

**LAW AND PUBLIC SAFETY**

**JUVENILE JUSTICE COMMISSION**

**Community Programs**

**Proposed New Rules: N.J.A.C. 13:103**

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

Authority: N.J.S.A. 2A:4A-43 and 60; 2C:39-6a(9); 9:17A-1 and 4; 30:4-27.2; 30:4-27.24 et seq.; 30:4-82.4; 30:4-123.53a; 47:1A-1; 52:17B-170e(8), (9), (14), and (22); 52:17B-171; 52:17B-174, 52:17B-175; and 52:17B-176.

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

Proposal Number: PRN 2011-249.

Submit written comments on or before February 3, 2012 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

The New Jersey Juvenile Justice Commission (the Commission) is proposing new rules, N.J.A.C. 13:103, to provide a regulatory framework governing major operational areas in its residential and non-residential community programs. These operational areas include searches of juveniles and facilities; contraband and disposition of contraband; transportation of juveniles; juvenile orientation and handbook; hygiene and grooming, prohibition of tobacco products, juvenile identification photographs, housekeeping, and sanitation, clothing, bedding, and laundry; juvenile access to courts; pregnant juveniles and critical injury or death of juveniles; mail, correspondence, legal correspondence, publications, and packages; and visits and telephone. The proposed rules are based in part upon comparable provisions found in N.J.A.C. 13:95, the Commission's rules governing secure facilities.

The proposed new rules encompass 14 subchapters. Two of these subchapters, Subchapters 3 and 13, are reserved. The remaining 12 subchapters are entirely new.

A subchapter-by-subchapter description follows.

Subchapter 1 contains general provisions covering purpose, scope, definitions, forms, and confidentiality. The confidentiality section, N.J.A.C. 13:103-1.5, includes a clarification that although records that fall under the privacy provisions of N.J.S.A. 2A:4A-60, 60.2, and 60.3 may be used for program and other reviews, such use does not otherwise release or exempt the records from their confidential status.

Proposed N.J.A.C 13:103-2 establishes provisions for the orientation of all juveniles entering a community program, and provides for notifying juveniles of their rights and

responsibilities. The subchapter requires each juvenile to be informed as to the rules, procedures, units, services, and programs of the community program to which he or she is assigned, and establishes the requirement for publishing, maintaining, and distributing a facility-specific resident handbook. The juvenile handbook must clearly explain all material rights, privileges, services, programs, and obligations of juveniles under Commission rules and policies and under the Prison Rape Elimination Act of 2003, 42 U.S.C. §§ 15601 et seq.

Subchapter 3 is reserved.

Proposed N.J.A.C. 13:103-4 covers a number of administrative and housing-related issues. These include juvenile hygiene and grooming, juvenile identification photographs, housekeeping and sanitation, general clothing issue, bedding, and laundry. The proposed rules establish an absolute ban on all tobacco products within a community program, applicable to staff and juveniles. Other subjects covered in Subchapter 4 include the standard personal hygiene kit provided to a juvenile upon admission to a community program, a requirement that juveniles generally are to shower daily, mandatory housekeeping schedules, waste disposal, pest control, coordination of inspections of facilities by the State Department of Health and Senior Services, special clothing issued for work details, and use of DEPTCOR, State Use Industries.

Proposed N.J.A.C. 13:103-5 governs procedures for the transportation of juveniles. The proposed rules address a variety of transportation issues, including equipment required in vehicles used for juvenile transport, security requirements, necessary documentation, transportation related to medical needs, court visits and emergencies, and juvenile supervision.

Proposed Subchapter 6, Juvenile Access to Courts, defines the legal materials and related administrative services required to be available for juveniles in connection with court proceedings. Under the proposed rules, the Commission is responsible for a number of activities designed to ensure juvenile access to legal materials and related services necessary to ensure access to judicial process. These activities include identifying and providing access to necessary legal resources, providing writing materials when needed, providing photocopying services, and ensuring the availability of a notary public and other necessary administrative resources.

Proposed Subchapter 7 establishes guidelines that permit juveniles in residential community programs to correspond with persons or entities outside their program, subject to reasonable regulation and inspections, that govern the processing of legal correspondence, and that control the sending and receiving of publications and packages. The subchapter establishes procedures for an appeal to the Regional Administrator, by either the sender or juvenile, from a Superintendent's decision to withhold or remove either an item of correspondence or a publication. The appeal must be in writing and made within 10 calendar days of the notice of the withholding or removal; the Regional Administrator or designee has to issue a written decision on the appeal and respond to the sender or juvenile within 72 hours of receipt of the appeal. If either a correspondence or a publication is found to be objectionable only in an easily severable part, the sender or juvenile, as applicable, is to be given the choice whether to allow the offending portions to be excised or to forfeit the entire term.

Proposed N.J.A.C. 13:103-8 covers visits and telephone use in residential community programs. Visitation and telephone use do not apply to juveniles in day programs. Topics

in proposed Subchapter 8 include visitation with juveniles, bedside visits to a dying relative, private viewing and funeral visits by a juvenile to a deceased relative, and juvenile access to and use of the telephone.

Proposed N.J.A.C. 13:103-9 addresses use of force and relies substantially on provisions contained in the Attorney General's June 2000 Use of Force Policy. Subchapter 9 authorizes the use of non-deadly force as a means to enforce community program rules and regulations describing non-deadly force as encompassing both non-physical constructive authority and limited physical contact. Limited physical contact means routine or procedural contact with a person necessary to effectively accomplish a legitimate objective; examples of such contacts include holding an individual's arm while escorting the individual, maneuvering or securing an individual for a search, and guiding the individual into a vehicle.

Non-deadly use of force is authorized only when necessary, as follows:

- To protect against serious bodily harm;
- To prevent damage to property;
- To prevent or quell a riot or disturbance;
- To prevent a suicide or attempted suicide;
- To enforce community program regulations, if expressly permitted by rule; and
- In situations where supervisory personnel believe there is an immediate threat to security of the community program or to personal safety.

Progressive use of force is required under all circumstances, meaning that only that force which is objectively reasonable and necessary under the totality of the circumstances.

Use of deadly and serious heavy force is prohibited, as are physical restraints and any physical force either to thwart an escape or for punishment.

Other provisions of Subchapter 9 address required reports, staff training, and penalties for violation of use of force restrictions.

Proposed N.J.A.C. 13:103-10 covers procedures to be followed when a juvenile is determined to be pregnant, and when a critical injury or death of a juvenile occurs. Due to the age of the mother, in the case of pregnancies, the rule requires notification of State child protective services in decisions related to custody of a newborn.

The proposed rule on the critical illness or death of a juvenile cover topics that include procedures for notifying next of kin upon illness or death, proper disposition of remains upon death, and distribution of money and property. Parental or guardian involvement is required in connection with advanced medical directives and property distributions, where a juvenile has not yet reached the age of 18.

Proposed N.J.A.C. 13:103-11 contains proposed rules governing searches of juveniles and of community program facilities. Pat searches of juveniles are permitted, as are strip searches when approved by the Director of Community Programs or his or her designee. Strip searches can be undertaken only by appropriately trained staff and generally must be undertaken by staff of the same gender as the juvenile. Community program staff cannot undertake body cavity searches. In the event the superintendent or designee has reasonable suspicion to believe that contraband is being concealed in a juvenile's body cavity, local law enforcement authorities are to be notified and the juvenile placed on constant observation pending their arrival. Juveniles' possessions and all program areas are subject to routine and random search. Testing for prohibited substances may be

conducted for the purpose of deterring and controlling the introduction of contraband and to detect the presence of any substance not authorized for possession or use by juveniles. All security devices, including locks, windows, doors, door alarms, and lock boxes, must be inspected daily to detect any tampering or defect, and emergency keys must be checked at least once every calendar quarter to determine that they work properly. Scanning devices may be used to conduct searches, including in conjunction with a strip search, when necessary for security purposes. A juvenile's possessions and all community program areas and property are subject to routine and random canine searches.

Proposed Subchapter 12 addresses issues related to the seizure and disposition of contraband. The proposed rules place special restrictions on bringing money or other currency into a community program. For security reasons, money orders and certified checks are the only approved form of currency that can be received for deposit into a juvenile account. In a departure from the practice in both adult and juvenile secure facilities, these can be brought in by visitors, as well as sent through the mail. Juveniles are not permitted to receive either cash or personal checks. All payments to juveniles must be logged-in and tracked. Unauthorized money or currency, in an amount less than a threshold to be determined by the Director of Community Programs, found in a juvenile's possession at a day program is to be seized and held at the day program for return to the juvenile at the end of the day. If the amount is in excess of that threshold it is required to be seized and turned over to superintendent or designee and forwarded to the Office of Investigations.

Subchapter 13 is reserved.

Proposed N.J.A.C. 13:103-14 provides for the discipline of juveniles in residential

community homes.

Methodologies currently available for disciplining juveniles in residential community homes are limited to low and high-end strategies. At the low end, in the large majority of cases where a juvenile needs to be made accountable for behavior that violates program norms or policies, therapeutic intervention by Commission staff is sufficient to meet the accountability objective, and is consistent with the Commission's objective to create and reinforce self-motivating behaviors in juveniles under its care at community programs. At the high end, when a violation is serious enough the juvenile can be removed from the residential community home; committed juveniles are transferred to the custody of the Commission's Office of Secure Care for processing and adjudication of charges under the provisions of N.J.A.C. 13:101, and probationers are subject to a violation of probation.

The Commission believes that this low- and high-end approach to disciplining juveniles in community programs needs to be supplemented to provide for a middle ground. Accordingly, N.J.A.C. 13:103-14 provides internal disciplinary procedures that address circumstances where, in the judgment of Commission professionals, although therapeutic intervention may not be sufficient to address the seriousness of a violation, removal from a community program would be excessive. Accordingly, Subchapter 14 establishes a two-tier process of formal discipline beyond therapeutic intervention. In the most serious cases, removal of committed juvenile remains, and is identified in the proposed rule as "Tier 1." With respect to probationers, the ability to recommend violation of probation remains as well.

The new middle ground, or "Tier 2" discipline, applies in those situations where the Superintendent determines that the charge or charges against a juvenile are too serious to

warrant normative therapeutic intervention, but are not serious enough to warrant either Tier 1 removal or possible violation of probation.

Both Tier 1 and Tier 2 discipline must be supported by a charge that a juvenile has committed one or more of the “violations” set forth in N.J.A.C. 13:101-4.1, the list of violations contained in the Commission’s rule governing the discipline of juveniles in its secure facilities. All violations that may constitute crimes of the first, second, third, or fourth degree under the Criminal Code of the State of New Jersey (N.J.S.A. 2C:1-1 et seq.) must be reported to the Director of Community Programs, to the Director of Investigations, and, subject to review and approval by the Executive Director, to the prosecutor of the county in which the facility is located.

A staff member who witnesses conduct that might constitute a violation of residential community home rules of behavior, or which otherwise might warrant discipline, is required to report the conduct to the shift coordinator, including a recommendation as to corrective measures. If the alleged conduct constitutes a violation under N.J.A.C. 13:101-4.1, that may be sufficiently serious to warrant action beyond therapeutic intervention, the shift coordinator initiates formal internal discipline procedures, and recommends either Tier 1 or Tier 2 discipline. The Superintendent or designee reviews this recommendation and makes a final determination whether to process the discipline either with therapeutic intervention, or under either Tier 1 (including for this purpose a recommendation to violate probation) or Tier 2 discipline.

A determination to proceed with Tier 2 initiates a formal disciplinary process within the residential community home. The juvenile has the right to challenge the violation and/or the proposed corrective measures via an internal disciplinary conference held by the

Superintendent or designee. This conference must be held as soon as is practical, but no later than during the weekday following the shift during which the incident occurred. A conference may be held, at the discretion of the Superintendent or designee, even if the juvenile waives or forfeits his or her right to the conference. A juvenile may be deemed to have forfeited his or her right to a conference or the right to attend the conference, if the juvenile's behavior is disruptive so as to require his or her removal from the conference.

Following either a disciplinary conference or an independent review of the case, upon waiver or forfeiture, the Superintendent or designee must either affirm or modify the underlying charge or charges, and affirm or modify the proposed corrective measures. In suitable cases a committed juvenile may be referred for removal under Tier 1, or for possible violation of probation in the case of a probationer. The Superintendent or designee also may determine that there is no cause for formal action, and either dismiss the charge or refer the matter for therapeutic intervention.

Sanctions available under Tier 2 include withdrawal of privileges, restitution, restriction to the residential community home, formal reprimands, and extra work duty. In all cases the juvenile must receive counseling with respect to the reason for the rules and policies related to the underlying violation or violations, and any elements of the juvenile's behavior or attitude that are in need of improvement.

The proposed rules prohibit a number of measures from being used as disciplinary measures; these include isolation or any other seclusion in a locked or unlocked room, corporal punishment, deprivation of meals, snacks, sleep, mail and clothing, assignment of overly strenuous physical work or exercise, and exclusion from any essential program or treatment service, such as education or clinical treatment.

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 proposed new rules will have a positive social impact. Juveniles assigned to community programs are troubled children, with unique educational, vocational, and social needs. The proposed rules provide the therapeutic environment and rehabilitative programs that are essential to address those needs, and which are at the core of all community programs, while providing the guidance and structure that is necessary in a correctional setting.

The proposed rule address such issues as orientation of juveniles (N.J.A.C. 13:103-2), grooming and hygiene (N.J.A.C. 13:103-4), access to courts and legal resources (N.J.A.C. 13:103-6), mail (N.J.A.C. 13:103-7), visitation and telephone use (N.J.A.C. 13:103-8), use of force (N.J.A.C. 13:103-9), critical injuries and pregnancies (N.J.A.C. 13:103-10), searches and contraband (N.J.A.C. 13:103-11 and 12), and discipline (N.J.A.C. 13:103-14).

In each case, the proposed rules are tailored to both reasonable security concerns and to the therapeutic mission of community programs, and will help to order daily life of both juveniles and staff assigned to them.

### **Economic Impact**

The proposed new rules will not result in any economic impact because additional funding is not necessary to implement these rules. The Commission will bear the cost of

meeting and maintaining the requirements established by these rules through the budgetary process with monies allocated by the State.

### **Federal Standards Statement**

The proposed new rules comply with 28 CFR 31.303 and do not exceed the standards or requirements imposed by Federal law, including the Prison Rape Elimination Act of 2003 (PREA), 42 U.S.C. §§ 15601 et seq. Therefore, a Federal standards analysis is not required.

### **Jobs Impact**

The New Jersey Juvenile Justice Commission does not anticipate that the proposed new rules will result in the generation or loss of jobs.

### **Agriculture Industry Impact**

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

### **Regulatory Flexibility Statement**

The proposed new rules 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 proposed new rules impact juveniles assigned to day and residential community programs of, and employees of, the New Jersey Juvenile Justice Commission, and have no effect on small businesses.

### **Housing Affordability Impact Analysis**

The proposed 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 juveniles assigned to the Commission's community programs.

### **Smart Growth Development Impact Analysis**

The proposed new rules will not have an 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 juveniles assigned to the Commission's community programs.

**Full text** of the proposed new rules follows:

#### CHAPTER 103

#### COMMUNITY PROGRAMS

#### SUBCHAPTER 1. GENERAL PROVISIONS

#### 13:103-1.1 Purpose

(a) The purpose of this chapter is to establish a regulatory framework governing the operation of community programs under the jurisdiction of the Commission, as those terms are defined in N.J.A.C. 13:103-1.3.

(b) Among the rules set forth in this chapter are rules addressing:

1. Uniform requirements for juvenile orientation;
2. Issuance and updating of a resident handbook in each residential facility;
3. The transportation of juveniles outside of the community program;
4. Handling of juveniles' mail, visits to and by juveniles, and juvenile access to courts;
5. Searches of juveniles and facilities in order to control and deter contraband;
6. Testing for prohibited substances;
7. Contraband and its seizure and disposal;
8. Housekeeping, sanitation, bedding, and laundry;
9. Use of force;
10. Juvenile hygiene and grooming; and
11. Juvenile discipline.

#### 13:103-1.2 Scope

This chapter shall be applicable to all Commission community programs, including both residential community homes and day programs, except to the extent indicated otherwise in this chapter.

#### 13:103-1.3 Definitions

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

“Assistant Superintendent” means Commission staff member, by whatever name or title, who is the ranking assistant to a Superintendent of a community program.

“Attorney General” means the Attorney General of the State of New Jersey.

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

“Commission” means the New Jersey Juvenile Justice Commission.

“Committed juvenile” means an individual who has been adjudicated delinquent by a court and sentenced to a term of incarceration to be served under the custody of the Commission.

“Community program” means any substance abuse, assessment and treatment, transitional, or similar program, both residential and non-residential, run by the Commission.

"Constant observation" means uninterrupted surveillance of one juvenile that shall be conducted in person and that may be supplemented by video monitoring.

"Contraband" means:

1. Any item, article, or material found in the possession of, or under the control of, a juvenile that is not authorized for retention or receipt;

2. Any item, article, or material found within the facility or on its grounds that has not been issued by the community program or authorized as permissible for retention or receipt;

3. Any item, article, or material found in the possession of, or under the control of, staff or visitors within the community program or on its grounds that is not authorized for receipt, retention, or importation;

4. Any item, article, or material that is authorized for receipt, retention, or importation by juveniles, staff, or visitors but, which is found in an excessive amount or which has been altered from its original form. An amount shall be considered excessive if it exceeds stated community program limits or exceeds reasonable safety, security, sanitation, or space considerations; or

5. Any article that may be harmful or presents a threat to the security and orderly operation of the community program shall be considered contraband.

Items of contraband shall include, but not be limited to: guns and firearms of any type; ammunition; explosives; knives, tools and other implements not provided in accordance with community program regulations; cell phones and other unauthorized electronic devices; hazardous or poisonous chemicals and gases; unauthorized drugs and medications; medicines dispensed or approved by the community program but not consumed or utilized in the manner prescribed; intoxicants including, but not limited to, liquor or alcoholic beverages; and, where prohibited, currency and stamps.

"Correspondence" means communication by the exchange of letters.

"Day program" means a non-residential community program.

"Deputy Executive Director" means the Deputy Executive Director of the Commission.

"Director of Administration" means the Commission staff member, by whatever name or title, in charge of the Commission's Office of Administration.

“Director of Community Programs” means the Commission staff member, by whatever name or title, charged with oversight and management responsibilities for the overall operation and supervision of the Commission’s community programs.

“Director of Education” means the Commission staff member, by whatever name or title, having overall responsibility for developing and administering educational programs for juveniles.

"Director of Investigations" means the Chief Investigator or other Commission staff member, by whatever name or title, charged with oversight and management responsibilities for the overall operation and supervision of Office of Investigations.

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

“Executive Director” means the Executive Director of the Commission.

“Facility” means a facility of the Commission used to house, train, or educate juveniles; it does not refer to the central or other administrative or operational offices of the Commission.

“Fiscal manager” means the Commission staff person, by whatever name or title, who operates as the general business manager of a community program, whether or not that person’s work location is located at the community program.

"Health care provider" means the individual or the entity that is providing the medical, dental, and/or mental health services to juveniles.

"Household member" means an adult or child who resides either full-time or part-time in the home of the juvenile.

"Housing unit" means a room, dormitory, or other type of sleeping area within a community program.

"Indigent juvenile" means a juvenile who has no funds in his or her account and is not able to earn juvenile wages due to prolonged illness or other justifiable circumstances beyond the juvenile's control, and who has been verified as having no outside source from which to obtain funds.

"Interoffice correspondence" means the exchange of correspondence between offices within the Commission.

"Juvenile" means both committed juveniles and juveniles who have been placed on probation by a court, assigned to the jurisdiction of the Commission, and who are residing in or assigned to a community program.

"Juvenile account" means the account established by the Commission to hold and account for monies accruing to an individual juvenile, and from which permitted payments and deductions are made.

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

"Legal correspondence" means the exchange of letters between a juvenile and:

1. An attorney of this State or any other state when properly identified as such on the outside of the envelope;
2. Offices of the Federal or State Public Defender;
3. The Office of the Attorney General;
4. Federal and State courts;
5. Federal and State court judges;

6. Offices of Legal Services;
7. Legal assistance clinics managed by accredited law schools of this or any other state;
8. The Administrative Office of the Courts;
9. Offices of the Federal or State Prosecutor;
10. The Bureau of Risk Management, New Jersey Department of the Treasury;
11. The Office of Investigations;
12. The Office of Administrative Law; and/or
13. The New Jersey Division of Youth and Family Services.

"Legal material" means papers or documents that are required to be filed with the court and served upon opposing parties. Legal material includes:

1. Orders required by their terms to be served;
2. Written notices;
3. Written motions;
4. Demands, or answers to demands which the juvenile is required to serve, such as, for the production of documents or interrogatories;
5. Offers of judgment;
6. Designations of records on appeal;
7. Briefs;
8. Petitions;
9. Summons; and
10. Complaints.

"Legitimate public official" means the following:

1. An elected or appointed national, state, county or municipal government official; or

2. A director of a national, state, county or municipal government agency.

“Mailroom” means a designated location at a community program where mail to or from juveniles is processed.

"Notary service" means service provided by a notary public authorized by law to certify or attest documents, take affidavits, administer oaths, and perform other services ordinarily performed by a notary public.

“Office of Administration” means the office of administration located in the Commission’s central office.

"Office of Classification" means the unit within the Commission responsible for implementing procedures through which juveniles are assigned to custody levels, facilities, and treatment programs, based on assessments of the juveniles' supervision requirements and service needs.

“Office of Investigations” means the unit within the Commission responsible for conducting internal investigations.

“Ombudsman” means the individual(s) within the Commission, by whatever name or title, responsible for resolving complaints made by juveniles about the facility, the action or inaction of staff, or any other matter of concern to the juvenile.

"Orientation" means a program including one or more meetings or group sessions provided at a community program to familiarize juveniles with rules, procedures, units, services, and programs.

“Regional Administrator” means the Commission staff person, by whatever name

or title, responsible for a specific number of community-based Commission residential and day programs within a geographic region.

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

"Resident handbook" means a booklet that is provided to juveniles, which contains site-specific community program rules and procedures and information about services and programs. A resident handbook may also mean a handbook specific to a unit within a community program when identified as such.

"Residential community home" means a residential community program.

"Secure facility" means any Commission facility that houses juveniles and employs custody personnel (N.J.S.A. 52:17B-174) to provide security.

"Shift coordinator" means the staff person, by whatever name or title, with lead responsibility for overseeing operations during a tour of duty at a community program.

"Superintendent" means the person, by whatever name or title, who is chief executive officer of a community program.

"Unusual incident or event" means any occurrence that has the potential of jeopardizing or disrupting the secure and orderly operation of a community program, including, but not limited to, escape or attempted escape, homicide or attempted homicide, suspicious death, serious injury to juvenile or staff member, suicide or suicide attempt, serious threat to the life of a juvenile or group of juveniles, taking of a hostage, riot, melee, acute medical emergency, use of a weapon or other use of force, introduction into the facility of a controlled substance, use of a controlled substance, commission of a crime, staff work

stoppage, fire or natural disaster, and failure of HVAC, power, plumbing, or other major mechanical systems.

#### 13:103-1.4 Forms

(a) The following forms shall be reproduced by each facility from originals that are made available through the office of the Director of Community Programs:

1. CP360-I Remedial Action Plan Report;
2. CP292-I Request for Attorney-Client Contact Visit;
3. LAB-45 Drug Abuse of Urine, Chain of Custody;
4. LAB-46 Drug Abuse of Urine, Shipping;
5. CP171-I Seizure of Contraband Report;
6. CP171-II Juvenile Receipt, Contraband Seizure;
7. RCH Discipline Form;
8. JJ-001 Incident Report; and
9. Office of Substance Abuse Administration, Continuity of Evidence Form.

#### 13:103-1.5 Confidentiality and use of information relating to juveniles

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

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

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

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

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

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

## SUBCHAPTER 2. JUVENILE ORIENTATION AND HANDBOOK; NOTIFICATION TO JUVENILES OF THEIR RIGHTS AND RESPONSIBILITIES

### 13:103-2.1 Responsibility for orientation

The Superintendent of the community program shall designate a staff person to be responsible for orientation of juveniles.

### 13:103-2.2 Staff and juvenile participation

(a) Staff members from various components within the community program shall participate in orientation sessions to describe the programs, services, and/or activities of their components.

(b) The superintendent or designee may include longer residing juveniles in the orientation of those newly assigned to the community program.

### 13:103-2.3 Scheduling orientation

(a) Juveniles shall be provided an orientation session within two weeks of admission to a community program, unless compelling security or safety reasons dictate otherwise, or to do so would adversely affect the orderly operations of the community program.

(b) When assigned or transferred to another community program, juveniles shall be provided an orientation session within two weeks following admission to the new community program unless compelling security or safety reasons dictate otherwise or would adversely affect the orderly operations of the community program.

(c) Supplemental orientation sessions shall be held whenever necessary or appropriate to explain revised or changed subject matter that would require an update to the juvenile handbook required under the provisions of N.J.A.C. 13:103-2.4.

(d) When necessary or appropriate for adequate comprehension orientation sessions

shall be presented in a language other than English.

13:103-2.4 Community program resident handbooks

(a) The Director of Community Programs or designee shall designate a staff person to be responsible for developing, reviewing, revising, printing, and issuing the community program resident handbook.

1. The resident handbook and orientation sessions shall include material clearly describing all material rights, privileges, services, programs, and obligations of juveniles under the provisions of this chapter, N.J.A.C. 13:101, Juvenile Discipline, the Prison Rape Elimination Act of 2003, 42 U.S.C. §§ 15601 et seq., Commission internal management procedures and related policies, and under any other material deemed relevant by the Director of Community Programs or designee.

2. The resident handbook shall be reviewed and updated as required, but in any event no less frequently than annually; all updates are subject to review and approval by the Director of Community Programs or designee.

3. Subject to review by the Executive Director or designee, the Director of Community Programs shall maintain and shall update no less frequently than annually a list of all subject matters to be covered in the resident handbook.

(b) When deemed necessary or appropriate, staff involved in components unique to the particular community program shall be consulted in preparing the community program's resident handbook.

13:103-2.5 Resident handbook distribution

(a) Each juvenile shall be provided a copy of the resident handbook within two business days of admission to the community program unless compelling security or safety reasons dictate otherwise, or to do so would adversely affect the orderly operations of the community program.

(b) Pursuant to N.J.S.A. 30:4-8.5, a Spanish translation of the resident handbook shall be provided to Spanish speaking juveniles not conversant with the English language.

#### 13:103-2.6 Program specific resident handbook

As appropriate, and subject to review and approval by the Director of Community Programs, a program-specific resident handbook shall be issued, and amended when and as necessary, by the Superintendent or designee that explains internal management procedures, provisions, privileges, and services related to the particular community program.

#### 13:103-2.7 Notification to juveniles of their rights and responsibilities

(a) Upon reception into the community program each juvenile shall be given written notification that they have the following rights:

1. To be treated respectfully, impartially, and fairly by all personnel;
2. To be informed of the rules, procedures, and schedules concerning the operation of the community program;
3. To participate in counseling, education, vocational training, and employment, as far as resources are available, and in keeping with the juvenile's interests, needs, and abilities;

4. To use the services of the Commission's Ombudsman; and

5. To freedom of religious affiliation and voluntary religious worship within the community program.

(b) In addition to the rights set forth in (a) above, upon admission to a residential community home, a juvenile shall be given written notification that the following rights apply to juveniles in residential community homes:

1. To health care, which includes medical, mental, and dental treatment;

2. To nutritious meals, proper bedding, and clothing, a laundry schedule for cleaning bedding and clothing, an opportunity to shower daily, sufficient warmth, proper ventilation, fresh air, a regular exercise period, and toilet articles;

3. To correspond with and receive visits from family members and other persons where there is no threat to security or order in keeping with the rules and schedules of the residential community home;

4. To unrestricted and confidential access to the courts by correspondence;

5. To legal counsel from an attorney of the juvenile's choice, both through meetings and through correspondence, and the right to receive help when it is available through a legal assistance program;

6. To participate in the use of law reference materials to assist in resolving legal problems; and

7. To a wide range of reading material for educational purposes and for enjoyment;

(c) Upon reception into the community program each juvenile shall be given written notification that they have the following responsibilities:

1. To treat all others, including employees, juveniles, and any visitors, respectfully,

impartially, and fairly;

2. To know and abide by the rules, procedures, and schedules concerning the operation of the community program;

3. To take advantage of activities (such as counseling, education, vocational training, and employment) that may help the juvenile live a successful and law abiding life within the community program and in the community. The juvenile will be expected to abide by the regulations governing the use of such activities;

4. To attend educational programs conducted by the Commission as required by law; and

5. To recognize and respect the rights of others to freedom of religious affiliation and voluntary religious worship within the community program.

(d) In addition to the responsibilities set forth in (c) above, upon admission to a residential community home, a juvenile shall be given written notification that juveniles in residential community homes have the following responsibilities:

1. To follow laundry and shower schedules, to maintain neat and clean living quarters, and to seek medical and dental care as needed;

2. To conduct him- or herself properly during visits, to refuse to accept or pass contraband, and to comply with Commission rules and State or Federal laws through the juvenile's correspondence;

3. To use the available law library resources in keeping with the residential community home procedures and schedules and to respect the rights of other juveniles in the use of this legal material; and

4. To seek and utilize reading material for personal benefit, without depriving others

of their right to use same.

SUBCHAPTER 3. (RESERVED)

SUBCHAPTER 4. JUVENILE HYGIENE AND GROOMING; PROHIBITION AGAINST TOBACCO PRODUCTS; JUVENILE IDENTIFICATION PHOTOGRAPHS; HOUSEKEEPING AND SANITATION; CLOTHING, BEDDING AND LAUNDRY

13:103-4.1 Purpose

(a) The purpose of this subchapter is to establish policies and procedures for:

1. The maintenance and practice of good hygiene and grooming habits for juveniles;
2. The purchase and distribution of sanitary, hygienic, and grooming supplies to non-indigent and indigent juveniles;
3. The provision of sufficient time for grooming;
4. Provisions for replacing juvenile identification photographs;
5. The establishment of guidelines governing housekeeping and sanitation;
6. The establishment of guidelines governing clothing, bedding, and laundry;
7. A juvenile orientation program that includes the provisions of this chapter; and
8. The establishment of community program internal management procedures.

13:103-4.2 Written community program internal management procedures

(a) Each community program shall develop written internal management procedures

governing juvenile hygiene and grooming, juvenile identification photographs, housekeeping and sanitation, clothing, and for residential community homes, bedding and laundry. These written procedures shall be incorporated into the community program resident handbook (see N.J.A.C. 13:103-2).

(b) New or revised written internal management procedures regarding juvenile hygiene and grooming, juvenile identification photographs, housekeeping and sanitation, clothing, bedding, and laundry shall be posted and incorporated into the next publication of the community program resident handbook.

#### 13:103-4.3 Juvenile orientation

Community program internal management procedures regarding juvenile hygiene and grooming, juvenile identification photographs, housekeeping and sanitation, clothing, bedding, and laundry shall be fully explained to all juveniles as a formal part of the community program orientation program in accordance with N.J.A.C. 13:103-2.

#### 13:103-4.4 Sanitary/hygiene/grooming kit for juveniles in a residential community home

(a) A sanitary/hygiene/grooming kit that includes a minimum of the following items shall be provided at no cost to all juveniles upon admission to a residential community home:

1. Soap;
2. Deodorant;
3. A toothbrush and toothpaste;
4. A comb and brush;
5. Shaving supplies; and

6. Feminine hygiene supplies for women.

13:103-4.5 Grooming, showering, and shaving

(a) Juveniles in residential community homes shall be permitted to shower and shave daily, unless an emergency situation or security hazard exists.

(b) Showers may be provided for juveniles in day programs, but are not required.

(c) All juveniles are expected to maintain an adequate level of personal cleanliness and hygiene in accordance with the internal management procedures established by the community program.

13:103-4.6 Procedures for purchasing and issuing supplies for juveniles in residential community homes

(a) Juveniles in residential community homes shall be permitted to purchase sanitation and grooming articles at regularly scheduled times.

(b) Sanitary/hygiene/grooming items shall be provided to all juveniles in residential community homes who have been determined to be indigent.

(c) Personal sanitary/hygiene/grooming needs shall not be denied to juveniles for punitive reasons.

13:103-4.7 Time for grooming for juveniles in residential community homes

Sufficient time for grooming shall be provided to juveniles in residential community homes in the morning and at bedtime, and at other times set forth in the residential community home's regular schedule, such as, but not limited to, before or after a juvenile's

job detail (for example, food, medical, sanitation, or mechanical service details).

#### 13:103-4.8 Hair

(a) Juveniles shall be permitted to have a hair-style of personal choice, including facial hair, such as beards and mustaches, provided their hair is kept clean and does not present a safety hazard, health, sanitation, or security problem.

(b) When the length, style, color, or condition of a juvenile's hair is found to present a safety hazard, health, sanitation, or security problem, the juvenile shall be required to trim or cut his or her hair, or take other steps to eliminate the safety hazard, health, sanitation, or security problem.

(c) Barbering, shaving, and hair care services, for both male and female juveniles, shall be provided as needed for juveniles in residential community homes, and shall be permitted, but not required, at day programs. Hair shall be cut under sanitary conditions and in an area that can easily be observed by staff. Hair care equipment shall be stored securely when not in use. A current inventory of hair cutting equipment shall be maintained.

(d) Juveniles shall not be permitted to possess or wear wigs or artificial hairpieces, unless the Superintendent has authorized use, such as for medical reasons.

#### 13:103-4.9 Tobacco products prohibited

Smoking and the use of tobacco products, except in designated areas, is prohibited in any community program building or Commission vehicle, including recreational yards and other outdoor areas, and juveniles are prohibited from possessing any tobacco products of any kind without limitation.

#### 13:103-4.10 Replacement juvenile identification (ID) photographs

(a) Replacement identification photographs shall be taken when:

1. A juvenile intentionally changes his or her appearance, such as, but not limited to, a change in hair style, the growth or removal of facial hair, or weight gain or loss;
2. A juvenile's appearance changes due to circumstances beyond the control of the juvenile, such as, but not limited to, hair or weight gain or loss due to illness; or
3. A juvenile voluntarily changes his or her appearance in order to comply with a program safety, health, or sanitation recommendation.

(b) Juveniles shall reimburse the community program for the cost of the replacement ID photograph, except when:

1. The juvenile is indigent;
2. The juvenile's appearance changes due to circumstances beyond his or her control; or
3. The juvenile voluntarily changes his or her appearance in order to comply with a program safety, health, or sanitation recommendation.

#### 13:103-4.11 Housekeeping

(a) Housekeeping schedules of daily, weekly, and periodic cleaning duties shall be developed and maintained by each community program. These schedules shall set forth the type and frequency of cleaning assignments necessary to maintain all areas of the facility and grounds in a clean, orderly, and safe condition.

(b) Juveniles assigned to use housekeeping equipment shall be trained in the use of the

equipment; cleaning activities shall be supervised to help ensure the work performed is appropriate, the equipment is in good working order, and supplies are used in accordance with manufacturer instructions.

(c) Juveniles shall keep their living and working areas clean.

#### 13:103-4.12 Waste disposal

(a) Liquid, solid, and recyclable wastes shall be appropriately separated, stored, collected, and disposed of in a manner that will protect the health and safety of all persons within a community program and avoid the creation of a nuisance or hazard.

(b) Garbage shall be stored in durable rust-resistant, watertight, rodent-proof, and cleanable containers with tight-fitting lids.

1. Regulated medical waste shall be handled in accordance with N.J.A.C. 7:26-3A.

#### 13:103-4.13 Control of vermin and pests

(a) Each community program shall provide for the control of vermin and pests under the direction of licensed pest control specialists.

(b) Pest control inspections shall be conducted on a regular basis.

#### 13:103-4.14 Inspections by community program staff members

All areas of the community program shall be inspected for cleanliness at least weekly by a designated staff member(s) who shall submit a written report to the Superintendent or designee.

13:103-4.15 Inspections by the State Department of Health and Senior Services

(a) The Office of Administration shall coordinate sanitary inspections to be conducted by the State Department of Health and Senior Services.

(b) Each community program shall be inspected in accordance with a schedule agreed upon by both the Commission and the State Department of Health and Senior Services.

(c) Upon completion of the inspection, each community program receiving a rating other than satisfactory shall be required to respond to the cited deficiencies on Form CP360-I, Remedial Action Plan Report. Copies of the completed CP360-I, Remedial Action Plan Report, shall be submitted to the Director of Administration or designee and to the Director of Community Programs within 21 calendar days after the completion of the inspection.

(d) Form CP360-I, Remedial Action Plan Report, shall be completed in the following manner:

1. All deficiencies cited in the inspection document shall be entered onto Form CP360-I in the order in which the deficiencies appear on the document, together with the appropriate agency code/reference number(s), if indicated, and the area of the community program inspected;

2. The specific action(s) taken to correct each deficiency shall be briefly stated along with the scheduled completion date of each. Where work orders are involved, the community program shall indicate the scheduled completion date of the action(s) required. Dates of work order submissions are not acceptable as completion dates; and

3. Community programs shall schedule completion of all corrective action(s) no later than 21 calendar days subsequent to receipt of the inspection report, except where the needed materials, supplies, and/or services are documented to require additional

acquisition or completion time. In these cases, the earliest possible completion dates shall be scheduled and entered on the form.

(e) Community programs unable to submit a plan within 21 calendar days must forward a justification with a request for a 14-calendar-day extension, in writing, to the Director of Administration or designee and the Director of Community Programs.

(f) Facilities receiving a rating other than satisfactory shall be subject to a reinspection within a time frame deemed appropriate by the State Department of Health and Senior Services.

#### 13:103-4.16 Policies of the Office of Administration

(a) The Office of Administration shall be responsible for formulating written policies to help ensure compliance with New Jersey health codes, acceptable water supply, waste disposal methods, and control of vermin and pests.

1. These policies shall be reviewed annually and updated when necessary.
2. All policy revisions and annual updates shall be sent to each community program.

#### 13:103-4.17 Basic clothing issue in residential community homes

(a) A residential community home shall provide a basic clothing issue to all juveniles, as deemed appropriate based on gender, weather conditions, and particular activities of the community program, subject to the approval of the Director of Community Programs.

(b) Additions to, deletions of, and substitutions to the listed clothing issue shall be approved, in writing, by the Director of Community Programs or designee.

(c) When a juvenile is transferred to a residential community home from either another

community program or a secure facility, any clothing issued to the juvenile by the transferring facility shall be transported with the juvenile to the receiving community program.

#### 13:103-4.18 DEPTCOR, State Use Industries

The basic clothing issue, footwear, special issue/work detail clothing, bedding, and towels shall be ordered through DEPTCOR, State Use Industries (see N.J.S.A. 30:4-95), unless otherwise provided for by the Commission.

#### 13:103-4.19 Replenishing juvenile basic issue

(a) When items of a juvenile's basic issue are lost, stolen, or condemned, they shall be replaced without delay.

(b) Previously used basic issue clothing shall not be reissued to juveniles unless the clothing is in good condition.

#### 13:103-4.20 Juvenile accountability for State-issued clothing

(a) Juveniles shall be held accountable for their issue of clothing.

(b) Juveniles who mutilate, destroy, or alter basic issue items may be subject to disciplinary action and may be required to make restitution.

#### 13:103-4.21 Special issue/work detail clothing

(a) Each community program shall issue appropriate special protective clothing, such as caps or hairnets and clothing related to weather conditions to juveniles assigned to specific

vocational assignments or work details.

(b) Juveniles scheduled for off-site events, including community service, court trips, deathbed visits, or attendance at funerals shall be provided with authorized civilian clothing when deemed necessary by the Superintendent.

(c) Additional work clothing shall be issued if requested by the juvenile and approved by the Superintendent or designee.

#### 13:103-4.22 Clothing handling at juvenile release

(a) Juveniles and/or their families may make arrangements to provide suitable clothing for juveniles upon release.

(b) When clothing is not otherwise provided, the community program shall issue clothing to juveniles being released. The issue of clothing shall be gender and weather appropriate.

#### 13:103-4.23 Personal clothing

(a) Subject to the discretion of the Superintendent or designee, juveniles shall be permitted to retain and wear personal clothing while assigned to a residential community home.

(b) No clothes shall be permitted or worn by a juvenile at a community program in a manner that poses a threat to either the safety of the juvenile, other juveniles, or staff, or to the orderly operation of the community program.

#### 13:103-4.24 Marking State-issued clothing

State-issued clothing shall be marked and/or coded in a legible and uniform manner

when deemed necessary in accordance with the internal management procedures of the community program.

#### 13:103-4.25 Condemning clothing

A community program shall condemn and replace State-issued clothing that cannot reasonably be repaired.

#### 13:103-4.26 Clothing storage at a residential community home

Except in unusual circumstances, each juvenile at a residential community home shall be provided with a bureau, locker, closet, or shelving that can be used for the storage of clothing.

#### 13:103-4.27 Bedding, towels, and washcloths at a residential community home

(a) A residential community home shall be responsible for issuing the following clean items to juveniles in accordance with facility internal management procedures:

1. Bedding, to include a pillow, pillow case, mattress, sheets, and sufficient blankets to provide comfort under existing temperature conditions; and

2. Towels and washcloths.

(b) Linens and towels shall be washed at least weekly.

#### 13:103-4.28 Clothing and bedding record at residential community homes

(a) A clothing and bedding record shall be maintained for each juvenile at a residential community home. This record shall include, at a minimum, the following:

1. The juvenile's name;
2. The juvenile's sizes; and
3. The items issued to the juvenile and the date of issue.

## SUBCHAPTER 5. TRANSPORTATION OF JUVENILES

### 13:103-5.1 Use of State-owned and privately owned vehicles

(a) Juveniles shall be transported only in State-owned vehicles, except when emergencies or other unusual circumstances require the use of privately owned vehicles.

(b) An employee who is escorting juveniles and operating a vehicle shall carry in his or her possession a valid driver's license appropriate to the vehicle being operated.

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

1. Employees shall be made aware of Commission policy regarding the use of private vehicles and the applicable liability provisions established by the Department of the Treasury, Division of Budget and Accounting.

2. When operating a private vehicle, the employee shall be in possession of a valid driver's license and proof that the vehicle is properly registered and insured.

3. The use of an employee's vehicle may be authorized, but not required, by the community program.

(d) All State-owned vehicles used to transport juveniles shall be equipped with first aid kits, with bloodborne pathogen protection kits, and with fire extinguishers.

(e) Vehicles used to transport juveniles shall be thoroughly searched for contraband by the escorting staff before and after being used.

(f) Only properly trained staff may transport juveniles. Such escort staff shall have been fully trained in the following areas:

1. The use of Commission supplied bloodborne pathogen protection kits; and
2. Any other activities required for successful completion of a transportation assignment.

#### 13:103-5.2 Transport supervision

(a) The Superintendent or designee shall make a determination with respect to the specific staffing and security arrangements required when transporting a juvenile. A careful review shall be made of the individual case to determine the most appropriate staffing and security arrangements for each trip.

1. If the Superintendent or designee determines that adequate security arrangements cannot be provided by community program staff he or she shall report that determination to the Director of Community Programs or designee.

2. Upon concurrence of the Director of Community Programs, a request for juvenile transport shall be forwarded to the Commission's Office of Investigations.

(b) The searching of juveniles by community program staff shall be in accordance with the requirements of N.J.A.C. 13:103-11.

#### 13:103-5.3 Transportation documentation

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

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

(b) Prior to escort to court and on inter-facility transfers, the escorting staff members shall ensure that they have all documentation necessary to obtain custody and/or to effect delivery of the juvenile being escorted.

(c) Staff members escorting a juvenile shall ensure that any trip authorization or other Commission required travel documents are properly completed and returned to the community program upon completion of the trip.

(d) All escorting staff members shall carry their Commission photo identification card.

#### 13:103-5.4 Court visits

(a) A juvenile shall only be produced in court by a writ of habeas corpus, writ of habeas corpus ad testificandum, post conviction relief order, or other order to produce which is to be received by the Commission 48 business hours prior to the scheduled court appearance.

1. It shall be improper to produce a juvenile in court on a subpoena only.
2. Writs of habeas corpus must be signed by either a New Jersey State Superior Court judge or a Federal court judge. No other writs to produce shall be honored.
3. Staff members escorting a juvenile on court trips shall verify with the Superintendent or designee that the order to produce is a writ specified in (a) above.
  - i. Questions concerning the validity of any writ shall be referred by the Superintendent or designee to the Office of the Director of Community Programs.
4. Any requests for exception to this policy shall be referred to the Office of the Director of Community Programs.
  - (b) Upon reasonable notice, a county may send its own county escorting custody personnel to pickup a juvenile at any time, provided the county escorting custody personnel have with them an appropriate writ for the juvenile.

#### 13:103-5.5 Juvenile supervision

- (a) During escort, juveniles shall be carefully supervised to prevent escape and receipt of contraband.
- (b) No unauthorized communication between juveniles and the public shall be permitted at any time during escort.
- (c) A juvenile's special requests during escort not related to the purpose of the trip shall not be honored. The juvenile shall be immediately returned to the community program upon completion of the trip's purpose.
- (d) If, while at court, the judge approves an interview of the juvenile with an attorney, the escorting staff member shall keep the juvenile in his or her sight at all times during the

interview. The escorting staff member shall not monitor the attorney-client conversation, and shall not discuss with the attorney any matter that involves staff operations.

(e) In accordance with N.J.A.C. 13:103-8, a juvenile shall be taken directly to the bedside of an ill relative, private viewing, or funeral visit. Side trips for any purpose shall not be permitted. A juvenile on such a trip shall not be allowed out-of-sight of the escorting staff member.

#### 13:103-5.6 Emergencies

Escorting staff members shall immediately notify the Superintendent, or designee, if an emergency arises during the transportation of a juvenile. If time or other considerations makes it impossible to contact the Superintendent, local law enforcement authorities may be notified by the escorting staff members without prior clearance by the Superintendent.

#### 13:103-5.7 Medical transportation

(a) In emergency situations when a non-ambulatory juvenile is in need of hospitalization or treatment outside of the community program, he or she shall be transported by ambulance, or by a State-owned vehicle if an ambulance is unavailable. A State-owned vehicle shall be used to transport an ambulatory juvenile who is in need of hospitalization or treatment outside of the facility.

(b) When a juvenile is transported by ambulance, a staff member shall accompany him or her in the ambulance and another staff member shall follow the ambulance in a back-up vehicle.

(c) The Superintendent or designee shall make a determination with respect to specific staffing and security arrangements required. In these cases, a careful review shall be made of the individual case to determine the appropriate vehicle, staffing, and security arrangements for each trip.

13:103-5.8 Transportation costs in a civil action

(a) The costs of transporting a juvenile to court for civil action will be paid by the Commission when:

1. The cause of action is related to the juvenile's confinement;
2. The cause of action is a Family Court matter, such as, but not limited to, matrimonial and child custody; or
3. The juvenile is a defendant and the plaintiff is a governmental entity.

(b) The cost of transporting a juvenile to court for a civil action other than those listed in

(a) above shall be paid in advance of the transportation by:

1. The juvenile or the juvenile's legal guardian;
2. The juvenile's attorney or representative; and/or
3. The person bringing the civil action against the juvenile or that person's representative.

(c) The Director of Community Programs or designee shall prepare a detailed written statement of expenses using the following criteria to determine the cost of transportation due:

1. The number of staff members and/or supervisors required for the juvenile's transportation;

2. The fee per staff member/supervisor that is the maximum salary of each representative title at time and a half;

3. The State vehicle mileage cost, as established by the New Jersey Department of the Treasury. The overall State vehicle cost shall be based on the mileage rate times the sum of the number of miles to and from the destination; and

4. All tolls and parking expenses.

(d) The total costs of transporting a juvenile to court for civil actions must be received in the form of a certified check made payable to the "Treasurer, State of New Jersey" and submitted for processing to the Commission's Chief Fiscal Officer.

#### 13:103-5.9 Written internal management procedures

Each community program responsible for juvenile transportation shall prepare written internal management procedures governing the transportation of juveniles outside of the community program, consistent with the requirements of this subchapter. These procedures shall be made available to all personnel involved in transporting juveniles and shall be reviewed at least annually and updated as necessary.

### SUBCHAPTER 6. ACCESS TO COURT FOR JUVENILES IN RESIDENTIAL COMMUNITY HOMES

#### 13:103-6.1 Juvenile access to courts

(a) The provisions of this subchapter apply to juveniles residing in residential community homes.

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

1. Establishment and use of a juvenile law library;
2. Photocopying services;
3. Opportunity to make legal telephone calls (see N.J.A.C. 13:103-6.7 and 8.30);
4. Provision of writing supplies, when needed;
5. Use of word processing resources to the extent that they are available;
6. Notary service; and
7. Payment of postage for indigent juveniles.

#### 13:103-6.2 Allocation of legal services

(a) Juvenile legal services are available to all juveniles.

(b) Based on the availability of space, supervisory staff and the security needs of the community program, the Superintendent or designee shall determine how access to legal services for a juvenile shall be provided.

#### 13:103-6.3 Access to legal materials

(a) In consultation with the Director of Education, the Director of Community Programs or designee shall be responsible for maintaining one or more law libraries and for developing internal management procedures for library use and supervision and access to legal materials. The procedures shall specify:

1. Law library hours, if applicable;
2. The number of juveniles who may use the library at one time;

3. Persons responsible for the supervision of juveniles;
4. Limitation(s) on removal of legal reference materials;
5. The provision of supplies, such as pens and paper;
6. The use of word processing resources; and
7. Any additional rules deemed necessary by the Director of Community Programs

or designee.

(b) Consideration shall be given to the following factors regarding the use of the law library:

1. Space and staff limitations;
2. The availability of supplies;
3. The availability of word processing resources;
4. The secure and orderly operation of community programs; and
5. The verified need of certain juveniles to meet time requirements for filing legal

documents.

(c) The Director of Education is responsible for the purchase of legal reference materials.

(d) The purchase of legal reference material shall be consistent with law and community program needs.

(e) In consultation with the Director of Education, the Director of Community Programs or designee shall be responsible for the maintenance of the law library, which shall include:

1. Updated costs; and
2. Replacement of lost or damaged volumes.

#### 13:103-6.4 Legal photocopying services; general provisions

(a) The Commission shall provide photocopies of legal material to juveniles at the rate of \$.10 per page, in accordance with the guidelines and limitations set forth in this subchapter.

(b) Juveniles may submit legal material to be photocopied to designated staff during the hours prescribed by the community program. The original and photocopies of the legal material shall be returned to the juvenile within two days of submission unless return of the legal material is prevented by exceptional circumstances. If the second day falls on a weekend or holiday, the legal material shall be returned on the weekday following the weekend or holiday.

#### 13:103-6.5 Legal photocopying services for indigent juveniles

(a) The Commission shall provide photocopies of legal material at no charge to the indigent juvenile in accordance with the guidelines and limitations in this subchapter.

(b) Only legal material that must be photocopied for a legitimate purpose, related to pending litigation challenging an indigent juvenile's sentence, directly or collaterally or challenging the conditions of confinement, such as civil rights actions and/or writs of habeas corpus, will be photocopied for indigent juveniles at the expense of the Commission. Such legal materials may include supporting documents, such as relevant prior correspondence and copies of receipts, which are to be attached to court documents. The legal material submitted for photocopying may be reviewed by the Superintendent, or designee, in order to determine whether the legal material:

1. Falls within the definition of "legal material"; or

2. Must be photocopied for a legitimate purpose related to litigation.

(c) The Superintendent, or designee, has discretion to determine whether the criteria enumerated in (b) above are fulfilled. Photocopies may be limited in quantity to the number required by the court plus one photocopy for the indigent juvenile.

(d) Exceptional circumstances may dictate that material other than legal material would need to be photocopied. The photocopying of such material is left to the discretion of the Superintendent or designee.

(e) Denials of access to material and the right to copy material are subject to review by the Ombudsman.

#### 13:103-6.6 Legal photocopying services for non-indigent juveniles

(a) The Commission shall provide photocopies of legal material to non-indigent juveniles in accordance with the guidelines and limitations established in this subchapter.

(b) A non-indigent juvenile shall be charged for the cost of all photocopying of legal material as established at N.J.A.C. 13:103-6.5(a).

(c) If the non-indigent juvenile has temporarily overdrawn his or her account or has a balance in the account, but the balance is not sufficient to pay the cost of all photocopying of legal material, the community program shall:

1. Remove from the non-indigent juvenile's account the amount available in accordance with (g)1 below;

2. Charge the non-indigent juvenile's account the amount owed the community program; and

3. Advise the non-indigent juvenile in writing of the amount owed and the reason

therefor.

(d) If a non-indigent juvenile has insufficient funds to cover the cost of photocopying, the community program shall copy only legal material that must be photocopied for a legitimate purpose. Such legal materials may include supporting documents, such as relevant prior correspondence and copies of receipts, which are to be attached to court documents. The legal material submitted for photocopying may be reviewed by the Superintendent, or designee, in order to determine whether the legal material falls within the definition of “legal material” and should be photocopied for a legitimate purpose.

(e) The Superintendent, or designee, has discretion to determine whether the criteria set forth in (c) above are fulfilled. Photocopies will be limited in quantity to the number required by the court plus one photocopy for the juvenile.

(f) Exceptional circumstances may dictate that material other than legal material would need to be photocopied. The photocopying of such material is left to the discretion of the Superintendent, or designee.

(g) Until the community program has been reimbursed in full for the photocopying of legal material, the fiscal manager or designee shall:

1. Remove from the non-indigent juvenile’s account any amount of funds in excess of the one-time monthly amount of \$15.00 after deductions to pay court ordered penalty assessments, restitution, fines, or other revenue obligations;

2. Note in the non-indigent juvenile’s account each removal of funds from the juvenile’s account;

3. Provide to the non-indigent juvenile a monthly account statement to include each removal of funds for photocopying legal materials from the non-indigent juvenile’s account;

and

4. Reimburse to the community program, the funds collected from juveniles for the cost of photocopying legal material. Reimbursements shall be made in accordance with applicable internal management policies.

(h) In the event a non-indigent juvenile is transferred to another facility within the Commission the fiscal manager of the sending community program shall notify the fiscal manager of the receiving facility in writing of the remaining amount due the sending community program for photocopying of legal materials. The notification shall also request that funds continue to be removed from the non-indigent juvenile's account at the receiving institution until reimbursement has been made in full. The receiving facility shall handle the collected funds in accordance with (g)4 above and shall transfer to the sending community program the funds collected from the juvenile.

(i) Whenever a non-indigent juvenile's account exceeds a \$25.00 negative balance, the Superintendent or designee shall be notified.

(j) Photocopying costs are regarded as collectable, if a non-indigent juvenile is paroled or released prior to making full reimbursement of funds owed for photocopying of legal materials.

(k) The fiscal manager shall notify in writing the Central Office Fiscal Unit of the remaining amount due the community program.

#### 13:103-6.7 Monitoring identity of party in legal telephone calls

Legal telephone calls shall be monitored to the minimum extent necessary to determine the identity of the party called and that the ongoing call is not interrupted by a call to

another party. (See also N.J.A.C. 13:103-8.30)

#### 13:103-6.8 Legal services

(a) Legal supplies, such as paper, envelopes, and pens, shall be provided in reasonable amounts as needed to all juveniles who request them for legal purposes. All juveniles may be required to justify the need for unusually large amounts of legal supplies.

(b) Frequently used legal forms and applications shall be made available through the law library.

(c) Access to computers or other electronic word processors will be provided, to the extent possible consistent with orderly operations of the community program.

#### 13:103-6.9 Notary public service

(a) Juveniles shall have reasonable access to notary public services.

(b) Juveniles shall not be permitted to be notary publics, to perform notary public services, or possess notary public equipment, such as a seal or stamp.

#### 13:103-6.10 Juvenile legal material

(a) Each juvenile shall be permitted to retain personal legal material in his or her room. This legal material shall be subject to contraband search only.

(b) The Superintendent may establish written policies that limit the accumulation of personal legal materials in a juvenile's housing unit. Any limitation on the accumulation of personal legal materials should be based on the amount in relation to:

1. Security;

2. Sanitation;
3. Fire hazard considerations; and
4. Space available in the housing unit.

#### 13:103-6.11 General provisions

(a) Nothing contained in this subchapter shall preclude a juvenile from obtaining assistance from any other juvenile.

(b) Nothing contained in this subchapter precludes any juvenile from obtaining legal assistance from an attorney.

#### 13:103-6.12 Written policy and procedures

(a) The Superintendent or designee of each community program shall ensure that written policies and procedures pursuant to this subchapter are established. These written policies and procedures shall be incorporated into the next revision of the community program's resident handbook.

(b) All new or revised policies and procedures shall be incorporated into the next publication of the resident handbook.

(c) Proposed written community program policies and procedures regarding juvenile legal services and any additions or revisions to such written policies and procedures shall be submitted to the Director of Community Programs for review prior to implementation.

#### 13:103-6.13 Change of juvenile's name; juvenile responsibilities

(a) In order to have Commission records altered to reflect a new legal name, a juvenile

wishing to change his or her name must:

1. Legally change his or her name in accordance with N.J.S.A. 2A:52-1 et seq. and R. 4:72-1 et seq.;

2. Submit a certified or true copy of the court's judgment allowing the name change to the Superintendent or designee of the community program to which he or she is assigned;

3. Submit verification to the Superintendent or designee, documenting that a copy of the court's judgment was published in a newspaper of general circulation in the juvenile's county of residence within 20 days of the court judgment. The juvenile's county of residence shall be considered the county of his or her last known residence as reflected in Commission records, unless otherwise specified by a judge's order; and

4. Submit verification to the Superintendent or designee documenting that a certified copy of the judgment was filed with the deputy clerk of the Superior Court of the county in which the action was brought and the appropriate office in the New Jersey Department of the Treasury, within 45 days of the court judgment.

(b) The Superintendent or designee shall forward to the Director of Community Programs or designee copies of all documentation received under this section.

13:103-6.14 Amendment of community program records to reflect juvenile name change

- (a) The Director of Community Programs or designee shall order that the community program records, including the computerized juvenile information recordkeeping systems, be amended to reflect the juvenile's new legal name after the requirements of N.J.A.C. 13:103-6.13(a) have been satisfactorily fulfilled.

(b) Each office within the community program that maintains a record of the juvenile shall be notified in writing of the juvenile's new legal name. The offices shall be instructed to show the original legal name as an alias.

(c) The Superintendent shall also notify the following of the juvenile's name change:

1. The Office of Classification;
2. The Juvenile Information Management System (JIMS);
3. The Offender Based Criminal Information System (OBCIS) at the New Jersey Department of Corrections; and
4. Any centralized electronic medical or other records relating to the juvenile.

#### 13:103-6.15 "Common law" change of name

No community program records shall be altered if a juvenile decides to change his or her name through the "common law" practice, that is, on the juvenile's own authority and without any legal court proceedings.

#### 13:103-6.16 Juvenile orientation

The procedure whereby a juvenile can legally change his or her name shall be incorporated into juvenile orientation.

#### 13:103-6.17 Filing fee for civil action or proceeding in Federal court

(a) In accordance with 28 U.S.C. § 1915, Proceedings *in forma pauperis*, a juvenile may request to bring a civil action in a court of the United States, or an appeal of a judgment in a civil action or proceeding in a court of the United States, without the prepayment of fees.

(b) A juvenile seeking to proceed in accordance with (a) above shall submit a request to the Superintendent or designee for a certified copy of his or her juvenile account statement for the six-month period immediately preceding the filing of the complaint or notice of appeal. The juvenile account statement shall be provided in a timely manner.

(c) Upon receipt by the community program of a court order issued pursuant to (a) above regarding the payment of filing fees, the community program fiscal manager shall first deduct funds from the juvenile's account to pay any initial partial filing fee in accordance with the terms of the court order, and then the balance of any filing fee in accordance with 28 U.S.C. § 1915, applicable Commission rules and procedures, and the terms of the court order.

#### 13:103-6.18 Filing fee for civil action or proceeding in State court

(a) If a juvenile files an action or proceeding in any court of this State, including an appeal from an administrative decision of the State Parole Board or the Commission, the juvenile may request a waiver of filing fees on the grounds of indigency. Pursuant to N.J.S.A. 30:4-16.3, a request for waiver of the filing fee shall include a certified copy of the juvenile's fund account statement for the six months immediately preceding the filing of the complaint or petition.

(b) A juvenile shall obtain a certified copy of his or her juvenile's account statement by submitting a written request to the Superintendent or designee. The trust fund account statement shall be provided in a timely manner.

(c) Payment from the juvenile's account for any filing fee or partial filing fee shall be processed in accordance with N.J.S.A. 30:4-16.3 and the terms of the court order.

### 13:103-6.19 Civil action money judgment; use of funds

(a) A monetary judgment awarded to a juvenile as a result of a civil action that is mailed or otherwise delivered to the juvenile at the community program shall be deposited in the juvenile's community program account and, in accordance with N.J.S.A. 30:4-16.4 and applicable Commission rules and procedures, shall be used to satisfy outstanding court-imposed obligations or claims for reimbursement for medical treatment.

(b) After satisfaction of obligations or claims set forth in (a) above, a monetary judgment that has been deposited into the juvenile's community program account shall be used for other revenue obligations or fees of the juvenile, such as, but not limited to, community program restitution or the cost of mailing legal correspondence for indigent juveniles.

## SUBCHAPTER 7. MAIL: CORRESPONDENCE, LEGAL CORRESPONDENCE, PUBLICATIONS, AND PACKAGES FOR JUVENILES RESIDING IN RESIDENTIAL COMMUNITY HOMES

### 13:103-7.1 Notice to juveniles

(a) The provisions of this subchapter apply only to juveniles residing in residential community homes. No mail of any kind shall be received by juveniles in day programs.

(b) Juveniles shall be informed of all existing, new, or revised rules and procedures regarding the mailing and receipt of correspondence, legal correspondence, publications, and packages by the posting of appropriate notices.

(c) During the admission orientation program, juveniles shall be given a description and explanation of all such rules and procedures.

(d) All then-current rules and procedures regarding correspondence, legal correspondence, publications, and packages shall be incorporated into the next revision of the resident handbook, as provided for in N.J.A.C. 13:103-2.4(a)2.

#### 13:103-7.2 Limitation on number of correspondents

The number of approved correspondents and the amount of correspondence a juvenile may receive or send shall be unlimited.

#### 13:103-7.3 Limitation on number of postage stamps

Each residential community home shall establish a limit of stamps that juveniles may possess that is consistent with the maintenance of security and the orderly operation of the residential community home.

#### 13:103-7.4 Limitations on source of publications

(a) Juveniles shall be permitted to receive approved hardcover books, paperback books, magazines, and other soft cover publications from any source, subject to measures necessary to insure the maintenance of security and the orderly operation of the residential community home.

(b) Juveniles shall not be permitted to receive newspapers.

(c) The Superintendent or designee may impose reasonable restrictions on the number of publications a juvenile may receive to the extent appropriate for purposes of ensuring the

safe, secure, and orderly operation of the residential community home.

(d) All books, magazines, and publications must be prepaid.

#### 13:103-7.5 Limitations on packages

(a) The Superintendent or designee shall promulgate:

1. Internal management procedures written in accordance with this section that include a written list of items that may be received in a package; and

2. A limit on the number of packages that may be received by a juvenile each month.

(b) Each juvenile shall be given written notice of package limitations as established in this section.

(c) All packages must be prepaid.

#### 13:103-7.6 Correspondence in language other than English

All residential community homes shall permit incoming and outgoing correspondence of the juveniles to be in a language other than English.

#### 13:103-7.7 Correspondence to or from other juveniles and inmates of adult correctional facilities

(a) Correspondence to juveniles from inmates of adult correctional facilities may be read to ensure that the correspondence does not contain any content prohibited by N.J.A.C.

13:103-7.24. Mail between juveniles may not be read except as provided for in N.J.A.C.

13:103-7.8(a).

(b) The Superintendent or designee shall be authorized to limit correspondence to or from other juveniles and inmates of adult correctional facilities, for purposes of ensuring the safe, secure, and orderly operation of the residential community home or operational unit.

#### 13:103-7.8 Inspection and identification of incoming correspondence

(a) Incoming correspondence shall be opened and inspected for contraband, but it shall not be read unless there is reason to believe that the correspondence contains disapproved content pursuant to N.J.A.C. 13:103-7.24. If there is reason to believe that the correspondence contains disapproved content, the correspondence shall be read only upon prior authorization of the Superintendent or designee.

(b) A confidential list of the names of juveniles whose incoming correspondence is authorized to be read shall be established and maintained in the residential community home's mailroom, or wherever the confidentiality of the list can be maintained.

(c) The sender's name and address and the juvenile's name should appear legibly on the outside of all incoming correspondence.

(d) Correspondence without the juvenile's name shall be returned to the sender. When both the juvenile's name and the sender's name and address do not appear on the outside of the incoming correspondence, the correspondence shall be marked "Refused" and returned to the United States Postal Service unopened.

(e) If either the sender's name or address does not appear, but the juvenile's name does appear on the outside of the incoming correspondence, the correspondence may be delivered to the juvenile after the correspondence has been opened and inspected for contraband.

(f) If it is necessary to return correspondence to a sender and the return address is incomplete, the correspondence shall be marked "Refused" and returned to the United States Postal Service unopened.

#### 13:103-7.9 Inspection of outgoing correspondence

(a) Outgoing correspondence shall be reviewed to determine the sender. If the sender of the correspondence cannot be identified, the correspondence shall be destroyed.

(b) Outgoing mail shall not be opened, read, or censored if it is considered legal correspondence, or if it is addressed to:

1. Public officials, such as:
  - i. The President of the United States;
  - ii. The Vice-President of the United States;
  - iii. Members of Congress;
  - iv. The Governor;
  - v. Members of the State Legislature;
  - vi. Members of the county Board of Freeholders; or
  - vii. The mayor;
2. Governmental agency officials, such as:
  - i. The Director of the Federal Bureau of Prisons;
  - ii. The Executive Director of the Juvenile Justice Commission;
  - iii. Members of the Federal Parole Board; or
  - iv. Members of the State Parole Board; or
3. News media representatives.

(c) Outgoing mail from juveniles to public officials, governmental agency officials, and news media representatives may be held, for a maximum of 72 hours, in order to verify that the addressee is a legitimate public official, governmental agency official, or news media representative.

(d) Any outgoing correspondence addressed to someone other than those cited in (b) above shall not be opened, read, or censored unless there is reason to believe that the correspondence contains disapproved content pursuant to N.J.A.C. 13:103-7.24 and then only with the prior approval of the Superintendent or designee.

(e) Outgoing correspondence, which is opened pursuant to this subchapter shall, once reviewed and approved, be resealed and mailed promptly.

(f) A confidential list of all correspondence that is read pursuant to this subchapter shall be maintained in the residential community home's mailroom, or wherever the confidentiality of the list can be maintained.

#### 13:103-7.10 Identification of residential community home on outgoing correspondence

The full name of the residential community home shall be clearly stamped or printed in the upper left corner of all outgoing envelopes from juveniles.

#### 13:103-7.11 Identification of incoming legal correspondence

(a) The return address on the outside of an envelope should clearly indicate that the correspondence is being sent from a legal correspondent as established in the definition for "legal correspondence."

(b) Mail sent from a legal correspondent shall be considered legal correspondence and

shall be handled in accordance with this subchapter.

(c) The absence of a particular name of an attorney or judge shall not preclude the correspondence from being treated as legal correspondence if the return address indicates an office or court as established in the definition for "legal correspondence."

#### 13:103-7.12 Inspection of incoming legal correspondence

(a) Incoming legal correspondence shall be opened in the presence of the juvenile to whom the legal correspondence was sent and may be inspected for contraband only.

(b) Incoming legal correspondence shall not be read or copied. The content of the envelope may be removed and shaken loose to ensure that no contraband is included. After the envelope has been inspected the correspondence shall be given to the juvenile.

(c) The residential community home may require that the juvenile sign a slip acknowledging receipt of the incoming legal correspondence.

(d) Where there is substantial reason to believe that the incoming correspondence is not legal in nature or that it contains disapproved content pursuant to N.J.A.C. 13:103-7.24, the Superintendent shall immediately notify the Director of Community Programs. The incoming legal correspondence shall not be inspected in a manner other than as outlined in this subchapter without first obtaining instructions from the Director of Community Programs.

#### 13:103-7.13 Identification of outgoing legal correspondence

(a) All outgoing legal correspondence shall be clearly marked with the juvenile's name on the envelope.

(b) A juvenile who is sending legal correspondence out of the residential community

home shall be responsible for clearly marking "legal mail" on the front and back of the envelope.

(c) The absence of the "legal mail" designation shall not mean that the correspondence may be treated as non-legal correspondence if the address on the envelope clearly indicates that it is "legal correspondence."

#### 13:103-7.14 Identification of incoming publications

(a) The sender's name and address and the juvenile's name shall appear legibly on the outside of all incoming publications.

(b) Publications without the juvenile's name shall be returned to sender.

(c) If the sender's name and address do not appear on the outside of the publication, the publication shall be opened and examined to determine the identity of the sender.

(d) If the sender cannot be identified, the publication shall be destroyed.

#### 13:103-7.15 Inspection and identification of outgoing publications

(a) Outgoing publications shall be reviewed to determine the sender.

(b) The juvenile's name shall appear legibly on the outside of the publication.

(c) If the name of the sender does not appear on the outside of the outgoing publication, it shall be opened and examined to determine the sender so that it can be returned to the juvenile. If the sender cannot be identified, the outgoing publication shall be destroyed.

(d) Except as required under (c) above, outgoing publications shall not be opened, read, or censored unless there is reason to believe that the publication contains disapproved content under the provisions of N.J.A.C. 13:103-7.37 and then only with the prior approval

of the Superintendent or designee.

(e) Outgoing publications that are opened pursuant to this subchapter shall, once reviewed and approved, be resealed and mailed promptly.

(f) A confidential list of the outgoing publications that are read pursuant to this subchapter shall be maintained in the mailroom of the residential community home, or wherever the confidentiality of the list can be maintained.

#### 13:103-7.16 Inspection of incoming publications

(a) Each incoming publication shall be opened and inspected for contraband, but shall not be read unless there is reason to believe that the publication contains disapproved content under the provisions of N.J.A.C. 13:103-7.37, and then only upon the prior authorization of the Superintendent or designee.

(b) A confidential list of the incoming publications that are read shall be maintained in the mailroom of the residential community home, or wherever the confidentiality of the list can be maintained.

#### 13:103-7.17 Identification of incoming mailed packages

(a) Every incoming package shall be clearly marked with the name and address of the sender.

(b) The juvenile's name shall appear clearly on the outside of the package. Incoming packages without the juvenile's name shall be returned to the sender.

(c) If the name and address of the sender does not appear on the outside of the incoming mailed package, it shall be examined to identify the sender when it is opened.

(d) If the sender of an incoming mailed package cannot be identified, the content of the package shall be destroyed.

#### 13:103-7.18 Inspection of incoming packages

(a) Every incoming package shall be opened and searched for contraband.

(b) Any item of contraband that is found during a search shall be processed in accordance with N.J.A.C. 13:103-12.

#### 13:103-7.19 Inspection and identification of outgoing packages

(a) Every outgoing package shall be opened and inspected.

(b) Every outgoing package shall be clearly marked with the juvenile's name on the outside of the package.

(c) If the juvenile's name does not appear on the outside of the outgoing package, when opened for inspection, it shall be examined to identify the sender so that it can be returned to the juvenile for proper mailing.

(d) If the sender of an outgoing package cannot be identified, the content of the package shall be destroyed.

(e) The content of outgoing packages shall be limited to juvenile personal property.

(f) Any item of contraband that is found during an inspection of outgoing packages shall be processed in accordance with N.J.A.C. 13:103-12.

#### 13:103-7.20 Registered, certified, preferential, or special delivery mail

(a) All registered, certified, preferential, or special delivery correspondence of a

non-legal nature shall be processed as regular mail and the designated staff shall sign to acknowledge receipt of the correspondence. The juvenile shall be required to sign an acknowledgement that he or she received the correspondence.

(b) Legal correspondence need not be sent by certified or registered mail.

(c) If a juvenile has sufficient funds in his or her account to cover the costs of mailing and the juvenile prefers to use certified, preferential, insured, or registered mail, the juvenile shall be permitted to do so at his or her expense.

#### 13:103-7.21 Proof of service

Juveniles who have insufficient funds to send legal correspondence as certified or registered mail and who are concerned that they have no proof of service where regular mail is employed, shall be advised that under the rules of court, an affidavit of service filed with the clerk of the court shall be sufficient proof of service.

#### 13:103-7.22 Correspondence processing

(a) Properly identified incoming correspondence shall be distributed to juveniles, and outgoing properly identified correspondence shall be forwarded to the post office within one day of receipt in the mailroom, excluding weekends, holidays, and during emergency incidents.

(b) Juveniles shall not be involved in the processing of either incoming or outgoing correspondence.

#### 13:103-7.23 Receipt of funds

(a) Money orders and certified checks shall be the only approved form of money received through the mail that can be accepted by the residential community home for deposit in a juvenile's account.

(b) When a juvenile receives money orders or certified checks by mail, the juvenile shall be given a receipt and the funds shall be deposited into the juvenile's account.

(c) All cash and personal checks sent through the mail to a juvenile shall be deemed contraband and processed in accordance with N.J.A.C. 13:103-12.6.

#### 13:103-7.24 Disapproved correspondence

(a) Any correspondence to or from a juvenile may be withheld in the mailroom or taken from a juvenile's possession if it falls within one of the following categories:

1. The correspondence contains material that is detrimental to the security and/or order of the residential community home because it incites violence based upon race, religion, creed, or nationality and a reasonable inference can be drawn, based upon the experience and professional expertise of correctional administrators, that it may result in the outbreak of violence within the facility;

2. The correspondence contains information regarding:

i. The manufacture of explosives;

ii. The manufacture of weapons;

iii. The manufacture of controlled dangerous substances;

iv. Escape plans;

v. Lock picking or locking devices; or

vi. Anything that might pose a threat to the security or orderly operation of the

residential community home;

3. The correspondence contains information that appears to be written in code;

4. The correspondence contains information concerning activities within or outside the residential community home that would be subject to criminal prosecution under the laws of New Jersey or the United States;

5. The correspondence incites violence or destructive or disruptive behavior toward:

i. Law enforcement officers;

ii. Commission or contract vendor personnel or other staff;

iii. Community program juveniles, visitors, and/or volunteers; or

iv. Community program activities, programs, or procedures; or

6. The correspondence contains material which, based upon the experience and professional expertise of correctional administrators and judged in the context of a residential community home and its paramount interest in security, order and rehabilitation:

i. Taken as a whole, appeals to a prurient interest in sex;

ii. Lacks, as a whole, serious literary, artistic, political, or scientific value; and

iii. Depicts, in a patently offensive way, sexual conduct including patently offensive representations or descriptions of ultimate sexual acts, masturbation, excretory functions, lewd exhibition of the genitals, sadism, or masochism.

#### 13:103-7.25 Control of correspondence

(a) Except as established in (b) below, incoming correspondence that is withheld from a juvenile shall be returned to the sender, together with a notice that the material has been found to violate Commission rules governing correspondence.

(b) If the correspondence is withheld pursuant to N.J.A.C. 13:103-7.24(a)4 for containing information that would be subject to criminal prosecution under the laws of New Jersey or the United States, the correspondence shall be turned over to the Office of Investigations for further action.

#### 13:103-7.26 Procedures for handling withheld correspondence

(a) When correspondence is withheld in the mailroom under the provisions of N.J.A.C. 13:103-7.24, the following action shall be taken:

1. The staff member who withholds the correspondence must submit a written report, no later than the end of the shift to the Superintendent or designee identifying:
  - i. The correspondence withheld;
  - ii. The juvenile to whom it was addressed;
  - iii. The time and date of withholding; and
  - iv. The category that the correspondence violates;
2. The decision of the staff member shall be reviewed by the Superintendent or designee;
3. The correspondence shall be given to the juvenile within 48 hours if the Superintendent or designee disagrees with the determination of the staff member;
4. The written report shall be initialed and returned to the staff member if the Superintendent or designee agrees with the determination;
5. The staff member shall provide the sender, within 72 hours of withholding, with a written notice that identifies:
  - i. The correspondence withheld;

- ii. The reason for withholding the correspondence; and
- iii. The right of the sender to appeal this decision within 10 calendar days of the date of the notice; and

6. The staff member shall provide the juvenile, within 72 hours of the withholding, with a written notice that correspondence has been withheld. The notice must contain the following:

- i. The name of the sender;
- ii. The date of the correspondence;
- iii. The date of the withholding; and
- iv. A statement that the sender has been notified of the withholding and of the right to appeal.

13:103-7.27 Procedure for handling correspondence removed from the juvenile's possession

(a) When correspondence is removed from the juvenile's possession under the provisions of N.J.A.C. 13:103-7.24, the following action shall be taken:

1. The staff member who removes the correspondence from the juvenile must submit a written report no later than the end of the shift to the shift coordinator identifying:
  - i. The correspondence removed;
  - ii. The name of the juvenile from whom it was removed;
  - iii. The time and date of removal; and
  - iv. The category that the correspondence violates;
2. The decision of the staff member shall be reviewed by the Superintendent or

designee;

3. The correspondence shall be returned to the juvenile within 48 hours if the Superintendent or designee disagrees with the determination of the staff member;

4. The written report shall be initialed and returned to the staff member if the Superintendent or designee agrees with the determination; and

5. The staff member shall provide the juvenile, within 72 hours of the removal, with a written notice that identifies:

- i. The correspondence removed;
- ii. The reason for removing it; and
- iii. The juvenile's right to appeal the removal.

#### 13:103-7.28 Appeal and final disposition

(a) When correspondence has been withheld in the mailroom or when correspondence has been removed from the juvenile's possession, the sender or juvenile may appeal the action of the Superintendent or designee to the Regional Administrator within 10 calendar days of the date of notice.

(b) The sender or juvenile shall be permitted to submit documents in writing to the Regional Administrator that state that the challenged correspondence does not violate the category indicated in the report of the staff member.

(c) The Regional Administrator or designee shall issue a written decision on the appeal and shall respond to the sender or juvenile, as appropriate, within 72 hours of receipt of the written appeal. If the decision is to withhold the correspondence from the juvenile, the decision shall identify the category of disapproved correspondence set forth in N.J.A.C.

13:103-7.24 that is applicable to the withheld correspondence.

(d) If a correspondence is found to be objectionable only in part and such part is easily separable from the rest of the correspondence, the sender or juvenile, as appropriate, shall be given the choice of whether to allow the residential community home to excise the offending portions or to forfeit the juvenile's right to the correspondence.

13:103-7.29 Cost of mailing legal correspondence by indigent juveniles

(a) The residential community home shall provide letter-writing materials and shall assume the cost of mailing legal correspondence for indigent juveniles.

(b) The cost of mailing legal correspondence shall extend only to First Class or standard postage and shall not include:

1. Registered mail;
2. Certified mail;
3. Preferential mail; or
4. Insured mail.

13:103-7.30 Cost of mailing correspondence for non-indigent juveniles

(a) If a non-indigent juvenile has funds in his or her account, the non-indigent juvenile shall be charged for the cost of mailing correspondence.

(b) If the non-indigent juvenile has temporarily overdrawn the account or has a balance in the account, but the balance is not sufficient to pay the total cost of mailing the correspondence, the residential community home shall:

1. Ensure that the correspondence is mailed via First Class and not preferential

mail;

2. Remove from the non-indigent juvenile's account the amount available in accordance with (c) below;

3. Charge the non-indigent juvenile's account the amount owed the residential community home; and

4. Advise the non-indigent juvenile in writing of the amount owed and the reason therefor.

(c) Until the residential community home has been reimbursed in full for the cost of mailing correspondence, the Fiscal manager or designee shall:

1. Reimburse the cost of mailing correspondence from the non-indigent juvenile's account with funds in excess of any amounts reserved for approved expenditures;

2. Note in the non-indigent juvenile's account each removal of funds from the juvenile's account;

3. Provide to the non-indigent juvenile a monthly account statement to include each removal of funds for the cost of mailing correspondence from the non-indigent juvenile's account; and

4. Reimburse the residential community home the funds collected from the juvenile for the cost of mailing correspondence. Reimbursements shall be made in accordance with applicable internal management policies.

(d) In the event a non-indigent juvenile is transferred to another Commission facility the Fiscal manager or designee of the sending residential community home shall notify the receiving facility in writing of the remaining amount due the sending residential community home for mailing correspondence. The notification shall also request that funds continue to

be removed from the non-indigent juvenile's account until reimbursement has been made in full. The receiving facility shall transfer to the sending residential community home the funds collected from the juvenile.

(e) Whenever a non-indigent juvenile's account exceeds a negative balance of \$25.00, the Superintendent or designee shall be notified.

(f) Mailing costs are regarded as collectable if a non-indigent juvenile is paroled or released prior to making full reimbursement of funds owed for correspondence mailing costs.

(g) The Fiscal manager or designee shall notify in writing the Superintendent and the Director of Administration or designee of the remaining amount due the residential community home.

(h) The Commission shall pay for the postage of juveniles in orientation and for whom a juvenile account has not yet been established.

1. The Superintendent or designee may establish reasonable guidelines governing the amount and frequency of outgoing mail with respect to such juveniles.

#### 13:103-7.31 Cost of mailing correspondence by indigent juveniles

(a) For indigent juveniles, the residential community home shall provide letter writing materials and shall assume the cost of mailing not more than 12 letters per month so that the indigent juvenile can maintain community ties with family and personal friends.

(b) The residential community home shall not assume the cost of postage on:

1. Registered mail;
2. Certified mail;

3. Preferential mail; or
4. Insured mail.

13:103-7.32 Correspondence to and from illiterate juveniles

(a) If a juvenile is unable to read or write, designated staff shall, upon request, assist the juvenile in maintaining community ties by:

1. Writing a letter as dictated by the juvenile; and
2. Reading incoming correspondence to the juvenile.

13:103-7.33 Cost of mailing legal correspondence for non-indigent juveniles and for juveniles in orientation and for whom a juvenile account has not yet been established

(a) If a non-indigent juvenile has funds in his or her account, the non-indigent juvenile shall be charged for the total cost of mailing legal correspondence.

(b) If the non-indigent juvenile has temporarily overdrawn his or her account or has a balance in the account, but the balance is not sufficient to pay the total cost of mailing the legal correspondence, the cost of mailing shall be handled in accordance with N.J.A.C.

13:103-7.30.

(c) The Commission shall pay for the postage of juveniles in orientation and for whom a juvenile account has not yet been established.

13:103-7.34 Prohibition against use of interoffice correspondence

Juveniles shall not be permitted to use interoffice or any other official stationary, which are purchased for use only by public sector employees.

### 13:103-7.35 Publications in a language other than English

All residential community homes shall permit incoming publications in a language other than English.

### 13:103-7.36 Processing of publications

(a) All properly identified and inspected incoming publications shall be distributed to juveniles within one day of their receipt in the mailroom, excluding weekends, holidays, and during emergency incidents.

(b) All properly identified outgoing publications shall be forwarded to the post office within one day of their receipt in the mailroom, excluding weekends, holidays, and during emergency incidents.

(c) Juveniles shall not participate in the processing of either incoming or outgoing publications.

### 13:103-7.37 Disapproved content in publications

(a) Any incoming publication may be withheld in the mailroom or taken from a juvenile's possession if it falls within one of the following categories:

1. The publication contains material that is detrimental to the security and/or order of the residential community home because it incites violence based upon race, religion, creed, or nationality and a reasonable inference can be drawn, based upon the experience and professional expertise of correctional administrators, that it may result in the outbreak of violence within the residential community home;

2. The publication contains information regarding:
  - i. Explosives;
  - ii. Weapons;
  - iii. Controlled dangerous substances;
  - iv. Escape plans;
  - v. Lockpicking and/or locking devices; or
  - vi. Anything that might pose a threat to the security or orderly operation of the residential community home;
3. The publication contains information that appears to be written in code;
4. The publication contains information directly or indirectly advocating or promoting activities, within or outside the residential community home, which would be subject to criminal prosecution under the laws of New Jersey or the United States;
5. The publication incites violence, or destructive or disruptive behavior toward:
  - i. Law enforcement officers;
  - ii. Commission personnel;
  - iii. Community program juveniles, visitors and/or volunteers; or
  - iv. Community program activities, programs, or procedures; or
6. The publication contains material that, based upon the experience and professional expertise of correctional administrators and judged in the context of a correctional facility and its paramount interest in security, order, and rehabilitation:
  - i. Taken, as a whole, appeals to a prurient interest in sex;
  - ii. Lacks, as a whole, serious literary, artistic, political, or scientific value; and
  - iii. Depicts, in a patently offensive way, sexual conduct including patently

offensive representations or descriptions of ultimate sex acts, masturbation, excretory functions, lewd exhibition of the genitals, sadism, or masochism.

#### 13:103-7.38 Control of publications

(a) Publications that are withheld or removed from a juvenile may be disposed of in a manner determined by the juvenile and at his or her expense.

(b) If the publication is withheld pursuant to N.J.A.C. 13:103-7.37(a)4, it shall be turned over to the Office of Investigations for further action.

#### 13:103-7.39 Procedure for handling publications withheld in the mailroom

(a) When a publication violates one of the categories cited in N.J.A.C. 13:103-7.37 and is withheld in the mailroom, the following action shall be taken:

1. The staff member who withholds the publication must submit a written report, no later than the end of the shift to the shift coordinator and Superintendent or designee identifying:

- i. The publication withheld;
- ii. The juvenile to whom it was addressed;
- iii. The time and date of withholding; and
- iv. The category that the publication violates;

2. The decision of the staff member shall be reviewed by the Superintendent or designee;

3. The publication shall be given to the juvenile within 48 hours if the Superintendent or designee disagrees with the determination of the staff member;

4. The written report shall be initialed and returned to the staff member if the Superintendent or designee agrees with the determination of the staff member;

5. Designated staff shall provide the sender, within 72 hours of the withholding, a written notice which identifies:

- i. The publication withheld;
- ii. The reason for withholding the publication; and
- iii. The right of the sender to appeal this decision within 10 calendar days of the date of the notice; and

6. Designated Staff member shall provide the juvenile, within 72 hours of the withholding, a written notice that the publication has been withheld. The notice must contain the following:

- i. The name of the publication;
- ii. The date of the publication;
- iii. The date of the withholding; and
- iv. A statement that the sender has been notified of the withholding and of the right to appeal.

13:103-7.40 Procedure for handling publications removed from a juvenile's possession

(a) When a publication violates one of the categories cited in N.J.A.C. 13:103-7.37 and is removed from the juvenile's possession, the following action shall be taken:

1. The staff member who removes the publication from the juvenile must submit a written report, no later than the end of the shift to the shift coordinator and Superintendent or designee identifying:

- i. The publication removed;
  - ii. The juvenile from whom it was removed;
  - iii. The time and date of the removal; and
  - iv. The category that the publication violates.
2. The decision of the staff member shall be reviewed by the Superintendent or designee.
3. The publication shall be returned to the juvenile within 48 hours if the Superintendent or designee disagrees with the determination of the staff member.
4. The written report shall be initialed and returned to the staff member if the Superintendent or designee agrees with the determination of the staff member.
5. Designated staff shall provide the juvenile, within 72 hours of the removal, with a written notice that identifies:
  - i. The publication removed;
  - ii. The reason for removing the publication; and
  - iii. The juvenile's right to appeal the removal.

#### 13:103-7.41 Appeal and final disposition

(a) When a publication has been withheld in the mailroom or when a publication has been removed from the juvenile's possession, the sender or juvenile may appeal the action of the Superintendent or designee to the Regional Administrator.

(b) The sender or juvenile shall be permitted to submit to the Regional Administrator written arguments that the challenged publication does not violate the category indicated in the report of the staff member.

(c) The Regional Administrator or designee shall issue a written decision on the appeal and respond to the sender or juvenile, as appropriate, within 72 hours of receipt of the written appeal. If the decision to withhold the publication from the juvenile is confirmed, the decision shall identify the category of disapproved publications set forth in N.J.A.C. 13:103-7.37 that is applicable.

(d) If a publication is found to be objectionable only in part and such part is easily separable from the rest of the publication the juvenile shall be given the choice of whether to allow the residential community home to excise the offending portions or to forfeit his or her right to the publication.

#### 13:103-7.42 Package processing

(a) All properly identified incoming packages shall be distributed to juveniles as soon as possible.

(b) All properly identified outgoing packages shall be forwarded to the post office within one day of their receipt in the mailroom excluding weekends, holidays, and during emergency incidents.

(c) Juveniles shall not be involved in the processing of either incoming or outgoing packages.

#### 13:103-7.43 Correspondence, legal correspondence, publications, and packages for a juvenile transferred to another facility or program

(a) Whenever a juvenile is transferred from a residential community home to another Commission facility or program, the juvenile shall be responsible for notifying

correspondents of the change of address.

(b) For a period not to exceed three months, the residential community home from which the juvenile is transferred shall forward all incoming correspondence and legal correspondence to the facility to which the juvenile has been transferred.

(c) Any correspondence and legal correspondence received after the three-month period shall be returned to the sender. If the sender cannot be identified, the correspondence or legal correspondence shall be marked "Refused" and returned to the United States Postal Service unopened.

(d) Any publications and packages received after the juvenile has left the residential community home shall be returned to sender, if possible, or destroyed.

13:103-7.44 Correspondence, legal correspondence, publications, and packages for a juvenile released on parole, at expiration of maximum sentence or upon other release

(a) The residential community home shall obtain a juvenile's forwarding address at or about the time of the juvenile's release on parole, at expiration of maximum sentence, or upon other release.

(b) The juvenile shall be asked whether correspondence and legal correspondence received at the residential community home should be forwarded to the juvenile.

(c) Upon the juvenile's request, the community program shall forward the correspondence and legal correspondence to the juvenile for a period not to exceed three months.

(d) The residential community home shall not forward certified or registered mail, but shall return it to the sender.

(e) Any correspondence and legal correspondence received after the three-month period shall be returned to the sender. If the sender cannot be identified, the correspondence or legal correspondence shall be marked "Refused" and returned to the United States Postal Service unopened.

(f) Any publications and packages received after the juvenile has left the residential community home shall be returned to sender, if possible, or destroyed.

13:103-7.45 Correspondence, legal correspondence, publications, and packages for a  
juvenile remanded to a detention facility

(a) When a juvenile is remanded to a county or other facility in which he or she is temporarily detained to await trial for a prior offense or for any other reasons, correspondence and legal correspondence received for the juvenile at the residential community home shall be forwarded to the other facility for a period not to exceed three months, if requested by the juvenile.

1. Written procedures shall be developed by the residential community home for forwarding such correspondence and legal correspondence. These procedures shall include a form approved by the Superintendent or designee to be signed by the juvenile indicating whether he or she wishes correspondence and legal correspondence to be forwarded.

(b) The residential community home shall not forward certified or registered mail, but shall return it to the sender.

(c) Any correspondence and legal correspondence received after the three-month period shall be returned to the sender. If the sender cannot be identified, the

correspondence or legal correspondence shall be marked "Refused" and returned to the United States Postal Service unopened.

(d) Any publications and packages received after the juvenile has left the residential community home shall be returned to sender, if possible, or destroyed.

13:103-7.46 Correspondence, legal correspondence, publications, and packages of a juvenile who has escaped

(a) All incoming correspondence, legal correspondence, publications, and packages addressed to a juvenile who has escaped from a community program shall be returned to the sender with an indication that the juvenile is no longer in custody.

(b) If the incoming mail does not have a return address, it shall be opened to determine the sender. If the sender cannot be identified:

1. Correspondence and legal correspondence shall be resealed and returned to the United States Postal Service;
2. Publications shall either be destroyed or placed in the library of the community program; and
3. Packages shall be destroyed.

SUBCHAPTER 8. VISITS AND TELEPHONE USE IN RESIDENTIAL COMMUNITY HOMES

13:103-8.1 Scope and forms

(a) The provisions of this subchapter shall apply only to residential community homes. Telephone use and visitors shall be permitted in day programs only in unusual circumstances approved in advance by the Superintendent or designee.

(b) Form CP292-I, Request for Attorney-Client Contact Visit, relates to visits and telephone use (See also N.J.A.C. 13:103-1.4).

#### 13:103-8.2 Notice to juveniles

(a) During the admission orientation program, juveniles shall be given a description and explanation of the rules and procedures regarding visits, bedside, private viewing and funeral visits, and telephone calls.

(b) Juveniles shall be informed of new or revised rules and procedures regarding visits, bedside, private viewing and funeral visits, and telephone calls by the posting of appropriate notices.

(c) New or revised rules and procedures regarding visits, bedside, private viewing and funeral visits, and telephone calls shall be incorporated into the next revision of the resident handbook, as provided for in N.J.A.C. 13:103-2.4(a)2.

#### 13:103-8.3 List of visitors

(a) Upon admission to a residential community home, a juvenile shall submit to the Superintendent or designee a list of names and addresses of potential visitors.

(b) Subject to the approval of the Director of Community Programs or designee, the Superintendent of each residential community home shall issue written procedures that

provide reasonable limitations on the scope, length, and frequency of visits.

#### 13:103-8.4 Approval of potential visitors

(a) The Superintendent or designee may approve the following persons to visit a juvenile:

1. Relatives and legal guardians;
2. Clergy; and
3. Friends and other persons who may have a constructive influence on the juvenile.

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

(c) Persons determined, by substantial evidence, to have a harmful influence upon the juvenile or to constitute a threat to the security of the residential community home shall not be granted visitation privileges.

(d) At the discretion of the Superintendent, former employees of the Commission may be permitted to visit a juvenile. The decision of the Superintendent shall be made on a case-by-case basis after due consideration of the security interests involved, and after the Superintendent is satisfied that the visit will not pose a threat to the safe, secure, and

orderly operation of the residential community home.

#### 13:103-8.5 Employee visits with incarcerated relatives

(a) Employees of the Commission who have relatives incarcerated in facilities under the jurisdiction of the Commission shall be permitted to visit such relatives provided the Superintendent is satisfied that there is no threat to the orderly operation of the residential community home.

(b) An employee of the Commission who wishes to visit a relative assigned to a residential community home shall submit a written request for permission to visit such relative to the Superintendent of the residential community home at which the relative is housed.

(c) The Superintendent may schedule the visit during regular visiting hours or at special times, according to the orderly administration and staffing of the residential community home.

#### 13:103-8.6 Special visits

(a) Special visits may be authorized by the Superintendent or designee. Special visits include visits:

1. From persons who have come long distances;
2. To hospitalized juveniles;
3. To juveniles in any special status; and
4. Between juveniles and:
  - i. Members of the clergy;

- ii. Social service agency representatives;
- iii. Prospective employers;
- iv. Sponsors; and
- v. Parole and probation officials.

(b) The Superintendent or designee may approve or disapprove a visit from a visitor who accompanies a person on the approved list.

#### 13:103-8.7 Visits between incarcerated relatives

(a) Visits may be permitted between juveniles in residential community homes and relatives who are incarcerated in other facilities under the jurisdiction of either the Commission and, subject to their approval, the Department of Corrections.

(b) The following requirements must be met before visits between incarcerated relatives shall be permitted:

1. Relative relationships must be substantiated by documentation found in the classification folder or from other appropriate resources;
2. Visits must be approved by the Director of Community Programs or designee; and
3. The cost of the visit to the Commission shall be borne by the juvenile involved.
  - i. The fiscal manager or designee shall predetermine the expenses involved in arranging a visit between relatives and a detailed statement of expenses shall be prepared in accordance with N.J.A.C. 13:103-5.8(c).
  - ii. The frequency, duration and time of the visits must be coordinated between the residential community home and other facilities involved and shall be subject to the requirements of this subchapter.

(c) Visits shall be conducted so as to maintain sight and sound separation between a juvenile and all adult inmates other than the adult inmate who is the relative involved in the visitation.

#### 13:103-8.8 Attorneys and court-related personal visits

(a) Attorneys licensed in any jurisdiction who are retained to represent a juvenile or juveniles, and representatives of such attorneys, shall be permitted contact visits during regular business hours when sufficient space and staff are available.

(b) Representatives of attorneys shall include, but not be limited to, the following:

1. Investigators;
2. Investigative aides;
3. Paralegals; and
4. Law students.

(c) A written notice or telephone request from an attorney shall be required 24 hours in advance of an intended visit. The purpose of the advance notice is to ensure the availability of:

1. Space;
2. Staff; and
3. The juvenile.

(d) Advance notice shall include the following information:

1. The name of the attorney or representative;
2. The name of the juvenile to be interviewed;
3. The name of the attorney for whom the representative is acting; and

4. The date and time the interview is sought.

(e) Form CP292-I, Request for Attorney-Client Contact Visit, may be used to verify the juvenile's desire to meet with the requesting attorney in the context of an attorney-client relationship.

(f) Appropriate identification is required of attorneys and attorney representatives who visit the juvenile at a residential community home.

(g) Visits with attorneys or their representatives may be restricted when necessary, in the judgment of the Superintendent or designee, to preserve the security or orderly operation of the residential community home.

(h) The Superintendent or designee may authorize a visit without prior written notice, under exceptional circumstances.

#### 13:103-8.9 Visits from children

(a) Children under the age of 18 shall not be permitted to visit unless accompanied by an adult family member of the child defined as a "relative" or "legal guardian."

(b) In unusual circumstances, exceptions to (a) above may be made by special approval of the Superintendent or designee.

(c) The adult family member who accompanies the child shall be responsible for the supervision of the child during the visit.

#### 13:103-8.10 Notification to prospective visitors

(a) The Superintendent or designee shall be responsible to write a letter of information, in English and translated into Spanish, which provides the pertinent visiting policies with

which prospective visitors should be familiar. This letter shall include, but is not limited to:

1. Visiting times;
2. The number of permissible visitors;
3. Guidelines for visits by children;
4. The identification required;
5. The prohibition on smoking and tobacco products;
6. Notification that no money, photos, gifts, or any other items may be given to a juvenile by a visitor;
7. Notification that in accordance with N.J.A.C. 13:103-8.14 all visitors, their belongings and vehicles are subject to searches while on the premises of a facility under the jurisdiction of the Commission;
8. Notification that a visitor who enters the premises of a facility under the jurisdiction of the Commission and refuses to submit to a search shall be:
  - i. Banned from visiting a juvenile committed to the custody of the Commission for 60 days and required to reapply in writing to the Superintendent for approval/disapproval of the reinstatement of visit privileges in accordance with the standards set forth in N.J.A.C. 13:103-8.4; and
  - ii. Directed to immediately leave the premises of the facility under the jurisdiction of the Commission;
9. Notification that a positive indication upon search is probable cause to believe that criminal activity has or is taking place and, the visitor(s) shall be:
  - i. Detained;
  - ii. Subject to further search and arrest; and

iii. In accordance with N.J.A.C. 13:103-8.14(f), if a controlled dangerous substance is discovered on, in the possession of, or in the vehicle of the visitor(s), the visitor shall be permanently banned from visiting a juvenile in the custody of the Commission;

10. Directions to the residential community home; and

11. Provisions of N.J.S.A. 2C:29-6, which prescribe specific penalties for introducing contraband into a correctional facility.

(b) Information summarizing the notices required by (a) above shall be posted in the visiting areas of the residential community home.

(c) Unless determined under the provisions of N.J.A.C. 13:103-8.4(b) to have a harmful influence upon the juvenile or to constitute a threat to the security of the residential community home, a "household member" shall be notified that he or she is permitted to visit the juvenile, and shall be sent a copy of the residential community home's letter of information. Such notification, and transmission of the letter of information, shall be sent within five business days from the day the juvenile is received at the residential community home.

#### 13:103-8.11 Visitor identification

(a) Adult visitors must have photo identification when visiting a juvenile.

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

1. A current photo driver's license;
2. A current photo Welfare/Medicaid card;
3. A current employment photo identification card;

4. A current passport; or

5. A non-driver photo identification card issued by any municipal, county, state, or Federal office.

(c) Social Security cards shall not be used as a means of identification.

(d) Inability to establish identity shall be reported to the Superintendent or designee.

#### 13:103-8.12 Visiting schedule

(a) The Superintendent shall establish a visiting schedule consistent with the orderly and efficient operation of the residential community home.

(b) When the restriction of visiting on scheduled visit days is a hardship to a visitor, arrangements for suitable hours on other days may be made on a case-by-case basis.

(c) Limitation on the length or frequency of visits may be imposed to avoid overcrowded conditions in the visiting area(s) or when deemed necessary by the Superintendent or designee.

#### 13:103-8.13 Treatment of visitors

All residential community home staff members shall treat visitors in a professional, dignified, courteous, and respectful manner.

#### 13:103-8.14 Search of visitors

(a) Signs written in English and Spanish shall be posted in the visiting area stating that, as a condition of visitation, all visitors, their belongings, and vehicles are subject to possible search while on the premises of a residential community home, which could include a

passive canine, scanning/testing device, and pat search.

(b) If a visitor refuses to submit to such a search by a law enforcement officer, and there is no reasonable suspicion that the visitor is in possession of contraband, the visitor shall be directed to immediately leave the premises of the residential community home. No visit shall be permitted, the visitor shall be banned from visiting any juvenile committed to the custody of the Commission for 60 days and the visitor shall be required to reapply in writing to the Superintendent for approval/disapproval of the reinstatement of visit privileges in accordance with the standards set forth in N.J.A.C. 13:103-8.4.

(c) If a staff member receives information sufficient to form a reasonable suspicion that a visitor is carrying contraband, or when contraband has been detected or indicated on a visitor, the Superintendent or designee shall immediately be notified.

(d) Contraband discovered during the search of a visitor by law enforcement officers shall be confiscated and a written report shall be submitted by the Superintendent to the Director of Investigations.

(e) The written report shall specify, to the extent known:

1. The name and affiliation of the law enforcement officers who performed the search;
2. The name of the juvenile who was to receive the visit;
3. The name and address of the visitor who was searched;
4. The time of the search;
5. The type of search and scanning/testing device used, if any, and the results if any;
6. The description of the items confiscated; and

7. The specific reason for confiscating the items.

(f) If a controlled dangerous substance is discovered on, in the possession of, or in the vehicle of a visitor who is on the premises of a residential community home, the visitor shall be permanently banned from visiting any juvenile committed to the custody of the Commission.

(g) The Superintendent shall decide whether the visitor shall continue to have visitation privileges except as established in (f) above.

(h) It is Commission policy that all searches shall be conducted in a professional and dignified manner, with maximum courtesy and respect for the visitor's person.

#### 13:103-8.15 Search of juveniles

All juveniles shall be subject to possible search before and after a visit, in accordance with procedures established by N.J.A.C. 13:103-11, Searches of Juveniles and Facilities.

#### 13:103-8.16 Supervision of visits

(a) Visits shall be monitored by staff to help prevent the passage of contraband and to insure the security and orderly operation of the residential community home.

(b) Visits shall be conducted in a quiet, orderly, and dignified manner.

(c) Articles passed between the juvenile and the visitor are subject to confiscation and inspection, if there is a reasonable suspicion that articles constitute contraband or are otherwise in violation of the law.

(d) Handshaking, embracing, and kissing shall be permitted, within appropriate bounds.

13:103-8.17 Gifts of money from visitors prohibited; money orders

(a) Except as provided for in (b) below, no cash, checks, money orders, or other form of money, currency, or payment may be brought into a residential community home by a visitor for a juvenile.

(b) Money orders may be brought by visitors for a juvenile, provided that the money order must be surrendered to designated residential community home personnel in exchange for a receipt that identifies the visitor, juvenile, and amount of the money order.

(c) Any items brought into a residential community home in violation of this section will be treated as contraband under the provisions of N.J.A.C 13:103-14.

13:103-8.18 Denial, termination, or suspension of a visit

(a) A juvenile's visiting privileges shall not be denied because of a violation of residential community home policies, other than those policies specifically related to or concerned with visiting privileges.

(b) A visit may be denied, terminated, or suspended and a visiting privilege suspended under the following circumstances:

1. The visitor is under the influence of drugs or alcohol;
2. Space is unavailable;
3. The visitor refuses to submit to search procedures;
4. The visitor refuses or fails to produce sufficient identification or falsifies identifying information;
5. The visit policies of the residential community home are violated by the visitor, provided that such rules are posted;

6. Children are disturbing other persons in the visiting area;

7. The physical contact between the visitor and juvenile is in excess of N.J.A.C.

13:103-8.16(d); or

8. Any action that affects the ability of the staff to ensure the safe, secure, and orderly operation of the residential community home and the visiting room.

#### 13:103-8.19 Request to reinstate contact visit privileges

Sixty days after visit privileges have been terminated, or thereafter, the juvenile may forward a written request for reinstatement of visit privileges to the Superintendent or designee, which request shall be reviewed in accordance with the standards set forth in N.J.A.C. 13:103-8.4. If the Superintendent or designee determines that visit privileges should be reinstated, such recommendation shall be forwarded to the Director of Community Programs or designee for review and final approval or disapproval.

#### 13:103-8.20 Suspension of visiting program under emergency conditions

Subject to the approval of the Director of Community Programs or designee, the Superintendent may suspend visits to juveniles, including visits to juveniles by attorneys and attorney representatives, for the duration of any emergency that threatens the safe, secure, and orderly operation of the residential community home.

#### 13:103-8.21 Bedside, private viewing, and funeral visits: authority

(a) Subject to the provisions of N.J.A.C. 13:103-8.23, the Superintendent may authorize and permit the attendance of a juvenile at the bedside of a dying relative, or at a private

viewing of a deceased relative.

(b) A juvenile shall not be permitted to visit relatives or friends during the private viewing of a deceased relative unless the Superintendent has made a recommendation to, and received approval from, the Director of Community Programs or designee, as determined on a case-by-case basis.

(c) A juvenile shall not be permitted to attend or participate in a funeral service unless the Superintendent has made a recommendation to, and received approval from, the Director of Community Programs or designee, as determined on a case-by-case basis.

#### 13:103-8.22 Verification of illness or death of a relative

(a) The burden is on the juvenile to prove that the ill or deceased person is a relative.

(b) The Superintendent or designee shall verify the illness or death of the relative.

#### 13:103-8.23 Eligibility and restrictions for bedside, private viewing, and funeral visits

(a) The Superintendent, or designee, shall determine whether a juvenile is eligible to go on a bedside, private viewing, or funeral visit, subject to the following restrictions:

1. The bedside, private viewing, or funeral visit is outside the State of New Jersey; or
2. The bedside, private viewing, or funeral visit is in a private residence.

(b) In deciding to permit bedside, private viewing, or funeral visits, the Superintendent shall consider whether:

1. The visit will interfere with the security or orderly operation of the residential community home;
2. The juvenile has demonstrated a poor residential community home adjustment;

3. The juvenile is a known escape risk;
4. The juvenile has a history of disciplinary offenses;
5. The juvenile is untrustworthy;
6. The juvenile is a highly publicized person whose reappearance in the community under any conditions other than strict compliance with the laws governing parole and release would cause a significant public disruption;
7. The bedside visit, private viewing, or funeral could place either escorting staff members or the juvenile in jeopardy; and
8. The bedside visit, private viewing, or funeral would not support the therapeutic modality of the residential community home.

(c) If the Superintendent is in doubt as to the propriety of permitting a particular juvenile to leave the residential community home under the circumstances enumerated in this subchapter, the Superintendent shall consult with the Director of Community Programs.

#### 13:103-8.24 Security for bedside, private viewing, and funeral visits

During the bedside, private viewing, or funeral visit, the juvenile shall at all times be in the custody of one or more staff members.

#### 13:103-8.25 Court-ordered private viewing or funeral visits

All court orders for bedside, private viewing, or funeral visits shall be referred immediately to the Office of the Executive Director for visit authorization.

#### 13:103-8.26 Notification in monthly report of bedside, private viewing, and funeral visits

All bedside, private viewing, and funeral visits shall be noted in the Superintendent's monthly report.

#### 13:103-8.27 Written procedures for telephone use

(a) Each residential community home shall develop and implement written procedures that provide juveniles with reasonable and equitable access to telephones. These procedures shall specify:

1. The hours of telephone availability;
2. The maximum length of telephone calls; and
3. Any limitation on telephone calls.

#### 13:103-8.28 Monitoring of telephone calls

All juvenile telephone calls may be monitored and recorded except calls to the Office of Investigations and legal telephone calls that are made in accordance with N.J.A.C. 13:103-8.30.

#### 13:103-8.29 Emergency telephone calls

(a) A juvenile shall be permitted to make monitored telephone calls of reasonable length, as determined by the monitor, in emergencies, such as, but not limited to:

1. The serious illness of a relative; or
2. The death of a relative.

(b) Whenever an emergency telephone call for a juvenile is received by the residential community home:

1. The telephone number and name of the calling party shall be taken;
2. The particulars of the telephone call shall be noted;
3. The residential community home's social services staff shall check, to the extent possible, the validity of the telephone call;
4. The residential community home's social services staff shall inform the juvenile of the validated telephone call as soon as possible after the call was received; and
5. The juvenile shall be permitted to return the emergency telephone call.

(c) In the event emergency telephone calls are received after regular residential community home working hours, on weekends, or holidays, the shift coordinator on duty shall check the validity of the emergency telephone call and follow the procedures set forth in (b) above.

#### 13:103-8.30 Legal telephone calls

(a) Legal telephone calls may be made to the following individuals or agencies for assistance in legal research and/or preparation of legal documents:

1. Office of the Public Defender;
2. Regional legal services;
3. Court clerks; and
4. Attorneys.

(b) Legal telephone calls shall not be monitored, except to the minimum extent necessary to determine the identity of the party called.

#### 13:103-8.31 Telephone calls between incarcerated relatives

(a) Telephone calls shall be permitted between incarcerated relatives provided that:

1. The relative relationship has been substantiated through documentation found in the classification folder or other appropriate resources;
2. The telephone calls have been approved by the Superintendent or designee; and
3. The frequency, duration, and time of the calls are coordinated between the correctional facilities involved, subject to other provisions of this subchapter.

## SUBCHAPTER 9. USE OF FORCE

### 13:103-9.1 Authority to use non-deadly force

(a) Subject to the provisions of this subchapter, staff members are authorized to use appropriate non-deadly means to enforce community program rules and regulations. Such means include, but are not limited to:

1. "Constructive authority," which means authority that does not involve actual physical contact with the individual, but involves the use of the staff member's authority to exert control over the individual. Examples of constructive authority include, but are not limited to, verbal commands, gestures, and warnings; and

2. "Physical contact," which means routine or procedural contact with an individual necessary to effectively accomplish a legitimate law enforcement objective. Examples of physical contact include, but are not limited to, holding an individual's arm while escorting the individual, maneuvering or securing an individual for a search, and guiding the individual into a vehicle.

(b) Staff members are encouraged to interrupt the flow of events to help ensure that a fellow staff member does not resort to employing an inappropriate or excessive use of force.

(c) Staff members are required to report all situations in which inappropriate or excessive force is used by anyone against a juvenile.

#### 13:103-9.2 Progressive use of force

(a) In any case that a staff member uses force, the staff member shall only use that force that is objectively reasonable and necessary under the totality of the circumstances as known by the staff member at the time force is used.

(b) Subject to the provisions of N.J.A.C. 13:103-9.3, a staff member may use the amount of force reasonably necessary to accomplish the immediate program objective.

1. If the individual resists, the staff member may increase the degree of force as necessary to accomplish that objective, but as soon as the individual submits, the staff member shall reduce the degree of force used.

#### 13:103-9.3 Prohibited use of force

(a) Community program staff members are prohibited from using the following:

1. Deadly force;
2. Physical force to prevent a juvenile from escaping or otherwise leaving supervision without permission;
3. Physical restraints, including chemical agents, handcuffs, and mechanical force;
4. Force used for punishment or reprisal;

5. Action intended to injure, as opposed to restrain;
  6. Physical retaliation;
  7. Punching with a closed fist;
  8. Choking around the neck or throat;
  9. Kicking;
  10. Thrusting of anything into the eyes;
  11. Biting, spitting, or pulling of hair;
  12. Use of physical force after a juvenile has been restrained; and/or
  13. Any use of force when off duty.

13:103-9.4 Non-deadly physical force; when justified

(a) A staff member may use non-deadly physical force against persons only under the following circumstances:

1. To protect self or others against the use of unlawful force;
2. To protect self or others against death or serious bodily harm;
3. To prevent damage to property;
4. To prevent or quell a riot or disturbance;
5. To prevent a suicide or attempted suicide; or
6. To enforce community program regulations where expressly permitted by Commission rules or in situations where a shift supervisor believes that the juvenile's failure to comply constitutes an immediate threat to security of the community program or personal safety.

(b) Non-deadly force includes, but is not limited to, the use of physical force, which means contact with an individual beyond that which is generally utilized to effect a reasonable program objective.

1. Physical force is employed only when necessary to overcome an individual's physical resistance to the exertion of the staff member's authority, or to protect persons or property. Examples of physical force include, but are not limited to:

- i. Wrestling a resisting individual to the ground;
- ii. Using wrist or arm locks; and
- iii. Striking with the open hands.

#### 13:103-9.5 Reports

(a) A staff member shall immediately contact his or her shift coordinator and shall complete a Form JJ-001, Incident Report, when he or she participated in, or witnessed, any incident in which:

1. Physical force is used;
2. An individual alleges that serious bodily harm has been inflicted; or
3. Such a report is required by either the Superintendent or the Director of Community Programs.

(b) The JJ-001, Incident Report, shall include the following information:

1. Accurate date, time, and location information as to when and where the use of force was used;
2. A description of the events leading up to the use of force;
3. A description of the incident;

4. The type of force used;
5. The reason(s) for employing force;
6. A list of all participants and witnesses to the incident;
7. A description of the injuries suffered, if any, and medical treatment given; and
8. Other relevant facts or comments about the incident or conduct of employees or juveniles.

(c) The shift coordinator shall forward the JJ-001, Incident Report, to the Superintendent or designee before the end of the shift during which the report was made.

(d) The Superintendent or designee shall forward the JJ-001 to the Office of Investigations and the Director of Community Programs for review.

#### 13:103-9.6 Training

(a) Training in proper methods and techniques of using force and in the lawful and appropriate use of force shall be provided as part of the Basic Course for Direct Care Staff provided by the Commission's Office of Training or equivalent.

(b) All staff members shall receive annual refresher training in proper methods and techniques of using force and in the lawful and appropriate use of force in Community Programs. In addition to semi-annual training, retraining may be repeated as needed.

#### 13:103-9.7 Penalties for violation

A staff member who violates the provisions of this subchapter restricting use of force, and any related internal management procedure implemented in connection therewith, shall be subject to disciplinary action.

13:103-9.8 Community program internal management procedures

(a) The superintendent shall prepare internal management procedures to govern the use of force consistent with this subchapter, subject to the prior review and approval by the Director of Community Programs or designee.

1. The internal management procedures shall be reviewed periodically, but in any event at least annually, to ensure incorporation of necessary and appropriate amendments.

SUBCHAPTER 10. PREGNANT JUVENILES AND CRITICAL INJURY OR DEATH OF JUVENILES

13:103-10.1 Purpose

(a) The purpose of this subchapter is to establish guidelines for:

1. Providing assistance to pregnant juveniles and placement of newborns born to juveniles;

2. Providing notification to next of kin in the event of a juvenile's critical illness or death; and

3. Ensuring referral to local law enforcement and to the Office of Investigations upon the happening of an unusual incident or event.

13:103-10.2 Pregnancy tests; care of pregnant juveniles

(a) The Commission shall provide every female juvenile with a routine pregnancy test

upon initial admission to a Commission facility, and shall provide a pregnant juvenile with medical and social services, which at a minimum shall include:

1. Prenatal medical evaluation and care, including the routine pregnancy tests given to all female juveniles upon admission to the community program;

2. Nutritional supplements and diet as prescribed by a physician, advance practice nurse, or certified nurse midwife;

3. Counseling regarding:

i. Family planning;

ii. Prenatal Counseling and Education;

iii. Birth control;

iv. Test results;

v. Continuation or termination of pregnancy;

vi. Child placement services; and

vii. Religious counseling, if desired by the juvenile; and

4. Appropriate postpartum care, including counseling for trauma related to surrender of baby.

#### 13:103-10.3 Obstetrical services

When the pregnant juvenile elects to carry the pregnancy to term, arrangements shall be scheduled in advance for the delivery at an appropriate medical facility.

#### 13:103-10.4 Maternity clothes, housing assignments, exercise, and work schedules

(a) The community program shall provide the pregnant juvenile with:

1. Suitable maternity clothes;
2. Appropriate housing assignments, as may be recommended by a physician, advanced practice nurse, or certified nurse midwife; and
3. Appropriate exercise and reduced work schedules, as deemed medically advisable by a treating physician, advance practice nurse, or certified nurse midwife.

13:103-10.5 Continuation or termination of pregnancy

(a) As soon as possible after the pregnancy is diagnosed, a physician, advanced practice nurse, or certified nurse midwife shall provide the pregnant juvenile with appropriate medical care, and the pregnant juvenile shall be given religious and social counseling to aid her in making the decision to continue or to terminate the pregnancy.

(b) Should the pregnant juvenile, parent, or guardian, as applicable, elect to terminate the pregnancy, arrangements shall be made by the health care provider without undue delay to schedule and complete the procedure, unless a treating physician, advance practice nurse, or certified nurse midwife determines that the pregnancy cannot be terminated.

(c) A juvenile, parent, or guardian, as applicable, who elects to terminate a pregnancy shall be required to sign a form indicating a desire to terminate the pregnancy and acknowledging that the juvenile has received medical care, and verifying that the juvenile and the parent or guardian, if applicable, has received the religious and social counseling required under (a) above.

(d) A pregnancy shall be terminated, and follow-up care shall be provided, only at a medical facility or hospital licensed in New Jersey.

13:103-10.6 (Reserved)

13:103-10.7 Placement of infants and infant's medical costs

(a) Unless alternative legal custody arrangements have been made by the juvenile's family or others, temporary custody of an infant born to a pregnant juvenile shall be assumed, or otherwise determined, by the appropriate State child protective services agency, but at no time shall custody be vested in the Commission.

(b) At no time shall the Commission assume or otherwise be responsible for any of the infant's medical costs.

13:103-10.8 Critical illness or death of a juvenile; notification of next of kin; referral to local law enforcement authorities and the Office of Investigations

(a) The Commission shall take all reasonable steps to notify a juvenile's adult relatives immediately of a juvenile's critical injury or death, including, when necessary and appropriate, seeking assistance from local law enforcement authorities and the New Jersey State Police.

(b) A letter confirming all steps taken to notify adult relatives shall be forwarded to the next of kin, and a copy of the letter shall be placed in the juvenile's file.

(c) In the event the juvenile is removed from the critical list, the next of kin shall again be informed in accordance with this section.

(d) In the case of a death of a juvenile, the Executive Director or designee shall be responsible to ensure that the following individuals are notified immediately:

1. The Regional Administrator;
2. The juvenile's next of kin;
3. The county medical examiner's office;
4. The appropriate State child protective services agency; and
5. The Office of Investigations.

(e) The Superintendent or designee shall immediately notify local law enforcement authorities and the Office of Investigations of any unusual incident or event including any critical injury or death of a juvenile.

(f) The preparation of all reports shall be governed by the provisions of N.J.A.C. 13:95-21, Reports, in the Commission's rules on Secure Facilities.

13:103-10.9 Advance directive for juvenile age 18 or older

At the request of a juvenile who is 18 years old or older, an advance directive that complies with N.J.S.A. 26:2H-55 et seq. shall be placed in the juvenile's medical record.

13:103-10.10 Security procedures upon the death of a juvenile

(a) The appropriate State child protective services agency shall be notified promptly of the death of any juvenile under the age of 18.

(b) If death is confirmed other than in a hospital, the body shall not be moved to a hospital without the approval of the county medical examiner.

(c) Prior to release of a body from the community program, hospital, or medical examiner, photographs and fingerprints shall be obtained by the Office of Investigations for the records.

(d) Subject to any religious tenets of the juvenile or intervening rights of a parent or guardian, an autopsy shall be performed when regulations by the county medical examiner so require and/or when requested by the medical or surgical staff of the medical facility where the juvenile expired.

13:103-10.11          Claiming bodies of deceased juveniles

(a) Persons claiming the body of a deceased juvenile must contact the hospital where the juvenile expired or appropriate medical examiner's office where the body was taken in order to obtain the release of the body.

(b) The Commission shall not be responsible for the costs of burial or cremation for bodies of deceased juveniles that are claimed.

13:103-10.12          Burial or cremation of unclaimed bodies

(a) The Commission shall arrange for the burial or cremation of unclaimed bodies of juveniles. The county medical examiner's office shall be contacted for assistance in such cases.

(b) An unclaimed body shall be cremated where it is reasonably believed that it would not violate the religious tenets of the deceased juvenile.

(c) The Social Security Administration, Veteran's Administration, and Public Welfare shall be contacted by the Commission for any possible death benefits.

(d) Money remaining in the account of a deceased juvenile may be used for burial or cremation expenses.

13:103-10.13          Distribution of money and personal belongings of deceased juveniles

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

1. Court ordered penalty assessments, restitution, and fines;
2. Other revenue obligations or fees;
3. Fees for medical and/or dental treatment; and
4. Fees for prescription or nonprescription drugs or medicine.

(b) When a juvenile who is younger than age 18 expires, money in the juvenile's account and other property of the juvenile shall be turned over to the juvenile's parent or guardian.

(c) When a juvenile aged 18 or older expires without a will and the amount of money in the juvenile's account and/or the value of personal property is \$2,000 or less, such money and personal property shall be turned over to the next-of-kin shown in the most recent Commission records. The next-of-kin shall be required to sign an itemized list/receipt of such money and personal property, and a statement in which the next-of-kin certifies no knowledge of the existence of an official will. The Superintendent or designee shall take the necessary steps to verify the identity of the next-of-kin.

(d) When a juvenile aged 18 or older expires without a will and the amount of money in the account and/or the value of personal property exceeds \$2,000, these assets may be released to the juvenile's relative or other claimant only after the relative or claimant presents to the Superintendent or designee a certified, filed copy of Letters Testamentary, Letters of Administration, or a filed Affidavit from the Office of County Probate that entitles the claimant to assets without administration (see N.J.S.A. 3B:10-3 and 4).

(e) In the event a juvenile aged 18 or older dies without leaving a will and there are no known relatives, the funds in the juvenile's account, if any, shall be closed out and, pursuant to the Uniform Unclaimed Property Act , N.J.S.A. 46:30B, transferred to the Department of the Treasury after deductions for burial or cremation.

#### 13:103-10.14 Written procedures

The Director of Community Programs or designee shall be responsible for the development and implementation of written procedures consistent with the requirements of this subchapter and shall incorporate these procedures in the community program resident handbook.

### SUBCHAPTER 11. SEARCHES OF JUVENILES AND FACILITIES

#### 13:103-11.1 Purpose

Community programs and juveniles may be searched as provided by this subchapter for the purpose of controlling and deterring the introduction and concealment of contraband. The definition of contraband and all procedures for disposition of contraband set forth in N.J.A.C. 13:103-12, Contraband and Disposition of Contraband, are fully applicable to this subchapter.

#### 13:103-11.2 Search plan

(a) Each community program shall develop and implement a comprehensive written plan governing routine and random searches of facilities and juveniles. Each plan shall be

submitted to the Office of the Executive Director for review and approval on or before February 15 of each year.

(b) Each community program shall have a staff member designated as Search Plan Coordinator.

(c) The Search Plan Coordinator shall submit monthly data to the Superintendent. The data shall include, but not be limited to, information regarding searches completed and contraband recovered. The reported data shall be included in the Superintendent's Monthly Report.

#### 13:103-11.3 Searches of juveniles and facilities

(a) All community program housing, work, educational, training, visitation, and other areas to which juveniles have access shall be searched thoroughly for contraband on a routine, continuing basis. Searches shall be unannounced and irregularly timed, and may be limited to a specific building or area.

(b) Procedures to be utilized in conducting searches shall be as set forth in an internal management document prepared by each community program Superintendent or designee to be promulgated pursuant to the search plan required by N.J.A.C. 13:103-11.2. Such procedures may provide that a juvenile may be excluded from entry into an area being searched to facilitate the safe and effective performance of the search.

(c) Searches of juveniles shall be conducted in a professional and dignified manner, with maximum courtesy and respect for the juvenile's person and under sanitary conditions.

(d) No juvenile shall be searched as punishment or discipline.

#### 13:103-11.4 Inspection of security devices

(a) All locks, windows, doors, door alarms, lock boxes, and other security devices, if applicable, shall be inspected daily to detect any tampering or defect.

(b) Emergency keys shall be checked at least once every calendar quarter to determine that they work properly.

(c) Inspections of security devices shall be conducted continuously and systematically but scheduled to avoid an observable or predictable routine. The results of all inspections shall be submitted in writing to the Superintendent or designee.

#### 13:103-11.5 Use of scanning/testing devices

(a) Searches of juveniles, areas, and objects by the use of scanning/testing devices may be done when necessary for security purposes. This may be, but is not limited to, a walk-through device or a handheld device that is passed over the fully clothed body of the juvenile. A scanning/testing device may also be utilized in conjunction with a strip search.

(b) Scanning/testing device searches of juveniles may be conducted by male or female staff members or scanning/testing device operators subject to the limitations set forth for strip searches in N.J.A.C. 13:103-11.7.

#### 13:103-11.6 Pat search

(a) A pat search shall be conducted while the juvenile is fully clothed. A pat search includes both the touching of the juvenile's body through clothing, including hair, dentures, etc., and a thorough examination into pockets, cuffs, seams, etc., and all personal property in the juvenile's possession.

(b) Pat searches of juveniles may be conducted at any time in the following circumstances:

1. Prior to the departure or return of the juvenile to or from any area where the juvenile has had access to dangerous or valuable items;
2. Prior to entering or departing a visiting room; or
3. Under any other circumstances where conditions indicate a need for such searches.

(c) In addition to the foregoing routine searches, a pat search may be conducted at any time when there is a reasonably clear indication that the juvenile is carrying contraband. Factors that may form the basis for such search may include:

1. Personal observations of activities or conditions that may be interpreted in light of the staff member's experience and knowledge of the juvenile as indicating the possession of contraband; or
2. Information received from a third party who is believed to be reliable.

(d) Pat searches shall be conducted by staff members of the same gender as the juvenile, except in emergency situations when ordered by the Superintendent or designee.

#### 13:103-11.7 Strip searches

(a) A strip search of a juvenile may be conducted only with the prior approval of the Director of Community Programs or designee when there is a clear indication that the juvenile is carrying or concealing contraband on his or her person, or in the juvenile's anal or vaginal cavity.

(b) A strip search shall be conducted while the juvenile is unclothed. A strip search includes a thorough and systematic examination of the juvenile's body and orifices, including visual inspection of external genital and anal areas, as well as the juvenile's clothing and all personal possessions.

(c) A strip search shall be conducted:

1. At a location where the search cannot be observed by unauthorized persons;
2. In a professional and dignified manner, with maximum courtesy and respect for the juvenile's person;
3. By the number of staff members deemed reasonably necessary to provide security;
4. Only by staff of the same gender as the juvenile and may include a scanning/testing device operator or operators of the same gender as the juvenile except as set forth in (d) below; and
5. Only by staff who have received Commission or equivalent training in the conducting of strip searches.

(d) Strip searches of juveniles may be conducted by staff and with a scanning/testing device operator or operators of the opposite gender only under emergent conditions as ordered by the Superintendent or designee.

(e) In emergent circumstances, strip searches may be observed by persons, such as, but not limited to, the Ombudsman or Investigators from the Office of Investigations required to be present who are not conducting the search and who may be of the opposite gender to help ensure:

1. The secure and orderly operation of the procedure;

2. The accurate recordkeeping regarding the emergent circumstances and incident;  
and

3. That the strip search is conducted in a professional and dignified manner, with maximum courtesy and respect for the juvenile's person.

(f) Under no circumstances shall invasive body cavity searches be conducted in accordance with this section.

#### 13:103-11.8 Concealed contraband in juvenile's body cavity

(a) Body cavity searches shall not be conducted by community program staff.

(b) In the event the Superintendent or designee has reasonable suspicion to believe that contraband is being concealed in a juvenile's body cavity, local law enforcement authorities shall be notified immediately and the juvenile placed on constant observation.

1. If the contraband poses an immediate risk to the health and safety of the juvenile, the juvenile shall immediately be transferred to the nearest emergency room.

2. As soon as is practicable after notification of local law enforcement authorities, the Superintendent or designee shall notify the Regional Administrator, the Director of Community Programs, and the Office of Investigations.

#### 13:103-11.9 Canine searches

Juveniles' possessions and all community programs, areas, objects, and properties under the jurisdiction of the Commission are subject to routine and random searches by

canine teams, specially trained to discover and indicate to the handler(s) the presence of various substances and/or materials.

#### 13:103-11.10 Testing for prohibited substances

(a) Testing for prohibited substances may be conducted for the purpose of deterring and controlling the introduction of contraband or to detect the presence of any substance not authorized for possession or use by the juvenile.

(b) Juveniles shall be tested:

1. As part of the intake process for any juvenile entering a community program;
2. When the name of the juvenile appears on a computer-generated randomly selected list of names, regardless of how often the name of the juvenile is randomly selected;
3. During the seven-day period prior to a juvenile's release from custody on parole or upon expiration of a maximum sentence;
4. In accordance with drug treatment program requirements;
5. When a senior staff member or an Investigator with the Office of Investigations believes, based upon his or her education and experience, that there is a reasonable factual basis to suspect the juvenile of using or possessing a prohibited substance; and
6. Randomly or for cause, when the Superintendent or designee orders all juveniles from a particular housing unit, work detail, or other functional unit to be tested.

(c) The Superintendent or designee may direct that a juvenile be tested upon return from an unsupervised temporary release from custody.

(d) A juvenile's refusal to submit to testing, or failure to comply with an order to submit a specimen, shall subject the juvenile to disciplinary action under the provisions of N.J.A.C. 13:101 and this subchapter, as applicable.

13:103-11.11 Collection 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 test.

(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 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 eight ounces per 60-minute period. The juvenile may be required to remain in room restriction during this two-hour period.

2. The juvenile shall not be deemed to have complied with the order to submit a specimen unless he or she provides a specimen in the presence of a custody staff member or other authorized staff member.

13:103-11.12(Reserved)

13:103-11.13 Staff orientation and training

(a) Each Superintendent shall be responsible for ensuring that the requirements and guidelines set forth in this subchapter are followed.

(b) Internal management procedures developed in accordance with this subchapter shall be made available to all staff members. All personnel shall receive training in the

interpretation and applicability of internal management procedures, so as to ensure effective and safe search techniques.

## SUBCHAPTER 12. CONTRABAND AND DISPOSITION OF CONTRABAND

### 13:103-12.1 Procedures for handling contraband upon discovery

(a) Whenever an item, article, or material is determined to be contraband, it shall be immediately seized.

1. The staff member making the seizure shall submit the contraband to the shift coordinator who shall submit it to the Superintendent or designee, together with a fully completed Form CP171-I, Seizure of Contraband Report. The contraband report must be submitted no later than the end of the shift during which the contraband was seized.

2. Care shall be taken at all times to accurately record the chain of possession of the contraband.

3. The staff member shall give the juvenile from whose control or possession contraband is taken, an itemized, signed, and dated receipt (Form CP171-II, Juvenile Receipt, Contraband Seizure), a copy of which shall be given to the Superintendent or designee. The contents of this form shall be either read or explained to the juvenile, if necessary.

4. When contraband is removed from mail, such as, letters or packages, the staff member making the seizure shall send the juvenile to whom the mail was addressed a completed copy of Form CP171-II, indicating that the specified items were removed.

5. The juvenile shall have three business days to appeal the seizure to the Superintendent or designee.

6. Seized contraband that may be harmful or present a threat to the security and orderly operation of the community program shall be forwarded by the Superintendent or designee to the Office of Investigations, along with a copy of the Form CP171-II, Juvenile Receipt, Contraband Seizure.

(b) The Office of Investigations shall maintain logs of all Seizure of Contraband and Juvenile Receipt forms (Forms CP171-I and CP171-II), and shall record the disposition of the contraband on the Seizure of Contraband Report (Form CP171-I).

(c) All contraband seized shall be clearly and appropriately marked and securely stored by the Office of Investigations.

(d) If disciplinary charges are issued in connection with the seizure of contraband, the Office of Investigations shall present evidence of the contraband at the disciplinary hearing, unless the contraband was seized pursuant to N.J.A.C. 13:103-12.5. If the contraband was seized pursuant to N.J.A.C. 13:103-12.5, the officials responsible for hearing charges shall arrange to view the contraband outside the juvenile's presence.

(e) Contraband shall be disposed of by the Office of Investigations in accordance with this subchapter.

#### 13:103-12.2 Disposal of contraband personal property seized upon admission

(a) When a juvenile arrives at a community program with items of personal property not authorized for retention or possession, the items shall be seized.

(b) The staff member making the seizure shall give the juvenile an itemized, signed and dated receipt for the property seized, and shall notify the juvenile that such items are contraband, and that the juvenile has three business days, from the date of the seizure of the contraband, to appeal the classification of any or all items as contraband to the Superintendent or designee.

1. If the Superintendent or designee determines that any or all of the items are not contraband, they shall be returned to the juvenile.

2. If the Superintendent or designee determines that any item is contraband, the juvenile shall be given two business days to indicate which of the following means of disposal should be used with respect to the property. The contraband shall be:

i Mailed to a designated relative or friend of the juvenile at the juvenile's expense;

ii. Given to a visitor for disposal;

iii. Donated by the juvenile to a charitable organization at the juvenile's expense;

or

iv. Destroyed at the juvenile's request.

3. If the juvenile fails to indicate the desired disposition, the property shall be disposed of at the option of the Superintendent or designee.

(c) Contraband determined to pose a threat to security or to be disruptive to the orderly running of a community program shall be handled in accordance with the provisions of N.J.A.C. 13:103-12.5.

(d) Disciplinary reports shall not be issued to a juvenile entering a community program for possession of unauthorized or excessive personal property.

13:103-12.3 Disposal of contraband personal property seized within a community program

(a) When contraband seized within a community program results in a disciplinary charge under N.J.A.C. 13:101-4 and removal of a juvenile, appropriate disciplinary reports shall be written and issued pursuant to N.J.A.C. 13:103-12.8 and 13:101-4.3.

(b) The staff member making the seizure shall give the juvenile an itemized, signed, and dated receipt (Form CP171-II) for the property seized and shall notify the juvenile that such items are contraband and that the juvenile has the right to appeal the classification of any or all items as contraband.

1. If the officials responsible for hearing charges determine that any or all items are not contraband, or if the Superintendent or designee, on appeal, determines that an item is not contraband it shall be returned to the juvenile.

2. If the officials responsible for hearing charges determine that any or all items are contraband, the contraband shall be retained and shall not be disposed of until all appeal proceedings, including any appeal to the Superior Court of New Jersey, Appellate Division, where appropriate, are exhausted. Otherwise, the juvenile shall be given two business days following receipt of the decision of the officials responsible for hearing charges, or the decision of the Superintendent or designee if the disciplinary decision is appealed, to indicate to the Office of Investigations or Center Control which of the following means shall be used to dispose of the contraband. The contraband shall be:

- i. Mailed to a designated relative or friend of the juvenile at the juvenile's expense;
- ii. Given to a visitor for disposal;

- iii. Donated by the juvenile to a charitable organization at the juvenile's expense; or
- iv. Destroyed at the juvenile's request.

3. Where the juvenile fails to indicate the desired disposition, the property shall be disposed of at the option of the Superintendent or designee.

4. If the juvenile has no family and no visitors, special arrangements to store property at the facility in which the juvenile is housed may be approved on a case-by-case basis by the Superintendent or designee.

#### 13:103-12.4 Disposal of contraband, State-issued property

Where State-issued property is confiscated as contraband, the juvenile shall not have any option with respect to its disposition. It shall be returned to the source for redistribution or subsequent disposal.

#### 13:103-12.5 Disposal of contraband threatening to security or disruptive to operations

(a) All contraband determined to pose a threat to security or to be disruptive to the orderly running of a community program shall be taken into the custody of the community program. Under no circumstances shall such contraband be returned to the juvenile.

1. The staff member making the seizure shall immediately turn the contraband over to the Superintendent or designee, who shall forward it to the Office of Investigations.

2. In cases where explosives, firearms, or other weapons are confiscated, the Superintendent or designee shall immediately notify the Office of Investigations.

3. Appropriate disciplinary reports shall be written and issued, pursuant to N.J.A.C.

#### 13:103-12.8.

(b) Suspected contraband, narcotics, or dangerous drugs may be forwarded by the Office of Investigations to an approved laboratory for chemical analysis or, where appropriate, field-tested at the community program. All weapons, ammunition, explosives, chemicals, liquor, or items altered from original status may be sent to a laboratory for analysis. After analysis, the contraband shall be claimed at the laboratory and secured at the Office of Investigations.

(c) Precautions shall be taken to assure the continuity of possession of contraband that will be used as evidence in accordance with accepted legal procedures. Unauthorized items determined to pose a threat or to be disruptive to the operations of a facility may be destroyed or properly disposed of by the facility only under the following circumstances:

1. With the permission of the Director of Investigations;
2. Upon completion of all disciplinary action; and
3. With the prior approval of the appropriate county prosecutor's office, if the matter has been referred previously to such office.

13:103-12.6      Confiscation and disposal of unauthorized currency or money at a residential community home

(a) All unauthorized money or currency found in a juvenile's possession at a residential community home shall be immediately seized and turned over to the Superintendent or designee, together with reports required by this subchapter, and shall be processed in accordance with internal management procedures, which shall be issued by the Director of Community Programs or designee.

1. Any juvenile found to be in possession of or to have control over such money or currency shall receive a disciplinary report.

2. A determination as to the manner in which the money or currency has been acquired shall be made by the officials responsible for hearing charges at the disciplinary proceedings.

3. At the conclusion of disciplinary proceedings, the items confiscated shall be turned over to the Fiscal Manager with a copy of the adjudicated disciplinary report. The Fiscal Manager will be responsible for depositing and recording the funds to the appropriate account.

4. Money or currency forfeited by the juvenile that is not the subject of a disciplinary action shall be deposited in the juvenile's account.

(b) All cash, checks, or other form of payment or currency brought into a community program by a visitor or by mail shall be deemed contraband, except for those identified in (c) below, and will not be accepted by a community program for deposit into juvenile accounts.

(c) Money orders and certified checks shall be the only approved form of money that can be accepted by the community program for deposit in juvenile accounts.

(d) The following procedures shall be utilized for disposing of the personal checks and cash determined to be contraband:

1. All personal checks and cash shall be refused if brought in by a visitor. Personal checks received through the mail shall be returned to the sender, at the Commission's expense. Personal checks returned via the mail shall include a note to the sender

indicating that Commission policy prohibits acceptance. In addition, Form CP171-I, Seizure of Contraband Report shall be filled out and a copy sent to the juvenile.

2. All cash received through the mail shall be sent to the Fiscal Manager whereupon a check, for each amount of cash received, shall be issued to the sender and mailed to the sender at the Commission's expense. Accompanying the check shall be a note to the sender indicating that Commission policy prohibits the acceptance of cash through the mail and explaining that the money is being returned in check form to protect against theft. In addition, Form CP171-I, Seizure of Contraband Report shall be filled out and a copy sent to the juvenile.

13:103-12.7 Authorized amounts of money and currency and confiscation and disposal of unauthorized currency or money at a day program

(a) The Director of Community Programs shall determine amounts of money or currency authorized to be in the possession of juveniles at a day program.

(b) Unauthorized money or currency in an amount less than the applicable authorized amount found in a juvenile's possession at a day program shall be seized and held at the day program for return to the juvenile at the end of the day.

(c) Unauthorized money or currency in excess of the applicable authorized amount found in a juvenile's possession at a day program shall be immediately seized and turned over to Superintendent or designee, together with any reports required by this subchapter, and then forwarded to the Office of Investigations.

1. Any juvenile found to be in possession of or to have control over such money or currency shall receive a disciplinary report.

2. At the conclusion of disciplinary proceedings, the money or currency shall be turned over to the Fiscal Manager with a copy of the adjudicated disciplinary report. The Fiscal Manager shall be responsible for depositing and recording the funds to the appropriate account.

3. Money or currency forfeited by the juvenile that is not the subject of a disciplinary action shall be returned to the juvenile.

#### 13:103-12.8 Disciplinary reports

With respect to juveniles subject to N.J.A.C. 13:101, Juvenile Discipline, when disciplinary reports are issued resulting from application of this subchapter, such reports shall be issued and adjudicated in accordance with the provisions of N.J.A.C. 13:101-4.3.

#### 13:103-12.9 Introduction of contraband into a community program and removal of contraband from a community program by a visitor

(a) Any visitor present within the community program or on its grounds shall surrender any item, article, or material that the Superintendent or designee shall determine to be contraband.

1. The staff member seizing any item, article, or material determined to be contraband shall give the visitor an itemized, dated, and signed receipt. When possession of the seized item, article, or material does not appear to violate any Federal or State statute the staff member shall, in return for the receipt, return the item to the visitor when the visitor exits the facility.

2. If there is reason to believe that possession of the contraband violates a Federal or State statute, local law enforcement authorities and the Office of Investigations shall be notified immediately.

(b) If there is reason to believe that a visitor has willfully introduced or has attempted to introduce contraband into the facility, local law enforcement authorities and the Office of Investigations shall be notified immediately.

(c) A visitor may have visiting privileges suspended under the provisions of N.J.A.C. 13:103-8 due to the presence of contraband in his or her possession or under his or her control, and the case may be referred to the appropriate law enforcement authority for criminal prosecution.

13:103-12.10 Introduction of contraband into a community program and removal of contraband from a community program by the mail

(a) Incoming correspondence and publications shall always be inspected for contraband. Any discovery of contraband in correspondence or publications shall be handled in accordance with N.J.A.C. 13:103-7.

(b) Unauthorized money or currency found in correspondence or publications shall be handled in accordance with N.J.A.C. 13:103-12.6.

SUBCHAPTER 13. (RESERVED)

SUBCHAPTER 14. DISCIPLINE OF JUVENILES IN RESIDENTIAL COMMUNITY HOMES

#### 13:103-14.1 Scope and purpose

(a) This subchapter sets out internal procedures applicable to juveniles residing in residential community homes when they violate program rules.

(b) The purpose of this subchapter is to provide a two-tier procedure for disciplining juveniles in residential community homes, to be used in those cases determined by the Superintendent or designee to warrant measures beyond normative therapeutic interventions, as follows:

1. Tier 1: The removal of a committed juvenile to a Commission secure facility for a disciplinary hearing under the provisions of N.J.A.C. 13:101; and

2. Tier 2: Internal discipline within the residential community home of either a committed juvenile or a probationer under the provisions of N.J.A.C. 13:103-14.6 and 14.7.

#### 13:103-14.2 Notification to juveniles about disciplinary rules and regulations; accountability and disciplinary authority

(a) The residential community home's juvenile handbook, provided for in N.J.A.C. 13:103-2, shall include information describing the disciplinary procedures set forth in this subchapter and any facility-specific supplemental rules or procedures.

(b) All changes in disciplinary rules shall be posted in the living and common areas of the residential community home.

(c) Staff is responsible for the discipline of juveniles, and shall not delegate that responsibility to other juveniles.

(d) Although juveniles shall be accountable for their conduct within group settings, a

formal disciplinary sanction shall not be threatened or administered to a juvenile for the misbehavior of another juvenile or juveniles.

13:103-14.3 Disciplinary charges; Tier 1 removal and Tier 2 internal discipline

(a) All Tier 1 and 2 disciplinary actions shall be based upon a charge or charges that the juvenile has violated one or more of the offenses set forth in N.J.A.C. 13:101-4.1.

(b) Tier 2. If the Superintendent determines that the charge or charges against a committed juvenile or a probationer are too serious to warrant normative therapeutic intervention, but are not serious enough to warrant either Tier 1 removal or possible violation of probation, the juvenile shall be subject to discipline under the Tier 2 procedures set forth in N.J.A.C. 13:103-14.6 and the disciplinary sanctions set forth in N.J.A.C. 13:103-14.7.

(c) Tier 1. Subject to approval by the Director of Community Programs or designee, if the Superintendent determines that the charge or charges against a committed juvenile are too serious to warrant Tier 2 procedures, the juvenile shall be removed from the residential community home and transferred to the custody of the Commission's Office of Secure Care for processing and adjudication of charges under the provisions of N.J.A.C. 13:101.

1. Probationers are not subject to Tier 1 discipline, but are subject to possible violation of their probation.

13:103-14.4 Reports to the prosecutor on violations

(a) The Superintendent or designee shall report all violations that may constitute crimes of the first, second, third, or fourth degree under the Criminal Code of the State of New

Jersey (N.J.S.A. 2C:1-1 et seq.) to the Director of Community Programs and to the Director of Investigations.

1. Subject to review and approval by the Executive Director, the Director of Investigations shall then refer the reported violation to the prosecutor of the county in which the facility is located.

13:103-14.5 Initiation of discipline procedures; determination by Superintendent or designee

(a) A staff member who witnesses conduct on the part of a juvenile that violates residential community home rules of behavior, or which otherwise may warrant discipline, shall immediately report the conduct to the shift coordinator.

(b) When alleged conduct constitutes a violation under N.J.A.C. 13:101-4.1 that the shift coordinator believes may be sufficiently serious to warrant action beyond therapeutic intervention, the shift coordinator shall prepare an RCH Discipline Form describing the violation and proposed corrective action, including a recommendation whether either Tier 1 or 2 discipline is warranted. The form shall be completed immediately following the violation or as soon thereafter as practicable, but not later than the end of the shift on which the violation occurred. The form shall be distributed as follows:

1. One copy of the form shall be served on the juvenile; and
2. Two copies shall be forwarded immediately to the Superintendent or designee.

(c) The Superintendent or designee shall review the RCH Discipline Form and shall make a final determination whether to process the discipline either with therapeutic intervention, or under the provisions of this subchapter as either Tier 1 or 2 discipline.

13:103-14.6 Tier 2 procedures; disciplinary conference

(a) A juvenile subject to Tier 2 discipline shall be afforded the right to challenge the violation and/or the proposed disciplinary sanction via an internal disciplinary conference held by the Superintendent or designee. The Superintendent or designee shall hold the conference as soon as is practical, but no later than during the weekday following the shift during which the incident occurred.

1. A discipline conference shall be attended by:
  - i. The Superintendent, or designee;
  - ii. The Shift Coordinator or youth worker designated by the Superintendent;
  - iii. A representative of either social or mental health services; and
  - iv. Such other personnel as are deemed appropriate by the Superintendent or designee.

(b) A discipline conference may be held, at the discretion of the Superintendent or designee, if the juvenile waives or forfeits his or her right to the conference. A juvenile may be deemed to have forfeited his or her right to a conference, or the right to attend the conference, if the juvenile's behavior is sufficiently disruptive so as to require his or her removal from the conference.

(c) Following the disciplinary conference, or following an independent review of the case upon waiver or forfeiture, as applicable, the Superintendent or designee shall:

1. Affirm or modify the charge or charges for which the juvenile is found culpable;
2. Affirm or modify a disciplinary sanction or sanctions;
3. In the case of a committed juvenile, refer the juvenile for removal under the

provisions of N.J.A.C. 13:103-14.3(b); or

4. Determine that there is no cause for formal action and either dismiss the charge or refer the matter for therapeutic intervention.

(d) The Superintendent or designee shall direct that the results of the conference, or independent review if no conference is held, be recorded on the RCH Discipline Form and that a copy of the completed RCH Discipline Form be delivered to the juvenile.

1. At a minimum, the results of the conference or independent review shall contain the following information:

- i. A description of the charge or charges determined to have been committed by the juvenile, and explain the reasons for any disagreement with charges as originally identified in the RCH Discipline Form;
- ii. A description of the facts relied upon to support the finding that the juvenile committed the charge or charges;
- iii. An explanation of the facts of any waiver or forfeiture of a right to a conference or right to attend a conference, as provided for in (b) above;
- iv. A summarization of any statements made by the juvenile and witnesses at the conference; and
- v. The identity of witnesses to the underlying events.

(e) The right afforded to the juvenile to appear at the conference shall be the final right of appeal or review of such discipline.

13:103-14.7 Authorized disciplinary sanctions under Tier 2 internal discipline

(a) No disciplinary sanctions may be imposed upon a juvenile except upon the prior

authorization of the Superintendent or designee.

(b) The following disciplinary sanctions may be imposed upon a juvenile subject to Tier 2 internal discipline:

1. Withdrawing a privilege or an individual or group activity, for example, recreation, television, or radio privileges, for no more than five days; withdrawal of 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. Restriction to the residential community home until given permission to participate in off-unit activities.

i. Restriction to the residential community home shall not exceed 48 hours without approval of the Superintendent or designee.

ii. Restriction to the residential community home shall not apply to medical appointments, religious activities, educational obligations, or outside employment, unless reasonable security or therapeutic concerns would restrict these as well;

4. Formal reprimand communicated to a juvenile by the shift coordinator or above;

or

5. Up to seven hours of extra work duty to be served within a period of 10 days;

(c) Prior to completion of disciplinary sanctions imposed under this section, designated staff shall counsel the juvenile with respect to the reason for the rules and policies related to his or her violation or violations, and any elements of the his or her behavior or attitude that are in need of improvement.

(d) The Commission prohibits the following from being used as disciplinary measures:

1. Room restriction, isolation, or any other seclusion in a locked or unlocked room;
2. Any type or threat of corporal punishment;
3. Deprivation of meals, snacks, sleep, mail, clothing appropriate to the season

or time of day, or verbal communication;

4. Mechanical or chemical restraint;
5. Assignment of overly strenuous physical work or exercise; and

6. Exclusion from any essential program or treatment service, such as education or clinical treatment.

13:103-14.8 Recommendation that a juvenile be judged in violation of probation or be transferred to another residential community home

(a) Subject to approval by the Director of Community Programs or designee, when a juvenile demonstrates an ongoing inability to benefit from the program at the residential community home, the Superintendent may recommend that the juvenile:

1. Be judged to be in violation of his or her conditions of probation;
2. Be transferred to another residential community home; or
3. Be referred to Mental Health Services or to another program or treatment

regimen for appropriate care and/or treatment.