

LAW AND PUBLIC SAFETY

JUVENILE JUSTICE COMMISSION

Manual of Standards for Juvenile Detention Facilities

Program Services

Education

Proposed Amendments: N.J.A.C. 13:92-9.3

Authorized By: Executive Board of the Juvenile Justice Commission, by the Honorable Peter C. Harvey, Attorney General and Chair, Markus Green, Attorney General's Designee.

Authority: N.J.S.A. 2A:4A-37; 18A:7B-5; 47:1A-5; 52:17B-170(e)(6), (14), (15), (21) and (22); 52:17B-171a(1) and (5); and 52:17B-176a(6)through (9), and Executive Order No. 9 (1963).

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2004-169.

Submit written comments by July 2, 2004 to:

Lynn T. Lucas, Supervisor
Policy Unit
New Jersey Juvenile Justice Commission
P. O. Box 107
Trenton, New Jersey 08625-0107

The agency proposal follows:

Summary

The rules at N.J.A.C. 13:92 pertain to county juvenile detention facilities. These facilities provide temporary care to juveniles pending court disposition in physically restricting facilities. Such facilities may also operate juvenile detention commitment programs pursuant to N.J.S.A. 2A:4A-43c and implementing rules at N.J.A.C.13:93. The

rules at N.J.A.C. 13:92 serve as a Manual of Standards for Juvenile Detention Facilities and contain the physical facility and program standards for detention facilities.

At the present time, there are 17 juvenile detention facilities in the State with a capacity of 958 residents. In a given year, approximately 13,000 to 14,000 youth are admitted to these facilities Statewide. Currently, seven of the county juvenile detention facilities also operate detention commitment programs governed by rules at N.J.A.C. 13:93 which expire on July 9, 2004. Those rules are being proposed for readoption with amendments elsewhere in this issue of the New Jersey Register.

However, the Commission is proposing to amend its rules at N.J.A.C.13:93-11.4, Education, and N.J.A.C. 13:92-9.3, Education, to conform to amendments to the New Jersey Department of Education's rules at N.J.A.C. 6A:8 and 6A:17 which have been adopted since the Commission originally promulgated its rules at N.J.A.C.13:92 and 13:93. The Department of Education's rules govern educational programming provided by the Juvenile Justice Commission and county juvenile detention facilities.

The amendments to N.J.A.C.13:92-9.3 proposed herein are identical to those proposed to N.J.A.C. 13:93-11.4 elsewhere in this issue of the New Jersey Register and are explained as follows.

N.J.A.C. 13:92-9.3(b)1 is being amended to comply with the Department of Education's regulation at N.J.A.C. 6A:17-3.3(d) that specifies that educational programming must be available five days per week.

The existing text at N.J.A.C. 13:92-9.3(b)5 is being deleted because N.J.A.C. 6A:17 no longer makes a distinction between the regular school program and school programming during summer months.

A new subsection (c) is being proposed at N.J.A.C.13:92-9.3(c) to provide that the facility shall not schedule non-educational activities for the juvenile during school hours.

The existing N.J.A.C. 13:92-9.3(c) is being recodified as N.J.A.C. 13:92-9.3(d) with no change in text.

The existing N.J.A.C. 13:92-9.3(d) is being recodified as N.J.A.C. 13:92-9.3(e) and is being amended to include that each county juvenile detention facility establish a written attendance policy that defines legitimate absences to include religious observance or other compelling personal circumstances in accordance with the Department of Education's requirements at N.J.A.C.6A:17-3.3(h).

Existing N.J.A.C. 13:92-9.3(e) is being recodified as N.J.A.C. 13:92-9.3(f) with no change in text. At N.J.A.C. 13:92-9.3(f), recodified as (g), "to the facility" is added after "admission" for clarity.

The existing N.J.A.C. 13:92-9.3(g) is being recodified as N.J.A.C. 13:92-9.3(h), with "to the facility" added after "admission" for clarity. In addition, the existing text at N.J.A.C. 13:92-9.3(g)3 is being deleted because the Department of Education no longer requires a review of individualized program plans (IPP) at 30 days. The proposed new text codified at N.J.A.C. 13:92-9.3(h)3 will require that individualized program plans for juveniles allow high school credit to be awarded through alternative learning experiences in accordance with program completion authorized by the Department of Education's requirements at N.J.A.C. 6A:8-5.1(a)1ii.

The existing N.J.A.C. 13:92-9.3(h) is being recodified as N.J.A.C. 13:92-9.3(i) with no change in text.

The existing N.J.A.C. 13:92-9.3(i) is being recodified as N.J.A.C. 13:92-9.3(j). The existing N.J.A.C. 13:92-9.3(i)11 is being deleted because the subject “Cross-Content Workplace Readiness Skills” is no longer considered a Core Curriculum Content Standard, and in its place the subject “Technological Literacy” is being added in accordance with the Department of Education’s rules at N.J.A.C. 6A:8.

A new paragraph at N.J.A.C. 13:92-9.3(j)12 is being added to the list of subjects of the basic curriculum for the Core Curriculum Content Standards that includes “Career Education” in accordance with the Department of Education’s requirements at N.J.A.C. 6A:8.

The existing N.J.A.C. 13:92-9.3(j) through (l) are being recodified as N.J.A.C. 13:92-9.3(l) through (m) with no change in text.

A new N.J.A.C. 13:92-9.3(n) is being proposed that will require that juvenile detention facilities employ the education personnel required to ensure the provision of programs and services pursuant to the Department of Education’s requirements at N.J.A.C. 6A:17.

The text at the existing N.J.A.C. 13:92-9.3(m) is being recodified as N.J.A.C. 13:92-9.3(n)1 and is also being amended to change that “each teacher shall possess a valid New Jersey Teacher certificate appropriate to the teacher’s assignment” to “all educational personnel shall possess the appropriate certification endorsement issued by the State Board of Examiners” pursuant to the Department of Education’s requirements at N.J.A.C. 6A:17-3.5(b).

A new paragraph at N.J.A.C. 13:92-9.3(n)2 is being added that would require that all teachers and educational services personnel to participate in the required

professional development activities consistent with the Department of Education's requirements at N.J.A.C. 6A:17-3.5(d).

The existing N.J.A.C. 13:92-9.3(n) through (s) are being recodified as N.J.A.C. 13:92-9.3(o) through (t) with no change in text.

The existing N.J.A.C. 13:92-9.3(t) is being recodified at N.J.A.C. 13:92-9.3(u) and is being amended to include marking period intervals established on the facility's school calendar which is to be submitted to the Commission's Office of Education for approval pursuant to the Department of Education's requirements at N.J.A.C. 6A:17-3.7(c).

The existing N.J.A.C. 13:92-9.3(u) is being recodified at N.J.A.C. 13:92-9.3(v) and is being amended to require that a juvenile's educational record be transmitted to his or her home district, and next placement to ensure full and appropriate credit for work completed in accordance with the Department of Education's requirements at N.J.A.C. 6A:17-3.7(d).

A new N.J.A.C. 13:92-9.3(w) is being added in accordance with the Department of Education's regulation at N.J.A.C. 6A:17-3.7(d) that requires that the juvenile's progress report, in the form of a report card and/or transcript, include a designated contact person to formulate an appropriate educational program and to ensure that credit for work completed is granted. The information to be included in the progress report shall include the juvenile's Statewide assessment and diagnostic findings, credits earned toward high school graduation requirements, grade level equivalent, vocational training experiences and the individual program plan or the individual educational plan.

The existing N.J.A.C. 13:92-9.3(v) is being recodified as N.J.A.C. 13:92-9.3(x) with no change in text.

The intent of the proposed amendments is to ensure that juveniles detained in county detention facilities and those court ordered into detention commitment programs receive identical educational services during their periods of confinement. Additionally, the amendments ensure that educational programming conforms to the requirements of the New Jersey Department of Education. The Juvenile Justice Commission's Office of Education assists county detention facilities in implementing these requirements through technical assistance to ensure that juveniles receive an appropriate educational experience and facilities are in compliance with the State Facilities Education Act, N.J.S.A.18A:7B-1 and N.J.A.C. 6A:17.

Because the Commission has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed amendments will have a positive social impact on juvenile detention facilities, the juveniles in residence at these facilities and the community in general. The proposed amendments will ensure that juveniles admitted to a county juvenile detention facility receive educational services as required by the New Jersey Department of Education .

The proposed amendments at N.J.A.C. 13:92-9.3 will ensure compliance with the Department of Education's rules at N.J.A.C. 6A:8 and 6A:17, and that the juveniles placed in county juvenile detention facilities programs receive an uninterrupted educational experience.

Economic Impact

The proposed amendments will not cause new or additional burdens on the counties providing educational services to juveniles detained in county detention facilities because there are no new or additional costs that will arise from compliance with the proposed amendments.

Federal Standards Statement

The proposed amendments do not exceed existing Federal standards of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, P.L. 102-586, 42 U.S.C. § 5601, and the Federal regulations at 28 C.F.R. Part 31. Therefore, a Federal standards analysis is not required.

Jobs Impact

The proposed amendments will not result in an increase or decrease in the number of jobs in New Jersey.

Agriculture Industry Impact

The proposed amendments will have no impact on the agriculture industry in New Jersey.

Regulatory Flexibility Statement

The proposed amendments do not impose reporting, recordkeeping or other compliance requirements on small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Therefore, a regulatory flexibility analysis is

not required. The proposed amendments impact county-operated facilities and will have no effect on small businesses.

Smart Growth Impact

The Juvenile Justice Commission does not anticipate that the proposed amendments will have any impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

Full text of the proposal: (additions indicated in boldface thus; deletions indicated in brackets [thus]):

13:92-9.3 Education

(a) (No change.)

(b) The educational programs shall be operated on a 12-month basis and provide for the juvenile's cognitive and affective development that includes:

1. A program consisting of a minimum of four hours per day[, during the days the juvenile detention facility holds classes (a minimum of] five days per week and 220 days per calendar year]);
2. (No change.)
3. A program consisting of basic academic instruction as appropriate to the individual program plan (IPP) or individualized education plan (IEP), as applicable; and
4. A New Jersey State Attendance Register entry for all students at the facility, and a written schedule for the educational program[; and].

[5. A modified education program may be conducted during the summer months.]

(c) The facility shall not schedule non-educational activities for the juvenile population during school hours.

[c] as (d) (No change in text.)

[(d)] (e) Each county juvenile detention facility shall establish a written attendance policy that defines legitimate absences to include sickness, injury [and] religious observance, required court appearance or other compelling personal circumstance.

[(e)] as (f) (No change in text.)

[(f)] (g) Within 48 hours of admission to the facility, exclusive of weekends, holidays and non-pupil contact days, an educational assessment of each juvenile shall be initiated. Standardized achievement and/or placement tests shall be administered to each juvenile.

[(g)] (h) Within 30 days of admission to the facility, exclusive of weekends, holidays and non-pupil contact days, an individual program plan (IPP) shall be developed for each juvenile to ensure a continuum of program offerings for those students who were enrolled in an educational program that includes:

1. - 2. (No change.)
3. [A review at 30 days, 60 days, and 90 days with modifications as needed]
Individualized programs which allow high school credit to be awarded through alternative learning experiences in accordance with program completion authorized at N.J.A.C. 6A:8-5.1(a)1ii.

[(h)] (i) (No change in text.)

[(i)] (j) The basic curriculum shall consist of subjects which incorporate the New Jersey Core Curriculum Content Standards, each of which shall be provided to students at their individual level of functioning. These subjects may include:

1. - 9. (No change.)
10. Visual and Performing Arts; [and]
11. [Cross-Content Workplace Readiness Skills.] Technological Literacy; and
12. Career Education.

Recodify existing (j) - (l) as (k) - (m) (No change in text.)

(n) Either independently or through contractual agreements, the juvenile detention facility shall employ the educational personnel required to ensure the provision of programs and services pursuant to N.J.A.C. 6A:17.

1. [(m)] [Each teacher] All educational personnel shall possess [a valid New Jersey Teacher certificate appropriate to the teacher's assignment] the appropriate certification endorsement issued by the State Board of Examiners; and
2. All teachers and educational services personnel shall participate in the required professional development activities consistent with the requirements at N.J.A.C. 6A:17-3.5(d).

Recodify existing (n) - (s) as (o) - (t) (No change in text.)

[(t)] (u) Contact with the juvenile's home district shall be maintained and educational records furnished to the home district to ensure that proper credit is given for assignments and course work completed at the marking period intervals established

on the facility's school calendar as approved by the Commission's Office of Education.

[(u)] (v) Within 10 days of discharge from the facility, copies of the juvenile's educational records shall be transmitted to his or her home district, and next placement to ensure full and appropriate credit for work completed. Records of each transmittal shall be maintained at the facility.

(w) The progress report, in the form of a report card and/or transcript, shall include a designated contact person and the following information which is necessary to formulate an appropriate educational program and to ensure that credit for work completed is granted:

1. Statewide assessment and diagnostic findings;
2. Credits earned toward high school graduation requirements;
3. Grade level equivalent;
4. Vocational training experiences; and
5. IPP or IEP.

[(v)] (x) (No change in text.)

Peter C. Harvey
Attorney General
Chair, Juvenile Justice Commission
Executive Board

By: Markus Green
Attorney General's Designee

Date: