

New York City Department of Correction

Young Adult ESH Compliance Audit – July 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 three (3) ESH housing areas.

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

- July 1
- July 6
- July 14
- July 20

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

- July 2
- July 9
- July 16
- July 23

§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

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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 returned 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 I and 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 I and Level II are afforded seven (7) hours of lock-out time each day. For each young adult in these two levels, 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 I and 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.

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 I, based on a manual review of the Lock-In/Out Logbook, for the dates audited. The out-of-cell time is the hours each

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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.

July 1, 2021

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

July 6, 2021

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

July 14, 2021

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

July 20, 2021

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

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 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.

July 1, 2021

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

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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, 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.

July 6, 2021

There were nineteen (19) young adults in Level II. Please note the following:

On this audit date, the afforded lock-in/out times could not be determined for nine (9) Upper Tier young adults because the information was not recorded in the Logbook. The total afforded lock-in/out times could not be determined for eight (8) Lower Tier young adults because the information was not recorded in the Logbook. Lastly, 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.

July 14, 2021

There were twenty-two (22) young adults in Level II; their out-of-cell times on this audit date were:

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

On this audit date, the afforded lock-in/out times could not be determined for one (1) Lower Tier young adult and ten (10) Upper Tier young adults because the information was not recorded in the Logbook.

July 20, 2021

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

1. 5 hours 40 minutes (Lower Tier)
2. 5 hours 40 minutes (Lower Tier)
3. 3 hours; young adult **chose not** to participate in the majority of afforded out-of-cell time (Upper Tier)

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4. 4 hours 40 minutes (Lower Tier)
5. 2 hours 55 minutes; young adult **chose not** to participate in the majority of afforded out-of-cell time (Lower Tier)
6. 5 hours 20 minutes (Upper Tier)
7. 3 hours 20 minutes; young adult **chose not** to participate in the majority of afforded out-of-cell time (Upper Tier)
8. 7 hours 35 minutes (Upper Tier)
9. 4 hours 40 minutes (Lower Tier)
10. 5 hours 15 minutes (Upper Tier)
11. 7 hours 35 minutes (Upper Tier)
12. 7 hours 35 minutes (Upper Tier)
13. 2 hours 40 minutes; young adult **chose not** to participate in the majority of afforded out-of-cell time (Lower Tier)
14. 4 hours 40 minutes (Lower Tier)
15. 5 hours 40 minutes (Lower Tier)
16. 5 hours 15 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. 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.

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.

July 1, 2021

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

July 6, 2021

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

July 14, 2021

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

July 20, 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

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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 all four (4) days audited – July 1, 6, 14, and 20, 2021.²

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.

July 1, 2021

There were eighteen (18) young adults in ESH on this audit date. Of the eighteen (18) young adults, no young adults **chose to** request Law Library services.

July 6, 2021

There were nineteen (19) young adults in ESH on this audit date. Of the nineteen (19) young adults, two (2) young adults **chose to** request and were provided Law Library services.

July 14, 2021

There were twenty-two (22) young adults in ESH on this audit date. Of the twenty-two (22) young adults, no young adults **chose to** request Law Library services.

July 20, 2021

There were twenty (20) young adults in ESH on this audit date. Of the twenty (20) young adults, no young adults **chose to** request Law Library services.

Kiosks and Typewriters

During this audit period, young adults were housed in 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 July 2, 9, 16, and 23, 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

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.

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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 – July 1, 6, 14, and 20, 2021 – to ascertain the total number of young adults that participated in recreation and the length of time that each young adult participated in recreation.

July 1, 2021

There were eighteen (18) young adults in ESH on this audit date. Please note the following:

- Four (4) young adults **chose to** participate in afforded recreation.
- Thirteen (13) young adults **chose not** to participate in afforded recreation.
- One (1) young adult's participation in afforded recreation could not be determined.

July 6, 2021

There were nineteen (19) young adults in ESH on this audit date. Please note the following:

- Eighteen (18) young adults **chose not** to participate in afforded recreation.
- One (1) young adult's participation in afforded recreation could not be determined.

July 14, 2021

There were twenty-two (22) young adults in ESH on this audit date. Please note the following:

- One (1) young adult **chose not** to participate in afforded recreation.
- One (1) young adult's participation in afforded recreation could not be determined.
- Recreation could not be afforded to twenty (20) young adults on this audit date due to staffing challenges related to the Department's COVID-19 response and due to security reasons.

July 20, 2021

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

- Six (6) young adults **chose to** participate in afforded recreation.
- Fourteen (14) young adults **chose not** to participate in afforded recreation.

§ 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

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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.

July 1, 2021

On this audit date, in-person programming was offered to the young adults housed within the three (3) young adult ESH housing areas, labeled A-C.

- ❖ 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 security concerns.
- ❖ B: Level II – There were sixteen (16) young adults housed in this area. No in-person programming was offered in the morning and afternoon sessions due to staff absence.
- ❖ C: 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 security concerns.

July 6, 2021

On this audit date, in-person programming was offered to the young adults housed within the three (3) young adult ESH housing areas, labeled A-C.

- ❖ 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 security concerns.
- ❖ B: Level II – There were seventeen (17) young adults housed in this area. They were offered in-person programming in the morning and afternoon sessions. Nine (9) young adults **chose not** to participate in in-person programming. One (1) young adult was out

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to court during afforded in-person programming. The remaining seven (7) young adults' **chose to** participate in in-person programming and their total participation times for were as follows:

1. Young adult participation: 10 minutes
2. Young adult participation: 15 minutes
3. Young adult participation: 20 minutes
4. Young adult participation: 10 minutes
5. Young adult participation: 1 hour
6. Young adult participation: 10 minutes
7. Young adult participation: 15 minutes

- ❖ C: Level II – There was one (1) young adult housed in this area. He was offered in-person programming in the afternoon session. The young adult **chose to** participate in in-person programming total participation times was as follows:

1. Young adult participation: 30 minutes

July 14, 2021

On this audit date, in-person programming and/or programming packets were offered to the young adults housed within the three (3) young adult ESH housing areas, labeled A-C.

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

1. Young adult participation: 10 minutes

- ❖ B: Level II – There were twenty (20) young adults housed in this area. They were offered programming packets in the morning session. Two (2) young adults were out to court during afforded programming packets. The remaining eighteen (18) young adults **chose to** participate in programming packets and their total participation times were as follows:

1. Young adult participation: 1 hour
2. Young adult participation: 1 hour
3. Young adult participation: 1 hour
4. Young adult participation: 1 hour
5. Young adult participation: 1 hour
6. Young adult participation: 1 hour
7. Young adult participation: 1 hour
8. Young adult participation: 1 hour
9. Young adult participation: 1 hour
10. Young adult participation: 1 hour
11. Young adult participation: 1 hour
12. Young adult participation: 1 hour
13. Young adult participation: 1 hour
14. Young adult participation: 1 hour

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15. Young adult participation: 1 hour
16. Young adult participation: 1 hour
17. Young adult participation: 1 hour
18. Young adult participation: 1 hour

- ❖ C: Level II – There was one (1) young adult housed in this area. He was in-person programming in the afternoon session. The young adult **chose to** participate in in-person programming and his total participation times for in-person programming was as follows:

1. Young adult participation: 2 minutes

July 20, 2021

On this audit date, in-person programming was offered to the young adults housed within the three (3) young adult ESH housing areas, labeled A-C.

- ❖ A: Level II – There was one (1) young adult housed in this area. No in-person programming was offered to due to staff training.
- ❖ B: Level II – There were eighteen (18) young adults housed in this area. They were offered in-person programming in the morning and afternoon sessions. Two (2) young adults were out to court during afforded in-person programming. Two (2) young adults **chose not** to participate in in-person programming. The remaining fourteen (14) 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: 10 minutes
3. Young adult participation: 10 minutes
4. Young adult participation: 10 minutes
5. Young adult participation: 5 minutes
6. Young adult participation: 10 minutes
7. Young adult participation: 10 minutes
8. Young adult participation: 5 minutes
9. Young adult participation: 10 minutes
10. Young adult participation: 5 minutes
11. Young adult participation: 10 minutes
12. Young adult participation: 10 minutes
13. Young adult participation: 10 minutes
14. Young adult participation: 5 minutes

- ❖ C: Level II – There was one (1) young adult housed in this area. He was offered in-person programming in the afternoon session. The young adult **chose to** participate in in-person programming and his total participation times was as follows:

1. Young adult participation: 5 minutes

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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 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 July 1, 6, 14, and 20, 2021 due to summer recess, and 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, July 1, 6, 14, and 20, 2021.

July 1, 2021

There were eighteen (18) 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.

July 6, 2021

There were nineteen (19) 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.

July 14, 2021

There were twenty-two (22) 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.

July 20, 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.