

Dear Senators LODGE, Nonini, Burgoyne, and
Representatives WILLS, Dayley, Gannon:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
Department of Juvenile Corrections:

IDAPA 05.01.02 - Rules and Standards for Secure Juvenile Detention Centers - Proposed Rule
(Docket No. 05-0102-1501);

IDAPA 05.02.01 - Rules for Residential Treatment Providers - Proposed Rule (Docket No.
05-0201-1501);

IDAPA 05.02.02 - Rules for Staff Secure Providers - Proposed Rule (Docket No. 05-0202-1501);

IDAPA 05.02.03 - Rules for Reintegration Providers - Proposed Rule (Docket No. 05-0203-1501).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 09/29/2015. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 10/27/2015.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4834, or send a written request to the address on the
memorandum attached below.



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Judiciary & Rules Committee and the House Judiciary, Rules & Administration Committee

FROM: Principal Legislative Research Analyst - Ryan Bush

DATE: September 10, 2015

SUBJECT: Department of Juvenile Corrections

IDAPA 05.01.02 - Rules and Standards for Secure Juvenile Detention Centers - Proposed Rule (Docket No. 05-0102-1501)

IDAPA 05.02.01 - Rules for Residential Treatment Providers - Proposed Rule (Docket No. 05-0201-1501)

IDAPA 05.02.02 - Rules for Staff Secure Providers - Proposed Rule (Docket No. 05-0202-1501)

IDAPA 05.02.03 - Rules for Reintegration Providers - Proposed Rule (Docket No. 05-0203-1501)

(1) 05.01.02 - Rules and Standards for Secure Juvenile Detention Centers (Docket No. 05-0102-1501)

The Idaho Department of Juvenile Corrections submits notice of proposed rulemaking at IDAPA 05.01.02 - Rules and Standards for Secure Juvenile Detention Centers. The Department states that this rule change was vetted by its Standards Committee and is made in an effort to provide better clarity. Specifically, this rulemaking accomplishes the following:

- (1) Makes minor stylistic changes;
- (2) Revises certain orientation training and ongoing training requirements for direct care staff;
- (3) Removes records of deposits and withdrawals from a juvenile's detention record;
- (4) Revises security inspections by removing the requirement of monthly inspections in favor of written policy and procedures that require timely notification of deficiencies; and
- (5) Removes from a center's written policy and procedures the requirement of an emergency evacuation plan and use of a hospital emergency room.

The Department states that negotiated rulemaking was not conducted because the rule change is only to increase clarity and strike outdated provisions. There is no fiscal impact associated with this rulemaking.

The proposed rule appears to be within the statutory authority granted to the Department in sections 20-504 and 20-504A, Idaho Code.

Mike Nugent, Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

(2) 05.02.01 - Rules for Residential Treatment Providers (Docket No. 05-0201-1501)

The Idaho Department of Juvenile Corrections submits notice of proposed rulemaking at IDAPA 05.02.01 - Rules for Residential Treatment Providers. The proposed rule change revises the definition of body cavity search to clarify that such a search be performed by a medical health professional and clarifies that employees are prohibited from transporting juveniles in their personal vehicles.

The Department states that negotiated rulemaking was not conducted because the rule change is only to increase clarity and decrease duplicative efforts. There is no fiscal impact associated with this rulemaking.

The proposed rule appears to be within the statutory authority granted to the Department in sections 20-504 and 20-504A, Idaho Code.

(3) 05.02.02 - Rules for Staff Secure Providers (Docket No. 05-0202-1501)

The Idaho Department of Juvenile Corrections submits notice of proposed rulemaking at IDAPA 05.02.02 - Rules for Staff Secure Providers. The proposed rule change revises the definition of body cavity search to clarify that such a search be performed by a medical health professional; to provide that an unclothed body cavity search be conducted with the medical health professional and another adult of the same gender as the juvenile in the room; and to provide that a body cavity search be conducted in a medical facility outside of a residential treatment provider.

The Department states that negotiated rulemaking was not conducted because the rule change is only to increase clarity and decrease duplicative efforts. There is no fiscal impact associated with this rulemaking.

The proposed rule appears to be within the statutory authority granted to the Department in sections 20-504 and 20-504A, Idaho Code.

(4) 05.02.03 - Rules for Reintegration Providers (Docket No. 05-0203-1501)

The Idaho Department of Juvenile Corrections submits notice of proposed rulemaking at IDAPA 05.02.03 - Rules for Reintegration Providers. The proposed rule change revises the definition of body cavity search to clarify that such a search be performed by a medical health professional; to provide that an unclothed body cavity search be conducted with the medical health professional and another adult of the same gender as the juvenile in the room; and to provide that a body cavity search be conducted in a medical facility outside of a residential treatment provider.

The Department states that negotiated rulemaking was not conducted because the rule change is only to increase clarity and decrease duplicative efforts. There is no fiscal impact associated with this rulemaking.

The proposed rule appears to be within the statutory authority granted to the Department in sections 20-504 and 20-504A, Idaho Code.

cc: Department of Juvenile Corrections
Sharon Harrigfeld

IDAPA 05 - IDAHO DEPARTMENT OF JUVENILE CORRECTIONS
05.01.02 - RULES AND STANDARDS FOR SECURE JUVENILE DETENTION CENTERS
DOCKET NO.05-0102-1501
NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 20-504A(2), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 2015.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

These changes were made in an effort to provide better clarity. All changes were vetted by the Standards Committee which consists of juvenile detention administrators.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: NA

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the changes will only increase clarity to existing rules and to strike the outdated rules.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Karen Skow, (208) 884-7323.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 23, 2015.

DATED this 6th Day of August, 2015.

Sharon Harrigfeld, Director
Idaho Department of Juvenile Corrections
954 W. Jefferson, Boise, ID 83702
PO Box 83720, Boise, ID 83720-0285
Phone: (208) 334-5100
FAX: (208) 334-5120

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 05-0102-1501
(Only Those Sections With Amendments Are Shown.)

212. STAFF REQUIREMENTS AND STAFF DEVELOPMENT.

01. Twenty-Four Hour Supervision. The detention center shall be staffed by detention center employees on a twenty-four (24) hour basis when juvenile offenders are being housed. (3-30-07)

02. Staffing. The detention center shall have staff to perform all functions relating to security, supervision, services and programs as needed to operate the detention center. The detention center shall have policy and procedures in place governing staffing and shall submit a staffing plan to the department prior to licensing and renewal. The following staffing plan is a recommendation only, and is not mandatory. It is recommended that each secure juvenile facility shall maintain staff ratios of a minimum of one to eight (1:8) plus one (1) during resident waking hours and one to sixteen (1:16) during resident sleeping hours, except during limited and discrete exigent circumstances, which shall be fully documented. (3-20-14)

a. If the detention center houses eight (8) or fewer juvenile offenders, there should be at least one (1) direct care staff and one (1) other staff awake at all times. (3-30-07)

b. If the detention center houses more than eight (8) juvenile offenders, there should be one (1) direct care staff for each eight (8) juvenile offenders plus one (1) additional staff awake at all times. Example: if the detention center houses thirty-two (32) juvenile offenders, four (4) direct care staff would be recommended (one (1) staff to eight (8) juvenile offenders), plus one (1) additional staff for a total of five (5) staff. (3-29-12)

03. Gender of Employees. At least one (1) of the detention center employees on duty should be female when females are housed in the detention center and at least one (1) should be male when males are housed in the detention center. An employee of the same gender as the juvenile offender being detained shall be on duty at the time of intake. (3-30-07)

04. Minimum Qualifications. (3-30-07)

a. Direct care staff, at the time of employment, shall meet the minimum criminal history background and certification requirements as provided in IDAPA 11.11.02, "Rules of the Idaho Peace Officer Standards and Training Council for Juvenile Detention Officers." (3-30-07)

b. Direct care volunteers, before starting volunteer services, shall meet the minimum criminal history background requirements as provided in IDAPA 11.11.02, "Rules of the Idaho Peace Officer Standards and Training Council for Juvenile Detention Officers." (3-30-07)

c. The agency shall conduct criminal background records checks at least every five (5) years of current employees, contractors, and volunteers who may have contact with residents as outlined in PREA Standard Section 115.317. (3-20-14)

05. Training and Staff Development Plan. Each juvenile detention center shall develop a staff training and development plan based on the policy and procedures of the detention center. The plan shall also ensure that all juvenile detention officers earn the juvenile detention officer certificate as mandated in IDAPA 11.11.02, "Rules of the Idaho Peace Officer Standards and Training Council for Juvenile Detention Officers." (3-30-07)

a. All new direct care staff shall be provided orientation training. The orientation and training plan shall address areas including, but not limited to: (3-29-12)

i. First aid/CPR; (3-30-07)

- ii. Security procedures; (3-30-07)
 - iii. Supervision of juvenile offenders; (3-30-07)
 - iv. Suicide prevention; (3-20-14)
 - v. Fire and emergency procedures; (3-30-07)
 - vi. Safety procedures; (3-30-07)
 - vii. Appropriate use of physical intervention, and demonstrate an adequate level of proficiency as determined by a P.O.S.T. certified appropriate use of force instructor using a P.O.S.T. approved grading matrix; ~~(3-30-07)~~()
 - viii. Report writing; (3-30-07)
 - ix. Juvenile offender rules of conduct; (3-30-07)
 - x. Rights and responsibilities of juvenile offenders; (3-30-07)
 - xi. Fire and emergency procedures; (3-30-07)
 - xii. Safety procedures; (3-30-07)
 - xiii. Key control; (3-30-07)
 - xiv. Interpersonal relations; (3-30-07)
 - xv. Social/cultural life styles of the juvenile population; (3-30-07)
 - xvi. Communication skills; (3-29-12)
 - xvii. Mandatory reporting laws and procedures; (3-20-14)
 - xviii. Professional boundaries; and (3-20-14)
 - xix. All training as outlined in section 115.331 of the PREA Standards. (3-20-14)
- b.** All direct care staff who are considered part-time, on-call, or working fewer than forty (40) hours per week and any direct care staff who works in a facility classified as Rural Exception, must obtain a part-time juvenile detention officer certification as mandated by IDAPA 11.11.02, "Rules of the Idaho Peace Officer Standards and Training Council for Juvenile Detention Officers." ()
- bc.** Ongoing training shall be provided at the minimum rate of twenty-eight (28) hours for each subsequent year of employment, which shall include, but not be limited to: (3-20-14)
- i. A total of eight (8) hours of appropriate use of force, and demonstrate an adequate level of proficiency as determined by a P.O.S.T. certified appropriate use of force instructor using a P.O.S.T. approved grading matrix; and ~~(3-20-14)~~()
 - ii. All ongoing training as outlined in section 115.331 of the PREA Standards; and ()
 - iii. All other trainings that require recertification. (3-20-14)
- ed.** Volunteers and contractors shall be trained commensurate to their level of contact with juvenile offenders. (3-29-12)

- de.* Each facility shall maintain accurate training documentation. (3-20-14)

(BREAK IN CONTINUITY OF SECTIONS)

216. DOCUMENTATION.

01. Shift Log. The detention center shall maintain documentation including time notations on each shift which includes the following information, at a minimum: (3-30-07)

- a.** Direct care staff on duty; (3-30-07)
- b.** Time and results of security or well-being checks and head counts; (4-5-00)
- c.** Names of juvenile offenders received or discharged with times recorded; (3-30-07)
- d.** Names of juvenile offenders temporarily released or returned for such purposes as court appearances, work/education releases, furloughs, or other authorized absences from the detention center with times recorded; (3-30-07)
- e.** Time of meals served; (4-5-00)
- f.** Times and shift activities, including any action taken on the handling of any routine incidents; (3-29-12)
- g.** Notation and times of entry and exit of all visitors, including physicians, attorneys, volunteers, and others; (4-5-00)
- h.** Notations and times of unusual incidents, problems, disturbances, escapes; (3-29-12)
- i.** Notations and times of any use of emergency or restraint equipment; and (4-5-00)
- j.** Notation and times of perimeter security checks. (4-5-00)

02. Housing Assignment Roster. The detention center shall maintain a master file or roster board indicating the current housing assignment and status of all juvenile offenders detained. (3-30-07)

03. Visitor's Register. The detention center shall maintain a visitor's register in which the following will be recorded: (3-30-07)

- a.** Name of each visitor; (4-5-00)
- b.** Time and date of visit; (4-5-00)
- c.** Juvenile offender to be visited; and (3-30-07)
- d.** Relationship of visitor to juvenile offender and other pertinent information. (3-30-07)

04. Juvenile Detention Records. The detention center shall classify, retain and maintain an accurate and current record for each juvenile offender detained in accordance with the provisions of Title 31, Chapter 8, Section 31-871, Idaho Code. The record shall contain, at a minimum, the following: (3-30-07)

- a.** Booking and intake records; (4-5-00)
- b.** Record of court appearances; (4-5-00)

- c. Documentation of authority to hold; (4-5-00)
- d. Probation officer or caseworker, if assigned; (4-5-00)
- e. Itemized inventory forms for all clothing, property, money, and valuables taken from the juvenile offender; (3-30-07)
- ~~f. Record of deposits/withdrawals from the juvenile offender's account; (3-30-07)~~
- ~~g.~~ Classification records and information about a resident's personal history and behavior to reduce the risk of sexual abuse by or upon a resident; (3-20-14)
- ~~h.~~ Documentation of education as outlined in PREA Standard Section 115.333; (3-20-14)
- ~~i.~~ Rule infraction reports; (4-5-00)
- ~~j.~~ Records of disciplinary actions; (4-5-00)
- ~~k.~~ Grievances filed and their dispositions; (4-5-00)
- ~~l.~~ Release records; (4-5-00)
- ~~m.~~ Personal information and emergency contact information; (4-5-00)
- ~~n.~~ Documentation of a completed intake medical screening; (3-29-12)
- ~~o.~~ Visitor records; (4-5-00)
- ~~p.~~ Incident reports; (4-5-00)
- ~~q.~~ Photographs. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

223. SAFETY AND EMERGENCY PROCEDURES.

01. Written Policy and Procedures. The detention center shall have written policy and procedures that address fire safety, ~~fire emergency evacuation plans, other safety related practices, and the detention center's plans for responding to emergency situations.~~ (3-30-07)()

02. Compliance with Fire Code. The detention center shall comply with local and state fire codes. A request for an annual inspection shall be made to the local fire marshal or authorized agency. The detention center shall maintain documentation of this inspection. (3-30-07)

224. DETENTION CENTER SECURITY.

01. Security and Control Policy. The detention center's policy and procedures manual shall contain all procedures for detention center security and control, with detailed instructions for implementing these procedures, and are reviewed at least annually and updated as needed. The manual shall be made available to all staff. (3-30-07)

02. Personal Observation. The detention center shall have written policy and procedures that ~~detention center policy and procedures shall~~ govern the observation of all juvenile offenders and shall, at a minimum, require direct care staff to personally observe all juvenile offenders every thirty (30) minutes on an irregular schedule and the time of such checks shall be logged. More frequent checks should be made of juvenile offenders who are

violent, suicidal, mentally ill, or who have other special problems or needs warranting closer observation.

~~(3-30-07)~~()

03. Cross Gender Supervision. The detention center shall have written policy and procedures governing supervision of female juvenile offenders by male employees and male juvenile offenders by female employees which shall be based on privacy needs and legal standards. Except in emergencies, detention center employees shall not observe juvenile offenders of the opposite sex in shower areas. Reasonable accommodation of privacy needs shall be observed. (4-2-08)

04. Head Counts. The detention center shall have written policy and procedures which shall outline a system to physically count or account for all juvenile offenders, including juvenile offenders on work release, educational release, or other temporary leave status who may be absent from the detention center for certain periods of the day. At least three (3) documented counts shall be conducted every twenty-four (24) hours. At least one (1) count shall be conducted each shift and there shall be at least four (4) hours between each count. (3-30-07)

05. Camera Surveillance. Camera surveillance equipment shall not be used in place of the personal observation of juvenile offenders. (3-29-12)

(BREAK IN CONTINUITY OF SECTIONS)

226. PERIMETER SECURITY CHECKS AND SECURITY INSPECTIONS.

01. Perimeter Security Checks. The detention center shall have written policy and procedures which govern the frequency and performing of perimeter security checks. (3-30-07)

02. Security Inspections. The detention center ~~administrator or his designee shall conduct monthly inspections of all locks, windows, floors, walls, ventilator covers, access plates, glass panels, protection screens, doors, and other security equipment. The date, time, and results of these inspections shall be recorded on a checklist or log. The detention center administrator shall promptly correct any identified problems~~ shall have written policy and procedures that require timely notification to the detention center administrator or designee of any structural or security deficiencies. The detention center administrator shall promptly correct any identified problems. The facility shall maintain documentation of any corrective action. ~~(3-30-07)~~()

(BREAK IN CONTINUITY OF SECTIONS)

228. SECURITY DEVICES.

01. Key Control. The detention center shall have policy and procedures in place to govern key and tool control. (3-30-07)

02. Security Devices. The detention center shall have written policy and procedures that govern the use of security devices. Detention center employees shall use only security equipment on which they have been properly trained and is issued through, or authorized by, the detention center administrator. ~~Certification~~ The facility shall maintain documentation of proper training ~~shall be kept in detention records.~~ (3-30-07)()

03. Weapons Locker. The detention center shall provide a weapons locker or similar arrangement at security perimeter entrances for the temporary storage of weapons belonging to law enforcement officers who must enter the detention center. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

234. MEALS.

01. Providing Meals. The detention center shall have written policy and procedures which govern the providing of meals. Three (3) meals, at least two (2) of which includes a hot entree, shall be served daily. (3-29-12)

a. Meals must be served at approximately the same time every day. No more than fourteen (14) hours shall elapse between the evening meal and breakfast the next day unless an evening snack is served. If snacks are provided, up to sixteen (16) hours may elapse between the evening meal and breakfast. (4-5-00)

b. Juvenile offenders out of the detention center attending court hearings or other approved functions when meals are served shall have a meal provided upon their return if they have not already eaten. (3-30-07)

c. If meals are provided to staff, the menu should be the same as provided to juvenile offenders. (3-30-07)

d. The health authority or a medical employee shall be notified when a juvenile offender does not eat three (3) consecutive meals. (3-30-07)

02. ~~Use of Food~~ Withholding of Meals as Disciplinary Sanction Prohibited. The detention center shall have written policy and procedures which dictate that ~~food meals~~ shall not be withheld from juvenile offenders, nor the menu varied as a disciplinary sanction. (~~3-30-07~~)()

03. Control of Utensils. The detention center shall have a control system for the issuance and return of all food preparation and eating utensils. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

245. PERSONAL HYGIENE.

01. Personal Hygiene Items. The detention center shall have written policy and procedures which shall govern the provision of, without charge, the following articles necessary for maintaining proper personal hygiene: (3-30-07)

a. Soap; (4-5-00)

b. Toothbrush; (4-5-00)

c. Toothpaste; (4-5-00)

d. Comb or brush; (3-30-07)

e. Shaving equipment upon request; (3-30-07)

f. Products for female hygiene needs; and (3-30-07)

g. Toilet paper. (3-30-07)

02. Removal of Personal Hygiene Items. The detention center shall have written policy and procedures that govern the removal of personal hygiene items from juvenile offenders' sleeping areas. Removal must be based upon sufficient reason to believe that the juvenile offender's access to the items poses a risk to the safety of juvenile offenders, staff or others, or poses a security risk to the detention center. (3-30-07)

03. Clothing and Linens. The detention center shall provide for the issue of clean clothing, bedding, linens, and towels to new juvenile offenders held overnight. At a minimum, the following shall be provided: (3-30-07)

- a. A set of standard detention center clothing or uniform; (3-30-07)
 - ~~b.~~ A set of standard detention center bedding and linens; ()
 - ~~b.c.~~ Fire-retardant mattress; (4-5-00)
 - ~~e.~~ Pillow and pillow case; (4-5-00)
 - ~~d.~~ Two (2) sheets or one (1) sheet and one (1) mattress cover; (4-5-00)
 - ~~e.d.~~ Sufficient blankets to provide comfort under existing temperature conditions; and (4-5-00)
 - ~~f.e.~~ One (1) clean towel. (4-5-00)
- 04. Laundry Services.** Laundry services shall be sufficient to allow required clothing, bedding, and towel exchanges for juvenile offenders. (3-30-07)
- a. Clothing and towels used by the juvenile offender while in the detention center shall be laundered or exchanged at least twice each week. (3-30-07)
 - b. Linen shall be changed and laundered or exchanged at least once weekly or more often, as necessary. (4-5-00)
 - c. Blankets in use shall be laundered or exchanged at least monthly, or before re-issue to another juvenile offender. (3-30-07)
- 05. Clothing and Linen Supplies.** The detention center inventory of clothing, bedding, linen, and towels shall exceed the maximum population to ensure that a reserve is always available. (3-30-07)
- 246. -- 249. (RESERVED)**
- 250. HEALTH SERVICES.**
- 01. Written Policy and Procedures.** The detention center shall have written policy and procedures to govern the delivery of reasonable medical, dental, and mental health services. These written policy and procedures must at a minimum address, but are not limited to the following: (3-30-07)
- a. Intake medical screening must be documented and performed on all juvenile offenders upon admission to the detention center. (3-29-12)
 - i. The medical screening should include inquiry of current illness and health problems, dental problems, sexually transmitted and other infectious diseases, medication taken and special health requirements, if any, the use of alcohol or drugs, mental illness and/or suicidal behavior. (3-29-12)
 - ii. The screening should also include observations of unusual behavior, including state of consciousness, mental status, appearance, conduct, tremor, sweating, body deformities, physical injuries, trauma markings, bruises, rashes, evidence of body vermin, and ease of movement; (3-29-12)
 - b. Handling of juvenile offenders' requests for medical treatment; (3-30-07)
 - c. Non-emergency medical services; (4-5-00)
 - d. Emergency medical and dental services; (4-5-00)
 - ~~e.~~ Emergency evacuation plan of juvenile offenders from the detention center; (3-30-07)

- ~~f.e.~~ Use of ~~an~~ a vehicle for emergency ~~vehicle~~ transport; (4-5-00)()
- ~~g.~~ Use of one (1) or more hospital emergency rooms or other appropriate health care facility; (4-5-00)
- ~~h.f.~~ Emergency on-call physician and dental services when the emergency health care facility is not located nearby; (4-5-00)
- ~~g.~~ First-aid and CPR instructions and training, including the availability of first-aid supplies; (4-5-00)
- ~~h.~~ Screening, referral, and care of juvenile offenders who may be suicide-prone, or experience physical, mental or emotional disabilities; (3-30-07)
- ~~i.~~ Arrangements for providing close medical supervision of juvenile offenders with special medical or psychiatric problems; (3-30-07)
- ~~j.~~ Delousing; (3-29-12)
- ~~k.~~ Infectious disease control and medical isolation; (4-5-00)
- ~~l.~~ Temporary, immediate isolation, and proper examination by the medical employee of juvenile offenders suspected of having contagious or infectious diseases; (3-30-07)
- ~~m.~~ Management of pharmaceuticals, including storage in a secure location; and (3-30-07)
- ~~n.~~ Notification of next of kin or appropriate authorities in case of serious illness, injury or death. (3-30-07)

02. Medical Judgments. Except for regulations necessary to ensure the safety and order of the detention center, all matters of medical, mental health, and dental judgment shall be the sole province of the health authority, who shall have final responsibility for decisions related to medical judgments. (3-30-07)

03. Informed Consent. Permission to perform medical, surgical, dental or other remedial treatment shall be obtained from parents, spouse, guardian, court or other competent person as stated in Title 16, Chapter 16, Section 16-1627, Idaho Code. (3-30-07)

04. Health Appraisal. A health appraisal for each juvenile offender shall be provided by the health authority or medical employee within fourteen (14) days of admission. (3-30-07)

251. -- 254. (RESERVED)

255. RULES AND DISCIPLINE.

01. Written Policy and Procedures. The detention center shall have written policy and procedures for maintaining discipline and regulating juvenile offenders' conduct. The following general principle shall apply: (3-30-07)

a. The conduct of juvenile offenders shall be regulated in a manner which encourages and supports appropriate behavior, with penalties for negative behavior; (3-30-07)

b. The detention center shall have written rules of conduct which specify prohibited acts, the penalties that may be imposed for various degrees of violation, and the disciplinary procedures to be followed; (3-30-07)

c. Disciplinary action shall be of a nature to regulate juvenile offenders' behavior within acceptable limits and shall be taken at such times and in such degrees as necessary to accomplish this objective; (3-30-07)

d. The behavior of juvenile offenders shall be controlled in an impartial and consistent manner;

- (3-30-07)
- e. Disciplinary action shall not be arbitrary, capricious, retaliatory, or vengeful; (4-5-00)
 - f. Corporal or unusual punishment is prohibited, and care shall be taken to insure juvenile offenders' freedom from personal abuse, humiliation, mental abuse, personal injury, disease, property damage, harassment, or punitive interference with daily functions of living, such as eating or sleeping; (3-30-07)
 - g. Use of restraints or use of physical force as punishment is prohibited; (3-30-07)
 - h. Withholding of ~~food meals~~ or variation of diet as punishment is prohibited; and ~~(4-5-00)~~()
 - i. Juvenile offenders shall not be subject to any situation in which juvenile offenders impose discipline on each other. (3-30-07)
- 02. Resolution of Rule Infractions.** The detention center shall have written policy and procedures to define and govern the resolution of rule infractions. (3-30-07)
- 03. Grievance Procedures.** The detention center shall have written policy and procedures for juvenile offenders which will identify grievable issues and define the grievance process. (3-30-07)
- 04. Criminal Law Violations.** The detention center shall have written policy and procedures to govern the handling of incidents that involve the violation of federal, state, or local criminal law, including prompt referral to the appropriate authority for possible investigation and prosecution. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

261. ADMISSION.

- 01. Orientation Materials.** Written policy and procedures shall provide that new juvenile offenders receive orientation materials, including conduct rules. If, at any time, a literacy or language barrier is recognized, the detention center shall make good faith efforts to assure that the juvenile offender understands the material. (3-30-07)
- 02. Written Procedures for Admission.** The detention center shall have written policy and procedures for admission of juvenile offenders which shall address, but are not limited to, the following: (3-30-07)
- a. Determination that the juvenile offender is lawfully detained in the detention center; (3-29-12)
 - b. The classification of juvenile offenders in regard to sleeping, housing arrangements, and programming; (3-30-07)
 - c. If the juvenile offender shows signs of illness, injury, is incoherent, or unconscious, he shall not be admitted to the detention center until the detaining officer has provided written documentation from medical personnel or a physician of examination, treatment, and fitness for confinement; (3-29-12)
 - d. A complete search of the juvenile offender and possessions; (3-30-07)
 - e. The ~~care and~~ disposition of personal property; ~~(3-30-07)~~()
 - f. Provision of shower and the issuance of detention clothing and personal hygiene articles; (3-30-07)
 - g. The provision of medical, dental and mental health screening; (3-30-07)
 - h. Male and female juvenile offenders shall not occupy the same sleeping room; (3-30-07)

- i.** The recording of basic personal data and information; (3-30-07)
 - j.** Providing assistance to juvenile offenders in notifying their families of their admission and the discussion of procedures for mailing and visiting; (3-29-12)
 - k.** The fingerprinting and photographing in accordance with Title 20, Chapter 5, Section 20-516(8), Idaho Code; and (3-29-12)
 - l.** The administration of the MAYSI or other approved risk tool. (3-29-12)
- 03. Court Appearance Within Twenty-Four Hours.** According to Title 20, Chapter 5, Section 20-516(4), Idaho Code, written policy and procedures shall ensure that any juvenile offender placed in detention or shelter care be brought to court within twenty-four (24) hours, excluding Saturdays, Sundays and holidays for a detention hearing to determine where the juvenile offender will be placed until the next hearing. Status offenders shall not be placed in any jail or detention center, but instead may be placed in juvenile shelter care facilities. (3-30-07)
- 04. Limitations of Detention.** Written policy and procedures shall limit the use of detention in accordance with Title 20, Chapter 5, Section 20-516, Idaho Code. (3-30-07)

IDAPA 05 - IDAHO DEPARTMENT OF JUVENILE CORRECTIONS

05.02.01 - RULES FOR RESIDENTIAL TREATMENT PROVIDERS

DOCKET NO. 05-0201-1501

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 20-504(3) and 20-504(12), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 2015.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The minor changes made to this rule are in an effort to clarify the currently existing rules, and as requested during the 2015 legislative session. The changes include:

In the definition of "body cavity search" the term medical "authority" has been changed to medical "health professional" for consistency in the rule; adds the words "provider employee" to clarify that staff at the residential treatment provider are prohibited from transporting juveniles in their personal vehicles unless an emergency situation exists.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: NA

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because many contracted providers are already in compliance with these rules, and the changes made will only increase clarity and decrease any duplicative efforts made by contracted providers.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jessica Moncada, (208) 334-5100 ext. 410.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 23, 2015.

DATED this 6th Day of August, 2015.

Sharon Harrigfeld, Director
Idaho Department of Juvenile Corrections
954 W. Jefferson, Boise, ID 83702
PO Box 83720, Boise, ID 83720-0285
Phone: (208) 334-5100
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 05-0201-1501
(Only Those Sections With Amendments Are Shown.)

010. DEFINITIONS.

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

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

- 32. Observation and Assessment Evaluation.** Written documentation of assessment tool results, observations, interviews, risks, and any special considerations resulting in the creation of the service plan, which includes the initial reintegration plan. (4-11-15)
- 33. Observation and Assessment Program.** A residential or nonresidential program designed to complete assessments of juveniles in the custody of the department. (4-11-15)
- 34. Physical Restraint.** Any method of physical control of a juvenile offender which involves staff touching or holding a juvenile offender to limit or control the juvenile offender's actions. (4-11-15)
- 35. PREA.** A federal act promulgating standards that promote zero tolerance toward sexual abuse of juvenile offenders by staff or by other juvenile offenders. Also known as Public Law 108-79 or the Prison Rape Elimination Act. (4-11-15)
- 36. Program Director.** The administrator of the residential treatment provider for juvenile offenders. (4-11-15)
- 37. Progress Report.** A written report summarizing progress toward the goals and objectives set in the service implementation plan. (4-11-15)
- 38. Quality Improvement Services Bureau.** Department employees responsible for overseeing residential treatment provider's compliance with contract terms and these rules. (4-11-15)
- 39. Referral Packet.** The information necessary for a potential residential treatment provider to determine whether the program can appropriately meet the identified criminogenic risks and needs of the juvenile being referred. (4-11-15)
- 40. Region.** Subunits of the department organized by geographical areas and including all services and programs offered by the department in that area. (4-11-15)
- 41. Regional Facility.** Department-operated juvenile correctional centers located in each region of the state. (4-11-15)
- 42. Reintegration Plan.** That part of the juvenile offender's service plan which specifically addresses the terms, conditions and services to be provided as the juvenile offender moves to a lower level of care or leaves the custody of the department. (4-11-15)
- 43. Relapse Prevention Plan.** A document completed by the juvenile, used to identify interventions for problem behavior, positive supports, and high risk people and places. (4-11-15)
- 44. Release from Department Custody.** Termination of the department's legal custody of a juvenile. (4-11-15)
- 45. Residential Treatment Provider.** Also known as Provider. A residential program under contract with the department to supervise juvenile offenders, provide accountability and competency development in the least restrictive setting, consistent with public safety. (4-11-15)
- 46. Restitution.** Financial payment intended to reimburse victims for loss, damage, or harm caused by a juvenile offender. Restitution must be court ordered. Providers may not impose restitution against a juvenile offender without a court order. (4-11-15)
- 47. Restricted Clinical Information.** Any record, document or other information legally protected from dissemination to the general public by statute or rule, such as psychological evaluations, therapy notes, therapy journals, sex histories, polygraph results, psychological testing, or other legally confidential information. (4-11-15)
- 48. Room Confinement.** Instances in which juvenile offenders are confined in the room in which they

usually sleep, rather than being confined in an isolation room. (4-11-15)

49. Separation or Isolation. Any instance when juvenile offenders are confined alone for over fifteen (15) minutes in a room other than the room in which they usually sleep. (4-11-15)

50. Service Implementation Plan. A written document produced and regularly updated by a residential treatment provider with input from the community treatment team. This plan describes interventions and objectives to address the service plan goals including the areas of community protection, accountability, and competency development. (4-11-15)

51. Service Plan. A written document produced during the observation and assessment period following commitment to the department that defines the juvenile offender's criminogenic needs and risks, strengths, goals, and recommendations for family and reintegration services. The service plan addresses the relevant needs and services for each juvenile offender in areas such as mental health, medical, education, substance abuse, and social skills. (4-11-15)

52. Sexual Abuse. Includes any type of contact which is sexual in nature and directed toward a juvenile offender by staff or by juvenile offenders as well as sexual harassment which includes repeated and unwelcomed sexual advances, comments, gestures, voyeurism, implied threats, and coercion. (4-11-15)

53. Staffings. Regularly scheduled meetings of the community and facility treatment team members to review progress on treatment goals and objectives identified in each juvenile offender's service implementation plan. (4-11-15)

54. Subcontractor. A person or business which has contracted with the residential treatment provider for provision of some portion of work or services. (4-11-15)

55. Suicide Risk Assessment. An evaluation performed by a mental health professional to determine the level of immediate risk of a juvenile offender attempting suicide, and to apply this information in developing a safety plan for the juvenile offender. (4-11-15)

56. Suicide Risk Screening. An evaluation that is used to quickly determine, based upon known history and current behavior, whether a juvenile offender presents any identifiable risk of immediate suicidal behavior, and to call in a mental health professional to complete a suicide risk assessment. (4-11-15)

57. Superintendent. The person who has responsibility and oversight of a regional facility and over the region of the state where the regional facility is located. (4-11-15)

58. Transfer. Any movement of a juvenile offender in the custody of the department from one (1) residential treatment provider to another without a release from department custody. (4-11-15)

59. Treatment. Any program of planned services developed to meet risks and needs of juvenile offenders and their families, as identified in an assessment, and as related to activities designed to teach alternate behaviors and to support change in the beliefs that drive those behaviors. Treatment as referenced in this context also includes the maintenance of conditions that keep juvenile offenders, staff and the community safe. (4-11-15)

60. Variance. The means of complying with the intent and purpose of a residential treatment provider rule in a manner other than that specifically prescribed in the rule. (4-11-15)

61. Vocational Services. Any service provided related to assessment, education, guidance or training in the area of work or basic living skills. (4-11-15)

62. Volunteer. A person from the community who freely chooses to do or provide both direct or indirect services to juvenile offenders or staff at a facility or juvenile correctional center. This person is not compelled to do so and is not compensated for the services. (4-11-15)

63. Waiver. The non-application of one (1) or more of these rules based upon a request by the

residential treatment provider and a written decision issued by the department. (4-11-15)

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

(BREAK IN CONTINUITY OF SECTIONS)

205. TRANSPORTATION.

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

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

03. Transport in Personal Vehicles. Juveniles in the custody of the department will not be transported in personal provider employee vehicles unless an emergency situation exists and is substantiated by documentation. (4-11-15)()

IDAPA 05 - IDAHO DEPARTMENT OF JUVENILE CORRECTIONS

05.02.02 - RULES FOR STAFF SECURE PROVIDERS

DOCKET NO. 05-0202-1501

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 20-504(3) and 20-504(12), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 2015.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The minor changes made to this rule are in an effort to clarify the currently existing rules, and as requested during the 2015 legislative session. The changes include:

In the definition of "body cavity search" the term medical "authority" has been changed to medical "health professional" for consistency in the rule; adds provisions for unclothed body and body cavity searches that state that "unclothed body searches must be conducted with an adult in the room, in addition to the medical health professional, who is of the same gender as the juvenile offender being searched..."; clarifies that body cavity searches may only be conducted "in a medical facility outside of the residential treatment provider."

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: NA

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because many contracted providers are already in compliance with these rules, and the changes made will only increase clarity and decrease any duplicative efforts made by contracted providers.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jessica Moncada, (208) 334-5100 x. 410.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 23, 2015.

DATED this 6th Day of August, 2015.

Sharon Harrigfeld, Director
Idaho Department of Juvenile Corrections
954 W. Jefferson, Boise, ID 83702
PO Box 83720, Boise, ID 83720-0285
Phone: (208) 334-5100
FAX: (208) 334-5120

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 05-0202-1501
(Only Those Sections With Amendments Are Shown.)

010. DEFINITIONS.

01. **Body Cavity Search.** The examination and possible intrusion into the rectal or vaginal cavities to detect contraband. It is performed only by the medical ~~authority~~ health professional. (4-11-15)()

02. **Body Search, Clothed.** Also referred to as a Pat Search. A search during which a juvenile offender is not required to remove their clothing, with the exception of such items as a jacket, hat, socks and shoes. (4-11-15)

03. **Body Search, Unclothed.** Also referred to as a Strip Search. A search during which a juvenile offender is required to remove all clothing that is conducted by a medical health professional. (4-11-15)

04. **Education Plan.** A written plan for general education students outlining the coursework they will complete each year towards meeting the Idaho Common Core Standards recommended coursework for their grade level based on assessed academic, emotional, developmental and behavioral needs, and competencies. Students qualifying for Individuals with Disabilities Education Act (IDEA) services will have an Individual Education Plan (IEP) in lieu of an education plan. (4-11-15)

05. **General Education Student.** A student who does not qualify for special education services under the Individuals with Disabilities Education Act (IDEA). (4-11-15)

06. **Health Services.** Including, but not limited to, routine and emergency medical, dental, optical, obstetrics, mental health, or other related health service. (4-11-15)

07. **Independent Living Services.** Services that increase a juvenile offender's ability to achieve independence in the community. (4-11-15)

08. **Individual Community Pass.** Any instance in which a juvenile offender leaves the residential treatment provider's facility for a planned activity, without direct supervision by at least one (1) residential treatment provider or department staff. Regular school or work attendance, regular participation in off-site treatment sessions or groups and other regular off-site activities specifically included in the service implementation plan or written reintegration plan and approved by the juvenile services coordinator are not included in this definition. Individual community passes include, but are not limited to: (4-11-15)

- a. Day passes with family or other, approved individuals; (4-11-15)
- b. Day or overnight home visits; (4-11-15)
- c. Recreational activities not otherwise approved as a part of a group activity; and (4-11-15)
- d. Funeral leave. (4-11-15)

09. **Individual Education Plan (IEP).** A written document (developed collaboratively by parents and school personnel) which outlines the special education program for a student with a disability and is based on assessed academic, emotional, developmental and behavioral needs, and competencies. This document is developed, reviewed, and revised at an IEP meeting at least annually. (4-11-15)

10. **Medical Health Assessment.** A thorough review to determine a juvenile offender's comprehensive health needs. This information is used to develop the medical terms of a juvenile offender's service plan. (4-11-15)

11. **Medical Health Professional.** An individual who meets the applicable state's criteria as a licensed

LPN, RN, nurse practitioner, physician assistant, physician or the equivalent. (4-11-15)

12. Medical Health Screening. A process used to quickly identify a juvenile offender's immediate health needs and to determine if there are any immediate needs related to a chronic health condition. (4-11-15)

13. Mental Health Assessment. A thorough review to determine a juvenile offender's comprehensive mental health needs. This information is used to develop the medical terms of a juvenile offender's service plan. (4-11-15)

14. Mental Health Screening. A process used to quickly identify a juvenile offender's immediate mental health needs and to determine if there are any immediate needs related to a chronic mental health condition. (4-11-15)

15. Privileged Mail. Mail between the juvenile offender and their attorneys, legal aid services, other agencies providing legal services to juvenile, or paraprofessionals having legitimate association with such agencies; judges and clerks of federal, state and county courts; public officials and their authorized representatives acting in their official capacities; and the communications with clergy of the juvenile's faith. (4-11-15)

16. Staff Secure Facility. Secure residential facility with awake staff twenty-four (24) hours a day, seven (7) days a week for intensive supervision of juvenile offenders. This includes architecturally secure residential facilities. (4-11-15)

(BREAK IN CONTINUITY OF SECTIONS)

220. SEARCHES FOR CONTRABAND.

01. Searches of Personal Items. Routine searches of personal items being introduced into the program may be conducted by staff prior to the juvenile offender taking possession of his property, or when the juvenile offender is returning to the program from an individual community pass. Search of a juvenile offender's belongings may be done at any time and must be minimally intrusive. (4-11-15)

02. Policies and Procedures Governing Consequences. The provider must have written policies and procedures establishing the consequences for juvenile offenders found with contraband. (4-11-15)

03. Visitor Searches. (4-11-15)

a. Prior to visitors being allowed in the program, they must be given rules established by the provider that govern their visit and advised that they may be subject to a search by trained staff. They must sign a statement of receipt of these rules and it shall be placed in the provider's file. (4-11-15)

b. Visitors may be required to submit personal items for inspection. If there is reason to believe that additional searches are necessary, admission to the facility shall be denied. Visitors who bring in items that are unauthorized, but not illegal, will have these items taken and locked in an area inaccessible to the juvenile offenders during the visit. These items will be returned to the visitors upon their exit from the facility. (4-11-15)

c. All visitor searches must be documented. When contraband is found, a written report must be completed and submitted to the juvenile services coordinator. If necessary, the appropriate law enforcement agency will be notified. (4-11-15)

04. Clothed Body Searches. (4-11-15)

a. Clothed body searches of juvenile offenders may be conducted whenever the provider believes it is necessary to discourage the introduction of contraband into the program, or to promote the safety of staff, juvenile offenders, and visitors. A clothed body search may be used when a juvenile offender is returning from a visit, outside appointment, or activity. (4-11-15)

b. Clothed body searches must be conducted in the manner required by the rules of the Idaho Department of Health and Welfare under IDAPA 16.06.02, "Standards for Child Care Licensing." Clothed body searches of juvenile offenders will be conducted by staff of the same gender as the juvenile offender. Clothed body searches will be conducted using a pat down search on the outside of the juvenile's clothing. The staff member must have had appropriate training in conducting clothed body searches. (4-11-15)

05. Unclothed Body Searches. Unclothed body searches of juvenile offenders may only be conducted by a medical health professional and with prior written authorization from the program director or designee. Unclothed body searches must be conducted with an adult in the room, in addition to the medical health professional, who is of the same gender as the juvenile offender being searched. Unclothed body searches must be based upon a reasonable belief that the juvenile is concealing contraband or signs of abuse. Immediately after conducting an unclothed body search the provider must notify the department's regional superintendent and the Quality Improvement Services Bureau. The provider must complete an incident report according to the requirements of IDAPA 05.02.01.241, "Rules for Residential Treatment Providers." (4-11-15)()

06. Body Cavity Searches. Body cavity searches of juvenile offenders may only be conducted in a medical facility outside of the residential treatment provider, by a medical health professional, and with prior written authorization from the program director or designee. Body cavity searches of juveniles will not be performed by staff, interns, or volunteers under any circumstances. Looking into a juvenile's mouth, ears, or nose does not constitute a body cavity search. Body cavity searches must be based upon a reasonable belief that the juvenile is concealing contraband. Immediately after conducting a body cavity search the provider must notify the department's regional superintendent and the Quality Improvement Services Bureau. The provider must complete an incident report according to the requirements of IDAPA 05.02.01.241, "Rules for Residential Treatment Providers." (4-11-15)()

07. Documentation of Searches. All searches must be documented in terms of reason for the search, who conducted the search, what areas were searched, and what type of contraband was found, if any. If a search yields contraband, the juvenile services coordinator must be notified and it shall be reported according to the requirements of IDAPA 05.02.01.241, "Rules for Residential Treatment Providers." If necessary, the appropriate law enforcement agency should be notified. (4-11-15)

08. Contraband Disposal. All contraband found in the possession of juvenile offenders, visitors, or staff must be confiscated by staff and secured under lock and key in an area inaccessible to juvenile offenders. Local law enforcement must be notified in the event illegal drugs, paraphernalia, or weapons are found. It shall be the responsibility of the program director, in consultation with the department, to dispose of all contraband not confiscated by police. (4-11-15)

IDAPA 05 - IDAHO DEPARTMENT OF JUVENILE CORRECTIONS

05.02.03 - RULES FOR REINTEGRATION PROVIDERS

DOCKET NO. 05-0203-1501

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 20-504(3) and 20-504(12), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 2015.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The minor changes made to this rule are in an effort to clarify the currently existing rules, and as requested during the 2015 legislative session. The changes include:

In the definition of "body cavity search" the term medical "authority" has been changed to medical "health professional" for consistency in the rule; adds provisions for unclothed body and body cavity searches that state that "unclothed body searches must be conducted with an adult in the room, in addition to the medical health professional, who is of the same gender as the juvenile offender being searched..."; clarifies that body cavity searches may only be conducted "in a medical facility outside of the residential treatment provider."

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: NA

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because many contracted providers are already in compliance with these rules, and the changes made will only increase clarity and decrease any duplicative efforts made by contracted providers.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jessica Moncada, (208) 334-5100 x. 410.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 23, 2015.

DATED this 6th Day of August, 2015.

Sharon Harrigfeld, Director
Idaho Department of Juvenile Corrections
954 W. Jefferson, Boise, ID 83702
PO Box 83720, Boise, ID 83720-0285
Phone: (208) 334-5100
FAX: (208) 334-5120

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 05-0203-1501
(Only Those Sections With Amendments Are Shown.)

010. DEFINITIONS.

01. **Body Cavity Search.** The examination and possible intrusion into the rectal or vaginal cavities to detect contraband. It is performed only by the medical ~~authority~~ health professional. (4-11-15)()

02. **Body Search, Clothed.** Also referred to as a Pat Search. A search during which a juvenile offender is not required to remove their clothing, with the exception of such items as a jacket, hat, socks and shoes. (4-11-15)

03. **Body Search, Unclothed.** Also referred to as a Strip Search. A search during which a juvenile offender is required to remove all clothing that is conducted by a medical health professional. (4-11-15)

04. **Education Plan.** A written plan for general education students outlining the coursework they will complete each year towards meeting the Idaho Common Core Standards recommended coursework for their grade level based on assessed academic, emotional, developmental and behavioral needs, and competencies. Students qualifying for Individuals with Disabilities Education Act (IDEA) services will have an Individual Education Plan (IEP) in lieu of an education plan. (4-11-15)

05. **General Education Student.** A student who does not qualify for special education services under the Individuals with Disabilities Education Act (IDEA). (4-11-15)

06. **Health Services.** Including, but not limited to, routine and emergency medical, dental, optical, obstetrics, mental health, or other related health service. (4-11-15)

07. **Independent Living Services.** Services that increase a juvenile offender's ability to achieve independence in the community. (4-11-15)

08. **Individual Community Pass.** Any instance in which a juvenile offender leaves the residential treatment provider's facility for a planned activity, without direct supervision by at least one (1) residential treatment provider or department staff. Regular school or work attendance, regular participation in off-site treatment sessions or groups and other regular off-site activities specifically included in the service implementation plan or written reintegration plan and approved by the juvenile services coordinator are not included in this definition. Individual community passes include, but are not limited to: (4-11-15)

- a. Day passes alone or with family or other, approved individuals; (4-11-15)
- b. Day or overnight home visits; (4-11-15)
- c. Recreational activities not otherwise approved as a part of a group activity; and (4-11-15)
- d. Funeral leave. (4-11-15)

09. **Individual Education Plan (IEP).** A written document (developed collaboratively by parents and school personnel) which outlines the special education program for a student with a disability and is based on assessed academic, emotional, developmental and behavioral needs, and competencies. This document is developed, reviewed, and revised at an IEP meeting at least annually. (4-11-15)

10. **Medical Health Professional.** An individual who meets the applicable state's criteria as a licensed LPN, RN, nurse practitioner, physician assistant, physician or the equivalent. (4-11-15)

11. **Privileged Mail.** Mail between the juvenile offender and their attorneys, legal aid services, other

agencies providing legal services to juvenile, or paraprofessionals having legitimate association with such agencies; judges and clerks of federal, state and county courts; public officials and their authorized representatives acting in their official capacities; and the communications with clergy of the juvenile's faith. (4-11-15)

12. Reintegration Placement. The placement of a juvenile offender receiving independent living and reintegration skills services from the provider. This placement may be with a host family, in a group setting, or in an apartment. (4-11-15)

(BREAK IN CONTINUITY OF SECTIONS)

220. SEARCHES FOR CONTRABAND.

01. Searches of Personal Items. Routine searches of personal items being introduced into the program or residence may be conducted by staff prior to the juvenile offender taking possession of their property, or when the juvenile offender is returning to the program or residence from an individual community pass. Search of a juvenile offender's belongings or residence may be done at any time and must be minimally intrusive. (4-11-15)

02. Policies and Procedures Governing Consequences. The reintegration provider must have written policies and procedures establishing the consequences for juvenile offenders found with contraband. (4-11-15)

03. Clothed Body Searches. (4-11-15)

a. Clothed body searches of juvenile offenders may be conducted whenever the reintegration provider believes it is necessary to discourage the introduction of contraband into the facility, or to promote the safety of staff, juvenile offenders, and visitors. A clothed body search may be used when a juvenile offender is returning from a visit, outside appointment, or activity. (4-11-15)

b. Clothed body searches must be conducted in the manner described in the rules of the Idaho Department of Health and Welfare under IDAPA 16.06.02, "Standards for Child Care Licensing." Clothed body searches of juvenile offenders will be conducted by staff of the same gender as the juvenile offender. Clothed body searches will be conducted using a pat down search outside the juvenile's clothing on each quadrant. (4-11-15)

04. Unclothed Body Searches. Unclothed body searches of juvenile offenders may only be conducted by a medical health professional and with prior written authorization from the program director or designee. Unclothed body searches must be conducted with an adult in the room, in addition to the medical health professional, who is of the same gender as the juvenile offender being searched. Unclothed body searches must be based upon a reasonable belief that the juvenile is concealing contraband or signs of abuse. Immediately after conducting an unclothed body search the provider must notify the department's regional superintendent and the Quality Improvement Services Bureau. The provider must complete an incident report according to the requirements of IDAPA 05.02.01.241, "Rules for Residential Treatment Providers." (4-11-15)()

05. Body Cavity Searches. Body cavity searches of juvenile offenders may only be conducted in a medical facility outside of the residential treatment provider, by a medical health professional and with prior written authorization from the program director or designee. Body cavity searches of juveniles will not be performed by staff, interns, or volunteers under any circumstances. Looking into a juvenile's mouth, ears, or nose does not constitute a body cavity search. Body cavity searches must be based upon a reasonable belief that the juvenile is concealing contraband. Immediately after conducting a body cavity search the provider must notify the department's regional superintendent and the Quality Improvement Services Bureau. The provider must complete an incident report according to the requirements of IDAPA 05.02.01.241, "Rules for Residential Treatment Providers." (4-11-15)()

06. Documentation of Searches. All searches must be documented in terms of reason for the search, who conducted the search, what areas were searched, and what type of contraband was found, if any. If a search yields contraband, the juvenile services coordinator must be notified and it shall be reported according to the requirements of IDAPA 05.02.01.241, "Rules for Residential Treatment Providers." If necessary, the appropriate law enforcement agency should be notified. (4-11-15)

07. Contraband Disposal. All contraband found in the possession of juvenile offenders, visitors, or staff must be confiscated by staff and secured under lock and key in an area inaccessible to juvenile offenders. Local law enforcement must be notified in the event illegal drugs, paraphernalia, or weapons are found. It shall be the responsibility of the program director, in consultation with the department, to dispose of all contraband not confiscated by police. (4-11-15)