

LAW AND PUBLIC SAFETY

JUVENILE JUSTICE COMMISSION

Manual of Standards for Juvenile Detention Commitment Programs

Proposed Readoption with Amendments: N.J.A.C. 13:93

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

Authority: N.J.S.A. 2A:4A-43c; 18A:7B-5; 52:17B-170e(4), (9) and (15); 52:17B-171a(5) and 52:17B-176a(1), (6), (7) and (9).

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

Proposal Number: PRN 2004-170.

Submit written comments by July 2, 2004 to:

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

The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1c, N.J.A.C. 13:93, Manual of Standards for Juvenile Detention Commitment Programs, is scheduled to expire on January 5, 2005. The Juvenile Justice Commission has reviewed these rules and has determined them to be necessary, reasonable and proper for the purposes for which they were originally promulgated with the exception of the proposed amendments at N.J.A.C. 13:93-11.4 which is explained below.

The New Jersey Code of Juvenile Justice, N.J.S.A. 2A:4A-20 et seq., defines dispositional options available to the Family Court upon an adjudication of delinquency. One of the options is short-term commitment (60 days maximum) of juveniles to county-operated juvenile detention facilities. A detention commitment program is discretionary on the part of a county to operate. However, a county program must be approved by the Commission in accordance with N.J.S.A. 2A:4A-43c.

Currently, seven counties operate programs that have been approved by the Commission. These facilities are located in the following counties: Bergen, Cumberland, Middlesex, Morris, Ocean, Sussex and Warren.

In counties which utilize the commitment program, usually only one or two youth may be on commitment status at any given time. Youth on commitment status must have been adjudicated delinquent, and for the most part, will have similar profiles as the youth on predispositional status. While a wide range of programs are available for both groups of youth, the Commission requires an augmented program for the youth on commitment status in order to satisfy the rehabilitative element of their disposition.

In 2002, 699 juveniles were committed to juvenile detention facilities Statewide under the program, compared to 12,765 juveniles admitted to juvenile detention facilities on a predispositional basis. Further, the quality of care and services provided in most of the facilities which are eligible to develop a juvenile detention commitment program exceed the minimum standards currently in effect.

While the Juvenile Code mandates county responsibility to provide care and custody for juveniles awaiting court disposition for delinquent offenses, additional services and care are necessary in those juvenile detention facilities which also desire

to accept adjudicated delinquents for short-term commitment programs. The rules proposed for readoption establish the minimum standards which must be met by all county juvenile detention facilities seeking to establish and operate a juvenile detention commitment program.

The following is a description of the subchapters of N.J.A.C. 13:93 proposed for readoption.

N.J.A.C. 13:93-1, Introduction, covers the purpose, scope and definitions used in the chapter.

N.J.A.C. 13:93-2, Legal Provisions, provides for the legal authority for commitment to a juvenile detention facility, and the legal authority of the Commission.

N.J.A.C. 13:93-3, Eligibility Requirements, provides that only those counties in which an approved juvenile detention facility is located or those counties that have a contract with another county that has an approved juvenile detention facility are eligible to participate in the Juvenile Detention Commitment Program. N.J.A.C. 13:93-3 also stipulates the criteria required by the Commission for participation in the Juvenile Detention Commitment Program.

N.J.A.C. 13:93-4, Manual of Standards for Juvenile Detention Facilities, adopts by reference the rules concerning the Manual of Standards for County Juvenile Detention Facilities. These rules are codified at N.J.A.C. 13:92.

N.J.A.C. 13:93-5, Population Capacity, specifies the capacity which a juvenile detention facility may make available for a commitment program and the required population statistics that are to be maintained.

N.J.A.C. 13:93-6, Monitoring, Inspection and Evaluation, provides for population

and capacity monitoring and program inspections.

N.J.A.C. 13:93-7, Program Proposal, requires submission of a program proposal to the Commission prior to certification of a facility to receive juvenile commitments.

N.J.A.C. 13:93-8, Admissions, requires that only juveniles adjudicated delinquent are eligible for a juvenile detention commitment program, and prohibits admissions when a facility has reached its maximum population capacity as determined by the Commission.

N.J.A.C. 13:93-9, Classification, provides that each juvenile is to be evaluated, classified and assigned to sleeping accommodations and program groups based on a classification evaluation.

N.J.A.C. 13:93-10, Program Description, provides that each facility receiving juvenile commitments must maintain a written program plan that describes the facility's overall goals and philosophy.

N.J.A.C. 13:93-11, Program Requirements, requires that an initial written treatment plan be developed by the facility's social worker and other detention center staff within one week of a juvenile being committed to the program, and sets forth requirements for social and medical services, educational and recreational programs, behavior management, and grievance procedures.

The Commission is proposing to amend the rule at N.J.A.C. 13:93-11.4, Education, to reflect the requirements of the New Jersey Department of Education's rules at N.J.A.C. 6A:8 and 6A:17 which have been adopted since N.J.A.C. 13:93 was originally promulgated on July 9, 1999.

The Commission is proposing the following amendments to N.J.A.C. 13:93-11.4.

N.J.A.C. 13:93-11.4(b)1 is being amended to conform with the Department of Education's regulation at N.J.A.C. 6A:17-3.3(d) that specifies that educational programming must be available five days per week.

The existing text at N.J.A.C. 13:93-11.4(b)5 is being deleted because N.J.A.C. 6A:17 no longer makes a distinction between the regular school program and school programming during summer months.

A new subsection (c) is being proposed at N.J.A.C. 13:93-11.4(c) to provide that the facility shall not schedule non-educational activities for the juvenile during school hours.

The existing N.J.A.C. 13:93-11.4(c) is being recodified as N.J.A.C. 13:93-11.4(d) with no change in text.

The existing N.J.A.C. 13:93-11.4(d) is being recodified as N.J.A.C. 13:93-11.4(e) and is being amended to require that each county juvenile detention facility establish a written attendance policy that defines legitimate absences to include religious observance or other compelling personal circumstances in accordance with the Department of Education's requirements at N.J.A.C.6A:17-3.3(h).

Existing N.J.A.C. 13:93-11.4(e) and (f) are being recodified as N.J.A.C. 13:93-11.4(f) and (g) with no change in text.

The existing N.J.A.C. 13:93-11.4(g) is being recodified as N.J.A.C. 13:93-11.4(h). In addition, the existing text at N.J.A.C. 13:93-11.4(g)3 is being deleted because the Department of Education no longer requires a review of individualized program plans (IPP) at 30 days. The proposed new text at recodified N.J.A.C. 13:93-11.4(h)3 will require that individualized program plans for juveniles allow high school credit to be

awarded through alternative learning experiences in accordance with program completion authorized by the Department of Education's requirements at N.J.A.C. 6A:8-5.1(a)1ii.

The existing N.J.A.C. 13:93-11.4(h) is being recodified as N.J.A.C. 13:93-11.4(i) with no change in text.

The existing N.J.A.C. 13:93-11.4(i) is being recodified as N.J.A.C. 13:93-11.4(j). The existing N.J.A.C. 13:93-11.4(i)11 is being deleted because the subject "Cross-Content Workplace Readiness Skills" is no longer considered a Core Curriculum Content Standard, and in its place the subject "Technological Literacy" is being added in accordance with the Department of Education's rules at N.J.A.C. 6A:8.

A new N.J.A.C. 13:93-11.4(j)12 is being added to the list of subjects of the basic curriculum for the Core Curriculum Content Standards that includes "Career Education" in accordance with the Department of Education's requirements at N.J.A.C. 6A:8.

The existing subsections at N.J.A.C. 13:93-11.4(j) through (l) are being recodified as N.J.A.C. 13:93-11.4(k) through (m) with no change in text.

A new subsection is being proposed at N.J.A.C. 13:93-11.4(n) that will require that juvenile detention facilities employ the education personnel required to ensure the provision of programs and services pursuant to the Department of Education's requirements at N.J.A.C. 6A:17.

The text at the existing N.J.A.C. 13:93-11.4(m) is being recodified as N.J.A.C. 13:93-11.4(n)1 and is also being amended to change that "each teacher shall possess a valid New Jersey Teacher certificate appropriate to the teacher's assignment" to "all educational personnel shall possess the appropriate certification endorsement issued

by the State Board of Examiners” pursuant to the Department of Education’s requirements at N.J.A.C. 6A:17-3.5(b).

A new paragraph at N.J.A.C. 13:93-11.4(n)2 is being added that would require that all teachers and educational services personnel shall participate in the required professional development activities consistent with the Department of Education’s requirements at N.J.A.C. 6A:17-3.5(d).

The existing N.J.A.C. 13:93-11.4(n) through (s) are being recodified as N.J.A.C. 13:93-11.4(o) through (t) with no change in text.

The existing N.J.A.C. 13:93-11.4(t) is being recodified at N.J.A.C. 13:93-11.4(u) and is being amended to include marking period intervals established on the facility’s school calendar which is to be submitted to the Commission’s Office of Education for approval pursuant to the Department of Education’s requirements at N.J.A.C.6A:17-3.7(c).

The existing N.J.A.C. 13:93-11.4(u) is being recodified at N.J.A.C. 13:93-11.4(v) and is being amended to require that a juvenile’s educational record be transmitted to his or her home district and next placement to ensure full and appropriate credit for work completed in accordance with the Department of Education’s requirements at N.J.A.C. 6A:17-3.7(d).

A new N.J.A.C. 13:93-11.4(w) is being added in accordance with the Department of Education’s rule at N.J.A.C. 6A:17-3.7(d) that requires the juvenile’s progress report, in the form of a report card and/or transcript, include a designated contact person to formulate an appropriate educational program and to ensure that credit for work completed is granted. The information to be included in the progress report shall

include the juvenile's: Statewide assessment and diagnostic findings; credits earned toward high school graduation requirements; grade level equivalent; vocational training experiences; and the individual program plan or the individual educational plan.

The existing N.J.A.C. 13:93-11.4(v) is being recodified as N.J.A.C. 13:93-11.4(x) with no change in text.

The rules as proposed for readoption do not alter or replace the current minimum requirements established for juvenile detention facilities as delineated in the Manual of Standards for Juvenile Detention Facilities at N.J.A.C. 13:92. The standards for commitment programs proposed for readoption herewith are required in addition to the standards set forth in the Manual of Standards for Juvenile Detention Facilities.

Elsewhere in this issue of the New Jersey Register, the Commission is also proposing amendments to its rule relevant to education which is contained in the Manual of Standards for Juvenile Detention at N.J.A.C. 13:92-9.3. Amendments to the educational rule at N.J.A.C. 13:92-9.3 and herein at N.J.A.C.13:93-11.4 are being proposed simultaneously to ensure that they are identical. Juveniles detained in the general population of a county detention facility and those sentenced to a juvenile detention commitment program in a county juvenile detention facility will, therefore, receive the same educational experience during their period of confinement. To assist the county detention facilities in implementing these requirements, the Office of Education in the Juvenile Justice Commission provides pertinent technical assistance to ensure that facilities are in compliance with N.J.S.A.18A:7B-1 et seq. and N.J.A.C. 6A:17.

Because the Commission has provided a 60-day comment period on this notice

of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The rules proposed for readoption will have a positive social impact on juvenile detention facilities, the juveniles in residence at these facilities and the community in general. The readoption of these minimum standards of care and service will ensure that only those facilities which provide an acceptable program of rehabilitation and have adequate space will be permitted by the Commission to receive juveniles under the juvenile detention commitment program.

The proposed amendments at N.J.A.C. 13:93-11.4 will ensure compliance with the Department of Education's rules at N.J.A.C. 6A:8 and 6A:17 and that the juveniles placed in detention commitment programs continue to receive an uninterrupted educational experience.

Economic Impact

It is estimated that in 2002, the total cost to operate juvenile detention commitment programs in the State of New Jersey was \$2 million. The readoption of these rules will not cause any further burden on the counties participating in the commitment program. Therefore, little or no economic impact is expected. The rules do not require counties to develop juvenile detention commitment programs or to provide such services in their juvenile detention facilities. The decision to provide this Family Court dispositional option is voluntary on the part of each county. The proposed

amendments at N.J.A.C. 13:93-11.4 will not cause an economic burden on the counties because there will be no additional cost for complying with them.

Federal Standards Statement

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

Jobs Impact

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

Agriculture Industry Impact

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

Regulatory Flexibility Analysis

The rules proposed for readoption with amendments do not impose reporting, recordkeeping or other compliance requirements on small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Therefore, a regulatory flexibility analysis is not required. The rules proposed for readoption impact county-operated facilities and will have no effect on small businesses.

Smart Growth Impact

The Juvenile Justice Commission does not anticipate that the rules proposed for

readoption with amendments will have any impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:93.

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

13:93-11.4 Education

(a) (No change.)

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

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

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

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

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

Recodify existing (e) - (f) as (f) - (g) (No change in text.)

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

1. - 2. (No change.)

3. [A review at 30 days with modifications as needed] Individualized programs which allow high school credit to be awarded through alternative learning experiences in accordance with program completion authorized at N.J.A.C. 6A:8-5.1(a)1ii.

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

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

1. - 9. (No change.)

10. Visual and Performing Arts; [and]

11. [Cross-Content Workplace Readiness Skills.] Technological Literacy; and
12. Career Education.

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

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

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

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

[(t)] (u) Contact with the juvenile's home district shall be maintained and educational records furnished to the home district to ensure that proper credit is given for assignments and course work completed at the marking period intervals established on the facility's school calendar as approved by the Commission's Office of Education.

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

(w) The progress report, in the form of a report card and/or transcript, shall

include a designated contact person and the following information which is necessary to formulate an appropriate educational program and to ensure that credit for work completed is granted:

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

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

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

By: Markus Green
Attorney General's Designee

Date: