standards for the Interdepartmental Regulation of Residential Facilities	The reference is corrected to Standards for the Interdepartmental Regulation of Children’s Residential Facilities	In response to comment from the coordinator of the office for Interdepartmental Standards
430	Required application of an approved <u>assessment</u> tool	Requires application of an approved <u>screening</u> tool	The appropriate tool to be applied per paragraph A is a screening tool; based on the screening, the child is referred for an assessment per paragraph B.
440	Required a classification plan.	Paragraph B is added, providing for a gradual reduction in supervision and a corresponding increase in juvenile responsibility as a juvenile transitions to less secure facilities in preparation for release.	In response to comment offered by the parent of a ward. The suggestion is consistent with nationally recognized standards.
500	Required reading materials appropriate to residents’ age, etc.	Specifically includes newly arrived residents of the facility.	In response to comment offered by the parent of a ward that, since it may take some time to

			integrate newly arrived residents into the rhythm of the facility, ensuring that they have access to appropriate reading materials will help them use their time productively upon arrival.
530	Required at least one hour of planned outdoor recreation at least three times per week	Removes three time a week requirement, requires outdoor recreation whenever practicable,	In response to comments from secure facility staff that various conditions may legitimately limit the opportunity for outdoor activities.
550	Paragraph A provided for room restriction as a sanction for minor juvenile misbehavior in both detention homes and juvenile correctional centers.	Removes juvenile correctional centers from requirement to have procedures governing room restriction for minor juvenile misbehavior.	Based on comments by juvenile correctional center staff, room restriction as "time out" is not used in JCCs for minor juvenile misbehavior. Room confinement is used as a sanction for "moderate" and "major" offenses in accordance with due process.
560	Required room checks every 15 minutes.	Restores current requirement of room checks every 30 minutes; restores requirement for more frequent checks when resident is on suicide watch.	Per comments from juvenile detention center superintendents, room checks are done every 30 minutes and more often when needed, but to <u>require</u> checks every 15 minutes would be onerous.
560	Paragraph C requires that residents confined to a room be permitted at least one hour of physical exercise daily.	Retains requirement, but specifies "every 24 hours."	Juvenile correctional center personnel indicated that the "daily" requirement was sometimes interpreted to mean "each calendar day," even when the ward may have been placed in confinement after normal activity hours. This interpretation might result in a finding of non-compliance with the standard, even though there is no practical way to provide opportunity for exercise during normal sleeping hours.
560	Required an administrator of the facility to personally	Restores current language requiring "the director or designee" to visit	Juvenile correctional center personnel

	visit juveniles confined to their rooms.	juveniles confined to their rooms.	indicated that the current language is clearer.
560	Paragraph G required that juveniles placed in administrative confinement or isolation be afforded living conditions approximating those of the general population of the facility.	<p>“Confinement or isolation” is changed to “segregation.” <u>Basic</u> living conditions must approximate those of the general population.</p> <p>Approved procedures will govern how privileges will be made available to wards in segregation.</p>	Juveniles in isolation are, in fact, deprived of certain privileges as a sanction imposed as a result of a due process hearing. Wards in administrative segregation, however, are not being disciplined, and should not be deprived of privileges available to the general ward population.
570	Required that permission be obtained from parent, guardian, etc., before a resident could be questioned by certain authorities.	Prohibits questioning when the resident does not consent to it; requires procedures by which staff may establish the resident’s consent.	In response to comments offered by Commonwealth’s Attorneys
711	Paragraphs A, B, C and D required various numbers of training annually, in addition to the first year’s orientation training	Includes orientation training in calculating the first year’s training hours.	Based on comments from juvenile correctional center personnel, current training requirements, which include orientation training in the first year’s total number of training hours, meets or exceeds these requirements.
711	Paragraph E requires a library of training materials	Specifies that the library may be located at the Department’s central training facility.	All Department staff have access to the central training facility. Juvenile correctional center personnel wanted to avoid the suggestion that a separate library was required at each juvenile correctional center.
713	Requires updating of organizational documents “as needed”.	Clarifies that the facility administrator, or designee, will determine when an update is needed.	Without the clarification, juvenile correctional center personnel suggested that the standard was open to interpretation as to when an update is needed, and exposed facilities to potential citation for non-compliance based on an auditor’s opinion as to whether an update is needed.
760	Required approval of institutional operating procedures by Deputy Director for Institutions	Requires only that institutional operating procedures be in accordance with standard operating procedures.	As a practical matter, the Deputy for Institutions does not and cannot review and approve operating procedures for

805	Required compliance with administrative guidance issued by the Department's administration	Deleted.	all Department facilities. Ensuring compliance by all departmental units with administrative directives and policies is a responsibility of the Department's administration, not a regulatory function of the Board.
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**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
Parent of a JCC ward (name withheld to protect confidentiality of the child)	<p>Section 10.</p> <ul style="list-style-type: none"> <li>Add more definitions on who is a "resident." There are references to juveniles, children and a person who is legally placed in the facility in various parts of the reg.</li> </ul>	Amend the definition. The residential facilities of Virginia's juvenile justice system house minors as well as persons aged 18-21; some are wards of the state, while others are not. The definition should clearly encompass all residents of such facilities, encompassing such terms as "cadet," "child," "detainee," "inmate" and "ward"
Parent of a JCC ward (name withheld to protect confidentiality of the child)	<p>Section 10.</p> <ul style="list-style-type: none"> <li>*Clarify juveniles vs. adults still serving juvenile sentences in this definition section and throughout the document. Many residents are 18 or over, so it seems such a distinction would be helpful.</li> </ul>	This regulation is applied in conjunction with Standards for Interdepartmental Regulation of Children's Residential Facilities (22 VAC 42-10) According to 22 VAC 42-10-170, the same standards apply to juvenile and adult residents. The Board may issue separate regulations for all-adult facilities if there is a need to make different provisions for adult vs. juvenile residents.
Parent of a JCC ward (name withheld to protect confidentiality of the child)	<p>Section 10.</p> <ul style="list-style-type: none"> <li>Add a definition for a "juvenile transitional facility." In the definition confirm that a transitional facility must enjoy a more open environment, one without security fencing, concertina wire, etc. For wards to see the environment they will re-enter directly is positive reinforcement. Because there is such high compliance among the wards for staying at a transitional facility, a more open campus appears to help with self-discipline. Also, less visible security provides a more positive work environment for all the staff and that is good for everyone.</li> <li>Clarify definitions of "juvenile correctional center" and a "secure</li> </ul>	<p><b>The comments are similar to ACA standard 3-JTS-51-17, which states: "Written policy, procedure, and practice provide for placement in community residential centers, foster homes, and group homes for juveniles needing transitional assistance."</b></p> <p><b>The comment also echoes ACA standard 3-JTS-51-03: "Written policy, procedure, and practice include graduated release through a systematic decrease in supervision and corresponding increase in juvenile responsibility as part of the classification program." Prior to 1998 juvenile correctional centers were subject to a standard that was a verbatim restatement of this ACA standard. In view of the comment submitted, and considering that re-integration of offenders is a top priority of Governor Warner, there appears little reason NOT to reinstate this standard in the regulation. The proposed standard is offered as new paragraph B in section 440.</b></p>

	facility” particularly where it requires construction fixtures per above comment.	
Parent of a JCC ward (name withheld to protect confidentiality of the child)	Section 60 or 70 <ul style="list-style-type: none"> <li>Add a grievance system access point and an official comment or suggestion contact for parents and guardians. Parents also fear making comments due to potential reprisals against their child.</li> </ul>	The suggestion is sound. A change will be made to section 60, requiring the facility to provide information as to how parents and guardians may request information and register concerns or complaints.
Staff of DJJ Division of Institutions	Section 75. Par. B. The requirement that a ward be notified when mail is withheld is in conflict with current procedure and practice, which allows delay of notification when there is an investigation on-going.	The standard will be amended to require notice to the juvenile “in accordance with approved procedures.” This will allow the current practice, which is rational and fair, to continue; it will permit some flexibility in dealing with other situations, too, without compromising the ideal of the standard.
Staff of DJJ Division of Institutions	Section 75 Par. D. Current procedure and practice allow Deputy Director for Institutions to authorize reading of ward mail for security reasons. This should be retained.	The regulation will revert to substantially the current language, with some modifications.
Staff of DJJ Division of Institutions	Section 75 Par. K Requirement to provide mail policy to wards conflicts with security SOP on mail	Elements of mail policy not related to security can be made available to wards, thus fulfilling requirements of this standard without endangering facility security. The standard will be retained.
Parent of a JCC ward (name withheld to protect confidentiality of the child)	140-90 Visitation <ul style="list-style-type: none"> <li>Add specific language to permit an occasional “Special Visitation” by parents on a non-scheduled day if the resident’s case manager approves the request and a workday time can be arranged. A “special visit” may be appropriate if the resident was just denied release, or, for a death in the family. Absent such a specific rule, a request similar to these examples will not be approved.</li> </ul> <p>Add provisions for occasional visits from a few close relatives who are not on the usual visitation list. Residents can lose touch with family members precisely when it may be very important to cultivate positive relationships in anticipation of re-entry and transition. Understandably, there may need to be some certifications or voluntary reviews of the aunt or uncle so that relatives are screened.</p>	<p>Division of Institutions SOP 300 provides for special visits.</p> <ol style="list-style-type: none"> <li>If approved visitors are unable to visit during regular visiting Sunday hours, special visiting times may be arranged by contacting the ward’s juvenile correctional center counselor.</li> <li>Clergy, legal counsel or his/her designated staff, and other non-family visitors wishing to see a ward shall make arrangements with the ward’s counselor. Special visits must be scheduled between 9 AM - 5 PM Monday - Friday. Visits during non-business hours must be approved by the Superintendent. A private space shall be provided for these visits.</li> </ol> <p>SOP 300 also provides as follows:</p> <ol style="list-style-type: none"> <li>A ward’s parent(s), guardians, step-parents, maternal and paternal grandparents, spouse, children, siblings and step-siblings, and any adult (age eighteen and over) family members who have been approved by the administration of the juvenile correctional facility.</li> <li>Special visits may be granted if recommended by the ward’s Counselor and the local supervising agency and approved by the Superintendent or his/her designee.</li> </ol>

		Inasmuch as the suggestions regarding special visits are addressed in standard operating procedures, the regulation will not be amended to include these provisions. However, Section 90 A will be amended to indicate that the importance of maintaining close family and community ties should be one of the considerations in drafting visiting policies and procedures.
Staff of DJJ Division of Institutions	90 Visitation The standard is not clear as to what kind of physical contact is required or permitted	The standard will be amended to require written procedures; this will allow the Department to provide for a range of physical contact opportunities, as appropriate to the security setting.
Staff of DJJ Division of Institutions	Article 2 Health care Section 200 This standard does not address the time frame for training re: HIV and universal precautions; this may conflict with interdepartmental standards which DO establish timeframes.	Section 200 is not the source of the suggested conflict between interdepartmental standards and agency practice. The preferred solution is to retain this standard, and to pursue resolution regarding the interdepartmental standard, perhaps through a variance request to the Board.
Parent of a JCC ward (name withheld to protect confidentiality of the child)	Article 2 Health care Section 210 <ul style="list-style-type: none"> <li>Add a provision for parents or guardians to elect to be informed if their child refuses medication.</li> </ul>	Agency Response: Since a juvenile may refuse medication rarely, occasionally, sporadically or frequently, it is impractical to require notification of the parent each time the juvenile technically refuses medication. Another regulation, 22 VAC 42-10-630, requires that an individualized service plan be developed for each resident, and reviewed and updated at least quarterly, in consultation with the resident's parents. A resident's refusal of medication SHOULD be communicated to parents whenever this refusal becomes part of an on-going pattern of behavior, but MUST be addressed, at a minimum, in the context of 22 VAC 42-10-630. Thus, there is no need to add a provision to this regulation.
Parent of a JCC ward (name withheld to protect confidentiality of the child)	Section 230 <ul style="list-style-type: none"> <li>Add a provision, as above, to inform parents and guardians when a resident is taken to an outside doctor.</li> </ul>	Agency response: although interdepartmental standards (a separate regulation) requires notification of parents in certain emergency situations, there is no specific provision in Virginia regulations addressing this concern. The agency proposes to adopt the recommendation and add a standard to this effect. <p>This is consistent with ACA standard <b>3-JTS-4C-47: "Written policy, procedure, and practice provide for the prompt notification of juveniles' parents/guardians and the responsible agency in case of serious illness, surgery, injury, or death."</b></p> <p>Comment:  Whenever a juvenile becomes seriously ill or injured, requires surgery, or dies, the juvenile's parents/guardians and responsible agency are promptly notified by telephone, telegram, or other rapid means of communication. In the event of death, the head of the agency should also be notified. If death occurred under unusual circumstances, the coroner and appropriate law enforcement officials should be notified.</p>
Staff of DJJ	Section 260	They are not intended to be removed. For the sake

Division of Institutions	Do not remove volunteers and interns from the background requirements.	of clarity, the regulation will specify that “all persons” who work one-on-one with residents must have a background investigation; this will include volunteers and interns, as well as others, potentially.
Charlene Vincent Coordinator, Office of Interdepartmental Regulation	Training – 280.D.1 – Standards for the Interdepartmental Regulation of Residential Facilities for Children needs to be changed to Standards for Interdepartmental Regulation of Children’s Residential Facilities.	A technical change. The regulation will reflect this correction.
Staff of DJJ Division of Institutions	Section 280 The requirement for first year training should include, and not be in addition to, orientation.	DJJ training in basic skills includes both orientation and additional training, and exceeds ACA standards. The standard will be amended to allow the first year’s 120 hours of training to include orientation, as this will not reduce actual training being provided to DJJ employees.
Parent of a JCC ward (name withheld to protect confidentiality of the child)	Article 4 Safety & Physical Environment Add a provision that there are no partitions or closets at the RDC residences. This is a critically important safety and physical environment issue. My son was assaulted three times in his RDC unit – twice in what he referred to as a shoe closet and once in the laundry. When I asked how could that have happened, he said the guards couldn’t see those areas easily, which apparently was known to some predatory residents at RDC.	POSSIBLE AGENCY RESPONSE:: There will always be some areas in any facility that are partitioned off in an attempt to balance security and privacy concerns. While physical plant deficiencies should be corrected whenever they are found, partitions, walls and dividers should not be prohibited by regulation.
Charlene Vincent Coordinator, Office of Interdepartmental Regulation 7 North 8th Street Richmond, VA 23219	Section 350 FYI in the proposed Interdepartmental standards we have a section on independent living. (details provided in the comment) Unfortunately, these standards will probably go to public comment when your public comment period is ending. Didn’t know if we should try to be consistent in our list of areas to cover.	Ideally, the regulations should be consistent. Since the interdepartmental standards will not be final before the adoption of this chapter, this chapter will remain as proposed, and the applicable sections will be compared during the next mandated regulatory review.
Pat Carrington on behalf of Virginia Council on Juvenile Detention	Section 430 the correct term should not be “assessment tool” but rather “screening toll”.	Agreed. Amend the regulation accordingly.
Parent of a JCC ward (name withheld to protect confidentiality of the child)	Section 530 Recreation Encourage facilities to provide an opportunity for residents to jog at least three times per week. For example, if basketball is the large muscle exercise, allow residents who wish to jog around the perimeter. Or, just take “joggers” to the gym once in a while.	This is a very practical suggestion which could be implemented through individual facility procedures and practices, since the standard requires the facility to have a recreation plan.
Division of Institutions staff	Section 530 Recreation The requirement of outdoor recreation 3 times per week may not be practical due to seasonal factors including weather and time changes. Recommend allowing facility to offer a combination of indoor and outdoor recreation as suited to its mission,	The regulation will be changed to require outdoor regulation “when practicable,” in accordance with the facility’s recreation plan.



	security concerns and other factors.	
Pat Carrington	Section 545  Paragraph B, requiring 1 staff member per 16 residents on the premises, and paragraph D, requiring 1 staff member for every 30 residents on a floor, appear to be contradictory.	The paragraphs are not contradictory, but require different staffing ratios in different circumstances. Paragraph considers all the residents on the premises and establishes a minimum ratio of 1 staff per 16 residents. If all the residents are in one building and on one floor of that building, then only one staff person is required by the standard. But paragraph D becomes operative if the residents are in different buildings, or on different floors of a building. In this case, while the overall ratio of 1:16 must still be met, there must at least one staff person on each floor of each building where there are residents (1 staff person for every 30 residents or portion thereof)
Division of Institutions staff	Section 550. JCC operating procedures specify major and moderate offenses, NOT minor offenses. The proposed standard dealing with room restriction does not comport with current practice in JCCs.	JCCs will be removed from paragraph A, as its provisions do not apply to them.
Pat Carrington, at Board meeting; Alan Hulette, at Board meeting; Joe Campbell, at Board meeting; Tim Smith, at Board meeting, Dalee Thomas, via e-mail; Steve Hall, via telephone; Charlie Edwards, via e-mail; Jim Rosenbaum, via e-mail. Curtis Harstad via e-mail; Marilyn Miller, detention specialist, via e-mail.; Robert hurt, via e-mail Joanne Smith, President, VA Council on Juvenile Detention, via letter	6VAC35-140-560. Room confinement and isolation. Change from 30-minute checks to 15 minute checks will be a huge burden on detention homes, particularly when an intake is being conducted or when a female staff is supervising the residents. Retain the historical standard of 30-minute checks, to be supplemented when necessary due to the resident's behavior or condition. The ACA standard applies only when a resident is confined to a room for reasons of behavior management, and we already accommodate that. If the 15-minute standard is adopted, it will require additional expenditure, and will be another unfunded mandate on localities. It seems to me that the fundamental question is "What is the real purpose of bedchecks?" Are they to actually prevent injury or damage (brain death can occur in minutes)? Do they act as a deterrent? Do they really cover our ass in a liability issue? What can happen in thirty minutes that can not happen in fifteen? Once a purpose is agreed upon then we can establish an effective and workable solution. The Va Council on Juvenile Detention does not support the proposed change of standard 6 VAC 35-140-560. We are requesting it remains as currently written. Implementation of 15 minute checks for every resident in personnel intensive and will affect supervision and programming. It is viewed as another unfunded mandate.	Accept the comments; retain the historical requirement of 30-minute checks. Also reinstate the historical standard requiring checks every 15 minutes or more often as needed when a resident is on suicide watch.
Parent of a JCC	140-560 Room confinement Add a requirement that provides some	Section 500 requires that "reading materials that are appropriate to residents' ages and levels of

ward (name withheld to protect confidentiality of the child)	activity or reading materials for juveniles who are in transition from one facility to another and are confined for evaluation such as at RDC or otherwise not in the general population yet. Residents arrive even when school is not in session or DJJ staff is in training, etc. and the incoming juvenile does not yet have access to playing cards or reading materials. This could be an opportunity to create a good first impression of the facility for incoming juveniles in a perfect world, or at least offer some way to pass the time when incoming juveniles are anxious about the next step.	competency shall be available to all residents <u>of the secure facility</u> and shall be coordinated by a designated person.” In that section, paragraph A will be amended to specifically include newly arriving residents.
Division of Institutions Staff	560 Paragraph C. The requirement for one hour of exercise “daily” cannot always be met if a ward is placed in isolation during the evening hours.	The regulation will be amended to require that one hour of exercise be permitted at least once in each 24 hour period. This will retain the intent of the standard without requiring that exercise be scheduled at unreasonable times for the sole purpose of meeting this standard.
Division of Institutions Staff	560 paragraph F. Current procedure and practice allow the superintendent to designate a representative to make contact with a ward in isolation; this practice should be continued.	The regulation will be amended to reinstate the current requirements.
Division of Institutions Staff	560 Paragraph G. This paragraph does not recognize the difference between administrative segregation, which is non-punitive, and isolation, which is a penalty imposed for an institutional offense. The two situations should be treated differently.	The point is well taken. The standard will apply to wards in administrative segregation, not isolation.
--letter dated Sept. 7, 2004 from Prince William County's Department of Social Services, which operates the Prince William County Juvenile Detention Center, and the Prince William County Police Department, as well as the Commonwealth's Attorney of Prince William County	6VAC35-140-570. Questioning of residents We believe a better course would be to adopt amendments which specify that no licensed facility or employee of a licensed facility may play any role in allowing contacts with law enforcement to which a detainee does not consent. We think it a good idea to formulate provisions which will tell licensed facilities how to determine whether a child consents to any given contact (which could provide for opportunities, if the child wants them, for the child to confer with parents, guardians, attorneys, etc.), and how to document the child's decision.	Agency response: accept the suggestions.
Staff of the DJJ Division of Institutional Services	Section 711 Paragraphs A,B,C and D. Orientation training should be included in the first year's 120 hours.	Agreed. The Department's Basic Skills curriculum exceeds the ACA standards. The standard will be amended to reflect the suggested changes.
Staff of the DJJ	Section 711	Agreed. The standard will be amended to reflect the

Division of Institutional Services	Paragraph E It should be clear that a central library will satisfy the requirements of the standard, and that each facility need not maintain a separate library.	comment.
Staff of the DJJ Division of Institutional Services	Section 713 Clarify how it will determined that revision of the written document is needed.	The standard will be amended to indicate that the administrator or designee will determine when revision is needed.
Staff of the DJJ Division of Institutional Services	Section 760 It is unrealistic to require the Deputy for Institutional Services to sign off on all institutional operating procedures.	Agreed. The standard will require only that institutional operating procedures be in place that are consistent with standard operating procedures.
Staff of the DJJ Division of Institutional Services	Section 805 It is not clear how compliance with this standard would be assessed, and it would appear to be a management issue, rather than a matter of regulation.	Agreed. The Proposed standard will be deleted from the regulation.

**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.*

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
10		Terms used in the regulation are defined.	<p>Definitions are added for the following terms:</p> <ul style="list-style-type: none"> <li>• “Halfway House”</li> <li>• “Health Authority”</li> <li>• “Informed Consent”</li> <li>• “juvenile residential facility”</li> <li>• “legal correspondence and mail”</li> </ul> <p>Also, the following definitions are amended:</p> <ul style="list-style-type: none"> <li>• “Family oriented group home”</li> <li>• “Health trained staff person”</li> <li>• “Medical record” is changed to “health record” consistent with practice in the health field.</li> <li>• “Military style discipline” no longer includes references to particular examples but remains generic.</li> <li>• <b>RESIDENT is amended per comments.</b></li> <li>• “Segregation” now includes special housing units or individual cells.</li> </ul> <p>The following terms are DELETED because</p>

			they are no longer used in the regulation: <ul style="list-style-type: none"> <li>• “Minor infraction”</li> <li>• “Main control center”</li> <li>• “Personal control room”</li> </ul>
20		Paragraph B is added, stating that the regulation is developed in consideration of American Correctional Association standards.	The Board and the Department intend to adopt standards for Virginia’s juvenile justice system consistent with nationally recognized standards to the extent practicable under Virginia law.
	22	National Accreditation is Deemed Compliance with these Standards	Facilities accredited by the American Correctional Association are spared a redundant certification of compliance with Virginia standards; where there is no ACA standard parallel to Virginia regulation, the Board retains the right to monitor compliance with the Virginia regulations.
	23	Outcome-based and performance-based standards authorized.	Facilities are encouraged to develop outcome-based measures of performance. A similar provision has been in effect for non-residential programs for over three years.
	24	Affirms that the regulatory requirements establish the policy of the Commonwealth	Historically, the Board has issued separate policies re-stating the requirements set out in the board’s regulations. This section makes such redundant restatements unnecessary.
30		Rather than state which parts of the regulation apply to various facilities, this section now states that each individual section indicates what type of facilities that are governed by the section.	The intent is to make it clear to facility operators and to inspectors exactly what requirements apply to which facilities.
	45	All juvenile residential facilities shall comply with all applicable laws and regulations.	Officially notifies facilities that their compliance with laws and regulations outside of the instant regulation may affect their certification status.
50		Minor addition emphasizes that the nondiscrimination requirement applies to all residential facilities.	For maximum clarity.
60		Minor change to title; “health screening” replaces “medical screening”; the section is applicable to all facilities.	All changes are intended to make the regulation clearer.
65		Minor changes	Intended to make the regulation clearer.
70		Minor changes	Intended to make the regulation clearer.
75		A. Adds requirement for written procedures; clarifies that this paragraph applies only to NON-LEGAL mail.	This is consistent with ACA standards.
75		B. Adds requirement for written procedures. Other changes are intended to clarify the underlying	This is consistent with ACA standards.

		standard.	
75		C. Requires written procedures and the presence of a witness if legal mail is to be opened and inspected	This is consistent with ACA standards. Mail that APPEARS to be from protected classes of senders may be counterfeit.
75		D. Restates current provision that mail may be opened and read with a court order; but now requires a witness.	This protects the rights of the correspondents and ensures that the facility operates in accordance with proper procedures and the applicable court order.
75		I. Requires forwarding of letters and packages.	Consistent with ACA standards.
75		K. Policy and procedure governing mail must be available to staff and juveniles, reviewed annually and updated as needed.	Consistent with ACA standards.
80		Minor change	Clarifies that the provisions apply to all juvenile residential facilities.
90		A and B are amended to clarify that the standard applies to all juvenile residential facilities C requires that visiting facilities permit informal communication between residents and visitors, including opportunity for physical contact.	Secure facilities may provide some areas that prevent physical contact, but there must also be areas where physical contact may be permitted, when there is no threat to facility security.
110		Minor changes	Clarify that the provisions apply to all juvenile residential facilities.
120		Minor changes	Clarify that the provisions apply to all juvenile residential facilities.
130		Minor changes clarify that the requirements apply to all juvenile residential facilities; requirement to report crimes that occur away from the facility is deleted.	Facility administrators cannot be expected to know if a crime was committed away from the facility.
140		Minor change	Clarifies that the provisions apply to all juvenile residential facilities.
150		Minor change	Clarifies that the provisions apply to all juvenile residential facilities.
179		Minor change	Clarifies that the provisions apply to all juvenile residential facilities.
180		Minor change	Clarifies that the provisions apply to all juvenile residential facilities.
190		Minor change	Clarifies that the provisions apply to all juvenile residential facilities.
	192	Nursing personnel must give treatment pursuant to written or verbal orders	The language follows that of the National Commission on Correctional Health Care.

		signed by a person legally authorized to give such orders	
200		Minor change	Clarifies that the provisions apply to all juvenile residential facilities.
210		Minor change	Clarifies that the provisions apply to all juvenile residential facilities.
220		“Medical records” changed to “Health records”; availability of such records subject to federal laws and regulations	The terminology is more consistent with practice in the health professions; several federal laws and regulations (e.g., HIPAA) affect the availability of health records.
230		Includes medical care outside the facility other than hospitalization. Requirement for “timeliness” is deleted.	The same requirements should apply for outpatient services. “Timeliness” cannot be measured, so cannot be enforced.
250		Applies to all facilities. “Qualified medical professional” replaces local or state mental health authority	There was some confusion as to what constituted a local or state authority. Under the revised standard, a license as a health professional is sufficient authority.
260		New paragraph A specifies the content of the background check and what the information is used for. New paragraph B requires procedures for supervising non-staff persons who have contact with residents. Old paragraph A (renumbered as paragraph C) clarifies the conditions under which newly hired staff may work pending receipt of fingerprint checks.	Background checks are intended to protect juveniles from abusive individuals, and to protect facilities from liability. The revisions are intended to protect the integrity of the background checking process
270		Minor changes clarify that the requirements apply to all facilities; the new final sentence allows re-examination of persons hired after the effective date of this regulation	The intention is to ensure that staff have the level of medical health or physical ability required to perform assigned duties.
	275	Requires a code of ethics	Consistent with ACA standards.
280		Minor changes clarify that the section applies to all facilities; New paragraph C requires staff to know rules of conduct and sanctions;	It is essential that staff be trained in all areas that they are responsible for enforcing.
290		Minor change	Clarifies that the provisions apply to all juvenile residential facilities.
	295	Requires policy governing employee political activity,	Consistent with ACA standards.

		lobbying, etc.	
300		Minor change	Clarifies that the provisions apply to all juvenile residential facilities.
310		Minor change clarifies that the provisions apply to all juvenile residential facilities. New requirement for quarterly testing or more often if indicated by manufacturer.	Consistent with ACA standards. The intent is to ensure that all safety, communications and emergency systems are properly operating.
320		Minor change	Clarifies that the provisions apply to all juvenile residential facilities.
330		Minor change	Clarifies that the provisions apply to all juvenile residential facilities.
340		Minor change	Clarifies that the provisions apply to all juvenile residential facilities.
350		Hygiene and nutrition are added to curriculum of independent living programs.	Juveniles need a broad range of life skills to successfully live on their own.
	385	Halfway houses must describe their mission and role within the context of the total direct care system and offer programs and services consistent with the described mission and role.	Consistent with ACA standards
	386	Halfway houses to review the collective service needs of juveniles, evaluate the effectiveness of existing programs and services in meeting those needs; and implement special programs to meet the needs of youth with specific types of problems.	Consistent with ACA standards
	387	Halfway houses must have a system of rewarding positive behavior of individual youth.	Consistent with ACA standards.
	388	Halfway houses must follow Department procedures in reporting incidents and other required data and information	Consistent with ACA standards
	389	Halfway houses must comply with state and agency fiscal policies.	Consistent with ACA standards
400		Corrects the name of the American Pediatric Society	
440		Minor change	Clarifies that the provisions apply to all secure custody facilities.
450		A. Does not require a full physical of new admissions	A complete physical is not needed in these circumstances, provided the health record is

		if one was done within 90 days	appropriately updated.
		B. Clarifies that only detention homes may not accept financial responsibility for residents' pre-existing conditions	Juvenile correctional centers are not exempted from financial responsibility to treat pre-existing conditions. Whether or not such financial responsibility is assumed continues to depend on the facts of a particular case.
460		Minor change	Clarifies that the provisions apply to all secure custody facilities.
470		Minor change	Clarifies that the provisions apply to all secure custody facilities.
480		Distinguishes contraband from juvenile's personal property. Contraband may be disposed of. Allows "reasonable efforts" to return property to parents. Property unclaimed after 90 days may be disposed of.	Detention homes, despite their best efforts, are not always able to locate parents or arrange for return of property.
490		Minor change	Clarifies that the provisions apply to all secure custody facilities.
500		A. Minor change	Clarifies that the provisions apply to all secure custody facilities.
		B. Requires detention homes and juvenile correctional centers to have policy on access to publications	Consistent with ACA standards.
510		Deleted from its current location	Moved to a new section including various requirements for post-dispositional detention.
530		Minor changes clarify intent. New provisions allow outdoor exercise according to facility plan, three times a week unless documented reasons preclude.	Gives detention homes flexibility to meet requirement for outdoor recreation while taking into account safety and security factors.
540		Minor changes to A, B and C clarify that the requirements apply to all secure facilities.	
		New D: staff shall regulate movement of juveniles within the facility in accordance with written procedures.	Consistent with ACA standards.
		New E: requires policies governing transport of juveniles outside the facility.	Consistent with ACA standards.
		New F: service personnel not to work in presence of juveniles, except under staff supervision	Consistent with ACA standards.
		New G: juveniles not to supervise other juveniles except as part of a	Consistent with ACA standards but allows leadership training program under staff supervision



		supervised leadership program	
	545	Establishes minimum staffing pattern for secure facilities.	These staffing patterns are those that have been historically required by the Standards for the Interdepartmental Regulation of Children’s Residential Facilities. Because those standards are proposed to be amended, this regulation retains and codifies the historical staffing requirement.
550		A drops the current threshold of a 48-hour sanction, replaces it with the concept of “minor violation” and allows the use of room restriction in such cases.	Consistent with ACA standards, the change allows more flexibility for detention homes and now applies to juvenile correctional centers as well.
		B requires written procedure to be followed whenever a juvenile is charged with a major rule violation.	The revision simplifies the regulation by removing the 48-hour sanction threshold, and treating all secure facilities similarly.
		New C allows a resident to admit to a charge; specifies how to proceed if the resident does not admit to the charge.	In practice, juveniles have always been able to admit to charges, but the regulation has not always been clear about how to handle such cases.
		D authorizes and de-limits Pre-hearing detention	The changes clarify what was always the intent of the regulation.
		New E details steps to follow when a resident commits a rule violation that cannot be resolved informally.	The regulation has historically intended these specific steps, but occasionally a facility has interpreted the standard differently. The revisions clarify the requirements.
560		A, B, C and D are amended to clarify the intent of the regulation.	
		In D, “regional manager” is replaced by “designated staff person; a requirement is added to report “in accordance with Department procedures.”	The position of regional manager has been abolished. Department procedures have historically prescribed the manner of reporting; the regulation merely codifies the requirement.
		Old C is deleted	The position of Chief of Operations no longer exists; other requirements are continued in revised D,
		Revised F requires visits to confined juveniles by administrator or designee	Clarification of historical requirements.
		New G requires that living conditions in administrative confinement or isolation approximate those of the general population; exceptions must be documented.	Consistent with ACA standards;

570		Prohibits questioning of residents without permission of parents, guardian or attorney.	Historically, the section required only a policy addressing any permission required. Thus, conflicting policies were possible.
590		Minor change	Clarifies that the provisions apply to all secure custody facilities.
600		Minor change	Clarifies that the provisions apply to all secure custody facilities.
610		Minor change	Clarifies that the provisions apply to all secure custody facilities.
	615	Alternate power source required.	Consistent with ACA standards. This is good practice for secure custody facilities.
620		Minor change	Clarifies that the provisions apply to all secure custody facilities.
630		A contains minor change	Clarifies that the provisions apply to all secure custody facilities
		B requires entrance and exit from the facility at designated points	Consistent with ACA standards. This is good practice for secure custody facilities.
660		Removes any reference to tear gas or mace.	The Board has never authorized, and has not intention of authorizing, the use of tear gas or mace by facility staff. In emergency situations, law enforcement personnel may use these and other resources as necessary and in accordance with their own policies, procedures and training.
670		For "regulatory authority" substitutes "Department administrator" responsible for the facility.	There was some confusion as to who was intended by the former term. Department procedures will specify who is responsible for overseeing each facility.
670			
		Mobile restraint chair is authorized for use in secure facilities.	
		Notice, not advance approval, is required when restraints are used in emergency situations	Emergencies require immediate action and subsequent review, not advance approval.
		Written record is required of all distributions of restraint equipment	Consistent with ACA standards.
680		Minor change	Clarifies that the provisions apply to all secure custody facilities.
	685	Requires policies governing the use of restraints for mental health purposes	Consistent with ACA standards. This has been the practice in juvenile correctional centers but was not addressed in current regulations.
690		Minor changes are made	Clarify existing language.
700		Requires consultation with	Intended to end confusion as to who is a

		mental health professional when juveniles are restrained for extended periods.	mental health “authority.”
	701	Specifies approval required of post-dispositional detention programs	Based on statutory requirements and interdepartmental regulations issued by the Board and three other agencies.
	702	Requires written agreement between post-dispositional program and court service unit that places juveniles in the facility	Placement in post-D programs should be a coordinated effort between these two parts of the juvenile justice system.
	703	Requires written description of the post-D program and services	Ensures that programs will be developed intentionally, measure success, address the possibility of services being provided outside of the facility, and provide for termination of services either upon satisfactory completion or lack of cooperation by juveniles.
	704	Establishes minimum standards when paid employment is part of the post-D program	Work in an appropriate setting may be part of the facility’s overall post-dispositional programming. All work arrangements must be appropriately approved and must comply with applicable regulations.
	705	Licensed professionals must provide services that typically require a license.	To protect residents from unqualified service providers and to protect facilities from liability.
	706	Allows post-D program to suspend contact with juveniles by persons who may pose a threat to the well being of juveniles	To protect residents from unqualified service providers and to protect facilities from liability.
	707	Paragraph A requires post-D programs to be developed in consideration of overall space utilization in the facility.	This requirement implements Code of Virginia § 16.1-309.9(A), and supports the statewide plan outlined in COV § 16.1-309.4.
		Paragraph B requires that certain documents be sought from the court and the CSU, and that a written plan be developed to enroll the youth in locally available programs.	These requirements ensure that juveniles are appropriately placed in post-dispositional detention programs, and that specific services provided to the youth are appropriate to the youth’s needs and the community’s available resources.
		Paragraph C distinguishes post-D from pre-D programs and services	
		Paragraph D requires an assessment as to whether a juvenile is an appropriate candidate for placement in a post-dispositional program.	The standard implements statutory requirements.
		Paragraph E requires both CSU and detention home to agree on allowing a post-D	This requirement is to protect the public safety, and to protect the facility and the CSU from liability for inappropriate releases into

		juvenile to leave the facility to access services in the community	the community.
	708	Requires procedures governing self-medication by juveniles in post-D.	The standard permits flexibility, under the supervision of the health authority, in meeting the self-medication needs of juveniles—particularly those who may leave the facility to work or to access services.
	709	Lists specific sections of the Standards for the Interdepartmental Regulation of Children’s Residential Facilities that apply to post-dispositional detention programs.	The standard makes clear what is already required by other regulations.
	711	Paragraph A requires 120 hours of training in first year and 40 hours annually thereafter for all staff of juvenile correctional centers	Consistent with ACA standards. Does not impose new requirements on the Department.
		Paragraph B specifies that professional specialists must receive 120 hours of training in first year and 40 hours annually thereafter	Consistent with ACA standards.
		Paragraph C specifies that managers and administrators staff must get 40 hours of training in first year and 40 hours annually thereafter	Consistent with ACA standards
		Paragraph D requires that clerical staff receive 16 hours of training in first year and 16 hours annually thereafter	Consistent with ACA standards
		Paragraph E requires library resources to support the training program	Consistent with ACA standards
	712	Requires an annual performance review	Consistent with ACA standards, but requires compliance with state policies and procedures.
	713	Requires a written description of the juvenile correctional center’s organization.	Consistent with ACA standards
	714	Requires a community advisory Committee for the JCC	Consistent with ACA standards. This has been the practice of JCCs historically, and is once again codified in regulation.
	715	Paragraph A requires compliance with Department procedures governing various reports	Consistent with ACA standards. This has been the practice of JCCs historically, and is once again codified in regulation.
		Paragraph B requires superintendent to meet with	Consistent with ACA standards. This has been the practice of JCCs historically, and is

		department heads and other key staff	once again codified in regulation.
		Paragraph C requires administrators to visit youth living and activity areas	Consistent with ACA standards. This has been the practice of JCCs historically, and is once again codified in regulation.
730		Paragraph A is reworded for clarity.	
		Paragraph B removes reference to "personal control units"	Personal control units should be single occupancy only.
		Paragraph C requires that single occupancy rooms be available for wards with special needs	Consistent with ACA standards.
740		Adds requirement to review and update post orders; adds requirement for staff to read, sign and date shift assignment whenever they assume a new position	Consistent with ACA standards. Does not apply when staff temporarily help out by "filling in" when another staff member is absent.
750		Minor change	Specifies that the standard applies to juvenile correctional centers.
760		Institutional operating procedures are required only when it is necessary to supplement standard operating procedures	Clarifies that IOPs are not required if they simply restate SOPs. They are required only when the SOP needs to be elaborated on or qualified in some way to work in a particular facility.
770		Minor change	Specifies that the standard applies to juvenile correctional centers.
	805	Requires compliance with guidance from the Department's central administration	Subsumes several separate ACA standards that apply to fiscal, personnel, procurement and other administrative practices. Allows the Department to determine specific procedures.

Enter any other statement here

**Family impact**

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability.*

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The amendments regarding post-dispositional detention should (indirectly) strengthen the institution of the family. At the heart of the statutory provision for locally-operated post-dispositional detention programs is the notion that in some cases, juveniles who would otherwise be committed to state care can be better treated in or near their own communities, close to their families and other support systems.

There are few amendments throughout the regulation that will potentially strengthen the institution of the family. For example, new 6 VAC 35-140-791 makes specific provision for wards to leave the facility under supervision of trained facility staff for needed medical and dental care, to visit ill family members or to attend funerals. In addition, new 6 VAC 35-140-815 permits informal communication and opportunity for physical contact during family visits to the facility.

**Otherwise, the regulation will have little or not impact on the institution of the family.**