

**NEW JERSEY JUVENILE JUSTICE COMMISSION**  
**OFFICE OF THE DEPUTY EXECUTIVE DIRECTOR, OPERATIONS**

S-2003 – 13:95/101 INTERIM IMPLEMENTATION DIRECTIVE  
Effective February 22, 2016

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This Directive is being issued to implement provisions of P.L. 2015, c.89 (S-2003), which the Commission must have fully operational on or before March 1, 2016. As explained more fully below, the Directive supersedes provisions of the existing N.J.A.C. 13:95 and 101, as well as the "e-policy" which established procedures under N.J.A.C.13:101– 6.17(e), pending formal promulgation of amended rules.

This step is being taken to ensure that the Commission is in compliance with statute, pending final adoption of proposed rule amendments. Your active cooperation in implementing the changes set forth in this Directive is essential, and is expected.

On August 10, 2015, Governor Christie signed S-2003 into law, making several significant reforms to New Jersey's juvenile justice system. Among other things, it amends the law governing waiver of juveniles to adult criminal court, providing that a Waived Juvenile will serve his or her sentence in a Commission facility, rather than a DOC facility, until the juvenile reaches the age of 21, with certain qualifications and exceptions.

Of particular and immediate concern to Secure Facility Operations, and the subject of this Directive, is a reform that prohibits the use of disciplinary room restriction. This Directive primarily implements this prohibition, provides guidance for the limited use of "Room Restriction for Control" in emergency situations, as provided for under S-2003, and provides revised sanction requirements for use by Disciplinary Hearing Officers.

The new law also increases the mandatory recreation time to be provided to juveniles in room restriction, as well as to juveniles in BAU, TCC and PC, redefines the applicable standards for denying the required recreation time, and makes a number of miscellaneous edits to existing rules.

The amended provisions follow. They were approved by the Governor's Office on February 3, 2016, and the formal Notice of Proposed Rule Amendments is scheduled to be published in the New Jersey Register on March 7, 2016. Final adoption will take place later in 2016. In each case, the provision presented here is to be used in place of the corresponding existing rule.

## CHAPTER 95 SECURE FACILITIES

### SUBCHAPTER 1. GENERAL PROVISIONS

#### 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:

“Juvenile” means, for the purpose of this chapter, both an individual who has been adjudicated delinquent and sentenced to a term of incarceration to be served under the custody of the Commission and an individual who has been convicted of an offense subject to waiver under the provisions of N.J.S.A. 2A:4A-26.1 and sentenced to serve a custodial sentence in a commission facility, and who is residing in or being transferred to a secure facility.

“Room restriction for control” means the custody status provided for by N.J.A.C. 11:10, under which a juvenile is placed either in the room in which he or she usually sleeps or in a another room, for the purpose of eliminating an immediate and substantial risk of harm to the juvenile being placed in custody, staff or other juveniles, or to the security of the facility, and all other less-restrictive options have been exhausted.

### SUBCHAPTER 5. SEARCHES OF JUVENILES AND FACILITIES

#### 95-5.11 Collection, storage and analysis of urine specimens

(a) Substance abuse testing shall be by urinalysis utilizing a Commission-approved urinalysis specimen test kit and shall be conducted by staff who have been trained to perform such testing.

(b) Specimens taken from juveniles shall be voided directly into an approved specimen container and immediately read in the presence of the juvenile and at least two authorized staff members of the same gender as the juvenile.

1. A minimum of 50 milliliters must be voided to ensure a sufficient quantity for all required testing.

2. Testing shall be in accordance with the instructions/standards provided by the manufacturer of the test.

3. The custody staff member or other authorized staff member who administers the test

shall record on the Office of Substance Abuse Administration, Continuity of Evidence Form, his or her name and job title, the date and times the specimen was taken and read, the results of the test, and the names of the staff member witnesses.

4. Urine specimens shall be disposed of promptly upon the recording of information provided for in (b)3 above.

(c) Juveniles charged with the use of prohibited substances not prescribed by the medical staff based upon the results of testing shall be advised of the results of any tests at least 24 hours prior to any disciplinary hearing ordered because of those charges.

(d) All testing shall be accomplished in a professional and dignified manner with maximum courtesy and respect for the juvenile's person.

(e) No juvenile shall be disciplined for refusing to provide a specimen or failing to comply with an order to submit a specimen unless that juvenile has been given a reasonable physical opportunity to comply with such order.

1. For the purposes of urine testing, a reasonable physical opportunity shall constitute a two-hour period from the time of the initial order, during which time the juvenile shall be offered water in amounts not to exceed 8 ounces per 60 minute period. The juvenile may be required to remain in a secure area during this two-hour period.

## SUBCHAPTER 7. BEHAVIOR ACCOUNTABILITY UNIT

### 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 for control 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 for control.

## SUBCHAPTER 11. PROTECTIVE AND TEMPORARY CLOSE CUSTODY, AND ROOM RESTRICTION FOR CONTROL

### 95-11.10 Room restriction for control

(a) ~~[With the prior]~~ **Subject to the** approval of the Superintendent or designee, at any time the Shift Commander may order that a juvenile be placed in room restriction for control, when necessary to eliminate an immediate and substantial risk of harm to the juvenile, staff or other juveniles, or to the security of the facility, and all other less-restrictive options have been

exhausted.

(b) A juvenile shall remain in room restriction for control only for the time necessary to eliminate the underlying threat.

1. A juvenile shall not be kept in room restriction for control for a period in excess of eight hours unless a written determination has been made by the Superintendent or designee that the juvenile continues to pose an immediate and substantial risk of harm to the juvenile, staff or other juveniles, or to the security of the facility.

i. Subject to the provisions of subsection (b)(2) and (3), successive extensions are permitted, provided that each extension must fully conform to the authorization and approval requirements of this section.

2. In any event, a juvenile shall not be subject to room restriction for control:

- i. If the juvenile who is 15 years of age or younger, for more than two consecutive days;
- ii. If the juvenile is 16 years of age or older, but younger than 18 years of age, for more than three consecutive days; and
- iii. If the juvenile is 18 years of age or older, for more than five consecutive days.

3. A juvenile shall not be subject to room restriction for control for more than 10 total days in a calendar month.

4. Once the underlying threat has been eliminated, and in any event at the expiration of the period set forth in 2, above, the juvenile shall be released from room restriction for control to:

- i. The general population;
- ii. The BAU;
- iii. Medical or psychiatric housing for continued observation, treatment, or commitment procedures; or.
- iv. Protective custody in accordance with procedures set forth in this chapter.

## SUBCHAPTER 13, RESIDENT CARE STANDARDS

### 95-13.3 Visual Observation of Certain Juveniles

(a) A juvenile in either room restriction for control, the 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.

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 room restriction for control daily, and shall be available on a daily basis to assess medical needs of all 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.

95-13.7 Visits by social services and supervisory staff

(a) A member of the secure facility social services staff shall make daily visits to juveniles in room restriction for control, 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 room restriction for control, 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 either room restriction for control, 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.

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 Subchapter 20, Visits and Telephone.

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

(c) (No change)

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

1.- 2. (No change)

95-13.12 Recreation for juveniles in room restriction for control,  
the BAU, protective custody and temporary close custody

(a) Where physical facilities permit, a juvenile in room restriction for control, the BAU, protective custody and temporary close custody shall be allowed recreation and exercise outside the room for at least two hours for every 8 waking hours, unless to do so would pose an immediate and significant threat to either the personal safety of himself, other juveniles, staff, or others, or to the safe and orderly operation of the facility.

(b) Weather permitting, each juvenile in room restriction for control, the BAU, protective custody and temporary close custody shall be given the opportunity for out-of-doors recreation for a minimum of two-hours per week, unless to do so would pose an immediate and significant threat to either the personal safety of the juvenile, other juveniles, staff, or others, or to the safe and orderly operation of the facility.

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 room restriction for control, the BAU, protective custody and temporary close custody.

1. The educational opportunities available to juveniles in room restriction for control, 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.

95-13.18 Transfers; record maintenance

All transfers into or out of the general population, room restriction for control, the BAU, protective custody and temporary close custody shall be entered on the juvenile's classification progress record.

95-13.19 Disciplinary actions applicable

Juveniles in all secure facility housing units, including general population, room restriction for control, the BAU, protective custody and temporary close custody, are subject to the rules set forth in N.J.A.C. 101, Juvenile Discipline.

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

95-14.4 Room restriction for control and Close Custody provisions

The provisions established in this chapter shall apply to all juveniles, including those in room restriction for control or protective custody pursuant to N.J.A.C. 95-11, unless otherwise established by internal management procedures for protective custody.



CHAPTER 101  
JUVENILE DISCIPLINE

SUBCHAPTER 1. GENERAL PROVISIONS

101-1.2 Scope

This chapter shall apply to both committed juveniles and to juveniles who have been convicted of an offense subject to waiver under the provisions of N.J.S.A. 2A:4A-26.1 and sentenced to serve a custodial sentence in a commission facility, who are residing in Juvenile Justice Commission facilities.

SUBCHAPTER 5. IMMEDIATE CORRECTIVE ACTION PROCEDURES

101-5.3 Authorized immediate corrective actions

(a) The following are authorized immediate corrective actions:

1. Withdrawing a privilege or an individual or group activity, for example, recreation, television or radio privileges, for no more than five days; meals and snacks provided by the facility are not permitted to be used as a sanction;
2. Requiring a juvenile to pay for repair of damaged property; to repair the damage, or to complete a work task;
3. Up to four hours in a secure environment under observation;
4. Facility restriction;
  - i. Facility restriction shall not exceed 48 hours without approval of the Superintendent;
  - ii. Juveniles who receive facility restrictions shall discuss their behavior and the results of their behavior with a staff member prior to rejoining the general population; and
  - iii. Facility restrictions shall be entered in the facility or housing unit log book;
5. Formal reprimand communicated to a juvenile by a Sergeant, or above; and
6. Up to four hours of extra work duty.

## SUBCHAPTER 6. DISCIPLINARY PROCEEDINGS

### 101-6.6 Scheduling disciplinary hearings

(a) Meetings with a Disciplinary Hearing Officer shall be convened at such times as are appropriate to carry out the work of the Disciplinary Hearing Officer.

(b) The juvenile shall be entitled to a hearing within three days of the alleged violation, including weekends and holidays, unless the hearing is prevented by exceptional circumstances, unavoidable delays or reasonable postponements. Should the third day fall on a Saturday, Sunday or holiday, the last day for the hearing shall be the weekday immediately following the weekend or holiday.

(c) No delays in hearing a case shall be permitted for the purpose of punishment or discipline.

### 101-6.7 Review of postponed cases

Hearings which have been postponed for further investigation shall be reviewed by the Disciplinary Hearing Officer within seven days to determine if a further postponement is warranted. Further postponements shall be granted only in exceptional circumstances.

### 101-6.16 Disciplinary consequences

(a) A juvenile's disciplinary consequences shall be individualized by considering such factors as the:

1. Juvenile's history of adjustment in the Commission;
2. Setting and circumstances of the prohibited behavior;
3. Involved juvenile's account;
4. Rehabilitative goals set for the juvenile; and
5. Juvenile's history of or the presence of special needs.

(b) Sustaining charges for any violation, other than a violation handled by immediate corrective action, shall render the offender subject to one or more of the following consequences:

1. Any consequence prescribed for an immediate corrective action (see N.J.A.C. 13:101-5.3);
2. Referral to the Behavior Accountability Unit, Mental Health Services or to another program or treatment regimen for appropriate care and/or treatment.

3. Loss of telephone, radio, television, and contact visit privileges for up to 30 days;
4. Loss of one or more additional facility privileges up to 15 days;
5. Confiscation;
6. Up to 14 hours extra work duty, to be performed within a maximum of two weeks;
7. Restitution for damage, alteration or destruction of State property or the property of another person which results in undue expenditure of State funds.

(c) In addition to the sanctions in (b) above, administrative action may be taken by the Institutional Classification Committee upon a recommendation by the Disciplinary Hearing Officer. Such action may include, but not be limited to, the following:

1. Recommending transfer to a more appropriate facility or unit;
2. Increasing custody status;
3. Changing work or housing assignments; and/or
4. Assigning to a treatment program.

(d) Appeal rights for juveniles referred to the Behavior Accountability Unit under this Section shall be exclusively those provided under N.J.A.C. 13:101-7.

## SUBCHAPTER 7. APPEALS OF DISCIPLINARY DECISIONS

### 101-7.3 Stay of consequences pending appeal

Juveniles who wish to have their consequences stayed pending a decision on their appeal, must make a request to the Superintendent or his or her designee for this consideration. If this request is not made, no action shall be taken to stay any consequences received in the disciplinary hearing.

### 101-7.6 Notification to juvenile of appeal results

(a) In all cases, the juvenile shall be notified in writing of the results of the review of the appeal and the reasons therefore. The Disciplinary Review Appeal Form shall be used for this purpose.

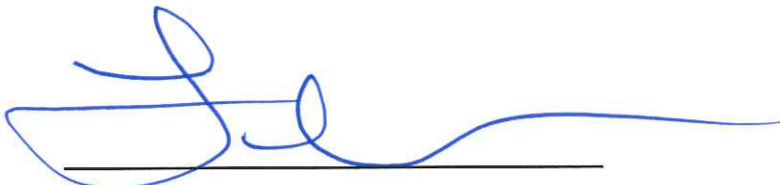
1. The Superintendent or his or her designee shall respond in writing to the juvenile within two business days of receipt of the appeal.

(b) Copies of the decision shall also be distributed to the Disciplinary Hearing Officer and the juvenile's file. Other copies may be distributed as determined to be necessary by the Superintendent or his or her designee.

(c) Only for reasons of significant importance may a Superintendent or his or her designee extend the time limit to act on an appeal. In such case, the juvenile shall be notified in writing within the prescribed time period that action on the juvenile's appeal has been extended. Where possible, the reason for the extension shall be explained in general terms to the juvenile.

SUBCHAPTER 8. . . . . PREHEARING ROOM RESTRICTION; CONDITIONS OF ROOM  
RESTRICTION GENERALLY

REPEALED



Felix Mickens  
Deputy Executive Director< Operations



Date