

Part 180 of Subtitle E of Title 9 NYCRR is renumbered Subpart 180-1 and a new Subpart 180-3 is added to Subtitle E of Title 9 NYCRR to read as follows:

**SUBPART 180-3: Specialized Secure Detention Facilities**

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## Section 180-3.1 Legal Authority

This Subpart is established pursuant to Executive Law section 503(9), which provides that OCFS, in consultation with the SCOC, shall jointly regulate, certify, inspect and supervise specialized secure detention facilities for adolescent offenders. SCOC has also promulgated regulations pursuant to Correction Law section 45(6). The purpose of this Subpart is to provide uniform standards and procedures for the establishment and operation of specialized secure detention facilities in the State of New York.

## Section 180.3.2 Definitions

For purposes of this Subpart, the following definitions shall apply:

- (a) “Specialized secure detention facility for adolescent offenders” or “specialized secure detention facility” or “facility” shall mean detention facilities that house youth who are alleged or convicted adolescent offenders.
- (b) “Youth” shall mean an alleged or convicted adolescent offender as defined by section 1.20(44) of the Criminal Procedure Law.
- (c) “OCFS” shall mean the New York State Office of Children and Family Services.
- (d) “SCOC” shall mean the New York State Commission of Correction.
- (e) “Administrative agency” shall mean the agency of county government responsible for the administration of the county detention program.
- (f) “Operating agency” shall mean the authorized agency selected by the administrative agency to operate detention programs in a county or in New York City.
- (g) “Sheriff” shall mean the sheriff of the county in which a specialized secure facility is located.
- (h) “Facility director” shall mean the person responsible for the overall operation of the facility or the person designated by the facility director to act in his or her stead.
- (i) “Contraband” shall mean:
  - (1) any article or substance, the possession of which would constitute an offense under the New York State Penal Law;
  - (2) any deadly weapon or dangerous instrument, as defined in article 10 of the Penal Law;
  - (3) any article or substance, the possession of which is specifically prohibited by written facility rules and regulations; and
  - (4) any article or substance which may present a substantial sanitation or health threat to the facility.

### Section 180-3.3 Certification

(a) No specialized secure detention facility subject to inspection and supervision by OCFS shall be operated unless it possesses a valid operating certificate issued by OCFS in conjunction with SCOC pursuant to section 503(9) of the Executive Law, section 218-a (A)(6) of the County Law and applicable regulations.

(b) (1) An application for an operating certificate pursuant to these regulations shall be made upon forms prescribed by OCFS. An application for an operating license shall contain:

- (i) the name of the facility and its location;
- (ii) the name and address of the authorized agency, corporation, association, organization, proprietary operator or public agency, who or which operates such facility;
- (iii) any plan to collocate a facility with a secure detention facility
- (iv) a physical description of the facility, including land, buildings and equipment;
- (v) resident capacity;
- (vi) a plan and description of staff positions, including duties and qualifications;
- (vii) if the applicant is a corporation, the names, addresses and occupations of the members of the board of directors;
- (viii) the ownership or control of the land and premises, if other than the operator;
- (ix) the proposed operating and financial resources and sources of future revenue of the facility; and
- (x) such other information as may be required by OCFS and SCOC.

(2) Approval of application. The application shall be approved and an operating certificate shall be issued by OCFS if it is established that the facility meets, and will be operated, in accordance with the requirements of this Subpart.

### (c) Collocation of Facilities

(1) A specialized secure detention facility may be collocated in the same building as a currently operating juvenile secure detention facility provided that:

- (i) adolescent offenders are assigned to separate housing units from juvenile delinquents and juvenile offenders; and
- (ii) commingling of adolescent offenders and juvenile delinquents/juvenile offenders is not allowed in shared common spaces, except facilities may be allowed to share space for purposes of education, infirmary, fire drills, transport to the facility, or, as approved by OCFS and SCOC, upon a showing that maintaining separate spaces creates an undue burden.

(2) A specialized secure detention facility shall not be collocated on the same grounds as a currently operating adult correctional facility; what constitutes the same grounds shall be determined by OCFS and SCOC. There shall be sight and sound separation from any adult correctional facility.

(d) Certification shall be granted in writing, for not more than a two (2) year period, and may be suspended or revoked by OCFS/SCOC if there is noncompliance with any of the regulations in this Subpart, except that OCFS may waive any regulation where it is determined by OCFS that there is substantial compliance with such regulation and the well-being of the youth in care is not endangered as further set forth in Section 180-3.21 of this Subpart.

(e) Renewals. At least 60 days prior to the termination of the term of an operating certificate, the facility shall file an application for the renewed issuance of such operating certificate.

Section 180-3.4 Administration and Operation

(a) Administration of Specialized Secure Detention Facilities.

(1) Each county shall designate the agency responsible for administering, in conjunction with the applicable county sheriff, or in the case of New York City, the New York City Department of Correction, specialized secure detention facilities on behalf of the county and shall so advise OCFS and SCOC of such designation. In New York City, for purposes of the removal of youth from Rikers Island pursuant to Correction Law section 500-p, the New York City Administration for Children's Services shall be responsible for operating specialized juvenile detention facilities in conjunction with the New York City Department of Correction.

(2) Governmental agencies appointed under paragraph 1 in subdivision (a) of this section may establish and operate a specialized secure detention facility, pursuant to applicable statutes and regulations, and only upon certification by OCFS in conjunction with SCOC.

(3) An agency responsible for administering detention may contract with a public or nonprofit child caring agency to operate a specialized secure detention facility, pursuant to applicable statutes and regulations, and only upon certification by OCFS in conjunction with SCOC.

(i) Nonpublic agencies shall assure that their corporate purposes authorize the operation of a detention facility. Organizations seeking to incorporate for the purpose of operating detention facilities must comply with section 460-a of the Social Services Law.

(ii) Written contracts or agreements shall be required between agencies administering specialized secure detention facilities and persons or agencies operating specialized secure detention facilities.

(4) Agencies responsible for administering a specialized secure detention facility shall assure the availability of conveniently accessible adequate detention care for each day of the year, including planning for emergencies and other unforeseen events.

(5) Where a county provides regional detention care, it shall be authorized to designate a maximum number of beds in a specialized secure detention facility that shall be available to a county.

(b) Pursuant to section 218-a of County Law, a county may authorize a contract between its county and one or more other counties providing for the joint operation and maintenance of a specialized secure detention facility.

(c) Role of Sheriffs

(1) The sheriff's role in co-administering a specialized secure detention facility with the local detention administering agency shall minimally consist of conducting security reviews to inspect facility hardware, fences, physical structure and staffing ratios, and to provide written findings to the local administering agency, the operating agency, if different from the administering agency, SCOC and OCFS.

(2) Initial security reviews shall be conducted prior to the initial certification of the facility. Subsequent security reviews shall be conducted in intervals not to exceed one (1) year after the initial certification.

(d) Non-Discrimination

(1) Staff and volunteers of a specialized secure detention facility shall not engage in or condone discrimination or harassment of youth on the basis of race, creed, color, national origin, age, sex, sexual orientation, gender identity or expression, marital status, religion, disability, or any other characteristic protected by federal or state law.

(2) Staff and volunteers of a specialized secure detention facility shall promote and maintain a safe environment; take reasonable steps to prevent discrimination and harassment against youth by other youth; promptly investigate incidents and allegations of discrimination and harassment by staff, volunteers and youth; and take reasonable and appropriate corrective or disciplinary action when such incidents occur.

(3) For the purposes of this section, gender identity or expression shall mean having or being perceived as having a gender identity, self-image, appearance, behavior or expression whether or not that gender identity, self-image, appearance, behavior or expression is different from that traditionally associated with the sex assigned to that person at birth. Gender identity refers to a person's internal sense of self as male, female, no gender, or another gender, and gender expression refers to the manner in which a person expresses their gender through clothing, appearance, behavior, speech, or other means of expression.

(e) Prevention and remediation of child and vulnerable youth abuse and referral

(1) A specialized secure detention facility shall establish and implement, subject to and consistent with any applicable collective bargaining agreement(s), a written procedure to review, evaluate and verify the backgrounds of, and the

information supplied by, all applicants for employment or voluntary work. This procedure shall also include provisions for receiving, at a minimum, the following information from each applicant:

- (i) a statement or summary of the applicant's employment history, including, but not limited to, any relevant child-caring experience;
- (ii) the names, addresses, and where available, telephone numbers of references who can verify the applicant's employment history, work record and qualifications;
- (iii) a statement or summary of the applicant's or volunteer's educational experience showing elementary school(s), if the applicant or volunteer does not have a secondary school diploma or high school equivalency diploma; secondary school(s) or college(s) attended; highest grade level or degree attained; and any additional credits earned;
- (iv) the names and addresses of educational institutions that can verify the applicant's or volunteer's educational information;
- (v) a listing of special skills or completed training courses that might aid in the performance of duties of the position for which he or she is applying;
- (vi) the names, addresses and telephone numbers of at least two personal references, other than relatives, who can attest to the applicant's character, reputation and personal qualifications; and
- (vii) a sworn statement by the applicant, indicating whether, to the best of his or her knowledge, he or she has ever been convicted of a crime in New York State or any jurisdiction and that all statements in the application are true, to the best of his or her knowledge.

(2) This procedure shall include provisions for conducting pre-employment and criminal history background checks before hiring or otherwise using applicants, consultants or contractors who will have regular and substantial contact with residents of the specialized secure detention facility as required by sections 378-a, 424-a and 495 of the Social Services Law, and other applicable statutes and regulations. Staff for whom such checks and reviews are not complete shall not be permitted to supervise youth, unless accompanied by a staff who has completed such checks.

(3) A specialized secure detention facility shall develop a plan for adequate supervision of staff and volunteers, taking into consideration the population served and the type, size and physical layout of the facility, to assure appropriate care of youth and the prevention of child abuse and neglect. The plan shall be submitted to OCFS for review and approval. The plan shall include, but not be limited to:



- (i) staffing patterns and the rationale for such patterns;
- (ii) identification of all supervisors of staff and volunteers, including the designation of onsite supervisors;
- (iii) a list of the qualifications and responsibilities of the supervisors;
- (iv) procedures for periodic observations by supervisors of staff and volunteer interactions with youth in program;
- (v) procedures for periodic supervisory conferences for staff and volunteers;
- (vi) procedures, consistent with any applicable collective bargaining agreement(s) and provisions of the Civil Service Law, for periodic written performance evaluations of staff conducted by supervisors; and
- (vii) methods for distributing written supervisory procedures to employees and volunteers.

(4) A specialized secure detention facility shall develop written procedures, available onsite, for the protection of persons receiving services at the specialized secure detention facility when there is reason to believe a reportable incident has occurred that would render a person receiving services abused or neglected as defined in section 488 of the Social Services Law. Such procedures shall include, but not be limited to the following:

(i) Notifications. Immediate notification of suspected incidents of abuse or neglect and reportable incidents shall be made to:

- (a) the Vulnerable Persons' Central Register;
- (b) local law enforcement officials, if it appears likely that a crime has been committed against a child, or to confirm that such notification has already been made; and
- (c) OCFS and the facility's administrative agency.

(ii) Investigation procedures. Immediately upon notification that a report of abuse or neglect has been made to the Vulnerable Persons Central Register and/or local law enforcement officials, the director of the facility or his or her designee shall:

- (a) preserve any relevant audio and/or visual recording;
- (b) preserve any other potential evidence;
- (c) obtain proper medical evaluation and/or treatment for the persons receiving services, as needed, with documentation of any evidence of abuse or neglect; and

(d) provide necessary assistance to the Justice Center for the Protection of People with Special Needs (Justice Center), OCFS and if applicable, local law enforcement officials in their investigation thereof.

(iii) Safety procedures. Upon notification that a report of abuse or neglect has been made to the Vulnerable Persons' Central Register and/or local law enforcement officials with respect to a youth receiving services in the specialized secure detention facility, the director or his or her designee shall evaluate the situation and immediately take appropriate action to protect the health and safety of the youth involved in the report and of any other youth receiving services and similarly situated in the facility. Additional action shall be taken, whenever necessary, to prevent future incidents of abuse or neglect. Any action taken should cause as little disruption as possible to the daily routines of the youth at the specialized secure detention facility.

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 neglect:

(a) Removal or transfer of the subject of the report, consistent with appropriate collective bargaining agreement(s) and applicable provisions of the Civil Service Law

(b) Initiation of disciplinary action against the subject of the report, consistent with appropriate collective bargaining agreement(s) and provisions of the Civil Service Law

(c) Increasing the degree of supervision of the subject of the report

(d) Provision of counseling to the subject of the report

(e) Provision of increased training to staff and volunteers pertinent to the prevention and remediation of abuse and maltreatment

(f) 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 facility. OCFS shall be notified of any such removal or transfer.

(g) Provision of counseling to the youth involved in the report and any other youth receiving services, as appropriate

(iv) Corrective action plans. Upon receipt from the Justice Center or OCFS of a substantiated report of abuse or neglect or an unsubstantiated report of abuse or neglect where the Justice Center or OCFS has determined that there has been a violation of the statutory, regulatory or other requirements related to the care and treatment of youth, the director of the facility, with consideration of any appropriate recommendations received from the Justice Center or OCFS for preventative and remedial action, including legal action, shall:

(a) within ten (10) calendar days of receipt of a substantiated report of abuse or neglect, develop and implement a written plan of action to be taken with respect to an individual employee or volunteer to protect the continued health and safety of the youth receiving services and to provide for the prevention of future acts of abuse or neglect. The plan shall include, at a minimum, those actions taken pursuant to subparagraph (iii) of this paragraph and describe the actions taken to address the investigation's findings. The plan shall be submitted to and approved by OCFS; and

(b) in the event an investigation of such a report indicates that such abuse or neglect may be attributed in whole or in part to noncompliance by the specialized secure detention facility with provisions of article 7, article 11, or title 6 of article 6 of the Social Services Law, article 19-G of the Executive Law, or the regulations of OCFS, develop and implement a plan of prevention and remediation which, at a minimum, shall address each area of noncompliance and indicate how the facility will come into compliance with article 7, article 11, or title 6 of article 6 of the Social Services Law, article 19-G of the Executive Law, and the applicable regulations. Such plan will also describe the actions taken to address OCFS' findings. Such plan shall be submitted to and approved by OCFS and, upon approval, implemented.

(f) Abuse, Neglect and Significant Incidents. A specialized secure detention facility shall be subject to and must comply with the requirements of the Justice Center as set forth in 18 NYCRR Part 433 and any other applicable regulations including, but not limited to, 14 NYCRR Parts 701-704.

(g) Prison Rape Elimination Act of 2003

A specialized secure detention facility must comply with the Prison Rape Elimination Act of 2003 standards.

## Section 180-3.5 Construction and Substantial Remodeling – Definition and Approvals.

### (a) Plans for Construction of a Specialized Secure Detention Facility

On and after the date this regulation becomes effective, no building to be used as a specialized secure detention facility shall be constructed or substantially remodeled, in whole or in part, except on plans and designs approved, in writing, by OCFS and SCOC. Plans and designs shall be submitted for approval in accordance with the procedures prescribed by OCFS and SCOC. OCFS and SCOC approval must be obtained before a construction or substantial remodeling project is advertised for bids. If it is not contemplated that a bidding procedure will be followed, approval by OCFS and SCOC must be obtained before any construction or substantial remodeling is undertaken. No youth shall be detained in any new or substantially remodeled building where plans and designs have not been approved by OCFS and SCOC.

### (b) Definitions

As used in this section, the following definitions apply:

- (1) “Building” shall mean a structure.
- (2) “Construction” shall mean the erection of a new structure.
- (3) “Addition” shall mean an extension or increase in the area or height of an existing structure.
- (4) “Substantial remodeling” shall mean any alteration, change, rearrangement or reconstruction to an existing structure, except for ordinary repairs and maintenance.
- (5) “Equipment” shall mean fixtures or articles affixed to the structure.
- (6) “Occupancy” shall mean use or purpose of a building, structure or premises or any room located therein.

### (c) Construction, Addition, Substantial Remodeling and Change in Occupancy

(1) There shall be no construction, addition, substantial remodeling or change in occupancy of buildings or parts of buildings used or to be used in the operation of a specialized secure detention facility except on plans and designs approved in writing by OCFS and SCOC. Plans shall be submitted for approval in accordance with the procedures prescribed by OCFS and SCOC. To qualify for approval by OCFS, plans and designs must be in substantial compliance with the appropriate provisions of applicable state building and construction codes relating to institutions, the regulations of OCFS and all other applicable provisions of state and local laws, ordinances, rules and regulations. All construction and substantial remodeling must be in compliance with the minimum standards set forth in the Americans with Disabilities Act (ADA). Construction and substantial remodeling

must comply with all applicable laws, codes, rules and regulations related to fire safety and prevention.

(2) No changes or modifications shall be made in approved plans or designs without the approval of OCFS and SCOC.

(3) The approval of OCFS shall become void one (1) year after given, unless a contract for the approved construction or substantial remodeling shall have been entered into prior thereto.

(d) Site Design

Site design considerations shall comply with the regulations in this Subpart and include at least the following: security, privacy, ease of group movement, supervision and services to youth, indoor and outdoor recreation features, program and education space, natural light, ventilation, parking, service access, lighting, and convenient accessibility to public transportation where practicable.

(e) Design for Supervision and Services to Youth

The design of a new specialized secure detention facility shall comply with the regulations in this Subpart and include planning for the movement of supervised groups and individual youth throughout the facility. To promote the security, safety and effective supervision of youth, the design shall include the use of glazing in doors and partitions, security grade doors with sufficient gauge and comparable security hardware, shatter-resistant safety glass, perimeter fencing that is at a minimum 8 feet high with 2-foot razor wire, and reinforced walls of sufficient security detention grade material that is available.

## Section 180-3.6 Physical Plant Requirements

(a) Physical Plant Requirements. A specialized secure detention facility shall be designed in such a manner as to promote a pleasant, comfortable and secure atmosphere for youth.

(b) The facility shall be designed to minimize the risk of suicide and self-harm, and with the following minimum design and security requirements for required spaces:

(1) Office and Reception Facilities. A specialized secure detention facility shall provide:

(i) onsite office space adequate to permit the efficient, businesslike operation of the program and related services, and for private interviews, consultations and conferences. Space and equipment shall be provided for the safekeeping and privacy of essential records and the temporary storage of the youth's personal belongings;

(ii) reception space for the orderly intake, orientation and release of youth and for visitors to youth; and

(iii) a public lobby or waiting area should be separate and secure from the operation of the facility.

(2) Dining Rooms. Dining rooms shall be adequate to serve the youth under care. A minimum of 15 square feet of floor space per person, to accommodate the planned seating capacity, shall be provided.

(3) Kitchen, Food Storage, Storerooms, Pantries

(i) Compliance with health and safety regulations. A specialized secure detention facility shall comply with all requirements relating to kitchen operations and food handling and storage, fire protection, safety, sanitation and health, as set forth by the state, and county or local health and fire departments.

(4) Laundry. When a laundry is maintained within the premises of a specialized secure detention facility, adequate and secure space for soiled clothing storage, clean laundry storage and laundry supply storage shall be provided. Laundry equipment should be rated, sized, and of sufficient quantities to meet the facility's needs.

(5) Sanitation

(i) Compliance with state and local requirements. A specialized secure detention facility shall be inspected annually by local sanitation and health officials to ensure compliance with all applicable laws and regulations. The

results of each inspection shall be recorded in writing, together with a summary of any action taken to address any deficiencies, and maintained on file at the facility. There shall be documentation that deficiencies have been corrected. Such inspections conducted pursuant to this subdivision shall be designed to require compliance with the requirements of this Subpart and with the applicable provisions of the state's sanitary code, set forth in Chapter I of Title 10 NYCRR.

(ii) Water supply and sewage facilities. Adequate and safe water supply and sewage facilities shall be provided and shall comply with all applicable state and local laws.

(iii) Cleaning materials and implements shall be inventoried. Cleaning materials shall be properly labeled. Cleaning materials and implements shall be maintained in a locked secure cabinet to prevent unauthorized access by youth.

#### (6) Heating, Cooling, Plumbing, Electrical, Mechanical Ventilation Systems and Equipment

(i) Heating, cooling, plumbing, electrical, mechanical ventilation systems and equipment shall be maintained in a good, safe, sanitary, and serviceable condition and in compliance with all applicable requirements related thereto.

(ii) Heating, cooling and ventilation systems should be designed and maintained to control odors and provide temperatures within a comfortable zone.

#### (7) Emergency/Back-Up Power

Emergency or back-up power equipment shall be provided for purposes of maintaining essential operations, security and safety in the event of loss of the normal power supply. Emergency power shall have automatic switch-over capability and supply sufficient electricity for heating and ventilation systems, as well as including, but not limited to providing power for entrance lights, exit signs, lighting, fire alarm, refrigeration, and any electrically-operated locks or electronic monitoring systems.

#### (8) Sleeping Accommodations

(i) There shall be only single rooms. Single sleeping rooms for youth shall contain not less than 70 square feet of floor area and shall have a minimum horizontal dimension of seven feet. Walls shall be at least seven

feet in height. All walls shall be reinforced with such materials as approved by OCFS to discourage breakage. A specialized secure detention facility that does not have reinforced walls in youth rooms shall submit a plan to OCFS for approval for constructing reinforced walls. For any new construction or substantial remodeling of existing facilities, all youth room walls shall be constructed of durable materials and reinforced, as approved by OCFS.

(ii) Youth's sleeping accommodations shall not be permitted in spaces where the floor is located below ground level or where natural light and ventilation is lacking.

(iii) A specialized secure detention facility shall provide youth with a bed properly equipped, and with sufficient and conveniently located clothing storage space for their own private use. Mattresses shall be constructed of fire-retardant material. When issued, mattress covers should be constructed of materials both water-resistant and easily sanitized. Mattresses must be of firm quality and replaced when necessary to maintain adequate support and comfort.

(iv) Bedding shall be changed once a week and more often when necessary. Youth' beds shall be equipped with waterproof materials when necessary. Blankets shall be provided and washed as needed.

#### (9) Bathing and Toilet Facilities

(i) Number of toilets, showers and sinks for multiple use. Toilets, showers, and sinks shall be convenient to youth's sleeping quarters when rooms are not individually equipped with toilets, showers or sinks. There shall be a minimum of one toilet and one sink to serve every six youth, and one tub or shower to serve every eight youth.

(ii) Number of toilets, showers and sinks for single use. Bedrooms equipped with toilets, showers, or sinks shall have appropriately located floor drains and shall have shutoff valves, exterior to the bedrooms and conveniently accessible, for supply and drainage pipelines.

(iii) Toilets, sinks, and sanitary drinking fountains shall be provided convenient to all indoor and outdoor program areas so that toilets and drinking water are accessible to youth.

(iv) All toilets shall be functioning and separated by screening or partitions on all sides for privacy. There shall be no communal showers. Privacy screening or partitions for all shower sides must be provided where youth may shower at the same time. All sinks and showers shall provide hot and cold or tempered water.



(v) For any construction or substantial remodeling of existing facilities, toilets and sinks shall be designed and constructed of materials of such durability and strength to minimize breakage or removal. There shall be no communal showers authorized in any construction or substantial remodeling of existing facilities. All plumbing fixtures shall be designed to discourage fixation of ligatures.

(vi) Youth's hygiene articles. Youth shall be provided with their own toothbrush, toothpaste, soap, comb, towel and washcloth. Each youth's towel and washcloth shall be kept in a separate space and shall be changed at least twice a week and more often when necessary.

(vii) Menstrual products of adequate nature and sufficient quantity shall be made available to female youth as needed.

(viii) Staff facilities. Bathrooms, toilets and coat closets for staff shall be separate from those of the youth and shall be appropriately secured and located.

#### (10) Recreation and Lounge Facilities

(i) Indoor recreation and lounge facilities. A specialized secure detention facility shall provide resources for a balanced program of indoor recreation for all genders; and for lounge facilities and sufficient seating to accommodate its full capacity of youth at any given time. Such resources shall permit a range of activities from organized group and individual games through quiet, informal recreation and shall include appropriate equipment, furnishings, storage, toilets and similar service features. Lounge areas shall have a minimum of 25 square feet per youth.

(ii) Outdoor recreation. A specialized secure detention facility shall provide resources for a balanced program of outdoor recreation for all genders to adequately accommodate its full capacity of youth at any given time. Outdoor recreation areas shall provide a minimum of one acre of securely fenced, as further defined in this regulation, properly drained, recreation space for 20-bed and smaller detention facilities and proportionally larger areas for higher capacity facilities to meet the requirements of this section. Outdoor recreation areas shall be shaded from heat. The outdoor space may be sectioned off for use by multiple groups simultaneously. Such facilities shall permit a range of activities from vigorous organized games through informal recreation and shall include supportive equipment, appropriate ground cover for type of recreational activity, shaded areas, storage, lighting, access to toilets, water and similar service features.

#### (11) School Facilities

(i) Academic and vocational classrooms shall be provided to permit formal instruction for the full capacity of youth. Classrooms shall provide a minimum of 40 square feet per pupil in new construction.

(ii) The maximum group size for school classes shall be twelve (12) students.

#### (12) Health Facilities

(i) Rooms for medical examinations. A room or rooms shall be provided for medical examinations, nurse's office, first aid and other treatment. The room or rooms shall be adequately furnished and equipped to fulfill these functions, and shall be used for no other purposes.

(ii) Youth with minor illnesses or medical conditions. Youth with minor illnesses or medical conditions that require separation but do not require hospital care shall be cared for in a room that is in an area that has been designated for such purpose. Such an area shall be located within or as close to the health office as is practicable to allow for adequate medical monitoring of the youth.

(iii) First aid supplies, as recommended by the staff physician, shall be appropriately secured and monitored and shall be readily available for use.

(iv) All drugs, medicines and instruments shall be kept in a suitable locked cabinet, inventoried and accessible only to the medical staff.

(v) A specialized secure detention facility shall have containers for the safe and secure disposal of biohazardous waste and materials as required by applicable federal and state laws.

(13) Storage rooms and closets. Housekeeping service closets shall be provided within, or convenient to, each youth's living unit, program areas and food service spaces.

#### (14) Screening and Fencing

(i) A specialized secure detention facility shall maintain perimeter fencing with adequate lighting of the entire grounds to provide security against youth egress. For any new construction or substantial remodeling of existing facilities, perimeter fencing of the entire grounds shall be constructed and maintained that is a minimum of eight (8) feet in height with two (2) feet of razor wire or its equivalent. The footing of any newly constructed fence shall be sufficiently secure to preclude tunneling or caching of contraband. All fencing shall effectively, securely and humanely detain the youth within the program and living areas and shall provide privacy as needed.

(ii) A specialized secure detention facility shall have a secure vehicular sally port of sufficient size to permit secure entry and egress of large vehicles, such as trucks and ambulances, for the secure transfer of youth to and from transport vehicles to the holding area entrance. Such sally port shall be constructed to permit entry and egress while maintaining the perimeter. All construction or substantial remodeling of existing facilities shall have sally ports with double fencing.

(iii) Appropriate window screening to protect against insects and appropriate window glazing or films for privacy and heat and glare reduction shall be provided throughout the building as needed. Such window screening and window glazing shall effectively, securely and humanely detain the youth within the program and living areas and shall provide privacy, as needed.

#### (15) Communications and Monitoring

(i) Telephones. Each separate living unit shall have 24-hour telephone service, or an intercom system connected to an outside telephone service.

(ii) There shall be an electrical signal system between the youth care workers' station and rooms in youth sleeping areas that permits a youth to call for assistance from within a locked room.

(iii) There shall be an intercommunications or emergency signal system readily available and operable to permit staff members to summon aid immediately to supervisory areas, teaching stations, interview rooms and similar spaces wherever supervisory assistance may not be readily available.

(iv) Video monitoring systems shall be required to aid in providing effective monitoring and promoting safety and security of all staff and youth. Cameras shall be positioned to monitor hallways, corridors, stairwells, recreation areas, outside perimeter areas, entrances and exits to the facility, all common areas, and any other area as required by OCFS. Cameras, for reasons of privacy, shall not be located in any shower/toilet areas, bedroom, or clothing changing area. Monitors shall be placed to prevent viewing by unauthorized persons.

## Section 180-3.7 Records

### (a) Youth Records

(1) A specialized secure detention facility shall maintain a current case record for each youth, which shall include intake information, observation and treatment reports, incidents, and transfer or discharge summary. Medical and mental health records shall be kept separately from the rest of the youth's record.

#### (2) Other Records Relating to Youth

(i) A specialized secure detention facility shall keep records of individual youth required by section 372 of the Social Services Law.

(ii) Records shall be kept in a manner required by OCFS.

(iii) Records shall be maintained in real time so that an accurate roll call of the youth present or under care at any time may be readily made.

(iv) Records shall be retained by the administrative agency for ten (10) years.

(3) Records and information pertaining to youth which are of a type (for example, medical records/information, education records) which are governed by specific state or federal law shall be treated with regard to maintenance, confidentiality, retention and disclosure in accordance with such laws.

(4) Visitors. Each facility shall keep a log that includes the name, address, date of visit, and relationship of every person visiting each youth.

## 180-3.8 Reports

(a) Each facility shall have a policy and procedure for reporting required incidents through the Juvenile Detention Automated System (JDAS) or through any other system or manner as required by OCFS and SCOC.

### (b) Definitions

(1) "Critical incident" shall mean any occurrence or event within the grounds of the facility, or involving staff, volunteers, youth or visitors or that has an impact on the safety, well-being, functioning or security of the facility or staff, volunteers, youth or visitors that must be reported to SCOC per this section.

(2) "Non-critical incident" shall mean any occurrence or event within the grounds of the facility, or involving staff, volunteers, youth or visitors or that has an impact on the safety, well-being, functioning or security of the facility or staff, volunteers, youth or visitors that is not required to be reported to SCOC but is required to be reported by OCFS.

(3) "Incident type" shall mean the category of the event as defined by OCFS or SCOC. Each type may have specific sub-types.

(c) Reporting Requirements: each facility shall report critical and non-critical incidents as defined by OCFS and SCOC using JDAS or other systems as required by OCFS and SCOC.

(d) Critical incidents must be reported as soon as is practicable, but no later than 24 hours after the event. Critical incidents shall include, but are not limited to, the following incident types:

- (1) Assaults
- (2) Sexual abuse/Assault
- (3) Employee misconduct
- (4) Communicable disease
- (5) Contraband
- (6) Death
- (7) Escape
- (8) Fire
- (9) Group action
- (10) Hostage situations
- (11) Disturbances
- (12) Disruptions
- (13) Natural/Civil emergency

(14) Self-harm with physical injury

(e) Non-critical incidents must be reported within seven (7) days of the incident's occurrence.

(f) Incidents that also must be reported to the Vulnerable Persons' Central Register or the Statewide Central Register of Child Abuse and Maltreatment must indicate when the report was made and include the number for reference and further details.

## Section 180-3.9 Intake Requirements

### (a) Lawful Authority

(1) A youth shall not be accepted into a specialized secure detention facility without a valid court order or warrant from parole/probation authorities.

### (b) Admission to the Specialized Secure Detention Facility

(1) A specialized secure detention facility shall make intake and admission of youth into the facility available twenty-four (24) hours a day, seven (7) days a week. Staff shall process youth into the specialized secure detention facility in a timely manner consistent with this Subpart.

(2) The youth must be asked throughout the admission process if he/she understands the English language, and whether he/she has any questions or concerns. If it is determined that the youth is limited English proficient (LEP) or is deaf or hard of hearing, interpretation and translation services must be arranged and provided in a timely manner.

(3) The intake process shall include an immediate admission screening interview to screen for any medical, dental or mental health problems that may require immediate attention. The admission screening interview shall be conducted by staff trained by medical/mental health professionals and shall be conducted as soon as practicable, but no later than one (1) hour, from the youth's arrival at the facility and the youth shall be under constant, direct supervision until such screening interview. Should immediate mental or physical health concerns be apparent, professional staff must be notified.

(4) An assessment instrument will be completed which will document:

- (i) visible injury or injuries;
- (ii) medical conditions requiring treatment;
- (iii) developmental or physical disabilities;
- (iv) history of mental health treatment;
- (v) history of sexual assault within the last 24 hours;
- (vi) potential for self-injury or suicide;
- (vii) history of detention or confinement, including, but not limited to, hostile relationships with other residents;
- (viii) medication currently being taken;
- (ix) any allergies;

- (x) present attitude, appearance, and behavior;
- (xi) history of alcohol or substance abuse;
- (xii) criminal charge(s) and conviction(s);
- (xiii) tattoos, body piercing, and other identifiers of gang affiliation; and
- (xiv) any other relevant information concerning the safety or welfare of the youth.

(5) If the youth is under the age of eighteen (18), the youth's parent, guardian or legal custodian shall be notified during the intake process of the youth's admission and such youth shall be allowed to speak to his/her parent or guardian. If the youth is more than eighteen (18) years of age, the youth shall be offered to have his/her parent or guardian contacted and the opportunity to speak to his/her parent or guardian. If the parent/guardian is limited English proficient (LEP) or is deaf or hard of hearing, interpretation and translation services must be arranged and provided in a timely manner.



## Section 180-3.10 Classification

(a) After completion of the initial screening and assessment by a specialized secure detention facility, and pending determination of each youth's living assignment, the youth shall be placed in an area designated for orientation. Placement in such area shall be temporary pending the determination of an appropriate living assignment, which shall be completed within five (5) days of each youth's admission to the facility.

(b) A youth may be assigned a room on a temporary basis within a different area when there is no room in the temporary area or when creating such a room in the area designated for orientation would be cause for significant disruption. Such circumstances include, but are not limited to:

- (1) youth who are admitted after residents are in bedrooms for the night;
- (2) lack of available free rooms in the area designated for orientation; or
- (3) when placing the youth in the area designated for orientation could be dangerous to the youth due to the other youth already placed in the orientation area.

(c) A transgender or intersex youth may be assigned to any facility housing unit which, upon the determination of the facility director, provides for the youth's health and safety and is consistent with facility management and security. Otherwise, no female youth shall be assigned to, or housed in, a facility housing unit with a male youth.

(d) In the City of New York, no adolescent offender may be assigned to, or housed in, a facility housing unit with any youth, committed or sentenced by an adult criminal court, who has been removed from a Rikers Island correctional facility pursuant to the requirements of Correction Law section 500-p or with any other 16- or 17-year-old who otherwise would have been detained in a Rikers Island correctional facility but for the implementation of such statutory provision.

(e) Otherwise, in arriving at a determination of each youth's room or housing area assignment, the facility director shall base such determination on the following information, if such information is available and accessible:

- (1) Gender/Gender Identity or Expression
- (2) Sexual Orientation
- (3) Criminal or delinquent history
- (4) Propensity for violence and/or victimization
- (5) Medical/mental health history including any developmental disability
- (6) History of problematic sexual behavior
- (7) History of aggression with other residents
- (8) Prior attempts at self-injury or suicide
- (9) History of being absent without consent from prior placements or escape
- (10) Behavior during present and prior commitments, including any history of

assaultive behavior, and

(11) Any other information that may affect the safety and security of the youth or staff

(f) Each facility shall use a formal and objective system for assessment to fulfill the requirements of this section.

(g) In considering the information contained in subdivision (e) of this section, the facility director shall examine and verify the following, where available and appropriate:

(1) Records made available from the court or the delivering jurisdiction

(2) Information obtained during a youth's initial screening and assessment by the facility

(3) Records, to the extent relevant, known, accessible and available, to the facility director that are prepared at or maintained by any detention facility in the state

(4) Information obtained from mental health treatment providers in accordance with the Mental Hygiene Law

(5) Information disclosed by the facility medical director and/or mental health supervisory staff that they believe is or may be relevant in determining the resident's risk, security and supervision, and special needs requirements, or that may affect the life, safety, or welfare of the resident or any other person; and

(6) Any other relevant information concerning a resident's condition brought to the attention of the facility director or any other staff by any person

(h) Prior to moving a youth to his or her assigned room/area, staff shall notify the youth of the determination and explain its implications, if any.

## Section 180-3.11 Staffing and Supervision of Youth

(a) Required Staffing. A specialized secure detention facility shall provide sufficient staffing necessary for the adequate and continuous supervision, safety, health, proper care, and treatment of youth under the care of the facility consistent with the requirements set forth in this section.

### (b) Direct Care and Security Staffing

(1) The direct care staff ratio for youth placed in general population shall be at least one (1) staff for six (6) youth (1:6 ratio), but in all circumstances, there must be at least two (2) staff in each area with youth except when a staff is escorting an individual youth within the building.

(2) For areas serving youth with high level needs including, but not limited to, aggressive/assaultive behaviors, serious emotional disturbance/mental illness, developmental disabilities, or self-harming behaviors, the direct care staff ratios shall be increased above the 1:6 ratio to such that the supervision and support needs of the youth are met adequately.

(3) Unit Supervisors. Each unit where youth are housed must have a unit supervisor who is responsible for the supervision of direct care staff. The unit supervisors shall be in sufficient numbers to safely and adequately supervise the direct care staff and provide relief coverage when needed on the units.

(4) The facility director, designated administrator or the facility physician shall determine whether a youth requires additional supervision based on the youth's condition, illness or injury. Additional supervision may include one-on-one supervision or other forms as designated and defined by the facility. Such determination that additional supervision is warranted shall be documented in writing and include, but not be limited to, the following information:

(i) The reasons underlying such determination

(ii) The recommended period of additional supervision, including the recommended dates and times when the supervision is to be initiated and concluded

(iii) The name(s) of the individual(s) making such determination and/or recommending the supervision

### (c) Rapid Response Teams

(1) A specialized secure detention facility shall have a separate unit of staff who have special training and qualifications to respond to emergency situations that require additional de-escalation and crisis intervention skills. These teams may also be used to provide support and additional resident supervision throughout the duration of program operations, including in any housing area.

(2) A specialized secure detention facility shall provide OCFS and SCOC with a plan for its rapid response team that includes the staff qualifications, special training and the number of staff on the team for waking and sleeping hours.

(d) Programmatic Staff Requirements and Qualifications. Where a specialized secure detention facility program is co-located with a secure detention facility, staff other than direct care staff, may be shared across facility types, unless otherwise indicated. All programmatic staff shall meet the education, experience and qualifications required by this section. Professional staff shall also meet all New York State licensing requirements for the profession and maintain such licensure during employment.

(1) Case Management Staff:

(i) Each facility shall have one (1) licensed master social worker (LMSW) as the director of case management responsible for providing effective case management services to youth.

(ii) There shall be one (1) case manager for every sixteen (16) youth in the facility. These staff shall not be shared across facilities. Case managers shall have a bachelor's degree and at least two (2) years of experience working with youth within a counseling or treatment based setting.

(2) Health and Behavioral Health Services Staff

(i) Physician/ Medical Director. All facilities shall have a physician or medical director available who has overall responsibility for the medical care of youth in the facility. A physician or medical director shall be licensed and currently registered to practice medicine in New York State. A physician or medical director shall be board certified in pediatrics, adolescent medicine, family medicine, or internal medicine. The physician shall be onsite a minimum of two times per week for sufficient time to sign orders, review consults, and provide oversight. The medical director shall be available, or provide for, on-call consultation and shall meet quarterly with the facility director.

(ii) Psychiatrist. Each facility shall have a board-certified, licensed psychiatrist, preferably board-certified in child and adolescent psychiatry, or whose board certification is pending, available for consultation,

including tele-psychiatry. The psychiatrist shall be licensed to practice medicine in accordance with New York State law. The psychiatrist shall be on site at a minimum one (1) time per week but with sufficient hours weekly to provide assessments and prescribe medication as needed and monitor all youth on psychotropic medication. The psychiatrist shall be available for on-call consultation and triage at all times.

(iii) Registered Nurse. A registered nurse (RN) is required to be assigned twenty-four (24) hours a day and seven (7) days a week for any building that has more than 39 beds. All facilities that do not require twenty-four (24) hours a day and seven (7) days a week nursing staff shall maintain adequate day and evening nursing coverage and on-call availability during overnight times. A nurse must be an RN and licensed in accordance with the New York State law and must maintain such licensure during employment.

(iv) Dietary Consultant. A specialized secure detention facility shall have a state-certified dietary consultant such as a nutritionist or dietician to oversee and monitor the facility food service program and menus. The dietary consultant must review menus and food service every six (6) months, and be available for consultation for specialized diets to include, but not be limited to, kosher or halal residents, youth who are pregnant or nursing, and youth with food allergies or other documented or known medical conditions requiring specialized diets. The dietary consultant must have a bachelor's degree with a major in nutrition and dietetics and be a certified dietitian nutritionist.

(v) Dentist. Dental services must be readily available for youth placed in a specialized secure detention facility. Youth must be seen by a dentist within sixty days (60) of intake and provided preventive and regular dental care. Services must be made available immediately for youth with an urgent dental need. All dentists must be currently licensed to practice dentistry in New York State.

(vi) Emergency orthodontic care services must be made available and maintenance orthodontic care services must be made available for youth who are detained for more than six (6) consecutive months.

### (3) Recreation and Vocational Staff:

(i) Each facility shall have a director of recreation and vocational services. The director must have a bachelor's degree, preferably in recreation services or vocational education. The director of recreation and vocational

services is responsible for the development and oversight of the facility recreation and leisure activities and vocational programs.

(ii) Facilities shall have sufficient staff who are not direct care staff to provide the recreation and vocational programs during program hours, weekends and evenings. Recreation and vocational staff shall have a high school diploma or a high school equivalency diploma and relevant experience.

#### (4) Direct Care and Unit Supervisors

(i) Direct care staff shall have a bachelor's degree or have earned a high school diploma or a high school equivalency diploma and have a minimum of two (2) years of experience working within the youth services field.

(ii) Unit supervisors shall have a bachelor's degree or shall have earned a high school diploma or a high school equivalency diploma and have a minimum of three (3) years of experience working with youth placed in a detention or residential setting.

(f) Staff Training. A specialized secure detention facility shall develop and implement a written training plan, policies, procedures and actual practices to provide that all staff receive training. These policies shall include, but not be limited to the following:

- (1) The hours and content required for pre-service classroom training and on-the-job training for new direct care staff, supervisors, clinical staff, program staff, administrators and support staff
- (2) The hours and content required for annual refreshers by job type
- (3) At a minimum, the training plan shall include the following topic areas:
  - (i) Behavior management and restraint techniques;
  - (ii) Mandated reporting;
  - (iii) Universal precautions and Bloodborne Pathogens;
  - (iv) Adolescent development;
  - (v) Safety and security procedures;
  - (vi) Emergency response, including, but not limited to CPR/AED;

- (vii) Suicide risk and prevention;
- (viii) Facility rules;
- (ix) Prison Rape Elimination Act (PREA) guidelines;
- (x) Rights of adolescent offenders; and
- (xi) Other trainings as may be required by OCFS/SCOC.

(4) A specialized secure detention facility shall develop a training plan for volunteers and contractors, as necessary, to provide them with information and skills to carry out their responsibilities.

(5) A specialized secure detention facility shall keep a record of all trainings attended and completed by employees, volunteers and contractors.

## Section 180-3.12 Behavioral Support System

(a) A specialized secure detention facility shall have a policy and procedures approved by OCFS for managing youth behavior. Such policy and procedures shall:

- (1) be strengths-based and grounded in principles of youth intellectual development;
- (2) support positive youth development and social learning;
- (3) take into account individual developmental needs and trauma;
- (4) set clear expectations for youth behavior; and
- (5) set clear expectations for fair and proportionate responses by staff and administrators.

(b) All youth in the facility will be provided with written information regarding the facility's behavioral support and intervention system. The information shall be written in youth-friendly language at a reading level not higher than sixth (6<sup>th</sup>) grade. The information shall be provided to youth during the orientation process.



## Section 180-3.13 Education

(a) A specialized secure detention facility shall provide facility youth all educational programs and services required by section 112 of the Education Law, Part 116 of Title 8 NYCRR, and all other applicable laws, statutes, and regulations. Youth must be provided with five and a half (5.5) hours of instruction during weekdays throughout the year.

(b) Programming shall be provided to youth who are beyond the compulsory attendance age or who have earned a high school diploma or a high school equivalency diploma. The program shall be a minimum of five and a half (5.5) hours during weekdays throughout the year and shall include literacy, math, life skills and workforce development. The program shall be designed to provide an impactful and meaningful educational and vocational learning platform that meets youth's individual needs.

Section 180-3.14 Behavioral Intervention Policies.

(a) A specialized secure detention facility shall have behavioral intervention policies approved by OCFS that include techniques for de-escalation of youth behavior, as well as OCFS approved techniques for physical and mechanical restraint. Such policies shall include the following requirements:

- (1) Within ten (10) days after admission each youth shall have an individualized plan that documents recommended de-escalation techniques and notes any restrictions on the use of physical restraints. This plan shall be available to staff and staff shall be expected to familiarize themselves with the plan and follow the plan. The plan shall be reviewed regularly and modified as needed.
- (2) Staff who are expected to use physical restraints must be successfully trained in the behavioral intervention program prior to being permitted to engage in physical restraint. Such staff shall be retrained periodically.
- (3) Physical restraints shall not be used as punishment, retaliation, discipline, administrative convenience or harassment/embarrassment of youth.
- (4) The following shall not be permitted:
  - (i) Use of pressure points or four or five point restraints;
  - (ii) Use of chemical restraints; and
  - (iii) Use of psychiatric medication solely for purposes of restraint.

## Section 180-3.15 Use of Physical Restraint.

A specialized secure detention facility shall have policies regarding the use of physical restraint that shall have the following requirements:

(a) Physical restraint shall be limited to those circumstances where all approved proactive, non-physical behavior management techniques have been tried and failed, or the circumstances of the incident render use of de-escalation techniques impractical and one of the following circumstances exists:

(1) emergency physical intervention is necessary to protect the safety of any person; or

(2) a youth is attempting to escape from the perimeter of the facility or from the custody of staff while outside of the facility

(b) All instances of physical restraint shall be followed by a medical review within twenty-four (24) hours of the restraint.

(c) Staff shall be notified of and observe any medical restrictions on use of restraints.

(d) Staff shall monitor the youth during a physical restraint for signs of distress and adjust position if the youth complains that he or she cannot breathe.

(e) If a youth demonstrates distress such as failure to breathe, vomiting unconsciousness, or mental breakdown, the restraint shall end and immediate medical/mental health assistance shall be obtained.

(f) All staff involved in a restraint situation shall document their involvement.

(g) All instances of physical restraints shall be logged and statements, debriefings and video preserved.

(h) For youth under the age of eighteen (18), the youth's parent/guardian shall be notified of the restraint.

(i) There shall be a post-restraint protocol for youth and staff to review the issue with a goal toward averting future occurrences and checking well-being.

180-3.16 Use of Mechanical Restraints.

(a) Mechanical restraints may be used in specialized secure detention facilities in accordance with the provisions of this section if such use is part of the facility's restraint policy that was approved pursuant to section 180-3.16 of this Subpart. Seat belts, shoulder harnesses or wheelchair locks used in vehicular transportation shall not be considered types of mechanical restraint.

(b) The permissible uses of mechanical restraints in specialized secure detention facilities shall consist solely of foot cuffs, handcuffs and belts through which handcuff chains are threaded, and may only be used by staff who have been appropriately trained in the use of such restraints.

(c) Mechanical restraints shall not be used if a youth's individualized plan prohibits their use. Staff shall be aware of, and follow, all therapeutic and medical restrictions for individual youth as they pertain to the use of mechanical restraints.

(d) Mechanical restraints may be used on a youth inside a specialized secure detention facility only after all appropriate pro-active, non-physical behavior management techniques have been attempted, as well as all less restrictive physical behavior management techniques have been tried and failed, and the youth continues to be out of control and presents a serious and evident danger to himself or herself or others. Mechanical restraints shall be removed as soon as the youth is sufficiently under control so that the youth can be managed safely using other less restrictive, approved methods.

(e) Staff shall provide constant, direct, visual supervision of any youth in mechanical restraints for the protection of the youth's safety, to evaluate that the youth is properly restrained, and to determine the continued need for the use of mechanical restraints.

(f) In no case may a youth be handcuffed or foot-cuffed to any object.

(g) Handcuffs and foot cuffs shall not be attached to each other.

(h) Mechanical restraints shall be used initially for a limited time period. Prior to the expiration of that time period, continued use of mechanical restraints for another limited period shall be authorized by the facility director. Reauthorization by the facility director shall be obtained for continued use of mechanical restraints for any successive limited time period as set forth in the facility's policy.

(i) At least one staff member with a key to the mechanical restraints shall be on the scene at all times when mechanical restraints are being used until the restraints are removed.

(j) Any injuries or health concerns found or observed by staff and any health concerns expressed by youth after any use of mechanical restraint shall be addressed appropriately.

(k) For any youth who is in labor or delivery, handcuffs and foot cuffs are prohibited. The medical director shall also make individual recommendations regarding limiting the use of mechanical restraints based on the youth's medical condition at any point in her pregnancy or post-partum.

## Section 180-3.17 Room Confinement

A specialized secure detention facility shall develop a written policy and procedure to be approved by OCFS and SCOC that sets forth the following principles for the use of room confinement:

(a) Room confinement means confinement of a youth in a bedroom or other room specifically designed and designated for such use to calm and control acute physical behavior of that youth that presents an immediate risk of physical injury to the youth or others.

(b) Room confinement shall only be authorized, in writing, by the facility director or the facility director's designee and shall contain the reasons and grounds for confinement.

(c) Any restrictions regarding the use of room confinement for medical or mental health reasons will be noted on the youth's individualized plan that staff must familiarize themselves with and follow.

(d) Staff shall engage in ongoing crisis intervention techniques with the youth with the goal of releasing the youth from confinement as quickly as possible.

(e) A youth shall be released from room confinement as soon as it is determined that the youth no longer poses an immediate risk of physical injury to self or others.

(f) Youth who are on suicide watch or any mental health, one-to-one (1:1) watch for whom room confinement is being used as an approved part of their individualized plan shall be under constant direct supervision through the door's viewing panel.

(g) Any youth placed in room confinement while wearing mechanical restraints shall be under constant direct supervision through the door's viewing panel. Mechanical restraints shall be removed as soon as it is assessed that it is safe to do so.

(h) Room confinement shall not be used for punishment, retaliation, discipline, administrative convenience or harassment/embarrassment of youth.

(i) The place of confinement shall be furnished with the items necessary for the health and comfort of the occupant, including but not limited to a bed, chair, desk or chest, mattress, pillow, sheet and blanket. If the presence of any of these items would be detrimental to the safety of the occupant or others, they may be removed during the period of confinement upon authorization of the facility director.

(j) The designated place of confinement shall be lighted, heated and ventilated in parity with the other comparable living areas in the facility.

(k) For youth not otherwise under constant supervision as defined in paragraphs (f) and (g) of this section, staff will be within sight and sound of the confinement room, conduct visual observation through the viewing panel of the door at least every fifteen (15) minutes. Such observations will be recorded, including the time and staff member conducting the checks.

(l) Administrative staff shall check at specified intervals of not more than two (2) hours to determine whether the youth can be released from room confinement. Any continuation of room confinement past four (4) hours must be authorized by the director of the facility or designee, and must be re-authorized for every additional four hour interval.

(m) Any youth in confinement for eight (8) hours must be seen by a mental health and medical provider, and every eight (8) hours thereafter until no longer in confinement.

(n) A review of the necessity for continued confinement of each youth shall be made every eight (8) hours by the facility director or designee, to effectuate the return of the youth to the regular program or to determine any other appropriate actions to de-escalate the situation and to reduce the danger to the youth or others.

(o) Any youth for whom room confinement has been used for twenty-four (24) hours within a forty-eight (48) hour period must be reported to OCFS in the manner required.

(p) Meals/snacks served to youth in room confinement shall be identical in both quality and quantity to those served to the general population. Meals/snacks will be served at the regularly scheduled time as permissible.

(q) Each facility shall submit to OCFS, at least monthly, reports in the manner and time frames required the following information:

(1) the number of youth who have been placed in room confinement;

(2) the name of youth placed in room confinement;

(3) the length of room confinement;

(4) the official authorizing the room confinement;

(5) the names of administrative or social work staff and medical staff assessing each such youth, and the times and dates of the assessment visits.

Section 180-3.18 Youth Searches.

A specialized secure detention facility shall develop written policies and procedures for the search of youth for the purpose of finding contraband approved by OCFS and SCOC that include the following requirements:

(a) Definitions of terms as follows:

- (1) "Personal search" shall mean a search of a youth's body to determine whether the youth has concealed contraband. Personal searches may include: use of a metal detector, pat search, mouth search, strip search, and or radiological search.
- (2) "Cavity search" shall mean a physical examination of a youth's anal and/or genital cavities.
- (3) "Mouth search" shall mean the visual inspection of a youth's mouth.
- (4) "Pat search" shall mean an inspection, by hand, of a youth's person and outer clothes while the youth is clothed.
- (5) "Radiological search" shall mean a non-invasive internal examination of a youth using medical imaging equipment.
- (6) "Strip search" shall mean the visual search of a youth's clothing and unclothed body.
- (7) "Reasonable suspicion" shall mean the amount of information sufficient to compel an ordinarily prudent and cautious person to act under the circumstances. Reasonable suspicion must be directed at a specific person and be based on specific and articulable facts and the logical inferences and inductions which can be drawn from those facts.

(b) Cavity searches are prohibited.

(c) Youth must be offered an opportunity to relinquish contraband prior to any personal search.

(d) Personal searches shall not be conducted for punishment, retaliation, discipline, administrative convenience or harassment/embarrassment of youth.

(e) Except in emergency situations, personal searches shall be conducted by staff of the same gender as the youth being searched. Transgender youth may request staff of any gender to conduct a strip or pat search. Whenever possible, this request must be accommodated, considering staffing and safety needs.



(f) A staff member of any gender may conduct metal detector and mouth searches of youth.

(g) A specialized secure detention facility shall develop a policy for all personal searches that shall be approved by OCFS. The policy shall address the parameters for routine and non-routine personal searches, and shall include, but not be limited to:

- (1) the type of personal searches permitted or required;
- (2) who can conduct each type of personal search;
- (3) when and under what circumstances routine personal searches and non--routine personal searches are permitted or required;
- (4) conditions for personal searches that account for preserving privacy and dignity to the extent possible; and
- (5) protocols and requirements for documenting all personal searches, including itemization of and disposition of contraband.

## Section 180-3.19 Waivers

(a) OCFS, in consultation with SCOC, may grant a written waiver of one or more of the non-statutory requirements of this Subpart. The waiver may be issued at the time of application for an operating certificate or after an operating certificate is issued.

(b) The applicant for, or holder of, an operating certificate must submit a written request to OCFS for any waiver in the manner required by OCFS. The request must include:

(1) each specific regulation for which a waiver is sought;

(2) the reason the waiver is necessary; and

(3) a description of what will be done to achieve or maintain the intended purpose of such regulation and to protect the health, safety and welfare of the youth in the facility.

(c) As a condition of granting or maintaining a waiver, OCFS may require physical modifications to the facility and/or the adoption of special methods, procedures, and/or policies.

(d) OCFS will grant written approval of a request to waive a regulation only if it determines that granting the waiver will not adversely affect the health, safety or welfare of the youth in the facility and that the intended purpose of the regulation waived will be met.

(e) A waiver may be time-limited, at the discretion of OCFS. The facility must resume compliance with each regulation for which a waiver has been issued upon the expiration of the waiver's time limit, unless the facility has applied for, and received OCFS' approval to continue the waiver.

(f) The facility's failure to adhere to the terms of the waiver and to any alternative measures required by OCFS as a condition of granting the waiver will result in the waiver being rescinded and may constitute sufficient cause for OCFS to limit, suspend, or revoke the facility's operating certificate. OCFS must notify the facility in writing that a waiver has been rescinded, which will become effective on the date the facility receives the notice.