MINIMUM STANDARDS AND REGULATIONS FOR MANAGEMENT OF SPECIALIZED SECURE JUVENILE DETENTION FACILITIES FOR OLDER YOUTH

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PART 7301 LEGAL AUTHORITY

Section 7301.1. Legal Authority

(a) Article XVII, section 5 of the New York State Constitution provides that there shall be a State Commission of Correction which shall visit and inspect all institutions used for the detention of sane adults charged with or convicted of a crime.

(b) For the purposes of the State Commission of Correction's authority, Correction Law section 40(2) includes a specialized secure juvenile detention facility for older youth within the definition of “local correctional facility.”

(c) Correction Law Article 3 delineates the functions, powers and duties of the State Commission of Correction, which include:

(1) to request and receive from any department, division, board, bureau, commission or other agency of the State or any political subdivision thereof or any public authority, such assistance, information and data as will enable the commission, the board and the council to properly carry out its functions, powers and duties [Correction Law section 44(4)];

(2) to visit, inspect and appraise the management of correctional facilities with specific attention to matters such as safety, security, health of inmates, sanitary conditions, rehabilitative programs, disturbance and fire prevention and control preparedness and adherence to laws and regulations governing the rights of inmates [Correction Law section 45(3)];

(3) to promulgate rules and regulations establishing minimum standards for the review of the construction or improvement of correctional facilities and the care, custody, correction, treatment, supervision, discipline, and other correctional programs for all persons confined in correctional facilities [Correction Law section 45(6)];

(4) to promulgate rules and regulations to assure that persons in custody in local correctional facilities, including persons awaiting arraignment, are furnished or have access to the type of food required by their religious dietary rules or medically prescribed diets, if any [Correction Law section 45(6-a)];

(5) to close any correctional facility which is unsafe, unsanitary or inadequate to provide for the separation and classification of prisoners required by law or which has failed to adhere to or comply with the rules and regulations promulgated by the commission [Correction Law section 45(8)];

(6) to approve or reject plans or specifications for the construction or improvement of correctional facilities [Correction Law section 45(10)];

(7) to adopt, amend or rescind such rules and regulations as may be necessary or convenient to the performance of the functions, powers and duties of the commission [Correction Law section 45(15)];

(8) to have access at any and all times to any correctional facility or part thereof and to all books, records and data pertaining to any correctional facility deemed necessary for carrying out the commission's functions, powers and duties [Correction Law section 46(1)];

(9) to require from the officers or employees of a correctional facility any information deemed necessary [Correction Law section 46(1)];

(10) to issue and enforce a subpoena or a subpoena duces tecum, administer oaths and examine persons under oath [Correction Law section 46(2)];

(11) to notify the chief administrative officer of any violation of the rules and regulations promulgated by the commission and recommend remedial action and to issue a directive requiring compliance with such rules and regulations. Upon the failure of the chief administrative officer to comply with such directive, the commission may apply to the Supreme Court for an order requiring compliance with such rule, regulation or law [Correction Law section 46(4)];

(12) to investigate and review the cause and circumstances surrounding the death of any inmate of a correctional facility [Correction Law section 47(1)(a)]; and

(13) to investigate the condition of systems for the delivery of medical care to inmates of correctional facilities [Correction Law section 47(1)(a)].

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

PART 7302 DEFINITIONS

Section 7302.1. Definitions

As used in this Chapter, unless specifically stated otherwise, the following definitions shall apply to the terms listed below:

(a) **Commission** shall mean the New York State Commission of Correction.

(b) **OCFS** shall mean the New York State Office of Children and Family Services.

(c) **Facility** shall mean a specialized secure juvenile detention facility for older youth.

(d) **Youth** shall mean an adolescent offender, as that term is defined in Criminal Procedure Law section 1.20(44), that has been committed or sentenced to a facility.

(e) **Director** shall mean the individual wholly responsible for the operations of a facility.

(f) **Designee** shall mean a qualified individual, under the authority of the director, to whom the director has assigned a specific duty or responsibility.

(g) **Sheriff** shall mean the sheriff or commissioner of correction to whose custody a youth was committed or sentenced.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

PART 7303 CONSTRUCTION AND RENOVATION

Section 7303.1. Definitions

As used in this Part, the following definitions shall apply to the terms listed below:

(a) **Facility** shall mean a specialized secure juvenile detention facilities for older youth.

(b) **Construction or renovation** shall mean:

(1) all acquisition or designation of a physical plant not originally operated as a facility;

(2) all new facility construction; or

(3) all renovations, additions, or substantial alterations to an existing facility setting which involves physical structure, security, or major fixed equipment changes, other than replacement.

History

Emergency rulemaking eff. Dec. 19, 2017, expired March 18, 2018; new adopted filed March 27, 2018 eff. April 11, 2018.

Section 7303.2. Construction and renovation

(a) All plans and specifications for the construction or renovation of a facility shall be submitted to the State Commission of Correction (the Commission) and the Office of Children and Family Services (OCFS) for review and approval.

(b) Such approval by the Commission and OCFS shall be obtained before a construction or renovation project is advertised for bids. If a bidding procedure will not be followed, Commission and OCFS approval must be obtained before any construction or renovation begins.

History

Emergency rulemaking eff. Dec. 19, 2017, expired March 18, 2018; new adopted filed March 27, 2018 eff. April 11, 2018.

PART 7304 CERTIFICATION

SECTION 7304.1. DEFINITIONS

As used in this Part, the following definitions shall apply to the terms listed below:

(a) **Facility** shall mean a specialized secure juvenile detention facilities for older youth.

(b) **Commission** shall mean the New York State Commission of Correction.

History

Emergency rulemaking eff. Dec. 19, 2017, expired March 18, 2018; new adopted filed March 27, 2018 eff. April 11, 2018.

Section 7304.2. Certification required

No facility, subject to regulation, inspection and evaluation by the Commission, shall be operated unless it shall possess valid operating certificates issued by the Office of Children and Family Services (OCFS), and the Commission pursuant to this Part.

History

Emergency rulemaking eff. Dec. 19, 2017, expired March 18, 2018; new adopted filed March 27, 2018 eff. April 11, 2018.

Section 7304.3. Application for certification

Any application for an operating certificate pursuant to this Part shall be made upon forms prescribed by the Commission, which shall contain:

(a) the name of the facility and its location;

(b) the name and address of the authorized agency, corporation, association, organization, proprietary operator or public agency, who or which operates such facility;

(c) any plan to collocate a facility with a juvenile secure detention facility;

(d) the counties to be serviced by the facility;

(e) a physical description of the facility, including land, buildings and equipment;

(f) proposed resident capacity;

(g) a plan and description of staff positions, including duties and qualifications;

(h) if applicant is a corporation, the names, addresses and occupations of the members of the board of directors;

(i) the ownership or control of the land and premises, if other than the operator; and

(j) such other information as may be required.

History

Emergency rulemaking eff. Dec. 19, 2017, expired March 18, 2018; new adopted filed March 27, 2018 eff. April 11, 2018.

Section 7304.4. Approval, revocation and renewal of certification

(a) An application shall be approved, and an operating certificate shall be issued, only when the Commission finds that the facility meets, and will be operated in accordance with, the requirements of this Chapter.

(b) Certification shall be granted in writing for a period of not more than two years, and may be revoked at any time by the Commission if it finds the facility to be unsafe, unsanitary, or in violation of the regulations contained in this Chapter.

(c) At least 90 days prior to the expiration an operating certificate, the facility shall refile an application for the renewed issuance of such operating certificate. Any determination by the Commission to renew an operating certificate shall be made in accordance with subdivision (a) of this section.

History

Emergency rulemaking eff. Dec. 19, 2017, expired March 18, 2018; new adopted filed March 27, 2018 eff. April 11, 2018.

PART 7305 ADMISSIONS AND INTAKE

Section 7305.1. Policy

(a) Consistent with the requirements of this Part, each facility shall establish policies and procedures designed to ensure that every youth is admitted to such facility in accordance with law, and in a manner designed to protect the safety of all persons, and the security of the facility.

(b) Only youth lawfully committed to the custody of a sheriff, or otherwise authorized to be detained therein, shall be admitted to such facility.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7305.2. Authority for admissions

(a) Prior to the admission of any youth, facility staff performing intake and admissions functions shall examine the committing instrument or document which serves as the basis for the admission. Youth shall be admitted to a facility only when:

(1) an examination of available youth identification confirms that a youth's identity corresponds with any information accompanying such document;

(2) reasonable efforts have been made to confirm that the youth is of proper age for admission to the facility. If the youth has not reached his or her 16th birthday, such youth shall not be admitted to the facility;

(3) reasonable efforts have been made to confirm that the commitment document bears the signature of a magistrate or other appropriate authority; and

(4) it has been determined that the commitment document is not otherwise defective so as to render the admission of a youth unlawful.

(b) The director shall designate facility staff members to be responsible for admitting youth in accordance with the provisions of this Part.

(c) Persons delivering a youth to a facility shall present identification as required by the admitting facility.

(d) The admissions process shall include the recording of:

(1) the name of the youth received;

(2) the authority for admission to the facility;

(3) an itemization of all documents and property received with the youth;

(4) the date and time of admission; and

(5) the name, rank, badge number and authority of delivering officer.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7305.3. Identification

(a) Consistent with the requirements of this section, identification procedures, including photographs, shall be established for youth confined in a facility.

(b) When, in the opinion of the director, or designee, the growth or removal of a youth's hair, including facial hair, creates an identification problem, a new photograph may be taken of the youth.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7305.4. Contraband confiscation

(a) Facility staff shall confiscate all contraband from youth admitted to the facility.

(b) As used in this section, the term contraband shall mean:

(1) any article or substance, the possession of which would constitute an offense as that term is defined in the New York State Penal Law;

(2) any deadly weapon, as defined in subdivision 12 of section 10.00 of the Penal Law;

(3) any article or substance, the possession of which is specifically prohibited by written facility regulations;

(4) any article or substance, the possession of which is specifically prohibited by the provisions of this Subtitle; and

(5) any article or substance which may present a substantial sanitation or health threat to the facility.

(c) All youth contraband confiscated by facility staff shall be inventoried and recorded in writing. Such inventory shall include:

(1) the name of the youth;

(2) an itemization of each item confiscated with an accurate description of such item;

(3) the date of confiscation; and

(4) the name and signature of staff completing the inventory.

(d) The youth shall verify by signing the inventory that such inventory is a complete and accurate itemization of such youth's confiscated contraband. If, for any reason, the youth is not able to verify, or refuses to verify, that such listing is accurate or complete by signing the inventory, such inventory shall be witnessed and signed by a second facility staff member. If, at a later time, such youth is able or willing to effect such signature, the youth shall be permitted to do so. The youth shall be given a copy of the signed inventory, and at least one copy shall be retained in the facility.

(e) Except as provided in subdivisions (g), (h) and (i) of this section, all youth contraband confiscated pursuant to this section shall be kept in a safe and secure area.

(f) The director shall establish and maintain accurate books of account with respect to any money confiscated as contraband pursuant to this Part.

(g) A youth may designate, in writing, persons to receive contraband confiscated pursuant to this section. Contraband shall be released to persons designated by the youth when:

(1) such person has presented adequate identification;

(2) such person signs the personal property inventory; and

(3) the inventory has been amended to reflect the release of each item of property.

(h) If a youth is not able to designate a person to receive contraband, or if the designee refuses to receive such contraband, and if such contraband cannot be stored within the facility because such storage may present a substantial facility health or sanitation threat, such contraband may, upon the order of the director, be destroyed. Any such order shall be in writing and shall state:

(1) the name of the youth;

(2) the specific contraband being destroyed;

(3) the time and date of destruction of the contraband; and

(4) the specific facts and reasons why such contraband constitutes a facility health or sanitation threat.

(i) Notwithstanding the provisions of this Part, the director shall not release any confiscated contraband, the possession of which may constitute an offense, to any person except appropriate law enforcement officials. Any such release shall be in writing and shall state:

(1) a description of the contraband released to law enforcement officials;

(2) the time and date of release;

(3) the name of the youth from whom the contraband is confiscated; and

(4) the name and organization of the official to whom the contraband is released.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7305.5. Records

(a) A facility shall record and maintain information concerning each youth admitted to a facility.

(b) A record shall be made of the name, address, telephone number and relationship to the youth, of a parent, legal guardian, or spouse to be notified in case of the death, serious illness or other serious incident involving the youth.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7305.6. Medical screening

A medical screening questionnaire shall be administered by facility staff at the time of admission, or prior to the placement of a youth in a facility housing unit.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7305.7. Personal hygiene and clothing issue

(a) Consistent with the requirements of Part 7312 of this Title, all youth shall be provided, at admission, with an issue of personal hygiene items.

(b) Clothing shall be issued to youth when requested or required pursuant to the requirements of Part 7312 of this Title.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7305.8. Admissions telephone call

Consistent with the provisions of Part 7331 of this Title, youth shall be permitted to make telephone calls to parents, legal guardians and legal counsel upon admission to a facility. Youth shall be informed upon admission of their rights to make such telephone calls.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7305.9. Facility policies and information

(a) Each facility shall prepare and distribute to all youth, upon admission, a written copy of facility policies and information. Such policies and information shall include, but not be limited to, the following:

(1) behavior support policies;

(2) available health and behavioral health services, including physician and psychiatrist visits and sick calls;

(3) telephone services and policies for use;

(4) recreation and exercise schedules;

(5) information and eligibility criteria for any available facility program including, but not limited to:

(i) educational programs;

(ii) vocational programs; and

(iii) work programs;

(6) daily schedules;

(7) packages policy and permissible items;

(8) correspondence policy;

(9) visitation policies and schedules;

(10) eligibility criteria and procedures for requesting funeral and deathbed visits;

(11) eligibility criteria and procedures, including application forms, for conditional release;

(12) religious worship schedules;

(13) grievance procedures;

(14) the availability of legal reference materials and supplies, including a specific reference to the availability of rules and regulations of the State Commission of Correction; and

(15) any additional information the director feels may assist youth.

(b) If any youth is limited English proficient (LEP), or is deaf or hard of hearing, interpretation or translation must be arranged to assist such youth in the understanding of, and use of, necessary facility services and programs, as provided in section 7346.2 of this Title.

(c) Facility policies and information shall be updated and amended as needed.

(d) The director shall require that each youth sign a ledger or other record verifying that such youth has received the facility policies and information required pursuant to this Part. If, for any reason, the youth is not able to verify, or refuses to verify, receipt of the facility policies and information, such refusal shall be noted in the ledger by facility staff.

(e) The director may require that youth forfeit possession of their copy of facility policies and regulations upon discharge from the facility.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

PART 7306 SECURITY AND SUPERVISION

Section 7306.1. Policy

Each facility shall be operated in a manner that provides for the adequate supervision of every youth and for a safe and secure environment.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7306.2. Definitions

As used in this Part, the following definitions shall apply to the terms listed below:

(a) **Supervision tour** shall mean:

(1) a personal visual observation of each youth by facility staff responsible for the care and custody of such youth to monitor their presence, well-being and conduct; and

(2) a personal visual inspection of each occupied individual occupancy room, and the unit surrounding each individual occupancy room, by staff responsible for the care and custody of youth to maintain the safety, security, and operational stability of the facility.

(b) **Active supervision** shall mean the immediate availability to youth of staff responsible for the care and custody of such youth, which shall include:

(1) the continuous presence of such staff within the living unit when youth are present on the living unit;

(2) the uninterrupted ability to communicate orally with, and respond to, each youth unaided by any electronic or other artificial amplifying device;

(3) the conducting of supervision tours at intervals not to exceed 30 minutes; and

(4) the ability of staff to immediately respond to emergency situations.

(c) **Constant supervision** shall mean the uninterrupted personal visual observation of a youth by facility staff responsible for the care and custody of such youth. Facility staff shall provide continuous and direct supervision by maintaining a position in close proximity to the youth under supervision, which shall provide staff with:

(1) a continuous clear view of the youth under supervision; and

(2) the ability to immediately and directly intervene in response to a situation or observed behavior which threatens the safety, security, or health of the youth, another person, or the operational stability of the facility.

(d) **Contraband** shall mean:

(1) any article or substance, the possession of which would constitute an offense under the New York State Penal Law;

(2) any deadly weapon or dangerous instrument, as defined in Article 10 of the Penal Law;

(3) any article or substance, the possession of which is specifically prohibited by written facility rules and regulations.

(4) any article or substance, the possession of which is specifically prohibited by the provisions of this Chapter; and

(5) any article or substance which may present a substantial sanitation or health threat to the facility.

(e) **Mechanical restraint** shall mean any device used by facility staff to immobilize or limit a youth's movement which such youth cannot remove.

(f) **Physical incident** shall mean any occurrence of power, violence, compulsion or constraint, exerted upon a youth by facility staff, including, but not limited to, physical restraint.

(g) **Physical restraint** shall mean any physical intervention with a youth by staff to control behavior, with or without the use of mechanical restraints.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7306.3. Policies and procedures

(a) Consistent with the requirements of this Part, each facility shall develop written policies and procedures that govern security and supervision. Such policies and procedures shall include, but not be limited to:

(1) supervision of youth in facility living units;

(2) supervision of youth outside facility living units;

(3) records of supervision;

(4) requirements of staff prior to assuming responsibilities in an assigned facility area;

(5) contraband;

(6) use of physical restraints and mechanical restraints;

(7) youth population counts;

(8) transport of youth;

(9) firearms control;

(10) key control;

(11) locks and other security devices;

(12) tool and equipment control; and

(13) perimeter control.

(b) These policies and procedures shall be reviewed annually by the director and updated as needed.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7306.4. Supervision of youth in facility living units

(a) Active supervision shall be maintained in any facility living unit when any youth is confined in such unit.

(b) The director, his or her designee, or the appropriate facility health staff shall determine whether a youth requires additional supervision based on the youth's condition, illness or injury, and the director, his or her designee, or the appropriate facility health staff shall order such supervision if warranted. Additional supervision may include more frequent supervision tours, or constant supervision. Such determination shall be documented and include, but not be limited to, the following information:

(1) the reasons underlying such determination;

(2) orders made requiring such additional supervision, including the dates and times when the supervision is to be initiated and concluded;

(3) the name(s) of the individual(s) making such determination and/or ordering the supervision; and

(4) periodic facility staff observations of the youth's condition and behavior.

(c) Consistent with the requirements of section 7306.6 of this Part, such determination and orders for additional supervision shall be recorded.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7306.5. Supervision of youth outside facility living units

Active supervision shall be maintained whenever youth are participating in activities outside their facility living units.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7306.6. Records of supervision

(a) All written records pertaining to supervision, as required in this section, shall be recorded legibly in ink, in a bound ledger of consecutively numbered pages, and shall be maintained for each living unit and program area. Such records shall include, but not be limited to, the following information:

(1) the name or designation of the living unit or program area for which the supervision is being maintained;

(2) the name(s) of staff conducting the supervision;

(3) the date and time when supervision is initiated and concluded; and

(4) any significant events or activities occurring during supervision, including, but not limited to:

(i) the date and time of such event or activity;

(ii) the names of all youth and staff involved;

(iii) staff response to such event or activity if applicable, including a summary of what occurred; and

(iv) a description of any change in the physical or mental condition of any youth involved in such event or activity.

(b) Each entry recorded in the ledger required pursuant to this section shall include the signature of the staff member making the entry.

(c) Alterations made by staff to any entries contained within such ledger shall be:

(1) accomplished by staff drawing a single line through the entry to be changed which does not prevent the original entry from being read; and

(2) dated and signed by the staff making the alteration with the reason(s) noted for altering the record.

(d) Notwithstanding the provisions of this section requiring a bound ledger, records pertaining to supervision may be recorded on a computerized log. Entries made on a computerized log shall identify the staff making such entry. Entries made on a computerized log shall not be erased. Alterations to entries shall be made by making an additional entry.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7306.7. Requirements of staff prior to assuming responsibilities in an assigned facility area

(a) Upon assuming responsibilities in an assigned facility area, each staff shall review the log entries maintained pursuant to section 7306.6 of this Part.

(b) Upon assuming responsibilities in an assigned facility area, an assigned staff shall perform the following:

(1) conduct an actual count of the youth assigned to the staff's area of responsibility and record such results in the logbook;

(2) obtain and count all necessary keys for the assigned area in accordance with the provisions of section 7306.13 of this Part;

(3) inspect all supplies, equipment, locks, doors, security windows, and other securing devices;

(4) perform any other necessary security functions as determined by the director; and

(5) make a log entry documenting activities required by this section and initial such records.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7306.8. Contraband

(a) Youth searches shall be conducted solely to inspect for contraband or to recover missing or stolen items.

(b) The disposition of discovered contraband shall be made in accordance with Part 7305 of this Title.

(c) Nothing in this section shall limit or restrict a facility from using electronic devices during the search of youth, visitors, facilities, or secure grounds.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7306.9. Use of physical restraints and mechanical restraints

(a) The use of physical restraints and mechanical restraints by facility staff shall be in accordance with applicable laws, regulations and facility policy, and shall be limited to circumstances where approved non-physical behavior management techniques have been tried and failed, or the circumstances of the incident render the use of non-physical techniques impractical, such as an emergency physical intervention to protect the safety of a person, or a youth is attempting to escape.

(b) Neither physical restraints nor mechanical restraints shall be used for purposes of discipline, punishment, or for the convenience of staff.

(c) Any youth involved in a physical incident, whether appropriate or not, shall thereafter be evaluated by a licensed health care professional and, if warranted, receive medical treatment.

(d) Any physical incident, whether appropriate or not, shall be immediately recorded in the appropriate logbook(s) and shall be fully documented within 24 hours of the incident.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7306.10. Formal youth population counts

(a) Formal youth population counts shall:

(1) be conducted at the beginning of each regularly scheduled shift; and

(2) include an accounting of all youth housed in or otherwise assigned to the facility area in which such count is conducted.

(b) The results of each formal youth population count conducted pursuant to subdivision (a) of this section shall be recorded in writing. Such written record shall include the:

(1) date and time of the count;

(2) facility area in which the count was conducted;

(3) number of youth accounted for; and

(4) names of staff conducting the count.

(c) Subsequent to each formal youth population count conducted pursuant to subdivision (a) of this section, the written records of the results of each count compiled pursuant to subdivision (b) of this section shall be immediately forwarded to the director, or designee. Upon receipt of the results of the formal youth population counts, the director, or designee, shall determine the total

formal youth population count. Such total formal youth population count shall account for every youth committed to the facility.

(d) Total formal youth population counts shall be made in writing and shall include the:

(1) date and time of such count;

(2) results of such count; and

(3) signature of the director, or designee.

(e) The director, or designee, shall immediately initiate appropriate emergency procedures in response to any discrepancy in the youth population count.

(f) Nothing in this Part shall preclude the facility from conducting informal counts.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7306.11. Transport of youth

(a) During any transport of a youth outside a facility, facility or sheriff staff shall maintain a level of supervision of such youth that allows such staff to prevent an escape, respond immediately to an emergency situation, and maintain the safety of the youth and all others nearby.

(b) Prior to beginning any transport, staff of the facility or sheriff responsible for the transport of a youth shall obtain:

(1) all necessary documents or other authorizations; and

(2) any other information relative to such transport.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7306.12. Firearms control

(a) Neither firearms nor ammunition shall be permitted within the secure area of any facility.

(b) All persons in possession of any firearm or ammunition shall be required to deposit such items in an individual secure depository prior to entering the secure area of any facility. Any firearm or ammunition deposited pursuant to this subdivision shall be maintained in a safe and secure manner.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7306.13. Key control

(a) All persons in possession of keys used in a facility shall maintain the keys in a secure manner. All keys not in the possession of a person shall be maintained in a secure location.

(b) The director shall require that a duplicate of every key used in a facility is maintained. Such duplicate keys shall be maintained in a secure area and shall be readily accessible when needed. Inventory of the duplicate keys shall be completed annually, and the inventory documentation shall be retained at the facility.

(c) A written record shall be maintained with respect to the control and issuance of keys and shall include the:

(1) name of staff issued keys;

(2) date and time of issuance of the keys; and

(3) date and time the keys were returned.

(d) All keys which could provide a youth with a means of exit from a facility shall not be permitted in any area where youth may gain access to such keys.

(e) Key rings shall be bonded closed.

(f) Restricted and emergency keys must be stored separate and distinct from regular use keys.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7306.14. Locks and other securing devices

(a) Notwithstanding the requirements of section 7306.7 of this Part, the director shall require that all locks and other securing devices including, but not limited to, bars, security windows and screens are inspected at least weekly to confirm that such locks and other securing devices are in proper working order at each facility.

(b) Written records of such inspections shall be maintained at the facility, and shall include:

(1) the name of the staff performing the inspection;

(2) the date of inspection;

(3) the condition of the locks and other securing devices; and

(4) the action taken to correct any deficiencies in the locks and other securing devices.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7306.15. Tool and equipment control

(a) The director shall implement and maintain a system to provide for the control, tracking and storage of tools, culinary equipment and medical equipment. Such system shall include regular monitoring by the director, or designee.

(b) Written records of such system shall be maintained and shall include:

(1) the name of the staff monitoring compliance;

(2) the date of monitoring;

(3) the condition of the tools, culinary equipment and medical equipment; and

(4) action taken to repair or replace any tools, culinary equipment and medical equipment.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7306.16. Perimeter control

(a) The director shall require that facility staff conduct a formal security visual inspection of each facility's external perimeter security. Such inspection shall be conducted at intervals not to exceed seven days, and shall include, but not be limited to:

(1) the integrity of all perimeter fencing, including entrances and exits;

(2) locking mechanisms on all entrances and exits to the facility;

(3) perimeter lighting fixtures;

(4) any free standing buildings adjacent to the facility; and

(5) any windows throughout the exterior of the building.

(b) Written records of such inspections shall be maintained and include, but not be limited to:

(1) the name of the staff conducting the inspection;

(2) the date and time of such inspection;

(3) the condition of the perimeter fencing, locking mechanisms, lighting fixtures, and free standing buildings; and

(4) the notification of any security breaches to the director, or designee.

(c) Such written records shall be retained within the facility and shall be reviewed the director, or designee

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

PART 7308 VISITATION

Section 7308.1. Policy

(a) Every youth confined in a facility shall be entitled to receive visits.

(b) Consistent with the requirements of this Part, the director shall develop written policies and procedures that govern youth visitation. These written policies and procedures shall be reviewed annually and updated as needed.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7308.2. Visitation area

(a) Each facility shall provide sufficient space for a visiting room or an area designed to allow for physical contact between a youth and his or her visitors.

(b) Each facility shall provide for the proper storage of visitors' coats, handbags and other personal items not allowed into the visiting area.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7308.3. Availability of visits

(a) Each facility shall grant youth the right to receive visits, subject only to the limitations pursuant to section 7308.7 of this Part.

(b) The director shall establish and publish a schedule of visitation that permits each youth to have the opportunity for at least two (2) hours of visitation per week.

(c) A youth shall be permitted to visit more than one visitor at the same time, with the maximum number of visitors to be determined by the director.

(d) A youth shall be entitled to receive a visit within 24 hours of admission to a facility which, at the discretion of the director, or designee, may be a noncontact visit.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7308.4. Visitor identification and registration

(a) Consistent with the requirements of this Part, a youth shall be entitled to receive visits from their immediate family. For the purposes of this Part, immediate family shall include parents or legal guardians, grandparents, siblings, aunts, uncles, children, spouse, and individuals with whom the youth parent a child. A prospective visitor who is under 18 years of age may be restricted from visiting a youth if they are not accompanied by an approved adult visitor.

(b) The director, or designee, may work with a youth, the youth's parents or guardian, or other appropriate individuals to develop a list of pre-approved individuals, other than immediate family, who may visit the youth.

(c) Each facility shall verify the identity of each prospective visitor.

(d) Facility staff shall record the following information for each prospective visitor:

(1) the visitor's name;

(2) the date;

(3) the time of entry and the time of exit;

(4) the name of the youth to be visited; and

(5) the visitor's relation to the youth.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7308.5. Contact visits

(a) Consistent with subdivision (b) of this section, physical contact shall be permitted between a youth and his or her visitors.

(b) Youth and their visitors shall be required to conduct themselves in an appropriate manner and consistent with reasonable standards of public decency.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7308.6. Visitation security and supervision

(a) Prior and subsequent to each visit, a youth shall be searched solely to verify that they are not in possession of contraband.

(b) All prospective visitors and their personal belongings brought into the visiting area shall be searched solely for contraband.

(c) A search of the visiting area shall be conducted prior and subsequent to each visiting period.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7308.7. Limitation of visitation

(a) Consistent with the requirements of this Part, the visitation of a youth with a particular visitor may be denied, revoked or limited only when it is determined that such visitation would cause a threat to the safety, security or operational stability of the facility or the safety, security or health of the youth or be detrimental to the youth's treatment and rehabilitation program.

(b) Any determination to deny, revoke or limit a youth's visitation pursuant to this section shall be made by the director, or designee, in writing, and shall state the specific facts and reasons underlying such determination. A copy of this determination shall be given to any person affected by the determination.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7308.8. Special visits

Each facility shall implement procedures that govern special visits and the conditions of such visits. Such visits shall include, but not be limited to, visits from persons who have traveled long distances, visits to hospitalized youth, and noncontact visits.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

PART 7309 FOOD SERVICES

Section 7309.1. Policy

(a) A facility shall maintain a food service program sufficient to satisfy the daily nutritional needs of each youth.

(b) Consistent with the requirements of this Part, the director shall develop written policies and procedures that govern facility food services. These policies and procedures shall be reviewed annually and updated as needed.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7309.2. Food service sanitation

All food service areas including, but not limited to, kitchens, dining areas and food storage areas shall be maintained in a sanitary condition in accordance with the provisions of section 7350.5 of this Title and the State Sanitary Code as contained in Part 14 of Title 10 NYCRR.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7309.3. Nutritional adequacy

The facility food service program shall require that every youth is provided with an appropriate level of nutrients and calories. Such appropriate level of nutrients and calories shall be based upon current recommended dietary allowances of the Food and Nutrition Board of the National Academy of Sciences, National Research Council.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7309.4. Medical diets

The director shall require that any medical diet, prescribed for a youth by a physician, dentist, or other authorized facility health services staff member, is provided to such youth.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7309.5. Religious diets

Pursuant to the requirements of section 7336.6 of this Title, youth are entitled to observe reasonable dietary laws established by their religion. A facility shall provide youth with food items reasonably sufficient to meet such religious dietary laws.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7309.6. Food Service Personnel

(a) The director shall designate an individual who shall be responsible for the supervision of the facility food service program. Such person shall be responsible for:

(1) the implementation of menus consistent with the requirements of section 7309.8 of this Part; and

(2) the supervision, preparation and service of all meals.

(b) Only persons who are in good health and free from communicable diseases shall be assigned to, or permitted to work in, the facility food service program.

(c) Consistent with the requirements of section 7350.5 of this Title, all persons employed in the facility's food service program shall maintain a high level of cleanliness and conform to hygienic practices while performing such facility functions.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7309.7. Meals

(a) A facility shall provide every youth with at least three meals, at regular meal times, during each 24-hour period, with no more than 14 hours between the evening meal and breakfast. Variations may be allowed on weekends and holidays, provided basic nutritional goals are met.

(b) At least one of the three regularly scheduled meals in a 24-hour period shall be served hot.

(c) Facility staff shall maintain active supervision of youth during meals, as defined in section 7306.2(c) of this Title.

(d) The director shall prohibit the withholding of food as a disciplinary measure.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7309.8. Menus

(a) The director shall require that written and dated menus, which fulfill the nutritional requirements of this Part, shall be prepared in advance for each facility.

(b) Each facility menu shall be reviewed, at intervals not to exceed six months, by a registered dietician or nutritionist, certified by the New York State Education Department, to ensure compliance with nationally recommended food allowances.

(c) Exclusive of medical, religious or vegetarian diets, menus prepared in accordance with the provisions of this Part shall:

(1) be designed to require that variety is provided in the preparation of meals;

(2) be designed to require that those food items prepared and served in combination for an evening meal are not repeated in such exact combination for another evening meal for at least a five-day period;

(3) be retained in the facility for a minimum of one year; and

(4) be posted for youth to read.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7309.9. Food storage

All food stored in a facility shall be maintained in such a manner so as to protect against spoilage or contamination. Such foods shall be stored in compliance with the requirements of the State Sanitary Code, as set forth in Part 14 of Title 10 NYCRR.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

PART 7310 HEALTH SERVICES

Section 7310.1. Policy

(a) Adequate health care and health care services shall be provided to all youth to promote the well-being of youth through the prevention, detection, treatment and management of disease and disability.

(b) Consistent with the requirements of this Part, the medical director shall develop written policies and procedures that govern facility health services. The written policies and procedures shall be reviewed annually and updated as needed.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7310.2. Definitions

As used in this Part, the following definitions shall apply to the terms listed below:

(a) **Health screening** shall mean an interview and visual assessment of a youth conducted by a facility health trained staff member which is recorded and designed to elicit a past history or current evidence of a medical or mental health condition requiring immediate medical or psychiatric evaluation and treatment.

(b) **Licensed health care professional** shall mean a physician, nurse practitioner, registered professional nurse, physician's assistant, licensed practical nurse or dentist licensed to practice in the State of New York.

(c) **Medical director** shall be a physician licensed to practice medicine in the State of New York.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7310.3. Clinical health services

(a) Direct health care delivery in a facility shall be governed by the medical director.

(b) Each facility shall establish written job descriptions outlining the duties and responsibilities of the medical director and all other licensed health care professionals.

(c) Each medical director shall be responsible for the quality, continuity and availability of all health care provided to youth within each facility.

(d) At a minimum, the following health care staffing requirements shall be met:

(1) each facility shall be staffed with a sufficient complement of professional nursing, which shall include the presence of at least one registered professional nurse each day; and

(2) the services of a physician shall be available on call to each facility every day during the hours in which no physician is present within the facility.

(e) The facility shall maintain records of current New York State licensure or registration of all physicians, nurses and heath care staff.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7310.4. Medical treatment area

(a) A facility shall provide a medical treatment area for diagnosis and treatment adequate to meet the needs of the youth population.

(b) Each facility shall develop, implement and enforce a comprehensive medical housekeeping and infection control policy and procedure specifically tailored to each medical treatment area.

(c) All details, finishes and furnishings in a medical treatment area shall be able to be easily cleaned and in a condition which facilitates infection control.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7310.5. Health appraisal

(a) A facility shall develop and implement an admission health appraisal process for each youth which includes, but is not limited to:

(1) a health screening which consists of a visual assessment and interview which shall be performed as soon as possible after each youth's admission to a facility, but in no event later than 24 hours after admission;

(2) a complete written medical history which shall be obtained for each youth within seventy-two (72) hours of initial admission to a facility, and shall include assessments of chemical dependency and infectious diseases; and

(3) a complete physical examination which shall be provided to each youth within seventy-two (72) hours of initial admission to a facility, and at yearly intervals thereafter.

(b) Each youth's physical examination shall be conducted by a physician, registered physician's assistant or nurse practitioner, as appropriate, and shall include, but is not limited to:

(1) an examination of major body systems;

(2) Mantoux tuberculin skin test;

(3) sexually-transmitted infections screening;

(4) where clinically indicated, screening tests including, but not limited to:

(i) a urinalysis;

(ii) blood chemistry analysis to include lipid screen;

(iii) a chest radiograph;

(iv) a complete blood count with white blood cell differential count;

(v) a pregnancy test for female youth; and

(5) a cervical cytology (PAP test) for female youth when, in the medical judgment of the examining physician, registered physician's assistant or nurse practitioner, such a screening is medically necessary and appropriate.

(c) The medical history document and/or medical problem list of each youth transferred between facilities shall be reviewed within 24 hours of the youth's arrival at the receiving facility.

(d) All findings made by a health professional pursuant to this section shall be recorded and included in each youth's permanent medical record. Such findings shall be legibly signed and dated by a physician, physician's assistant or nurse practitioner, together with identification of professional title.

(e) A facility shall provide all youth an orientation to the health care services available at each facility and to the correct procedures for using such services.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7310.6. Ambulatory health care services

(a) Each facility shall provide youth access to ambulatory health care services (sick call).

(b) Each facility shall provide ambulatory health services adequate to meet the needs of the youth population. No youth shall be denied access to sick call services.

(c) Treatment plans shall be formulated and implemented for all youth in need of continuing medical treatment on an ambulatory service basis. Such treatment plans shall provide for regular, periodic medical re-evaluation of such youth.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7310.7. Storage of medication

(a) All medications shall be stored in a safe and secure manner consistent with the requirements of this section to insure control only by authorized personnel designated by the facility medical director.

(b) Each facility shall store all pharmaceuticals in sanitary, locked compartments under proper temperature controls.

(c) Each facility shall store controlled drugs, needles and syringes in separately locked, permanently affixed compartments in accordance with Part 80 of Title 10 NYCRR. Adequate records of administration of such drugs and stocks on hand, including perpetual inventory and shift count records, shall be maintained.

(d) Medications whose shelf life has expired or which are otherwise no longer in use shall be disposed of or destroyed in accordance with State and Federal laws and regulations.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7310.8. Disposal of medication

Unused youth controlled substance medication shall be disposed of in compliance with section 80.51 of Title 10 NYCRR.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7310.9. Medical emergency services

(a) Each facility shall provide access to emergency services which permit the medical evaluation, treatment and disposition of medical emergency cases on a 24-hour basis each day.

(b) Each facility shall provide first aid kits and other necessary life-saving equipment in adequate number, distribution and content to meet the needs of security and health care staff, as determined by the facility medical director.

(c) Direct care staff shall receive training and maintain certification in approved first aid and emergency life support techniques.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7310.10. Medical diets

Each facility shall establish a program of prescription and provision of therapeutic nutrition, as ordered by the facility medical director, for all youth in need of such program.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7310.11. Medical records

(a) A permanent individual medical record shall be established and maintained for every youth.

(b) All health care services provided to youth by facility health care staff or by independent health care providers shall be recorded in the medical record.

(c) Medical records shall contain sufficient information to justify the diagnosis and warrant the treatment and results.

(d) Each active youth medical record shall contain a current medical history and a written, regularly updated list of diagnosed medical problems located at the beginning of the record.

(e) Each facility shall maintain a system of storage and identification to ensure the prompt location and retrieval of every youth medical record.

(f) The medical record of every youth transferred to another facility, a facility operated or certified by OCFS, or a facility operated by the Department of Corrections and Community Supervision (DOCCS), shall be forwarded in a confidential manner, consistent with section 2782 of the Public Heath [FN1] Law, with the youth at the time of transfer to the receiving facility. If,

due to an emergency, it is not possible to forward the medical record at the time of a youth's transfer, such record shall be forwarded to the receiving facility within 24 hours of the time of transfer.

(g) All youth medical records shall be safely and securely retained as required by law.

(h) All youth records shall be confidential, and access restricted as required by law.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7310.12. Education and training

(a) Each facility shall provide a formal orientation and training program for new health care staff which shall include an orientation to the facility's written policies and procedures for health services.

(b) A facility shall require that all newly appointed facility staff obtain and maintain certification in cardio-pulmonary resuscitation, provided or approved by a recognized health care training authority.

(c) Each facility shall maintain written records of the education and training as required by this Part.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

PART 7311 MENTAL HEALTH HYGIENE

Section 7311.1. Policy

(a) All facility youth shall be provided uniform access to comprehensive mental health services.

(b) Consistent with the requirements of this Part, a facility shall establish written policies and procedures that govern the uniform access and delivery of comprehensive mental health services. Such policies and procedures shall be reviewed annually and updated as needed.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7311.2. Definition

As used in this Part, the term mental health professional shall mean a person licensed or certified by New York State to deliver mental health services.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7311.3. Mental health screening

Every youth shall receive a mental health screening and risk assessment upon admission to a facility to determine the necessity of an immediate referral to a mental health professional. Mental health assessments and observations shall be incorporated into the facility's classification system, consistent with the requirements of Part 7313 of this Title. Signs, symptoms and behaviors identified by the screening and risk assessment shall be evaluated by an appropriate mental health professional to determine if mental health services are required.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7311.4. Mental health services

(a) Mental health services shall include, but not be limited to: a system of screening, risk assessment, observation, evaluation, diagnosis, treatment and case management.

(b) Each youth shall receive a mental health evaluation within 30 days of admission to a facility, as clinically indicated.

(c) Each facility shall provide adequate space for youth to be privately interviewed, evaluated and treated.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7311.5. Mental health records

(a) Mental health records shall be maintained within the facility, accessible to appropriate facility health staff, and kept confidential in compliance with all applicable laws, rules and statutes.

(b) The mental health record shall contain:

(1) a record of current medications used for mental health treatment;

(2) all physician's orders;

(3) any parental/legal guardian consent(s);

(4) all screenings, assessments and clinical notes.

(c) When a youth is transferred to another facility, a facility operated or certified by OCFS, or a facility operated by the Department of Corrections and Community Supervision (DOCCS), a copy of the youth's mental health record shall be forwarded, in a confidential manner, to the receiving facility.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7311.6. Emergency and inpatient mental health

(a) A facility shall have a designated plan with a local mental health provider for youth access to emergency mental health services.

(b) A facility shall have a designated plan to provide youth access to inpatient mental health services at certified hospitals.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7311.7. Mental health training for staff

(a) All facility staff responsible for youth supervision shall be trained to recognize the signs, symptoms and behaviors that may indicate mental illness, developmental disability or chemical dependency.

(b) All facility staff responsible for youth supervision shall be trained in procedures to make referrals for mental health services.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

PART 7312 YOUTH PERSONAL HYGIENE

Section 7312.1. Policy

(a) A facility shall provide for and maintain standards of personal hygiene for youth.

(b) Consistent with the requirements of this Part, the director shall develop written policies and procedures that govern youth personal hygiene. These policies and procedures shall be reviewed annually and updated as needed.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7312.2. Showers

A facility shall provide a shower schedule that allows for the daily shower of each youth.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7312.3. Shaving

(a) A facility shall make necessary shaving items available. Shaving items shall be provided at facility expense and shall be maintained in a safe and sanitary manner.

(b) Hot water sufficient to enable a youth to shave with care and comfort shall be provided.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7312.4. Haircuts

(a) Each facility shall make haircuts available to all youth.

(b) Barber and beautician instruments shall be maintained in a safe and sanitary manner.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7312.5. Personal health care items

(a) Upon admission to a facility, the director shall require that articles necessary for maintaining proper personal hygiene are made available at facility expense to every youth, including but not limited to:

(1) soap;

(2) a toothbrush;

(3) toothpaste;

(4) a comb;

(5) deodorant; and

(6) toilet paper.

(b) In addition to the items listed in subdivision (a) of this section, tampons and sanitary napkins shall be made available to all female youth at facility expense.

(c) All feminine hygiene items shall be stored and disposed of in a sanitary manner.

(d) All personal health care items issued pursuant to subdivisions (a) and (b) of this section shall be replenished or replaced as needed.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7312.6. Clothing

All youth shall wear facility issued clothing. Facility issued clothing shall be provided at facility expense and shall include, but not be limited to:

(a) two shirts;

(b) two pair of pants;

(c) three sets of undergarments;

(d) three pair of socks;

(e) one pair of suitable footwear;

(f) one sweater or sweatshirt;

(g) seasonable clothing, which shall be issued as needed; and

(h) two brassieres to each female youth, and to any other youth upon request.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7312.7. Laundry and repair of clothing

(a) Laundry services shall be provided at facility expense twice a week and more frequently when necessary.

(b) Reasonable repairs of any clothing issued pursuant to section 7312.6 of this Part shall be made at facility expense.

(c) When a youth is without necessary clothing listed in section 7312.6 of this Part, with such clothing having been collected for laundering or repair, the youth shall be provided with replacement clothing in a timely manner.

(d) All clothing items issued pursuant to this Part shall be cleaned, checked for damage and repaired when necessary before reissue.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7312.8. Bedding and linen

(a) Upon admission to a facility, every youth shall be provided, at facility expense, with an issue of clean bedding in good condition. The bedding shall consist of two sheets, a pillow, a pillowcase, and sufficient blankets to provide comfort under existing temperature conditions.

(b) Pillowcases and sheets shall be exchanged weekly, or more frequently when necessary. All other bedding items issued pursuant to subdivision (a) of this section shall be exchanged when necessary.

(c) All bedding items issued or exchanged pursuant to this section shall be cleaned, checked for damage and repaired when necessary and before reissue.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7312.9. Storage of clothing and bedding

All clothing and bedding, stored within the facility, shall be maintained in a safe and sanitary manner.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

PART 7313 CLASSIFICATION

Section 7313.1. Policy

(a) In order to provide for the effective management of youth populations in a safe and secure environment, the director shall establish, implement, and maintain a formal and objective system for the consistent classification of all facility youth.

(b) Consistent with the requirements of this Part, the director shall develop and implement a classification system that provides a mechanism for a youth's initial screening upon admission, an assessment of the youth by the facility and, where warranted, a reassessment to identify the special needs and risk, security and supervision requirements of the youth to determine an appropriate individual occupancy room assignment.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7313.2. Definitions

As used in this Part, the following definitions shall apply to the terms listed below:

(a) **Classification** shall mean the documented process of assigning a youth to an appropriate individual occupancy room by determining risk, security and supervision requirements, and the special needs of the youth, based on the initial screening and assessment by the facility.

(b) **Formal and objective system** shall mean a procedure for determining and documenting a youth's appropriate individual occupancy room assignment which utilizes standard and objective criteria and methods.

(c) **Initial screening** shall mean a documented preliminary determination of a youth's risk, special needs, and security and supervision requirements upon facility admission.

(d) **Assessment** shall mean a documented standardized evaluation of a youth upon admission to a facility to determine the appropriate individual occupancy room assignment based on the youth's risk, security and supervision, and special needs requirements.

(e) **Individual occupancy room assignment** shall mean the documented assignment of a youth to an individual occupancy room, as defined in subdivision (b) of section 7320.2 of this Title, pursuant to the assessment by the facility.

(f) **Youth reassessment** shall mean any documented review of an assessment of a youth's risk, security and supervision, and special needs made after a youth's initial assessment by the facility.

(g) **Special needs** shall include, but not be limited to: a medical condition or history of substance abuse, sex offenses, mental disorder or developmental disabilities.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018

Section 7313.3. Policies and procedures

(a) Classification, assessment, and reassessment policies and procedures shall include, but not be limited to:

(1) staff responsibilities for functions relative to classification, assessment and reassessment;

(2) completion of the initial screening, assessment and reassessment, including, but not limited to, the determination of risk, security and supervision requirements and youth special needs;

(3) use of a formal screening and assessment instrument and other appropriate intake forms in the classification, assessment and reassessment process;

(4) assessments and reassessments made subsequent to initial screening for the assignment of youth to an appropriate individual occupancy room;

(5) notification to the youth of all individual occupancy room and program assignments based upon the assessment and reassessment process; and

(6) procedures governing the disclosure of information contained in the youth's medical and mental health records by the facility medical director and/or mental health supervisory staff pursuant to section 7313.7 of this Part.

(b) Such policies and procedures shall be reviewed annually and updated as needed.

(c) Such policies and procedures shall be made available to all facility staff.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7313.4. Initial screening and assessment

(a) Upon admission to a facility, each youth shall be administered an initial screening and assessment which shall consist of a facility interview, visual assessment, and review of the

commitment documents. Such initial screening and assessment shall occur immediately upon a youth's admission.

(b) Assessment instrument(s) shall be utilized by the facility to elicit and record information on each youth relating to the following:

(1) visible injury or injuries;

(2) medical conditions, including allergies, requiring immediate treatment or attention;

(3) developmental or physical disabilities;

(4) history of mental health treatment;

(5) potential for self-injury or suicide;

(6) history of detention or confinement, including, but not limited to, hostile relationships with other youth;

(7) medication currently being taken;

(8) present attitude, appearance, and behavior;

(9) history of alcohol or substance abuse;

(10) criminal charge(s) and conviction(s);

(11) tattoos, body piercing, and other identifiers of gang affiliation;

(12) sexual assault within the previous twenty-four (24) hours; and

(13) any other relevant information concerning the safety or welfare of the youth.

(c) An immediate decision concerning further assessment of each youth shall be made on the basis of information gathered during initial screening and assessment by the facility. Such decision may include, but it is not limited to, referrals to outside medical and mental health service providers.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7313.5. Assignment to a facility living unit

(a) After the initial screening and assessment are completed, and pending determination of a youth's living unit assignment, the youth shall be placed in an individual occupancy room designated for such purpose. Placement in such unit shall be temporary pending the

determination of an appropriate living unit, which shall be completed within five (5) business days of the youth's admission to the facility.

(b) In arriving at a determination of a youth's living unit assignment, the director, or designee, shall base such determination on the following information, if such information is available and accessible:

(1) delinquency/criminal history;

(2) propensity for victimization or violence;

(3) medical/mental health history;

(4) history of sex offenses;

(5) history of hostile relationships or incidents with other youth;

(6) prior attempts at self-injury or suicide;

(7) prior escapes or attempted escapes;

(8) attitude and behavior during present and prior commitments, including any history of assaultive behavior during such commitments;

(9) gender identity or expression;

(10) sexual orientation; and

(11) any other information which may affect the safety and security of the youth or staff.

(c) A facility shall utilize a formal and objective system for assessment in order to fulfill the requirements of subdivisions (a) and (b) of this section and section 7313.6 of this Part.

(d) In considering the information contained in subdivision (b) of this section, the director, or designee, shall examine and verify the following:

(1) records made available from the court or the delivering jurisdiction;

(2) information obtained during a youth's initial screening and assessment;

(3) records, to the extent relevant, known, accessible and available to the director, or designee, which were prepared or maintained by any detention facility in the state;

(4) information obtained from mental health treatment providers in accordance with the Mental Hygiene Law;

(5) information contained in the youth's medical and psychiatric records, if disclosed by the facility medical director and/or mental health supervisory staff, pursuant to section 7313.7 of this Part; and

(6) any other relevant information concerning a youth's condition brought to the attention of the director, or designee, by any person.

(e) Within one (1) business day of determining the living unit assignment, staff shall notify the youth of the determination and explain its implications, if any.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7313.6. Reassessment review

The director, or designee, shall review and, when necessary, revise a youth's risk, security and supervision and special needs requirements when one or more of the following occur:

(a) the youth is involved in a serious facility incident or exhibits adjustment problems which threaten the youth's safety, or the safety, security or operational stability of the facility;

(b) a written request, including justification, is made by staff to alter or review the youth's risk, security and supervision, and special needs requirements based on new information or exhibited positive or negative behavior; or

(c) the facility medical director or mental health supervisory staff discloses relevant information about the youth, pursuant to section 7313.7 of this Part, which has not already been considered in determining the youth's risk, security and supervision, and special needs requirements.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7313.7. Confidentiality and disclosure of youth medical and mental health records

(a) Each facility shall adhere to the requirements of Part 7310 of this Title, Article 27-F of the Public Health Law, Article 33 of the Mental Hygiene Law, all applicable Department of Health regulations and Part 180-3 of this Title to ensure the confidentiality of a youth's medical, mental health, and facility records.

(b) The director shall make provisions for maintaining all medical and mental health records in confidential files, separate from other youth facility records.

(c) Except as otherwise prohibited or restricted by law, the facility medical director and/or mental health supervisory staff shall promptly disclose to the director, or designee, information received concerning a youth which is or may be relevant in determining the youth's risk, security

and supervision and special needs requirements, or may affect the life, safety, or welfare of the youth or any other person. The director, or designee, shall then promptly disclose such information to the appropriate staff responsible for making classification, assessment, and/or reassessment decisions.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7313.8. Youth classification, initial screening, assessment, and reassessment records

(a) Determinations based upon all initial screenings, assessments by the facility, and reassessments of a youth's risk, security and supervision, and special needs requirements shall be made in writing and kept in the youth's file.

(b) The information to be retained in the youth's file shall include, but is not limited to:

(1) the date when the initial screening was completed, including verification that the youth was notified of needs determinations and their implications, if any;

(2) the youth's security and supervision requirements;

(3) any special needs of the youth;

(4) the name of staff responsible for making recommendations based on assessment by the facility or reassessment, and the signature of the director, or designee, making the final determination;

(5) the date of each facility assignment and living unit assignment based upon assessment by the facility and the reassessment process; and

(6) all instruments, forms, and other information used to make or record initial screening, assessments by the facility, and reassessment determinations.

(c) Either a photocopy or a written summary of the information noted in paragraph (b) of this section, and all youth records, shall be sent with every youth when they are transferred to another facility.

(d) Whenever a written summary is sent pursuant to the requirements of subdivision (c) of this section, the name(s) of the staff who prepared the summarized information shall be clearly identified on the form.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

PART 7320 MAXIMUM FACILITY CAPACITY

Section 7320.1. Policy

(a) In order to promote a safe, secure and healthy environment, there shall be a limit on the total number of youth confined at any given time within each facility.

(b) Consistent with the requirements of this Part, the director shall develop written policies and procedures that govern a facility's maximum facility capacity. These policies and procedures shall be reviewed annually and updated as needed.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7320.2. Definitions

As used in this Part, the following definitions shall apply to the terms listed below:

(a) **Maximum facility capacity** shall mean the greatest number of youth that may be confined at one time within each facility, as formulated by the Commission, in consultation with OCFS, pursuant to the requirements of this Part.

(b) **Individual occupancy room** shall mean a youth's bedroom with an individually controlled locking device secured from youth access and equipped to accommodate one youth.

(c) **Living unit** shall mean an area in which youth congregate, shower and participate in program and leisure activities.

(d) **Special management unit** shall mean any unit which can be designated for the individual housing of a youth separate and apart from the general population for purposes including, but not limited to:

(1) a medical treatment unit;

(2) a classification and orientation unit; or

(3) a mental health unit.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7320.3. Facility population limitation

The total number of youth confined within a facility shall not exceed the maximum facility capacity of such facility.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7320.4. Individual occupancy room

(a) Each individual occupancy room shall contain at least 70 square feet of floor space if such unit is constructed after the effective date of this Part and has been rated for single occupancy by the Commission. Individual occupancy rooms with less than 70 square feet shall be permitted if such units were originally constructed for such purpose prior to the effective date of this Part.

(b) Each individual occupancy room shall contain one bed and mattress. Mattresses shall be constructed of a fire-retardant material. When issued, mattress covers shall be constructed of materials both water-resistant and easily sanitized.

(c) At least one functioning toilet, sink and shower shall be available for every 8 youth contained within a living unit.

(d) Each individual occupancy room constructed after the effective date of this Part shall provide a minimum of 25 square feet of unencumbered living unit space per youth adjacent and accessible to such unit.

(e) Each individual occupancy room shall house only one youth.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018; amd. filed April 20, 2021 eff. May 5, 2021.

Section 7320.5. Formulating maximum facility capacity

(a) Consistent with the requirements of this Part, the Commission shall formulate a maximum facility capacity in writing for the facility.

(b) In formulating the proposed maximum facility capacity of a facility, the Commission, in consultation with OCFS, shall determine the maximum number of youth that can be housed in all individual occupancy rooms pursuant to the requirements of this Part. Such determination shall be based on the following:

(1) the number of properly equipped individual occupancy rooms; and

(2) the facility's ability to provide required programs and services and to comply with other provisions of this Part which are related to facility capacity.

(c) Upon completion of such review, the Commission shall issue the director the certified maximum facility capacity analysis for such facility.

(d) Within 60 days after receipt of the certified maximum facility capacity, the director may appeal to the Commission for a revision to the certified maximum facility capacity. In the event of such appeal, the maximum facility capacity analysis issued pursuant to subdivision (c) of this section shall remain in effect until the Commission's determination of the appeal.

(e) Any such appeal shall be made in writing and include the specific facts, reasons and special circumstances underlying the request.

(f) The Commission shall respond to such appeal within 60 days after receipt and shall, in consultation with OCFS, sustain or amend the original certified maximum facility capacity.

(g) The Commission's determination shall be made in writing, stating the specific facts and reasons underlying such decision.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7320.6. Application for a change in maximum facility capacity

(a) The director shall apply to the Commission for a revision of the certified maximum facility capacity of a facility upon a change in any of the factors delineated in section 7320.5(b) of this Part.

(b) Such application shall be made in writing and include the specific facts, reasons and special circumstances underlying the request.

(c) Within 60 days after receipt, the Commission shall review such application and, following consultation with OCFS, forward its determination in writing to the director.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

PART 7322 REPORTABLE INCIDENTS

Section 7322.1. Policy

(a) In order to provide a mechanism by which facility operations, policies and procedures can be monitored, evaluated and improved, each facility shall internally review and assess all incidents of a serious or potentially problematic nature, and report such incidents to the Commission pursuant to the requirements of this Part.

(b) Consistent with the requirements of this Part, the director shall develop written policies and procedures that govern the reporting of facility incidents to the Commission. These policies and procedures shall be reviewed annually and updated as needed.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7322.2. Reportable incidents

The following incidents shall be reported to the Commission pursuant to the requirements of this Part:

(a) assaults;

(b) sexual abuse;

(c) sexual assaults;

(d) employee misconduct;

(e) communicable reportable disease;

(f) contraband;

(g) deaths;

(h) escapes;

(i) escape attempts;

(j) fires;

(k) personnel group actions;

(l) youth group actions;

(m) hostage situations;

(n) major disturbances;

(o) major maintenance/service disruptions;

(p) natural/civil emergencies;

(q) attempted suicides;

(r) self-inflicted injuries; and

(s) serious accidental injuries.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7322.3. Reporting incidents other than youth deaths

(a) As required in section 7322.2 of this Part, whenever a reportable incident occurs at a facility, the director, or designee, shall report such incident to the Commission pursuant to the following requirements:

(1) all major disturbances, escapes, youth group actions, personnel group actions, hostage situations, natural/civil emergencies, major maintenance/service disruptions, or any incident during which control at a facility is lost or partially lost shall be reported immediately upon occurrence or discovery in a form and manner as required by the Commission.

(2) all assaults, sexual assaults, sexual abuse, employee misconduct, communicable reportable disease, contraband, escape attempts, fires, attempted suicides, self-inflicted injuries, serious accidental injuries, or occurrence(s) that disrupt the normal operations of a facility, or that involve injury to youth or staff resulting in hospital treatment shall be reported, in a form and manner as required by the Commission, within 24 hours of occurrence or discovery.

(b) The director, or designee, shall provide follow-up reports for specified incidents as required by the Commission. Such follow-up reports shall be submitted in writing to the Commission in a form and manner as required by the Commission, as soon as practicable, but no later than 30 days following the initial report.

(c) When additional pertinent facts are discovered about an incident after the director, or designee has submitted the follow-up report to the Commission, such information shall be forwarded in writing, in a form and manner as required by the Commission, as soon as practicable, but no later than 14 days following discovery.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7322.4. Reporting youth deaths

(a) The director, or designee, shall report the death of any youth listed on its official facility count to the Commission within six hours of pronouncement of death, in a form and manner prescribed by the Commission.

(b) Within three days after the pronouncement of a youth's death, a copy of the deceased's entire medical record, including the preliminary autopsy report, if available, shall be forwarded to the Commission.

(c) Any copies of medical records provided pursuant to subdivision (b) of this section shall be certified as being a true copy of such record by the authority responsible for maintaining the record.

(d) Within 10 days after the pronouncement of a youth's death, the facility medical director shall forward a follow-up report in writing to the Commission which shall include, but not be limited to:

(1) a narrative medical history of the deceased covering the period 90 days prior to death;

(2) the deceased's primary medical and/or psychiatric diagnosis and the therapy provided, if any, as a result of such diagnosis;

(3) a narrative description of the terminal event occurring immediately prior to the pronouncement of death; and

(4) a final copy of the autopsy report, if available.

(e) In addition, such follow-up report shall include information required by the Commission's Medical Review Board and any other information specified by the Commission in a form and manner required by the Board and Commission.

(f) When additional pertinent facts are discovered about a youth's death after the facility has submitted the follow-up report to the Commission, such information shall be forwarded in writing in a form and manner as required by the Commission as soon as practicable, but no later than 14 days following discovery.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7322.5. Maintenance of reportable incident information

A copy of all completed reports and supplementary information prepared by the director, or designee, pertaining to reportable incidents, including copies of all information forwarded to the

Commission pursuant to the requirements of this Part, shall be maintained in a centralized facility location.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7322.6. Review and assessment of reportable incidents

(a) The director shall develop and implement procedures for the review, investigation, and assessment of reportable incidents.

(b) The director shall regularly review all reports prepared by facility staff in conjunction with the review and/or investigation of reportable incidents, including pertinent facility log entries.

(c) The director, or designee, shall take appropriate actions, based upon such review of prior incidents, to reduce the possibility of recurrence.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

PART 7326 PRINTED MATERIAL AND PUBLICATIONS

Section 7326.1. Policy

(a) Every youth placed in a facility is entitled to receive printed material and publications suitable for minors. Youth shall be permitted to receive such material from any approved vendor, including but not limited to bookstores or publishers.

(b) Consistent with the requirements of this Part, the director shall develop written policies and procedures that govern access to printed material and publications at each facility. The written policy and procedures shall be reviewed annually and updated as needed.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7326.2. Definitions

As used in this Part, the term censor shall mean the exclusion of any printed material or publications, or any portion thereof.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7326.3. Facility review of incoming printed material and publications

(a) Incoming printed material and publications may be read and reviewed. Incoming printed material and publications may be censored only when it is determined that an item of printed material or a publication constitutes a threat to the safety or security of a facility, or the youth's treatment or rehabilitation program.

(b) When the introduction of any printed material or publication is thought to constitute a threat to the safety or security of the facility, or the youth's treatment or rehabilitation, such printed material or publication shall be forwarded to the director, or designee, for appropriate disposition. The director, or designee, shall read and review such printed material and shall make a determination as to whether it shall be censored.

(c) Any determination made pursuant to subdivision (b) of this section shall be made in writing and shall state the specific facts and reasons underlying such determination. A copy of such determination shall be given to the intended youth recipient.

(d) The reading, review and determination made pursuant to subdivision (b) of this section shall be completed within 10 days after receipt of the printed material or publication at the facility.

(e) When any incoming printed material or publication may involve a criminal offense, it shall be forwarded by the director, or designee, for appropriate disposition.

(f) Except as provided in subdivision (b) of this section, the deletion of any portion of any printed material or publication that has been censored pursuant to subdivision (c) of this section shall be permitted only when the intended youth recipient consents in writing to such deletion, in which case the censored portion of the printed material or publication shall be deleted and the remainder forwarded to the intended youth recipient.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7326.4. Limitation of incoming printed material and publications

The director may adopt policies and procedures which limit the amount of printed material and other paper materials retained within a youth's individual occupancy room, in furtherance of the safety, security and operational stability of the facility, especially safety from the risk of fire.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

PART 7328 EXERCISE, RECREATION AND LEISURE ACTIVITIES

Section 7328.1. Policy

(a) Within a facility, exercise, recreation and leisure activities are essential to youth health and contribute to reducing youth tension. Pursuant to the requirements of this Part, the director shall require that the facility provide exercise, recreation and leisure activities for all youth.

(b) Consistent with the requirements of this Part, the director shall develop written policies and procedures regarding youth access to exercise, recreation and leisure activities. The written policies and procedures shall be reviewed annually and updated as needed.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7328.2. Exercise, recreation and leisure activities

(a) Each facility shall provide each youth with at least two hours of exercise, recreation and leisure activities per day, to include one hour devoted to large muscle exercise.

(b) Each facility shall provide an opportunity for youth to have a minimum forty-five (45) minutes of exercise, recreation and leisure activities outdoors per day, except during inclement weather when exercise, recreation and leisure activities may be held indoors.

(c) The determination to cancel outdoor exercise, recreation and leisure activities due to inclement weather shall be based upon factors related to the safety, security and operational stability of the facility, or the health of the youth including, but not limited to, weather conditions that impair visibility, precipitation, and accumulation of snow or ice. Such determination shall be made by the director, or designee, which will be recorded in writing, and shall state the specific facts and reasons underlying the determination.

(d) The director shall designate a qualified staff member or members to plan and coordinate all exercise, recreation and leisure activity programs.

(e) Each facility shall maintain a schedule for exercise, recreation and leisure activities.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7328.3. Exercise, recreation and leisure areas and equipment

(a) Each facility shall establish and maintain one or more outdoor areas of sufficient size and design to enable youth to engage in outdoor exercise, recreation and leisure activities.

(b) Each facility shall provide youth with appropriate outer garments when they participate in outdoor exercise, recreation and leisure activity periods.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7328.4. Exercise, recreation and leisure areas inspections

Visual inspections of exercise, recreation and leisure activity areas and equipment shall be conducted before and subsequent to each period of use. The performance and results of such visual inspections shall be recorded in writing.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7328.5. Limitation of exercise, recreation and leisure activities

(a) The exercise, recreation and leisure activity period of a youth may be denied, revoked or limited when it is determined that such exercise, recreation and leisure activities would cause a threat to the safety, security, or operational stability of the facility, or the safety, security or health of any youth.

(b) Any determination to deny, revoke or limit a youth's exercise, recreation and leisure activities pursuant to this section shall be made by the director, or designee. Such decision shall be made in writing and state the specific facts and reasons underlying such determination. The youth shall be informed of such determination.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

PART 7331 ACCESS TO LEGAL SERVICES

Section 7331.1. Policy

(a) Youth placed in a facility shall be allowed access to legal services for the purpose of legal preparation with respect to any matter, action or proceeding.

(b) Consistent with the requirements of this Part, the director shall develop written policies and procedures that govern youth access to legal services. These policies and procedures shall be reviewed annually and updated as needed.

(c) As used in this subtitle, legal services shall include access to:

(1) legal counsel; and

(2) the Ombudsman.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7331.2. Definitions

(a) As used in this Part, the term **legal counsel** shall mean:

(1) any attorney authorized to practice law in New York State or in any jurisdiction where a youth has a legal action, proceeding or other legal matter pending; and

(2) a law student, law clerk, paralegal, or other agent acting under the supervision of and with the written authorization of an attorney who meets the requirements of paragraph (1) of this subdivision.

(b) Nothing in this Part shall be construed as requiring a facility to provide a youth with legal counsel at facility expense.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7331.3. Access to legal counsel

(a) Consistent with the requirements of this Part, all youth shall have access to legal counsel. Such access shall include telephone communications and visits between youth and their legal counsel at times not unduly disruptive of facility routine.

(b) Visits or telephone communications between youth and their legal counsel shall not be monitored except visually.

(c) Access to legal counsel shall be made available at the request of legal counsel, the youth, the youth's parent(s), legal guardian or spouse.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7331.4. Notary public

Each facility shall make available the services of a notary public to the youth within 72 hours of the youth's request for notarization or attestation of their signature.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7331.5. Limitation on legal services

A youth's access to legal services, as defined in this Part, shall not be denied, revoked or limited.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

PART 7332 GRIEVANCE PROGRAM

Section 7332.1. Policy

In order to provide an effective and impartial procedure for the timely resolution of youth complaints, the director shall establish, implement and maintain a formal grievance program. Every effort shall be made to resolve youth complaints in an informal manner.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7332.2. Definitions

As used in this Part, the following definitions shall apply to the terms listed below:

(a) Grievance shall mean a written youth complaint concerning either written or unwritten facility policies, procedures, rules, practices, programs or the action or inaction of any person within the facility. Dispositions and sanctions resulting from a disciplinary hearing shall not be the subject of a grievance.

(b) Grievant shall mean a youth who has filed a grievance pursuant to this Part.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7332.3. Facility grievance policies and procedures

(a) The director shall ensure the development and implementation of written policies and procedures consistent with this Part.

(b) Such policies and procedures shall include, but are not limited, to:

(1) a detailed description of grievance program operations including steps, timelines, investigative processes and available internal and external appeal procedures;

(2) staff responsibilities for functions relative to the grievance program;

(3) procedures to ensure grievance program accessibility to youth;

(4) steps to be taken to encourage staff to informally resolve youth complaints;

(5) a statement regarding safeguards for youth against reprisals for having filed a grievance;

(6) procedures for orientation to the grievance program for all facility staff;

(7) procedures for corrective action to be taken when a grievance is found to have merit; and

(8) an annual review of such policies and procedures and revision, if necessary.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7332.4. Facility grievance program requirements

(a) Every youth shall be provided access to the facility's grievance program.

(b) Instructions for filing a grievance shall be included in the facility rules and information as required by section 7305.9(a (14) of this Chapter.)

(c) Every youth shall be advised in writing as to the availability of grievance forms upon admission.

(d) Facility staff shall make forms readily available so that a youth may file a grievance. A youth must file a grievance within ten (10) days of the date of the act or occurrence giving rise to the grievance.

(e) The director shall designate one or more staff members to act as a grievance coordinator.

(f) The director, or designee, shall ensure that each grievance is investigated to the fullest extent necessary by an impartial person who was not personally involved in the circumstances giving rise to the grievance; provided, however, that a grievance that is too vague to understand may be returned to the youth. Failure to supply sufficient information within five (5) days shall be cause to deny the grievance.

(g) At a minimum, each investigation of a youth's grievance shall include gathering and assessing the following information:

(1) a description of the facts and issues underlying the circumstances of the grievance;

(2) summaries of all interviews held with the grievant and with all parties involved in the grievance;

(3) copies of pertinent documents; and

(4) any additional relevant information.

(h) Grievances regarding dispositions from disciplinary hearings, issues that are outside the authority of the director to control, or complaints pertaining to youth other than the youth filing the grievance are not grievable, and may be returned to the youth by the grievance coordinator.

Such grievances may not be appealed to the director or the Citizens' Policy and Complaint Review Council.

(i) Within seven (7) business days of the receipt of a grievance, the grievance coordinator shall issue a written determination. Such determination shall specify the facts and reasons underlying the grievance coordinator's determination. A copy of such determination shall be provided to the grievant.

(j) Within five (5) business days after receipt of the grievance coordinator's written determination, the grievant may appeal to the director.

(k) Within seven (7) business days after receipt of a grievance appeal, the director shall issue a determination on the grievance appeal and provide a copy of such determination to the grievant.

(l) If the director finds merit in a grievance, he/she shall direct in writing that appropriate remedies or meaningful relief be provided to the grievant and for all other youth similarly situated.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7332.5. Appeal to the Citizens' Policy and Complaint Review Council

(a) Within five (5) business days of receipt of the director's determination, any grievant may appeal any grievance denied by the director, in whole or in part, to the Commission's Citizens' Policy and Complaint Review Council by indicating his/her desire to appeal on the grievance form in the space provided for such purpose.

(b) Within three (3) business days of receipt of the grievant's notice of appeal, the grievance coordinator shall submit, in a manner and form prescribed by the Commission, the appeal, the accompanying investigation report and all other pertinent documents to the Commission's Citizens' Policy and Complaint Review Council.

(c) The grievance coordinator shall provide the grievant with a receipt indicating the date the appeal was submitted to the Citizens' Policy and Complaint Review Council.

(d) The Citizens' Policy and Complaint Review Council shall issue a written determination to the appeal within 45 business days of receipt, copies of which shall be provided to the grievant, the director and the grievance coordinator. If such determination is in favor of the grievant as a matter of law, the chairperson of the Citizens' Policy and Complaint Review Council shall direct the director to comply with the grievance and provide an appropriate remedy.

(e) The director shall submit verification of compliance with the Citizens' Policy and Complaint Review Council's determination as directed. Such verification shall be filed with the grievance.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7332.6. Grievance program forms

Each facility shall utilize both a grievance form and an investigation report form as provided by the Commission.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7332.7. Continuation and termination of grievances

(a) If a grievant is released or transferred from a facility prior to the resolution of a grievance, the director shall cause a determination to be made on such grievance pursuant to the requirements of this Part.

(b) If the director denies such grievance, he or she shall submit the grievance to the Citizens' Policy and Complaint Review Council as set forth in section 7332.5 of this Part.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7332.8. Grievance coordinator responsibilities

(a) The grievance coordinator shall act as a liaison between the grievant, the director and the Commission in all matters that pertain to the youth grievance program.

(b) The chairperson of the Citizen's Policy and Complaint Review Council may direct a facility's grievance coordinator to provide a paper copy of the written determination to the grievant, if still incarcerated in the facility, within one business day of receipt.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7332.9. Assistance to youth

If a grievant is non-English speaking, illiterate or if the complexity of the issue(s) makes it unlikely that the youth will be able to adequately present the substance of the grievance, upon

the grievant's request the grievance coordinator shall ensure that the grievant is assisted in the preparation of the written grievance and at other stages of the grievance process in which assistance is needed. A grievant may seek the assistance of other youth with the approval of the director.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7332.10. Recordkeeping

The director shall develop a centralized record of all grievances.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7332.11. Staff orientation

All facility staff shall receive an orientation to the grievance program.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

PART 7334 CORRESPONDENCE AND TELEPHONE

Section 7334.1. Policy

(a) Consistent with the requirements of this Part, the director shall develop written policies and procedures that govern correspondence and telephone usage at the facility. The written policies and procedures shall be reviewed annually and updated as needed.

(b) Subject to the limitations of this Part, youth are entitled to correspond with any person.

(c) There shall be no restriction upon incoming or outgoing youth correspondence based upon:

(1) the amount of correspondence sent or received; or

(2) the language in which such correspondence is written.

(d) In accordance with this Part, where incoming or outgoing, privileged or nonprivileged mail would otherwise be opened in the presence of the recipient youth, the facility shall not be required to do so where it would interfere with an ongoing investigation. All notices required to be given to the recipient youth under this Part shall be waived when the notice of such would interfere with the investigation.

(e) If a youth is unable to read, write, or has any other disability that may interfere with the youth's ability to read or write, the facility shall provide assistance to the youth with their correspondence.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7334.2. Outgoing youth correspondence

(a) Each facility shall make available to youth, at facility expense, writing materials and first class postage for at least two one ounce pieces of correspondence each week.

(b) Outgoing youth correspondence shall bear at least the sender's first name, in addition to the first initial of their last name, the name of the institution, and the institutional post office box or street address in the upper left-hand corner of the envelope.

(c) Outgoing youth correspondence shall be sealed by the youth in the presence of staff.

(d) Outgoing youth nonprivileged correspondence shall not be opened or read except when the director, or designee, determines there is reasonable suspicion to believe that the contents of such correspondence endanger or threaten the safety, security, or operational stability of the facility, or the safety, security, or the health of another person.

(e) A youth shall be notified in writing when their outgoing nonprivileged correspondence is opened pursuant to this section.

(f) The director, or designee, may delay notifying the youth regarding the specific facts and reasons when such notification would endanger or threaten the safety, security or operational stability of the facility, or the safety security, or the health of another person. As soon as the danger no longer exists, the director, or designee, shall immediately notify the youth.

(g) All outgoing youth correspondence shall be collected and forwarded to the United States Postal Service at least once each business day.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7334.3. Incoming youth correspondence

(a) Incoming youth correspondence, other than privileged correspondence, may be opened and inspected outside the presence of the intended youth recipient solely to ensure the absence of contraband.

(b) Incoming youth correspondence shall not be read except pursuant to written order of the director, or designee. Such written order shall state the specific facts and reasons why such action is necessary to maintain the safety, security, or operational stability of the facility, or the safety, security, or health of a person.

(1) A copy of any order made pursuant to this subdivision shall be forwarded by the director, or designee, to the intended youth recipient unless doing so would interfere with an ongoing investigation.

(2) A written record of correspondence read pursuant to this subdivision shall be maintained by the director. Such record shall include:

(i) the name of the sender;

(ii) the name of the intended youth recipient;

(iii) the date the correspondence was read; and

(iv) the name of the reader.

(c) Should the director, or designee, upon reading any incoming youth correspondence pursuant to subdivision (b) of this section, determine that such correspondence or any portion thereof constitutes a threat to the safety, security, or operational stability of the facility, or the safety, security, or the health of a person, except as provided in subdivision (d) of this section, the director, or designee, shall return the correspondence to the sender. A written statement

setting forth the specific facts and reasons underlying the determination will be retained in the youth's record. A copy of such written statement shall be forwarded to the intended youth recipient. Any reading or determination made pursuant to this subdivision shall be completed by the director, or designee, within five business days after receipt of the correspondence at the facility.

(d) When any incoming youth correspondence read pursuant to subdivision (c) of this section may involve a criminal offense, it shall be forwarded to the director for appropriate disposition in accordance with facility procedures.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7334.4. Privileged incoming and outgoing correspondence

(a) As used in this Part, privileged correspondence shall mean correspondence to or from attorneys, individuals under the direct supervision of attorneys, legal assistance agencies, individuals under the direct supervision of legal assistance agencies, courts, the State Commission of Correction, the Office of Children and Family Services, other correction officials, local, State, and Federal law enforcement agencies, and the ombudsman.

(b) Incoming privileged correspondence shall not be opened and inspected for contraband except in the presence of the recipient youth, unless doing so would interfere with an ongoing investigation.

(c) Outgoing privileged correspondence shall not be opened and inspected for contraband except where the director determines there is reasonable suspicion to believe that the contents of such privileged correspondence threaten the safety, security, or operational stability of the facility, or the safety, security, or the health of a person. A youth shall be present when their outgoing privileged correspondence is opened pursuant to this subdivision.

(d) Incoming and outgoing privileged correspondence shall not be read except where the director determines there is reasonable suspicion to believe that the contents of such privileged correspondence endanger or threaten the safety, security, or operational stability of the facility, or the safety, security, or the health of a person. When the director makes such a determination, he or she shall issue a written order which states the specific facts and reasons why such action is necessary to maintain the safety and security of the facility, or the safety and security of a person. The youth shall be present when their incoming and outgoing privileged correspondence is read pursuant to this subdivision.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7334.5. Restrictions on correspondence

Nothing contained in this Part shall be deemed to prevent the director, or designee, from establishing a list of correspondents with whom youth shall be prohibited from corresponding in order to protect the safety, security, or operational stability of the facility, or the safety, security, or the health of a person.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7334.6. Contraband found in incoming youth correspondence

(a) As used in this Part, the term contraband shall include any item which constitutes a threat to the safety, security, or operational stability of a facility, or the safety, security, or the health of a person.

(b) Incoming youth correspondence that is found to contain contraband shall be processed as follows:

(1) when contraband found in incoming youth correspondence may involve a criminal offense, the contraband shall be forwarded to the director, or designee, for disposition in accordance with facility procedures; and

(2) contraband found in incoming youth correspondence that does not involve a criminal offense but has personal or financial value, as determined by the director or designee, shall be returned to the sender at facility expense or retained by the facility for the youth. The disposition of such articles shall be inventoried and recorded in writing.

(i) The director, or designee, shall give written notice to the intended youth recipient of any determination made pursuant to this paragraph. The written notice shall include:

(a) the name and address of the sender;

(b) the nature of the contraband; and

(c) a statement of the specific facts and reasons underlying the determination.

(ii) Subsequent to any determination made pursuant to this paragraph and upon removal of the contraband accompanying the correspondence, the director, or designee, shall forward such correspondence to the intended youth recipient.

(c) Cash, checks or money orders received through the mail shall be deposited in the personal cash account of the intended youth or forwarded to the director, or designee, for disposition in

accordance with facility procedures. The youth shall be notified in writing of all amounts received and the disposition of such.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7334.7. Telephone policy

Consistent with the requirements of this Part, the director shall develop policies and procedures that provide access to a telephone by youth. These policies and procedures shall include, but not be limited to:

(a) specific hours of telephone availability;

(b) maximum number and length of calls; and

(c) any other limitations on telephone usage.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

PART 7336 RELIGION

Section 7336.1. Policy

(a) Consistent with the requirements of this Part, the director shall develop written policies and procedures that allow for youth religious observance. The written policy and procedures shall be reviewed annually and updated as needed.

(b) Youth have a right to hold any religious belief, and to be affiliated with any religious faith.

(c) Youth are entitled to exercise their religious beliefs in a manner that does not constitute a threat to the safety, security or operational stability of the facility, or the safety, security or health of any person.

(d) No person shall be permitted to proselytize to any facility youth.

(e) Consistent with the requirements of subdivision (c) of this section, no youth shall be compelled to, or dissuaded from, exercising any religious belief.

(f) Equal status and protection shall be afforded all youth in the exercise of their religious beliefs, except when such exercise results in facility expenditures which are unreasonable or disproportionate to those extended to other youth for similar purposes.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7336.2. Supervision of youth exercising their religious beliefs

Consistent with the requirements of Part 7306 of this Title, facility staff shall maintain supervision of youth during the exercise of religious beliefs.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7336.3. Congregate religious activities

Consistent with the requirements of section 7336.1(c) of this Part, youth shall be permitted to congregate in an appropriate area of the facility for the purpose of religious worship and other religious activities.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7336.4. Religious advisors

(a) As used in this Part, the term religious advisor shall mean a person whose ecclesiastical credentials have been approved by the director.

(b) Religious advisors shall be permitted to conduct congregate religious activities at least once per week at a time approved by the director, or designee.

(c) Consistent with the requirements of section 7336.1(c) of this Part, youth shall be permitted confidential religious counseling, with a religious advisor, on a voluntary basis.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7336.5. Celebration of religious holidays or festivals

Consistent with the requirements of section 7336.1(c) of this Part, youth shall be permitted to celebrate religious holidays or festivals of the religious faith with which they are affiliated.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7336.6. Religious dietary laws

Youth are entitled to observe reasonable dietary laws established by their religion. Each facility shall provide youth with food items reasonably sufficient to meet such religious dietary laws.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7336.7. Change of religion

Youth under the age of 18 years shall be permitted to change their religious affiliation only with the consent of the youth's parent or legal guardian, and upon application to the director. Youth over the age of 18 years shall be permitted to change their religious affiliation upon application to the director.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7336.8. Religious articles

Consistent with the requirements of section 7336.1(c) of this Part, youth shall be entitled to wear and possess approved religious articles during religious services and in their rooms.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7336.9. Limitations on the exercise of religious beliefs

Any determination made by the director, or designee, to limit the exercise of religious beliefs by any youth, shall be made in writing and shall state the specific facts and reasons underlying such determination. A copy of this determination shall be given to any person affected by the determination.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

PART 7342 DEATHBED AND FUNERAL VISITS

Section 7342.1. Policy

(a) Youth shall be permitted to visit family members when the death of a family member is imminent, or after death has occurred, subject to the provisions of this Part.

(b) Consistent with the requirements of this Part, every director and sheriff shall develop written policies and procedures that govern deathbed and funeral visits. These policies and procedures shall be reviewed annually and updated as needed.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7342.2. Definitions

(a) **Funeral visit** shall mean youth attendance at one of the following:

(1) a place of worship, a licensed funeral home, or other appropriate memorial service; or

(2) as a rare exception, an interment held at the gravesite, only when the youth is unable to pay final respects as specified in paragraph (1) of this subdivision.

(b) **Sheriff** shall mean the Sheriff or Commissioner of Correction to whom the youth was committed by order of a court.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7342.3. Legal requirements and eligibility

(a) At the discretion of the sheriff, or the sheriff's designee, when the death of a youth's mother, father, legal guardian, brother, sister, spouse, child, grandparent, ancestral uncle or ancestral aunt is imminent, or has occurred, the youth shall be permitted to visit or make a deathbed or funeral visit of such individual.

(b) Such visits shall be permitted only within New York State.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7342.4. Assessment and processing of visit requests

(a) The director shall develop and implement written policies and procedures to ensure that any request made by a youth, or any other person, that the youth be permitted to visit the deathbed of, or make a funeral visit to, a family member, is immediately delivered to the attention of the sheriff. Such policies and procedures shall additionally ensure that the sheriff, or sheriff's designee, is provided all relevant information necessary to render a determination pursuant to subdivision (e) of this section.

(b) Every sheriff shall develop and implement written policies and procedures for the expeditious review, assessment and determination of requests made by a youth, or any other person, that the youth be permitted to visit the deathbed of, or make a funeral visit to, a family member.

(c) Deathbed visits may only take place at recognized health care facilities. Deathbed or funeral visits shall not be permitted in private homes.

(d) Prior to approving any such request, the sheriff, or the sheriff's designee, shall verify:

(1) that the person to be visited is one of the persons specified in section 7342.3 of this Part;

(2) that the claim of imminent death, or death, is legitimate; and

(3) that the youth wishes to have such a visit, if the request was made by someone other than the youth.

(e) The sheriff, or sheriff's designee, in consultation with the director, or the director's designee, shall assess the potential security risks associated with the visit by considering the following factors:

(1) the offense for which the youth was committed to the sheriff and the circumstances surrounding such offense;

(2) the criminal history, escape history or attempted escape history of the youth;

(3) whether the youth's presence at the visit may constitute a threat to the youth or to any other person present because of:

(i) the involvement of a member of the youth's family in the offense committed by the youth; or

(ii) other persons who may be present at the deathbed visit or funeral;

(4) the mental stability of the youth, including the youth's mental health history and the potential effect of the visit on the youth;

(5) the medical condition of the youth;

(6) the method of transport or escort required; and

(7) any other relevant circumstances specific to the youth or situation.

(f) After considering all the factors specified in this section, the sheriff, or the sheriff's designee, shall approve or deny the visit. Such determination shall be made as soon as possible given the circumstances surrounding the deathbed or funeral visit.

(g) After such determination has been made, the director, the youth, and any person requesting the visit shall be informed of the decision.

(h) If the visit is denied, the youth shall be immediately informed of the denial and given the opportunity to discuss the response with the director, or designee. Any such denial shall, as soon as practical, be documented by the sheriff, or the sheriff's designee, and the youth shall be informed in writing.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7342.5. Security and supervision requirements

(a) Youth shall be under the constant supervision of the sheriff's officers during an absence from a facility due to a deathbed or funeral visit. The sheriff, or sheriff's designee, shall determine:

(1) the appropriate number of officers assigned to accompany the youth on the visit, at least one of which shall be the same gender as the youth;

(2) the method of transportation and the vehicle to be used;

(3) the procedures for the use of restraint equipment;

(4) special procedures which are necessary due to the medical condition or mental health of the youth and the specific steps to be followed;

(5) the route to be followed and the itinerary for the trip; and

(6) any other special instructions concerning the visit.

(b) Prior to the deathbed or funeral visit, officers assigned to supervise such visit shall be thoroughly briefed concerning security measures and special instructions, and given all pertinent information regarding the family and circumstances surrounding the visit so that officers may employ good judgment in conducting the visit.

(c) Prior to the deathbed or funeral visit, the youth shall be thoroughly instructed regarding conduct, rules, and restrictions during the visit, and advised on the use of restraints.

(d) Officers shall escort a youth only to destinations approved by the sheriff, or sheriff's designee, during the visit.

(e) Youth shall not be permitted to accept any food, beverages, gifts, or money from family, friends, or other members of the public during a deathbed or funeral visit.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7342.6. Food, lavatory, and lodging stops

(a) Youth participating in deathbed or funeral visits shall be given the opportunity to eat during regular meal times.

(b) Lavatory stops shall be made only as the need arises and as security permits. Whenever possible, such stops shall be made at facilities approved by the sheriff, or the sheriff's designee.

(c) If it is not possible to utilize a facility, every attempt shall be made to utilize restrooms with as little public presence and access as possible.

(d) If a deathbed or funeral visit requires a youth's absence from a facility overnight, the youth shall be housed at facilities approved by the sheriff, or the sheriff's designee.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7342.7. Officer conduct and youth attire

(a) While accompanying a youth on a deathbed or funeral visit, officers shall be dressed in appropriate attire, conduct themselves in a professional, courteous manner toward the public and the youth, and cause as little public display as possible.

(b) Any search of the youth or use of restraints by officers during deathbed or funeral visits shall be conducted in an inconspicuous manner which minimizes public attention, unless security considerations require otherwise.

(c) At no time shall officers accept food, beverages, gifts or money from the youth's family or any other member of the public.

(d) Youth shall be permitted to wear appropriate clothing during deathbed or funeral visits.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7342.8. Duration of visits

(a) Except as otherwise provided in subdivisions (b) and (c) of this section, and absent emergency circumstances which could cause security-related problems, youth attending deathbed visits shall be permitted to visit family members for one hour, excluding the time taken to transport the youth to and from the visit.

(b) The sheriff, or the sheriff's designee, has the authority to limit such a visit to less than one hour or to terminate such visit if in his or her opinion the safety, security or welfare of the youth, officers, or any member of the public is at risk.

(c) If a determination is made by the attending physician or other health services staff that a deathbed visit would jeopardize the health of the ill family member or the youth, or if hospital regulations restrict the length of the visit, such visit may be denied or modified as so recommended or required.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7342.9. Reportable incidents

If a reportable incident occurs while a youth is absent from a facility due to a deathbed or funeral visit, the director shall report such incident to the Commission pursuant to the requirements of Part 7322 of this Title.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7342.10. Records

A written record of all requested deathbed and funeral visits, and determinations thereof, shall be maintained by each facility in a centralized location.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

PART 7346 NONDISCRIMINATORY TREATMENT

Section 7346.1. Policy

The director shall develop, maintain and implement written policies and procedures designed to prevent the unlawful discriminatory treatment of facility youth based upon race, creed, color, national origin, age, sex, sexual orientation, gender identity or expression, marital status, religion, disability, or any other characteristic protected by federal or state law. The areas addressed by such policies shall include, but shall not be limited to, educational, religious, and vocational programs, work assignments, classification, disciplinary and grievance decisions, and consideration for program participation. These policies and procedures shall be reviewed annually and updated as needed.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7346.2. Limited English proficient (LEP), deaf or hard of hearing youth

The director shall employ procedures designed to reasonably assure that any limited English proficient (LEP), deaf or hard of hearing youth understand all written and oral communications from facility staff members including, but not limited to, orientation procedures, health services procedures, facility rules, disciplinary procedures, and the provisions of this Chapter.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

PART 7350 SANITATION

Section 7350.1. Policy

(a) Consistent with the requirements of this Part, the director shall develop written policies and procedures that govern sanitation for the facility. The written policies and procedures shall be reviewed annually and updated as needed.

(b) The director shall require that the facility is maintained in a sanitary manner.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7350.2. Definitions

As used in this Part, the term living unit shall mean an area in which youth sleep, shower and participate in program and leisure activities.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7350.3. General facility sanitation

(a) The director, or designee, shall develop written housekeeping procedures for all areas of the facility's physical plant, which shall provide for daily housekeeping and regular maintenance by assigning specific duties and responsibilities, requiring that all areas of a facility are maintained in a sanitary manner.

(b) The director shall require that all facility youth maintain their living unit in a sanitary manner.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7350.4. Facility sanitation equipment

(a) The facility shall maintain a sufficient inventory of sanitation equipment.

(b) All facility sanitation equipment shall be maintained in good condition and stored in a safe and secure manner.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7350.5. Food service sanitation

(a) The director shall require that the facility's food service areas, including equipment and utensils, are maintained in a safe, secure and sanitary manner.

(b) The director, or designee, shall specify the sanitary procedures which are to be employed in the facility's food service areas.

(c) The director shall require that all persons working in the facility's food service area conform to hygienic practices consistent with the State Sanitary Code.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7350.6. Insect and rodent control

The director, or designee, shall develop and implement procedures designed to eliminate insect and rodent infestation. Consistent with such procedures:

(a) the director may prohibit or establish limitations regarding the accumulation of food items in rooms or living units; and

(b) any pesticide applied in the facility shall be used consistent with the manufacturer's recommendations and any applicable laws or regulations.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7350.7. Sanitation inspections

(a) The director shall require weekly sanitation inspections of all facility areas by a designated staff member. The results of each inspection shall be recorded in writing.

(b) Each facility shall be inspected annually by State or local sanitation and health officials to ensure compliance with all applicable laws and regulations. The results of each inspection shall be recorded in writing, together with a summary of any action taken to address any deficiencies, and maintained on file at the facility. There shall be documentation that deficiencies have been corrected. Such inspections conducted pursuant to this subdivision shall be designed to require compliance with the requirements of this Part and with the applicable provisions of the State's Sanitary Code, set forth in Chapter I of Title 10 NYCRR.

(c) The director shall require that the facility's potable water source, whether owned or operated by the public water department or by the facility, is certified in compliance with applicable laws and regulations.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7350.8. Waste disposal

The director shall maintain a system of waste disposal which protects the health and safety of youth and staff and complies with all applicable laws, codes, rules and regulations.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

PART 7352 FIRE PREVENTION AND SAFETY

Section 7352.1. Policy

(a) Consistent with the requirements of this Part, the director shall develop written policies and procedures that govern fire prevention and safety. The written policies and procedures shall be reviewed annually and updated as needed.

(b) In order to safeguard the lives and property of all facility occupants, and to minimize the possibility of fire emergencies or other similar hazards, each facility shall practice proper fire prevention and safety measures.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7352.2. Fire prevention code requirements

Each facility shall fully comply with all applicable laws, codes, rules and regulations related to fire safety and prevention.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7352.3. Fire and safety inspections

The director shall request the appropriate authority having code enforcement jurisdiction to conduct annual fire and safety inspections. A copy of each inspection report, together with a detailed written statement of all completed and planned remedial actions, shall be maintained on file within such facility.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7352.4. Fire prevention and safety practices and training

(a) The director shall designate one or more individuals to conduct regular fire and safety inspections of all areas of the facility to determine whether a fire hazard exists, and shall take the necessary action to correct such hazard.

(b) Such inspections shall be conducted at least once every week, and the results of such inspections shall be recorded in a facility log maintained for such purpose.

(c) Prior to assuming any duties, such appointed individual(s) shall have successfully completed appropriate specialized training approved by the Office of Fire Prevention and Control.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

PART 7354 ENVIRONMENTAL HEALTH AND SAFETY

Section 7354.1. Policy

(a) Environmental conditions significantly influence the overall effectiveness of facility operations. Standards for lighting, air quality, temperature and noise levels are designed to preserve the health and well-being of youth and staff members and to promote the operational stability and security of each facility.

(b) Consistent with the requirements of this Part, the director shall develop written policies and procedures that govern environmental health and safety. These policies and procedures shall be reviewed annually and updated as needed.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7354.2. Lighting

The director shall ensure that all areas of each facility are illuminated in a manner consistent with all applicable laws, codes, rules and regulations.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7354.3. Water supply

The director shall ensure that the facility complies with all applicable laws, codes, rules and regulations related to water supplies.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7354.4. Plumbing

The director shall ensure that the facility complies with all applicable laws, codes, rules and regulations related to plumbing and plumbing installations.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7354.5. Noise control

The director shall require that noise levels are controlled to provide adequate supervision and safety.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7354.6. Heating control

Each facility shall maintain an adequate heating system which shall safely heat all appropriate areas of the facility and which fully complies with all applicable laws, codes, rules and regulations related to heating systems.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7354.7. Ventilation

All areas of the facility shall be provided with sufficient ventilation to comply with all applicable laws, codes, rules and regulations related to ventilation. When primary ventilation systems fail, there shall be an alternate means of ventilation.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7354.8. Heating, plumbing, electrical, mechanical ventilation systems and equipment

Heating, plumbing, electrical, mechanical ventilation systems and equipment shall be maintained in a good, safe, sanitary, and serviceable condition and in compliance with all applicable laws, codes, rules and regulations related thereto.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7354.9. Environmental health and safety inspections

(a) The director shall designate one or more staff members to conduct regular environmental health and safety inspections of all areas of the facility to determine whether an environmental hazard exists, and shall take the necessary action to correct any such hazard.

(b) Such inspections shall be conducted at least once every week, and the results of such inspections shall be recorded in a facility log maintained for such purpose.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

PART 7356 GOOD BEHAVIOR ALLOWANCES AND SENTENCE CALCULTION

Section 7356.1. Good behavior allowances against definite sentences

(a) Youth confined to a facility serving a definite sentence of imprisonment may receive time allowances as discretionary reductions of the term of the sentence, as provided by law.

(b) The director, or designee, shall keep a record of every youth confined to the facility who may be eligible to receive a discretionary reduction of a definite sentence or sentences, by reason of the application of good behavior allowances.

(c) Such record shall indicate the manner in which the discretionary good behavior allowances were calculated and applied to the term of the sentence or sentences imposed by the court.

(d) Whenever a good behavior allowance, or any part thereof, is granted, withheld, forfeited or canceled, in whole or in part, or whenever such good behavior allowance, or any part thereof, is restored, a notation to that effect shall be entered in the record with a suitable explanation for the action taken.

(e) Upon the commencement of any definite sentence, the provisions of this Part shall be furnished to the youth serving such sentence, and the meaning of the same shall be fully explained by staff designated for such purpose, and the youth shall be required to acknowledge in writing that such explanation was made.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7356.2. Definite sentence calculation

(a) Whenever a good behavior allowance is granted, withheld, forfeited, canceled or restored, in whole or in part, the director, or designee, shall provide the sheriff a copy of the updated facility record maintained pursuant to section 7356.1 of this Part.

(b) Upon the sentence of a youth to serve a definite sentence of imprisonment in a facility, the sheriff, or sheriff's designee, shall establish the youth's date of discharge by crediting the amount of jail time to which youth is entitled pursuant to section 70.30 of the Penal Law, and any good behavior allowances granted by a facility pursuant to this Part.

(c) After establishing a date of discharge pursuant to subdivision (b) of this section, or after any amendment of such date of discharge, the sheriff shall provide written notification to the director. Upon receipt, the director shall provide such written notification to the youth.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

PART 7360 VARIANCES

Section 7360.1. Policy

(a) The Commission recognizes the need to provide a mechanism by which a facility may apply for a variance to the requirements of this Chapter when situations exist or arise that would prevent or alter the facility's ability to meet such requirement. The Commission may grant such variances only under specified conditions and when doing so will not jeopardize the safety, security, or operational stability of a facility.

(b) Consistent with the requirements of this Part, the director shall develop written policies and procedures that govern the application process of obtaining variances for the facility. These policies and procedures shall be reviewed annually and updated as needed.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7360.2. Conditions for applying for a variance

(a) The director may apply to the Commission for a variance to requirements of this Chapter when:

(1) compliance with a specific rule or regulation cannot be achieved by the effective date of such rule or regulation;

(2) due to a temporary condition or situation, compliance with a specific rule or regulation cannot be achieved; or

(3) compliance is to be achieved in a manner other than that which is specified in such rule or regulation.

(b) The provisions of this Part shall not apply to any requirements of this Chapter where it is specifically stated that variances to such requirements are prohibited.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7360.3. Application for a variance

(a) Any application to the Commission for a variance shall be made in writing by the director.

(b) Such application shall include:

(1) the specific rule, regulation or provision that is the subject of the application;

(2) the specific reasons and facts supporting the director's position that compliance with the specific rule and regulation cannot be achieved; and

(3) the specific plans, provisions and timetables for achieving full compliance with the rule or regulation at issue, the time period for which the variance is requested, and any other material that the director deems supportive of the application.

(c) When the application is made for reasons stated in section 7360.2(a)(3) of this Part, the application shall also include the specific plans which fully explain and support alternative methods of compliance.

(d) The Commission may require additional information concerning any variance application prior to rendering a decision.

(e) The director shall immediately furnish OCFS a copy of any variance application submitted to the Commission pursuant to the Part.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.

Section 7360.4. Review of variance application

(a) The Commission shall review and, following consultation with OCFS, issue a written determination to the director on each variance application which complies with the requirements of this Part.

(b) When a variance is granted, the Commission's determination shall specify:

(1) the time period for which the variance is granted; and

(2) any special requirements or conditions imposed as a condition of the variance.

(c) When a variance is granted, any special requirements or conditions imposed shall become the standard for the facility's compliance with the particular regulation.

History

Sec. filed Sept. 11, 2018 eff. Sept. 26, 2018.