

New York City Department of Correction

Young Adult ESH Compliance Audit – August 2021

Pursuant to the six (6) month limited variance granted by the NYC Board of Correction on March 17, 2021, 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 young adult;
- § 1-08(f) (Access to Courts and Legal Services, including Law Library);
- § 1-06 (Recreation);
- § 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; and
- Education services, specifically the number of young adults brought to school and, for each young adult, the time each young adult was brought to school and the time each young adult was taken out of school.

Audit Parameters

The audit is conducted through a manual review of housing area logbooks and programming attendance data on four (4) randomly selected dates from each month. The scope of the audit encompasses only those housing units within ESH in which young adults are housed within the audit period. On the four (4) audit dates specified below, young adults were housed in up to three (3) ESH housing areas.

This audit report covers the following four (4) dates in the month of August 2021:

- August 3
- August 13
- August 17
- August 26

In addition, on-site inspections of the ESH unit kiosks and typewriters were conducted on four (4) randomly selected dates:

- August 6
- August 13
- August 20
- August 27

§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 were 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 Law Library Logbooks was conducted to determine whether Law Library services were afforded. In addition to the logbook review, on-site inspections were conducted to

New York City Department of Correction Young Adult ESH Compliance Audit – August 2021

determine if the kiosks and typewriters located within the various young adult ESH housing areas were operational.

§1-06 – Recreation

A manual review of housing area logbooks was conducted to determine whether one (1) hour of outdoor 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 **chose to** participate in programming.

Education

A review was conducted to determine the number of young adults enrolled in educational services, whether they were provided with educational learning packets, and whether they **chose to** complete and return the educational learning packets.

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 II and fourteen (14) hours for Level III. On all four (4) dates audited, institutional **lock-out** and **lock-in** were not consistently recorded in the Lock-In/Out Logbook for each of the levels.

All young adults in ESH are housed in single occupancy cells within their respective housing area. Each ESH housing area consists of multiple single occupancy cells located on two (2) tiers – the lower tier and the upper tier. Young adults in Level II are afforded seven (7) hours of lock-out time each day. For each young adult in this level, the specific time that he locks out depends on his tier's lock-out schedule. For example, one (1) day the lower tier locks out in the am and the upper tier locks out in the pm. The following day the upper tier locks out in the am and the lower tier locks out in the pm. Regardless of the lock-out schedule for ESH young adults in Levels II, they are all afforded seven (7) hours of lock-out time on any given day. Young adults in Level III, who are afforded fourteen (14) hours of lock-out time, are not subject to a tier lock-out schedule. Young adults in Level III are all afforded lock-out during both the am and pm hours, regardless of the tier in which they are housed. 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.

Please note that the Department ceased operating young adult ESH Level 1 in April 2021.

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 Lock-In/Out Logbook, for the audit dates. The out-of-cell time is the hours

New York City Department of Correction

Young Adult ESH Compliance Audit – August 2021

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 the institutional lock-outs on each audit date.

August 3, 2021

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

1. 4 hours (Lower Tier)
2. 2 hours 15 minutes; young adult **chose not** to participate in the majority of afforded out-of-cell time (Lower Tier)
3. 3 hours 15 minutes; young adult **chose not** to participate in the majority of afforded out-of-cell time (Lower Tier)
4. 5 hours 15 minutes (Lower Tier)
5. 45 minutes; young adult **chose not** to participate in the majority of afforded out-of-cell time (Upper Tier)
6. 7 hours (Upper Tier)
7. 7 hours (Upper Tier)
8. 7 hours (Upper Tier)
9. 3 hours 15 minutes; young adult **chose not** to participate in the majority of afforded out-of-cell time (Lower Tier)
10. 4 hours (Lower Tier)
11. 7 hours (Upper Tier)
12. 7 hours (Upper Tier)
13. 5 hours 15 minutes (Upper Tier)
14. 4 hours 15 minutes (Lower Tier)
15. 5 hours 15 minutes (Lower Tier)
16. 7 hours (Upper Tier)

On this audit date, one (1) Upper Tier young adult was out to court and did not participate in lock-in/out options. The afforded lock-in/out times could not be determined for one (1) Upper Tier young adult because the information was not recorded in the Logbook. In addition, the total afforded lock-in/out times and tier locations for two (2) young adults could not be determined because the facility was unable to locate the Logbook.

August 13, 2021

There were twenty-one (21) young adults in Level II; the out-of-cell times for those present on this audit date were:

1. 5 hours 45 minutes (Upper Tier)
2. 3 hours 35 minutes (Lower Tier)
3. 3 hours 15 minutes; young adult **chose not** to participate in the majority of afforded out-of-cell time (Lower Tier)
4. 8 hours 2 minutes (Upper Tier)
5. 5 hours 45 minutes (Lower Tier)

New York City Department of Correction Young Adult ESH Compliance Audit – August 2021

6. 7 hours 35 minutes (Upper Tier)
7. 7 hours 34 minutes (Upper Tier)
8. 5 hours 45 minutes (Upper Tier)
9. 7 hours 51 minutes (Upper Tier)
10. 4 hours 30 minutes (Lower Tier)
11. 3 hours 30 minutes (Lower Tier)
12. 5 hours 45 minutes (Upper Tier)
13. 5 hours 45 minutes (Upper Tier)
14. 4 hours 47 minutes (Lower Tier)
15. 7 hours 51 minutes (Upper Tier)
16. 7 hours 27 minutes (Upper Tier)
17. 7 hours 55 minutes (Upper Tier)

On this audit date, two (2) Lower Tier young adults were out to court and did not participate in lock-in/out options. One (1) Lower Tier young adult **chose not** to participate in all out-of-cell time. In addition, the total afforded lock-in/out times and tier location for one (1) young adult could not be determined because the facility was unable to locate the Logbook.

August 17, 2021

There were twenty-one (21) young adults in Level II; their out-of-cell times on this audit date were:

1. 9 hours 10 minutes (Upper Tier)
2. 4 hours (Lower Tier)
3. 4 hours 15 minutes (Lower Tier)
4. 4 hours 15 minutes (Lower Tier)
5. 7 hours 20 minutes (Upper Tier)
6. 5 hours 15 minutes (Lower Tier)
7. 1 hour; young adult **chose not** to participate in the majority of afforded out-of-cell time (Lower Tier)
8. 9 hours (Upper Tier)
9. 8 hours 15 minutes (Upper Tier)
10. 8 hours 35 minutes (Upper Tier)
11. 8 hours 38 minutes (Upper Tier)
12. 2 hours 15 minutes; young adult **chose not** to participate in the majority of afforded out-of-cell time (Lower Tier)
13. 4 hours (Lower Tier)
14. 8 hours (Upper Tier)
15. 8 hours 20 minutes (Upper Tier)
16. 5 hours 15 minutes (Lower Tier)
17. 4 hours 15 minutes (Lower Tier)
18. 8 hours 25 minutes (Upper tier)
19. 8 hours 20 minutes (Upper Tier)
20. 9 hours 10 minutes (Upper Tier)

On this audit date, the total afforded lock-in/out times and tier location for one (1) young adult could not be determined because the facility was unable to locate the Logbook.

New York City Department of Correction Young Adult ESH Compliance Audit – August 2021

August 26, 2021

There were twenty-one (21) young adults in Level II; the out-of-cell times for those present on this audit date were:

1. 5 hours 15 minutes (Upper Tier)
2. 6 hours 58 minutes (Lower Tier)
3. 6 hours 58 minutes (Lower Tier)
4. 2 hours; young adult **chose not** to participate in the majority of afforded out-of-cell time (Lower Tier)
5. 5 hours (Upper Tier)
6. 5 hours 58 minutes (Lower Tier)
7. 1 hour 45 minutes; young adult **chose not** to participate in the majority of afforded out-of-cell time (Lower Tier)
8. 2 hours; young adult **chose not** to participate in the majority of afforded out-of-cell time (Upper Tier)
9. 3 hours 45 minutes (Upper Tier)
10. 2 hours; young adult **chose not** to participate in the majority of afforded out-of-cell time (Upper Tier)
11. 7 hours 58 minutes (Lower Tier)
12. 7 hours 58 minutes (Lower Tier)
13. 3 hours 45 minutes (Upper Tier)
14. 7 hours 58 minutes (Lower Tier)
15. 5 hours 58 minutes (Lower Tier)
16. 5 hours (Upper Tier)
17. 2 hours 45 minutes; young adult **chose not** to participate in the majority of afforded out-of-cell time (Upper Tier)
18. 5 hours (Upper Tier)

On this audit date, one (1) Upper Tier young adult was out to court and did not participate in lock-in/out options. One (1) Upper Tier young adult **chose not** to participate in all out-of-cell time. In addition, one (1) Lower Tier young adult transferred out of the housing area and did not participate in lock-in/out options.

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 Lock-In/Out Logbook, for 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 the institutional lock-outs on each audit date.

August 3, 2021

There were no young adults in Level III on this audit date.

New York City Department of Correction Young Adult ESH Compliance Audit – August 2021

August 13, 2021

There were no young adults in Level III on this audit date.

August 17, 2021

There were no young adults in Level III on this audit date.

August 26, 2021

There were no young adults in Level III on this audit date.

§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 were housed.¹ A manual review of the Law Library Logbooks indicated that the Law Library Coordinators were present in these areas to provide assistance on three of the four (4) days audited – August 13, 17, and 26, 2021.² On August 3, 2021, due to staff training, three (3) housing areas labeled A, B, and C were not provided Law Library services.

The audit was able to verify by reviewing available records that the duration of each Law Library Coordinator's time, in ESH areas during the dates audited, was in compliance with the provisions of the Minimum Standards i.e., a minimum of two (2) hours. On some of the audit dates, some young adults did not request Law Library services.

Listed below is a total count of young adults housed in ESH, for each date audited, and the total number of young adults that were assisted by the Law Library Coordinators.

August 3, 2021

There were twenty (20) young adults in ESH on this audit date. Due to staff training, Law Library services were not provided.

August 13, 2021

There were twenty-one (21) young adults in ESH on this audit date. Of the twenty-one (21) young adults, one (1) young adult **chose to** request and was provided Law Library services.

August 17, 2021

There were twenty-one (21) young adults in ESH on this audit date. Of the twenty-one (21) young adults, one (1) young adult **chose to** request and was provided Law Library services.

¹ To facilitate the provision of Law Library services, within their assigned areas, Law Library Coordinators provide services to all individuals regardless of whether it is during the individual's lock-out period.

² This is evidenced by the Law Library Coordinators signing in and out of the Law Library Logbook on each of the audit dates.

New York City Department of Correction Young Adult ESH Compliance Audit – August 2021

August 26, 2021

There were twenty-one (21) young adults in ESH on this audit date. Of the twenty-one (21) young adults, two (2) young adults **chose to** request and were provided Law Library services.

Kiosks and Typewriters

During this audit period, young adults were housed in up to three (3) housing areas in ESH, labeled A-C. Young adults in ESH are provided with access to a minimum of one (1) kiosk and one (1) typewriter. On the audit dates of August 6, 13, 20, and 27, 2021, kiosks and typewriters were not available. The Law Library areas in the housing units are currently under construction. All Law Library services are being afforded and fulfilled by the Legal Coordinators through request slips.

§1-06 – Recreation

All young adults in ESH are afforded a minimum of one (1) hour of recreation per day, seven (7) days per week in the outdoor recreation area, except in inclement weather when the indoor recreation area is used.

The audit reviewed recreational data for each of the four (4) audit dates – August 3, 13, 17, and 26, 2021 – to ascertain the total number of young adults that **chose to** participate in recreation.

August 3, 2021

There were twenty (20) young adults in ESH on this audit date. Please note the following:

- Nineteen (19) young adults **chose not** to participate in afforded recreation.
- One (1) young adult's participation in afforded participation could not be determined.

August 13, 2021

There were twenty-one (21) young adults in ESH on this audit date. Please note the following:

- Four (4) young adults **chose to** participate in afforded recreation.
- Seventeen (17) young adults **chose not** to participate in afforded recreation.

August 17, 2021

There were twenty-one (21) young adults in ESH on this audit date. Please note the following:

- Eight (8) young adults **chose to** participate in afforded recreation.
- Thirteen (13) young adults **chose not** to participate in afforded recreation.

August 26, 2021

There were twenty-one (21) young adults in ESH on this audit date. Please note the following:

- Twenty-one (21) young adults **chose to** participate in afforded recreation.

New York City Department of Correction Young Adult ESH Compliance Audit – August 2021

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

Young adults in ESH are placed in housing units exclusively with other young adults (18 to 21 years old). Young adults who are 19 to 21 years old can also be commingled in units with adults (22 years old and older). In the commingled 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. In the young adult exclusive housing areas within ESH, tablets are intended to be utilized in the provision of programming and offered to young adults regardless of whether it is during the individual's lock-out period. The Programs Division is in the process of rolling out the provision of tablets over the coming months. 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.

The audit reviewed programming attendance data on each of the four (4) dates audited to ascertain the number of programming hours offered to each young adult and the number of hours each young adult **chose to** participate in programming. Program participation hours are 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.

Please note that 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.

Listed below are the numbers of programming hours offered and participated based on housing areas and their assigned levels.

August 3, 2021

On this audit date, in-person programming was not offered to the young adults housed within the three (3) young adult ESH housing areas, labeled A-C, due to staff training.

August 13, 2021

On this audit date, in-person programming was offered to the young adults housed within the two (2) young adult ESH housing areas, labeled A-B.

- ❖ A: Level II – There was one (1) young adult housed in this area. No in-person programming was scheduled in the morning session, and no in-person programming was offered in the afternoon session due to staff training.
- ❖ B: Level II – There were twenty (20) young adults housed in this area.
 - Tier 1 – There were nine (9) young adults housed on this tier. They were offered in-person programming in the morning session. One (1) young adult **chose not** to participate in in-person programming. Two (2) young adults were out to court during

New York City Department of Correction

Young Adult ESH Compliance Audit – August 2021

afforded in-person programming. The remaining six (6) young adults **chose to** participate in in-person programming and their total participation times were as follows:

1. Young adult participation: 15 minutes
 2. Young adult participation: 15 minutes
 3. Young adult participation: 15 minutes
 4. Young adult participation: 15 minutes
 5. Young adult participation: 15 minutes
 6. Young adult participation: 15 minutes
- Tier 2 – There were eleven (11) young adults housed on this tier. No in-person programming was offered in the afternoon session due to a security concern.

August 17, 2021

On this audit date, in-person programming was offered to the young adults housed within the two (2) young adult ESH housing areas, labeled A-B.

- ❖ A: Level II – There was one (1) young adult housed in this area. No in-person programming was scheduled in the morning session, and no in-person programming was offered in the afternoon session due to staff on annual leave.
- ❖ B: Level II – There were twenty (20) young adults housed in this area.
 - Tier 1 – There were nine (9) young adults housed on this tier. No in-person programming was offered in the morning session due to staff training.
 - Tier 2 – There were eleven (11) young adults housed on this tier. They were offered in-person in the afternoon session. Two (2) young adults **chose not** to participate in in-person programming. The remaining nine (9) young adults **chose to** participate in in-person programming and their total participation times were as follows:

1. Young adult participation: 10 minutes
2. Young adult participation: 15 minutes
3. Young adult participation: 10 minutes
4. Young adult participation: 15 minutes
5. Young adult participation: 15 minutes
6. Young adult participation: 15 minutes
7. Young adult participation: 15 minutes
8. Young adult participation: 10 minutes
9. Young adult participation: 15 minutes

August 26, 2021

On this audit date, in-person programming was offered to the young adults housed within the two (2) young adult ESH housing areas, labeled A-B.

New York City Department of Correction

Young Adult ESH Compliance Audit – August 2021

- ❖ A: Level II – There was one (1) young adult housed in this area. He was offered and **chose to** participate in in-person programming in the morning session. The young adult's total participation time for in-person programming was as follows:

1. Young adult participation: 12 minutes

- ❖ B: Level II – There were twenty (20) young adults housed in this area. They were offered in-person programming in the morning and afternoon sessions. One (1) young adult was out to court during afforded in-person programming. Seven (7) young adults **chose not** to participate in in-person programming. One (1) young adult was in the clinic during afforded in-person programming. The remaining eleven (11) young adults **chose to** participate in and their total participation times were as follows:

1. Young adult participation: 10 minutes
2. Young adult participation: 10 minutes
3. Young adult participation: 10 minutes
4. Young adult participation: 15 minutes
5. Young adult participation: 10 minutes
6. Young adult participation: 10 minutes
7. Young adult participation: 10 minutes
8. Young adult participation: 10 minutes
9. Young adult participation: 10 minutes
10. Young adult participation: 10 minutes
11. Young adult participation: 10 minutes

Education

The NYC Department of Education offers educational services to all young adults in ESH. A young adult can enroll in educational services by completing and submitting the “Request for Educational Services” form upon admission. In addition, a young adult can enroll in educational services by completing the aforementioned form and submitting it to any Program’s Division office in the facility after admission. The NYC Department of Education began educational services on September 21, 2020, by providing educational learning packets on a weekly basis to enrolled young adults; each packet contained learning materials for one week. In addition, a hotline was established for the enrolled young adults so that they could call to speak with a teacher if they had any questions or needed support.

No school was afforded on the audit dates of August 3, 13, 17, and 26, 2021 due to summer recess, and because no young adults were identified by the NYC Department of Education as mandated 12-month Individual Education Plan (IEP) students.

The audit reviewed educational data for each of the four (4) audit dates, August 3, 13, 17, and 26, 2021.

August 3, 2021

There were twenty (20) young adults in ESH on this audit date. On this audit date, no summer school educational services were provided because no young adults in ESH were identified as mandated 12-month IEP students.

New York City Department of Correction Young Adult ESH Compliance Audit – August 2021

August 13, 2021

There were twenty-one (21) young adults in ESH on this audit date. On this audit date, no summer school educational services were provided because no young adults in ESH were identified as mandated 12-month IEP students.

August 17, 2021

There were twenty-one (21) young adults in ESH on this audit date. On this audit date, no summer school educational services were provided because no young adults in ESH were identified as mandated 12-month IEP students.

August 26, 2021

There were twenty-one (21) young adults in ESH on this audit date. On this audit date, no summer school educational services were provided because no young adults in ESH were identified as mandated 12-month IEP students.

Audit Recommendations

Recommendations for the ESH Audit Report are reported quarterly rather than monthly per an agreement with the Board of Correction. The ESH Audit Report covering the month of May 2021 was the last ESH Audit Report which indicated recommendations. A quarterly period has transpired since that last audit report with recommendations, and recommendations are therefore included in this audit report.

The following recommendations were indicated in the ESH Audit Report covering the month of May. The status of the efforts to implement each of the recommendations listed below are indicated after each recommendation.

Lock-in/Lock-out

- The area supervisor shall review the Lock-In/Out Logbook on each tour, to determine whether all staff are consistently documenting the lock-in and lock-out times for all young adults, their names, and the tiers in which they are housed. When deficiencies are identified, the designated supervisory staff person shall counsel the relevant custody staff person and instruct him or her to record all required information.
- When the Lock-/Out Logbook on post has been almost completed and has few remaining spaces for entries, or cannot be found, a Unit Captain shall ensure that a replacement Lock-In/Lock-Out Tracking Logbook is immediately obtained and placed on post.

Status of implementation:

- The facility issued ESH Memorandum #5/21, entitled ESH Mandated Services, which quotes verbatim the above recommendation and emphasizes its implementation by supervisory staff.

New York City Department of Correction

Young Adult ESH Compliance Audit – August 2021

Recreation

- Designated supervisory staff should regularly review the housing area logbook, Special Housing Area Mandated Services Logbook and ESH Recreation Logbook to determine whether custody staff have recorded all required information, particularly the recreation commencement times and completion times, as well as the young adults' refusals to participate in recreation. When deficiencies are identified, the designated supervisory staff shall counsel the relevant custody staff person and instruct him or her to record all required information.

Status of implementation:

- The facility issued ESH Memorandum #5/21, entitled ESH Mandated Services, which quotes verbatim the above recommendation and emphasizes its implementation by supervisory staff.

The findings in the ESH Audit Report covering August 2021 require the following three (3) audit recommendations:

Lock-in/Lock-out

- The area supervisor shall ensure that a Lock-In/Out Logbook is on post and shall review all entries on each tour, to determine whether all staff are consistently documenting the lock-in and lock-out times for all young adults, their names, and the tiers in which they are housed. When deficiencies are identified, the designated supervisory staff person shall counsel the relevant custody staff person and instruct him or her to record all required information.
- Designated facility supervisory staff shall instruct custody staff to safeguard the Lock-in/Lock-out Logbook at all times. All completed Lock-in/Lock-out Logbooks shall be submitted to the Office of the Deputy Warden of Security to be maintained and properly archived.

Recreation

- Designated supervisory staff should regularly review the housing area logbook, Special Housing Area Mandated Services Logbook and ESH Recreation Logbook to determine whether custody staff have recorded all required information, particularly the recreation commencement times and completion times, as well as the young adults' refusals to participate in recreation. When deficiencies are identified, the designated supervisory staff shall counsel the relevant custody staff person and instruct him or her to record all required information.