



JI-DE-001-003

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

JOHN A. and MARY B., et al.,	)	
	)	
Plaintiffs,	)	
	)	C.A. NO. 90-200 (RRM)
V.	)	
	)	
MICHAEL N. CASTLE, et al.,	)	
	)	
Defendants.	)	

**CONSENT AGREEMENT AND DECREE**

The parties, having negotiated and reached agreement for the settlement of this action, intending to be bound do hereby submit this Consent Agreement to the Court for its review, approval and entry as a Consent Decree, binding upon the parties and their successors according to the terms set forth therein, unless further modified by the Court:

**GRIEVANCES, DISCIPLINE, CONTROL AND ROOM CONFINEMENT**

1. Youth Rehabilitative Services ("YRS") shall comply with the Grievance Policy and Procedures set forth in Attachment I to this Consent Decree for all youth at Ferris School ("Ferris") and the New Castle County Detention Center ("NCCDC"). Ferris is defined to include any successor facility-secure facility in Delaware for adjudicated youth, and Mowlds Cottage. NCCDC is defined to include any successor facility-secure facility in Delaware for detained youth, but excluding Stevenson House and its successors.

2. YRS shall comply with the Discipline Policy set forth in Attachment I to this Consent Decree, for all youth at Ferris

and NCCDC.

3. YRS shall comply with the Policy on Control and Room Confinement, set forth in Attachment I to this Consent Decree, for all youth at Ferris and NCCDC. Unit isolation, or lock-down of an entire unit, shall not be permitted, except in accordance with the "Group Restriction" provisions of Attachment I, Policy on Control and Room Confinement.

4. The Department of Services for Children, Youth and Their Families ("DSCYF" or "the Department") shall not use chemical restraints in any form, including, but not limited to, teargas, Mace, pepper gas, etc., on youth at Ferris and NCCDC.

5. Youth at Ferris and NCCDC who need to be separated from the general population for medical reasons shall be supervised by medical staff as medically indicated. These youth shall not be locked in their rooms, other than in the manner and circumstances applicable to the general population.

#### PROGRAMMING

Within 90 days of the signing of this order, Ferris and NCCDC shall complete a review of their service plan processes.

##### A. Youth at NCCDC

1. All youth detained at NCCDC shall be screened on admission, and within the limits of its discretion and authority DYRS will promote the placement of non-violent and non-serious alleged delinquents to less restrictive alternatives. For all youth who remain detained following their Family Court Bail Hearing, YRS shall identify placements for non-violent and non-

serious alleged delinquents in less restrictive alternatives. YRS will pursue approval for placements through the Family Court Bail Review process. YRS shall prepare and maintain a written case plan for each youth who remains detained after the Family Court Bail Hearing. The plan shall include, but not be limited to, a description of the youth's problems, the immediate needs for care, and the care to be provided for the identified needs, and any other services to be provided beyond the regular detention program services. All plans shall include preparation for the youth's release from detention. For a youth whose plan requires placement outside the home, the plan shall be designed to achieve placement in the least restrictive setting available, consistent with the best interest and special needs of the youth and the requirements of public safety.

2. YRS shall appropriately address the health, educational and immediate emotional needs of each youth at NCCDC. NCCDC shall post a schedule of daily activities, including education and recreation, to which the staff adheres.

3. Youth at NCCDC shall be offered the opportunity for at least one hour per day of physical exercise involving large muscle groups, to be taken outside if weather permits.

B. Youth at Ferris

1. YRS shall utilize a classification system based upon the severity and chronicity of offenses. Within the limit of the Division's discretion and authority, and consistent with the requirements of court orders, the classification system shall

guide the placement of youth classified as non-chronic and less-severe in the least restrictive and most appropriate alternative community programs. This section does not apply to youth committed by Family Court for a period of less than thirty days.

2. YRS shall develop for each youth at Ferris for more than 30 days a comprehensive, individualized service plan, based on an assessment of the youth's strengths and needs, and oriented towards the youth's lawful re-entry into the community. YRS shall make its best efforts to provide services that reflect the youth's strengths and needs. An initial classification shall be completed within two weeks of admission to intake status, and a comprehensive plan shall be developed within 30 days of the youth's unit assignment.

3. YRS shall make available a comprehensive range of services designed to address the youth's health, educational and emotional needs, including a comprehensive education program; group and individual counselling; a program for drug and alcohol abuse rehabilitation; special offenders' programs; access to telephone; a schedule for visiting; and a daily posted schedule for education, counselling and recreation to which the staff adheres.

4. Youth at Ferris shall be offered the opportunity for at least one hour per day of physical exercise involving large muscle groups, to be taken outside if weather permits.

5. The comprehensive individualized service plan shall include an itemization of the youth's strengths and specific

educational, vocational, medical, mental health and emotional needs, and shall be based on interviews, school and family assessments, and where appropriate special evaluations. If the intake assessment on the intake unit indicates that the youth has a substance abuse problem, there shall be a special evaluation and the individual needs assessment shall consider the extent of substance abuse that might have impaired the youth or the family's functioning.

6. After being itemized, each youth's strengths and needs will be matched to services, e.g. individual and group counseling, and/or specialized psychological and psychiatric services, designed to meet that youth's particular needs. Individualized service plans will be re-assessed every 30 days, and services will be added or changed as indicated. Such changes or additions shall be reviewed with the youth. A parent, guardian, or custodian of the youth shall be apprised of any such changes or additions.

7. Prior to the release from Ferris of each youth who has been at Ferris for more than 30 days, a specific plan for re-entry to the community shall be developed as a component of the service plan for the youth. In no event, however, shall a youth's release be delayed for this purpose. The reentry plan shall concretely identify post-release services designed to continue treatment and support for the youth's re-entry to the family and neighborhood and maintenance of non-delinquent behavior, including appropriate available educational, vocational and

mental health services.

8. For youth adjudicated in adult court who will serve time at Ferris until their eighteenth birthday, a special program shall be developed that recognizes the longer-term nature of their commitment and the specific service needs of this population, and that prepares youth for transition into the adult prison system. This special program shall be developed by July 1, 1995.

#### STAFFING

1. YRS shall undertake an overall review of staffing needs annually. YRS shall request staff positions to meet identified staffing needs through the annual budget process.

2. Staffing ratios for the first two shifts shall be at least one direct youth supervisor (that is, including youth rehabilitative counselors, their immediate supervisors, and teachers but not including clinical staff or administrators) to each eight youths. On the third (overnight) shift, the ratio shall be at least one direct youth supervisor to every twelve youths, with back-up or floating staff available throughout the shift.

3. A roster of approved, casual/seasonal employees shall be maintained for assignment to short-term, full-time and part-time duties of permanent staff when necessary to maintain essential coverage.

4. Criminal record checks shall be completed on all new employees prior to their employment at the facilities.

5. All new employees shall be initially hired for a probationary period of at least six months and their performance shall be evaluated and documented as having demonstrated competency prior to their appointment to an established position.

6. Written performance reviews shall be completed annually for all employees and all content of the review shall be in accordance with the quality assurance guidelines established by the State for the performance review process.

#### MENTAL HEALTH

1. All youth shall be screened for potential suicide risks. A written suicide prevention and intervention policy shall be maintained, which includes specific procedures for identification and supervision of suicide-prone youth. All staff with responsibility for juvenile supervision shall be trained in the implementation of the policy.

2. A full-time doctorate-level psychologist position shall be maintained at Ferris School to provide direct services for youth who have mental health problems, and to advise other staff in their contacts with these youth. Two additional doctorate-level psychologists, licensed by the State of Delaware, and one licensed psychiatrist, shall be maintained on a part-time consultant basis to provide direct mental health services for youth.

3. At a minimum, the mental health staff will be available to:

a. Train staff who do initial assessments of youth and be available to help assess problematic cases;

b. Participate in the development of the treatment plan of each youth who, in the professional judgment of the mental health staff, requires mental health services, and consult with staff about necessary revisions in the individual service plans of these youth, where appropriate;

c. Be available to provide direct mental health services to youth who need ongoing mental health services as specified in the youth's individual treatment plan;

d. Be available to youth who are in crisis (e.g., placed in room confinement because of lack of control), and be available to staff to consult about the management and treatment, if indicated, for problematic cases, including youth who present chronic discipline problems;

#### EDUCATION

1. DSCYF shall make school available to all youth in Ferris and NCCDC five hours of school per day, two hundred fifteen days per year, in accordance with DPI approved school calendar for state-operated programs. DSCYF shall make available special education, pre-vocational or vocational education, remedial education and GED preparation to meet the varied individual educational needs of the youth in programs.

2. The attainment of skills that can be applied directly to post-release employment would benefit many youth. Whatever vocational training is offered will be based on a periodic and realistic re-assessment of the job market. DSCYF shall provide vocational assessment to youth with disabilities and shall



develop such youths' individualized education plans based on the results of the vocational assessments. DSCYF shall offer pre-vocational or vocational education to youth with disabilities as provided by the youths' IEPs.

3. Upon admission to NCCDC or Ferris, DSCYF shall make good faith efforts to obtain each youth's prior school records within 15 days of admission or commitment.

4. DSCYF shall develop curriculum referenced educational assessments for all youth suspected of being disabled. Special education shall comply with federal law; special education services shall be designed to meet the diverse needs of youth identified as disabled, mentally retarded or seriously emotionally disturbed. Related services (e.g. speech therapy, occupational therapy, psychological counseling, etc.) shall be available to meet the special education needs of specific youth. All special education youth shall have individual educational plans ("IEPs") with assessments and goals reflected in the youth's overall service plan. DSCYF shall ensure that IEP meetings are held and that parents or guardians of youth are invited; that IEPs are tailored to individual needs of each student; and that IEPs are reviewed and revised as needed, at least annually. Special education students should be integrated into classes with other students.

5. DSCYF shall make a good faith effort to ensure that NCCDC and Ferris become fully accredited by Middle States Association of Colleges and Schools within 2 years of the Court's

approval of the decree.

6. DSCYF shall perform the following additional tasks:

a. Provide on-going training to administrative and child care staff that is aimed at improved coordination and cooperation between educational services and the other components of the program.

b. Develop a system of monitoring the location of all students, especially those who are not attending school. Shall not exclude youth from school because of minor behavior problems as defined by the discipline policy.

c. Provide that all youth with disabilities excluded from school because of health or major behavioral problems receive ongoing and appropriate educational services.

d. Provide that the educational program is appropriately staffed. In the classroom, teacher's aides should provide instructional support, not clerical services. At Ferris and NCCDC, maintain one full-time school psychologist to provide counseling.

e. Provide youth with educational transition services to the extent required by federal law.

f. Provide youth who are unable to attend school during convalescence from illness or injury with homework or homebound instruction depending on the youth's medical condition.

#### LIFE SAFETY

YRS agrees to adhere to the following American Correctional Association standards for juvenile training schools (3rd Edition

January 1991) with regard to Ferris and NCCDC.

1. Each facility shall have written policies, procedures and practices for fire prevention. These policies, procedures and practices shall conform to the State of Delaware Fire Prevention regulations and shall incorporate reasonable measures for the prevention and prompt control of fire. These written policies, procedures and practices shall be reviewed annually and updated as needed. They shall include but not be limited to the following:

a. a system of fire inspection and testing of equipment at least quarterly, or at intervals approved by the State Fire Marshal's Office, following the procedures stated for variances, exceptions or equivalencies

b. annual inspection by the State Fire Marshal's Office or other qualified person[s]

c. availability of fire protection equipment at appropriate locations throughout the facility (3-JTS-3B-01)

2. There shall be a comprehensive and thorough monthly inspection of each facility by a person who has completed a course of inspection approved by the State Fire Marshal. There shall be a weekly fire and safety inspection of the facility by a person who has been trained in methods of inspection and documentation by the State Fire Marshal. The monthly and weekly inspections shall be in conformity with the written policies, procedures and practices for each facility. (3-JTS-3B-02).

3. YRS shall make a careful fire safety evaluation before

purchasing any facility furnishings, such as draperies, curtains, furniture, mattresses and bedding, wastebaskets, decorations, cushions or other items of foamed plastics or rubber (such as polyurethane or polystyrene); and should purchase only furnishings whose specifications meet the standards in the Life Safety Code of the National Fire Protection Association as incorporated in the State of Delaware Fire Prevention Regulations. All polyurethane should be removed from living areas unless the State Fire Marshal's Office approves its use in writing. The State Fire Marshal's Office should consider the flammability and toxicity characteristics of the products being evaluated. (3-JTS-3B-03).

4. Each facility shall be equipped with noncombustible receptacles for combustible refuse, at accessible locations throughout the living quarters in the facility. Special receptacles shall be provided for flammable liquids and for rags used with flammable liquids. All receptacles and containers shall be emptied and cleaned daily. Tobacco smoking is prohibited within the facilities. (3-JTS-3B-04).

5. The control and use of all flammable, toxic and caustic materials shall be governed by written policy, procedure and practice. For purposes of this agreement, flammable material means liquids with a flash point below 100 degrees Fahrenheit; toxic material means substances that can produce possible harm to the body by entering through the skin, digestive tract or respiratory tract (e.g., zinc, chromed paint, ammonia, anti-

freeze, herbicides, pesticides); caustic material means substances that can destroy or eat away by chemical reaction, (e.g. lye, caustic soda, sulfuric acid). (3-JTS-3B-05).

6. Each facility shall have access to an alternate power source to maintain essential services in an emergency, and these alternative power sources shall be maintained in accordance with written policy, practices and procedure. (3-JTS-3B-06).

7. There shall be written policy, procedure and practice that provide for telephone and radio communications systems within the facility and between the facility and the Police and Fire Departments in the event of urgent, special or unusual incidents or emergency situations. (3-JTS-3B-07).

8. There shall be a written plan for preventive maintenance, i.e. regular inspection and repair, of the physical plant, which includes provisions for emergency repairs or replacement in life-threatening situations. (3-JTS-3B-08).

9. Power generators shall be tested at least every two weeks, and other emergency equipment and systems shall be tested at least quarterly for effectiveness, and shall be repaired or replaced if necessary. (3-JTS-3B-09).

10. Ventilation shall be available in the living units in the event of a power failure. (3-JTS-3B-10).

11. For each of the facilities, YRS shall have a written evacuation plan prepared for the event of fire or major emergency that is certified by the State Fire Marshal's Office. The plan shall be reviewed annually, updated if necessary, and issued to

the local fire jurisdiction. The plan shall include the following:

- a. floor plan for the building and rooms
- b. use of exit signs and directional arrows for traffic flow
- c. location of publicly posted plans
- d. monthly drills in all occupied areas of the facility, in which all juveniles are evacuated
- e. staff drills when evacuation of dangerous residents may not be included (3-JTS-3B-11)

12. All staff at both facilities shall be trained in the implementation of written emergency plans. A contingency plan for maintaining essential services during work stoppages, riot or other disturbances shall be communicated only to appropriate supervisory staff or other personnel directly involved in implementation of the plans. (3-JTS-3B-12).

13. YRS shall maintain for each facility written policy, procedure, and practice which specify the means for immediate release of juveniles from locked areas in case of emergency, and provide for a backup system. (3-JTS-3B-13).

14. The facilities shall have written plans that specify policies and procedures to be followed in situations that threaten facility security. These plans shall be available to all applicable staff and shall be reviewed at least annually and updated as necessary. (3-JTS-3B-14).

15. Each facility shall have written policies and proce-

dures regarding escapes, and these policies and procedures shall be reviewed at least annually and updated if necessary. (3-JTS-3B-15).

#### MEDICAL CARE

YRS agrees to the following:

1. Immediately upon the admission of each youth to Ferris or NCCDC, staff shall perform an initial medical and dental screening for health needs. YRS shall maintain written protocols and guidelines for intake staff to follow, train intake staff to perform screenings; and periodically review the quality and completeness of the screenings.

2. Upon the admission of each youth who has not been admitted within the previous 90 days, health staff shall perform an age-appropriate health appraisal and physical examination. The health appraisal and physical examination shall be guided by written protocols. For each youth who is readmitted within 90 days of such a health appraisal and physical examination, health staff will review his past medical records, take an interim medical history, and make a nursing evaluation regarding any new trauma, illnesses, or sexually transmitted diseases requiring care.

3. Medical charts shall include a medical care "flow sheet." Staff shall maintain a record of youth with chronic illnesses, which shall be kept separate from the patient's chart, to help ensure that problems are not lost to follow-up. Procedures shall be devised and followed for obtaining records of

youth's past medical treatment. Specialty consultants shall provide written notes describing their evaluations and recommendations. A medical summary shall be prepared for a youth with chronic or ongoing problems when the youth is transferred or released. Such medical summary shall be made available to the facility to which the youth is transferred, or to the youth's parent/guardian/custodian upon his/her release, except as restricted by law.

4. A physician shall at regular intervals review the performance of nursing staff with regard to sick call, and evaluate nursing staff's screening of requests by youth for health services and physician consultations.

5. At Ferris, an infirmary area, separate and distinct from living quarters, shall be provided for close observation of ill or injured youth whose condition is not so serious as to require hospitalization. The infirmary area shall be available during school hours. During other times, and at NCCDC, written policy and procedure shall provide for medically indicated supervision outside of the infirmary.

6. Health care staff shall be trained for proper care of chronically ill youth.

7. Health needs shall be included in the individual youth service plans, where relevant.

8. No youth shall be denied access to routine health services because he/she has been locked down in disciplinary segregation. Health care staff shall not omit segregation areas



from their regular medical rounds. Youth shall not be refused or denied appropriate medical treatment for injuries they have sustained in sports or fights. Youth shall not be denied access to daily sick call. The decision as to whether a youth will receive medical attention for an injury other than a minor injury shall be made by professional health staff, rather than youth rehabilitative staff. A means of transportation shall be at all times available to transport ill or injured youth to the doctor for medical treatment. Criminal charges contained in medical records shall not be disclosed outside of Ferris or NCCDC.

9. Health care staff shall be available on the premises or on call as needed to provide medically indicated nursing care 24 hours a day, 7 days a week. YRS shall have a written policy to provide for medically indicated nursing care at Ferris and NCCDC.

10. YRS shall maintain a quality assurance program. The program shall include regular review of the following areas:

- a. Assessment and follow-up of chronic illnesses.
- b. Utilization of consultant physicians and their reports, and timeliness of medical consultations.
- c. Evaluation of entrance procedures, including immunizations, Mantoux Intradermal P.P.D. skin tests, and laboratory tests.
- d. Follow-up emergency visits and hospitalizations at other facilities.
- e. Staff knowledge of, and adherence to, standing orders, policies and procedures.

11. YRS shall provide medically-indicated consultations on a timely basis.

12. Medical charts shall contain problem lists, a plan for each problem identified, records of immunizations, and consents for treatment as required by law. All health care professionals shall document their evaluations and recommendations for care.

13. An adolescent medicine physician shall be available by telephone 24 hours a day, 7 days a week, for medically necessary consultations.

14. Psychotropic medications shall not be used except in accordance with an appropriate diagnosis and with a comprehensive treatment plan, and only under monitoring by a physician. Psychotropic medications shall in no event be used without specific prior consent from the parent or guardian, or a court order.

15. YRS shall offer the Mantoux Intradermal P.P.D. skin tests at Ferris and NCCDC. If a youth refuses to submit to the test, health care staff shall attempt to educate the youth on the importance of the test. If the youth continues to refuse, YRS shall offer the Tine test. If a youth refuses the Tine test, YRS shall offer a chest x-ray.

16. YRS shall make a good faith effort to achieve certification or accreditation of its medical program by the American Correctional Association.

#### DENTAL CARE

1. While a youth is in Ferris or NCCDC, YRS shall provide

the youth with dental care under the direction and supervision of dentists licensed in the State. YRS shall retain dental professionals for a sufficient number of hours per week to make available the following dental services:

a. Full dental examination by a licensed dentist within 14 days of admission, with the results of the examination recorded in a uniform dental record system, with a written treatment plan. YRS will promulgate appropriate guidelines for the treatment of identified dental problems.

b. Preventive dental care on a regular basis, including cleaning, scaling, polishing, fluoride treatment, and instructions to the patients on oral hygiene, by a dentist or a dental assistant trained and supervised by a dentist.

c. Dental treatment as needed by a licensed dentist, including the full range of restorative procedures and endodontic care to restore salvageable teeth rather than extract them in accordance with reasonable dental practice and subject to the youth's term of confinement at Ferris or NCCDC. If YRS' on-site dentist determines that dental treatment is presently necessary, the health of the youth would otherwise be adversely affected, and the treatment cannot be performed at the facility, YRS shall promptly provide for treatment of the youth by appropriate specialists in the community.

2. The YRS dentist shall determine necessary dental treatment at or about the time of a youth's release. Notation of such treatment shall be entered into the youth's medical record

and made available in accordance with paragraph 3 MEDICAL CARE.

3. Youth have the right to refuse dental services. At the time of the youth's refusal, the dentist or dental staff shall explain to the youth the possible dental health consequences of his/her decision not to receive the needed dental treatment. The youth's refusal to receive dental treatment shall be documented and forwarded to the youth's case manager for counseling and for contacting the youth's parents/guardian to request their assistance in counseling the youth to receive dental care.

4. Nothing in this agreement shall be construed to require that the Department of Services for Children, Youth and Their Families or YRS provide medical or dental services to any youth not at Ferris or NCCDC.

#### SANITATION AND HYGIENE

1. YRS shall comply with the State of Delaware Regulations Governing Public Eating Places, Delaware Regulations Governing Drinking Water Standards, and the Delaware Plumbing Code. (3-JTS-4B-02). This provision of the agreement is limited by the parties' understanding that the defendants have plans to substantially complete a major renovation or complete reconstruction of Ferris within the next three years. While the parties agree that YRS will carry out basic maintenance at the old Ferris facility so long as it is occupied by youth, it is understood that defendants will not be making major capital improvements to the old Ferris facility. However, if it should at any time appear that the defendants will be unable to substantially

complete the new Ferris construction project within three years, or that they will still be sleeping youth in the old Ferris structure, excluding Mowlds cottage, then plaintiffs will be free to file or re-file claims regarding environmental issues at Ferris, notwithstanding this agreement.

2. YRS shall maintain and implement a written housekeeping plan for Ferris and NCCDC, and in areas where youth are responsible for housekeeping shall supply appropriate cleaning supplies and equipment. (3-JTS-4B-06).

3. YRS shall provide the opportunity to have three sets of clean clothing per week, to include underwear, shirts, socks, and pants. YRS shall also provide appropriate outdoor clothing for outdoor recreation. YRS may provide this clean clothing in several ways, including access to self-serve washer facilities, central clothing, or a combination of the two. (3-JTS-4B-10).

4. YRS shall issue suitable, clean bedding and linen, including two sheets, one pillow and pillow case, one mattress, and sufficient blankets to provide comfort under existing temperature conditions. YRS shall provide for linen exchange at least weekly. (3-JTS-4B-12).

#### MONITORING

1. Within 60 days of the signing of this agreement, YRS shall develop an action plan detailing steps that need to be taken to achieve substantial compliance with the agreement by the end of this agreement. The action plan shall include tasks to be accomplished, persons responsible, and timeliness for completion

of the tasks. A copy of the plan will be furnished to counsel for the parties.

2. The parties have agreed to the appointment of Ned Loughran as Monitor to oversee the implementation of this agreement. If Ned Loughran becomes unavailable to serve as Monitor, and the parties are unable to agree upon a successor, each party shall submit to the Court a list of three persons who have not been retained by either party as an expert and who are willing to serve in this capacity, and their curricula vitae. Each party will be permitted to veto one person from the opposing party's list and express to the Court objections, if any, regarding the remaining two persons on the list.

3. The Monitor shall have authority to retain consultants to evaluate the technical areas of medical, dental and psychiatric care and fire and life safety when he reasonably believes such assistance necessary to assess compliance under the terms of this agreement.

4. YRS shall bear the cost of the Monitor's expenses and fees for the monitoring contemplated herein, but only up to a total amount of \$15,000 over the term of this agreement, and a total \$9,000 over the term of this agreement for reasonable expenses including the fees and expenses of any consultants the Monitor may retain.

5. The Monitor may make a visit every nine months to Ferris and NCCDC to review implementation of this agreement. However, it is understood that defendants will accommodate the

fourth monitoring visit at least six weeks prior to the third year anniversary of this agreement, at plaintiffs' option. Following each visit, the Monitor shall jointly debrief counsel for the parties.

6. Upon request by the Monitor, YRS shall grant access to any documents not deemed confidential under federal or state law or not otherwise privileged by the Federal Rules of Evidence that may demonstrate substantial compliance or lack of substantial compliance with the terms of this agreement.

7. During each monitoring visit, YRS shall make available records and reports on the matters described in subparagraphs A through E below to the Monitor. These records shall also be available for review by a Representative of the Delaware Council on Crime and Justice.

a. A report on the number of youth held in NCCDC and Ferris. The number of youth on each unit should be provided.

b. An incident report for each occasion when mechanical restraints are used on a youth, other than in transporting the youth to or from the facility.

c. A log reflecting each occasion when a youth is locked in his/her room or a special room for control purposes.

d. An incident report for each occasion when a youth is locked in his/her room or special room, in excess of two hours, for disciplinary purposes.

e. An incident report whenever any of the following incidents occurs:

1. A youth is charged with an offense that is alleged to have occurred while the youth is in custody;
2. A youth or staff needs medical assistance as a result of an altercation with staff;
3. A youth is moved to a mental health center or hospital because of a suicide attempt or other psychiatric crisis;
4. A youth is on a suicide watch for more than eight hours;
5. An outside agency (e.g., state or local police, Department of Corrections) is called in to control youth at NCCDC or Ferris.
8. The agreement shall be in effect and monitoring shall continue for a period of three years from the date of the approval of this agreement by the Court. At the end of three years, the Monitor shall prepare a report reviewing YRS' substantial compliance with the terms of this agreement. The Monitor's report may express its view whether YRS has achieved substantial compliance with the terms of this agreement.
9. Counsel for plaintiffs shall have access at reasonable times to members of the plaintiff class. Upon reasonable notice to defendants' counsel, plaintiffs' counsel and any expert at ACLU's expense shall have access to Ferris and NCCDC for the purpose of making observations concerning compliance and reviewing records.
10. At such time as Ferris or NCCDC achieves accreditation

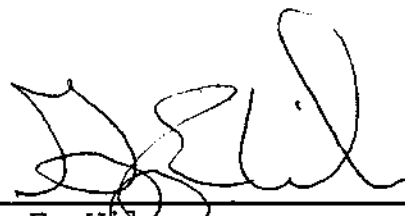


or certification by Middle States Association of Colleges and Schools or the American Correctional Association in any area addressed by this agreement, monitoring of such area shall cease.

11. This agreement shall remain in effect for three years. If during that period, plaintiffs contend that YRS is violating terms of this agreement, plaintiffs may file, during that period, for judicial enforcement of the provisions of this agreement relating to the areas of claimed violation. In the event that plaintiffs so file, the provisions of this agreement relating to the area of claimed violation shall remain in effect if directed by the Court for good cause shown. Nothing in the foregoing shall automatically extend the monitoring provisions of this agreement beyond the three year period.

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Jeffrey S. Goddess  
(Del. Bar I.D. No. 630)  
Rosenthal, Monhait, Gross &  
Goddess, P.A.  
First Federal Plaza  
P.O. Box 1070  
Wilmington, DE 19899  
(302) 656-4433



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Gregg E. Wilson  
(Del. Bar I.D. No. 85)  
Ann Woolfolk  
(Del. Bar I.D. No. 2642)  
Deputy Attorneys General  
Department of Justice  
820 N. French Street, 8th Flr.  
Wilmington, DE 19801  
(302) 577-2500  
Attorneys for Defendants

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Margaret Winter  
National Prison Project  
of ACLUF  
1875 Connecticut Avenue, N.W.  
Suite 410  
Washington, DC 20009

Attorney For Plaintiffs

The foregoing Consent Decree having been considered by the Court, following notice to the class and a hearing thereon, the same is hereby entered as an Order of this Court this \_\_\_\_ day of February, 1994.

United States District Judge

<b>FERRIS SCHOOL</b> Division of Youth Rehabilitative Services	Number:  FS-602	Page:  1 of 5
Chapter: <b>JUVENILE RIGHTS</b>	Related Standards:  ACA: 3-JTS-3D-09  YRS: 15.2	
Subject: <b>RESIDENT GRIEVANCES/COMPLAINTS</b>		

- I. **POLICY:** The purpose of the Resident Grievance Policy is to establish a procedure that will help reduce tension within Ferris School. Every resident within the jurisdiction of Ferris School shall be provided a timely and effective means of having problems brought to the attention of those who can offer administrative remedies. A system which allows residents to grieve certain actions, conditions or circumstances which may violate Ferris or Division policies services the following purposes:
- A. Ensures that Ferris and Division policies are not violated;
  - B. Identifies and eliminates unsatisfactory conditions in the program; and
  - C. Helps to reduce tension within the program.
- II. **PRINCIPLES AND POLICIES OF THE INSTITUTION:** It is essential that Ferris and Division principles and policies be clearly identified. Written notice of these principles and policies shall be provided each youth during his orientation to the facility. The established grievance procedure should also be explained at this time. It will be the policy of Ferris and the Division to observe the following principles:
- A. To protect youth from harm, abuse or harassment.
  - B. To encourage youth to reside in a clean and ordered environment.
  - C. To permit youth to practice their religious beliefs, and not be forced to participate in religious practices that do not conform with their beliefs.
  - D. To ensure that youth are free from discrimination based upon race, religion, gender, sexual preference, disability and ethnicity.
  - E. To provide balanced, properly prepared meals that are consistent with a youth's religious dictates in quantities sufficient for the age of the youth.
  - F. To provide clean clothing and linen on a regular basis.
  - G. To permit youth to bathe/shower on a regular basis and to have necessary items to maintain personal hygiene.
  - H. To provide an opportunity for youth to participate in outdoor recreation on a regular basis.

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- I. To provide an opportunity for youth to communicate (by visit, correspondence and telephone) with family members and others on a regular basis.**
- J. To permit youth to have access to the youth's legal counsel and the courts.**
- K. To permit youth to receive and send mail subject to the following limitations:**
  - 1. No correspondence by mail among the youth committed to the Division is permitted;**
  - 2. All mail except mail marked "Legal Mail" may be opened and inspected for contraband by program staff before it is delivered to youth;**
  - 3. Mail marked "Legal Mail" will be opened by program staff in the presence of the youth addressee and inspected only to the extent necessary to confirm that it is legal mail and that it does not contain contraband;**
  - 4. Mail only may be reviewed for content in the presence of the youth addressee based upon reasonable suspicion by the Youth Care Worker Supervisor; and**
  - 5. Mail may only be withheld and returned to the sender if the Youth Care Worker Supervisor makes the determination that it is detrimental to security, good order, discipline, rehabilitation or might facilitate criminal activity.**
- L. To ensure that youth receive adequate medical services, as necessary.**
- M. To ensure that youth participate in educational programs and receive special education services if needed.**
- N. To ensure that youth are treated fairly and to permit youth to object to any unusual or unreasonable treatment.**
- O. To discipline youth according to the program's written policies and procedures.**
- P. To inform youth, and provide access to copies, of all resident rules, rights and regulations.**
- Q. To permit youth to grieve the violation of any of these principles or policies.**

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### III. DEFINITIONS:

- A. **Emergency Grievance:** An emergency grievance is defined as a grievance that would expose the resident to substantial risk of personal injury or serious irreparable harm if it was not acted on immediately. The Security Superintendent or designee shall decide if a grievance/complaint is to be treated as an emergency.

### IV. GRIEVANCE STANDARDS:

- A. The grievance process shall be applicable to a broad range of complaints such as policies, conditions within the jurisdiction of Ferris School, actions of employees and other residents and any incidents that occur within the facility that personally affect them.
- B. The grievance procedures shall prohibit adverse actions against residents for their use of the procedures. Employees of the facility will not be subject to adverse actions resulting from their participation in the grievance procedure.
- C. The written grievance procedures shall be available in each housing unit within the facility, in each counselor's office and in the education department. Each resident shall also receive an oral explanation of the grievance process, including an opportunity to have questions answered regarding the policy.
- D. No resident or employee who is involved in a complaint shall participate in any capacity in the resolution process. If a complaint is filed against an employee who is part of the resolution process, it will automatically be reviewed by the next higher level.
- E. A resident shall have access to forms to write any grievance and/or complaint and shall be allowed privacy in order to freely complete the form.
- F. Resident who are unable to write can be assisted by any other resident or staff of their choice.
- G. A resident shall not be permitted to submit more than one grievance per incident.
- H. All level responses shall be put in writing and forwarded to the next level of appeal. The resident shall receive all level responses in writing.
- I. If a resident wishes to appeal at any level, he must state in writing his reason for appeal.

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- J. A file of all grievances shall be kept in the Ferris Administrator's office for review by administration.

V. **GRIEVANCE PROCEDURES:**

- A. **Level I:** The procedure for a resident grievance begins with the resident filing a grievance form. Upon completion of this form, it must be delivered to the resident's Unit Manager for the first level of review.

1. In an attempt to resolve the grievance/complaint, the Unit Manager shall meet with the resident within three (3) working days after the grievance is filed. A response shall be given to the resident in writing within one (1) working day of the Unit Manager's resolution attempts.

- B. **Level II:** If the response of the Unit Manager is not accepted by the grieving resident, they can appeal the response within three (3) working days to the Security Superintendent. Within five (5) working days of receipt of the grievance material, the Security Superintendent shall hold a meeting with the Unit Manager and the resident in an attempt to resolve the issue. The Ombudsman will be notified of Level II proceedings and may be allowed to provide his or her input if necessary.

- C. **Level III:** If the response of the Security Superintendent is still not accepted by the resident, then the grievance will be forwarded to the Ombudsman within three (3) working days. The Ombudsman shall meet with the resident and others deemed necessary within ten (10) working days of the receipt of the grievance. All decisions are final at this level.

- VI. **EMERGENCY GRIEVANCES:** Emergency grievances shall go immediately and directly to the Security Superintendent or Youth Care Worker Supervisor on duty and copies shall be sent to the Ombudsman. The Security Superintendent or Youth Care Worker Supervisor shall respond immediately. If the grievant wishes to appeal the response of the Security Superintendent or Youth Care Worker Supervisor, he may appeal to the Ombudsman. The Ombudsman will respond to the grievance within 24 hours.

- A. If the Security Superintendent or Youth Care Worker Supervisor determines that the grievance is not an emergency, the grievance shall then be returned to the grievant to be filed through the normal procedures.

- VII. **ALLEGATIONS OF ABUSE:** All reports of allegations of child abuse shall conform to the state's mandatory reporting requirements and are not subject to the grievance procedures. All complaints that concern an immediate threat to the health or safety of any youth must be resolved immediately.

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Chapter:  <b>RULES AND DISCIPLINE</b>	Related Standards:  ACA: 3-JTS-3C-10, 3-JTS-3C-11, 3-JTS-3C-09	
Subject: Documentation		

I. **POLICY:** Staff shall prepare a Disciplinary Report when they have a reasonable belief that a student has committed a major or chronic minor rule infractions of Ferris rules or regulations. This shall be accomplished by using Incident Report form.

II. **PROCEDURE:**

A. **Reports of Disciplinary Action:** If there is a reasonable belief that a student has committed a violation of the rules and regulations, the staff member may choose to either verbally warn the student or submit a Disciplinary Report on an Incident Report Form. A Disciplinary Report should contain:

1. Date, time and location of the incident or infraction.
2. The specific rule violated.
3. A clear written description of the incident and infraction.
4. A clear written description of the student's behavior and any unusual behavior.
5. The names of all staff and student witnesses.
6. Description and disposition of any physical evidence regarding the violation and any injuries/treatment.
7. Immediate action(s) taken.
8. Use and type of any physical force.
9. All reports shall be signed by the author with the date and time of the report recorded.

B. **Completion of Disciplinary Reports:** All disciplinary reports shall be turned into the supervisor or senior staff on duty at the time of their completion. All reports shall be completed prior to the end of the shift, except with explicit approval by the supervisor or senior staff on duty. Such exceptions shall be recorded in the mobile's log book, with the reason noted.

1. All disciplinary reports shall be reviewed and signed by the supervisor or senior staff on duty for their completeness and accuracy.

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- C. **CRIMINAL PROSECUTION:** When preliminary evidence suggests that an incident may result in criminal prosecution, the Ferris Superintendent shall request that the Division's Internal Investigator complete an investigation of the incident. Parents or guardians of students or staff retain the right to file charges against students.

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Subject: <b>Major Rule Infractions</b>		

- I. **POLICY:** Ferris staff will make every effort to influence the behavior of students through methods of positive behavior reinforcement. The use of restraints and room confinement shall be minimized through effective application of nonviolent crisis intervention.

When discipline is necessary, it will be administered in a way that will create a learning experience and will be commensurate with the seriousness of the behavior. Discipline will never be of a nature or administered in order to degrade or humiliate. The following actions will never be used as a means of discipline or punishment:

1. Corporal punishment.
2. Physical restraint.
3. Psychological intimidation.
4. Denial of regular meals (any meal, snack or any food not earned as a privilege).
5. Denial of medical care.
6. Denial of sufficient sleep.
7. Denial of sufficient exercise.
8. Denial of adequate clothing.
9. Denial of contact with parents/legal guardians.
10. Denial of legal assistance.
11. Group punishment.

- II. **CHARACTERISTICS OF EFFECTIVE DISCIPLINE:** All discipline interactions should have the following characteristics:

- A. **Clarity:** Sanctions should be consistently and explicitly tied to a violation of stated rules.
- B. **Fairness:** Situational factors should be acknowledged and considered. Students must always be provided an opportunity to explain their behavior.

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C. **Effectiveness:** Responses to misbehavior must occur quickly and without uncertainty or inconsistency.

D. **Proportionality:** Responses are reasonably related to the types of misbehavior.

III. **MAJOR RULE INFRACTIONS:** Occasionally, students will exhibit behavior which, if allowed to continue, would result in serious consequences. Listed below are some, but not all, examples of behavior which are considered to be serious and/or criminal and which warrant a stricter approach to discipline.

A. **Possession of Dangerous Contraband:** This behavior includes either possession or the intentional attempt to obtain dangerous contraband. Dangerous contraband includes: weapons; any item that has been altered to use as a weapon; matches; alcohol; or illegal drugs.

B. **Disobeying a Direct Order:** This infraction covers the disregarding of a directive made by staff concerning behavior which if not halted would result in injury to the student or others. Examples include failure to participate in a fire drill or to evacuate an area in an emergency, or deliberate misuse of furniture or equipment likely to result in personal injury to self or others.

C. **Destruction of Property:** This offense covers any situation in which a student has intentionally destroyed valuable institutional or personal property.

D. **Assault:** Intentionally causing bodily injury to another student or staff.

E. **Sexual Assault:** These offenses include rape (attempted or actual), sodomy or any sex act on another individual.

F. **Escape or Attempted Escape:** Unauthorized leaving or attempting to leave the confines of the institution or from official custody while beyond the confines of the institution, or failure to return to official custody within the institution following temporary release from the institution without proper authorization.

G. **Engaging in Sexual Activity:** Willfully engaging in sexual activity with another person within the institution.

H. **Arson or Attempted Arson or Reckless Burning:** Starting or attempting to start a fire or cause an explosion within the institution.

I. **Intimidation or Threatening:** This offense includes the verbal communication of an implied serious physical threat toward another student, staff or their family. The threat must be of such a nature that it causes reasonable fear to the student or staff.

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J. **Fighting:** Violent physical contact between two or more students.

K. **Riot:** Participating in or soliciting, disorderly conduct of two or more students in order to cause escape, personal injury or damage to valuable property.

IV. **MAJOR RULE INFRACTION SANCTION PROCEDURES:** Staff may use the following sanctions for major rule infractions where out-of-control behavior is not involved.

A. **Loss of Privileges:** Staff may restrict a student's participation in a privileged activity for a major rule infraction. Loss of any or all privileges, in excess of 24 hours, require a due process hearing. Substantiated major infractions should require a reduction in level in the behavior management system.

B. **Disciplinary Confinement:** The period of time for room confinement is not to exceed two hours without scheduling a due process hearing for the same day or the next business day. For room confinement under two hours in duration, the staff must notify the YRC Supervisor or Unit Manager and make them aware of the room confinement. For room confinement over two hours in duration, a due process hearing for the same day or the next business day must be scheduled and the Security Superintendent or his/her designee notified for approval. Staff contact must be made every 15 minutes during the period of restriction. Room restriction on the approval of the Security Superintendent or his/her designee shall not exceed 12 hours. Confinement in excess of 12 hours and up to 24 hours must be approved by the Ferris Superintendent. Confinement in excess of 24 hours must be approved by the Division Director or Deputy Director. Whenever possible, disciplinary confinement shall be served in a youth's own room. If circumstances indicate that disciplinary confinement should be served in a place other than the student's own room, permission shall be obtained from the Security Superintendent or his/her designee.

1. During disciplinary confinement, unless there is a justified exception which must be substantiated and logged, a student should be afforded adequate food, exercise, and clothing as well as access to counsel, visits by family and to reading and writing material.

2. Any student held in disciplinary confinement for more than one day should be afforded an opportunity to receive educational programming.

3. The student should receive a minimum of 30 minutes of counseling with treatment staff for each 12 hours of confinement.

C. **Individual Discipline Plan:** This process should be used by the Unit team for all major rule violators and can be used to structure both short term sanctions and responses to chronic major rule violations. The Individual Discipline Plan shall also serve as a behavior profile for evaluation reports. The plan shall include the relevant facts pertinent to the decision to impose disciplinary sanctions including:

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1. Date, time and student's name.
2. Exact rule violation.
3. Whether any criminal charges will be filed.
4. Previous major rule violations.
5. Describe privileges to be suspended and time-frame of suspension.
6. Identification of steps for the student to restore privileges.
7. Consultation with the student informing student of the details of the infraction resulting in suspended privileges. Time expectation for restoration of privileges shall be noted.
8. Periodic evaluation of an Individual Discipline Plan is done by the service team.

**D. Procedures for Due Process Hearings for Major Infractions:** Discipline for all infractions which result in the loss of privileges for more than one day, room confinement for more than two hours and any major infractions that could result in the imposition of a criminal charge require a due process hearing. Implementation plans for long-term privilege loss or discipline for major infractions shall be developed and monitored by the student's service team in the form of Individual Discipline Plans. All service team members may participate in the Due Process hearing; however, the student's service team must be represented.

1. **Due Process Hearings:** A disciplinary due process hearing will be convened the day of the incident or the next business day. Continuances for a longer period of time shall require the approval of the Security Superintendent or his/her designee. The student will have the opportunity to be present at the due process hearing unless the student waives the right in writing. If a student is absent, the hearing officer will set forth the reasons for the absence in his written findings.
2. **Hearing Officer:** The disciplinary due process hearing officer will:
  - a. Allow the student to make a statement and explain his version of the infraction(s).
  - b. At the student's request, permit the assistance of a staff member to aid them in the hearing. In the case of a student not capable of adequate representation, as determined by the hearing officer, the hearing officer may appoint a staff member to assist the student.

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- c. Permit presentation of relevant documents and testimony from any person who has relevant and not unduly cumulative information.
- d. Issue written findings.
- e. Forward the findings to the Ferris Superintendent or designee for review.
- f. Notify the Ombudsman of hearings on major infractions and allow the Ombudsman to provide input.
- g. Copies of the Incident Report and the Due Process Hearing Report will be distributed as follows:
  - (1.) One copy to the student;
  - (2.) One copy to the student's master file; and
  - (3.) One copy to the Ferris Superintendent's for review and for permanent filing in the student's disciplinary folder.
- h. Advise the student of his appeal rights.

**E. Due Process Appeal Procedures:** All disciplinary impositions by the Division of Youth Rehabilitative Services staff are subject to review. The Ombudsman may participate in and provide input during the appeal process.

- 1. Appeals of discipline imposed for infractions not requiring a hearing are directed to the YRC Supervisor on duty/call. Appeals to the YRC Supervisor on duty/call may be presented orally or in writing. The YRC Supervisor on duty/call is the final level of appeal for these infractions.
- 2. Appeals of major infractions or discipline requiring a hearing are directed to the Unit Manager or Security Superintendent. If the Unit Manager has been a party to the Due Process Hearing, the the appeal shall be heard by the Security Superintendent or his/her designee. Appeals of these hearings shall be conducted by reviewing the records of the hearing and any written appeal by the student. Appeals of confinement of less than 12 hours and loss of privileges of three (3) days or less have reached the final appeal with the Security Superintendent or his/her designee.
- 3. Discipline exceeding 12 hours of confinement or loss of privileges of four (4) days or more require the written approval of the Ferris Superintendent or his/her designee before exceeding these limits. These disciplines may be appealed to the Division Director or Deputy Director or their designee.

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4. The final level of appeal for discipline resulting in a total loss of privileges or confinement in excess of 12 hours is the Division Director or his/her designee. Such appeals will be resolved within three (3) business days of the appeal.
5. The standard of review for all appeals is whether the finding is supported by substantial evidence and the discipline imposed is in reasonable proportion to the offense.

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Subject: <b>Minor Rule Infractions</b>		

- I. **POLICY:** Whenever students are subjected to disciplinary procedures, some degree of due process should be provided to ensure that the student is treated fairly. Disciplines of short duration for minor infractions may require only that the behavior be fully discussed with the student. Disciplines for infractions which result in the loss of privilege for more than one day or room confinement for more than two hours require a Due Process hearing. Procedures for Due Process hearings are contained in FS-504, Major Rule Infractions.
- II. **DEFINITIONS:** None.
- III. **MINOR INFRACTIONS:** Listed below are some examples, but not all instances, of minor rule infractions which might be subject to sanctions for minor rule infractions:
  - A. **Horseplay:** Horseplay is a minor offense, but due to the potential of escalating behavior or accidental injury, must be controlled to a degree. It is important that all staff members have an accurate awareness of what horseplay is. The identifying factor in a horseplay incident is that of intent. Students are often involved in more serious negative behavior, particularly of a physical nature, and they attempt to label it horseplay when confronted. It is important that staff members know the difference.
  - B. **Failure to Report to Assigned Program Area:** This infraction involves any situation in which any student, by his own intent, is not where he is scheduled to be. This could be an absence from the classroom; it could be the absence from the location of an assigned errand. In most cases, out of assigned area instances involve in-building behavior. Like horseplay, out of assigned area or failure to report to assigned area, is a relatively minor offense when considered on a one-time basis. It increases in degree of seriousness as the frequency of the behavior increases.
  - C. **Lying/Willful Deceit:** This behavior relates specifically to a conscious attempt to distort the truth or in any way to avoid responsibility for behavior. Lies should not be measured on the basis of "little lies" or "big lies". A lie is a lie. In order to reinforce the concept of taking the weight as well as honesty and integrity, all lies must be confronted as they occur. A single lie, in and of itself, should not be considered a major behavioral infraction. Primary consideration should be placed upon a pattern of untruths.

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- D. **Failure to Carry Out Assignment:** This involves any incident in which a student is given a specific assignment to be completed within a specific time period and fails to do so. It might be a work assignment; it might be an academic assignment; it might be an assignment to help another student in a particular area. In any event, it is a communicated expectation to a student that he has failed, for whatever reason, to accomplish. Again, one incident, in and of itself, would be considered minor. The frequency with which this behavior repeats itself determines eventual seriousness.
- E. **Unkept Room:** This offense relates to the manner in which a student maintains his room. Rooms should be clean, neat, bed made and toilet flushed. This is a minor infraction which increases in seriousness with frequency.
- F. **Improper Dress:** This is a minor offense when students fail to wear their issued clothing properly, i.e., shoes not tied or walking on the back of shoes.
- G. **Loud Talking:** This is a minor offense. Talking loud is talking louder than what is normal for others to hear; or talking too loud in areas that require silence, i.e., in school, church, the dining hall or talking loudly which is disturbing to others.
- H. **Program Disruption:** This is a minor offense and should be considered when students are clowning around, disturbing others, interrupting, throwing objects, teasing, making noises, etc.
- I. **Aggravating or Harassing:** This minor offense would involve the intentional verbal abuse of a peer. It involves the intent to humiliate, to verbally abuse, or to emotionally upset another individual. This could cover such areas profanity, making fun of and or in any other way holding a peer up to ridicule.
- J. **Disrespectful of Staff:** This minor offense applies when directed toward any staff member and should not be confused with grossly verbally uncontrolled behavior. Disrespect for staff usually involves cursing of a short duration and is most times reflective of a brief emotional outburst. Obscene gestures would also be and should be considered for disciplinary action, but it is not considered to be uncontrolled behavior.
- K. **Gambling:** This minor offense involves playing games for profit or self gain. Cards and other games that are provided are not intended to be used for gambling.



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- L. **Stealing:** This relatively minor offense is the intentional taking of another person's property and is only considered minor because students do not have nor are they encouraged to have items of major value in the facility.
- M. **Offensive Touching:** This minor offense is identified as any act of unwanted physical touching between residents. It is not to be confused with a sexual act which would be considered a sexual offense.
- N. **Possession of Non-dangerous Contraband:** This minor offense involves the intentional attempt to obtain any item that not permitted in the facility and is thus classified as contraband. Non-dangerous contraband is considered that which does not cause a threat to others such as unauthorized clothing, books, magazines, etc.
- O. **Group Accountability for Program Compliance:** This minor offense involves student(s) failure to follow or use normative culture behavior guidelines in group, program or living unit settings.

IV. **MINOR RULE INFRACTION SANCTION PROCEDURES:** Sanctions for any minor rule infraction may be administered by unit staff immediately upon witnessing or discovering the violation. Staff are encouraged to use informal interventions and control techniques whenever possible. If staff determine that the chronicity or seriousness of the circumstances of the incident warrant formal documented intervention, the following sanctions in order of severity should be used. Disciplinary confinement will not be imposed for minor rule violations except in conjunction with an Individual Discipline Plan prepared by the service team for repeated minor infractions.

A. **Formal Sanctions for Minor Rule Infractions:**

- 1. **Warning:** A verbal and/or written warning may be issued for a first offense and may be used without further disciplinary action. The warning should also communicate the expectation that a more restrictive disciplinary action shall be initiated if the offense is repeated.
- 2. **Loss of Privilege:** Staff may restrict a student's participation in a privileged activity, such as an earned extra phone call, canteen participation, or extended bedtime. Each unit should develop a list of privileges to be restricted for failure to comply with unit rules.
- 3. **Loss of Points in the Behavior Management System:** Staff may impose a "fine" against a student by subtracting points from a daily score in the facility's behavior management program. This action will serve as a more substantial limit of a student's ability to earn privileges when his behavior does not warrant advancement.

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4. **Individual Discipline Plan:** As devised by the Unit team, this can be used for either short-term or extended discipline and may serve to develop a behavior profile for evaluation reports. The plan may use the listed disciplines for minor infractions or may, with the approval of the Ferris Superintendent and after a Due Process hearing, draw on other sanctions in a response to chronic minor rule violations. Chronic minor rule violations are defined as daily repeated patterns of failure to obey directives, constant horseplay or disruption of the school program. Every effort shall be made by the Unit team to address chronic rule violations without resorting to more restrictive sanctions. However, failure to comply with less restrictive sanctions and chronic minor rule violations during a seven (7) day period may warrant the Individual Discipline Plan procedures for more restrictive disciplines. The Unit team may also review and adjust the student's level in the behavior management program if repeated behavior warrants. Disciplines for chronic minor rule violations shall not exceed continuous confinement in excess of two (2) days or loss of privileges in excess of one (1) week. The plan shall document repeated misbehavior. The form used shall include the relevant facts pertinent to the decision to impose discipline. The Individual Discipline Plan shall contain:

- a. Date, time, student's name.
- b. Exact minor rule violation.
- c. Describe privileges to be suspended.
- d. Identification of the steps for student to restore privileges.
- e. The Unit team shall consult with the student, informing him of the details of the infraction resulting in suspended privileges. Time expectations for restoration shall be noted.
- f. The Unit team shall periodically evaluate the Individual Discipline Plans.
- g. Date and time for evaluation of behavior shall be included in the plan.

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Subject: <b>Room Confinement for Control</b>		

- I. **POLICY:** Room confinement may be used only as a means of control when all other reasonable efforts to control a student's behavior have failed and the behavior poses an immediate threat to the safety of the student or others, is causing major property damage, or would lead to a loss of group control. When the student regains self-control and can safely be returned to regular programming, the student should be released from room confinement.

Room confinement for control and disciplinary room confinement are administered under different policies and procedures. All Youth Rehabilitation Counselors will be oriented to these procedures and special training in behavior management and restraint techniques will be provided to all youth rehabilitation staff.

II. **DEFINITIONS:**

- A. **Room Confinement for Control:** Room confinement for control is defined as the placement of a student in his sleeping room, or a room designated as a confinement room, for behavioral control reasons.

III. **APPROVAL REQUIRED TO USE ROOM CONFINEMENT FOR CONTROL:**

- A. **Room Confinement for Control for Up to One (1) Hour:** If a student is deemed out of control by the Unit Manager or YRC Supervisor on duty, the student may be confined in his room or in a room designated as a confinement room, for up to one hour.
1. During that time, regular efforts should be made by staff to help the student regain control and return to regular activities.
- B. **Room Confinement for Control for Up to Two (2) Hours:** A student may remain in room confinement for control for up to two hours with the approval of the Security Superintendent or his or her designee.
- C. **Room Confinement for Control for Up to Four (4) Hours:** A student may remain in room confinement for control for up to four hours with the approval of the Ferris Superintendent or his or her designee.

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**D. Room Confinement for Control for Longer than Four (4) Hours:** Room confinement for control for longer than four hours must be approved by the Division Director or the Deputy Director.

1. Within six hours, an evaluation of the student shall be performed by a mental health professional to determine whether transport to either a psychiatric facility or a medical emergency center is appropriate. Confinement for control shall not be for more than eight hours exclusive of any normal night lockdown times.

#### **IV. PROCEDURES FOR USING ROOM CONFINEMENT FOR CONTROL:**

- A. Prior to placing a student in a confinement room, staff shall carefully inspect the room for any conditions that may allow the student to injure himself.
- B. Immediately upon placing a student in room confinement for control, the authorizing staff person shall complete a Room Confinement Incident Report. This report shall include the following information:
  1. Name of student;
  2. Date and time of incident;
  3. Staff present at time of incident;
  4. Witnesses to the incident;
  5. Description of the incident;
  6. Physical intervention required, if any; and
  7. Efforts made to control the student's behavior before placement in room confinement for control.
- C. The staff person authorizing the room confinement for control shall give prompt notice of the room confinement to the YRC Supervisor on duty who shall make direct personal contact with student during confinement.

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**D. An assigned staff person shall visually check the student every 15 minutes, except that if there is a known risk of suicide, an assigned staff person shall keep the student under continual visual observation.**

- 1. The assigned staff person will record attitude changes, reasons for continuing confinement, all visits, and the physical and emotional condition of the student. This report will become part of the Room Confinement Incident Report.**
- 2. If available, a member of the treatment team will counsel the student at the time of confinement and should repeat intervention every 30 minutes until the student is under control.**
- 3. If the student remains out of control for more than two hours or if the student continues to threaten violent behavior, the YRC Supervisor on duty shall contract the Security Superintendent or his or her designee for permission to continue the room confinement.**

**E. The Unit Manager or YRC Supervisor on duty during the incident will review the report to determine the appropriateness of the placement. The reviewing staff person will also immediately review the student's file to assess any special needs the student may have which would merit alternatives to room confinement.**

- 1. The reviewing staff person shall insure that a copy of the Room Confinement Incident Report is sent to the case manager for placement in the student's records and that a copy is forwarded to the Security Superintendent's office within 24 hours of the completion of the Room Confinement Incident Report.**
  - a. The exception to this requirement is that if the Room Confinement Incident Report is completed during a weekend, it may be forwarded on the next business day following the completion of the report.**

**V. CONDITIONS OF ROOM CONFINEMENT FOR CONTROL:**

- A. Students placed in room confinement for control shall be afforded adequate clothing, heat, light, water, food and medical care during the term of their confinement unless reasonable justification exists for an exception.**
- B. At no time should more than one student occupy a confinement room.**

**VI. GROUP RESTRICTION:**

- A. Group restriction may only be used in the event of a major disturbance that requires immediate group restrictions to insure safety and restore order.**

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- B. There may be no group restriction without approval of the Security Superintendent or Ferris Superintendent. If the Security Superintendent or Ferris Superintendent are not at the facility at the time of the disturbance, the YRC Supervisor on duty shall immediately contact the Ferris Superintendent by phone while making preparation to quell the disturbance and secure the facility.**
- C. The Security Superintendent or Ferris Superintendent shall assess the situation based on the staff report and issue directions for the restriction. The staff requesting permission to implement a group restriction may proceed to contact administrators by going sequentially up the chain of command.**
- D. As soon as a unit is deemed under control or after two hours, whichever period is shorter, those students who have regained control, shall be released from confinement.**
- 1. During the initial two-hour lockdown period, unit and treatment staff shall meet with students individually to counsel them on the need to regain and maintain control, to discuss issues contributing to the loss of control, and to plan for the reintegration of cooperative students in the general resident population.**
  - 2. Students who refuse to cooperate or who continue to threaten out-of-control behavior shall be treated according to the provisions of this policy on room confinement for control or shall be subject to the provisions of the policy on discipline.**
- E. If an emergency condition exists that prevents a majority of the students from being released from room confinement after the initial two-hour period, the Division Director or Deputy Director must be notified for authorization to continue the group room confinement.**

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Chapter: <b>RULES AND DISCIPLINE</b>	Standards:  ACA:	
Subject: <b>Physical Restraints</b>		

- I. **POLICY:** No physical restraint, in the form of either handcuffs or physical holds by staff, may be used unless a student poses an immediate risk of harm to himself or others or is causing major property damage. Handcuffs may only be used as a device for transport outside of Ferris or as a means of moving a resistant, assaultive student to isolation. Handcuffs are the only mechanical restraints approved for control purposes within Ferris. As part of ongoing training, staff members shall be trained in the techniques of safe physical intervention. Except as provided in Paragraph III-C below, handcuffs may only be used as a device for transport outside the facility, or as a means of moving a resistant, assaultive youth to isolation. Handcuffs are the only mechanical restraints approved for control purposes within Ferris.
- II. **DEFINITIONS:** None.
- III. **PROCEDURES:**
  - A. **Handcuffing a student to a fixed object is prohibited in all circumstances within the secured perimeter.**
  - B. Only the YRC Supervisor on duty or, in the absence of a supervisor, senior staff YRC on duty, may authorize the use of handcuffs for control.
  - C. No handcuffs may be used during room confinement for control without the advance approval of the Security Superintendent or his/her designee who shall immediately notify the Ferris Superintendent of the use of the restraint device. The Unit Manager, YRC Supervisor or senior staff person on duty will designate an appropriate person to remain in the room with any student while he is in handcuffs.
    1. If a student must be handcuffed longer than one (1) hour in room confinement for control, then medical consultation shall be obtained.
  - D. Upon gaining control of the student and removal of the handcuffs, the Unit Manager, YRC Supervisor or senior staff person on duty shall question and examine the student to determine if the student was injured during the restraint incident. If any injury is noted, the student shall receive immediate medical attention.

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1. Any student who was restrained by handcuffs shall be examined by medical staff at the scheduled sick call immediately after the restraint incident.
- E. An Incident Report shall be completed whenever handcuffs are used for control not associated with transportation. This report shall accompany the Room Confinement Incident Report and be reviewed by the Security Superintendent and Ferris Superintendent.
- F. Handcuffs are to be stored in a locked storage unit in the Control Room. Permission to remove the handcuffs must be obtained from the Security Superintendent, the Unit Manager, the YRC Supervisor or designee on duty at the time that the use of the handcuffs is requested. All removals of the handcuffs from their locked storage unit shall be logged in the Control Room logbook.

<b>Effective Date:</b>	<b>Approved By:</b>	<b>Review Date:</b>	<b>Reviewed By:</b>



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- VII. REVIEW OF GRIEVANCE PROCEDURES: The Division Director will periodically review grievance resolutions to assure the procedures is properly followed and that decisions are reasonably consistent.

Effective Date:	Approved By:	Review Date:	Reviewed By:

**FERRIS SCHOOL  
RESIDENT  
GRIEVANCE/COMPLAINT FORM**

**NAME:** \_\_\_\_\_ **UNIT:** \_\_\_\_\_

**DATE INCIDENT HAPPENED:** \_\_\_\_ / \_\_\_\_ / \_\_\_\_

**DESCRIBE WHAT HAPPENED:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(USE BACK OF PAPER IF MORE SPACE IS NEEDED)

**DATE PRESENTED TO UNIT MANAGER:** \_\_\_\_ / \_\_\_\_ / \_\_\_\_

**UNIT MANAGER'S RESPONSE:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**UNIT MANAGER'S SIGNATURE:** \_\_\_\_\_ **DATE:** \_\_\_\_ / \_\_\_\_ / \_\_\_\_

**RESIDENT'S SIGNATURE:** \_\_\_\_\_ **DATE:** \_\_\_\_ / \_\_\_\_ / \_\_\_\_

**DECISION ACCEPTED:** \_\_\_\_\_ **YES** \_\_\_\_\_ **NO**

**IF DECISION IS NOT ACCEPTED, DATE SENT TO SECOND STEP:** \_\_\_\_ / \_\_\_\_ / \_\_\_\_

**SECOND STEP DECISION:** \_\_\_\_\_

**SECURITY SUPERINTENDENT'S SIGNATURE:** \_\_\_\_\_ **DATE:** \_\_\_\_/\_\_\_\_/\_\_\_\_

**RESIDENT'S SIGNATURE:** \_\_\_\_\_ **DATE:** \_\_\_\_/\_\_\_\_/\_\_\_\_

**DECISION ACCEPTED:** \_\_\_\_ YES \_\_\_\_ NO

**IF DECISION IS NOT ACCEPTED; DATE SENT TO OMBUDSMAN:** \_\_\_\_/\_\_\_\_/\_\_\_\_

**OMBUDSMAN DECISION:** \_\_\_\_\_

**OMBUDSMAN'S SIGNATURE:** \_\_\_\_\_ **DATE:** \_\_\_\_/\_\_\_\_/\_\_\_\_

**RESIDENT'S SIGNATURE:** \_\_\_\_\_ **DATE:** \_\_\_\_/\_\_\_\_/\_\_\_\_

PC: Resident's File  
Central File - Ferris School Superintendent's Office

<b>FERRIS SCHOOL</b> Division of Youth Rehabilitative Services	Number:  FS-501	Page:  1 of 2
Chapter: <b>RULES AND DISCIPLINE</b>	Related Standards: ACA: 3-JTS-3C-01, 3-JTS-3C-02, 3-JTS-3C-03, 3-JTS-3C-04  YRS: 16.1, 16.2, 16.3	
Subject: <b>Rules of Conduct</b>		

- I. **POLICY:** The Ferris School's behavior management system, rules of conduct, the disciplinary procedures and the range of penalties that may be imposed for various degrees of rule violations shall be included in the Ferris Student Orientation Handbook. The handbook shall be published and a copy given to all Ferris students and to each staff member. The behavior management system and the Ferris Student Orientation Handbook shall be reviewed annually and updated as necessary.
- II. **DEFINITIONS.** None.
- III. **PROCEDURES:**
  - A. **Behavior Management System:** To assure that an effective treatment environment is established, a behavior management system shall be developed for rewarding students who behave in a responsible way. The behavior management system should emphasize a positive approach toward behavior management.
    1. All students must receive an orientation to the behavior management system upon entry into the program to give them an understanding of and to encourage their participation in the behavior management system.
  - B. **Ferris Student Orientation Handbook Distribution, Interpretation and Translation:** A copy of the Ferris Student Orientation Handbook containing the rules of conduct, the disciplinary procedures and the range of possible penalties that may be imposed for rule violations (inclusive of restitution for any property damage) shall be given to each student upon admission to Ferris.
    1. This information shall also be posted in a conspicuous and accessible area of the students' living areas.
    2. Arrangement shall be made by the Unit Manager for translation when a student speaks another language and/or for interpretation if a student has a problem with reading or understanding any portion of the material on the behavior management system or rules of conduct contained in the Ferris Student Orientation Handbook.

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- C. **Staff Training:** All staff members will have access to a copy of the Ferris Student Orientation Handbook. All staff who have direct contact with Ferris students will receive, at a minimum, annual in-service training on the behavior management system and the rules and sanctions to insure the consistent and appropriate application of Ferris's reward and sanctioning procedures.

Effective Date:	Approved By:	Review Date:	Reviewed By: