

(a)

JUVENILE JUSTICE COMMISSION

Secure Facilities; Classification Assignment Process for Juveniles; Juvenile Discipline; Community Programs

Proposed Amendments: N.J.A.C. 13:95-1.3, 5.11, 7.2, 13.3, 13.6, 13.7, 13.11, 13.12, 13.13, 13.18, 13.19, and 14.4; 13:100-1.2 and 1.3; 13:101-1.2, 1.3, 5.3, 6.6, 6.7, 6.16, 7.3, and 7.6; and 13:103-1.3

Proposed New Rule: N.J.A.C. 13:95-11.10

Proposed Repeals: N.J.A.C. 13:101-6.17 and 8

Authorized By: The Executive Board of the Juvenile Justice Commission, by the Honorable John Jay Hoffman, Acting Attorney General and Chair, Deborah R. Edwards, Acting Attorney General's Designee.

Authority: P.L. 2015, c. 89; and 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, 30:4-82.4, 30:4-123.53a, 52:17B-170, 52:17B-171, 52:17B-174, 52:17B-175, 52:17B-176, 52:17B-178, and 52:17B-182 through 186.

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

Proposal Number: PRN 2016-035.

Submit written comments by May 6, 2016, either:

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

or by e-mail to: Regulatory.Affairs@jjc.nj.gov.

The agency proposal follows:

Summary

The New Jersey Juvenile Justice Commission (Commission) is proposing a number of amendments to the rules found at N.J.A.C. 13:95, 100, 101, and 103, in order to comply with provisions of P.L. 2015, c. 89, which was signed into law on August 10, 2015, effective March 1, 2016, making various changes to New Jersey's juvenile justice system.

Among other things, it amended the law governing waiver of juveniles to adult criminal court under the provisions of N.J.S.A. 2A:4A-26 (Waived Juvenile), providing that a juvenile whose case was waived would serve his or her sentence in a Commission facility, rather than a DOC facility, until the juvenile reaches the age of 21, and established standards for the transfer of Waived Juveniles to DOC. Under P.L. 2015, c. 89, a juvenile may continue to serve a sentence in a Commission facility after reaching the age of 21 in the discretion of the Commission, if the juvenile consents.

In addition, and of primary relevance to this notice of proposed amendments, P.L. 2015, c. 89 places significant limitations on the use of room restriction.

N.J.S.A. 52:17B-171.13, Regulations related to room restriction for juveniles, enacted into law by P.L. 2015, c. 89, provides that a juvenile cannot:

"... be subject to room restriction unless the juvenile poses an immediate and substantial risk of harm to others or to the security of the facility, and all other less-restrictive options have been exhausted ... and only for the minimum time required to address the safety risk and for a period that does not compromise the mental and physical health of the juvenile, but in no case shall a juvenile be held in room restriction for more than eight consecutive waking hours without being released for at least two hours for recreation and exercise."

That section provides further:

"A juvenile who is 15 years of age or younger shall not be subject to room restriction for more than two consecutive days ... [a] ... juvenile who is 16 years of age or older but younger than 18 years of age...three consecutive days ... [a] ... juvenile who is 18 years of age or older...for more than five consecutive days

... [and a] ... juvenile shall not be subject to room restriction for more than 10 total days in a calendar month."

The Commission proposes to make a number of amendments to its operating rules in compliance with N.J.S.A. 52:17B-171.13. In short, the Commission proposes to eliminate room restriction as a disciplinary sanction entirely, doing away with any form of segregation or isolation as a disciplinary sanction, and to create new housing status – room restriction for control – to address juveniles who present an immediate and substantial risk of harm to others or to the security of the facility, in compliance with N.J.S.A. 52:17B-171.13.

The Commission is proposing to make significant changes to N.J.A.C. 13:95, Secure Facilities, and to N.J.A.C. 13:101, Juvenile Discipline. The Commission is proposing to make other, less substantive changes to N.J.A.C. 13:100, Classification Assignment Process for Juveniles, and to N.J.A.C. 13:103, Community Programs.

N.J.A.C. 13:95 Secure Facilities

At N.J.A.C. 13:95-1.3, Definitions, the Commission proposes to amend the definition for "juvenile" to include juveniles who have been waived to superior court, convicted as an adult, and sentenced to serve a custodial sentence in a Commission facility. Also in this section, the Commission proposes to delete the existing definition for "room restriction" and to add a definition for a new special housing status, "room restriction for control." This housing status is proposed for addition to N.J.A.C. 13:95-11 (see below), and is the center point for Commission compliance with the provisions of N.J.S.A. 52:17B-171.13.

N.J.A.C. 13:95-5.11(e)1 sets forth a procedure for creating a two-hour period during which a juvenile will be given water, in amounts not to exceed eight ounces per 60-minute time period, to allow for a urine specimen. The Commission proposes to amend a provision allowing for the juvenile to be placed in room restriction during the two-hour period, deleting the reference to "room restriction" and replacing it with "secure area."

The Commission proposes to amend the heading of N.J.A.C. 13:95-11, from Protective and Temporary Close Custody to Protective and Temporary Close Custody; Room Restriction for Control, and to propose new N.J.A.C. 13:95-11.10, Room restriction for control.

Under N.J.A.C. 13:95-11.10, the Superintendent may approve placement of a juvenile in room restriction for control when necessary to eliminate an immediate and substantial risk to the safety of the juvenile, staff, or other juveniles, or to the security of the facility; the juvenile may remain in room restriction for control only for the time necessary to eliminate the underlying threat.

In addition, a juvenile cannot be kept in room restriction for control for a period in excess of eight hours, unless a written determination has been made by the Superintendent or designee that the juvenile continues to pose an immediate and substantial risk to the safety of the juvenile, staff, or other juveniles, or to the security of the facility. Successive extensions are permitted, provided that each extension conforms to the requirement for Superintendent authorization, and provided further that a juvenile cannot be kept in room restriction for control for more than:

1. Two consecutive days, if the juvenile is 15 years of age or younger;
2. Three consecutive days, if the juvenile is 16 years of age or older, but younger than 18 years of age; and
3. Five consecutive days, if the juvenile is 18 years of age or older.

In addition, a juvenile cannot be kept in room restriction for control for more than 10 total days in a calendar month.

Upon release from room restriction for control, either upon elimination of the underlying threat or upon expiration of the applicable maximum, a juvenile will be released to the general population; to the Behavior Accountability Unit (BAU); to medical or psychiatric housing for continued observation, treatment, or commitment procedures; or to protective custody.

N.J.A.C. 13:95-13, Resident Care Standards, sets forth various standards related to the routine living conditions of incarcerated juveniles.

The Commission proposes to make a technical correction to N.J.A.C. 13:95-13.7, Visits by social services and supervisory staff. Subsection (a) requires visits by "social work staff," the provision should read "social services staff," and that correction is being proposed herein.

The Commission proposes to make a number of amendments to N.J.A.C. 13:95-13.12, Recreation for juveniles in disciplinary room restriction, the Behavior Accountability Unit (BAU), protective custody, and temporary close custody, consistent with the requirements of P.L. 2015, c. 89.

First, the Commission proposes to amend the heading of N.J.A.C. 13:95-13.12 to "Recreation for juveniles in room restriction for control, the Behavior Accountability Unit (BAU), protective custody, and temporary close custody," deleting the reference to "disciplinary" room restriction.

The Commission proposes to amend N.J.A.C. 13:95-13.12(a) to allow recreation and exercise outside a juvenile's room two hours for every eight waking hours, rather than at least five hours per week, as is provided in the existing rule.

Similarly, the Commission proposes to amend N.J.A.C. 13:95-13.12(b) to allow outdoor recreation and exercise, weather permitting, two-hours per week, rather than requiring outdoor recreation as one of the five hours provided for in subsection (a) of the existing rule.

In addition, the Commission proposes at N.J.A.C. 13:95-13.12(a) and (b), to amend the permitted exception to the general requirement. In the existing rule, the general requirement can be avoided if compliance would affect the security or orderly operations of the facility. As proposed to be amended, the exception standard is if compliance "... would pose an immediate and significant threat to either the personal safety of the juvenile, other juveniles, staff, or others, or to the safe and orderly operation of the facility."

Finally, with respect to N.J.A.C. 13:95, the Commission is proposing conforming language amendments to eight provisions, to bring them in conformance with the substantive amendments discussed above, by changing references from "room restriction" to "room restriction for control," as appropriate. These amendments are proposed at N.J.A.C. 13:95-7.2, 13.3, 13.7, 13.11, 13.13, 13.18, 13.19, and 14.4.

N.J.A.C. 13:101 Juvenile Discipline

The Commission proposes a number of amendments to N.J.A.C. 13:101 in order to eliminate room restriction as a disciplinary tool.

The Commission proposes two amendments to N.J.A.C. 13:101-1, General Provisions. The Commission proposes to amend N.J.A.C. 13:101-1.2, Scope, to make the chapter applicable to Waived Juveniles, and to delete the definition of room restriction in N.J.A.C. 13:101-1.3, Definitions.

The Commission proposes to delete N.J.A.C. 13:101-5.3(a)3, which provides for room restriction not to exceed four hours as an immediate corrective action. Similarly, the Commission proposes to eliminate room restriction from the list of permitted sanctions set forth in existing N.J.A.C. 13:101-6.16(b)2.

N.J.A.C. 13:101-6.16(b)8 allows as a disciplinary sanction the referral of a juvenile to "... Mental Health Services or to another program or treatment regimen for appropriate care and/or treatment." The Commission proposes to relocate this provision to N.J.A.C. 13:101-6.16(b)2, and to amend the provision to add the BAU to the expressly permitted program referrals. The BAU is a program intensive non-disciplinary unit designed for juveniles in need of a more structured environment, and is provided for in N.J.A.C. 13:95-7.

The Commission also proposes to amend the heading of N.J.A.C. 13:101-6.16 from "disciplinary sanctions" to "disciplinary consequences," which the Commission believes more accurately portrays the range of actions that can be imposed by a disciplinary hearing officer.

The Commission proposes to repeal N.J.A.C. 13:101-6.17, Limitations on room restriction as a disciplinary sanction; as the elimination of disciplinary room restriction has made the provisions are no longer relevant.

The Commission proposes to amend N.J.A.C. 13:101-7.3, Stay of sanctions pending appeal, to replace "sanctions" with "consequences," and by proposing to delete subsection (b), which sets out provisions limiting the ability to stay a sanction of room restriction. Again, with the elimination of room restriction, the provisions are no longer relevant.

Similarly, in N.J.A.C. 13:101-7.6, Notification to juvenile of appeal results, the Commission proposes to delete N.J.A.C. 13:101-7.6(a)1,

which provides specific provisions for notifying juveniles in room restriction.

Lastly, with respect to N.J.A.C. 13:101, the Commission proposes to repeal Subchapter 8, Prehearing Room Restriction; Conditions of Room Restriction Generally.

**N.J.A.C. 13:100, Classification Assignment Process for Juveniles and
N.J.A.C. 13:103, Community Programs**

The Commission proposes to make three minor amendments to these two chapters, expanding their scope to cover Waived Juveniles.

At N.J.A.C. 13:100-1.3, Definitions, and 13:103-1.3, Definitions, the Commission proposes to expand the definition of "juvenile" to include Waived Juveniles.

Finally, the Commission proposes to amend N.J.A.C. 13:100-1.2, Scope, to provide that N.J.A.C. 13:100 applies not only to committed juveniles, but also to juveniles "... otherwise serving a custodial sentence in a Commission facility."

The notice of proposal is excepted from the calendar requirements of N.J.S.A. 52:14B-3(4) because the agency is providing a 60-day comment period, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed amendments, repeals, and new rules will have a positive social impact, by ensuring compliance with State law that eliminates segregation for disciplinary purposes, and provides for limited segregation solely to address an immediate and significant threat to safety.

Economic Impact

The costs associated with the proposed amendments, repeals, and new rules have been and will be met through the established budget process with funds allocated by the State. The Commission anticipates that the proposed amendments, repeals, and new rules will not have an economic impact on the Commission or any other department or agency of the State government.

Federal Standards Statement

The proposed amendments, repeals, and new rules comply with 28 CFR 31.303 and do not exceed the standards or requirements imposed by this Federal law, therefore, a Federal standards analysis is not required.

Jobs Impact

The Commission does not anticipate that any jobs will be generated or lost if the proposed amendments, repeals, and new rules are adopted.

Agriculture Industry Impact

The Commission does not anticipate that the proposed amendments, repeals, and new rules would have any impact on the agriculture industry.

Regulatory Flexibility Statement

The proposed amendments, repeals, and new rules impose no reporting, recordkeeping, or other compliance requirements on small businesses as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. A regulatory flexibility analysis is not required because the proposed amendments, repeals, and new rules concern only the incarceration of juveniles.

Housing Affordability Impact Analysis

The proposed amendments, repeals, and new rules will have an insignificant impact on the affordability of 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 amendments, repeals, and new rules concern only the incarceration of juveniles.

Smart Growth Development Impact Analysis

The proposed amendments, repeals, and new rules will have an insignificant impact on smart growth, and there is an extreme unlikelihood that the proposed amendments, repeals, and new 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 amendments, repeals, and new rules concern only the incarceration of juveniles.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 13:101-6.17 and 8.

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

**CHAPTER 95
SECURE FACILITIES**

SUBCHAPTER 1. GENERAL PROVISIONS

13:95-1.3 Definitions

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

"Juvenile" means, for the purpose of this chapter, both an individual who has been adjudicated delinquent and sentenced to a term of incarceration to be served under the custody of the Commission; and an individual who has been convicted of an offense subject to waiver under the provisions of N.J.S.A. 2A:4A-26 and sentenced to serve a custodial sentence in a Commission facility, and who is residing in or being transferred to a secure facility.

"Room restriction" means confining a juvenile for disciplinary or administrative reasons, either in the room in which he or she usually sleeps, or in a room in a program separation unit.]

"Room restriction for control" means the custody status provided for by N.J.A.C. 13:95-11.10, under which a juvenile is placed either in the room in which he or she usually sleeps or in another room, for the purpose of eliminating an immediate and substantial risk of harm to the juvenile being placed in custody, staff, or other juveniles, or to the security of the facility, and all other less-restrictive options have been exhausted.

SUBCHAPTER 5. SEARCHES OF JUVENILES AND FACILITIES

13:95-5.11 Collection and analysis of urine specimens

(a)-(d) (No change.)

(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] a secure area during this two-hour period.

2. (No change.)

SUBCHAPTER 7. BEHAVIOR ACCOUNTABILITY UNIT

13:95-7.2 Assignment of juveniles to the Behavior Accountability Unit (BAU)

(a)-(b) (No change.)

(c) As a transitional placement, a juvenile may be placed in the BAU upon discharge from room restriction for control when such placement is in accordance with the standards and criteria set forth in this section.

(d) (No change.)

(e) The following information and criteria shall be utilized by the Superintendent or designee when determining the appropriateness of an assignment of a juvenile to the BAU:

1.-6. (No change.)

7. Whether the juvenile may benefit from transitional placement in the BAU upon discharge from room restriction for control.

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

13:95-11.10 [(Reserved)] Room restriction for control

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

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

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

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

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

i. If the juvenile is 15 years of age or younger, for more than two consecutive days;

ii. If the juvenile is 16 years of age or older, but younger than 18 years of age, for more than three consecutive days; and

iii. If the juvenile is 18 years of age or older, for more than five consecutive days.

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

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

i. The general population;

ii. The BAU;

iii. Medical or psychiatric housing for continued observation, treatment, or commitment procedures; or

iv. Protective custody in accordance with procedures set forth in this chapter.

SUBCHAPTER 13. RESIDENT CARE STANDARDS

13:95-13.3 Visual observation of certain juveniles

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

1. (No change.)

13:95-13.6 Medical services

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

(b)-(c) (No change.)

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

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

1.-2. (No change.)

(b) The supervisor in charge of a housing unit holding juveniles in [disciplinary] room restriction for control, the BAU, protective custody, or temporary close custody shall make daily visits to the unit, and shall be

available to interview individual juveniles as soon as administratively possible after an interview is requested.

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

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

(a) (No change.)

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

(c) (No change.)

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

1.-2. (No change.)

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

(a) Where physical facilities permit, [each] a juvenile in [disciplinary] room restriction for control, the BAU, protective custody, and temporary close custody shall be allowed recreation and exercise outside the room for at least [five hours per week] two hours for every eight waking hours, unless to do so would [adversely affect the security or orderly operations of the secure] pose an immediate and significant threat to either the personal safety of the juvenile, other juveniles, staff, or others, or to the safe and orderly operation of the facility.

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

13:95-13.13 Education

(a) (No change.)

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

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

13:95-13.18 Transfers; record maintenance

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

13:95-13.19 Disciplinary actions applicable

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

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

13:95-14.4 Room restriction for control and Close Custody provisions
The provisions established in this chapter shall apply to all juveniles,
including those in [pre-hearing] room restriction [pursuant to N.J.A.C.
13:101 and in] for control or protective custody pursuant to N.J.A.C.
13:95-11, unless otherwise established by internal management
procedures for [pre-hearing room restriction or] protective custody.

CHAPTER 100
CLASSIFICATION ASSIGNMENT PROCESS FOR JUVENILES

SUBCHAPTER 1. GENERAL PROVISIONS

13:100-1.2 Scope

This chapter shall apply to all juveniles committed to the custody of
the Commission or otherwise serving a custodial sentence in a
Commission facility.

13:100-1.3 Definitions

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

...
"Juvenile" means [an individual] both a juvenile who has been
adjudicated delinquent and sentenced to a term of incarceration to be
served under the custody of the New Jersey Juvenile Justice Commission,
and a juvenile who has been convicted of an offense subject to waiver
under the provisions of N.J.S.A. 2A:4A-26 and sentenced to serve a
custodial sentence in a Commission facility, and who is residing in a
Commission facility.
...

CHAPTER 101
JUVENILE DISCIPLINE

SUBCHAPTER 1. GENERAL PROVISIONS

13:101-1.2 Scope

This chapter shall apply to [all] both committed juveniles and to
juveniles who have been convicted of an offense subject to waiver
under the provisions of N.J.S.A. 2A:4A-26 and sentenced to serve a
custodial sentence in a Commission facility, who are residing in
Juvenile Justice Commission facilities.

13:101-1.3 Definitions

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

...
["Room restriction" means confining a juvenile for disciplinary or
administrative reasons, either in the room in which he or she usually
sleeps or in a room in a program separation unit.]
...

SUBCHAPTER 5. IMMEDIATE CORRECTIVE ACTION
PROCEDURES

13:101-5.3 Authorized immediate corrective actions

- (a) The following are authorized immediate corrective actions:
- 1.-2. (No change.)
 - [3. Room restriction not to exceed four hours;
 - i. Room restriction in other than a secure facility may take place only
in an unlocked room; in a secure facility room restriction may take place
either in an unlocked or a locked room;
 - ii. Staff shall visually make contact every 30 minutes with a juvenile
on room restriction unless the circumstances require more frequent
contact. Juveniles shall be within sight or sound at all times;

iii. Juveniles who receive room restrictions shall discuss their behavior
and the results of their behavior with a staff member prior to rejoining the
general population; and

iv. Room restriction not issued as a sanction under N.J.A.C. 13:101-
6.16 shall be entered in the housing unit log book;]

Recodify existing 4.-6. as 3.-5. (No change in text.)

SUBCHAPTER 6. DISCIPLINARY PROCEEDINGS

13:101-6.6 Scheduling disciplinary hearings

(a)-(b) (No change.)

[(c) Juveniles held in prehearing room restriction, as provided for in
N.J.A.C. 13:101-8, shall receive a hearing within three days, including
weekends and holidays, unless there are exceptional circumstances,
unavoidable delays or reasonable postponements. Should the third day
fall on a Saturday, Sunday or holiday, the hearing shall be held on the
weekday immediately following the weekend or holiday.

(d) Juveniles held in prehearing room restriction shall be given priority
in scheduling their appearance before the Disciplinary Hearing Officer.]

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

13:101-6.7 Review of postponed cases

Hearings [which] that have been postponed for further investigation
shall be reviewed by the Disciplinary Hearing Officer within [24 hours of
the postponement if the juvenile is in prehearing room restriction or
within] seven days [in all other cases] to determine if a further
postponement is warranted. Further postponements shall be granted only
in exceptional circumstances.

13:101-6.16 Disciplinary [sanctions] consequences

(a) [The sanction may] A juvenile's disciplinary consequences shall
be individualized by considering such factors as the:

1.-5. (No change.)

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

1. Any [sanction] consequence prescribed for an immediate corrective
action (see N.J.A.C. 13:101-5.3);

[2. Up to five days room restriction, subject to the provisions of
N.J.A.C. 13:101-6.17;]

2. Referral to the Behavior Accountability Unit, mental health
services, or to another program or treatment regimen for
appropriate care and/or treatment;

3.-5. (No change.)

6. Up to 14 hours extra work duty, to be performed within a maximum
of two weeks; or

7. Restitution for damage, alteration, or destruction of State property
or the property of another person, which results in undue expenditure of
State funds; or]

[8. Referral to Mental Health Services or to another program or
treatment regimen for appropriate care and/or treatment.]

(c) (No change.)

13:101-6.17 (Reserved)

SUBCHAPTER 7. APPEALS OF DISCIPLINARY DECISIONS

13:101-7.3 Stay of [sanctions] consequences pending appeal

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

[(b)] A sanction of disciplinary room restriction shall not be stayed
pending appeal unless the juvenile establishes by clear and convincing
evidence that the juvenile's release from disciplinary room restriction will
not jeopardize facility security and order, that witnesses or victims will
not be intimidated and that the juvenile will not engage in any action
which could otherwise interfere with the administration of justice.]

PROPOSALS

13:101-7.6 Notification to juvenile of appeal results

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

[1. If a juvenile is being held in disciplinary room restriction which resulted from disciplinary action, the written decision on the appeal shall be given to the juvenile within 24 hours of receipt of the appeal, excluding weekends and holidays.]

[2.] 1. [In all other cases, or if the sanctions have been stayed, the] The Superintendent or his or her designee shall respond in writing to the juvenile within two business days of receipt of the appeal.

(b)-(c) (No change.)

SUBCHAPTER 8. (RESERVED)

CHAPTER 103 COMMUNITY PROGRAMS

SUBCHAPTER 1. GENERAL PROVISIONS

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:

“Juvenile” means [both] committed juveniles, [and] juveniles who have been placed on probation by a court, assigned to the jurisdiction of the Commission, and juveniles who have been convicted of an offense subject to waiver under the provisions of N.J.S.A. 2A:4A-26 and sentenced to serve a custodial sentence in a Commission facility, and who are residing in or assigned to a community program.