



ADMINISTRATIVE RULES OF MONTANA



37.97.175 YOUTH CARE FACILITY (YCF): SEARCHES

- (1) The provisions of this rule apply to all searches by YCF staff of the youth's person and the youth's personal property, including searches of personal correspondence. The facts and circumstances supporting a determination of reasonable cause for the search must be documented in the youth's file.
- (2) Youth may not be subjected to any search except as follows:
 - (a) there is reasonable cause to believe that the search will result in discovery of contraband;
 - (b) there is reasonable cause to believe that the search is necessary to alleviate a threat of harm to the youth, other youths, or staff; or
 - (c) there is a court order/parole order in the youth's case record allowing for searches.
- (3) The YCF shall adopt policies and procedures relating to searches, including pat-down searches, personal property searches, correspondence searches, urinalysis testing, and breathalyzer testing. The policies must include but are not limited to the following:
 - (a) a procedure for documenting all searches, reasons for the search, who conducted the search, and the results of the search;
 - (b) notification of the search policy to placing worker or parent/guardian and youth at time of admission;
 - (c) a protocol for conducting personal property searches when the youth is not available to be present for the search;
 - (d) the consequences to a youth when contraband is located;
 - (e) description of what happens to contraband which has been located; and
 - (f) pat-down searches on youth, which must be conducted by staff persons of the same sex.
- (4) Staff must be trained in the proper protocol for all searches.
- (5) Youth may not be subjected to any of the following intrusive acts:
 - (a) strip searches;
 - (b) body cavity searches; or
 - (c) video surveillance except in common areas such as the living room, kitchen, and hallways.
- (6) The YCF shall have adopted policies and procedures prior to use of urinalysis testing for the purposes of determining drug and alcohol use which address, at minimum, procedures for

obtaining samples for urinalysis testing, procedures for processing urinalysis testing, and consequence to the youth when a urinalysis is positive.

- (a) Youth may not be subjected to testing unless the testing:
 - (i) has been ordered by a court;
 - (ii) is required pursuant to a case plan for monitoring drug or alcohol use, as approved by the parent, legal guardian, parole officer, or committing agency; or
 - (iii) is requested by the youth's parent or legal guardian.
 - (b) The YCF shall notify the youth's placing worker and custodial parent or guardian of every urinalysis testing performed on the youth and the results.
 - (c) Staff shall document compliance with YCF policies and procedures in connection with each urinalysis testing.
- (7) The YCF shall have adopted policies and procedures prior to use of breathalyzer testing which address, at minimum, procedures to be used to obtain a breathalyzer test and consequences to the youth when a breathalyzer is positive:
- (a) Breath testing may only be conducted by appropriate law enforcement personnel and probation, parole, or correctional officer.
 - (b) Youth may be not subjected to breathalyzer testing unless the testimony:
 - (i) has been ordered by a court;
 - (ii) is required pursuant to a case plan for monitoring alcohol use, as approved by the parent or legal guardian; or
 - (iii) is requested by the youth's parent or legal guardian, probation, parole, or correctional officer.
 - (c) The YCF must notify the youth's placing worker and parent or guardian of every breathalyzer test performed on the youth and the results.
 - (d) Staff shall document compliance with YCF policies and procedures in connection with each breathalyzer testing.

Authorizing statute(s): 52-2-111, 52-2-603, 52-2-622, MCA

Implementing statute(s): 52-2-113, 52-2-603, 52-2-622, MCA

History: NEW, 2011 MAR p. 387, Eff. 3/25/11.