 VERMONT DEPARTMENT FOR CHILDREN AND FAMILIES Family Services Policy Manual		<h1>172</h1>
Chapter:	Juvenile Justice	
Subject:	Woodside Short Term Program: Protecting Due Process Rights	Page 1 of 5
Approved:	Cynthia K. Walcott, Deputy Commissioner	Effective: 9/1/06
Supersedes:	Social Services Policy 172	Dated: 7/9/03

PURPOSE

Youth who are placed in the Woodside Detention program administratively are entitled to protection of their due process rights. The purpose of this policy is to describe the process by which the due process rights of a youth placed in the Woodside Detention program are protected. The 8-day Hearing process determines if youth placed administratively meet DCF criteria for continued placement in the Woodside Detention program beyond their eighth day of administrative placement.

POLICY

A. Criteria for Continued Placement

For continued placement in the Woodside Detention program beyond the eighth day of an administrative placement, a youth must meet all of the following criteria:

1. The youth is:

- in custody as a delinquent under the terms of a disposition court order; or
- detained on a charge for a delinquent act by a flexible court; or
- in custody as CHINS, with a merits hearing finding of delinquency pending disposition; or
- in custody as a CHINS, and a current delinquent on juvenile probation; or
- on juvenile probation detention status as described in Policy #162; or
- on juvenile probation or in the custody of another state as a delinquent, but being supervised in Vermont pursuant to the Interstate Compact on Juveniles or Interstate Compact on the Placement of Children.

2. The youth is determined eligible for continued detention as determined by score on the Woodside Screening Instrument (FS-678) or the Detention Screening Tool; AND

3. The continued risk cannot be managed in an available less secure setting.

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

B. Right to Internal Due Process Review

If a youth’s stay in the Woodside Detention program is anticipated to be in excess of eight days beyond the start of an administrative placement, the youth and his or her legal representative, the social worker, and the hearing officer will be informed about the internal due process review. Unless waived by the youth and his or her legal representative, the internal review must be held by the end of the youth’s eighth day of administrative placement, or the youth will be discharged.

C. Notification of Review

Woodside staff will notify the following individuals of the date and time of the review:

- the youth and his or her legal representative;
- the social worker;
- the client placement specialist.
- The 8-day hearing officer.

The social worker may invite the youth's parents and other appropriate persons to the review. The youth and his or her legal representative may request other persons who have pertinent information to participate.

D. Required Documentation for Review

The social worker will provide the youth's case records and three packets containing copies of the following documents for the review:

- affidavit alleging delinquent behavior;
- court order authorizing placement at Woodside (if any);
- a completed Woodside Screening Instrument (FS-678) or Detention Screening Tool; and any supporting documentation specified on the instrument.

The packets will be provided to the hearing officer, the client placement specialist and the juvenile defender. The packets must be at Woodside at least 24 hours in advance. If the worker anticipates that the youth will also request an external review, he or she should forward a packet to the Assistant Attorney General for DCF at the same time.

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

E. Conduct of the Internal Due Process Review

A hearing officer will conduct the internal review. The social worker may participate by speakerphone at the discretion of hearing officer. The review will solicit factual evidence about the following:

- the reason the youth needs continued placement in the Woodside Detention program;
- if the youth meets the criteria for continued placement in Section A (above) ;
- the preliminary plan for the youth’s placement.

The burden is on the division to prove that the youth continues to meet criteria for continued placement outlined in Section A (above). The opinion of the youth and his or her attorney about continued placement at Woodside will be solicited. Other pertinent issues will be discussed. Based on the information presented, the hearing officer will determine whether or not the youth will stay in the Woodside Detention program, and the date of discharge.

At the sole discretion of the hearing officer, the review may be commenced and then continued for up to three days in order for the hearing officer to make a final decision.


F. Further Internal Review

At the sole discretion of the hearing officer, a subsequent review may be held if:

- the youth’s conduct necessitates a review of the discharge plan; or
- the identified placement alternative becomes unavailable.

G. Placements Beyond Sixty Days

No youth will remain in the Woodside Detention program more than sixty days from the date of admission without the approval of the Commissioner. If after the internal review, the youth’s stay is anticipated to exceed sixty days, the Woodside director will promptly forward an Authorization to Continue Short-Term Placement (FS-639) to the social worker for signature by the district director. This form must state the efforts that have been made to secure an alternative placement, the discharge plan and the anticipated discharge date. The Woodside director will forward the authorization, together with recommendations, to the director of field services for review. If the director of field services does not receive the authorization by the 60th day, the youth will be discharged.

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

H. External Due Process Hearing

If after internal review, the youth will remain at Woodside, he or she will be informed of the right to request a hearing before an external hearing officer who is not an employee of the department. The external hearing must be held within ten working days of the youth's request, unless that time frame is waived by the youth.

I. Documentation Needed for External Hearing

The social worker will provide the same packet described in Section D (above) to the Hearing Officer and the Assistant Attorney General for DCF five working days in advance of the scheduled hearing.

J. Conduct of the External Hearing

The hearing will be audio taped. All information that is helpful in determining whether or not 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 that there is substantial evidence that the youth continues to meet criteria for continued placement outlined in Section A (above). The social worker, supervisor and/or Assistant Attorney General will represent the division for DCF. The Juvenile Defender or other legal representative will represent the youth.

The external hearing officer will inform the participants of his or her decision no later than seventy-two hours after the hearing unless the parties extend that time. The hearing officer will issue a written decision within five working days of the hearing.

K. Further External Hearing

Thirty days from the completion of the external hearing, the youth may request another such hearing.

The Woodside Detention Program serves delinquent youth and youth 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 program; therefore, the placement of any youth at Woodside will be carefully evaluated against admission criteria. Placement in the Detention Program must be seen as a temporary measure.

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

Youth will remain in the Detention Program only until the risk can be managed in an available, less secure setting. District staff will make concrete efforts to develop an appropriate placement alternative as soon as possible. In no case will a youth remain in the Detention Program on an administrative admission more than sixty days without the approval of the deputy commissioner.

SOCIAL WORKER TASKS:

- Discusses other placement options with the Client Placement Specialist and aggressively pursues alternative placement for youth placed in the Woodside Short Term Program.
- Discusses with Woodside Director whether the youth's stay is anticipated to exceed eight days beyond the start of an administrative placement, or eight days beyond the expiration date of the most recent court order placing the youth in the Woodside Detention program. If so, prepares for Internal Due Process Hearing:
- Completes Woodside Screening Instrument (FS-678) or the Detention Screening Tool;
- Attaches required documentation (FS-678);
- Provides three copies of packet for the review.
- Attends Internal Due Process Review, coming prepared to establish with concrete evidence that the youth meets all criteria for continued placement at Woodside.
- Follows any determination made by hearing officer.
- Repeats steps above for any further internal or external reviews that occur.