

North Dakota Facility (Detention) Rules
Prepared by the North Dakota
Department of Corrections and Rehabilitation
Division of Juvenile Services

Inspections of facilities must be made pursuant to North Dakota Century Code Chapter 12-44.1 and these rules. Agents (designees) of the Director of the Department of Corrections and Rehabilitation may enter any facility in this state at any time without prior notice, must be admitted without unnecessary delay, and may confer privately with any employee or juvenile about the facility and facility operations.

Administration

Rule 1: *Each facility shall make reasonable efforts to substantially comply with Best Practices model facility standards such as the standards published by the American Correctional Association or Performance Based Standards.*

Rule 2: *The Director of the Department of Corrections and Rehabilitation (“DOCR”) shall determine the classification of each facility and the number of juveniles who may be detained in each facility.*

Rule 3: *Each facility shall have policies and procedures for juvenile records maintenance and security, retention, and disclosure in accordance with N.D.C.C. ch. 27-20; ch. 44-18; and ch. 12-44.1, and applicable federal law, including 42 C.F.R. Part 2, Subchapter A.*

Application Procedure for Facility Classification and Juvenile Categories

Rule 4: *The administrator of each facility shall submit an application which must specify that the facility is to be considered a juvenile detention center. The application must specify the number of, and classifications of, juveniles the facility will detain.*

Rule 5: *Within a reasonable period of time, the Director of the Department of Corrections and Rehabilitation shall notify the administrator of the facility the approved number of and classifications of juveniles that may be detained in the facility. The Director of the Department of Corrections and Rehabilitation shall also notify the administrator of the terms of any variances it may grant.*

Physical Plant

Rule 6: *All plans for the construction or major renovation of facilities must be substantially in accordance with model correctional facility standards such as those published by the American Correctional Association. Unless otherwise noted, the square footage requirements apply to plans approved after January 1, 1992.*

Rule 7: *Facilities must have a policy and procedure that requires separate male and female housing and includes visual and physical separation between male and female*

juveniles.

Rule 8: *The facility must be secured in such a way that juveniles remain within the security perimeter and that access by the general public is denied without proper authorization.*

Rule 9: *Sight and sound separation must be maintained between juvenile detainees and adult detainees and convicted adult offenders.*

Rule 10: *All single cells must provide a minimum of sixty (60) square feet. A single cell must provide at least seventy (70) square feet if confinement exceeds ten hours in a twenty-four (24) hour period. All single cells must provide a minimum of thirty-five (35) square feet of unencumbered space.*

Rule 11: *A multiple occupancy room may be used for medium or minimum custody juveniles. Staff shall classify and screen juveniles before housing in multiple occupancy rooms. A multiple occupancy room must contain at least thirty-five (35) square feet of unencumbered space per juvenile.*

Rule 12: *Each facility must have a booking area that is separate and secure from the public and juvenile housing areas.*

Rule 13: *Each facility must provide heating and ventilation systems sufficient to maintain humane comfort.*

Rule 14: *A facility may have a cell, or cells, without an above-floor toilet or wash basin when the facility administrator determines it is necessary for the temporary housing of a juvenile who is under close observation because of destructive or self-destructive behavior.*

Intake

Rule 15: *Each facility must maintain verification of its legal authority to detain juveniles.*

Rule 16: *Each facility must maintain written policies and procedures on the Interstate Compact on Juveniles, including contact information to the North Dakota Interstate Compact on Juveniles office.*

Rule 17: *Each facility must maintain written policies and procedures to ensure that any juvenile placed in detention under the jurisdiction of juvenile court will be brought before the court for a detention hearing as soon as possible but no later than seventy-two (72) hours after the juvenile was taken into custody or, if the seventy-two (72) hour period ends on a Saturday, Sunday or holiday, on the next business day. If these time limits are not met, and there is no authorization from the juvenile court to extend the period of detention, the juvenile shall be released to parents, guardian or custodian.*

Rule 18: *Juvenile detention facilities may only detain juveniles who have been taken into custody for a delinquent offense, who have been adjudicated delinquent by the Juvenile Court, when a juvenile has been placed pursuant to the Interstate Compact on Juveniles, or the juvenile has absconded from a pre-adjudicatory non-secure placement.*

Rule 19: *Juvenile Detention Centers must be secure, but every effort must be made to minimize the secure appearance of the facility.*

Rule 20: *All classifications of juveniles in juvenile detention centers authorized to detain juveniles must have equal access to a dayroom. If more than one classification of juveniles has access to the same dayroom, and then the dayroom must be separated from the juvenile cells or dormitories.*

Admissions

Rule 21: *Each facility that detains juveniles must have written policies and procedures for the admission of juveniles which shall include timelines.*

- A. *In a timely and efficient manner, trained and qualified staff shall perform health, mental health and suicide prevention screenings on all juveniles at intake. Staff shall record their findings on forms approved by the facility health care administrator.*
- B. *The facility must have written policy and procedure that includes inquiry into, and documentation of the following:*
 - 1. *Current illness and health problems, including dental problems, sexually transmitted diseases and other infectious diseases;*
 - 2. *Medication taken and special health requirements;*
 - 3. *Use of alcohol and other drugs, including types of drugs used, mode of use, amounts used, frequency used, date or time of last use, and history of problems that occurred after use;*
 - 4. *Past and present treatment or hospitalization for substance abuse, mental health, or suicide;*
 - 5. *Other health problems diagnosed by a treating physician;*
 - 6. *Mental illness.*
 - 7. *Risk of suicide and self-harming behavior*
 - 8. *Trauma*
 - 9. *Observations of behavior, including: state of consciousness, mental status, appearance, conduct, tremor and sweating;*
 - 10. *Observations of injuries, trauma markings, bruises, lesions, jaundice, ease of movement, or other observed injuries or conditions that appear to be irregular or unusual.*
- C. *Referrals to:*
 - 1. *Juvenile general population;*
 - 2. *Health care service;*
 - 3. *Emergency health care service.*

Rule 22: *Within seventy-two (72) hours of the juvenile's arrival at the facility and*

periodically throughout a juvenile's confinement, the facility shall obtain and use information about each juvenile's personal history and behavior to reduce the risk of sexual abuse by or upon a juvenile.

Rule 23: *The facility shall ascertain information about:*

- A. Prior sexual victimization or abusiveness;*
- B. Any gender nonconforming appearance or manner or identification as lesbian, gay, bisexual, transgender, or intersex, and whether the juvenile may therefore be vulnerable to sexual abuse;*
- C. Current charges and offense history;*
- D. Age;*
- E. Level of emotional and cognitive development;*
- F. Physical size and stature;*
- G. Mental illness or mental disabilities;*
- H. Intellectual, learning, or developmental disabilities;*
- I. Physical disabilities;*
- J. The juvenile's own perception of vulnerability; and*
- K. Limited English proficiency*
- L. Any other specific information about individual juveniles that may indicate heightened needs for supervision, additional safety precautions, or separation from other juveniles.*

Rule 24: *All intake screenings must be taken into consideration when making juvenile housing decisions.*

Rule 25: *The facility staff shall establish individual files at intake. The following minimum identification data and information must be recorded for each juvenile in the facility:*

- A. Name (and aliases, if any);*
- B. Address;*
- C. Date of birth;*
- D. Sex;*
- E. Identifying marks, including scars, marks, and tattoos (location and description);*
- F. Name, address and phone number of parent or guardian to be contacted in case of an emergency.*
- G. Employment;*
- H. Time and date of admission to the facility;*
- I. Authority for admission;*
- J. Offense or basis for detention;*
- K. Name of delivering officer and arresting officer;*
- L. Medical screening form;*
- M. Reads and understands English;*
- N. Digital photos front and when available side, indicating height;*
- O. Cell assignment;*
- P. Date of release or transfer;*
- Q. Name of person recording the information;*
- R. Name and contact information of the victim(s), or the parent or guardian of the*

victim(s), if the victim is a juvenile);
S. PREA notification, screening and acknowledgment.

Rule 26: A facility may require a juvenile to wear facility clothing. If juveniles are required to wear facility clothing, the facility shall issue a clean set of appropriately sized jail clothing, including pants and shirt or coveralls and footwear, and if necessary, undergarments. Juveniles may be permitted to wear their own clothing.

Rule 27: Facility staff shall inventory all personal property taken from a juvenile on a receipt form made out in the name of the juvenile. A record of the property must be signed by the juvenile, placed in juvenile's file and the property made available to the juvenile upon release, unless the property is evidence of a crime. The property room must be secure and access to the property room controlled.

Rule 28: Facility staff shall allow the juvenile to contact an attorney or family member, upon completion of admission or as soon as practical after completion of admission. These calls may be completed on a facility telephone or facility-approved electronic device. Facility staff shall allow a reasonable number of attempts to complete a telephone call. The facility shall maintain documentation of the telephone calls and, when applicable, the juvenile's refusal to make a telephone call.

Rule 29: Upon admission or as soon thereafter as is practical, staff shall provide juveniles orientation information in language the juvenile understands, including:

- A. Visitation;
- B. Mail and telephone;
- C. Contraband;
- D. Prohibited acts and penalties that may be imposed;
- E. Grievance procedures;
- F. Health care procedures;
- G. Juvenile cell care responsibilities;
- H. PREA notification, screening and acknowledgment

Detention facility staff shall document completion of the orientation and shall obtain the juvenile's signature and record the date. If the juvenile refuses or is unable to acknowledge the completion of orientation, facility detention facility staff shall document the juvenile's refusal or inability to acknowledge completion of orientation.

Juvenile Rights

Rule 30: Each facility must have a written policy and procedure to protect juveniles from personal abuse, corporal punishment, personal injury, disease, property damage and harassment.

Rule 31: The rights of juveniles in detention may not be diminished or denied for disciplinary reasons. Written policies and procedures must provide that juveniles are assured their rights, subject only to the limitations necessary to maintain order and

security in the facility. The juvenile shall sign a document stating that the juvenile understands his or her rights. Juvenile rights include:

- A. Freedom from discrimination because of race, national origin, religion or creed, genetics, sex, sexual orientation, gender identity, or disability, and shall receive equal treatment under all policies and procedures of this facility.
- B. Each juvenile is entitled to necessary medical care including physical, psychiatric, psychological, eye care and dental care.
- C. Equal access for male and female juveniles to all programs and services offered at a facility housing both sexes.
- D. A written grievance procedure, which must be explained and made available to juveniles. A facility may not subject a juvenile to disciplinary action for reporting a grievance. The facility shall provide at least one level of appeal, which may not be reviewed by the same individual who initially reviewed the grievance. The reviewing authority shall document the findings and the disposition of the appeal. The facility shall provide a copy of the appeal report to the juvenile and shall file the appeal report in the facility records.
- E. Participation in religious services and religious counseling on a voluntary basis. Juveniles have the right to reasonable opportunities to exercise their religious beliefs, subject to limitations reasonably related to correctional facility safety and security.
- F. Access to recreational opportunities and equipment, including outdoor exercise, weather permitting.
- G. Access to the courts and confidential contact with attorneys and their authorized representatives. Attorney contact includes telephone conversations, uncensored correspondence and visits, and legal mail.
- H. Juveniles may not be subject to corporal or cruel and unusual punishment, humiliation, physical or mental abuse, or punitive interference with the daily functions of living including eating or sleeping.
- I. To receive visitors per the facility's visitation policies
- J. To communicate or correspond with persons or organizations.
- K. Reasonable access to the general public through communications media, subject to the limitations necessary to protect the juvenile's rights and the safety and security of the detention facility.
- L. Media request for interviews must be in writing.
- M. Juveniles may determine the length and style of their hair, including facial hair, except in individual cases, in which grooming requirements and restrictions are necessary for reasons of the health and safety of the juvenile and the detention facility.
- N. To have supervision and control exercised by trained facility staff.
- O. To not participate in work assignments, unless the work is related to housekeeping, maintenance of the facility grounds, or personal hygiene needs, or the work is part of an approved vocational training program.
- P. To be free from sexual harassment.
- Q. To be protected from harm from facility staff, visitors, and other juveniles in the facility.

R. *Juveniles may not perform any work prohibited by state and federal child labor laws.*

Rule 32: *A juvenile detained for more than ninety-six (96) hours must be given reasonable assistance in obtaining educational materials and assignments necessary to keep the juvenile current in regular school studies.*

Supervision

Rule 33: *Each facility must be staffed by trained correctional facility staff.*

Rule 34: *Each facility shall provide meals to juveniles detained more than four hours.*

Rule 35: *Facility staff shall personally observe each juvenile placed within a locked room at least every fifteen minutes on an irregular basis and shall document when staff observed each juvenile and what staff observed.*

Rule 36:

A. *Every facility must have a policy and procedure to report significant incidents occurring within the jurisdiction of the facility. Significant incidents must be reported within one hour to the DOCR Office of Facility Inspections. Every facility shall submit the Significant Incident Reporting form provided by the DOCR to the DOCR Office of Facility Inspections within 24 hours of the initial notice. Significant incidents include:*

1. *Severe assaults of any individual;*
2. *Escapes and attempted escapes;*
3. *Riots, strikes, demonstrations, and disturbances;*
4. *Refusal of medical care the health authority determined is necessary;*
5. *Death;*
6. *Attempted self-harm, self-harm, or suicide;*
7. *Any incident involving staff injury caused by juvenile conduct and which requires outside medical attention;*
8. *Disruption of essential services;*
9. *Significant damage or destruction of facility property; and*
10. *Substantiated PREA allegations.*

B. *The facility administrator or the DOCR Office of Facility Inspections may request an independent investigation from the North Dakota Bureau of Criminal Investigation following:*

1. *In-custody death of juvenile;*
2. *Escape or attempted escape of a juvenile; and*
3. *Crimes involving staff within the facility.*

Rule 37: *A facility may not detain a juvenile without trained correctional facility staff on duty capable of responding to the reasonable needs of the juvenile. When both males and female juveniles are housed in the facility, at least one trained female staff person*

must be on duty. The facility may not place a juvenile in a supervisory capacity over other juvenile.

Rule 38:

- A. Each facility must have a written policy and procedure for juvenile observation. Trained correctional facility staff shall personally observe each juvenile during each hourly period a minimum of every fifteen minutes on an irregular basis. Trained correctional facility staff, or a qualified individual the administrator may designate, shall personally observe juveniles who exhibit suicidal tendencies, self-destructive behavior, emotional distress, or have specialized medical problems at more frequent intervals as the juvenile's condition requires.*
- B. Every facility must have a written suicide prevention plan that includes:
 - 1. Identification of the warning signs and symptoms of suicidal behavior and mental illness;*
 - 2. Proper response to suicide behavior or attempts;*
 - 3. Referral procedures;*
 - 4. Housing observation and suicide watch level procedures;*
 - 5. Follow up monitoring; and*
 - 6. Annual training for staff with responsibility for inmate supervision.**

Rule 39: *The facility shall maintain a daily written record, including the date and time and the name of staff who completed the record, with the following information:*

- A. Personnel on duty;*
- B. Juvenile population count, which must be conducted at least three times in a twenty-four (24) hour period;*
- C. Admissions and releases of juveniles, including victim notification in accordance with North Dakota law;*
- D. Shift activities;*
- E. Entry and exit of physicians, attorneys, and other visitors;*
- F. Unusual occurrences, including incidents that may require an incident report or submitting a report to the DOCR Office of Facility Inspections.*

Rule 40: *Each facility must have a written policy and procedure governing searches of all areas of the facility, including juvenile cells and juvenile property, dayrooms, recreation areas, vehicles used to transport juveniles, and visitation areas; juveniles; and visitors.*

Rule 41: *Each facility must have a written policy and procedure for clothed and unclothed searches of juveniles. The policy and procedure must include the following:*

- A. Licensed medical personnel may conduct manual, visual, or instrument searches of body cavities based upon reasonable suspicion and within the scope of their licensure.*
- B. Licensed medical personnel may conduct cross-gender unclothed body searches which must be documented.*
- C. Unclothed cross-gender body searches may not be conducted on male or female juveniles absent exigent circumstances. Facility staff shall document all cross-*

gender unclothed searches of male or female juveniles, including the exigent circumstances for the search.

- D. Detention facility staff may only conduct unclothed body searches of an juvenile who will not be placed in the general juvenile population, including visual inspections of sexually intimate parts of the body, when the juvenile is in the facility for an offense involving violence or illegal drugs, or the unclothed body search is based on reasonable suspicion the juvenile may be concealing drugs, weapons, or other contraband.*
- E. Detention facility staff may conduct unclothed body searches, including visual inspections of sexually intimate parts of the body, of juveniles who will be placed in general population.*
- F. Correctional staff may conduct unclothed body searches, including visual inspections of sexually intimate parts of the body, of juveniles who have had contact visitation or who have returned to the facility after court appearances, or for medical care.*
- G. Unclothed body searches must be conducted where they cannot be observed by any other individuals not involved in the search. Visual inspections must be non-intrusive and not involve touching the juvenile.*
- H. Cross-gender clothed or unclothed searches may not be conducted on female juveniles absent exigent circumstances. Facility staff shall document all cross-gender searches of female juveniles, including the exigent circumstances for the search.*

Rule 42: *Each facility must have a written policy and procedure governing the storage of authorized weapons.*

Rule 43: *Each facility must have a written policy and procedure governing use of force. The written policy and procedure must restrict the use of force to the safety and security of staff, juveniles, and the public, protection of property, prevention of escapes, prevention of crime, when necessary to enforce facility rules and restore order, and only in accordance with legal authority. Staff shall document any use of force and submit a written report to the administrator by the end of the employee's shift. The facility shall make a reasonable attempt to video tape all use of force situations. The facility shall report the use of force that results in injury to any individual to law enforcement and to the DOCR Office of Facility Inspections.*

Rule 44: *Each facility must have a written policy and procedure that ensures medical care is provided for any injury juveniles or staff may sustain as a result of use of force.*

Rule 45: *Each facility must have a written policy and procedure for a current accounting, security, control and use of keys, tools, culinary and medical supplies and equipment.*

Rule 46: *Each facility must have a written policy and procedure for every security post. The facility shall review the policies and procedures annually and update, if necessary. All staff shall read, sign and date the post orders annually, before beginning a new assignment or when the post orders are updated.*

Rule 47: *Each facility must have a written policy and procedure regarding actions to be taken in the event of an escape or attempted escape. Facility staff shall review these policies and procedures annually and update, if necessary.*

Rule 48: *Each facility must have a written policy and procedure to be followed in situations including riots, hunger strikes, hostages, and disturbances, including power outages and storms or other acts of nature that may affect facility operations, safety, and security. Facility staff shall review these plans annually and update, if necessary.*

Rule 49: *Each facility must have a written policy and procedure governing temporary space arrangements in case the number of juveniles taken into custody exceeds the maximum capacity of the facility available for the detention of juveniles.*

Rule 50: *Every facility must have a written policy and procedure for the use of restraint devices, including use of restraints with pregnant females. The use of restraints on a female who is in active labor and delivery is prohibited. Restraint devices may only be used as a precaution against escape, during transports, for medical reasons by direction of the medical personnel, and as a prevention against self-injury, injury to others, or property damage. Restraint devices may not be applied as punishment. All decisions and actions on the use of restraints must be documented.*

Rule 51: *Each facility must have a written policy and procedure governing the transportation of juveniles outside the facility, including the equipment used in transport vehicles, the qualifications for transport officers and the use of firearms, the use of restraints and juvenile transport clothes, and the use of escort vehicles.*

Rule 52: *Every facility must have a written policy and procedure governing the notification of victims and witness in accordance with North Dakota law. **This Rule will be removed January 1, 2020, and in 2021 will not be part of the inspection. The authority lies within the States Attorney office. DOCR no authority to inspect State Attorney Victim Notification practices.***

Health Care

Rule 53: *The administrator shall designate a licensed physician, nurse practitioner, physician assistant, or registered nurse or a county or state health authority to be the health care administrator. The health care administrator shall be responsible for health care administration and development of health care policies and procedures.*

Rule 54: *Juvenile detention centers detaining juveniles for more than ninety-six (96) hours must provide services that address identified medical, mental health, chemical dependency, and educational needs to all classifications of juveniles. There must be adequate and secure space for these services.*

Rule 55: *Inactive medical, psychological, and treatment records must be retained as permanent records for a period as provided by law. All records of sex offenders for violations of North Dakota Century Code Chapter 12.1-20 and 12.1-27.2 must be maintained for a period of fifty years.*

Rule 56: *Each facility shall maintain the confidentiality of a juvenile's medical, psychological, and treatment records. The medical, psychological, and treatment records file must be separate from the facility confinement records.*

Rule 57: *Each facility must have a written policy and procedure to provide that juveniles have access to necessary medical care including physical, mental health, eye care and dental care. Adequate staff, space, equipment, supplies and materials must be provided if health care is delivered in the facility.*

Rule 58: *Each facility must have a written policy and practice that assures facility staff are trained in medication administration that is in compliance with medication assistant I training and competency evaluation program approved by the state department of health under chapter 12-44.1-29.*

Rule 59: *A licensed physician, nurse practitioner, physician assistant, or registered nurse must be available on-call on a twenty-four (24) hour basis. Procedures to notify a licensed physician, nurse practitioner, physician assistant, or registered nurse on duty at a hospital are sufficient. Detention facilities in communities without a licensed physician, nurse practitioner, physician assistant or registered nurse must have arrangements to transport a juvenile to an appropriate health care facility or to bring a licensed physician, nurse practitioner, physician assistant, or registered nurse to the facility.*

Rule 60: *Each facility must have a written policy and procedure to transport a juvenile to a medical facility in case of a medical emergency. Emergency communication information must be readily available to facility staff.*

A facility shall transfer juveniles who require necessary health care beyond the resources available in the facility to a facility where the necessary health care is available.

Each facility must have a training program in which the health care administrator, in cooperation with the facility administrator, provides instruction in the following areas:

- A. Response to medical emergencies;*
- B. Recognition of signs and symptoms and knowledge of action required in emergencies;*
- C. Administration of first aid and cardiopulmonary resuscitation;*
- D. Methods of obtaining assistance;*
- E. Recognition of signs and symptoms of mental illness, intellectual disability, emotional disturbance, and chemical dependency;*
- F. Procedures for patient transfers to appropriate medical facilities or health care providers.*

G. If medications are delivered to juveniles by staff within the facility, staff must be trained in and currently certified in a North Dakota Department of Health-approved medication assistant I or medication assistant II program for facility staff.

Rule 61: *Each facility shall maintain a first aid kit, emergency medical supplies equipment, and automatic external defibrillator (AED) in a location readily available to facility staff. The health care administrator shall determine the contents, locations and procedures for inspection of the first aid kits and medical supplies, including a schedule and checklist to use for inspection and inventory.*

Rule 62: *A licensed physician, nurse practitioner, physician assistant, registered nurse, or other qualified person the health care administrator may authorize, shall perform a health appraisal for each juvenile detained within fourteen days of the juvenile's admission. The health care administrator shall determine the nature and extent of the health appraisal. The health care administrator may require a health appraisal at an earlier date if the health care administrator determines it is necessary. The health appraisal must include, at a minimum:*

- A. Tuberculosis testing;*
- B. Review of health screening;*
- C. Collection of additional data to complete the medical, eye care, dental, mental health, and immunization histories;*
- D. Recording of height, weight, pulse, blood pressure and temperature;*
- E. Laboratory or diagnostic tests and examinations as deemed appropriate by the health care administrator;*
- F. Review of medical examination results;*

Rule 63: *The facility shall document a juvenile's refusal to participate in the health appraisal in whole or in part, and place the documentation in the juvenile's medical records. If the health care administrator determines that the juvenile's refusal presents a risk to the health or safety of other juveniles or staff, the juvenile may be administratively segregated from the juvenile population until such time as the health care administrator determines that the risk no longer exists.*

Rule 64: *The facility shall establish procedures to carry out the orders of the health care administrator relating to a juvenile's medical care. Staff shall document all treatment administered to juveniles pursuant to orders of the health care administrator.*

Rule 65: *A facility may not detain a juvenile for detoxification.*

Rule 66: *A facility shall have a policy and practice for youth admitted to the facility that appear to be under the influence of alcohol or controlled substances, including opiates, barbiturates, amphetamines, or synthetic drugs at admission. The policy must include written criteria for assessing youth who may be under the influence of alcohol or controlled substance. If a juvenile fails to meet the criteria of the assessment they may not be allowed in the facility.*

Rule 67: *Each facility must have a written policy and procedure for receiving and documenting juvenile health complaints on a daily basis.*

Rule 68: *At least one trained correctional facility staff person who has received and has current certification in first aid training and cardiopulmonary resuscitation training (CPR) must be on duty at all times when juveniles are detained in the facility.*

Rule 69: *All medication must be kept in a locked storage area.*

Safety and Emergency Procedures

Rule 70: *Each facility must have access to equipment necessary to maintain essential lights, power, and communications in an emergency. Every facility must have written policy and procedures that address the maintenance and testing of emergency equipment. A monthly inspection or testing of equipment must be completed. Generators must be tested monthly or as recommended by the manufacturer.*

Rule 71: *Every facility must have a written policy and procedure specific to the facility for fire prevention to ensure the safety of juveniles, staff, and visitors, including:*

- A. *Provision for an adequate fire protection service;*
- B. *A system of fire inspection and testing of equipment at least annually, by the authority having jurisdiction*
- C. *Availability of fire hoses or extinguishers at appropriate locations throughout the facility.*
- D. *At least two documented fire drills in all facility locations annually. At least one of these drills must include the evacuation of each living area of the facility.*
- E. *Fire drills should include the evacuation of all juveniles unless there is a reasonable belief institutional security may be jeopardized. In that event, actual evacuation of specific juveniles is not required. The drills and findings shall be recorded in the facility master log.*

Rule 72: *Each facility must have a written evacuation plan prepared in case of fire or major emergency. The facility shall review the plan with the state fire marshal or local fire jurisdiction annually and update the plan, if necessary. The plan must include:*

- A. *Procedures to account for all juveniles, visitors, and staff, and including:*
 1. *Location of building and room plans;*
 2. *Use of exit signs for traffic flow;*
 3. *Location of publicly posted evacuation plans;*
 4. *Locations of fire extinguishers;*
 5. *Location of first aid kits and AED's*
 6. *Location of fire pull stations*
 7. *Plans for the immediate release of juveniles from locked areas*
 8. *A backup system if power operated locks fail*
- B. *The facility shall review the plan with the authority having jurisdiction annually and update the plan when necessary.*

C. Every facility shall complete an annual fire inspection by an independent, qualified source and provide documentation of all completed corrective actions.

Rule 73: *Every facility must have written plans for a response to:*

- A. An escape or attempted escape,*
- B. Riots, hunger strikes, hostages, and disturbances,*
- C. Disruption of essential services; and*
- D. Storms or other acts of nature that may affect facility operations, safety, and security.*

Rule 74: *All facility personnel must be trained in the implementation of emergency plans. These plans must be reviewed annually and documentation of the review in place.*

Rule 75: *Each facility must have a written policy and procedure governing the storage and use of all flammable, toxic, and caustic materials. These policies and procedures must be in accordance with all applicable laws and regulations. A right-to-know manual of Safety Data Sheets must be available for review.*

Sanitation and Hygiene

Rule 76: *Bedding and juvenile clothing must be kept clean and laundered at least weekly. Pillows, blankets and mattresses must be sanitized as often as facility usage and the promotion of juvenile health require. The health care administrator must approve delousing materials and procedures.*

Rule 77: *The facility shall provide each juvenile with clean and suitable bedding and sufficient blankets to provide comfort under existing temperature controls. The facility may remove juvenile clothing or bedding from a juvenile's cell when it determines it is necessary under the circumstances. The facility shall have written procedures in place for the removal and return of juvenile clothing and bedding from a juvenile's cell. The facility shall document the date, time, items, and reason for removal, along with the date, time, and items returned to the juvenile.*

Rule 78: *All mattresses must be of an approved nontoxic fire-retardant material.*

Rule 79: *Juveniles detained for more than twenty-four (24) hours must be provided personal hygiene items including soap, towels, toothbrush, toothpaste and access to a shower at designated intervals determined by the administrator, but not less than three times per week.*

Rule 80: *Every facility shall establish policies for grooming, including hair length and style and facial hair length and style. The facility's policies shall allow an inmate to request an exception to the facility's hair and facial hair restrictions, if any, based on the inmate's sincerely held religious beliefs. The facility may determine a schedule for barbering and hair care services.*

Food Service

Rule 81: *Each facility's food service system must be reviewed at least annually by a registered dietician to ensure compliance with nationally recommended food allowances. This review must be documented.*

Rule 82: *Each facility's menus must be planned, dated, and available for review. The facility shall document any substitutions in the meals actually served, and substitutions must be of equal nutritional value. Each facility shall maintain accurate records of all meals served.*

Rule 83: *Each facility must have a written policy and procedure that provide for:*

- A. Special diets as approved by the appropriate medical or dental personnel;*
- B. Special diets for juveniles whose religious beliefs require the adherence to religious dietary laws;*
- C. Prohibitions of the use of food as a reward or disciplinary measure.*

Rule 84: *Each facility shall provide juveniles at least three meals, of which one is a hot meal, at regular meal times during each twenty-four hour period, with no more than fourteen hours between the evening meal and breakfast. The facility staff shall document substitutions in the meals actually served, and substitutions must be of equal nutritional value. Every facility shall maintain accurate records of all meals served. Variations may be allowed during emergencies, for inmates on work release, and for weekends and holidays, provided nutritional requirements are met.*

Rule 85: *Every facility must have written policies and procedures that an alternate food service may be provided to a juvenile who uses food or food service equipment in a manner that is hazardous to the inmate or other persons. Alternative food service must be on an individual basis, it must be based on health or safety considerations, it must meet basic nutritional requirements, and there must be documented approval by the facility administrator and responsible health authority. The alternate food service must be reviewed and approved every seven days by the facility administrator or designee and responsible health authority.*

Rule 86: *Food service facilities, equipment, and employees must meet all applicable health, safety, and sanitation laws and regulations. The health authority having jurisdiction shall conduct an inspection of the food service area of each facility at least once a year. Each facility must maintain records of all inspections and all actions taken as a result of these inspections.*

Rule 87: *If food is prepared inside the facility, the facility must have a written policy and procedure that requires weekly inspection of all food service areas, including dining and food preparation areas and equipment by administrative, medical or dietary staff, or food service manager. The facility shall maintain records of the inspections and any corrective actions.*

Telephone and Visitation

Rule 88: *A juvenile must be allowed to make telephone calls to the juvenile's attorney at reasonable times. These calls may not be monitored or recorded. The telephone number of an attorney who has called a juvenile must be obtained and the juvenile must be permitted to return the call at a reasonable time.*

Rule 89: *A juvenile may be allowed to make telephone calls to persons other than the juvenile's attorney within limitations set by the administrator. The facility shall post a notice in a conspicuous place that it may monitor and record non-attorney telephone calls.*

Rule 90: *Every facility shall have a policy and procedure governing visitation and property, including: searches of visitors, contractors, volunteers, legal counsel and clergy. These rules must be made available to the juveniles and the public.*

Rule 91: *Each juvenile must be allowed visits from legal counsel. Upon a juvenile's request, legal counsel may visit a juvenile after admission or as soon as reasonably possible. All subsequent visits by legal counsel may be restricted to reasonable hours. Visits by legal counsel may be subject to staff or video observation, but without audio-monitoring; however, when there may be observation, a notice must be posted in visiting areas. Audio or video recording of attorney visits is prohibited.*

Rule 92: *Each facility must have a written policy and procedure for juvenile visitation. A facility may deny visitation or place restrictions on visitors whenever the administrator has reasonable grounds to believe the visitor presents a threat to facility safety, security, order or juvenile rehabilitation. A facility may deny visitation to juveniles who are not members of a juvenile's immediate family. A facility may deny visitation to juveniles who are victims of the juvenile. The facility shall document the grounds for restricting or denying visitation.*

Rule 93: *Visiting hours must be reasonably convenient but within such limitations as established by the administrator. Visiting hours and regulations must be posted in a place conspicuous to juveniles and to visitors.*

Rule 94: *Written policy and procedure on visitation must include clear instructions to staff relating to visitor search procedures, including electronic scanning, and pat or frisk searches.*

- A. If there is reasonable suspicion the visitor is concealing drugs, weapons, or other contraband, the facility may refuse to allow visitation. The facility shall document the grounds for denying visitation.*
- B. A facility may prohibit a visitor from bringing any property into a facility.*
- C. A facility may prohibit any visitor, including attorneys, from bringing any wireless electronic communications or recording device, including a cellular phone, laptop computer, or digital or electronic notepad, into a facility.*
- D. Facility staff may search an attorney's portfolio or brief case for contraband, but may not read any legal materials.*

Mail

Rule 95: *Each facility must have a written policy, procedure, and practice governing incoming and outgoing general, official, and legal mail that includes:*

- A. Mail depository or mail collection process;*
- B. Procedures for screening all incoming and outgoing mail;*
- C. Documenting and recording incoming and outgoing legal and official mail, and;*
- D. Process for juveniles to challenge mail rejections.*

Rule 96:

- A. Official mail means correspondence to or from elected or appointed officials of the federal government or any state or political subdivision; or to the North Dakota parole board or pardon advisory board. Legal correspondence means correspondence to or from licensed attorneys or legal advocacy organizations. For purposes of this rule, legal mail includes mail to or from judges or clerks of court of municipal, state, or federal courts.*
- B. Outgoing official or legal correspondence may not be inspected outside the presence of the juvenile. Outgoing official or legal correspondence initiated by an indigent juvenile who is not represented by legal counsel in a case and which contains legal documents must be mailed without charge to the juvenile. This extends only to first-class postage for legal mail and does not include registered, certified, or insured mail. Indigent juveniles must also be provided free envelopes and writing materials for the mailing and drafting of legal documents. Indigent juveniles must be provided a reasonable amount of stamps, envelopes and writing materials for other privileged correspondence.*
- C. Incoming correspondence may be treated as official or legal correspondence only if the name and official or legal status of the sender is clearly identified on the envelope. All incoming official and legal correspondence may be opened and examined for contraband, but only in the presence of the juvenile. In no case may the official or legal correspondence be read or censored.*

Rule 97: *Each facility must have a written policy and procedure to provide for juvenile access to reading materials, magazines, newspapers, and periodicals. Juveniles may receive books, magazines, newspapers and other printed materials that have been sent directly to the juvenile by the publisher, subject to facility and public safety, security, deterrence, order and juvenile rehabilitation needs. Items not sent directly by the publisher may be allowed at the discretion of the facility administrator. Non-solicited bulk mailing materials may be rejected.*

Rule 98: *Each facility must have a written policy and procedure to provide that mail may be read, censored, or rejected based on legitimate facility interests of safety, security and order. In each case where it is necessary to reject an item, a written record must be made of such action. The record must include:*

- A. The juvenile's name;*
- B. A description of the mail in question;*
- C. A description of the action taken and the reason for such action;*

- D. *The disposition of the item(s) involved;*
- E. *Signature of the acting officer;*
- F. *Written notification to the inmate and sender;*
- G. *A due process procedure must be provided to the inmate allowing them to challenge the facility's rejection of mail;*
- H. *The item shall not be destroyed or sent out until the process has been completed; and*
- I. *Packages mailed to a juvenile in a facility must be handled the same way as mail or publications.*

Exercise and Recreation

Rule 99: *Facilities shall provide juveniles the opportunity for physical exercise outside of their cells a minimum of one hour daily. The facility may provide physical exercise within the cell if the administrator has reasonable grounds to believe that the release of a juvenile from the cell may jeopardize facility safety, security or order. The facility shall document any grounds for not allowing a juvenile physical exercise outside the juvenile's cell. The indoor recreation area must be separate from the dayroom.*

Rule 100: *Juveniles who are detained for more than thirty consecutive days must be provided a minimum of one-hour daily physical exercise in a secure outdoor recreation area or louvered outside air accessible recreation. Physical exercise within the living space or indoor recreation area may be provided if the administrator has reasonable grounds to believe that the release of a juvenile to an outdoor area would jeopardize facility security or based on inclement weather. Such reasonable grounds must be documented. The administrator may require that juveniles exercise outdoors when the administrator has determined the weather is adequate. Administrators in all facility classifications are encouraged to provide for physical exercise in a secure outdoor recreation area for all juveniles.*

Rule 101: *The minimum space requirements for exercise areas are as follows: (Post 1992 construction)*

- A. *Outdoor exercise area—15 square feet per juvenile for the maximum number of juveniles expected to use the space at one time, but not less than 1,500 square feet of unencumbered space;*
- B. *Covered/enclosed exercise areas in facilities of 100 or more juveniles—15 square feet per juvenile for the maximum number of juveniles expected to use the space at one time, with a minimum ceiling height of 18 feet, but not less than 1000 square feet of unencumbered space;*
- C. *Covered/enclosed exercise areas in facilities of less than 100 juveniles expected to use the space at one time, with a minimum ceiling height of 18 feet, but not less than 500 square feet of unencumbered space.*

Juvenile Responsibilities

Rule 102: *The facility may not require a juvenile to perform work other than routine general housekeeping duties. The facility administrator may allow a pre-adjudication juvenile to perform work only upon the request of the pre-adjudication juvenile.*

Juvenile Rules and Discipline

Rule 103: *Each facility must have written rules of juvenile conduct that specify acts prohibited in the facility and the disciplinary sanction that may be imposed for facility rules violations. The facility shall make these rules available to all juveniles and establish procedures to ensure that all juveniles understand the rules and sanctions that may be imposed. Facility staff shall document disciplinary action of any kind and the administrator shall review the disciplinary action.*

Disciplinary reports must include the following information:

- A. Specific rules violated;*
- B. An explanation of the violation, which must include: who, what, when, where, why and how, and any immediate action taken by staff. The juvenile should receive a summary of the evidence that will be used against the juvenile in the disciplinary proceeding;*
- C. Disposition of any physical evidence;*
- D. Staff and juvenile witnesses and statements;*
- E. Date and time the report is completed and reporting staff signature.*
- F. Information that may identify confidential informants must be separately documented along with an explanation why the confidential informant information is reliable and credible, and not provided to the juvenile, although a summary of non-identifying evidence must be provided to the juvenile.*

Rule 104: *Each facility must notify juveniles that in instances where a juvenile is alleged to have committed a crime, the case may be referred to appropriate law enforcement officials for possible prosecution in addition to facility discipline.*

Rule 105: *A juvenile accused of violating a facility rule which could result in disciplinary segregation must receive a twenty-four hour notice of the violations prior to the disciplinary hearing.*

Rule 106: *Emergency circumstances may require that a juvenile be placed in administrative segregation for a violation of the facility rules prior to a disciplinary hearing. Such emergency and administrative action must be documented. A disciplinary hearing must follow such administrative action as soon as possible.*

Rule 107: *Each facility must have a written policy and procedure to provide that:*

- A. The disciplinary hearings are conducted by an impartial person or panel of persons;*
- B. The juvenile has the right to appear at the hearing and testify;*
- C. The juvenile must be allowed to call witnesses and present documentary evidence in the juvenile's defense if permitting the juvenile to do so will not jeopardize*

security, order, or rehabilitation. Reasons for not allowing the juvenile to call witnesses must be documented in the hearing record;

- D. A written record must be made of the disciplinary hearing decision. The disciplinary hearing decision must include a summary of the evidence, findings of fact that establish the guilt or innocence of the juvenile, and an explanation for disciplinary sanctions imposed. Any confidential informant information must be separately documented. A copy of the disciplinary hearing decision, but excluding confidential informant information must be given to the juvenile;*
- E. Juveniles have the right to appeal decisions of the disciplinary hearing officers(s) to the administrator or an independent authority;*
- F. Any disciplinary action recommended by the hearings officer(s) may be reduced on appeal but not increased.*

Rule 108: *If a facility has segregation units, it must have a written policy and procedure to govern the supervision of juveniles under administrative segregation, protective custody, and disciplinary detention and which must include the following.*

- A. The facility shall review the status of juveniles in administrative segregation every seven days to determine if continued administrative segregation is appropriate.*
- B. The facility shall have a review process that is used to release an juvenile from administrative segregation.*
- C. Whenever a juvenile in segregation is deprived of any usually authorized item or activity, facility staff shall make a report of the action and provide the report to the facility administrator.*
- D. Juveniles in segregation must have the opportunity to shave and shower at least three times per week.*
- E. Juveniles in segregation are entitled to the issue and exchange of clothing, bedding, and linen and for laundry, barbering, and hair care services on the same basis as juveniles in the general population. Exceptions may be permitted only where found necessary by the shift commander and are recorded in the unit log.*
- F. A facility may provide juveniles in segregation with opportunities for visitation, unless the facility has legitimate penological reasons for denying visitation. Facility staff shall document the grounds for denying juveniles in segregation opportunity for visitation.*
- G. Juveniles in disciplinary segregation may be allowed limited telephone calls related specifically to access to the courts and family emergencies as determined by the facility administrator.*

Training and Staff Development

Rule 109: *Each facility must have a written policy and procedure requiring that all staff participate in an orientation training program prior to independent assignment. The orientation program must meet the particular needs of the facility and must include at a minimum:*

- A. Facility policy and procedures;*
- B. All emergency procedures to include basic first aid and CPR;*
- C. Classification of juveniles;*

- D. Booking procedures to include health screening;*
- E. Use of force to control juveniles;*
- F. Suicide behavior and actions required if suicidal behavior is encountered.*
- G. Victim notification in accordance with the Statewide Automated Victim Information and Notification (SAVIN).*
- H. Prison Rape Elimination Act (PREA)*