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**IDAPA 05
TITLE 02
CHAPTER 01**

05.02.01 - RULES FOR RESIDENTIAL TREATMENT PROVIDERS

000. LEGAL AUTHORITY.

01. Section 20-504(10), Idaho Code. Pursuant to Section 20-504(10), Idaho Code, the Department shall establish minimum standards for the operations of all private residential and nonresidential facilities and programs which provide services to juvenile offenders committed to the Department. (4-11-15)

02. Section 20-504(12), Idaho Code. Pursuant to Section 20-504(12), Idaho Code, the Department shall have authority to adopt such administrative rules pursuant to the procedures provided in Chapter 52, Title 67, Idaho Code, as are deemed necessary or appropriate for the functioning of the Department and the implementation and administration of the Juvenile Corrections Act. (4-11-15)

03. Interstate Compact on Juveniles. By the provisions of Sections 16-1901, et seq., Idaho Code, the "Interstate Compact on Juveniles," the Department is authorized to promulgate rules and regulations to carry out more effectively the terms of the compact. (4-11-15)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 05.02.01, "Rules for Residential Treatment Providers," IDAPA 05, Title 02, Chapter 01. (4-11-15)

02. Scope. These rules are established to ensure that the juvenile corrections system in Idaho will be consistently based on the following principles: accountability; community protection; and competency development. These rules apply to all residential treatment providers that coordinate needed treatment services identified in individual service implementation plans. (4-11-15)

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency has written statements which pertain to the interpretations of these rules. The document is available for public inspection and copying at cost at the Idaho Department of Juvenile Corrections, 954 W. Jefferson St., P.O. Box 83720, Boise, Idaho 83720-0285. (4-11-15)

003. ADMINISTRATIVE APPEALS.

This chapter does not provide for appeal of the administrative requirements for agencies. (4-11-15)

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference into these rules. (4-11-15)

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The Idaho Department of Juvenile Corrections is located at 954 W. Jefferson St., Boise, Idaho 83720. Business hours are typically 8 a.m. to 5 p.m., Monday through Friday, excluding holidays. Mail regarding the Idaho Department of Juvenile Corrections' rules should be directed to 954 W. Jefferson St., P.O. Box 83720, Boise, Idaho 83720-0285. The telephone of the office is (208) 334-5100 and the telecommunications relay service of the office is 1 (800) 377-1363 or 711. The facsimile number of the office is (208) 334-5120. (4-11-15)

006. PUBLIC RECORDS ACT COMPLIANCE.

The records associated with the residential treatment providers are juvenile records of the Idaho Department of Juvenile Corrections, and are subject to the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. (4-11-15)

007. REGIONAL FACILITY CONTACT INFORMATION.

01. IDJC Region 1 Facility. The Juvenile Corrections Center at Lewiston may be contacted at (208) 799-3332. (4-11-15)

- 02.** **IDJC Region 2 Facility.** The Juvenile Corrections Center at Nampa may be contacted at (208) 465-8443. (4-11-15)
- 03.** **IDJC Region 3 Facility.** The Juvenile Corrections Center at St. Anthony may be contacted at (208) 624-3462. (4-11-15)
- 008. -- 009. (RESERVED)**
- 010. DEFINITIONS.**
- 01. Adult.** A person eighteen (18) years of age or older. (4-11-15)
- 02. Assessment.** The process of gathering information to determine risk and program needs for the purpose of guiding placement decisions and to develop the individualized treatment/service plan. (4-11-15)
- 03. Body Cavity Search.** The examination and possible intrusion into the rectal or vaginal cavities to detect contraband. It is performed only by the medical health professional. (3-25-16)
- 04. Body Search, Clothed.** Also referred to as a Pat Search. A search during which a juvenile offender is not required to remove their clothing, with the exception of such items as a jacket, hat, socks and shoes. (4-11-15)
- 05. Body Search, Unclothed.** Also referred to as a Strip Search. A search during which a juvenile offender is required to remove all clothing that is conducted by a medical health professional. (4-11-15)
- 06. Clinical Supervisor.** Person who supervises juvenile services coordinators and clinicians in assigned regions and reviews and approves case management documentation. This responsibility also includes oversight of the regional observation and assessment process, and assisting in the maintenance and development of programs. (4-11-15)
- 07. Commit.** To transfer legal custody to the Idaho Department of Juvenile Corrections. (4-11-15)
- 08. Community Service Hours.** Hours of community service performed by a juvenile offender in response to a court order or which may be imposed following a formal disciplinary process within a residential treatment provider program for damages to the facility or program. (4-11-15)
- 09. Community Treatment Team.** A team including the juvenile services coordinator, residential treatment provider case manager, juvenile probation officer, family, and others, as necessary, who work together to provide input into each juvenile offender's service implementation plan, implement their respective sections of that plan, and monitor and report progress on treatment goals. (4-11-15)
- 10. Contraband.** Any item not issued or authorized by the residential treatment provider. (4-11-15)
- 11. Confidential Information.** Information that may only be used or disclosed as provided by state or federal law, federal regulations, or state rule. (4-11-15)
- 12. Court.** District court or magistrate's division thereof. (4-11-15)
- 13. Criminogenic Risks and Needs.** Assessed juvenile offender risk factors or attributes of juvenile offenders that are directly linked to criminal behavior and, when changed, influence the probability of recidivism. (4-11-15)
- 14. Department.** The Idaho Department of Juvenile Corrections. (4-11-15)
- 15. Detention.** Refers to the temporary placement of juveniles who require secure custody for their own or the community's protection in physically restricting facilities. (4-11-15)
- 16. Director.** The Director of the Idaho Department of Juvenile Corrections. (4-11-15)

- 17. Escape/Attempted Escape.** Attempting to leave or leaving a facility without permission, or attempting to leave or leaving the lawful custody of any officer or other person responsible for juvenile's supervision without permission. (4-11-15)
- 18. Facility.** The physical plant associated with the operation of residential or nonresidential programs. (4-11-15)
- 19. Facility Treatment Team.** The group of staff employed by the Department or by the residential treatment provider who have input into developing the juvenile offender's service implementation plan, who provide direct services to juvenile offenders, and who monitor and report on the progress on meeting the goals in that plan. The facility treatment team is responsible for working with the community treatment team to develop and implement the service implementation plan. (4-11-15)
- 20. Incident Report.** A written document reporting any occurrence or event, or any other incident which threatens the safety and security of staff, juvenile offenders or others, or which threatens the security of the program and which requires a staff response. (4-11-15)
- 21. Interns.** A paraprofessional staff who is pursuing a degree and who, as a part of documented coursework with a college or university, may provide counseling or other services to juvenile offenders in the Department's custody or their families, under direct supervision of qualified staff. (4-11-15)
- 22. Judge.** A district or a magistrate judge. (4-11-15)
- 23. Juvenile.** A person less than eighteen (18) years of age or who was less than eighteen (18) years of age at the time of any act, omission or status bringing the person within the purview of the Juvenile Corrections Act. (4-11-15)
- 24. Juvenile Offender.** A person under the age of eighteen (18), at the time of any act, omission, or status and who has been adjudicated as being within the purview of the Juvenile Corrections Act. (4-11-15)
- 25. Juvenile Records.** Information concerning the juvenile offender's delinquent or criminal, personal, and medical history, behavior and activities. (4-11-15)
- 26. Juvenile Services Coordinator.** An individual, employed by the Department, who provides ongoing coordination of services for juvenile offenders committed to the custody of the Department. Services include but are not limited to: case coordination/management, family services, and reintegration. In all cases, the juvenile services coordinator collaborates with the facility case manager in providing these services. The juvenile services coordinator communicates information with families, communities, courts, and with other IDJC employees throughout a juvenile's commitment. (4-11-15)
- 27. Legal Custody.** The relationship created by the court's decree which imposes upon the custodian responsibilities of physical possession of the juvenile offender, the duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical care. (4-11-15)
- 28. Legal Guardian.** A person appointed as guardian of a minor under the laws of Idaho. For the purposes of this title, legal guardian does not include and shall not be construed to include the owner, operator or the agent of an owner or operator of a detention center, observation and assessment center, secure facility, residential facility or other facility having temporary or long-term physical custody of the juvenile offender. (4-11-15)
- 29. Mechanical Restraints.** Mechanical devices used to prevent an uncontrollable juvenile offender from injuring themselves or others. (4-11-15)
- 30. Medical Health Professional.** An individual who meets the applicable state's criteria as a licensed LPN, RN, nurse practitioner, physician assistant, physician or the equivalent. (4-11-15)
- 31. Mental Health Professional.** An individual who possesses a master's degree and meets the

applicable state's criteria as a licensed LPC, LMFT, LCPC, LCSW, LMSW, psychologist or the equivalent. (4-11-15)

32. Observation and Assessment Evaluation. Written documentation of assessment tool results, observations, interviews, risks, and any special considerations resulting in the creation of the service plan, which includes the initial reintegration plan. (4-11-15)

33. Observation and Assessment Program. A residential or nonresidential program designed to complete assessments of juveniles in the custody of the Department. (4-11-15)

34. Physical Restraint. Any method of physical control of a juvenile offender that involves staff touching or holding a juvenile offender to limit or control the juvenile offender's actions. (4-11-15)

35. PREA. A federal act promulgating standards that promote zero tolerance toward sexual abuse of juvenile offenders by staff or by other juvenile offenders. Also known as Public Law 108-79 or the Prison Rape Elimination Act. (4-11-15)

36. Program Director. The administrator of the residential treatment provider for juvenile offenders. (4-11-15)

37. Progress Report. A written report summarizing progress toward the goals and objectives set in the service implementation plan. (4-11-15)

38. Quality Improvement Services Bureau. Department employees responsible for overseeing residential treatment provider's compliance with contract terms and these rules. (4-11-15)

39. Referral Packet. The information necessary for a potential residential treatment provider to determine whether the program can appropriately meet the identified criminogenic risks and needs of the juvenile being referred. (4-11-15)

40. Region. Subunits of the Department organized by geographical areas and including all services and programs offered by the Department in that area. (4-11-15)

41. Regional Facility. Department-operated juvenile correctional centers located in each region of the state. (4-11-15)

42. Reintegration Plan. That part of the juvenile offender's service plan which specifically addresses the terms, conditions and services to be provided as the juvenile offender moves to a lower level of care or leaves the custody of the Department. (4-11-15)

43. Relapse Prevention Plan. A document completed by the juvenile, used to identify interventions for problem behavior, positive supports, and high risk people and places. (4-11-15)

44. Release from Department Custody. Termination of the Department's legal custody of a juvenile. (4-11-15)

45. Residential Treatment Provider. Also known as Provider. A residential program under contract with the Department to supervise juvenile offenders, provide accountability and competency development in the least restrictive setting, consistent with public safety. (4-11-15)

46. Restitution. Financial payment intended to reimburse victims for loss, damage, or harm caused by a juvenile offender. Restitution must be court ordered. Providers may not impose restitution against a juvenile offender without a court order. (4-11-15)

47. Restricted Clinical Information. Any record, document or other information legally protected from dissemination to the general public by statute or rule, such as psychological evaluations, therapy notes, therapy journals, sex histories, polygraph results, psychological testing, or other legally confidential information. (4-11-15)

- 48. Room Confinement.** Instances in which juvenile offenders are confined in the room in which they usually sleep, rather than being confined in an isolation room. (4-11-15)
- 49. Separation or Isolation.** Any instance when juvenile offenders are confined alone for over fifteen (15) minutes in a room other than the room in which they usually sleep. (4-11-15)
- 50. Service Implementation Plan.** A written document produced and regularly updated by a residential treatment provider with input from the community treatment team. This plan describes interventions and objectives to address the service plan goals including the areas of community protection, accountability, and competency development. (4-11-15)
- 51. Service Plan.** A written document produced during the observation and assessment period following commitment to the Department that defines the juvenile offender's criminogenic needs and risks, strengths, goals, and recommendations for family and reintegration services. The service plan addresses the relevant needs and services for each juvenile offender in areas such as mental health, medical, education, substance abuse, and social skills. (4-11-15)
- 52. Sexual Abuse.** Includes any type of contact which is sexual in nature and directed toward a juvenile offender by staff or by juvenile offenders as well as sexual harassment which includes repeated and unwelcomed sexual advances, comments, gestures, voyeurism, implied threats, and coercion. (4-11-15)
- 53. Staffings.** Regularly scheduled meetings of the community and facility treatment team members to review progress on treatment goals and objectives identified in each juvenile offender's service implementation plan. (4-11-15)
- 54. Subcontractor.** A person or business which has contracted with the residential treatment provider for provision of some portion of work or services. (4-11-15)
- 55. Suicide Risk Assessment.** An evaluation performed by a mental health professional to determine the level of immediate risk of a juvenile offender attempting suicide, and to apply this information in developing a safety plan for the juvenile offender. (4-11-15)
- 56. Suicide Risk Screening.** An evaluation that is used to quickly determine, based upon known history and current behavior, whether a juvenile offender presents any identifiable risk of immediate suicidal behavior, and to call in a mental health professional to complete a suicide risk assessment. (4-11-15)
- 57. Superintendent.** The person who has responsibility and oversight of a regional facility and over the region of the state where the regional facility is located. (4-11-15)
- 58. Transfer.** Any movement of a juvenile offender in the custody of the Department from one (1) residential treatment provider to another without a release from Department custody. (4-11-15)
- 59. Treatment.** Any program of planned services developed to meet risks and needs of juvenile offenders and their families, as identified in an assessment, and as related to activities designed to teach alternate behaviors and to support change in the beliefs that drive those behaviors. Treatment as referenced in this context also includes the maintenance of conditions that keep juvenile offenders, staff and the community safe. (4-11-15)
- 60. Variance.** The means of complying with the intent and purpose of a residential treatment provider rule in a manner other than that specifically prescribed in the rule. (4-11-15)
- 61. Vocational Services.** Any service provided related to assessment, education, guidance or training in the area of work or basic living skills. (4-11-15)
- 62. Volunteer.** A person from the community who freely chooses to do or provide both direct or indirect services to juvenile offenders or staff at a facility or juvenile correctional center. This person is not compelled to do so and is not compensated for the services. (4-11-15)

63. Waiver. The non-application of one (1) or more of these rules based upon a request by the residential treatment provider and a written decision issued by the Department. (4-11-15)

64. Work Program. A public service work project which employs juveniles at a reasonable wage for the purpose of reimbursing victims of juvenile offender's delinquent behavior. (4-11-15)

011. -- 099. (RESERVED)

100. INITIATION OF SERVICES.

Juveniles are committed to the Department under the provisions of the Juvenile Corrections Act (Sections 20-501 through 20-547, Idaho Code). (4-11-15)

101. WAIVER AND VARIANCE.

Minimum program standards established herein shall apply to all services provided by the residential treatment provider. A waiver and variance from the standards stated in these rules must receive prior written approval from the Department and must be attached as a formal amendment to the contract. (4-11-15)

102. APPLICABILITY.

This chapter applies to all residential treatment providers that coordinate needed treatment services identified in individual service implementation plans. Resident treatment providers must also abide by IDAPA 05.02.02, "Rules for Staff Secure Providers"; IDAPA 05.02.03, "Rules for Reintegration Providers"; or IDAPA 05.02.04, "Rules for Supported Living Providers," as applicable. (4-11-15)

103. -- 199. (RESERVED)

200. AUTHORITY TO INSPECT.

01. Inspections. The Department shall have the authority to conduct reviews of programs, program operations, and facilities to ensure the residential treatment provider's compliance with these rules. The residential treatment provider shall cooperate with the Department's review, and must provide access to the program or facility and all juvenile records for juveniles in Department custody, as deemed necessary by the Department. However, in order to more fully assess the operation of the program, aggregate data and information for all juveniles must be made available. (4-11-15)

02. Quarterly Reports. In order to assist the Department in monitoring contract programs for key areas of operational performance, each residential treatment provider will be required to submit a quarterly report to the Department's Quality Improvement Services Bureau. These reports may be submitted by facsimile, mail, or electronically within thirty (30) calendar days of the end of each quarter. The reports must include, at a minimum, the following information: (4-11-15)

- a.** All staff turnover during the quarter; (4-11-15)
- b.** Number of reportable incidents of the type listed below: (4-11-15)
 - i.** Assaults against juvenile offenders; (4-11-15)
 - ii.** Assaults against staff; (4-11-15)
 - iii.** Behavioral and psychiatric emergencies; (4-11-15)
 - iv.** Contraband; (4-11-15)
 - v.** Escapes; (4-11-15)
 - vi.** Visitation restrictions due to juvenile offender behavior; (4-11-15)
 - vii.** Injuries or illness requiring significant medical attention; (4-11-15)

- viii. Restraints; (4-11-15)
- ix. Separation or isolation; (4-11-15)
- x. Sexual abuse; and (4-11-15)
- xi. Self-harm and suicide behavior. (4-11-15)
- c. Number of hours and topics included in staff training for the quarter; (4-11-15)
- d. Community services hours; (4-11-15)
- e. GED/HSE or high school diplomas awarded; and (4-11-15)
- f. A copy of juvenile offender grievances and resolutions according to Section 232 of these rules. (4-11-15)

03. Notification of Program Changes. Residential treatment providers must notify the Department as soon as possible, but no later than thirty (30) calendar days, before there is a change in the name of the organization, type of service, characteristics of juveniles being served, changes in the licensed capacity of the program, closure of the program, changes in ownership or in the organizational structure. (4-11-15)

04. Emergency Closure of Program. In the event of a natural disaster, fire, flood, or other emergency situation in which the residential treatment provider may be closed temporarily, the residential treatment provider will immediately notify the regional juvenile correctional center in its respective region. (4-11-15)

05. Notification of Death of a Juvenile Offender. In the event of the death of a juvenile who is in the Department's custody, the residential treatment provider must immediately notify the regional facility, juvenile offender's parent or guardian, and law enforcement. Other notifications will be coordinated between the residential treatment provider and the Department. (4-11-15)

06. Additional Incident Reporting. The residential treatment provider must report to the Department any and all incidents of the type normally requiring immediate notice to the Department, as identified in Subsection 241.01, that occur in their program or facility regardless of whether or not the juveniles involved are in the Department's custody. Any such reports regarding juveniles not in Department custody must include the type and scope of the incident without any information identifying the juvenile, and must be made available to the Department's Quality Improvement Services Bureau. (4-11-15)

a. The residential treatment provider must report to the Department any and all incidents of staff misconduct relating to juvenile care and that result in any type of suspension or termination of employment, revocation or suspension of a professional license, or revocation or suspension of driver's license of any staff who transports juveniles. (4-11-15)

b. All instances of battery committed on staff must be documented and, whenever appropriate, charges filed with the appropriate authorities. Each such incident must be reported to the juvenile offender's juvenile services coordinator as an incident report according to Subsection 241.01 of these rules. (4-11-15)

07. Additional Reporting Requirements. In situations where the Department has determined that the safety, security, or order of a program are at risk, more frequent and more detailed reporting will be required by the Quality Improvement Services Bureau. The Department has a responsibility at all times to monitor the overall safety, security, and order of a program for the protection and well-being of the juvenile offenders. (4-11-15)

201. COMPREHENSIVE AND CURRENT PROGRAM DESCRIPTION.

01. Program Description. Residential treatment providers must provide, and keep current with the Department, a program description detailing the range of services to be provided and the methods for providing these

- services. (4-11-15)
- 02. Minimum Requirements.** At a minimum, the program description must include: (4-11-15)
- a.** Target population and specific admission criteria; (4-11-15)
 - b.** Primary and secondary treatment modalities; (4-11-15)
 - c.** Outline of daily schedules for juvenile offenders and staff; (4-11-15)
 - d.** Full description of educational services provided; (4-11-15)
 - e.** Description of emergency and routine medical and mental health services, including psychotropic medication monitoring, unless this population is specifically excluded from admission to the program; (4-11-15)
 - f.** Description of religious services, recreation services, and other specialized services provided as indicated by the needs of the identified target population; (4-11-15)
 - g.** Written criteria for successful completion of the program and written criteria for termination from the program prior to completion; (4-11-15)
 - h.** A thorough description of all services offered as a part of the program, including a description of the frequency of service delivery; (4-11-15)
 - i.** A detailed description of each individual treatment intervention, such as treatment group, psycho-educational group, cognitive restructuring group, and peer group including:
 - i. The overall goals of the treatment intervention or service area; (4-11-15)
 - ii. The average length, total length, and number of sessions in the treatment intervention or service area; (4-11-15)
 - iii. The facilitator education and training requirements; and (4-11-15)
 - iv. The specific curriculum used in the treatment intervention or service area. (4-11-15)
 - j.** A detailed description of the behavior management component of the program. (4-11-15)

202. DISPOSITION OF REFERRALS FROM THE DEPARTMENT.

A juvenile offender's admission into the program shall be based on an assessment of the juvenile offender's strengths, risks, needs, and on the anticipated ability of the program to reasonably address those issues. Residential treatment providers must ensure that the juvenile offender and parent or guardian are provided an opportunity to participate in the admission process and related decisions. (4-11-15)

01. Accepting Referral. Upon receipt of a complete referral packet from the Department, the residential treatment provider has four (4) business days in which to decide whether to accept or decline the referral. Upon acceptance, the Referral Acceptance/Denial Form must be completed and signed. By accepting the referral, the residential treatment provider agrees to address the identified treatment goals and the anticipated length of stay. Once the acceptance has occurred, the juvenile offender's transportation will be made. (4-11-15)

02. Declining Referral. Residential treatment providers must not, without just cause, deny admission to any juvenile offender who meets the specific admission criteria set forth in the provider's program description. If a residential treatment provider denies a referral, the specific reason for denial must be documented on the Department's Referral Acceptance/Denial Form and the form returned to the regional referral coordinator. The residential treatment provider must then destroy the referral packet. (4-11-15)

03. Change in Admission Criteria. Any change in the residential treatment provider's admission

criteria must be reflected in the provider's admission policy and requires a written amendment to the contract with the Department. Temporary exceptions are covered under Section 101 of these rules. (4-11-15)

04. Reservation of Program Slots. When a program slot is to be reserved, the Department shall contact the residential treatment provider and request that the slot be reserved. Unless the Department gives specific approval, the maximum time for which a program slot may be reserved and the residential treatment provider continue to receive payment is forty-eight (48) consecutive hours. (4-11-15)

203. SAFETY AND MAINTENANCE OF BUILDINGS AND GROUNDS.

01. Compliance with State and Local Codes and Ordinances. The residential treatment provider must maintain compliance with all state and local building, life safety, and zoning requirements. Documentation of compliance must be made available to the Department. (4-11-15)

02. Accessibility. The program buildings, parking lots and other structures must provide access as required by the Americans with Disabilities Act, as amended, and other applicable federal and state laws and regulations. (4-11-15)

03. Maintenance. The residential treatment provider must ensure that all structures are maintained, are in good repair, and are free from hazards to health and safety. The grounds must also be maintained and must be free from any hazard to health and safety. The residential treatment provider must have a written plan for preventive and ongoing maintenance of its building and grounds. (4-11-15)

04. Construction Considerations. When designing or acquiring any new program or facility and in planning any substantial expansion or modification of existing facilities, the residential treatment provider shall consider the effect of the design, acquisition, expansion, or modification upon the provider's ability to protect residents from any harm, including sexual abuse. (4-11-15)

05. Program Safety. Each residential treatment provider must have a designated staff member who is responsible for the safety of the program. This individual must conduct monthly inspections of the program, with copies of the inspections kept on file for review by the Department, to identify: (4-11-15)

- a.** Fire safety; (4-11-15)
- b.** Existing hazards; (4-11-15)
- c.** Potential hazards; and (4-11-15)
- d.** The corrective action that should be taken to address these hazards. (4-11-15)

06. Emergency Procedures. The residential treatment provider will utilize and maintain a current emergency procedure manual which must include, at a minimum, procedures pertaining to: (4-11-15)

- a.** Fire safety and escape; (4-11-15)
- b.** Emergency medical care; (4-11-15)
- c.** Notification and filing charges on escape; (4-11-15)
- d.** Incidents of violence within the program; (4-11-15)
- e.** Suicide prevention; (4-11-15)
- f.** Child abuse reporting; and (4-11-15)
- g.** Sexual abuse disclosures. (4-11-15)

204. VEHICLES.

01. Condition. Vehicles used to transport juveniles must be mechanically sound, in good repair, and meet the Department's requirements for insurance coverage. (4-11-15)

02. Compliance with Applicable Laws. All vehicles must possess current state licenses and must comply with all applicable state laws. When in use, all vehicles must carry a standard first aid kit and a fire extinguisher. (4-11-15)

03. Maintenance and Equipment Checklist. The residential treatment provider must have a vehicle maintenance and equipment checklist, which must include a listing of all critical operating systems and equipment inspections, the date of the last inspection, and the type of service or action taken. All repairs required to critical operating systems, such as brakes and headlights, must be made immediately. All worn or missing critical equipment must be replaced immediately, such as tires, jacks, and seat belts. (4-11-15)

205. TRANSPORTATION.

01. Transportation for Service Plan. It shall be the responsibility of the residential treatment provider to provide all transportation associated with the juvenile offender's service implementation plan. The family may be relied upon to provide transportation for passes and some other community contacts as long as this does not present any undue risk or burden to the juvenile offender, family, or community. (4-11-15)

02. Transportation for Court Proceedings. It is the provider's responsibility to immediately notify the juvenile offender's juvenile services coordinator of court dates and appearances. Arrangements for transportation related to court appearances, as well as related to transfer or release of juvenile offenders from Department custody, must be made between the residential treatment provider and the juvenile services coordinator. (4-11-15)

03. Transport in Personal Vehicles. Juveniles in the custody of the Department will not be transported in personal provider employee vehicles unless an emergency situation exists and is substantiated by documentation. (3-25-16)

206. DRIVERS.

01. Juvenile Transport. All drivers of vehicles transporting a juvenile offender must possess a valid driver's license from the applicable state and the proper licenses required by state law for the type of motor vehicle operated. All such operators' driving records must be checked through the Department of Motor Vehicles for the preceding three (3) years and annually after date of hire. During that time, the operator must not have had any felony traffic convictions or withheld judgments. Any incidents of suspended licenses during that time must be specifically reviewed by the residential treatment provider. Personnel files must contain evidence of training to transport a juvenile offender as well as other appropriate documentation. (4-11-15)

02. Parent or Guardian Transport. When parents or guardians are allowed to transport a juvenile offender for any reason, it is the responsibility of the residential treatment provider to ensure that the individual possesses a current and valid driver's license and insurance coverage. (4-11-15)

207. -- 209. (RESERVED)

210. ADMINISTRATIVE RECORDS.

01. Documentation Retention. The residential treatment provider must document and retain documentation of all information related to the following items: (4-11-15)

a. Program consultation provided, such as technical assistance on program design and implementation; (4-11-15)

b. Training provided to staff; (4-11-15)

- c. All alleged instances of child abuse; (4-11-15)
 - d. Program audits or reviews, including corrective actions required and taken; (4-11-15)
 - e. Reports of sexual abuse disclosures to the applicable state licensing authority or law enforcement; (4-11-15)
 - f. Juvenile offender and staff grievances; (4-11-15)
 - g. Copies of all completed incident reports; and (4-11-15)
 - h. Copies of background checks for all current employees, contractors, volunteers and interns who may have contact with residents. (4-11-15)
- 02. Employee Files.** Employee personnel files must contain the following: (4-11-15)
- a. Minimum qualifications for the job held; (4-11-15)
 - b. Hiring information; (4-11-15)
 - c. Copies of all required licenses or certificates related to the job function; (4-11-15)
 - d. Copies of academic credentials, driving record and criminal background checks, as required by state law; (4-11-15)
 - e. Current training records; and (4-11-15)
 - f. Performance evaluations and copies of personnel actions, such as disciplinary action taken and acknowledgements of outstanding performance. (4-11-15)

211. STAFF QUALIFICATIONS.

01. Licenses. All individuals providing services to juveniles in the custody of the Department must possess all licenses or certifications for their particular position as required by statute, rule, or by the applicable state licensing authority. (4-11-15)

02. Education or Experience. All individuals providing services must be qualified to do so, on the basis of knowledge, skills, and abilities. In addition, certain program and professional caregivers must meet specific minimum standards for education or experience. These standards shall constitute, in part, the basis for determining the adequacy of program and professional services delivered under contractual agreement with the Department. (4-11-15)

03. Position Descriptions. Residential treatment providers must maintain written position descriptions for every job class established in the organization. In all cases, the particular job titles used by the residential treatment provider to provide counseling, therapy, direct care, and supervision of juvenile offenders, as well as staff supervision and management, must be specifically cross-referenced with the job titles in these rules. (4-11-15)

212. POSITION DESCRIPTIONS AND QUALIFICATION CRITERIA.

01. Clinician, Counselor, or Therapist. An individual who conducts a comprehensive assessment of the psychological, behavioral, social, or familial deficits or dysfunctions presented by the juvenile offender, then establishes and implements a plan for therapeutic services. The plan must specify diagnosis and treatment of problems to be addressed, an estimate of the time needed, and a schedule of the frequency and intensity of the services to be provided. The individual may also provide individual, group, or family counseling. At a minimum, the individual must have a master's degree and be currently licensed by the applicable state as a Licensed Professional Counselor (LPC), Licensed Marriage and Family Counselor (LMFT), Licensed Master Social Worker (LMSW), or certified school psychologist. (4-11-15)

02. Juvenile Services Coordinator or Social Worker. An individual who is responsible for the assessment of treatment progress, and the provision and monitoring of therapeutic or rehabilitative treatment services to juvenile offenders participating in a treatment program. Individuals providing this function must possess at a minimum, a bachelor's degree from a fully accredited college or university in social work, psychology, or counseling, and must be licensed as a social worker in the applicable state. (4-11-15)

03. Recreational Specialist. An individual who develops and implements an individualized and goal-directed recreational plan for a juvenile offender in connection with the overall service implementation plan. The individual providing this function must possess a bachelor's degree in recreational therapy, health and physical education, or a related field, or have a high school diploma and two (2) years related experience in providing recreational services to juvenile offenders. (4-11-15)

04. Rehabilitation Specialist or Facility Case Manager. An individual, under direct supervision, who assists the juvenile offender in implementing the service implementation plan, evaluates the juvenile offender, and maintains the case record with respect to all nonclinical matters. The rehabilitation specialist or facility case manager also assists in presenting the case in staffings, communicates with appropriate individuals, including community interests, regarding the juvenile offender, and prepares written communications, under supervision, including final progress reports. The rehabilitation specialist or facility case manager may also serve as the social worker if properly licensed in the applicable state. Individuals providing this function must possess a bachelor's degree from a fully accredited college or university in the social sciences or a related field, or have a high school diploma and four (4) years related experience in providing services to juvenile offenders. (4-11-15)

05. Rehabilitation Technician or Direct Care Worker. An individual who is responsible for providing individual or group rehabilitative therapeutic services, supervising juvenile offender's day-to-day living activities and performing such duties as preparing nutritious meals, supervising and training juvenile offenders in basic living skills, and providing some community transportation. Such individual must have a high school diploma or its equivalent. (4-11-15)

06. Special Education Teacher. An individual who provides a modified curriculum for those students who are eligible for services under the IDEA. This individual must hold a valid standard exceptional child certificate with an endorsement as a generalist. (4-11-15)

07. Teacher. An individual who provides basic educational services as required by state and federal statutes. This individual must hold a valid teaching credential in the appropriate instructional field. (4-11-15)

213. PROGRAM STAFFING REQUIREMENTS.

01. General Staffing Ratios. The residential treatment provider must ensure that an adequate number of qualified staff are present at all times to provide rehabilitation and treatment services, supervise juvenile offenders, and provide for their health, safety and treatment needs. Staffing patterns must ensure that professional staff is available to juvenile offenders at all times when they are in the program. The residential treatment provider staff should provide consistency and stability so that the juvenile offenders know the roles of each staff member. Specific staffing ratios shall be determined in each contract and must be based in the level of intervention of the program and the risk level of the juvenile offender population. (4-11-15)

02. Emergency Staffing Ratios. At all times at least one (1) staff member on duty per twenty (20) juvenile offenders in the program must be currently certified to administer first aid and cardiopulmonary resuscitation (CPR). (4-11-15)

214. GENERAL REQUIREMENTS FOR TRAINING.

01. Training Plan. Training for staff must be conducted in accordance with a written plan approved by management and coordinated by a designated staff member. The training plan must include: (4-11-15)

a. Annual in-service training for all staff to include, but not be limited to: (4-11-15)

- i. Identifying and responding to suicide risk; (4-11-15)
- ii. All training as outlined in section 115.331 of the Prison Rape Elimination Act (PREA) standards; (4-11-15)
- iii. Prohibition of abuse and mandatory reporting of abuse; (4-11-15)
- iv. De-escalation of juvenile behavior and appropriate physical restraint techniques; and (4-11-15)
- v. Incident reporting. (4-11-15)
- b.** Those areas of practice and operations requiring a current certification; (4-11-15)
- c.** Prior to being assigned sole responsibility for supervision of juvenile offenders, rehabilitation technicians or direct care staff must have training in the following areas: (4-11-15)
 - i. Principles and practices of juvenile care and supervision; (4-11-15)
 - ii. Program goals and objectives; (4-11-15)
 - iii. Juvenile offender rights and grievance procedures; (4-11-15)
 - iv. Procedures and legal requirements concerning the reporting of abuse and critical incidents and compliance with the PREA as outlined in these rules; (4-11-15)
 - v. Handling of violent juvenile offenders (use of force or crisis intervention); (4-11-15)
 - vi. Security procedures (key control, searches, contraband); (4-11-15)
 - vii. Medical emergency procedures, first aid, and CPR; (4-11-15)
 - viii. Incident reporting; (4-11-15)
 - ix. How to recognize and respond to suicidal behavior; (4-11-15)
 - x. How to access emergency health and mental health care; (4-11-15)
 - xi. Proper storage and dispensing of medications, as well as general signs and symptoms of adverse reactions, including identification of the individual who will dispense medications in the facility; (4-11-15)
 - xii. Appropriate response to health-related emergencies; (4-11-15)
 - xiii. Ethics and professional boundaries; and (4-11-15)
 - xiv. Appropriate and safe transportation of all juvenile offenders. (4-11-15)
- d.** In-service training for all first-year staff must include: (4-11-15)
 - i. Program policies and procedures; (4-11-15)
 - ii. Job responsibilities; (4-11-15)
 - iii. Juvenile offender supervision; (4-11-15)
 - iv. Safety and security emergency procedures (fire, disaster, etc.); (4-11-15)
 - v. Confidentiality issues including the Health Insurance Portability and Accountability Act of 1996

- (HIPAA); (4-11-15)
- vii. Infectious diseases, blood borne pathogens, and universal precautions; (4-11-15)
 - viii. Behavioral observation, adolescent psychology and child growth and development; (4-11-15)
 - ix. Effective interventions with juvenile offenders including criminogenic risk and need factors; (4-11-15)
 - x. Juvenile Corrections Act, balanced and restorative justice, this chapter, and Department rules applicable to the specific type of residential treatment provider; (4-11-15)
 - xi. Basic security procedures; (4-11-15)
 - xii. Signs and symptoms of chemical use or dependency; (4-11-15)
 - xiii. Drug-free workplace; (4-11-15)
 - xiv. Diversity training to include cultural awareness; and (4-11-15)
 - xv. Juvenile offender searches for contraband. (4-11-15)

02. Trainer Qualifications. (4-11-15)

a. Individuals who provide instruction in areas of life, health, and safety, including but not limited to first aid, CPR, and physical intervention techniques, shall have appropriate certification which must be documented in their personnel or training file. (4-11-15)

b. Individuals who provide instruction in treatment must have appropriate training, education, and experience which must be documented in their personnel or training file. (4-11-15)

03. Documentation of Training. Staff training records must be kept by a designated staff person. Training records must be established for each staff member and volunteer and shall include: (4-11-15)

- a.** Name; (4-11-15)
- b.** Job title; (4-11-15)
- c.** Employment beginning date; (4-11-15)
- d.** Annual training hours required; and (4-11-15)
- e.** A current chronological listing of all training completed. (4-11-15)

04. Training Records. Training records may be kept separately within each individual personnel file or in a separate training file. Access to curriculum materials must be made available. (4-11-15)

215. SUBCONTRACTORS, VOLUNTEERS, AND INTERNS.

It is the responsibility of the residential treatment provider to identify the intended use of the subcontractor, volunteer, or intern. If the subcontractor, volunteer, or intern is providing direct services to juveniles, the residential treatment provider must adhere to the rules in this Section. The provider must notify the Department's Quality Improvement Services Bureau promptly, in writing, of any proposed changes in the use of subcontractors, volunteers, or interns providing direct services to juveniles. (4-11-15)

01. Subcontractors. It is the responsibility of the residential treatment provider to ensure that any subcontractor providing direct services to juveniles meets at least the minimum staff qualifications and terms of the original contract and these rules. The residential treatment provider must maintain a list of all subcontracted service

providers and their qualifications. Documentation of services provided by subcontractors must include the scope and frequency of services. (4-11-15)

02. Volunteers and Interns. Programs should consider soliciting the involvement of volunteers and interns to enhance and expand their services. However, volunteers and interns recruited to supplement and enrich a program may not be substituted for the activities and functions of program staff. Volunteers and interns must not be assigned sole supervision of juvenile offenders. (4-11-15)

a. Programs that utilize volunteers and interns regularly must have a written plan that includes stipulations for their use and training, and training of program staff on the role of volunteers and interns. Training provided must include all of the information necessary for the volunteers and interns to successfully perform their roles within the program. (4-11-15)

b. Recruiting of volunteers is conducted by the program director or designee. Recruitment is encouraged from all cultural and socio-economic segments of the community. (4-11-15)

c. Volunteers and interns must complete an application for the position and be suited for the position to which they are assigned. (4-11-15)

d. Written job descriptions must be provided for each volunteer and intern position. (4-11-15)

e. Interns must be documented to be enrolled in an accredited school or program for the profession. (4-11-15)

f. Interns must have a fully developed internship or practicum agreement which details their activities for the period, and relates these to learning objectives developed with the academic institution and program in which they are enrolled. The internship agreement must include the signatures of the intern, supervising residential treatment provider staff, and a representative of the academic institution in which the intern is enrolled. (4-11-15)

g. Interns must agree in writing to abide by all policies and standards of conduct, and must agree to meet the ethical standards for the profession for which they are training. (4-11-15)

h. Volunteers and interns must be at least twenty-one (21) years of age, of good character, and sufficiently mature to handle the responsibilities involved in the position. (4-11-15)

i. Volunteers and interns must agree in writing to abide by all program policies. (4-11-15)

03. Subcontractor, Volunteer, and Intern Requirements. Subcontractors, volunteers, and interns who perform professional services must be licensed or certified as required by state law or rule, or must be documented to be supervised directly by staff meeting those credentials. (4-11-15)

a. Subcontractors, volunteers, and interns must have background and criminal record checks as prescribed by state law. (4-11-15)

b. Minimum training for subcontractors, volunteers, and interns must include the following: (4-11-15)

i. Program goals and objectives; (4-11-15)

ii. The role of the subcontractor, volunteer or intern and job duties or duties related to the learning plan; (4-11-15)

iii. Subcontractor, volunteer, or intern's role in reporting incidents of sexual abuse under PREA as outlined in these rules; (4-11-15)

iv. Basic security procedures; (4-11-15)

- v. Recognizing suicidal behaviors; (4-11-15)
- vi. Confidentiality issues including the Health Insurance Portability and Accountability Act of 1996 (HIPAA); and (4-11-15)
- vii. Ethics and mandatory reporting of juvenile abuse. (4-11-15)
- 04. Volunteers of Minimal Use.** Volunteers who meet all of the following criteria may be excluded from Subsection 215.03.a. and Subsection 215.03.b.: (4-11-15)
- i. Use of the volunteer by the residential treatment provider does not exceed four visits per year; (4-11-15)
- ii. Use of the volunteer by the residential treatment provider does not exceed four hours per visit; and (4-11-15)
- iii. The volunteer is under constant personal supervision of at least one staff member of the residential treatment provider during their visit. (4-11-15)
- 05. Documentation.** The residential treatment provider must maintain individual personnel files for each volunteer and intern working in the program. The files must contain all documentation as described in Subsection 215.03 of these rules. (4-11-15)
- 06. Supervision of Volunteers.** Volunteers will be supervised at all times by a staff member of the residential treatment provider. This individual shall coordinate and direct the activities of the volunteer. Volunteer performance must be evaluated periodically and evidence of this evaluation be made part of the personnel record of the volunteer. (4-11-15)
- 07. Supervision of Interns.** An intern will be supervised by a paid employee of the residential treatment provider who has the licenses and credentials required by state law and who has been accepted by the intern's school as an appropriate supervisor for the discipline of instruction. This individual shall coordinate and direct the activities of the intern. Intern performance must be evaluated periodically and evidence of this evaluation made part of the work record of the intern. (4-11-15)
- 08. Termination.** The residential treatment provider must establish a procedure for the termination of volunteers and interns. Termination of interns shall be in collaboration with the academic institution and program in which they are enrolled. (4-11-15)
- 216. CRIMINAL BACKGROUND CHECKS.**
The residential treatment provider must ensure that all employees, subcontractors, interns, and volunteers, with the exception of those listed in Section 215.04 of these rules, have undergone a criminal background check every five (5) years in the manner and form required by IDAPA 16.05.06, "Criminal History and Background Checks." In addition to the crimes listed resulting in unconditional denial, any crime not specified there that requires registration on the sex offender registry in Idaho or any other state, will also result in an unconditional denial of employment for direct care or services, or where the employee would have any opportunity to have contact with a juvenile offender in the residential treatment provider's care, including as a volunteer or intern. Documentation of appropriate requests and responses must be kept in confidential employee personnel files. (4-11-15)
- 217. -- 219. (RESERVED)**
- 220. JUVENILE RECORDS.**
- 01. Case Management Documents.** The residential treatment provider must maintain individual files on all juvenile offenders which shall include: (4-11-15)
- a. Observation and assessment evaluation provided by the Department; (4-11-15)

- b.** Additional assessments; (4-11-15)
 - c.** Service implementation plans; (4-11-15)
 - d.** Progress reports; (4-11-15)
 - e.** Incident reports; (4-11-15)
 - f.** Court documents and dispositions; (4-11-15)
 - g.** Professional correspondence; (4-11-15)
 - h.** Restricted clinical information, which must be kept separate; (4-11-15)
 - i.** Medical records, which must be kept separate; (4-11-15)
 - j.** Educational records and school history, which must be kept separate; (4-11-15)
 - k.** Relapse prevention plan; (4-11-15)
 - l.** Identifying information and physical descriptions; (4-11-15)
 - m.** Last known parent or guardian address and telephone number; (4-11-15)
 - n.** Date of admittance and projected release from the residential treatment provider; (4-11-15)
 - o.** Records of juvenile offender’s earnings, restitution payments, and community service hours earned; (4-11-15)
- 02. Confidentiality.** (4-11-15)
- a.** Sections 20-525 and 9-340(2)(b), Idaho Code, and Idaho Court Administrative Rule 32 provide for confidentiality, under certain conditions, of records that contain information about juvenile offenders. (4-11-15)
 - b.** All matters relating to confidentiality of juvenile offender files must also comply with the federal Health Insurance Portability and Accountability Act (HIPAA) and 42 CFR Chapter 1, Sub-Chapter A, Part 2, “Confidentiality of Alcohol and Drug Abuse Patient Records.” (4-11-15)
 - c.** Restricted clinical information, as defined, and education and medical records must each be filed separately and stored in a secured area. (4-11-15)
 - d.** For residential treatment providers that serve sex offenders, individual treatment assignments, such as journals and detailed sexual histories, must be destroyed at the time the juvenile offender is transferred or released from the program. (4-11-15)
 - e.** The residential treatment provider must have written policies and procedures to address the confidentiality of juvenile offender records. In compliance with HIPAA’s privacy regulations, written procedures shall designate a privacy officer who will: (4-11-15)
 - i.** Supervise the maintenance of identifiable personal health care information; (4-11-15)
 - ii.** Serve as custodian of all confidential juvenile offender records; and (4-11-15)
 - iii.** Determine to whom records may be released. (4-11-15)
- 03. Automated Records.** Automated records must include a procedure to ensure confidentiality and be in compliance with any state or federal privacy laws pertaining to those records. The procedure must also include

provisions for backing up automated records. (4-11-15)

04. Restrictions to Records Access. (4-11-15)

a. Access to personal health information must be limited to: (4-11-15)

i. Employees of the Department and the residential treatment provider, to the extent necessary to perform normal business functions, including health treatment, and other functions designed to maintain the good order, safety and security of the juvenile offenders or the program; (4-11-15)

ii. Individuals participating in a staffing for a juvenile offender, who have a direct need to know the information, and who are obligated to or promise to maintain the confidentiality of information disclosed. These individuals may include employees or representatives of law enforcement, the Department, the residential treatment provider, probation officer, medical or mental health professionals and other appropriate individuals; and (4-11-15)

iii. Law enforcement members, emergency medical personnel, the Idaho Department of Health and Welfare or the applicable state licensing authority, and similar court or government officials, as necessary to perform their duties, and only if not otherwise prohibited by state or federal law or rule. (4-11-15)

b. Access to all other confidential juvenile offender records must be limited to the following authorized persons: (4-11-15)

i. Staff authorized by the residential treatment provider and members of the administrative staff of the residential treatment provider's parent agency; (4-11-15)

ii. A parent or guardian or the juvenile offender, to the extent that disclosure is not privileged and is clinically appropriate; (4-11-15)

iii. Appropriate staff of the Department; (4-11-15)

iv. Counsel for the juvenile offender with signed consent form; (4-11-15)

v. Judges, prosecutors, juvenile probation officers, and law enforcement officers, when essential for official business; (4-11-15)

vi. Other individuals and agencies approved by the Department; and (4-11-15)

vii. Schools, as appropriate. (4-11-15)

05. Withholding of Information. If the Department or the residential treatment provider believes that information contained in the record would be damaging to the juvenile offender's treatment or rehabilitation, that information may be withheld from the juvenile offender, parent or guardian, or others, except under court order. (4-11-15)

06. Retention of Juvenile Records. At the time of transfer or release from Department custody, all case management records must be forwarded to the juvenile correctional center in Nampa. (4-11-15)

07. Requests for Information. Requests for information of any kind about juvenile offenders in Department custody, following their release or transfer from a residential treatment provider's program must be directed to the juvenile correctional center in Nampa. (4-11-15)

08. Document Reproduction. The residential treatment provider agrees that documents provided by the Department shall not be distributed without written permission from the Department. (4-11-15)

221. RELEASE FORMS.

01. Release of Nonmedical Information. The juvenile offender, parent or guardian, and Department

representative must sign a release of information and consent form before information about the juvenile offender is released to any non-juvenile justice entity. A copy of the consent form must be maintained in the juvenile offender's file at the program and in the case management file maintained by the Department. (4-11-15)

02. Release of Medical Information. Release of medical information requires more specific authorization. The residential treatment provider must abide by IDAPA 05.02.02, Section 262, "Rules for Staff Secure Providers"; or IDAPA 05.02.03, Section 262, "Rules for Reintegration Providers"; or IDAPA 05.02.04, Section 262, "Rules for Supported Living Providers," as applicable. (4-11-15)

03. Minimum Information. The release of information and consent form must, at a minimum, include the following: (4-11-15)

- a.** Name of person, agency or organization requesting information; (4-11-15)
- b.** Name of person, agency or organization releasing information; (4-11-15)
- c.** The specific information to be disclosed; (4-11-15)
- d.** The date consent form is signed; (4-11-15)
- e.** Signature of the juvenile offender and the parent or guardian if the juvenile offender is under the age of 18; (4-11-15)
- f.** The signature of the person witnessing the juvenile offender's signature; and (4-11-15)
- g.** Effective and expiration dates. (4-11-15)

222. JUVENILE OFFENDER PHOTOGRAPHS.

01. Limitations. No juvenile offender in the custody of the Department may be used in person or by photograph or any other visual image for the express purpose of any fund raising efforts. (4-11-15)

02. Department Authorization. Permission to release or use the photographs and any other visual image of juvenile offenders in the custody of the Department must require written authorization from the Department Director or designee. (4-11-15)

223. RESEARCH PROJECTS.

01. Written Policy. The residential treatment provider must have a written policy regarding the participation of juvenile offenders in research projects. The policy must prohibit participation in medical or pharmaceutical testing for experimental or research purposes. (4-11-15)

02. Voluntary Participation. Policies must govern voluntary participation in nonmedical and non-pharmaceutical research programs. However, juvenile offenders must not participate in any research program without prior written approval from the Director or designee. (4-11-15)

224. PROHIBITED CONTACT AND PRISON RAPE ELIMINATION ACT (PREA) COMPLIANCE.

01. Sexual Abuse of Juvenile Offenders. The residential treatment provider must have written policies and procedures mandating zero tolerance toward all forms of sexual abuse and sexual harassment and outlining the agency's approach to preventing, detecting, and responding to such conduct. These policies and procedures must contain, at a minimum, the following: (4-11-15)

- a.** The prohibition of any sexual abuse or sexual harassment as defined in PREA Standards or as defined in Title 18, Chapter 61, Section 18-6110, Idaho Code; (4-11-15)
- b.** The appointment of a PREA Coordinator, as outlined in PREA Standards 28 C.F.R. 115.311(c), to

be determined by the program director; (4-11-15)

c. Procedures that enable juvenile offenders to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine well-being checks as outlined in PREA Standards 28 C.F.R. 115.315(d); (4-11-15)

d. The requirement of staff of the opposite gender to announce their presence when entering a housing unit or any area where juvenile offenders are likely to be showering, performing bodily functions, or changing clothing as outlined in PREA Standards 28 C.F.R. 115.315(d); (4-11-15)

e. The provision of multiple avenues for a juvenile offender or a third party to report sexual abuse and sexual harassment, at least one of which must be external to the agency as outlined in PREA Standards 28 C.F.R. 115.351; (4-11-15)

f. The process for gathering information to make classification and housing decisions to reduce the risk of sexual victimization as outlined in PREA Standards 28 C.F.R. 115.342; (4-11-15)

g. The handling of all information regarding sexual abuse or sexual harassment with confidentiality as outlined in PREA Standards 28 C.F.R. 115.361(c); (4-11-15)

h. The process to ensure that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior as outlined in PREA Standards 28 C.F.R. 115.322; (4-11-15)

i. Policies to protect all residents and staff who report sexual abuse or sexual harassment from acts of retaliation as outlined in PREA Standards 28 C.F.R. 115.367; (4-11-15)

j. The provision of timely and unimpeded access to crisis intervention services, medical, and mental health care to victims as outlined in PREA Standards 28 C.F.R. 115.382(a); (4-11-15)

k. The provision for and documentation of training to staff as outlined in PREA Standards 28 C.F.R. 115.331; (4-11-15)

l. The provision for and documentation of age appropriate education to juvenile offenders as outlined in PREA Standards 28 C.F.R. 115.333; (4-11-15)

m. Within 30 days of the conclusion of every sexual abuse investigation the residential treatment provider must conduct a sexual abuse incident review as outlined in PREA Standards 28 C.F.R. 115.386; (4-11-15)

n. A process that requires reporting and documentation of any instance of sexual abuse among juvenile offenders or between juvenile offenders and staff or volunteers, according to Subsection 241.01 and Subsection 241.05 of these rules. These must be reported on a form provided by the Department; (4-11-15)

o. A process for an initial internal investigation when sexual abuse is reported; (4-11-15)

p. An expected first response practice of separating the alleged perpetrator from the alleged victim until the investigation is complete; (4-11-15)

q. In addition to completing the form supplied by the Department, the residential treatment provider must document any and all steps taken to ensure the juvenile offender's safety; and (4-11-15)

r. The residential treatment provider must report all sexual abuse to appropriate licensing authority or law enforcement when sexual abuse is suspected. (4-11-15)

02. Resident Access to Outside Support Services. The facility must provide residents with access to outside victim advocates for emotional support services related to sexual abuse as outlined in PREA Standards 28

C.F.R. 115.353. (4-11-15)

03. Sexual Victimization Survey. Residential treatment providers are required to participate in all state and federal surveys, and shall complete and submit the survey and supply the Department with copies. (4-11-15)

225. SUICIDE PRECAUTIONS.

01. Policy Requirements. All residential treatment providers must have a written policy for responding to juvenile offenders who present a risk of suicide. The policy, at a minimum, shall require that: (4-11-15)

a. Staff are regularly trained to identify, document and appropriately respond to behavior that may indicate a risk of suicide; (4-11-15)

b. The residential treatment provider utilizes medical or other staff trained by a mental health professional to review history, interview, and observe juvenile offenders new to the program in order to complete a suicide risk screening within two (2) hours of admission. The screening is done to identify any immediate threat of suicide or self-harm and the need for a suicide risk assessment; (4-11-15)

c. The residential treatment provider utilizes a mental health professional to complete a suicide risk assessment on a juvenile offender who has been identified by staff as presenting a risk of suicide. A suicide risk assessment is a system of structured and documented observation, interview and review of behavioral and mental health information. It comprises a thorough review of recent behavioral and mental health information and interviews of staff and the juvenile offender concerning the behavior that seems to present the threat of self-harm or suicide. A suicide risk assessment typically involves an assessment of the juvenile offender's determination to act on intentions of self-harm, a determination of the depth of planning for making the attempt, the availability of the items or situations necessary for the juvenile to act on that plan and the lethality of the plan as expressed; (4-11-15)

d. The residential treatment provider utilizes a mental health professional to develop and disseminate a safety plan for each juvenile offender identified as presenting a risk for suicide. The safety plan includes a detailed supervision plan for the juvenile offender; (4-11-15)

e. Reassessment of suicide risk and whether it is reduced enough to reduce or terminate suicide precautions is made at a time determined by the mental health professional completing the assessment and is ideally completed by that same mental health professional; and (4-11-15)

f. The residential treatment provider prohibits the use of separation and isolation of juvenile offenders identified as presenting a suicide risk, unless constant one-on-one (1 on 1) staff supervision is provided. (4-11-15)

02. Separation or Isolation. All juvenile offenders in separation or isolation are closely monitored to reduce the risk of suicidal behaviors. (4-11-15)

03. Reporting to the Department. All incidents of suicide, attempted suicide or threat of suicide must be reported to the Department in the manner described in Subsection 241.01 of these rules. (4-11-15)

226. -- 229. (RESERVED)

230. JUVENILE OFFENDER RIGHTS AND RESPONSIBILITIES.

01. Residential Treatment Provider Obligations. The residential treatment provider must respect, and not infringe upon, the rights of each juvenile offender in its program. The residential treatment provider must also be responsible for understanding the rights and responsibilities of juveniles in custody, and knowing which rights have been forfeited as a result of being placed in custody. (4-11-15)

02. Juvenile Offender Program Responsibilities. The residential treatment provider must inform each juvenile offender, upon admission to its program, of each juvenile offender's responsibilities during the

program. Additionally, each juvenile offender must have an understanding of the following program expectations: (4-11-15)

- a. Requirements needed to complete program; (4-11-15)
- b. How to access medical services; (4-11-15)
- c. How to file a grievance; (4-11-15)
- d. How to report incidents of sexual abuse between juvenile offenders or between staff and juvenile offenders; and (4-11-15)
- e. How to contact the juvenile services coordinator and juvenile probation officer. (4-11-15)

231. DISCIPLINE OF JUVENILE OFFENDERS.

01. Written Policies and Procedures. All providers offering treatment services must have comprehensive written discipline policies and procedures, which shall be explained to all juvenile offenders, families, and staff. These policies must include positive responses for appropriate behavior. They must include a provision for written notice to the juvenile offender being disciplined, a mechanism for a fair and impartial hearing to include at least one staff member not involved in the disciplinary action, and a process for appeal. (4-11-15)

02. Administration of Discipline. Discipline will be administered in a way to create a learning experience for the juvenile offender, and never in a way that degrades or humiliates the juvenile offender. Staff will make every effort to maintain control of juvenile offenders through positive methods. No juvenile offender shall supervise nor carry out disciplinary actions over another juvenile offender. (4-11-15)

a. Prior to and upon initiating a disciplinary action, careful attention should be given to ensure the disciplinary sanctions are proportionate with the nature and circumstances of the behavior and the program rules to determine the seriousness of the misbehavior and the appropriate type of discipline. (4-11-15)

b. Disciplinary actions are not the same as the consequences that are spelled out as a part of a service implementation plan for the juvenile offender. A residential treatment provider must make every effort to resolve problems with the least amount of formal disciplinary activity possible. Efforts should be made first to instruct and counsel the juvenile offender. (4-11-15)

c. Any restriction of a juvenile offender's participation in a program resulting from a formal disciplinary action must be reported in an incident report. (4-11-15)

03. Prohibited Actions. The residential treatment provider is prohibited from using certain actions as disciplinary responses as listed in the child care licensing rules of the Idaho Department of Health and Welfare. (4-11-15)

04. Denial of Services. Denial of the following are prohibited as disciplinary responses: (4-11-15)

- a. Educational and vocational services; (4-11-15)
- b. Employment; (4-11-15)
- c. Medical or mental health services; (4-11-15)
- d. Food; (4-11-15)
- e. Access to family, juvenile services coordinator, juvenile probation officer, and legal counsel; and (4-11-15)
- f. Religious services. (4-11-15)

05. Appeal of Formal Disciplinary Penalties. Each residential treatment provider must have a formal written process through which a juvenile offender can appeal a disciplinary action and receive a review of the case. The residential treatment provider shall explain to the juvenile offender how to use the appeal process. The juvenile offender must be informed that the juvenile services coordinator may be included in the disciplinary process at the juvenile's choice. (4-11-15)

232. GRIEVANCE PROCEDURES.

01. Written Procedures. The residential treatment provider must have a written grievance procedure for juvenile offenders, which shall include the right to appeal disciplinary actions against them if a separate disciplinary grievance procedure is not available. It must be written in a clear and simple manner and shall allow juvenile offenders to make complaints without fear of retaliation. (4-11-15)

02. Grievance Forms. The grievance procedure must be explained to the juvenile offender by a staff member who shall document the explanation in the juvenile's file. Grievance forms must be in a location accessible to juvenile offenders without having to request such a form from staff. Completed forms should be placed in a secure area and collected daily. The provider must complete a review and discuss findings with the juvenile offender within three (3) working days of receipt of the grievance form. If the juvenile offender lives independently, the provider must have a process for the juvenile to submit grievance forms to the program director without having to request such a form from staff. A copy of the grievance and the resolution of that grievance must be attached to the quarterly report as specified in Subsection 200.02 of these rules. (4-11-15)

233. JUVENILE OFFENDER SAFETY.

Every juvenile offender has the fundamental right to feel safe. Residential treatment providers have the responsibility to ensure that a juvenile offender is safe while in their care. Every juvenile offender must be informed of procedures whereby a professional staff person can be contacted on a twenty-four (24) hour basis if the juvenile offender does not feel safe. The residential treatment provider's administration must make periodic contact with juvenile offenders in the program to determine if they feel safe and are comfortable when interacting with peers and staff. (4-11-15)

234. JUVENILE OFFENDER AND PARENT OR GUARDIAN HANDBOOK.

The residential treatment provider must provide each juvenile offender and their parent or guardian with program handbooks that are written in an age-appropriate manner. (4-11-15)

- 01. Required Content.** Handbooks must address, at a minimum, the following: (4-11-15)
- a.** Requirements needed to complete program; (4-11-15)
 - b.** Juvenile offender rights and responsibilities; (4-11-15)
 - c.** The means available to safely report sexual abuse and harassment; (4-11-15)
 - d.** Grievance procedures; (4-11-15)
 - e.** Religious services; (4-11-15)
 - f.** A list of what constitutes as contraband and the consequences for its possession; (4-11-15)
 - g.** The provider's disciplinary process; (4-11-15)
 - h.** Visitation, mail, and phone correspondence; (4-11-15)
 - i.** The provider's policy on searches for contraband, including a list of what constitutes contraband; (4-11-15)
 - j.** The provider's obligation to make reasonable accommodations for any disabilities, language barriers, or other special needs; (4-11-15)

- k.** The daily schedule for juvenile offenders; and (4-11-15)
- l.** A description of services or items for which a juvenile offender may be charged by the provider. (4-11-15)
- 02. Receipt of Handbook.** The juvenile offender and their parent or guardian acknowledge in writing their receipt of the juvenile offender and parent or guardian handbook. (4-11-15)
- 235. -- 239. (RESERVED)**
- 240. PROGRAM OPERATIONAL REQUIREMENTS.**

 - 01. General Requirements.** (4-11-15)

 - a.** Residential treatment providers shall provide vigorous programming that minimizes periods of idle time, addresses behavioral problems of juvenile offenders, and teaches and promotes healthy life choices. Programs should specifically address those factors in juvenile offender's lives that contribute to delinquency and that can be realistically changed. (4-11-15)
 - b.** Providers shall encourage appropriate telephone contact, mail contact, and visitation between juvenile offenders and their families. (4-11-15)
 - c.** Residential treatment providers must structure and document services offered in the program so that continuity in case planning is obvious. Medical health, mental health, substance abuse, social skills, educational, vocational, independent living, and other special needs identified in the assessment must be clearly addressed in the service implementation plan. Services provided to address those needs must be documented regularly. (4-11-15)
 - d.** Service needs remaining at the time of release from Department custody or transfer must be accounted for in the reintegration plan for each juvenile offender. (4-11-15)
 - e.** The residential treatment provider shall not admit more juveniles into care than the number specified on the provider's license. Residential treatment providers wishing to increase capacity are responsible for contacting the applicable licensing agency. A copy of the written confirmation to the residential treatment provider from the applicable licensing agency for verbal approval to exceed the licensed capacity must be forwarded to the Department's Quality Improvement Services Bureau. (4-11-15)
 - f.** The residential treatment provider must have and strictly follow a comprehensive policy covering the supervision of juvenile offenders, including a plan for monitoring all movement of those juvenile offenders both in the facility and, as appropriate, within the community. Staff at the facility must be aware of the location of every juvenile offender assigned to that program at all times. (4-11-15)
 - g.** Programs may not, under any circumstances, involve juvenile offenders in plethysmographic assessments. (4-11-15)
 - 02. Use of Polygraphs.** (4-11-15)

 - a.** The use of polygraphs for juvenile offenders adjudicated for or documented to have demonstrated sexually abusive behavior, must only be undertaken by court order or under the following circumstances: (4-11-15)

 - i.** With the specific written authorization of the Department's regional clinical supervisor; (4-11-15)
 - ii.** Only with the full, informed consent of the juvenile offender; and (4-11-15)
 - iii.** If the juvenile offender is a minor, only with the full, informed consent of the parent or guardian. (4-11-15)

- b.** Polygraphers used in this process must be able to provide documentation of certification by the Sexual Offender Management Board in the use of polygraphy with juvenile offenders. (4-11-15)
- c.** Residential treatment providers must not make treatment decisions solely on the results of a polygraph. (4-11-15)
- d.** Polygraph reports must be sent to the juvenile services coordinator by the residential treatment provider. (4-11-15)

241. INCIDENT REPORTING REQUIREMENTS.

01. Incidents Requiring Immediate Notice to Parent or Guardian and Department. All notifications under this section must be made to the regional facility in the region where the residential treatment provider is located. Out-of-state providers must notify the juvenile correctional center in Nampa. Residential treatment providers must ensure that a detailed, written incident report is completed and signed by involved staff before the end of the shift during which the incident took place. If any of the following events occur, the residential treatment provider must immediately notify the juvenile offender's parent or guardian, juvenile services coordinator, juvenile probation officer, and the Department's regional facility by telephone (not by facsimile or electronically). The Department's regional R.N. must also be notified immediately in the event of all medical and mental health incidents. (4-11-15)

- a.** Medical and mental health emergencies including, but not limited to: (4-11-15)
 - i.** Every instance of emergency room access; (4-11-15)
 - ii.** Refusal of medications, treatment recommended by a physician, or food for three (3) days; (4-11-15)
- b.** Major incidents such as: (4-11-15)
 - i.** Death of a juvenile offender; (4-11-15)
 - ii.** Suicide, attempted suicide or threat of suicide; (4-11-15)
 - iii.** Attempted escape; (4-11-15)
 - iv.** Sexual abuse among juvenile offenders or by staff including, but not limited to, incidents reportable under PREA; (4-11-15)
 - v.** Criminal activity resulting in arrest, detention, or filing a report with local law enforcement; (4-11-15)
 - vi.** Any other relevant report made to the Idaho Department of Health and Welfare or applicable state agency; (4-11-15)
- c.** Any incident of restraint which involves the use of medications, chemicals, or mechanical devices of any kind; (4-11-15)
- d.** Incidents of alleged or suspected abuse or neglect of juvenile offenders; (4-11-15)
- e.** Incidents involving major disasters affecting location or well-being of the juveniles; and (4-11-15)
- f.** Any restriction of a juvenile offender's family visitation due to the juvenile's behavior. (4-11-15)
- g.** A written incident report must also be transmitted within twenty-four (24) hours to the juvenile offender's parent or guardian, juvenile services coordinator, and the juvenile probation officer, unless notification to the juvenile offender's parent or guardian would endanger the juvenile. Transmission of all written incident reports

may be electronic or by facsimile. (4-11-15)

02. Escapes Also Require Immediate Notice to Parent or Guardian and Department. In all instances of escape, the residential treatment provider must immediately notify the juvenile correctional center in Nampa first, followed by the regional facility, juvenile offender's parent or guardian, juvenile services coordinator, and juvenile probation officer by telephone (not by facsimile or electronically). A written incident report must also be transmitted within twenty-four (24) hours to the juvenile offender's parent or guardian, juvenile services coordinator, and the juvenile probation officer, unless notification to the juvenile offender's parent or guardian would endanger the juvenile offender. Transmission of all written incident reports may be electronic or by facsimile. Upon apprehension, all of the same parties must be notified immediately. (4-11-15)

a. Clothing and other personal belongings must be secured immediately and maintained in a secure place until returned to the Department. (4-11-15)

b. The juvenile offender shall continue to be assigned to the program, although not physically present, for up to forty-eight (48) hours. The program will be reimbursed for the days the juvenile offender was on escape status up to forty-eight (48) hours. Should the program, in consultation with the juvenile offender's treatment team, choose to transfer the juvenile offender after returning, then the procedures outlined in IDAPA 05.02.02, Section 237, "Rules for Staff Secure Providers"; or IDAPA 05.02.03, Section 237, "Rules for Reintegration Providers"; or IDAPA 05.02.04, Section 237, "Rules for Supported Living Providers," as applicable, shall apply. (4-11-15)

03. Incidents Requiring Immediate Notice to Department and Three Day Notice to Parent or Guardian. The following incidents require immediate notice to the juvenile services coordinator in the manner described in Subsection 241.01, and require notice within three (3) business days to parent or guardian of the juveniles involved. (4-11-15)

a. Any use of separation or isolation for more than two (2) hours; (4-11-15)

b. Incidents involving the disclosure of criminal behavior by juvenile offenders; (4-11-15)

c. Instances of physical assault or fighting; (4-11-15)

d. Major misconduct by one (1) or more staff against a juvenile offender; (4-11-15)

e. Discovery of contraband that represents an immediate threat to safety and security such as weapons or drugs; (4-11-15)

f. Any instance of an unclothed body search or a body cavity search of a juvenile offender; (4-11-15)

g. Other than incidents described in Paragraph 241.01.e., significant property damage resulting from misconduct, negligence, or from incidents such as explosions, fires, floods, or other natural disasters; and (4-11-15)

h. Any pattern of restraint of a juvenile, which is defined as three (3) or more restraints within a twenty-four (24) hour period. (4-11-15)

04. Incidents Requiring Notice Within Three Days to the Department. (4-11-15)

a. Residential treatment providers must ensure that a detailed, written incident report is completed and signed by involved staff before the end of the shift during which the incident took place. A copy of the completed incident report must be submitted to the juvenile services coordinator no later than three (3) business days after the incident. (4-11-15)

b. A detailed incident report is also required for each incident of juvenile offender misconduct that is not reportable under Subsection 241.03 and results in any type of: (4-11-15)

i. Instances of lost keys, equipment, or tools; (4-11-15)

- ii. Discovery of contraband not posing an immediate risk; or (4-11-15)
 - iii. A pattern of refusal of program participation that rises to the point of raising questions about the appropriateness of the placement. (4-11-15)
 - c. A detailed incident report is also required for each incident of staff misconduct relating to juvenile care that is not reportable under Subsection 241.03 and results in any type of: (4-11-15)
 - i. Any physical restraint that does not involve the use of medications, chemicals, or mechanical devices of any kind; or (4-11-15)
 - ii. Separation, isolation, or room confinement for more than fifteen (15) minutes but less than two (2) hours. (4-11-15)
- 05. Incident Report Content.** Residential treatment providers may elect to use the Department's standard incident report form or may use another form as long as all of the following information is included: (4-11-15)
- a. Juvenile offender's assigned unit or location; (4-11-15)
 - b. Date, location, and time of the incident; (4-11-15)
 - c. Witnesses and other staff and juvenile offenders involved; (4-11-15)
 - d. Persons notified with date and time of notice; (4-11-15)
 - g. Brief narrative description of the incident; (4-11-15)
 - e. Type of incident by category, such as assault against staff or juvenile offender, behavioral and psychiatric emergency, contraband, escape, injury or illness, self-harm or suicidal behavior, or sexual abuse; (4-11-15)
 - f. Action taken by category, such as restraint, separation, isolation, or room confinement with times in and out, visitation restrictions due to juvenile offender behavior, suicide precautions initiated, or escape precautions initiated; (4-11-15)
 - h. Signature of staff and reviewing supervisor, which may be affixed electronically; (4-11-15)
 - i. Documentation of injury and medical attention provided; and (4-11-15)
 - j. If the incident involves sexual abuse, the incident report must include a description of action taken to:
 - i. Keep the alleged victim(s) safe from intimidation of further abuse and maintain confidentiality; (4-11-15)
 - ii. Address any immediate trauma, either physical or emotional; (4-11-15)
 - iii. Address long-term medical or mental health needs related to the alleged abuse; (4-11-15)
 - iv. Notify responsible licensing, regulatory, and law enforcement agencies and preserve evidence; (4-11-15)
 - v. Conduct an initial internal investigation of the incident and as necessary request that an external investigation be completed; and (4-11-15)
 - vi. Prevent repetition of the abusive situation. (4-11-15)

242. ADDITIONAL PROGRAM POLICY REQUIREMENTS.

01. Written Policies. In addition to other policy requirements listed in these rules, residential treatment providers must have, at a minimum, the following written policies concerning program operations available at the program site: (4-11-15)

a. Program elements and implementation; (4-11-15)

b. Admission policy describing the target population and criteria for admission, and identifying sources of referrals to the program; (4-11-15)

c. Criteria for assigning juvenile offenders to different units within the program, if applicable; (4-11-15)

d. The provision of (or referral for) emergency and routine medical and mental health services for the population; (4-11-15)

e. Behavior management within the program, including use of points and levels, restraints, separation, detention and other types of special management; (4-11-15)

f. Supervision of juvenile offenders policy that shall include managing juvenile offender movement within the program, including the timely transfer of behavioral information about juvenile offenders from staff during shift changes; (4-11-15)

g. Juvenile offender's access to the community policy that shall include use of community schools or job sites, and individual or group activities away from the program site. This also includes individual community passes; (4-11-15)

h. Administrative coverage in emergency situations, after regular work hours; (4-11-15)

i. Documentation and reporting of critical incidents to program administrators, the Department and others on the community treatment team; (4-11-15)

j. Treatment planning and progress reporting to the Department, juvenile offender, family and others on the community treatment team; (4-11-15)

k. Reintegration policy that shall describe criteria for successful completion of program, termination from program prior to completion, and the involvement of the Department and community treatment team; and (4-11-15)

l. Emergency procedures in the event of a natural disaster; (4-11-15)

02. Documented Staff Training. Documented staff training on these policies must also be available for review by the Department. (4-11-15)

243. -- 999. (RESERVED)

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