



## Ohio Administrative Code

### Rule 5122-3-05 Competency to stand trial assessment and restoration services for serious youthful offenders (SYOs).

Effective: January 24, 2011

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#### (A) Purpose and background

(1) The purpose of this rule shall be to establish guidelines for competency assessment and restoration treatment of serious youthful offenders (SYOs). Pursuant to section 2152.13 of the Revised Code, effective January 1, 2002, SYOs are afforded all the rights a person who is criminally prosecuted would have if the crime were committed by an adult. This includes the right to be competent to stand trial and utilization of the procedure outlined in Chapter 2945. of the Revised Code, related to competency to stand trial.

(2) Placement/treatment of young children on adult units raises fundamental concerns about the safety and effectiveness of treatment, since ODMH only operates adult inpatient facilities. Treatment of children/adolescents must consider the child's developmental needs and mental status in order to be safe and effective. This rule establishes separate and distinct procedures and guidelines for competency assessment and restoration of children/adolescents. This rule will provide procedures for handling potential referrals from the juvenile courts in Ohio to ODMH facilities. Substantial precedent and common sense support the separation of children from adults in inpatient settings. Prior to the closure of ODMH children's hospitals, in accordance with section 5119.03 of the Revised Code, the department operated separate institutions for children and adults. ODMH private psychiatric hospital licensure rules require that children and adult beds be separate, except for certain emergency admissions of brief periods (forty-eight to seventy-two hours) for older adolescents, aged fifteen through seventeen.

Under this rule, seventeen year olds may be admitted and treated in an adult bed if the person is functioning as an adult in such areas as employment, family, or marriage, or if the diagnosis or problem is such that treatment is warranted in an adult bed.

National professional guidelines clearly recognize that children and adolescents younger than fourteen should be admitted only to programs that are designed for youth and physically distinct



from adult psychiatric inpatient programs. Adolescents sixteen and older may be admitted to adult units for valid clinical reasons, but should be treated in a program designed to meet their specific needs. Children and adolescent programs should address the youth's developmental needs including those for education and age-appropriate social interaction.

(B) Definitions

The following definition shall apply to this rule in addition to or in place of those appearing in rule 5122-1-01 of the Administrative Code:

"Serious youthful offender" and "SYO" have the same meaning as in division (X) of section 2152.02 of the Revised Code, i.e., a person who is eligible for a mandatory SYO or discretionary SYO, but who is not transferred to adult court under a mandatory or discretionary transfer.

(C) General guidelines

(1) Young children (under age fourteen years) and younger adolescents (ages fourteen to fifteen) should not be placed in an ODMH regional psychiatric hospital (RPH) because adult facilities are not designed or staffed to provide age-appropriate services for youth. Additionally, because interaction with adult patients on these units may be problematic, these children should be placed in an age-appropriate inpatient psychiatric unit for children or a community residential treatment facility that would specifically meet their individual needs. Older immature adolescents and those not medically cleared for admission to an adult facility should also be treated in these types of settings

(2) Older adolescents (ages sixteen to seventeen) and some younger adolescents (ages fourteen to fifteen) in limited exceptional cases, may be admitted to adult units for valid clinical reasons but should be treated in an individualized program designed to meet their specific needs.

(D) Procedures for admission of adolescents to ODMH RPH inpatient units. Prior to such admissions for competency restoration services, the RPH chief clinical officer shall assure the following:



(1) The child must be medically assessed as appropriate for admission to an adult inpatient unit by a board-eligible or board-certified child psychiatrist with documented specialized training and experience in working with adolescents and their families in an inpatient treatment program;

(2) Other available less restrictive treatment resources (e.g., residential treatment, intensive outpatient), must have been considered and determined to not be available or not appropriate to meet the youth's mental health and safety needs; and

(3) An individual plan of care must be developed by a child/adolescent psychiatrist or in consultation with a child/adolescent psychiatrist to meet the adolescent's restoration to competency needs including the developmental, educational, safety, and environmental needs.

(E) Guidelines for adolescent competency to stand trial restoration treatment services provided in the RPH.

(1) Treatment for the adolescent should be supervised by a child/adolescent psychiatrist or in consultation with a child/adolescent psychiatrist;

(2) All relevant components of the competency to stand trial restoration service are to be adjusted to meet the adolescent's developmental, educational, safety, and environmental needs;

(3) Upon admission, an objective competency assessment should be performed. Standardized competency assessment tools may be utilized;

(4) Multi-modal, experiential competency restoration educational experiences, (e.g., discussions, reading, video, role playing or mock trial), may be utilized;

(5) An educational component should be included regarding the criminal charges, severity of charges, sentencing, pleas, plea bargaining, roles of the courtroom personnel, adversarial nature of the trial process and evaluating evidence;

(6) Periodic reassessment of competency should be made regarding the adolescent's progress toward restoration to competence; and



(7) Medication treatment may be needed in order for restoration to competence to occur.