

**YOUTH SERVICES OFFICIAL COPY**

<b>MISSISSIPPI DEPARTMENT OF HUMAN SERVICES DIVISION OF YOUTH SERVICES JUVENILE INSTITUTIONS</b>	<b>Policy Number</b>  <b>15.1</b>	<b>Section</b> <b>XVIII</b> <b>Page</b> <b>1 of 7</b>
<b>SUBJECT: ATTORNEY ACCESS</b>	<b>DATE: January 2005</b>	

**POLICY**

All students housed at the Oakley Training School (OTS) and Columbia Training School (CTS) have the right to seek legal assistance and to have uncensored, confidential contact by telephone, in writing, or in person with their legal representative. OTS and CTS are collectively referred to herein as institution.

**PROCEDURES**

Orientation

A list of legal resources will be made available to the student during orientation. Each student shall be informed of their right to request legal assistance and to meet with an attorney. These rights will be explained orally and in writing.

Communication with Attorneys

**1. General**

Contact with an attorney may be initiated by the youth in writing on the form provided in the student handbook. (See the form at Exhibit 1 to this policy). The counseling staff will be available to assist students who need help in completing the form. The form will be mailed to the designated attorney within twenty-four hours of its completion.

An agent, employee, or other representative of an attorney may meet with a child when the agent, employee, or representative is accompanied by the attorney.

Prior to being approved to enter the grounds of the institution, however, the following criteria must be met by the visiting attorney:

- i) The visiting attorney must submit evidence that he or she is licensed to practice law in the State of Mississippi, including but not limited to a copy of a current Mississippi State Bar card, certificate of good standing from the Mississippi Supreme Court, or other acceptable evidence from the Mississippi State Bar.

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- ii) An attorney must provide written notice at least forty-eight (48) hours in advance of the visit, as well as any one of the following three items:
  - a) A pleading evidencing the attorney's appearance on the child's behalf in any state or federal court;
  - b) a consent form signed by the child's legal guardian (see Exhibit 2 of this policy); or
  - c) a declaration by the attorney that: (i) the legal guardian has been notified of the child's request and has not communicated any objections, and (ii) the child's youth court attorney, guardian ad litem, or youth court judge has been informed of the child's request for legal assistance and does not object to the visit. A declaration submitted pursuant to this subsection must be sworn under penalty of perjury and must include the name of the party authorizing access, contact information, the date the authorization was given, and the nature of the consent given.
- iii) If the legal guardian does not provide a written authorization for the attorney's meeting with the child but the legal guardian accompanies the attorney in person to the institution, the attorney will be allowed to enter the institution to meet with the child.
- iv) When the attorney is not able to reach the legal guardian, the attorney will seek authorization from the youth court guardian ad litem (G.A.L.), an attorney who represented the child in youth court, or the youth court having jurisdiction over the child. Consent by any of the foregoing three parties (G.A.L., the youth court attorney, or youth court) need not be in writing. If consent is not provided in writing, the attorney must execute a declaration identifying the name of the party authorizing access, contact information, the date the authorization was given, and the nature of the consent given. If the guardian ad litem or the youth court attorney objects to the visiting attorney's compliance with a child's request for a meeting between the attorney and the child, the visiting attorney may not comply with the request until he or she enters an appearance on the child's behalf in state or federal court.



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- v) If the legal guardian objects to the visiting attorney's compliance with a child's request for a meeting between the attorney and the child, the visiting attorney may not comply with the request until he or she enters an appearance on the child's behalf in state or federal court.

**2. Visits**

A log shall be maintained of all visits by attorneys. Visits may be visually observed by the institution, but conversations between students and counsel shall not be monitored.

**3. Scheduling Visits**

Visits by attorneys must be scheduled through the institution at least forty-eight (48) hours in advance. Students may refuse to see any attorney.

The attorney must write to a designated representative of the institution to certify that a particular child has requested a legal visit. The attorney's letter will include the child's name, the legal guardian's name and contact information, the attorney's name and contact information, and a proposed date and time for a meeting between the attorney and child. The letter will include documentation that the visiting attorney meets the criteria specified above in Section 1. Except in emergency circumstances, the attorney must insure that written notification of the proposed visit, and supporting documentation, is received by the designated institution representative at least forty-eight (48) hours in advance of the visit.

After the initial visit to the institution, the attorney must schedule subsequent visits with the child by providing the institution's designated representative with notice, in writing, at least forty-eight (48) hours in advance of an intended visit and must present a picture identification upon arrival at the institution but will not be required to resubmit the other supporting documentation required by this section.

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**4. Time of Visits**

Visits by attorneys must normally take place Monday through Friday, excluding holidays, between the hours of 5:00 p.m. and 8:00 p.m. or Saturday and Sunday between the hours of 9:00 a.m. and 3:00 p.m. Upon arrival at the institution, the attorney must present a picture identification, bar credential, and documentation that the attorney meets the criteria specified above in section 1.

The School Administrator may approve special or other visits by an attorney not in conformity with this section, when emergency circumstances warrant such visits.

**5. Limitations on Visits**

Any improper acts or unethical behavior with a student during a visit may result in an attorney being denied future requests to visit a child. No more than one student may be seen by an attorney at any one time. Generally, no more than two legal visitors may see a student on any one day. However, the number of legal visitors at one time may be limited based on available space and/or security constraints.

Further limitation may be imposed by the School Administrator as circumstances warrant. Where foreseeable circumstances require additional limitations on attorney visitation, the facility, where feasible, will inform the visiting attorney of those limitations at least twenty-four (24) hours in advance of the visit.

**6. Phone Calls**

Students will be allowed to phone their attorney under conditions established to protect the confidentiality of communications to and from the attorney. However, calls are usually limited to avoid unnecessary intrusion upon the institution staff and/or due to security concerns. However, if a student indicates important information needs the prompt attention of his or her attorney, further calls may be placed.

All calls to attorneys will be collect phone calls.



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**7. Written Communication**

A student's written message will be mailed or distributed to the attorney. Any student who does not have postage will be provided no more than two (2) postage stamps or free mailings per week by the institution for correspondence with an attorney or otherwise. Written messages will be unopened and uncensored. Further, mail from the court or other legal authority to a student will not be opened.

**GOVERNING RULES AND REGULATION**

Attorneys are subject to all applicable rules and regulations of the institution.

**EXCEPTIONS**

Nothing contained in this policy shall apply to attorneys representing the State, the Mississippi Department of Human Services, or the institution.

**APPLICABILITY**

All other applicable policies and/or procedures, not in conflict with this Policy, shall continue to govern the subject matter described herein.