

REVISED REGULATION TEXT

Article 3. Juvenile Court Commitment

§ 4170.5. Discretion to Accept or Reject.

The Division of Juvenile Justice (DJJ) may accept or reject a commitment from a juvenile court based on Sections 1736, 733, 734 and 736 of the Welfare and Institutions Code.

The Division may in its discretion accept youths committed to it, if it believes that the youth can be materially benefited by its rehabilitative/treatment programs, and if it has adequate facilities, staff and programs to provide such care.

NOTE: Authority cited: Section 1712, Welfare and Institutions Code. Reference: Sections 733, 734, 735 736 (a). and 1736, Welfare and Institutions Code.

§ 4171. Decision to Accept or Reject on Material Benefit.

(a) Youth committed from a juvenile court will be accepted if they can be materially benefited, provided that necessary facilities, programs, staff and rehabilitative services are available.

(b) Determinations of material benefit will be based on one or both the following standards:

(1) A youth will be materially benefited when there is reasonable possibility that the likelihood to commit delinquent behavior can be significantly reduced or eliminated within the confinement time and jurisdiction time available. Factors to be considered under this subsection include:

(A) Capacity. Does the youth have the capacity to change? Considerations in making this determination include:

- (i) The youth's psychiatric condition
- (ii) The youth's ability to communicate
- (iii) Mental Retardation
- (iv) The need for long-term in-inpatient level of care

(B) Tractability. Is the youth's delinquent behavior so firmly established that there is little likelihood that it can be changed by commitment to the Division of Juvenile Justice. Considerations in making this determination include:

- (i) The youth's history of criminal/delinquent behavior.
- (ii) The youth's degree of criminal sophistication.
- (iii) The success of prior efforts to help the youth change behavior.
- (iv) Whether the youth has demonstrated willingness to participate in programs designed to result in correction of unacceptable behavior.

(2) A youth will be materially benefited and the public protected when incapacitation is needed to shield the public and such youth from further delinquent behavior. Factors to be considered under this subsection include:

- (A) The incidence of delinquent behavior.
- (B) History of close association with non-law-abiding youth.
- (C) Emotional stability.
- (D) Apparent motivation to commit further crimes, for example, revenge, etc.
- (E) Family associations that do not support law-abiding behavior.

NOTE: Authority Cited: Section 1712, Welfare and Institutions Code. Reference: Section 736 (a), 1741, Welfare and Institutions Code.

§ 4171.5 Acceptance and Rejection Criteria for youth with Medical or Mental Health Conditions

(A) The Division of Juvenile Justice (DJJ) shall accept or reject a youth committed to it based on whether the youth can be materially benefited by the DJJ's rehabilitation model and educational programs, and if the DJJ has adequate facilities and staff to provide such care.

DJJ is responsible for performing an individualized review of all youth committed by the courts for determination of whether the youth will materially benefit from DJJ's rehabilitative and educational programs and whether adequate facilities, staff and programs exist to provide for the youth. As part of that determination, DJJ staff shall review the youth's records for medical and mental health conditions that interfere with the youth's ability to materially benefit from DJJ's programs or for which DJJ does not have adequate facilities, staff or programs to provide care—and for which DJJ cannot otherwise reasonably accommodate through modified programming or facilities.

(B) DJJ does not accept youth who are seriously ill or have health impairments whose commitment would involve serious risk of permanent disability or long-term detriment to health status, or whose medical conditions are so extreme as to interfere with the youth's ability to materially benefit from DJJ's programs (including regular attendance at school and rehabilitative programs) or for which DJJ does not have adequate facilities, staff or programs to provide care—and for which DJJ cannot otherwise reasonably accommodate through modified programming or facilities.

(C) DJJ does not accept youth with mental health conditions and associated limitations that are sufficiently severe to interfere with the youth's ability to materially benefit from DJJ's programs (including regular attendance at school and rehabilitative programs) or for which DJJ does not have adequate facilities, staff or programs to provide care—and for which DJJ cannot otherwise reasonably accommodate through modified programming or facilities.

No medical or mental health condition is an absolute barrier to a youth's acceptance to DJJ. Each youth is evaluated on an individual basis. Therefore, in cases where there are concerns related to the commitment and acceptance of the youth, DJJ will notify the county that the county may request that an Inter-disciplinary Team Review be held to discuss placement options for the youth.

The Inter-disciplinary Team will consist of a County Probation Representative, a relevant DJJ Health Care Representative, a DJJ Intake and Court Services Representative, and a representative from the DJJ Disabilities Program. Other agencies such as the Department of Mental Health, Developmental Services or other interested agencies may also be involved.

The Inter-disciplinary Team's recommendations will be forwarded to the Director of Division of Juvenile Facilities (DJF). The Director of the DJF shall review the Inter-disciplinary Team's recommendations and provide input prior to referring case to the Chief Deputy Secretary of DJJ. The Chief Deputy Secretary or designee will make the final decision regarding acceptance or rejection of commitment.

NOTE: Authority cited: Section 1712, Welfare and Institutions Code. Reference: Sections 733, 734, 735 and 1741, Welfare and Institutions Code.

§ 4173. Requirement to Provide Information.

(a) When the juvenile court commits a youth to the Division of Juvenile Justice who is identified as an individual with exceptional needs, as defined by Section 56026 of the Education Code, the juvenile court shall not order the juvenile conveyed to the physical custody of the Division until the youth's previously developed individualized education program has been furnished to the Division.

In order to enforce this requirement, the court shall indicate on the court commitment documents whether:

1. The youth is an individual with exceptional needs,
2. The youth is not an individual with exceptional needs or
3. Education records do not indicate that a determination has been made regarding any exceptional needs that the youth may have.

(b) The information requirements and requested information described in Sections 4168.5 and 4169 of these regulations apply to youth committed by a juvenile court.

NOTE: Authority Cited: Section 1712, Welfare and Institutions Code. Reference Section 735, 1740, 1741 and 1742, Welfare and Institutions Code.

§ 4174. Acceptance or Rejection Action.

The Division shall make a decision to accept or reject a committed youth within 16 work hours, or as soon thereafter as possible, after the receipt of the information and documents described in Sections 4168.5 and 4169 of these regulations.

NOTE: Authority Cited: Section 1712, Welfare and Institutions Code. Reference Section 732, Welfare and Institutions Code.

§ 4174.5. Notice of Action and Delivery Approval.

The Division shall notify the committing court and probation department of its acceptance or rejection decision. When a case has been accepted, the notice shall designate the time and place for delivery to a Division of Juvenile Justice facility.

NOTE: Authority Cited: Section 1712, Welfare and Institutions Code. Reference: Sections 732, 736, 1731.6 and 1752.1, Welfare and Institutions Code.

§ 4174.6. Time Limit on Acceptance.

Notice that a case has been accepted shall become void 90 days from the date it was issued unless the youth has been delivered to a Division reception center-clinic. If not delivered within 90 days, the case may be resubmitted for acceptance action as provided by Section 4168. Required and optional information as provided by Section 4173 shall be current to the date of resubmission.

NOTE: Authority Cited: Section 1712, Welfare and Institutions Code. Reference: Section 735, Welfare and Institutions Code.