

LAW AND PUBLIC SAFETY

JUVENILE JUSTICE COMMISSION

Secure Facilities

Proposed Readoption with Amendments: N.J.A.C. 13:95

Proposed New Rules: N.J.A.C. 13:95-7

Proposed Repeals: N.J.A.C. 13:95-12.7 and 12.8

Authorized By: Executive Board of the Juvenile Justice Commission, by the Honorable Paula T. Dow, Attorney General and Chair, Carolyn Murray, Attorney General's Designee.

Authority: N.J.S.A. 2A:4A-60; 2C:39-6a(9); 9:17A-1 and 4; 30:4-27.2; 30:4-27.24; 30:4-82.4; 30:4-123.53a; 47:1A-1; 52:17B-170e(14) and (22); 52:17B-170e(8) and (9); 52:17B-171; 52:17B-174; 52:17B-175; and 52:17B-176.

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

Proposal Number: PRN 2011-020.

Submit written comments by March 19, 2011 to:

John Wolff, Administrative Practice Officer
New Jersey Juvenile Justice Commission
1001 Spruce Street - Suite 202
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The agency proposal follows:

Summary

N.J.A.C. 13:95 establishes rules governing operations at secure facilities run by the Juvenile Justice Commission. Those rules are scheduled to expire on January 9, 2011, pursuant to N.J.S.A. 52:14B-5.1. The Commission is proposing to readopt N.J.A.C. 13:95 with a number of amendments. Pursuant to N.J.S.A. 52:14B-5.1c, the filing of this notice of proposal with the Office of Administrative Law has extended the scheduled expiration date 180 days to July 8, 2011.

The Commission has reviewed these rules and determined them to be necessary, reasonable and proper for the purpose for which they were originally promulgated.

N.J.A.C. 13:95 as proposed to be readopted contains 19 active subchapters. N.J.A.C. 13:95-7, Behavior Accountability Unit, is new. Two subchapters continue to be held in reserve. A description of those subchapters and proposed amendments follows.

N.J.A.C. 13:95-1 contains general provisions addressing purpose, scope, definitions, forms and confidentiality. The Commission is proposing a number of amendments to this subchapter.

N.J.A.C. 13:95-1.1(b)7 states that among the policies and procedures established by Chapter 95 are rules governing the assignment of juveniles to housing, education, treatment, work and other programs. The Commission proposes to amend this provision to include an explicit reference to assignments to the behavioral accountability unit, which would be established by proposed new N.J.A.C. 13:95-7.

The Commission is proposing five amendments to the definitions contained in N.J.A.C. 13:95-1.3. Three of these consist of a broadening of the definition for “relative,” to include any person who is related to a juvenile through blood, marriage, adoption, civil union or domestic partnership, including stepparents, and adding related definitions for “civil union couple” and for “domestic partner,” in accordance with the provisions of N.J.S.A. 37:1-28 et seq. and 26:8A-1 et seq., respectively. The remaining two amendments are a proposed clarification in the definition of “constant observation,” to make clear that such observation must be “in close proximity” to the juvenile being observed, and a proposed new definition for “law library,” clarifying that legal resources available to a juvenile may be in the form of either physical or electronic media.

In connection with proposed new N.J.A.C. 13:95-7, Behavior Accountability Unit (see below), the Commission is proposing to add three new forms to the list of forms set out at N.J.A.C. 13:95-1.4: These are the BAU-01 (Referral to Behavior Accountability Unit); BAU-02 (Behavior Accountability Unit Case Review Form); and BAU-03 (Behavior Accountability Unit Appeal).

The Commission also proposes to correct an error in the list of forms set forth in N.J.A.C. 13:95-1.4. Specifically, at paragraph (a)8, the Commission proposes to delete reference to Form J285-II Prohibited Substance Testing Request Summary, replacing it with a reference to Form J285-I Request for a Polygraph Examination. The Form J285-I is used in Secure Facilities; the Form J285-II, however, though proposed in 2004 was never implemented.

The Commission proposes to expand the confidentiality provisions, set out in N.J.A.C. 13:95-1.5, to incorporate provisions of N.J.S.A. 2A:4A-60, 60.2 and 60.3 that attach to:

1. Records of a law enforcement agency that would disclose information pertaining to juveniles charged or adjudicated delinquent;
2. Statements made by juveniles in the course of a suicide or mental health screening; and
3. Records relating to mental health services provided to a juvenile prior to an adjudication of delinquency or a finding of guilt.

These requirements attach both to Commission records and to records of other entities in the possession of the Commission. The proposed amendments to N.J.A.C. 13:95-1.5 include a clarification that although records that fall under the privacy provisions of N.J.S.A. 2A:4A-60, 60.2 and 60.3 may be used for classification, program and other reviews, such use does not otherwise release or exempt the records from their confidential status. The amendment is proposed in order to make existing confidentiality requirements more routinely accessible to Commission personnel who refer to Chapter 95 in the ordinary course of their work.

N.J.A.C. 13:95-2 governs “keep separate” procedures, the process for identifying and maintaining a separation among specific juveniles, when separation is necessary for the maintenance of security and orderly operation of a facility. The Commission proposes to readopt the subchapter without amendment.

N.J.A.C. 13:95-3 and 4 deal with use of force and firearms, and are in conformity with the Attorney General’s Use of Force Policy, issued in April 1985 and revised in

June 2000. Issuance of firearms within a secure facility is permitted only in an emergency situation, and only upon the written authorization of the facility's Superintendent. Other issues addressed include use of chemical agents, use of force on and off-duty, training, off-duty firearms, firearms qualification and progressive use of force. The Commission proposes to correct a typographical error in N.J.A.C. 13:95-4.3(d) to clarify that when entering a facility one of the options for handling an on-duty firearm is to secure it in an approved vehicle lock box. The Commission proposes to readopt Subchapter 3 without amendment.

The rules at N.J.A.C 13:95-5 govern searches of juveniles and searches of secure facilities. The Commission proposes to amend N.J.A.C. 13:95-5.10(b), which sets out the circumstances under which a juvenile is to be tested for prohibited substances. Paragraph (b)5 provides that such testing is to be done where there is a reasonable factual basis to suspect the juvenile of using or possessing a non-alcoholic prohibited substance. The Commission proposes to remove the exception for non-alcoholic prohibited substances. The exception is historical, derived from N.J.A.C. 10A:3-5.10(b)6 in the rules of the Department of Corrections, but does not conform to Commission policy to treat any substance abuse as a serious problem, and is inconsistent with the definition of "contraband" in N.J.A.C. 13:95-1.3, which lists "intoxicants, including, but not limited to, liquor or alcoholic beverages" among contraband articles deemed harmful or presenting a threat to the security and orderly operation of a secure facility.

N.J.A.C 13:95-6 deals with issues of contraband and how to dispose of contraband after it is discovered. The Commission is proposing a technical amendment to N.J.A.C.

13:95-6.3, which deals with the disposal of contraband personal property seized within a secure facility. Paragraph (b)2 requires that certain seized contraband be retained until all appeal proceedings are exhausted, including any judicial appeal. The amendment corrects the proper name of the court to which such appeals would be brought (the Superior Court of New Jersey, Appellate Division).

The Commission is proposing new N.J.A.C. 13:95-7, Behavior Accountability Unit. The new subchapter would implement a Commission decision to establish housing units that would provide transitional housing for juveniles who are in need of structure above and beyond the offerings of general population housing, but short of disciplinary room restriction provided for under N.J.A.C. 13:101, Juvenile Discipline.

N.J.A.C. 13:95-7.1 requires that all secure facilities have a designated Behavior Accountability Unit (BAU) for the purposes of providing a structured environment for juveniles who pose a threat to their own safety, to the safety of staff or other juveniles, to property or to the safe and orderly operation of the facility.

N.J.A.C. 13:95-7.2 provides that the decision to assign a juvenile to the BAU shall be made by the Superintendent or designee, acting either independently or upon the recommendation of identified facility staff, subject to review and concurrence by the facility's full Behavior Accountability Unit Review Committee (BAURC). The section provides detailed information and criteria to be weighed by the Superintendent or designee when determining whether assignment to the BAU is appropriate.

The BAURC is addressed substantively in N.J.A.C. 13:95-7.3 and 7.4. The BAURC is to be formed by the Superintendent, and is to be chaired by either the Superintendent

or Assistant Superintendent. Other members include representatives from education, social services, custody and classification; when needed to ensure consideration of relevant information up to two additional members may be appointed as well. The BAURC has the authority and the responsibility to determine whether a juvenile is to be kept in or released from the BAU; decisions of the BAURC are made in writing and by majority vote.

N.J.A.C. 13:95-7.5 establishes and describes the right of a juvenile to appeal his or her initial assignment to the BAU by the Superintendent, providing for expedited BAURC review. No formal appeals are provided from BAURC determinations.

BAURC procedures are addressed in N.J.A.C. 13:95-7.6 and 7.7. The rules require that assistance be provided to a juvenile to understand reasons for his or her appearance, the nature of the case review and the particular areas of BAURC concern. In addition, the BAURC is required to give guidance to the juvenile with respect to the facility's rules and policies.

N.J.A.C. 13:95-7.8 through 7.19 explicitly ensure the maintenance in the BAU of a number of rights and privileges afforded to juveniles generally. These include: food; personal hygiene; medical services; search procedures; clothing; bedding; legal services; correspondence and visits; telephone calls; recreation; education; visits by professional and correctional supervisory staff; and work opportunities.

The remaining sections, N.J.A.C. 13:95-7.20 through 7.25, address a number of miscellaneous issues, including: required psychological examinations; when withdrawal of personal items, activities and incentive privileges is permitted; recordkeeping requirements; clarification that disciplinary actions originating within the BAU will be

handled under N.J.A.C. 13:101, Juvenile Discipline; and a requirement that each secure facility have written internal management procedures and/or post orders consistent with the subchapter.

The rules at N.J.A.C. 13:95-8 cover institutional classification, the procedures governing the monitoring and review of a juvenile's progress within a secure facility for purposes of assigning the juvenile to housing units and activities within the facility. The process of assigning juveniles to a facility upon reception and the process of determining transfers between facilities, including juvenile requests for transfer, are governed under the Commissions Classification rule, N.J.A.C. 13:100. The Commission proposes to readopt the subchapter without amendment.

N.J.A.C. 13:95-9 sets out procedures for the transportation of juveniles. It addresses a variety of issues germane to secure facilities, such as differing custody levels of the juveniles requiring transport, equipment required in vehicles used for juvenile transport, provisions for interstate transport of juveniles and transportation related to court visits. The Commission proposes three amendments to Subchapter 9.

First, the Commission proposes to amend N.J.A.C. 13:95-9.1(b)1 to make it clear that employees who transport juveniles must, as a general matter, be informed of Commission policies regarding the use of private vehicles and the applicable liability provisions, and not only in the context of individual transport assignments. Second, the Commission proposes to update the specification for fire extinguishers that are required to be in vehicles used for the transport of medium, maximum or close custody juveniles, in N.J.A.C. 13:95-9.3(c)5. Specifically, the Commission proposes to delete an unnecessary and obsolete specification for a "10-pound" fire extinguisher, and to

expand the rule to state that the fire extinguisher must be portable and conform to applicable fire codes. Lastly, the Commission proposes to add a requirement to the rule governing transportation documents, N.J.A.C. 13:95-9.5, that if a required medical report is not available, the escort staff members must request the supervisor on duty at the sending facility to provide a brief written statement documenting that any pre-existing injury or condition existed prior to turning over the custody of the juvenile.

N.J.A.C 13:95-10 establishes security procedures to be used in connection with administrative transfers of juveniles to secure facilities from other Commission facilities and programs. These transfers often are in response to behavioral issues with respect to the juvenile being transferred; hence, the concern for security procedures. The Commission proposes to readopt the subchapter without amendment.

N.J.A.C 13:95-11 covers procedures for assigning juveniles to protective and temporary close custody, for reviewing the progress of juveniles so assigned, and for releasing juveniles from protective and temporary close custody. It also contains provisions for managing the housing units to which residents in protective and temporary close custody are assigned. Temporary close custody refers to a non-punitive removal of a juvenile from the general population for a period not to exceed 72 hours for special observation or investigation; for example, when it is suspected that a juvenile has ingested contraband to avoid detection. Protective custody refers to the assignment of a juvenile to a designated housing unit that restricts or limits the juvenile's activities and contacts with others, in order to protect the juvenile from injury or harm actually threatened, or reasonably believed to exist based on events,

investigative reports, informants' reports or other reliable sources of information. The Commission proposes to readopt the subchapter without amendment.

The rules at N.J.A.C 13:95-12 contain provisions for the orientation of juveniles entering a secure facility. The rules require each juvenile to be informed as to the rules, procedures, units, services and programs of the facility to which they are assigned and require that each secure facility maintain and distribute to all juveniles a current resident handbook. The Commission is proposing a reformatting of Subchapter 12; but the only substantive change would require review of resident handbooks annually rather than biannually, as is currently required.

The primary purpose of the proposed reformatting is to emphasize the principles underlying orientation content and to accent management's responsibility to monitor that content. Drawing upon long-standing correctional precedents, the current rule contains long lists of subject matter required in orientation sessions and in resident handbooks. The Commission believes that such lists divert attention both from the underlying principle that juveniles must have information presented on all material rights, privileges, obligations and services that apply to residents of a secure facility, as well as from management's responsibility to review and update orientation material on an ongoing basis.

Accordingly, the Commission proposes to eliminate the lists of required content, and to replace them with a general requirement that orientation must cover all material rights, privileges, services, programs and obligations of juveniles under the provisions of Chapter 95, under N.J.A.C. 13:101, Juvenile Discipline, under the Prison Rape Elimination Act of 2003, 42 U.S.C. §§15601 et seq., under Commission internal

management procedures and related policies and under any other material deemed relevant by the Director of Operations or designee. A focus on the underlying purpose of offering orientation, instead of extensively listing the required subject matter, will allow the Commission to more easily make changes and additions to the orientation content. Under the proposed amendment the Director of Operations would be required to maintain and annually update a list of all subject matters to be covered in juvenile orientation.

Other proposed amendments to Subchapter 12 are intended only to organize the subchapter more logically and to eliminate overlapping and redundant language.

N.J.A.C 13:95-13 is reserved.

N.J.A.C. 13:95-14 covers a number of administrative and housing related issues: juvenile hygiene and grooming; a prohibition against the possession and use of tobacco products; juvenile identification photographs; housekeeping and sanitation; and clothing, bedding and laundry. Other subjects include the standard personal hygiene kit provided to a juvenile upon admission to a secure facility, a requirement that juveniles are generally to shower daily, mandatory housekeeping schedules, coordinating inspections of facilities by the State Department of Health and Senior Services, basic clothing issue and use of DEPTCOR, State Use Industries and central laundry services. The Commission is proposing two minor amendments to Subchapter 14.

The first amendment is to N.J.A.C. 13:95-14.17(a), which states that the Facilities Unit within the Commission's Office of Administration is responsible for formulating written policies to help ensure compliance with New Jersey health codes, acceptable water supply, waste disposal methods and control of vermin and pests. Stating which

specific unit within the Office of Administration is unnecessarily restrictive and the Commission proposes to amend the provision accordingly.

Second, the Commission proposes to amend N.J.A.C. 13:95-14.18, a provision that requires each facility to ensure that a juvenile has an adequate clothing issue when housed at a secure facility. As written, the rule implicitly fails to reflect the fact that a juvenile will come to a facility with Commission-issued clothing, when being transferred from one facility to another. Accordingly, the operative language is being changed to clarify a facility must “make sure” that an adequate issue is provided, rather than having the rule worded such that a receiving facility appears to have to provide it directly. In addition, the Commission proposes to streamline the process relating to the Director of Operation’s oversight of issued clothing, most significantly by deleting the requirement that the clothing issue be reviewed annually. A facility prepares a basic clothing issue, subject to approval of Director of Operations; in addition, the Director of Operations must also approve any additions to or deletions from the list. Operationally, the facility is responsible to insure provision of the listed clothing to the juvenile, as appropriate based on gender and weather.

Subchapter 15, Juvenile Access to Courts, defines the legal materials and related administrative services that must be made available for juveniles in connection with court proceedings. Under the rule, the Commission is responsible for a number of activities designed to ensure juvenile access to legal materials and related services necessary to ensure access to judicial process. These activities include identifying necessary legal resources, stocking law libraries and ensuring the availability of Notary Publics and other necessary administrative resources.

The Commission proposes to make one correction to the language of N.J.A.C. 13:95-15.1, which contains a juvenile's right to use of a "juvenile law library." The use of the word juvenile in this instance is neither necessary nor meaningful, and the Commission proposes to delete it, changing the reference simply to "law library."

The rules at N.J.A.C. 13:95-16 set out guidelines for the identification, placement and monitoring of juveniles who are deemed to be at risk for suicide. The rule establishes a system for identifying and reporting potential suicidal behavior, and for placing at risk juveniles in special observation status and removing them from such status. The rule requires an initial psychological/psychiatric interview within 24 hours of a juvenile being placed on special observation status, daily status interviews thereafter, and graduated levels of observation, dependent upon the facts and dangers of each individual case. The Commission proposes to readopt the subchapter without amendment.

N.J.A.C. 13:95-17 covers two distinct areas: Procedures to be followed when a juvenile is determined to be pregnant; and second, when a critical illness or death of a juvenile occurs. The rules on critical illness and death include procedures for notifying next of kin upon critical illness or death, proper disposition of remains upon death and distribution of money and property. The Commission proposes to amend N.J.A.C. 13:95-17.8(c), with respect to procedures for notification of next of kin upon the critical illness or death of a juvenile. As currently written, the rule requires that next of kin be notified by telephone. If next of kin cannot be reached by telephone the rule requires that the Commission notify law enforcement authorities, requesting that they contact the next of kin to ask that they call the Commission. To the extent that this provision

purports to direct action of an outside law enforcement authority it is problematic. In addition, the Commission believes that these requirements are unnecessarily rigid. Accordingly, it proposes to replace the existing language with a provision requiring simply that the Commission take all reasonable steps to notify next of kin immediately of a juvenile's critical injury or death including, when necessary and appropriate, seeking assistance from local law enforcement authorities and the New Jersey Division of State Police.

The Commission also proposes two non-substantive corrective amendments to N.J.A.C. 13:95-17. First, the Commission proposes to correct a clear syntax error in N.J.A.C. 13:95-17.13(a), a provision requiring that prior to the distribution of any money remaining in the account of a deceased juvenile those funds shall be used to pay court-ordered assessments, restitution and fines, other revenue obligations or fees, fees for medical and/or dental treatment and fees for prescription or nonprescription drugs or medicine. Second, the Commission proposes to correct an error in N.J.A.C. 13:95-17.1, which misidentifies the subchapter as a chapter.

Subchapter 18 is reserved.

Subchapter 19 contains guidelines permitting juveniles to correspond with persons or entities outside the secure facility, for processing their legal correspondence and for sending and receiving publications and packages. A non-substantive amendment to N.J.A.C. 13:95-19.14 is proposed, which contains requirements for identifying information that must be on publications sent to juveniles. The requirement that the juvenile's name and number shall appear on the outside of the incoming publication is contained, redundantly, in both subsections (a) and (b); this clearly is an error, and the

Commission proposes to delete the redundant language from subsection (b).

The Commission also proposes a clarifying amendment to N.J.A.C. 13:95-19.28, which addresses procedures for appealing a decision to withhold correspondence to or from a juvenile. N.J.A.C. 13:95-19.24(a)1 through 6 provides the grounds upon which correspondence may be withheld. N.J.A.C. 13:95-19.28 provides that when correspondence has been withheld, the sender or the juvenile must receive written notice of the reasons, may appeal the action within 10 calendar days of receiving notice and that the appeal will be considered by the Superintendent or designee not lower in rank than either an Assistant Superintendent or Director of Custody Operations.

N.J.A.C. 13:95-19.28(d) requires that the Superintendent or designee issue a written decision on the appeal and respond to the sender or juvenile within 72 hours of receipt of the written appeal. A decision to affirm the withholding must identify the category of disapproved correspondence set forth in N.J.A.C. 13:95-19.24 that is applicable to the withheld correspondence. The language currently in subsection (d) could be read to require that a decision affirming the withholding of correspondence also must affirm the specific ground, under N.J.A.C. 13:95-19.24, for the withholding asserted at the time the correspondence was first seized. This could net an untenable result: a Superintendent or designee being unable to affirm a withholding of correspondence, but correcting an inadvertent error in the grounds initially asserted. This was never the intent of the rule, and the Commission is proposing to amend N.J.A.C. 13:95-19.28(d) accordingly.

N.J.A.C. 13:95-20 covers visits with juveniles, bedside visits to a dying relative, private viewing and funeral visits by a juvenile to a deceased relative and juvenile access to and use of the telephone. The Commission proposes to make a number of

amendments to Subchapter 20.

Under N.J.A.C. 13:95-20.3, upon admission to a secure facility a juvenile submits for approval a list of potential visitors, and is allowed to designate “up to five household members” on that list. The restriction to household members does not reflect actual policy, and is inconsistent with provisions of N.J.A.C. 13:95-20.4(a), which permit visits by extended family members, close friends, clergy and other persons who may have a constructive influence on a juvenile. Accordingly, the Commission proposes to delete that restriction.

The five-household limitation also appears in N.J.A.C. 13:95-20.10(c), but in a provision originally intended only to provide for the designation of a single household for visitation, approved members of which are sent standard information letters. This is an issue independent of individual visitor lists covered under N.J.A.C. 13:95-20.3, and the Commission proposes to amend N.J.A.C. 13:95-20.10(c) accordingly, to delete the limitation on the number of household members.

Rules governing Commission approval of prospective visitors are found at N.J.A.C. 13:95-20.4. Subsection (b) provides that persons with criminal records are not automatically excluded from visiting a juvenile. Rather, the nature and extent of an individual's criminal record, plus their history of recent criminal activity, is to be weighed against the benefits of visitation in determining visitation eligibility. The Commission proposes to amend N.J.A.C. 13:95-20.4(b) to require (1) that a potential visitor disclose adult convictions and whether he or she is currently on probation or parole; and (2) to provide for a minimum 60-day suspension of the persons right to visit an inmate upon failure to make the required disclosures.

N.J.A.C. 13:95-20.9 addresses visits to juveniles by children. Subsection (c) requires that an adult family member accompanying a child during a visit assume responsibility for the child. In the first proposed amendment to this subchapter, the Commission is proposing a non-substantive change to make N.J.A.C. 13:95-20.9(c) read more smoothly as a matter of simple English. The second amendment is to amend the forms of acceptable photo identification required to be presented by adult visitors, and which are listed in N.J.A.C. 13:95-20.11(b). Paragraph (b)3 would be amended to require that an employment photo I.D. card be current., paragraph (b)5 would be amended to delete the now obsolete “Joint Connection” card and to add a photo identification card issued by a municipal, county, State or Federal office, such as, but not limited to, a non-driver photo ID issued by a State motor vehicle agency.

The final subchapter, N.J.A.C. 13:95-21, Reports, establishes guidelines for:

- Providing reports to officials within the Commission and, when necessary, to outside law enforcement agencies;
 - Allowing observers from outside law enforcement or other agency access in an unusual incident or event;
 - Providing written reports regarding the release, critical illness or death of a juvenile;
 - Handling reportable and non-reportable suspected violations of criminal statutes;
- and
- Reporting requirements for the Commission’s Office of Investigations.

Two non-substantive corrections are proposed to Subchapter 21. First, in N.J.A.C. 13:95-21.3(b)1, 3 and 4, the Commission proposes to amend language describing delinquency, so that it conforms to the legal definition of delinquency found in N.J.S.A.

2A:4A-23. In each case the phrase "... adjudicated a delinquent on the basis of ..." is deleted and replaced with "... adjudicated delinquent for ...". Second, in N.J.A.C 13:95-21.4 the Commission proposes to correct a citation error; the subchapter on Critical Illness or Death of a Juvenile is incorrectly cited as Subchapter 16, rather than Subchapter 17.

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

Social Impact

N.J.A.C. 13:95 continues to have a positive social impact by taking into consideration the special needs of juveniles while preserving the safety and security of a secure facility and its staff. Proposed new N.J.A.C. 13:95-7 will have a positive social impact also. N.J.S.A. 52:17B-169 et seq. includes among the goals of the Juvenile Justice Commission, providing meaningful sanctions for juvenile offenders that, among other things, ensure accountability and promote successful reintegration into the community. Proposed new N.J.A.C. 13:95-7 promotes these goals by establishing a transitional setting for more troubled youth that will provide structure and incentives conducive to successful integration into a facility's general population which, in turn, is a necessary step towards eventual reintegration into the community.

Economic Impact

The costs associated with the N.J.A.C. 13:95 are met through the established

budget process with funds allocated by the State. The Commission anticipates that the amended and new rules will not have an economic impact on the Commission or any other department or agency of the State government.

Federal Standards Statement

A Federal standards analysis is not required because the rules proposed for readoption with amendments and new rules are not being adopted under the authority of, or in order to implement, comply with, or participate in any program established under Federal law or under a State statute that incorporates or refers to Federal law, standards or requirements.

Jobs Impact

The Commission does not anticipate that any jobs either will be generated or lost in New Jersey if the rules proposed for readoption with amendments and new rules are adopted.

Agriculture Industry Impact

The rules proposed for readoption with amendments and new rules will have no impact on the agriculture industry in New Jersey.

Regulatory Flexibility Statement

The rules proposed for readoption with amendments and new rules will impose no reporting, recordkeeping or other compliance requirements upon small businesses, as

defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules affect only employees and juveniles under the supervision of the Juvenile Justice Commission and will have no effect on small businesses. Therefore, a regulatory flexibility analysis is not required.

Smart Growth Impact

The rules proposed for re adoption with amendments and new rules will have no impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

Housing Affordability Impact

The rules proposed for re adoption with amendments and new rules will have an insignificant impact on affordable housing in New Jersey, and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing, because the rules concern only youth housed at juvenile correctional facilities.

Smart Growth Development Impact

The rules proposed for re adoption with amendments and new rules will have an insignificant impact on smart growth, and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey, because the rules concern only youth housed at juvenile correctional facilities.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:95.

Full text of the proposed amendments, repeals and new rules follow (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS

13:95-1.1 Purpose

(a) (No change.)

(b) Among the policies and procedures established by this chapter are rules addressing:

1. – 6. (No change.)

7. Assignment of juveniles to housing, education, treatment, work, **behavior accountability unit** and other programs;

8. – 12. (No change.)

13:95-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

...

"Civil union couple" means two persons who have established a civil union pursuant to N.J.S.A. 37:1-28 et seq., known as the Civil Union Act.

...

"Constant observation" means uninterrupted surveillance of one juvenile who is on special observation status that shall be conducted in person, **in close proximity to the juvenile** and that may be supplemented by video monitoring.

...

"Domestic partner" or "partner" means a person who is in a relationship that satisfies the definition of a domestic partnership as set forth in the New Jersey Domestic Partnership Act, N.J.S.A. 26:8A-1 et seq.

...

"Law library" means a location where legal resources available to juveniles, whether in physical or electronic media form, are maintained.

...

"Relative" means[:] **any person who is related to the juvenile through blood, marriage, adoption, civil union or domestic partnership and including a stepparent.**

1. Parent;
2. Legal guardian;
3. Spouse
4. Child; or
5. Sibling.]

...

(a) The following forms related to secure facilities shall be reproduced by each facility from originals that are made available through the office of the Director of Custody Operations:

1. – 7. (No change.)

[8. J285-II Prohibited Substance Testing Request Summary;]

8. J285-I Request for a Polygraph Examination;

9. – 22. (No change.)

23. J292-1 Request for Attorney-Client Contact Visit;[and]

24. J081 Special Classification Request Form[.];

25. BAU-01 (Referral to Behavior Accountability Unit);

26. BAU-02 (Behavior Accountability Unit Case Review Form); and

27. BAU-03 (Behavior Accountability Unit Appeal).

13:95-1.5 Confidentiality **and use** of information **relating to juveniles**

(a) Records and statements in the possession of the Commission that are covered by the confidentiality provisions of N.J.S.A. 2A:4A-60, 60.2 and 60.3 may be reviewed when necessary and appropriate in the course of classification, program and other reviews necessary and appropriate under this chapter. However, at no time shall this permitted use of such records and statements release or exempt them from the confidentiality provisions of this section.

(b) All records pertaining to juveniles charged as a delinquent, adjudicated delinquent or found to be part of a juvenile-family crisis, including records relating to the suicide or suicide attempt of a juvenile, are confidential. All such

records:

- 1. Shall be strictly safeguarded from public access;**
- 2. Shall not be released, except when release is authorized under the provisions of N.J.S.A. 2A:4A-60; and**
- 3. Shall not be subject to public inspection or copying pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.**

(c) Unless otherwise required by law, statements made by a juvenile in the course of any suicide prevention or mental health screening, and any reports or records created to report the results of such screening shall not be:

- 1. Disclosed to any party, including prosecutors and law enforcement personnel; or**
- 2. Used in any investigation, or in any delinquency or criminal proceeding then pending or subsequently initiated. (See N.J.S.A. 2A:4A-60.2)**

(d) No report or record relating to mental health services provided to a juvenile prior to an adjudication of delinquency, or any other finding of guilt, shall be disclosed or released to a court unless and until after such an adjudication or finding occurs. (See N.J.S.A. 2A:4A-60.3)

(e) All information contained in the master lists or reports maintained or submitted by employees of the Commission pursuant to the requirements of N.J.A.C. 13:95-3 and 4 shall be confidential and such master lists and reports shall not be subject to public inspection or copying pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

SUBCHAPTER 4. USE OF FIREARMS WHILE ON-DUTY AND USE OF PERSONAL FIREARMS WHILE OFF-DUTY

13:95-4.3 On-duty firearm

(a) – (c) (No change.)

(d) The custody staff member entering any facility of the Commission either shall temporarily transfer custody of his or her firearm to an authorized custody staff member, or shall store his or her firearm at the main secure facility, at a Commission authorized weapons storage unit or [secrete] **secure** it in a Commission approved vehicle lock box.

1. (No change.)

(e) – (g) (No change.)

SUBCHAPTER 5. SEARCHES OF JUVENILES AND FACILITIES

13:95-5.10 Testing for prohibited substances

(a) (No change.)

(b) Juveniles shall be tested:

1. – 4. (No change.)

5. When a custody staff member of the rank of Sergeant or above or an Investigator with the Office of Investigations believes, based upon his or her education and experience, that there is a reasonable factual basis to suspect the juvenile of using or possessing a [non-alcoholic] prohibited substance;

6. – 8. (No change.)

(c) (No change.)

13:95-6.3 Disposal of contraband personal property seized within a secure facility

(a) (No change.)

(b) The staff member making the seizure shall give the juvenile an itemized, signed and dated receipt (Form J171-II) for the property seized and shall notify the juvenile that such items are contraband and that the juvenile has the right to appeal the classification of any or all items as contraband through the disciplinary process.

1. (No change.)

2. If the Disciplinary Hearing Officer determines that any or all items are contraband, the contraband shall be retained and shall not be disposed of until all appeal proceedings, including any appeal to the **Superior Court of New Jersey**, Appellate Division [of the New Jersey Superior Court] where appropriate, are exhausted. Otherwise, the juvenile shall be given two business days following receipt of the Disciplinary Hearing Officer's decision, or the decision of the Superintendent or designee if the disciplinary decision is appealed, to indicate to the Office of Investigations or Center Control which of the following means shall be used to dispose of the contraband. The contraband shall be:

i. - iii. (No change.)

3. – 4. (No change.)

SUBCHAPTER 7. [(RESERVED)] **BEHAVIOR ACCOUNTABILITY UNIT**

13:95-7.1 Establishment and purpose of Behavior Accountability Unit

(a) Each secure facility shall have rooms designated as the facility's Behavior Accountability Unit (BAU).

(b) The purpose of the BAU shall be to provide a structured environment for juveniles when they pose a threat to their own safety, to the safety of staff or other juveniles, to property or to the safe and orderly operation of the secure facility.

13:95-7.2 Assignment of juveniles to the Behavior Accountability Unit (BAU)

(a) In accordance with the standards and criteria and set forth in this section, and subject to review and concurrence by the full Behavior Accountability Unit Review Committee (BAURC), the Superintendent or designee may order that a juvenile be placed in the BAU, either acting independently or upon the recommendation of:

- 1. An Assistant Superintendent;**
- 2. The Director of Custody Operations or designee;**
- 3. The Institutional Classification Officer;**
- 4. The Shift Commander;**
- 5. The Education Director;**
- 6. The Social Services Director; or**
- 7. A psychiatrist, psychologist or psychiatric advanced practice nurse.**

(b) A juvenile shall be assigned to the BAU when, after considering the information and criteria identified in (e) below, the Superintendent or designee concludes that the juvenile poses a threat to either:

- 1. The safety of the juvenile, staff or other juveniles;**
- 2. Property; or**
- 3. The safe and orderly operation of the secure facility.**

(c) As a transitional placement, a juvenile may be placed in the BAU upon discharge from room restriction when such placement is in accordance with the standards and criteria set forth in this section.

(d) Each assignment of a juvenile to the BAU shall be documented and supported by a Form BAU-01 (Referral to Behavior Accountability Unit) signed by the Superintendent or designee.

(e) The following information and criteria shall be utilized by the Superintendent or designee when determining the appropriateness of an assignment of a juvenile to the BAU:

- 1. Disciplinary records during the juvenile's present term of confinement;**
- 2. Information provided by psychologists, social workers, psychiatrists and other professional staff;**
- 3. Documented willful refusal to follow rules and obey orders;**
- 4. Inability to maintain a satisfactory work record as indicated in reports by work supervisors and/or frequency of job changes;**
- 5. Information indicating unsatisfactory adjustment to, or performance in, treatment, educational, vocational or rehabilitative programs;**

6. Evidence of the juvenile's inability or unwillingness to house with other juveniles; and

7. Whether the juvenile may benefit from transitional placement in the BAU upon discharge from room restriction.

13:95-7.3 Behavior Accountability Unit Review Committee (BAURC)

(a) The BAURC shall be formed by the Superintendent, and shall be composed of the Superintendent or Assistant Superintendent, who shall serve as chair, in addition to:

1. A representative from the secure facility education department;
2. A representative from the secure facility social services department;
3. A custody supervisor of at least the rank of lieutenant;
4. A representative from the secure facility classification department; and
5. Up to two additional staff members, when deemed necessary or appropriate by the Chairperson in order to ensure consideration of all relevant case information.

(b) A decision of the BAURC shall be in writing, shall be recorded majority vote of all members and shall be delivered to the office of the Superintendent on the same day it is made.

1. A copy of the BAURC decision shall be placed in the juvenile's classification file.

(c) Each member of the BAURC shall have one vote, except in the case of a tie vote, in which case the chair shall have two votes in order to break the tie.

13:95-7.4 Responsibilities of the Behavior Accountability Unit Review Committee (BAURC)

(a) The BAURC has the authority and the responsibility to determine whether a juvenile is to be kept in or released from the Behavior Accountability Unit (BAU).

(b) The BAURC shall meet at least once a week or more frequently when necessary, to deliberate on matters related to its responsibilities. The BAURC shall be responsible for:

- 1. Reviewing the cases of juveniles referred for assignment to the BAU;**
- 2. Reviewing the progress of each juvenile at least every two weeks to determine whether continued participation in the BAU program is appropriate; and**
- 3. Reviewing appeals from initial assignment to the BAU, when requested by a juvenile under the provisions of N.J.A.C. 13:95-7.5.**

13:95-7.5 Appeal of initial assignment

(a) A juvenile may appeal his or her initial assignment to the Behavior Accountability Unit (BAU) by submitting to any staff member a request for a meeting of the Behavior Accountability Unit Review Committee (BAURC) on a Form BAU-03 (Behavior Accountability Unit Appeal).

- 1. Juveniles unable to complete the Form BAU-03 may request that the Superintendent or designee appoint another juvenile or staff member to provide**

assistance. When another person assists in completing the BAU-03 that person's name shall appear on the form.

(b) The BAURC shall meet to consider the appeal within 72 hours of receipt by a staff member of the BAU-03, exclusive of weekends and State holidays.

(c) When considering an appeal the BAURC shall follow the procedures and requirements set forth in N.J.A.C. 13:95-7.6 and 7.7 and, in addition, shall review any supplemental information provided on the BAU-03.

13:95-7.6 Procedures for Behavior Accountability Unit Review Committee (BAURC) case reviews

(a) When a juvenile appears before the BAURC, the Chairperson shall explain to the juvenile the reason(s) for his or her appearance, the nature of the case review and the particular areas of BAURC concern.

(b) During the case review with the juvenile, the BAURC shall give guidance to the juvenile with respect to the rules and policies of the secure facility.

(c) Prior to rendering a decision to maintain a juvenile in the Behavior Accountability Unit (BAU), the BAURC shall consider alternatives to BAU placement as a means of addressing the secure facility's concerns related to the juvenile. These alternatives shall include, but not be limited to, transfer to another secure facility, reduction in privileges or transfer to another housing unit in general population.

(d) When the BAURC notes a particular treatment or rehabilitative need that can be met by existing services, and the juvenile indicates a willingness to participate in such services, the BAURC shall make the appropriate referral.

(e) Records shall be maintained by the BAURC supporting and documenting each assignment of a juvenile to or removal from the BAU.

1. Copies of all such records and classification reviews shall be maintained in the juvenile's main classification folder and treatment folder.

13:95-7.7 Review of juveniles placed in the Behavior Accountability Unit (BAU)

(a) When the Behavior Accountability Unit Review Committee (BAURC) determines that continued assignment to the BAU is appropriate for a particular juvenile, a preliminary determination shall also be made as to when the continued need for the BAU program will be reviewed. In any case, a formal review of each juvenile in the BAU shall be made a minimum of every two weeks.

(b) A written record shall be maintained by the BAURC on a BAU-02 (Behavior Accountability Unit Case Review Form) of all reviews of juveniles in the BAU. The BAU-02 shall be kept in the treatment folder in addition to being made a permanent part of the juvenile's main classification folder. The chairperson shall sign the BAU-02.

(c) Minutes from the reviews shall be recorded in the juvenile's progress notes.

(d) The juvenile shall be permitted to appear at all reviews of the juvenile's case, unless doing so would be unduly hazardous to the safety and security of the secure facility, or if the juvenile refuses to appear.

(e) Any member of the BAURC may request a review for a juvenile in the BAU earlier than was previously determined, when the member believes a meeting is appropriate to consider improvements in behavior or other support on behalf of the juvenile.

(f) At each review, the BAURC shall again review the information upon which the decision was based to assign the juvenile to the BAU. Such information shall include:

1. Disciplinary reports;

2. Programs participation, such as, but not limited to, education, counseling, recreation activities, etc.; and

3. Records of the juvenile's behavior and attitude while in the BAU, such as, custody and professional staff reports, which must periodically be filed describing pertinent observations, both positive and negative, of the juvenile's behavior and attitude while in the BAU.

(g) A juvenile shall be released from the BAU when, in the opinion of the BAURC, the juvenile no longer poses a threat either:

1. To the safety of the juvenile, staff or other juveniles;

2. To property; or

3. To the safe and orderly operation of the secure facility.

13:95-7.8 Ventilation, heating, lighting, sanitation, observation

(a) When admitted to the Behavior Accountability Unit (BAU), a juvenile shall not be placed in housing unit that lack cleanliness or have malfunctioning sanitary fixtures or lights. Daily inspections shall be made to ensure the rooms are kept secure, clean and sanitary.

(b) Ventilation and reasonable temperature shall be maintained on a 24-hour basis. Light of sufficient intensity shall be maintained to allow visual observations of juveniles at all times.

(c) Toilets that are flush controlled from outside the rooms shall be flushed as often as is necessary to maintain good sanitary standards.

13:95-7.9 Food

(a) Behavior Accountability Unit (BAU) juveniles shall be served the regular meals from the "Menu of the Day" unless a physician prescribes a special diet or the secure facility chaplain has approved a religious vegetarian diet.

(b) Disposable utensils shall be used when necessary.

13:95-7.10 Grooming, showering and shaving

(a) Barbering and hair care services shall be provided as needed.

(b) Each juvenile in the Behavior Accountability Unit (BAU) shall be given the opportunity to shave and shower daily, unless permitting these activities would present an undue security hazard.

13:95-7.11

Medical services

(a) A member of the medical staff, which can be a registered nurse, nurse practitioner, doctor or other authorized health care personnel, shall be available on a daily basis to assess medical needs. Any juvenile seeking medical attention shall notify a housing custody or social services staff member of their request.

(b) A medical or psychiatric emergency shall be attended to immediately. The response to a request for medical attention for a juvenile in a non-emergency situation shall be made by the physician or medical person designated by the physician, within 24 hours.

(c) Whenever it appears that a juvenile is suffering from an emotional or psychiatric disturbance, health care staff shall immediately provide appropriate intervention services and shall make arrangements for a psychiatric or psychological evaluation. Documentation of the evaluation findings shall be forwarded to the Superintendent or designee by the health care staff member who conducted the evaluation prior to completion of the shift of the health care staff member on the day the evaluation is conducted. A copy of the findings of the evaluation shall be placed in the juvenile's medical record.

13:95-7.12

Searches of juveniles; personal items

(a) All juveniles admitted to the Behavior Accountability Unit (BAU) shall be dressed in clothing issued by the secure facility after a thorough pat search for contraband.

1. All searches of juveniles in the BAU, including pat searches upon admittance to the BAU, shall be carried out in accordance with the provisions of N.J.A.C. 13:95-5.

(b) Each juvenile shall be provided with the following items for use in the room to the same extent as such items are provided for juveniles in the general population:

- 1. Clothing required for use in the room;**
- 2. Bedding and mattresses;**
- 3. Personal hygiene supplies (including soap, deodorant, toothbrush and toothpaste, towel, toilet paper and female sanitary supplies for women);**
- 4. Utensils and supplies for adequately cleaning the room;**
- 5. Eyeglasses;**
- 6. Reading material;**
- 7. Stamped envelopes;**
- 8. Religious items;**
- 9. Writing materials; and**
- 10. Legal materials.**

(c) The possession and use of radios and other appliances in the BAU shall be subject to the same guidelines as those developed by the Superintendent for the general population.

(d) Written internal management procedures shall be in effect permitting juveniles' access to books and periodicals from the secure facility's library.

13:95-7.13 Secure facility clothing, bedding and linen

The issue and exchange of secure facility clothing, bedding, linen and the laundry service shall be handled on the same basis as is available to the general juvenile population.

13:95-7.14 Juvenile legal services

Juveniles in the Behavior Accountability Unit (BAU) shall be afforded legal access to courts pursuant to N.J.A.C. 13:95-15, Juvenile Access to Courts.

13:95-7.15 Correspondence visits and telephone calls

(a) Juveniles in the Behavior Accountability Unit (BAU) shall:

1. Have the same correspondence opportunities that are available to juveniles in the general population;

2. Be provided with the opportunity to receive a minimum of one contact visit per week, which may be accomplished as a special visit per N.J.A.C. 13:95-21, unless precluded by security conditions or other extraordinary circumstances; and

3. Be provided with the opportunity to make a minimum of one collect telephone call per week in addition to legal telephone calls (see N.J.A.C. 13:95-15.7).

13:95-7.16 Recreation

(a) Where physical facilities permit, each juvenile in the Behavior Accountability Unit (BAU) shall be allowed recreation and exercise outside the room at least five hours per week, unless to do so would adversely affect the security or orderly operations of the secure facility.

(b) Weather permitting, juveniles in the BAU shall be given the opportunity for out-of-doors recreation for a minimum of one hour of the required five hours per week unless to do so would adversely affect the security or orderly operations of the secure facility.

13:95-7.17 Education

(a) A member of the educational staff shall be assigned to develop individualized educational programs for juveniles who are assigned to the Behavior Accountability Unit (BAU).

(b) Educational programs and services shall be provided for all juveniles, including juveniles with educational disabilities.

(c) The educational opportunities available to juveniles in the BAU shall be comparable to those available to juveniles in the general population to the extent possible in accordance with security considerations.

13:95-7.18 Visits by professional and correctional supervisory staff

(a) A member of the secure facility social work staff shall visit juveniles in the Behavior Accountability Unit (BAU) five days per week and shall be available to interview individual juveniles, as soon as administratively possible, when

requested. When appropriate, referrals to other departments or staff members shall be made.

(b) When requested by a juvenile, the secure facility chaplain shall visit the juvenile in the BAU, as soon as administratively possible, in order to provide personal religious counseling or other pastoral services.

(c) The custody supervisor in charge of a housing unit holding BAU juveniles shall make daily visits to the unit and shall be available to interview individual juveniles, as soon as administratively possible, after an interview is requested.

13:95-7.19 Work opportunities

Work opportunities shall be made available to juveniles assigned to a Behavior Accountability Unit (BAU) to the extent possible in light of security considerations.

13:95-7.20 Psychological examination

Every juvenile assigned to the Behavior Accountability Unit (BAU) shall have a psychological examination every three months or whenever it appears that the juvenile is suffering from an emotional or psychological disorder or distress.

13:95-7.21 Withdrawal of personal items, activities and incentive privileges

(a) Whenever, in the judgment of a custody staff member, there is imminent danger that a juvenile will destroy clothing or any item usually permitted the

juvenile in the housing unit, or do injury to self, to another person or to property with such items, a custody staff member of the rank of Sergeant or above may deprive the juvenile of such items, if practicable. In such case, however, every effort shall be made to supply a substitute for the item or to permit the juvenile to use the item under the supervision of a custody staff member.

(b) Whenever a juvenile is deprived of any usually authorized item or activity, a written report identifying both the juvenile and the item or activity shall immediately be forwarded to the shift supervisor, who shall forward a copy of the report to the Superintendent or designee.

(c) The Superintendent or designee shall review any such restriction within one week. Any continued restriction shall be permitted only with the written authorization of the Superintendent or designee.

(d) Such restrictions shall be reviewed on a weekly basis to determine whether there is reasonable certainty that the danger to person or property is no longer imminent and the restriction may be lifted.

(e) In addition to any other withdrawal of personal items or activities provided for under this section, all privileges and awards otherwise accruing to a juvenile under any incentive program shall be suspended during the time the juvenile is in the Behavior Accountability Unit.

13:95-7.22 Records

(a) The following information on juveniles confined to the Behavior Accountability Unit shall be available for the use of appropriate staff members:

- 1. The juvenile's name and number;**
- 2. Religion;**
- 3. The previous housing location;**
- 4. The room or other housing unit assignment;**
- 5. The date admitted; and**
- 6. Special medical or psychiatric issues.**

(b) All unusual behaviors shall be noted in the unit logbook together with the time and date of the incident. Unusual incidents shall also be reported pursuant to N.J.A.C. 13:95-21, Reports.

13:95-7.23 Disciplinary action within the Behavior Accountability Unit (BAU)

To the extent not otherwise covered by provisions of this chapter, the rules set forth in N.J.A.C. 13:101, Discipline, shall be in full force and effect in the BAU.

13:95-7.24 Transfers; record maintenance

All transfers into or out of a Behavior Accountability Unit shall be entered on the juvenile's classification progress record.

13:95-7.25 Secure facility procedures

(a) Every secure facility shall be responsible for developing written unit internal management procedures and/or post orders consistent with this subchapter.

(b) All written post orders and procedures developed in accordance with this subchapter shall be submitted to the Deputy Executive Director - Operations or designee for approval before implementation.

SUBCHAPTER 9. TRANSPORTATION OF JUVENILES

13:95-9.1 Use of State-owned and privately owned vehicles

(a) (No change.)

(b) If it is necessary for a juvenile to ride in an employee's private vehicle, the employee must secure approval from the Superintendent or designee of the facility responsible for the juvenile prior to such transportation.

1. [If approval is granted, the employee] **Employees** shall be made aware of Commission policy regarding the use of private vehicles and the applicable liability provisions established by the Department of the Treasury, Division of Budget and Accounting.

2. – 3. (No change.)

(c) (No change.)

13:95-9.3 Transport of medium, maximum or close custody juveniles

(a) – (b) (No change.)

(c) Vans or buses shall be used to transport groups of juveniles. Those vehicles used to transport groups of medium, maximum or close custody juveniles shall comply with the following:

1. – 4. (No change.)

5. The vehicle must be equipped with one [10-pound] **portable** fire extinguisher (ABC Class) **that conforms to all applicable Federal, State and local fire codes.**

(d) – (n) (No change.)

13:95-9.5 Transportation documents

(a) Prior to accepting escort responsibility for any juvenile, escorting custody staff members shall be informed of the following: juvenile's name and number, destination, custody designation, unusual medical, emotional, or mental conditions for which there is a need to know. Escorting custody staff members shall also be provided appropriate medical information setting forth any prescribed medication or instructions for special handling when transporting juveniles with medical or psychiatric conditions.

1. If a required medical report is not available, the escort staff members shall request the supervisor on duty at the sending facility program to provide a brief written statement documenting that any pre-existing injury or condition existed prior to turning over the custody of the juvenile.

(b) – (d) (No change.)

SUBCHAPTER 12. JUVENILE ORIENTATION AND HANDBOOK

13:95-12.2 Scheduling orientation

(a) – (b) (No change.)

[(c) Ongoing orientation sessions shall be conducted, as needed, to inform juveniles of:

1. New or revised policies and rules;
2. New or revised procedures;
3. Programs;
4. Services; and
5. Activities.]

(c) Supplemental orientation sessions shall be held whenever necessary or appropriate to explain updated or changed subject matter that would require an amendment to the juvenile handbook required under the provisions of N.J.A.C. 13:95-12.3.

(d) (No change.)

13:95-12.3 Content of orientation [sessions]; **resident handbook**

(a) [Each secure facility shall have] **The Superintendent or designee shall prepare and issue to all juveniles as part of their standard issue** a resident handbook, the contents of which shall be used as a guide for orientation sessions.

- 1. Prior to distribution to juveniles, a resident handbook shall be reviewed and approved by the Director of Operations, or designee.**
- 2. The resident handbook shall be reviewed and updated as required, but in any event not less frequently than annually; all updates are subject to review and approval by the Director of Operations or designee.**

(b) [Topics of orientation sessions] **The resident handbook and orientation sessions** shall include, [but shall not be limited to:] **material clearly describing**

[1. Rights and] **all material rights, privileges, services, programs and obligations of juveniles[:]** **under the provisions of this chapter, under N.J.A.C. 13:101, Juvenile Discipline, under the Prison Rape Elimination Act of 2003, 42 U.S.C. §§15601 et seq., under Commission internal management procedures and related policies, and under any other material deemed relevant by the Director of Operations or designee.**

- i. Correspondance;
 - ii. Visits;
 - iii. Telephone calls;
 - iv. Juvenile savings accounts;
 - v. Juvenile legal services;
 - vi. Juvenile business activities; and
 - vii. Ombudsman.
2. Work opportunities;
 3. Secure facility services:
 - i. Medical;
 - ii. Dental;
 - iii. Psychological;
 - iv. Psychiatric;
 - v. Counseling (individual and group);

- vi. Substance use disorder treatment;
 - vii. Social work;
 - viii. Educational;
 - ix. Religious;
 - x. Video conferencing (V.T.C.); and
 - xi. Clothing.
- 4. Recreation and leisure time activities;
 - 5. Grooming and hygiene;
 - 6. Personal property;
 - 7. Housekeeping;
 - 8. Juvenile Disciplinary Program;
 - 9. Time and sentences;
 - 10. Detainers;
 - 11. Community Programs; and
 - 12. Parole/expiration of sentence:
 - i. Financial aid.]

1. Subject to review by the Executive Director or designee, the Director of Operations shall maintain and shall update not less frequently than annually a list of all subject matters to be covered in juvenile orientation.

(a) The secure facility resident handbook shall be updated at least every two years and bear the date of the most recent revision.

(b) The resident handbook revision shall provide an overall review of the secure facility's written policies and procedures.

13:95-12.8 Review of secure facility and unit-specific resident handbooks

(a) Prior to printing a revision of the resident handbook, two copies of the draft with the proposed revisions shall be submitted to the office of the Director of Operations for review and written approval.

(b) When the approved draft of the revised resident handbook has been printed, a copy of the revised resident handbook shall be submitted to the Office of the Director of Operations.]

13:95-[12.9]12.7 [Secure facility and unit] **Unit**-specific resident handbooks [content]

[(a) The secure facility resident handbook shall contain an introduction which explains the philosophy of the secure facility.

(b) The secure facility resident handbook shall include, but shall not be limited to, an explanation and/or description of:

1. The reception process;
2. The classification process;
3. The rights and privileges of juveniles:
 - i. Correspondence;
 - ii. Visits;

- iii. Telephone calls;
 - iv. Juvenile accounts;
 - v. Juvenile legal services;
 - vi. Juvenile business activities; and
 - vii. Ombudsman.
4. Work opportunities;
5. Secure facility services:
- i. Medical;
 - ii. Dental;
 - iii. Psychological;
 - iv. Psychiatric;
 - v. Counseling (individual and group);
 - vi. Substance use disorder treatment;
 - vii. Social work;
 - viii. Educational;
 - ix. Religious;
 - x. Video conferencing (V.T.C.); and
 - xi. Clothing.
6. Recreation and leisure time activities;
7. Grooming and hygiene;
8. Personal property;
9. Housekeeping;
10. Community Programs;

11. Other programs and services; and

12. Parole/expiration of sentence:

i. Financial aid.]

[(c) Unit] **As appropriate, and subject to review and approval by the Director of Operations, unit-specific resident handbooks shall [contain those] be issued and amended by the Superintendent or designee that explain** internal management procedures, provisions, privileges and services specifically related to juveniles assigned to the unit.

SUBCHAPTER 14. JUVENILE HYGIENE AND GROOMING; PROHIBITION AGAINST TOBACCO PRODUCTS; JUVENILE IDENTIFICATION PHOTOGRAPHS; HOUSEKEEPING AND SANITATION; CLOTHING, BEDDING AND LAUNDRY

13:95-14.17 Policies of the Office of Administration

(a) The [Facilities Unit within the Commission's] Office of Administration shall be responsible [to formulate] **for formulating** written policies to help ensure compliance with New Jersey health codes, acceptable water supply, waste disposal methods and control of vermin and pests.

1. – 2. (No change.)

13:95-14.18 Basic clothing issue

(a) The designated reception **or other secure** facility shall [provide an initial] **make sure that all juveniles are provided with a** basic clothing issue [to all juveniles], as

deemed appropriate based on gender and weather conditions, **subject to the approval of the Director of Operations.**

[(b) The Director of Operations or designee shall be responsible for standardizing the basic clothing issue.

(c) Prior to the last working day of June each year, each secure facility shall submit to the Director of Operations or designee, for review and approval, a current listing of the basic clothing issue of the secure facility.

(d) The Director of Operations or designee shall annually review and authorize the basic clothing issue listing of each secure facility.]

[(e)] **(b)** [During the course of the year, any additions] **Additions** to, deletions of and substitutions to the listed clothing issue shall be approved, in writing, by the Director of Operations or designee.

SUBCHAPTER 15. JUVENILE ACCESS TO COURTS

13:95-15.1 Juvenile access to courts

(a) Juveniles have a constitutional right of access to the courts and appropriate access to reasonable legal services, which shall include the following:

1. Establishment and use of a [juvenile] law library or access to legal reference materials;

2. – 8. (No change.)

SUBCHAPTER 17. PREGNANT JUVENILES AND CRITICAL INJURY OR DEATH OF JUVENILES

13:95-17.1 Purpose

(a) The purpose of this [chapter] **subchapter** is to establish guidelines for:

1. – 2. (No change.)

13:95-17.8 Critical illness or death of a juvenile; notification of next of kin

(a) – (b) (No change.)

(c) [Initial contact with the next of kin shall be by telephone. In cases where the next of kin cannot be reached by telephone,] **The Commission shall take all reasonable steps to notify next of kin immediately of a juvenile’s critical injury or death, including, when necessary and appropriate, seeking assistance from** [the] local law enforcement [authority or] **authorities and the** New Jersey State Police [shall be contacted and requested to advise the next of kin to contact the secure facility immediately].

(d) – (g) (No change.)

13:95-17.13 Distribution of money and personal belongings of deceased juveniles

(a) Prior to **the distribution of** any money remaining in the account of a deceased juvenile [is distributed], those funds shall be used to pay:

1. – 4. (No change.)

(b) – (e) (No change.)

SUBCHAPTER 19. MAIL: CORRESPONDENCE, LEGAL CORRESPONDENCE,
PUBLICATIONS AND PACKAGES

13:95-19.14 Identification of incoming publications

(a) (No change.)

(b) [The juvenile's name and number shall appear on the outside of the incoming publication.] Publications without both the juvenile's name and number shall be returned to sender.

(c) – (d) (No change.)

13:95-19.28 Appeal and final disposition

(a) – (c) (No change.)

(d) The Superintendent or designee shall issue a written decision on the appeal and shall respond to the sender or juvenile, as appropriate, within 72 hours of receipt of the written appeal. If the decision is to withhold the correspondence from the juvenile, the decision shall [contain a specific finding that the] **identify the category of disapproved** correspondence [violates the category indicated in the report of the staff member] **set forth in N.J.A.C. 13:95-19.24 that is applicable to the withheld correspondence.**

(e) (No change.)

SUBCHAPTER 20. VISITS AND TELEPHONE

13:95-20.3 List of visitors

Upon admission, a juvenile shall submit to the Superintendent or designee a list of names and addresses of potential visitors[, and may designate up to five household members for approval under the provisions of N.J.A.C. 13:95-20.10(b)].

13:95-20.4 Approval of potential visitors

(a) (No change.)

(b) [Persons with criminal records] **Any person with an adult criminal conviction or who is currently on probation or parole who wishes to visit a juvenile shall disclose such criminal history. Such persons** shall not be automatically excluded from visiting a juvenile. The nature and extent of an individual's criminal record, plus their history of recent criminal activity, shall be weighed against the benefits of visitation in determining visitation eligibility. **Failure to provide such disclosure shall result in the visitor being banned from visiting a juvenile for a minimum of 60 days and the visitor shall be required to apply in writing to the Executive Director or designee for approval of the reinstatement of visit privileges.**

(c) – (d) (No change.)

13:95-20.9 Visits from children

(a) – (b) (No change.)

(c) The adult family member [of] **who accompanies** the child shall be responsible for the supervision of the child [accompanying said family member on] **during** the visit.

13:95-20.10 Notification to prospective visitors

(a) – (b) (No change.)

(c) When submitting the list of visitors provided for in N.J.A.C. 13:95-20.3, a juvenile may designate [up to five of his or her households members to be approved by the Superintendent, or designee, for visits to the juvenile] **one household, which shall be notified by secure facility staff as to the occupants designation as visitors.** If approved, a household member shall be notified that he or she is permitted to visit the juvenile, and shall be sent a copy of the secure facility's letter of information. Such notification, and transmission of the letter of information, shall be sent within five business days from the day the juvenile is received at the secure facility.

(d) – (e) (No change.)

13:95-20.11 Visitor identification

(a) (No change.)

(b) One of the following is an acceptable form of visitor identification:

1. – 2. (No change.)

3. [An] **A current** employment photo I.D. card;

4. (No change.)

5. A [Joint Connection] photo identification card[. No other form of identification is needed with this card.] **issued by a municipal, county, state or Federal office (such as, but not limited to, a non-driver photo ID issued by a state motor vehicle agency).**

(c) – (d) (No change.)

SUBCHAPTER 21. REPORTS

13:95-21.3 Written reports regarding release of a juvenile from custody

(a) (No change.)

(b) No less than 90 days before the date on which a juvenile's maximum term is scheduled to expire, the Director of Operations or designee shall provide written notification of the juvenile's status to the Attorney General and the prosecutor of the county from which the juvenile was committed when:

1. The juvenile was adjudicated [a] delinquent [on the basis of] **for** an offense which, if committed by an adult, would constitute aggravated sexual assault, sexual assault or aggravated criminal sexual contact, and the court imposing sentence found that the offender's conduct was characterized by a pattern of repetitive, compulsive behavior;

2. (No change.)

3. The juvenile was adjudicated [a] delinquent [on the basis of] **for** an offense which, if committed by an adult, would constitute "sexually violent offense" as defined in N.J.S.A. 30:4-27.26; or

4. The juvenile was adjudicated [a] delinquent [on the basis of] **for** an offense which, if committed by an adult, would constitute murder; manslaughter; aggravated sexual assault; sexual assault; aggravated assault; aggravated criminal sexual contact; kidnapping pursuant to paragraph (2) of subsection c. of N.J.S.A. 2C:13-1; endangering

the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of the child pursuant to subsection a. of N.J.S.A. 2C:24-4; endangering the welfare of a child pursuant to paragraph (4) of subsection b. of N.J.S.A. 2C:24-4; luring or enticing pursuant to N.J.S.A. 2C:13-6; or any other offense involving serious bodily injury or an attempt to commit any of the aforementioned offenses.

(c) – (d) (No change.)

13:95-21.4 Written reports regarding the critical illness or death of a juvenile

(a) Notification to the juvenile's next of kin of a juvenile's critical illness or death shall be in accordance with N.J.A.C. 13:95-[16]17.

(b) – (c) (No change.)