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|  VERMONT DEPARTMENT FOR CHILDREN AND FAMILIES Family Services Policy Manual | | <h1>172</h1> |
| Chapter: | Youth Justice | |
| Subject: | Woodside Short-Term Status/Program – Protecting Due Process Rights | Page 1 of 5 |
| Approved: | Karen Shea, Deputy Commissioner | Effective: 7/18/2017 |
| Supersedes: | Family Services Policy 172 | Dated: 4/3/2017 |

Purpose

To:

- Clarify the criteria for the *Woodside Short-Term Status* from eight days post-admission to discharge; and
- To ensure the protection of youth’s due process rights.

Table of Contents


| | |
|--------------------------------------------------------------|---|
| Purpose | 1 |
| Table of Contents..... | 1 |
| Related Policies | 1 |
| Introduction | 1 |
| Policy | 2 |
| Criteria for Continued Placement on Short –Term Status | 2 |
| Right to Initial Due Process Review | 2 |
| Required Documentation for Initial Due Process Review..... | 3 |
| Subsequent Review of the Initial Due Process Review..... | 4 |
| Procedure for Second Level Due Process Hearing | 4 |
| Placements beyond Sixty (60) Days in Short-Term Status | 5 |

Related Policies

Family Services [Policy 173](#): Woodside Long-Term Status

Introduction

Woodside Short-Term Status serves youth adjudicated or alleged to have committed a delinquent act whose risk to commit illegal acts cannot be controlled in a less secure setting. Woodside is a locked residential treatment program. The placement of any youth at Woodside will be carefully evaluated against admission criteria to ensure their civil liberties are not being unduly impinged upon. Youth will remain in *Short-Term Status* only until the risk can be managed in an available, appropriate, less secure setting. District staff will make a concerted effort to develop an alternative placement upon admission to Woodside.

| | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------|--------------|
|  VERMONT DEPARTMENT FOR CHILDREN AND FAMILIES Family Services Policy Manual | | <h1>172</h1> |
| Chapter: | Youth Justice | |
| Subject: | Woodside Short-Term Status/Program – Protecting Due Process Rights | Page 2 of 5 |

Policy

Criteria for Continued Placement on Short –Term Status

For continued placement in *Woodside Short-Term Status* beyond the eighth day of an administrative placement, youth must meet the following criteria:

(1) The youth is:

- (a) in temporary DCF custody as an alleged delinquent pursuant to a temporary care order, with a finding of probable cause; **OR**
- (b) the judge has issued a flexible order for the youth be placed at Woodside; **OR**
- (c) in DCF custody as a delinquent pursuant to a disposition order; **OR**
- (d) in DCF custody with a finding of probable cause or a merits finding of delinquency; **OR**
- (e) in DCF custody, on juvenile probation, and has alleged to have violated a condition of probation; **OR**
- (f) not in DCF custody, but on juvenile probation detention status ([FS-316: Detention of Juvenile Probationer](#)), as described in Family Services [Policy 162](#);

AND

(2) The youth is determined eligible for continued placement as determined by score on the [Woodside Screening Instrument \(FS-678\)](#);


AND

(3) The continued risk cannot be managed in an available, appropriate, less secure setting.

Right to Initial Due Process Review

If a youth’s stay in *Woodside Short-Term Status* is anticipated to be longer than eight (8) calendar days beyond the start of an administrative placement, Woodside staff will notify the following individuals of the date and time of the Initial Due Process Review:

- the youth and their legal representative,
- the social worker,
- the client placement specialist or designee;
- the juvenile justice and adolescent services director,
- the assigned assistant attorney general (AAG); and
- the 8-day hearing officer.

| | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------|--------------|
|  VERMONT DEPARTMENT FOR CHILDREN AND FAMILIES Family Services Policy Manual | | <h1>172</h1> |
| Chapter: | Youth Justice | |
| Subject: | Woodside Short-Term Status/Program – Protecting Due Process Rights | Page 3 of 5 |

The social worker will inform the youth’s parent(s)/caregiver of the initial due process review, and encourage them to attend if it is in the youth’s best interests. The youth and their legal representative may request that other persons participate if they have pertinent information.

Unless waived by the youth and their legal representative, the initial due process review must be held by the end of the youth’s eighth day of administrative placement or the youth will be discharged. Waiver of the hearing by the 8th day shall be considered a stipulation to all criteria for placement at Woodside beyond the 8th day.

Required Documentation for Initial Due Process Review

The social worker will email the 8-day hearing packet to:

- the youth’s legal representative,
- the client placement specialist or designee;
- the juvenile justice and adolescent services director,
- the assigned assistant attorney general (AAG); and
- the 8-day hearing officer.

The 8-day hearing packet must be sent at least 24 hours in advance of the initial due process review. If the packet is not there within this timeframe, the hearing officer will determine whether the hearing will occur.


Initial Due Process Review

The 8-day hearing officer will conduct the initial due process review. The 8-day hearing officer shall audio record the hearing, and the audio recordings will be stored at Woodside for at least one year. The social worker may participate by phone if approved in advance by the 8-day hearing officer.

The initial due process review will solicit evidence about the following:

- If the youth meets the criteria for continued placement per the Woodside Screening Instrument ([FS-678](#));
- The reason the youth needs continued placement at Woodside; and
- If there is an available, appropriate, less-secure setting on the day of the due process review.

The 8-day hearing officer may decide to commence and continue the initial due process review for up to three days to make a final decision.

| | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------|--------------|
|  VERMONT DEPARTMENT FOR CHILDREN AND FAMILIES Family Services Policy Manual | | <h1>172</h1> |
| Chapter: | Youth Justice | |
| Subject: | Woodside Short-Term Status/Program – Protecting Due Process Rights | Page 4 of 5 |

The burden is on the division to prove by a preponderance of the evidence that the youth meets criteria for continued placement. The youth and their legal representative will also be permitted to present evidence. Information that is helpful in determining whether the youth meets criteria for continued placement, including oral testimony and written reports, may be presented by any party. The 8-day hearing officer may rely on this information to the extent of its probative value, even if it would not be admitted as evidence at a juvenile court hearing on a delinquency petition. Based on the information presented, the 8-day hearing officer will determine whether the youth will remain at Woodside on short-term status. The 8-day hearing officer may make any of the following decisions:

- Approve continued stay up to 60 days;
- Set a date for a subsequent review; or
- Set a discharge date.

Subsequent Review of the Initial Due Process Review

The 8-day hearing officer may schedule a subsequent review – with or without a request from any of the parties. Upon receiving a request for subsequent review, the 8-day hearing officer will determine if this further review is needed based on whether:

- The identified placement alternative becomes unavailable; **or**
- Additional time is necessary to assess or arrange for the appropriate placement needs of the youth.

The 8-day hearing officer is solely responsible for determining if subsequent reviews will occur.


Second Level Due Process Hearing (also referred to as a Greenberg Hearing)

If after the initial due process review hearing the youth, through their legal representative, may request a second level due process hearing before an external hearing officer while the youth is placed in short-term status.

The second level due process hearing shall be held within ten business days of the youth’s request, unless that time frame is waived by agreement of the parties based upon the availability of necessary parties or witnesses.

The social worker will provide a copy of the original 8-day hearing packet to the external hearing officer and the assigned assistant attorney general for the division five business days prior to the scheduled hearing.

Procedure for Second Level Due Process Hearing

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|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------|--------------|
|  VERMONT DEPARTMENT FOR CHILDREN AND FAMILIES Family Services Policy Manual | | <h1>172</h1> |
| Chapter: | Youth Justice | |
| Subject: | Woodside Short-Term Status/Program – Protecting Due Process Rights | Page 5 of 5 |

The hearing shall be audio recorded. Information that is helpful in determining whether the youth meets criteria for continued placement, including oral testimony and written reports, may be presented by any party. The external hearing officer may rely on this information to the extent of its probative value, even if it would not be admitted as evidence at a juvenile court hearing on a delinquency petition.

The burden is on the division to prove by a preponderance of the evidence that the youth meets criteria for continued placement. The social worker, their supervisor and/or the assigned assistant attorney general (AAG) will represent the division. The juvenile defender or other legal representative will represent the youth.

The external hearing officer will inform the participants of the decision no later than three business days after the hearing unless the parties agree to extend the time. The external hearing officer will issue a written decision within five business days of the hearing.

If the external hearing officer decides the youth does not meet criteria, the youth will be discharged within 24 hours of the verbal decision or as designated by the external hearing officer.

If the decision is that the youth will continue to remain at Woodside, after the second level due process review hearing, all administrative due process reviews are exhausted. Any further reviews will be directed to family court.

Placements beyond Sixty (60) Days in Short-Term Status

Youth can remain in *Woodside Short-Term Status* beyond 60 days from the date of administrative admission with the approval of the Family Services Deputy Commissioner or designee.

If after the initial due process review the youth’s stay is anticipated to exceed sixty (60) days, the social worker will complete an [Authorization to Continue Short-Term Status \(FS-639\)](#). This form must document the efforts made to secure an alternative, appropriate, less secure placement, the discharge plan and the anticipated discharge date. The social worker will then obtain the signature of their district director or designee and then forward the form to the Woodside director or designee. The Woodside director or designee will forward the authorization, together with recommendations, to the Family Services Deputy Commissioner or designee for review. Unless the Family Services Deputy Commissioner or designee signs and approves the authorization by the 60th day, the youth will be discharged.