



1 of 1 DOCUMENT

NEW JERSEY REGISTER

Copyright © 2012 by the New Jersey Office of Administrative Law

VOLUME 44, ISSUE 21

ISSUE DATE: NOVEMBER 5, 2012

RULE PROPOSALS

LAW AND PUBLIC SAFETY

JUVENILE JUSTICE COMMISSION

44 N.J.R. 2466(a)

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

Proposed Repeals: N.J.A.C. 13:95-7.8 through 23, and 11.7 through 22; and 13:101-8.2 through 8.13

[Click here to view Interested Persons Statement](#)

Secure Facilities

Resident Care Standards

Authorized By: Executive Board of the Juvenile Justice Commission, by the Honorable Jeffrey S. Chiesa, Attorney General and Chair, Deborah R. Edwards, Attorney General's Designee.

Authority: N.J.S.A. 52:17B-170e, 52:17B-176, and 52:17B-178.

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

Proposal Number: PRN 2012-156.

Submit written comments by January 4, 2013 to:

John Wolff, Administrative Practice Officer
New Jersey Juvenile Justice Commission
1001 Spruce Street - Suite 202
Trenton, New Jersey 08638

The agency proposal follows:

Summary

N.J.A.C. 13:95 establishes rules governing operations at secure facilities operated by the Juvenile Justice Commission. The Commission has determined that there is a need for rules that clearly sets out a number of care standards applicable to all juveniles housed in its secure facilities. Accordingly, the Commission is proposing new N.J.A.C. 13:95-13, Resident Care Standards.

The resident care standards presented in the proposed new subchapter are already contained within existing N.J.A.C. 13:95-7, Behavior Accountability Unit, and 13:95-11, Protective and Temporary Close Custody, and 13:101-8.2 through 8.13, provisions describing the general conditions of disciplinary room restriction within the Commission's rules on juvenile discipline. These standards address a range of issues, including: personal hygiene; medical and mental health services; certain search procedures; clothing; bedding; legal services; correspondence and visits; telephone calls; recreation; education; visits by professional and correctional supervisory staff; clergy and pastoral care; and work opportunities.

The provisions in N.J.A.C. 13:95-7 and 11 and in 13:101-8 were intended as protections for juveniles in special housing units, in effect establishing by rule that, with limited exceptions, generally applicable care standards cannot be diminished for juveniles in the special units. However, those generally applicable care standards were never promulgated as such, and from time to time some confusion has ensued when addressing oversight and other questions about particular services applicable to juveniles in the general population.

Accordingly, the Commission is proposing to repeal the resident care standard provisions currently within N.J.A.C. 13:95-7 and 11, and 13:101-8, and to replace them with new N.J.A.C. 13:95-13, which clearly sets out resident care standards for all juveniles housed in the Commission's secure facilities. Beyond making those standards generally applicable, no substantive changes are proposed.

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

The proposed repeals and new rules will have a positive social impact because they formalize into a single subchapter, the right of all juveniles incarcerated in Commission secure facilities to a defined living standard, and ensure that those rights cannot be removed or diminished for punitive or other reasons.

Economic Impact

The costs associated with the N.J.A.C. 13:95 and 13:101 are met through the established budget process with funds allocated by the State. The Commission anticipates that the proposed repeals and new rules will [page=2467] 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 proposed repeals and new rules are not proposed 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 if the proposed repeals and new rules are adopted.

Agriculture Industry Impact

The proposed repeals and new rules will have no impact on the agriculture industry in New Jersey.

Regulatory Flexibility Statement

The proposed repeals 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 proposed repeals and new 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.

Housing Affordability Impact Analysis

The proposed repeals 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 proposed rules concern only youths housed at juvenile correctional facilities.

Smart Growth Development Impact Analysis

The proposed repeals 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 proposed rules concern only youths housed at juvenile correctional facilities.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 13:95-7.8 through 23 and 11.7 through 22 and 13:101-8.2 through 8.13.

Full text of the proposed new rules follow:

SUBCHAPTER 13. RESIDENT CARE STANDARDS

13:95-13.1 Uniformity of standards

All juveniles residing in a secure facility shall be subject to the applicable standards of resident care set forth in this subchapter.

13:95-13.2 Ventilation; heating; lighting; sanitation; room inspections

(a) 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.

(b) Juveniles shall not be placed in housing units that lack cleanliness or have malfunctioning sanitary fixtures or lights.

(c) Daily inspections shall be made to ensure the rooms are kept secure, clean, and sanitary.

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

13:95-13.3 Visual observation of certain juveniles

(a) A juvenile in either disciplinary room restriction, the Behavior Accountability Unit (BAU), protective custody, or temporary close custody shall be observed directly by custody staff on a regular basis, and in no event less frequently than hourly.

1. There shall be no physical obstruction to visual observation at any time; full or partial curtains and other items shall not be permitted over the room door or room door window.

13:95-13.4 Food

(a) All juveniles shall be served the regular secure facility meals from the "Menu of the Day" unless a special diet is prescribed by a physician, advanced practice nurse, mental health professional, or a religious vegetarian diet has been approved by the secure facility chaplain.

(b) Disposable utensils shall be used when appropriate.

13:95-13.5 Grooming, showering, and shaving

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

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

13:95-13.6 Medical services

(a) A member of the medical staff, which shall be a registered nurse, advanced practice nurse, doctor, or other authorized health care personnel, shall visit juveniles in disciplinary room restriction daily and shall be available on a daily basis to assess medical needs of other juveniles. Any juvenile wishing to see a doctor shall notify the medical staff member or the housing custody staff member of his or her sick call 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.

13:95-13.7 Visits by social services and supervisory staff

(a) A member of the secure facility social work staff shall make daily visits to juveniles in disciplinary room restriction and five visits per week to juveniles in protective custody, temporary close custody, or the BAU.

1. When requested by a juvenile, a visit shall be conducted as soon as administratively possible.

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

(b) The supervisor in charge of a housing unit holding juveniles in disciplinary room restriction, the BAU, protective custody, or temporary close custody 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.

(c) A juvenile in disciplinary room restriction, the BAU, protective custody, or temporary close custody shall be visited daily by both a member of the secure facility's social services staff and the custody staff supervisor in charge of the juvenile's housing unit.

13:95-13.8 Chaplain services

- (a) All juveniles shall be provided with access to counseling and other pastoral services.
- (b) The secure facility chaplain, or an outside religious leader approved by the chaplain and Superintendent, shall visit a juvenile to provide religious counseling or other pastoral services as soon as administratively possible after requested by the juvenile.

13:95-13.9 Personal items; searches

- (a) All juveniles shall be dressed in clothing issued by the secure facility after a thorough search for contraband.

1. Searches of juveniles shall be carried out in accordance with the provisions of N.J.A.C. 13:95-5.

- (b) The issue and exchange of clothing shall be handled on the same basis for all juveniles in all housing units.

- (c) Each juvenile shall be provided with the following items, subject to such reasonable guidelines as may be issued by the Superintendent or designee:

1. Clothing required for use in the room;

[page=2468] 2. Bedding and mattresses;

3. Personal hygiene supplies (including soap, deodorant, toothbrush and toothpaste or powder, towel, toilet paper, and female sanitary supplies for women);

4. Utensils and supplies for adequately cleaning the room;

5. Eyeglasses;

6. Reading material;

7. Stamps;

8. Religious indicia;

9. Writing materials; and

10. Legal materials.

(d) The possession and use of radios and other appliances in all housing units shall be subject to written guidelines issued by the Superintendent.

(e) Written internal management procedures shall permit juveniles to have access to books and periodicals from the secure facility's library.

13:95-13.10 Bedding, linen, and laundry services

The issue and exchange of bedding, linen, and the laundry service shall be handled on the same basis for all juveniles in all housing units.

13:95-13.11 Correspondence, visits, and telephone calls

(a) Except as provided to the contrary in this section, visit and telephone opportunities for all juveniles are governed by the provisions of N.J.A.C. 13:95-20, Visits and Telephone.

(b) Juveniles in disciplinary room restriction, the Behavior Accountability Unit (BAU), protective custody, and temporary close custody shall have the same correspondence opportunities that are available to juveniles in the general population.

(c) Juveniles in protective custody and in the BAU shall have the opportunity to:

1. Receive a minimum of one contact visit per week, unless precluded by security conditions or other extraordinary circumstances; and

2. 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).

(d) Juveniles in disciplinary room restriction and temporary close custody shall not be provided with visit or telephone opportunities, except for legal telephone calls.

1. The superintendent or designee may authorize a special visit or telephone call when there are compelling reasons to do so.

2. Every effort shall be made to notify expected social visitors of the restriction on ordinary visiting procedures prior to the next regularly scheduled visiting period. If sufficient time exists for such notification to be made by mail, the burden of notification shall be on the juvenile.

13:95-13.12 Recreation for juveniles in disciplinary room restriction, the Behavior Accountability Unit (BAU), protective custody and temporary close custody

(a) Where physical facilities permit, each juvenile in disciplinary room restriction, the BAU, protective custody, and temporary close custody 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, each juvenile in disciplinary room restriction, the BAU, protective custody, and temporary close custody 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.

13:95-13.13 Education

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

(b) A member of the educational staff shall be assigned to develop individualized educational programs for approved juveniles who are assigned to disciplinary room restriction, the Behavior Accountability Unit (BAU), protective custody, and temporary close custody.

1. The educational opportunities available to juveniles in disciplinary room restriction, the BAU, protective custody, and temporary close custody shall be comparable to those available to juveniles in general population to the extent possible in accordance with security considerations.

13:95-13.14 Work opportunities

Work opportunities shall be made available to all juveniles to the extent possible in light of security considerations.

13:95-13.15 Psychological examinations for long-term protective custody juveniles

Every juvenile assigned to protective custody shall have a psychological examination every three months, or more frequently whenever it appears that he or she is suffering from an emotional or psychological disorder.

13:95-13.16 Withdrawal of personal items or activities

(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.

13:95-13.17 Records

(a) The following information on juveniles 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;

6. Special medical or psychiatric problems; and

7. The date on which a three-month review hearing is required, in accordance with N.J.A.C. 13:95-11.5(b).

(b) All unusual behavior shall be noted in the unit log book 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.

13:95-13.18 Transfers; record maintenance

All transfers into or out of the general population, disciplinary room restriction, the Behavior Accountability Unit (BAU), protective custody, and temporary close custody shall be entered on the juvenile's classification progress record.

13:95-13.19 Disciplinary actions applicable

Juveniles in all secure facility housing units, including general population, disciplinary room restriction, the Behavior Accountability Unit (BAU), protective custody, and temporary close custody, are subject to the rules set forth in N.J.A.C. 13:101, Juvenile Discipline.

13:95-13.20 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 shall be approved by the Superintendent and then forwarded to, and shall be subject to review and approval by, the Executive Director or designee.