

# Checklists for Families



*from*

**Just for Youth: Advocating for Youths in the  
Massachusetts Department of Youth Services**

**Mental Health Legal Advisors Committee  
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## **PREFACE**

These nine checklists are drawn from the 3rd edition of Just for Youth: Advocating for Youths in the Massachusetts Department of Youth Services (2010, with updates through May 2011). Both the checklists and Just for Youth are available at [http://www.mhlac.org/DYS\\_Resources.htm](http://www.mhlac.org/DYS_Resources.htm).

These checklists provide basic information regarding the juvenile justice system and DYS, including how a youth becomes involved with DYS and what happens to the youth once involved. There is a checklist for each of the key steps in a youth's progression through the juvenile justice system and DYS. The checklists explain the events of each stage and what families can do to ensure the youth has access to services and representation.

Just for Youth is a comprehensive resource for youths, families, advocates and attorneys. The book describes the rights of youths involved in the Massachusetts juvenile justice system and Department of Youth Services (DYS), with special attention to mental health and educational services.

The checklists and Just for Youth are published by the Mental Health Legal Advisors Committee (MHLAC). MHLAC is a state agency within the Supreme Judicial Court of Massachusetts. MHLAC assists individuals with mental health issues. MHLAC's DYS Project helps youths involved with DYS. For more information, visit [http://www.mhlac.org/DYS\\_Project.htm](http://www.mhlac.org/DYS_Project.htm).

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## **TABLE OF CONTENTS**

Advocating for Youth Checklist: At the Police Station after Arrest ....	1
Advocating for Youth Checklist: In Court after Arrest .....	3
Advocating for Youth Checklist: Trial, Adjudication & Disposition .....	5
Advocating for Youth Checklist: Probation .....	8
Advocating for Youth Checklist: Staffing and Classification in the Department of Youth Services.....	9
Advocating for Youth Checklist: Commitment to DYS and Assessment.....	11
Advocating for Youth Checklist: Transitioning Back to the Community from the Department of Youth Services .....	14
Advocating for Youth Checklist: Before Signing a Grant of Conditional Liberty.....	17
Advocating for Youth Checklist: Responding to a Potential Revocation of a Grant of Conditional Liberty.....	18

## **Advocating for Youth Checklist: At the Police Station after Arrest**

This checklist describes what happens when a youth with mental health issues is arrested and brought to a police station and the steps a legal guardian, parent, or advocate can take.

### ***What happens***

- Immediately following the arrest, the police officer may bring the youth to the police station.
- The police are required to contact the youth's parents, legal guardian, or person with whom the youth resides to report what has happened, as well as an on-call probation officer.
- The police may ask the parent, legal guardian, or person with whom the youth resides to pick the youth up. More often, the police will take the youth from the police station either to court or to pre-arraignment detention, known as an Alternative Lockup Program (ALP).
- A youth may only be held in the police station holding cell for up to six hours. Arrested youth must be held separately from adults.
- If the police do not immediately release the youth home and the youth is being held at a police station or at an ALP, the youth is entitled to have a bail commissioner set bail. A bail commissioner is the state-appointed person who may set the amount of bail for a youth detained at a police station prior to arraignment in court, and who recommends to the court the amount of bail that should be set for the youth in each criminal case.
- Under the law, the police must contact a Juvenile Court to ask whether the youth should be released to his or her parents or held until the next court session.
- Upon being contacted by the police, the probation officer will make a recommendation, based on the youth's past record and the police officer's description of the alleged event, about whether or not the youth should be held until his or her first court appearance.

- The bail commissioner then should hold a hearing at the police station or in pre-arraignment detention.
- The youth may be held outside the home after and until his or her first court appearance (called an arraignment) at a pre-arraignment detention facility.

### ***What you should do***

- If the youth is not being released from the police station or an ALP, parents or legal guardians should insist that the police call the bail commissioner. If the police refuse to call the bail commissioner, the youths' lawyer should be informed when in court.
- The parent, legal guardian, or person with whom the youth resides should inform those running the facility at which the youth is being held of his or her medical needs and medications. One should also ask what resources are available for the youth (such as on-call medical staff) and how the facility can best meet the youth's medical needs.

## **Advocating for Youth Checklist: In Court after Arrest**

This checklist describes what happens when a youth with mental health issues is arrested and brought to court and the steps a legal guardian, parent, or advocate can take.

### ***What happens***

- On the first business day after a youth's arrest, he or she will have to appear in court for the arraignment and bail hearing. The court also will summons the youth's parent or legal guardian to appear in court for this hearing and future proceedings.
- At court, the probation officer is required to interview the youth and the parent or legal guardian and report to the court on the issues of bail and indigency. The information provided to the probation officer is not confidential and may be used in bail or other subsequent hearings.
- At the arraignment, the judge will tell the youth what he or she is charged with. Then a plea of "not delinquent" will be entered.
- At the bail hearing, the judge will decide what, if any, bail is necessary to ensure the youth's return to court. In addition to setting bail, the judge may impose conditions on the youth or the youth's lawyer. Youth subject to such conditions are considered to be on pretrial probation.
- If a bail is not set (i.e., the youth is released) or is set and paid, the youth will go home. The youth must appear in court at all future court dates related to his case.
- If bail is set and not paid, the youth will go to a Massachusetts Department of Youth Services (DYS) facility while the case is being completed.

### ***What you should do***

- If a family cannot afford to hire a lawyer for a youth, the court will appoint a lawyer at the arraignment to handle the case. If the family plans to hire their own lawyer for the youth it is best to hire one right away, even before arraignment.
- Even if the youth needs services, it is better to help him or her access services in the community, rather than through the courts. A parent or legal

guardian should avoid having the youth held in a detention facility whenever possible. The parent or legal guardian should talk to the youth's lawyer about the youth's strengths and explain why the youth should come home.

- If the youth is detained, the parent or legal guardian should encourage him or her to behave well, participate in school and stay out of fights, as this information is provided to the Court.
- Diversion is the practice of not prosecuting a youth in exchange for his or her agreement that he or she will pursue alternative steps. A parent or legal guardian should carefully investigate any proposal to divert the youth from the juvenile justice system before agreeing to participate. Diversion is not always available.
- Much work is done between the bail hearing and the end of a youth's case. This work includes the discovery process, investigation, motions, trial or plea bargains and disposition, planning and advocacy. The youth and his or her family or legal guardian should be involved in all aspects.
- A parent or legal guardian should not discuss the youth's mental health problems with anyone else in the court proceedings (such as the probation officer or judge) without first talking about it with the youth's lawyer.
- Evaluations may be pursued for various reasons including to determine if a youth is competent to stand trial, if a youth is criminally responsible or to aid in sentencing/disposition. When speaking with an evaluator, parents should answer truthfully, but are not obligated to respond to questions and can choose not to answer a question or questions.

## **Advocating for Youth Checklist: Trial, Adjudication & Disposition**

This checklist describes what happens when a youth with mental health issues is charged with a crime and the steps a legal guardian, parent, or advocate can take.

### **Trial**

#### ***What happens***

- A youth's delinquency case will most likely be heard in juvenile court.
- In most instances, the general public is not permitted in the courtroom during a youth's trial.
- The youth has the right to be considered innocent until proven delinquent (akin to being proven guilty in the adult system).
- The youth has the right, under state law, to a trial by a six person jury. This means that the youth can choose whether he or she wants a group of six community members to decide the case or whether he or she would prefer that the judge hear the case and make the decision.
- If the case goes to trial and the allegations are proven beyond a reasonable doubt, the judge will enter a finding that the youth is "delinquent." If the allegations are not proven beyond a reasonable doubt, the judge will enter a finding of "not delinquent" and the youth will be released.

#### ***What you should do***

- Provide information to the youth's defense lawyer so that the lawyer may prepare. Give the lawyer contact information for and information from individuals who have worked with the youth, such as a school counselor, pastor or minister, pediatrician, or therapist.
- If you think a psychological or psychiatric evaluation of the youth would be worthwhile, talk to the youth's lawyer about this issue.



- Ask the youth's lawyer to evaluate the availability and appropriateness of a disposition (the final outcome of a case in the juvenile justice system) that allows for the implementation of home-based behavioral health services.
- Discuss with the youth's lawyer, while preparing the case, the effect of the outcome on the youth's juvenile record.
- Discuss with the youth's lawyer the possible options of going to trial or accepting a plea bargain.
- Plan to attend the trial to support the youth.

## **Disposition**

### ***What happens***

- After a trial or plea bargain, the judge will determine the disposition — the final outcome of a case in the juvenile justice system. In this phase, the judge determines whether the youth will spend time in confinement or remain in the community.
- The prosecutor, the probation office, and the youth's lawyer will all make presentations regarding the disposition. The youth's lawyer presents the youth's position.

### ***What you should do***

- Provide information to the youth's lawyer so that the lawyer may prepare for the disposition phase. In this phase, the youth's lawyer will seek to provide the court with a full picture of the youth and his needs, including his mental health, substance abuse, and special education needs, if any.
- If you haven't already done so, give the lawyer the contact information for and information from individuals who have worked with the youth, such as a school counselor, pastor or minister, pediatrician, or therapist.
- For youth with mental health or substance abuse treatment needs, the sentencing phase is critical. It is a key point at which a youth can try to access appropriate mental health and substance abuse services. Talk to the youth's lawyer if you believe that the youth needs such services.
- If you think it would be worthwhile for the youth to undergo a psychological or psychiatric evaluation in order to help the judge decide the disposition, talk to

the youth's lawyer about this issue. This evaluation is known as a "15(e)" evaluation, from Mass. Gen. Laws, ch. 123, § 15(e).

- Ask the youth's lawyer to evaluate the availability and appropriateness of a disposition or outcome that allows for the implementation of home-based behavioral health services. There is growing consensus among mental health clinicians that community and home-based services that wrap around the youth are more effective than facility-based treatment in addressing mental health problems and rehabilitating youth. In Massachusetts, MassHealth recipients under age 21 with serious emotional disturbance are eligible for an array of behavioral health services in the community including Mobile Crisis Intervention, In-Home Behavioral Services, Family Support and Training, Therapeutic Mentoring, In-Home Therapy, and Crisis Stabilization. For details, see Chapter 19 of Just for Youth: Advocating for Youth in the Massachusetts Department of Youth Services, available online at <http://www.mhlac.org/justforyouth.html>.

## **Advocating for Youth Checklist: Probation**

This checklist describes what happens when a youth with mental health issues is placed on probation and the steps a legal guardian, parent, or advocate can take.

### ***What happens***

- The most common disposition for court-involved youth is probation, a court-ordered status of supervision in the community.
- If a youth is placed on probation, the probation officer will complete a report, based on interviews with the youth, as well as with his parent or legal guardian. This report includes a detailed profile of the youth, including a risk/need classification that is used to develop supervision plans.
- The risk/need assessment measures nine risk categories: prior delinquency record, prior periods of probation, age at first offense, school discipline problems within the past year, changes in residence within the past year, response to caretaker discipline, peer relationships, substance use, and attitude.
- If a youth is put on probation and not committed to DYS, there will be conditions of probation. Examples of such conditions include not getting re-arrested, going to school (or work) daily and on time, obeying residential rules, reporting to a probation officer or program, paying money (if the youth stole or damaged property) and following the conditions of a curfew.

### ***What you should do***

- Participate in the interview being conducted by the probation officer.
- Examine the proposed conditions of probation. If any of the conditions would be difficult to satisfy, tell the youth's lawyer (since a violation of probation conditions is a frequent cause of DYS re-commitment). For example, if a proposed condition is regular school attendance and the youth has a history of truancy, tell the lawyer so that the condition can be modified or other conditions can be substituted for it.
- If the youth's probation officer thinks the youth has broken a rule, the officer will send the youth a letter called a "surrender notice" requiring him or her to come to court for a hearing. When the youth arrives at court, he or she will be appointed a lawyer. If the youth liked his or her original lawyer and wants him or her reappointed for this hearing, he should: 1) let the original lawyer

know about the surrender notice and the hearing date; and 2) ask the judge to have the same lawyer reappointed -- citing trust, communication, and knowledge of the youth's unique circumstances.

## **Advocating for Youth Checklist: Staffing and Classification in the Department of Youth Services**

This checklist describes what happens after the court commits a youth with mental health issues to the Massachusetts Department of Youth Services and the steps a legal guardian, parent, or advocate can take.

The **staffing meeting** is a meeting of DYS staff (and, potentially, the youth, the youth's lawyer, a parent or legal guardian and the parent or legal guardian's personal representative) to recommend a range of time which a committed youth should spend in secure and residential treatment facilities and identify potential placement locations.

The **classification meeting** is a meeting of the DYS Regional Review Team (and, potentially, the youth's lawyer, a parent or legal guardian and the parent or legal guardian's personal representative) to review the recommendation made by those who attended the staffing meeting and to determine both the range of time which a committed youth will spend in secure and residential treatment facilities and the placement location.

### **Before the staffing meeting**

#### ***What you should do***

- Once a youth is sent to an assessment unit and a DYS caseworker is assigned to the youth, send a letter to the caseworker indicating that you plan to attend the staffing meeting and would like to receive notice of the date and place of the meeting.
- Be in touch with the youth's lawyer as the lawyer also should attend the staffing meeting. You and the lawyer should agree to tell each other immediately upon receiving any notice of the meeting.
- Think about possible documents to bring with you to the staffing (for example, documentation describing mental health problems and treatment recommendations).
- Think about possible participants and supporters to bring with you to the staffing.
- Talk to, or ask the youth's lawyer to talk to, the youth's DYS clinician prior to the staffing meeting and ask what the clinician intends to recommend

regarding time and placement. At this point, share appropriate information with the caseworker and clinician.

- Talk with the youth's lawyer about whether it is appropriate to ask for DYS to give credit for time served. This is particularly appropriate if the youth has already served 30 days or more.
- Prepare the youth to attend the staffing. Tell the youth that it is important to have a serious demeanor and respect the process.

## **After the staffing meeting and before the classification meeting**

### ***What you should do***

- After the staffing meeting, the recommendations developed at that meeting will be forwarded to a group of DYS staff, known as the Regional Review Team (RRT), who will hold a classification meeting. Immediately after the staffing meeting, send a letter to the youth's caseworker restating your main points regarding placement, duration and the service plan. Ask that the letter be submitted to the Regional Review Team for consideration at the classification meeting.
- At the staffing meeting, DYS staff completes staffing notes and an initial Service Delivery Plan. Send DYS a written request for these documents.
- If you or your child is dissatisfied with the way the staffing meeting was conducted, complain in writing to the DYS Regional Director for the DYS region responsible for your child.
- Request in writing the date and place of the classification meeting. If possible, attend the classification meeting.

## **After the classification meeting**

### ***What you should do***

- The Regional Review Team should issue a written decision within five business days of the classification meeting. Request a copy of this decision.
- A youth may appeal the decision in writing to the DYS Deputy Commissioner in DYS's Central Office in Boston within 7 business days of receiving the decision. The Deputy Commissioner must respond in writing within 14 business days of receiving the appeal. If your child wants to appeal, he or she should ask his or her lawyer for help in writing the appeal request. The DYS caseworker also is required to assist the youth. The decision on appeal is final.

## **Advocating for Youth Checklist: Commitment to DYS and Assessment**

This checklist describes what happens when a youth with mental health issues is committed to the Massachusetts Department of Youth Services (DYS) and the steps a legal guardian, parent or advocate can take.

### ***What happens***

- A youth charged as a delinquent is committed to DYS until age 18. A youth charged as a Youthful Offender is committed until age 21.
- Upon commitment to DYS, a youth's parent or legal guardian maintains legal custody over him or her (unless a parent cannot be found and no legal guardian has been appointed).
- If a youth is committed to DYS custody, he will travel to a DYS facility in a sheriff's van and placed in an assessment unit.
- Within 24 hours of the youth's arrival on the assessment unit, DYS does a preliminary clinical assessment, including a suicide screen.
- Within two business days of commitment, the youth is assigned a DYS caseworker who will coordinate an assessment of the youth's needs.
- The DYS caseworker contributes to a "Case History," a document with sections on various aspects of the youth's history. These sections include family involvement, educational history, prior juvenile record, presence or absence of substance abuse, medical and psychiatric history, and review of risk factors related to offending. As part of compiling this history, the caseworker administers a Youth Level of Service/Case Management Inventory (YLS/CMI) assessment to determine risks and needs.
- Also as part of the assessment, the clinician on the unit where your child is being held will administer the Child and Adolescent Needs and Strengths (CANS) assessment (to measure needs and assist in developing a service delivery plan) and one or more substance abuse assessment tools, to determine whether your child needs substance abuse treatment. The results of these assessments are included in the Case History.
- DYS has 30 days to complete the full assessment.

## ***What you should do***

- Be as involved with the youth's situation as possible. The more parental involvement during commitment (and particularly during assessment), the better the youth is likely to fare.
- Encourage the youth to behave well on the assessment unit and to participate in the assessment process. Encourage the youth to make the best of an unfortunate situation.
- Since time spent on an assessment unit does not count toward treatment time and services in the assessment unit are more limited than on treatment units, parents should carefully monitor the assessment process and get involved if it appears that delays are occurring. Before the end of the 30 days, check in with your child's caseworker to discuss how the assessment process is progressing. If 30 days have already passed, advocate for your child to finish the assessment process and leave the unit.
- As part of the initial assessment, DYS should interview a youth's parents or legal guardian. Be truthful in your answers, but think carefully before disclosing certain information. For example, inform DYS about developmental delays, mental health hospitalizations, diagnoses, medication, and cognitive/learning issues. However, before you discuss with DYS an issue that could expose the youth to criminal liability, talk to the youth's lawyer. Similarly, consult with the youth's lawyer before telling DYS about any history of the youth acting out sexually. Parents are not obligated to respond to questions posed by evaluators and can choose to not answer a question or questions.
- Work with the youth's lawyer during the assessment phase to make sure DYS receives copies of the youth's school records, mental and physical health records, and any other information that would be useful to determine the youth's needs. Keep a copy of the records that you provide to DYS. You may want to reference them during your child's commitment or provide additional copies to DYS or program staff.
- If the youth's lawyer arranged for a clinical evaluation during the course of representation, discuss with the lawyer whether that evaluation should be shared with DYS. (If a court clinic evaluation has been conducted, the court will provide the clinical portions of the report to DYS after DYS commitment for use in assessment and planning.)
- If the youth receives special education services, inform DYS during the assessment process. Provide DYS with copies of the youth's Individualized Education Program (IEP). If the youth has an IEP, he has the right to receive

special education services as outlined in his or her IEP while in DYS custody. Work with DYS to ensure that the whole IEP is implemented.

- Request a copy of the youth's DYS Case History so that you may verify its accuracy and understand the DYS assessment of the youth. A parent, legal guardian or attorney has the right to receive a copy of this document (and any other document contained in a youth's DYS records) by making an oral or written request. If you make the request orally, be prepared to present proper identification. If you make the request in writing, keep a copy of your request.



## **Advocating for Youth Checklist: Transitioning Back to the Community from the Department of Youth Services**

This checklist describes what happens when a youth with mental health issues, is transitioning back to the community from committed Massachusetts Department of Youth Services (DYS) custody and the steps a legal guardian, parent, or advocate can take.

DYS has responsibilities for youths transitioning back to the community, both for detained youths and committed youths. For committed youths, transition to the community may occur when a youth's term of commitment has ended at age 18 or 21 or prior to that time pursuant to a grant of conditional liberty (an agreement signed by the committed youth and his or her DYS caseworker that establishes a set of rules that the youth must follow in exchange for being allowed to leave a secure setting).

It is important that DYS start work early on a youth's transition plan. This plan describes how the youth will transition from DYS confinement to the community. The plan should be completed by the DYS caseworker working with the youth and his or her parents or legal guardian. The plan should be individualized to the youth's needs.

### **For detained youths**

#### ***What should happen***

- Detained youths who are discharged from DYS with a current medical problem must, upon request, be referred to a previous community provider or another community provider.

#### ***What you should do***

- If your child has a current medical problem, including a mental health or substance abuse problem, talk with DYS staff about setting up a referral to an existing or new community provider prior to discharge from DYS.

### **For committed youths**

#### ***What should happen***

- Transition to the community may occur when a youth's term of commitment has ended at age 18 or 21 or prior to that time pursuant to a grant of conditional liberty.

- Meet with DYS to start working on your child's transition as early as possible. Your child will have both a service delivery plan and a relapse prevention plan developed in preparation for his release. These plans describe how your child will transition from DYS confinement to the community. The DYS caseworker completes these plans working with the youth, his parents or legal guardian, and DYS staff, and community resources.
- The service delivery plan should be individualized and should describe the services the youth will receive in the community. These services may be provided directly by DYS or by other entities.
- At a minimum, intensive transition planning should begin 90 days prior to discharge when DYS holds a 90-day prior to release treatment meeting, attended by the caseworker, youth, parent/legal guardian, and program clinical staff. This is the first of three monthly meetings at which participants review and revise the youth's service delivery plan. From this date until release, the caseworker and caseworker supervisor should follow through with any issues that may affect the youth's release date.
- At the 60 day meeting prior to release, participants shall review and sign off on the youth's relapse prevention plan. DYS expects that a youth will continue to work on and refine his relapse prevention plan up to the time of transition to the community.
- Medical staff is responsible for providing a referral to a local provider for follow-up of any existing medical or psychiatric problems when a committed youth returns home and for the duration of the youth's commitment. Such planning must be made in consultation with the parent/legal guardian and youth.
- The DYS caseworker and DYS clinician will talk to parents/guardians and the youth regarding relevant options for behavioral health services and which service(s) might best fit, including referral to Intensive Care Coordination (ICC) or other MassHealth services available to Medicaid-eligible youth. With consent, the DYS caseworker and DYS clinician will arrange for a referral to the local provider, including a Community Service Agency, and provide follow-up as needed to ensure that an initial intake and service assessment occurs. As DYS does not have legal custody of your child, it is the parent/ legal guardian who decides which service is best.

### ***What you should do***

- Meet with DYS to work on the youth's transition plan as early as possible.

- Attend each of the three monthly transition planning meetings convened by DYS.
  
- Do not settle for a standard transition plan. Make sure the plan is individualized to address the youth's needs, strengths, weaknesses and goals.
  
- In preparing for your child's transition to the community, ensure that the DYS service delivery plan addresses any of the following areas, as needed. As each youth's plan is individualized, it may or may not include these specific services, and it may include other services not listed here:
  - health insurance coverage;
  - medical care;
  - dental care;
  - mental health and substance abuse treatment;
  - crisis intervention;
  - anger management groups;
  - skills training groups;
  - victim awareness groups;
  - sex offender treatment;
  - violent offender treatment;
  - family counseling and referrals;
  - respite care;
  - vocational training;
  - employment issues;
  - educational services (including specific issues such as transcript transfer, access to the local school district, pursuit of a Massachusetts State High School Equivalency Diploma (GED), and placement);
  - living arrangements (including foster care, independent living, or step down transition programs);
  - parenting issues;
  - substance abuse screening and testing;
  - monitoring, including electronic monitoring;
  - assistance in fulfilling any legal obligations including
    - victim notification law (M.G.L. c. 258B, § 3(t));
    - warrant checks;
    - sex offender registry law (M.G.L. c. 6, §§ 178C-178P).

## **Advocating for Youth Checklist: Before Signing a Grant of Conditional Liberty**

This checklist describes what happens when a Massachusetts Department of Youth Services (DYS) committed youth with mental health issues is considering signing a grant of conditional liberty and the steps a legal guardian, parent, or advocate can take

### ***What happens***

- A grant of conditional liberty is an agreement signed by the committed youth and his or her DYS community caseworker. This contract establishes a set of rules that the youth must follow in exchange for being allowed to leave a secure setting. The word “conditional” means that DYS can seek to revoke the grant if DYS believes that the youth failed to meet the conditions to which he or she and DYS agreed.
- Even if a youth has been granted conditional liberty, he or she remains committed to DYS. This means that the youth must continue to abide by DYS rules. If he or she violates any of these rules, DYS can act to take the youth back into physical custody.

### ***What you should do***

- Encourage the youth to show you the proposed grant before signing.
- Evaluate all proposed provisions carefully before agreeing to them. Provisions should be reasonable, relevant, and ones with which the youth will be capable of complying.
- If the provisions do not meet these criteria, ask DYS to modify them.
- If you cannot reach agreement on the terms, consider seeking legal assistance.

## **Advocating for Youth Checklist: Responding to a Potential Revocation of a Grant of Conditional Liberty**

This checklist describes what happens when a Massachusetts Department of Youth Services (DYS) committed youth with mental health issues is facing a potential revocation of a grant of conditional liberty and the steps a legal guardian or parent can take.

### **Before the hearing on the revocation of a grant of conditional liberty**

#### ***What happens***

- If DYS believes that a youth has violated his or her grant of conditional liberty, the DYS caseworker investigates the allegation(s) and completes a Conditional Liberty Violation Report (CLVR). Any violation that the caseworker wants to use as evidence of a violation of the grant must be included in the report.
- The report is forwarded to the DYS District Manager who reviews the CLVR and supporting documentation to determine if probable cause exists to believe that violation(s) occurred. If yes, the District Manager records a finding of probable cause to pursue the revocation of the grant of conditional liberty on a Probable Cause Determination Form.
- If DYS decides to pursue revocation, the DYS caseworker must meet with your child to explain the allegations, the revocation hearing process, and your child's right to present evidence in defense at the hearing.
- If DYS is pursuing revocation, DYS must provide the youth with the opportunity for a contested hearing and must give your child a copy of a form providing notice of the right to a hearing.
- If DYS is pursuing revocation, DYS must provide the opportunity for a contested hearing within 7 days of taking the youth back into physical custody.
- A youth has a right to bring a lawyer to the revocation hearing. Each indigent youth is offered a lawyer to represent him for free at the hearing. The lawyers that represent youths at these hearings are overseen by the Youth Advocacy

Department (YAD) of the Committee for Public Counsel Services. The YAD Revocation Advocacy Coordinator can be reached at (617) 989-8128.

### ***What you should do***

- ❑ Review any paperwork regarding the revocation hearing that DYS provides.
- ❑ This paperwork provides the opportunity to ask for a contested hearing. Ask for the hearing.
- ❑ Seek a copy of the DYS caseworker's Conditional Liberty Violation Report (CLVR). As soon as possible after your child's return to custody, the caseworker must give him a copy of the Conditional Liberty Violation Report (CLVR). DYS must also give a copy of the CLVR to the parent/legal guardian and your child's lawyer, if any.
- ❑ Ask for any documents DYS is using to support the allegations in the CLVR.
- ❑ Seek a copy of the DYS district manager's written finding regarding probable cause on the "Probable Cause Determination Form."
- ❑ Review the form your child received providing notice of the right to a hearing.
- ❑ Consider whether you need to reschedule the hearing for good cause. Good cause may include, for example, verified illness/hospitalization, failure to receive sufficient or timely notice, or a lawyer schedule conflict.
- ❑ If your child doesn't have a lawyer, he should ask for one in writing before the hearing.

### **At the hearing on a revocation of a grant of conditional liberty**

#### ***What happens***

- A contested hearing requires that DYS provide the youth with certain important due process protections.
- The DYS caseworker has the burden of persuading the Hearing Officer by a preponderance of the evidence that the violation(s) occurred.

- At the hearing, the caseworker presents on behalf of DYS the evidence of the violation(s) and submits supporting documentation to the hearing officer. The caseworker must provide a copy of the supporting documentation to the youth.
- A youth has a right to bring a lawyer to the revocation hearing. Indigent youths are offered a lawyer to represent the youth for free at the hearing.
- The youth is entitled to confront and cross-examine witnesses, examine and dispute evidence, produce evidence and make an opening and closing statement.
- The Hearing Officer ordinarily will make findings, although the Hearing Officer may delay making findings for up to 3 business days. However, if necessary, the Hearing Officer may take a case under advisement, and thereby delay making a decision for any reasonable length of time.
- If the Hearing Officer finds that the allegations of violations are unfounded, the youth must be released.
- If the Hearing Officer finds that a preponderance of the evidence shows a violation of the agreement, the Hearing Officer must determine the appropriate sanction. The Hearing Officer must consider the prior revocation history and the caseworker's recommendation.
- If the Hearing Officer orders revocation, he may do any of the following: release the youth with new conditions on the grant; confine the youth in a facility for between 15 and 120 days; send the case to the DYS Regional Review Team to consider a confinement of up to 6 months; take the case under advisement; await action from the court; or continue the hearing.
- The Hearing Officer also may consider other reasonable alternatives that are in the youth's best interest so present those alternatives during the hearing.
- If a case is sent to the DYS Regional Review Team, taken under advisement, postponed, or continued, it must be disposed of within 21 calendar days.
- All findings by the Hearing Officer after the hearing must be in writing and DYS must provide a copy to the youth and to any parent, legal guardian or lawyer who attends the hearing.

## ***What you should do***

- The youth should attend the hearing.
- A parent or legal guardian may and should attend to support the youth. Further, the parent or legal guardian may assist the youth present his case if no lawyer is available to represent the youth.
- Invite individuals to testify who can give relevant and persuasive information to the Hearing Officer.
- An individual who wants to support the youth but is unable to attend the hearing may submit a written statement to the Hearing Officer at DYS' Central Office in Boston.
- If an individual who has given evidence against the youth is not at the hearing, the youth may ask the Hearing Officer – at the beginning of the hearing – either that that individual appear at the hearing so that the youth can question the individual or that the information not be admitted into evidence.
- If your child doesn't have a lawyer, ask for one again at the hearing.
- Be prepared to contest DYS's claim that the violation(s) occurred. In addition to contesting the violation, your child could put the violation into context.
- Be prepared to confront and cross-examine witnesses, examine and dispute evidence, produce evidence and make an opening and closing statement.
- Your child could suggest alternatives to lock up, such as a change in school placement, a change in medication, or the introduction of counseling.
- Youth who suffer from a disability could argue, if appropriate, that the alleged violation was due to the disability and that DYS should make a reasonable accommodation and not pursue the revocation in this instance.
- At the end of the hearing, ask when the decision will issue.
- If you do not receive the Hearing Officer's findings, request them from DYS. A parent or legal guardian who does not attend the hearing still has a right to request and receive a copy of the findings.



## **Appealing a Hearing Officer's decision on a revocation of a grant of conditional liberty**

### ***What happens***

- A youth has the right to appeal the Hearing Officer's decision to the Commissioner or the Commissioner's designee.
- The DYS caseworker may assist the youth in writing the appeal. The youth, family, or counsel also may write the appeal.
- DYS policy states that all appeals must be submitted within 7 days of receiving the hearing officer's decision.
- The Commissioner or designee must respond in writing within 14 calendar days.
- One may appeal for any of the following reasons:
  - the decision was beyond the Hearing Officer's authority;
  - the decision was based on an error of law;
  - the decision was based upon illegal procedure;
  - the decision was not supported by the evidence;
  - the decision was arbitrary or capricious (that is, the decision was not based upon reasonable grounds or adequate consideration of the facts).
- There is no hearing on appeal.
- The decision on appeal is final, and there is no process available after the appeal decision.

### ***What you should do***

- If you seek to appeal the Hearing Officer's decision regarding revocation, file an appeal in writing with DYS within 7 days of receiving the Hearing Officer's decision.

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