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TITLE 210 DEPARTMENT OF CORRECTION

Proposed Rule LSA Document #02-173

DIGEST

Amends 210 IAC 6-1-1 concerning the applicability of the article. Amends 210 IAC 6-2-3 concerning the definition of department. Amends 210 IAC 6-2-4 the definition of dispositional program. Amends 210 IAC 6-2-5 the definition of existing facility. Amends 210 IAC 6-2-13 the definition of standard. Amends 210 IAC 6-3-1 concerning administration and management general provisions. Amends 210 IAC 6-3-2 concerning physical plant. Amends 210 IAC 6-3-3 concerning institutional operations. Amends 210 IAC 6-3-4 concerning facility services. Amends 210 IAC 6-3-5 concerning juvenile services. Amends 210 IAC 6-3-9 concerning the construction of juvenile detention facilities. Amends 210 IAC 6-3-10 concerning compliance with mandatory standards. Amends 210 IAC 6-3-11 concerning compliance. Effective 30 days after filing with the secretary of state.

210 IAC 6-1-1	210 IAC 6-3-3
210 IAC 6-2-3	210 IAC 6-3-4
210 IAC 6-2-4	210 IAC 6-3-5
210 IAC 6-2-5	210 IAC 6-3-9
210 IAC 6-2-13	210 IAC 6-3-10
210 IAC 6-3-1	210 IAC 6-3-11
210 IAC 6-3-2	

SECTION 1. 210 IAC 6-1-1 IS AMENDED TO READ AS FOLLOWS:

210 IAC 6-1-1 Applicability

Authority: IC 11-8-2-5; IC 31-31-8-2

Affected: IC 11-8-2; IC 31-31-8

Sec. 1. (a) This article applies to all newly constructed, remodeled, converted, and existing juvenile detention facilities.

(b) This article does not apply to secure facilities or other facilities licensed by the ~~state division of family and children~~ **family and social services administration**. (*Department of Correction; 210 IAC 6-1-1; filed Jan 31, 1996, 4:00 p.m.: 19 IR 1312*)

SECTION 2. 210 IAC 6-2-3 IS AMENDED TO READ AS FOLLOWS:

210 IAC 6-2-3 "Department" defined

Authority: IC 11-8-2-5; IC 31-31-8-2

Affected: IC 11-8-2; IC 31-31-8

Sec. 3. "Department" means the ~~state~~ department of correction. (*Department of Correction; 210 IAC 6-2-3; filed Jan 31, 1996, 4:00 p.m.: 19 IR 1312*)

SECTION 3. 210 IAC 6-2-4 IS AMENDED TO READ AS FOLLOWS:

210 IAC 6-2-4 "Dispositional program" defined

Authority: IC 11-8-2-5; IC 31-31-8-2; IC 31-37-19-1
Affected: IC 11-8-2; IC 31-31-8; IC 31-37-19

Sec. 4. "Dispositional program" means activities and services provided for juveniles who are placed in a juvenile detention facility as a disposition of a juvenile court. ~~in accordance with IC 31-6-4-15.9(i);~~ *(Department of Correction; 210 IAC 6-2-4; filed Jan 31, 1996, 4:00 p.m.: 19 IR 1312)*

SECTION 4. 210 IAC 6-2-5 IS AMENDED TO READ AS FOLLOWS:

210 IAC 6-2-5 "Existing facility" defined

Authority: IC 11-8-2-5; IC 31-31-8-2
Affected: IC 11-8-2; IC 31-31-8

Sec. 5. "Existing facility" means any juvenile detention facility in use prior to ~~the effective date of this article.~~ **March 1, 1996.** *(Department of Correction; 210 IAC 6-2-5; filed Jan 31, 1996, 4:00 p.m.: 19 IR 1312)*

SECTION 5. 210 IAC 6-2-13 IS AMENDED TO READ AS FOLLOWS:

210 IAC 6-2-13 "Standard" defined

Authority: IC 11-8-2-5
Affected: IC 11-8-2

Sec. 13. "Standard" means one (1) of the minimum standards produced by the ACA and contained in the publication, Standards for Juvenile Detention Facilities, Third Edition, May 1991 ~~Any later and all amendments or editions are not included.~~ **published through 1995 consistent with 210 IAC 6-3-1 through 210 IAC 6-3-9.** *(Department of Correction; 210 IAC 6-2-13; filed Jan 31, 1996, 4:00 p.m.: 19 IR 1313)*

SECTION 6. 210 IAC 6-3-1 IS AMENDED TO READ AS FOLLOWS:

210 IAC 6-3-1 General provisions

Authority: IC 11-8-2-5; IC 31-31-8-2
Affected: IC 11-8-2; IC 31-31-8

Sec. 1. (a) Except as provided in this section, ACA standards 1A-01 through 1G-09 are adopted as a part of this article.

(b) The following ACA standards are deleted in their entirety:

- (1) 1A-03, 1A-05, 1A-08, 1A-10, 1A-14, 1A-15, 1A-17, 1A-23, 1A-25, and 1A-28.
- (2) 1B-02, 1B-04, 1B-09, 1B-10, 1B-12, 1B-13, 1B-16, 1B-17, and 1B-20.
- (3) 1C-03, 1C-06, 1C-09, 1C-10, 1C-11, and 1C-18.
- (4) 1D-02, 1D-03, 1D-06, 1D-10, 1D-11, and 1D-12.
- (5) 1F-02 and 1F-04.
- (6) 1G-06, **1G-07, and 1G-08.**

(c) The following ACA standards are adopted as modified:

- (1) Change the last sentence of standard 1B-05 to read as follows: Facility staff's participation in preparing the facility's written budget request is encouraged.
- (2) Change ACA standard 1B-08 to read, ~~as follows:~~ "Written policy, procedure, and practice demonstrate that the procedures for the collection, safeguarding, and disbursement of monies comply with the accounting procedures established by the state board of accounts and local policies. These policies shall be reviewed annually and updated as needed."
- (3) Change standard 1C-13 to read, **"A criminal record and sex offender registry check is conducted on all new employees in accordance with state and federal statutes."**
- (4) Change standard 1C-22 to read, **"Written policy, procedure, and practice provide that employees, consultants, volunteers and contract personnel who work with juveniles are informed in writing about the facility's policies on confidentiality of information and agree to abide by them in writing."**

(5) Change the first sentence of standard 1D-08 to read, “Written policy, procedure, and practice provide that all managerial staff receive forty (40) hours of training in addition to orientation training during their first year of employment and forty (40) hours of training each year thereafter.”.

(6) Change the first sentence of standard 1D-09 to read, “Written policy, procedure, and practice provide that all new juvenile staff careworkers receive an additional one hundred twenty (120) hours of training during their first year of employment.”.

(7) Add new standard 1D-09A to read, “Written policy, procedure, and practice provide that all juvenile staff careworkers receive an additional forty (40) hours of training each calendar year.”.

(8) Change standard 1D-13 to read, “All part-time staff, volunteers, support and administrative staff and contract personnel receive formal orientation appropriate to their assignments and additional training as needed”.

(9) Change ACA standard 1G-04 to read, ~~as follows:~~ “Written policy, procedure, and practice provide that the program director curtails, postpones, or terminates the services of a volunteer or volunteer organization when there is a reason for doing so.”.

(Department of Correction; 210 IAC 6-3-1; filed Jan 31, 1996, 4:00 p.m.: 19 IR 1313)

SECTION 7. 210 IAC 6-3-2 IS AMENDED TO READ AS FOLLOWS:

210 IAC 6-3-2 Physical plant

Authority: IC 11-8-2-5; IC 31-31-8-2

Affected: IC 11-8-2; IC 31-31-8

Sec. 2. (a) Except as provided in this section, ACA standards 2A-01 through 2G-02 are adopted as a part of this article.

(b) ACA standards 2B-02, ~~and~~ 2B-08, ~~and~~ **2D-02** are deleted in their entirety.

(c) In ACA standard 2A-04, change ~~the word~~ “recognized” to “applicable”.

(d) Change ACA standard 2B-04 to read, ~~as follows:~~ “Written policy and ~~procedures~~ **procedure** provide that a replacement detention facility be constructed or an existing facility be expanded only after a needs evaluation study has been completed by the parent agency or other appropriate agency. **A copy of this study must accompany blueprints submitted to the department for review.**”.

(e) Change subsection 3 of ACA standard 2C-03 to read, “a bed, desk, and seating.”. *(Department of Correction; 210 IAC 6-3-2; filed Jan 31, 1996, 4:00 p.m.: 19 IR 1313)*

SECTION 8. 210 IAC 6-3-3 IS AMENDED TO READ AS FOLLOWS:

210 IAC 6-3-3 Institutional operations

Authority: IC 11-8-2-5; IC 31-31-8-2

Affected: IC 11-8-2; IC 31-31-8

Sec. 3. (a) Except as provided in this section, ACA standards 3A-01 through 3E-05 are adopted as a part of this article.

(b) The following ACA standards are deleted in their entirety:

(1) **3A-03.**

(2) 3A-11.

(3) 3A-12.

(4) 3A-17.

(5) 3B-08.

(6) 3B-09.

(7) 3E-01.

(8) 3E-02.

- (9) 3E-03.
- (10) 3E-04.
- (11) 3E-05.

(c) The following ACA standards are adopted as modified:

(1) Change the first sentence of standard 3A-13 to read, “The facility has a system for physically counting juveniles and maintains a daily report on juvenile population movement.”.

~~(1)~~ **(2) Change ACA standard 3A-20 to read, as follows:** “Written policy, procedure, and practice provide that manual or instrument inspection of body cavities is conducted only when there is reason to do so. Except in the case of an emergency, inspection is conducted only when authorized by the facility administrator or designee. The inspection is conducted in private by health care personnel only.”.

~~(2)~~ **(3) Change ACA standard 3A-21 to read, as follows:** “Written policy, procedure, and practice provide that strip searches and visual inspection of juvenile private body cavities be conducted based on a reasonable belief that the juvenile is carrying contraband or other prohibited material. The inspection is conducted in private by a trained staff member of the same sex as the juvenile.”.

~~(3)~~ **(4) Change ACA standard 3A-26 to read, as follows:** “Written policy, procedure, and practice govern the availability, control, and use of chemical agents and related security devices and specify the level of authority required for their access and use.”.

(5) Change standard 3B-06 to read, “The facility has access to an alternate power source to maintain the following minimum essential services in an emergency: lighting, heating and ventilation, water, security systems and communications systems.”.

~~(4)~~ **(6) Change ACA standard 3C-08 to read, as follows:** “Written policy, procedure, and practice specify the circumstances which justify room restriction and limit the time period to one (1) hour unless an extension is approved by the facility administrator or designee. Juveniles placed on room restriction are checked visually by staff at least every fifteen (15) minutes.”.

(7) Change standard 3C-12 to read, “Written policy, procedure, and practice require that a juvenile charged with a major violation of facility rules is given a written copy of the alleged rule violation or violations within twenty-four (24) hours of the alleged violation or violations or the conclusion of the investigation into the alleged violation or violations. A hearing may be held within the subsequent twenty-four (24) hour period with the juvenile’s written consent.”.

~~(5)~~ **(8) Change standard ACA 3C-14 to read, as follows:** “Written policy, procedure, and practice provide that disciplinary hearings on rule violations are conducted by an impartial person or a disciplinary committee appointed by the facility administrator or designee. A record of the proceedings is made and maintained for at least six (6) months.”.

~~(6)~~ **(9) The “Comment” which that follows ACA standard 3C-21 is added as part of the standard.**

~~(7)~~ **(10) Change ACA standard 3D-07 to read, as follows:** “Written policy, procedure, and practice allow freedom in personal grooming and dress unless a safety, security, or hygiene concern justifies otherwise.”.

(Department of Correction; 210 IAC 6-3-3; filed Jan 31, 1996, 4:00 p.m.: 19 IR 1314)

SECTION 9. 210 IAC 6-3-4 IS AMENDED TO READ AS FOLLOWS:

210 IAC 6-3-4 Facility services

Authority: IC 11-8-2-5; IC 31-31-8-2

Affected: IC 11-8-2; IC 31-31-8

Sec. 4. (a) Except as provided in this section, ACA standards 4A-01 through 4C-48 are included as a part of this article.

(b) The following ACA standards are deleted in their entirety:

- (1) 4B-09.
- (2) 4C-03.
- (3) 4C-05.

- (4) 4C-19.
- (5) 4C-23.
- (6) 4C-30.
- (7) 4C-31.
- (8) 4C-32.

(c) The following ACA standards are adopted as modified:

(1) Change ~~ACA~~ standard 4A-01 to read, ~~as follows~~: "A staff member, experienced in food service management, supervises food service operations."

(2) Change ~~ACA~~ standard 4A-03 to read, ~~as follows~~: "There is documentation that the facility's system of dietary allowance is reviewed at least annually by a dietician or state authorized agency to ensure compliance with nationally recommended food allowances."

(3) Change standard 4A-05 to read, "The food service plan provides for a single menu so that all juveniles and staff, except those on a special diet, eat the same meals."

~~(3)~~ (4) Change ~~ACA~~ standard 4A-11 to read, ~~as follows~~: "Shelf goods, refrigerated foods, and frozen foods shall be maintained at temperatures established under the Indiana state department of health standards."

~~(4)~~ (5) After the second sentence of ~~ACA~~ standard 4A-13, add, ~~the following~~: "Snacks and food will be available for special occasions such as late night admissions."

~~(5)~~ (6) After the second sentence of ~~ACA~~ standard 4B-12, add, ~~the following~~: "Policy and procedures will address the special linen needs of the juveniles."

~~(6)~~ (7) After the third sentence of ~~ACA~~ standard 4C-01, add, ~~the following~~: "The health authority shall meet at least quarterly with the facility administrator."

~~(7)~~ (8) Change ~~ACA~~ standard 4C-16 to read, ~~as follows~~: "Written policy, procedure, and practice specify the provision of mental health services for juveniles and assure juvenile detention facilities are not intended to be mental health treatment facilities."

(9) Change standard 4C-20 to read, "The person administering medications has training approved by the responsible physician, and the official responsible for the facility, is accountable for administering medications according to others, and records the administration of medications in a manner and on a form approved by the responsible physician."

~~(8)~~ (10) Change ~~ACA~~ standard 4C-21 to read as follows: Insert "hearing problems" and "eye problems" in the "Inquiry into" list, after:

(A) "mental health problems", insert "hearing problems" and "eye problems"; and

(B) "suicide", insert "attempt".

~~(9)~~ (11) Change ~~ACA~~ standard 4C-25 ~~as follows~~: ~~Delete by deleting~~ the second and third items listed after "This care includes the following:"

(12) Change the first sentence of standard 4C-27 to read, "Written policy, procedure, and practice provide that juvenile careworker staff and other personnel are trained to respond to health related situations within a four-minute response time."

~~(10)~~ (13) Add, ~~the following~~ as a part of ~~ACA~~ standard 4C-29, "For facilities that operate with no more than twenty (20) juveniles, sick call must be available at a minimum of once per week."

~~(11)~~ (14) Change ~~ACA~~ standard 4C-36 to read, ~~as follows~~: "Written policy, procedure, and practice specify approved actions to be taken by employees concerning juveniles who have been diagnosed HIV-positive or who have hepatitis-B. The policy shall include, at a minimum, the following:

- when and where juveniles are to be tested
- appropriate safeguards for staff and juveniles
- when and under what conditions juveniles are to be separated from general population
- staff and juvenile training procedures
- issues of confidentiality." ~~(ACA-4C-36)~~

~~(12)~~ (15) Change ~~ACA~~ standard 4C-39 to read, ~~as follows~~: "Written policy, procedure, and practice provide for screening, care, or referral for care for mentally ill or retarded juveniles. The responsible physician shall designate, in advance, specific referral sources. Policy and procedures shall provide for emergency transfers to mental health facilities. Emergency transfers shall be reported to the court the next working day."

~~(13)~~ (16) Change ~~ACA~~ standard 4C-41 to read, ~~as follows~~: "Written policy, procedure, and practice provide for the clinical management of chemically dependent juveniles."

~~(14)~~ **(17)** Change ACA standard 4C-47 to read as follows: after “2” and prior to “access”, insert “Physical”.
(Department of Correction; 210 IAC 6-3-4; filed Jan 31, 1996, 4:00 p.m.: 19 IR 1314)

SECTION 10. 210 IAC 6-3-5 IS AMENDED TO READ AS FOLLOWS:

210 IAC 6-3-5 Juvenile services

Authority: IC 11-8-2-5; IC 31-31-8-2

Affected: IC 11-8-2; IC 31-31-8

Sec. 5. (a) Except as provided in this section, ACA standards 5A-01 through 5H-07 are adopted as a part of this rule.

(b) The following ACA standards are deleted in their entirety:

(1) 5A-01, 5A-03, 5A-04, 5A-05, 5A-07, 5A-08, 5A-09, 5A-10, 5A-12, and 5A-13.

(2) 5B-02 and 5B-03.

(3) 5D-02.

(4) 5H-01, 5H-05, and 5H-06.

(c) The following ACA standards are adopted as modified:

(1) In the first sentence of ACA standard 5A-02, after “juveniles”, delete the word “new”.

(2) Change ACA standard 5A-06 to read, as follows: “Written policy, procedure, and practice ensure that any juvenile placed in detention or shelter care shall be brought before the juvenile court consistent with state law.”.

(3) Change standard 5A-11 to read, “Written policy, procedure, and practice grant all juveniles the right to complete at least one local or collect long distance telephone call to a family member, attorney, or other approved individual during the admissions process.”.

~~(3)~~ **(4)** At the end of ACA standard 5B-01, change the word delete “treatment” to and insert “services”.

~~(4)~~ **(5)** Change ACA standard 5E-01 to read, as follows: “The facility has a qualified staff member who shall direct and supervise all recreation programs.”.

(6) Change standard 5H-03 to read, “Juveniles shall be provided a copy of all specific release information received in writing at the facility, and the decision is recorded in the case record.”.

~~(5)~~ **(7)** Change ACA standard 5H-07 to read, as follows: “Written policy, procedure, and practice provide for and govern leaves into the community.”.

(Department of Correction; 210 IAC 6-3-5; filed Jan 31, 1996, 4:00 p.m.: 19 IR 1315)

SECTION 11. 210 IAC 6-3-9 IS AMENDED TO READ AS FOLLOWS:

210 IAC 6-3-9 Construction of juvenile detention facilities

Authority: IC 11-8-2-5; IC 31-31-8-2

Affected: IC 11-8-2; IC 31-31-8

Sec. 9. Prior to the construction or expansion of a juvenile detention facility, plans and specifications shall be submitted to the department for review and comment. ~~The department’s review shall focus on compliance with Plans and specifications shall satisfy all physical plant standards contained in~~ section 2 of this rule. **The department’s written review shall be provided to fire and building services for plan release within ten (10) working days from the date of receipt.** (Department of Correction; 210 IAC 6-3-9; filed Jan 31, 1996, 4:00 p.m.: 19 IR 1316)

SECTION 12. 210 IAC 6-3-10 IS AMENDED TO READ AS FOLLOWS:

210 IAC 6-3-10 Compliance with mandatory and physical plant standards

Authority: IC 11-8-2-5; IC 31-31-8-2

Affected: IC 11-8-2; IC 31-31-8

Sec. 10. (a) No more than forty-five (45) days after the effective date of this article, an existing juvenile detention facility shall submit a report to the department regarding compliance with mandatory standards. These reports shall:

(1) be based upon a self-assessment of compliance with each mandatory standard; and

(2) detail a plan of action and time frame for compliance regarding any standard with which the facility does not

comply.

~~(b)~~ A new juvenile detention facility shall not begin operation until the department has determined through inspection that the facility is in compliance with all mandatory **and physical plant** standards. (*Department of Correction; 210 IAC 6-3-10; filed Jan 31, 1996, 4:00 p.m.: 19 IR 1316*)

SECTION 13. 210 IAC 6-3-11 IS AMENDED TO READ AS FOLLOWS:

210 IAC 6-3-11 Compliance

Authority: IC 11-8-2-5; IC 31-31-8-2

Affected: IC 11-8-2; IC 31-31-8

Sec. 11. (a) In order to achieve and maintain provisional compliance with this article, ~~an existing~~ **a new** juvenile detention facility shall have been determined through inspection to be in compliance with the following:

- (1) All mandatory standards.
- (2) A minimum of ~~sixty percent (60%)~~ **seventy-five percent (75%)** of the recommended standards within one (1) year of ~~the effective date of this article.~~ **commencing operation.**
- (3) ~~A minimum of seventy-five percent (75%) of recommended standards within two (2) years of the effective date of this article.~~ **All physical plant standards.**

~~(b)~~ Provisional compliance requirements for new facilities shall be as stated in subsection (a) except that the time frames for compliance with the stated percentages of recommended standards shall start when the facility begins operation.

~~(c)~~ **(b)** In order to achieve and maintain full compliance with standards adopted under this article, a juvenile detention facility shall have been determined through inspection to be **in compliance with the following:**

- (1) ~~in compliance with~~ All mandatory standards. ~~and~~
- (2) ~~in compliance with~~ A minimum of ninety percent (90%) of the recommended standards **within two (2) years of commencing operation and each year thereafter.**

~~(d)~~ **(c)** A certification in writing, either full or provisional, shall be issued by the department to all juvenile detention facilities that achieve compliance.

(d) Should a new or existing facility fail to achieve or maintain the required level of compliance with this article, a plan of action shall be submitted to the department within thirty (30) days to correct each deficiency. Approved plans of action shall remain valid for a period not to exceed one (1) year.

(e) In the event a plan of action is not approved, compliance with this article is not achieved within one (1) year or the deficiencies are so severe as to affect life, health or safety, the department may petition the judge of the circuit court in the county in which the facility is located to restrict, alter the use of, or close the facility. (*Department of Correction; 210 IAC 6-3-11; filed Jan 31, 1996, 4:00 p.m.: 19 IR 1316; errata filed Mar 8, 1996, 2:00 p.m.: 19 IR 2044*)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on October 2, 2002 at 9:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room C, Indianapolis, Indiana the Department of Correction will hold a public hearing on proposed amendments concerning juvenile detention facilities. Copies of these rules are now on file at the Indiana Government Center-South, 302 West Washington Street, Room E334 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Diane Mains
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