

New York City Department of Correction

Young Adult ESH Compliance Audit – September 2020

Pursuant to the six (6) month limited variance granted by the NYC Board of Correction on July 14, 2020 allowing for the continued use of Enhanced Supervision Housing (ESH) for young adults (18 to 21 years old), the related variance conditions require a monthly audit on compliance with the following provisions of the Board's Minimum Standards:

- § 1-05(b) (Lock-in), specifically, the number of out-of-cell hours per young adult;
- § 1-08(f) (Access to Courts and Legal Services, including Law Library);
- § 1-06 (Recreation);
- § 1-02(c)(2) (Classification), specifically, the number of programming hours offered to each young adult and the number of hours each young adult participated in programming; and
- Education services, specifically the number of young adults brought to school and, for each young adult, the time each young adult was brought to school and the time each young adult was taken out of school.

Audit Parameters

The audit is conducted through a manual review of housing area logbooks and programming attendance data on four (4) randomly selected dates from each month. The scope of the audit encompasses only those housing units within ESH in which young adults are housed within the audit period. During this audit period, young adults were housed in up to six (6) ESH housing areas.

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

- September 3
- September 9
- September 15
- September 22

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

- September 11
- September 18
- September 23
- September 30

§1-05(b) Lock-in

A manual review of housing area logbooks was performed to determine whether seven (7) or fourteen (14) hours of out-of-cell time were afforded to the young adults based on their housing level. This audit report also provides individualized data related to each young adult's out-of-cell time during the reporting period.

§1-08(f) Access to Courts and Legal Services, including Law Library

A manual review of Law Library Logbooks was conducted to determine whether Law Library services were afforded. In addition to the logbook review, on-site inspections were conducted to determine if the kiosks and typewriters located within the various young adult ESH housing areas were operational.

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§1-06 – Recreation

A manual review of housing area logbooks was conducted to determine whether one (1) hour of outdoor recreation was afforded.

§1-02(c)(2) (Classification), Provision of Programming

A manual review of programming attendance data was conducted to determine the number of programming hours offered to each young adult and the number of hours each young adult **chose to** participate in programming.

Education

A manual review of education attendance data was conducted to determine the number of young adults brought to school and, for each young adult, the time each young adult was brought to school and the time each young adult was taken out of school.

Audit Findings

§1-05(b) Lock-in

All young adults in ESH are afforded lock-out based on their housing level: seven (7) hours for Level I and Level II and fourteen (14) hours for Level III. On all four (4) dates audited, institutional **lock-out** and **lock-in** were consistently recorded in the Lock-In/Out Logbook for each of the levels.

All young adults in ESH are housed in single occupancy cells within their respective housing area. Each ESH housing area consists of multiple single occupancy cells located on two (2) tiers – the lower tier and the upper tier. Young adults in Level I and Level II are afforded seven (7) hours of lock-out time each day. For each young adult in these two levels, the specific time that he locks out depends on his tier's lock-out schedule. For example, one (1) day the lower tier locks out in the am and the upper tier locks out in the pm. The following day the upper tier locks out in the am and the lower tier locks out in the pm. Regardless of the lock-out schedule for ESH young adults in Levels I and II, they are all afforded seven (7) hours of lock-out time on any given day. Young adults in Level III, who are afforded fourteen (14) hours of lock-out time, are not subject to a tier lock-out schedule. Young adults in Level III are all afforded lock-out during both the am and pm hours, regardless of the tier in which they are housed. On any given day, a young adult may be out to court or transferred in or out of the ESH Unit. These young adults may not be included in the out-of-cell time reporting.

Level I

Young adults in Level I are afforded seven (7) hours of out-of-cell time each day. Listed below is individualized data related to each young adult's total out-of-cell time in Level I, based on a manual review of the Lock-In/Out Logbook, for the dates audited. The out-of-cell time is the hours each day that a young adult **chooses to** be out of his cell during institutional lock-out periods. The data reflects the young adults present in the unit for the institutional lock-outs on each audit date.

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September 3, 2020

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

September 9, 2020

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

September 15, 2020

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

September 22, 2020

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

Level II

Young adults in Level II are afforded seven (7) hours of out-of-cell time each day. Listed below is individualized data related to each young adult's total out-of-cell time in Level II, based on a manual review of the Lock-In/Out Logbook, for the audit dates. The out-of-cell time is the hours each day that a young adult **chooses to** be out of his cell during institutional lock-out periods. The data reflects the young adults present in the unit for the institutional lock-outs on each audit date.

September 3, 2020

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

1. 1 hour 35 minutes; young adult **chose not** to participate in the majority of afforded out-of-cell time (Upper Tier)
2. 7 hours 32 minutes (Lower Tier)
3. 7 hours 32 minutes (Lower Tier)
4. 7 hours 17 minutes (Lower Tier)

September 9, 2020

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

1. 2 hours 35 minutes; young adult **chose not** to participate in the majority of afforded out-of-cell time (Upper Tier)
2. 7 hours 40 minutes (Lower Tier)
3. 7 hours 40 minutes (Lower Tier)

September 15, 2020

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

1. 5 hours 15 minutes (Upper Tier)

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2. 7 hours (Lower Tier)
3. 7 hours (Lower Tier)

September 22, 2020

There were four (4) young adults in Level II; the out-of-cell times for those present on this audit date were:

1. 4 hours 5 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. 2 hours; young adult **chose not** to participate in the majority of afforded out-of-cell time (Upper Tier)
3. 7 hours (Lower Tier)
4. 4 hours 50 minutes (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 the institutional lock-outs on each audit date.

September 3, 2020

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

1. 7 hours (Lower Tier)
2. 13 hours (Upper Tier)

September 9, 2020

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

1. 3 hours 15 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)
2. 14 hours 20 minutes (Lower Tier)

September 15, 2020

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

1. 8 hours 20 minutes (Lower Tier)
2. 11 hours 19 minutes (Lower Tier)

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September 22, 2020

There was one (1) young adult in Level III; his out-of-cell time on this audit date was 9 hours 42 minutes. (Lower Tier)

§1-08(f) Access to Courts and Legal Services, including Law Library

Law Library Coordinator

In ESH, there are four (4) Law Library Coordinators assigned to areas in which young adults were housed.¹ A manual review of the Law Library Logbooks indicated that the Law Library Coordinators were in these areas to provide assistance on all the four (4) days audited – September 3, 9, 15 and 22, 2020.² However, in the case of September 22, 2020, due to a Law Library Coordinator's unscheduled absence, three (3) housing areas, labeled A, B, and C were not provided Law Library services in the afternoon session, although these housing areas were provided Law Library services in the morning session.

The audit was able to verify by auditing available records that the duration of each Law Library Coordinator's time, in ESH areas during the dates audited, was in compliance with the provisions of the Minimum Standards i.e., a minimum of two (2) hours. On some of the audit dates, some young adults **chose not** to 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, 2020

There were six (6) young adults in ESH on this audit date. No young adults **chose to** request Law Library services.

September 9, 2020

There were five (5) young adults in ESH on this audit date. No young adults **chose to** request Law Library services.

September 15, 2020

There were five (5) young adults in ESH on this audit date. Of the five (5) young adults, one (1) young adult **chose to** request and was provided Law Library services.

September 22, 2020

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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There were five (5) young adults in ESH on this audit date. No young adults **chose to** request Law Library services.

Kiosks and Typewriters

During this audit period, young adults were housed in up to four (4) housing areas in ESH, labeled A-D. 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 11, 2020

On this audit date, all housing areas (A-D) had operable kiosks and no housing units had an operable typewriter.

September 18, 2020

On this audit date, all housing areas (A-D) had operable kiosks and no housing units had an operable typewriter.

September 23, 2020

On this audit date, all housing areas (A-C) had operable kiosks and no housing units had an operable typewriter.

September 30, 2020

On this audit date, all housing areas (A-C) had operable kiosks and no housing units had an operable typewriter.

§1-06 – Recreation

All young adults in ESH are afforded a minimum of one (1) hour of recreation per day, seven (7) days per week in the outdoor recreation area, except in inclement weather when the indoor recreation area is used.

The audit reviewed recreational data for each of the four (4) audit dates – September 3, 9, 15 and 22, 2020 – to ascertain the total number of young adults that **chose to** participate in recreation.

September 3, 2020

There were six (6) young adults in ESH on this audit date. Please note the following:

- Five (5) young adults **chose to** participate in recreation.
- One (1) young adult **chose not** to participate in recreation.

September 9, 2020

There were five (5) young adults in ESH on this audit date. Please note the following:

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- Two (2) young adults **chose to** participate in recreation.
- Three (3) young adults **chose not** to participate in recreation.

September 15, 2020

There were five (5) young adults in ESH on this audit date. Please note the following:

- All of the five (5) young adults **chose not** to participate in recreation.

September 22, 2020

There were five (5) young adults in ESH on this audit date. Please note the following:

- Four (4) young adults **chose to** participate in recreation.
- One (1) young adult **chose not** to participate in recreation.

§ 1-02(c)(2) (Classification), Provision of Programming

Young adults in ESH are placed in housing units exclusively with other young adults (18 to 21 years old). Young adults who are 19 to 21 years old can also be commingled in units with adults (22 years old and older). In the commingled housing areas, the provision of programming is provided to each tier separately through two programming sessions. The hours of programming afforded may vary by tier within a housing area. In the young adult exclusive housing areas within ESH, tablets are intended to be utilized in the provision of programming and offered to young adults regardless of whether it is during the individual's lock-out period. The Programs Division is in the process of rolling out the provision of tablets over the coming months. In addition, in the young adult exclusive housing areas, on days when support programming staff are present, young adults may request individualized counseling while other programming components are being held. Due to the coronavirus, Program Counselors did not remain in the housing areas to provide programming services in the same manner as they did in the past. The Department provides to young adults self-guided programming packets as part of programming materials that include activity packets, interactive journaling, and worksheets and were also provided books and other educational materials. In addition, social services are afforded by counselors, which can either be requested by a social service slip or during a counselor's tour when an inquiry is made that may be designated as social service. Social service includes the provision or referral of a support service, or case-management related engagement and discussion. Social service is designated separately in the report as it is a rendering of a request and/or has follow-up that is related to case management.

The audit reviewed programming attendance data on each of the four (4) dates audited to ascertain the number of programming hours offered to each young adult and the number of hours each young adult **chose to** participate in programming. Program participation hours are based on the number of hours each young adult **chooses to** participate in programming. The data reflects the young adults present in the housing area during programming on each audit date.

Please note that on any given day, a young adult may be out to court or transferred in or out of the ESH Unit. These young adults may not be included in the programming reporting. It is

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important to note that young adults returning from court during programming hours are offered the opportunity to participate in programming upon their return.

Listed below are the numbers of programming hours offered and participated based on housing areas and their assigned levels.

September 3, 2020

- ❖ A: Level II – There was one (1) young adult housed in this area who was offered programming packets and between five (5) to fifteen (15) minutes of in-person programming. This one (1) young adult **chose to** participate in programming packets and in-person programming. The young adult participation time for in-person programming was as follows:
 1. Young adult participation: 10 minutes
- ❖ B: Level II – The three (3) young adults housed in this area were offered between five (5) to fifteen (15) minutes of in-person programming. Two (2) young adults **chose to** participate in in-person programming. The two (2) young adults' participation time for in-person programming could not be determined. The remaining one (1) young adult **chose not** to participate in in-person programming.³
- ❖ C: Level III – There were two (2) young adults housed in this area. They were offered social services and between five (5) to fifteen (15) minutes of in-person programming. Both young adults **chose to** participate in social services and in-person programming. The young adults' participation time for in-person programming could not be determined.³

September 9, 2020

- ❖ A: Level II – There was one (1) young adult housed in this area. He was offered and participated in programming packets.
- ❖ B: Level II – There were two (2) young adults housed in this area. They were offered and participated in programming packets.
- ❖ C: Level III – There was one (1) young adult housed in this area. He was out to court during afforded programming.
- ❖ D: Level III – There was one (1) young adult housed in this area. He was offered a review of previously distributed programming packets and between five (5) to fifteen (15) minutes of in-person programming. This one (1) young adult **chose to** participate in programming packets and in-person programming. The young adult's participation in in-person programming could not be determined.³

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

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September 15, 2020

- ❖ A: Level II – There was one (1) young adult housed in this area. He was in the Intake Area during afforded programming.
- ❖ B: Level II – There were two (2) young adults housed in this area. They were offered programming packets and between five (5) to fifteen (15) minutes of in-person programming. One (1) young adult **chose to** participate in programming packets and **chose not** to participate in in-person programming. The remaining one (1) young adult participated in programming packets and in-person programming. The young adult participation time for in-person programming was as follows:
 1. Young adult participation: 7 minutes
- ❖ C: Level III – There was one (1) young adult housed in this area. He was offered a review of previously distributed programming packets, new programming packets, and between five (5) to fifteen (15) minutes of in-person programming. This one (1) young adult **chose to** participate in the review of previously distributed programming packets, new programming packets, and in-person programming. The young adult's participation in in-person programming could not be determined.³
- ❖ D: Level III – There was one (1) young adult housed in this area. He was offered a review of previously distributed programming packets, new programming packets, and between five (5) to fifteen (15) minutes of in-person programming. This one (1) young adult **chose to** participate in the review of previously distributed programming packets, new programming packets, and in-person programming. The young adult's participation in in-person programming could not be determined.³

September 22, 2020

- ❖ A: Level II – There were two (2) young adults housed in this area. In-person programming did not occur in the unit on this audit date due to social distancing, personnel, and operational considerations related to the coronavirus.
- ❖ B: Level II – There were two (2) young adults housed in this area. They were offered programming packets and between five (5) to fifteen (15) minutes of in-person programming. Both young adults **chose to** participate in programming packets and in-person programming. The young adult participation times for in-person programming were as follows:
 1. Young adult participation: 2 minutes
 2. Young adult participation: 3 minutes
- ❖ C: Level III – There was one (1) young adult housed in this area. In-person programming did not occur in the unit on this audit date due to social distancing, personnel, and operational considerations related to the coronavirus.

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Education

The NYC Department of Education offers educational services to all young adults in ESH. A young adult can enroll in educational services by completing and submitting the “Request for Educational Services” form upon admission. In addition, a young adult can enroll in educational services by completing the aforementioned form and submitting it to any program’s office in the facility after admission. On September 21, 2020, the NYC Department of Education began providing educational materials on a weekly basis to enrolled young adults; each package contained learning materials for one week. On each audit date, the packages are only offered to individuals who did not have material (i.e. those new to the unit, have previously refused these services, or it has been one week since they last received a packet). New packages are not offered to every young adult on each audit date because many young adults may already in receipt of their weekly packages. In addition, a hotline was established for the enrolled young adults so that they could call to speak with a teacher if they had any questions or needed support.

Educational services commenced on September 21, 2020, therefore on three (3) of the four (4) audit dates, September 3, 9 and 15, 2020, no school was scheduled.

September 3, 2020

There was no school scheduled on this audit date.

September 9, 2020

There was no school scheduled on this audit date.

September 15, 2020

There was no school scheduled on this audit date.

September 22, 2020

There were five (5) young adults in ESH on this audit date. Of the five (5) young adults, three (3) young adults were enrolled in educational services and they were provided with educational learning materials.