

	WEST VIRGINIA DIVISION OF JUVENILE SERVICES	<u>POLICY NUMBER:</u> 334.00	<u>PAGES:</u> 5
<u>CHAPTER:</u> Institutional Operations	<u>REFERENCE AND RELATED STANDARDS:</u> WV Code Chapter §§49-2-903 and 49-4-721; ACA 3-JDF-3D-04 thru -08; PbS Standard – Justice #1-3; Prison Rape Elimination Act (PREA), §§115.361 and 115.373		
<u>SUBJECT:</u> Resident Rights and Grievance Procedures			
<u>DATE:</u> July 1, 2016			

PURPOSE

This policy is to ensure the rights of every resident and their right to grieve the actions of staff and conditions and circumstances in the facility and of other residents which violate resident rights and those rights covered under the Prison Rape Elimination Act (PREA).

CANCELLATION

This policy has been revised and supersedes Policy 334.00 dated July 1, 2015.

APPLICABILITY

This Policy applies to all Division of Juvenile Services’ facilities and centers.

PROCEDURES

1. The Division of Juvenile Services will ensure that all residents under its jurisdiction receive a copy of the following rights upon intake as provided by West Virginia Code §49-4-721:
 - a. A resident may not be punished by physical force, deprivation of nutritious meals, deprivation of family visits or imposition of solitary confinement;
 - b. A resident shall be afforded an opportunity to participate in physical exercise each day;
 - c. Except for sleeping hours, a resident in a state facility may not be locked alone in a room unless that resident is not amenable to reasonable direction and control;
 - d. A resident shall be provided with his or her own clothing or individualized clothing which is clean and supplied by the facility, and shall also be afforded daily access to showers;

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- e. A resident shall be afforded constant access to writing materials and may send mail without limitation, censorship or prior reading, and may receive mail without prior reading, except that mail may be opened in the resident's presence, without being read, to inspect for contraband;
 - f. A resident may make and receive regular local phone calls without charge and long distance calls to his or her family without charge at least once a week, and receive visitors daily and on a regular basis;
 - g. A resident shall be afforded immediate access to medical care as needed;
 - h. A resident shall be provided access to education, including teaching, educational materials and books;
 - i. A resident shall be afforded reasonable access to an attorney upon request; and
 - j. A resident shall be afforded a grievance procedure, including an appeal mechanism.
2. The Division has also assured the following rights are provided to residents under its jurisdiction:
 - a. Basic hygiene items at no cost;
 - b. To be free from discrimination based on race, religion, national origin, gender, or physical handicap;
 - c. To be adequately protected from personal abuse, personal injury, disease, property damage, and harassment;
 - d. Immediate access to emergency dental care;
 - e. Have access to religious material and service;
 - f. To be provided due process safeguards as outlined in Division Policy 330.00 – Resident Discipline;
 3. Each Facility Superintendent/Director is authorized to provide other privileges to all residents in his/her custody based on the purpose, mission and/or program of the facility to ensure that each resident is afforded quality care services.
 4. Staff will ensure that residents sign the Residents Rights/Handbook Acknowledgement Form during Intake (Attachment #1). This form will be uploaded into OIS.
 5. **Resident Grievance Procedure** – There is a three step grievance procedure available to all residents in the custody of the Division of Juvenile Services. These steps include relevant staff member, Facility Superintendent/Director and the Division Director.

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- a. Residents are informed of the grievance procedure upon intake at the facility. There is no time limit for the filing of a resident grievance. Forms are available to all residents.

- b. Grievance Process
 - i. Any issue that is unresolved by staff to a resident's satisfaction can result in a formalized grievance procedure. Residents shall not be required to discuss any grievance with any staff involved or unit staff prior to filing a grievance.
 - ii. A resident may submit a written and signed grievance form to be placed in a locked Grievance Box located in an easily accessible area. This box can only be opened by the Facility Superintendent/Director or the Grievance Coordinator.
 - iii. Any resident who has difficulty writing shall receive assistance in preparing their grievance.
 - iv. The Facility Superintendent/Director shall assign a staff member, in writing, to be the Grievance Coordinator. In this capacity, the Grievance Coordinator will only report to the Facility Superintendent/Director. This person will not have direct contact with or supervision of residents and/or any interest in the outcome of the grievance. Their duties include:
 - 1) Collect the grievances or grievance appeals a minimum of three times a week.
 - 2) Immediately notifying the Facility Superintendent/Director or Designee of all grievances against staff member(s) regarding staff misconduct or when there is an allegation that a resident is in imminent danger.
 - a) In the event of a grievance alleging that a resident is in imminent danger, the complaint will be acted on immediately and, if the Facility Superintendent/Director determines the necessity, will place the resident in protective custody, per policy 332.00, Specialized Housing.
 - b) An initial response will be forwarded to the resident within 48 hours and shall issue a final decision within five (5) calendar days.
 - 3) In the event that the grievance is of a PREA nature it will be immediately forwarded to the facility's PREA Compliance Manager. This will not be entered into the Grievance database.
 - 4) Uploading the grievance form and enter the resident's grievance verbatim into the Offender Information System (OIS). Complaints or appeals of a PREA nature will be handled by the PREA Compliance Manager or the PREA Counselor for that facility and input information into OIS. See procedures for PREA complaints or appeals in section 5 of Policy 151.00.

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- 5) Notifying the appropriate staff member to respond. (In cases where a staff member is the subject of a grievance, that staff member shall not answer the grievance.) For good cause, this deadline may be extended by the Grievance Coordinator, who will notify the resident, in writing, of the new deadline date and the reason for such extension. That extension information is also entered into OIS.
- v. Any staff member answering a grievance have a responsibility to:
- 1) Research the issue
 - 2) Meet with resident to hear the issue, if necessary
 - 3) Give their response to the Grievance Coordinator to be entered into OIS within seven (7) calendar days. A copy of the response will be given to the resident, regardless of resident's location within the Division. For good cause, the Grievance Coordinator may extend this deadline (once only) for another seven (7) calendar days. The resident will be notified in writing, of the new deadline date and the reason for such extension. That extension information is also entered into OIS.
- vi. At any time, a resident may appeal a decision of the staff member to the Facility Superintendent/Director via grievance box. All appeals to the Facility Superintendent/Director will be reviewed and a decision determined within seven (7) calendar days of receipt of the grievance appeal in OIS. That decision will be printed out and given to the resident. For good cause, this deadline may be extended by the Facility Superintendent/Director, who will notify the resident, in writing, of the new deadline date and the reason for such extension. That extension information is also entered into OIS.
- vii. A resident may appeal at any time a decision of the Facility Superintendent/Director to the Division Director by placing appeal in the grievance box. The Grievance Coordinator will upload the appeal into OIS and complete the process for an appeal by the Division Director.
- viii. All appeals to the Division Director will be reviewed and a decision determined within seven (7) calendar days of receipt of the grievance appeal in OIS. The Grievance Coordinator will print out the Grievance report with the Director's appeal in OIS and give to the resident for their signature and give the resident a copy. The Grievance Coordinator will upload the signed Grievance Report into OIS and shred the original grievance appeal and the original signed copy of the Grievance Report. For good cause, this deadline may be extended by the Division Director, who will notify the resident, in writing, of the new deadline date and the reason for such extension. That extension information is also entered into OIS.
6. Third-Party Grievance Complaints – All complaints filed by a third-party on behalf of residents or former residents will be entered into the OIS System and forwarded to the appropriate Facility Superintendent/Director. All timelines will be based on the above-referenced timeframes for grievance procedures.

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7. Each facility will have in place an operational procedure to ensure the standards and practices of this policy are followed.

RIGHTS RESERVED

The Director reserves the right to modify, suspend or cancel any provision herein in part or entirety, without advance notice, unless prohibited by law.

APPROVED:



Director

7/1/16

Date

West Virginia Division of Juvenile Services

Resident Rights

BY YOUR ADMISSION INTO A JUVENILE DETENTION OR CORRECTIONAL FACILITY, AS PURSUANT TO WV STATE CODE. 49-4-721, THE FOLLOWING ARE YOUR RIGHTS:

1. A Juvenile may not be punished by physical force, deprivation of nutritious meals, deprivation of family visits or imposition of solitary confinement;
2. A juvenile shall be afforded an opportunity to participate in physical exercise each day;
3. Except for sleeping hours, a juvenile in a state facility may not be locked alone in a room unless that juvenile is not amenable to reasonable direction and control;
4. A juvenile shall be provided with his or her own clothing or individualized clothing, which is clean and supplied by the facility, and shall also be afforded daily access to showers;
5. A juvenile shall be afforded constant access to writing materials and may send mail without limitation, censorship or prior reading, and may receive mail without prior reading, except that mail may be opened in the juveniles presence, without being read, to inspect for contraband;
6. A juvenile may make and receive regular local phone calls without charge and long distance calls to his or her family without charge at least once a week, and receive visitors on Saturday and Sunday, and Holidays;
7. A juvenile shall be afforded immediate access to medical care as needed;
8. A juvenile in a juvenile detention facility or juvenile corrections facility shall be provided access to education, including teaching, educational materials and books;
9. A juvenile shall be afforded reasonable access to an attorney upon request; and
10. A juvenile shall be afforded a grievance procedure, including an appeal mechanism.

By signing below acknowledges you have read/had read to you the above rights. You understand to follow all facility rules to the best of your abilities during your stay with the Division of Juvenile Services.

Resident signature: _____

Date: _____

Staff signature: _____

Date: _____

Resident Handbook

I, _____, do hereby affirm that I received a resident handbook.

Resident signature: _____

Date: _____