

New York City Department of Correction

Young Adult ESH Compliance Audit – July 2020

Pursuant to the six (6) month limited variance granted by the NYC Board of Correction on February 11, 2020 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. During this audit period, young adults were housed in up to six (6) ESH housing areas.

This audit report covers the following four (4) dates in the month of July 2020:

- July 2
- July 7
- July 18
- July 23

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

- July 10
- July 17
- July 24
- July 29

§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 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 in-person programming hours offered to each young adult and the number of hours each young adult **chose to** participate in in-person programming.

Education

A manual review of education attendance data was conducted to determine 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 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 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 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.

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July 2, 2020

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

1. 6 hours (Upper Tier)
2. 4 hours (Lower Tier)

On this audit date, one (1) Upper Tier young adult **chose not** to participate in all out-of-cell time.

July 7, 2020

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

1. 2 hours 15 minutes; young adult **chose not** to participate in the majority of afforded out-of-cell time (Lower Tier)

On this audit date, two (2) Upper Tier young adults **chose not** to participate in all out-of-cell time.

July 18, 2020

There were two (2) young adults in Level I; their out-of-cell times on this audit date were:

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

July 23, 2020

There was one (1) young adult in Level I; his out-of-cell time on this audit date was 1 hour 45 minutes; young adult **chose not** to participate in the majority of afforded out-of-cell time (Upper Tier)

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 2, 2020

There were ten (10) young adults in Level II; their out-of-cell times on this audit date were:

1. 7 hours 29 minutes (Upper Tier)
2. 7 hours 40 minutes (Lower Tier)
3. 7 hours 29 minutes (Upper Tier)

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4. 2 hours 55 minutes; young adult **chose not** to participate in the majority of afforded out-of-cell time (Lower Tier)
5. 7 hours 10 minutes (Upper Tier)
6. 5 hours 40 minutes (Lower Tier)
7. 4 hours 55 minutes (Lower Tier)
8. 6 hours 55 minutes (Lower Tier)
9. 6 hours 40 minutes (Lower Tier)

On this audit date, one (1) Upper Tier young adult **chose not** to participate in all out-of-cell time.

July 7, 2020

There were nine (9) young adults in Level II; their out-of-cell times on this audit date were:

1. 5 hours 35 minutes (Upper Tier)
2. 7 hours (Lower Tier)
3. 7 hours 20 minutes (Upper Tier)
4. 7 hours 15 minutes (Lower Tier)
5. 7 hours 50 minutes (Upper Tier)
6. 4 hours 45 minutes (Upper Tier)
7. 7 hours 25 minutes (Lower Tier)
8. 7 hours 25 minutes (Lower Tier)
9. 7 hours 40 minutes (Lower Tier)

July 18, 2020

There were six (6) young adults in Level II; their out-of-cell times on this audit date were:

1. 5 hours 35 minutes (Lower Tier)
2. 7 hours 15 minutes (Upper Tier)
3. 7 hours 20 minutes (Upper Tier)
4. 7 hours 30 minutes (Upper Tier)
5. 7 hours 30 minutes (Upper Tier)
6. 4 hours 45 minutes (Lower Tier)

July 23, 2020

There were six (6) young adults in Level II; their out-of-cell times on this audit date were:

1. 7 hours 20 minutes (Lower Tier)
2. 7 hours 20 minutes (Upper Tier)
3. 5 hours 35 minutes (Upper Tier)
4. 6 hours 55 minutes (Upper Tier)
5. 7 hours 20 minutes (Lower Tier)
6. 4 hours 55 minutes (Upper Tier)

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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 2, 2020

There was one (1) young adult in Level III on this audit date. His out-of-cell time on this audit date was 2 hours; young adult was transferred out of the unit and, as a result, his lock-out time was affected. (Lower Tier)

July 7, 2020

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

July 18, 2020

There was one (1) young adult in Level III on this audit date. His out-of-cell time was 6 hours 28 minutes; young adult **chose not** to participate in the majority of afforded out-of-cell time (Lower Tier)

July 23, 2020

There were two (2) young adults in Level III; their out-of-cell times on this audit date were:

1. 11 hours 15 minutes (Lower Tier)
2. 12 hours 15 minutes (Lower Tier)

§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 in these areas to provide assistance on all the four (4) days audited – July 2, 7, 18 and 23.² However, in the case of July 7, 2020, due to a Law Library Coordinator's unscheduled absence, five (5) housing areas, labeled A, B, C, D, and E were not provided Law Library services in the afternoon session, although these housing areas were provided Law Library services in the morning session.

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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The audit was able to verify by auditing 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 **chose not** request Law Library assistance.

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 2, 2020

There were fourteen (14) young adults in ESH on this audit date, out of which, one (1) young adult **chose to** request and was provided Law Library services.

July 7, 2020

There were twelve (12) young adults in ESH on this audit date, out of which, one (1) young adult **chose to** request and was provided Law Library services.

July 18, 2020

There were nine (9) young adults in ESH on this audit date, out of which, two (2) young adults **chose to** request and was provided Law Library services.

July 23, 2020

There were nine (9) young adults in ESH on this audit date, out of which, one (1) young adult **chose to** request and was provided Law Library services.

Kiosks and Typewriters

During this audit period, young adults were housed in up to six (6) housing areas in ESH, labeled A-F. At this time, the Law Library equipment is not available for regular use. All Law Library services are being afforded and fulfilled by the Legal Coordinators through request slips. Listed below are the numbers of kiosks and typewriters in each ESH housing area, including the status of their operability for the dates audited:

July 10, 2020

On this audit date, all the housing areas (A-F) had operable kiosks and one housing unit (D) had an operable typewriter.

July 17, 2020

On this audit date, all the housing areas (A-F) had operable kiosks and one housing unit (D) had an operable typewriter.

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July 24, 2020

On this audit date, all the housing areas (A-F) had operable kiosks and one housing unit (D) had an operable typewriter.

July 29, 2020

On this audit date, all the housing areas (A-E) had operable kiosks and one housing unit (D) had an operable typewriter.

§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 – July 2, 7, 18 and 23, 2020 – to ascertain the total number of young adults that **chose to** participate in recreation and the length of time that each young adult **chose to** participate in recreation.

July 2, 2020

There were fourteen (14) young adults in ESH on this audit date. Please note the following:

- Eight (8) young adults **chose to** participate in recreation.
- Three (3) young adults **chose not** to participate in recreation.
- Three (3) young adults' participation in afforded recreation could not be determined.

July 7, 2020

There were twelve (12) young adults in ESH on this audit date. Please note the following:

- Four (4) young adults **chose to** participate in recreation.
- Eight (8) young adults **chose not** to participate in recreation.

July 18, 2020

There were nine (9) young adults in ESH on this audit date. Please note the following:

- Four (4) young adults **chose to** participate in recreation.
- Two (2) young adults **chose not** to participate in afforded recreation.
- Three (3) young adults' participation in afforded recreation could not be determined.

July 23, 2020

There were nine (9) young adults in ESH on this audit date. Please note the following:

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

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- One (1) young adult's participation in afforded recreation could not be determined.

§ 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 Department also provides to young adults self-guided programming packages that include activity packets, interactive journaling, and worksheets. In addition, social services are afforded by counselors, which can either be requested by a social service slip or during a counselor's tour when an inquiry is made that may be designated as social service. Social service includes the provision or referral of a support service, or case-management related engagement and discussion. Social service is designated separately in the report as it is a rendering of a request and/or has follow-up that is related to case management.

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 2, 2020

❖ A: Level II

- Tier 1: The one (1) young adult housed on this tier was offered between five (5) to fifteen (15) minutes of in-person programming in the morning session. The young adult chose to participate in in-person programming. The young adult's participation time for in-person programming could not be determined.³

³ The Programming Division addressed the counseling staff on the importance of accurately tracking the time frames of participation and provides follow-up training to counseling staff on the proper completion of documents, as needed.

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- Tier 2: In-person programming did not occur on this tier in the afternoon session due to social distancing, personnel, and operational considerations related to the coronavirus. Programming was offered through programming packets.
- ❖ B: Level II – In-person programming did not occur in the unit on this audit date due to social distancing, personnel, and operational considerations related to the coronavirus. Programming was offered through programming packets.
- ❖ C: Level II
 - Tier 1: The four (4) young adults housed on this tier were offered between five (5) to fifteen (15) minutes of in-person programming in the morning session. The young adult **chose to** participate in in-person programming. The young adults' participation times for in-person programming could not be determined.³
 - Tier 2: In-person programming did not occur on this tier in the afternoon session due to social distancing, personnel, and operational considerations related to the coronavirus. Programming was offered through programming packets.
- ❖ D: Level I – In-person programming did not occur in the unit on this audit date due to social distancing, personnel, and operational considerations related to the coronavirus. Programming was offered through programming packets.
- ❖ E: Level I – In-person programming did not occur in the unit on this audit date due to social distancing, personnel, and operational considerations related to the coronavirus. Programming was offered through programming packets.
- ❖ F: Level III – In-person programming did not occur in the unit on this audit date due to social distancing, personnel, and operational considerations related to the coronavirus. Programming was offered through programming packets.

July 7, 2020

- ❖ A: Level II – In-person programming did not occur in the unit on this audit date due to social distancing, personnel, and operational considerations related to the coronavirus. Programming was offered through programming packets.
- ❖ B: Level II – In-person programming did not occur in the unit on this audit date due to social distancing, personnel, and operational considerations related to the coronavirus. Programming was offered through programming packets.
- ❖ C: Level II – In-person programming did not occur in the unit on this audit date due to social distancing, personnel, and operational considerations related to the coronavirus. Programming was offered through programming packets.
- ❖ D: Level I – The two (2) young adults housed in this area were offered self-guided programming packets.
 - One (1) young adult was out to recreation during the distribution of programming packets. The other one (1) young adult was transferred out of the unit and did not participate in afforded programming through programming packets.

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- ❖ E: Level III – The one (1) young adult housed in this area was offered between five (5) to fifteen (15) minutes of in-person programming. The young adult **chose to** participate in in-person programming. The young adult's participation times for in-person programming could not be determined.³

July 18, 2020

- ❖ A: Level II – In-person programming did not occur in the unit on this audit date due to social distancing, personnel, and operational considerations related to the coronavirus. Programming was offered through programming packets.
- ❖ B: Level II – In-person programming did not occur in the unit on this audit date due to social distancing, personnel, and operational considerations related to the coronavirus. Programming was offered through programming packets.
- ❖ C: Level II – In-person programming did not occur in the unit on this audit date due to social distancing, personnel, and operational considerations related to the coronavirus. Programming was offered through programming packets.
- ❖ D: Level I – In-person programming did not occur in the unit on this audit date due to social distancing, personnel, and operational considerations related to the coronavirus. Programming was offered through programming packets.
- ❖ E: Level III – In-person programming did not occur in the unit on this audit date due to social distancing, personnel, and operational considerations related to the coronavirus. Programming was offered through programming packets.

July 23, 2020

- ❖ A: Level II – In-person programming did not occur in the unit on this audit date due to social distancing, personnel, and operational considerations related to the coronavirus. Programming was offered through programming packets.
- ❖ B: Level II – The two (2) young adults housed in this area were offered self-guided programming packets, social services, and between five to fifteen (15) minutes of in-person programming.
 - One (1) young adult **chose to** participate in the programming packet, social services, and in-person programming. The young adult's participation times for social services and in-person programming could not be determined.³
 - The remaining one (1) young adult **chose to** participate in in-person programming and **chose not** to participate in the programming packet and social services. The young adult's participation times for social services and in-person programming could not be determined.³
- ❖ C: Level II – There were three (3) young adults housed in this area.
 - Tier 1: The two (2) young adults housed on this tier were offered between five (5) to fifteen (15) minutes of in-person programming in the morning session. The two

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- (2) young adults **chose to** participate in in-person programming. The young adults' participation times in the in-person programming could not be determined.³
- Tier 2: In-person programming did not occur on this tier in the afternoon session due to social distancing, personnel, and operational considerations related to the coronavirus. Programming was offered through programming packets.
- ❖ D: Level I – In-person programming did not occur in the unit on this audit date due to social distancing, personnel, and operational considerations related to the coronavirus. Programming was offered through programming packets.
- ❖ E: Level III – The two (2) young adults housed in this area were offered between five (5) to fifteen (15) minutes of in-person programming. The two (2) young adults **chose to** participate in in-person programming. The young adults' participation times in the in-person programming could not be determined.

Education

For the audit dates of July 2, 7, 18, and 23, 2020, the Department of Education offered their summer school session by providing educational learning material to young adults. This session is for providing educational services to students that the Department of Education has on record as having been assessed and mandated to have an Individualized Education Plan (12-month IEP). On the dates audited, there were no young adults in ESH identified as mandated 12-month IEP students. The NYC Department of Education provides educational material on a weekly basis wherein each package contains learning material for one week. On each audit date, the packages are only offered to individuals who did not have material (i.e. those new to the unit, have previously refused, or it has been one week since they last received a packet). New packages were not offered to every young adult on each audit date because many young adults were already in receipt of their weekly packages.

July 2, 2020

There were fourteen (14) young adults in ESH on this audit date. On this audit date, no summer school educational services were provided due to there being no young adults in ESH identified as mandated 12-month IEP students.

July 7, 2020

There were twelve (12) young adults in ESH on this audit date. On this audit date, no summer school educational services were provided due to there being no young adults in ESH identified as mandated 12-month IEP students.

July 18, 2020

There were nine (9) young adults in ESH on this audit date. On this audit date, no summer school educational services were provided due to there being no young adults in ESH identified as mandated 12-month IEP students.

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July 23, 2020

There were nine (9) young adults in ESH on this audit date. On this audit date, no summer school educational services were provided due to there being no young adults in ESH identified as mandated 12-month IEP students.