

OKLAHOMA ADMINISTRATIVE CODE

TITLE 377: OFFICE OF JUVENILE AFFAIRS



2011 RULE IMPACT STATEMENTS

December 15, 2010

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OKLAHOMA ADMINISTRATIVE CODE
TITLE 377. OFFICE OF JUVENILE AFFAIRS

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For more information regarding OJA Administrative Rules, please contact JLynn Hartman, Director of Government Relations, (405) 530-2866 or JLynn.Hartman@oja.ok.gov.

**OKLAHOMA ADMINISTRATIVE CODE
TITLE 377. OFFICE OF JUVENILE AFFAIRS**

RULE IMPACT STATEMENT

Chapter 1. Function and Structure of the Office of Juvenile Affairs

A. A brief description of the purpose of the rule:

Title 377. Office of Juvenile Affairs

Chapter 1. Function and Structure of the Office of Juvenile Affairs

[OAR Docket#10-1270]

Subchapter 1. Function and structure of the Office of Juvenile Affairs

377:1-1-2. Legal Basis [AMENDED]

377:1-1-3. Description of the Office of Juvenile Affairs (OJA) [AMENDED]

377:1-1-5. Board of Juvenile Affairs [AMENDED]

377:1-1-7. Legal Base for the Rates and Standards Committee [AMENDED]

377:1-1-11. Executive Director [AMENDED]

Summary: Non-substantive citation changes within the Oklahoma State Statutes, as per House Bills 2028 and 2029 (2009).

B. A brief description of the classes of persons who most likely will be affected by the proposed rule:

OJA staff and Board members that operate within the Oklahoma Statutes will be affected.

C. A brief description of classes of persons who will benefit from the proposed rule:

Juveniles, OJA staff and Board members will benefit from the proposed rule.

D. A brief description of the probable economic impact of the proposed rule upon the affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever possible, a separate justification for each fee change:

Rule revisions should not have an economic impact on any affected classes.

E. The probable costs and benefits to the agency and to any other agency of the implementation and enforcement of the state proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule, and any anticipated effect on state revenues, including a projected net loss or gain in such revenues, if it can be projected by the agency.

The cost of implementation and enforcement of the proposed rules is minimal.

F. A determination of whether implementation of the proposed rule will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule:

Amended rules pertaining to citation updates should not have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rules.

G. A determination of whether implementation of the proposed rule will have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act:

Amended rules pertaining to citation updates should not have an economic impact on any small business or require their cooperation in implementing or enforcing the rules.

H. An explanation of the measures the agency has taken to minimize compliance costs and a determination of whether there are less costly or nonregulatory methods or less intrusive methods for achieving the purpose of the proposed rule:

Proposed rules should not be costly nor require other methods to update the proposed rule.

I. A determination of the effect of the proposed rule on the public health, safety and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk:

Proposed rules pertaining to citation updates should not affect the public health, safety and environment, nor do they contain significant risks.

J. A determination of any detrimental effect on the public health, safety and environment if the proposed rule is not implemented:

Proposed rules pertaining to citation updates should not have any detrimental effect on the public health, safety and environment if the proposed rule is not implemented.

K. The date the rule impact statement was prepared and if modified, the date modified:

December 15, 2010

CHAPTER 1. FUNCTION AND STRUCTURE OF THE OFFICE OF JUVENILE AFFAIRS

SUBCHAPTER 1. FUNCTION AND STRUCTURE OF THE OFFICE OF JUVENILE AFFAIRS

377:1-1-2. Legal Basis

The Office of Juvenile Affairs (OJA) operates under the statutory authority of “The Oklahoma Juvenile Code”, Title 10A, O.S., ~~§7301-1-1~~ 2-1-101 et seq.

377:1-1-3. Description of the Office of Juvenile Affairs (OJA)

(a) **History.** The Office of Juvenile Affairs (OJA) was created on July 1, 1995, as a result of legislation enacting the Oklahoma Juvenile Code.

(b) **Organization.** The Office of Juvenile Affairs consists of programs providing services to juveniles involved in the juvenile justice system and administrative components which provide administrative support.

(1) **Office of the Executive Director.**

(A) Within the Office of Juvenile Affairs, programs and divisions which report directly to the Executive Director include, but are not limited to, the:

- (i) Office of Public Integrity;
- (ii) Division of the Advocate Defender; and
- (iii) Office of General Counsel Service;

(B) The Executive Director of OJA is designated by the Governor as the Interstate Compact Liaison.

(C) Additional responsibilities of the Executive Director are listed in OAC 377: 1-1-11.

(D) The Executive Director shall establish divisions within OJA in addition to those required by law and may employ staff as necessary to perform the duties of the Office of Juvenile Affairs as authorized by statute. Organizational charts are available upon request from the Office of the Executive Director.

(2) **Division of Community-based Youth Services.** The Division of Community-based Youth Services operates under the authority of 10A O.S., §§~~7302-3.3 2-7-202, 7302-2.22-7-303, 7302-3.52-7-305~~ and ~~7302-3.6.a2-7-306~~.

(3) **Advocate Defender Division.** The Advocate Defender Division is a Division of the OJA established by 10A O.S., §§~~7302-3.2 2-7-302(A) and (B)(1-8)~~. Compliance with Oklahoma statutes is obtained by assignment of the Advocate Defenders to the OJA institutions. The Division of Advocate Defender shall be separate and apart from the Office of General Counsel.

(4) **Support Services Division.** The Support Services Division shall provide centralized support function for the Office of Juvenile Affairs.

(5) **Financial Services Division.** The Financial Services Division shall provide the centralized accounting, procurement, reporting, and budgeting for OJA.

(6) **Institutional Services Division.** The Institutional Services Division shall be responsible for all secure institutional services.

(7) **Juvenile Services Division.** The Juvenile Services Division shall be responsible for intake, probation and parole services, supervision and placement of juveniles.

(8) **Office of the Parole Board.** The Office of the Parole Board shall have responsibilities as set forth in 377:5.

(c) **Purpose/mission.** The purpose of the Office of Juvenile Affairs as stated in Title 10A O.S., §§~~7301-1.2 2-1-102~~, is to promote the public safety and reduce delinquency. To execute the purpose of the statutes, OJA has developed its mission to include:

- (1) protection of the public from juvenile offenders;
- (2) prevention of juvenile delinquency;
- (3) implementation of programs ensuring accountability of juveniles for their behavior; and
- (4) involvement of the community in creating and implementing solutions to juvenile delinquency and establishing individual accountability.

377:1-1-5. Board of Juvenile Affairs

(a) **Composition.** Title 10A O.S., ~~§7302-1-1~~ 2-7-101, authorizes the Board of Juvenile Affairs (Board) as the governing body for the Office of Juvenile Affairs. The Board shall consist of seven (7) members appointed by the Governor with the advice and consent of the Senate in accordance with 10A O.S., ~~§7302-1-1~~ 2-7-101.

(b) **Meetings.** Regularly scheduled meetings of the Board shall be held at places, dates, and times fixed by the Board and after appropriate notice. Special meetings may be called by the Chair or by five (5) members of the Board by delivery of written notice to each member of the Board. Emergency meetings of the Board may be called as provided by Oklahoma statutes.

(1) Any member may waive notice of any meeting. The attendance of a member at a meeting shall constitute waiver of notice of such meeting except where the member attends for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called or convened.

(2) All meetings, including executive sessions, shall be conducted in accordance with the provisions of the Open Meeting Act.

(c) **Voting.** A majority of members serving on the Board shall constitute a quorum.

(1) The acts of the majority of the members present at a meeting at which a quorum is present shall be the acts of the Board except that a vote of not less than four (4) members of the Board shall be required to amend these rules.

(2) A member may disqualify himself or herself from a vote at any time and without explanation. A member who disqualifies himself or herself from a vote shall be considered to be not present for purposes of that vote.

(d) **Election of officers.** At the first meeting of each calendar year, the Board shall elect one of its members to serve as Chair and another of its members to serve as ViceChair. The Chair or ViceChair shall hold office until his or her successor has been duly elected or until his or her death, resignation, or removal.

(e) **Vacancies.** A vacancy in the elected position of Chair or ViceChair because of death, resignation, removal, disqualification, or otherwise, may be filled by the Board for the unexpired portion of the term of the position.

(f) **Duties of the position of Chair and ViceChair.** The Chair, or in his or her absence, the ViceChair, shall preside at all meetings of the Board, including executive sessions. The Chair, or ViceChair as the case may be, shall be the final authority on all procedural issues, and may, when appropriate, refer to and follow the recommendations of the legal counsel for the Office of Juvenile Affairs or "Robert's Rules of Order" to resolve a procedural issue.

(1) The Chair, within two weeks of a member's new appointment, shall:

(A) brief the member of the Board regarding the duties and responsibilities of the Board and its members;

(B) provide the new member a copy of the statutes pertinent to the Board and its duties;

(C) provide a copy of the monthly operating budgets of the Office of Juvenile Affairs for the preceding twelve months;

(D) provide a copy of the rules under which the Office of Juvenile Affairs functions and operates; and

(E) provide such other information as is necessary to assure that the new member is advised of his or her duties and responsibilities.

(2) The Chair may delegate the briefing described in paragraph (1) of this subsection in whole or in part to the Executive Director of the Office of Juvenile Affairs or a managing

officer of that agency, but the responsibility for its accomplishment shall remain with the Chair.

(g) **Responsibilities.** The purpose of the Board of Juvenile Affairs is to act as the governing board for the Office of Juvenile Affairs and to implement and direct the mandates of the Oklahoma Legislature with respect to the custody, care, and supervision of juveniles adjudicated to be delinquent or in need of supervision or persons sentenced as youthful offenders. The Oklahoma Juvenile Code, Title 10A O.S., ~~§7301~~ 2-1-101 *et seq.*, and other provisions of law related to children and youth gives the Board the responsibility for:

- (1) promulgating rules for the Office of Juvenile Affairs and for its own governance;
- (2) adopting an official seal for the Office of Juvenile Affairs;
- (3) appointing and setting the salary of the Executive Director of the Office of Juvenile Affairs;
- (4) reviewing and approving OJA's budget request to the Governor;
- (5) assisting OJA in conducting regular reviews and planning activities related to the goals, objectives, priorities, and policies of the Office of Juvenile Affairs;
- (6) providing a public forum for receiving comments and disseminating information to the public regarding the goals, objectives, priorities, and policies at least quarterly;
- (7) adopting nonbinding resolutions requesting action by the Office of Juvenile Affairs in response to comments from the public or upon the Board's own initiative;
- (8) establishing OJA contracting procedures and guidelines for rates of payment for services provided by contract; provided the Board may not increase payment rates during the time the Legislature is not in session;
- (9) serving as the rulemaking body for the Office of Juvenile Affairs, including promulgating rules which implement the duties and responsibilities of the Office of Juvenile Affairs pursuant to the Oklahoma Juvenile Code;
- (10) developing performance standards for programs implemented by the Office of Juvenile Affairs, either directly or by contract;
- (11) appointing the Executive Director, or in the event of a vacancy, designating an interim or acting Executive Director, including the Chief of Staff of the Office of Juvenile Affairs, until a new and permanent Executive Director is appointed;
- (12) establishing fee schedules;
- (13) advising OJA with respect to real estate leases;
- (14) approving criteria for designation of organizations as "Youth Services Agencies";
- (15) establishing an administrative hearing and appeal process for denials of "Youth Service Agency" designation;
- (16) reviewing annually the OJA report (OJA Annual Report) which analyzes and evaluates the effectiveness of OJA programs and services;
- (17) reviewing annually the OJA report (OJA Annual Report) which analyzes and evaluates the effectiveness of the Youthful Offender Act;
- (18) promulgating rules for the Office of Juvenile Affairs to obtain national criminal history records searches in accordance with Section 404.1 of Title 10 for personnel working with or around juveniles in the Office of Juvenile Affairs' institutions and Office of Juvenile Affairs' operated facilities;
- (19) promulgating rules, outlining policies and procedures governing the operation of facilities operated by or through contract with OJA;
- (20) promulgating rules defining contraband for purposes of inspection;

- (21) promulgating rules governing the use of mechanical restraints in institutions and other facilities operated by or through contract with the Office of Juvenile Affairs;
- (22) receiving and reviewing institutional inspection reports of the State Fire Marshall and Commissioner of Public Health;
- (23) establishing standards for regimented juvenile training programs;
- (24) establishing the proposal submission and education procedures and criteria for the implementation of the Delinquency and Youth Gang Intervention and Deterrence Act;
- (25) promulgating rules necessary for the implementation of the "Juvenile Offender Victim Restitution Work Program";
- (26) adopting rules as required to implement the Serious and Habitual Juvenile Offender Program and Juvenile Justice Information System;
- (27) establishing certification standards for municipal juvenile facilities for temporary detention;
- (28) promulgating standards for certification of juvenile detention facilities;
- (29) developing, adopting, and implementing the "State Plan for the Establishment of Juvenile Detention Services";
- (30) establishing procedures for the letting of contracts or grants for juvenile detention services or facilities;
- (31) approving a form for the statistical reporting of detention of persons under the age of 18;
- (32) establishing standards for the certification of detention services;
- (33) with the State Department of Health, establishing standards for certification of jails, adult lock-ups and adult detention facilities used to detain juveniles;
- (34) establishing guidelines and procedures for Juvenile Bureaus to ensure uniformity in the performance of the Juvenile Bureau's statutory duties;
- (35) promulgating rules and forms necessary for the implementation of the juvenile sex offender registry;
- (36) promulgating rules for the expansion for criminal records searches or foster care eligibility assessments beyond the records searches conducted by the Oklahoma State Bureau of Investigation;
- (37) Designating Youth Services Agencies; and
- (38) Adopting the State Plan for Youth Services Agencies.

377:1-1-7. Legal Base for Rates and Standards Committee

The legal base for establishing fixed and uniform rates is found at 74 O.S., § 85.7(A)(a)(11)(~~D~~) and (~~E~~); (Oklahoma Central Purchasing Act), and 10A O.S., § 7302-~~1-12-7-101~~(H)(7).

377:1-1-11. Executive Director

- (a) The Executive Director of the Office of Juvenile Affairs shall be appointed by the Board of Juvenile Affairs and shall report directly to the Board. As the administrator of the Office of Juvenile Affairs, the Executive Director is responsible for supervising OJA activities and establishing internal policy and procedures for the administration of the Office of Juvenile Affairs.
- (b) The Executive Director shall be responsible for selecting staff or contracting with personnel capable of carrying out OJA's mission, goals, and statutory requirements.

(c) The Executive Director shall have the authority to assume all duties and responsibilities of the Chief of Staff of OJA, as found in ~~Title 10A, O.S., § 7302-2-12-7-201-(C)(4)~~.

**OKLAHOMA ADMINISTRATIVE CODE
TITLE 377. OFFICE OF JUVENILE AFFAIRS**

**RULE IMPACT STATEMENT
Chapter 3. Administrative Services**

A. A brief description of the purpose of the rule:

Title 377. Office of Juvenile Affairs
Chapter 3. Administrative Services
[OAR Docket #10-1271]
Subchapter 1. Office of the Executive Director
Part 1. Legislative Liaison [AMENDED]
377:3-1-1. Legislative Liaison [AMENDED]
Part 3. Office of the Advocate General
377:3-1-20. Legal base and authority [AMENDED]
377:3-1-26. Advocate General procedures during an abuse, neglect, or caretaker misconduct investigation for other than OJA secure institutions [AMENDED]
377:3-1-34. Coordination with other monitoring entities [AMENDED]
Part 5. Media and Community Relations
377:3-1-46. General provisions [AMENDED]
377:3-1-47. Media access to OJA [AMENDED]
Subchapter 3. Office of General Counsel Services
Part 1. General Provisions
377:3-3-2. Legal base [AMENDED]
Subchapter 5. Office of Human Resources Management
Part 1. Overview of the Office of Human Resources Management
377:3-5-1. Purpose [AMENDED]
Subchapter 7. Finance Department
377:3-7-1. Legal basis [AMENDED]
Subchapter 9. Office of Policy
Part 7. Policy and Accreditation
377:3-9-40. Legal basis [AMENDED]
Subchapter 13. Office of Public Integrity
Part 3. Requirements for Secure Juvenile Detention Centers
377:3-13-35. Legal basis [AMENDED]
377:3-13-37. Organization, administration and finances [AMENDED]
377:3-13-39. Admission procedure and criteria [AMENDED]
377:3-13-45. Program and services [AMENDED]
Part 5. Requirements for Municipal Juvenile Facilities
377:3-13-60. Legal basis [AMENDED]
377:3-13-62. Standards [AMENDED]
Part 7. Requirements for Community Intervention Centers (CIC)
377:3-13-80. Legal basis [AMENDED]
377:3-13-81. Structure [AMENDED]
377:3-13-82. General provisions [AMENDED]

377:3-13-88. Personnel [AMENDED]
377:3-13-90. Security and control [AMENDED]
Subchapter 15. Information Technology Department
Part 1. General Provisions
377:3-15-2. Legal basis [AMENDED]
377:3-15-3. JOLTS requirements [AMENDED]
Subchapter 17. Federal Funds Development Unit
Part 1. General Provisions
377:3-17-2. Legal basis [AMENDED]
Subchapter 19. Contract, Procurement and Support Services
377:3-19-1. Purpose and legal base [AMENDED]
377:3-19-3. Contracting [AMENDED]

Summary: Rule revisions are primarily due to non-substantive citation changes within the Oklahoma State Statutes, as per House Bills 2028 and 2029 (2009). In addition to the majority of the non-substantive citation changes: Rule revisions in chapter 3, Subchapter 1, 377:3-1-1, are due to modifications to the Legislative Liaison title and responsibilities. Rule revisions in Chapter 3, Subchapter 1, 377:3-1-34, and Chapter 3, Subchapter 13, 377:3-13-45, are due to clerical errors. Rule revisions in Chapter 3, Subchapter 1, 377:3-1-46 and 377:3-1-47, are due to modifications to the Director of Media and Community Relations title and responsibilities.

B. A brief description of the classes of persons who most likely will be affected by the proposed rule:

Juveniles and OJA staff will most likely be affected by the proposed rule.

C. A brief description of classes of persons who will benefit from the proposed rule:

Juveniles and OJA staff will benefit from the proposed rule.

D. A brief description of the probable economic impact of the proposed rule upon the affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever possible, a separate justification for each fee change:

Rule revisions should not have an economic impact on any affected classes.

E. The probable costs and benefits to the agency and to any other agency of the implementation and enforcement of the state proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule, and any anticipated effect on state revenues, including a projected net loss or gain in such revenues, if it can be projected by the agency.

The cost of implementation and enforcement of the proposed rules is minimal.

F. A determination of whether implementation of the proposed rule will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule:

Amended rules pertaining to citation updates should not have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rules.

G. A determination of whether implementation of the proposed rule will have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act:

Amended rules pertaining to citation updates should not have an economic impact on any small business or require their cooperation in implementing or enforcing the rules.

H. An explanation of the measures the agency has taken to minimize compliance costs and a determination of whether there are less costly or nonregulatory methods or less intrusive methods for achieving the purpose of the proposed rule:

Proposed rules should not be costly nor require other methods to update the proposed rule.

I. A determination of the effect of the proposed rule on the public health, safety and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk:

Proposed rules pertaining to citation updates should not affect the public health, safety and environment, nor do they contain significant risks.

J. A determination of any detrimental effect on the public health, safety and environment if the proposed rule is not implemented:

Proposed rules pertaining to citation updates should not have any detrimental effect on the public health, safety and environment if the proposed rule is not implemented.

K. The date the rule impact statement was prepared and if modified, the date modified:

December 15, 2010

CHAPTER 3. ADMINISTRATIVE SERVICES
SUBCHAPTER 1. OFFICE OF THE EXECUTIVE DIRECTOR
PART 1. ~~LEGISLATIVE LIAISON~~ DIRECTOR OF GOVERNMENT RELATIONS
377:3-1-1. ~~Legislative Liaison~~ Director of Government Relations

The ~~legislation liaison~~ Director of Government Relations shall develop and work to implement the Office of Juvenile Affairs' (OJA) state legislative agenda. The ~~legislative liaison~~ Director of Government Relations shall:

- (1) screen requests from OJA units for statutory change, rule change and develop proposals for the changes;
- (2) track legislation related to juvenile justice and communicate the status and impact of the proposed legislation to OJA administrators;
- (3) generate responses to legislative requests for information;
- (4) represent OJA before a legislative body with respect to OJA's viewpoint regarding proposed legislation; and
- (5) work with legislators and legislative staff on behalf of OJA.

PART 3. OFFICE OF THE ADVOCATE GENERAL

377:3-1-20. Legal base and authority

The State's legal basis and authority for the rules and procedure in this subchapter are found in 10A O.S., §§ ~~7302-3-2~~ 1-2-101, 2-7-302, and ~~7302-6.32-7-603, and 7103.~~

377:3-1-26. Advocate General procedures during an abuse, neglect, or caretaker misconduct investigation for other than OJA secure institutions

- (a) Upon receiving a report from OCA concerning an investigation of abuse, neglect, or caretaker misconduct, the Advocate General shall send a copy of the report to the facility administrator and notify the Executive Director or appropriate Division Director. If a facility administrator is named as an accused caretaker in the allegation, the report shall be forwarded to the Chair of the Board of Directors of the facility or to the Director of the state agency operating the facility.
- (b) If OCA confirms findings of abuse, neglect, or caretaker misconduct, the Advocate General shall request appropriate corrective action within 21 days of the Advocate General's receipt of OCA's report.
- (c) Even if abuse, neglect, or caretaker misconduct is not confirmed by OCA, the Advocate General may recommend to the Executive Director appropriate measures to address systemic or individual concerns raised during the course of the OCA investigation.
- (d) Upon receipt of OCA's report, the facility administrator, OJA administration, or Advocate General on behalf of a juvenile who is the subject of the report may request that the DHS Grievance Abuse Review Committee (GARC) review its findings and return a different result.
- (e) OCA investigative reports, records, files, and audio tapes are considered confidential under Title 10A O.S., § 1-6-102.

377:3-1-34. Coordination with other monitoring entities

The Advocate General shall coordinate with the Department of Human Services's Office of Client Advocacy, the Oklahoma Commission on Children and Youth's Office of Juvenile System Oversight, or such other government entities which possesses overlapping or concurrent jurisdiction of OJA juveniles or placements, in conducting the Advocate General's activities.

The Advocate General shall perform the following functions with these entities:

- (1) communicate and coordinate, whenever possible, the scheduling of on-site visits to programs and facilities to control disruptions of operations by monitoring entities;
- (2) compare and consolidate program information and data needed to minimize duplicate requests;
- (3) provide copies of Advocate General reports or grievances when requested;
- (4) meet with staff to discuss issues that are of common concern to all offices; and

(5) receive reports from said agencies which raise issues of concern affecting OJA juveniles or policy.

PART 5. MEDIA AND COMMUNITY RELATIONS

377:3-1-46. General provisions

It is the policy of OJA to encourage interaction with the public and the media. The Media and Community Relations (~~MCR~~) Department, which reports to the Executive Director and Chief of Staff of OJA, coordinates public information activities. OJA staff shall coordinate all media relations, media contacts, news releases, news conferences and other media communications through the Media and Community Relations Department.

377:3-1-47. Media access to OJA

- (a) The Director of ~~Media and Community Relations~~Communications, or, if unavailable, the Executive Director, Chief of Staff, or designee shall grant the news media access to a juvenile under conditions which ensure:
- (1) the preservation of the juvenile's right to privacy;
 - (2) the preservation of the juvenile's confidentiality; and
 - (3) the maintenance of order and security when the juvenile is in an out-of-home placement.
- (b) The Director of Media and Community Relations shall consider the following factors when making a decision regarding media access:
- (1) the nature of the inquiry;
 - (2) whether the best interests of the juvenile are met; and
 - (3) whether the best interests of the public are met.
- (c) The Director of ~~Media and Community Relations~~Communications shall decide whether to grant or deny media access within 48 hours of the request, excluding weekends and holidays.
- (d) Whenever possible, parental permission shall be obtained prior to a juvenile's being interviewed. If parental permission cannot be obtained, the Executive Director or Chief of Staff may grant approval for the interview.
- (e) When an interview with a juvenile is requested by the media, the Director of ~~Media and Community Relations~~Communications, after consulting with the appropriate superintendent, group home supervisor, or district supervisor, shall approve or deny the media's request according to the provisions of rules contained in this Part.
- (f) The guidelines for media activities with juveniles are as follows:
- (1) all juveniles have the option to decline to be interviewed or filmed;
 - (2) no filming is to occur that could result in the juvenile's being identified through facial exposure unless written permission is obtained from the:
 - (A) juvenile;
 - (B) parent/guardian, or, if the parent is unavailable, the:
 - (i) Executive Director/Chief of Staff; or
 - (ii) judge from the court county of jurisdiction.
 - (C) Director of ~~Media and Community Relations~~Communications or designee.
 - (3) a ranking staff person shall accompany film crews and intercede in any filming effort that could identify a juvenile, i.e., facial exposure;
 - (4) activities of media personnel while in an out-of-home placement must be conducted in a manner that is consistent with the maintenance of order and security;

- (5) staff may agree to be interviewed and filmed (in private, if desired) by media personnel on authorized visits to the JSU office, group home, or institution; and
- (6) at times of disorder within a residential facility, media access to the facility may be postponed if OJA or the facility believes that the media's presence would prolong or contribute to the disorder.

(g) The Executive Director or Chief of Staff may exempt the limitations in (e) of this Section if he or she considers it necessary, as long as statutory limitations are met.

SUBCHAPTER 3. OFFICE OF GENERAL COUNSEL SERVICES

PART 1. GENERAL PROVISIONS

377:3-3-2. Legal base

The statutory authorization for the Office of General Counsel Services is found in 10A O.S., § 7302-2-12-7-201(D).

SUBCHAPTER 5. OFFICE OF HUMAN RESOURCES MANAGEMENT

PART 1. OVERVIEW OF THE OFFICE OF HUMAN RESOURCES MANAGEMENT

377:3-5-1. Purpose

(a) The purpose of this subchapter is to set forth the rules governing the operation of the Office of Human Resources Management. The rules in this Chapter are authorized by the authority of the Office of Juvenile Affairs as set forth in Title 10A O.S., § 7302-1-12-7-101-(I) (2), Oklahoma Personnel Act, ~~in~~ 74 O.S., § 840-1.1 et seq., and Oklahoma State Merit Rules.

(b) The purpose of the Office of Human Resources Management (OHRM) is to provide comprehensive human resource management and development programs which support the achievement of the agency's mission, values, and goals. The Office of Human Resources Management programs focus on recruiting, retaining, and developing qualified agency staff.

SUBCHAPTER 7. FINANCE DEPARTMENT

377:3-7-1. Legal basis

(a) The Office of Juvenile Affairs (OJA) Finance Division is designated by OJA to conduct OJA's financial matters.

(b) Title 10A O.S., § 7302-3-42-7-304, authorizes the OJA to enter into financial agreements with governmental entities or private agencies for juvenile delinquency prevention and treatment programs.

SUBCHAPTER 9. OFFICE OF POLICY

377:3-9-40. Legal basis

Title 10A O.S., § 7302-1-12-7-101(I), requires that the Board of Juvenile Affairs shall be the rulemaking body for the Office of Juvenile Affairs (OJA). In developing rules, OJA is bound by the rulemaking requirements of the Administrative Procedures Act (APA), Title 75 O.S., § 250 et seq., as amended.

SUBCHAPTER 13. OFFICE OF PUBLIC INTEGRITY

PART 3. REQUIREMENTS FOR SECURE JUVENILE DETENTION CENTERS

377:3-13-35. Legal basis

Statutory authorization for the Office of Juvenile Affairs to certify secure juvenile detention facilities is found in 10A O.S., § 7304-1-32-3-103(C). ~~As provided in 10A O.S., §7302-6.8-2-7-~~

608, all juvenile detention facilities, including those not incorporated in the State Plan as provided in 10A O.S., § 2-7-608(C), must be certified by the Office of Juvenile Affairs.

377:3-13-37. Organization, administration and finances

(a) **Organization.** A statement of the purposes or function of the secure juvenile detention facility is clearly defined and filed with the Office of Juvenile Affairs. The statement includes the services available for the juveniles who are admitted. A secure detention facility may be ~~operated~~organized in any manner provided in 10A O.S. Supp. 1999, § 7304-1.3-2-3-103(C)(3).

(b) **Administration and responsibility of the governing body.** The governing body of a secure juvenile detention facility shall:

- (1) have responsibility for the program and services of the facility;
- (2) review and approve all policies and policy changes;
- (3) maintain a record of policy approvals in meeting minutes and in an organized form developed by the facility;
- (4) obtain all required licenses for operation and continued compliance with Requirements for Secure Juvenile Detention Facilities;
- (5) meet twice a year to assure proper operation of the facility;
- (6) document meetings of the governing body and keep the documentation on file; and
- (7) have responsibility for the physical facility and its use by the juveniles and staff.

(c) **Finances.** The agency shall maintain complete financial records of income and disbursements.

- (1) All financial records pertaining to the agency are audited annually by a certified public accountant or public accountant who has a valid current permit to practice in the State of Oklahoma and who is not a staff member of the agency or in accordance with the governmental funding source.
- (2) A copy of the auditor's statement substantiating the solvency of the agency and a statement concerning receipts and disbursements is submitted to the Office of Juvenile Affairs annually.

377:3-13-39. Admission procedure and criteria

(a) ~~Facility staff shall have an admission procedure in accordance with state statutes~~Juveniles shall be admitted to the secure detention facility only as provided by 10A O.S., § 7304-1.12-3-101 et. seq.

(b) The facility's written policy and procedure for admitting juveniles includes, but is not limited to, provisions which require the facility to:

- (1) verify legal authority to detain;
- (2) search the individual and the juvenile's possessions;
- (3) inventory the juvenile's clothing and personal possessions;
- (4) distribute personal hygiene items;
- (5) make provisions for shower and hair care;
- (6) issue clean, laundered clothing;
- (7) ensure that the juvenile's family, custodian or guardian is notified;
- (8) assist the juvenile in notifying his or her family, guardian, or custodian of the juvenile's admission;
- (9) supervise the juvenile while the juvenile makes two admission phone calls, if desired;

- (10) conduct an admission interview of the juvenile to answer questions and obtain information;
- (11) complete a medical history questionnaire;
- (12) provide an orientation which includes:
 - (A) juvenile rights;
 - (B) program description;
 - (C) program rules;
 - (D) grievance process; and
 - (E) discipline policy;
- (13) record basic personal data;
- (14) review procedures for mail and visiting; and
- (15) assign the juvenile to a sleeping unit.

377:3-13-45. Program and services

(a) Activities and services are available to juveniles outside their rooms at least 12 hours a day. The facility shall provide or make available the minimum services and programs given in (1)-(7) of this subsection to detained juveniles.

(1) **Education.** The facility shall provide educational opportunities in compliance with the local school district's rules and regulations and OJA contract requirements. Facilities shall provide or make provisions for an educational program, which includes space for education, necessary equipment and supplies, and supervision.

(2) **Visitation.** Written policy and procedure specify the number of visitors a juvenile may receive and the length of visitation.

(A) Visits may be limited only by the facility's schedule, space, and personnel constraints or where there are substantial reasons to justify such limitations.

(B) Juveniles have the right to refuse visitation.

(C) Legal counsel for a detained juvenile may visit at any reasonable time a request is made.

(3) **Social services.** The facility's social services program shall make a range of resources available to meet the needs of juveniles.

(A) Juveniles shall be afforded access to emergency mental health counseling and crisis intervention services according to their needs.

(B) Counseling services include group or individual counseling and are provided at least weekly.

(4) **Recreation.** Written policy and procedure provide a recreation schedule that includes at least one hour per day of large muscle activity and one hour of structured recreational activities. A variety of recreational materials are made available to detained juveniles and kept in good condition at all times.

(5) **Food service.** Written policy and procedure provide that the dietary needs of juveniles are met.

(A) Special diets as prescribed by appropriate medical or dental personnel or as required by religious preference are provided.

(B) Menus are planned at least one week in advance, posted and dated, and kept on file for one year.

(C) Menus are approved before use and reviewed annually by a licensed dietician, nutritionist, or physician to ensure compliance with nationally recommended food

allowances. Facilities participating in the National School Lunch Program are not required to have their breakfast and lunch menus approved by a licensed dietician, nutritionist, or physician.

(6) **Medical and health care.** The facility shall have written policy and procedure for delivery of health care services. When health care services are provided by someone other than a physician, the final medical judgment rests with the designated physician.

(A) Written health care policy and procedure is approved by a designated physician.

(B) Medical, mental health, and dental care involving medical judgment are the sole province of the designated physician, mental health professional or dentist.

(C) Personnel who provide health care services to juveniles shall be governed by a written job description approved by the medical authority.

(i) Responsibilities and job duties are in keeping with the individual's professional discipline.

(ii) Verification of current credentials and job descriptions are on file in the facility.

(D) Security regulations applicable to facility personnel also apply to health personnel.

(E) The secure juvenile detention facility shall develop and maintain written policy and procedure which:

(i) requires medical screening upon arrival of any juveniles, including intra system transfers at the facility.

(ii) records all findings on a medical screening form approved by the physician;

(iii) accounts for receiving, storing, dispensing, administering and distributing all medications and first aid supplies;

(iv) prohibits the use of juveniles for medical, pharmaceutical or cosmetic experiments;

(v) assures that detention staff and other personnel are trained to respond to health related situations; and

(vi) establishes a training program that includes:

(I) recognition of signs and symptoms of illness or injury and knowledge of action required in potential emergency situations;

(II) administration of first aid and cardiopulmonary resuscitation (CPR);

(III) methods of obtaining assistance;

(IV) signs and symptoms of mental illness, retardation and drug and alcohol abuse; and

(V) procedures for transfer to appropriate medical facilities or health care providers.

(7) **Medication.** Medication is administered by persons properly trained in medical administration and under supervision of the physician and facility administrator.

(A) Prescription medication is only administered as directed by a physician.

(B) When any medication is administered, a precise record is kept of the juvenile's name, reason for dosage, route, date and time given, and signature of the person who administered it. Any adverse reaction to the medication is documented.

(C) When prescription medications are used, the juvenile, custodian, and all staff members shall be made aware of side effects of the medication.

(D) All medications, syringes, and needles are protected by maximum-security storage and are under the supervision of staff on duty.

PART 5. REQUIREMENTS FOR MUNICIPAL JUVENILE FACILITIES

377:3-13-60. Legal basis

Statutory authorization for the Office of Juvenile Affairs to certify municipal juvenile facilities is found in 10A O.S., § 7303-1-22-2-102(BC).

377:3-13-62. Standards

- (a) The facility shall be used for the detention of juveniles taken into custody for commission of an offense as authorized by law.
- (b) If the facility is located in any jail, adult lockup, or adult detention facility, there must be total spatial separation between juvenile and adult areas.
- (c) The facility shall be in compliance with all applicable health, fire and safety codes.
- (d) The facility shall maintain written policy and procedure, which include, but are not limited to, the facilities' rules regarding:
 - (1) organization and administration;
 - (2) personnel consistent with OAC 377:3-13-43(a);
 - (3) confidentiality consistent with state law;
 - (4) compliance with child abuse or neglect reporting requirements ~~[21 O.S., § 846]~~as pursuant to the Child Abuse Reporting and Prevention Act, 10A O.S., § 1-2-101 et seq.;
 - (5) security and control consistent with OAC 377:3-13-44(a)(3), (4), and (8) through (13);
 - (6) health screening, medical services, and first aid; and
 - (7) fire and disaster plans.
- (e) All facility staff shall:
 - (1) meet the health requirements pre-scribed for staff in OAC 377:3-13-43(a)(5);
 - (2) meet the training requirements pre-scribed for staff in OAC 377:3-13-43(a)(8) through programs approved by the Office of Juvenile Affairs; and
 - (3) meet the requirements relating to criminal history investigations prescribed in OAC 377:3-13-43(a)(6).
- (f) When a child is detained, the facility shall ensure that all reasonable steps are immediately taken to:
 - (1) locate the child's parent, legal guardian, or custodian or attorney;
 - (2) determine if the parent, legal guardian, or custodian or attorney is willing to appear at the municipal juvenile facility and assume personal custody of the juvenile upon the juvenile's release from the facility;
 - (3) release the juvenile to the personal custody of his or her parent, legal guardian, or custodian or attorney as soon as practicable and upon the written promise of the parent, legal guardian, or custodian or attorney to return the juvenile to municipal court to answer the municipal charges at the date and time set by the municipal court;
 - (4) ensure the juvenile is given adequate fresh drinking water;
 - (5) ensure the juvenile is given adequate food not less than three times in a 24-hour period; and
 - (6) ensure the juvenile is given any necessary medical care and treatment.
- (g) A juvenile shall not be detained in a municipal juvenile detention facility for longer than 24 hours. If the parent, legal guardian, or custodian or attorney does not appear at the municipal juvenile facility with the 24-hour period to assume personal custody of the juvenile, then custody or release of the juvenile is determined by a law enforcement officer or, upon application by the district attorney's office, by the district court as provided in 10A O.S., § 7003-2-11-4-201.

(h) The facility shall maintain records, which are sufficient to demonstrate compliance with these standards.

PART 7. REQUIREMENTS FOR COMMUNITY INTERVENTION CENTERS (CIC)

377:3-13-80. Legal basis

Statutory authorization for the Office of Juvenile Affairs to enter into ~~agreements~~contracts for the establishment and maintenance of a CIC is found in 10A O.S., §7302-3.3 2-7-305(A). Functions of the CICs are found in 10A O.S., §7302-3.5 2-7-305(D).

377:3-13-81. Structure

(a) To establish a CIC, an interlocal agreement must be entered into between:

- (1) one or more municipalities; and
- (2) the Office of Juvenile Affairs.

(b) The CIC must meet the conditions, requirements, and rules promulgated by the Office of Juvenile Affairs as provided in 10A O.S., §7302-3.5 2-7-305(B)(2) and ~~10 O.S., §7302-3.5 (D)~~.

(c) Each CIC provider shall have a local juvenile justice advisory board comprised of representatives from local law enforcement, the judiciary, social service agencies, education, local businesses and local government.

377:3-13-82. General provisions

(a) Required functions of a CIC.

A CIC shall:

- (1) receive and hold juveniles taken into custody by law enforcement for an alleged violation of a municipal ordinance or state law and for whom detention is unavailable or inappropriate;
- (2) be in compliance with all applicable federal, state, and local health, fire, and safety codes;
- (3) enter demographic information into the management information system provided for in 10A O.S., § 7302-3.82-7-308;
- (4) hold a juvenile for no longer than 24 hours;
- (5) shall maintain records that are sufficient to demonstrate compliance with the Office of Juvenile Affairs requirements for CICs; and
- (6) ensure that when a juvenile is held, all reasonable steps are immediately taken to:
 - (A) immediately notify the juvenile's parent, legal guardian, custodian, attorney, or other adult legally responsible for the juvenile's care;
 - (B) release the juvenile to a parent, guardian, or other responsible adult or hold until a temporary placement can be secured, but in no event for longer than twenty-four hours;
 - (C) release the juvenile to the parent, guardian, custodian, attorney, or responsible adult as soon as practical upon his or her signing a release or written promise to return the juvenile to the court of jurisdiction to answer the charges at a date and time set by the court;
 - (D) ensure that temporary placement is secured if the parent, guardian, legal custodian, attorney or other responsible adult is unable to assume custody of the juvenile;
 - (E) ensure that adequate fresh drinking water is made available to the juvenile;
 - (F) ensure that adequate food is provided to the juvenile not less than three times in a 24-hour period;
 - (G) gather information to determine if the juvenile is in need of immediate medical attention; and

(H) ensure the juvenile is provided with any necessary medical care and treatment as provided ~~10A O. S., §7303-1-1~~ 2-2-101(E).

(b) **Optional functions.** In addition to the required functions a CIC may:

- (1) conduct an initial screening assessment, pursuant to OJA Rule OAC 377:3-13-84;
- (2) conduct an assessment, pursuant to OJA Rule OAC 377:3-13-85; and
- (3) fingerprint a juvenile who has allegedly committed an offense which would be a felony if committed by an adult.

377:3-13-88. Personnel

(a) **CIC program director.**

(1) **Qualifications.** The qualifications (including education and experience), authority, and responsibilities of the program director shall be specified in writing by the CIC's governing body, and include:

- (A) a bachelor's degree; and
- (B) one year of experience working with juveniles or working in the juvenile justice system.

(b) **Direct-care staff qualifications.** All direct care staff shall be at least 21 years of age and possess a high school diploma or its equivalent.

(c) **Criminal history investigation.** The CIC shall comply with statutory requirements mandating a criminal history investigation for each applicant for employment [10 O.S., §_404.1, and 10A O.S., § 7003-8-11-4-705]. An employee's criminal history investigation record must be kept in a secure location, separate from his or her personnel file.

(1) A facility shall not employ or retain an individual who has been convicted of or entered a plea of guilty or nolo contendere to any felony involving:

- (A) violence against a person;
- (B) child abuse or neglect;
- (C) possession, trafficking, manufacturing, sale or distribution of illegal drugs, or conspiracy to traffic, manufacture, sale, or distribute illegal drugs;
- (D) sexual misconduct; or
- (E) gross irresponsibility or disregard for the safety of others;
- (F) any crime against a child; or
- (G) in the case of child abuse and neglect, identified as a perpetrator in a juvenile court proceeding and/or has made an admission of guilt to a person authorized by state or federal laws or regulations to investigate child abuse and neglect.

(2) No employee of the CIC shall use or be under the influence of alcohol or illegal drugs during the hours of work nor shall any employee use or possess illegal drugs at any time.

(3) As to a simple drug possession offender, the facility may, at its own discretion, make exceptions to the prohibition of employment if five years have passed from completion of the applicant's criminal sentence and the facility can document that the health, safety, and well-being of juveniles would not be endangered.

(A) The facility shall consider, document, and submit to the Office of Public Integrity within 10 days of the employees first day of work the;

- (i) type of crime or offense for which the individual was convicted or a finding was made; and
- (ii) reference letters concerning the individual in question.

- (B) The Office of Public Integrity shall make a recommendation to the Executive Director as to whether the applicant shall be approved or disapproved.
- (4) If any person is formally charged with any of the offenses described in OAC 377:3-13-88(c)(1), he or she must be removed from contact with juveniles until the charges are resolved.
- (d) **Health requirements.** An employee's health record must be kept in a secure location, separate from his or her personnel file.
 - (1) Each employee must have a pre-employment physical conducted by a licensed physician.
 - (2) Upon employment, each employee who has not had a documented skin test within the past 12 months shall have a Mantoux tuberculin skin test unless he or she had a previous positive skin test.
 - (3) An employee with a positive skin test reaction must have or provide documentation of a chest x-ray.
 - (A) Additional tests or x-rays are not required unless symptoms develop that are suggestive of tuberculosis.
 - (B) Employees with a positive skin test reaction must submit annual documentation by medical personnel that signs or symptoms of tuberculosis are not present.
- (e) **Personnel records.** Every staff person employed by the CIC shall have a written personnel record, which complies with personnel policies of the municipality or service provider. The CIC shall have written personnel policies. The program director shall make personnel policies, which include written job descriptions, available to all employees. Either the policy or job description specifies the person to whom the employee is responsible and the duties the employee is expected to perform.
 - (1) Each personnel record must include:
 - (A) an application, resume, or staff information sheet that documents qualifications for the position;
 - (B) three reference letters, or if the reference was interviewed by phone, documentation of telephone interview must contain the:
 - (i) content of the interview;
 - (ii) date and time of the interview; and
 - (iii) name of employee conducting the telephone inter-view;
 - (C) documentation that the staff member was provided a copy of personnel policies, including his or her job description.
 - (D) written disciplinary action forms and job performance evaluations;
 - (E) dates of employment; and
 - (F) date and reason for employment separation or termination.
 - (2) Personnel records shall be maintained for at least three (3) years following an employee's separation.
 - (3) All employee records shall be confidential subject to existing federal and state statutes.
 - (4) All employees shall have access to their personnel files for reviewing purposes upon request to the program director and according to agency policy.
- (f) **Staff orientation.**
 - (1) Each direct-care staff shall be provided orientation before being allowed to work independently. In addition to a review of the certification standards and on-the-job training with an experienced staff member, the orientation must include a review of the CIC's:
 - (A) policies and procedures;

- (B) philosophy and goals;
- (C) organization;
- (D) behavior management/crisis intervention training; and
- (E) job expectations for the individual employee.

(2) Within 90 days of employment, each direct-care staff shall successfully complete first aid training. The training must be conducted by a certified instructor from the American Red Cross or its equivalent. The employee must be recertified in first aid every three years. First aid training may be counted as training hours. At least one staff person trained and certified in first aid shall be present in the CIC at all times.

(3) Within 90 days of employment, each direct-care staff shall be certified in cardiopulmonary resuscitation (CPR). The employee shall be recertified annually. CPR certification and recertification may be counted as training hours. At least one staff person trained and certified in CPR shall be present at all times.

(4) Within six (6) months of employment, each direct-care staff shall complete a certified class on behavior management; e.g., MAB, MANDT, CLEET, etc.

(5) The CIC must maintain written documentation of each area in which the employee received orientation.

(g) Staff training.

(1) All direct-care staff and program administrators shall obtain at least 24 clock hours of training per employment year. Hours are prorated for staff who have not been employed for a full year or are part-time employees.

(2) Professional conferences, workshops, seminars, formal education classes, or in-service training are considered training.

(3) Documentation of the employee's training shall be maintained in the employee's file.

377:3-13-90. Security and control

(a) Rules of conduct. The rules of conduct shall either be given to each juvenile or posted in a conspicuous and accessible area.

(1) Staff members shall explain the rules of conduct to each juvenile admitted to the facility.

(2) When a literacy or language problem prevents a juvenile from reading the rules, a staff member or translator shall assist the juvenile in reading the rules of conduct.

(b) Searches. Each CIC has the option of conducting searches. Searches and property recovery are conducted to preserve the security and safety of the CIC. If the CIC conducts searches, the CIC must develop policies and procedures, which include the guidelines listed in (1) through (3) of this section.

(1) Juveniles and visitors shall be notified that they are subject to search.

(2) Searches shall be conducted by a person of the same sex as the juvenile or visitor.

(3) No strip searches or body cavity searches shall be conducted at a CIC.

(c) Staff ratio.

(1) When juveniles are present, there shall be a minimum of two staff on duty. When more than 12 juveniles are present, a ratio of 1:6 direct-care staff to juveniles shall be maintained.

(2) The CIC shall ensure that when a female is placed in the CIC, a female staff member is present and when a male is placed, a male staff member is present.

(3) Juveniles in the CIC shall be monitored at all times.

(d) Behavior management.

(1) Physical intervention.

- (A) Each CIC shall have policies and procedures outlining the use of physical intervention. Written policy and procedure shall limit the use of physical intervention to:
 - (i) self protection;
 - (ii) separate juveniles from fighting;
 - (iii) restrain juveniles in danger of inflicting harm to themselves or others; and
 - (iv) restrain juveniles who have escaped or who are in the process of escaping;
- (B) The least amount of physical intervention necessary to control a situation is used.
- (C) Physical intervention shall not be used as punishment or retaliation.
- (D) A written report is prepared following all uses of physical intervention and submitted to the program director.
- (2) Use of mechanical restraints. CIC employees shall not use mechanical restraints.
- (3) Chemical agents. CIC employees shall not use chemical agents, including pepper spray.
- (4) Weapons. CIC employees shall not use weapons.
- (e) **Room confinement.** Room confinement means locking a juvenile in a designated room for a short-term period of time in order to remove the juvenile from the population. Room confinement is used with juveniles who are combative or self-destructive [~~10A O.S., Section 7302-3.52-7-305~~(D)(2)] and who require being separated from other juveniles for:
 - (1) self protection;
 - (2) separating juveniles from fighting;
 - (3) restraining juveniles in danger of inflicting harm to themselves or others; or
 - (4) restraining juveniles who have escaped or who are in the process of escaping;
- (f) **Procedure for room confinement.** When room confinement is used, the procedures set forth in (1) - (5) of this paragraph shall be followed.
 - (1) Prior to room confinement, staff shall explain the reasons for confinement to the juvenile and shall give the juvenile an opportunity to explain his or her behavior.
 - (2) Any juvenile shall be visibly observed by a staff member every 15 minutes. Staff shall document each observation.
 - (3) Juveniles placed in room confinement shall be afforded living conditions and essential services approximating those available to the general juvenile population. Exceptions shall be authorized based upon clear and substantial justification.
 - (4) The juvenile shall be released when staff determines that he or she can safely be returned to the general population or waiting area.
 - (5) A written record is maintained on any juvenile placed in room restriction or confinement. The written record includes:
 - (A) a log stating who authorized the action;
 - (B) names of persons observing the juvenile;
 - (C) exceptions to provision of essential services provided to other juveniles placed in the CIC;
 - (D) observations of the juvenile's physical situation;
 - (E) times of observation;
 - (F) the person authorizing release; an
 - (G) the time of release.
- (g) **Escape.** The CIC shall develop written policy and procedure for juveniles who escape from the facility. The policy shall include a procedure for notification of law enforcement agencies.

**SUBCHAPTER 15. INFORMATION TECHNOLOGY DEPARTMENT
PART 1. GENERAL PROVISIONS**

377:3-15-2. Legal basis

The management information systems is authorized by 10A O.S., ~~Supp. 1995 §§ 7302-3-82-7-308 and § 7302-9-62-7-905.~~

377:3-15-3. JOLTS requirements

(a) Pursuant to 10A O.S., §§ 7302-3-82-7-308 and § 7302-9-62-7-905, the OJA management information system:

- (1) is based on integration, utilization, or modification of existing systems within the Department;
- (2) ensures the privacy, security, and limited access to the information contained within JOLTS;
- (3) includes specific case information, including outcomes, and monitors the status of juveniles receiving services from OJA;
- (4) provides management reports and information relating to OJA programs, as well as total information required for planning, monitoring, and evaluation of programs; and
- (5) ensures that reports are immediately generated by staff requesting the report.

(b) The Information Technology Department shall integrate the JOLTS system with DHS as provided by law.

(c) The management information systems is available to persons authorized to obtain OJA's confidential reports and records as per Article VII of the Oklahoma Juvenile Code, the Serious and Habitual Offender Act, and OJA rules.

**SUBCHAPTER 17. FEDERAL FUNDS DEVELOPMENT UNIT
PART 1. GENERAL PROVISIONS**

377:3-17-2. Legal basis

The authority for the functions of the Federal Funds Development Unit ~~to carry out its activities~~ is found in 10A O.S., § 7302-3-42-7-304.

SUBCHAPTER 19. CONTRACT, PROCUREMENT AND SUPPORT SERVICES

377:3-19-1. Purpose and legal base

The purpose of this subchapter is to describe rules pertaining to contract, procurement, and support services. The authority for the Office of Contract, Procurement, and Support Services to carry out its duties is found in 10A O.S., § 7302-1-1 2-7-101(H)(7).

377:3-19-3. Contracting

(a) In accordance with the Central Purchasing Act, 74 O.S., as amended, OJA shall develop internal procurement procedures, including procedures to ensure that sole source contracts comply with all relevant state and federal laws and the OJA Board will be notified of any approved contracts at the next Board meeting.

(b) In accordance with 10A O.S., § 7302-1-1 2-7-101(H)(7), OJA shall develop internal contracting procedures.

(c) The Executive Director shall establish final signature authority for all OJA acquisition forms and will notify the OJA Board when changes are made to the signature authority.

**OKLAHOMA ADMINISTRATIVE CODE
TITLE 377. OFFICE OF JUVENILE AFFAIRS**

RULE IMPACT STATEMENT

Chapter 5. ~~Office of the Parole Board~~ Release from Institutional Placement

A. A brief description of the purpose of the rule:

Title 377. Office of Juvenile Affairs
Chapter 5. ~~Office of the Parole Board~~ Release from Institutional Placement
[OAR Docket #10-1272]
Subchapter 1. General Provisions
377:5-1-1. Purpose [AMENDED]
377:5-1-3. Legal basis [AMENDED]
377:5-1-4. Definitions [NEW]
Subchapter 3. Pre-Release Planning
377:5-3-1. Pre-release planning [AMENDED]
377:5-3-2. Scheduling of the tentative targeted review date [AMENDED]
377:5-3-3. Parole [AMENDED]
377:5-3-4. Targeted review date [AMENDED]
377:5-3-6. Rules of Supervised Community Placement for Step-down or Reentry [NEW]
Subchapter 5. Hearings
377:5-5-3. Parole revocation hearing [AMENDED]
377:5-5-4. Administrative Transfer Hearing (~~community~~) [AMENDED]

Summary: Rule revisions are primarily due to non-substantive citation changes within the Oklahoma State Statutes, as per House Bills 2028 and 2029 (2009). In addition to the majority of the non-substantive citation changes: Rule revisions in Chapter 5, heading and Subchapters 1, 3, and 5, have amendatory and/or new language pertaining to step-down or reentry programs.

B. A brief description of the classes of persons who most likely will be affected by the proposed rule:

Juveniles and OJA staff regarding placement and step-down or reentry will be affected.

C. A brief description of classes of persons who will benefit from the proposed rule:

Juveniles and OJA staff pertaining to placement and step-down or reentry will benefit from the proposed rule.

D. A brief description of the probable economic impact of the proposed rule upon the affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever possible, a separate justification for each fee change:

Rule revisions should not have an economic impact on any affected classes.

E. The probable costs and benefits to the agency and to any other agency of the implementation and enforcement of the state proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule, and any anticipated effect on state revenues, including a projected net loss or gain in such revenues, if it can be projected by the agency.

The cost of implementation and enforcement of the proposed rules is minimal.

F. A determination of whether implementation of the proposed rule will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule:

Amended rules may have an economic impact on any potential political subdivision relating to step-down or reentry, if such political subdivision were to be contracted with in the future, and may require cooperation in implementing or enforcing the rules.

G. A determination of whether implementation of the proposed rule will have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act:

Amended rules may have an economic impact on any potential small business relating to step-down or reentry, if such small business were to be contracted with in the future, and may require cooperation in implementing or enforcing the rules.

H. An explanation of the measures the agency has taken to minimize compliance costs and a determination of whether there are less costly or nonregulatory methods or less intrusive methods for achieving the purpose of the proposed rule:

Proposed rules should not be costly nor require other methods to update the proposed rule.

I. A determination of the effect of the proposed rule on the public health, safety and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk:

Proposed rules should not affect the public health, safety and environment, nor do they contain significant risks.

J. A determination of any detrimental effect on the public health, safety and environment if the proposed rule is not implemented:

Proposed rules should not have any detrimental effect on the public health, safety and environment if the proposed rule is not implemented.

K. The date the rule impact statement was prepared and if modified, the date modified:

December 15, 2010

CHAPTER 5. OFFICE OF THE PAROLE BOARD RELEASE FROM INSTITUTIONAL PLACEMENT

SUBCHAPTER 1. GENERAL PROVISIONS

377:5-1-1. Purpose

The purpose of this subchapter is to provide rules for administrative parole hearings, administrative parole, step-down or reentry programs, and to establish due process for parole revocation and Administrative Transfer Hearings for juveniles.

377:5-1-3. Legal basis

Granting parole, revoking parole, providing for a step-down or reentry program, and administratively transferring juveniles from a community placement (nonsecure) to an institution (secure) are administrative functions authorized by Title 10A of the Oklahoma Statutes, §§ 7302-3-12-7-301(B)(2), 7302-6-12-7-601(A)(3), 7302-6-12-7-601(B), 7306-2-10 and 7306-2-12-5-212. The Parole Board is a Office within the Office of Juvenile Affairs (OJA) and is composed of persons designated by the Chief of Staff. The Chief of Staff or Parole Board shall assign staff to conduct hearings.

377:5-1-4. Definitions

The following words or terms, when used in this chapter, shall have the following meaning, unless the context clearly indicates otherwise:

“Step-down or reentry program” A step-down or reentry program means the release of a juvenile from institutional placement to a group home, transitional living program, independent living program, or other community-based facility or program, which focuses on reintegration of the juvenile into the community.

SUBCHAPTER 3. PRE-RELEASE PLANNING

377:5-3-1. Pre-release planning

Title 10A O.S., Sections 7302-6-12-7-601(A)(3) and 7306-2-12-5-212, give OJA authority to place a juvenile or youthful offender on parole whenever OJA determines that such release shall not be detrimental to society and that the juvenile or youthful offender is ready to be returned to the community or has reasonably completed a plan of rehabilitation. The Office of Juvenile Affairs may, pursuant to the same provisions of law, release a juvenile or youthful offender from an institution for placement in a group home, transitional living program, independent living program or other community-based step-down or reentry program.

377:5-3-2. Scheduling of the tentative targeted review date

- (a) **Institutional Treatment Plan.** Within 30 days of institutional admission, an Institutional Treatment Plan shall be prepared and signed by the Institutional Supervisor, Youth and Juvenile Justice Specialist (JJS) Worker.
- (b) **Scheduling.** Within 45 days of institutional admission a targeted review date shall be set for the juvenile. A meeting shall be held with the juvenile for the purpose of scheduling the targeted review date. At the meeting the criteria for release shall be explained to the juvenile.
- (c) **Persons Present.** The juvenile, the Advocate Defender, and the Institutional JJS shall be present at the meeting.

(d) **Guidelines for targeted review date.** The targeted review date is determined by the juvenile's delinquent classification and date of placement in the institution. The dates are given in (1) - (2) of this paragraph:

- (1) Class I's, Class II's, and Class III's - twelve months
- (2) Class IV's - nine months

(e) **Accelerated targeted review date.** During the course of the juvenile's stay at the institution, the juvenile's institutional worker and/or local JSU worker can recommend the juvenile's targeted review date be rescheduled to an earlier date than the date previously scheduled.

(f) **Criteria for release.** Release from an institution is not guaranteed by the fact that a targeted review date has been scheduled. The juvenile must comply with the clearly established treatment goals of the individual treatment plan. Release on parole will be subject to terms and conditions established by OJA, whenever OJA determines that such release will not be detrimental to society and that the juvenile is ready to be returned to the community. Release to a step-down or reentry program shall be in accordance with continuing treatment objectives.

377:5-3-3. Parole

(a) **Parole.** The granting of parole is an administrative function, which is authorized by 10A O.S., §§ ~~7302-6-12-7-601~~(A)(3)-(4) and ~~7306-2-112-5-212~~. This function is carried out through a parole hearing or through an administrative parole.

(b) **The Parole Board process.** When a juvenile placed in an institution has made sufficient progress towards meeting the goals of his/her treatment plan and, where applicable, has successfully completed the passes as prescribed by the Office of Juvenile Affairs (OJA), the institution and JSU worker shall submit a parole recommendation to the Parole Board for release consideration.

(c) **Administrative parole.** An administrative parole is the method by which parole may be granted without a parole hearing.

- (1) The Executive Director of OJA or his/her designee may grant an administrative parole for a juvenile exiting a program with a projected length of stay.
- (2) When JSU and institutional staff recommend that the juvenile should be paroled, the Parole Board may accept the recommendation and grant an administrative parole.

377:5-3-4. Targeted review date

(a) **General Provisions.** The purpose of the review is to assess the juvenile's progress toward the successful completion of his or her individual treatment plan. The review shall provide the juvenile with the opportunity to verbally express any treatment concerns that he or she might have.

(b) **Persons Present.** The juvenile, the Advocate Defender, the JJS, and the JSU worker shall participate in the review.

(c) **Notice.** The juvenile shall receive notice of the review at least 48 hours in advance.

(d) **Recommendations.**

- (1) At the conclusion of the review, the institutional staff and JSU worker may recommend to the Parole Board that the juvenile be paroled. If parole is recommended, the recommendation shall be submitted to the Parole Board for release consideration. If the Parole Board rejects the recommendation, the matter shall be scheduled for a parole hearing in accordance with 377:5-5-2 (a).

(2) The institutional staff and/or the JSU worker may or may not recommend parole. If parole is not recommended by either or both, the matter shall be scheduled for a parole hearing in accordance with 377:5-5-2 (b).

(3) The juvenile shall be advised of the recommendation and the reasons for the recommendation at the conclusion of the review.

(e) **Waiver.** A juvenile may waive his/her Parole Hearing. The Advocate Defender and JJS shall be present and sign the waiver. The waiver shall be sent to the Parole Board and copies placed in the juvenile's file.

(f) **Step-down or reentry program.** A juvenile may be recommended for placement in a step-down or reentry program when the juvenile has reached the appropriate phase level and has otherwise sufficiently achieved treatment plan objectives. If the release to such program has not occurred prior to the targeted review date or is not recommended at the conclusion of the targeted review, the matter shall be scheduled for a parole hearing in accordance with 377:5-5-2(b), unless waived by the juvenile pursuant to paragraph (e) of this rule.

377:5-3-6. Rules of Supervised Community Placement for Step-down or Reentry
Juveniles placed in step-down or reentry programs shall execute Rules of Supervised Community Placement which shall conform to the requirements of Rules 377:25-7-27 and 377:25-7-28.

SUBCHAPTER 5. HEARINGS

377:5-5-3. Parole revocation hearing

(a) **Parole violations.** When alleged violations of parole occur, the JSU worker and supervisor shall consider specific factors when deciding whether to request a revocation of a juvenile's parole. Factors include the:

- (1) seriousness of the juvenile's offense;
- (2) overall adjustment of the juvenile; and
- (3) demonstrated lack of amenability to treatment.

(b) **Pre-revocation conference.** The first step toward revocation is the pre-revocation conference. The District Supervisor or designee shall meet with the juvenile, the parent, guardian, legal custodian, placement provider (if applicable), and the JSU worker to:

- (1) advise the juvenile and the parent(s), guardian(s) or legal custodian(s) of their constitutional and legal rights as documented;
- (2) discussed the alleged parole violations;
- (3) document the violations on the Application to Revoke Parole forms; and
- (4) distribute copies to the juvenile, the parent(s), guardian(s), legal custodian(s) or placement provider.

(c) **Result of pre-revocation hearing.** The juvenile may choose to have a hearing before a Hearing Officer or waive the hearing by signing a Waiver of Parole Revocation form.

(d) **Revocation hearing.** If the decision is to have a hearing, the JSU worker shall file the Application to Revoke Parole with the Parole Administrator and request that the hearing date be scheduled. The hearing shall be held in the county where the alleged violation occurred [10A O.S., ~~§7302-6-1~~ 2-7-601(B)2].

(e) **Due process.** Parole revocation hearings are held in accordance with 10A O.S., ~~§7302-6-1~~ 2-7-601(B), and OJA rules set forth in this section.

(f) **Waiver of a revocation hearing.** The juvenile may waive a revocation hearing anytime prior to the presentation of evidence by completing and presenting a waiver to the Hearing Officer or other representative of OJA.

(g) **Conducting Interstate Compact Revocation.** For juveniles on parole placed in the State of Oklahoma through the Interstate Compact on Juveniles (ICJ), a Hearing Officer shall perform a fact-finding hearing and determine if the juvenile has violated the terms of his/her parole conditions while residing in the State of Oklahoma.

(h) **General provisions.**

(1) The Parole Administrator shall designate a Hearing Officer to preside over the parole revocation hearing.

(2) As provided in 10A O.S., §~~7302-6-1~~ 2-7-601(B)(3), if legal counsel for the juvenile has not otherwise been obtained, the JSU worker shall file an application for an Order Appointing Counsel with the District Court wherein the alleged violations occurred.

(3) Upon the JSU worker's filing an application, the Hearing Officer shall schedule a revocation hearing within a reasonable period of time.

(4) Notice of the hearing, including the date, time, and place of the hearing, and a copy of the Application to Revoke Parole shall be mailed by the Hearing Officer to the juvenile, the parent, guardian or legal custodian, the judge in the county wherein the alleged violations occurred, and the juvenile's legal counsel, if one has been retained or appointed.

(5) Hearings shall be conducted in accordance with 377:5-5-5.

377:5-5-4. Administrative Transfer Hearing-(community)

(a) An Administrative Transfer Hearing is an administrative process by which the Parole Board may terminate the Supervised Community Placement (SCP) status of a juvenile. The juvenile may be placed in an institutional setting. The Parole Board shall base a decision to revoke SCP on the seriousness of the offense and the overall adjustment of the juvenile.

(b) **General provisions.** (Pre-administrative Conference)

(1) **Supervised Community Placement.** When alleged SCP violations occur, the JSU worker and supervisor shall consider specific factors when deciding whether to request an Administrative Transfer Hearing. Factors include the:

(A) seriousness of the juvenile's offense;

(B) overall adjustment of the juvenile; and

(C) demonstrated lack of amenability to treatment.

(2) **Pre-Administrative Transfer Hearing conference.** The first step toward a transfer hearing is the pre-administrative transfer hearing conference. The District Supervisor or designee shall meet with the juvenile, the parent, guardian, legal custodian, placement provider (if applicable), and the JSU worker to:

(A) advise the juvenile and the parent, guardian or legal custodian of their constitutional and legal rights as documented;

(B) discuss the alleged violations of the SCP rules;

(C) document the alleged SCP violations on the Application for Administrative Transfer; and

(D) distribute copies to the juvenile, the parent, guardian, legal custodian and/or placement provider.

- (c) **Result of Pre-Administrative Transfer Hearing Conference.** The juvenile may choose to have a hearing before a Hearing Officer or waive the hearing by signing a Waiver of Administrative Transfer Hearing.
- (d) **Administrative Transfer Hearing.** If the decision is to have a hearing, the JSU worker shall file the application for Administrative Transfer Hearing with the Parole Administrator and request that a hearing date be scheduled. The hearing shall be held in the county where the alleged violation occurred [~~10A O.S., §7302-6.1 2-7-601(B)2~~].
- (e) **Due process.** Administrative Transfer hearings are held in accordance with ~~10A O.S., §7302-6.1 2-7-601(B)~~, and OJA rules set forth in this section.
- (f) **Waiver of an Administrative Transfer Hearing.** The juvenile may waive an Administrative Transfer hearing anytime prior to the presentation of evidence by completing and presenting a waiver to the Hearing Officer or other representative of OJA.
- (g) **Conduct of the hearing.**
- (1) After receiving an application for an administrative transfer hearing, the Parole Administrator shall designate a Hearing Officer to preside over an administrative transfer hearing.
 - (2) As provided in ~~10A O.S., §7302-6.1 2-7-601(B)(3)~~, if legal counsel for the juvenile has not otherwise been obtained, the JSU worker shall file an application for an Order Appointing Counsel with the District Court wherein the alleged violations occurred.
 - (3) Upon the JSU worker's filing an application, the Hearing Officer shall schedule an Administrative Transfer Hearing within a reasonable period of time.
 - (4) Notice of the hearing, including the date, time, and place of the hearing, and a copy of the Application for Administrative Transfer Hearing shall be mailed to the juvenile, the parent, guardian or legal custodian, the judge in the county wherein the alleged violations occurred, and the juvenile's legal counsel, if one has been retained or appointed.
 - (5) The hearing shall be conducted in accordance with 377:5-5-5.

**OKLAHOMA ADMINISTRATIVE CODE
TITLE 377. OFFICE OF JUVENILE AFFAIRS**

**RULE IMPACT STATEMENT
Chapter 10. Office of Juvenile Affairs**

A. A brief description of the purpose of the rule:

Title 377. Office of Juvenile Affairs
Chapter 10. Office of Juvenile Affairs
[OAR Docket #10-1273]
Subchapter 1. General Provisions
377:10-1-1.1. Definitions [AMENDED]
377:10-1-3. Discipline [AMENDED]
377:10-1-7. Confidential records [AMENDED]
377:10-1-8. Agency records [AMENDED]
377:10-1-9. Information sharing [AMENDED]
377:10-1-10. Disclosure of records pertaining to serious and habitual juvenile offenders without court order [AMENDED]
377:10-1-11. Documents and records [AMENDED]
Subchapter 3. Placement
377:10-3-1. Purpose [AMENDED]
377:10-3-2. Placement process [AMENDED]
377:10-3-3. Delinquent and youthful offender classification [AMENDED]
Subchapter 5. Agreements Between States for Placement and Transfers of Juveniles
377:10-5-2. Legal authority [AMENDED] Withdrawn
377:10-5-4. Interstate Compact on the Placement of Children [AMENDED] Withdrawn
Subchapter 7. Contract Programs and Services
Part 1. General Provisions and Foster Care
377:10-7-1. Purpose [AMENDED]
377:10-7-3. Foster care [AMENDED]
377:10-7-4. Therapeutic foster care [AMENDED]
377:10-7-5. Specialized community home [AMENDED]
377:10-7-7. Kinship foster care [AMENDED]
Part 5. Detention
377:10-7-30. Legal base [AMENDED]
Part 7. Independent and Transitional Living
377:10-7-40. General provisions [AMENDED]
377:10-7-41. Independent living programs [AMENDED]
377:10-7-42. Transitional living programs [AMENDED]
Part 9. Contracted Services
377:10-7-50. Legal base [AMENDED]
Subchapter 11. Child in Need of Mental Health Treatment [AMENDED]
377:10-11-1. Child in need of Mental Health Treatment [AMENDED]
Subchapter 13. Regimented Juvenile Training Program Standards
Part 1. General Provisions

377:10-13-1. Legal base [AMENDED]

Part 3. Personnel

377:10-13-13. Criminal record checks [AMENDED]

Withdrawn

Part 17. Security and Control

377:10-13-89. Juvenile rights [AMENDED]

377:10-13-90. Use of force [AMENDED]

Summary: Rule revisions are primarily due to non-substantive citation changes within the Oklahoma State Statutes, as per House Bills 2028 and 2029 (2009). In addition to the majority of the non-substantive citation changes: Rule revisions in Chapter 10, Subchapter 7, 377:10-7-3, 377:10-7-4, 377:10-7-5 and 377:10-7-7, are due to modifications to foster care, as per House Bill 2028 (2009).

B. A brief description of the classes of persons who most likely will be affected by the proposed rule:

Juveniles, OJA staff and foster homes that operate within the Oklahoma Statutes will be affected.

C. A brief description of classes of persons who will benefit from the proposed rule:

Juveniles, OJA staff and foster homes will benefit from the proposed rule.

D. A brief description of the probable economic impact of the proposed rule upon the affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever possible, a separate justification for each fee change:

Rule revisions should not have an economic impact on any affected classes.

E. The probable costs and benefits to the agency and to any other agency of the implementation and enforcement of the state proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule, and any anticipated effect on state revenues, including a projected net loss or gain in such revenues, if it can be projected by the agency.

The cost of implementation and enforcement of the proposed rules is minimal.

F. A determination of whether implementation of the proposed rule will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule:

Amended rules should not have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rules.

G. A determination of whether implementation of the proposed rule will have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act:

Amended rules should not have an economic impact on any small business or require their cooperation in implementing or enforcing the rules.

H. An explanation of the measures the agency has taken to minimize compliance costs and a determination of whether there are less costly or nonregulatory methods or less intrusive methods for achieving the purpose of the proposed rule:

Proposed rules should not be costly nor require other methods to update the proposed rule.

I. A determination of the effect of the proposed rule on the public health, safety and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk:

Proposed rules should not affect the public health, safety and environment, nor do they contain significant risks.

J. A determination of any detrimental effect on the public health, safety and environment if the proposed rule is not implemented:

Proposed rules should not have any detrimental effect on the public health, safety and environment if the proposed rule is not implemented.

K. The date the rule impact statement was prepared and if modified, the date modified:

December 15, 2010

CHAPTER 10. OFFICE OF JUVENILE AFFAIRS

SUBCHAPTER 1. GENERAL PROVISIONS

377:10-1-1.1. Definitions

The following words and terms, when used in this Subchapter, have the following meaning, unless the context clearly indicates otherwise:

“**Juvenile**” means all persons in OJA custody or under its supervision for whom OJA is required to provide services by law or court order.

377:10-1-3. Discipline

(a) When it becomes necessary to discipline a juvenile, staff shall do so by utilizing sanctions that are appropriate to the severity of the infraction. Appropriate methods of discipline include withdrawal of privileges or placement in a more restrictive environment.

(b) Destruction of state property. Juveniles found guilty through the disciplinary process of destroying state, staff, or other residents property will be assessed the value of the property as

determined by the disciplinary hearing officer. Juveniles shall pay for the property from all appropriate funds.

~~(b)~~(c) OJA staff and contractors may use physical force or mechanical restraints only under the circumstances described in OAC 377:10-1-4.

(1) Appropriate types of discipline protect the resident from harming self and others.

(2) Staff and contractors shall use a course of behavioral management approved by the Executive Director or the Chief of Staff of the Office of Juvenile Affairs in dealing with juveniles. Other appropriate methods of control include withdrawal of privileges, placement in a more restrictive environment, or placement in the crisis management center, when necessary.

~~(e)~~(d) OJA staff and contractors shall adhere to OJA rules regarding discipline of juveniles.

Prohibited disciplinary actions include, but are not limited to:

(1) corporal punishments of any kind;

(2) threats;

(3) derogatory remarks or other verbal abuse directed toward the juvenile or the juvenile's family;

(4) deprivation of meals;

(5) deprivation of visits with the natural or adoptive parents without prior consultation with OJA staff;

(6) use of profanity by OJA or contract staff;

(7) hog-tying; and

(8) use of psychotropic drugs for punishment, control, or program management; ~~and~~.

~~(9) use of chemical agents, including, but not limited to:~~

~~(A) teargas;~~

~~(B) mace;~~

~~(C) pepper gas; or~~

~~(D) other devices which use chemicals to control juveniles.~~

377:10-1-7. Confidential records

(a) The Oklahoma Juvenile Code at 10A O.S., § ~~7307-1-22-6-102~~, as amended provides for the confidentiality of the following records relating to juveniles:

(1) juvenile court records;

(2) agency records;

(3) district attorneys' records;

(4) law enforcement records;

(5) nondirectory education records; and

(6) social records.

(b) "Record" includes, but is not limited to:

(1) written or printed documents;

(2) papers;

(3) logs;

(4) reports;

(5) files;

(6) case notes;

(7) films;

(8) photographs;

- (9) audio or visual tape recordings pertaining to a juvenile proceeding or a juvenile; and
- (10) information entered into and maintained in an automated or computerized information system (10A O.S., § 7307-1-22-6-101 as amended).

(c) The records listed in (a) of this Section are confidential and may not be open to the general public or inspected, or their contents disclosed except as provided by state or federal law. In all other cases, confidential records may only be inspected or disclosed pursuant to an order of the Court (10A O.S., § 7307-1-22-6-101, as amended).

377:10-1-8. Agency records

(a) “**Agency record**” means records prepared, obtained, or maintained by a public or private agency with regard to a child who is or has been under its care, custody, or supervision or with regard to a family member or other person living in the home of such child and includes, but is not limited to:

- (1) any study, plan, recommendation, assessment, or report made or authorized to be made by such agency for the purpose of determining or describing the history, diagnosis, custody, condition, care, or treatment of such child; or
- (2) any records made in the course of any investigation or inquiry conducted by an agency to determine whether a child is a delinquent child or a child in need of supervision.

(b) The Office of Juvenile Affairs “agency records” are confidential and may not be inspected nor their contents disclosed without a court order, unless otherwise provided by state or federal law, except to the following persons [10A O.S., § 2-6-106(A)]:

- (1) the judge having the child currently before the court in any proceeding pursuant to Title 10 and 10A O.S. and any judge of the district court or tribal court to which any proceedings may be transferred;
- (2) employees and officers of the court in the performance of their duties, including but not limited to guardians ad litem, appointed by the court, and members of review boards established pursuant to the Oklahoma Children's Code;
- (3) a district attorney and the employees of an office of a district attorney in the course of their official duties pursuant to 10 and 10A O.S. or the prosecution of crimes against children;
- (4) the attorney representing a child who is the subject of a juvenile proceeding pursuant to the provisions of Title 10, and 10A O.S. The attorney representing a child or an attorney considering representing a child in a juvenile proceeding may access other confidential records listed in 10A O.S., § 7307-1-22-6-102-(A) for use in the legal representation of the child;
- (5) employees of juvenile bureaus in the course of their official duties;
- (6) employees of a law enforcement agency of this or another state and employees of a child protective service of another state or any federally recognized Indian tribe member in the course of their official duties pertaining to investigations of known or suspected child abuse or neglect or crimes against children or for the purpose of determining whether to place a child in protective custody;
- (7) employees of a law enforcement agency in the course of their official duties pertaining to the investigation of a crime committed or alleged to have been committed by a person under 18 years of age. Records or information disclosed pursuant to this subparagraph may consist of summaries or may be limited to the information or records necessary for the purpose of the investigation;

- (8) the Oklahoma Commission of Children and Youth;
- (9) the Department of Human Services;
- (10) any public or private agency or person authorized by the Office of Juvenile Affairs to diagnose or provide care, treatment, supervision, or other services to a child who is the subject of a report or record of delinquency, child abuse or neglect, or other adjudicatory category, provided the OJA may limit the disclosure to summaries or to information directly necessary for the purpose of the disclosure;
- (11) any federally recognized Indian tribe or state or county child protective services or child welfare agency providing for or supervising the diagnosis, care, treatment, supervision, or other services provided such child;
- (12) the parents of the child who is the subject of any records;
- (13) any person or agency for research purposes, if any of the following conditions are met:
 - (A) The person or agency conducting the research is employed by the State of Oklahoma or is under contract with the state and is authorized by the Department of Human Services to conduct the research; and
 - (B) The person or agency conducting the research ensures that all documents containing identifying information are maintained in secure locations and access to any documents by unauthorized persons is prohibited; that no identifying information is included in documents generated from the research conducted; and that all identifying information is deleted from documents used in the research when the research is completed;
- (14) the Governor or to any person the Governor designates, in writing;
- (15) any federal official of the United States Department of Health and Human Services or the United States Department of Justice;
- (16) any member of the Legislature, upon the written approval of the Speaker of the House of Representatives or the President Pro Tempore of the Senate; and
- (17) employees of the Department of Corrections in the course of their official duties (10A O.S., §7307-1.5 2-6-106(A)(17)-as amended).

(c) Any person to whom the information is released shall show proper identifying credentials prior to release of the confidential information. The information disclosed remains confidential and must be used for the purposes for which the disclosure is authorized. It is unlawful for any person to furnish or disclose confidential records or information for commercial, political, or unauthorized purposes. Any unlawful disclosure or unlawful use of disclosed information is subject to criminal sanctions.

377:10-1-9. Information sharing

(a) The ~~Serious and Habitual Juvenile Offender Tracking Program Act, 10A O.S., § 7302-9.12-7-901, et seq., as amended~~ provides for the exchange of information relating to ~~serious and habitual~~ juvenile offenders among law enforcement agencies, juvenile court personnel, district attorneys, and others who require such information ~~in order to implement the Serious and Habitual Juvenile Offender Program. “Serious juvenile offender” and “habitual juvenile offender” mean persons under 18 years of age who have been adjudicated delinquent for the commission of serious acts or habitual criminal acts as defined by 10A O.S., § 7302-9.22-7-902, as amended and who are subject to the Serious and Habitual Offender Program.~~

(b) Information regarding such ~~serious and habitual~~ juvenile offenders shall be made available to the agencies responsible for the implementation of the ~~Serious and Habitual Offender Program~~. The Office of Juvenile Affairs, the juvenile bureaus, the District Attorneys' Council, the

Oklahoma State Supreme Court as provided by law, the Oklahoma Commission on Children and Youth, the Oklahoma State Bureau of Investigation, local law enforcement agencies, and other agencies comprising the juvenile justice system, as defined by 10A O.S., ~~Supp. 1995, § 7302-9-22-7-902(1)~~, shall enter into contracts or interagency agreements under the Interlocal Cooperation Act for the purpose of sharing information regarding ~~serious and habitual~~ said offenders.

(c) Such contracts and agreements shall be made in accordance with any applicable proposed guidelines ~~recommended by the Serious and Habitual Juvenile Offender Task Force within the Oklahoma Commission on Children and Youth~~ as set forth in 10A O.S., § 2-7-904.

377:10-1-10. Disclosure of records ~~pertaining to serious and habitual juvenile offenders~~ without court order

(a) In accordance with the rules adopted pursuant to the ~~Serious and Habitual Juvenile Offender Act~~ Oklahoma Juvenile Code, 10A O.S., §§ 2-6-102 and 2-6-104, and 10 O.S., § 620.6, juvenile court records, agency records, district attorney's records, law enforcement records, non-directory education records, and social records, as defined by law, may be inspected and their contents disclosed without a court order, ~~as provided in 10A O.S., §7303-1.3 2-2-104~~, to:

- (1) participating agencies as defined in 10A O.S., ~~§7307-1.1 2-6-101(9)~~;
- (2) a person, agency, hospital, or clinic authorized or directed by the court or by the Office of Juvenile Affairs to care for, treat, examine, evaluate, or supervise a child or to treat, examine, or evaluate the parent, legal guardian, or other adult person living in the home of the child;
- (3) a legally recognized school that is not a participating agency in which the child, who is the subject of the records, is currently enrolled or has been presented for enrollment; and
- (4) individuals or agencies engaged in legitimate research for educational, scientific, or public purposes or for the purpose of an audit authorized by law. No information identifying the subjects of the records shall be made available or disclosed unless it is essential to the research or audit purpose.

(b) Information and records released as provided herein shall remain confidential and shall be used for the purposes for which disclosure is authorized. It is unlawful for any person to furnish any confidential record or disclose any confidential information contained in any juvenile record for commercial, political, or any unauthorized purpose. Any unlawful disclosure or unlawful use of disclosed information is subject to criminal sanctions.

(c) In accordance with the provisions of the ~~Serious and Habitual Juvenile Offender Act~~ Tracking Program, 10A O.S., § 2-7-901, et seq., and 10 O.S., §Section 620.6 of Title 10, information included in juvenile court records, agency records, district attorney's records, law enforcement records, non-directory education records, and social records may be entered in and maintained in the Juvenile Justice Information System, or other automated system, whether or not the record is confidential. Such information systems may be accessed by participating agencies as provided for by law (10A O.S., ~~§7307-1.2 2-6-102~~).

377:10-1-11. Documents and records

(a) Documents filed with or presented to OJA shall be retained in the OJA files for the length of time required by state and federal laws. Documents shall be disposed of, sealed, and expunged in a manner consistent with the Records Management Act, 67 O.S., §§ 201 through 216; 67 O.S., §§ 305 through 317, ~~as amended~~, which pertain to archives and records; and 10A O.S., ~~§ 7307-1-~~

72-6-109, which pertains to the sealing of records. The records disposition schedule for OJA is available for public inspection.

(b) OJA records are available for public inspection in accordance with the Oklahoma Open Records Act, 51 O.S., § 24A.1 through 24A.24 as amended and OJA rules and procedures. All requests for agency and/or juvenile records must be submitted to the OJA Public Records Officer, P.O. Box 268812, Oklahoma City, OK 73126. No staff, other than the Public Records Officer or designee, shall fill records requests.

(c) In order to avoid giving unfair advantage to competitors or bidders, OJA shall keep confidential records relating to:

- (1) specifications for competitive bidding prior to publication by the public body; and
- (2) prior to the opening of bids by OJA or its representative, the contents of sealed bids solicited through requests for proposals or requests for information under Department of Central Services purchasing rules or those established by OJA.

(d) Provisions for copying and search fees are contained in the Open Records Act, with these exceptions being noted:

- (1) OJA shall not charge a copy fee to other public entities, clients or their representatives, or employees;
- (2) no search fee is charged to those seeking information in the public interest, including news media, schools, authors, or “taxpayers seeking to determine whether those entrusted with the affairs of its government are honestly, faithfully, and competently performing their duties as public servants.”; and
- (3) former employees seeking information from their personnel files shall not pay for the first ten (10) pages, but shall pay the prescribed fees for anything over ten (10) pages.

(e) The fees listed in (1)-(4) of this subsection may be charged separately or in combination. For example, a person may be charged a search fee in addition to a fee for photocopying.

(1) Fees for photocopying. OJA has established the following fee schedule, which must be posted for public view, for photocopying documents having the dimensions of 8½ x 14 inches or smaller:

- (A) 25 cents per page;
- (B) a maximum of one dollar (\$1.00) per copied page for a certified page.

(2) Fees for search. Requests that are for a commercial purpose or clearly would cause excessive disruption of office function shall be charged a search fee of \$25.00 per hour for staff time spent in the search.

(3) Fees for other types of reproduction. Requests for computer runs, microfilming, or reproduction other than photocopying shall be charged the cost to OJA of duplicating the information involved. Such requests shall be forwarded to the State Office where the fee is developed with the appropriate division.

SUBCHAPTER 3. PLACEMENT

377: 10-3-1. Purpose

The Placement Unit is designated by the Office of Juvenile Affairs to authorize and coordinate placements above the foster care level for all adjudicated juveniles and youthful offenders in custody of the Office of Juvenile Affairs. All commitments, recommitments, parole revocations and administrative transfers of custody youth must be processed through the Placement Unit. The Placement Unit shall make all placements in accordance with 10A O.S., §§ 7302-5.2 2-5-212, 7302-5.32-7-502, and 7306-2.11 2-7-503.

377:10-3-2. Placement process

(a) When a juvenile is committed to the custody of the Office of Juvenile Affairs, the JSU worker shall conduct a review and assessment of the juvenile to determine the type of placement consistent with:

- (1) the juvenile's treatment needs in the closest location to the juvenile's home; and
- (2) if the juvenile is adjudicated delinquent, the protection of the public [~~10A O.S., § 7303-8.32-2-803~~].

(b) The JSU worker shall make a recommendation to remove a juvenile from home after reasonable efforts to allow the parents to fulfill their roles have failed. In making a decision regarding moving a juvenile from the home, the JSU worker shall consider the best interests of the juvenile, as well as, the protection of the public.

(c) From intake to placement, the JSU worker shall collect information relating to the Uniform Child Custody Jurisdiction Act (UCCJA) (43 O.S., § 551-101 et seq.) or the Indian Child Welfare Act (ICWA) (10 O.S., § 40.1 et seq.) is applicable. Placements of OJA-custody juveniles shall be made in accordance with UCCJA and ICWA when appropriate.

(d) All placements require authorization by the Placement Unit except changes of placement to:

- (1) independent living (requires authorization by district supervisor);
- (2) own home;
- (3) relative's home; and
- (4) foster care.

377:10-3-3. Delinquent and youthful offender classification

As required by 10A O.S., §§ ~~7303-8.3 2-2-803~~ and ~~7306-2.112-5-212~~, OJA shall conduct a thorough review and assessment of each juvenile placed in OJA custody. OJA staff shall assess each delinquent or youthful offender in three areas in order to identify the most appropriate placement. The three areas are:

- (1) offense history;
- (2) risk assessment; and
- (3) treatment needs.

SUBCHAPTER 5. AGREEMENTS BETWEEN STATES FOR PLACEMENT AND TRANSFERS OF JUVENILES

377:10-5-2. Legal authority

Withdrawn.

377:10-5-4. Interstate Compact on the Placement of Children

Withdrawn.

SUBCHAPTER 7. CONTRACT PROGRAMS AND SERVICES

PART 1. GENERAL PROVISIONS AND FOSTER CARE

377:10-7-1. Purpose

The Office of Juvenile Affairs is authorized by 10A O.S., § 7302-6.62-7-606(D) to develop a variety of placements for OJA-custody juveniles. The purpose of this subchapter is to describe the programs and facilities with which the Office of Juvenile Affairs contracts for placement of juveniles.

377:10-7-3. Foster care

~~(a) **Foster family home.** A foster family home is a private residence in which a juvenile is placed for out of home foster care services. Foster parents shall provide continuous 24 hour care and supportive services to a juvenile placed in the home.~~

~~(b) **Scope.**~~

~~(1) The JSU worker shall participate in the recruitment of foster homes for juveniles in Office of Juvenile Affairs (OJA) custody. In addition to the requirements listed in 10 O.S., § 7204, as amended foster family homes shall meet, at a minimum, the standards required by the Oklahoma Child Care Facility Licensing Act (10 O.S., § 7204B.7). These standards are found in OAC 340:110-5, Part 5 and OJA foster family standards found in paragraphs (d) and (e) of this section.~~

~~(2) An OJA employee may apply to become a foster parent. However, the district supervisor must obtain approval from the Executive Director or the affected division administrator before certifying the home.~~

~~(c) **Foster parent eligibility assessment.** The JSU worker shall advise each foster parent applicant that a foster parent eligibility assessment per 10 O.S., §7203, as amended will be conducted on all adults living in the home. The foster parent eligibility assessment includes, but is not limited to, the following:~~

- ~~(1) a criminal history records search conducted by the OSBI;~~
- ~~(2) a national criminal history records search based upon the submission of fingerprints;~~
- ~~(3) a home assessment; and~~
- ~~(4) any other assessment requested by the Office of Juvenile Affairs.~~

~~(d) **OJA foster family home standards.** Persons providing foster family home care shall be chosen for their child care abilities and governed by clear standards of conduct as listed in this paragraph.~~

~~(1) **Skills, knowledge, and abilities of foster parents.** A foster parent must:~~

- ~~(A) demonstrate an ability to show openness, warmth, and acceptance in personal relationships;~~
- ~~(B) participate as a team member with the JSU worker and other persons involved in the juvenile's treatment plan;~~
- ~~(C) demonstrate an ability to create and continue a mutual trust relationship with the juvenile and the team;~~
- ~~(D) help the juvenile have confidence in the team;~~
- ~~(E) agree in writing to abide by OJA's rules regarding confidentiality;~~
- ~~(F) understand the general principles of human behavior, with special emphasis on the emotional, behavioral, and social problems of troubled juveniles;~~
- ~~(G) demonstrate an ability to work effectively with a range of professional disciplines, such as law enforcement, social work, psychology, vocational rehabilitation, and education;~~
- ~~(H) demonstrate a knowledge of and willingness to abide by all standards, regulations, and policies pertaining to the foster home; and~~

- (1) ~~demonstrate an ability to resolve conflict in a positive manner.~~
- (2) **Foster parent training.**
- (A) ~~A foster parent shall complete 12 hours of pre-service foster parent education prior to a juvenile's being placed in the home.~~
- (B) ~~A foster parent shall attend 12 hours per year of continuing in-service training.~~
- (C) ~~Training shall include all provisions of 10 O.S. §7212 (B)(2) and:~~
- ~~(i) foster parent rights and responsibilities, including the area of parental substitute authority;~~
 - ~~(ii) rights and responsibilities of OJA;~~
 - ~~(iii) juvenile rights; and~~
 - ~~(iv) behavior management techniques.~~
- (3) **Family composition.** ~~Foster parents may be either single or married, with a history of stable relationships. All applicants shall be evaluated on a case by case basis, but must have family, friends, or others approved by OJA to provide support and backup care.~~
- (4) **Age.** ~~The JSU worker conducting the study shall consider the age of a foster parent in relation to his or her physical capability, flexibility, vitality, maturity or judgment, and ability to exercise appropriate authority, supervision, and physical care. No person under the age of 21 shall be approved as a foster parent.~~
- (5) **Health.** ~~All members of the foster family must be in sufficiently good physical and mental health to provide necessary care for a juvenile. Adults in the home must have a physical exam before the home is certified. If a foster parent requires hospitalization or ongoing outpatient medical care, including mental health counseling, the foster parent must give the worker a physician's statement stating that the foster parent is capable of providing foster care. Adult members of the household who receive disability payments shall provide JSU a release of information so that JSU can obtain information regarding the applicant's ability to care for foster children.~~
- (6) **Income.** ~~The foster family must have a source of income adequate to meet the family's needs without the supplement of the foster care reimbursement. The worker shall consider entitlement programs such as Social Security, SSI, IV-E, and TANF as appropriate sources of income.~~
- (7) **Employment.** ~~A foster parent may be employed or attend school or training either full or part time while providing foster care as long as these activities do not interfere with the provision of a suitable family life. Arrangements for supervision of custody juveniles must be approved by the juvenile's JSU worker.~~
- (8) **Religion.** ~~Foster parents shall provide reasonable opportunity for any foster child to practice the religion of his or her choice. No child shall be required to attend any religious service against his or her religious preferences.~~
- (9) **References.** ~~Foster family applicants shall provide a total of six references, no more than two of whom are relatives, to the JSU worker.~~
- (10) **Foster parent eligibility assessment.**
- (A) ~~An Oklahoma State Bureau of Investigation criminal history records search must be conducted on all applicants and adult members of the household prior to the home's being certified. Applicants or household members with less than one (1) year's residence in Oklahoma shall authorize equivalent records searches from the previous state(s) of residence for at least five (5) years immediately preceding the placement.~~

~~(B) A national criminal history records search based on submission of fingerprints must also be conducted on foster parent applicants and all adults residing in a prospective foster home. Exceptions may be granted by the Executive Director in writing to a person who has a severe physical condition which precludes his or her being fingerprinted (10 O.S. §7209).~~

~~(C) A juvenile may be placed in the home before the national criminal history records search is completed if the prospective foster parent and all adults living in the home have lived in Oklahoma for at least five (5) years immediately preceding the placement.~~

~~(D) JSU shall update the OSBI criminal history records search every three (3) years or sooner if indicated. Statutory authority for the foster parent eligibility assessment is found in 10 O.S. §§ 404.1 and 7209, as amended.~~

~~(E) The JSU worker conducting the study must conduct a juvenile justice information systems review on all persons over the age of 13 years residing in the home, other than a foster child.~~

(11) History of charges and convictions of crimes.

~~(A) A home shall not be certified if anyone in the home has been convicted of:~~

- ~~(i) physical assault, battery, or a drug related offense within the five year period preceding the application;~~
- ~~(ii) child abuse or neglect;~~
- ~~(iii) domestic abuse;~~
- ~~(iv) a crime against a child, including, but not limited to, child pornography; or~~
- ~~(v) a crime involving violence, including, but not limited to, rape, sexual assault or homicide, but excluding physical assault or battery.~~

~~(B) Approval of any person with a history of charges and convictions of crimes other than those listed in (i) of this sub paragraph shall be determined on a case by case basis with consultation from the Executive Director or the affected division administrator.~~

~~(12) Sex crimes. No person who has been convicted of or received a deferred sentence for a sex related crime or for whom there has been a confirmed finding in a sexual abuse investigation shall be approved as a foster parent.~~

~~(13) OJA rules, policies, and procedures. Foster parents shall abide by OJA rules, policies, and procedures. Foster parents must agree in writing to follow OJA rules related to confidentiality. Foster parents must be given a copy of OJA's disciplinary rules as set forth in 377:10-1-3 and agree in writing that the following disciplinary actions are strictly prohibited:~~

- ~~(A) corporal punishment of any kind;~~
- ~~(B) threats;~~
- ~~(C) derogatory remarks, or other verbal abuse directed toward the juvenile or his or her natural or adoptive parents;~~
- ~~(D) deprivation of nutritious meals;~~
- ~~(E) deprivation of visits with the natural or adoptive parents without prior consultation with the JSU worker; and~~
- ~~(F) any unusual or unnecessary punishment.~~

~~(e) OJA foster family standards related to physical facilities, sleeping arrangements, and surroundings~~

~~(1) Safety. The physical facilities of the home must present no hazards to the safety of the foster child.~~

- ~~(2) **Location.** The foster home must be located within one half mile of public transportation, or the foster parent must be able to arrange transportation to community resources.~~
- ~~(3) **Recreation.** Adequate indoor and safe outdoor space for recreational activities must be provided.~~
- ~~(4) **Telephone.** Foster parents must have a working telephone and advise JSU of the correct phone number.~~
- ~~(5) **Automobiles.** Foster parents shall maintain a car in working order. Foster parents shall carry the statutorily mandated automobile liability insurance of a 10/20/10 minimum and possess a valid Oklahoma driver's license. Foster parents shall insure that seat belts are used at all times.~~
- ~~(6) **Liability insurance.** A foster family shall carry a minimum of \$100,000.00 liability insurance.~~
- ~~(7) **Sleeping arrangements and privacy.**~~
- ~~(A) Each juvenile shall be provided a separate bed.~~
 - ~~(B) No more than two juveniles shall share a bedroom.~~
 - ~~(C) Separate bedrooms must be provided or juveniles who are of the opposite sex.~~
 - ~~(D) Adults shall not share bedrooms with foster children.~~
 - ~~(E) Adequate space must be provided for a juvenile's personal possessions and for a reasonable degree of privacy.~~
 - ~~(F) A room, such as the living room, utility room, den, dining room, pantry, or converted garage, cannot be used as a bedroom unless it is specifically designated as a bedroom.~~
- ~~(8) **Number of juveniles**~~
- ~~(A) The total number of juveniles in the home, including the foster parents' biological children, adopted children, and foster children, cannot exceed six.~~
 - ~~(B) The total number of foster children placed in any home cannot exceed five.~~
 - ~~(C) An OJA foster home may not serve as a placement resource for any other agency nor may the foster parents provide child care for children from another source on a regular basis, paid or free without prior written approval from the Executive Director or the affected division administrator.~~
- ~~(9) **Annual assessment.** The JSU worker responsible for the foster home shall conduct an annual assessment of the home. An annual OSBI records check must also be conducted.~~
- ~~(f) **Foster home certification.** The district supervisor shall certify the applicant's home as a foster home upon the worker's written recommendation when:~~
- ~~(1) the worker's written home assessment indicates the family meets the foster home standards; and~~
 - ~~(2) all background and criminal history records searches have been completed and reveal no disqualifying information.~~
- ~~(g) **Foster home contract.** If the OSBI criminal history records search reveals no disqualifying information, the district supervisor may provisionally certify the home. Upon being provisionally certified, the foster parents shall sign a foster home contract with OJA. If the national criminal history records search reveals disqualifying information, OJA shall immediately cancel the contract and remove all juveniles placed in the home. In addition to the provisions listed in 10 O.S. §7206, the contract must include the list of foster parent rights in accordance with 10 O.S., §7209, as amended. A new contract must be executed each year.~~
- ~~(h) **Preplacement visit.** When possible, the JSU worker shall arrange for a preplacement visit between the juvenile and foster parents (10 O.S. § 7208, as amended).~~

~~(i) **Information provided to foster parents.** Upon a juvenile's being placed in foster care, the worker shall provide foster parents with:~~

~~(1) the names and telephone numbers for the:~~

~~(A) juvenile's case worker;~~

~~(B) case worker's supervisor;~~

~~(C) worker responsible for conducting the foster home study and the annual assessment of the home and the worker's supervisor; and~~

~~(D) contact person in the OJA state office or child placing agency.~~

~~(2) any other medical, psychological, social, or other pertinent information relating to foster care;~~

~~(3) a copy of the OJA or child placing agency's grievance procedures;~~

~~(4) the name and telephone number of any foster parent association in the county of the foster parent's residence;~~

~~(5) a copy of the statement of foster parent rights;~~

~~(6) information detailing the foster parent's ability to submit written reports to the court, or to petition the court directly for review of a decision by the state agency or the child placing agency to remove a foster child who has been placed with the foster parent; and~~

~~(7) a copy of the policies and procedures of the Office of Juvenile Affairs or the child placing agency which pertain to placement operations.~~

~~(j) **Foster parent grievances.**~~

~~(1) A foster parent may file a grievance with OJA in accordance with 10 O.S., § 7213.~~

~~(2) In accordance with 10 O.S., § 7204.1, there shall be no retaliation against a foster parent who files a grievance.~~

~~(3) Any person who knowingly and willfully makes a false or frivolous grievance report or complaint or a report that the person knows lacks factual foundation may lose certification as a foster parent.~~

~~(k) **Office of juvenile Affairs "Foster Parent Hotline".** Foster parents may call the Office of Juvenile Affairs' toll-free during normal agency business hours, 8:00 a.m. until 5:00 p.m., Monday through Friday to obtain information related to foster care services or to file a complaint or grievance. Weekend and holiday calls will be answered by automated message center. A representative from OJA shall respond to weekend or holiday calls within the first hour of the next business day following the weekend or holiday. The toll free number is 1-888-254-6692.~~

~~(l) **Movement of a juvenile from a foster care placement.** The JSU worker shall move juveniles from foster care in accordance with 10 O.S., §7208, as amended.~~

~~(1) When a juvenile has resided with a foster parent for (3) three or more months, the JSU worker, except in an emergency, shall give the foster parent a minimum of five (5) days advance notice before removing a juvenile from the foster parent's care and shall provide the foster family with written notification of the reasons for removing the juvenile.~~

~~(2) Except in an emergency situation, JSU shall not change the foster home placement of a juvenile without court approval if the:~~

~~(A) juvenile has been moved once since the last court hearing; and~~

~~(B) foster parent, with whom the juvenile has resided for more than six (6) months objects, in writing, after notice of the removal of the juvenile by OJA or the child placing agency. The objection shall be filed with the court by the foster parent and served on OJA or the child placing agency within five (5) days after receipt of the notice from OJA or the child placing agency regarding removal of the juvenile.~~

- ~~(3) The timely filing and service of the objection shall stay removal of the juvenile pending court review unless the OJA or child placing agency's stated reason for removal is:~~
- ~~(A) the foster parent's substantial noncompliance with applicable standards and agreements;~~
 - ~~(B) pending investigation of allegations of abuse or neglect by the foster parents or other person residing in the foster family home; or~~
 - ~~(C) reunification with a parent who contributed to the juvenile's being deprived, with prior approval of the court.~~

377:10-7-3. Foster Care

A foster family home is a private residence in which a juvenile is placed for out-of-home foster care services and includes a specialized foster home, a therapeutic foster family home, or a kinship care home. Foster parents shall provide continuous 24-hour care and support.

(a) **OJA responsibility.** OJA is responsible for certification of the foster home and to verify the foster home meets minimum requirements, which include the following:

(1) **Criminal history records search.** OJA shall conduct a criminal history records search for each member of the foster family who is 18 years of age or older. A criminal history records search is obtained from:

(A) the Oklahoma State Bureau of Investigation (OSBI) which shall include a search of Department of Corrections files maintained by the OSBI pursuant to the Sex Offenders Registration Act; and

(B) the state investigative agency in the previous state of residence if the person has resided in Oklahoma less than one year;

(C) a Federal Bureau of Investigation (FBI) national criminal history search, based on the fingerprints of the individual; and

(D) a search of any child abuse registry maintained by a state in which the prospective foster parent or any adult living in the home of the prospective foster parent has resided in the past five years.

(2) **Disqualifying crimes.** A prospective foster parent is not an approved placement for a juvenile if the prospective foster parent or any other person residing in the home of the prospective foster parent has been convicted of any of the following felony offenses:

(A) within the five-year period preceding the application date, physical assault, battery, or a drug-related offense;

(B) child abuse or neglect;

(C) domestic abuse;

(D) a crime against a child, including, but not limited to, child pornography; and

(E) a crime involving violence, including, but not limited to, rape, sexual assault, or homicide, but excluding those crimes specified in (A) of this paragraph.

(3) **Certification.** A copy of the certification is maintained in the foster home file.

(A) Certification of the foster home applies only to the location of the residence at the time the home study is made.

(B) If the family moves, OJA shall certify the new location.

(4) **Policy.** OJA shall provide foster parents with OJA policy relative to foster care.

(5) **Medical services.** OJA requires that the juvenile in foster care receives appropriate medical services.

(6) **Case planning.** OJA is responsible for case planning.

(7) **Supervision.** OJA shall provide supervision at least once a month to each juvenile in foster care, including private visits with the juvenile in foster care and on-site visits to the home, to assess the continued suitability of the foster home environment.

(8) **Written agreement.** OJA shall have a written agreement with the foster family, and provides the foster parents a copy of the agreement. The agreement includes statements:

(A) regarding the financial agreement, if applicable, between OJA and the foster home;

(B) that the foster home will not:

(i) accept a non-relative juvenile from any source without the approval from OJA; or

(ii) provide child care on a regular basis;

(C) that OJA has the right to remove the juvenile at its discretion;

(D) that the juvenile in foster care is discharged from foster care only with the consent of OJA;

(E) that visitation by the juvenile's parents or relatives must be approved by OJA;

(F) regarding absences of the juvenile from the home, including respite care, as per OJA policy;

(G) that the foster parents agree to cooperate with OJA staff in evaluating the foster home and in the ongoing supervision of the foster home; and

(H) that the foster parents agree to contact OJA when a household member has any involvement with legal authorities, a household member is alleged to have committed any allegations of child abuse, or if there are any other circumstance or incident seriously affecting the juvenile or care of the juvenile.

(9) **Grievance policy and procedure.** OJA shall have written grievance policy and procedure for foster parents and juveniles in foster care.

(b) **Foster home certification.** Certification of the foster home includes written documentation of:

(1) application for foster home certification that includes prior child care experience with other agencies;

(2) appropriate immunizations for the foster parents' children;

(3) a statement from a health professional certifying that all members of the household have had a physical examination within one year prior to application, verifying that they:

(A) are in good health; and

(B) do not have a condition that would interfere with their ability to care for juveniles;

(4) three written references from non-relatives who have knowledge of family functioning;

(5) a current, completed foster home study before the home is approved; and

(6) a criminal history records search conducted for each household member who is 18 years of age or older, per OAC 377:10-7-3(a)(1) – (2).

(c) **Foster home study.** OJA shall prepare a written home study before approving the foster home and prior to placement of a juvenile that contains, at a minimum, information regarding:

(1) **Interviews and home visits.** Interviews and home visits, include documentation of at least one:

(A) separate face-to-face interview with each parent, school-age child, and any other household member;

(B) joint face-to-face interview; and

(C) home visit;

(2) **Household composition.** Information regarding household composition includes each person residing in the home;

- (3) **Criminal history records search.** A criminal history records search is conducted on each household member who is 18 years of age or older, per OAC 377:10-7-3(a)(1) – (2), prior to initial approval of the home and when a new household member, age 18 or older, moves into the home;
- (4) **Foster juvenile profile.** The foster home study includes statements regarding the applicant's preference for age, gender, and special needs of the juvenile;
- (5) **Motivation, attitudes, and expectations.** The foster home study includes motivation and attitudes toward foster care and expectations regarding juveniles in foster care;
- (6) **Health.** Health information for each household member includes:
 - (A) present physical health;
 - (B) emotional stability;
 - (C) medical history; and
 - (D) any history of drug or alcohol use;
- (7) **Family functioning.** The foster home study includes information regarding the assessment of family dynamics, functions and interactions with each member of the family.
- (8) **Foster parents' marital status.** The foster home study includes information regarding the marital status of the foster parents, such as present marital status, history of previous marriages or significant relationships, date of present marriage, and description of the marriage or relationship;
- (9) **Employment.** The foster home study includes the employment history of family members;
- (10) **Financial information.** Financial information in the foster home study includes documentation of annual income.
- (11) **Education.** The foster home study includes information regarding the education of family members.
- (12) **Religion.** Information regarding religion includes the family's religious preference and practices;
- (13) **Description of the home.** The description of the home includes the:
 - (A) type of dwelling and physical description; and
 - (B) location of the home and description of the neighborhood;
- (14) **Weapons and firearms.** The foster home study includes the location of weapons and firearms, if any, and a notice that weapons and firearms are prohibited unless a full-time duly appointed peace officer, who is certified by the Council on Law Enforcement Education and Training (CLEET) pursuant to the provisions of 10 O.S., § 3311, resides in the home;
- (15) **Transportation.** Information regarding transportation includes the family's means of transportation and verification of:
 - (A) a valid driver's license for each family member who will transport a juvenile in foster care;
 - (B) license tag;
 - (C) insurance; and
 - (D) an agreement to transport all juveniles and adults in compliance with applicable state law, per 47 O.S., § 11-1112;
- (16) **Family history.** The foster home study includes information regarding family history, including:
 - (A) names of parents and siblings;
 - (B) dates and places of birth;

- (C) physical health and mental stability;
 - (D) relationship with family members;
 - (E) social, cultural, and religious orientation; and
 - (F) information regarding their childhood including how they were disciplined;
- (17) **Written references.** The foster home study includes three written references from persons who have information relative to the family's ability to provide foster care that include:
- (A) name, address, and telephone number;
 - (B) when and how the person became acquainted with the applicants;
 - (C) how often the person has contact with the family;
 - (D) information regarding family functioning; and
 - (E) opinions regarding personal qualities and ability to provide care for juveniles in foster care; and
- (18) **Recommendation.** The foster home study includes the recommendation whether to approve the home that:
- (A) is signed and dated by the person who conducted the foster home study and the district supervisor; and
 - (B) if approved, contains the juvenile's profile and number of juveniles for which the home is approved.
- (d) **Annual home study updates.** The foster home study is updated annually to include:
- (1) documentation of a home visit;
 - (2) documentation of a face-to-face interview with each parent, school-age child, and any other household member;
 - (3) current vehicle insurance verification; and
 - (4) reports of any significant changes from the initial home study.
- (e) **Foster parent training.** OJA shall provide and document that each foster parent has received at a minimum:
- (1) six hours of orientation or preservice training prior to approval of the foster home or placement of a juvenile and includes at a minimum:
 - (A) OJA policy;
 - (B) program philosophy;
 - (C) confidentiality;
 - (D) mandatory reporting of child abuse;
 - (E) grievance process;
 - (F) emergency medical procedures; and
 - (G) fire and disaster plans;
 - (2) six additional hours of training within the first calendar year of certification that is relevant to the needs of the juvenile placed in their care and is documented by the OJA to include, but is not limited to:
 - (A) normal child development;
 - (B) behavior management;
 - (C) separation and loss; and
 - (D) infection control and injury prevention; and
 - (3) 12 hours of training each calendar year thereafter that is relevant to foster parents' roles and responsibilities and may include workshops and video presentations.
- (f) **Foster parent responsibility.**

(1) **General.** Foster parents shall provide OJA any information related to compliance with all requirements and allow representatives of the agency access to any member of the household and into all rooms within the home. Foster parents:

(A) are responsible, mature, healthy adults capable of meeting the needs of the juveniles in foster care;

(B) demonstrate a capacity for setting realistic expectations for behavior and performance based on the ages, abilities, and special needs of the juveniles;

(C) may be married couples, single persons, or family members with a stable living arrangement; and

(D) ensure that all members of the household are informed of and agree to accept the juvenile into the home.

(2) **Age.** Foster parents shall be at least 21 years of age.

(3) **Income and employment.** Foster parents shall have sufficient income to meet their needs and ensure the security and stability of the household independent of foster care maintenance payments if applicable.

(A) Foster parents who both work outside the home shall obtain approval from OJA for their plan of care for the juveniles during their absence.

(B) Foster parents shall obtain approval from OJA to conduct a business in the home and demonstrate that the activities related to this business will not interfere with the care of the juveniles.

(4) **Notifications.** Foster parents shall comply with the requirements pertaining to notifications. Foster parents shall notify OJA:

(A) in writing prior to allowing any person to take up residence for more than two weeks in the foster home;

(B) immediately of the occurrence of:

(i) the death of a juvenile;

(ii) a serious injury or illness involving medical treatment of the juvenile;

(iii) unauthorized absence of the juvenile from the home as defined by OJA policy;

(iv) removal of the juvenile from the home by any person or agency other than OJA, or attempts at such removal;

(v) loss of income that affects the family's ability to meet the needs of the juveniles in foster care;

(vi) any involvement of a juvenile with legal authorities;

(vii) any fire or other emergency requiring evacuation of the home; and

(viii) lack of heat, water, or electricity; and

(C) as soon as possible of:

(i) any serious illness or death in the household;

(ii) the departure or return of any member of the household;

(iii) a move to another residence; and

(iv) any other circumstance or incident seriously affecting the juvenile or care of the juvenile; and

(v) any allegations of child abuse.

(5) **Cooperation.** Foster parents shall work cooperatively with OJA representatives as members of the treatment team responsible for planning, providing, and discussing the total care and services provided to each child. Foster parents shall:

- (A) fully disclose all information related to a juvenile's problems or progress to OJA representatives;
 - (B) treat any personal information about a juvenile or the juvenile's family in a confidential manner; and
 - (C) participate in an annual mutual review with OJA to evaluate the strengths and weaknesses of the foster home and of OJA representatives' relationships with foster parents.
- (6) **Number of children.** The foster home agency complies with requirements regarding placement of children in the foster family home.
- (A) No more than five foster juveniles are placed in the home.
 - (B) The number, ages, and needs of foster juveniles placed in the home are in keeping with the capacity and skills of the foster parents and accommodations of the home.
 - (C) The total number of juveniles in the home, including the foster parents biological children, adopted children, and foster children cannot exceed six. Local city ordinances should be researched to determine if other restrictions apply.
- (g) **General foster home requirements.**
- (1) **Home requirements.** The foster home shall:
 - (A) be clean, safe, and in good repair;
 - (B) have the exterior around the home free from objects, materials, and conditions that constitute a danger to the juveniles served;
 - (C) be accessible to school, church, recreational and health facilities, and other community resources, as needed; and
 - (D) be in compliance with all applicable fire, health, and safety laws, ordinances, and regulations.
 - (2) **Safety requirements.**
 - (A) Clear glass doors are plainly marked to avoid accidental impact.
 - (B) Juveniles are protected from hazardous materials, such as flammable liquids and poisonous materials.
 - (C) All weapons and firearms are prohibited, except as provided for in OAC 377:10-7-3(c)(14).
 - (D) The premises are free of illegal drugs and paraphernalia.
 - (E) Smoking is prohibited inside the home and when transporting juveniles.
 - (F) Stairways over four steps, inside and outside, have railings.
 - (G) Any play activity that involves water is supervised constantly. Ponds or pools are not left accessible to juveniles.
 - (3) **Fire safety requirements.**
 - (A) A fire extinguisher rated for Class ABC fires is installed in the kitchen area.
 - (B) The foster home is equipped with adequate operable smoke detectors in the vicinity of the sleeping areas.
 - (C) Each floor used as living space has at least two means of escape, at least one of which is a door leading to an unobstructed path to the outside. The second means of escape may be an unobstructed, operable window with 20" X 24" minimum dimensions.
 - (D) All heating and air conditioning equipment is installed in accordance with state and local mechanical codes and manufacturer's instructions.
 - (4) **Health requirements.**

- (A) Water supply, sewage disposal, and solid waste disposal meet local city ordinances and Oklahoma Department of Environmental Quality regulations.
 - (B) Rooms used by juveniles are well lighted and ventilated.
 - (C) Windows and doors used for ventilation are screened.
 - (D) The foster parents take measures to keep the house and grounds free of rodents, insects, and stray animals.
 - (E) At least one operable sink, one operable toilet, and one operable tub or shower are available in the home.
 - (F) Each juvenile is provided with individual combs, toothbrushes, wash cloths, towels, and eating and drinking utensils.
 - (G) Linens are changed when needed.
 - (H) Animals or household pets are permitted provided there is proof of annual rabies vaccinations for each animal. Pets or animals in the foster home, indoors or outdoors, are in good health, show no evidence of carrying disease, are friendly toward juveniles, and present no threat to the health, safety, and well-being of juveniles.
 - (I) OJA requires the foster family to comply with the Oklahoma State Department of Health recommendations regarding tuberculin skin testing when there is a local identified tuberculin exposure.
- (5) **Sleeping arrangements.** A separate bed is provided for each child or juvenile.
- (A) No more than two children or juveniles may share a sleeping room, except as approved by OJA.
 - (B) Separate sleeping rooms are provided for children older than four years who are of different sex.
 - (C) Juveniles in foster care do not share a sleeping surface with adults in the household.
- (6) **Emergency plans.** The foster home complies with the requirements pertaining to emergency plans contained in this subsection.
- (A) The foster home has a planned source of medical care available, such as a hospital emergency room, clinic, or health professional known to the foster family.
 - (B) The home has a telephone with emergency numbers posted nearby for the health professional or clinic, fire department, police department, ambulance service, and substitute caregiver.
 - (C) The foster parent has an emergency evacuation plan in the event of fires, tornadoes, floods, and other emergencies.
 - (D) First aid procedures and supplies are readily available.
 - (E) The foster parent ensures that each child and juvenile, as appropriate to age and developmental level, knows how to evacuate from the home in the event of a fire. The foster parent conducts periodic evacuation drills.
- (7) **Transportation.** Juveniles in foster care are transported in compliance with applicable state law, 47 O.S., § 11-1112. The transporting vehicle shall be covered by liability insurance as required by Oklahoma laws. The foster family has emergency transportation available.
- (A) **Driver qualifications.** Drivers transporting juveniles in foster care have an operator's license of the type appropriate for the vehicle that is valid in the driver's state of residence.
 - (B) **Passenger restraints.** Juveniles who are transported are properly secured in an individual seat belt.

(8) **Nutrition.** Each juvenile is provided a balanced, nutritious, and developmentally appropriate diet. The food is wholesome in quality, ample in quantity, and of sufficient variety.

(9) **Informal care arrangement requirements.** The foster parent may make informal care arrangements with friends, neighbors, or relatives for occasional care of the juvenile, including before and after school hours, and not to exceed 24 consecutive hours.

(A) The foster parent shall:

(i) ensure that informal care providers possess the maturity and skill to address the needs of the juvenile in foster care;

(ii) secure prior authorization for informal care from OJA. Prior authorization may apply to multiple events when the same informal provider is used;

(iii) not utilize a juvenile in foster care to babysit a younger child unless approved by OJA; and

(iv) provide the informal provider information for contacting the foster parent and other emergency contacts.

(B) The informal provider must be at least 18 years of age.

(10) **Alternate care arrangement requirements.** The foster family is encouraged to develop a relationship with another family as an alternate provider who can provide care for the juvenile in foster care in case of family emergencies, family vacations, or when the provider needs respite care. The agency must approve the alternate care and have documentation that the alternate provider:

(A) is at least 21 years of age;

(B) has obtained a criminal history records search within the last 12 months conducted by:

(i) the Oklahoma State Bureau of Investigation (OSBI) which shall include a search of Department of Corrections files maintained by the OSBI pursuant to the Sex Offenders Registration Act for each household member who is 18 years of age or older; and

(ii) the authorized agency in the previous state of residence if the person has resided in Oklahoma less than one year;

(C) meets the foster home requirements listed in OAC 377:10-7-3(g);

(D) provides one reference; and

(E) complies with discipline and behavior management requirements in OAC 377:10-7-3(g)(11).

(11) **Discipline and behavior management requirements.** The objective of discipline and behavior management is to provide a positive learning experience for the juvenile to grow and develop and to learn acceptable standards of social behavior.

(A) **Expectations of foster parents.** Foster parents shall:

(i) recognize and encourage appropriate behavior;

(ii) teach by example and use fair and consistent rules with logical consequences;

(iii) use methods of discipline that are relevant to the behavior;

(iv) supervise with an attitude of understanding, firmness, and discipline;

(v) give clear directions and provide guidance consistent with the juvenile's level of understanding;

(vi) redirect the juvenile by stating alternatives when behavior is unacceptable;

- (vii) express themselves so the child understands that the juvenile's feelings are acceptable but certain actions or behavior are not;
 - (viii) help the juvenile learn what conduct is acceptable in various situations;
 - (ix) encourage the juvenile to control the juvenile's own behavior, cooperate with others and solve problems by talking things out; and
 - (x) communicate with the juvenile by showing an attitude of affection and concern.
- (12) **Discipline and behavior management policy.** OJA complies with the requirements regarding discipline and behavior management contained in this subsection. OJA's discipline policy is maintained in writing and is provided to foster parents, the juvenile and the juvenile's parent or custodian.

(A) OJA's discipline policy includes:

- (i) the goal and purpose of OJA's discipline and behavior management program;
- (ii) approved methods of discipline and behavior management;
- (iii) a list of persons authorized to administer discipline and behavior management methods to juveniles in foster care; and
- (iv) the agency's method of monitoring and documenting implementation of the policy; and

(B) OJA's discipline policy prohibits punishment:

- (i) of a physical nature, such as shaking, striking, spanking, or physical abuse;
- (ii) that constitutes emotional abuse, such as humiliation, name-calling, cursing, or degrading remarks regarding the juvenile or the juvenile's family;
- (iii) administered by one juvenile to another juvenile;
- (iv) that denies meals, sleep, or mail; and
- (v) that places a juvenile in a locked room.

(h) **Juvenile's case record.** Records maintained by OJA for juveniles in placement include, but are not limited to:

- (1) an intake form that includes the juvenile's full name, nickname(s), if any, date of birth, race, gender, place of birth, religion, and names, addresses and telephone numbers of parents and other significant relatives;
- (2) history of previous placements and dates;
- (3) reason for the present placement;
- (4) a description of the circumstances that led to the juvenile's present placement;
- (5) a description of the juvenile's relationship with other significant adults and children;
- (6) admission assessment that includes the juvenile's current level of functioning and medical history, including:
 - (A) medications the juvenile is currently taking;
 - (B) immunizations;
 - (C) allergies; and
 - (D) childhood diseases;
- (7) current court order(s) documenting legal custody of the juvenile and other applicable court orders;
- (8) certified birth verification;
- (9) juvenile's medical information, including:
 - (A) juvenile's medical authorization number, if applicable;
 - (B) medical examination completed no more than 60 days prior to placement or scheduled within 10 days after placement;

- (C) written authorization to provide medical care;
- (D) disabilities;
- (E) psychosocial information;
- (F) name of the juvenile's last doctor, if known; and
- (G) documentation of medical services;
- (10) history of the juvenile's family of origin;
- (11) information regarding the physical health of the juvenile's family, including father, mother, and grandparents;
- (12) information regarding the emotional stability of family members;
- (13) reports from schools, specialists, and other agencies;
- (14) documentation that the juvenile's rights have been explained to the juvenile;
- (15) documentation that the grievance policy has been explained to the juvenile;
- (16) a service plan per OAC 340:110-5-3 completed within 30 days of placement and signed and dated by the juvenile, staff, foster parents, and parent or guardian;
- (17) revision of the service plan every six months;
- (18) case notes that have been signed and dated;
- (19) a discharge plan that includes anticipated length of placement and future placement;
- (20) a discharge summary that includes an assessment of the juvenile's progress in placement, the juvenile's continuing needs and plans, and recommendations for follow-up services, if any; and
- (21) documentation of inability to obtain any of the information contained in this Section and efforts to obtain it.

(i) **Foster home record.** OJA shall maintain a current record on each foster home. Entries, dated in chronological order and identifying the staff member who recorded the information, include:

- (1) certification form and documents verifying certification, per OAC 377:10-7-3(b);
- (2) a complete report of the home study with evaluation and recommendations as required;
- (3) records of all juveniles placed in the home with dates, names, ages, and rates of payment for services, if applicable;
- (4) records of all juveniles removed from the home with dates, names, ages, and reasons for removal;
- (5) financial agreements, if applicable;
- (6) signed and dated case notes, visits or contacts, and conferences;
- (7) a copy of the placement worksheet on each juvenile;
- (8) correspondence;
- (9) records of the home study, updated annually, per OAC 377:10-7-3(d);
- (10) documentation of training; and
- (11) written agreements and contracts between the agency and the foster parents.

(j) **Juvenile's rights.** OJA requires that the juvenile in foster care is:

- (1) not forced to participate in publicity or promotional activities;
- (2) not publicly identified as in the custody of OJA;
- (3) provided an opportunity to participate in religious services;
- (4) supplied with facilities and supplies for personal care, hygiene, and grooming;
- (5) supplied with his or her own clothing and shoes appropriate to the season, age, activities, and individual needs and comparable to that of other juveniles in the community;

(6) provided individual space in the foster home for the juvenile's personal possessions and a reasonable degree of privacy.

(A) The juvenile has the right to bring, possess, and acquire personal belongings subject only to reasonable household rules and the Individual Treatment and Service Plan (ITSP).

(B) Personal belongings are sent with the juvenile when the juvenile leaves the home;
(7) expected to perform only household tasks that are within the child's abilities, reasonable for the child's age, and similar to those expected of other household members of comparable age and ability;

(8) given guidance in managing money.

(A) Money earned by the juvenile or received as a gift or allowance is the juvenile's personal property.

(B) The juvenile is not required to use earned money to pay for room and board, unless it is a part of the ITSP and approved by the parent or custodian and the agency;

(9) allowed privacy in writing, sending, or receiving correspondence, unless restricted by the ITSP;

(10) not denied meals as punishment;

(11) not subjected to remarks that belittle or ridicule the juvenile or the juvenile's family;

(12) allowed to visit with the juvenile's family, in accordance with the service plan;

(13) not forced to acknowledge dependency on OJA or foster home or gratitude to them;

(14) given the opportunity, at the juvenile's or OJA's request, for private conversation with OJA's staff members who are responsible for the juvenile's supervision; and

(15) provided educational opportunities in accordance with the juvenile's plan of care.

377:10-7-4. Therapeutic foster care

(a) ~~As authorized by 10A O.S., §§ 7302-6.6 2-7-606 (D), 7204, and 7205, as amended~~ The Office of Juvenile Affairs may contract with a licensed child placing agency for the provision of therapeutic foster care services to OJA-custody juveniles. A therapeutic foster home is a foster family home, which provides specific services to eliminate social and behavioral problems of a juvenile placed in the home.

(b) Rules regarding eligible providers, admission requirements, description of required services, and the Title XIX payment rate are found in Title 317, the Oklahoma Health Care Authority [17:30-5-740, 317:30-5-741(5)(D), 317:30-5-742, 317:30-5-473, and 317:30-5-475]. In addition to the requirements of the Oklahoma Health Care Authority, therapeutic foster homes shall meet, at a minimum, the standards required by the Oklahoma Child Care Facility Licensing Act, found in OAC 340:110-5, Part 5, and OJA foster home standards listed in OAC 377:10-7-3(d)(e).

(c) In working with therapeutic foster families, ~~the child placing agency~~ OJA shall abide by the provisions of the Oklahoma Foster Care and Out-of-Home Placement Act.

377:10-7-5. Specialized community home

(a) **General provisions.** A specialized community home (SCH) is a community-based, family-structured home for up to five OJA-custody juveniles. A SCH shall be operated by, and in the home of, a professional, contracted social service provider. The contractor shall provide an intensive, individually-focused, therapeutic intervention program of social services in addition to basic residential care. The contractor shall also provide counseling, educational opportunity, employment opportunity, cultural enrichment, and independent living skills training consistent

with each juvenile's treatment plan. The SCH contractor's full-time job shall be to operate the specialized community home and provide services.

(b) **Foster family care standards.** An applicant, to become a specialized community home provider, shall submit a program proposal to the Executive Director or the affected division administrator, and meet the requirements listed in ~~10 O.S., § 7204, as amended~~ OAC 377:10-7-3. A specialized community home operator shall meet, at a minimum, the ~~standards required by the Oklahoma Child Care Facility Licensing Act, found in OAC 340:110-5, Part 5, and OJA foster home standards listed in OAC 377:10-7-3.~~

(c) **Program proposal.** An applicant shall address each of the criteria listed in (1)-(16) of this subsection in the applicant's written program proposals.

(1) **Previous child care experience.** The applicant shall provide a description of the applicant's previous child care experience with the target population described.

(2) **Educational background and abilities of the applicant.** The applicant shall provide information regarding the applicant's formal education, training, and abilities. The applicant shall describe how the education enhances his or her ability to successfully operate this program.

(3) **Adaptability.** The applicant shall describe in writing how he or she may adapt to meet the needs of juveniles referred to the program.

(4) **Behavior management.** The applicant shall describe in writing his or her philosophy of behavior management methods and its applicability to the proposal population.

(5) **Effect on other family members.** The applicant shall provide information on the effect, if any, becoming a specialized community home will have on family members and the plan to minimize any risk potential that may exist.

(6) **Role of the spouse.** The applicant shall describe in writing the role which a spouse, present in the home, will play in the overall operation of the specialized community home.

(7) **Overall plan of service delivery.** The applicant shall provide a written plan of service delivery. The applicant shall answer the following questions:

(A) What types of services will be directly provided and in what manner; and

(B) What will be accessed from the community?

(8) **Relief/respice care.** The applicant shall provide an outline of the plan for relief/respice care arrangements.

(9) **Community/school system acceptance.** The applicant shall describe the community/school system tolerance level for the type of juveniles proposed for placement.

(10) **Facility.** The applicant shall provide information regarding whether the home is adequate to accommodate four juveniles in addition to the applicant's own family. Upon written approval from the Executive Director or the affected division administrator, a home may be certified for five juveniles in addition to the applicant's own family.

(11) **Recreational resources.** The applicant shall provide a written description of and a plan for using available recreational resources.

(12) **Educational resources.** The applicant shall provide a description of available State Board of Education certified educational resources, including vocational education and special education.

(13) **Independent living.** The applicant shall have a plan to assess and teach independent living skills to juveniles 16 years of age and older.

(14) **Employment resources.** The applicant shall describe plans to teach job skills and access employment resources. The applicant shall identify transportation resources.

(15) **Community resources.** The applicant shall provide information regarding the availability of community resources and the applicant's plan for accessing community resources.

(16) **Transportation.** The applicant shall advise whether he or she can provide transportation for the juveniles.

(d) **OJA staff participation.** OJA staff may not participate in writing program proposals.

(e) **Role expectations of the specialized community home operator.** OJA may require specific training for the SCH prior to placing a juvenile in the home. Specialized community home (SCH) contractors shall annually obtain 21 hours of training regarding working with juveniles. All SCH contractors and their spouses shall receive training in an approved system for managing aggressive and non-aggressive acting-out behavior. Contractors shall attend OJA mandatory meetings held twice yearly, as well as any additional required training. Contractors shall receive training hours for attending the required meetings.

(f) **Responsibilities of the specialized community home contractor.** The Office of Juvenile Affairs shall set forth specific responsibilities of the specialized community home operator in the contract between OJA and the contractor. OJA staff shall ensure that contractors meet all contractual requirements.

377:10-7-7. Kinship foster care

(a) Any responsible adult with whom a juvenile has a kinship relationship ~~as defined in 10 O.S. § 7203, as amended,~~ may apply to become a kinship foster home for that juvenile.

(b) An OSBI criminal history records search must be completed and a national criminal history records search based on fingerprints initiated before a family is certified as a foster home.

(c) The worker shall complete a foster home study on kinship foster parents. Kinship foster parents must meet the standards set forth in OAC 377:10-7-3.

(d) A foster parent providing kinship care shall, if possible, complete the training before the juvenile is placed. If training is not possible before placement, the kinship foster parent must receive the training no later than three months after placement. Training requirements are listed in OAC 377:10-7-3~~(D)(2)~~.

PART 5. DETENTION

377:10-7-30. Legal base

Title 10A O.S., § ~~7304-1-12-3-101~~ et. seq., provides for the detention of juveniles. Title 10A O.S., § ~~7306-2-42-5-204(D)~~ provides for the detention of youthful offenders. Title 10A O.S. § ~~7304-1-32-3-103(dD)~~ authorizes the Board of Juvenile Affairs to establish a plan for secure and non-secure detention services.

PART 7. INDEPENDENT AND TRANSITIONAL LIVING

377:10-7-40. General provisions

Title 10A, O.S., § ~~7303-5-22-2-502(3B)(d4)~~ authorizes the Office of Juvenile Affairs to provide any juvenile age 16 or older and placed out-of-home, independent living services. All OJA facilities and contract residential facilities shall provide each juvenile placed with a standardized independent living assessment.

377:10-7-41. Independent living programs

Independent living programs, as defined by 10A O.S., § ~~7301-1.32-1-103~~, are programs and services, which assist juveniles to enhance skills and abilities required for adult living. In addition to minimum staff supervision, independent living services include:

- (1) assisting juveniles in making arrangements for a place to live;
- (2) completing a juvenile's education or vocational training;
- (3) obtaining employment; and
- (4) other independent living services as needed.

377:10-7-42. Transitional living programs

(a) A transitional living program, as discussed in 10A O.S., § ~~7301-1.32-1-103~~, is a residential program designed to assist OJA-custody juveniles in acquiring abilities and skills needed for successful adult living. Although transitional living programs may be attached to existing facilities, transitional living programs are not required to be part of another program.

(b) In addition to providing less staff supervision than in group home or institutional programs, transitional living programs shall provide, at a minimum, the following services:

- (1) vocational and educational;
- (2) employment training and employment; and
- (3) other appropriate independent living skills.

(c) The Office of Juvenile Affairs considers a transitional living program, not attached to a facility, a supervised independent living center.

PART 9. CONTRACTED SERVICES

377:10-7-50. Legal base

(a) Title 10A, O.S., § ~~7302-3.52-7-305~~ provides that OJA may contract for provision of services to juveniles and families. When resources allow, OJA may offer contracted services to duly constituted Juvenile Bureaus (10A O.S., § ~~7305-1.12-4-101~~). However, when service capacity is limited, OJA shall give priority to custody juveniles.

(b) Contract services include:

- (1) educational and vocational assessments and services;
- (2) substance abuse assessments and interventions;
- (3) non-residential substance abuse assessment and interventions;
- (4) non-residential diagnostic and evaluation services;
- (5) wraparound services focused on the juvenile and family; and
- (6) tracking services.

SUBCHAPTER 11. CHILD IN NEED OF MENTAL HEALTH TREATMENT

377:10-11-1. Child in need of Mental Health Treatment

The Office of Juvenile Affairs may provide for the care of a child who is in the custody of the Office of Juvenile Affairs and found by a court to be a child in need of mental health or substance abuse treatment pursuant to the Inpatient Mental Health and Substance Abuse Treatment of Children Act, [Title 43A. § 5-501 through 5-513], as required by 10A O.S., § ~~7303-8.42-2-804~~, as amended. For Medicaid eligible juveniles who are wards of the court and in the custody of, or under, the supervision of the Office of Juvenile Affairs, OJA employees shall follow applicable rules as promulgated by the Oklahoma Health Care Authority that govern Medicaid reimbursement for inpatient care.

SUBCHAPTER 13. REGIMENTED JUVENILE TRAINING PROGRAM STANDARDS
PART 1. GENERAL PROVISIONS

377:10-13-1. Legal base

Statutory authority for the Office of Juvenile Affairs to establish standards for the regimented juvenile training program (RJTPs), including an intensive physical training and discipline phase and a community reintegration phase, is located in 10A O.S., ~~7302-6.92-7-609~~.

PART 3. PERSONNEL

377:10-13-13. Criminal record checks

Withdrawn

PART 17. SECURITY AND CONTROL

377:10-13-89. Juvenile rights

(a) RJTP policies and procedures shall comply with 10A O.S., ~~§7302-6.3 2-7-603~~, regarding rules, policies, and procedures required in facilities.

(b) Each juvenile shall have the right to receive individualized care and treatment in the least restrictive setting consistent with the juvenile's care and treatment needs and, in the case of a delinquent juvenile, with the protection of the public. This means that:

- (1) Juveniles are entitled to be protected and cared for in a safe, caring, and humane environment;
- (2) Services provided to juveniles shall be based upon the individualized needs of each juvenile, as determined by comprehensive assessment and evaluation, flexible, and available when needed for juveniles throughout the state. Juveniles shall be provided the programs and services reasonably necessary to implement each juvenile's individual service plan;
- (3) Services provided to juveniles shall be family-based whenever possible;
- (4) A full range of community-based program options must be a part of an overall continuum of care so as to implement the least restrictive placement for juveniles that is consistent with their needs and additionally, in the case of delinquents, with public safety;
- (5) In –determining the appropriate placement of juveniles, the presumption shall be that the juvenile's best interests are served by remaining in his or her own home or home community with necessary services to be provided there;
- (6) Placement of juveniles in residential settings shall occur only after all non-residential alternatives have been attempted or considered, and placement of juveniles in secure or highly restrictive residential settings shall occur only after less restrictive residential settings have been attempted or considered;
- (7) Brief psychiatric hospitalization for the short-term crisis stabilization of juveniles shall be the primary use of inpatient psychiatric care. Inpatient psychiatric care shall not be used for chemical dependency treatment unless the juvenile is psychotic, suicidal, or dangerous and cannot be stabilized in a less restrictive placement;
- (8) Residential services shall be provided, whenever possible, in small, homelike, community-based facilities rather than larger, self-contained units; and
- (9) When juveniles are placed in residential care, multiple residential placements shall be avoided to achieve placement stability. The length of stay in non-community-based residential care shall be as brief as possible.

377:10-13-90. Use of force

(a) Title 10A O.S., ~~§7302-6.4~~ 2-7-604, prohibits the use of physical force in institutions and other facilities operated by or contracted with OJA except:

- (1) when necessary for self-protection;
- (2) to separate juveniles who are fighting;
- (3) to restrain juveniles who have escaped or are in the process of escaping; and
- (4) to restrain juveniles who are in danger of harming themselves or others.

(b) In every case, the amount of force used shall be the least amount necessary.

(c) Medical attention shall be provided immediately upon the juvenile's release from restraint even if there is no visible evidence or complaint of injury. If necessary, medical attention may be provided by a licensed physician, licensed practical nurse, registered nurse, physician's assistant, or emergency medical technician.

Prior to the end of the shift in which the incident took place, any staff member who applies physical force shall submit a written report about the incident to the facility director.

(d) The facility shall give written guidelines to staff on the use of physical force, further stating that, in accordance with staff disciplinary procedures, loss of employment may result if unauthorized use of physical force is proven.

(e) Physical force may never be used as punishment or retaliation.

(f) Facility staff shall not permit any person to use physical force contrary to policy.

(g) Staff members shall not provoke physical confrontation by taunting, harassing, or otherwise manipulating a resident into behavior which would justify physical force.

(h) The use of chemical agents to control juveniles is prohibited.

**OKLAHOMA ADMINISTRATIVE CODE
TITLE 377. OFFICE OF JUVENILE AFFAIRS**

**RULE IMPACT STATEMENT
Chapter 10. Office of Juvenile Affairs**

A. A brief description of the purpose of the rule:

Title 377. Office of Juvenile Affairs
Chapter 10. Office of Juvenile Affairs
[OAR Docket #10-1274]
Subchapter 1. General provisions
377:10-1-4. Use of physical force and/or mechanical restraints [AMENDED]
377:10-1-4.1. Use of chemical agents [NEW]
377:10-1-4.2. Use of Electrical Conducted Device (ECD) [NEW]

Summary: Rule revisions in Chapter 10 are due to non-substantive citation changes, as per House Bill 2029 (2009), as well as providing for amending and new language pertaining to the use of physical force and/or mechanical restraints as provided by House Bill 2729 (2010).

B. A brief description of the classes of persons who most likely will be affected by the proposed rule:

Juveniles and OJA staff at secure facilities will most likely be affected by the proposed rule.

C. A brief description of classes of persons who will benefit from the proposed rule:

Juveniles and OJA staff at secure facilities will benefit from the proposed rule.

D. A brief description of the probable economic impact of the proposed rule upon the affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever possible, a separate justification for each fee change:

Rule revisions should not have an economic impact on any affected classes.

E. The probable costs and benefits to the agency and to any other agency of the implementation and enforcement of the state proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule, and any anticipated effect on state revenues, including a projected net loss or gain in such revenues, if it can be projected by the agency.

The cost of implementation and enforcement of the proposed rules is minimal. The cost of equipment and training for the staff of the proper use of any chemical agent or Electrical Conducted Device equipment would be negligible, with an estimate of \$7,500 for both the equipment and the training of the staff.

F. A determination of whether implementation of the proposed rule will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule:

Amended rules should not have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rules.

G. A determination of whether implementation of the proposed rule will have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act:

Amended rules should not have an economic impact on any small business or require their cooperation in implementing or enforcing the rules, unless OJA were to purchase equipment.

H. An explanation of the measures the agency has taken to minimize compliance costs and a determination of whether there are less costly or nonregulatory methods or less intrusive methods for achieving the purpose of the proposed rule:

Proposed rules should not be costly nor require other methods to update the proposed rule.

I. A determination of the effect of the proposed rule on the public health, safety and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk:

Proposed rules should not affect the public health, safety and environment, nor do they contain significant risks.

J. A determination of any detrimental effect on the public health, safety and environment if the proposed rule is not implemented:

Proposed rules should not have any detrimental effect on the public health, safety and environment if the proposed rule is not implemented.

K. The date the rule impact statement was prepared and if modified, the date modified:

December 15, 2010

CHAPTER 10. OFFICE OF JUVENILE AFFAIRS

SUBCHAPTER 1. GENERAL PROVISIONS

377:10-1-4. Use of physical force and/or mechanical restraints

(a) Use of physical force. Title 10A O.S., § ~~7302-6.42-7-604~~ prohibits the use of physical force in ~~institutions~~secure facility and other facilities operated by or contracted with OJA except:

- (1) when necessary for self-protection;
- (2) to separate juveniles who are fighting;
- (3) to restrain juveniles who have escaped or are in the process of escaping; ~~and/or~~

(4) to restrain juveniles who are in danger of harming themselves or others.

(b) Use of mechanical restraints. The use of mechanical restraints in institutions or other facilities operated by or contracted with OJA for any purpose is prohibited except upon a juvenile's hands as specifically provided for in this subsection. The practice of attaching hands and feet, as in hog-tying, is presumptively punitive and is specifically prohibited. Mechanical restraints may be employed only in the following situations:

(1) for transporting a juvenile to or from a facility when there are reasonable grounds to believe that the juvenile is a serious escape risk or a threat to the public safety; or

(2) within OJA institutions, to transport a violently out-of-control juvenile to a place of ~~confinement~~ crisis management, but only after less restrictive methods of control have failed. When the restraints are employed in this situation, the restraints shall be removed as soon as the juvenile is transported to a place of crisis management and regains control ~~or is confined,~~ ~~whichever occurs first.~~ Under no circumstances shall OJA staff or contractors apply the restraints as punishment.

377:10-1-4.1. Use of chemical agents.

Use of Oleoresin Capsicum (OC) spray in a secure facility is prohibited except in the following circumstances:

(1) when there is a threat for great bodily harm to staff or juveniles; or

(2) extreme threat to safety and security of the facility; or

(3) quell an uprising of multiple juveniles.

Following the use of any OC spray, medical staff shall immediately evaluate all staff and juveniles in the area of use. When OC spray is used, a critical incident investigation shall be completed.

377:10-1-4.2. Use of Electrical Conducted Device (ECD).

Use of ECD in a secure facility is prohibited except in the following circumstances:

(1) where only Youthful Offenders are housed; and

(2) when Youthful Offenders have a means and opportunity to cause great bodily injury or threaten the life of a staff or other Youthful Offenders.

Following the use of any ECD, medical staff shall immediately evaluate all Youthful Offenders affected by the device. When an ECD is used, a critical incident investigation shall be completed.

**OKLAHOMA ADMINISTRATIVE CODE
TITLE 377. OFFICE OF JUVENILE AFFAIRS**

**RULE IMPACT STATEMENT
Chapter 15. Community-Based Youth Services**

A. A brief description of the purpose of the rule:

Title 377. Office of Juvenile Affairs

Chapter 15. Community-Based Youth Services

[OAR Docket #10-1275]

Subchapter 1. General Provisions

377:15-1-1. Authority, legal basis, and scope [AMENDED]

Subchapter 5. Designation of Community-based Youth Services Agencies

377:15-5-2. Application for “Youth Services Agency” designation [AMENDED]

377:15-5-4. Requirements for the Application [AMENDED]

Summary: Rule revisions are primarily due to non-substantive citation changes within the Oklahoma State Statutes, as per House Bills 2028 and 2029 (2009).

B. A brief description of the classes of persons who most likely will be affected by the proposed rule:

Juveniles, OJA staff and Youth Services Agencies will most likely be affected by the proposed rule.

C. A brief description of classes of persons who will benefit from the proposed rule:

Juveniles, OJA staff and Youth Services Agencies will benefit from the proposed rule.

D. A brief description of the probable economic impact of the proposed rule upon the affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever possible, a separate justification for each fee change:

Rule revisions should not have an economic impact on any affected classes.

E. The probable costs and benefits to the agency and to any other agency of the implementation and enforcement of the state proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule, and any anticipated effect on state revenues, including a projected net loss or gain in such revenues, if it can be projected by the agency.

The cost of implementation and enforcement of the proposed rules is minimal.

F. A determination of whether implementation of the proposed rule will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule:

Amended rules should not have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rules.

G. A determination of whether implementation of the proposed rule will have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act:

Amended rules should not have an economic impact on any small business or require their cooperation in implementing or enforcing the rules.

H. An explanation of the measures the agency has taken to minimize compliance costs and a determination of whether there are less costly or nonregulatory methods or less intrusive methods for achieving the purpose of the proposed rule:

Proposed rules should not be costly nor require other methods to update the proposed rule.

I. A determination of the effect of the proposed rule on the public health, safety and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk:

Proposed rules should not affect the public health, safety and environment, nor do they contain significant risks.

J. A determination of any detrimental effect on the public health, safety and environment if the proposed rule is not implemented:

Proposed rules should not have any detrimental effect on the public health, safety and environment if the proposed rule is not implemented.

K. The date the rule impact statement was prepared and if modified, the date modified:

December 15, 2010

377:15-1-2. Authority, legal basis, and scope

(a) The Division of Community-based Youth Services operates under the authority of 10A O.S., §§~~7302-3.3~~ 2-1-103(9), 2-1-103(11), 2-7-202, ~~7302-2.22~~-7-303, ~~7302-3.52~~-7-305 and ~~7302-3.6.a~~2-7-306.

(b) The Division of Community-based Youth Services shall plan and coordinate the contracting of delinquency prevention and treatment services with designated youth services agencies. OJA shall enter into such contracts for the development, implementation and operation of community-based delinquency prevention, diversion, and service programs, consistent with state statutes.

377:15-5-2. Application for “Youth Services Agency” designation

The applicant for designation as a youth services agency shall submit an application to the Board of Juvenile Affairs on a form prescribed by the Board, as set forth in 10A O.S., § 7302-3.6.a2-7-306(A)(7). The applicant shall submit the application to the Secretary to the Board of the Office of Juvenile Affairs, 3812 N. Santa Fe, Suite, 400, P.O. Box 268812, Oklahoma City, OK, 73126-8812. OJA shall enter into such contracts for the development, implementation and operation of community-based delinquency prevention, diversion, and service programs, consistent with state statutes.

377:15-5-4. Requirements for the Application

(a) The applicant shall describe in detail all aspects of direct community participation in the planning, operation and evaluation of the community-based youth services and programs.

(b) The applicant shall describe in detail:

(1) its capability to deliver all or part of the compensable services set forth in Title 10A, § 7302-3.32-7-303; core community-based services, as defined in 10A O.S., § 7301-1.3(9)2-1-103(11); or other community-based facilities, programs, or services designated by the Board of Juvenile Affairs as core community-based services.

(2) if applicable, its capability to deliver all or part of the compensable children’s services that the Department of Human Services is authorized to provide for by contract with a private agency.

(3) its ability to provide adequate and qualified staff for the services it may provide.

(4) its capability to meet the need for adequate services in its primary catchment area or other areas which it may serve.

(5) a statement of its financial viability as defined by 10A O.S., § 7302-3.6a2-7-306. An assessment of the applicant’s financial viability shall be based upon a formula as determined by the Community-based Youth Services Division.

(6) a documented need for services in the primary catchment area or other area which it may serve.

(7) if applicable, a statement of how the applicant may augment any services being provided by an existing youth services agency.

(c) **CERTIFICATIONS AND LICENSES:** The applicant shall provide copies of all current licenses and certifications applicable to its operations. If the organization is accredited by a nationally recognized accrediting organization, the applicant shall submit a copy of its most recent evaluation or audit conducted by the certifying organization.

(d) Upon submission of the application, the applicant may be required to undergo an initial peer review to be conducted by the Oklahoma Association of Youth Services Agencies or other Oklahoma non-profit corporation whose membership consists solely of youth services agencies and of whom at least a majority of youth services agencies are members. If a peer review is required by the Community-based Youth Services Division, the applicant and peer reviewing organization shall be notified by the Division Director. The peer review shall be completed and submitted to the Division of Community-based Youth Services within 90 days of the notice of the peer review requirements. The costs, if any, of the initial peer review shall be borne by the applicant. Failure to successfully complete the initial peer review, if required, may be considered by the Division of Community-based Youth Services in making its recommendation regarding designation of the applicant.

(e) **AGENCY INSPECTION:** The Division of Community-based Youth Services shall make a site visit inspection of the applicant's operations and obtain all available verification required to support the application.

(f) **REFERENCES:** The applicant shall provide letters of reference from local community leaders or other persons familiar with the applicant's operations. The Division of Community-based Youth Services shall obtain from the applicant authorizations to communicate with such references. The Division of Community-based Youth Services shall not be limited to the references provided in conducting its review of the applicant's operations.

(g) **EVALUATION AND SUMMARY:** The Division of Community-based Youth Services shall evaluate the application and all supporting detail and summarize its findings in a Report of the Community-based Youth Services Division to be submitted to the Board of Juvenile Affairs. The evaluation shall be completed and a Report submitted to the Board within 120 days of submission of the application to the Secretary to the Board of Juvenile Affairs. Extensions of the 120-day requirement may be authorized by the Executive Director of the Office of Juvenile Affairs upon good cause shown. The Report shall state whether the designation of the applicant as a Youth Services Agency is based on community needs as indicated in the State Plan for Youth Services Agencies. The Report of the Community-based Youth Services Division shall contain a recommendation as to whether the application should be granted, denied or deferred. The Report shall be signed by the Division Director and approved by the Executive Director of the Office of Juvenile Affairs.

**OKLAHOMA ADMINISTRATIVE CODE
TITLE 377. OFFICE OF JUVENILE AFFAIRS**

**RULE IMPACT STATEMENT
Chapter 15. Community-Based Youth Services**

A. A brief description of the purpose of the rule:

Title 377. Office of Juvenile Affairs
Chapter 15. Community-Based Youth Services
[OAR Docket #10-1276]
Subchapter 11. State Plan for Shelter Services [NEW]

Withdrawn.

**OKLAHOMA ADMINISTRATIVE CODE
TITLE 377. OFFICE OF JUVENILE AFFAIRS**

**RULE IMPACT STATEMENT
Chapter 25. Juvenile Services Unit**

A. A brief description of the purpose of the rule:

Title 377. Office of Juvenile Affairs
Chapter 25. Juvenile Services Unit
[OAR Docket #10-1277]
Subchapter 1. General Provisions
377:25-1-2. Legal basis, authority, and scope [AMENDED]
Subchapter 3. Pre-court
Part 1. Juvenile Detention
377:25-3-1. Legal base [AMENDED]
377:25-3-2. Detention recommendations [AMENDED]
Part 3. Services to Custody Juveniles
377:25-3-15. Intake/preliminary inquiry [AMENDED]
Part 5. Restitution
377:25-3-40. Juvenile Offender Victim Restitution Work Program [AMENDED]
Subchapter 5. Court
377:25-5-2. Probation responsibilities [AMENDED]
Subchapter 7. Custody
Part 3. Services to Custody Juveniles
377:25-7-17. Medical needs [AMENDED]
Part 9. Extended custody
377:25-7-50. Retention of custody guideline [AMENDED]
Subchapter 9. Caseworker Services
Part 1. Services provided by the JSU worker
377:25-9-1. Financial support [AMENDED]
377:25-9-2. Case plan/Individual treatment and service plan (ITSP) [AMENDED]
377:25-9-3. Absent without official leave (AWOL) [AMENDED]
Subchapter 11. Case Records and Reports
377:25-11-3. Reports for court reviews [AMENDED]
377:25-11-5. Juvenile sex offender registry [AMENDED]

Summary: Rule revisions are primarily due to non-substantive citation changes within the Oklahoma State Statutes, as per House Bills 2028 and 2029 (2009).

B. A brief description of the classes of persons who most likely will be affected by the proposed rule:

Juveniles and OJA staff will most likely be affected by the proposed rule.

C. A brief description of classes of persons who will benefit from the proposed rule:

Juveniles and OJA staff will benefit from the proposed rule.

D. A brief description of the probable economic impact of the proposed rule upon the affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever possible, a separate justification for each fee change:

Rule revisions should not have an economic impact on any affected classes.

E. The probable costs and benefits to the agency and to any other agency of the implementation and enforcement of the state proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule, and any anticipated effect on state revenues, including a projected net loss or gain in such revenues, if it can be projected by the agency.

The cost of implementation and enforcement of the proposed rules is minimal.

F. A determination of whether implementation of the proposed rule will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule:

Amended rules should not have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rules.

G. A determination of whether implementation of the proposed rule will have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act:

Amended rules should not have an economic impact on any small business or require their cooperation in implementing or enforcing the rules.

H. An explanation of the measures the agency has taken to minimize compliance costs and a determination of whether there are less costly or nonregulatory methods or less intrusive methods for achieving the purpose of the proposed rule:

Proposed rules should not be costly nor require other methods to update the proposed rule.

I. A determination of the effect of the proposed rule on the public health, safety and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk:

Proposed rules should not effect the public health, safety and environment, nor do they contain significant risks.

J. A determination of any detrimental effect on the public health, safety and environment if the proposed rule is not implemented:

Proposed rules should not have any detrimental effect on the public health, safety and environment if the proposed rule is not implemented.

K. The date the rule impact statement was prepared and if modified, the date modified:

December 15, 2010

SUBCHAPTER 1. GENERAL PROVISIONS

377:25-1-2. Legal basis, authority, and scope

(a) The Office of Juvenile Affairs (OJA) operates under the authority of ~~10A O.S., Chapter 73, as amended, the Oklahoma Juvenile Code, 10A O.S. § 2-1-101 et seq.~~ Title 10A O.S., § ~~7302-3-1 2-7-301(A)(2)~~ gives the Office of Juvenile Affairs the statutory responsibility for providing intake, probation, and parole services. Within the Office of Juvenile Affairs, the Juvenile Services Unit (JSU) provides intake and probation services in all counties except those with duly constituted Juvenile Bureaus (10A O.S., §§ ~~7305-1-1 2-4-101 and 2-4-103(B)~~). The Juvenile Services Unit shall provide parole services in all counties [10A O.S., § ~~7302-6-1 2-7-601(A)(5)~~].
(b) The Office of Juvenile Affairs provides and contracts for services designed to address the individual needs of juveniles and families in the least restrictive environment, which affords protection to the public. OJA is committed to preventing delinquency by providing a wide variety of quality services.

SUBCHAPTER 3. PRE-COURT

PART 1. JUVENILE DETENTION

377:25-3-1. Legal base

~~Article IV of the Juvenile Code, Title 10A O.S., §§ 7304-1-1 2-3-101 et seq.,~~ provides for the detention of juveniles. Title 10A O.S., § ~~7306-2-4(D) 2-5-204(E)~~ provides for the detention of youthful offenders. OJA derives its authority to establish plans for detention services from 10A O.S., § ~~7304-1-3 2-3-103(D)-(E)~~.

377:25-3-2. Detention recommendations

In counties in which JSU, pursuant to judicial directive, is responsible for detention screening, the JSU worker shall recommend to the judge that one of the actions listed in (1)-(3) of this Section occur when a juvenile is picked up for an alleged offense.

(1) **Release.** Release may be appropriate in the following circumstances:

- (A) The parent, guardian, or responsible person can be located and is willing and able to accept responsibility for the juvenile;
- (B) The juvenile is willing to go home and is likely to appear as requested for preliminary inquiry/court intake; and
- (C) There is reasonable belief that the juvenile is not a threat or a danger to the public.

(2) **Non-secure detention.** A juvenile is eligible for non-secure detention services based on the criteria in (A)-(C) of this subsection:

- (A) There is no record or history of seriously assaultive or destructive behavior by the juvenile to others; and

(B) The use of non-secure detention services is not likely to place the juvenile or community at risk; or

(C) The juvenile is being held as a runaway.

(3) **Secure detention services.** A juvenile is eligible for secure detention services based on the criteria found in 10A O.S., § ~~7304-1-12-3-101~~(B).

PART 3. SERVICES TO CUSTODY JUVENILES

377:25-3-15. Intake/ preliminary inquiry

The Office of Juvenile Affairs is mandated to provide intake and probation services as required by 10A O.S., § ~~7302-3-12-7-301~~.

PART 5. RESTITUTION

377:25-3-40. Juvenile Offender Victim Restitution Work Program

Title 10A O.S., § ~~7302-8-12-7-801~~ authorizes the Office of Juvenile Affairs to develop and administer Juvenile Offender Victim Restitution Work Programs. With the approval of the court or district attorney, restitution may be a required component of a juvenile's individualized treatment and service plan.

SUBCHAPTER 5. COURT

377:25-5-2. Probation responsibilities

(a) **Deferred judgement/suspended sentence.** The court may conditionally defer a decision to formally adjudicate a juvenile or sentence a youthful offender. If requested by the court, the JSU worker shall provide supervision and probation services to the juvenile and family.

(b) **Court probation.** The JSU worker shall contact the juvenile and family within 24 hours after a juvenile is adjudicated delinquent and placed on formal court probation or a youthful offender is sentenced and placed under OJA supervision. The JSU worker shall be responsible for:

(1) seeking probation fees pursuant to 10A O.S., §§ ~~7303-5-32-2-503(A)(1) and 2-5-209(B)(5)~~;

(2) attending all subsequent court hearings;

(3) submitting court reports; and

(4) keeping the Court informed of the juvenile's progress.

(c) **Court supervision.** The JSU worker shall contact the juvenile and family within 24 hours after the juvenile is adjudicated In Need of Supervision and placed on court supervision. The JSU worker is responsible for:

(1) seeking probation fees pursuant to 10A O.S., § ~~7303-5-32-2-503(A)(1)~~;

(2) attending all subsequent court hearings;

(3) submitting court reports; and

(4) keeping the Court informed of the juvenile's progress.

(d) **Terms of probation/court supervision.** The establishment of conditions of probation rules is within the authority of the judge. The JSU worker may use the Juvenile Probation Rules and Statement of Understanding (JSU-3), which is given to the juvenile and family, to:

(1) establish rules of probation/court supervision for a delinquent juvenile placed on probation, an INS juvenile placed under court supervision, or a youthful offender placed under supervision; and

(2) obtain a signed statement of understanding of the rules from the juvenile and parent or guardian.

(e) **Additional probation/court supervision rules.** The JSU worker may request that additional rules be established to meet the individual needs of a juvenile. The JSU worker, juvenile, and parent shall sign a copy of the Additional Probation/Court Supervision Rules (JSU-4) which is used to:

(1) establish additional rules of probation /court supervision for a delinquent juvenile placed on probation or an INS juvenile placed on court supervision, or a youthful offender placed under supervision; and

(2) obtain a statement of understanding of the rules from the juvenile and parent or guardian.

(f) **Violation of probation.**

(1) When the JSU worker and supervisor determine that a juvenile has violated the rules of probation or court supervision, the JSU worker shall:

(A) facilitate resolution of minor violations, such as status offenses by:

(i) changing supervision levels;

(ii) establishing goals; or

(iii) adding supplemental rules or conditions; and

(B) if further disposition of the case is necessary, request that the matter be set for a court review hearing.

(2) The JSU worker shall submit a current court report with recommendations to the court. Violations, which constitute new delinquent offenses, must be referred for the intake/preliminary inquiry process.

(g) **Sanction detention facility.** A sanction detention facility is a secure facility in which a juvenile is placed for up to five days as a consequence for his or her non-compliance with court orders or rules of probation. No juvenile shall be placed in an OJA-designated sanction detention facility without a court order.

(h) **Sanctions programs.** Sanctions programs are community-based, intensive treatment intervention programs in which a juvenile may be placed for up to five days to hold him or her accountable for violation of probation, court supervision, or parole rules.

SUBCHAPTER 7. CUSTODY

PART 3. SERVICES TO CUSTODY JUVENILES

377:25-7-17. Medical needs

The JSU worker shall assess the juvenile's medical needs as provided in 10A O.S., § ~~7303-5-22-2-502(A)(2)~~.

PART 9. EXTENDED CUSTODY

377:25-7-50. Retention of custody guideline

(a) The OJA may be authorized by the Court to retain custody of a juvenile or a youthful offender beyond the age of 18 in accordance with 10A O.S., § ~~7302-5.42-7-504(B)~~ or 10A O.S., § ~~7306-2.d2-5-209-et-eet~~.

(b) OJA shall continue to provide services to a juvenile during the period of extended jurisdiction.

SUBCHAPTER 9. CASEWORKER SERVICES

PART 1. SERVICES PROVIDED BY THE JSU WORKER

377:25-9-1. Financial support

(a) **Parental responsibilities.** OJA shall enforce the legal duty of parents to provide for their child even though that child has been adjudged a ward of the court pursuant to the Juvenile Code. Title 10A O.S., § ~~7303-7-62-2-703~~ authorizes the OJA to obtain from a juvenile's parent reimbursement for costs and expenses for care and maintenance incurred by OJA in providing services for the juvenile. Information regarding parental financial accountability must be provided by the JSU worker to the court.

(b) **Benefits.** OJA shall seek to obtain all income and resources available to the juvenile to help reimburse OJA for the cost of the juvenile's care. Any amount received over the cost of care is deposited in the juvenile's trust fund account. Benefits include:

- (1) Social Security;
- (2) Veteran's benefits;
- (3) inheritance;
- (4) trust funds;
- (5) insurance benefits; and
- (6) Indian trusts or monies.

(c) **Federal funds.** The Office of Juvenile Affairs shall maximize the use of federal funds for services to juveniles in OJA custody. Rules regarding the use of federal funds are found in 377:3-17.

377:25-9-2. Case plan/Individual treatment and service plan (ITSP)

The assigned JSU worker shall begin the case planning assessment and treatment plan development with the juvenile and parent/ guardian/legal custodian after a juvenile has been placed on Deferred Prosecution, Deferred Adjudication, is an Interstate Compact case supervised in Oklahoma, or has been adjudicated. The JSU worker shall conduct a comprehensive assessment of the juvenile and family and file it with the Court as per 10A O.S., § ~~7303-5-22-2-502~~, as amended. Casework and other services provided to a juvenile are determined by the individual needs of the juvenile and family, and services shall be provided by either the JSU worker, contract service providers, or other service agencies.

377:25-9-3. Absent without official leave (AWOL)

(a) When staff are advised that a juvenile is AWOL, they shall make every effort to locate the juvenile immediately. Staff shall try to locate the juvenile through relatives and community contacts.

(b) OJA shall notify the parents of a juvenile who is AWOL from an OJA out-of-home placement as soon as possible.

(c) Staff shall follow local law enforcement procedures in notifying authorities:

- (1) in the juvenile's home community; and
- (2) in the community from which the juvenile is AWOL.

(d) Within the constraints of 10A O.S., §§ ~~7304-1-1-2-3-101~~(B)(1) and ~~7302-6-52-7-605~~, the JSU worker and juvenile services supervisor shall determine whether a juvenile who has been picked up while on AWOL status shall return to the previous placement. In making the decision, staff shall consider whether the juvenile:

- (1) has committed a new delinquent offense; and
- (2) is considered a risk to the public or self.

SUBCHAPTER 11. CASE RECORDS AND REPORTS

377:25-11-3. Reports for court reviews

(a) The JSU worker shall submit a report to the court, including an Individual Treatment and Service Plan for judicial review hearings at least every six months. The report must meet the requirements set forth in 10A O.S., § 7303-5.42-2-504. The JSU worker shall be present at the review hearing.

(b) The JSU worker may also request a judicial review in situations which may necessitate action such as:

- (1) change of placement;
- (2) additional treatment resources;
- (3) additional terms of probation or court supervision; or
- (4) recommendation to the court for early release.

377:25-11-5. Juvenile sex offender registry

The Office of Juvenile Affairs shall establish and maintain the Juvenile Sex Offender Registry as provided in 10A O.S., §7308-1.3 2-8-103.

**OKLAHOMA ADMINISTRATIVE CODE
TITLE 377. OFFICE OF JUVENILE AFFAIRS**

**RULE IMPACT STATEMENT
Chapter 30. Residential Services**

A. A brief description of the purpose of the rule:

Title 377. Office of Juvenile Affairs
Chapter 30. Residential Services
[OAR Docket #10-1278]
Subchapter 1. General Provisions
377:30-1-1. Legal basis, scope, and purpose [AMENDED]

Summary: Rule revisions are due to non-substantive citation changes within the Oklahoma State Statutes, as per House Bills 2028 and 2029 (2009).

B. A brief description of the classes of persons who most likely will be affected by the proposed rule:

Juveniles OJA staff will most likely be affected by the proposed rule.

C. A brief description of classes of persons who will benefit from the proposed rule:

Juveniles and OJA staff will benefit from the proposed rule.

D. A brief description of the probable economic impact of the proposed rule upon the affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever possible, a separate justification for each fee change:

Rule revisions should not have an economic impact on any affected classes.

E. The probable costs and benefits to the agency and to any other agency of the implementation and enforcement of the state proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule, and any anticipated effect on state revenues, including a projected net loss or gain in such revenues, if it can be projected by the agency.

The cost of implementation and enforcement of the proposed rules is minimal.

F. A determination of whether implementation of the proposed rule will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule:

Amended rules should not have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rules.

G. A determination of whether implementation of the proposed rule will have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act:

Amended rules should not have an economic impact on any small business or require their cooperation in implementing or enforcing the rules.

H. An explanation of the measures the agency has taken to minimize compliance costs and a determination of whether there are less costly or nonregulatory methods or less intrusive methods for achieving the purpose of the proposed rule:

Proposed rules should not be costly nor require other methods to update the proposed rule.

I. A determination of the effect of the proposed rule on the public health, safety and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk:

Proposed rules should not effect the public health, safety and environment, nor do they contain significant risks.

J. A determination of any detrimental effect on the public health, safety and environment if the proposed rule is not implemented:

Proposed rules should not have any detrimental effect on the public health, safety and environment if the proposed rule is not implemented.

K. The date the rule impact statement was prepared and if modified, the date modified:

December 15, 2010

**CHAPTER 30. RESIDENTIAL SERVICES
SUBCHAPTER 1. GENERAL PROVISIONS**

377:30-1-1. Legal basis, scope, and purpose

(a) Rules regarding community-based placements shall be issued in compliance with 10A O.S., §§ 7303-8.4 2-2-804(A) and (B) and 7302-3.52-7-305(B).

(b) Residential facilities shall be operated either directly by OJA or by contractual agreement.

(c) Residential programs may include:

- (1) regimented juvenile training programs;
- (2) wilderness camps;
- (3) therapeutic foster care;
- (4) specialized community homes (SCH);
- (5) OJA-operated group homes;
- (6) contract-based residential care (CBC);
- (7) independent living; and

- (8) foster care.
- (d) Rules for contracted residential programs, therapeutic foster care, specialized community homes, independent living, and wilderness camps are set forth in OAC 377:10-7.
- (e) Rules for regimented juvenile training programs are set forth in OAC 377:10-13.
- (f) A purpose of this Chapter is to describe the Office of Juvenile Affairs' (OJA) operation of group homes for juveniles in the legal custody of the OJA. OJA-operated group homes shall be licensed by the Department of Human Services (DHS) in accordance with the Oklahoma Child Care Facilities Act, 10 O.S. §§ 401 through 408. The applicable licensing standards are found in DHS rules OAC 340:110-5-80 through 340:110-5-99 and are published by DHS in the pamphlet "Requirements for Residential Child Care Facilities." OJA-operated group homes shall be accredited by the American Correctional Association (ACA).
- (g) Rules regarding the parole process are also set forth in this chapter.

**OKLAHOMA ADMINISTRATIVE CODE
TITLE 377. OFFICE OF JUVENILE AFFAIRS**

**RULE IMPACT STATEMENT
Chapter 35. Institutional Services**

A. A brief description of the purpose of the rule:

Title 377. Office of Juvenile Affairs
Chapter 35. Institutional Services
[OAR Docket #10-1279]
Subchapter 1. General Provisions
377:35-1-1. Legal basis [AMENDED]
Subchapter 9. Juvenile Rights
377:35-9-1. Juvenile rights [AMENDED]
377:35-9-4. Access to courts/counsel [AMENDED]
Subchapter 11. Juvenile Rules/Discipline
377:35-11-1. Juvenile rules and discipline [AMENDED]
377:35-11-6. Visitation on campus [AMENDED]
Subchapter 17. Ancillary Programs
377:35-17-1. Education [AMENDED]

Summary: Rule revisions are primarily due to non-substantive citation changes within the Oklahoma State Statutes, as per House Bills 2028 and 2029 (2009). In addition to the majority of the non-substantive citation changes, Rule revisions in Chapter 35, Subchapter 17, 377:35-17-1, are due to modification to the Education Program, as provided for in House Bill 2753 (2010).

B. A brief description of the classes of persons who most likely will be affected by the proposed rule:

Juveniles and OJA staff will most likely be affected by the proposed rule.

C. A brief description of classes of persons who will benefit from the proposed rule:

Juveniles and OJA staff will benefit from the proposed rule.

D. A brief description of the probable economic impact of the proposed rule upon the affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever possible, a separate justification for each fee change:

Rule revisions should not have an economic impact on any affected classes.

E. The probable costs and benefits to the agency and to any other agency of the implementation and enforcement of the state proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule, and any anticipated effect

on state revenues, including a projected net loss or gain in such revenues, if it can be projected by the agency.

The cost of implementation and enforcement of the proposed rules is minimal.

F. A determination of whether implementation of the proposed rule will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule:

Amended rules should not have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rules.

G. A determination of whether implementation of the proposed rule will have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act:

Amended rules should not have an economic impact on any small business or require their cooperation in implementing or enforcing the rules.

H. An explanation of the measures the agency has taken to minimize compliance costs and a determination of whether there are less costly or nonregulatory methods or less intrusive methods for achieving the purpose of the proposed rule:

Proposed rules should not be costly nor require other methods to update the proposed rule.

I. A determination of the effect of the proposed rule on the public health, safety and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk:

Proposed rules should not affect the public health, safety and environment, nor do they contain significant risks.

J. A determination of any detrimental effect on the public health, safety and environment if the proposed rule is not implemented:

Proposed rules should not have any detrimental effect on the public health, safety and environment if the proposed rule is not implemented.

K. The date the rule impact statement was prepared and if modified, the date modified:

December 15, 2010

**CHAPTER 35. INSTITUTIONAL SERVICES
SUBCHAPTER 1. GENERAL PROVISIONS
377:35-1-1. Legal Basis**

The Office of Juvenile Affairs operates its institutions under the authority of Title 10A, O.S., § 7305.32-7-503(B)(1).

SUBCHAPTER 9. JUVENILE RIGHTS

377:35-9-1. Juvenile rights

(a) **Legal basis.** Institutional staff members shall protect the safety and constitutional rights of juveniles and seek a balance between expression of individual rights and preservation of facility order. Juvenile rights shall be consistent with 10A O.S., Sections §§ ~~7302-6.32-2-504, 7306-2.112-5-212~~ and ~~7303-5.42-7-603~~, as well as with OAC 377:10-1-2.

(b) **Notice of availability of advocate defender.** The advocate defender shall advise the juvenile of the availability and function of the advocate defender within 30 days of admission to the institution. The name and duties of the advocate defender are posted in conspicuous places within the institution.

377:35-9-4. Access to courts/counsel

(a) Juveniles shall have the right to access the courts, counsel, and counsel substitutes. Juveniles have the right to:

- (1) present any issue, including the legality of their adjudications and commitments or placements;
- (2) seek redress for illegal conditions or treatment;
- (3) pursue legal remedies; and
- (4) assert a claim against OJA or other governmental authority for any rights protected by constitutional or statutory provision or by common law.

(b) Institutional staff shall ensure and facilitate the right of juveniles to access attorneys and their authorized representatives. Institutional staff, when requested, shall assist the juveniles to contact the attorneys of record, court-appointed attorneys, local bar associations, or other legal representative. A juvenile may communicate with counsel or the court by mail, in person, or by telephone. Institutional staff may impose reasonable restrictions on the time or place of these communications; however, communications shall be confidential.

(c) Written correspondence between juveniles and his/her courts, or legal representatives shall be unopened and uncensored. Incoming mail from courts or legal representatives shall be opened by the juvenile ~~to check for contraband~~ in the presence of a staff member in order to check for contraband.

(d) Phone calls between juveniles and their legal representatives shall be limited to one phone call per day unless otherwise requested by the legal representative. All telephone communications with legal representatives shall be unmonitored. Staff may not require that the subject of the communication be disclosed by the juveniles or counsel.

(e) Personal visits by legal representatives shall be confidential and undisturbed. Legal representatives may visit during regular visiting hours or, with approval of the superintendent, at other times.

(f) A juveniles who wants to call a court, attorney, or other legal representative shall request assistance from his/her juvenile justice specialist. The juvenile justice specialist shall:

- (1) assist the juveniles in placing the call;
- (2) verify the identity of the legal representative (for both outgoing and incoming calls); and
- (3) verify whether the legal representative accepted a call. If a call has been accepted, the juvenile justice specialist shall determine whether consultation is complete or whether future

contacts will be made. The juvenile justice specialist shall document information required by this Section, including any restrictions or other specific requests concerning future contacts made by the juvenile's legal representative.

(A) **Department-provided legal services.** In the event a juveniles is unable to receive consultation/ assistance as given in subsections (b)–(f) of this section, the juvenile may contact the student defender to discuss whether he may be entitled to legal assistance through the Department. If the juvenile has not pursued administrative remedies, he/she will be encouraged to do so before the Department will purchase legal services for him/her. If the concern is not subject to administrative remedy or administrative remedies have been exhausted and the resolution is not to the juvenile's satisfaction, then the student defender shall request the juvenile justice specialist to assist the juvenile in contacting the appropriate resource. All rules regarding phone usage, written correspondence, and visitation shall be the same for Department-provided legal services as for private attorneys. The Department has a contract for legal services, which are available to the juveniles of the institutions.

(B) **Resident orientation.** As part of the juvenile's orientation, the facility staff shall advise the juvenile of the procedures, rights, and responsibilities in regard to access to courts and attorneys. The Training Section shall assist in the development of this orientation.

SUBCHAPTER 11. JUVENILE RULES/DISCIPLINE

377:35-11-1. Juvenile rules and discipline

Institutional staff members shall protect the safety and constitutional rights of juveniles and seek a balance between expression of individual rights and preservation of facility order. Juvenile rights shall be consistent with 10A O.S., ~~Sections §§ 7302-6.32-2-504 and 7303-5.42-7-603~~, as well as with OAC 377:10-1-3.

377:35-11-6. Visitation on campus

As per 10A O.S., ~~Section § 7302-6.32-7-603~~(B)(5), each juvenile shall have opportunity, within reason, to communicate and visit with his or her family regularly and to communicate with persons in the community.

SUBCHAPTER 17. ANCILLARY PROGRAMS

377:35-17-1. Education

As authorized by 10A O.S., ~~Section § 7302-6.32-7-603~~, the Office of Juvenile Affairs (OJA) shall operate and maintain an educational program by directly employing staff. Alternatively, OJA may contract with local school boards, public schools, charter schools or public authorities to provide education. Every educational contract shall specifically prohibit corporal punishment.

—(1)(a) The Office of Juvenile Affairs shall provide facilities for educational purposes and assist local school districts in providing an education.

—(2)(b) Each educational, vocational supervisor, instructor or administrator must hold a valid certificate issued or recognized by the Oklahoma State Department of Education authorizing the individual to teach or administer the grades or subject matter for which the individual is employed. Such certificates must remain in effect during the term of the teacher, vocational supervisor, instructor or administrator's employment.

—~~(3)~~(c) The educational facilities, while subject to the regulations of the Oklahoma State Department of Education for accreditation, must be flexible enough to meet the wide range of needs found in the population of an institution. Each juvenile shall be evaluated, assessed for educational needs, and have access to appropriate teaching, educational materials, and books. The education program addresses basic literacy skills and reading, writing, mathematics, science, and vocational technical education. Juveniles shall be recognized for academic and vocational achievements.