

POLICY

It is the policy of the Michigan Department of Human Services Bureau of Juvenile Justice (BJJ) to ensure that appropriate measures are taken to protect the due process rights of youth who are, or who may be, subject to isolation or confinement.

PURPOSE

This policy ensures youths are treated fairly under a consistent system of discipline that teaches and encourages appropriate behaviors, and discourages inappropriate behaviors.

DEFINITIONS

See JRG, JJ Residential Glossary.

**RESPONSIBLE
STAFF**

Designated in the facility standard operating procedure.

PROCEDURE

Each facility is required to develop and implement standard operating procedures (SOPs) describing the due process system. At a minimum, these SOPs contain the following requirements:

**Offense and
Disciplinary
Response Table**

Develop a table that includes all of the following:

- List of major and minor offenses.
- Offense codes (if applicable).
- Appropriate disciplinary responses for each offense.

Note: Restorative activities should be used when practical.

Suspected violation of a major offense requires a due process hearing before a disciplinary response is imposed.

If the facility elects to process minor offenses without a due process hearing:

- Designate who may impose youth discipline.
- Mandate use of the disciplinary response table.

**Due Process
Hearing for
Youth in
Behavior
Management
Isolation or
Confinement**

At a minimum, the due process hearing procedure includes all of the following:

- Proceeding occurs before any isolation or confinement exceeds twenty-four (24) hours in duration.
- Youth is released from isolation or confinement immediately when the youth regains self-control of his/her behavior.
- Internal quality assurance review of isolations and confinements to guard against using the twenty-four (24) hour limit to justify extending isolation or confinement beyond what is necessary and appropriate.
- Describe the expected actions of the due process officer to ensure all of the following:
 - The youth understands the reason(s) for the isolation or confinement.
 - The youth understands the actions that the youth needs to take to be released from isolation or confinement.
 - The youth has an opportunity to discuss the incident with a person not involved in the incident.
 - The need for continued behavior management room placement is documented or the youth is released.
- Access to the youth grievance process.
- The facility director must approve any isolation or confinement over twenty-four (24) hours in duration.
- The director of the BJJ residential facilities division or designee must approve an isolation or confinement that may exceed seventy-two (72) hours in duration.

**Due Process
Hearing for
alleged Major
Offense**

- Recordkeeping and documentation requirements for due process hearings including records for isolation/confinement.

The due process hearing procedure minimally requires all of the following:

- A due process hearing for any alleged major offense within twenty-four (24) hours of the allegation. The youth will be given reasonable time to prepare for the hearing.
- A mental health professional participates in the due process hearing of any youth:
 - In a mental health treatment program.
 - Determined eligible for special education.
 - Involved in one or more incidents of suicidal behavior in the last year.

Note: A mental health professional must approve any use of isolation or confinement for a youth in the categories above.

- The youth is notified of all of the following:
 - Charge(s) against him/her.
 - Date, time, and location of the hearing.
 - Youth's right to have an assisting staff present.
 - Youth's right to be present and speak at the hearing.
 - Youth's right to present documents at the hearing.
 - Youth's right to appeal, how, and to whom.
- Appointing an impartial staff member to assist the youth with the hearing.
- Process for the youth to voluntarily waive their right to a hearing (signed written waiver witnessed by due process officer required).
- The standard of proof at the hearing is preponderance of the evidence.

- Expected duties and actions of the due process officer regarding youth rights to ensure documentation of all of the following:
 - The youth understands the reason(s) for the isolation/confinement.
 - The youth understands the actions that the youth needs to take to be released from isolation or confinement.
 - The youth has an opportunity to discuss the incident with a person not involved in the incident.
- The due process officer must:
 - Provide the youth with a written copy of the hearing findings following the hearing.
 - Explain the appeal rights to the youth.
- The director of the BJJ residential facilities division or designee approves any isolation or confinement that may exceed seventy-two (72) hours in duration.
- Record keeping and retention schedule for due process hearings and the imposition of due process isolation.
- Youth right to appeal the results of a due process hearing.
- Youth will begin their isolation/confinement immediately unless they appeal the hearing results.

Appeal

The youth may appeal any aspect of the due process hearing or sanction imposed within ten (10) days on a form approved by the facility/center director or designee.

The facility/center director or designee may suspend any disciplinary response pending a decision on the appeal.

The facility/center director or designee may:

- Approve the appeal and take remedial steps including ordering a new hearing or lessen any proposed disciplinary response.
- Deny the appeal.

- Deny the appeal and lessen any proposed disciplinary response.

The facility/center director or designee will approve or deny the appeal within two (2) days of receipt.

AUTHORITY

Social Welfare Act, MCL 400.115a(1)(l).

Child Caring Institutions Rules, R400.4137, R400.4150, R400.4152