

New York City Department of Correction

Young Adult ESH Compliance Audit – September 2019

Pursuant to the six (6) month limited variance granted by the NYC Board of Correction on August 18, 2019 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), specifically, the amount of time that outdoor recreation was afforded to each young adult;
- § 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 seven (7) ESH housing areas.

This audit report covers the following four (4) dates in the month of September 2019:

- September 3
- September 11
- September 18
- September 24

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

- September 6
- September 13
- September 19
- September 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 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 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 participated in 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 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

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periods. The data reflects the young adults present in the unit for institutional lock-outs on each audit date.

September 3, 2019

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

1. 4 hours 45 minutes (Upper Tier)
2. 8 hours (Upper Tier)
3. 7 hours (Upper Tier)
4. 4 hours 45 minutes (Upper Tier)

September 11, 2019

There were no young adults in Level 1 on this audit date.

September 18, 2019

There were no young adults in Level 1 on this audit date.

September 24, 2019

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

1. 8 hours 15 minutes (Upper Tier)
2. 6 hours (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 institutional lock-outs on each audit date.

September 3, 2019

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

1. 5 hours 45 minutes (Lower Tier)
2. 6 hours 45 minutes (Lower Tier)
3. 5 hours 45 minutes (Lower Tier)
4. 45 minutes; young adult was out to court for a portion of the day and, as a result, his out-of-cell time was affected (Lower Tier)
5. 7 hours (Upper Tier)
6. 5 hours 15 minutes (Lower Tier)

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September 11, 2019

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

1. 3 hours 15 minutes; young adult refused the majority of afforded out-of-cell time (Upper Tier)
2. 7 hours 10 minutes (Lower Tier)
3. 5 hours 45 minutes (Upper Tier)
4. 7 hours 10 minutes (Lower Tier)
5. 6 hours 25 minutes (Lower Tier)
6. 5 hours 25 minutes (Lower Tier)
7. 7 hours (Upper Tier)

On this audit date, one (1) young adult (Upper Tier) was out to court for most of the day and, as a result, he did not participate in lock-out options. In addition, no lock-in/lock-out data was recorded in the Lock-In/Out Logbook for one (1) young adult.

September 18, 2019

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

1. 5 hours 25 minutes; young adult was out to court for a portion of the day and, as a result, his out-of-cell time was affected (Upper Tier)
2. 7 hours 10 minutes (Upper Tier)
3. 6 hours (Lower Tier)
4. 7 hours 30 minutes (Upper Tier)
5. 6 hours (Lower Tier)
6. 1 hour 45 minutes; young adult was out to court for a portion of the day and, as a result, his out-of-cell time was affected (Upper Tier)
7. 1 hour; young adult refused the majority of afforded out-of-cell time (Lower Tier)
8. 4 hours 15 minutes (Upper Tier)
9. 7 hours (Lower Tier)
10. 7 hours (Lower Tier)

September 24, 2019

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

1. 4 hours 40 minutes; young adult was out to court for a portion of the day and, as a result, his out-of-cell time was affected (Upper Tier)
2. 7 hours (Upper Tier)
3. 7 hours (Lower Tier)
4. 7 hours 18 minutes (Upper Tier)
5. 6 hours 15 minutes (Lower Tier)
6. 7 hours 18 minutes (Upper Tier)
7. 5 hours 15 minutes (Lower Tier)

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8. 3 hours 15 minutes (Upper Tier)
9. 7 hours (Lower Tier)

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 institutional lock-outs on each audit date.

September 3, 2019

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

1. 11 hours (Upper Tier)
2. 10 hours (Upper Tier)
3. 3 hours 15 minutes; young adult was transferred out of the unit and, as a result, his out-of-cell time was affected (Lower Tier)
4. 10 hours 43 minutes (Lower Tier)

September 11, 2019

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

September 18, 2019

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

September 24, 2019

There was one (1) young adult in Level III; his out-of-cell times on this audit date was:

1. 1 hour 20 minutes; young adult was out to court for a portion of the day and, as a result, his out-of-cell time was affected (Lower Tier)

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§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 housing area logbooks and Law Library Logbook indicated that the Law Library Coordinators were in these areas to provide assistance on two (2) of the four (4) days audited – September 3 and 11, 2019.² On September 18, 2019, in housing area labeled A – , due to inconsistencies recorded in the Law Library Logbook and housing area logbook, it could not be determined whether the Law Library Coordinator was in one (1) housing area during one (1) tour. (The Law Library Coordinator signed in the Law Library Logbook, but did not sign in the housing area logbook.) On the remaining audit date – September 24, 2019, due to Law Library Coordinator's unexpected absence Law Library services were not provided to young adults in three housing areas labeled D, E and F – in the morning and afternoon sessions.

Except for September 18 and 24, 2019, the audit was able to verify 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 average, based on each Law Library Coordinator's schedule, a Law Library Coordinator was available to assist young adults within the housing areas for approximately four (4) hours on two of the four dates audited – September 3 and 11, 2019. On some of the audit dates, some young adults did 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.

September 3, 2019

There were fourteen (14) young adults in ESH on this audit date. Of the fourteen (14) young adults, six (6) young adults requested and were provided Law Library services.

September 11, 2019

There were nine (9) young adults in ESH on this audit date. Of the nine (9) young adults, two (2) young adults requested and were provided Law Library services.

September 18, 2019

There were ten (10) young adults in ESH on this audit date. Of the ten (10) young adults, two (2) young adults requested and were 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.

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September 24, 2019

There were twelve (12) young adults in ESH on this audit date. No young adult requested Law Library services in three of the six housing areas labeled A, B and C. For the remaining three housing areas labeled D, E and F, Law Library services were not provided in the morning and afternoon sessions due to the absence of the Law Library Coordinator.

Kiosks and Typewriters

During this audit period, young adults were housed in up to seven (7) housing areas in ESH, labeled A-G. Young adults in ESH are provided with access to a minimum of one (1) kiosk and one (1) typewriter. Listed below are the numbers of kiosks and typewriters in each ESH housing area, including the status of their operability for the dates audited:

September 6, 2019

On this audit date, young adults were housed within the six (6) young adult ESH housing areas, labeled A-F. The numbers of kiosks and typewriters in each area and their operability were as follows:

- A: One (1) Kiosk (**inoperable**) / One (1) Typewriter (**inoperable**)
- B: One (1) Kiosk (**inoperable**) / One (1) Typewriter (operable)
- C: One (1) Kiosk (operable) / One (1) Typewriter (operable)
- D: One (1) Kiosk (operable) / One (1) Typewriter (operable)
- E: One (1) Kiosk (operable) / One (1) Typewriter (operable)
- F: One (1) Kiosk (operable) / One (1) Typewriter (operable)

September 13, 2019

On this audit date, young adults were housed within the three (3) young adult ESH housing areas, labeled A-C. The numbers of kiosks and typewriters in each area and their operability were as follows:

- A: One (1) Kiosk (**inoperable**) / One (1) Typewriter (operable)
- B: One (1) Kiosk (**inoperable**) / One (1) Typewriter (**inoperable**)
- C: One (1) Kiosk (operable) / One (1) Typewriter (operable)

September 19, 2019

On this audit date, young adults were housed within the four (4) young adult ESH housing areas, labeled A-D. The numbers of kiosks and typewriters in each area and their operability were as follows:

- A: One (1) Kiosk (operable) / One (1) Typewriter (operable)
- B: One (1) Kiosk (operable) / One (1) Typewriter (operable)
- C: One (1) Kiosk (operable) / One (1) Typewriter (operable)
- D: One (1) Kiosk (operable) / One (1) Typewriter (operable)

September 27, 2019

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On this audit date, young adults were housed within the seven (7) young adult ESH housing areas, labeled A-G. The numbers of kiosks and typewriters in each area and their operability were as follows:

- A: One (1) Kiosk (operable) / One (1) Typewriter (operable)
- B: One (1) Kiosk (operable) / One (1) Typewriter (operable)
- C: One (1) Kiosk (operable) / One (1) Typewriter (operable)
- D: One (1) Kiosk (operable) / One (1) Typewriter (operable)
- E: One (1) Kiosk (operable) / One (1) Typewriter (operable)
- F: One (1) Kiosk (operable) / One (1) Typewriter (operable)
- G: One (1) Kiosk (operable) / One (1) Typewriter (operable)

§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 – September 3, 11, 18, and 24, 2019 – to ascertain the total number of young adults that participated in recreation and the length of time that each young adult participated in recreation.

September 3, 2019

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

- One (1) young adult participated in one (1) hour and fifteen (15) minutes of recreation.
- One (1) young adult was out to court during afforded recreation.
- Twelve (12) young adults refused to participate in afforded recreation.

September 11, 2019

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

- Three (3) young adults participated in one (1) hour of recreation.
- One (1) young adult participated in fifty (50) minutes of recreation.
- One (1) young adult was out to court during afforded recreation.
- Four (4) young adults refused to participate in recreation.

September 18, 2019

There were ten (10) young adults in ESH on this audit date. Please note the following:

- Two (2) young adults participated in one (1) hour of recreation.
- One (1) young adult participated in forty-five (45) minutes of recreation.
- Two (2) young adults were in court during afforded recreation.
- Five (5) young adults refused to participate in afforded recreation.

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September 24, 2019

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

- Two (2) young adults participated in one (1) hour of recreation.
- One (1) young adult participated in forty (40) minutes of recreation.
- One (1) young adult participated in thirty-five (35) minutes of recreation.
- One (1) young adult participated in one (1) hour and five (5) minutes of recreation.
- Five (5) young adults refused to participate in afforded recreation.
- Two (2) young adults were in court during 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 co-mingled in units with adults (22 years old and older). 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 is during the individual's lock-out period. When young adults receive 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 co-mingled 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 audited to ascertain the number of programming hours offered to each young adult and the number of hours each young adult participated 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 based on housing areas and their assigned levels.

September 3, 2019

On this audit date, up to nine (9) hours of programming were offered to the young adults housed within the five (5) young adult ESH housing areas, labeled A-E.

- ❖ A: Level II – There were three (3) young adults housed in this area.

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- Forty (40) minutes of programming were offered in the afternoon session. Three (3) young adults were housed on this tier and all young adults refused all afforded programming.
- ❖ B: Level II – There were three (3) young adults housed in this area.
 - Tier 1 was offered nine (9) hours of programming inclusive of the provision of the self-guided tablets in the morning session:
 1. Young adult participation: 6 hours 30 minutes upon his return from court
 2. Young adult participation: 8 hours
 - Tier 2 was offered six (6) hours of programming inclusive of the provision of the self-guided tablets in the afternoon session:
 1. Young adult participation: 6 hours
- ❖ C: Level I – There were four (4) young adult housed in this area.
 - Two (2) hours of programming were offered in the afternoon session. One (1) young adult refused to participate in all afforded programming.
 1. Young adult participation: 1 hour
 2. Young adult participation: 1 hour
 3. Young adult participation: 1 hour
- ❖ D: Level III – There were two (2) young adults housed in this area.
 - Forty-five (45) minutes of programming were offered in the afternoon session.
 1. Young adult participation: 45 minutes
 2. Young adult participation: 45 minutes
- ❖ E: Level III – There were two (2) young adults housed in this area.
 - Two (2) hours and thirty (30) minutes of programming were offered in the morning session and two (2) hours and ten (10) minutes of programming were offered in the afternoon session, for a total of four (4) hours and forty (40) minutes of programming. One (1) young adult refused all afforded programming.
 1. Young adult participation: 15 minutes

September 11, 2019

On this audit date, up to eleven (11) hours of programming were offered to the young adults housed within the three (3) housing areas, labeled A-C.

- ❖ A: Level II – There was one (1) young adult housed in this area.
 - Two (2) hours and fifteen (15) minutes of programming were offered in the morning session. He was out to school during afforded programming.
- ❖ B: Level II – There were five (5) young adults housed in this area. One (1) young adult was out to court during afforded programming.
 - Tier 1. One young adult was housed on this tier. He was not offered programming on that day, as he was housed on the tier where programming was not schedule for that day on that tier.³
 - Tier 2 was offered four (4) hours and forty (40) minutes of programming in the afternoon session. One (1) young adult refused all afforded programming.
 1. Young adult participation: 3 hours 5 minutes
 2. Young adult participation: 1 hour 50 minutes
- ❖ C: Level II – There were three (3) young adults housed in this area.

³ The Programs Division will be scheduling more options to better align with the current tier lockout system.

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- Tier 1 was offered eleven (11) hours of programming inclusive of the provision of the self-guided tablets in the morning session:
 1. Young adult participation: 9 hours 45
 2. Young adult participation: 9 hours 15 minutes
- Tier 2 was offered six (6) hours of programming inclusive of the provision of the self-guided tablets in the afternoon session:
 3. Young adult participation: 5 hours

September 18, 2019

On this audit date, up to eleven (11) hours of programming were offered to the young adults housed within the four (4) housing areas, labeled A-D.

- ❖ A: Level II – There was one (1) young adult housed in this area. He was out to court during afforded programming.
- ❖ B: Level II – There was one (1) young adult housed in this area. He was offered two (2) hours and thirty (30) minutes of programming. He participated in one (1) hour and thirty (30) minutes of programming and refused all remaining afforded programming.
- ❖ C: Level II – There were five (5) young adults housed in this area.
 - Tier 1. Three (3) young adults were housed on this tier. They were not offered programming on that day, as they were housed on the tier where programming was not scheduled.⁴
 - Tier 2 Three (3) hours and forty-five (45) minutes of programming in the afternoon session. One (1) young adult refused all afforded programming. The remaining one (1) young adult was out to court during afforded programming.
- ❖ D: Level II – There were three (3) young adults housed in this area.
 - Tier 1 was offered eleven (11) hours of programming inclusive of the provision of the self-guided tablets in the morning session: One (1) young adult was housed on this tier and he refused all afforded programming.
 - Tier 2 was offered six (6) hours of programming inclusive of the provision of the self-guided tablets in the afternoon session:
 1. Young adult participation: 3 hours, young adult elected to go to recreation for the remaining three hours of programming.
 2. Young adult participation: 3 hours, young adult elected to go to recreation for the remaining three hours of programming.

September 24, 2019

On this audit date, up to nine (9) hours of programming were offered to the young adults housed within the six (6) housing areas, labeled A-F.

- ❖ A: Level II – There was one (1) young adult housed in this area. He was out to court during afforded programming.

⁴ The Programs Division will be scheduling more options to better align with the current tier lockout system.

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- ❖ B: Level II – There was one (1) young adult housed in this area.
 - Two (2) hours and fifteen (15) minutes of programming were offered in the morning session. He refused to participate in all afforded programming.
- ❖ C: Level II – There were five (5) young adults housed in this area.
 - Tier 1. Three (3) young adults housed on this tier. They were not offered programming on that day, as they were housed on the tier where programming was not scheduled.⁵
 - Tier 2 was offered three (3) hours and fifteen (15) minutes of programming in the afternoon session. Two (2) young adults refused to participate in all afforded programming.
- ❖ D: Level II – There were two (2) young adults housed in this area.
 - Tier 1 was offered nine (9) hours of programming inclusive of the provision of the self-guided tablets in the morning session. One (1) young adult was housed on this tier and he refused all afforded programming.
 - Tier 2 was offered six (6) hours of programming in the afternoon session.
 1. Young adult participation: 5 hours
- ❖ E: Level I – There were two (2) young adults housed in this area.
 - Four (4) hours and twenty (20) minutes of programming were offered in the afternoon session;
 1. Young adult participation: 4 hours 20 minutes
 2. Young adult participation: 40 minutes, young was out to school during afforded programming.
- ❖ F: Level III – There was one (1) young adult housed in this area. He was out to court during afforded programming.

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 programs office in the facility after admission. Eligible young adults are provided educational services Monday through Friday, for a minimum of three (3) hours of instruction per day. Classroom instruction is provided both in the morning and afternoon.

The audit reviewed educational data for each of the four (4) audit dates – September 3, 11, 18 and 24, 2019 – to ascertain the total number of young adults brought to school, as well as the time that each young adult arrived to school and the time each young adult departed school.

September 3, 2019

There were fourteen (14) young adults in ESH on this audit date. On this audit date no educational services were scheduled due to summer recess.

⁵ The Programs Division will be scheduling more options to better align with the current tier lockout system.

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September 11, 2019

There were nine (9) young adults in ESH on this audit date. Of the nine (9) young adults, two (2) were enrolled in educational services. The arrival and departure times for those present on this audit date were:

1. Arrived 9:50 am / Departed 11:30 am
2. Arrived 9:30 am / Departed 11:30 am

September 18, 2019

There were ten (10) young adults in ESH on this audit date. Of the ten (10) young adults, four (4) were enrolled in educational services. The arrival and departure times for those who attended educational services on this audit date were:

1. Arrived 9:00 am / Departed 11:30 am
2. Arrived 9:03 am / Departed 11:30 am
3. Arrived 9:03 am / Departed 11:30 am

For the remaining one (1) young adult, please note the following:

- One (1) young adult refused educational services.

September 24, 2019

There were twelve (12) young adults in ESH on this audit date. Of the twelve (12) young adults, four (4) were enrolled in educational services. The arrival and departure times for those present on this audit date were:

1. Arrived 9:10 am / Departed 11:30 am
2. Arrived 9: 00 am / Departed 11:30 am
3. Arrived 9:00 am / Departed 11:30 am
4. Arrived 1:25 pm / Departed 3:30 pm