

Subpart 182-2
Runaway and Homeless Youth Regulations
for Transitional Independent Living Support Programs

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182-2.1 Policy. Consistent with the requirements of this subpart, each transitional independent living support program shall provide or assist in securing necessary services for homeless youth and, where appropriate, their families. Programs shall be designed to protect homeless youth and to reunite such youth with their parent, guardian or legal custodian whenever possible. Programs shall provide, in conjunction with community and public agencies, services designed to help homeless youth to progress from crisis care and transitional care to independent living.

182-2.2 Definitions. For the purposes of this subpart the term:

(a) "Applicant" shall mean a municipality, agency, or other duly incorporated organization requesting to operate a transitional independent living support program.

(b) "Approval" shall mean that a proposed program is found to be in compliance with the requirements of this subpart after submission to the division by the county youth bureau as part of its comprehensive county plan.

(c) "Approved transitional independent living support program" shall mean any non-residential program approved by the division for youth after submission by the county youth bureau, as part of its comprehensive plan, or any residential facility approved by the division for youth after submission by the county youth bureau as part of its comprehensive plan, operated to provide support services, for a period of up to twelve months in accordance with the

regulations of the division for youth, to enable homeless youth from sixteen up to twenty-one years of age to progress from crisis care and transitional care to independent living.

(d) "Capital improvements" shall mean additions or modifications to buildings and real property which are required for compliance with the provisions of this subpart.

(e) "Case management" shall mean the assessment and identification of client needs; the identification of available resources to meet client needs; the coordination, monitoring and evaluation of services for each client; and advocacy for a client to ensure that services and resources are accessible and provided.

(f) "Certification" shall mean the issuance of written authority by the division to an agency to operate a residential facility in compliance with all requirements of this subpart.

(g) "County youth bureau" shall mean an agency created by a county, and responsible to the chief executive officer thereof, for the purpose of planning, coordinating and supplementing the activities of public, private or religious agencies devoted in whole or in part to the well-being and protection of youth.

(h) "Department" shall mean the new york state department of social services.

(i) "Division" shall mean the new york state division for youth.

(j) "Group residence" shall mean a residential facility, operated for a maximum of twenty (20) youth, which provides an environment that encourages the development and practice of independent living skills.

(k) "Homeless youth" shall mean a person under the age of 21 years who is in need of services and is without a place of shelter where supervision and care are available.

(l) "In-kind services" shall mean services or items which may be included by the county as part of its reimbursable expenditures for runaway and homeless youth programs.

(m) "Non-residential program" shall mean a program operated to provide support services, exclusive of shelter, to homeless youth which is approved by the division for youth after submission by the county youth bureau as part of its comprehensive plan.

(n) "Residential facility" shall mean a group residence or a supported residence.

(o) "Residential program" shall mean a residential facility operated to provide both shelter and support services to homeless youth which is approved by the division for youth after submission by the county youth bureau as part of its comprehensive plan.

(p) "Runaway and homeless youth service coordinator" shall mean any person designated by a county whose duties shall include, but shall not be limited to, answering inquiries at any time concerning transportation, shelter and other services available to a runaway and homeless youth.

(q) "Supported residence" shall mean a residential facility operated for a maximum of five (5) youth of the same gender which provides an environment that approximates actual independent living.

182-2.3 Eligibility. In order to qualify for division approval, a transitional independent living support program shall be:

- (a) operated by an entity which is:
 - (1) properly incorporated in the state of new york;
 - (2) fiscally sound; and
 - (3) governed by a board of directors who have experience and/or training in the legal, fiscal and service aspects of youth programs.
- (b) administered by a program director with experience in the operation of residential and/or non-residential youth service programs; and
- (c) in compliance with all provisions of this subpart.

182-2.4 Division Approval of Transitional Independent Living Support Programs. A county youth bureau shall apply to the division, on forms prescribed by the division, for approval of transitional independent living support programs, whether residential or non-residential.

- (a) Applicants shall submit information, documentation and a specific description of the nature and purpose of the program for which the applicant is seeking approval, to the appropriate county youth bureau.
- (b) The following documents and information shall comprise an application for approval of a transitional independent living support program:
 - (1) the financial and organizational history of the applicant, including a copy of the most current fiscal audit report and the most recent annual report;
 - (2) the number and characteristics of clients served in past and present programs;
 - (3) a copy of the applicant's new york state articles of incorporation and all amendments thereto, with proof that such corporate papers have been filed with the department of state;
 - (4) documentation of current charities registration, if a not-for profit agency;
 - (5) a list of the applicant's governing board members;
 - (6) a notarized statement, signed by the chief executive officer of a municipality or president of a board of directors stating that, to the best of his or her knowledge, no member of the governing board is an employee of the applicant and that no member of the board or its advisory bodies is directly or indirectly engaged in any business activity which conflicts with the discharge of his or her duties as a member of the board;
 - (7) a specific description of the program, including the location, type of program, number of youth to be served, ages of youth to be served, services to be provided or arranged for by the program and a maintenance and operating budget for the initial operating period; and
 - (8) for applicants proposing new residential facilities, a work plan which sets forth all tasks to be completed and projected dates of completion in fulfillment of all operational and physical plant requirements of this subpart.

(c) An applicant seeking to operate a residential facility may request in its application that the maximum capacity limit, as defined in this subpart, be increased. The county submitting such application to the division for approval shall demonstrate that the request for an increase of the maximum capacity limit is warranted in order to serve the needs of the homeless youth population in the county.

(d) Final decisions on each application shall be made by the director of the division. The division shall notify the county youth bureau, in writing, of the final decision.

(e) Following approval, a transitional independent living support program shall update the information provided pursuant to this section as required by the division.

182-2.5 General Requirements for Approved Programs.

(a) Location. Programs shall be located in areas which are readily accessible to homeless youth and families and the services available to them.

(b) Family involvement. Program staff shall encourage the participation of families in the provision of services to youth, when appropriate.

(c) Organizational structure. Each program shall maintain a current description of its organizational structure, including job descriptions and qualifications for all program positions.

(d) Staffing/Supervision.

(1) The director of each program shall provide sufficient and qualified staff and volunteers, in order to ensure adequate coverage and supervision of youth in accord with specific program needs and population.

(2) Individual personnel files shall be maintained for all program staff and volunteers.

(3) The director of each program shall develop and implement procedures for the annual evaluation of all staff and volunteers.

(4) The director of each program shall develop a plan for adequate supervision of staff and volunteers which is tailored to the specific population served and the type, size and physical layout of the facility. In order to assure appropriate care of youth, the plan shall include the following:

(i) staffing patterns and the rationale for such patterns;

(ii) identification of all supervisors of staff and volunteers, including the designation of on-site supervisors; and

(iii) a list of the qualifications and responsibilities of the supervisors.

(e) Employee/Volunteer/Consultant screening.

(1) Information supplied by applicants for employment or voluntary service and consultants shall be reviewed, evaluated and verified according to procedures established by the program. Information provided with regard to an individual's criminal history shall be processed and evaluated in accordance with the social services law.

(2) Applicants for employment or voluntary service shall not be subject to unlawful discriminatory treatment.

(3) Applicants for employment or volunteer services shall provide, at a minimum, the following information:

(i) an employment history, including relevant child-care experience;

(ii) the names, addresses and telephone numbers, where available, of references who can verify employment history information and experience;

(iii) an educational history, including elementary school(s) and/or secondary school(s) or college(s) attended, the highest grade level or degree attained and credits earned;

(iv) all relevant special skills and training;

(v) the name, address and telephone number of two or more personal references, other than relatives, who can attest to the character and reputation of the applicant or volunteer;

(vi) a sworn statement indicating whether the applicant or volunteer has ever been convicted of a crime in any jurisdiction; and

(vii) a sworn statement that all information provided in the application is true, to the best of the applicant's or volunteer's knowledge.

(f) Training.

(1) The director of each program shall be responsible for ensuring that at least 40 hours of in-service training is provided to each staff member and that documentation is made of the receipt of such training by staff during each full year of service. Such training shall include the following topics:

(i) safety and emergency procedures, including first aid;

(ii) HIV awareness and education;

(iii) case records and confidentiality of information;

(iv) youth development and youth issues;

(v) child abuse prevention and reporting requirements as set forth in and required by the social services law;

(vi) suicide prevention; and

(vii) runaway and homeless youth regulations.

(2) The director of each program shall be responsible for ensuring that in-service training is provided to volunteers in an amount commensurate with the specific volunteer duties performed and the amount of volunteer service provided by each individual volunteer.

(g) Non-discriminatory treatment.

(1) Each program shall employ policies and procedures designed to ensure that youth are not subject to unlawful discriminatory treatment in any program decision-making process or when being considered for any available service.

(2) Each program shall employ policies and procedures designed to reasonably ensure that non-English speaking youth understand all written and oral communications from program staff and volunteers, including program rules and requirements.

(h) Personal property. The personal money and property of any youth shall remain as such, and shall not be co-mingled with any other private or program funds.

(i) Services.

(1) A current list of community providers of youth services shall be maintained at each program site.

(2) Program staff shall assist youth in accessing relevant community resources, in order to ensure that comprehensive services are provided to youth in accordance with individual case plans.

(3) Program staff shall assist eligible youth in obtaining care or services from a local social services district.

(j) Case management. Program staff shall directly provide, or make arrangements with a local agency for the provision of, case management services to youth in program.

(1) The case management service provider shall conduct an initial comprehensive assessment of each youth and develop an individualized service plan with such youth within thirty (30) days of admission to a program.

(2) A comprehensive assessment shall address the reason(s) why the youth is without a place of shelter where supervision and care are available, the youth's current functional level with regard to independent living skills, and the youth's ability to progress to independent living within twelve (12) months based upon identification of the following immediate needs:

(i) education, vocational training and/or employment;

(ii) medical and nutritional;

(iii) emotional and psychological;

(iv) financial;

(v) clothing and shelter; and

(vi) family, social and recreational.

(3) An individualized service plan shall include:

(i) long and short-term goals;

(ii) methods and timelines for achieving such goals;

and

(iii) the names of community providers who may assist the youth in fulfilling the plan, by providing activities designed to develop independent living skills, including:

(a) problem solving;

(b) decision-making;

(c) communication;

(d) employment;

(e) effective use of leisure time;

(f) personal hygiene;

(g) health maintenance;

(h) housekeeping; and

(i) financial management.

(4) Case management providers shall identify available community resources to meet the needs addressed in a youth's individualized service plan and ensure that such resources are accessible and provided to such youth. Such resources shall include, where appropriate, the support of available family, neighbors, friends, ethnic groups and the religious community.

(5) All homeless youth shall be encouraged to assess individual strengths, identify areas of needed growth, develop

decision-making skills and assume personal responsibility for their progress in attaining individualized service plan goals.

(6) Youth shall be regarded as full partners in the planning and implementation of individualized service plans.

(7) Individualized service plans shall be reviewed with each youth at least every sixty (60) days. Such plans shall be revised, as necessary, based upon additional information received and the youth's progress.

(8) Case management providers shall develop contingency plans for back-up emergency services to assist youth in coping with setbacks which may arise during their progress toward independent living.

(k) Emergency procedures. Each program director shall maintain procedures to be followed in the event of fire, flood, energy failure, snowstorm and other civil or natural disasters. Such procedures shall be reviewed annually and revised, as necessary.

(1) Policy and procedure manual. Each program shall have a policy and procedure manual containing, at a minimum, the following documents:

(1) A copy of the Runaway and Homeless Youth Act (article 19-H of the executive law) and the division's rules and regulations promulgated pursuant to the act. (title 9 NYCRR 182-1 and 182-2)

(2) A copy of all division policies and procedures applicable to runaway and homeless youth programs.

(3) The program's policies, procedures and plans developed pursuant to the requirements of this subpart.

(4) The program's child abuse reporting responsibilities and procedures, including the toll-free number of the statewide central register of child abuse and maltreatment.

(m) Reporting child abuse. Program staff shall immediately report to the statewide central register of child abuse and maltreatment or local child protective service, as appropriate, where there is reasonable cause to suspect that a youth under the age of eighteen years has been abused, maltreated or neglected. Such reasonable cause shall include credible information received from a youth concerning abuse, neglect or maltreatment outside of a program.

(n) Records.

(1) All programs shall keep accurate and complete records of:

(i) all youth, staff and volunteers;

(ii) the daily operation of the program; and

(iii) the provision of services by the program and community providers.

(2) Individual case records shall be maintained for each youth served. Youth case records shall contain, at a minimum, the following information:

(i) the name, gender, race and birthdate of the youth;

(ii) the name, address and telephone number of the youth's parent(s), guardian(s) or legal custodian(s);

(iii) the date and time of intake or admission, source of referral, circumstances surrounding the youth's presence at the program and the physical and emotional

condition of the youth upon intake or admission;

(iv) for residential programs, the time and date of parental notification regarding youth under the age of eighteen years, the name of the individual receiving such notification and the name of the staff member providing such notification;

(v) any executed consents for the release of information concerning the youth;

(vi) copies of individualized service plans and progress reports concerning such plans;

(vii) a copy of the discharge report prepared by program staff pursuant to the provisions of this subpart; and

(viii) information about the youth's dependent infant(s) and/or children, if present in the program, including the name, gender, age, physical condition and medical condition.

(3) Reports received or filed and any information concerning abuse, maltreatment or neglect by an employee, volunteer or consultant of a program are confidential and shall be maintained separate from the youth's case records. Such reports may be disclosed to appropriate authorities in connection with an investigation of child abuse, maltreatment and neglect in accordance with the social services law. Reports received by the authority investigating child abuse, neglect and maltreatment shall not be disclosed except as provided by the social services law. Any report which is reported by the department or local social services department to be unfounded shall be completely expunged from the confidential records of the program.

(o) Voluntary termination. The program director shall give notice to both the county youth bureau and the division, in writing, of the director's intention to voluntarily terminate program operation at least sixty (60) days prior to such intended termination. This notice shall indicate proposed steps to assure appropriate referral of youth to an alternate facility or program and to preserve the confidentiality of records.

182-2.6 Confidentiality.

(a) The disclosure of records or files, in whole or in part, pertaining to youth who are or have been in a transitional independent living support program, to any person, agency or institution is prohibited. This provision shall not prohibit the disclosure of information to appropriate state or local officials in connection with a report of child abuse, neglect or maltreatment and any investigation conducted pursuant to such report.

(b) Where necessary for the provision of services to youth in program, information may be released only upon receipt of written consent from the youth, including the following information:

- (1) the youth's name;
- (2) the name of the person authorized to release the information;
- (3) the name of the person authorized to receive the information;
- (4) the specific information to be disclosed;
- (5) the specific purpose for release of the information;

(6) the date, signature of the youth and the signature of at least one witness, who may be an agency representative; and

(7) the period during which the consent for release of information is effective.

182-2.7 Inspection and reporting.

(a) The division and the county youth bureau responsible for program monitoring and evaluation shall be provided with access to program sites, staff and volunteers, records, files and other relevant information for purposes of periodic inspection of the operation and adequacy of approved programs. However, the county youth bureau shall only have access to child abuse and maltreatment reports received from state or local authorities investigating child abuse, neglect or maltreatment as permitted by the social services law.

(b) Each program director shall report information and data to the division and the county youth bureau responsible for program monitoring and evaluation upon request.

182-2.8 Certification of residential programs.

(a) In addition to obtaining division approval pursuant to the procedure set forth in section 182-2.4 of this subpart, applicants proposing to operate residential programs shall obtain certification by the division of the residential facility.

(b) Certification process.

(1) Inspection. The division shall conduct an inspection of all proposed residential facilities.

(2) Issuance of operating certificate. An operating certificate will be issued to the agency proposing to operate a residential facility, upon verification by the division that such facility is operated in compliance with all requirements of this subpart.

(3) Certificate. Operating certificates shall not be transferable. The valid operating certificate shall be prominently posted and accessible for examination. The operating certificate shall be valid until such time as an agency voluntarily terminates operation of a residential program or such operating certificate is revoked by the division, pursuant to the procedures set forth in this subpart. Certificates shall be returned to the division immediately upon termination of operation of a residential program.

(c) Monitoring and inspection.

(1) Monitoring. Residential facilities shall be routinely monitored to ensure that they are maintained in the same condition and at the same location as that initially certified, unless otherwise approved by the division.

(2) Inspection. Residential facilities shall be routinely inspected to ensure ongoing compliance with all requirements of this subpart.

(d) Notification. The program director shall immediately notify the county youth bureau and the division, in writing, of any plans for significant change of the certified program. Such notification shall include changes in location, capacity, program model and physical plant. The division shall approve or disapprove such plans in accordance with the requirements of this subpart and shall notify the program director of the decision, in writing.

182-2.9 Operation of residential programs.

Residential programs shall operate as follows:

(a) Hours of operation. Program staff shall be available to residents twenty-four (24) hours per day.

(b) Intake. Youth and families shall have access to services as soon as possible, with minimal disruption to the regular operation of the program. Programs shall not accept or retain any youth who:

(1) is likely to cause danger to himself/herself or others or substantially interfere with the health, safety, welfare or care of other residents;

(2) is in need of a level of medical, mental health, nursing or other assistance that cannot be reasonably provided through the resources available to the program; or

(3) consistently refuses to comply with the policies, procedures and rules of the program, after all reasonable efforts are made and documented by program staff to assist the youth in adjusting to program requirements.

(c) Parental notification.

(1) Preferably within 24 hours, but not more than 72 hours after admission of a youth under the age of 18 years to a transitional independent living support program, the program staff and volunteers shall, to the maximum extent possible, provide notification of the youth's presence in the program to the parent, guardian or legal custodian with whom the youth last resided, or in whose custody the youth was most recently placed, prior to admission to the transitional independent living support program. Such notification shall include information about the following:

(i) the youth's physical and emotional condition;

and

(ii) the circumstances surrounding the youth's presence in the program.

(2) Notification to a parent, guardian or legal custodian shall be delayed beyond 72 hours when compelling circumstances indicate that the parent, guardian or legal custodian should not be so notified. Such compelling circumstances include the following:

(i) danger of physical injury from the parent, guardian, or legal custodian; and

(ii) a reasonable report concerning behavior on the part of the parent, guardian, or legal custodian toward the youth, which is considered to be grounds for either an abuse petition or a neglect petition.

(3) In all cases where notification is not provided to the parent, guardian, or legal custodian, the director of the program or his/her designee shall immediately ensure that one or all of the following steps are taken, as appropriate:

(i) seek direction from the family court concerning the filing of a petition to initiate child protective proceedings;

(ii) refer the youth to the local social services district; or

(iii) telephone the statewide central register of child abuse and maltreatment to report instances of suspected abuse, maltreatment or neglect and follow such telephone call with a written report within 24 hours.

(4) Whenever possible and appropriate, program staff shall notify the youth's parent, guardian or legal custodian when a youth under the age of 18 years leaves the program or when such youth successfully moves to independent living.

(d) Program participation.

(1) Program participation is voluntary and may be terminated by youth at any time.

(2) Length of stay in program shall not exceed twelve months from the date of admission.

(e) Services.

(1) Residential program staff shall provide or assist in obtaining the following necessities and services for youth and, where appropriate, for their families:

(i) shelter;

(ii) food;

(iii) clothing;

(iv) individual and group counseling;

(v) transportation;

(vi) medical, mental health and dental care;

(vii) legal assistance; and

(viii) copies of miscellaneous vital documents, such as birth certificates, social security cards and education records.

(2) Each program director shall ensure compliance with applicable new york state education law and regulations.

(f) Health services.

(1) Program staff shall maintain a current list of local licensed physicians, hospitals or clinics which provide health services to youth.

(2) Program staff shall assist youth in accessing health services including, but not limited to: dental, obstetrical, gynecological, family planning, alcohol and substance abuse treatment, mental health and primary health care.

(3) Each program director shall designate one staff member to be responsible for ensuring that youth are provided with assistance in accessing health services.

(4) Program staff shall provide each youth with education about AIDS, HIV testing procedures, confidentiality of HIV related information and HIV prevention, including universal precautions.

(5) Arrangements shall be made by program staff for the immediate transportation of youth with serious physical or mental health problems to an appropriate health care facility.

(6) Each site shall maintain a first aid kit and a spill kit which shall be fully stocked at all times.

(7) All medications belonging to youth in residence shall be stored in a locked cabinet or similar locked storage area.

(g) Supervision.

(1) Professionally trained staff members shall provide on-site supervision in group residences twenty-four (24) hours per day.

(2) Professionally trained staff shall visit the site of each supported residence at least daily, and shall have a minimum of daily contact with each youth in the program.

(h) Child abuse screening.

(1) Applicants for employment or voluntary service or consultants in residential programs shall be screened through the statewide central register of child abuse and maltreatment and placed on duty as set forth in the social services law.

(2) Screening information received from the statewide central register of child abuse and maltreatment shall be processed and evaluated in accordance with the social services law.

(3) Programs shall maintain the screening information obtained from the statewide central register of child abuse and maltreatment in the employee's personnel file.

(i) Health screening. Food handlers and persons caring for youth shall undergo a physical examination to determine fitness for duty. Such persons shall be reexamined annually to certify ongoing fitness for duty.

(j) Discharge.

(1) All youth shall be discharged no later than twelve months after entering a residential facility.

(2) Programs shall continue to provide case management and other appropriate services, excluding shelter, for a period of at least 90 days after discharge and shall encourage participation of the youth's family, where appropriate.

(3) Program staff shall maintain written documentation in youth case records of all efforts made to provide services for youth after discharge.

182-2.10 Physical plant requirements for residential facilities. All certified residential facilities shall comply with the physical plant requirements of this section.

(a) General.

(1) The design and furnishings of the residence shall promote a non-institutional, homelike environment.

(2) A telephone shall be made available for use by youth during reasonable hours, and access to such telephone shall be monitored by program staff to ensure that all youth have equal opportunity to make and receive telephone calls.

(3) Group and supported residences may be located in the same building or on the same grounds as runaway and homeless youth shelters, defined in subpart 1 of this part. Such programs, however, must be physically separated and the following conditions must exist:

(i) separate direct care staff shall be provided for each program;

(ii) sleeping, dining, program and recreation areas shall be separately provided and maintained; and

(iii) sites shall be individually certified, including those operated by the same agency.

(4) The buildings and grounds of each residential facility shall be kept in a sanitary and safe condition, to facilitate the physical and mental well-being and comfort of youth.

(5) The building which houses the residential facility shall be in compliance with all applicable building, fire and health codes, and all relevant provisions of state and local laws, ordinances, rules and regulations.

(6) All rooms shall be lighted and ventilated.

(7) Unobstructed access to exits shall be maintained at all times.

(b) Bedrooms.

(1) Only youth of the same gender shall occupy the same bedroom.

(2) Sleeping space for each youth shall consist of a minimum of 60 square feet of floor space.

(3) In group residences, no more than 4 youth shall occupy the same bedroom.

(4) In supported residences, no more than 3 youth shall occupy the same bedroom.

(5) Bunk beds may be used, but only in a manner which complies with the minimum square foot sleeping space requirements for each youth.

(6) Bedrooms shall have one or more windows opening directly to outside air.

(7) Upon admission to the program, each youth shall be provided with one bed, one mattress constructed of fire-retardant material, furniture for storage of personal items and clothing, one pillow, one pillowcase, two sheets, sufficient blankets to provide comfort and warmth and a supply of towels and washcloths.

(c) Clothing.

(1) The program director shall ensure that all youth have a sufficient quantity of clothing which is of appropriate style, good quality and suited to seasonal conditions.

(2) Program staff shall ensure that youth clothing is laundered on a regular and frequent basis and repaired as required.

(d) Bathing and toilet facilities.

(1) Bathrooms shall be maintained in sanitary condition at all times.

(2) The minimum requirements for bathroom facilities are as follows:

Youth	Toilet	Sink	Tubs or Showers
1-6	1	1	1
7-12	2	2	2
13-20	3	3	3

(3) All toilets and showers shall be enclosed to provide privacy.

(4) Both hot and cold running water shall be available at all times.

(5) Individual articles for bathing, personal grooming and hygiene shall be provided in accordance with the age and needs of youth.

(e) Living room or recreation area. A room of sufficient size and furnishing shall be provided for program and recreational activities.

(f) Dining area. The dining area shall be of sufficient size and furnishing to allow seated dining in small groups.

(g) Food preparation/services.

(1) The program director shall have written procedures to ensure timely ordering and proper storage of food supplies and food products.

(2) The residential program shall ensure the availability of three daily meals of good quality, which may include off-site meals. Food served shall be of sufficient quantity for the specific program population served.

(3) Medically prescribed dietary and nutritional needs or restrictions of youth shall be accommodated.

(4) Program staff shall, to the extent reasonably practicable, provide youth with food items and meals sufficient to meet established religious dietary laws, in keeping with the nutritional content of food items and meals served to other youth.

(5) Program staff shall keep accurate records on file of food items and supplies made available for youth.

(6) Pantries and areas used for food storage shall be kept dry and well ventilated and shall not be used to store supplies which may contaminate food. Perishable food shall be kept refrigerated.

(7) Each program shall have kitchen equipment maintained in proper working condition and sufficient to provide for the program population.

(8) Dishes, glassware, silverware and kitchen utensils shall be maintained in a safe and sanitary condition.

(9) Group residences shall have an automatic dishwasher to clean food service equipment and utensils.

(h) Fire safety.

(1) The program director shall ensure that all buildings and structures comply with all applicable state and local fire codes, including requirements for the placement of smoke detectors, exit signs and fire extinguishers within the residential facility and other physical plant mandates.

(2) Program directors shall arrange for yearly inspections conducted by certified fire officials to ensure compliance with all state fire safety standards (or local standards if more stringent).

(3) Heat, electric and ventilation systems shall be of safe design, maintained in proper working condition and routinely inspected by qualified individuals.

(4) The use of wood stoves and kerosene heaters in program buildings and structures is prohibited.

(5) Space heaters shall not provide the sole means of heat in program buildings.

(6) Youth occupancy shall not be permitted above the second floor in a building of wood frame construction.

(7) Each floor of a residence occupied by youth shall have at least two alternate means of egress.

(8) An emergency exit sign shall be posted above each primary means of egress.

(9) Staff and residents shall be instructed and drilled in the emergency evacuation of the building on a regular basis, and all such instruction and drills shall be documented.

(10) Smoke detectors shall be placed in stairwells, attics, basements, bedrooms and hallways and shall be maintained in operable condition at all times.

(11) Each site shall have a working telephone for use in emergencies, with telephone numbers posted nearby for fire, police, medical assistance and other emergency services.

(i) Facilities for staff. Live-in or sleep-in staff shall be provided with separate sleeping quarters and a separate bathroom with either a tub or shower.

(j) Provisions applicable to residential programs serving youth with dependent infants/children. In addition to the above provisions, residential programs serving homeless youth and their dependent infants/children shall comply with the following operating requirements:

(1) Infants shall be supervised at all times.

(2) Play areas/day rooms for infants shall not be located above the first floor of any residence.

(3) Parents and their infant(s) may occupy either the same bedroom or adjoining bedrooms, but shall have separate beds. Infants shall be provided with a crib.

(4) A bedroom occupied by a parent and infant shall consist of a minimum of 60 square feet of floor space. Where occupied by an infant alone, the bedroom shall consist of a minimum of 30 square feet of floor space.

(5) Child safety devices shall be installed to secure electrical outlets and all storage areas which contain potentially dangerous substances and items, such as cleaning materials, chemicals, medications, tools and kitchen utensils.

(6) High chairs, booster seats, bathinettes, toilet training and other such equipment shall be provided.

(7) Infants shall have health examinations periodically, as recommended by the attending pediatrician.

182-2.11 Prevention and remediation of child abuse and maltreatment in residential programs.

(a) Child abuse reporting. Each director of a residential program shall ensure that all employees and volunteers are provided with written information regarding the statutory requirements for reporting suspected incidents of child abuse, neglect and maltreatment.

(b) Child abuse prevention plan. Each residential program shall develop written procedures, available onsite, for the protection of youth when there is reason to believe an incident has occurred which would render a youth an abused or neglected child, as defined in the social services law. Such procedures shall include, but shall not be limited to, the following:

(1) Notification. Immediate notification of suspected incidents of abuse or maltreatment shall be made to:

(i) the statewide central register of child abuse and maltreatment and, if appropriate, to local law enforcement officials; and

(ii) the division and the program's administrative agency.

(2) Investigation procedures. Immediately upon notification that a report of child abuse or maltreatment has been made to the statewide central register of child abuse and maltreatment, the director of the program or his or her designee shall:

(i) initiate an internal investigation;

(ii) preserve any potential evidence;

(iii) obtain proper medical evaluation and/or treatment for the youth, as needed, with documentation of any evidence of abuse or maltreatment; and

(iv) provide necessary assistance to the department and, if applicable, local law enforcement officials in their investigation thereof.

(3) Safety procedures. Upon notification that a report of child abuse or maltreatment has been made to the statewide central register of child abuse and maltreatment with respect to a youth in the residential program, the director or his or her designee shall evaluate the situation and immediately take appropriate action to assure the health and safety of the youth involved in the report and of any other youth similarly situated in the program. Additional action shall be taken whenever necessary to prevent future incidents of child abuse and maltreatment. Any action taken should cause as little disruption as possible to the daily routines of the youth in program. The following alternatives shall be considered in determining the course of action that will be taken with regard to a specific incident of alleged abuse or maltreatment:

(i) removal or transfer of the alleged perpetrator, consistent with the policy of the agency's board of directors, appropriate collective bargaining agreement(s) and applicable provisions of the civil service law;

(ii) initiation of disciplinary action against the alleged perpetrator, consistent with appropriate collective bargaining agreement(s) and applicable provisions of the civil service law;

(iii) increasing the degree of supervision of the alleged perpetrator;

(iv) provision of counseling to the alleged perpetrator;

(v) provision of increased training to staff and volunteers pertinent to the prevention and remediation of abuse and maltreatment;

(vi) removal or transfer of the youth, consistent with applicable placement procedures, if it is determined that there is a risk to such youth in remaining in that program. In such case, the county runaway and homeless youth service coordinator and the division shall be notified of any such removal or transfer; and

(vii) provision of counseling to the youth involved in the report and any other youth, as appropriate.

(4) Plans of prevention and remediation. Upon receipt from the department of an indicated report of child abuse or maltreatment, the director of the program shall consider any appropriate recommendations received from the department for preventative and remedial action, including legal action, and shall:

(i) within 10 calendar days of receipt of an indicated report of child abuse or maltreatment, develop and implement a written plan of action to be taken with respect to an individual employee or volunteer to assure the continued health and safety of the youth in program and to provide for the prevention of future acts of abuse or maltreatment, which plan shall include, at a minimum, those actions taken pursuant to subparagraph (3) of this paragraph. The plan shall be subject to approval by the division and shall be submitted to the department; and

(ii) in the event an investigation of a report of alleged child abuse or maltreatment indicates that some credible evidence of abuse or maltreatment exists and such abuse or maltreatment may be attributed in whole or in part to noncompliance by the program with provisions of the social services law or this subpart, develop and implement a plan of prevention and remediation which, at a minimum, shall address each area of noncompliance and indicate how the program will come into compliance with the act and the regulations. Such plan shall be developed in conjunction with and subject to approval by the division, for submission to the department.

(5) Training.

(i) Staff/Consultant training. Subject to the amounts appropriated for such purposes, child abuse prevention training shall be provided to all administrators, employees, volunteers and consultants to the program on a regular basis, at least annually. Priority shall be given to the training of administrators, employees, volunteers and those consultants whose duties involve regular and/or substantial contact with youth in residential programs.

(ii) The purpose of such training shall be to increase the participants' level of awareness, encourage positive attitudes and enhance knowledge and skill development in at least the following areas:

- (a) child abuse prevention and identification;
- (b) safety and security procedures;
- (c) principles of child development;
- (d) characteristics of the youth in care;
- (e) techniques of group and child management,

including crisis intervention;

(f) laws, regulations and procedures governing the protection of children from abuse and maltreatment, including reporting responsibilities; and

(g) other relevant information provided by the division.

(iii) Administrators may be exempted by the division from such training requirements upon demonstration of substantially equivalent knowledge or experience.

(6) Instruction of youth. Instruction shall be provided to all youth in techniques and procedures for protection from abuse and maltreatment. Such instruction shall be:

(i) appropriate for the age, individual needs and particular circumstances of the youth, including the existence of mental, physical, emotional or sensory disabilities and the needs and circumstances within the specific residential program;

(ii) provided within 72 hours of a youth's admission in a manner which will ensure that all youth receive such instruction; and

(iii) provided by individuals who possess appropriate knowledge and training and documented by the program.

182-2.12 Variances from requirements of residential programs.

(a) Standard. Residential programs may apply to the division for a specific exception to compliance with the

requirements of this subpart, where not expressly prohibited by statute. The director of the division may grant a variance, in his or her discretion, only when doing so will not jeopardize the health, safety and welfare of the youth in such program.

(b) Permanent variance. Application for a permanent variance may be made where a program is unable to achieve compliance as required by this subpart.

(c) Temporary variance. Application for a temporary variance may be made where a program is only temporarily unable to comply as required by this subpart. A temporary variance shall not be effective for more than one (1) year after its issuance.

(d) Application. The variance application shall include the following:

(1) the specific rule, regulation or provision that is the subject of the application;

(2) the specific reasons and facts supporting the inability to comply; and

(3) if applying for a temporary variance, a plan and timetable for achieving full compliance with the rule, regulation or provision at issue.

(e) Granting of variance. If a variance is granted, the director of the division shall list any special requirements or conditions imposed on the program. The variance and any special requirements or conditions imposed shall become the standard for compliance with the specific rule, regulation or provision at issue for the program involved.

(f) Denial. When a variance is denied, the written determination of the director shall set forth the specific facts and reasons for such denial.

182-2.13 Enforcement powers applicable to residential programs.

(a) Powers.

(1) The division shall exercise those powers authorized by the social services law to enforce the provisions of this subpart. Any action taken by the division to enforce the provisions of this subpart shall be final.

(2) Consistent with the procedures set forth in this section, the division may suspend, limit, or revoke a program's operating certificate at any time for one or more violations of this subpart. The division shall notify the certificate holder, in writing, of the decision to take such action, the reasons therefor, and the manner in which the operating certificate is to be limited.

(3) The following limitations may be placed on a program's operating certificate:

(i) a limitation on the period of time for which such certificate remains effective, contingent on a determination that specified violations have been corrected or specified conditions have been met;

(ii) a limitation on the number of persons for which such facility is authorized to provide care; or

(iii) a prohibition against the admission of new residents after a specified date.

(b) Certificate null and void. If a residential facility is not operated as certified for a period of at least

60 days, due to the occurrence of a catastrophe such as fire, flood or hurricane, its operating certificate shall be deemed null and void by the division.

(c) Notice and hearing requirements. Where the division intends to revoke, suspend, or limit an operating certificate, the affected party shall be afforded notice and an opportunity to be heard as follows:

(1) Notice of suspension, revocation or limitation. The notice of suspension, revocation, or limitation shall include an explanation of the reasons for the action taken by the division and affected program director's right to invoke the division's hearing process. The affected program director shall have ten business days from receipt of the notification to invoke the hearing process by returning a copy of the completed form indicating a choice to request a hearing concerning the matter.

(2) Notice of hearing. A notice of hearing shall be personally served upon or sent by registered mail to the director of the affected program at least 30 days prior to the date of hearing. The notice shall specify the proposed action and the basis therefor, the time and place of the hearing and a statement that interpreter services shall be made available to deaf persons at no charge. The charges shall include a brief statement of jurisdiction and shall contain supporting facts and references to all relevant statutes, regulations or other legal authority.

(3) Answer. The director of the affected program shall have the option of filing a written answer to the charges. The answer must be mailed to the hearing officer, with a copy to the division, not less than eight days prior to the date of the hearing.

(4) Hearing Officer. The hearing shall be conducted by a hearing officer, who has no previous involvement with or knowledge of the case. The hearing officer shall have the authority to administer oaths, issue subpoenas, rule upon requests for adjournment and offers of evidence, preserve the guarantees of due process and effectuate the purposes and provisions of applicable law in accordance with the state administrative procedure act.

(5) Hearing procedure.

(i) The hearing officer shall preside over the proceedings and make all procedural rulings.

(ii) The rules of evidence, as applied in courts of law, shall not apply except that all evidence shall be relevant and material.

(iii) All testimony shall be given under oath.

(iv) The hearing shall be recorded verbatim.

(v) The director of the affected program shall be entitled to the representation of an attorney-at-law or other representative of his or her choice and own expense, and may have witnesses give testimony, cross-examine division witnesses, examine any document or item offered into evidence and otherwise present relevant and material evidence on his or her behalf.

(6) The decision.

(i) Upon conclusion of the proceeding, the hearing officer shall make findings of fact and conclusions of law and

render a recommendation as to the decision which should issue therefrom. Said recommendation shall be forwarded to the director of the division within 14 days after the conclusion of the hearing, together with the notice of revocation, suspension or limitation, notice of hearing, answer, verbatim transcript of the hearing, all documents admitted into evidence at the hearing and all other materials designated as part of the record by the hearing officer.

(ii) The director of the division shall, within 30 days of the receipt of the hearing officer's written report, render a written decision based upon a consideration of the entire record. The director's decision shall incorporate only the hearing officer's findings of fact and conclusions of law. The director is not bound by the hearing officer's recommendation as to the appropriate decision, either in whole or in part.

(iii) A copy of the decision shall be mailed to the director of the affected program and, if applicable, his or her attorney or other representative. Where the decision rendered is adverse to the director of the affected program, a notice of the right to judicial review in accordance with the provisions of article 78 of the civil practice law and rules shall be attached to the decision.

(d) Temporary suspension or limitation.

(1) An operating certificate may be temporarily suspended or limited, without a hearing, upon a determination by the division that the public health or an individual's health, safety or welfare is in imminent danger.

(2) Such temporary suspension or limitation shall take effect immediately upon the program director's receipt of written notice of the division's determination, which shall state the basis for such determination, and shall remain in effect for a maximum period of 30 days thereafter, except as otherwise provided in subparagraph (3) of this section.

(3) Where the division has temporarily suspended or limited a program's operating certificate and also intends to revoke, or further suspend or limit the program's operating certificate pursuant to the process set forth in paragraph (c) of this section, the notice required in subparagraph (1) of paragraph (c) shall be mailed within the 30-day effective period of the temporary suspension or limitation. In such case, the temporary suspension or limitation shall remain in effect until the hearing process set forth in paragraph (c) of this section is completed.

182-2.14 Designation and responsibilities of the runaway and homeless youth service coordinator.

(a) The county youth bureau shall designate an individual with appropriate qualifications and experience to serve as runaway and homeless youth service coordinator.

(b) The county youth bureau shall develop and maintain written procedures for the specific responsibilities of the coordinator and shall monitor the coordinator's daily functions with respect to the performance of such duties.

(c) The daily functions of the coordinator shall include, but shall not be limited to the following:

(1) development and implementation of county plans with the county youth bureau to improve services for runaway

and homeless youth and their families;

(2) identification, assessment and monitoring of all available county resources for runaway and homeless youth and their families;

(3) ensuring that a system is in place for responding to inquiries concerning available shelter space, transportation and services 24 hours per day; and

(4) ensuring that program youth have access to educational services, including transportation.

182-2.15 State aid for runaway and homeless youth programs.

(a) In order for programs to receive state aid, a runaway and homeless youth service plan shall be developed by the county youth bureau in accordance with section 420 of the executive law.

(b) Counties having an approved runaway and homeless youth service plan shall be entitled to reimbursement by the state for up to sixty percent of the entire amount of those expenditures necessary to operate its runaway and homeless youth programs and to fund its runaway and homeless youth service coordinator positions, after deductions are made for any federal or additional state funds received or allocated to such programs. Reimbursable expenditures may include the following:

- (1) staff salaries;
- (2) fringe benefits;
- (3) equipment;
- (4) rental of operating space;
- (5) utilities;
- (6) insurance;
- (7) youth transportation;
- (8) shelter;
- (9) food;
- (10) clothing;
- (11) supervision;
- (12) individual, group and family counseling; and
- (13) medical and dental care.

(c) The county's share of the total expenditures incurred for the operation of transitional independent living programs may be met in part through private funding and valuation of in-kind services, as defined in this subpart, however, such private funding and receipt of services shall not, in the aggregate, be more than fifty percent of such county's share.

(d) Inclusion of in-kind services. In order to include the value of in-kind services as part of expenditures for which state aid may be granted, all in-kind services shall be verified by the county youth bureau and approved by the division pursuant to the following criteria:

(1) in-kind services shall not be used in a manner that reduces the total services provided to runaway and homeless youth;

(2) in-kind services shall be used only if the item or services contributed are reimbursable under this section;

(3) in-kind services shall not be used if the same services have been counted toward matching another federal or state program or grant;

(4) valuation of in-kind contributions shall be based on fair market value at the time of donation;

(5) donations valued at five hundred dollars or more shall be counted at an annual rate of two percent for buildings and capital improvements or six and two-thirds percent for equipment;

(6) valuation of volunteer time shall be consistent with ordinary rates of pay for similar work;

(7) donations of staff and volunteer time shall be supported by timesheets, job descriptions and a pay scale; and

(8) donations of staff time shall not be counted as in-kind services if such staff are paid from state or federal funds.

(e) Funding of capital improvements. Subject to the availability of funding, consideration will be given to granting state aid for expenditures on capital improvements, as follows:

(1) capital improvements or modifications shall be approved by the division, prior to construction, if state aid will be requested for such costs; and

(2) division approval shall be granted only where a program demonstrates that capital improvements or modifications are required in order to comply with this subpart and construction funds are not available through local and state capital improvement programs.

(f) Funds. Reimbursements made pursuant to this subpart shall be derived solely from funds appropriated for runaway and homeless youth programs.

(g) Non-reimbursable expenses. State aid shall not be granted for expenditures which are not ordinary program costs, such as the following:

(1) purchase of land and buildings;

(2) landscaping;

(3) taxes from which municipalities are exempt;

(4) personal membership fees in clubs or professional organizations and associations;

(5) salaries of personnel who are responsible for discharging law enforcement responsibilities;

(6) interest and penalty costs incurred by a municipality as program expenses;

(7) activities for which a fee is charged, however, a residential transitional independent living support program shall be entitled to charge rent for residential services provided to homeless youth if such charge has been approved by the division in accordance with this subpart as part of the program's design. Any amount paid for rent shall not be considered as part of the local match requirement, but shall be applied toward daily living expenses or held aside for purposes of assisting the resident in his or her eventual transition to independent living;

(8) activities which are normally considered part of a regular school curriculum;

(9) awards, other than inexpensive prizes such as trophies, medals or ribbons;

(10) hotel or motel costs of housing youth; and

(11) youth stipends.

182-2.16 Runaway and homeless youth act advisory

committee.

(a) Function. The advisory committee shall advise and make recommendations to the division with regard to implementation of the Runaway and Homeless Youth Act and division regulations promulgated pursuant thereto, related legislation and policy initiatives and the integration and coordination of services provided by runaway and homeless youth programs.

(b) Membership. Members of the advisory committee shall be appointed by the director of the division. Youth bureau directors, runaway and homeless youth service coordinators, individuals experienced in working with runaway and homeless youth, individuals with other relevant experience and knowledge, and ex officio members representing federal and state agencies which impact runaway and homeless youth may be selected by the director of the division to serve on the advisory committee.

182-2.17 Existing operating certificates. Any operating certificate which was issued or extended by the division prior to the effective date of this subpart shall remain valid subject to the certificate holder's compliance with the requirements set forth herein and certification within one (1) year after the effective date of this subpart.