

# Oregon Juvenile Detention Facility Guidelines

5th Edition

2020



## Table of Contents

|  |           |
|--|-----------|
| Youth Development Division and Oregon Department of Corrections..... | 5         |
| Introduction .....   | 5         |
| Foreword.....  | 7         |
| Purpose .....  | 7         |
| Background .....   | 7         |
| Effective Date.....  | 8         |
| Format of Revised Guidelines .....                                   | 8         |
| <b>SECTION 1: GENERAL ADMINISTRATION .....</b>                       | <b>9</b>  |
| 1.1 Purpose and Mission.....   | 9         |
| 1.2 Mandatory Juvenile Detention Statutes .....                      | 10        |
| 1.3 Administration .....   | 13        |
| 1.4 Inspections/Reviews .....  | 13        |
| <b>SECTION 2: INTAKE, ADMISSION AND RELEASE.....</b>                 | <b>15</b> |
| 2.1 Intake Decisions .....   | 15        |
| 2.2 Admissions .....   | 19        |
| 2.3 Notice of detention hearing.....                                 | 20        |
| 2.4 Personal Property .....  | 21        |
| 2.5 Orientation.....   | 21        |
| 2.6 Detention Review Hearing .....                                   | 22        |
| 2.7 Time Limitations.....  | 23        |
| 2.8 Extended Detention.....  | 23        |
| 2.9 Interstate Compact for Juveniles .....                           | 24        |
| 2.10 Release.....  | 24        |
| <b>SECTION 3: SECURITY AND CONTROL.....</b>                          | <b>25</b> |
| 3.1 Safety and Security .....  | 25        |
| 3.2 Searches .....   | 26        |
| 3.3 Supervision of Youth .....                                       | 28        |
| 3.4 Control of Contraband .....                                      | 28        |
| 3.5 Use of Force .....   | 29        |
| 3.6 Use of Restraints.....   | 31        |

Oregon Juvenile Detention Facility Guidelines

3.7 Room-lock ..... 33

3.8 Isolation ..... 35

3.9 Emergency Evacuation and Management ..... 35

**SECTION 4: PROGRAMS AND SERVICES ..... 36**

4.1 Mental Health Services (Counseling) ..... 36

4.2 Education in Juvenile Detention ..... 36

4.3 Extended Detention Programs..... 39

4.4 Recreation and Physical Exercise ..... 39

4.5 Library Services ..... 40

4.6 Mail, Telephone, Visitation ..... 41

**SECTION 5: YOUTH RIGHTS ..... 43**

5.1 Protection from Harm..... 43

5.2 Access to Courts, Counsel, and Governing Authorities..... 45

5.3 Access to Records and Legal Materials ..... 46

5.4 Juveniles with Disabilities ..... 47

5.5 Dress, Grooming, and Personal Hygiene ..... 47

5.6 Freedom of Religious Expression ..... 48

5.7 Grievance Procedures..... 49

**SECTION 6: BEHAVIOR MANAGEMENT SYSTEM..... 50**

Best Practices..... 51

6.1. Rules of Conduct..... 51

6.2 Accountability ..... 52

**SECTION 7: PERSONNEL ..... 54**

7.1 Staffing..... 54

7.2 Drug-Free Workplace..... 56

7.3 Training and Staff Development..... 56

**SECTION 8: RECORDS AND INFORMATION SYSTEMS ..... 61**

8.1 Youth Records..... 61

8.2 Information Systems..... 61

8.3 Release of Information ..... 62

**SECTION 9: HEALTH CARE ..... 64**

Oregon Juvenile Detention Facility Guidelines

9.1 Access to Care ..... 64

9.2 Mental Health Services ..... 66

9.3 Pharmaceuticals..... 68

9.4 Medical and Dental Services..... 69

9.5 First Aid ..... 70

9.6 Infectious Disease ..... 71

9.7 Informed Consent ..... 71

9.8 Health Records..... 71

**SECTION 10: FOOD SERVICES..... 72**

    10.1 Meals, Nutrition, and Special Diets..... 72

    10.2 Food Health and Safety..... 72

**SECTION 11: PHYSICAL PLANT ..... 73**

    11.1 Building and Fire Codes..... 73

    11.2 Rated Capacity ..... 74

    11.3 Location..... 74

    11.4 Sleeping Rooms and Dayrooms ..... 75

    11.5 Housing for Youth with Physical Disabilities ..... 76

    11.6 Classrooms and Activity Space..... 77

    11.7 Environment - Positive Facility Atmosphere..... 77

**SECTION 12: DATA AND EVALUATION ..... 78**

**APPENDIX A..... 79**

    Definitions..... 79

**APPENDIX B..... 85**

    JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT SUMMARY ..... 85

**APPENDIX C..... 87**

    VALID COURT ORDER – STATUTORY EXCEPTION ..... 87

**APPENDIX D..... 89**

    PROCEDURE REGARDING NATIVE AMERICAN CEREMONIAL ITEMS AND CEREMONIES WITHIN A COUNTY  
    JUVENILE FACILITY ..... 89

**APPENDIX E ..... 90**

    MEMORANDUM OF UNDERSTANDING ..... 90

Oregon Juvenile Detention Facility Guidelines

EXHIBIT A..... 94  
    ROLES AND RESPONSIBILITIES .....94  
EXHIBIT B..... 99  
    SPECIAL REQUIREMENTS .....99  
APPENDIX F ..... 100  
    PREA Self-Disclosure and Acknowledgment Form..... 100

## **Youth Development Division and Oregon Department of Corrections**

With assistance from:

Basic Rights Oregon

Disability Rights Oregon

Native American Advisory Committee

Office of Legislative Policy and Research

Office of the Governor

Oregon Department of Education

Oregon Judicial Department

Oregon Juvenile Department Directors' Association

Oregon Youth Authority

Youth Development Council

Youth, Rights and Justice

## **Introduction**

Within the Oregon juvenile justice system, juvenile detention facility is a locally resourced entity that provides secure placement for youth pursuant to Oregon Revised Statutes.

There are twelve juvenile detention centers in Oregon, operated locally, and three outside of Oregon accessed by adjacent Oregon counties. The Northern Oregon Correctional Facility (NORCOR) is the only juvenile detention facility in Oregon created through a Chapter 190 Intergovernmental Agreement. The operation of each juvenile detention facility is the responsibility of the county juvenile department and the governing entity, except that the 190 intergovernmental entity is governed by a Juvenile Detention Oversight Committee representing the member counties (Gilliam, Hood River, Sherman and Wasco).

The following is a list of the juvenile detention centers in Oregon and their currently funded operating capacity. Several of the facilities have the capacity to expand and constrict based on needs and funding.

Oregon Juvenile Detention Facility Guidelines

| <b>County</b>    | <b>Capacity</b> | <b>Location</b> |
|------------------|-----------------|-----------------|
| Deschutes County | 16 beds         | Bend            |
| Douglas County   | 32 beds         | Roseburg        |
| Jackson County   | 24 beds         | Medford         |
| Josephine County | 14 beds         | Grants Pass     |
| Klamath County   | 16 beds         | Klamath Falls   |
| Lane County      | 16 beds         | Eugene          |
| Lincoln County   | 8 beds          | Newport         |
| Linn – Benton    | 20 beds         | Albany          |
| Marion County    | 32 beds         | Salem           |
| Multnomah County | 64 beds         | Portland        |
| NORCOR           | 32 beds         | The Dalles      |
| Yamhill County   | 24 beds         | McMinnville     |
| <b>Total</b>     | <b>298 beds</b> |                 |

# Foreword

## Purpose

These guidelines pertain to the general operation of juvenile detention facilities in the State of Oregon. They are binding if identified as statutory, federally mandated, or established by administrative rule or other regulation. The guidelines are required by Oregon Revised Statute (ORS) 169.090 (2) which states that the Youth Development Council and the Oregon Department of Corrections are to develop and, when appropriate, revise the guidelines.

Each section of these guidelines includes both the mandatory statutes and regulations, and is followed with a section outlining best practices with juvenile justice. These guidelines are designed to provide juvenile detention facilities the framework to measure the operations and facilities with others in Oregon and nationally. These recommendations support and if implemented assist juvenile detention facilities in meeting and exceeding the mandatory statutes and regulations.

These guidelines do not constitute a comprehensive source of all youth rights or facility's obligations to these rights under state and federal law, administrative regulations, and the U.S. Constitution. The "best practices" may be grounded in legal rights that are not explicitly addressed by the Oregon statutes referenced in the document.

For the purpose of these guidelines, a juvenile detention facility is a facility for the secure custody of youth accused or convicted acts which would constitute crimes if committed by adults, or for youth held pursuant to judicial orders or commitments under the provisions of Oregon law (ORS 419A.004, ORS419A.010, ORS419A.050 to ORS419A.063 and ORS420.855). "Child serving systems should commit to core principles to ensure an evidence-based and trauma informed response." (Disability Rights Oregon Report, 2017, Recommendation #4).

In some instances, statute requires written policy. It will be stated explicitly in the guidelines below when that is the case. The intention of these guidelines, however, extends the expectation of a written policy for all of the guidelines without directing what that policy must be, except when legally mandated.

When developing written policy and procedures, a juvenile detention facility should do so in a manner that respects and values diverse life experiences and ensures that all youth are valued and heard, taking into consideration all people's gender identity, race, ethnicity, national origin, age, sexual orientation, religious beliefs, family status, education, and/or disability to establish an inclusive environment, and equitable treatment of all.

## Background

The guidelines were first adopted in 1982, and revised in 1984 (2<sup>nd</sup> Edition) and 2001 (3<sup>rd</sup> Edition) 2012 (4<sup>th</sup> Edition). The Youth Development Division initiated the current update to the



guidelines. They reviewed the guidelines and solicited feedback from key stakeholders (Oregon Department of Corrections, Oregon Juvenile Department Directors' Association, Office of Governor Kate Brown, Oregon Department of Education, Oregon Youth Authority, and others) including advocacy organizations to modify and formalize the revisions. The revised guidelines were reviewed and approved by the Director of the Oregon Department of Corrections, Director of the Youth Development Division, and the Youth Development Council.

### **Effective Date**

The 5<sup>th</sup> Edition became effective March 19, 2020.

### **Format of Revised Guidelines**

These guidelines incorporate Oregon Revised Statutes (ORS), and other federal and state regulations and requirements and best practices from the American Correctional Association – Juvenile Detention Facilities, National Partnership for Juvenile Services, National Detention Association, Juvenile Detention Alternatives Initiative – Conditions of Confinement Self-Assessment. ORS references are in bold and link to each respective reference. To accommodate changes in statute and administrative rules, statutory provisions are either paraphrased or referenced. Questions about specific language should be answered by referring to the most recent statute, administrative rule or regulation. These guidelines should be used with comprehensive written policies that ORS 169.760 requires for each juvenile detention facility. This format is intended to provide a uniform framework for organization of local policies.

For questions, please contact [Juvenile.Detention.Guidelines.Help@state.or.us](mailto:Juvenile.Detention.Guidelines.Help@state.or.us)

## SECTION 1: GENERAL ADMINISTRATION

### 1.1 Purpose and Mission

The purposes of the Oregon juvenile justice system beginning with apprehension are to protect the public, to reduce juvenile delinquency, and to provide fair and impartial procedures for the initiation, adjudication and disposition of allegations of delinquent conduct. The system is founded on principles of personal responsibility, accountability and reformation within a context of public safety and restitution to victims and to the community. As required by ORS 419C.001, the system shall provide a continuum of services that emphasize prevention of further criminal activity by the use of early and certain sanctions, reformation and rehabilitation programs and swift and decisive intervention in delinquent behavior, and the system shall be open and accountable to the people of Oregon and their elected representatives.

Juvenile detention facilities provide secure placement for public safety, ensure court appearance, and reintegration services for youth accused of acts which if committed by adults as defined in ORS 419C.145(2). Youth can also be held pursuant to judicial order or commitment, and which are established under the provisions of Oregon law. (ORS 419A.004, ORS419A.010, ORS419.050 to AORS419A.063 and ORS420.855) Children or youth charged with offenses that would not be crimes if committed by adults shall not be held in a detention facility, unless permitted by state law.

“Juvenile detention facility” means a facility as described in ORS 419A.050 – Authority to acquire, equip and maintain detention and shelter facilities and 419A.052 – Specifications of facilities.

In addition to maintaining public safety, juvenile detention facilities are used for skill development, K-12 education, rehabilitation, addressing treatment needs and facilitating the successful reintegration of youth into the community. County detention facilities should commit to core principles to ensure best practices and services. Juvenile detention facilities should integrate culturally-sensitive, gender-responsive, trauma-informed and developmentally appropriate approaches into policy, programming and practices. All detention facilities should be committed to implementing best practices that teach life skills and incentivize pro-social behavior in an effort to develop the tools needed for youth to re-enter and thrive in the community.

### **Authority to acquire, equip and maintain detention facilities (ORS 419A.050)**

Each county has the statutory authority to acquire, equip and maintain detention facilities. The Oregon Department of Education has the statutory authority to provide the K-12 educational services. Statute clearly states the specifications of facilities, examination process of facilities, capacity limits and standards for release.

The juvenile court of each county shall designate the place or places in which youths are to be placed in detention when taken into temporary custody. If the county is adjacent to another state, the court may designate a place or places in the adjoining state where children, wards, youths or youth offenders, pursuant to an agreement between such place or places and the juvenile department of the county, may be placed in detention or shelter care when taken into custody.

“County” as referenced in these guidelines and ORS is the entity operating under the guidelines and authority granted by ORS Chapter 203.

Inspection of juvenile detention facilities and enforcement of the juvenile detention standards contained in ORS 419A.059 or otherwise established by statute, must be conducted in the same manner as provided in ORS 169.070 and 169.080.

These guidelines do not apply to law enforcement facilities in which youth may be temporarily detained pursuant to ORS 419C.080 – Custody when authorized.

## **1.2 Mandatory Juvenile Detention Statutes**

### **1.2. A Detention and Shelter Facilities**

**ORS 169.076** Standards for local correctional facilities

**ORS 169.077** Standards for lockup facilities

**ORS 169.078** Standards for temporary hold facilities

### **1.2. B Enforcement of Standards for Local Correctional and Juvenile Detention Facilities**

**ORS 169.080** Effect of failure to comply with standards; enforcement by Attorney General; private action

**ORS 169.085** Submission of construction or renovation plans to Department of Corrections; recommendations by department

### **1.2. C Treatment of Prisoners**

**ORS 169.105** Unconscious person not to be admitted to custody in facility

**ORS 169.140** Furnishing prisoners' food and clothing

**1.2. D Juvenile detention facilities**

**ORS 169.730** DEFINITIONS FOR ORS 169.740 TO 169.760

**ORS 169.740** Standards for juvenile detention facilities

**ORS 169.750** Restrictions on operation of juvenile detention facilities

**ORS 169.760** Juvenile detention facilities to establish written policy

**ORS 169.770** Release of detained juvenile when detention facility violates standards

**ORS 169.800** Detention of juveniles before conviction and execution of sentencing

**ORS 169.810** Assumption of duties by regional correctional facility constitutes assumption by public employer; rights of transferred employees.

**1.2. E County Juvenile Department**

**ORS 419A.010** Appointment of counselors and director; juvenile director oversight committee

**ORS 419A.018** Juvenile department is county agency

**ORS 419A.020** County responsibility for expenses of juvenile department

**1.2. F Detention and Shelter Facilities**

**ORS 419A.050** Authority to acquire, equip and maintain detention and shelter facilities

**ORS 419A.052** Specifications of facilities

**ORS 419A.055** Examination of facilities; capacity limits; standards for release; notice

**ORS 419A.057** Payment of maintenance expenses; admission of youth offenders

**ORS. 419A.059** Designation of detention and shelter facilities

**ORS 419A.061** Inspection of detention facilities

**ORS 419A.063** Requirements for detention facilities

**1.2. G Records**

**ORS 419A.255** Maintenance; disclosure; providing transcript; exceptions to confidentiality

**ORS 419A.257** Reports and materials privileged; permissible disclosures; use of materials in evidence

## **1.2. H Purpose**

**ORS 419C.001** Purposes of juvenile justice system in delinquency cases; audits

**ORS 419C.005** Jurisdiction

### **1.2.1 Detention**

**ORS 419C.125** Detention in place where adults are detained of certain persons alleged to be within court's jurisdiction

**ORS 419C.130** Youth or youth offender may not be detained where adults are detained; exceptions

**ORS 419C.133** Detention of youth under 12 years of age; judicial review required

**ORS 419C.136** Temporary hold to develop release plan; duration

**ORS 419C.139** Speedy hearing on detention cases

**ORS 419C.145** Pre-adjudication detention; grounds

**ORS 419C.150** Time limitations on detention; exceptions

**ORS 419C.153** Detention review or release hearing

**ORS 419C.156** Detention of runaway from another state

**ORS 419C.159** Escape; punishment

**ORS 419C.453** Detention when authorized

### **Juvenile Justice and Delinquency Prevention Act of 2002 (JJDP A) (Appendix B for Full Text)**

Status offenders and non-offenders may not be housed in secure facilities for any period of time. Accused status offenders who fail to appear for court hearings remain status offenders and cannot be upgraded to delinquent offenders for their failure to appear.

The following exceptions apply to juvenile detention centers:

1. Youth admitted under the Youth Handgun Safety Act (18 U.S.C 922(x), and
2. Out of state runaways until their safe return to the home state.

The agency has written policy and procedures on status offenders and non-offenders, the exceptions under the Youth Handgun Safety Action and out of state runaways, including notification of a home state for safe return. (The JJDP A ICJ exemption)

### **Juvenile Justice Reform Act of 2018**

The law takes effect on October 1, 2019. The guidelines will be updated in accordance with the regulations and guidance by the Office of Juvenile Justice and Delinquency Prevention.

### **1.3 Administration**

**ORS 419A.010(2)** The director shall be the administrator of the juvenile department or departments for the county or counties and the supervisor of the staff of the juvenile department or departments and detention facilities, subject to the direction of the appointing authority.

**ORS 419C.550** Juvenile detention facilities shall have written policy, procedure and practice to provide for the safety, health and well-being of detained youth. This shall include, but not be limited to food, clothing, shelter and incidental necessities; care, education and discipline; medical, dental, psychiatric, psychological, hygienic or other remedial care and treatment; authorization of surgery or other extraordinary care.

### **1.4 Inspections/Reviews**

**ORS 132.440, ORS 162.135** Grand Jury - Juvenile detention facilities shall have written policy providing free access at all reasonable times to the facility, and, without charge, to all public records in the county pertaining inquiries into the condition and management of the facility that are required once each year.

**ORS 169.040(1)** County Court or Board of County Commissioners - Juvenile detention facilities shall have written policy in keeping with the statutory requirement for inspection of the facility at least once in each regular term. The county court or board of county commissioners of each county is the inspector of the local facilities in the county. The court or board shall visit facilities at least once in each regular term. When the court or board visits a local facility, it shall examine fully into the facility, including, but not limited to, the cleanliness of the facility and the health and discipline of the detained youth.

**ORS 169.040(2)** County Health Officer - Juvenile detention facilities shall have written policy in keeping with the requirement that the facility be inspected by the county health officer on a semiannual basis. If the county health officer determines that the facility is in an insanitary condition or unfit for habitation for health reasons, the officer may notify the appropriate local governmental agency in writing of the required health and sanitation conditions or practices necessary to ensure the health and sanitation of the facility. If the local governmental agency does not comply with the required health and sanitation conditions or practices within an appropriate length of time, the county health officer may recommend the suspension of the operation of the facility to the county board of health. If after a hearing the county board of

health finds that the facility is in an insanitary or unhealthful condition, it may suspend the operation of the facility until such time as the local correctional facility complies with the recommended health and sanitation conditions and practices.

**ORS 169.085** Department of Corrections - Juvenile detention facilities shall have written policy in keeping with the statutory requirement that construction or renovation plans be submitted for review and advisory recommendations to assist local governmental agencies to provide a safe and secure facility. The recommendations of the Department of Corrections shall be advisory and not binding upon the local governmental agency with the exception of those standards established in ORS 169.076 to 169.078, 169.740, 419A.059 and 419B.180.

**ORS 169.070** Department of Corrections - Juvenile detention facilities shall have written policy in keeping with the statutory role to conduct inspections of the facilities to ensure compliance with the standards established in ORS 169.076 to 169.078, 169.740, 419A.059, and 419B.180.

**ORS 169.072** Fire Marshall – Juvenile detention facilities shall have written policy in keeping with the requirement that the facility be inspected annually.

Fire System - Juvenile detention facilities shall have written policy in keeping with the requirement that the facility be inspected annually.

### **Federal Guidelines**

**National School Lunch and Breakfast Programs USDA 7 CFR, 210. 13(b)** Juvenile detention facilities participating in the National School Lunch and/or Breakfast Program shall comply with all review and inspection requirements. If participating in the National School Lunch and/or Breakfast Program, facilities must ensure that serving areas and preparation site are inspected twice annually.

**Best Practices Peer Inspections** Every juvenile detention facility will undergo a peer review inspection biannually using the Juvenile Detention Facilities Checklist. The Checklist will be developed by the YDC in conjunction with OJDDA with input from others and will be reviewed and updated as needed. Peer reviewers will use the Checklist to score each facility.

Peer reviews will include policy review, site visit and input from local stakeholders including judicial, law enforcement, education, youth and families and service providers.

At a minimum, the review must include the following components:

1. Review of grievances submitted by youth and family members, a summary of any common concerns, and an assessment of the facility's response or plan to address concerns;

2. Review of documentation of hours in cell and a finding regarding the number of waking hours youth spend in cell per day;
3. Review of all reports of physical force, restraint, isolation, room lock or internal search; and
4. Confidential interviews with any youth in custody who choose to participate in an interview.

Yearly peer reviews will be submitted to the YDC – Juvenile Justice Committee who will review and compile data for a report to be published on detention trends.

## SECTION 2: INTAKE, ADMISSION AND RELEASE

Intake and Admission decisions will be based on, but not limited to, the least restrictive means needed to ensure community safety, protection of the victim/community, youth's likelihood to appear for court, and youth's behavior.

### 2.1 Intake Decisions

Each county shall designate an organizational unit that is available 24-hours-a-day with responsibility for the intake decision process that is delegated the specific power to make decisions regarding intake. When making decisions the following principles will be used in making determinations.

**Objectivity.** Detention decisions should be based on racially bias free, neutral, and objective factors such as outlined in ORS 419C.145. Objective criteria anchor detention decisions in ascertainable facts such as the nature and severity of the offense, the number of prior referrals, or the minor's history of flight from custody.

**Uniformity.** Local criteria should be uniform in the sense that they are applied equally to all juveniles referred for a detention decision. To achieve the desired level of uniformity, the criteria must be in a written (or electronic) format and must be incorporated into a screening process that is standardized for all referrals.

**Risk based.** The criteria should be risk-based, meaning that they should measure specific detention-related risks posed by the juvenile. These risks are: the risk of reoffending before adjudication and the risk of failing to appear at a court hearing.

**ORS 169.076** Juvenile detention facilities shall have a comprehensive written policy with respect to legal confinement authority, denial of admission, admission and release medical procedures.



**ORS 419A.010(2)** The director shall be the administrator of the juvenile department or departments for the county or counties, including any juvenile detention facilities maintained by the county or by the counties jointly, and the supervisor of the staff of the juvenile department or departments and detention facilities, subject to the direction of the appointing authority.

**ORS 419C.133, ORS 419C.156, ORS 419C.453** Notwithstanding subsection (2) of this section, if the county has entered into a written agreement with any other unit or units of local government to coordinate juvenile detention facilities for the detention of children, wards, youths or youth offenders pursuant to a judicial commitment or order, a juvenile director oversight committee may assume the duties and powers described in subsection (2).

Juvenile detention facilities shall have written policy, procedure, and practice in compliance with Oregon statutory criteria for admission.

**ORS 419C.133** Detention of youth under 12 years of age requires judicial review.

**ORS 419C.145** Pre-adjudication detention grounds. A youth may be held or placed in detention before adjudication on the merits if one or more of the following circumstances exists:

- (a) The youth is a fugitive from another jurisdiction;
- (b) The youth is alleged to be within the jurisdiction of the court under ORS 419C.005, by having committed or attempted to commit an offense which, if committed by an adult, would be chargeable as:
  - (A) A crime involving infliction of physical injury to another person;
  - (B) A misdemeanor under ORS 166.023; or
  - (C) Any felony crime;
- (c) The youth has willfully failed to appear at one or more juvenile court proceedings by having disobeyed a proper summons, citation or subpoena;
- (d) The youth is currently on probation imposed as a consequence of the youth previously having been found to be within the jurisdiction of the court under ORS 419C.005, and there is probable cause to believe the youth has violated one or more of the conditions of that probation;

(e) The youth is subject to conditions of release pending or following adjudication of a petition alleging that the youth is within the jurisdiction of the court pursuant to ORS 419C.005 and there is probable cause to believe the youth has violated a condition of release;

(f) The youth is alleged to be in possession of a firearm in violation of ORS 166.250; or

(g) The youth is required to be held or placed in detention for the reasonable protection of the victim.

The court may not release a youth when:

(A) There is probable cause to believe the youth committed an offense that, if committed by an adult, would constitute a violent felony; and

(B) There is clear and convincing evidence that the youth poses a danger of serious physical injury to or sexual victimization of the victim or members of the public while the youth is on release.

In addition to the pre-adjudicative detention criteria, Oregon law permits detention under specific circumstances:

- Temporary hold to develop release plan (ORS 419C.136).
- Detention of runaway from another state (ORS 419C.156).
- Possession of a firearm or destructive device (ORS 419C.103).
- Interstate Compact for Juveniles (ICJ) case that has been determined by the Oregon ICJ Office to qualify as an ICJ matter (ORS 417.030).

**ORS 419C.136, ORS 419C.156, ORS 419C.103** Juvenile detention facilities shall have written policy in keeping with Oregon statute providing for detention of a person charged with a crime under ORS 137.707. If under 16 years of age, the person may not be detained in a jail or other place where adults are detained. If 16 or 17 years of age, the person shall be detained in custody of a detention facility, unless the county juvenile department director and the sheriff agree to detain the person in a jail or other place where adults are detained, and the person is subject to release on the same terms and conditions as for adults.

**ORS 137.705** Juvenile detention facilities shall have written policy and procedures in keeping with Oregon statute providing for the detention of persons 18 years of age or older under ORS 419C.125.

**ORS 419C.125** Juvenile detention facilities shall have written policy and procedures in keeping with Oregon statute providing for the detention of persons under the age of 18 based on an

order from a court where youth have been waived to criminal or municipal court, as referenced in ORS 419C.130(2).

**ORS 419C.130(2)** Juvenile detention facilities shall have written policy, procedure, and practice in keeping with Oregon statute permitting admission to detention for a period not to exceed eight days for:

- A youth offender (in addition to time already spent in the facility);
- A youth 12 years of age or older, alleged to be within the jurisdiction of the juvenile court by reason of having committed an act which would be a crime if committed by an adult, who escapes from a juvenile detention facility (ORS 419C.159);
- A youth offender 12 years of age or older, when the youth offender has been found to be within the jurisdiction of the juvenile court by reason of having escaped from a detention facility (ORS 419C.456).

**ORS 419C.456** Juvenile detention facilities shall have policy and practice in keeping with the statutory requirement that an unconscious person may not be admitted. No person who is unconscious shall be admitted to a juvenile detention facility, but shall instead be taken immediately to the nearest appropriate medical facility for medical diagnosis, care and treatment.

**ORS 169.105** Juvenile detention facilities shall ensure notification of parents or guardians and victims in accord with Oregon law: As soon as practicable after the youth is taken into custody under ORS 419C.080 and 419C.088, the person taking the youth into custody shall notify the youth's parent, guardian or other person responsible for the youth. The notice shall inform the parent, guardian or other person of the action taken and the time and place of the hearing. If the victim requests, the district attorney or juvenile department shall notify the victim of the time and place of the hearing.

### **Best Practices**

1. The facility's intake procedures include a process for determining if a youth is limited English proficient (LEP) or are deaf or hard of hearing.
2. The facility has appropriate and reliable interpretation services available to conduct intake in a timely manner for limited English proficient youth and youth who are deaf or hard of hearing. The facility does not charge for interpretation services.
3. Staff provide intake information in a manner the youth can understand paying particular attention to language and literacy needs of youth. Staff provide this information in the primary language used by the youth.

4. During intake, youth should be asked to self-report gender identity and their chosen name or name they use in daily life. Youth who are transgender should be referred to using their chosen pronoun during intake and throughout their stay, and their gender should be recorded in alignment with their self-attested gender. Any youth who reports a chosen name should be referred to by that name during intake and throughout their stay, even if the youth's name has not been legally changed. If staff use a youth's chosen name in communication outside of the facility, they only do so at the youth's request. See Appendix [X] Section [Y] for detailed best practices regarding intake procedures for transgender and gender non-conforming youth.
5. During the intake process, youth receive information explaining, in an age appropriate fashion, the facility's policy prohibiting sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment.
6. When a youth is identified as living out of state, the Oregon Interstate Compact for Juveniles (ICJ) office should be contacted to determine whether ICJ applies to the youth's situation. The Oregon ICJ staff can determine whether the youth has any outstanding warrants, pending cases is on supervision in another state, and who is the youth's legal guardian(s). Only the Oregon ICJ office can determine whether a youth's situation qualifies as an ICJ matter.
7. As much as possible, youth's gender should be recorded as identified by the individual. The Juvenile Justice Information system should have an alert feature stating the chosen name.

## **2.2 Admissions**

Processes at time of admission will be to support age, gender and culturally appropriate social and psychological development of youth.

It is essential that youths and their families, at the time of intake, understand what is happening at all stages of the process, including the purposes, procedures and possible results. This ensures the youths and their families have the opportunity to ascertain what their procedural rights are and sufficient time to make appropriate decisions regarding their rights within the intake process. Information is provided in the youth and family's own language if they do not understand English.

### **Best Practices**

1. Admission criteria limit detention eligibility to youth likely to commit serious offenses pending resolution of their cases, youth likely to fail to appear in court and youth held pursuant to a specific court order for detention.
2. A risk assessment is done to inform the least restrictive placement for each youth.

3. The facility does not detain status offenders unless the youth violated a valid court order and received the due process protections and consideration of less restrictive observation. Out of state runaways are excluded from this prohibition.
4. Staff will again review with youth their rights to make sure they have a clear understanding.
5. The facility conducts a mental health, disability and medical screening and uses that information to inform admission, placement, referrals, and services provided.
6. The facility considers youth individual safety needs related to gender identity, age, physic, sexual orientation and youth's preference and concerns in determining appropriate housing.

### 2.3 Notice of detention hearing

Detention facilities will ensure communication with the Probation Officer/Juvenile Counselor to coordinate the detention hearing within 36 hours of placement in a detention facility as outlined in the Oregon Revised Statute time limitations in ORS 419C. 139 Speedy Hearing on Detention Cases. As above, out of state runaways are covered by Interstate Compact on Juveniles (ICJ), and these youth will have a different hearing process (cf. ORS 317.030).

Facilities will also provide notice as outlined in 419C.142 Notice of Detention Hearing.

**ORS 419C.139** No youth shall be held in detention or shelter care more than 36 hours, excluding Saturdays, Sundays and judicial holidays, except on order of the court made pursuant to a hearing under ORS 419C.109 (Initial disposition of youth taken into custody) (3), 419C.145 (Preadjudication detention), 419C.150 (Time limitations on detention), 419C.153 (Detention review or release hearing), 419C.156 (Detention of runaway from another state) and 419C.159 (Escape). [1993 c.33 §171; 1995 c.422 §73f; 1999 c.577 §7]

**ORS 419C.142** Whenever a hearing concerning the detention of a youth under this chapter is held, notice of the hearing shall be given to:

- (a) The youth;
  - (b) If any can be found, to a parent or guardian of the youth or to any other person responsible for the youth; and
  - (c) If the victim requests notice, the victim.
- (2) The notice shall state the time, place and purpose of the hearing. If a parent, guardian or other person cannot be found and personally notified prior to the hearing, a written notice of

the hearing shall be left at the residence, if known, of a parent, guardian or other person. [1993 c.33 §172; 2007 c.609 §14]

## **2.4 Personal Property**

**ORS 169.076(2)(f)(h)** Juvenile detention facilities shall have a comprehensive written policy on personal property accountability which complies with ORS 133.455 and on the release process to include authority, identification and return of personal property.

### **Best Practices**

1. Facility staff will provide an inventory sheet of all personal items a youth enters detention with. Facilities will have a written policy regarding contraband encountered during the intake process and how it will be disposed of.
2. The Facility will provide a secure storage area for youth's personal belongings.
3. The Facility will provide separate storage for each youth's personal items.
4. All personal non-contraband items will be returned to a youth upon release.
5. Youth will sign the property sheet indicating they received all their personal items upon their release.

## **2.5 Orientation**

Youth receive written orientation materials and/or translations in their primary language if they do not understand English. When a literacy problem exists, a staff member or other person proficient in the youth's language will assist the youth in understanding the material. Completion of orientation is documented by a statement signed and dated by the youth.

Youth are assessed for victimization of sexual exploitation/trafficking.

### **Best Practices**

1. At the time of admission or shortly thereafter, youth receive both written and verbal or video orientation to the institutional rights, rules and procedures including;
  - a. Identification of key staff and roles.
  - b. Rules on contraband and facility search policies.
  - c. The facility's system of positive behavior interventions and supports, including a review of behavior expectations, incentives that youth will receive for complying with facility rules and consequences that may result when youth violate the rules of the facility.
  - d. The existence of the grievance procedure, the steps that must be taken to use it, the youth's right to be free of retaliation for reporting a grievance and the name of the person or position designated to resolve grievances.
  - e. Access to routine and emergency health and mental health care.

- f. Housing assignments
  - g. Opportunities for personal hygiene, such as showers.
  - h. Rules on visiting, correspondence and telephone use.
  - i. Access to education, religious services, programs and recreation.
  - j. Policies on use of physical force, restraints and room lock.
  - k. Emergency procedures.
  - l. The right to be free from physical, verbal, or sexual abuse and harassment by other youth and staff.
  - m. How to report problems at the facility such as abuse, feeling unsafe and theft.
  - n. Nondiscrimination policies and what they mean for youth and staff behavior at the facility.
  - o. The availability of services and programs in a language other than English.
  - p. The process for requesting different housing, education, programming and work assignments.
  - q. Demonstration of appropriate pat-down and clothing searches.
2. Staff make alternative arrangements to provide orientation to youth who are deaf, hard of hearing, blind or who have low vision.
  3. The facility makes key information about safety and youth rights available and visible to youth through posters, handbooks or other written formats. Staff make materials available for limited English proficient youth in all appropriate languages. Staff allow youth to retain copies of youth handbooks and other orientation materials in their rooms.
  4. The facility will have a language plan to address how to allocate resources necessary to address the language needs of limited English proficient youth and parents or caregivers.
  5. In addition to information given at intake staff will provide and document comprehensive age-appropriate information to youth either in person or through video regarding their rights to be free from sexual abuse and sexual harassment, the right to be free from retaliation for reporting such incidents and agency policies and procedures for responding to such incidents. Information provided to youth will be in a format which is easily understood including limited English proficient, deaf, visually impaired or otherwise disabled as well as youth with limited reading skills.

## **2.6 Detention Review Hearing**

**ORS 419C.153** Any youth ordered detained under ORS 419C.145, 419C.150 and 419C.156 shall have a review hearing at least every 10 days, excluding Saturdays, Sundays and judicial

holidays. At the review hearing the court shall determine whether sufficient cause exists to require continued detention of the youth.

## **2.7 Time Limitations**

**ORS 419C.139** Juvenile detention facilities shall have written policy in keeping with Oregon statutory requirements for speedy hearing on detention cases. No youth shall be held in detention or shelter care more than 36 hours, excluding Saturdays, Sundays and judicial holidays, except on order of the court made pursuant to a hearing.

**ORS 419C.150** Juvenile detention facilities shall have written policy, procedure, and practice in keeping with statutory time limitations on detention. A youth may be held in detention under this section or ORS 419C.145, 419C.153, and 419C.156 for a maximum of 28 days except for good cause shown prior to the expiration of the 28-day period. If good cause for continued detention is shown, the period of detention may be extended for no more than an additional 28 days unless the adjudication is continued with the express consent of the youth.

## **2.8 Extended Detention**

### **ORS 419C.453**

1. Pursuant to a hearing, the juvenile court may order a youth offender placed in a detention facility for a specific period of time not to exceed eight days, in addition to time already spent in the facility, unless a program plan that is in conformance with standards established by the Youth Development Council has been filed with and approved by the council, in which case the youth offender may be held in detention for a maximum of 30 days in addition to time already spent in the facility, when:
  - a. The youth offender has been found to be within the jurisdiction of the juvenile court by reason of having committed an act that would be a crime if committed by an adult; or
  - b. The youth offender has been placed on formal probation for an act that would be a crime if committed by an adult, and has been found to have violated a condition of that probation.
2. Pursuant to a hearing, the juvenile court may order a youth offender who is at least 18 years of age placed in a jail or other place where adults are detained. The placement must be for a specific period of time and may not exceed eight days in addition to time already spent in a juvenile detention facility or jail. The court may order placement under this subsection when:



- a. The youth offender has been found to be within the jurisdiction of the juvenile court by reason of having committed an act that would be a crime if committed by an adult; or
  - b. The youth offender has been placed on formal probation for an act that would be a crime if committed by an adult, and has been found to have violated a condition of that probation.
3. In order to detain a youth offender under subsection (2) of this section, the court shall make case-specific findings that placement in a jail or other place where adults are detained meets the specific needs of the youth offender.
  4. As used in this section, “adult” does not include a person who is 18 years of age or older and is alleged to be, or has been found to be, within the jurisdiction of the juvenile court under ORS 419C.005.

## 2.9 Interstate Compact for Juveniles

**ORS 417.030** Juvenile detention facilities shall have written policy on cooperation with the interstate compact administrator in holding and/or returning juveniles charged with youth offenses from another state or is a runaway from another state in accord with the Interstate Compact on Juveniles.

## 2.10 Release

**ORS 169.076(2)(d)(h)** Juvenile detention facilities shall have a comprehensive written policy with respect to:

- Admission and release medical procedures
- Release process to include authority, identification and return of personal property

**ORS 169.760(1)** Juvenile detention facilities shall have established comprehensive written policies providing for the least restrictive alternative consistent with the safety and security of the facility with respect to: admission and release of juveniles to and from the facility and proper notification of the juvenile’s parent, guardian or other person responsible for the juvenile.

## Best Practices

1. The facility develops and implements written policies, procedures and actual practices to ensure that when the institutional population approaches or reaches its rated capacity, appropriate youth are released or stepped down to a non-secure settings.
2. The agency responsible for operating the detention facility collects data using the Juvenile Justice Information System (JJIS), reviews and ensures the accuracy of the data and reports the following data, disaggregated by race: ethnicity, gender identity and

status as limited English proficient, number of youth brought to detention by agency, reasons for admission, admissions to detention, releases from detention, average daily population and average length of stay.

3. Staff provide youth with heightened supervision until they have collected the information necessary to fully classify youth taking into consideration the following information with the goal of keeping youth safe; age, gender identity, history of violent behavior, level of emotional and cognitive development, current charges and offense history, physical size and stature, status as limited English proficient and the availability of bilingual staff and other interpretation services, presence of intellectual or developmental disabilities, physical disabilities, presence of mental health needs or history of trauma, youth's perception of his or her vulnerability, suicide risk, prior sexual victimization or abusiveness, any gender non-conforming appearance or manner or identification as lesbian, gay, bisexual, transgender or intersex and other information that may indicate the need for heightened supervision or additional safety precautions.
4. Staff do not base housing or programming decisions on race or ethnicity.
5. Staff should review whether or not a community resource supports LGBTQ +youth needs before a referral is made to that specific community resource for LGBTQ +youth.

## SECTION 3: SECURITY AND CONTROL

Facilities use a combination of supervision, inspection, accountability and clearly defined policies and procedures to promote safe and orderly operations.

### 3.1 Safety and Security

**ORS 169.076(3)** Juvenile detention facilities shall formulate and publish plans to meet emergencies involving escape, riots, assaults, fires, rebellions and other types of emergencies.

**ORS 169.076(11), ORS 169.077(7), ORS 419A.052(1)** Juvenile detention facilities shall have written policy, procedure and practice in keeping with applicable federal, state and local safety codes, including fire safety inspections and fire drill requirements. Juvenile detention facilities shall keep the facility safe and secure in accord with the State of Oregon Structural Specialty Code and Fire and Life Safety Code.

**ORS 160.076(3)** Juvenile detention facilities shall formulate and publish plans to meet emergencies involving escape, riots, assaults, fires, rebellions and other types of emergencies.

**ORS 169.076(6)** Juvenile detention facilities shall have written policy, procedure, and practice that prohibit firearms from the security area of the facility except in times of emergency as determined by the administrator of the facility.

### 3.2 Searches

General Statement; modified from the National Partnership for Juvenile Services (NPJS) Position Statement

#### Best Practices

Personal searches are one way juvenile justice facilities ensure the safety and security of both staff and juveniles. Personal searches are used as a means to stop the flow of contraband into a facility and to help prevent self-harm and suicide. Personal searches include all searches where physical contact or visual examination of a person occurs. The guidelines are applying the definition of a strip search (comprehensive search) as established in the standards for the Prison Rape Elimination Act as a search that requires a person to remove or arrange some or all clothing so as to permit a visual inspection of the person's breasts, buttocks or genitalia. When examining the issue of searches, juvenile justice facilities face unique challenges and are often tasked with finding a delicate balance between preserving the dignity and personal privacy rights of the child, while ensuring the safety of the facility and staff. Juvenile detention facilities shall have written policies, procedures and actual practices governing searches of youth, the facility and visitors in accordance with applicable law.

All searches conducted on justice involved juveniles should be conducted:

- Respecting the youth's gender identity in a professional manner and in alignment with federal and state laws,
- In the least intrusive manner possible, and
- Consistent with security needs.

In the event a more intrusive (strip) search should be performed:

- With individualized approvals from management based on objective information,
- with one juvenile at a time,
- In a private location,
- Away from any camera that might allow unauthorized staff to view the search, and
- With documentation covering each of the bulleted areas above along with outcomes.

All staff should receive training on how and in which manner to perform searches. In addition, staff in juvenile facilities must be educated about how personal searches of juveniles might affect them. Further, they should be trained in how to and expected to limit any negative or potentially traumatic experiences occurring from searches whenever possible. Written policy and procedures should be made available to staff detailing exactly when, how, by whom and under what circumstances searches will be conducted. Prior to a search, juveniles should be

informed of their rights and the conditions under which searches will be conducted. Searches should be conducted in a manner which minimizes potential negative impacts (including: humiliation, embarrassment, unwarranted physical exposure, etc.). No juvenile facility should allow cross-gender searches unless in an exigent circumstance. Additional training should be provided to prepare staff for any search that may fall under the Prison Rape Elimination Act (PREA).

Intake searches include pat-downs, metal detector or clothing searches. If the facility permits strip searches (comprehensive searches) upon intake or visual body cavity searches, staff conduct them in accordance with applicable law. All youth will be treated in a professional and respectful manner.

1. When staff search youth who are returning from court, school, another facility, visits on the premises, or who have been otherwise continuously supervised, they do so by a pat-down, metal detector or clothing search. Staff conduct comprehensive or visual body cavity searches in such circumstances only upon reasonable suspicion that a youth is in possession of a weapon or contraband and in accordance with applicable law.
2. Staff conducting pat-down searches and clothing searches are of the same gender identity as the individual being searched.
3. During the intake process staff will ask youth who have identified themselves as transgender or gender non-conforming to request the preferred gender of the staff person who conducts searches. The facility should have a process in place to document, review and approve/deny these requests. See Appendix X Section Y for detailed best practices.
4. Only qualified medical professionals conduct physical body cavity searches. Staff notify parents or guardians if a youth is subjected to a physical body cavity search and the medical professional will be of the same gender identity as the youth.
5. Staff conducting comprehensive searches, visual body cavity searches or collecting urine samples are of the same gender identity as the youth being searched.
6. Staff document and provide written justification for all cross-gender searches.
7. Staff conduct facility and individual room searches when needed with the least amount of disruption and with respect for youth's personal property.
8. Staff search visitors by pat-down or metal detector to ensure the safety, security and sound operation of the facility.
9. Staff do not conduct searches of youth, youth rooms or visitors as harassment or for the purpose of punishment or discipline.
10. When conducting a personal search of a transgender, gender non-conforming and gender non-binary youth, the staff or health care professional will be assigned based on

the youth's gender identify and safety preference. If that is not possible, a health care professional of a different gender may conduct a strip search, pat down or visual (but not physical) body cavity search.

11. Transgender and gender non-conforming youth will have access to gender affirming supports, including but not limited to clothing and hygiene items otherwise permitted in the facility, respectful use of gender-affirming pronouns, providing access to gender-neutral restrooms or restrooms based on gender identity, and providing access to identification cards and name tags consistent with gender identity, if applicable.

### 3.3 Supervision of Youth

Staff positions should provide direct personal supervision and be located within the living units of youth to allow workers to hear and respond immediately to needs. Staff interactions are based on training and experience with the youth developmental approach.

**ORS 169.076(1)** Juvenile detention facilities shall provide sufficient staff to perform all audio and visual functions involving security, control, custody and supervision of all confined detainees, with personal inspection at least once each hour. The supervision may include the use of electronic monitoring equipment when approved by the governing body of the area in which the facility is located.

**ORS169.740(2)(a)(b)** Facilities shall provide for personal inspection of each juvenile at least once each hour unless a particular situation requires more frequent inspection. Each facility shall provide for personal or electronically monitored supervision on each floor where juveniles are detained.

### 3.4 Control of Contraband

**ORS 169.760(2)** Juvenile detention facilities shall have established comprehensive written policies providing for the least restrictive alternative consistent with the safety and security of the facility, ORS 169.076, 169.078, 169.740 and 169.750, with respect to the use of internal searches upon a detained juvenile.

**ORS 169.750(4)** Juvenile detention facilities may not cause to be made an internal examination of a detained juvenile's anus or vagina, except upon probable cause that contraband, as defined in ORS 162.135 (1), will be found upon such examination and then only by a licensed physician or a nurse.

**ORS 169.740** Juvenile detention facilities shall provide for the private and unrestricted receipt and sending of mail (unless otherwise ordered by the juvenile court following a hearing). Incoming mail may be opened in the presence of the juvenile on reasonable suspicion that the

mail contains contraband as defined in ORS 162.135 (1), and incoming packages shall be opened in the presence of the juvenile and their contents may be held until the juvenile is released. The juvenile shall be informed of any confiscated contraband.

### **3.5 Use of Force**

Use of force should always be the last resort after verbal de-escalation has been attempted and the least amount used, unless there is an immediate risk of protection of others or self, prevention of escape or severe property damage.

**ORS 161.205** Juvenile detention facilities shall have policy, procedure and practice in keeping with statutory standards on the use of physical force. The use of physical force is justifiable and not criminal under any of the following circumstances:

1. A parent, guardian or other person entrusted with the care and supervision of a minor may use reasonable physical force when the person reasonably believes it necessary to maintain discipline or promote the welfare of the minor. A teacher may use reasonable physical force upon a student when the teacher reasonably believes it necessary to maintain order in the school or classroom.
2. An authorized official of a juvenile detention facility may use physical force when and to the extent that the official reasonably believes it necessary to maintain order and discipline or as is authorized by law.
3. A person acting under a reasonable belief that another person is about to commit suicide or to inflict serious physical self-injury may use physical force upon that person to the extent that the person reasonably believes it necessary to thwart the result.
4. A person may use physical force upon another person in self-defense or in defending a third person, in defending property, in making an arrest or in preventing an escape, as prescribed in chapter 743, Oregon Laws 1971.

**ORS 169.760** Juvenile detention facilities shall have established comprehensive written policies providing for the least restrictive alternative consistent with the safety and security of the facility, ORS 169.076, 169.078, 169.740 and 169.750, with respect to the use of physical restraints, physical force, chemical agents, internal searches and isolation of or upon a detained juvenile.

**ORS 169.750** Juvenile detention facilities may not administer physical punishment to any detainee at any time.

**ORS 169.750(1)(2)** Juvenile detention facilities may not for purposes of discipline or punishment impose any infliction of or threat of physical injury or pain. A facility may not use

any physical force, other means of physical control or isolation upon a detained juvenile except as reasonably necessary and justified to prevent escape from the facility, physical injury to another person, to protect a detained juvenile from physical self-injury or to prevent destruction of property, or to effectuate the confinement of the juvenile in room lock or isolation as provided for in ORS 169.090, 169.730 to 169.800, 419A.050 and 419A.052, and for only as long as it appears that the danger exists.

A use of force or other physical means of control may not employ the use of restraining devices for a purpose other than to prevent physical injury or escape, or, in any case, for a period in excess of six hours. However, the time during which a detained juvenile is being transported to another facility pursuant to court order shall not be counted within the six hours.

**ORS 169.740(2)(i)** Juvenile detention facilities shall make a written report, one copy of which shall be maintained in a general log, of each use of physical force, restraint, isolation, room lock or internal search, setting forth in detail the reason such action that was taken and the name of the staff person taking such action.

**ORS 169.740(2)(j)** Juvenile detention facilities shall notify the attorney and parent or guardian of a detained youth after the use of any physical force upon the youth as soon as reasonable after the use of force and by mailing a copy of the written report within 24 hours after the use of force.

### **Best Practices**

1. Facility staff receive regular training in conflict management, de-escalation of confrontations, crisis intervention techniques, management of assaultive behavior, minimizing trauma involved in the use of physical force and the facility's continuum of methods of control.
2. Facility staff receive regular training on situations in which use of physical force is or is not justified, permitted methods of physical force, appropriate techniques for use of physical force and guidance to staff in deciding what level of physical force to use if that becomes necessary.
3. Staff follow a graduated set of interventions that avoid the use of physical force, employ a range of interventions or actions behavior using physical force and permit only the least restrictive measure in order to prevent physical harm to youth or others.
4. Only staff specifically trained in the use of physical force are permitted to use such techniques or devices. Staff only use approved techniques.
5. Staff only use approved physical force techniques when a youth's behavior threatens imminent harm to the youth or others. Staff may use approved physical force

techniques when a youth is engaging in property destruction that involves an imminent threat to the youth's safety or the safety of others.

6. Staff only use physical force by employing the least restrictive appropriate means and only for the amount of time necessary to bring the situation under control. As soon as a youth regains self-control and staff assesses the youth for safety, staff stop using physical force.
7. Staff will complete incident reports on all issues involving the use of physical force for behavioral interventions.
8. Staff ensure that all youth who are the subject of a use of physical force notify medical staff within one hour of the use of physical force of the incident involving the youth and see a qualified medical professional if injuries occurred based on the recommendation of the medical staff.
9. Facility administrators will review all incidents involving the use of physical force to explore what might have prevented the need for force and alternative ways of handling the situation. The review should include an interview with the youth, all witnesses, and review of any existing video footage.

### **3.6 Use of Restraints**

Restraints should only be used, as for as long as necessary, to prevent self-injury, injury to others, severe property damage that involves imminent threat to safety, attempted escape or for transportation purposes.

**ORS 169.760(2)** Juvenile detention facilities shall have established comprehensive written policies providing for the least restrictive alternative consistent with the safety and security of the facility, ORS 169.076, 169.078, 169.740 and 169.750, with respect to the use of physical restraints, force, chemical agents, internal searches and isolation of or upon a detained juvenile.

Juvenile detention facilities may not impose physical restraint for the purposes of discipline or punishment. Use of physical force or other means of physical control are prohibited except as reasonably necessary and justified to prevent escape from the facility, physical injury to another person, to protect a detained juvenile from physical self-injury or to prevent destruction of property, or to effectuate the confinement of the juvenile in room lock or isolation as provided for in ORS 169.090, 169.730 to 169.800, 419A.050 and 419A.052, and for only so long as it appears that the danger exists. A use of force or other physical means of control may not employ the use of restraining devices for a purpose other than to prevent physical injury or escape, or, in any case, for a period in excess of six hours. However, the time



during which a detained juvenile is being transported to another facility pursuant to court order shall not be counted within the six hours.

**ORS 169.740(2)(i)** Juvenile detention facilities shall make a written report, one copy of which shall be maintained in a general log, of each use of restraint, setting forth in detail the reason such action was taken and the name of the staff person taking such action.

**ORS 169.740(2)(j)** Juvenile detention facilities shall notify the attorney and the parent or guardian of the detained youth after the use of any use of restraint upon the youth as soon as reasonable after the use and by mailing a copy of the written report within 24 hours after the use.

### **Best Practices**

1. Staff receive regular training in conflict management, de-escalation of confrontations, crisis intervention techniques management of assaultive behavior, minimizing trauma involved in the use of mechanical restraints and the facility's continuum of methods of control.
2. Staff receive regular training on situations in which use of mechanical restraints is or is not justified, permitted methods of restraint and appropriate techniques for use of restraints and guidance to staff in deciding what level of restraint to use if that becomes necessary.
3. Staff only use mechanical restraints when a youth's behavior threatens imminent harm to the youth or others. Staff may use approved mechanical restraints when a youth is engaging in property destruction that involves an imminent threat to the youth's safety or safety of others.
4. Staff only use mechanical restraints by employing the least restrictive appropriate means and only for the amount of time necessary to bring the situation under control. As soon as a youth regains self-control and staff assesses youth for safety, staff stop using mechanical restraints.
5. Facilities will have written policies regarding transportation of youth in restraints and the types of restraints which are approved.
6. Staff never leave youth who are sleeping in restraints.
7. Staff never leave youth who are in restraints alone.
8. Facilities will have written policies, procedures and actual practices to minimize;
  - a. The use of any kind of restraint device other than handcuffs or belly belts/chains and leg shackles during transportation.
  - b. Use of chemical agents, including pepper spray, tear gas and mace.
  - c. Use of chemical or medical restraints.

- d. Hog tying youth or placing youth in restraints in other positions that could restrict breathing.
  - e. Restraining youth to fixed objects, including beds or walls.
  - f. Restraining youth in a prone position and putting pressure on the youth's back, or restraining youth in a position that may restrict their airway.
  - g. Using mechanical restraints for punishment, discipline, retaliation, or treatment.
  - h. Use of belly belts/chains or leg shackles on pregnant girls.
9. Staff will complete incident reports on all issues involving the use of mechanical restraints.
  10. Staff ensure that all youth who are the subject of a use of restraint incident notify a qualified medical professional within one hour of the use of restraint.
  11. Facility administrators will review all incidents involving the use of restraints to explore what might have prevented the need for force or restraint and alternative ways of handling the situation.

### 3.7 Room-lock

“Room-lock” means confinement of a juvenile in any sleeping room, other than an isolation room, except during regular sleeping periods. A statutory exception applies to facilities serving counties with a population less than 70,000, based on the 1980 census, “room lock” does not include confining a juvenile in a sleeping room when all detained juveniles of the same sex are similarly confined due solely to the limitations of physical facilities or staff. These guidelines, however, apply to all juvenile detention facilities.

Brief periods of timeouts are not considered room-lock and is seen as serving only a “cooling off” purpose, is short in duration with the time period 5 to 20 minutes—specified at the time of assignment. Voluntary “time-out” at the request of the youth is not considered room-lock, and the youth shall enter general population as soon as they request to re-enter. Youth on “medical down” status will not be considered on room-lock.

**ORS 169.760(2), ORS 169.730** Juvenile detention facilities shall have established comprehensive written policies providing for the least restrictive alternative consistent with the safety and security of the facility with respect to the use of physical restraints, physical force, chemical agents, and internal searches of a detained juvenile.

**ORS 169.750(7)** Juvenile detention facilities may not discipline or punish any juvenile for conduct or behavior by room lock for a period in excess of 12 hours, or by denial of any privilege, regularly awarded other detained adults or juveniles, for more than one day, except after:

- a) Advising the juvenile in writing of the alleged offensive conduct or behavior;
- b) Providing the juvenile the opportunity to a hearing before a staff member who was not a witness to the alleged offensive conduct or behavior;
- c) Providing the juvenile the opportunity to produce witnesses and evidence and to cross-examine witnesses;
- d) Providing the detained juvenile the opportunity to testify, at the sole option of the juvenile; and
- e) A finding that the alleged conduct or behavior was proven by a preponderance of the evidence and that it violated a rule of conduct or behavior of the facility as provided for in ORS 169.076 (12) or constituted a crime under the laws of this state.

**ORS 169.750(3)** Juvenile detention facilities may not use room lock except for the discipline and punishment of a detained juvenile for violation of a rule of conduct or behavior of the facility as provided for in ORS 169.076 (12) or for conduct that constitutes a crime under the laws of this state or that would justify physical force, control or isolation under subsection (2) of this section.

**ORS 169.750(2)(b)** Juvenile detention facilities may not use force or other physical means of control that employ isolation for a period in excess of six hours.

**ORS 169.740(2)(i)** Juvenile detention facilities shall make a written report, one copy of which shall be maintained in a general log, of each use of physical force, restraint, isolation, room lock or internal search, setting forth in detail the reason such action was taken and the name of the staff person taking such action.

Juvenile detention facilities shall notify the attorney and the parent or guardian of the detained juvenile after the use of any physical force, restraint, isolation or internal search as soon as is reasonable after the use and by mailing a copy of the report within 24 hours after the use.

### **Best Practices**

1. Prior to using room-lock, staff use less restrictive techniques, including talking with youth to de-escalate the situation and bringing in staff, qualified mental health professionals (if available). Prior to using room-lock or immediately after placing a youth in room confinement, staff explain to the youth the reasons for the room confinement and the fact that he or she will be released upon regaining self-control.
2. Staff only use room lock as a temporary response to behavior that threatens immediate harm to the youth or others. Staff may use room lock when a youth is engaging in property destruction that threatens immediate harm to the youth or others.

3. Staff never use room lock for discipline, punishment, administrative convenience, retaliation, staffing shortages, or reasons other than a temporary response to behavior that threatens immediate harm to youth or others.
4. Staff do not place youth in room-lock for fixed periods of time. Staff return youth to programming as soon as the youth has regained self-control and is no longer engaging in behavior that threatens immediate harm to the youth or others.
5. During the time that a youth is in room-lock, staff engage in crisis intervention techniques and one-on-one observation.
6. Staff develop special individualized programming for youth with persistent behavior problems that threaten the safety of youth or staff or the security of the facility. Staff do not use room –lock as a substitute for special individualized programming.
7. During room-lock, staff should make visual contact with the youth at least every 15 minutes, depending on his/her emotional state. Youth who are highly emotional should receive visual contact from staff at least every 5 minutes.

### **3.8 Isolation**

Isolation should only occur when no other means can be used to accomplish the immediate safety and security of the youth and staff. The use of isolation should be for as short a time as possible. As soon as the youth no longer poses a threat, the isolation should be ended and the youth should be reintegrated back into programming.

“Isolation” means confinement of a juvenile in any room which lacks toilet facilities, furniture, reading and recreation materials or access to light and air comparable to that in other rooms used for the detention of juveniles.

### **3.9 Emergency Evacuation and Management**

Facilities will have written policies in place to address procedures within the facility. A written plan will also include for evacuations and shelter in place for emergency response. The plan will identify partnering agencies for transportation, shelter and other services where youth may be housed for a period of time until the immediate emergency is over and youth can return safely to the facility.

#### **Best Practices**

1. The facility’s plan is created through collaboration with partnering agencies and detail plans for a prioritized list of emergencies. Juvenile Department Director and Detention Manager will review and update the plan.
2. The facility plan will take into consideration:
  - a. Characteristics of the facility,

- b. Hazard profile,
  - c. Allocating responsibilities of staff,
  - d. Communication procedures,
  - e. Shelter in Place and Evacuation,
  - f. Aftercare
3. The facility includes the emergency preparedness and evacuation training for all staff on an annual basis.

## SECTION 4: PROGRAMS AND SERVICES

All programs and services should have a core principle of ensuring best practices and grounded in the adolescent developmental approach. Focus should be on teaching coping skills and incentivizing pro-social behavior.

### 4.1 Mental Health Services (Counseling)

**ORS 169.740(L), ORS 169.740(2)(g)** Juvenile detention facilities shall provide for counseling of any detained youth found to be within the jurisdiction of the court, and for non-dispositional counseling of any juvenile held in excess of five judicial days.

**ORS 169.760(3)** Juvenile detention facilities shall have established comprehensive written policies providing for the least restrictive alternative consistent with the safety and security of the facility with respect to a detained juvenile's access to counseling.

### Federal Guidelines

Americans with Disabilities Act [Code of Federal Regulation, Chapter 28, Section 35] Juvenile detention facilities shall have written policy in keeping with the requirements of the American with Disabilities Act. The Code of Federal Regulations, Chapter 28, Section 35 sets forth the requirements for services, programs, and activities provided or made available by state and local governments.

### Best Practices

Refer to section 9.2 for best practices regarding mental health services.

### 4.2 Education in Juvenile Detention

Facility advocates for quality education for youth in juvenile detention facilities. Every confined youth is entitled to free and appropriate public educational services, offered in a dedicated educational space, delivered by trained, state certified or licensed educational staff, working cooperatively with juvenile justice staff. Education should meet the requirements so that the youth will be able to graduate with an Oregon diploma. Quality education services should

include assessment, remedial and grade-level instruction, special education and curriculum based on the individual needs of students. Educational information should follow the youth in preparation for the achievement of future academic and vocational objectives. Quality education should be delivered utilizing a variety of strategies, in accordance with learning theory regarding at-risk and delinquent youth, including hands-on, experiential learning, social skill development and service learning activities.

**ORS 169.760(3)** Juvenile detention facilities shall have established comprehensive written policies providing for the least restrictive alternative consistent with the safety and security of the facility with respect to a detained juvenile's access to education.

**ORS 169.740(2)(g)** Juvenile detention facilities shall provide access to education for juveniles held in excess of five judicial days.

**ORS 336.585** Juvenile detention facilities have written policy, procedure, and practice ensuring compliance with Oregon law regarding education in the facility in accord with ORS 336.585. The Oregon Department of Education shall provide or cause to be provided appropriate education for children placed in a detention facility. The Superintendent of Public Instruction may contract with a school district or education service district to provide or cause to be provided appropriate education to children placed in a detention facility. The superintendent shall pay the costs of providing education to children placed in detention facilities from the State School Fund grant allocated to the Juvenile Detention Education Program for that purpose under ORS 327.026.

**ORS 419A.052(2)(I)** New or major renovated facilities must provide rooms for classes, library, arts, and crafts.

### **Best Practices**

1. Youth attend the Juvenile Detention Education Program (JDEP) at the earliest possible time but no later than the next school day after admission to the facility.
2. The facility and educational partners will work together to offer a minimum of 5.5 hours of education per day and 220 days of instruction. The facility provides programming during breaks and school holidays.
3. The facility and educational staff will promote a safe, healthy facility-wide climate that prioritizes education, provides the conditions for learning, and encourages the necessary behavioral and social support services that address the individual needs of all youth, including those with disabilities and English learners.

4. Educational staff request a youth's educational records from his or her prior school, including Individual Education Plans (IEP) and 504 plans, within 24 hours of the youth's admission or the next business day, whichever is later.
5. The facility will have a policy to outline processes for education staff, students, parents and guardians, probation officers, mental health counselors, educational advocates, attorneys, and detention staff to voice concerns and recommendations when developing an educational program for the youth.
6. School classes are held in dedicated classroom spaces that are conducive to teaching and learning and that accommodate the needs of youth with disabilities.
7. The JDEP provides educational resources and materials comparable to those available to public school students, including but not limited to textbooks, art materials, writing materials, computers and other education-related technology, except where security concerns make it unsafe to use those materials at the facility.
8. An accreditation or oversight (Oregon Department of Education) entity bi-annually reviews and evaluates the facility's school and school administrators review the findings and address any deficiencies.
9. The facility will allow for rigorous and relevant curricula aligned with state and academic and career and vocational technical education standards that utilize instructional methods, tool, materials and practices that promote college and career-readiness.
10. The JDEP has a procedure to identify English Language Learner (ELL) youth. Educational Staff provide ELL students with an appropriate educational program that addresses their language needs and that provides meaningful access to the curriculum in accordance with state and federal law.
11. The JDEP has procedures in place to identify and assess youth who may have a disability, but who have not been previously identified, in conformity with state and federal requirements for special education. The school program will provide IEP and 504 services by certified or credentialed by the state for the services they provide.
12. The JDEP provides transition services that facilitate a student's movement from school to post-school activities as required by a youth's IEP or 504 plan. Post-school activities include, but are not limited to employment, postsecondary education, vocational training, continuing and adult education and independent living.
13. Establish a written communication plan (MOU) to ensure collaboration and communication between the facility and educational staff. Both the facility and education staff will be consistent in behavioral and social support approaches to ensure a safe environment where students feel safe to learn.
14. Develop the infrastructure needed to share, collect track and analyze student data on a set of prescribed indicators relevant to incarcerated youth and using these indicators to

evaluate and improve school performance, track recidivism and other key performance measures.

15. Both the facility and educational staff will implement effective transitional practices and services, such as every student leaves with a plan for the student to reconnect with an educational institution.
16. Promote and involve professional development activities to educational staff.

### **4.3 Extended Detention Programs**

**OAR 213-050-0060(e)** Juvenile detention facilities shall insure that educational programs are available to all juveniles placed in extended detention in accordance with Oregon Department of Education standards in OAR Chapter 581. Participation by juveniles in educational programming must not be unnecessarily interrupted. Students in extended detention have the ability to earn high school credit towards the Oregon diploma.

### **4.4 Recreation and Physical Exercise**

**ORS 169.760(3)** Juvenile detention facilities shall have established comprehensive written policy for the least restrictive alternative consistent with the safety and security of the facility with respect to a detained juvenile's access to exercise.

**ORS 169.740(2)(g)** Juvenile detention facilities shall provide for physical exercise of any juvenile held in excess of five judicial days.

### **Best Practices**

1. Staff keep youth occupied through a comprehensive multi-disciplinary program. Staff post and adhere to a daily schedule or activities in each living unit that incorporates both structured and free time. Staff log the date and reasons for any deviations from scheduled activities. Youth with physical disabilities have the opportunity to participate in recreational activities.
2. Staff, volunteers, contractors and community groups provide additional structured programming reflecting the interests and needs of various racial, ethnic, LGBTQ+ and cultural groups within the facility. The facility provides opportunities for youth to provide input into the programming at the facility.
3. The facility offers a range of culturally appropriate activities such as art, music, drama, writing, health, hygiene skills, fitness, meditation/yoga, substance abuse prevention, mentoring and voluntary religious or spiritual groups. When possible, programming is provided by community-based organizations that offer the opportunity for continuity once the youth is released.



4. Equivalent gender-responsive programming exists for female and male youth in the facility. Facilities do not limit access to recreation and vocational opportunities on the basis of gender. “Equivalent” does not mean that programming for males and females is identical, but that male and female youth have reasonable opportunities for similar activities and an opportunity to participate in programs, physical activities and recreational opportunities of comparable quality.
5. Transgender and gender non-conforming youth are not prohibited from participating in gender-responsive programming, and may choose the programming options that are safest and healthiest for them.
6. The facility offers special recreational programming for youth who are pregnant or youth with disabilities.
7. Youth in the facility, including youth on disciplinary or restricted status received at least one hour of large muscle exercise every weekday and at least two hours of large muscle exercise each weekend day in a communal space outside of their own room. Large muscle exercise can be accomplished through the JDEP’s physical education class so long as the one-hour minimum requirement is met.
8. Staff take youth outside for their hour of exercise, weather permitting.
9. The facility has sufficient games, balls and athletic equipment to provide a variety of physical education activities.

#### **4.5 Library Services**

**ORS 169.760** Juvenile detention facilities shall have established comprehensive written policies providing for the least restrictive alternative consistent with the safety and security of the facility with respect to access to reading materials for detained juveniles.

**ORS 419A.052(i)** In addition, facilities must provide rooms for classes, library, arts and crafts.

#### **Best Practices**

1. The facility develops and implements written policies, procedures and actual practices to ensure that limitations on reading materials are reasonable related to the security of the facility, or the health and development of youth in the facility.
2. The facility has a library that contains reading materials that are geared to the diverse reading levels, interests, gender identity, sexual orientation, socio-economic, cultural, racial and ethnic backgrounds, experiences and primary languages of confined youth. Staff can also make appropriate reading material available for youth with disabilities.
3. Staff allow youth to keep reading materials in their rooms.
4. Staff allow access to the library more than once per week.

#### **4.6 Mail, Telephone, Visitation**

Facilities should promote contact with parents/guardians and other positive individuals in youth's lives through regular and on-going contact through the use of the mail, telephone and in person visiting. Restrictions of visitation will not be used as a punishment.

Youth shall have opportunity for parent/guardian visits. Special visits may be approved by facility under certain circumstances. Denial of visitation privileges shall be based upon security and order of the facility, and the ability of visitors and youth to follow visitation rules.

**ORS 169.076(2)(i), ORS 169.760(7)** Juvenile detention facilities shall have a comprehensive written policies with respect to rules governing correspondence, visitation and telephone calls for detained juveniles with family and friends.

**ORS 169.076(10), ORS 169.740 (2)(f)** Juvenile detention facilities shall forward, without examination or censorship, detainees' outgoing written communications to the Governor, facility administrator, Attorney General, juvenile department or the attorney of the juvenile.

In addition, juvenile detention facilities shall provide for the payment of postage for the juvenile's mail to an attorney or to federal, state, county or municipal government officials.

**ORS 169.740 (2)(e)** Juveniles detained in juvenile detention facilities shall, unless ordered by the juvenile court, provide for private and unrestricted receipt of and sending of mail. Incoming mail may be opened in the presence of the juvenile upon reasonable suspicion that the mail contains contraband as defined in ORS 162.135; incoming packages shall be opened in the presence of the juvenile and the contents may be held until the juvenile is released. The juvenile shall be informed of any confiscated contraband.

#### **Best Practices – Mail**

1. Staff do not limit the number of letters a youth may send or receive, including youth on disciplinary status. Staff provide youth with a reasonable amount of paper, access to writing implements and postage for correspondence.
2. The facility develops and implements written policies, procedures and actual practices to ensure that staff, youth and families understand any limitations on persons with whom youth may correspond. The facility permits youth to correspond with incarcerated family members absent a specific and articulable security reason.
3. If staff withhold mail for any reason, staff inform the youth, log the date, time and reason for the action, place the mail in the youth's private property and advise the youth that he or she may file a grievance over the decision to withhold the mail.

4. Staff distribute mail within 24 hours of arrival at the facility and post outgoing mail within 24 hours of receipt of mail from youth.
5. Staff log incoming and outgoing mail. Staff forward mail to youth who have been released or transferred to another facility.
6. Staff make accommodations for youth with disabilities who cannot communicate via mail by making arrangements for other communication methods.
7. Youth who use a name in daily life that does not match their name of legal record should be allowed to send and receive mail addressed using that name, provided that the name is documented in the facility's information system.

### **Best Practices - Phone**

1. Facilities will have written policy to outline the opportunities and conditions of the use of phones by youth for visiting purposes.
2. Facility staff will not listen in or record youth's conversations absent individualized reasonable suspicion of criminal activity or a threat to the security of the facility. The facility shall inform the youth if telephone calls are monitored or recorded.
3. Calls are free of charge to the youth and family and support persons.
4. Youth can use the telephone at times that are arranged in advance and that will be convenient to staff and the recipient of the call.
5. The facility will maximize the availability of phone calls to the extent possible.

### **Best Practices- Visitation**

1. Facilities will have written policies clearly describe the approval procedure for visitation and staff communicate visitation policies to family members.
2. Staff permit youth to visit with parents, guardians, support persons and family members, or other adults who have been approved through the probation officer/juvenile counselor.
3. Staff treat all visitors in a professional manner and with respect.
4. The facility allows visitors to provide alternative forms of photo identification so that youth are not denied visits based on the immigration status of their family members, and relatives.
5. Family visiting occurs on several days of the week, including both weekends and weekdays and is not limited to normal business hours. Youth have the opportunity for visits from family members at least twice per week.
6. The facility will maximize visitation opportunities to the extent feasible.
7. The facility informs family members that they may schedule visits at other times with permission from the facility administrator or designee. Written policies clearly describe procedures for special visits.

8. The facility provides alternative ways of visiting for family members who cannot easily travel to the facility.
9. Staff do not deprive youth on disciplinary status of visits as a punishment. The facility permits youth on disciplinary status to have visits unless such visits would pose an immediate threat to the safety and security of the facility. If staff deny youth visitation, they inform the individuals who plan to visit the youth in advance of the visitation period.
10. The facility does not deny family members visitation solely on the basis of previous incarceration or criminal record.
11. Staff supervise the visiting area but do not listen in on conversations absent reasonable suspicion that a crime, escape, or threat to safety or security is likely to occur.
12. Entrances, visitation areas and restrooms used by the public are accessible by individuals with limited mobility.
13. Absent a specific safety, security or contraband concern, the facility will allow contact visits.

## SECTION 5: YOUTH RIGHTS

### 5.1 Protection from Harm

Facilities maintains a zero tolerance for all forms of sexual abuse and harassment. This zero tolerance affects all adults and youth who work, volunteer, reside or visit the agency. Facilities will adhere to the standards in the Prison Rape Elimination Act.

#### **Federal Guideline**

**Prison Rape Elimination Act (PREA) Standards** Juvenile detention facilities shall have a written policy mandating zero tolerance toward all forms of sexual abuse. Elements of the policy include:

- Aggressive response, investigation and support of prosecution of sexual misconduct in facilities;
- Continual training and education of staff and juveniles to increase awareness of safe reporting mechanisms and services available to victims;
- Separation and monitoring of both sexually aggressive and vulnerable juvenile through assessments and room assignment;
- Establishing means of data collection to track sexual misconduct, analyze incidents and improve operations and services.

Juvenile detention facilities shall train all employees on a resident's right to be free from sexual abuse, the right of residents and the employees to be free from retaliation for reporting sexual abuse, the dynamics of sexual abuse in confinement, and the common reactions of sexual abuse victims. The facility maintains written documentation verifying employees understanding of the training received.

Written policy outlines that facility administrators and supervisors responsible for reviewing critical incidents must examine areas in the facility where sexual abuse has occurred to assess whether there are any physical barriers that may have enabled the abuse, the adequacy of staffing levels during different shifts, and the need for monitoring technology to supplement direct care staff supervision.

Accommodations are made to convey all written information about sexual abuse policies, including how to report sexual abuse, verbally to residents who have limited reading skills or who are visually impaired, or who are limited English proficient.

ORS 169.760 Juvenile detention facilities shall have established comprehensive written policies providing for the least restrictive alternative consistent with the safety and security of the facility, ORS 169.076, 169.078, 169.740 and 169.750, with respect to:

- a. The admission and release of juveniles to and from the facility and proper notification of the juvenile's parent, guardian or other person responsible for the juvenile;
- b. The use of physical restraints, physical force, chemical agents, internal searches and isolation of or upon a detained juvenile;
- c. A detained juvenile's access to medical and dental treatment, education, counseling and exercise;
- d. Access to the facility by the public and news media;
- e. Access to reading materials for detained juveniles;
- f. Dress and groom code which will allow for individual identity of detained juveniles;
- g. Access to visitation and telephone calls for a detained juvenile with family and friends;
- h. Sanctions for violating rules of inmate conduct made pursuant to ORS 169.076 and procedures for fact-finding and imposition of discipline or punishment; and
- i. Access to records and grievance procedures for complaints by the detained juvenile, the attorney of the detained juvenile, parent or guardian or other interested person as provided for in ORS 419A.255.

**ORS 419B.005 through ORS 419B.015** Juvenile detention facilities shall have written policies that comply with Oregon statute with respect to the definition of child abuse and establish directions for reporting child abuse and/or neglect consistent with Oregon law.

### **Best Practices**

1. The facility enables youth to shower, perform bodily functions and change clothing without nonmedical staff of a different gender identity viewing their breasts, buttocks or genitalia, except in exigent circumstances.
2. Staff of the opposite gender of the youth living there announce their presence when entering housing units.
3. Staff provide transgender and intersex youth should have the ability to shower separately from other youth. Absent security concerns, transgender and intersex youth should not be required to shower separately.
4. Staff make accommodations for youth whose physical or emotional state warrants additional privacy when showering, performing bodily functions or changing clothing.
5. The facility allow youth to shower individually or employs a means of affording youth privacy during showers while also allowing staff to ensure the youth's safety.

### **5.2 Access to Courts, Counsel, and Governing Authorities**

**ORS 169.076(10)** Juvenile detention facilities have written policy, procedure and practice in keeping with the statutory requirement to forward, without examination or censorship, each juvenile's outgoing written communications to the Governor, facility administrator, Attorney General, judge, juvenile department or attorney of the juvenile.

**ORS 169.740(2)(f)** Juvenile detention facilities shall provide payment of postage for the youth's mail to an attorney or to federal, state, county or municipal government officials.

**ORS 169.760(9)** Juvenile detention facilities shall have established comprehensive written policies providing for the least restrictive alternative consistent with the safety and security of the facility with respect to access to the attorney of the detained juvenile, parent or guardian or other interested person as provided for in ORS 419A.

**ORS 169.740(2)(d)** Juvenile detention facilities shall provide for unrestricted contact between detained juveniles and their attorneys unrestricted attorney access to the facility for private attorney-client consultation. Unrestricted contact between 8 a.m. and 5 p.m. for a period of not less than five hours per day is the minimum requirement.

### **Best Practices**

1. Mail to and from attorney, the courts, or public officials is privileged. Staff do not open or read such mail.
2. Staff allow visits from attorneys of record, paralegals and other legal support staff such as investigators, experts and defense team members at all reasonable times during hours that youth are awake and do not limit such visits to visitation hours. Staff allow attorneys to bring in materials that assist them in representing their clients. (e.g., laptops, legal files.)
3. Staff allow attorneys to meet with their clients without delay.
4. The facility provides a private room or area that allows for confidential attorney visits.
5. Youth are able to make and complete free and confidential phone calls to attorneys. Staff do not limit the frequency or length of legal phone calls. Staff assist youth in obtaining the phone numbers of their attorneys if necessary.
6. Written policies, procedures and actual practices outline protocols for interviews of youth by law enforcement and prosecutors and the protocols incorporate youth's right to counsel.
7. The juvenile department provides records to a youth's attorney upon written consent of the youth or a court order appointing the attorney as the youth's counsel.

### **5.3 Access to Records and Legal Materials**

**ORS 169.076(14)** Juvenile detention facilities shall safeguard and ensure that the juvenile's access to legal materials is protected.

**ORS 169.760(9)** Juvenile detention facilities shall have established comprehensive written policies with respect to access to records and grievance procedures by detained juveniles, the attorney of the detained juvenile, parent or guardian or other interested person as provided by ORS 419A.255.

The facility will have written policies, procedures and actual practices outlining protocols for interviews of youth by law enforcement and prosecutors and the protocols incorporate the youth's right to counsel.

### **Best Practices**

1. Mail to and from attorneys of record, the courts, or public officials is privileged. Staff do not open or read such mail. Staff may have the youth open the mail in front of them to ensure no items considered to be contraband are enclosed.
2. Staff allow legal visits from attorneys, paralegals and other legal support staff such as investigators, experts and defense team members at all reasonable times during hours

that youth are awake and do not limit such visits to visitation hours. Staff allow attorneys to bring in materials that assist them in representing their clients (e.g., laptops, legal files).

3. Staff allow attorneys to meet with their clients without delay.
4. Staff allow youth to access legal assistance (e.g., pro bono lawyers, law students, paralegals) and legal research materials both pre- and post-adjudication.
5. The facility provides a private room or area that allows for confidential attorney visits.
6. Youth are able to contact their attorneys for confidential phone calls. Staff do not limit the frequency or length of legal phone calls. Staff assist youth in obtaining the phone numbers for their attorneys, if necessary.

## 5.4 Juveniles with Disabilities

### Federal Guidelines

**Americans with Disabilities Act [Code of Federal Regulation, Chapter 28, Section 35]** Juvenile detention facilities shall have written policy in keeping with the requirements of the Americans with Disabilities Act. The Code of Federal Regulations, Chapter 28, Section 35, sets forth the requirements for services, programs, and activities provided or made available by state and local governments.

**ORS 169.750(8)** Juvenile detention facilities shall have written policy, procedure, and practice in keeping with the statutory requirement that they may not detain juveniles with emotional disturbances, mental retardation or physical disabilities on the same charges and circumstances for which other juveniles would have been released or provided with another alternative.

### Best Practices

Each facility must designate an ADA coordinator and maintain a written policy addressing disability-related accommodations. Youth and families should be notified of the opportunity to request an accommodation and the process through which to do so. A request for a disability-related accommodation or modification must be granted or must trigger an interactive process designed to meet the need and ensure full participation without imposing an undue burden on the facility or fundamentally altering the program. That process, and the outcome, should be documented.

## 5.5 Dress, Grooming, and Personal Hygiene

**ORS 169.760(6)** Juvenile detention facilities shall have established comprehensive written policies providing for the least restrictive alternative consistent with the safety and security of the facility with respect to dress and groom code which will allow for individual identity of detained juveniles.



**ORS 169.076(8)** Juvenile detention facilities shall ensure that the facility be clean, and provide each detainee materials to maintain personal hygiene, clean clothing twice weekly, mattresses and blankets that are clean and fire-retardant, and require each detainee to shower twice weekly.

### **Best Practices**

1. Youth wear shirts and sweatshirts and pants or sweatpants that are appropriate in size. Youth do not wear prison-like jumpsuits or smocks.
2. The facility provides youth with clean unstained underwear. The facility provides girls with bras and underwear that fit and are appropriate for females.
3. Transgender and gender non-conforming youth should be allowed clothing, undergarments, grooming items, gender affirming supports and other personal items that are consistent with the youth's gender identity. These are basic needs items and should not be considered privileges that can be taken away in a punitive manner. See Appendix X for a recommended list of acceptable personal items.
4. Youth receive outerwear that is appropriate to the season.
5. The facility has a policy and practice to allow youth to have personal items in their room based on behavior management system.
6. The facility provides adequate and culturally appropriate hair and skin care products, services and supplies for youth. Rules about hair and skin care are gender and culturally sensitive.
7. Youth have access to adequate personal hygiene and toiletry supplies including hygiene supplies specific for girls if girls are detained in the facility.

## **5.6 Freedom of Religious Expression**

**ORS 169.076(13), ORS 169.740(2)(h)** Juvenile detention facilities shall not restrict the free exercise of religion unless failure to impose the restriction will cause a threat to facility order or a threat of disorderly conduct within the facility.

### **Best Practices**

1. The facility permits youth to gather for religious services. Staff and individuals who provide religious programming do not compel youth to participate in religious activities, nor do they pressure youth to adopt a particular faith, religion or religious practice. Staff do not confine youth who decide not to participate in religious services to their rooms during that time, but allow youth to engage in some alternative recreational activity.
2. Youth have the opportunity to meet weekly with religious leaders of their choice.
3. Youth receive special diets to accommodate sincerely held religious and cultural beliefs.

4. Facility policy permit youth to have religious books and reading materials in their rooms. The facility provides equal access to all religious texts and items, including Native American spiritual items.
5. Staff do not restrict religious practices and materials absent a compelling governmental interest.
6. Youth may have access to weekly visits from a Native American cultural service provider.
7. Native American Youth may keep with them in their cells an eagle feather, bundle of sage or cedar with cloth used to keep these items.
8. Youth should have access to recognized ceremonies such as smudge, pipe and healing ceremonies and shall be conducted with Native American cultural service provider with the approval from facility administration.

See Appendix D for a sample Native American best practice in juvenile detention facilities.

## 5.7 Grievance Procedures

**ORS 169.760(9)** Juvenile detention facilities shall have established comprehensive written policies providing for the least restrictive alternative consistent with the safety and security of the facility with respect to access to records and grievance procedures for complaints by the detained juvenile.

**ORS 169.750(7)** Juvenile detention facilities may not discipline or punish any juvenile for conduct or behavior by room-lock, for a period in excess of 12 hours, or by denial of any privilege, regularly awarded other detained adults or juveniles, for more than one day, except after:

- (a) Advising the juvenile in writing of the alleged offensive conduct or behavior;
- (b) Providing the juvenile the opportunity to a hearing before a staff member who was not a witness to the alleged offensive conduct or behavior;
- (c) Providing the juvenile the opportunity to produce witnesses and evidence and to cross-examine witnesses;
- (d) Providing the detained juvenile the opportunity to testify, at the sole option of the juvenile; and
- (e) A finding that the alleged conduct or behavior was proven by a preponderance of the evidence and that it violated a rule of conduct or behavior of the facility as provided for in ORS 169.076.

The process to initiate a grievance or request a hearing to contest a disciplinary action shall be the same. The facility administrator shall review grievances each shift and determine whether hearing rights are triggered under ORS 169.750(7).

## **Best Practices**

Each facility shall maintain a written policy governing the grievance process.

1. Youth shall be notified about how to file a grievance during orientation and via a poster in a frequently utilized common area.
2. Family members shall be notified at first contact with the facility.
3. Grievances shall be accepted in writing or orally.
4. The facility may provide a form, but will not require a specific form, that can be filed anonymously or the individual can provide a name each grievance will be reviewed by the administrator.
5. Grievances will be triaged for urgency every shift. Grievances identified as urgent will be responded to by the administrator or designee within 12 hours. Non-urgent grievances will receive a response within three business days.
6. The administrator should offer an in-person or phone meeting as part of the resolution process, to which the youth or family may bring an appropriate advocate.

## **SECTION 6: BEHAVIOR MANAGEMENT SYSTEM**

Implementation and delivery of a positive approach across the spectrum of service delivery options. Practices should increase the frequency of positive behaviors to meet universal needs for safety, belonging, achievement, responsibility and empathy. Juvenile justice service providers must strive to train and provide supportive resources to better enable staff in applying practices that build youth strengths and increase long term positive change rather than through punishment and short-term compliance. Strategies should focus on creating a culture that reinforces positive behavior and uses problems as opportunities for learning and growth.

Programs need to recognize the strengths of stress adapted youth in order to turn trauma into resilience. Programs must have involved leaders who can assess the milieu, provide clear direction and expectations for staff in line with best practice, and reinforce the fidelity of programmatic implementation.

A youth handbook or information that contains all facility violations, ranges of penalties and disciplinary procedures is provided to each youth and staff member and is translated into those languages spoken by significant numbers of youths. Signed acknowledgment of receipt of the rule book is maintained in each youth's file. When a literacy or language problem prevents a youth from understanding the rule book, a staff member or translator assists the youth in understanding the rules.

## Best Practices

1. The facility has a system of positive behavior interventions and supports that provides a set of systemic and individualized strategies for achieving social and learning outcomes for youth while preventing problem behavior.
2. The system outlines expectations clearly and using specific examples of positive and negative behavior.
3. The system rewards youth for positive behavior with incentives that are meaningful enough to motivate youth.
4. Staff model positive behaviors and mentor and coach youth on demonstrating positive behaviors, focusing on building youth's sense of self-efficacy, self-concept and self-esteem.
5. Staff responses to negative behaviors are immediate, fair and proportionate to the behavior. Consequences related to negative behavior bear a relationship to the type of negative behavior demonstrated by the youth.
6. Staff use therapeutic approaches to respond to negative behaviors, not confrontational or antagonistic approaches. Staff respond to negative behavior with the goal of reducing anxiety and re-traumatization of youth.
7. Staff work with youth who demonstrate negative behaviors to understand why the problem behavior is occurring and to identify alternatives to those behaviors.
8. Staff explain the behavior management system to youth upon admission, both verbally and in writing, at a level that staff reasonably expect youth to understand.
9. Staff are trained in the use of the behavior management system and implement it fairly and consistently.
10. The culture of the institution emphasizes rewarding success in lieu of focusing on punishing failure.
11. The facility develops and implements written policies, procedures and actual practices that prohibit discrimination on the basis of disability in the provision of programs and services.
12. Youth with disabilities have an equal opportunity to participate in or benefit from all aspect of the facility's programs, activities and services.

### 6.1. Rules of Conduct

**ORS 169.076(12)** Juvenile detention facilities shall have and provide each detained youth with written rules for conduct and disciplinary procedures. If the juvenile cannot read or is unable to understand the written rules, the information shall be conveyed to the juvenile orally.

## Best Practices

Facilities will have written rules available for youth to access in various forms besides the orientation manual throughout the facility. Forms in their rooms, posters on the walls of the facility, videos or other forms for youth to access during their stay at the facility.

## 6.2 Accountability

**ORS 169.760(8)** Juvenile detention facilities shall have established comprehensive written policies providing for the least restrictive alternative consistent with the safety and security of the facility with respect to sanctions for violating rules of conduct made pursuant to ORS 169.076(12) and procedures for fact-finding and imposition of discipline or punishment.

**ORS 169.076(4)** Juvenile detention facilities shall not administer any physical punishment to any youth at any time.

**ORS 169.750(1)** Juvenile detention facilities may not impose upon a detained youth for purposes of discipline or any punishment infliction of or threat of physical injury or pain, deliberate humiliation, physical restraint, withholding of meals, or isolation.

**ORS 169.076(12)** Juvenile detention facilities shall have and provide each detained youth with written rules for conduct and disciplinary procedures. If the juvenile cannot read or is unable to understand the written rules, the information shall be conveyed to the juvenile orally.

## Best Practices

Due process is provided if a youth is deprived of a privilege. Due process requires the following:

- A written notice, which clearly, states the basis for the deprivation the opportunity for a hearing before a neutral third party;
- The hearing must be in-person, include a review of all relevant evidence (including reports and video footage, if available);
- The opportunity to examine witnesses;
- The opportunity for the youth to speak; and
- Must result in a written decision, which is provided to the youth.

1. The facility develops and implements written policies, procedures and actual practices to ensure that;
  - a. Facility staff receive regular training in conflict management, de-escalation of confrontations, crisis intervention techniques, management of assaultive behavior, minimizing trauma involved in the use of physical force and mechanical restraints and the facility's continuum of methods of control.

- b. Facility staff receive regular training on situations in which use of physical force or mechanical restraints is or is not justified, permitted methods of physical force and restraints, appropriate techniques for use of physical force and restraints and guidance to staff in deciding what level of physical force or restraints to use if that becomes necessary.
    - c. Staff follow a graduated set of interventions that avoid the use of physical force or mechanical restraints, employ a range of interventions or actions before using physical force or restraints and permit only the least restrictive measure in order to prevent physical harm to the youth or others.
    - d. Only staff specifically trained in the use of physical force and mechanical restraints are permitted to use such techniques or devices. Staff only use approved techniques or devices.
2. Written policies and procedures in the facility set forth the principles below for use of physical force and mechanical restraints;
  - a. Staff only use approved physical force techniques when a youth's behavior threatens imminent harm to the youth or others. Staff may use approved physical force techniques when a youth is engaging in property destruction that involves an imminent threat to the youth's safety or the safety of others.
  - b. Staff only use physical force or mechanical restraints by employing the least restrictive appropriate means and only for the amount of time necessary to bring the situation under control. As soon as a youth regains self-control, staff stop using physical force or mechanical restraints.
  - c. Staff never leave youth who are sleeping in restraints.
  - d. Staff never leave youth who are in restraints alone.
  - e. Staff never hogtie youth or place youth in restraints in other uncomfortable positions.
  - f. Staff never restrain youth to fixed objects, including beds or walls.
  - g. Staff never use physical force or mechanical restraints for punishment, discipline, retaliation or treatment.
3. Facility staff document all use of physical force or restraint incidents using the incident report form developed in JJIS.
4. Youth will see a qualified medical health professional post restraint to check for any injuries to youth, medical staff will document any observed injuries in writing and photographs.
5. Staff and youth involved in use of physical force or restraint incidents undergo a debriefing process with supervisory staff and qualified mental health professional to

explore what might have prevented the need for force or restraint and alternative ways of handling the situation.

6. Incident reports of physical force or restraint will be reviewed by the facility administrator, including the amount of time that youth are restrained and whether the youth had an identified mental health disorder or developmental or intellectual disability.

## SECTION 7: PERSONNEL

Facilities advocate for the implementation and delivery of a development approach across the spectrum of service delivery options. Developmentally appropriate practices should increase the frequency of positive behaviors to meet universal needs for safety, belonging, achievement, responsibility and empathy. Juvenile justice service providers must strive to train and provide supportive resources to better enable staff in applying practices that build youth strengths and increase long term positive change rather than through punishment and short-term compliance.

Strategies should focus on creating a culture that reinforces positive behavior and uses problems as opportunities for learning and growth.

Providing adequate funding to ensure quality training, appropriate staffing levels and access to best practice resources. These are essential in creating healthy environments in which all young people can thrive.

### 7.1 Staffing

Ensure a minimum ratio of one direct care staff to no more than eight (1:8) juveniles during waking hours, and a ratio of one direct care staff member to no more than sixteen (1:16) juveniles during sleeping hours, with a minimum of two direct care staff on duty at all times regardless of population. At least one direct care staff of the same gender as residents served shall be on duty at all times. Monitoring technology may be used as a supervisory enhancement but shall not be a substitute for direct supervision of youth.

**ORS 169.076** Juvenile detention facilities shall provide sufficient staff to perform all audio and visual functions involving security, control, custody and supervision of all confined detainees, with personal inspection at least once each hour. The supervision may include the use of electronic monitoring equipment when approved by the Department of Corrections and the governing body of the area in which the facility is located.

**PREA § 115.317 Hiring and promotion decisions.**

- a. The agency shall not hire or promote anyone who may have contact with residents, and shall not enlist the services of any contractor who may have contact with residents, who—
  - i. Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997);
  - ii. Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or
  - iii. Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (a)(2) of this section.
- b. The agency shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with residents.
- c. Before hiring new employees who may have contact with residents, the agency shall:
  - i. Perform a criminal background records check;
  - ii. Consult any child abuse registry maintained by the State or locality in which the employee would work; and
  - iii. Consistent with Federal, State, and local law, make its best effort to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.
- d. The agency shall also perform a criminal background records check, and consult applicable child abuse registries, before enlisting the services of any contractor who may have contact with residents.
- e. The agency shall either conduct criminal background records checks at least every five years of current employees and contractors who may have contact with residents or have in place a system for otherwise capturing such information for current employees.
- f. The agency shall also ask all applicants and employees who may have contact with residents directly about previous misconduct described in paragraph (a) of this section in written applications or interviews for hiring or promotions and in any interviews or written self-evaluations conducted as part of reviews of



current employees. The agency shall also impose upon employees a continuing affirmative duty to disclose any such misconduct.

- g. Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.
- h. Unless prohibited by law, the agency shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work.

### **Best Practices**

1. The facility hires staff to serve as positive role models for youth. Employees are qualified for their positions by education, experience, and ability to relate to young people, with minimum qualifications including 2 years of college, or a high school diploma or equivalent and 2 years' experience working with youth.
2. Written job descriptions and requirements exist for all positions in the facility.
3. The facility recruits and hires an ethnically and racially diverse staff and administrators to meet the needs of the facility.
4. The facility has policies which require employees to report/disclose any of the misconduct described in (7) above.
5. The recruitment, hiring process, and retention of employees is free of bias on the basis of protected class status.

See Appendix G for a sample PREA acknowledgement form.

## **7.2 Drug-Free Workplace**

### **Federal Guideline**

1988 Drug Free Workplace Act Juvenile detention facilities shall have written policy and procedure in keeping with requirements for a drug-free workplace for all employees, including:

- prohibition of the use of illegal drugs
- prohibition of possession of any illegal drug except in performance of official duties
- procedures to ensure compliance
- opportunities available for treatment and/or counseling for drug abuse
- penalties for violation of the policy

## **7.3 Training and Staff Development**

New employees receive orientation training before undertaking their first assignment alone. This training includes at a minimum the following: orientation to the purpose, goals, policies,

and procedures of the institution and parent agency; working conditions and regulations; employees' rights and responsibilities; first aid, CRR and emergency procedures; an overview of the corrections field; and cultural competency, diversity training, and gender-specific training.

**Oregon Juvenile Department Directors' Association (OJDDA) Policy on Detention Worker Training and Requirements for Certification for Juvenile Correctional Staff** Juvenile detention facilities shall provide minimum basic staff training and development as outlined in the policy approved by the Oregon Juvenile Department Directors' Association (OJDDA):

- Safety and Security
- Youth Movements
- Key Control
- Transports
- Emergency Evacuation
- Crisis Prevention/Intervention
- Use of Force
- Radio Communication
- Security Item Counts
- Searches (facility, youth)
- Contraband and Chain of Evidence
- Restraints

#### Facility Operations

- Physical plant orientation
- Control room procedures
- Court procedures and process
- Visitation routines and times
- Intake and release
- Daily youth routines
- Documentation and recording
- Shift observation

#### Introduction and Overview of the Juvenile Justice System

- Philosophy
- Mission and purposes
- Youth/Juvenile rights
- Department organizational structure

### Mandatory Training Topics

- Crisis Intervention/de-escalation
- Mental Health First Aid
- Cultural Competency and implicit bias
- Occupational Safety and Health Administration (OSHA)
- Prison Rape Elimination Act (PREA)
- First Aid and CPR
- Mandatory reporting of abuse
- Sexual harassment
- Juvenile Justice Information System (JJIS)
- Blood borne pathogens

### Medical and Mental Health

- Medical and mental health procedures
- Health screening
- Suicide prevention
- Medication administration
- Admission health screening
- Medical standing orders

### Professionalism and Ethics

- Boundaries
- Conduct
- Gender
- Workforce relationships
- Confidentiality
- Communication (partners, media, parents)

### Programming

- Behavior management system
- Facility specific programs

Requirements for certification for juvenile custodial staff by the Oregon Juvenile Department Directors' Association include:

- Education: minimum of a high school diploma or general equivalency diploma, with two years of higher education and/or relevant work experience, preferably in the field of juvenile justice or social service;
- Basic Facilities Training: successful completion of local Basic Facilities Detention/Custody training as approved by OJDDA;
- Current Employment: employed as a custodial staff by an Oregon juvenile department.

OJDDA policy for continuing training/education requirements to maintain certification: successful completion of 40 hours of continuing training/education within the 12-month period following the most recent certificate obtained.

### **Federal Guidelines**

**PREA Standards** Juvenile detention facilities shall train all employees on a resident's right to be free from sexual abuse, the right of residents and the employees to be free from retaliation for reporting sexual abuse, the dynamics of sexual abuse in confinement, and the common reactions of sexual abuse victims. The facility shall maintain written documentation verifying employees understanding of the training received.

**ORS 169.750(5)(b)** Juvenile detention facilities shall train nonmedical personnel (when applicable) on administering medications, including recognition of and response to drug reactions and unanticipated side effects, from the responsible physician or nurse and the official responsible for the facility. All personnel shall be responsible for administering medications according to orders and for recording the administrations in a manner approved by the responsible physician.

### **Best Practices**

1. Facility staff will complete 120 hours of training during their first year of employment and 40 hours of training per year beyond their annual certifications for things such as First Aid/CPR, Use of Force, Medication Dispensing, Break In Shifts, etc.
2. All facility staff working with youth will receive pre-service and annual training on recognition of behavioral and verbal cues indicating vulnerability to suicide and what to do in case of suicide attempts or suicides.
3. All facility staff who have contact with youth should also be trained in;
  - a. Adolescent development for girls and boys, including sexual health and sexual development.
  - b. The physical, sexual and emotional abuse histories of youth and how to understand post-traumatic stress reactions and effectively interact with youth with those histories and trauma related reactions.

- c. Impacts of trauma and exposure to severe violence, death, or life-threatening accidents or disasters on youth development. This includes the impact of incarceration and how to recognize and respond to youth whose behavior is affected by post-traumatic stress.
4. Facility staff, including but not limited to direct care staff, qualified medical professionals and qualified mental health professionals receive training on policies and practices regarding;
  - a. Basic rights of incarcerated youth, legal rights and grievance procedures and the right to be free of retaliation for making a complaint.
  - b. Working with specific populations.
  - c. Facilities non-discrimination policy and working with youth in a respectful and non-discriminatory manner.
  - d. Signs of physical, intellectual and developmental disabilities, the needs of youth with such disabilities and the ways to work and communicate effectively with youth with those disabilities.
  - e. Signs of mental illness and the needs of and ways of working with youth with mental illness.
  - f. The facility's language access policies and plans, including how to access language assistance services for limited English proficient youth.
  - g. Information on the racial and ethnic backgrounds of youth in custody and how to work with youth in a culturally responsive manner.
  - h. Gender-specific needs of youth in custody, including special considerations for boys and girls who have experienced trauma, pregnant girls and health protocols for both boys and girls.
  - i. How to work and communicate with LGBTQI+ youth as well as how to recognize, prevent and respond to harassment of LGBTQI+ youth. See Appendix Y for recommended training competencies.
5. Facility staff should be trained in positive behavior management, de-escalation techniques and conflict management.
6. Response to and reporting of child abuse, neglect and violation of staff responsibilities.
7. Sexual abuse and sexual harassment prevention, detection and response (PREA).
8. Medical and mental health needs of youth.
9. Treat and interact with youth in an ethnically and culturally responsive manner.

## SECTION 8: RECORDS AND INFORMATION SYSTEMS

The county operating the juvenile detention facility shall provide Juvenile Justice Information System (JJIS) data requirements as established by the JJIS steering committee and required by state law. Records of admission and release shall be made in the Juvenile Justice Information System (JJIS).

### 8.1 Youth Records

Facilities follow the “one youth, one record” system in Oregon through the Juvenile Justice Information System (JJIS). Youth records on admissions and releases is entered into JJIS.

#### Administrative Rule

**Oregon Juvenile Justice Information System (JJIS) Policy** Juvenile detention facilities shall maintain basic youth records in accord with the policies of the Oregon Juvenile Justice Information System (JJIS).

**ORS 419A.253, ORS 419A.255** Juvenile detention facilities shall have written policy, procedure, and practice in keeping with statutory requirements on youth records and confidentiality.

**ORS 419A.257, ORS 419A.014, JJDP Act** The juvenile department of a county shall report annually to the Oregon Criminal Justice Commission the frequency with which runaway children held under ORS 419C.156, youths, and youth offenders are held in pre-adjudicative detention and the duration of the detention.

#### Best Practices

The facility will implement appropriate controls on staffs’ dissemination within the facility of responses to information gathered during intake and classification in order to ensure that confidential information is only disclosed on a need to know basis and is not exploited to the youth’s detriment by staff or other youth.

Staff do not disclose confidential information on particular youth to other detained youth.

### 8.2 Information Systems

#### Administrative Rule

**JJIS Policies** Juvenile detention facilities shall enter and maintain data on admissions to detention in the Oregon Juvenile Justice Information System (JJIS) in accord with JJIS policies.

### 8.3 Release of Information

**ORS 169.760(4)** Juvenile detention facilities shall have established comprehensive written policies providing for the least restrictive alternative consistent with the safety and security of the facility with respect to access to the facility by the public and news media.

**ORS 419A.257** Reports and other materials relating to a child, ward, youth or youth offender's history and prognosis that are created or maintained by or on behalf of the Oregon Youth Authority or the juvenile department are privileged and, except with the consent of the child, ward, youth or youth offender or with the authorization of the court, shall be withheld from public inspection.

1. The Oregon Youth Authority and the juvenile department may disclose and provide copies of reports and other materials relating to the child, ward, youth or youth offender's history and prognosis, if the disclosure is reasonably necessary to perform official duties relating to the involvement of the child, ward, youth or youth offender with the juvenile court or the juvenile department, to the following:
  - a. Each other;
  - b. The court;
  - c. Service providers in the case;
  - d. School superintendents and their designees in cases under ORS 419C.005;
  - e. Attorneys of record for the child, ward, youth or youth offender;
  - f. Attorneys representing a party in the case;
  - g. The district attorney or assistant attorney general representing a party in the case;
  - h. The Department of Human Services;
  - i. The court appointed special advocate; and
  - j. The Psychiatric Security Review Board.
2. The Oregon Youth Authority and county juvenile departments established under ORS 419A.010 to 419A.020 may disclose and provide copies of reports and other materials relating to the child, ward, youth or youth offender's history and prognosis to the Department of Corrections for the purpose of enabling the Department of Corrections to perform its official duties relating to the exercise of custody or supervision of a person committed to the legal and physical custody of the Department of Corrections.
3. The Department of Corrections shall limit the use of reports and other materials disclosed and provided to the department under this section to reports and other materials that relate to the history and prognosis of a youth or youth offender as these pertain to:

- a. A person who was transferred to the physical custody of the authority under ORS 137.124 and is subsequently transferred to the physical custody of the Department of Corrections under ORS 137.124 or 420.011 or any other statute; or
  - b. A person committed to the legal and physical custody of the Department of Corrections while the person is under the jurisdiction of the juvenile court under ORS 419C.005, including but not limited to a person in the legal custody of the authority.
4. A person that obtains copies of reports or other materials under this section is responsible for preserving the confidentiality of the reports or other materials. A service provider, school superintendent or superintendent's designee who obtains copies of reports or other materials under this section shall destroy the copies upon the conclusion of involvement in the case.
5. Information appearing in reports or other materials relating to the child, ward, youth or youth offender's history or prognosis may not be disclosed directly or indirectly to any person not described in subsection (2) of this section unless the consent of the child, ward, youth or youth offender or the authorization of the court has been obtained, except for purposes of evaluating the child, ward, youth or youth offender's eligibility for special education as provided in ORS chapter 343.
6. Information appearing in reports or other materials may not be used in evidence in any proceeding to establish criminal or civil liability against the child, ward, youth or youth offender, whether the proceeding occurs after the child, ward, youth or youth offender has reached 18 years of age or otherwise, except for the following purposes:
  - a. In connection with a presentence investigation after guilt has been admitted or established in a criminal court.
  - b. In connection with a proceeding in another juvenile court concerning the child, ward, youth or youth offender or an appeal from an order or judgment of the juvenile court.
7. Information contained in reports and other materials relating to a child, ward, youth or youth offender's history and prognosis that, in the professional judgment of the Oregon Youth Authority, juvenile department, juvenile counselor, caseworker, school superintendent or superintendent's designee, teacher or detention worker to whom the information contained in the reports and other materials has been provided, indicates a clear and immediate danger to another person or to society, shall be disclosed to the appropriate authority and the person or entity that is in danger from the child, ward, youth or youth offender.



## Best Practices

1. Staff treat youth's case records, law enforcement records and social records as confidential. Staff do not disclose such records to any outside person or agency unless required by law.
2. Staff do not disclose information about youth to the media without the consent of the youth and his or her parent or guardian unless required by law or court order.
3. The facility maintains the security of documents in its possession that contain confidential youth information, including any information stored electronically.
4. The facility develops and implements written policies, procedures and actual practices to ensure that access to confidential information is limited to those staff with a demonstrable need to know, consistent with applicable state and federal laws.
5. Written policy, procedure and actual practices ensure that facility staff inform the youth and his or her attorney upon receipt of a subpoena or court order for the youth's records prior to disclosing the records.
6. Provide educational staff daily with information on youth to enable educational staff to enter students into the educational student information system.

## SECTION 9: HEALTH CARE

Facilities are to provide quality healthcare services for youth in custody. These services should identify and address the acute needs of each youth as well as provide appropriate preventative care during their temporary stay. Licensed professionals must provide healthcare services.

### 9.1 Access to Care

**ORS 169.076** Juvenile detention facilities shall have a comprehensive written policy with respect to:

- A detained juvenile's access to medical and dental treatment;
- Admission and release medical procedures; and
- Medication and prescriptions.

**ORS 169.760(3)** In addition, facilities shall provide for emergency medical and dental health, having written policies providing for:

- Licensed physician or nurse practitioner review of the facility's medical and dental plans.
- Security of medication and medical supplies. A medical and dental record system to include request for medical and dental attention, treatment prescribed, prescriptions, special diets and other services provided. First aid supplies and staff first aid training.

**ORS 169.150** Juvenile detention facilities shall have written policy regarding the statutory provision permitting the county to charge persons committed to the facility a reasonable health care fee for health care services, medications and equipment if the county: provides necessary medical care regardless of the person's ability to pay; provides equal treatment to all persons regardless of ability to pay; establishes a system that notifies the person of the fees and services covered; and establishes a grievance system that allows a person to challenge the deduction of a fee from the person's account.

**ORS 169.166** An individual who receives medical services not provided by the county while in custody of a juvenile detention facility is liable to the provider for charges, and to the local facility for the medical services not provided by the county. A person providing medical services not provided by the county to a detainee shall make reasonable efforts to collect the charges from the individual before seeking to collect them from the facility. If the provider has not been paid within 45 days of the date of billing, the provider may bill the facility who shall pay the account in accordance with 169.140 and 169.150. A bill submitted to the facility must be accompanied by evidence documenting that the provider has billed the individual or the individual's insurer or health care service contractor. If the provider receives payment from the individual or the insurer or health care contractor after receiving payment from the facility, the provider shall repay the amount to the facility less the difference between payment received from the individual, insurer, or health contractor and the billing amount.

### **Best Practices**

1. Staff or a qualified medical professional conducts a medical screening designed to detect any urgent health needs and to identify ongoing health concerns that require immediate attention. Qualified medical professionals conduct the screening in a confidential setting as close to admission as possible.
2. Staff or qualified medical professionals promptly refer youth to needed services.
3. Youth on prescription medications have their medications continued without interruption unless a qualified medical professional determines that continuing the medication is clinically inappropriate after consultations with the youth's treating physician and the parent and youth about the reasons that he or she believes that the medication may be inappropriate.
4. All youth receive a full health assessment no longer than 14 days after admission.
5. A registered nurse, nurse practitioner, physician's assistant, or physician performs the full health assessment, with physician co-signature as required by law. Female medical staff are present during the physical examination of a girl.
6. The facility has sufficient service hours of qualified medical professionals to meet the needs of youth in the facility, including scheduled on-site services. The facility has

designated areas and policies for separating youth from the general population for medical reasons.

7. Facility staff allow parents or guardians to visit youth who are hospitalized absent specific security reasons.
8. Youth receive comprehensive, evidence-based, medically accurate and confidential family planning services (including services pertaining to abortion, consistent with state law, including referrals to community providers.
9. Pregnant youth receive prompt prenatal care, including physical examinations, nutrition guidance, child birth and parenting education counseling and provision for follow up care.
10. Youth receive regular health education and training in self-care skills.
11. Transgender and gender non-conforming youth are provided with appropriate healthcare services from a provider familiar with working with transgender and gender non-conforming populations. See appendix for recommendations regarding appropriate gender-affirming healthcare.
12. Transgender and gender non-conforming youth who are receiving medical care related to gender transition upon admission shall have access to continued care while in the facility. Youth who request treatment for gender transition should receive access to appropriate treatment.

## 9.2 Mental Health Services

Facilities should ensure access to 24 hour crisis mental health services.

**ORS 169.740** Juvenile detention facilities shall provide for non-dispositional counseling of any juvenile held in excess of five judicial days.

### Best Practice

Qualified mental health professionals provide services for significant mental health needs discovered during the screening and assessment of youth and for youth with significant mental health needs that arise after admission. Services meet or exceed the community level of care and are tailored to be appropriate for the length of time the youth is expected to stay in the facility.

1. Youth identified as needing ongoing mental health services are provided access to qualified mental health professionals in accordance with a service plan.
2. Youth have 24-hour access to emergency mental health services and transportation to those services through on-site staff, by contract, or by way of other immediately available services.

3. The facility has sufficient service hours of qualified mental health professionals to meet the needs of youth in the facility in a timely fashion.
4. Qualified mental health professionals work with direct care staff and other non-clinical staff in the facility, providing guidance, insight and direction on managing the needs and understanding the behavior of youth with disabilities, post-traumatic stress, mental illness, or behavioral health disorders, on a need-to-know basis consistent with the requirement of patient-provider confidentiality.
5. Youth screened to be at risk of suicide receive prompt evaluation and frequent follow-up by a qualified mental health professional including a determination of whether hospitalization is necessary.
6. Staff document the monitoring of youth on suicide precautions in a suicide precaution log or some other centralized record.
7. Staff place actively suicidal youth on constant observation or contact mental health crisis services. Youth who are not actively suicidal but express suicidal ideation are placed on close observation.
8. Mental health professionals provide clear, current information about the status of youth on suicide precautions to staff supervising youth.
9. Restrictions related to suicide watch are determined by mental health staff, on a case by case basis, leaving open the possibility that youth may have access to regular clothing, bedding, reading, writing or drawing materials, if determined to be safe by mental health staff.
10. Only qualified mental health professionals release a youth from suicide precautions or lowers a youth's level of precautions. Youth are returned to normal activity as soon as it is possible and safe to do so.
11. Youth released from suicide precautions have an individualized plan of care developed by a qualified mental health professional that is followed by all staff who come into contact with the youth.
12. Staff notify parents or guardians and attorneys of record any time a youth is placed on constant observation as a suicide precaution within 24 hours of the youth being placed on constant observation.
13. Staff encourage youth on suicide precautions to visit with family members and other supportive individuals. Staff do not deprive youth on suicide precautions of visitation opportunities.
14. Rescue tools are available on each living unit. Staff can quickly access the rescue tool and are trained in its use.

### 9.3 Pharmaceuticals

**ORS 169.076(5)** Juvenile detention facilities shall have comprehensive written policy with respect to medication and prescriptions and the security of medication and medical supplies.

**ORS 169.750(5)(b)** Juvenile detention facilities may not administer to any detained juvenile medication, except upon the informed consent of the juvenile or in the case of an imminent threat to the life of the juvenile or where the juvenile has a contagious or communicable disease that poses an imminent threat to the health of other persons in the facility. However, prescription medication may not be administered except upon a written prescription or written order by a licensed physician or licensed dentist and administered by a licensed physician, licensed dentist or other medical personnel authorized by the State of Oregon under ORS chapter 677, 678 or 679 to administer medication. Facility staff not otherwise by law to administer medications may administer non-injectable medications in accordance with rules adopted by the Oregon State Board of Nursing pursuant to ORS 678.150(8).

**ORS 169.750(5)(b)** Juvenile detention facilities shall ensure that nonmedical personnel receive training for administering medications, including recognition of and response to drug reactions and unanticipated side effects, from the responsible physician or nurse and the official responsible for the facility. All personnel shall be responsible for administering the dosage medications according to orders and for recording the administrations of the dosage in a manner and on a form approved by the responsible physician.

Medication may not be administered unless a registered nurse or physician is either physically on the premises or readily available by telephone and within 30 minutes travel time of the patient;

Juvenile detention facilities may not administer to any detained juvenile any medication or medical procedure for purposes of experimentation.

#### Best Practices

1. Qualified medical or mental health professionals regularly monitor and document observations of youth on psychotropic or other regular medications.
2. Only such personnel as are authorized by state law and who have been properly trained administer medications to youth.
3. Staff administer medications under circumstances that protect the youth's medical confidentiality.
4. Youth have immediate access to necessary medications such as asthma inhalers and epinephrine auto injectors, if medically ordered.

5. The medical authority complies with state and federal regulations regarding procuring, prescribing, dispensing, administering and disposing of pharmaceuticals. The facility develops and implements written policies, procedures and actual practices to cover;
  - a) Development and regular updating of a list of drugs intended to be kept in stock on site for immediate use when needed.
  - b) Procurement, dispensing, distribution, account, administration and disposal of pharmaceuticals.
  - c) Maintenance of records needed to ensure control of and accountability for medications.
  - d) Secure storage of and accountability for DEA-controlled substances, needles, syringes and other abuseable items.
  - e) Methods for notifying the responsible practitioner of impending expiration of drug orders to facilitate review and continuity of medication.
  - f) Requirement of an order by an authorized professional for administration of medication.
  - g) Clear statement that drugs are not administered in the facility as a means of disciplinary control.
  - h) Maintenance of all medications under control of appropriate staff member except for self-medication programs approved by the responsible physician.
  - i) Elimination of outdated, discontinued, or recalled medications from drug storage and medication areas.
  - j) Continuity of medication when youth enter and leave the facility.
  - k) Psychiatrists/physician/psychiatric nurse practitioner evaluate youth who are prescribed psychotropic medications shortly after admission, after any change in psychotropic medications and at least every 30 days. Psychiatrists advise other service providers within the facility, as appropriate.
  - l) Staff store medications in proper environmental conditions with attention to safety and security. Staff store medications requiring refrigeration in a refrigerator dedicated solely to medication.
  - m) Qualified medical professionals maintain an adequate supply of easily accessible emergency medications (e.g., auto epinephrine injectors). Staff have easy access to information about what to do in case of overdoses or toxicological emergencies (e.g., the phone number for poison control).

#### **9.4 Medical and Dental Services**

**ORS 169.076(5)** Juvenile detention facilities shall provide for emergency medical and dental health, having written policies providing for:

- A licensed physician or nurse practitioner review of the facility's medical and dental plans.
- A medical and dental record system to include request for medical and dental attention, treatment prescribed, prescriptions, special diets and other services provided.

### **Best Practices**

1. Youth receive a dental screening by a trained oral health practitioner and a referral to a licensed dentist if needed within 30 days of admission unless the facility obtains information that the youth received a dental examination within the previous six months.
2. There is a responsible health authority accountable for health and mental health services pursuant to a contract or job description. If the health authority is not led by a physician, the health authority ensures that licensed medical professional make all clinical medical decisions.
3. The health authority develops, approves, reviews and revises at least annually, the written policies, procedures and actual practices regarding medical and mental health care to ensure compliance with federal and state law and generally accepted professional practices as well as to resolve any barriers at the facility that may impede access to care.
4. Written job descriptions define the duties and responsibilities of personnel providing health and mental health services in the facility.
5. Qualified medical and qualified mental health professionals are professionally licensed or certified as required by state law to perform the functions required in their respective positions.
6. The health authority and facility administrator approve a written plan for medical and mental health emergencies and review the plan at least annually.
7. All qualified medical and qualified mental health professionals who provide services at the detention facility receive continuing education of at least 12 hours annually in courses relevant to their positions (and as required by state law) and those with patient contact are current with CPR training.

## **9.5 First Aid**

**ORS 169.076(5)** Juvenile detention facilities shall have a comprehensive written policy with respect to first aid supplies and staff first aid training.

### **Best Practices**

1. First aid kits are immediately available and fully stocked with non-expired items.

2. The facility has an automated external defibrillator (AED) on site and staff trained to use it.
3. The facility has a plan for handling exposure to high-risk bodily fluids.
4. Staff properly store and secure potentially hazardous or flammable items.

## 9.6 Infectious Disease

**ORS 135.139, ORS 433.045, ORS 433.065, ORS 433.080, ORS 433.009** Juvenile detention facilities shall have written policy, procedure, and practice in keeping with statutes relating to HIV and infectious diseases. References to Oregon statutes are listed in the column to the right.

**ORS 169.076 (g)** Juvenile detention facilities shall have a comprehensive written policy with respect to vermin and communicable disease control.

### Best Practice

The facility employs Universal Safety Precautions to prevent the transmission of blood borne pathogens and pathogens from other bodily fluids.

## 9.7 Informed Consent

**ORS 169.750** Juvenile detention facility may not administer to any detained juvenile medication, except upon the informed consent of the juvenile or in the case of an imminent threat to the life of the juvenile or where the juvenile has a contagious or communicable disease that poses an imminent threat to the health of other persons in the facility.

Prescription medication may not be administered except upon a written prescription or written order by a licensed physician or licensed dentist and administered by a licensed physician, licensed dentist or other medical personnel authorized by the State of Oregon under ORS chapter 677, 678 or 679 to administer medication.

### Best Practice

Clinical staff discuss with youth the meaning of “informed consent” so they understand the agreement to undergo a treatment, examination, or procedure. They are aware of the consequences and risks; alternatives; and the prognosis if it is not undertaken.

## 9.8 Health Records

### Federal Guideline

**Health Insurance Portability and Accountability Act (HIPAA)** Juvenile detention facilities shall maintain the health records of detainees in accord with federal privacy and security rules as described in the Health Insurance Portability and Accountability Act of 1996 (HIPAA).



### **Best Practice**

All health related records are confidential and will not be released by facility staff unless the youth has signed a release of information and agrees to share the information with non-medical providers.

## **SECTION 10: FOOD SERVICES**

Meals are nutritionally balanced, well-planned, and prepared and served in a manner that meets established governmental health and safety codes.

The facility's system of dietary allowance is reviewed at least annually by a dietician or the health division to ensure compliance with nationally recommended food allowances.

### **10.1 Meals, Nutrition, and Special Diets**

**ORS 169.076(7)(b)** Juvenile detention facilities shall insure that detainees are fed daily at least three meals served at regular times, with no more than 14 hours between meals except when routinely absent from the facility for work or other purposes; and will be fed nutritionally adequate meals in accordance with a plan reviewed by a registered dietitian or the Oregon Health Authority.

**ORS 169.076(7)(c)** Juvenile detention facilities shall insure that confined detainees will be provided special diets as prescribed by the designated facility physician or nurse practitioner.

### **10.2 Food Health and Safety**

**ORS 169.076(7)(d)** Juvenile detention facilities shall insure that confined detainees shall have food procured, stored, prepared, distributed and served under sanitary conditions, as defined by the authority under ORS 624.041.

**ORS 624.041** Juvenile detention facilities shall have written policy, procedure, and practice in keeping with rules established by the Oregon Health Authority with respect to food services. The rules shall provide for, but need not be restricted to, the following:

1. A water supply adequate in quantity and safe for human consumption.
2. Disposal of sewage, refuse and other wastes in a manner that will not create a nuisance or a health hazard.
3. The cleanliness and accessibility of toilets and hand washing facilities.
4. The cleanliness of the premises.
5. The refrigeration of perishable foods.
6. The storage of food for protection against dust, dirt and contamination.
7. Equipment of proper construction and cleanliness of such equipment.

8. The control of insects and rodents.
9. The cleanliness and grooming of food workers.
10. Exclusion of unauthorized persons from food preparation and storage areas.
11. Review of proposed plans for the construction or remodeling of facilities subject to licensing under this chapter.

### **Best Practices**

1. Youth in the facility receive a wholesome, appetizing and nutritionally adequate diet. Youth have the opportunity to provide input into the menu and, where possible, food reflects the cultural backgrounds of youth.
2. If staff eat meals with youth, youth and staff receive the same meals. If staff bring in food to eat from outside of the facility, staff do not eat the food in front of youth.
3. The facility provides meals for youth with special dietary requirements (e.g., youth with allergies, pregnant girls, youth with dental problems and youth with religious beliefs that require adherence to religious dietary laws or special timing of meals).
4. Youth eat meals in a cafeteria or common area.
5. Youth have a reasonable time, no fewer than 20 minutes, for each meal.
6. Youth may talk during meals absent immediate and temporary safety or security reasons.
7. Staff do not withhold food for discipline. The facility does not serve deliberately unappetizing meals to youth.

## **SECTION 11: PHYSICAL PLANT**

### **11.1 Building and Fire Codes**

**ORS 419A.052 (1), ORS 169.076(11), ORS 169.077(7)** Juvenile detention facilities shall have written policy, procedure, and practice that conforms to applicable federal, state and/or local building codes and keep the facility safe and secure in accordance with the State of Oregon Structural Specialty Code and Fire and Life Safety Code.

Juvenile detention facilities shall conform to applicable federal, state and local safety codes. Suitable detention facilities must be of Class I construction and comply with the State of Oregon Structural Specialty Code and Fire and Life Safety Code. Facilities safe and secure in accordance with the State of Oregon Structural Specialty Code and Fire and Life Safety Code.

## **Best Practice**

The facility has an emergency preparedness plan that includes, but is not limited to, fire and fire prevention, severe weather, natural disasters, disturbances or riots, national security emergencies and medical emergencies.

## **11.2 Rated Capacity**

**ORS 169.042** Juvenile detention facilities shall have written policy in keeping with the statutory provision that the county court or board of commissioners of a county may institute an examination of the county's local juvenile detention facility for the purpose of obtaining a recommendation regarding the maximum number of detainees that should be held in the facility. This recommendation shall be based on consideration of the following:

1. The advice of the district attorney, county counsel and sheriff concerning prevailing constitutional standards relating to conditions of incarceration;
2. The design capacity of the facility;
3. The physical condition of the facility; and
4. The programs provided for detainees of the facility.

**ORS 419A.055** Juvenile detention facilities shall have written policy, procedure and practice consistent with the statutory requirement that the county court of any county may institute an examination of the county's detention facility and establish its capacity in accord with constitutional standards.

- A county court may adopt standards for releasing youths and youth offenders when the capacity of the detention facility is exceeded;
- If a county court issues an order establishing the capacity of the detention facility and that capacity is exceeded, the county court, through the juvenile department director of that county, may release a sufficient number of youths or youth offenders to reduce the population of the detention facility to the established capacity;
- The county court, through the juvenile department director, shall immediately notify the judge of the juvenile court of the county of the release.

## **11.3 Location**

**JJDP Section 223(a)12** Juvenile detention facilities must ensure the separation of youth from adult inmates by sight and sound.

See Appendix B for detailed information.

**ORS 169.740(2)(c)** Juvenile detention facilities shall provide for separation of detained juveniles from the sight and sound of detained adults. Juveniles may not be placed in facilities that are designated for isolation of adult prisoners in order to meet this standard.

**JJDP Section 1.303(e)(3)** A juvenile detention facility collocated with an adult facility in the same building or part of a related complex of buildings located on the same grounds must comply with the core requirements of the JJDP in the same way that juvenile detention facilities are required to comply. Four criteria must be met to ensure compliance of a detention facility collocated with an adult lockup:

- The facility must ensure separation between juveniles and adults so that there can be no sustained sight and sound contact – separation can be achieved architecturally or through time-phasing use of non-residential areas;
- The facility must have separate juvenile and adult program areas;
- The facility must separate staff for juvenile and adult populations; and
- The facility must meet the statutory standards established for review by the Department of Corrections.

See Appendix B for detailed information on the JJDP.

**ORS 419A.063** Juvenile detention facilities shall have written policy, procedure, and practice in keeping with the following statutory requirements:

- The juvenile court may not place a youth offender in a detention facility under ORS 419C.453 unless the facility houses youth in a room or ward screened from the sight and sound of adults, and is staffed by juvenile department employees; and
- In no case may the court order that a youth offender under 14 years of age be placed in any detention facility in which adults are detained or imprisoned.

#### **11.4 Sleeping Rooms and Dayrooms**

**ORS 419A.052** Juvenile detention facilities must be of Class I construction and comply with the State of Oregon Structural Specialty Code and Fire and Life Safety Code. New or major renovated facilities must also provide that any single sleeping rooms located therein are at least 70 square feet and that any dormitories located therein are at least 50 square feet per detainee and house no more than five detainees each;

In juvenile detention facilities, each sleeping room has at minimum the following facilities and conditions:

- (a) Sanitary drinking water in living units and dayrooms;

- (b) Toilets and washbasins accessible to detainees in all housing and activity areas;
- (c) At least one shower for every 10 detainees;
- (d) A heating system and all equipment required to ensure healthful and comfortable living and working conditions, and that maintains a temperature no lower than 64 degrees;
- (e) Lighting at 20 foot-candles density; and
- (f) Verbal or mechanical communications from sleeping rooms to staff.

New or major renovated facilities must conform to the requirements above and must also provide:

- (a) At least one toilet and washbasin for every five detainees;
- (b) Corridors of at least six feet in width;
- (c) Heating units capable of maintaining 68 to 85 degrees temperature;
- (d) Tamper-proof lighting with capability of 20 foot-candles;
- (e) Air circulation of 10 cubic feet of fresh air per minute per detainee;
- (f) Sleeping room water valves accessible for staff control;
- (g) Rooms provided for classes, library, arts and crafts; and
- (h) Indoor and outdoor recreation and exercise areas.

**ORS 419A.052(2)(d)** In juvenile detention facilities, dayrooms provide a minimum of thirty square feet of dayroom space per detainee.

### **Best Practices**

1. The lights in a youth's rooms are turned out at night (or adequately darkened for sleep), unless the youth requests otherwise, or for the individual security, health, or mental health reasons.
2. Dayroom and common areas used for recreation are adequately lit for activities conducted in the area.
3. Individual rooms have adequate lighting, sufficient for reading.
4. Youth are allowed an additional blanket if they report feeling cold.
5. Youth are allowed a space in their room to post appropriate pictures.
6. Absent a documented safety concern, youth may possess the following items in their rooms: writing and drawing utensils, and paper, more than one book, photos of loved ones, personal hygiene items, a stress ball, other safe and appropriate items approved by the facility (stuffed animal, crossword puzzles, etc.).

## **11.5 Housing for Youth with Physical Disabilities**

**Americans with Disabilities Act [Code of Federal Regulation, Chapter 28, Section 35]** Juvenile detention facilities shall have written policy, procedure, and practice complying with the

requirements of the American with Disabilities Act. The Code of Federal Regulations, Chapter 28, Section 35 sets forth requirements for services, programs, and activities provided or made available by state and local governments.

### **11.6 Classrooms and Activity Space**

**ORS 419A.052** New or major renovated facilities shall provide space for classes, library, arts, crafts, indoor and outdoor exercise areas. In addition, facilities must provide thirty square feet of dayroom space per detainee.

**ORS 169.740** Juvenile detention facilities shall provide for non-dispositional counseling and physical exercise of any juvenile held in excess of five judicial days and cause access to the juvenile held in excess of five judicial days for education pursuant to ORS 336.585.

### **11.7 Environment - Positive Facility Atmosphere**

#### **Best Practices**

1. All persons in the facility are treated with respect.
2. The facility develops and implements written policies, procedures and actual practices to prohibit use of slurs, name-calling and other disrespectful behavior by youth and staff. Implementation includes enforcement of these policies by administrators.
3. Staff demonstrate a consistent level of tolerance of normal adolescent behavior in their day-to-day work with youth.
4. The décor and programming acknowledge and value the diverse population and interests of youth in the facility.
5. Staff recognize and celebrate important holidays, birthdays and other dates of significance to youth.
6. Staff encourage, enable and expect youth to keep themselves, their rooms and communal areas clean. In order to achieve this, staff give youth opportunity to perform the kinds of housekeeping tasks they might be expected to do at home, but are not substitutes for professional janitorial staff.
7. Youth have adequate time to conduct appropriate hygiene practices.
8. Staff provide youth with the opportunity to groom themselves before court and other important events.
9. Staff provide youth with clean underclothing and socks daily. Staff provide youth with clean outer clothing, except footwear, not less than twice a week.
10. Staff provide clean bed linens at least once weekly, including two sheets, a pillow and a pillowcase, a mattress and sufficient blankets to provide reasonable comfort. Staff do not remove these items as a form of discipline.

## SECTION 12: DATA AND EVALUATION

Oregon's juvenile justice system believes in data driven decision making and is fortunate to have the Juvenile Justice Information System (JJIS) to be able to gather and evaluate a large amount of data for system improvement. Each detention facility will comply with collecting and entering required data points into JJIS. Each detention facility will be evaluated yearly using the Juvenile Detention Facilities Checklist along with other statutory inspections. Information will be provided to the YDC Juvenile Justice Subcommittee to compile a yearly compliance report on each facility and the trends in the State for the use of detention.

Detention Facilities compliance with;

1. Mandatory Standards (ORS)
2. Health Care Standards
3. Sanitation and Hygiene
4. Food Services
5. Safety and Emergency Procedures
6. Building and Safety Codes
7. Programs and Services
8. Safety and Security

## APPENDIX A

### Definitions

**“All services”** means the care and rehabilitation services provided to youth in the custody of a juvenile detention facility. It includes communication with the families or legal guardians of the youth.

**“Building codes”** are the federal, state, or local regulations that dictate the construction of a facility.

**“Collocated Detention Facility”** means a juvenile detention facility that is located in the same building as an adult jail or lockup or is part of a related complex of buildings located on the same grounds as an adult jail or lockup. A complex of buildings is considered related when it shares physical features such as walls and fences or services beyond mechanical services (heating, air conditioning, water and sewer) or beyond specialized services such as medical care, food service, laundry, maintenance and engineering.

**“Comprehensive search”** is an inspection that requires an individual to remove or arrange some or all clothing so as to permit a visual examination of the person’s entire body.

**“Committing authority”** is the juvenile court judge of the county where the youth was adjudicated.

**“Contraband”** is an item brought into a correctional facility which threatens the safety and security of that facility and poses a risk to both staff and youth. Examples include; Weapons, ammunition, drugs, cell phones, any item not allowed by the facility to be kept by a youth while in custody and other items which pose a risk to both staff and/or youth. [ORS 162.135]

**“Counselor”** means any probation counselor or officer as defined in Oregon statute. [ORS 419A.012]

**“Cultural competency”** means the acceptance that culture influences attitudes and behaviors. It involves the development of policies, structures, and practices that ensure equitable services for all participants.

**“Culture”** means integrated patterns of behavior that include the language, thoughts, communications, actions, customs, beliefs, values, and norms of racial, ethnic, religious, or social groups.



**“Dayroom”** is a room which is adjacent to a cell/detention room or cell/detention room cluster, and which is used as a dining, exercise or other activity room for detained youth.

**“Design capacity”** means the original architectural design capacity.

**“Developmental approach to juvenile justice”** means embracing policies and practices at every decision point that are informed by an understanding of adolescent development and the effects of juvenile justice interventions.

**“Director”** means the director of a juvenile department established under ORS 419A.010 to 419A.020 and 419A.050 to 419A.063.

**“Dormitory”** is a living unit designed to house no fewer than three and no more than 48 detainees. Dormitories include sleeping and dayroom areas.

**“Extended detention”** is a period of detention exceeding eight days, but not more than 30 days [ORS 419C.453].

**“Evidence-based practices”** as established by SB 267 for programs receiving state funding. Detention services under other funding are encouraged to implement best practices.

**“Facility administrator”** means any official, regardless of local title (e.g., juvenile department director, administrator, superintendent) who has the ultimate responsibility for the direction and policies of the facility.

**“Facility supervisor”** means the person who is responsible for the day-to-day operations of the facility.

**“Fire code”** is the Federal, state, or local regulations governing fire safety.

**“Four point restraint” or “four point position”** means the use of devices that restrict physical activity by securing both arms and legs.

**“Gender identity”** means an individual’s gender-related identity, appearance, expression or behavior, regardless of whether the identity, appearance, expression or behavior differs from that associated with the gender assigned to the individual at birth.

**“Gender-specific services”** means a model for services that comprehensively addresses the needs of a gender group and fosters positive gender identity development. The model intentionally allows gender to affect and guide services to be responsive to the unique developmental issues and needs of the females and males receiving services.

**“Gender non-conforming”** means a person whose gender identity cannot be categorized as solely male or female. This is not a synonym for transgender. The definition may also describe a person who identifies as gender non-binary or genderqueer.

**“Governing authority”** in public/governmental agencies, means the administrative department or division to which the agency reports; the policy-setting body. In private agencies, this shall be an administrative headquarters, central unit, or the board of directors or trustees.

**“Governing body”** at the county level is the Board of County Commissioners, and at the state level it is the Legislature.

**“Interstate Compact for Juveniles (ICJ)”** the agreement pertaining to the legally authorized transfer of supervision and care, as well as the return of juveniles from one state to another, which has been adopted by all states, and each has enacted legislation in substantially the same language. The agreement does not include or provide for the transfer of court jurisdiction from one state to another.

**“Inspection”** is an on-site assessment of existing conditions made to determine the facility’s compliance with O.R.S. Chapter 169, other O.R.S. statutes, and rules applicable to the facility’s classification.

**“Intersex”** means people who are intersex or have intersex conditions are born with external genitalia, internal reproductive organs, chromosome patterns, or endocrine systems that do not fit typical definitions of male or female.

**“Isolation”** means any time a youth is physically and/or socially isolated for punishment or for administrative purposes. (This intentionally excludes protective and medical isolation.) Holding a juvenile in any room which lacks toilet facilities, furniture, reading and recreation materials or access to light and air comparable to that in other rooms used for the detention of juveniles [ORS 169.730].

**“Juvenile court”** means the juvenile court having jurisdiction of juvenile matters in the several counties of this state.

**“Juvenile detention facility”** means a facility for the secure custody of delinquent youth accused of acts which if committed by adults would constitute crimes, or for youth held pursuant to judicial order or commitment, and which are established under the provisions of Oregon law. [ORS 419.A.004, ORS 419A.010, ORS 419A.050 to 419A.063, and ORS 420.855]

**“Language appropriate”** means written and oral communication provided in the primary language used by a youth and his or her family.

**“Living Unit”** is a group or cluster of single and/or multiple occupancy cells or detention rooms within a facility that houses youth offenders and is immediately adjacent and directly accessible to a day or activity room.

**“Major renovation”** is the restructure, or adding to any portion of a building which is designed and used for the confinement of youth that equals or exceeds 50 percent of the total value of that area, or equals or exceeds 50 percent of the total square feet of space (Source: Corrections Division).

**“New construction”** is any facility to be built or the addition to an existing facility which purpose is for the confinement of adults or youth (Source: Corrections Division).

**“Non-Offender”** is a juvenile who is subject to the jurisdiction of the juvenile court, usually under abuse, dependency, or neglect statutes, or mental health issues, but not a delinquent act.

**“Pat Down Search”** is an inspection by running the hands over the clothed body of an individual by a trained staff member to determine whether he or she possesses contraband.

**“Professional services”** are services necessary to meet the identified needs of youths. Such services shall include individual and family counseling, family planning and parent education, and programs for youths with drug and alcohol addiction problems.

**“Rated capacity”** means the original architectural capacity plus or minus capacity changes resulting from building additions, reductions, or revisions.

**“Restraints”** mean devices used to restrict physical activity. Handcuffs, leg irons, restraint chairs and straight jackets are typically classified as restraints.

**“Resident district”** means the school district in which the parents or legal guardian, if any, of the youth resided in at the time of placement. If the youth has no parents or legal guardian, or none can be located, the resident district shall be the school district in which the child is physically located. (ORS 336.585)

**“Room-lock”** means confinement of a juvenile in any sleeping room, other than an isolation room, except during regular sleeping periods; except that, in the case of facilities serving counties with a population of less than 70,000 based on the 1980 census, “room lock” does not

include confining a juvenile in a sleeping room when all detained juveniles of the same sex are similarly confined due solely to the limitations of physical facilities or staff. [ORS169.740]

**“Shelter care”** means a home or other facility suitable for the safekeeping of a child who is taken into temporary custody pending investigation and disposition where the circumstances are such that the child does not need to be kept in secure custody.

**“Short-term detention facility”** means a facility established under ORS 419A.050 (3) for holding youths pending further placement. A short-term detention facility may house up to five youths or youths in transit for a period not to exceed four continuous days pending further placement, and are subject to the same standards and specifications found in ORS 169.740 and 419A.052.

**“Sight and Sound Contact”** means any physical or sustained sight and sound contact between juvenile offenders in a secure custody status and incarcerated adults, including inmate trustees. Sight contact is defined as clear visual contact between incarcerated adults and juveniles within close proximity to each other. Sound contact is defined as direct oral communication between incarcerated adults and juvenile offenders.

**“Status Offender”** is a juvenile who has been charged with, or adjudicated for, conduct that would not be criminal if committed by an adult. Examples include: running away, underage possession of alcohol or tobacco, curfew violation, and truancy.

**“Supervising authority”** is the agency or department in the original county where the youth was adjudicated, or the department to which the case has been transferred.

**“Training”** is an organized, planned, and evaluated activity designed to achieve specific learning objectives. Training may occur on-site, at an academy or training center, at an institution of higher learning, through contract services, at professional meetings, or through supervised on-the-job learning. Meetings of professional associates are considered training when there is clear evidence of the above.

**“Transgender”** means any person whose gender identity or gender expression is different from the cultural expectations based on assigned sex.

**“Unit”** is a group or cluster of single and/or multiple occupancy cells or detention rooms within the detention facility that houses youth and is immediately adjacent and directly accessible to a day or activity room.

**“Voluntary time-out”** is a brief period of time in a youth’s room or other space at the request of the youth.

**“Youth care center” or “center”** means a facility established and operated by a public or private agency or a combination thereof, primarily to provide care and rehabilitation services for youths committed to the custody of the youth care center by the juvenile court or placed by the youth authority. “Youth care center” or “center” does not include detention facilities established under ORS 419A.050 to 419A.057 except that when a county operates a combined facility to provide both care and rehabilitation services under ORS 420.855 to 420.885, and detention facilities, the combined facility shall be considered a “youth care center” to the extent that it is used to provide the care and rehabilitation services for youth not in detention.

**“Youth offender”** means a person who has been found to be within the jurisdiction of the juvenile court under ORS 419C.005 for an act committed when the person was under 18 years of age.

**“Youth”** means a person under 18 years of age who is alleged to have committed an act that is a violation, or, if done by an adult would constitute a violation, of a law or ordinance of the United States or a state, county or city.

## APPENDIX B

### JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT SUMMARY

Detention facilities shall be administered in compliance with the requirements of the federal Juvenile Justice and Delinquency Prevention Act of 2002, implementing regulations into policies.

#### **Federal Rules and Regulations**

Deinstitutionalization of Status Offenders (DSO), Sight and Sound Separation, and Disproportionate Minority Contact (DMC) are the core protection requirements that apply to juvenile detention centers. The Jail Removal requirement is not applicable as juvenile offenders may be held in or sentenced to juvenile detention facilities for longer than six hours.

#### **Section 223(a)11**

##### **Deinstitutionalization of Status Offenders (DSO)**

The JJDP Act states that status offenders and non-offenders may not be housed in secure facilities for their offenses at any time – minus some exceptions. Additionally, accused status offenders who fail to appear for court hearings must remain status offenders and cannot be upgraded to delinquent offenders for their failure to appear.

The following are exceptions which apply to juvenile detention centers:

##### **Youth Handgun Safety Act Possession Exemption**

The Youth Handgun Safety Act (18 U.S.C. 922(x)) prohibits possession of a handgun by a minor under the age of 18. There are exceptions to this Act such as using a handgun in a gun safety course or hunting under the supervision of an adult. Because the Youth Handgun Safety Act applies only to juveniles and handgun possession, it fits the definition of a status offense since, in most cases, it would not be a crime if committed by an adult. However, the Violent Crime Control and Law Enforcement Act of 1994, Subtitle B, Youth Handgun Safety, amended the JJDP Act to provide that juveniles who violate U.S.C. Title 18, Section 922(x), or a similar state law can be placed in secure detention or correctional facilities without violating the DSO requirement. Youth held in juvenile detention or correctional facilities solely for possession of a handgun are exempt from violation; however, the JJDP compliance monitor must capture that information yearly for OJJDP.

##### **Out of State Runaways (ICJ) Exemption**

When youth are identified as residing outside of Oregon, it is important to communicate immediately with the Oregon ICJ office so the Oregon ICJ staff can determine whether a youth's

situation qualifies as an ICJ matter. Out-of-state runaways may be held securely until their safe return to the home state. The agency has written policy, procedure and documentation regarding detention admissions as it relates to out-of-state runaways, including notification of a home state for safe return. Out-of-state runaways held pursuant to the Interstate Compact on Juveniles enacted by the state are excluded from the DSO requirements and may be held until they can be safely returned to the home state. Other out-of-state runaways securely held beyond 24 hours solely for the purpose of being returned to proper custody in another state in response to a want, warrant, or request from a jurisdiction in the other state or pursuant to a court order must be reported as violations of the DSO requirement. Juveniles held pursuant to the ICJ enacted by the state are excluded from the DSO requirements in total. The JJDPA compliance monitor must verify that out of state runaways being held in juvenile detention centers are being held pursuant to the Interstate Compact on Youth. Written notification of compliance is available through the Oregon ICJ office.

## APPENDIX C

### VALID COURT ORDER – STATUTORY EXCEPTION

[Applies to adjudicated status offenders only]

In 1980, Congress enacted a provision intended to address concerns that the DSO core requirement deprived juvenile court judges of a significant option in handling chronic status offenders who were not willing to comply with court orders. This provision was meant to be applied sparingly to the small number of status offenders that continually flout the will of the court and have exhausted all non-secure civil sanctions available. The provision provides that adjudicated status offenders found to have violated a Valid Court Order (VCO) may be sentenced to juvenile detention as a civil penalty for contempt of court.

- Adjudicated status or non-offenders cannot be held in juvenile detention centers unless all of the conditions of the Valid Court Order are met.

For the purpose of determining whether a VCO exists and a juvenile has been found in violation of that order, all of the following conditions must be present prior to secure incarceration:

- A. The receiving facility must first be approved to utilize the Valid Court Order (VCO) process by the Youth Development Council.
- B. The juvenile must be brought before a court of competent jurisdiction and made subject to an order issued pursuant to proper authority. The order must be one which regulates future conduct of the juvenile. Prior to issuance of the order, the juvenile must have received the full due process rights guaranteed by the Constitution of the United States.
- C. The court must have entered a judgment and/or remedy in accord with established legal principles based on the facts after a hearing which observes proper procedures.
- D. The juvenile must have received adequate and fair warning of the consequences of violation of the order at the time it was issued and such warning must be provided to the juvenile and to the juvenile's attorney and/or legal guardian in writing and be reflected in the court record and proceedings.
- E. All judicial proceedings related to an alleged violation of a valid court order must be held before a court of competent jurisdiction. For protective purposes or to assure appearance at the violation hearing, a juvenile accused of violating a valid court order may be held in secure detention no longer than 72 hours, exclusive of non-judicial days. However, there must be a judicial determination based on a hearing during the initial 24- hour grace period, permitted for a noncriminal juvenile offender under OJJDP monitoring policy, that there is probable cause to believe the juvenile violated the court



order. A juvenile alleged or found in a violation hearing to have violated a valid court order may be held only in a secure juvenile detention and not in an adult jail or lockup.

- F. Prior to and during the violation hearing, the following due process rights must be provided:
- The right to have the charges against the juvenile in writing served upon the juvenile in a reasonable time before the hearing;
  - The right to a hearing before the court;
  - The right to an explanation of the nature and consequences of the proceeding;
  - The right to legal counsel, and the right to have such counsel appointed by the court if indigent;
  - The right to confront witnesses;
  - The right to present witnesses;
  - The right to have a transcript of the proceedings; and
  - The right of appeal to an appropriate court.
- G. In entering any order that directs or authorizes the placement of a status offender in a secure facility, the judge presiding over an initial probable cause hearing or violation hearing must determine that all the elements of a valid court order and the applicable due process rights were afforded the juvenile and, in the case of a violation hearing, the judge must obtain and review a written report that: reviews the behavior of the juvenile and the circumstances under which the juvenile was brought before the court and made subject to such order; determines the reasons for the juvenile's behavior; and determines whether all dispositions other than secure confinement have been exhausted or are clearly inappropriate. This report must be prepared and submitted by an appropriate public agency (other than a court or law enforcement agency).
- H. A non-offender such as a dependent and neglected child cannot be placed in a secure detention facility for violating a valid court order.

The presence of all of the above elements must be verified by the Compliance Monitor before the event qualifies as a Valid Court Order exception. If all are not present, the detention constitutes a violation.

## APPENDIX D

### PROCEDURE REGARDING NATIVE AMERICAN CEREMONIAL ITEMS AND CEREMONIES WITHIN A COUNTY JUVENILE FACILITY

The County Juvenile Department will provide youth the opportunity to freely exercise their religion. The County Juvenile Department will provide reasonable accommodations to ceremonial providers and participants to hold ceremonial activities as long as, such exercise and accommodation pose no threat to the youth, security of the facility, or other youth in the residence.

#### Best Practices

1. Youth may keep with them in their rooms an eagle or other ceremonial feather, a small bundle of sage or cedar and the cloth to store these items in. These items are to remain in their rooms except for using during approved visit from Native American Cultural Service Provider.
2. An approved Native American Cultural Service Provider may schedule a ceremony once a week for a maximum of one hour. These ceremonies may include, but are not limited to pipe and smudge ceremonies. This ceremony should be held Monday through Friday, excluding weekends and legal holidays. Visits from Native American Cultural Service Provider may be scheduled upon 24 hour notice and approval of the facility supervisor.
3. At no time may any burning of materials be allowed inside the facility. This is due to state and local fire regulations and laws governing the operation of detention facilities and public buildings. Any burning of materials for ceremonial purpose may be conducted outside in the recreation area upon approval of facility supervisor.
4. All participants shall be subject to the facilities rules regarding visitation and search of any materials brought into the facility. Staff shall be considerate of the sensitivity of the ceremonial materials being searched. Each youth will be searched along with personal items concluding each visit.
5. Each participant shall sign the visiting form stating they understand and will comply with the visiting rules.
6. The facility supervisor or designee shall review each youth request in seeking religious and cultural services.
7. Any misuse of ceremonial items or disruptive behavior during a ceremonial visit as defined by the facility supervisor or designee, will result in corrective actions and review of incident.

# APPENDIX E

## MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (“MOU) is between the State of Oregon acting by and through its Department of Education (“Agency”) and --- County, acting by and through its Juvenile Department (“COUNTY-JD”), each a “Party” and, together, the “Parties”. The Oregon Department of Education enters into Grant Agreements with School Districts (“SD”) or Education Service Districts (“ESD”) to provide the educational services within the county juvenile detention facility. The SDs or ESDs will be referenced as (“Educational Grantee.”)

### SECTION 1: BACKGROUND AND PURPOSE

ORS 336.585 provides that Agency is responsible for providing educational services to detained youth through the Juvenile Detention Education Program (“JDEP”).

COUNTY-JD operates a juvenile detention facility housing youth who are in the JDEP.

Per ORS 326.712, Agency contracts with School Districts (“SD”) and Education Service Districts (“ESD”) to provide teachers, counselors, and other personnel for the JDEP.

The purpose of this MOU is to outline the Parties' roles and responsibilities with regard to the education of youth in custody at the --- County Juvenile Detention Facility, and to provide a framework for ongoing communication and cooperation between the Parties.

### SECTION 2: EFFECTIVE DATE AND DURATION

This MOU is effective on \_\_\_\_\_ (“Effective Date”), and terminates on \_\_\_\_\_, unless terminated earlier in accordance with Section 16.

### SECTION 3: AUTHORIZED REPRESENTATIVES

#### 3.1 Agency’s Authorized Representative is:

Sam Ko, M.Ed., Education Specialist  
Oregon Department of Education  
Office of Student Services, Education Programs & Assessment  
255 Capitol Street NE  
Salem, OR 97310  
(503) 947-5745 (Office)

#### 3.2 COUNTY-JD’s Authorized Representative is:

NAME  
-- County Juvenile Department

Address  
City, State, Zip Code  
(503) 373-3796 (Fax)  
PHONE (Office)  
EMAIL

**3.3** A Party may designate a new Authorized Representative by written notice to the other Party.

#### **SECTION 4: ROLES AND RESPONSIBILITIES OF THE PARTIES**

The Parties' roles and responsibilities are described in Exhibit A (Roles and Responsibilities).

#### **SECTION 5: FUNDING**

This MOU does not include any exchange of funds between the Parties.

#### **SECTION 6: TERMINATION**

**6.1** This MOU may be terminated at any time by mutual written consent of the Parties.

**6.2** Agency may terminate this MOU as follows:

**6.2.1** Upon 30 days advance written notice to COUNTY-JD;

**6.2.2** Immediately upon written notice to COUNTY-JD, if Agency fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient in Agency's reasonable administrative discretion, to perform its obligations under this MOU;

**6.2.3** Immediately upon written notice to COUNTY-JD, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that Agency's performance under this MOU is prohibited or Agency is prohibited from paying for such performance from the planned funding source; or

**6.2.4** As otherwise expressly provided in this MOU.

**6.3** COUNTY-JD may terminate this MOU as follows:

**6.3.1** Upon 30 days advance written notice to Agency;

**6.3.2** Immediately upon written notice to Agency, if COUNTY-JD fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient in COUNTY-JD's reasonable administrative discretion, to perform its obligations under this MOU;

**6.3.3** Immediately upon written notice to Agency, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that COUNTY-JD's performance under this MOU is prohibited or COUNTY-JD is prohibited from paying for such performance from the planned funding source; or

**6.3.4** As otherwise expressly provided in this MOU.

## **SECTION 7: NONAPPROPRIATION**

Agency's obligation to pay any amounts and otherwise perform its duties under this MOU is conditioned upon Agency receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow Agency, in the exercise of its reasonable administrative discretion, to meet its obligations under this MOU. Nothing in this MOU may be construed as permitting any violation of Article XI, section 7 of the Oregon Constitution or any other law limiting the activities, liabilities or monetary obligations of Agency.

## **SECTION 8: AMENDMENTS**

The terms of this MOU may not be altered, modified, supplemented or otherwise amended, except by written agreement of the Parties.

## **SECTION 9: NOTICE**

Except as otherwise expressly provided in this MOU, any notices to be given relating to this MOU must be given in writing by facsimile, email, personal delivery, or postage prepaid mail, to a Party's Authorized Representative at the physical address, fax number or email address set forth in this MOU, or to such other addresses as either Party may indicate pursuant to this Section 9. Any notice so addressed and mailed becomes effective five days after mailing. Any notice given by personal delivery becomes effective when actually delivered. Any notice given by email becomes effective upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system. Any notice given by facsimile becomes effective upon electronic confirmation of successful transmission to the designated fax number.

## **SECTION 10: INDEPENDENT CONTRACTORS**

The Parties agree and acknowledge that their relationship is that of independent contracting parties and that COUNTY-JD is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.

## **SECTION 11: ASSIGNMENT AND SUCCESSORS IN INTEREST**

Neither Party may assign or transfer its interest in this MOU without the prior written consent of the other Party and any attempt by either Party to assign or transfer its interest in this MOU

without such consent will be void and of no force or effect. No such consent relieves either Party of its responsibility to fulfill the roles and responsibilities described in this MOU.

**SECTION 12: CONTRACTS**

Agency will contract with Willamette ESD (the “Educational Grantee”) or another entity to provide teachers, counselors, and other personnel for the JDEP pursuant to ORS 326.712. Agency is solely responsible for the selection of the Educational Grantee but will invite COUNTY-JD to have a representative serve on the evaluation committee that selects the Educational Grantee. Agency shall require Educational Grantee to comply with all provisions of this MOU and applicable laws.

**SECTION 13: SPECIAL REQUIREMENTS**

The Parties shall comply with the special requirements set forth in Exhibit B, attached hereto and incorporated herein by this reference.

**SECTION 14: MOU DOCUMENTS**

This MOU consists of the following documents, which are listed in descending order of precedence: this MOU less all exhibits, attached Exhibit A (Roles and Responsibilities) and Exhibit B (Special Requirements).

**SECTION 15: SIGNATURES**

IN WITNESS WHEREOF, the Parties have executed this MOU as of the dates set forth below.

STATE OF OREGON, acting by and through its Department of Education

\_\_\_\_\_  
Authorized Signature Date

\_\_\_\_\_  
Printed Name, Title

COUNTY, acting by and through its Juvenile Department

\_\_\_\_\_  
Authorized Signature Date

\_\_\_\_\_  
Printed Name, Title

EXHIBIT A

## **ROLES AND RESPONSIBILITIES**

### **Part 1 – Definitions**

**Education Service District (“ESD”)** means a district created under ORS 334.010 that provides regional education services to component school districts. Agency contracts with ESDs to provide education to youth housed in juvenile detention facilities.

**Juvenile Detention Education Program (“JDEP”)** means the provision of educational services to youths lodged overnight who receive educational services on consecutive days within a detention facility.

**School District (“SD”)** means a common or union high school district (reference ORS 332.002).

**Student** means youth lodged overnight who receive educational services on consecutive days in a juvenile detention facility and youth placed in youth care centers in a detention facility (reference ORS 326.695).

### **Part 2 – Agency’s Roles and Responsibilities**

Agency’s roles and responsibilities are described below. For purposes of this Exhibit A, “Agency” may mean the Agency, Oregon Department of Education. The Agency will ensure that the Educational Grantee will fulfill the components of this MOU.

1. Be responsible for the development, delivery, and funding of the JDEP within the --- County Juvenile Detention Facility.
  - a. To the extent possible, Agency and Educational Grantee will consider concerns and recommendations from Students’ parents, probation officers, mental health counselors, educational advocates, attorneys, detention staff and COUNTY-JD when developing JDEPs and contracting for services.
  - b. The Educational Grantee will ensure all supplemental media materials conform to COUNTY-JD policies.
  - c. Agency will ensure the Educational Grantee adheres to OAR 581-015-2590 regarding the minimum number of instruction days and times.
2. Educational Grantee will ensure each Student is assessed for achievement level in math and reading within one week after arrival in the JDEP, and record scores in the Agency-provided student information system.
3. The Educational Grantee will deliver written notice to COUNTY-JD prior to providing any learning activities dealing with violence, suicide, or sexual content.

- a. COUNTY-JD has the right to excuse Students from such learning activities if COUNTY-JD determines the learning activities could be detrimental to the Student or their treatment.
4. The Educational Grantee will provide educational materials and supports to any Student who has been removed from the classroom setting for any reason, including disruptive or unsafe behavior.
5. The Educational Grantee will notify COUNTY-JD as soon as possible of any cancellation of educational services due to inclement weather.
6. The Educational Grantee will allow Students' release from school to assess and treat medical and mental health needs, complete court-required assessments and evaluations, and to attend court proceedings to expedite the Student's potential release from detention and for the general well-being of the Student.
7. The Educational Grantee will comply with COUNTY-JD's safety and security protocols and standards and report safety concerns to COUNTY-JD.
  - a. COUNTY-JD has the right to search classrooms for contraband and unsafe items.
  - b. Educational Grantee personnel may not restrain any Student.
  - c. Educational Grantee personnel must be present in the vicinity of the classroom at all times and shall respond in the event of a serious acting out behavior that compromises the safety of the Student, other Students, or Educational Grantee staff.
  - d. Educational Grantee will ensure all educational staff participate in COUNTY-JD-provided training described in this MOU.
8. Educational Grantee will ensure background checks are performed on all education staff who will enter the detention facility or have direct contact with Students.
  - a. Background checks must include criminal history and child abuse registry checks.
  - b. Background checks must be completed prior to facility or Student access and must be updated at least once per year.
  - c. Educational Grantee will notify COUNTY-JD of any potential or current employee who is the subject of a criminal investigation or who has a criminal history.
  - d. COUNTY-JD has the right to restrict or deny access for any individual and shall inform Agency and Educational Grantee of the basis for any restriction as soon as possible.
9. Employees of Educational Grantee are mandatory reporters of child abuse and follow and comply with ORS 419B.010 as well as reporting suspected abuse to COUNTY-JD
  - a. Educational Grantee will also notify COUNTY-JD of suspected abuse of Students 18 years old and older who are not subject to mandatory reporting laws because of their age.



- b. Educational Grantee will document all reports and notifications made under this section.
10. Educational Grantee with COUNTY-JD’s electronic network and wireless usage rules and requirements.
- a. Educational Grantee will supervise Students’ Internet usage, when usage is needed to meet educational needs and approved by COUNTY-JD.
  - b. Educational Grantee will notify COUNTY-JD if Student usage is outside the scope approved for education.
  - c. Educational Grantee will make every effort to prevent the posting of Students’ personal information on the Internet and will notify COUNTY-JD if this inadvertently occurs.
  - d. Educational Grantee will abide by all JJIS policies and will sign and provide to COUNTY-JD, applicable confidentiality forms.
11. Educational Grantee will notify COUNTY-JD of any need for maintenance or repair.

### **Part 3 – COUNTY-JD’s Roles and Responsibilities**

COUNTY-JD’s roles and responsibilities are described below. For purposes of this Exhibit A, “Agency” may mean the Agency, the Educational Grantee, or both (as determined by Agency).

1. Ensure every Student has access to education.
  - a. Students must be available for school attendance no later than the next day following the Student’s arrival in detention.
  - b. COUNTY-JD will notify Educational Grantee when a new Student will be attending class.
  - c. No Student may be suspended or expelled by COUNTY-JD or Educational Grantee.
  - d. In lieu of suspension or expulsion, COUNTY-JD will work cooperatively with Educational Grantee to develop alternative educational arrangements for Students whose behavior jeopardizes safety, security or others’ learning opportunities.
  - e. In all instances, COUNTY-JD will provide supervision and security services.
2. Provide space within its detention facility for Educational Grantee’s administration and delivery of education services to detained youth.
3. Notify Agency and Educational Grantee in writing of any planned population or facility changes that would significantly increase or decrease the Student population (e.g. opening or closing a unit, construction, etc.).

4. Provide Agency and Educational Grantee with JJIS access assist with registering Students in the educational student information system so as to be eligible for state and federal funding.
5. Maintain ownership of and primary responsibility for safety, security, and maintenance of the detention facility.
  - a. COUNTY-JD will provide Educational Grantee with no-cost training about the protocols and standards for safety and security practices, including security training, orientation, and online training modules.
6. Develop and make available to Educational Grantee, written procedures surrounding facility use.
  - a. Procedures will discuss scheduling and access protocols; inventory requirements, limitations and protocols; repair and maintenance requests; etc.
  - b. Procedures must be agreeable to Educational Grantee.

#### **Part 4 – Joint Roles and Responsibilities**

The Parties will work collaboratively and jointly to improve the JDEP in the following ways:

1. Comply with all applicable laws, Oregon Administrative Rules, and Agency and COUNTY-JD's regulations, and policies.
2. Ensure safe classroom operations. This may include:
  - a. COUNTY-JD monitoring classroom activities to identify unsafe practices;
  - b. COUNTY-JD notifying Agency and Educational Grantee of safety and security concerns that may impact educational staff; and
  - c. Notification by COUNTY-JD to Agency and Educational Grantee of any need to cancel or reconfigure the delivery of educational services.
3. Establish Internet filtering guidelines and security protocols for Educational Grantee personnel and students.
4. Work collaboratively to ensure Educational Grantee's staff are current on all applicable policies and procedures.
5. Ensure students' uninterrupted access to education.
  - a. Develop an orientation process for new Students that discusses classroom rules and expectations.
  - b. Develop a long-term policy and methodology for dealing with students whose behavior jeopardizes safety, security, or others' learning opportunities. The policy will include the process for creating individualized plans that allow students to return to the classroom as soon as it is feasible.
  - c. Notify the other Party if a policy or procedure change will impact the JDEP.

- d. Resolve disputes at the local level through regular communication and meetings in a manner that does not disrupt any student's education. In the event that escalation of an issue to a higher level is needed, the Parties will follow the hierarchy shown below:

Agency involvement

- Educational Grantee Principal
- Agency's Authorized Representative

COUNTY-JD involvement

- COUNTY-JD Detention Manager
- COUNTY-JD Deputy Director
- COUNTY-JD Director

6. As allowable by the Family Educational Rights and Privacy Act ("FERPA") and ORS 336.187, share student information so as to efficiently implement student case plans and education plans and to ensure the most productive programming possible.
7. Develop a set of metrics that will evaluate outcome-based measures and performance.
8. Develop a system to collect education data for youth after release from detention.
9. Develop an education records retention plan that complies with applicable laws and rules.
10. To the extent permitted by law and applicable collective bargaining agreements, the Parties will share information about allegations and complaints received regarding COUNTY-JD, Agency or Educational Grantee staff, and will work collaboratively to resolve complaints.
11. Communicate regularly to facilitate the budget development process related to JDEP funding.

## EXHIBIT B

### SPECIAL REQUIREMENTS

#### **Prison Rape Elimination Act (PREA)**

COUNTY-JD is committed to a zero-tolerance standard toward all forms of sexual abuse and is also committed to the elimination of sexual abuse towards any person in confinement. If agency or its Educational Grantee obtains knowledge, suspicion, or information about (i) an incident of sexual abuse or sexual harassment that occurred while in detention, or (ii) retaliation against youth or other reporters of such incidents, or (iii) any staff neglect or violation or responsibilities that may have contributed either to the sexual abuse or sexual harassment or the retaliation, agency shall:

1. Take immediate steps to ensure the safety of the youth and support their well-being. If it is a recent incident, be aware of the preservation of evidence. For example, evidence can be destroyed by the youth washing, brushing teeth, changing clothes, urinating, defecating, drinking or eating.
2. Immediately and directly provide notification to the COUNTY-JD Manager, Assistant Supervisor, Deputy Director or Director. Direct notification means that the information is communicated directly to a person listed and not just left on a voice mail or email.

The Parties will ensure that agency and its Educational Grantee's staff are trained on staff responsibilities under COUNTY-JD's sexual abuse and sexual harassment prevention, detection, and response policies and procedures. COUNTY-JD shall provide the training.

#### **--- County-Specific Requirements**

## APPENDIX F

### **PREA Self-Disclosure and Acknowledgment Form**

The Oregon Juvenile Directors' Association (OJDDA) who individually operate Oregon Juvenile Detention Centers are responsible for complying with the Federal Prison Rape Elimination Act (PREA 42 U.S.C. 1997). PREA prevents the detention center from hiring, promoting or contracting with anyone (who will have direct contact with residents) who has engaged in, been convicted of or been civilly or administratively adjudicated for engaging in sexual abuse.

In compliance with the PREA of 2003, OJDDA, Oregon county detention centers have implemented "Preventing, Responding to and Monitoring Sexual Abuse" policies. OJDDA and Oregon detention centers are committed to a zero-tolerance standard towards all forms of sexual abuse in Oregon Juvenile Detention Facilities and its contracted programs.

1. Have you EVER engaged in sexual abuse in a prison, jail, lockup, community confinement?
  - A. Yes
  - B. No
2. Have you EVER been convicted of engaging or attempting to engage in sexual activity by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse?
  - A. Yes
  - B. No

By selecting "I Accept" below, I affirm and attest that the above information is true and complete. I understand that failure to provide truthful information could result in disciplinary action up to and including dismissal from county employment. In addition, I acknowledge that I have read and understand and agree to comply with the county detention policies for Preventing, Responding to and Monitoring Sexual Abuse for youth who are housed in the county juvenile detention center. I have had the opportunity to ask questions to ensure I understand the provisions and requirements of this policy.

- A. I Accept
- B. I Do Not Accept

**LEAVE THIS PAGE BLANK**