

<p align="center"><b>GEORGIA DEPARTMENT OF JUVENILE JUSTICE</b></p>	<p align="center">Transmittal # 17-16</p>	<p align="center">Policy # 20.26</p>
<p>Applicability:  {x} All DJJ Staff  { } Administration  { } Community Services  { } Secure Facilities (RYDCs and YDCs)</p>	<p>Related Standards &amp; References:  O.C.G.A. §§ 49-4A-7, 50-13-13, 50-13-19, 50-13-41  ACA Standards: 4-JCF-3A-27, 3-JDF-5A-13  Rules of the Department of Juvenile Justice: 97-2-.05  4.6 Uniform Rules for Juvenile Courts in GA  DJJ 20.11, 20.20, 20.23, 20.33</p>	
<p>Chapter 20: COMMUNITY CASE MANAGEMENT</p>	<p>Effective Date: 12/22/17  Scheduled Review Date: 12/22/18</p>	
<p>Subject: ADMINISTRATIVE REVOCATION OF COMMUNITY PLACEMENT</p>	<p>Replaces: 3/17/15  Community Services Division</p>	
<p>Attachments:</p> <p>A – Violation Report  B – Notice of Preliminary Hearing  C – Conducting a Preliminary Hearing  D – Admission of Violation / Waiver  E– Findings of Preliminary Hearing  F – Final Revocation Hearing Information Sheet</p>	<p>APPROVED:</p>  <hr/> <p>Avery D. Niles, Commissioner</p>	

**I. POLICY:**

The Department of Juvenile Justice may use administrative revocation to change a committed youth’s placement when the youth has violated one or more of the written Conditions of Supervision and it is determined that the change in placement is necessary for the youth’s treatment and rehabilitation or safety of the community.

**II. DEFINITIONS:**

**Administrative Law Judge:** The judge appointed by the Office of State Administrative Hearings to conduct a final administrative revocation hearing.

**Administrative Revocation:** The termination of the conditional, community placement of a delinquent or unruly youth committed to the custody of the Department of Juvenile Justice; provided, however, that a youth has completed the initial trial period when the administrative action to terminate occurs. If violations occur prior to the completion of the trial period, a youth may be transferred to a Youth Development Campus or any other placement without regard to these policies and procedures.

**Admission of Violation/Waiver:** A written waiver of the youth’s right to a final revocation hearing signed by the youth, parent/guardian (if available), and preliminary hearing officer.

**Alternate Placement:** Any placement made for a committed youth as an alternative to a placement to a Youth Development Campus (e.g., youth’s home, group home, program, etc.).

**Community Case Manager (CCM):** Juvenile Probation/Parole Specialist I, II or III (JPPS) or Juvenile Probation Officer I or II who provides direct supervision and coordination of

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services for a youth. The Community Case Manager also includes any member of an established case management team who may perform case management tasks.

**Conditions of Supervision:** The written agreement between the youth and Community Case Manager that describes the rules the youth must follow while under the supervision of the Department and the consequences of rule violations that apply to the current placement.

**Final Revocation Hearing:** An administrative proceeding in which the Office of State Administrative Hearings, under authority of O.C.G.A. §50-13-13 and §50-13-41, makes findings of fact and conclusions of law and disposition, subject to appellate review, in the matter of the revocation of a youth's community placement.

**Findings of Preliminary Hearing:** The preliminary hearing officer's written findings as to whether probable cause has been established, and if detention of the youth is justified.

**Initial Decision of Administrative Law Judge:** The administrative law judge's written findings of the final revocation hearing, based on the preponderance of the evidence, determining if the youth has substantially violated the Conditions of Supervision which justify revocation of the youth's placement. These findings become final after a 30-day grace period in which a youth, parent/guardian, or attorney has the opportunity to appeal.

**Notice of Preliminary Hearing:** The written notification to the youth and parent/guardian of the date, time and location of the preliminary hearing.

**Office of State Administrative Hearings:** The state agency authorized by law to determine contested cases not presided over by the Commissioner.

**Order of Commitment:** The Juvenile Court order committing the youth to the Department of Juvenile Justice for care, supervision, and treatment.

**Placement History:** The comprehensive list of all of the youth's previous placements, which includes the date(s) of placement and the result of the placement. The placement history is located in the Juvenile Tracking System.

**Preliminary Hearing:** A hearing to establish if there is probable cause to believe that the youth has violated the Conditions of Supervision and to determine if detention is necessary.

**Preliminary Hearing Officer:** Department staff designated and appointed by the Commissioner and specifically trained to conduct preliminary hearings.

**Trial Period:** An initial period of 60 days from the date a committed youth is conditionally placed in an alternate placement. (See DJJ 20.23, Trial Period). A youth will be provided one trial period per commitment, recommitment or administrative revocation.

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**Violation Report:** The written notice of the youth's alleged violation(s) of the Conditions of Supervision.

**Waiver:** A voluntary relinquishing of a known right or privilege by one who knows the consequences of such act.

### III. PROCEDURES:

- A. The Community Case Manager (CCM) will ensure that the DJJ Conditions of Supervision are signed prior to the youth's release from a secure facility. If the youth is not in a secure facility, the DJJ Conditions of Supervision will be signed on the date of the youth's placement in a program, or within three (3) business days of a home placement. The Conditions of Supervision will be read and discussed with the youth and parent/guardian. The youth and parent/guardian will be provided a copy of the Conditions. If the youth refuses to sign the Conditions of Supervision, the CCM will document the refusal on the form and at least one DJJ staff member (other than the CCM) will sign the Conditions of Supervision as a witness of the refusal.
- B. Administrative revocations will be based on one or more violations of the signed Conditions of Supervision.
- C. If a youth has been accused of an unruly act(s), the CCM will use graduated sanctions, in lieu of filing a Violation Report. (See DJJ 20.33, Graduated Sanctions.)
- D. Administrative revocation may result in:
  1. A return to or placement in a residential program;
  2. Up to 30 days of confinement in a Regional Youth Detention Center (RYDC), beginning at the time of admission to any RYDC;
  3. Long term confinement in a Youth Development Campus (YDC); the Deputy Commissioner of Community Services (or designee) must approve long-term YDC placements; or
  4. Other change in placement.
- E. When the youth is to be removed from the alternate placement during the initial 60-day trial period, administrative revocation procedures will not apply. (See DJJ 20.23, Trial Period.) After the trial period, if the youth is to be revoked from a placement, a Violation Report, (Attachment A) will be filed as indicated below in section F.
- F. Filing a Violation Report (Attachment A):

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1. A violation report may be filed in cases where a youth has exhausted graduated sanctions or where the youth has committed a delinquent act that is not prosecuted by the District Attorney's Office.
2. In extenuating circumstances, a Violation Report may be filed for youth without first using graduated sanctions. In these circumstances, the Regional Administrator, through the chain of command, must approve the filing of a Violation Report. Upon approval, the Regional Administrator will document the rationale for approving an exception to the use of graduated sanctions in a Juvenile Tracking System (JTS) case note.
  - a) Exhaustion of Graduated Sanctions will not be required for youth in Residential Placement. (Graduated Sanctions may be used for youth in Residential Placement, but the exhaustion of sanctions is not required in order to file a Violation Report.)
3. If a petition is filed and a youth is adjudicated for a delinquent act, a Violation Report will not be filed.
4. Only those conditions that have been previously put in writing on the Conditions of Supervision for the current placement and explained to the youth and parent/guardian can be used as a basis for filing the Violation Report. The youth and parent/guardian must have signed the Conditions or there is some documentation of a request for the signature.
5. The Violation Report must include the specific violations that are alleged, the date(s) of occurrence, a summary of the circumstances of each violation and the time and place of detention, if the youth is detained.
6. The Violation Report is "filed" when it has been signed and dated by the CCM and approved by the case manager's supervisor, with a signature and date.
7. Approval of the Violation Report:
  - a) Prior to approving the filing of a Violation Report, the Juvenile Program Manager (JPM) will review the Graduation Sanctions Module for implementation and appropriateness of sanctions for each level.
  - b) Detention or administrative revocation of placement will not be used without a thorough review and approval of the sanctioning efforts by the JPM.
8. Upon approving the Violation Report, the supervisor or designee will request that the appointed preliminary hearing officer schedule a preliminary hearing.

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9. The CCM must explain and provide a copy of the Violation Report to the youth and parent/guardian as soon as possible, but no later than 24 hours prior to the preliminary hearing. If possible, the CCM should deliver the Violation Report and explain it to the youth at the time of or immediately following placement in detention, if detained. The original Violation Report will be filed in the youth's case record.
10. More than one Violation Report may be filed if new or different charges become known prior to the hearing. The above steps must be followed with each new or amended Violation Report.

G. Notice of Preliminary Hearing:

1. The CCM will ensure that the youth receives notice of and understands his/her rights during the administrative revocation process, using the Notice of Preliminary Hearing (Attachment B). The youth's rights include:
  - a) The right to an impartial hearing on the alleged violation. This includes a preliminary hearing and, unless waived, a final revocation hearing and an administrative review;
  - b) At least 24 hours advance notice, in writing, to the youth and parent/guardian (if available) that a hearing is to be held, including the date, place, time and purpose of the hearing;
  - c) A statement of the alleged violation(s), as written in the Violation Report, (Attachment A);
  - d) The right to appear at the hearing and speak on his/her own behalf and to produce oral testimony of relevant witnesses and to introduce documentary evidence;
  - e) The right to be represented by an attorney or another representative of his/her choice. (If the youth chooses to be represented by an attorney, it will be at his/her own expense.); and
  - f) The conditional right of the youth and his/her attorney, at his/her request, to confront and question persons who have given adverse information on which the charge was based. (The hearing officer may deny the request if he/she feels that the witness would be exposed to the possibility of harm if his/her identity were known).
2. The CCM will provide the youth and parent/guardian, if available; at least 24 hours notice that a preliminary hearing is to be held to consider the allegations

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set forth in the Violation Report. The Notice of Preliminary Hearing (Attachment B) will indicate the time and place of the hearing, its purpose, and the youth's rights. The Notice of Preliminary Hearing will be read and explained to the youth and parent/guardians (if available). The staff member providing the notice will sign the Notice and will document the date and time of the Notice. Both the youth and parent/guardian (if available) will sign and date the original and will be provided a copy of the Notice of Preliminary Hearing.

3. When the parent/guardian cannot be located in order to provide the Notice of Preliminary Hearing, the Notice of Preliminary Hearing will be mailed to the last known address. A copy of the Notice will be maintained in the youth's case record. The CCM will explain to the preliminary hearing officer the efforts taken to locate them. The CCM will document all efforts to locate the parent/guardian, including mailing the Notice, in JTS case notes. If the preliminary hearing officer determines that the CCM made a good faith effort to locate the parent/guardian, the hearing may take place and such non-availability will be documented in the decision.
4. The youth and the youth's parent/guardian may waive the notice requirement for the preliminary hearing if the waiver is understood and voluntary.

H. Detention of the Youth Prior to Hearing:

1. Upon following the procedures for apprehension and detention of a youth, the CCM will be required to complete a new Detention Assessment Instrument (DAI) in accordance with DJJ 20.11, Detention Decision.
2. The DAI score should be completed and used to guide the detention decision. The youth will only be detained if the DAI score is 12 or more, unless issued an over-ride in accordance with DJJ 20.11, Detention Decision.
3. The preliminary hearing must be held within 72 hours of the time the youth was placed in detention.

I. Preliminary Hearing:

1. The preliminary hearing officer will conduct the preliminary hearing in accordance with Attachment C, Conducting a Preliminary Hearing.
2. The youth will be present for the preliminary hearing. The youth may have a representative to defend against the allegations (i.e., attorney, parent/guardian, or advocate).

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3. If the youth is detained, the preliminary hearing must be held within 72 hours of the time the youth was placed in detention. If the 72-hour time period expires on Saturday, Sunday, or a legal holiday, the hearing will be held on the next day that is not a Saturday, Sunday or legal holiday. The 72-hour detention timeframe for the preliminary hearing will begin at the time of admission to any RYDC.
4. If the youth is not detained, the preliminary hearing will be held within 10 business days of the filing of a Violation Report. The hearing officer may continue the hearing until a later date if the situation so necessitates.
5. The hearing officer may accept testimony and evidence not otherwise admissible in a court of law if he/she believes it to be reliable.
6. The CCM's immediate supervisor or designee will present the charges and the evidence regarding the alleged violations.
7. The CCM will serve as a witness for the Department. If a supervisor is actively managing the case, he/she will present the case and serve as witness for the Department.
8. At a minimum the CCM will have the following documents available as evidence:
  - a) Order for Apprehension and Confinement of Juvenile (if the youth is in detention);
  - b) Order of Commitment;
  - c) Placement History;
  - d) Conditions of Supervision;
  - e) Graduated sanctions grid;
  - f) Notice of Preliminary Hearing; and
  - g) Violation Report.
9. The youth and parent/guardian, attorney, or advocate may present evidence in defense of the youth.
10. If, during the course of the preliminary hearing, circumstances necessitate a continuation of the hearing, the preliminary hearing officer may continue the

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hearing to the next business day, if the 72 hour time frame has not expired or if the youth consents to the continuance.

J. Admission of Violation/Waiver:

1. If the youth admits to the charges, the youth and the youth's parent/guardian may waive the right to a final revocation hearing. The youth must fully understand the implications of such a waiver, particularly that he/she may be placed in or returned to a Youth Development Campus (YDC) or placed in any other appropriate program, in accordance with Department screening procedures.
2. If the parent/guardian is not reasonably available at the hearing, the youth may waive any further hearing without the parent/guardian if the youth fully understands the implications of the waiver. The hearing officer will make a notation of the non-availability of a parent/guardian in his/her findings.
3. The preliminary hearing officer and youth or parent/guardian will sign and date the Admission of Violation/Waiver Form (Attachment D). The youth will be provided a copy of the Admission of Violation/Waiver Form.
4. If there are any questions as to the youth's complete understanding of the implications of such a waiver, the preliminary hearing officer will not accept the waiver.
5. After the youth waives his/her right to a final revocation hearing, the youth will be scheduled for a screening.

K. Denial: If the youth does not admit to the charges, the preliminary hearing officer will make a decision of whether probable cause is found.

L. Preliminary Hearing Findings:

1. The preliminary hearing officer will record the results of the preliminary hearing on the Findings of Preliminary Hearing Form (Attachment E) within 2 business days, and will forward a copy to the CCM for placement in the case record and the screening packet. He/she will record a summary of the hearing, including the substance of the charges, evidence presented, defense, admission/denial of the charges, and conclusion. When the parent/guardian is not available, the preliminary hearing officer will make a notation of it in the decision.
2. If no probable cause is determined, the youth will be immediately continued in the community under no greater restriction than the placement immediately preceding the hearing.

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3. If probable cause is found for one or more violations and the youth and parent/guardian do not waive the final hearing, a final revocation hearing will be scheduled. The preliminary hearing officer will determine if the youth will be detained until the final hearing. The preliminary hearing officer will consider the youth's DAI score, extenuating circumstances, or the scheduling of a final administrative revocation hearing. If the youth is to be detained, the Regional Administrator, through the chain of command, must approve the use of detention.
4. If the youth and parent/guardian waive a final revocation hearing, the preliminary hearing officer will have the authority to make the same disposition that the Office of State Administrative Hearings Administrative Law Judge could make.
5. After probable cause is found during the preliminary hearing and the youth waives his/her right to a final revocation hearing, the youth will be scheduled for a screening within 10 business days in accordance with DJJ 20.20, Screening of Youth. Detention extensions will begin after the screening meeting.

M. Final Revocation Hearing:

1. After requesting a final revocation hearing, the youth may still waive the hearing at any time prior to the hearing. The youth and parent/guardian will be required to sign an Admission of Violation/Waiver Form. The CCM will forward a copy of the Waiver Form to the Office of Legal Services within 24 hours of the decision. The Office of Legal Services will forward the Waiver Form to the Office of State Administrative Hearings, which will cancel the scheduled final revocation hearing.
2. If a final revocation hearing is to be held, the CCM will provide copies of the Preliminary Hearing Findings Form to his/her immediate supervisor, youth, and parent/guardian within 10 business days. If the youth is detained or continued in detention, a copy will be delivered to the Director of the RYDC.
3. If a final revocation hearing is required, the preliminary hearing officer will notify the Office of Legal Services by the next business day after the preliminary hearing, and advise of the need to schedule a final revocation hearing with the Office of State Administrative Hearings.
4. If the final revocation hearing is required, the preliminary hearing officer will forward the following documents to the Office of Legal Services no later than the next business day after the preliminary hearing:
  - a) Order of Commitment;

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- b) Conditions of Supervision;
- c) Violation Report(s);
- d) Notice(s) of Preliminary Hearing;
- e) Findings of Preliminary Hearing;
- f) Information Sheet for Final Revocation Hearing that lists contact information and subpoenas needed (Attachment F); and
- g) Any other documents relevant to the case.

5. The Final Revocation Hearing will occur within 10 business days of the preliminary hearing if the youth is in detention, unless a continuance is granted by the Administrative Law Judge. If the youth is not in detention, the Final Revocation Hearing will occur within 20 business days of the preliminary hearing, unless a continuance is granted by the Administrative Law Judge.
6. If the administrative law judge gives an oral finding that there was a substantial violation of the Conditions of Supervision, a screening will be held within 10 business days. (See DJJ 20.20, Screening of Youth.)
7. The youth, parent/guardian or attorney can appeal the initial decision of the administrative law judge, in writing, to the DJJ Commissioner within 30 days.
8. Pending the Commissioner's administrative review decision regarding the appeal, any change in plan of care and treatment will be implemented, unless a stay has been requested and granted by the Commissioner.
9. If the Commissioner upholds the initial decision, the youth, parent/guardian, or attorney may further appeal through the Superior Court in accordance with O.C.G.A. §50-13-19. Pending the Superior Court's decision regarding the appeal, the change in placement will be implemented, unless a stay has been requested and granted by the Superior Court.

N. Attorney for the Youth for Final Revocation Hearing:

1. The youth has the right to an attorney during the final revocation hearing.
2. If the youth and parent/guardian are unable to retain an attorney, then an attorney will be provided for the final revocation hearing, under the following conditions:

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- a) There is a claim that the youth has not committed the act(s) as alleged;
- b) There is a claim that, even if the allegations are founded, there are substantial mitigating circumstances;
- c) There is a claim that the revocation is inappropriate under the particular circumstances;
- d) The youth requests an attorney and is not assisted by a parent/guardian;  
or
- e) The interests of the parent/guardian conflict with the interests of the youth.

3. In cases of indigence, the CCM will make a referral to the local Juvenile Court or Public Defender to assist with securing an attorney. If the local Juvenile Court or Public Defender is not able to secure an attorney within 5 business days of the preliminary hearing, the CCM will contact the Office of Legal Services. If necessary, the District Director may utilize the funds allocated for this purpose.

- O. For Georgia youth who violate Conditions of Supervision in an out-of-state placement, when the youth returns to Georgia, administrative revocation proceedings will begin if a placement is considered that imposes greater limitations on a youth's liberty.
- P. The CCM will ensure that the original documents generated during the administrative revocation process are filed in the youth's case record. All communication will be documented in JTS case notes. The CCM will document all Preliminary Hearings and Final Revocation Hearings in the JTS Legal Module within 72 hours. All administrative revocation paperwork will be uploaded in JTS with the screening packet and will be scanned into the JTS Court Order Module.
- Q. The CCM will document in case notes the findings of any Preliminary Hearings and Final Revocation Hearings.

#### **IV. TRAINING OF PRELIMINARY HEARING OFFICERS**

- A. All requests for training of preliminary hearing officers will be submitted by the District Director to the Deputy Commissioner of Community Services, through the chain of command.
- B. Each preliminary hearing officer will receive formal training from the Office of Legal Services in conjunction with the Office of Training. Following the formal training, the

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preliminary hearing officer will observe a trained preliminary hearing officer conduct 2 hearings.

- C. After certifying completion of the training and observation, the Deputy Commissioner of Community Services will request a formal designation from the Commissioner. The preliminary hearing officer will not conduct hearings until he/she has been formally designated by the Commissioner.
- D. Preliminary hearing officers will receive periodic training updates from the Office of Legal Services in conjunction with the Office of Training.
- E. Only staff in a Juvenile Probation/Parole Specialist III, Probation Officer II, JPM, or District Director position may serve as a preliminary hearing officer.
- F. Only an impartial third party who is not directly involved with the youth being charged may preside over a preliminary hearing.

**V. LOCAL OPERATING PROCEDURES REQUIRED: NO**