

New York City Department of Correction

Young Adult ESH Compliance Audit – September 2018

Pursuant to the six (6) month limited variance granted by the NYC Board of Correction on May 8, 2018 allowing for the continued use of Enhanced Supervision Housing (ESH) for young adults (18 to 21 years old), the related variance conditions require a monthly audit on compliance with the following provisions of the Board's Minimum Standards:

- § 1-05(b) (Lock-in), specifically, the number of out-of-cell hours per person;
- § 1-08(f) (Access to Courts and Legal Services, including Law Library);
- § 1-06 (Recreation); and
- § 1-02(c)(2) (Classification), specifically, the number of programming hours offered to each young adult and the number of hours each young adult participated in programming.

Audit Parameters

The audit is conducted through a manual review of housing area logbooks and programming attendance data on four (4) random dates each month. The scope of the audit encompasses only those housing units within ESH in which young adults are housed within the audit period. During this audit period, young adults were housed within up to six (6) ESH housing areas.

This audit report covers the following four (4) dates in the month of September 2018:

- September 6th
- September 11th
- September 19th
- September 25th

Additionally, on-site inspections of the ESH unit kiosks and typewriters were conducted on four (4) random dates:

- September 7th
- September 14th
- September 21st
- September 26th

§1-05(b) Lock-in

A manual review of housing area logbooks was performed to determine whether seven (7) or fourteen (14) hours of out-of-cell time was afforded to the young adults based on their housing level. This audit report also provides individualized data related to each young adult's out-of-cell time during the reporting period.

§1-08(f) Access to Courts and Legal Services, including Law Library

A manual review of housing area logbooks was conducted to determine whether Law Library services were afforded. In addition to the logbook review, on-site inspections were completed to determine if the kiosks and typewriters located within the various young adult ESH housing areas were operational.

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§1-06 – Recreation

A manual review of housing area logbooks was conducted to determine whether one (1) hour of recreation was afforded.

§ 1-02(c)(2) (Classification), Provision of Programming

A manual review of programming attendance data was conducted to determine the number of programming hours offered to each young adult and the number of hours each young adult participated in programming.

Audit Findings

§1-05(b) Lock-in

All young adults in ESH are afforded lock-out based on their housing level: seven (7) hours for Level I and Level II and fourteen (14) hours for Level III. On all four (4) dates, institutional lock-out and lock-in was consistently recorded in the logbook for each of the levels.

Level I

Young adults in Level I are afforded seven (7) hours of out-of-cell time each day. Listed below is individualized data related to each young adult's total out-of-cell time in Level 1, based on a manual review of the logbook, on the dates audited. The out-of-cell time is the hours each day that a young adult chooses to be out of his cell during institutional lock-out periods. The data reflects the young adults present in the unit for institutional lock outs on each audit date.¹

September 6, 2018

There were four (4) young adults in Level I; their out-of-cell times on this audit date were:

1. 9 hours 20 minutes
2. 9 hours 20 minutes
3. 9 hours 20 minutes
4. 6 hours 18 minutes

September 11, 2018

There were four (4) young adults in Level I; for those present on this audit date, their out-of-cell times were:

1. 7 hours
2. 2 hours 15 minutes; young adult was out to court and as a result his out-of-cell time was affected
3. 7 hours
4. 6 hours

¹ On any given day, a young adult may be out to court or transferred in or out of the ESH Unit. These young adults may not be included in the out-of-cell time reporting.

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There were four (4) young adults in Level I; for those present on this audit date, their out-of-cell times were:

1. 8 hours 11 minutes
2. 7 hours 40 minutes
3. 8 hours 15 minutes
4. 6 hours 15 minutes; young adult was out to court and as a result his out-of-cell time was affected

September 25, 2018

There were five (5) young adults in Level I; their out-of-cell times on this audit date were:

1. 8 hours 13 minutes
2. 6 hours 17 minutes
3. 5 hours 20 minutes
4. 6 hours 29 minutes
5. 6 hours 25 minutes

Level II

Young adults in Level II are afforded seven (7) hours of out-of-cell time each day. Listed below is individualized data related to each young adult's total out-of-cell time in Level II, based on a manual review of the logbook, on the audit dates. The out-of-cell time is the hours each day that a young adult chooses to be out of his cell during institutional lock-out periods. The data reflects the young adults present in the unit for institutional lock outs on each audit date.²

September 6, 2018

There were seventeen (17) young adults in Level II; their out-of-cell times on this audit date were:

1. 6 hours 45 minutes
2. 7 hours 10 minutes
3. 6 hours 55 minutes
4. 7 hours 10 minutes
5. 6 hours 55 minutes
6. 6 hours 55 minutes
7. 7 hours 40 minutes
8. 6 hours 30 minutes
9. 7 hours 9 minutes
10. 3 hours 15 minutes; young adult refused the majority of afforded out-of-cell time
11. 3 hours 15 minutes; young adult refused the majority of afforded out-of-cell time
12. 3 hours 15 minutes; young adult refused the majority of afforded out-of-cell time

² On any given day, a young adult may be out to court or transferred in or out of the ESH Unit. These young adults may not be included in the out-of-cell time reporting.

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13. 3 hours 15 minutes; young adult refused the majority of afforded out-of-cell time
14. 7 hours 5 minutes
15. 1 hour 15 minutes; young adult refused the majority of afforded out-of-cell time
16. 7 hours 5 minutes
17. 7 hours 5 minutes

September 11, 2018

There were twenty (20) young adults in Level II; for those present on this audit date, their out-of-cell times were:

1. 8 hours
2. 6 hours 15 minutes
3. 8 hours
4. 8 hours
5. 7 hours 25 minutes
6. 7 hours 30 minutes
7. 7 hours 25 minutes
8. 7 hours 25 minutes
9. 7 hours 25 minutes
10. 6 hours 20 minutes
11. 7 hours 21 minutes
12. 7 hours
13. 7 hours
14. 7 hours
15. 7 hours
16. 7 hours
17. 7 hours
18. 4 hours 15 minutes
19. 3 hours 15 minutes; young adult refused the majority of afforded out-of-cell time

On this audit date, one (1) young adult was out to court for a significant portion of the day, as a result his out-of-cell time was not included in the out-of-cell time reporting.

September 19, 2018

There were fourteen (14) young adults in Level II; for those present on this audit date, their out-of-cell times were:

1. 5 hours 20 minutes
2. 6 hours 20 minutes
3. 4 hours 35 minutes; young adult was out to court and as a result his out-of-cell time was affected
4. 7 hours 20 minutes
5. 7 hours 20 minutes
6. 5 hours 25 minutes
7. 4 hours
8. 3 hours; young adult refused the majority of afforded out-of-cell time
9. 3 hours; young adult refused the majority of afforded out-of-cell time

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10. 6 hours
11. 6 hours
12. 5 hours
13. 6 hours 35 minutes

On this audit date, one (1) young adult was out to court for a significant portion of the day, as a result his out-of-cell time was not included in the out-of-cell time reporting.

September 25, 2018

There were fourteen (14) young adults in Level II; for those present on this audit date, their out-of-cell times were:

1. 7 hours 15 minutes
2. 7 hours 15 minutes
3. 7 hours 15 minutes
4. 7 hours 15 minutes
5. 6 hours 45 minutes
6. 2 hours 15 minutes; young adult refused the majority of afforded out-of-cell time
7. 6 hours
8. 6 hours
9. 6 hours
10. 5 hours 25 minutes

On this audit date, one (1) young adult was out to court for a significant portion of the day, as a result his out-of-cell time was not included in the out-of-cell time reporting. In addition, on this audit date, three (3) young adults refused all afforded out-of-cell time.

Level III

Young adults in Level III are afforded fourteen (14) hours of out-of-cell time each day. Listed below is individualized data related to each young adult's total out-of-cell time in Level III, based on a manual review of the logbook, on the audit dates. The out-of-cell time is the hours each day that a young adult chooses to be out of his cell during institutional lock-out periods. The data reflects the young adults present in the unit for institutional lock outs on each audit date.³

September 6, 2018

There were three (3) young adults in Level III; their out-of-cell times on this audit date were:

1. 12 hours 15 minutes
2. 13 hours 15 minutes
3. 12 hours 15 minutes

³ On any given day, a young adult may be out to court or transferred in or out of the ESH Unit. These young adults may not be included in the out-of-cell time reporting.

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September 11, 2018

There were three (3) young adults in Level III; for those present on this audit date, their out-of-cell times were:

1. 10 hours 13 minutes
2. 4 hours 20 minutes; young adult was out to court and as a result his out-of-cell time was affected
3. 13 hours 40 minutes

September 19, 2018

There were three (3) young adults in Level III; their out-of-cell times on this audit date were:

1. 14 hours 30 minutes
2. 12 hours 45 minutes
3. 12 hours 45 minutes

September 25, 2018

There were three (3) young adults in Level III; for those present on this audit date, their out-of-cell times on this audit date were:

1. 9 hours 27 minutes
2. 10 hours 48 minutes

On this audit date, one (1) young adult was out to court for a significant portion of the day, as a result his out-of-cell time was not included in the out-of-cell time reporting.

§1-08(f) Access to Courts and Legal Services, including Law Library

Law Library Coordinator

In ESH, there are four (4) Law Library Coordinators assigned to areas in which young adults are housed⁴. A manual review of the housing area logbooks reflected that the Law Library Coordinators were in these areas to provide assistance on all four (4) days audited.⁵ On September 6th, due to a Law Library Coordinator's absence, three (3) housing areas were not provided an afternoon session of law library. Additionally, on September 11th during one (1) tour, due to inconsistencies between the law library logbook and housing area logbook recordings, it cannot be determined whether the Coordinator was in two (2) of the housing areas during one (1) tour.

Except for the issue noted above, the duration of each Law Library Coordinator's time in ESH areas during the dates audited were in compliance with the provisions of Minimum Standards. On average, based on each Coordinator's schedule, on the dates audited, a Coordinator was available to assist young adults within the housing areas for approximately four (4) hours.

⁴ To facilitate the provision of law library services, within their assigned areas, Law Library Coordinators provide services to all inmates regardless of whether it's during the individual's lock-out period.

⁵ This is evidenced by the Coordinator signing in and out of the logbook on each of the audit dates.

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During the reporting period, on the dates audited, Law Library Coordinators provided assistance to one (1) to six (6) young adults per day. On some of the audit dates, it is noted that young adults did not request law library assistance.

Kiosks and Typewriters

During this audit period, young adults were housed within up to six (6) housing areas in ESH. Young adults in ESH are provided with access to a minimum of one (1) kiosk and one (1) typewriter. Some of the kiosks were not operable within some of the housing areas. On September 7th, three (3) of the six (6) young adult housing areas had operational kiosks. On September 14th, 21st and 26th, all six (6) young adult housing areas had operational kiosks. Some of the typewriters were not operable within some of the housing areas. On September 7th, five (5) of the six (6) young adult housing areas had operational typewriters. On September 14th, 21st and 26th, all six (6) young adult housing areas had operational typewriters.

When kiosks or typewriters were not operable within specific housing areas, young adults were provided with access to kiosks and typewriters in closest proximity to their housing area.

§1-06 – Recreation

Institutional recreation was afforded to young adults present in ESH on all four (4) days audited.⁶

§ 1-02(c)(2) (Classification), Provision of Programming⁷

Young adults in ESH are placed in housing units exclusively with other young adults (18 to 21 years old) or in blended units co-mingled with adults (22 years old and older).⁸ Programming is provided to all young adults. In the young adult exclusive housing areas within ESH, tablets are utilized in the provision of programming and offered to young adults regardless of whether it's during the individual's lock-out period. When young adults are provided their tablets, they also have the opportunity to request an additional component of programming during that time. In addition, in the young adult exclusive housing areas, on days when support programming staff are present, young adults may request individualized counseling while other programming components are being held. In the blended housing areas, the provision of programming is provided to each tier separately through two programming sessions. The hours of programming afforded may vary by tier within a housing area.

The audit reviewed programming attendance data on each of the four (4) dates to ascertain the number of programming hours offered to each young adult and the number of hours each young

⁶ On three (3) of the four (4) audit dates, logbook entries recorded that some of the young adults were out to court.

⁷ In July 2018, the Department expanded program offerings in two (2) housing areas to include courses and services by a contracted provider. Further programming expansion to additional ESH housing areas is anticipated in the near future.

⁸ Young adults who are eighteen years old are not housed in ESH blended units with adults (22 years old and older.)

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adult participated in programming. Program participation hours is based on the number of hours each young adult chooses to participate in programming. The data reflects the young adults present in the housing area during programming on each audit date.⁹

Listed below is the number of programming hours offered based on housing area.

September 6, 2018¹⁰

On this audit date, up to five (5) hours of programming was offered to the young adults housed within the six (6) young adult ESH housing areas, labelled A-F.

- ❖ A: 5 hours of programming was offered: 2 hours and 30 minutes of programming for participants in the morning session and 2 hours and 30 minutes of programming for participants in the afternoon session.
 1. There were two (2) young adults housed in this area. Of the two (2) young adults, one (1) young adult was in school during programming and one (1) young adult participated in the morning programming session for twenty-three (23) minutes.
- ❖ B: No programming was scheduled.
- ❖ C: 2 hours and 30 minutes of programming was offered during the morning session. No programming was scheduled in the afternoon session.
 1. There were two (2) young adults housed in this area. One (1) young adult was not offered programming that day, as he was housed in the tier where programming was not scheduled. The other young adult participated in the morning programming session for two (2) hours and thirty (30) minutes.
- ❖ D: 5 hours of programming was offered in one (1) of the two (2) tiers. In the other tier, 3 hours of self-guided programming was provided through the provision of tablets.
 1. There were eight (8) young adults housed in this area.
 - a. Five (5) young adults were afforded and participated in three (3) hours of self guided programming through the provision of tablets.
 - b. Three (3) young adults were housed in the tier where 5 hours of programming was offered, inclusive of the use of tablets. Their hours of programming participation were:
 - 3 hours
 - 3 hours
 - 3 hours
- ❖ E: 5 hours of programming was offered.

⁹ On any given day, a young adult may be out to court or transferred in or out of the ESH Unit. These young adults may not be included in the programming reporting. It is important to note that young adults returning from court during programming hours are offered the opportunity to participate in programming upon their return.

¹⁰ On any given day, a young adult may be out to court or transferred in or out of the ESH Unit. These young adults may not be included in the programming reporting. It is important to note that young adults returning from court during programming hours are offered the opportunity to participate in programming upon their return.

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1. There were four (4) young adults housed in this area; their hours of program participation were:

- 3 hours
- 3 hours
- 3 hours
- 3 hours

❖ F: 2 hours and 30 minutes of programming was offered.

1. There were three (3) young adults housed in this area; their hours of program participation were:

- 10 minutes; young adult refused to participate in any additional programming
- 5 minutes; young adult refused to participate in any additional programming
- 40 minutes; young adult refused to participate in any additional programming

September 11, 2018¹¹

On this audit date, up to five (5) hours of programming was offered to the young adults housed within the six (6) housing areas, labelled A-F.

❖ A: 4 hours and 15 minutes of programming was offered: 1 hour and 45 minutes of programming for participants in the morning session and 2 hours and 30 minutes of programming for participants in the afternoon session.

1. There were four (4) young adults housed in this area.

- a. One (1) young adult participated in the morning programming session for nineteen (19) minutes.
- b. Three (3) young adults participated in the afternoon programming session. Their hours of participation were:

- 14 minutes
- 19 minutes
- 19 minutes

❖ B: 4 hours of programming was offered: 2 hours of programming was offered for participants in the morning session and 2 hours of programming for participants in the afternoon session.

1. There were six (6) young adults housed in this area.

- a. Four (4) young adults refused to participate in all afforded programming.
- b. Two (2) young adults participated in the programming, one (1) young adult participated during the morning session and one (1) young adult participated during the afternoon session. Their hours of program participation were:

¹¹ On any given day, a young adult may be out to court or transferred in or out of the ESH Unit. These young adults may not be included in the programming reporting. It is important to note that young adults returning from court during programming hours are offered the opportunity to participate in programming upon their return.

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- 2 hours
 - 2 hours
- ❖ C: No programming was scheduled.
- ❖ D: 5 hours of programming was offered in one (1) of the two (2) tiers. In the other tier, 3 hours of self-guided programming was provided through the provision of tablets.
1. There were eight (8) young adults housed in this area.
 - a. Three (3) young adults were afforded three (3) hours of self-guided programming through the provision of tablets.
 - i. Two (2) young adults refused all afforded programming.
 - ii. One (1) young adult participated in self-guided programming for twenty (20) minutes.
 - b. Five (5) young adults were housed in the tier where five (5) hours of programming was offered, inclusive of the use of tablets. For those present during programming, their hours of programming participation were:
 - 1 hour; young adult refused to participate in any additional programming
 - 2 hours; young adult refused to participate in any additional programming
 - 3 hours 5 minutes; young adult refused to participate in any additional programming
 - 1 hour; young adult refused to participate in any additional programming
 - young adult refused all afforded programming.
- ❖ E: 5 hours of programming was offered.
1. There were four (4) young adults housed in this area; their hours of program participation were:
 - 5 hours
 - 3 hours
 - 5 hours
 - 5 hours
- ❖ F: 2 hours and 30 minutes of programming was offered.
1. There were three (3) young adults housed in this area. For those present during programming, their hours of program participation were:
 - 1 hour 30 minutes
 - 1 hour 30 minutes
 2. One (1) young adult was out to court during programming.

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September 19, 2018¹²

On this audit date, up to five (5) hours of programming was offered to the young adults housed within the six (6) housing areas, labelled A-F.

- ❖ A: 5 hours of programming was offered: 2 hours and 30 minutes of programming for participants in the morning session and 2 hours and 30 minutes of programming for participants in the afternoon session.
 1. There were three (3) young adults housed in this area.
 - a. One (1) young adult was out to court during programming.
 - b. Two (2) young adults refused to participate in all afforded programming.
- ❖ B: 1 hour of programming was offered during the morning session. Programming was not scheduled in the afternoon session.
 1. There were three (3) young adults housed in this area. They were not offered programming that day as they were housed in the tier where programming was not scheduled.
- ❖ C: 1 hour and 30 minutes of programming was offered during the afternoon session. No programming was scheduled in the morning session.
 1. There was one (1) young adult housed in this area. He was not offered programming that day as he was housed in the tier where programming was not scheduled.
- ❖ D: 5 hours of programming was offered in one (1) of the two (2) tiers. In the other tier, 3 hours of self-guided programming was provided through the provision of tablets.
 1. There were seven (7) young adults housed in this area.
 - a. Three (3) young adults were afforded 3 hours of self-guided programming. All three (3) young adults refused all afforded programming.
 - b. Four (4) young adults were housed in the tier where 5 hours of programming was offered, inclusive of the use of tablets. For those present during programming, their hours of program participation were:
 - 30 minutes; young adult refused to participate in any additional programming
 - 3 hours 30 minutes;
 - young adult refused all afforded programming.
 - young adult was out to visits during programming.
- ❖ E: 5 hours of programming was offered.
 1. There were four (4) young adults housed in this area; their hours of program participation were:

¹² On any given day, a young adult may be out to court or transferred in or out of the ESH Unit. These young adults may not be included in the programming reporting. It is important to note that young adults returning from court during programming hours are offered the opportunity to participate in programming upon their return.

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- 4 hours 30 minutes
 - 1 hour
 - 4 hours 30 minutes
 - 4 hours
- ❖ F: 1 hour and 30 minutes of programming was offered.
1. There were three (3) young adults housed in this area; their hours of program participation were:
 - 1 hour 15 minutes
 - 1 hour 10 minutes
 - 1 hour 15 minutes

September 25, 2018¹³

On this audit date, up to five (5) hours of programming was offered to the young adults housed within the six (6) housing areas, labelled A-F.

- ❖ A: Due to counselor absence, scheduled programming was not offered.
- ❖ B: 2 hours and 30 minutes of programming was offered during the afternoon session. No programming was scheduled in the morning session
1. There were three (3) young adults housed in this area. Their hours of program participation were:
 - 1 hour 15 minutes
 - 1 hour 15 minutes
 - Young adult refused to participate in all afforded programming
- ❖ C: 2 hours and 30 minutes of programming was offered during the afternoon session. No programming was scheduled in the morning session.
1. There was one (1) young adult housed in this area. He was not offered programming that day as he was housed in the tier where programming was not scheduled.
- ❖ D: 5 hours of programming was scheduled in one (1) of the two (2) tiers. In the other tier, 3 hours of self-guided programming was provided through the provision of tablets.
1. There were seven (7) young adults housed in this area.
 - a. Three (3) young adults were afforded 3 hours of self-guided programming. All three (3) young adults refused all afforded programming.

¹³ On any given day, a young adult may be out to court or transferred in or out of the ESH Unit. These young adults may not be included in the programming reporting. It is important to note that young adults returning from court during programming hours are offered the opportunity to participate in programming upon their return.

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- b. Four (4) young adults were housed in the tier where 5 hours of programming was offered, inclusive of the use of tablets. For those present during programming, their hours of program participation were:
- 30 minutes; young adult refused to participate in any additional programming
 - 30 minutes; young adult refused to participate in any additional programming
 - 30 minutes; young adult refused to participate in any additional programming

One (1) young adult was out to court during programming.

- ❖ E: 5 hours of programming was offered.
1. There were five (5) young adults housed in this area; their hours of program participation were:
 - 3 hours
 - 3 hours
 - 30 minutes; young adult refused to participate in any additional programming
 - 3 hours 30 minutes
 - 4 hours
- ❖ F: No programming was offered due to Counselor absence.

Audit Recommendations

The Department began conducting monthly audits of young adult ESH in January 2018. In the time since, through the audit process issues have been identified and addressed related to the provision of mandated services and programming. During this audit period, issues were identified in regard to the provision of law library services. The below recommendations are provided to facilitate consistent and complete recording across all audit areas.

Lock-in/Lock-out

- To facilitate the accurate and consistent recording of lock-in/lock-out in the ESH “lock-in/out” logbook and individualized data, provide all ESH unit staff, as needed, with training on proper logbook entry and related procedures.
- Designate unit captains or higher ranking officers with the responsibility of reviewing the ESH “lock-in/out” logbook daily to ensure consistent logbook recording and that the required lock-out time is being afforded. Based on such review, institute corrective action as needed.
- Ensure that lock-in/out logbooks are maintained in the housing areas.

Recreation

- ESH Captains should ensure that all areas are afforded recreation and that it has been properly noted in each housing area logbook.

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Law Library Services

- Direct the law library coordinators to sign in and out of the housing area logbooks for all tours.
 - As noted in this report, due to inconsistent logbooks recording on one (1) of the audit dates, it could not be determined whether the law library coordinator provided services in some of the housing areas.
- To facilitate the maintenance and operation of the kiosks and typewriters in the housing areas, instruct designated facility and law library staff to check on a daily basis that all typewriters and kiosks are operational. When a typewriter or kiosk is identified as in need of repair, facility administration in coordination with the Director of Law Libraries should ensure that repairs are conducted in a timely manner.
 - During this audit period, as noted herein, on one (1) of the audit dates, some of the kiosks were not operable. In addition, on one (1) of the audit dates, one (1) of the typewriters were not operable.

Programming

- To facilitate complete and consistent recording of both programming hours offered and individualized data related to hours of participation, program counselors and external providers are directed to provide comprehensive individualized outcomes, by:
 - Verifying on a daily basis which young adults are housed in each ESH blended housing area and updating information accordingly;
 - Recording of program start and end times, by participant;
 - Delineating the reason for participants' absences;
- Designate supervisory staff to review programming attendance documentation and related information to ensure that programming hours and participation is recorded on a daily basis, that deficiencies are corrected in a timely manner and that young adults' program participation is accurately reflected and any programmatic overlap explained.