

TITLE 8 SOCIAL SERVICES
CHAPTER 14 JUVENILE JUSTICE
PART 14 NEW MEXICO JUVENILE DETENTION STANDARDS

8.14.14.1 ISSUING AGENCY: Children, Youth and Families Department.
[8.14.14.1 NMAC - N, 7/31/01]

8.14.14.2 SCOPE: This rule applies to all New Mexico juvenile detention centers operating under the certification of the children, youth and families department.
[8.14.14.2 NMAC - N, 7/31/01]

8.14.14.3 STATUTORY AUTHORITY: Section 32A-2-4 NMSA 1978, as amended.
[8.14.14.3 NMAC - N, 7/31/01]

8.14.14.4 DURATION: Permanent.
[8.14.14.4 NMAC - N, 7/31/01]

8.14.14.5 EFFECTIVE DATE: July 31, 2001
[8.14.15.5 NMAC - N, 7/31/01]

8.14.14.6 OBJECTIVE: The purpose is to promulgate standards for the maintenance and operation of all juvenile detention facilities including standards for the site, design, construction, equipment, care, program, personnel and clinical services. The department shall certify as approved all juvenile detention facilities in the state meeting the standards promulgated.
[8.14.14.6 NMAC - N, 7/31/01]

8.14.14.7 DEFINITIONS:

A. **“Action plan”** means a written document in response to a sanction submitted by the facility to the department for approval which states those actions that the program implements, with specific time frames and responsible parties for each, to correct the deficiencies found by the department in the previous on-site visit or review of documents.

B. **“Adjudicate”** means to make a finding of whether a child committed a delinquent act.

C. **“Administrator”** means the person in charge of the daily operation of the facility. The administrator may be the person named on the certification or an authorized representative of the applicant or designee.

D. **“Annual certification”** is an authorization to a facility to operate for a one (1) year period of time. The effective date is noted on the face of the document. The annual certification is issued on an initial and renewal basis following investigation of an initial application for certification or the inspection of the facility by the department, unless a complaint is received during the certification period that warrants the issuance of a sanction.

E. **“Appearances”** means the act of the hearing officer in recording, for the record, the names of person(s) appearing at the hearing and their representatives, if any.

F. **“Appellant”** means the party seeking review of a final decision of the department.

G. **“Applicant”** means the county, municipality or other facility operator, in whose name a certification for a facility has been issued and who is legally responsible for compliance with applicable laws, standards or regulations.

H. **“Application”** means the forms, attachments and other writings and drawings required to be completed as part of the process of granting or denying an annual certification or provisional certification.

I. **“Authority”** means the New Mexico Children’s Code, Section 32A-2-5; 32A-2-9; 32A-2-11 as amended.

J. **“Burden of proof”** the burden of persuasion is on the party to convince the hearing officer of all elements of the case by a preponderance of the evidence.

K. **“Capacity”** means the number of beds available to the facility as established through certification standards without a waiver provision.

L. **“Certification”** means the document issued by the department which authorizes the operation of a

facility pursuant to certification standards. The term “certification” may include an annual certification and provisional certification.

M. “**Collocated facility**” means a facility located within or as part of or on the same immediate grounds of an existing county or municipal jail, or courthouse, which contains a jail, provided that all federal and state requirements for a collocated facility are met. No facility that is not an existing collocated facility, as of December 31, 1993, shall be certified as a collocated facility after that date.

N. “**Deficiency**” means a violation of, or failure to, comply with a provision(s) of these regulations.

O. “**Denial of an application and denial of annual certification**” means action by the department refusing to grant an annual certification or provisional certification.

P. “**Department**” means the New Mexico children, youth and families department.

Q. “**Detention screening tool**” means the instrument used to guide the detention decision.

R. “**Direct care staff**” means an employee of the facility who provides supervision, security, custody and control of facility residents; this excludes contractual personnel and volunteers.

S. “**Directed action plan**” means an action plan related to a sanction that the department writes and specifies that the facility must enforce within the specific time frame.

T. “**Direct supervision**” means direct care staff who provide direct supervision, observation, interaction and programming by being physically present with juveniles at all times.

U. “**Director**” means the director of the juvenile justice division of the New Mexico children, youth and families department.

V. “**Emergency suspension of certification**” means the department’s prohibition of operation of a facility for a stated period of time by temporary withdrawal of the certification, prior to a hearing on the matter, when immediate action is required to protect human health and safety.

W. “**Facility**” means all juvenile detention facilities required to be certified by the department by authority of the New Mexico Children’s Code, Section 32A-2-4, NMSA 1978, as amended.

X. “**Final decision**” means the written document following a hearing, stating the final determination of the secretary.

Y. “**Five-day hearing**” means the hearing noted in the emergency suspension order and notice of hearing. See the definition of “emergency suspension of certification” above.

Z. “**Health and safety deficiencies**” means non-compliance with any standard which relates to conditions or circumstances leading to death, physical harm, or psychological harm to recipient(s) of services or any pervasive conditions that pose a threat to the physical safety of occupants, or any pervasive neglect of residents or abuse of residents or the pervasive detainment of status offenders.

AA. “**Hearing officer**” means a person the secretary designates to conduct pre-hearing conferences, hearings, and issue reports and recommendations, based on the information produced at the hearing.

BB. “**Imminent danger**” means a danger which could reasonably be expected to cause death or serious harm to detained juveniles or staff and which requires immediate correction.

CC. “**Inspection**” means an entry into, and examination of the facility’s premises, records, including staff interviews, interviews with juveniles, and any relevant information needed to show compliance with these standards.

DD. “**Juvenile**” means any person who is less than eighteen (18) years old.

EE. “**Certifying authority**” means the children, youth and families department.

FF. “**Long term**” means a separate or collocated facility certified to detain juveniles for longer than a (72) hour period.

GG. “**Maintenance**” means the care of building(s), by keeping them in a repaired and safe condition and the grounds in a safe, sanitary and presentable condition.

HH. “**Management**” means the juvenile detention center manager, supervisor, superintendent or administrator.

II. “**Official notice**” means information concerning the status of a facility’s certification.

JJ. “**Partial compliance**” means that a facility is found to meet the conditions of participation, with moderate to few non-health and safety deficiencies and is able to receive a temporary certification so long as the implementation of a corrective action plan is achieved.

KK. “**Prospective applicant**” means the county, municipality or other facility operator, in whose name a certification for operation of a facility is submitted. The prospective applicant may be represented by the administrator or supervisor of the facility.

- LL. **“Provisional certification”** means a temporary certification, not to exceed two (2) consecutive one hundred twenty (120) day provisional certifications, to operate a facility.
- MM. **“Recipient”** means the person or entity who receives service of notice.
- NN. **“Revocation of certification”** means the department’s prohibition of operation of a facility by withdrawal of a certification.
- OO. **“Sanctions”** means a measure imposed by the department for a violation(s) of certification standards.
- PP. **“Standard of compliance”** means the degree of compliance required by these regulations is designated by the use of the words shall and must and may. Shall and must designate mandatory requirements that may not be waived. May is permissive and designates other requirements that may be determined to be non-applicable by the Department.
- QQ. **“Secretary”** means the secretary of the New Mexico children, youth and families department.
- RR. **“Serious incident”** means environmental hazards, arrest or detention or situations that require emergency services. Environmental hazards include unsafe conditions which create immediate threat to life or safety, including but not limited to fire and contagious disease requiring quarantine. Emergency services include; unanticipated admission to a hospital, other psychiatric facility, or the provision of emergency services including, but not limited to treatment for broken bones, cuts requiring sutures, poisoning, contagious diseases requiring quarantine, burns requiring specialized medical treatment, medication under-dose or overdose requiring treatment, or incidents between residents or residents and staff resulting in physical or psychological harm or which could result in psychological harm or a confrontation between staff(s) or resident(s) that results in any restraint, use of force or behavior-management technique, or other conditions requiring specialized treatment at an urgent care center, emergency room or by EMS.
- SS. **“Severability”** means if any part or application of these regulations is held invalid, the remainder or its application to other situations or persons shall not be effected.
- TT. **“Six (6) hour certification”** means a certified facility that may only detain juveniles for no more than a six (6) hour period for the purpose of arranging transportation or release.
- UU. **“Forty-eight (48) hour certification”** means a certified facility that may only detain juveniles for no more than forty-eight (48) hour period for the purpose of arranging transportation or release.
- VV. **“Status offender”** means a runaway, a truant, or a juvenile who has committed a status offense that is not classified a delinquent act (exception: out-of-state runaway juveniles as mandated by state or federal law).
- WW. **“Substantial compliance”** means that a facility is found to meet the conditions of participation, without deficiencies, or with minor to few non-health and safety deficiencies, and is able to receive full certification.
- XX. **“Suspension of certification”** means the department’s prohibition of operation of a facility for a stated period of time through withdrawal of the certification, after notice and an opportunity for a hearing.
- YY. **“Supervision”** means the direct observation and guidance by adult staff at all times by being physically present with the juveniles [~~and/or~~ or] through video monitoring with direct observation.
- ZZ. **“Usage”** means the masculine pronoun includes the feminine and neuter, and, the singular number includes the plural and the plural includes the singular.
- AAA. **“Waiver”** means a temporary or provisional certification to operate a facility which is in non-conformance with the standards for a period of time set by the secretary. A waiver from the department may be granted to a facility for up to two (2) years only. Any request for a waiver for re-certification of a waiver, denied by the department is not subject to the hearing process and procedures.
- BBB. **“Working days”** means when determining compliance with various deadlines in these regulations, Monday through Friday, of each calendar week, excluding state observed holidays.
- CCC. **“SARA”** means screenings, admissions and releases application.
- DDD. **“RAI”** means risk assessment instrument.
- EEE. **“OJJDP”** means office of juvenile justice and delinquency prevention.
- FFF. **“AECF”** means Annie E. Casey foundation.
- GGG. **“Isolation”** means the removal of a juvenile from the general population living unit for the purpose of de-escalating an incident and regaining control.
- [8.14.14.7 NMAC - N, 7/31/01; A, 10/17/11]

8.14.14.8 LEGAL AUTHORITY:

- A. The following standards are promulgated by the New Mexico children, youth and families

department pursuant to 32A-2-4, NMSA 1978 comp. as amended. These are minimum standards to assess the basic operations of juvenile detention centers in New Mexico.

B. Administration and enforcement responsibility: the department shall have access to the administrator or designee and the facility for inspection of the facility for compliance with standards, upon appropriate identification all secure juvenile detention facilities must comply with these standards. Compliance is determined during annual inspections or more frequently when warranted. The facility shall meet all applicable certification requirements, and applicable state and federal laws. Confidentiality written policy and procedure shall provide that records are safeguarded from unauthorized and improper disclosure. Manual records are marked "confidential" and kept in locked files that are also marked "confidential". Written policy and procedure provide that when any part of the information system is computerized, confidentiality of records is maintained.

[8.14.14.8 NMAC - N, 7/31/01]

8.14.14.9 PERSONNEL:

A. Minimum qualifications: The education and experience qualifications of the facility administrator include, at a minimum one of the following, a bachelor's degree in an appropriate discipline or four (4) years of experience working with juveniles, or three (3) years in detention supervision and administration. Any current facility administrator who does not meet these qualifications on the effective date of these standards, is deemed qualified for an additional four (4) years. After December 31, 2004, all facility administrators must meet the qualifications established.

B. Employee records: each employee signs a statement acknowledging facility policies and regulations, that training has been provided and that the employee understands the policies and regulations appreciable to their daily job responsibilities.

C. Employee records: a criminal records check is conducted on new employees, volunteers and contract personnel by the facility. The facility shall have written policies setting out which convictions shall prohibit employment and other records required to be checked. In general, it is recommended that any of the following convictions bar employment consideration: trafficking any narcotics, possession of narcotics that is less than five (5) years old, any conviction involving a child, DUI or domestic violence misdemeanor or felony that is less than five (5) years old. Non-compliance of policy may result in sanctions.

D. The facility shall have written policies and procedures governing issues of confidentiality of social and medical records for employees, consultants, contract personnel and volunteers that meet the requirements of subsection D of 8.14.14.8 NMAC.

E. The facility shall have written policies and procedures governing operational shift assignments or post orders that state the duties and responsibilities for each assigned position in the facility; these shift assignments are reviewed at least annually and updated as necessary.

F. The facility shall have a written job description for each position or group of like positions which clearly states qualification, responsibilities and requirements.

G. The facility shall maintain personnel records for each employee. In addition, contract staff and those volunteers with management or direct service responsibilities shall also have records maintained by the facility.

H. The facility shall have written policies providing personnel with access to their records and a process to address corrections to such records and grievances by employees.

[8.14.14.9 NMAC - N, 7/31/01]

8.14.14.10 STAFF TRAINING:

A. Training shall be provided annually to all employees by qualified instructors. Employees shall be trained in behavior management interventions, suicide prevention and alcohol and drug withdrawal annually as part of their required training.

B. The facility shall have a written policy and procedure providing that all new full-time employees receive forty (40) hours of orientation/training before being independently assigned to a particular job. This orientation/training is to include at a minimum; orientation in the purpose, goals, policies and procedures of the institution and parent agency; working conditions and regulations; responsibilities employees; suicide prevention, behavior management methods, alcohol and drug withdrawal and an overview of the juvenile justice and correctional field. Credit for prior training received is acceptable so long as the training occurred within the past year.

C. The facility shall have a written policy and procedure providing that all support employees who have regular or daily juvenile contact receive an additional sixteen (16) hours of training each subsequent year in the area of juvenile detention issues.

D. The facility shall have a written policy and procedure approved by the department providing that all new juvenile detention officers receive an additional eighty (80) hours of training during their first year of employment, (40) hours of which includes basic juvenile detention officers course. All employees receive forty (40) hours of training each year of employment. For example, training includes the following areas. Formal training is identified as (F), orientation training is identified (O)

- (1) (O) security procedures;
- (2) (O) supervision of juveniles;
- (3) (F) behavior management method;
- (4) (F) report writing;
- (5) (O) rules and regulations for juveniles;
- (6) (O) rights and responsibilities of juveniles;
- (7) (O) fire and emergency procedures;
- (8) (O) key control;
- (9) (F) interpersonal relations;
- (10) (F) cultural/linguistic competency training;
- (11) (F) child growth and development;
- (12) (F) communication skills;
- (13) (F) first aid/CPR;
- (14) (F) suicide prevention risk/safety;
- (15) (F) certified course in restraint training; or behavioral management method and
- (16) (O) intake criteria/and reporting.

E. The facility shall have a written policy and procedure that all part-time staff and volunteers working less than forty (40) hours per week receive training appropriate to their assignments; volunteers working the same schedule as full-time, paid staff, receive the same training as full-time staff.

F. The facility shall have emergency policy and procedures and all facility personnel shall be trained in their implementation.

G. All training records are incorporated into the employee's file.

[8.14.14.10 NMAC - N, 7/31/01; A, 10/17/11]

8.14.14.11 JUVENILE RECORDS:

A. The facility shall have written policies and procedures consistent with New Mexico and federal laws to provide individuals and agencies access to records for the purposes of research, evaluation and statistical analysis in accordance with a formal written agreement that authorizes access, specifies uses of data, confidentiality and security.

B. The facility shall have written policy and procedure which governs record management, including but not be limited to, the establishment, utilization, content, privacy, security, and preservation of records, and a schedule for the retirement or destruction of inactive case records. These policies and procedures shall be reviewed annually.

C. The facility shall have written policies and procedures to identify how it protects the juvenile's assets and how it provides facility accountability for the protection of the juvenile's assets, including the segregation of client's funds.

D. The facility shall have written policy and procedure for an admittance record that is completed for every juvenile admitted to the facility and contains the following information:

- (1) court case number (if any) and detention facility admission number;
- (2) date and time of admission and release;
- (3) name and nicknames; (if any)
- (4) last known address;
- (5) immigration status;
- (6) legal status (authority for detention);
- (7) name of attorney, if any;
- (8) name, title and signature of delivering officer;
- (9) specific charge(s);
- (10) sex;
- (11) date of birth;
- (12) place of birth;

- (13) race or nationality;
- (14) education and school attended;
- (15) employment, if any;
- (16) health status;
- (17) medical consent forms;
- (18) name, relationship, address and phone number of parent(s)/guardian(s) person(s) the juvenile resides with at time of admission;
- (19) driver's license number, social security number;
- (20) medicaid number (if applicable);
- (21) court and disposition, (if any);
- (22) space for remarks (to include notation of any open wounds or sores requiring treatment, evidence of disease, body vermin, or tattoos)
- (23) person recording data;
- (24) inventory of property;
- (25) emergency contact; and
- (26) offense codes.

E. The facility shall have a written policy and procedure governing record management shall be for each juvenile and includes the following information:

- (1) initial intake information form;
- (2) documented legal authority to accept juvenile;
- (3) information on referral source;
- (4) record of court appearances;
- (5) signed release of information forms;
- (6) record of cash and valuables held;
- (7) notations of temporary absences from the facility, (if any);
- (8) visitor's names and dates of visits, (if any);
- (9) record of telephone calls (if any);
- (10) probation officer or caseworker assigned;
- (11) program rules and disciplinary policy, signed by juvenile;
- (12) grievance and disciplinary records, referrals to other agencies, if any;
- (13) final discharge or transfer report;
- (14) nature of offense, offense code, and
- (15) if juvenile is or appears to be under the influence of any narcotic or alcohol.

F. There shall be a single master file identifying all juveniles detained in the facility. Its contents shall be identified and separated according to an established format by the facility.

G. The facility use a release of information consent form that complies with applicable federal or state laws and regulations. The juvenile's parent/guardian or the court shall sign a "release of information consent form" before any release of information as required by statute or regulation to the public. A copy of the form is maintained in the juvenile's record.

H. The facility shall maintain a system to physically count juveniles that includes strict accountability for juveniles assigned to work and educational release, and other approved, temporary absences.

I. Supervisory staff shall maintain a permanent log and prepare shift reports that record routine and emergency situations.

J. The facility shall have a procedure that provides that records are safeguarded from unauthorized and improper disclosure. Manual records are marked "confidential" and kept in locked files that are also marked "confidential". The written policy and procedure provide that when any part of the information system is computerized/automated, security systems protect confidentiality. All information is subject to disclosure to the children, youth and families department.

[8.14.14.11NMAC - N, 7/31/01]

8.14.14.12 PHYSICAL PLANT:

A. Facility sites: a detention facility for juveniles may be collocated within or as part of or on the same immediate grounds of an existing municipal or county jail or courthouse which contains a jail, provided that all federal and state requirements for a collocated facility are met, in accordance with subsection 8.14.14.13 NMAC. See 28 C.F.R. 31.03. No such collocated facility for juveniles that is not an existing collocated facility as of

December 31, 1993, shall be certified as a collocated facility. Any such collocated facility that is in existence as of that date shall only thereafter be certified if all required standards contained herein are met.

B. The requirements for separation in collocated facilities are:

- (1) separation between juveniles and adults time sharing facility spatial areas, so that there can be no sustained sight or sound contact between juvenile and adult residents;
- (2) total separation in all juvenile and adult programs, including recreation, education, counseling, health care, dining, sleeping and general living activities;
- (3) an independent and comprehensive operational plan for the juvenile detention center providing for a full range of separate services is in place;
- (4) no program activities may be shared by juveniles and incarcerated adults; and
- (5) separate juvenile and adult staff, including management at an administrative level, security staff and direct care staff such as recreation, education and social services/counseling.

C. Specialized services staff such as cooks, bookkeepers and medical professionals who are not normally in contact with detainees or whose infrequent contacts occur under conditions of separation of juvenile and adults, can serve both.

D. The day to day management, security and direct care functions of the juvenile detention center is separately staffed, dedicated solely to the juvenile population within the facilities. (exception 6 hour facilities only) A detention facility may be located separate and apart from other municipal or county structures provided that all minimum standards and safety measures are met.

E. The detention facility must meet the following standards:

- (1) an area large enough to provide an outdoor recreation area for the maximum capacity of children. (long term facilities only)
- (2) the recreation area must be located to prevent children from seeing passersby, except at a reasonable distance and to prevent passing contraband. (long term facilities only)
- (3) the site must be large enough to prevent encroachment of new construction on adjoining properties. (exception 6 hour facilities only)
- (4) the site must be sufficiently large to discourage exposure at windows and to prevent passing contraband through or over a fence or wall. (exception 6 hour facilities only)
- (5) there should be sufficient area to allow future expansion of the facility; and (exception 6 hour facilities only)
- (6) there should be adequate parking space for staff and visitors. (exception 6 hour facilities only)

F. All approvals of local zoning boards, city or county commissioners or other responsible local bodies are necessary to receive certification.

G. The facility shall conform to all applicable state and local health, safety and building codes and accessibility requirement of the American's With Disabilities Act.

H. The population in housing or living units cannot exceed the rated capacity of certification, unless otherwise waived. The children, youth and families department shall issue waivers.

I. Multi purpose facilities shall be made equally available to male and female juveniles while maintaining necessary privacy sight and sound separation and no physical contact shall be permitted.

J. Water for showers is temperature controlled.

K. Room dimensions: living units are primarily designed for single occupancy sleeping rooms. Any use of multiple occupancy rooms cannot exceed twenty percent of the single bed capacity of the unit. There are at least 80 percent of all beds in rooms designed for single occupancy only. (new construction only)

L. New construction-room dimensions: single sleeping rooms have at least seventy (70) square feet of floor space. (new construction only) living quarters:

- (1) all sleeping rooms in detention facilities provide;
- (2) access to the following sanitation facilities;
- (3) toilet above floor level which is available for use;
- (4) wash basin and drinking water;
- (5) hot and cold running water;
- (6) a bed at above floor level;
- (7) natural light or artificial light; and
- (8) shower facilities.

M. All new construction must provide in the sleeping rooms:

- (1) toilet above floor level which is available for use;

- (2) wash basin and drinking water;
- (3) hot and cold running water;
- (4) a bed above floor level;
- (5) natural light or artificial light and;
- (6) access to shower facilities.

N. At no time shall male and female juveniles occupy the same sleeping room, privacy must be provided with no direct line of sight by the opposite gender.

O. Heating, cooling and ventilation: ventilation shall be available in the event of a power failure. All heating, air conditioning, piping, boilers and ventilation equipment shall be installed and maintained to meet all requirements of current state and local mechanical, electrical and construction codes. Temperatures shall be maintained at a reasonable temperature at all times.

P. The total indoor/outdoor activity area outside the sleeping area provides space of at least one hundred (100) square feet per juvenile. Any outdoor recreation area shall be surrounded by a wall or fence sixteen (16) feet in height.

Q. A visual barrier shall be constructed preventing the general public from observing the juveniles when in use; a 3/8" woven wire mesh cover shall be installed. (exception 6 hour and 48 hour facilities)

R. Space:

- (1) Visitation area: the visiting area shall provide privacy during visits.
- (2) Religious services: space shall be available for religious services. (exception 6 hour facilities only)
- (3) Holding/confinement rooms: when there is a confinement room separate from the living unit, it must contain access to plumbing and security furniture.
- (4) Interview space: interview space shall be available in or near the living unit.
- (5) Telephone: the facility shall operate a telephone in a designated area.
- (6) Personal belongings: there shall be a reasonable amount of secured storage space provided for storage of juveniles' property and personal belongings.
- (7) Storage rooms for clothing, bedding and facility supplies shall be provided.
- (8) Separate and locked space shall be provided for mechanical equipment and an inventory & sign in/out logs maintained. (new construction only)
- (9) Building maintenance: there shall be a written plan for preventive maintenance of the physical plant with provisions for emergency repairs or replacement of equipment. This plan shall be reviewed annually and updated if needed.
- (10) Access for disabled: the facility construction shall provide for the removal of architectural barriers to physically handicapped persons, in compliance with the Americans with Disabilities Act.
- (11) Access for disabled: disabled juveniles are housed in a manner that provides for their safety and security. Cells or housing units used by them are designed for their use, and shall provide the maximum possible integration with the general population.
- (12) Appropriate facility programs and activities shall be accessible to disabled juveniles confined in the facility.
- (13) All parts of the facility that are accessible to the public shall be accessible to and usable by disabled staff, residents and visitors.
- (14) Dayroom dimensions: there shall be a day room for each housing unit or detention room cluster; the room shall have a minimum of thirty-five (35) square feet of floor space per juvenile and is separate and distinct from the sleeping area, which is adjacent and accessible. (new construction only)
- (15) Shared facility spatial areas: units housing male and female juveniles, sharing day rooms, rest rooms and activity areas, provide separate and private areas for both genders and prevents all direct line of sight or sound contact between males and females when in their sleeping quarters, shower areas or other areas requiring privacy.

[8.14.14.12 NMAC - N, 7/31/01; A, 10/17/11]

8.14.14.13 SAFETY AND EMERGENCY:

- A. The facility shall maintain and document its compliance with all applicable safety codes, including:
 - (1) a fire alarm and automatic detection system; if there is not a fire alarm and automatic detection system, the facility must address these or other deficiencies within six (6) months;
 - (2) the safety and emergency policies and procedures of the facility shall provide that a qualified fire

and safety officer perform a comprehensive and thorough inspection of the facility for compliance with safety and fire prevention standards annually and the facility provides documentation of the inspection;

(3) health and sanitation: the facility shall comply with applicable federal, state and local sanitation, safety and health codes.

B. Fire safety and equipment: the facility must be equipped with noncombustible receptacles for smoking materials and separate containers for other combustible refuse at readily accessible locations in the living quarters and other locations throughout the facility.

C. Special containers for flammable liquids and for rags used with flammable liquids shall be provided and checked daily and an inventory & sign in/out log maintained.

D. Space for the secure storage of chemical agents, restraining devices and related security equipment, is located in an area that is readily accessible to authorized persons only.

E. Fire safety and equipment: written policy and procedure shall specify the facility's fire prevention regulations, practices, and evacuation for staff, residents and visitors, and include a provision for an adequate fire protection service; a system of fire inspection and testing of equipment semi-annually. An annual inspection by the state fire marshal or other qualified person(s) approved by the state fire marshal; and availability of fire hoses or extinguishers at appropriate locations throughout the facility.

F. Facility furnishings are purchased with proof of the fire safety performance requirements of the materials selected.

G. The facility must have access to an alternate power source to maintain essential services in an emergency. Power generators are tested at least every two (2) weeks and other emergency equipment and systems are tested at least monthly for effectiveness and shall be repaired or replaced as necessary. Documentation of tests shall be maintained.

H. The facility shall provide for the prompt release of juveniles from locked areas in case of emergency, and a secondary release system shall be in place in the facility. These release procedures shall be set out in the safety and emergency procedures.

I. The facility shall have exits that are properly positioned, clearly, distinctly and permanently marked, in order to evacuate juveniles and staff in the event of fire or other emergency. All housing areas and places of assembly for fifty (50) or more persons shall have two (2) exits.

J. Evacuation plans/fire drills: The facility shall have a written plan for evacuation in the event of fire or major emergency that is approved through the fire marshal.

K. The plan shall be reviewed annually, updated if necessary, and documented. The plan shall include the following:

- (1) location of building/floor plans;
- (2) use of exit signs and directional arrows for traffic flow;
- (3) location of publicly posted plans;
- (4) documented fire drills are conducted monthly, the facility develops policies and procedures to rotate drills monthly between the shifts and,
- (5) documented evacuation drills shall be conducted annually.

L. The facility shall have a written policy and procedure to provide for safe, appropriate handling of the following:

- (1) dangerous juveniles who are detained;
- (2) hostage and disturbance plans; and
- (3) group arrests and work stoppage.

M. There shall be shall a written policy and procedure governing the control and use of all flammable, toxic, and caustic materials.

[8.14.14.13 NMAC - N, 7/31/01; A, 10/17/11]

8.14.14.14 SECURITY, STAFFING AND CONTROL:

A. All facilities shall submit a plan to JJD within ninety (90) days of beginning operations and then each year thereafter at time of renewal of certificate, which demonstrates the facility's ability to provide adequate management, control, supervision, staff coverage, program activities and security, and address at a minimum:

- (1) facility structure;
- (2) population flow;
- (3) staff ratios for facilities are a minimum of one juvenile detention officer providing direct supervision as set out in subsection 8.14.14.12 NMAC. (6 hour facilities must provide staff coverage and staff

patterns only); the facility maintains a control center;

(4) staff ratios provide for separate juvenile and adult staff, in accordance with Paragraph 5 of Subsection B of 8.14.14.12 NMAC; (exception 6 hour only)

(5) adequate supervision during day time and lockdown time, and suicide prevention coverage (including sleeping hours);

(6) recreational activity (indoor and outdoor); (exception 6 hour and 48 hour facilities only);

(7) staff training;

(8) staff absence policy (e.g., sick leave, vacation, etc.);

(9) juveniles shall be safe from physical and verbal assault; harassment, threats of violence, theft, intimidation, sexual harassment or sexual misconduct; and

(10) other policies and procedures designed to safeguard against haphazard or accidental sight or sound contact between juveniles and incarcerated adults; the plan shall be reviewed annually.

B. All facilities shall maintain approved staff/child ratios with a minimum of one (1) direct supervision juvenile detention officer for every ten (10) juveniles during day and swing shift and a ratio of one (1) direct supervision juvenile detention officer for every sixteen (16) juveniles on the facility's sleeping hours shifts.

C. Staff of the same gender as the juvenile shall be present when performing the following; body cavity search, strip searches, and monitoring of the shower and toilet areas; and

(1) there is no direct line of sight or sound between males and females in these areas or living quarters;

(2) the facility shall keep a list on file of two (2) readily available juvenile detention officers who can be called to the facility. (exception 6 hour facilities only)

D. The facility shall maintain a control center which is staffed at all times.

E. The facility perimeter shall be secured in such a way that juveniles remain within the perimeter and that access by the general public is denied without proper authorization.

F. Behavior management: the facility shall have a written policy and procedure to govern the availability, control, inventory and use of physical/mechanical or chemical restraints. The policies and procedures shall provide as follows:

(1) restraints are only used when juvenile residents of the facility are engaged in behavior that poses a clear and serious threat of bodily harm to self or others;

(2) restraints are only used as a last resort after all other attempted less restrictive interventions have failed;

(3) mechanical restraints shall only be applied by, or with the authorization of the facility administrator, or designee, physician, nurse, or mental health provider;

(4) restraints shall be defined in the policy and procedure as "the use of any physical, mechanical device or chemical used to restrict movement of a juvenile resident or the movement or normal function of a portion of an individual's body during isolated, serious incidents involving bodily injury to self or others";

(5) the facility shall conduct semi annual training for behavior management and train on the use of verbal de-escalation; and

(6) chemical restraint may only be used during a disturbance or riot.

G. The facility may not use restraints:

(1) as punishment;

(2) for convenience of staff, or;

(3) as a substitute for programs or activities.

H. Physical/mechanical restraints: the following shall be incorporated in the policy and procedures under section F above:

(1) Physical/mechanical restraints may only be used when it is absolutely necessary to protect the resident from injury to himself or others.

(2) The facility is responsible for training the staff on the proper techniques for applying the restraint whether physical or mechanical and for insuring proper monitoring of the resident while in restraint.

(3) Facility staff monitor a resident placed in mechanical restraints at a minimum of every five (5) minutes and records each of those checks in the resident's records.

(4) An order for mechanical restraint may not be in effect for periods longer than one (1) hour for every twenty four (24) hour period, unless written authorization from a licensed and authorized health care professional is provided.

(5) The mechanical devices used at the facility are manufactured devices developed specifically for

such use, and therefore designed to cause the least possible physical discomfort, and to avoid physical injury to the resident.

(6) The mechanical devices shall be one or more of the following devices:

- (a) hinge handcuffs;
- (b) "AD" belt;
- (c) belly chain;
- (d) foot shackles;
- (e) safety helmet, and;
- (f) soft cuffs.

(7) Whenever any of the devices specified above are available in leather, or with leather buffers provided to minimize chaffing, such devices are preferred for use in the facility. No other device is permitted.

(8) The use of restraint chairs is prohibited.

I. The administration of chemical/medical restraints shall not be used except under the direction and authorization of a licensed medical provider after all other efforts to manage the behavior have failed.

J. The facility shall have a written policy and procedure requiring that all security perimeter entrances, exterior doors and all doors the facility administrator determines should be locked are kept locked except when used for admission or exit of employees, detained juveniles or visitors, and in emergencies.

K. Written policy and procedure shall provide for weekly inspection and maintenance of security devices.

L. Written policy and procedure shall require that staff inspect every area of the facility daily, and submit a written report/notation to an administrative official for review whenever deficiencies are noted. All such documentation shall be readily available to the department.

M. The facility shall have a written policy and procedure to search staff, juveniles and visitors for contraband that is posted at the facility's main entrance. This policy shall be reviewed and updated annually.

N. Body search: written policy and procedure shall provide for the following:

(1) all such inspections are conducted in private and manual or instrument inspection of body cavities are performed only by medical personnel;

(2) manual or instrument inspection of juvenile body cavities are conducted only when there is reason to do so and when authorized by the facility administrator or designee; and

(3) visual inspections are conducted only when there is a reason to believe that the juvenile is carrying contraband or other prohibited material.

O. Strip searches shall be performed without specific authorization only upon admittance or return to the facility, all other times shall be based on reasonable suspicion, and after being granted approval from the facility administrator or his designee.

P. Reporting and recording incident reports: all special incidents, including, but not limited to, the taking of hostages, use of restraint equipment or the use of physical force are reported in writing to the facility administrator within twenty four (24) hours:

(1) the documentation includes the date and signature of the staff person reporting the incident and

(2) the report is placed in the juvenile's case record and reviewed by the facility administrator or the parent agency and a courtesy copy sent to the juvenile probation/parole officer.

Q. Whenever a juvenile is placed in mechanical restraints such as hinged handcuffs, AD belt, belly chain foot shackles, safety helmet or soft cuffs, except when used during transportation outside the secure area, the following information shall be recorded in a log maintained for that purpose prior to the end of the shift on which the restraint occurred and shall be reported to CYFD certification manager within twenty four (24) hours, except holidays and weekends, during which the report will be made the next business day. Notification must be in writing and include the following information: (1) the name of the juvenile; (2) the date and time restraints were used; (3) the type of restraint used; (4) the name of the staff member requesting use of the restraint; (5) the name of the supervisor authorizing the use of restraint; (6) the name of the staff member(s) who actually conducted the restraint; (7) the reason for the use of the restraint; (8) the date and time the juvenile was released from the restraint; and (9) the name and title of the health professional authorizing continued use of the restraint, if necessary. The facility will notify the department of a lockdown status or suspension of services or variation of normal daily operations. The notification will be done within twenty four (24) hours except as provided above. A statement describing provision of essential services and a plan to restore normal operations shall accompany the notification.

R. Firearms are not permitted in the facility except in emergency situations, as defined by the facility policy and procedures.

S. The facility shall have a written policy and procedure governing the control and use of keys that are designed to provide a full accounting of all material related to the ingress/egress to the facility.

T. The facility shall have a written policy and procedure governing the control and use of tools, medical and culinary equipment.

U. The facility shall have a written policy and procedure for handling escapes, runaways and unauthorized absences and shall be reviewed at least annually and updated as necessary. The policy includes all reporting of events, investigation protocol and reports to the department.

V. The facility shall have a written policy and procedure requiring that all persons injured in an incident receive immediate medical examination and treatment.

W. The facility shall have a written policy and procedure that provides for a communications system within the facility, and between the facility and the community, in the event of an emergency.

X. The facility shall have a written policy and procedure that limits and minimizes the use of physical force to instances of self-protection, protection of the juvenile or others, prevention of property damage, prevention of escapes and shall be in accordance with appropriate statutory authority.

Y. A written report shall be prepared following all uses of force and is submitted to the facility administrator and department.

Z. The facility shall have a written policy and procedure governing the transportation of juveniles when transportation is performed by facility staff.

AA. The facility shall have a written policy and procedure to provide transportation in emergencies or evacuation from the facility including all notifications to the public and to the department.

BB. The facility shall have a written policy and procedure governing transportation of juveniles outside the facility and from one jurisdiction to another.

CC. The facility shall have a written policy and procedure ensuring separation of juveniles and incarcerated adults to pro-actively safeguard against haphazard or accidental sight or sound contact between juveniles and incarcerated adults, where the juveniles are confined in juvenile detention centers developed within an adult jail, within the same building as incarcerated adults, or on the same grounds where the adults are incarcerated.

DD. Proactive safeguards against such haphazard or accidental sight or sound contact between these populations applies to all possible areas, including entrances, booking areas, living areas, day rooms, multi-purpose rooms, recreational areas, elevators, sally ports, and visitation rooms.

EE. Facilities shall provide adequate documentation of their internal monitoring for compliance with these standards.

FF. Facilities shall have a written policy prohibiting the admittance of status offenders.

[8.14.14.14 NMAC - N, 7/31/01; A, 10/17/11]

8.14.14.15 FOOD SERVICE:

A. Food services shall comply with the applicable sanitation and health codes as promulgated by federal, state and local authorities.

B. The facility shall have written policies and procedures approved by the department requiring that food service staff develop planned menus that are nutritionally balanced and approved by a [~~trained~~] state licensed dietician. In the planning and preparation of all meals, food flavor, texture, temperature, appearance and palatability shall be considered.

C. A staff member, experienced in food service management shall supervise food service operations, unless such food services are contracted with another agency in which case the staff member shall monitor the contract for compliance with policy and contract.

D. The facility shall have written policies and procedures providing for special diets as prescribed by appropriate medical or dental personnel, and to provide for religious dietary laws. As mandated by state and federal law.

E. The facility shall have written policies and procedures that shall require that the food service provider serve at least three (3) meals, two (2) of which are hot meals, provided at regular meal times during each twenty four (24) hour period. There shall be no more than fourteen (14) hours between the evening meal and breakfast. The facility food service supervisor may allow variation in the requirement for three (3) meals at regular meal times, so long as the three (3) meals within the twenty four (24) hour period meet the daily basic nutritional requirements and the fourteen (14) hour requirement.

[8.14.14.15 NMAC - N, 7/31/01; A, 10/17/11]

8.14.14.16 SANITATION AND HYGIENE:

- A. The facility must comply with applicable federal, state and local sanitation and health codes.
- B. Pest control: the facility shall have written policies and procedures approved to provide for the control of vermin and pests.
- C. Hair care services shall be available to juveniles. (exception 6 hour and 48 hour facilities)
- D. The facility shall have written policies and procedures requiring that articles necessary for maintaining proper personal hygiene are provided to all juveniles. Such articles will include toothbrush, tooth paste, soap, shampoo and other such items.
- E. The facility shall have written policies and procedures providing for suitable clean bedding and linens, one (1) sheet, pillow and pillowcase, one (1) mattress and sufficient blankets to provide comfort under existing temperature conditions and provision for linen exchange at least weekly or more often when health reasons indicate for each resident.
- F. The facility shall maintain a surplus supply of clothing, linens and bedding exceeding that required for the facility's maximum juvenile population.
- G. The facility shall provide thorough cleaning, and when necessary, disinfecting of juveniles' clothing before storage or issuance.

[8.14.14.16 NMAC - N, 7/31/01]

8.14.14.17 MEDICAL AND HEALTH CARE:

- A. The facility shall have written policies and procedures which provide for the delivery of health care services, including medical, dental and mental health care services, under the control of a designated health authority. When this authority is other than a health care provider, final medical judgment rests with a single designated responsible physician licensed in the state. Arrangements are made with the health care specialist in advance of need.
- B. Medical, including psychiatric, and dental matters involving medical judgment are performed by a licensed physician and/or dentist respectively. Security regulations that are applicable to facility personnel are also applicable to health personnel
- C. The facility shall have written health care policies and procedures approved by the responsible physician and/or medical administrator that provide a regular schedule of examinations, emergency policies, inventory of all materials dispensed and record retention.
- D. The facility shall have written policies and procedures that shall address the management of serious and infectious diseases. These policies and procedures are updated as new information becomes available.
- E. The department of health shall be notified of any outbreak of an infectious disease.
- F. The facility shall enter into an agreement with a nearby medical service provider and/or a hospital for all medical services that the facility cannot provide.
- G. Appropriate state and federal license, certification or registration requirements and restrictions apply to personnel who provide health care services to juveniles. Verification of current credentials and job descriptions are kept on file in the facility.
- H. The facility shall have written policies and procedures requiring that first aid kits are available. A licensed medical professional approves the contents, locations and procedure for periodic inspections.
- I. The facility shall have written policies and procedures providing for medical examination of any employee or juvenile suspected of carrying a communicable disease.
- J. Program staff shall be informed of juveniles' special medical problems. At the time of admission, staff shall be informed of any physical problems that might require medical attention.
- K. The facility shall have written policies and procedures requiring a medical evaluation be performed by qualified medical personnel on all juveniles, including intra system transfers, within seventy two (72) hours of arrival at the facility. All findings are recorded. (exception 6 hour and 48 hour facilities only)
- L. The facility shall have written policies and procedures requiring that juveniles be informed orally and in writing of the procedures required for gaining access to medical services.
- M. Juveniles' medical complaints are monitored and responded to daily, or as needed, and are documented.
- N. The facility shall provide sick call for non-emergency medical service, conducted by a physician and/or other qualified medical personnel.
- O. Sick call is available to each juvenile at least weekly. (exception 6 hour facilities only)
- P. The facility shall have written policies and procedures providing for the prompt notification of

juveniles' parents/guardians and the responsible agency in case of illness, surgery, injury or death.

Q. Facility administration provides twenty four (24) hour emergency medical care availability as outlined in a written plan.

R. The facility shall have written policies and procedures which provide for screening, care and/or referral for care for mentally ill, developmentally disabled or mentally handicapped juveniles. When such juveniles are identified, proceedings are instituted pursuant to 32A-2-10.

S. The facility provides written policy and procedure for detoxification services, performed under medical supervision, from alcohol, opiates, barbiturates and similar drugs. A certified juvenile detention facility shall not provide detoxification service unless it is approved by and staffed by certified medical personnel.

T. The facility shall have written policies and procedures which provides for proper management of pharmaceuticals and addresses the following subjects:

- (1) practices handling psychotropic medications;
- (2) medication receipts;
- (3) storage;
- (4) dispensing;
- (5) administration;
- (6) distribution;
- (7) inventory;
- (8) controlled substances and;
- (9) syringes and needles.

U. The facility shall have written policies and procedures which provides that all personnel administering or distributing medication have training from licensed medical staff, and are accountable for administering medications according to orders. The administration of medications are recorded on a form approved by the responsible physician and/or pharmacist including the appointment of a treatment guardian ad litem as required under Children's Code 32A-6-1 et. Seq. NMSA.

V. The facility shall have written policies and procedures which provides that stimulants, tranquilizers and psychotropic drugs requiring intramuscular administration are prescribed only by a physician and are administered by a physician, licensed registered nurse, or authorized health care provider.

W. The facility shall have written policies and procedures requiring that under no circumstances shall stimulants, tranquilizers or psychotropic drugs be administered for purposes of program management and control, or for purposes of experimentation and research.

X. The facility shall have written policies and procedures requiring that a health record be kept containing the following, if applicable:

- (1) the completed receiving screening form;
- (2) health appraisal data forms;
- (3) all findings, diagnoses, treatments, dispositions; prescribed medications and their administration; laboratory, x-ray and diagnostic studies, as applicable;
- (4) signature and title of personnel documenting the information;
- (5) consent and refusal forms;
- (6) release of information forms; place, date and time of health encounters; health service reports, e.g., dental, mental health and consultations;
- (7) treatment plan, including nursing care plan; progress reports; and
- (8) discharge summary of hospitalization and other termination summaries.

Y. The method of recording entries in the records, the form and format of the records, and the procedures for their maintenance and safekeeping are approved by the health authority.

Z. The facility shall have written policies and procedures upholding the principle of confidentiality of the health record and will support these requirements:

- (1) The active health record shall be maintained separately from the confinement record;
- (2) access to the health record shall be controlled by the medical provider; and
- (3) the medical provider may share with the facility administrator information regarding a juvenile's medical management, security and ability to participate in programs. (as mandated and/or allowed by state and federal law)

AA. The facility shall have written policies and procedures providing that when a juvenile is in need of hospitalization, security personnel accompanies him or her and stays with the juvenile at least during admission.

BB. The facility shall have written policies and procedures which prohibits the use of juveniles for

medical, pharmaceutical or cosmetic experiments. This policy does not preclude individual treatment of a juvenile based on his or her need for a specific medical procedure that is not generally available.

CC. Juveniles are afforded access to mental health counseling and crisis intervention services in accordance with their needs. (exception 6 hour facilities only)

DD. There shall be written policy and procedure to handle all mental health emergencies and to provide for a change in setting for any juvenile experiencing a mental health emergency. All information is documented in the resident's case record, including the time periods for the first sign of trouble to the arrival of the mental health provider.

[8.14.14.17 NMAC - N, 7/31/01]

8.14.14.18 JUVENILE RIGHTS AND RESPONSIBILITIES:

A. The facility shall have written policies and procedures stating that juveniles are not subject to discrimination based on race, national origin, color, creed, sex, physical handicap, or religion is required.

B. Any child who is not a delinquent offender, but who is abused or neglected, and juveniles charged with status offenses, shall not be held in the facility. (exception out of state runaways as mandated by state and federal statutes as provided in as interstate compact for juveniles.

C. The facility shall have written policies and procedures requiring equal access to programs and services for male and female juveniles.

D. The facility shall have written policies and procedures requiring that supervision and control of juveniles be provided by staff or trained volunteers.

E. A written grievance procedure for major rule violations shall be explained and made available to all juveniles, and allows for at least one timely level of appeal. Release of a juvenile is not a remedy. (exception 6 hour facilities only)

F. The facility shall have written policies and procedures providing for review of all disciplinary hearings and dispositions by the facility administrator or designee, to assess conformity with policy and procedure. (exception 6 hour facilities only)

G. The facility shall have written policies and procedures providing that a juvenile charged with a major violation of the facility rules is given a written copy of the alleged violation within twenty four (24) hours of the discovery of the infraction, excluding weekends and holidays. How the juvenile is sanctioned for the rule violation is documented. (exception 6 hour facilities only)

H. The facility shall have written policies and procedures specifying that juveniles charged with rule violations are scheduled for and receive a hearing within seventy-two (72) hours of the incident. The hearing may be postponed or continued for a reasonable time through a written waiver by the juvenile or for good cause. The officer citing the juvenile cannot be the hearing officer. (exception 6 hour and 48 hour facilities only)

I. The facility shall have written policies and procedures providing that juveniles charged with rule violations are present at the hearing, unless they waive that right in writing or through behavior. Juveniles may be excluded during the testimony of any juvenile whose testimony must be given in confidence. The reason for the juvenile's absence or exclusion is documented. (exception 6 hour facilities only)

J. The facility shall have written policies and procedures which provides that juveniles can participate in religious services and religious counseling on a voluntary basis, subject only to limitations necessary to maintain security. (excluding 6 hour certification facilities)

K. At least one (1) hour of recreation shall be provided daily to males and females, and when the weather permits, outdoor exercise. A structured hour of leisure time activity shall be provided in addition to the recreation time. (exception 6 hour and 48 hour facilities) The detention facility shall provide an appropriate range of daily indoor and outdoor recreational activities which are structured to meet the needs of juveniles of various ages, interests and abilities.

(1) Recreational activities shall provide a balance of group play, competitive games and quiet individual activity.

(2) The detention facility shall provide the necessary equipment for conducting appropriate indoor and outdoor recreational program.

L. Juveniles shall be provided access to their legal counsel.

M. Juveniles may make confidential contact with attorneys and their authorized representatives, contact including but not limited to, telephone communications, uncensored correspondence and visits. However, attorney and authorized representative are subject to the facility's visitation search procedure.

N. Juveniles shall not be transferred to a county jail solely on the basis of attaining the age of eighteen

(18) while detained in a juvenile detention facility.

O. Written policy and procedures shall provide that disciplinary hearing cases or rule violations are conducted by an impartial person or panel of persons trained in the facility's policies and procedures. (exception 6 hour certification facilities)

(1) a record is made of the disciplinary hearing and a copy of the written decision is given to the juvenile with an explanation of the right to appeal; and (exception 6 hour facilities only)

(2) the juvenile may appeal a decision of the disciplinary hearing officer(s) to the administrator or higher supervisory authority; the administrator or higher supervisory authority either affirms or reverses the decision of the disciplinary hearing officer(s) within five (5) days of the appeal. (exception 6 hour facilities only)

P. Juveniles are not subject to corporal or cruel punishment, humiliation, mental abuse or punitive interference with the daily functions of living, such as eating, sleeping, or access to education.

Q. Juveniles are not required to participate in uncompensated employment unless the work is related to housekeeping, maintenance of the facility or grounds, or personal hygienic needs, or the work is part of an approved vocational or training program.

R. Juveniles are permitted visitors, subject only to the limitations necessary to maintain order and security.

S. Juveniles may communicate or correspond with families and friends, as well as with public officials, the courts and their attorneys, subject to any security issue.

T. Juveniles may maintain the length and style of their hair, except if any such style causes a risk to health and safety.

U. Juveniles may maintain facial hair, except when such restrictions are necessary for reasons of health and safety.

V. All written information is provided in a language that the juvenile can comprehend. Completion of orientation is documented by a statement that is signed and dated by the juvenile and placed in the master file.

W. Library materials are available to all juveniles.

X. Community social service programs are accessible to juveniles.

Y. Juveniles are afforded access to mental health counseling and crisis intervention services in accordance with their needs. (exception 6 hour facilities only)

Z. The facility shall have a written policies and procedures to handle all mental health emergencies and to provide for a change in setting for any juvenile experiencing a mental health emergency.

AA. Juveniles may access telephone services, subject to written policy and procedure limitations.

[8.14.14.18 NMAC - N, 7/31/01; A, 10/17/11]

8.14.14.19 RULES AND DISCIPLINE:

A. A rule book containing all chargeable offenses, ranges of penalties and disciplinary procedures shall be posted in a conspicuous and accessible area; a copy shall be given to each juvenile upon admission and staff member, and is translated into those languages spoken by a significant number of juveniles within the community. When a literacy or language problem prevents a juvenile from understanding the rule book, a staff member or translator conveys the information to the juvenile. (exception 6 hour facilities only)

B. Written policies and procedures shall specify that room restrictions for minor misbehavior serves only a "cooling off" purpose, which is as short in time duration as necessary; (exception 6 hour facilities only)

(1) prior to room restriction, juveniles must have the reasons for the restriction explained to them and have an opportunity to explain the behavior leading to the restriction;

(2) during room restriction staff contact is made with the juvenile at a minimum interval of at least every fifteen (15) minutes; each check is documented, the juvenile's behavior described, and the reason for permitting the juvenile to remain in isolation noted;

(3) when a juvenile is charged with a major rule violation requiring confinement for the safety of the juvenile or other juveniles, or to maintain the security of the facility, the youth may be confined for a period of up to seventy two (72) hours and the juvenile is monitored every five (5) minutes and each check is documented, the juveniles behavior described and the reason for permitting the juvenile to remain in isolation noted; if the juvenile's behavior improves, he/she is returned to general population; confinement for periods of up to seventy two (72) hours shall be reviewed every twenty four (24) hours by the administrator or designee who is not involved in the major rule infraction following the same considerations list in 3. (exception 6 hour and 48 hour facilities only)

C. Each employee prepares a disciplinary report when a juvenile commits a major violation of facility rules or reportable minor violations. Disciplinary reports include the following information:

- (1) specified rule(s) violated;
- (2) a formal statement of the charge;
- (3) an explanation of the event, which includes who was involved, what transpired, and the time and location of occurrence;
- (4) unusual juvenile behavior;
- (5) staff witnesses;
- (6) disposition of any physical evidence;
- (7) any immediate action taken, including the use of behavior management method; reporting staff member's signature; and the
- (8) date and time report is made.

D. Whenever a juvenile is removed from the regular program, a supervisor reviews the action and documents approval of the action. The counselor and probation officer are notified within twenty-four (24) hours after removal.

E. Juveniles placed in confinement or observation shall be checked visually every five (5) minutes and visited at least one (1) time each day by personnel from administrative, supervisory, clinical, social work, religious, or medical units. The juvenile is provided with a minimum of two (2) hours recreational time per day. A log recording who authorized the confinement, persons visiting the juvenile, the person authorizing release from confinement, and the time of release is maintained and available for inspection to the department.

F. Deprivation of food and education are prohibited.

G. All documentation shall be kept in juvenile file and in a facility discipline file. If a juvenile is found not guilty of a rule violation, the report will be removed from the juveniles' files.

H. The behavior management system shall be designed to provide incentives for positive behavior and afford proportional measures of accountability.

(1) Incentives for positive behavior may include, but not limited to, such privileges as:

- (a) special visits;
- (b) extra phone calls;
- (c) movies;
- (d) music; and
- (e) special events.

(2) Incentives shall not include any program, service or physical amenity required by these standards or federal, state or local laws, rules, regulations or ordinances.

[8.14.14.19 NMAC - N, 7/31/01; A, 10/17/11]

8.14.14.20 ADMISSION PROCEDURES:

A. The facility shall have written policies and procedures governing the reception and orientation of newly admitted juveniles includes:

- (1) notice to probation officer;
- (2) verification of legal authority to detain;
- (3) complete search of the juvenile and possessions;
- (4) disposition of clothing and personal possessions;
- (5) medical screening;
- (6) shower and hair care, if necessary;
- (7) issue of clean, laundered clothing, as needed;
- (8) notification of family, custodian or guardian;
- (9) provision of written orientation materials;
- (10) recording of basic personal data and information to be used for mail and visiting lists;
- (11) assistance to juveniles in notifying their families of their admission and procedures for mail and visiting;
- (12) assignment to a housing unit; and the
- (13) assignment of a registration number (booking number, file number).

B. The facility shall provide an orientation handbook containing programs, services, rights and responsibilities to juveniles upon admission. The orientation handbook is translated into those languages or a translator translates the rules in the language spoken by the juveniles within the community.

C. The facility will perform functions necessary to utilize SARA for recording the admission of any juveniles entering the detention center. When the juvenile is presented for detention the admission must be recorded

in the format the detention center is trained on to input data into SARA. Once the admission is completed it is the responsibility of the detention center staff to continue to record any transfer into the facility or release of the juvenile out of the facility in the format the detention center is trained on.

D. A written itemized list is made of all personal property in the possession of a newly admitted juvenile; a copy of this list, which notes all property that will be held until release, is given to the juvenile and maintained in facility admission file.

E. All juveniles may make at least three local or collect long distance telephone calls to family members, attorneys, or other approved individuals during the admissions process or at the first practical opportunity. Permission for telephone calls is documented.

F. The probation officer is contacted and permitted access to the juvenile to secure information about the location of the p/s/c, and when conducting a preliminary inquiry.

[8.14.14.20 NMAC - N, 7/31/01; A, 10/17/11]

8.14.14.21 PROGRAMS:

A. The facility shall have written policies and procedures which provide for the following minimum services and programs to adjudicated and pre-adjudicated juveniles is provided: (exception 6 hour facilities only)

- (1) education;
- (2) visitation with parents/guardians;
- (3) private communication with visitors and staff;
- (4) a counseling program;
- (5) medical services; access to mental health counseling and crisis intervention services in accordance

with the needs of the juvenile, the facility, in cooperation with an appropriate medical and mental health care authority;

- (6) food services; recreation and leisure activities; and

- (7) reading materials;

- (8) the facility shall develop and implement a daily activity schedule inclusive of meaningful leisure time activities to alleviate idleness and provide incentives for positive behavior.

B. The facility shall have written policies and procedures for culturally appropriate services.

C. The facility, in cooperation with the local education agency, develop and implement a written policy and procedure which provides for the educational and instructional needs of its resident population, and which complies with applicable state and federal educational standards. The policy shall be reviewed by the promulgating entities at least annually. (exception 6 hour facilities) That policy includes the facility maintaining a current memorandum of understanding with the local education associate to provide educational services and testing for residents in detention. The memorandum of understanding contains mandatory attendance requirements, provision for special education testing and services, transfer of education records to the resident's school or to the children, youth and families department if the resident is committed:

- (1) the memorandum of understanding sets forth space allocation;
- (2) the timing and identification of service provision for each teacher;
- (3) educational assistant and special education staff and support staff;
- (4) furniture;
- (5) training schedule;
- (6) length of the school year, days education is provided and length of the school day;
- (7) supplies for consumables and texts; and
- (8) security coverage.

D. Technology available to provide education records and instruction:

- (1) office equipment such as telephone, faxes, and copiers; and
- (2) a system for evaluation of input and responsibility for each member of the education staff.

E. A portfolio shall be developed for each student. The portfolio will be sent with the student when he/she returns to school or is committed to the custody of the children, youth and families department. Included in the portfolio are all relevant education records and transfer of records documentation form.

F. Each facility establishes an education curriculum and a process for selecting the curriculum for each juvenile, including GED track, post secondary work and standard credits. Each facility documents how a resident receives an equal level of educational services compared with the student's regular school setting.

G. Within twenty-four (24) hours of the first school day, the following information is retrieved:

- (1) name;

- (2) address;
- (3) parent/guardian
- (4) last two schools attended;
- (5) dates attended,
- (6) grade level;
- (7) special education status;
- (8) number of credits earned;
- (9) home language;
- (10) social security number;
- (11) date of last IEP (individualized education plan); and
- (12) the date of the last evaluation.

H. Within twenty-four (24) hours of the first school day, the local education association is contacted to confirm information provided by the juvenile, and the juvenile is placed in educational services based on the results of the interview. A test to determine current academic levels for approximate school placement is performed. All information is documented in the juvenile's portfolio.

I. The IEP is put in place based on all information received from interviews, and the new IEP is developed and diagnostic evaluations are completed, as indicated.

J. An individual curriculum based on the juvenile's identified needs is assigned and progress is recorded in the education portfolio.

[8.14.14.21 NMAC - N, 7/31/01; A, 10/17/11]

8.14.14.22 MAIL AND VISITING:

A. There is no limit on the volume of letters a juvenile may send or receive, except when the facility provides postage. In such cases, the facility informs the juvenile of the quota which permits at least one (1) letter per week. (exception 6 hour facilities only)

B. Inspection of juvenile's mail may occur to safeguard the security of the facility. Any letter from an attorney may not be opened.

C. The receipt and holdings of all cash received/held for the juvenile are handled with a separate account or receptacle that may only be accessed by a supervisor. (exception 6 hour facilities only)

D. All incoming mail is distributed by midnight of the same day received and outgoing mail is held for no more than twenty-four (24) hours, excluding weekends and holidays. (exception 6 hour facilities only)

E. Visitors register upon entry into the facility and are subject to search.

F. The facility shall maintain mail and visitor logs setting out the above information.

[8.14.14.22 NMAC - N, 7/31/01]

8.14.14.23 RELEASE PREPARATION AND TRANSFER PROGRAMS:

A. The facility shall have written procedures for releasing juveniles that provides:

- (1) verification of identity;
- (2) verification of release papers;
- (3) completion of release arrangements, including the person or agency to whom the juvenile is to be released;
- (4) return of personal items;
- (5) completion of any pending action, such as grievances, claims for damages or lost possessions;
- (6) medical screening and arrangements for community follow-up when needed;
- (7) transportation arrangements; and
- (8) instructions on forwarding of mail.

B. Juveniles are only released upon receipt of a written release order signed by an appropriate authority.

C. The releasing juvenile detention center does not accept the presence of a detainer as an automatic bar to release. The juvenile detention center determines the basis of any such detainer, and shall release the juvenile to a detainer when appropriate.

[8.14.14.23 NMAC - N, 7/31/01]

8.14.14.24 CITIZEN AND VOLUNTEER INVOLVEMENT:

A. Citizen involvement in programs, direct services and cooperative endeavors for juveniles under

supervision is encouraged. (exception 6 hour facilities only)

- B. Lines of authority, responsibility and accountability for the volunteer services program are provided to the volunteer and documented.
 - C. Volunteers are screened and recruited from all cultural and socioeconomic segments of the community.
 - D. Volunteers are issued identification cards and receive a criminal record screen.
 - E. Volunteers agree in writing to abide by all facility policies and procedures, including those related to security and confidentiality of information.
 - F. The administrator may curtail, postpone or discontinue the services of a volunteer or volunteer organization for any reason and documents the reason.
- [8.14.14.24 NMAC - N, 7/31/01]

8.14.14.25 RECORD COMPLIANCE: Each facility shall maintain the records, policies and procedures required by these standards and shall make them available to the department. Records shall be maintained for a minimum of three (3) years and can thereafter be destroyed upon permission of the department.
[8.14.14.25 NMAC - N, 7/31/01; A. 10/17/11]

8.14.14.26 WAIVERS AND VARIANCES:

- A. Waivers: A waiver means to refrain from pressing or enforcing compliance with a portion of these regulations for a limited period of time provided the health, safety, or welfare of the clients and staff are not in danger. Waivers are not favored and will be granted in the sole discretion of the secretary for emergency or other exceptional circumstances. Failure to plan, negligence or other such similar factors are not grounds to grant a waiver. A waiver from a detention standard is requested in writing. The factors to determine if a waiver is granted are:
 - (1) Impact of the waiver request on the residents' health and safety;
 - (2) Impact of the waiver request on staff safety;
 - (3) Impact on any security measures in place; and
 - (4) Whether the waiver is in the best interests of the community.
 - B. Any issuance of a waiver must be in writing and must specify the duration of the grant of the waiver.
 - C. Variances:
 - (1) Currently licensed facilities: If on the date these regulations are promulgated, the facility is providing services prescribed under these standards, but fails to meet all building requirements, may be granted variances at the sole discretion, of the secretary if,
 - (a) the variance granted does not create a hazard to the health, safety and welfare of the clients and staff or otherwise deny access to any disabled person who is otherwise qualified to receive services from the facility, and;
 - (b) the building requirements for which variances are granted cannot be corrected without an unreasonable expense to the facility, and;
 - (c) variance requested is not in conflict with existing building codes, and;
 - (d) variance requested is recorded and make a permanent part of the facility file, and;
 - (e) any variance granted continues to be in effect as long as the facility continues to provide services pursuant to these standards; these variances are not transferred to a different facility or transferred/assigned upon the sale or transfer of the facility from the current applicant.
 - (2) New facilities:
 - (a) A new facility must meet all requirements of these standards.
 - (b) If a new facility is opened in an existing building, a variance may be granted for those building requirements the facility cannot meet under the same criteria as current licensed facilities set out above.
- [8.14.14.26 NMAC - N, 7/31/01]

HISTORY OF 8.14.14 NMAC: The material in this part was derived from that previously filed with the state Records Center and Archives under:

DOC 73-1, Facilities for the Detention of Children Minimum Standards, 6-29-73;
SIB 81-1, Local Facilities for the Detention of Children Standards, 4-1-82;
YA JFD 100, Legal Authority, Related Regulations and Definitions, 6-24-91;

YA JFD 400, Personnel, 6-24-91;
YA JFD 500, Staff Training, 6-24-91;
YA JFD 600, Juvenile Records, 6-24-91;
YA JFD 700, Physical Plant, 6-24-91;
YA JFD 800, Safety and Emergency Procedures, 6-24-91;
YA JFD 900, Security and Control, 6-24-91;
YA JFD 1000, Food Service, 6-24-91;
YA JFD 1100, Sanitation and Hygiene, 6-24-91;
YA JFD 1200, Medical and Health Care Services, 6-24-91;
YA JFD 1300, Juvenile Rights and Responsibilities, 6-24-91;
YA JFD 1400, Rules and Discipline, 6-24-91;
YA JFD 1500, Admission Procedures, 6-24-91;
YA JFD 1600, Programs, 6-24-91;
YA JFD 1700, Mail and Visiting, 6-24-91;
YA JFD 1800, Release Preparation and Transfer Programs, 6-24-91;
YA JFD 1900, Citizen and Volunteer Involvement, 6-24-91;

HISTORY OF REPEALED MATERIAL:

YA JFD 100, Legal Authority, Related Regulations and Definitions - Repealed, 7-31-01;
YA JFD 400, Personnel - Repealed, 7-31-01;
YA JFD 500, Staff Training - Repealed, 7-31-01;
YA JFD 600, Juvenile Records - Repealed, 7-31-01;
YA JFD 700, Physical Plant - Repealed, 7-31-01;
YA JFD 800, Safety and Emergency Procedures - Repealed, 7-31-01;
YA JFD 900, Security and Control - Repealed, 7-31-01;
YA JFD 1000, Food Service - Repealed, 7-31-01;
YA JFD 1100, Sanitation and Hygiene - Repealed, 7-31-01;
YA JFD 1200, Medical and Health Care Services - Repealed, 7-31-01;
YA JFD 1300, Juvenile Rights and Responsibilities - Repealed, 7-31-01;
YA JFD 1400, Rules and Discipline - Repealed, 7-31-01;
YA JFD 1500, Admission Procedures - Repealed, 7-31-01;
YA JFD 1600, Programs - Repealed, 7-31-01;
YA JFD 1700, Mail and Visiting - Repealed, 7-31-01;
YA JFD 1800, Release Preparation and Transfer Programs - Repealed, 7-31-01;
YA JFD 1900, Citizen and Volunteer Involvement - Repealed, 7-31-01;