


### Non-Secure Placement Personal Youth Search Policy

<b>Approved By:</b> Ronald E. Richter, Commissioner	 <b>Date Issued:</b> 11/21/12	<b>Number of Pages:</b> 6	<b>Number of Appendices:</b> 0
<b>Related Laws:</b> Soc. Serv. Law § 404 (13)	<b>Children's Services Divisions/Provider Agency:</b> Children's Services Divisions of: Youth and Family Development; and Program Development Policy and Planning	<b>Contact Office/Unit:</b> <b>For additional information on this policy please contact:</b> Sarah Bass at <a href="mailto:Sarah.Bass@dfa.state.ny.us">Sarah.Bass@dfa.state.ny.us</a>	
<b>Supporting Case Law:</b> NA	<b>Supporting Regulations/Standards:</b> NA		
<b>Regulatory Bulletins &amp; Directives:</b> NA	<b>Related Policies:</b> NA	<b>Supersedes:</b> NA	
<b>Related Forms/Links/Sources:</b>			
<b>SUMMARY:</b> The purpose of this policy is to provide guidelines and procedures for staff to follow with respect to personal resident searches. Non-Secure Placement (NSP) providers are required to implement search policies and practices designed to maintain contraband-free programs throughout the NSP system. The primary purpose of any personal search is to protect the safety of youth and staff of the NSP facility, the community, and others who may be present, within a context that respects and promotes dignity and healthy relationships with youth including employing effective communication, making empathetic connections, and establishing a structured, consistent environment. NSP provider search policies must make clear to staff the circumstances under which personal searches described in this policy are mandatory and the circumstances under which such searches are to be conducted at the discretion of facility staff. NSP providers are expected to make determinations regarding the need for personal searches based on ongoing assessments of the level of trust and open communication with individual youth and to conduct searches within the broader context of a conversation about personal responsibility, safety and trust.			
<b>SCOPE:</b> This policy is applicable to all staff housing and providing care solely for NSP youth. For those NSP providers providing care for a youth population in addition to that of NSP youth (mixed populations) at a particular facility, 18 NYCRR § 441.18 is controlling.			

## **I. INTRODUCTION**

The following personal resident search policy is to be implemented in the context of residential programs informed by core principles, beliefs and values that guide the non-secure placement (NSP) system. As a whole, the system is premised on the assumption that youth who are placed in residential confinement should be placed close to home and that programming should be youth-centered and strive to provide youth with individual support they need to succeed. Families and communities should be integrated into programming and treatment throughout placement and aftercare, to the maximum extent possible. Further, the primary responsibility of all NSP system participants is to protect the safety and security of communities and of youth in care. Placement of youth in residential facilities is to be limited to circumstances where youth pose a risk to community safety; youth will be placed in the least restrictive environment necessary under the circumstances.

## **II. DEFINITIONS**

- A. Personal Search – Searching of a youth’s person to determine whether or not a youth has concealed contraband on his/her person or in his/her clothing. The employee(s) conducting the search must assure its thoroughness and maintain the dignity of the youth being searched. Personal searches consist of Pat-Frisk Searches and Security Searches. All searches shall be conducted in the presence of a supervisor and a child care staff member. In the absence of a supervisor, another child care staff member shall be present. All searches shall be conducted by personnel of the same gender or gender identity as the youth, except in exigent circumstances.
  - 1. Pat-Frisk Search – A visual or manual inspection of a youth's body that consists of physically patting down his/her clothing. The youth may be required to remove his/her outer clothing such as a coat, hat and shoes. A pat-frisk search may be part of the routine operation of all non-secure facilities. Pat-frisk searches may also include the use of a hand-held metal detector to detect metal objects on a youth and his/her personal items and property on his/her person.
  - 2. Security Search – An inspection to check for contraband, conducted to maintain the safety and security of staff and youth, that requires the youth to wear a medical gown or robe after removing his/her upper garments, and then subsequently removing all of his/her under garments. Security searches shall also include the use of a hand-held metal detector to detect metal objects on a youth and in his/her personal items and property on his/her person.
- B. Contraband is defined to include:
  - 1. Those articles:

- a. The possession of which is prohibited under any law applicable to the general public; or
  - b. Which are readily capable of being used to cause injury including, but not limited to: firearms, cartridges, knives, razor blades, explosives, or sharpened objects;
- 2. Illegal drugs;
- 3. Prescription medications that are not lawfully issued to the bearer;
- 4. Other unauthorized items such as:
  - a. Alcohol or alcoholic beverages
  - b. Tobacco products (e.g., cigarettes, chewing tobacco)
  - c. Hazardous material (e.g., gasoline, poisons, unapproved cleaning fluids, acids)
  - d. Sexually explicit materials
  - e. Needles
  - f. Mace,
  - g. Matches,
  - h. Lighters, or
  - i. Any other item that is prohibited by the regulations and policies of Children's Services and/or rules of the individual facility.
- C. Reasonable Suspicion: A rational inference, based on specific objective facts, that a youth has engaged in conduct that is in violation of law, Office of Youth & Family Development policy or regulations, or policy or regulations of the NSP facility, including possessing contraband or having engaged in behavior that poses a risk to the youth or others. The standard does not require absolute certainty, but rather a reasonable, articulable basis for the suspicion.

### **III. GUIDELINES AND PROCEDURE**

- A. Pat-Frisk Searches:
  - 1. Pat-frisk searches may be conducted on a youth as part of routine procedure and do not require individualized reasonable suspicion to believe that a specific youth is in possession of contraband. Each NSP provider will be required to create procedures for routine, objective pat-frisk searches and provide these procedures to the Administration for Children's Services. Any non-routine pat-frisk searches require individualized reasonable suspicion that a specific youth is in possession of contraband. All pat-frisk searches will be documented in the facility logbook.

2. Youth may be pat-frisk searched every time they enter or leave the facility or off-site school, after receiving a visit at the facility, or at the discretion of staff when they suspect youth may possess contraband.
3. Pat-frisk searches shall be conducted by personnel of the same gender or gender identity as the youth and in the presence of a witness, except in exigent circumstances. Youth may be required to remove any clothing covering their head, hands and feet, as well as outer garments such as scarves and coats.
4. Pat-frisk searches shall be conducted in the following manner:
  - a. The search is conducted by patting the outer clothing over the entire length of the youth's body and examining the seams and pockets of the youth's clothing. Except as provided for in paragraph (b) below, the youth's skin shall be touched only at the shirtsleeves and collar. The search shall require the youth to run his/her fingers through his/her hair under the observation of a child care worker in order to ensure that weapons or other contraband are not hidden in the hair. The youth may be required to open his/her mouth as part of the contraband search. At the discretion of the employee and a supervisor, a handheld metal detector may be used to check for contraband in a youth's hair or other parts of the body.
  - b. To perform a pat-frisk search, the employee conducting the search stands behind the youth and asks the youth to raise his/her arms. Special attention shall be paid to visual inspection of the area to be searched, prior to actually touching the area. The employee places his/her thumbs under the youth's collar, pats his/her hands across the top of the youth's arms, comes back under the youth's arms to the armpits and down the youth's sides to the waist. The employee then passes his/her finger around the youth's waistband (if wearing pants or shorts), pats his/her hands down the outside of the youth's legs and up the inside of the youth's legs to and including the crotch. The employee then reaches around and pats the youth's chest and back and checks any pockets. In conducting a pat-frisk, employees shall strive to preserve the dignity of the youth being searched.
  - c. Any contraband identified during the search shall be confiscated in accordance with the NSP Policy on Contraband, and if appropriate, be logged and stored with the youth's personal valuable property or returned to the youth's parent.

**B. Security Searches:**

1. Circumstances under which security searches may be conducted:
  - a. All youth may be subjected to a security search upon admission into any NSP facility and upon readmission as a result of revocation of aftercare status as

part of routine procedure and without any individualized reasonable suspicion that a particular youth is in possession of contraband.

- b. After admission to a facility, a youth may be subject to a security search based on individualized reasonable suspicion that the youth may possess contraband in the following situations:
  - i. Returns from any outside appointment or contact where constant NSP facility staff supervision was not maintained;
  - ii. Returns from a home visit;
  - iii. After a visit from an authorized visitor; and
  - iv. Under any other circumstances where NSP provider staff has an individualized reasonable suspicion that the youth may possess contraband.

All non-routine security searches require either prior supervisory approval, or, in exigent circumstances, post search review by a supervisor within twenty-four hours. After a post search review by a supervisor, the supervisor shall document the basis of the authorization, or lack thereof, in the facility logbook.

- c. All security searches must be documented in the facility logbook and the youth's case record. The reasons for all searches conducted based on reasonable suspicion that a youth is in possession of contraband must be documented in the facility logbook. All security searches will be reported to The New York State Office of Children and Family Services on a monthly basis.

2. Security Searches shall be conducted in the following manner:

- a. Youth shall be directed to a private area equipped with a privacy screen, curtain, or door and free of all youth and staff. Youth shall be directed to:
  - i. Remove their upper garments (e.g., shirt, sweater, undershirt, bra);
  - ii. Don a medical gown or a robe; and
  - iii. Remove all of their remaining articles of clothing, including undergarments.
- b. Security searches will be conducted by personnel of the same gender or gender identity as the youth and in the presence of a witness, except in exigent situations. All cross gender searches must be documented, noted as such, and include the reason why the cross-gender search was performed.
- c. Prior to commencement of the search, the youth shall be informed of the consequences of a contraband finding and be given an opportunity to surrender any contraband prior to undergoing an electronic search procedure that includes a handheld metal detector

- d. Youth shall then be required to surrender all items of personal property or contraband to the staff member conducting the search.
- e. The youth shall then be directed to close his or her robe and step out from behind the curtain.
- f. Staff shall put on gloves prior to commencing the search.
- g. Staff shall ask the youth to turn around so that the youth's back is facing staff and the staff member shall run his/her hand down the back of the youth's torso to ensure that the youth removed all of his/her clothing. If all the clothing has not been removed, the youth shall be asked to step back inside the private area and remove the remaining clothing item(s). If all clothing has been removed, the youth shall then turn around and face the staff.
- h. Staff shall inquire if the youth has any sharp objects on his/her person or in his/her clothes, prior to searching and/or reaching into a youth's pockets.
- i. A staff member shall perform a thorough examination of all of the youth's personal property in front of the youth, including the youth's clothing, any personal items and eyeglasses. Staff shall run a handheld metal detector over the clothing items as well. Any contraband identified during the search shall be confiscated in accordance with the NSP Policy on Contraband, and if appropriate, be logged and stored with the youth's personal valuable property or returned to the youth's parent.
- j. The youth shall be asked to hold out his/her arms, and the staff member of the same gender or gender identity shall pass a handheld metal detector up and down the outline of the youth's body and over the youth's body without touching the youth.
- k. All permissible items shall be returned to the youth upon the youth clearing the security search.
- l. Prior to letting the youth back into the privacy area, staff members shall inspect the area for contraband.
- m. Youth who have cleared the security search shall be given their clothing back and be permitted to put on their clothing with the same level of privacy indicated above.