

CHAPTER 28  
POLICIES FOR ALL INSTITUTIONS

[Prior to 7/1/83, Social Services [770] Ch 28]

[Prior to 2/11/87, Human Services [498]]

**441—28.1(218) Definitions.** The definitions in this rule apply to 441—Chapters 28, 29, and 30.

“*Admission*” means the acceptance of an individual for full residence at a state mental health institute or resource center on either a voluntary or involuntary basis.

“*Adult*” means an individual who is 18 years of age or older.

“*Board of supervisors*” means the elected governing body of a county as defined in Iowa Code section 331.101.

“*Catchment area*” means the group of counties, designated by the deputy director, that each mental health institute or state resource center is assigned to serve.

“*Central point of coordination process*” means the process defined in Iowa Code section 331.440(1)“a.”

“*Child*” means an individual who is under the age of 18.

“*County of residence*” means the same as defined in rule 441—25.11(331).

“*Deputy director*” means the deputy director for field operations within the Iowa department of human services.

“*Family contact,*” for an adult individual, means:

1. The family member the individual has designated in writing to receive information concerning the individual’s services; or

2. A person, often referred to as a substitute decision maker, who has been legally authorized to make care decisions for the individual if the individual loses decision-making capacity.

“*Grievance*” means a written or oral complaint by or on behalf of an individual involving:

1. A rights violation or unfairness to the individual, or

2. Any aspect of the individual’s life with which the individual does not agree.

“*Guardian*” means the person other than a parent of a child who has been appointed by the court to have custody of the person of the individual as provided under Iowa Code section 232.2(21) or 633.3(20).

“*Individual*” means any person seeking or receiving services from a state mental health institute or a state resource center.

“*Informed consent*” means an agreement by an individual or by the individual’s parent, guardian, or legal representative to participate in an activity based upon an understanding of all of the following:

1. A full explanation of the procedures to be followed, including an identification of those that are experimental.

2. A description of the attendant discomforts and risks.

3. A description of the benefits to be expected.

4. A disclosure of appropriate alternative procedures that would be advantageous for the individual.

5. Assurance that consent is given freely and voluntarily without fear of retribution or withdrawal of services.

“*Legal representative*” means a person, including an attorney, who is authorized by law to act on behalf of an individual.

“*Legal settlement*” means the determination made under Iowa Code sections 252.16 and 252.17 to identify whether one of the 99 Iowa counties has a legal obligation to provide financial support for an individual.

“*Parent*” means a natural or adoptive mother or father of a child but does not include a mother or father whose parental rights have been terminated.

“*Rights*” means the human, civil, and constitutional liberties an individual possesses through federal and state constitutions and laws.

“*State case*” means the determination made under Iowa Code section 252.16 that identifies an individual as not having legal settlement in an Iowa county and places funding responsibility with the state.

“*Superintendent*” means the superintendent of any of the four mental health institutes and the two state resource centers.

This rule is intended to implement Iowa Code section 218.4.  
[ARC 8094B, IAB 9/9/09, effective 11/1/09]

**441—28.2(218,222) Selection of facility.**

**28.2(1)** Application for voluntary admission to a state mental health institute or resource center shall be made to the facility in the catchment area within which the individual for whom admission is sought is a resident as defined in:

- a. Rule 441—29.1(218) for the state mental health institutes; or
- b. Rule 441—30.1(218,222) for the state resource centers.

**28.2(2)** Court commitment of an individual shall be made:

- a. To the facility in the catchment area within which the individual who is being committed is a resident as defined in rule 441—29.1(218) or 441—30.1(218,222); or
- b. As designated by the deputy director.

**28.2(3)** The deputy director shall consider granting exceptions to the established catchment areas when requested by the individual seeking a voluntary admission or by the committing court. The deputy director’s decision shall be made within 48 hours of receipt of the request. The decision shall be based on:

- a. The clinical needs of the individual;
- b. The availability of appropriate program services;
- c. Available bed space within the program at the requested facility; and
- d. The consent of the superintendents of both facilities involved.

This rule is intended to implement Iowa Code sections 218.19, 218.20, and 222.6.  
[ARC 8094B, IAB 9/9/09, effective 11/1/09]

**441—28.3(222,230) Evidence of legal settlement.** The supporting evidence for determination of an individual’s legal settlement shall include all available information used to make a determination of legal settlement as defined in Iowa Code sections 252.16 and 252.17.

**28.3(1)** Supporting evidence shall include, but need not be limited to:

- a. The current and former addresses of the individual, including the dates for the period when the individual resided at each address;
- b. The individual’s current services and service history, including the name and location of the provider and the dates when services were received;
- c. The history of addresses and services received by the individual’s custodial parent or guardian (when the individual takes the legal settlement of the custodial parent or guardian as defined in Iowa Code section 252.16);
- d. Copies of any court orders affecting a minor individual’s custody or guardianship; and
- e. Any other information needed to make a determination of legal settlement.

**28.3(2)** Copies of the following forms may be submitted as supporting evidence, if properly completed:

- a. Form 470-3439, Legal Settlement Worksheet.
- b. A county central point of coordination application.
- c. Form 470-4160, Notice of Court Action on Mental Health Hospitalization.

**28.3(3)** If a county asserts that an individual’s legal settlement is unknown so that the individual is deemed a state case, the county that makes the assertion shall provide documentation of all attempts made by the county to ascertain the facts necessary to make a legal settlement determination. Documentation shall include:

- a. Information about each person contacted during the investigation, including the person’s name, address, telephone number, and E-mail address if available;

- b. The information obtained during the investigation; and
- c. Identification of the person conducting the investigation.

This rule is intended to implement Iowa Code sections 222.50, 222.60 to 222.79, 230.1 to 230.6, 230.10, and 230.11.

[ARC 8094B, IAB 9/9/09, effective 11/1/09]

**441—28.4(225C,229) Grievances.** Any individual who believes the individual's rights have been violated by a mental health institute or resource center or who has any complaint concerning the individual's treatment at a mental health institute or resource center may file a grievance. A grievance shall be filed using Form 470-4498, Individual Grievance. The individual's parent, family, guardian, or legal representative may file a grievance on behalf of the individual.

This rule is intended to implement Iowa Code sections 225C.27 and 229.23.

[ARC 8094B, IAB 9/9/09, effective 11/1/09]

**441—28.5(217,218) Photographing and recording of individuals and use of cameras.**

**28.5(1)** Use of cameras or voice recorders by anyone other than an authorized employee, individual, parent, guardian, or legal representative to photograph or record an individual shall be allowed only with the prior authorization of the superintendent or the superintendent's designee. Permission to photograph and record shall be granted for one specific use, and the authorization shall not extend to any other use.

**28.5(2)** Photographs and recordings of an adult individual shall be taken for publication only with a signed informed consent from the individual or the individual's guardian or legal representative.

**28.5(3)** Photographs and recordings of a minor individual shall be taken for publication only with a signed informed consent from the parent, guardian, or legal representative.

**28.5(4)** Every effort shall be made to preserve the inherent dignity of the individual and to preclude exploitation or embarrassment of the individual or the family of the individual.

**28.5(5)** Pictures and recordings of individuals are not to be altered to prevent identification in any manner that would tend to perpetuate the stigma attached to the public image of individuals with mental illness or mental retardation.

This rule is intended to implement Iowa Code sections 217.30 and 218.4.

[ARC 8094B, IAB 9/9/09, effective 11/1/09]

**441—28.6(217,218) Interviews and statements.**

**28.6(1)** Releases to the news media shall be the responsibility of the superintendent. Authority for dissemination and release of information may be designated to other employees at the discretion of the superintendent.

**28.6(2)** Interviews of individuals by the news media or other outside persons or groups shall be permitted only with the consent of the individual or the individual's parent, guardian, or legal representative.

a. When a request without known prior consent is received, the superintendent or designee shall not acknowledge the presence or nonpresence of an individual at the institution.

b. If the individual is in the facility, the superintendent or designee shall make the individual or the individual's parent, guardian, or legal representative aware of the request. Notice to the individual or the individual's parent, guardian, or legal representative shall be documented in the individual's record. The individual or the individual's parent, guardian, or legal representative shall be free to decide whether an interview is granted.

This rule is intended to implement Iowa Code sections 217.30 and 218.4.

[ARC 8094B, IAB 9/9/09, effective 11/1/09]

**441—28.7(218) Use of grounds, facilities, or equipment.**

**28.7(1)** The superintendent or designee may grant permission for temporary use of assembly halls, auditoriums, meeting rooms, or institutional grounds to an organization or group of citizens when the facility is available and is not needed for regular scheduled departmental services.

**28.7(2)** Members of outside organizations permitted to a facility shall observe the same rules as visitors to the institution.

**441—28.8(218) Tours of institution.** Groups or persons shall be permitted to tour the institution only with approval of the superintendent or designee.

This rule is intended to implement Iowa Code section 218.4.  
[ARC 8094B, IAB 9/9/09, effective 11/1/09]

**441—28.9(218) Donations.** Donations of money, clothing, books, games, recreational equipment or other gifts shall be made directly to the superintendent or designee. The superintendent or designee shall evaluate the donation in terms of the nature of the contribution to the hospital program. The superintendent or designee shall be responsible for accepting the donation and reporting the gift to the deputy director. All monetary gifts shall be acknowledged in writing to the donor.

This rule is intended to implement Iowa Code chapter 218.  
[ARC 8094B, IAB 9/9/09, effective 11/1/09]

**441—28.10(218) Residents' rights for the mentally retarded.** Rescinded IAB 9/9/09, effective 11/1/09.

**441—28.11(218) Catchment areas.** Rescinded IAB 9/9/09, effective 11/1/09.

**441—28.12(217) Release of confidential information.**

**28.12(1)** Information defined by statute as confidential concerning current or former patients or residents of the mental health institutes or hospital-schools shall not be released to a person, agency or organization that is not authorized by law to have access to the information unless the patient or resident authorizes the release. Authorization shall be given by using Form 470-3951, Authorization to Obtain or Release Health Care Information.

**28.12(2)** Persons admitted or committed to a mental health institute or a hospital-school and who are not able to pay their own way in full shall authorize the department to obtain information necessary to establish whether they have legal settlement in Iowa or in another state. Authorization shall be given using Form MH-2203-0, Authorization to Release Information for Settlement.

This rule is intended to implement Iowa Code section 217.30.

**441—28.13(218) Applying county institutional credit balances.**

**28.13(1) Definition of credit balance.** A county institutional credit balance occurs when a county has paid a debt from a state institution or an institutional program and it is later determined that all or part of the debt was not the county's responsibility. Only when an institutional debit balance has been paid by a county and all or part of the paid debit has been determined not to be the responsibility of the county can the resulting county credit be used to reduce existing or future institutional debit balances.

**28.13(2) Order of application.** County institutional credits shall be applied in the following order until all credits are exhausted or refunded:

*a.* A credit shall first be applied to the patient's or resident's account at the same institution that generated the credit.

*b.* If any credit remains after application to the patient's or resident's account, the remaining credit shall be applied to any outstanding charges at the same institution that generated the credit.

*c.* Any remaining credit, after application to the patient's or resident's account and to the same institution that generated the credit, shall be applied to an outstanding balance at another state institution.

(1) If a credit generated by an institution or institutional program under net budgeting is to be applied to an institution or institutional program not under net budgeting, then a transfer of funds shall be made from the applicable institutional fund or institutional program under net budgeting to the state general fund.

(2) If a credit generated by an institution that is not under net budgeting is to be applied to an institution or institutional program under net budgeting, the county may seek a refund by filing a claim

to the state appeal board pursuant to 543—Chapter 3, or the county may allow the credit to remain outstanding until the county has an additional debt at a state institution or institutional program that is not under net budgeting.

(3) If a credit generated by an institution or institutional program under net budgeting is to be applied to another institution or institutional program under net budgeting, then the transfer of funds between the applicable net budgeting funds or programs shall be made through an accounting journal entry.

*d.* If any credit remains after applying credits as stated in paragraphs “a” to “c,” the county with the remaining credit may seek a refund by filing a claim to the state appeal board pursuant to 543—Chapter 3, or the county may allow the credit to remain outstanding until such time as the county has an additional state institution or an institutional program debt.

This rule is intended to implement Iowa Code section 218.78.

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