

NEW JERSEY ADMINISTRATIVE CODE

NEW JERSEY JUVENILE JUSTICE COMMISSION TITLE 13. LAW AND PUBLIC SAFETY CHAPTER 93.

MANUAL OF STANDARDS FOR JUVENILE DETENTION COMMITMENT PROGRAMS

Adopted as a New Rule - August 2, 2010
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SUBCHAPTER 1. INTRODUCTION

13:93-1.1 Purpose

In accordance with the New Jersey Code of Juvenile Justice (N.J.S.A. 2A:4A-20 et seq.), juveniles adjudicated delinquent may be sentenced to a term of incarceration of up to 60 consecutive days in county-operated juvenile detention facilities. Since the Code of Juvenile Justice specifically requires that the New Jersey Juvenile Justice Commission certify all juvenile detention facilities which may be utilized for this dispositional alternative, the Commission has promulgated the minimum standards which must be met by those facilities receiving adjudicated delinquents under the Code of Juvenile Justice. The standards in this chapter are in addition to the Manual of Standards for Juvenile Detention Facilities located at N.J.A.C. 13:92.

13:93-1.2 Scope

This chapter shall apply to all counties in the State of New Jersey who choose to operate a juvenile detention commitment program.

New Jersey Administrative Code
New Jersey Juvenile Justice Commission
Title 13. Law And Public Safety
Chapter 93. Manual of Standards for Juvenile Detention Commitment Programs

Adopted as a New Rule - August 2, 2010
Expires August 2, 2015

13:93-1.3 Definitions

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

"Commission" means the New Jersey Juvenile Justice Commission.

"Delinquency" means the commission of an act by a juvenile which if committed by an adult would constitute:

1. A crime;
2. A disorderly persons offense or petty disorderly persons offense; or
3. A violation of any other penal statute, ordinance or regulation. But, the commission of:
an act which constitutes a violation of chapter 3, 4, 6 or 8 of Title 39 of the Revised Statutes by a juvenile of any age; an act relating to the ownership or operation of a motorized bicycle which constitutes a violation of chapter 3 or 4 of Title 39 of the Revised Statutes by a juvenile of any age; an act which constitutes a violation of article 3 or 6 of chapter 4 of Title 39 of the Revised Statutes pertaining to pedestrians and bicycles, by a juvenile of any age; the commission of an act which constitutes a violation of P.L. 1981, c.318 (N.J.S.A. 26:3D-1 et seq.), P.L. 1981, c.319 (N.J.S.A. 26:3D-7 et seq.), P.L. 1981, c.320 (N.J.S.A. 26:3D-15 et seq.), P.L. 1985, c.185 (N.J.S.A. 26:3E-7 et seq.), P.L. 1985, c.186 (N.J.S.A. 26:3D-32 et seq.), N.J.S.A. 2C:33-13, P.L. 1985, c.318 (N.J.S.A. 26:3D-38 et seq.), P.L. 1985, c.381 (N.J.S.A. 26:3D-46 et seq.), or of any amendment or supplement thereof, by a juvenile of any age; an act which constitutes a violation of chapter 7 of Title 12 of the Revised Statutes relating to the regulation and registration of power vessels, by a juvenile of any age or section 2 of P.L. 1987, c.453 (N.J.S.A. 12:7-61); or an act which constitutes a violation

New Jersey Administrative Code
New Jersey Juvenile Justice Commission
Title 13. Law And Public Safety
Chapter 93. Manual of Standards for Juvenile Detention Commitment Programs

Adopted as a New Rule - August 2, 2010
Expires August 2, 2015

of a municipal ordinance enacted pursuant to section 2 of P.L. 1992, c.132 (N.J.S.A. 40:48-2.52) pertaining to curfew ordinances shall not constitute delinquency as defined in this section.

"Detention" means the temporary care of juveniles in physically restricting facilities pending court disposition (N.J.S.A. 2A:4A-22c).

"Juvenile" means an individual who is under the age of 18 years (N.J.S.A. 2A:4A-22a). For purposes of this chapter, juvenile also includes any individual who is properly detained under the law in a juvenile detention facility and has reached the age of 18 years.

"Juvenile Detention Commitment Program" means a short-term rehabilitation program operated within an approved juvenile detention facility for adjudicated juveniles committed by the court for a maximum of 60 consecutive days pursuant to N.J.S.A. 2A:4-43c(1).

SUBCHAPTER 2. LEGAL PROVISIONS

13:93-2.1 Legal authority for juvenile detention commitment

Pursuant to N.J.S.A. 2A:4A-43c(1), effective January 1, 1984, the court may, in addition to any other disposition enumerated in N.J.S.A. 2A:4A-43, incarcerate an adjudicated delinquent in a juvenile detention facility for a term not to exceed 60 consecutive days.

13:93-2.2 Legal authority of Commission

(a) N.J.S.A. 2A:4A-43(c)1 provides that if the juvenile detention facility in the county in which the juvenile has been adjudicated delinquent has a juvenile detention facility meeting the physical and program standards established pursuant to that subsection by the Juvenile Justice Commis

New Jersey Administrative Code
New Jersey Juvenile Justice Commission
Title 13. Law And Public Safety
Chapter 93. Manual of Standards for Juvenile Detention Commitment Programs

Adopted as a New Rule - August 2, 2010
Expires August 2, 2015

sion, the court may, in addition to any of the available dispositions set forth at N.J.S.A. 2A:4A-43, incarcerate the juvenile in a juvenile detention facility for a term not to exceed 60 consecutive days. N.J.S.A. 2A:4A-43c(1) further provides that the Juvenile Justice Commission shall promulgate such rules and regulations from time to time as deemed necessary to establish minimum physical facility and program standards for the use of juvenile detention facilities pursuant to that subsection.

(b) N.J.S.A. 2A:4A-43c(2) provides that no juvenile may be incarcerated in any county detention facility unless the county has entered into an agreement with the Juvenile Justice Commission concerning the use of the facility for sentenced juveniles. That statute further provides that upon agreement with the county, the Juvenile Justice Commission shall certify detention facilities which may receive juveniles sentenced pursuant to N.J.S.A. 2A:4A-43c and shall specify the capacity of the facility that may be made available to receive such juveniles; provided, however, that in no event shall the number of juveniles incarcerated pursuant to N.J.S.A. 2A:4A-43c exceed 50 percent of the maximum capacity of the facility.

SUBCHAPTER 3. ELIGIBILITY REQUIREMENTS

13:93-3.1 County eligibility

Only those counties in which an approved juvenile detention facility is located and 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.

New Jersey Administrative Code
New Jersey Juvenile Justice Commission
Title 13. Law And Public Safety
Chapter 93. Manual of Standards for Juvenile Detention Commitment Programs

Adopted as a New Rule - August 2, 2010
Expires August 2, 2015

13:93-3.2 Commission eligibility

(a) Only those counties in which the population of the approved juvenile detention facility has consistently been less than the maximum population capacity established by the Juvenile Justice Commission are eligible to participate in the Juvenile Detention Commitment Program.

1. Counties deemed ineligible because of overpopulation may reapply to the Commission every 90 days after receipt of the notice of ineligibility.

(b) Only those counties which have been consistently in substantial compliance with the Manual of Standards for Juvenile Detention Facilities (N.J.A.C. 13:92), as determined by the Juvenile Justice Commission, are eligible to participate in the Juvenile Detention Commitment Program.

SUBCHAPTER 4. MANUAL OF STANDARDS FOR JUVENILE DETENTION FACILITIES

13:93-4.1 Adoption of standards

(a) All provisions of the Manual of Standards for Juvenile Detention Facilities, (N.J.A.C. 13:92), except provisions specifically exempted in this chapter, or provisions in contradiction to the standards and regulations of this chapter are hereby adopted by reference.

(b) All juvenile detention facilities shall comply with both the Manual of Standards for Juvenile Detention Facilities (N.J.A.C. 13:92) and this chapter in order to be certified by the Juvenile Justice Commission to receive juvenile commitments.

New Jersey Administrative Code
New Jersey Juvenile Justice Commission
Title 13. Law And Public Safety
Chapter 93. Manual of Standards for Juvenile Detention Commitment Programs

Adopted as a New Rule - August 2, 2010
Expires August 2, 2015

SUBCHAPTER 5. POPULATION CAPACITY

13:93-5.1 Juvenile detention commitment program

(a) Pursuant to N.J.S.A. 2A:4A-43c(2), the Juvenile Justice Commission shall specify the capacity of the juvenile detention facility that may be made available to receive sentenced juveniles.

1. Based upon the county's past and present juvenile detention needs, as determined by such factors as the number of admissions, length of stay, daily population count, peak population figures, etc., the Juvenile Justice Commission, in collaboration with the county, shall specify the maximum number of juvenile commitments which may be housed in the facility.

2. Pursuant to N.J.S.A. 2A:4A-43c(2), the number of incarcerated juveniles shall not exceed 50 percent of the maximum population capacity of the facility.

13:93-5.2 Population statistics

Reports regarding population statistics, in such form and such frequency as shall be required by the Juvenile Justice Commission, shall be submitted to the Juvenile Justice Commission.

SUBCHAPTER 6. MONITORING, INSPECTION, AND EVALUATION

13:93-6.1 Population and capacity monitoring

Based upon juvenile detention needs, as determined by population statistics reports and periodic on-site population monitoring visits, the Juvenile Justice Commission, in collaboration with the

New Jersey Administrative Code
New Jersey Juvenile Justice Commission
Title 13. Law And Public Safety
Chapter 93. Manual of Standards for Juvenile Detention Commitment Programs

Adopted as a New Rule - August 2, 2010
Expires August 2, 2015

county, may reduce or increase the number of spaces for juvenile commitments certified to be housed at the facility.

13:93-6.2 Program inspection

(a) Based upon periodic inspection of the facility's physical plant and evaluation of the programmatic components, the Juvenile Justice Commission may modify or withdraw its certification of the facility for juvenile commitments for noncompliance with the Manual of Standards for Juvenile Detention Facilities, N.J.A.C. 13:92, and this chapter.

(b) At all times representatives from the Commission shall be permitted to observe and interview juveniles and staff of the facility concerning any matter pertaining to the health, safety, rehabilitation, training, and general well-being of the juveniles or the operation of the detention commitment program.

(c) All books, records, accounts, and reports, past and present, regarding the operation of the juvenile detention commitment program, residents, and personnel shall be made available to the Commission for review.

SUBCHAPTER 7. PROGRAM PROPOSAL

13:93-7.1 Program proposal submission

(a) Prior to certification of a facility to receive juvenile commitments, a program proposal shall be submitted to the Juvenile Justice Commission which shall include, but not necessarily be limited to, the following information:

1. Requested capacity of the juvenile detention commitment program;

New Jersey Administrative Code
New Jersey Juvenile Justice Commission
Title 13. Law And Public Safety
Chapter 93. Manual of Standards for Juvenile Detention Commitment Programs

Adopted as a New Rule - August 2, 2010
Expires August 2, 2015

2. Specific sleeping room accommodations and other planned physical plant features;
3. Specific program activities and services which are planned and how they will be provided;
4. Additional staffing required, if necessary;
5. Additional budget requirements, if necessary;
6. Impact on the pre-dispositional juvenile detention program and services; and
7. Additional problems contemplated and how they will be resolved.

SUBCHAPTER 8. ADMISSIONS

13:93-8.1 Eligibility for admission

Pursuant to N.J.S.A. 2A:4A-43c(3)(a), only juveniles adjudicated delinquent for an act which, if committed by an adult, would constitute a crime or repetitive disorderly persons offense are eligible for the juvenile detention commitment program. Thus, petty disorderly persons offenders and first time disorderly persons offenders are statutorily excluded from eligibility for the juvenile detention commitment program.

13:93-8.2 Maximum juvenile detention facility population capacity

No juvenile, on either a predispositional or juvenile detention commitment status, shall be admitted to a detention facility which has reached its maximum approved capacity for the entire facility, as designated by the Juvenile Justice Commission.

New Jersey Administrative Code
New Jersey Juvenile Justice Commission
Title 13. Law And Public Safety
Chapter 93. Manual of Standards for Juvenile Detention Commitment Programs

Adopted as a New Rule - August 2, 2010
Expires August 2, 2015

13:93-8.3 Maximum Juvenile Detention Commitment Program population capacity

No adjudicated juvenile sentenced to a juvenile detention facility shall be admitted once the facility has reached its maximum approved capacity for the juvenile detention commitment program, as designated by the Juvenile Justice Commission, in collaboration with the county.

SUBCHAPTER 9. CLASSIFICATION

13:93-9.1 Evaluation

Upon admission, each juvenile shall be evaluated and classified in regard to his or her sex, age, present offense, previous offenses, physical size, general personality characteristics and any other factors which could have an impact on the juvenile's adjustment to the facility and interaction with other residents.

13:93-9.2 Housing and group assignments

To the extent that the physical plant permits, juveniles shall be assigned to sleeping accommodations and program groups based upon the classification evaluation.

SUBCHAPTER 10. PROGRAM DESCRIPTION

13:93-10.1 Program plan and goals

New Jersey Administrative Code
New Jersey Juvenile Justice Commission
Title 13. Law And Public Safety
Chapter 93. Manual of Standards for Juvenile Detention Commitment Programs

Adopted as a New Rule - August 2, 2010
Expires August 2, 2015

Each facility receiving juvenile commitments shall maintain a written program plan which describes the overall goals and philosophy of the program. This plan shall also specify the objectives, and shall delineate the programs, activities, policies, and methods to achieve the stated goals and objectives. In some cases, facilities may wish to make arrangements with various provider agencies in the community to provide for specific social, educational, therapeutic, or recreational services. In such situations, the facility shall maintain a copy of the agreement describing the specific services to be provided by the provider agencies and the frequency with which the services will be delivered.

SUBCHAPTER 11. PROGRAM REQUIREMENTS

13:93-11.1 Rehabilitation plan

(a) An initial written rehabilitation plan, based on a thorough assessment of the juvenile's problems and needs, shall be developed by the facility's social service worker, in conjunction with other appropriate detention center staff, within one week of commitment. The assessment shall utilize the information included in the pre-dispositional investigation report which is made available by the Family Court pursuant to the Rules of Court.

(b) The initial assessment shall include, when available, the following information:

1. The juvenile's past record of offenses and dispositions;
2. School attendance and special problems, if any;
3. Family history and problems;

New Jersey Administrative Code
New Jersey Juvenile Justice Commission
Title 13. Law And Public Safety
Chapter 93. Manual of Standards for Juvenile Detention Commitment Programs

Adopted as a New Rule - August 2, 2010
Expires August 2, 2015

4. Psychological profile;
5. Medical history and current health problems;
6. Vocational goals (when age appropriate) and;
7. Post-release plans and goals.

(c) Within two weeks of the initial written rehabilitation plan, a revised rehabilitation plan which shall include all the requirements of (b) above shall be completed.

(d) All professional and line staff having regular contact with the committed juvenile shall be advised of the provisions of the initial and revised rehabilitation plans.

(e) Each juvenile's progress and the effectiveness of his or her rehabilitation plan shall be reviewed at least once every two weeks and, when indicated, modifications shall be made in the rehabilitation plan.

(f) The rehabilitation plan shall specify how, when, and where each element of rehabilitation will be provided to the juvenile.

(g) When appropriate, community resources shall be utilized in the development and implementation of the rehabilitation plan.

(h) Participation of the resident and his or her parents or legal guardian shall be encouraged whenever practical.

(i) The rehabilitation plan shall be signed by both the resident and a staff representative.

13:93-11.2 Social services

(a) Juvenile detention facilities participating in the juvenile detention commitment program shall provide at least one full-time social service worker or professional equivalent.

New Jersey Administrative Code
New Jersey Juvenile Justice Commission
Title 13. Law And Public Safety
Chapter 93. Manual of Standards for Juvenile Detention Commitment Programs

Adopted as a New Rule - August 2, 2010
Expires August 2, 2015

(b) In accordance with the maximum population capacity, as designated by the Juvenile Justice Commission, for both predispositional juvenile detention and the juvenile detention commitment program, there shall be at least one full-time social service worker employed for every 20 juveniles of the approved population capacity.

1. Part-time social service workers may be employed when the maximum population capacity is greater than 20 and is not an even multiple of 20. For example, a facility approved for 30 juveniles would require at least one full-time and one part-time social service worker.

(c) The position of social service worker shall meet the applicable requirements for the position as defined by the New Jersey Department of Personnel.

(d) Social services shall be provided to all juveniles in the juvenile detention commitment program. Services may be rendered on a direct or referral basis and shall include services such as casework and group work, as well as individual therapy provided in a clinical setting as required by each juvenile's rehabilitation plan.

(e) Social services shall be structured to assist juveniles and their parents, or legal guardian, and their public school district to provide the individualized assistance needed for successful rehabilitation, and to prepare the juvenile for return to the community. Social service worker duties shall include:

1. Participating in the evaluation and classification decision for each new admission to the facility as required by N.J.A.C. 13:93-9;

2. Developing and implementing each juvenile's initial and follow-up rehabilitation plan as required by this subchapter;

3. Selecting and coordinating appropriate community resources;

New Jersey Administrative Code
New Jersey Juvenile Justice Commission
Title 13. Law And Public Safety
Chapter 93. Manual of Standards for Juvenile Detention Commitment Programs

Adopted as a New Rule - August 2, 2010
Expires August 2, 2015

4. Initiating and maintaining ongoing liaison with other agencies providing services to juveniles and their parents or legal guardian;

5. Conducting admissions interviews as soon after admission as is practical and maintaining regular, ongoing contact with each juvenile in the juvenile detention commitment program;

6. Assisting juveniles and their families in identifying and dealing with the problems which resulted in their commitment;

7. Maintaining regular and frequent contacts with juveniles and their parents or legal guardian to assist in maintaining family relations and planning for their future care;

8. Planning for each juvenile's discharge.

(f) Clinical therapy shall be available to juveniles requiring this type of treatment. The therapy may be provided by professional staff or consultants, or through arrangement with an appropriate resource such as a Community Mental Health Agency. Therapy should assist the juvenile in understanding his or her behavior and feelings, and should strengthen the juvenile's ability to function as a productive, self-reliant juvenile.

1. The need for clinical therapy shall be determined during the rehabilitation planning and specified in the rehabilitation plan. The specification shall include a detailed description of the types of methods and objectives of the therapy, and the frequency of its scheduling.

13:93-11.3 Medical services

(a) The facility shall provide a program of medical care for all juveniles in residence. The facility shall provide for medical emergencies on a 24-hour, seven day a week basis.

New Jersey Administrative Code
New Jersey Juvenile Justice Commission
Title 13. Law And Public Safety
Chapter 93. Manual of Standards for Juvenile Detention Commitment Programs

Adopted as a New Rule - August 2, 2010
Expires August 2, 2015

(b) Each juvenile placed in detention shall receive a health assessment and screening by a registered nurse or licensed practical nurse within 24 hours following admission, noting symptoms of any communicable disease, lice, bruises or abrasions, unusual marks and general medical condition. The facility's medical and social service staff shall attempt to secure from appropriate sources, information regarding any medical care, treatment or medication prescribed prior to placement. Each juvenile shall also receive a medical examination performed by either a physician licensed to practice medicine in the State of New Jersey, a licensed physician assistant, or an advanced practice nurse within 72 hours following admission. Internal vaginal and rectal examinations shall not be routinely included as part of the medical examination for admission.

(c) Psychiatric and psychological services shall be provided as required by individual rehabilitation plans.

13:93-11.4 Education

(a) The detention facility shall provide an educational program which meets the needs of each juvenile based on his or her age, level of ability, previous educational experience, and interest. All juveniles committed to a Juvenile Detention Commitment Program shall participate in an educational program suited to meet his or her needs.

(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 five days per week and 220 days per calendar year;

New Jersey Administrative Code
New Jersey Juvenile Justice Commission
Title 13. Law And Public Safety
Chapter 93. Manual of Standards for Juvenile Detention Commitment Programs

Adopted as a New Rule - August 2, 2010
Expires August 2, 2015

2. Physical education provided by a certified physical education teacher. Physical education shall be a part of the four-hour minimum required school day. At least 150 minutes of physical education shall be provided per week which may include classes in health and family life. Physical education shall not constitute more than one hour of the daily education program. All other recreational activities shall not be considered in determining the four-hour minimum required for the educational program;

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.

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

(d) Each county juvenile detention facility shall establish and implement policies and procedures for educational services for juveniles consistent with this rule. The policies shall include provisions for continuing the delivery of educational services to disruptive pupils.

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

(f) The educational program delivery system shall provide remedial and special education.

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

New Jersey Administrative Code
New Jersey Juvenile Justice Commission
Title 13. Law And Public Safety
Chapter 93. Manual of Standards for Juvenile Detention Commitment Programs

Adopted as a New Rule - August 2, 2010
Expires August 2, 2015

(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. Input from the juvenile's home school district or other applicable educational program, whenever possible;
2. Individualized educational goals and objectives; and
3. 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.

(i) An individualized education plan (IEP) shall be provided for every juvenile who has been classified as eligible for special education, in accordance with N.J.A.C. 6A:14. The detention facility's educational program shall utilize the existing IEP, as developed by the home school district or applicable educational program. If it is determined that the most recent IEP is outdated, the home district shall be advised.

(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. Language Arts Literacy;
2. Social Studies;
3. Science;
4. Mathematics;
5. Comprehensive Health and Physical Education;

New Jersey Administrative Code
New Jersey Juvenile Justice Commission
Title 13. Law And Public Safety
Chapter 93. Manual of Standards for Juvenile Detention Commitment Programs

Adopted as a New Rule - August 2, 2010
Expires August 2, 2015

6. Life Skills;
7. Vocational Training;
8. Law-Related Education;
9. World Languages;
10. Visual and Performing Arts;
11. Technological Literacy; and
12. Career Education.

(k) Each county juvenile detention facility shall make library services available to all juveniles.

1. The facility administrator shall consult with a qualified librarian on the provision of these services.

2. The facility shall have a written policy that defines the principles, purposes and criteria to select and maintain age-appropriate library materials, including audio-visual materials, that reflect the typical interests of the youth population and are appropriate for various levels of competency.

(l) All educational programs shall be fully staffed to include substitute coverage when needed with the following ratios:

1. Single class population shall not exceed 12 students; and
2. The teacher-to-student classroom ratio shall be one teacher to 12 students.

(m) Classes shall be conducted separate from sleeping areas.

(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.

New Jersey Administrative Code
New Jersey Juvenile Justice Commission
Title 13. Law And Public Safety
Chapter 93. Manual of Standards for Juvenile Detention Commitment Programs

Adopted as a New Rule - August 2, 2010
Expires August 2, 2015

1. All educational personnel shall possess 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).

(o) Each facility shall provide, or make available, a Site Education Supervisor to oversee the facility's education program.

(p) Staff salary expenditures shall be supported by time and activity reports, and approved and signed by the Site Education Supervisor.

(q) Educational equipment and supplies to carry out the educational program shall be provided, as well as the appropriate storage area for such equipment and supplies, with:

1. Expenditures supported by purchase orders and receiving reports; and
2. Reports approved by the Site Education Supervisor.

(r) A request for educational records from the juvenile's home school district shall be initiated within five days of admission to the facility, exclusive of weekends, holidays and non-pupil contact days.

(s) If the most recent education program attended by the juvenile is not in his or her home district, for example, a foster, group, residential or institutional placement, a request shall be initiated to such educational programs for the juvenile's records, within five days and with notification to the home district.

(t) Appropriate records on each juvenile's work and progress shall be maintained in the facility to ensure proper credit is given for assignments and course work completed.

New Jersey Administrative Code
New Jersey Juvenile Justice Commission
Title 13. Law And Public Safety
Chapter 93. Manual of Standards for Juvenile Detention Commitment Programs

Adopted as a New Rule - August 2, 2010
Expires August 2, 2015

(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.

(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.

(x) Pupil education records shall be maintained in a locked file, separate from non-educational records and safeguarded from public inspection. The safety and security of these records shall be the responsibility of the Site Education Supervisor.

13:93-11.5 (Reserved)

13:93-11.6 Discipline

New Jersey Administrative Code
New Jersey Juvenile Justice Commission
Title 13. Law And Public Safety
Chapter 93. Manual of Standards for Juvenile Detention Commitment Programs

Adopted as a New Rule - August 2, 2010
Expires August 2, 2015

(a) Each facility shall maintain a written behavior management program which is designed to foster a positive, non-punitive environment. The written program shall include behavioral-rules and disciplinary regulations and sanctions to be employed. Reasonable limits for behavior necessary to maintain order should be governed by a system of rules and regulations that is consistent and easily understood.

(b) Discipline shall be determined by staff and never delegated to juveniles.

(c) Corporal punishment and cruel, degrading punishment, either physical or psychological, shall not be permitted.

(d) Under no circumstances shall a juvenile be deprived of his or her basic rights as a means of a discipline. Basic rights for each juvenile include:

1. A place to sleep (for example, a bed, a pillow, blankets and sheets);
2. Full meals;
3. A full complement of clean clothes;
4. Parental or legal guardian and attorney visits;
5. Items necessary for personal hygiene (for example, toothpaste, toothbrush, soap, comb, etc.);
6. Minimum exercise;
7. Right to receive and send mail;
8. The opportunity for a daily shower and access to toilet and water fountain;
9. Clean and sanitary living conditions;
10. Medical care;

New Jersey Administrative Code
New Jersey Juvenile Justice Commission
Title 13. Law And Public Safety
Chapter 93. Manual of Standards for Juvenile Detention Commitment Programs

Adopted as a New Rule - August 2, 2010
Expires August 2, 2015

11. The opportunity to attend religious services and/or religious counseling of his or her choice.

13:93-11.7 Grievance procedure

(a) Each detention facility shall have a written grievance procedure for the expression and resolution of juveniles' grievances or legitimate complaints, which contains the following elements:

1. A means and method for the filing of a grievance on a form that includes the juvenile's name, date, and all pertinent information relating to the grievance;
2. Assistance by staff not involved in the issue of the grievance shall be provided, if necessary;
3. A written response to all grievances filed, including the reason for the decision;
4. A response by a staff member designated by the facility administrator, or his or her designee, within a prescribed, reasonable time limit, that allows for responding to emergencies;
5. A provision for appeal to the facility administrator, or his or her designee;
6. Access by all juveniles to the grievance procedure and appeals process, with guarantees against reprisals; and
7. Applicability over a broad range of issues.

(b) A copy of the grievance and the resolution shall be given to the juvenile, a copy maintained in the juvenile's file, and a copy in a central grievance file.