

TITLE 8 SOCIAL SERVICES
CHAPTER 14 JUVENILE JUSTICE
PART 14 NEW MEXICO JUVENILE DETENTION STANDARDS

8.14.14.1 ISSUING AGENCY: Children, Youth and Families Department.
[8.14.14.1 NMAC - Rp 8.14.14.1 NMAC, 01/01/2019]

8.14.14.2 SCOPE: This regulation applies to all New Mexico juvenile detention centers operating under the certification of the children, youth and families department and managed by county and local jurisdictions. Juvenile detention centers detain delinquent offenders, youthful offenders, and serious youthful offenders. Juvenile detention centers detain juveniles pending court hearings but do not provide for long-term care and rehabilitation of adjudicated juveniles. Juvenile detention centers shall not detain children younger than the age limit identified in the Children's Code, status offenders, persons charged or previously adjudicated as delinquents or youthful offenders who are 18 years of age and older who have previously been detained with an adult population, or persons who are 18 years of age and older who are participating in a juvenile specialty court program serving custodial sanctions.
[8.14.14.2 NMAC – Rp 8.14.14.2 NMAC, 01/01/2019]

8.14.14.3 STATUTORY AUTHORITY: Section 32A-2-4 NMSA 1978, as amended, cited as the Children's Code.
[8.14.14.3 NMAC - Rp. 8.14.14.3 NMAC, 01/01/2019]

8.14.14.4 DURATION: Permanent.
[8.14.14.4 NMAC - Rp. 8.14.14.4 NMAC, 01/01/2019]

8.14.14.5 EFFECTIVE DATE: January 1, 2019.
[8.14.15.5 NMAC - Rp. 8.14.14.5 NMAC, 01/01/2019]

8.14.14.6 OBJECTIVE: To promulgate standards for the maintenance and operation of all juvenile detention centers including standards for the site, design, construction, equipment, care, programming, education, staffing, and medical and behavioral health care. The department shall certify as approved all juvenile detention centers in the state meeting the standards promulgated.
[8.14.14.6 NMAC - Rp. 8.14.14.6 NMAC, 01/01/2019]

8.14.14.7 DEFINITIONS:

- A. Terms beginning with the letter "A":**
- (1) **"Abuse and neglect"** perpetrated by an adult on a child/juvenile, as defined in the Children's Code.
 - (2) **"Action plan"** a written document in response to a sanction submitted by the center to the department for approval which states the actions that the center plans to implement, with specific time frames and responsible parties for each, to correct the deficiencies found by the department in a previous inspection or review of documents.
 - (3) **"Adjudicate"** to make a finding of whether a juvenile committed a delinquent and/or criminal act.
 - (4) **"Administrator"** the person in charge of the daily operation of the center. The administrator may be the person named on the certification or an authorized representative of the applicant or designee.
 - (5) **"Annual certification"** is an authorization for a center to operate for a one-year period of time. The effective date is noted on the face of the document. The annual certification is issued on an initial and renewal basis following investigation of an initial application for certification or the inspection of the center by the department, unless a complaint is received during the certification period that warrants the issuance of a sanction.
 - (6) **"Applicant"** the county, municipality, or other center operator or administrator in whose name a certification for a center has been issued and who is legally responsible for compliance with applicable standards.
 - (7) **"Application"** the forms, attachments, documents, and drawings required as part of the process of granting or denying an annual certification or provisional certification.

- (8) **“Authority”** the Children’s Code.
- B. Terms beginning with the letter “B”: [RESERVED]**
- C. Terms beginning with the letter “C”:**
- (1) **“Capacity”** the number of beds available for juveniles in the center as established through certification standards without a waiver provision.
- (2) **“Certification”** the document issued by the department which authorizes the operation of a center pursuant to these detention standards. The term “certification” may include an annual certification and/or a provisional certification.
- (3) **“Certifying authority”** the New Mexico children, youth and families department.
- (4) **“Chemical restraints”** aerosols, sprays, or foggers used on juveniles, including mace and pepper sprays, not including pharmaceutical restraints administered by a medical provider.
- (5) **“Collocated center”** a center located within or as part of or on the same immediate grounds of an existing county or municipal jail or courthouse, which contains a jail, provided that all state and federal requirements for a collocated center are met. No center that is not an existing collocated center, as of December 31, 1993, shall be certified as a collocated center.
- D. Terms beginning with the letter “D”:**
- (1) **“Deficiency”** a violation of or failure to comply with these standards.
- (2) **“Delinquent offender”** a delinquent child (under the age of 18) who is subject to juvenile sanctions only and who is not a youthful offender or a serious youthful offender, as defined in the Delinquency Act.
- (3) **“Denial of an application and denial of annual certification”** action by the department refusing to grant an annual certification or provisional certification.
- (4) **“Department”** the New Mexico children, youth and families department.
- (5) **“Detention center”** Detention facility, as defined in the Delinquency Act.
- (6) **“Direct care staff”** staff of the center who provide supervision, security, custody, and control of center juveniles; this excludes contractors, volunteers, and student interns.
- (7) **“Direct supervision”** direct care staff who provide direct supervision, observation, interaction, and programming by being physically present with juveniles at all times.
- (8) **“Director”** the director of the juvenile justice services division of the New Mexico children, youth and families department.
- E. Terms beginning with the letter “E”: “Emergency suspension of certification”** the department’s prohibition of the operation of a center for a stated period of time by temporary withdrawal of the certification, prior to a hearing on the matter, when immediate action is required to protect health and safety of staff and/or juveniles.
- F. Terms beginning with the letter “F”:**
- (1) **“Final decision”** the written document following a hearing stating the final determination of the secretary.
- (2) **“Five-day hearing”** the hearing noted in the emergency suspension and notice of hearing.
- G. Terms beginning with the letter “G”: [RESERVED]**
- H. Terms beginning with the letter “H”:**
- (1) **“Health and safety deficiencies”** non-compliance with any standard which relates to conditions or circumstances leading to death, physical harm, or psychological harm to juveniles; any pervasive conditions that pose a threat to the physical safety of juveniles; any pervasive neglect or abuse of juveniles; or the pervasive detainment of status offenders.
- (2) **“Hearing officer”** a person the secretary designates to conduct pre-hearing conferences and hearings, and to issue reports and recommendations, based on the information produced at the hearing.
- I. Terms beginning with the letter “I”:**
- (1) **“ICJ”** interstate compact on juveniles is a contract between states that regulates interstate movement of juveniles under court supervision, who have run away from home, or who have left their state of residence.
- (2) **“Inspection”** an entry into, and examination of, the center’s premises, records, including interviews with staff and juveniles, and any relevant information needed to show compliance with these standards.
- J. Terms beginning with the letter “J”: “Juvenile”** generally any person who is younger than 18 years of age; however, for the purposes of these standards, a “juvenile” refers to any individual held in a juvenile detention center.

- K. Terms beginning with the letter “K”: [RESERVED]**
- L. Terms beginning with the letter “L”: [RESERVED]**
- M. Terms beginning with the letter “M”:**
 - (1) **“Maintenance”** keeping building(s) and grounds in a repaired, safe, sanitary, and presentable condition.
 - (2) **“Management”** the juvenile detention center manager, supervisor, director, superintendent, or administrator.
- N. Terms beginning with the letter “N”: [RESERVED]**
- O. Terms beginning with the letter “O”: “Official notice”** information concerning the status of a center’s certification.
- P. Terms beginning with the letter “P”:**
 - (1) **“Partial compliance”** that a center is found to meet the conditions of participation, with moderate to few non-health and safety deficiencies and is able to receive a temporary certification so long as the implementation of a corrective action plan is achieved.
 - (2) **“PREA”** prison rape elimination act.
 - (3) **“Prospective applicant”** the county, municipality, or other center operator or administrator, in whose name a certification for operation has been submitted.
 - (4) **“Provisional certification”** a temporary certification, not to exceed two consecutive 120-day provisional certifications, to operate a center.
- Q. Terms beginning with the letter “Q”: [RESERVED]**
- R. Terms beginning with the letter “R”:**
 - (1) **“RAI”** risk assessment instrument.
 - (2) **“Recipient”** the person or entity who receives service of notice.
 - (3) **“Revocation of certification”** the department’s prohibition of operation of a center by withdrawal of a certification.
 - (4) **“Room confinement”** when a juvenile is in a room by force, security, or staff direction and is not permitted to come out without staff instruction.
- S. Terms beginning with the letter “S”:**
 - (1) **“Sanctions”** a measure imposed by the department for violations of these standards.
 - (2) **“SARA”** screenings, admissions, and releases applications.
 - (3) **“Secretary”** the cabinet secretary of the New Mexico children, youth and families department.
 - (4) **“Serious incident”** Environmental hazards; medical emergencies requiring transport, regardless of admission to a clinic or hospital; quarantine; serious injury or illness requiring medical intervention or treatment; behavioral health issues, including suicide ideation, suicide attempt, or transport to a behavioral health facility for evaluation, treatment, or placement; serious contraband (e.g., weapons, narcotics); violent acts by a client regardless of the victim; escapes; lockdowns; and abuse and neglect of a juvenile as defined by the Children’s Code. Serious Incidents are reported to the local juvenile probation officer supervisor and the department’s detention compliance monitor within 24 hours of the incident or by the next business day via email or by fax if the report contains protected information. Additionally, detention centers are responsible for taking appropriate actions, notifying law enforcement, and investigating when necessary.
 - (5) **“Serious youthful offender”** a person (age 15-18) who is charged with and indicted or bound over for trial for first degree murder, as defined in the Delinquency Act.
 - (6) **“Soft restraints”** fabric devices that utilize Velcro to restraint individuals without restricting breath. While in an approved soft restraint, the juvenile must be afforded some movement and not be restricted to one particular position. Approved soft restraints do not employ metal buckles or fasteners or in any way attach the juvenile’s legs and/or ankles to the torso.
 - (7) **“Standard of compliance”** the degree of compliance required by these standards is designated by the use of the words shall, must, and may. Shall and must designate mandatory requirements that may not be waived. May is permissive and designates other requirements that may be determined to be non-applicable by the department.
 - (8) **“Status offender”** a juvenile who has been charged with or adjudicated for conduct which would not, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult. (See also 28 CFR 31.304.)
 - (9) **“Substantial compliance”** that a center is found to meet the conditions of participation, without deficiencies, or with minor or few non-health and safety deficiencies, and is able to receive full certification.

(10) **“Suspension of certification”** the department’s prohibition of operation of a center for a stated period of time through withdrawal of the certification, after notice and an opportunity for a hearing.

(11) **“Supervision”** direct observation and guidance by staff by being physically present with the juveniles.

T. Terms beginning with the letter “T”: [RESERVED]

U. Terms beginning with the letter “U”: [RESERVED]

V. Terms beginning with the letter “V”: [RESERVED]

W. Terms beginning with the letter “W”: **“Waiver”** a temporary or provisional certification to operate a center which does not conform with the standards for a period of time set by the secretary. A waiver from the department may be granted to a center for a maximum of two years. Any request for a waiver for re-certification of a waiver, denied by the department is not subject to the hearing process and procedures.

X. Terms beginning with the letter “X”: [RESERVED]

Y. Terms beginning with the letter “Y”: **“Youthful offender”** a delinquent child subject to adult or juvenile sanctions who is age 14-18 at the time of the offense and who is adjudicated for offenses contained and defined in the Delinquency Act.

Z. Terms beginning with the letter “Z”: [RESERVED]

[8.14.14.7 NMAC - Rp. 8.14.14.7 NMAC, 01/01/2019]

8.14.14.8 LEGAL AUTHORITY:

A. The following standards are promulgated by the department pursuant to the Children’s Code. These are minimum standards to assess basic operations of juvenile detention centers in New Mexico.

B. The department shall have access to the administrator or designee and the center for inspection of the center for compliance with these standards. Compliance is determined during annual inspections or during more frequent inspections as necessary.

C. The center shall oblige all of these standards and applicable state and federal laws.
[8.14.14.8 NMAC - Rp. 8.14.14.8 NMAC, 01/01/2019]

8.14.14.9 STAFFING:

A. The education and experience qualifications of the center administrator include, at a minimum, one of the following: a bachelor’s degree in an appropriate discipline, four years of experience working with juveniles, or three years in detention supervision and administration.

B. Eligible candidates for center staff shall be 18 years of age or older, be eligible to work in the US, possess a high school diploma or its equivalent, and successfully pass a background check and a physical examination.

C. Background checks are conducted on potential new staff, consultants, contractors, volunteers, and student interns. Candidates with any felony convictions or any child abuse and/or neglect convictions are barred from employment. The center and/or the county where the center is located shall have written policies and procedures setting out which additional convictions shall prohibit employment and other records that are required to be checked.

D. The center shall have written policies and procedures governing issues of confidentiality of social, education, and medical records of its staff, consultants, contractors, volunteers, and student interns.

E. The center shall have written policies and procedures governing operational shift assignments and post orders that state the duties and responsibilities for each assigned position in the center; these shift assignments are reviewed at least annually and updated as necessary.

F. The center shall have a written job description for each position or group of like positions which clearly states qualification, requirements, and responsibilities.

G. The center shall maintain employment records for staff, contractors, volunteers, and student interns.

H. The center shall have written policies and procedures that provide staff with access to their records and a process to address corrections to such records.

I. The center shall have a grievance process for staff.
[8.14.14.9 NMAC - Rp. 8.14.14.9 NMAC, 01/01/2019]

8.14.14.10 STAFF TRAINING:

A. Training shall be provided annually to all staff by qualified instructors. Each staff signs an acknowledgment that they have been trained and understand the center’s policies and procedures.

B. The center shall have written policies and procedures that ensure all new fulltime staff receive 40 hours of orientation/training before being independently assigned to a particular job. This detention center orientation/training is to include at a minimum: orientation in the purpose, goals, and policies and procedures of the center; working conditions; post-orders; first aid/CPR; fire and emergency protocols; suicide prevention; behavior management methods; restraint techniques; PREA; alcohol and drug withdrawal; mandatory abuse and neglect reporting; and an overview of the juvenile justice and correctional fields. Credit for prior training received is acceptable so long as the training occurred within the past year.

C. The center shall have written policies and procedures that ensure all support staff, medical providers, and behavioral health clinicians who have regular contact with juveniles receive an additional 16 hours of training in juvenile detention issues each subsequent year.

D. The center shall have written policies and procedures that ensure all part-time staff, contractors, volunteers, and student interns receive training appropriate to their assignments.

E. The center shall have written policies and procedures that ensure all new juvenile detention officers receive an additional 80 hours of training during their first year of employment. Additionally, all juvenile detention officers receive 40 hours of training each subsequent year of their employment. Trainings may include the following topic areas:

- (1) security procedures,
- (2) supervision of juveniles,
- (3) behavior management methods,
- (4) report writing,
- (5) rules for juveniles,
- (6) rights and responsibilities of juveniles,
- (7) fire and emergency protocols,
- (8) key control,
- (9) interpersonal relations,
- (10) cultural/linguistic competency,
- (11) child/adolescent growth and development,
- (12) communication skills,
- (13) first aid/CPR,
- (14) suicide prevention,
- (15) certified course in restraint techniques,
- (16) intake criteria/and reporting,
- (17) PREA,
- (18) impacts of childhood trauma, and
- (19) alcohol and drug withdrawal.

F. All training records are maintained in the staff's file.
[8.14.14.10 NMAC - Rp. 8.14.14.10 NMAC, 01/01/2019]

8.14.14.11 JUVENILE RECORDS:

A. The center shall have written policies and procedures consistent with state and federal laws to provide individuals and agencies access to records for the purposes of research, evaluation, and statistical analysis in accordance with a formal written agreement that authorizes access, specifies uses of data, ensures confidentiality, and supports security.

B. The center shall have written policies and procedures which govern record management, including the establishment, utilization, content, privacy, security, and preservation of records; and a schedule for the retirement or destruction of inactive case records consistent with state record requirements. These policies and procedures shall be reviewed annually.

C. The center shall have written policies and procedures to protect the juvenile's assets and provide accountability for the protection of the juvenile's assets, including the segregation of client's funds.

D. The center shall have written policies and procedures for an admittance record that is completed for every juvenile and contains the following information:

- (1) court case number, if any, and detention center admission number;
- (2) date and time of admission and release;
- (3) name and nicknames, if any;
- (4) last known address;
- (5) immigration status;

- (6) legal status (authority for detention);
- (7) name of attorney, if any;
- (8) name, title, and signature of delivering officer;
- (9) specific charge(s);
- (10) sex/gender;
- (11) date of birth;
- (12) place of birth;
- (13) race or nationality;
- (14) education and school attended;
- (15) employment, if any;
- (16) medical/health status;
- (17) consent to treat forms;
- (18) name, relationship, address, and phone number of parent(s)/guardian(s) and/or person(s) the juvenile resides with at time of admission;
- (19) driver's license number and social security number;
- (20) Medicaid number, if applicable;
- (21) court and disposition, if any;
- (22) additional remarks noting any open wounds or sores requiring treatment, evidence of disease, body vermin, piercings, or tattoos;
- (23) person recording data;
- (24) inventory of property;
- (25) emergency contact;
- (26) nature of offense/offense codes;
- (27) photo, if juvenile is 13 years old or older; and
- (28) fingerprints, if juvenile is 13 years old or older.

E. The center shall have written policies and procedures governing record management for every juvenile and contains the following information:

- (1) intake information;
- (2) documented legal authority to accept juvenile;
- (3) information on referral source;
- (4) record of court appearances;
- (5) behavioral health risk assessment;
- (6) record of assets, cash, and valuables held;
- (7) notations of temporary absences from the center, if any;
- (8) visitors' names and dates of visits, if any;
- (9) record of telephone calls, if any;
- (10) juvenile probation officer(s) and/or caseworker(s) assigned;
- (11) program rules and disciplinary policy, signed by juvenile;
- (12) grievance and disciplinary records;
- (13) referrals to other agencies, if any;
- (14) final discharge or transfer report;
- (15) nature of offense/offense codes; and
- (16) documentation declining admissions to any juvenile who appears to be under the influence of drugs or alcohol.

F. There shall be a single master file identifying all juveniles detained in the center. Its contents shall be identified and separated according to an established format by the center.

G. The center shall use a release of information form that complies with applicable state and federal laws. The juvenile's parent/guardian/custodian or the court shall sign a release of information form before any release of information, including records and images, to the public. Once signed, a copy of the release of information form is maintained in the juvenile's record. Without parental or court consent, no records, images, or information about adjudicated juveniles shall be released if, by law, it is to be sealed in the future. Without parental or court consent, no information, including records and images about pre-adjudicated juveniles, shall be released. Images include any photographs, mug-shots, and video.

H. The center shall have written policies and procedures that safeguard records from unauthorized and improper disclosure. Manual records are marked "confidential" and kept in locked files that are also marked "confidential". Computerized/automated records are confidential and protected. All information is subject to

disclosure to the department.

[8.14.14.11 NMAC - Rp. 8.14.14.11 NMAC, 01/01/2019]

8.14.14.12 PHYSICAL PLANT:

A. A detention center for juveniles may be collocated within, as part of, or on the same immediate grounds of an existing municipal or county jail or courthouse which contains a jail, provided that all state and federal requirements for a collocated center are met, in accordance with these standards. (See also 28 CFR 31.303.)

B. The requirements for collocated centers include the following:

(1) separation, achieved architecturally or through time-phasing of common, non-residential areas, between juveniles and adults, so that there can be no sustained sight or sound contact between juveniles and detained adults in the center;

(2) total separation in all juvenile and adult programs, including recreation, education, vocation, medical and behavioral health care, dining, sleeping and general living activities;

(3) an independent and comprehensive operational plan for the juvenile detention center providing for a full range of separate services is in place; and

(4) separate juvenile and adult staff, including management at an administrative level, security staff, and direct care staff.

C. Specialized services staff such as cooks, bookkeepers, medical providers, and maintenance workers, who do not directly supervise juveniles and adults, can serve both.

D. The day to day management, security, and direct care functions of the juvenile detention center are vested in a totally separate staff, dedicated solely to the juvenile population.

E. The center's site must meet the following standards:

(1) an area large enough to provide an outdoor recreation area for the maximum capacity of juveniles;

(2) the outdoor recreation area must be enclosed by a wall or fence at least 16 feet high and located strategically to prevent juveniles and the general public from seeing one another, except at a reasonable distance, to prevent passing contraband;

(3) the property must be large enough to prevent encroachment of new construction on adjoining properties;

(4) the site must be sufficiently large to discourage exposure at windows and to prevent passing contraband through or over a fence or wall;

(5) there should be sufficient area to allow future expansion of the center; and

(6) there should be adequate parking space for staff and visitors.

F. All approvals of local zoning boards, city or county commissioners, or other responsible local bodies are necessary to receive certification.

G. The center shall comply with all applicable federal, state, and local health, safety, and building codes and accessibility requirement of the American's with Disabilities Act.

H. The population in housing or living units cannot exceed the rated capacity of certification, unless otherwise waived by the department.

I. Multi-purpose facilities shall be made equally available to male and female juveniles while maintaining necessary privacy, sight and sound separation, and physical separation.

J. Water for showers is temperature controlled.

K. Living units are primarily designed for single-occupancy sleeping rooms. Any use of multiple occupancy rooms cannot exceed 20 percent of the single bed capacity of the unit. There are at least 80 percent of all beds in rooms designed for single-occupancy only.

L. New construction requirements for single-occupancy sleeping rooms include the following:

(1) at least 70 square feet of floor space,

(2) the toilet is above floor level and is available for use,

(3) wash basin and drinking water,

(4) hot and cold running water,

(5) a bed above floor level,

(6) natural or artificial light, and

(7) shower facilities.

M. At no time shall male and female juveniles occupy the same sleeping room, privacy must be provided with no direct sight or sound contact between male and female juveniles.

N. Temperature control and ventilation shall be available in the event of a power failure. All heating,

air conditioning, piping, boilers, and ventilation equipment shall be installed and maintained to meet all requirements of current state and local mechanical, electrical, and construction codes. Temperatures shall be maintained at a reasonable degree at all times.

O. The total indoor/outdoor activity space apart from the sleeping area provides at least 100 square feet per juvenile.

P. The center shall provide adequate, appropriate space for the following:

- (1) visitation with some privacy, as security allows;
- (2) religious services;
- (3) interviews in or near the living unit;
- (4) telephone calls;
- (5) secure storage space for juveniles' property and personal belongings;
- (6) storage for clothing, bedding, and center supplies;
- (7) separate and locked spaces for mechanical equipment with inventory lists and sign in/out logs that are maintained;
- (8) sleeping rooms and housing units used by disabled juveniles are designed for their use and shall provide the maximum possible integration with the general population and ensure their safety and security;
- (9) all areas of the center that are accessible to the public shall be accessible to and usable by disabled staff, juveniles, and visitors;
- (10) a dayroom for each housing unit or cluster with a minimum of 35 square feet of floor space per juvenile and be separate and distinct from the sleeping area, which is adjacent and accessible; and
- (11) units housing male and female juveniles, sharing day rooms, restrooms, and activity areas, shall provide separate and private areas for males and females and prevent all sight and sound contact between males and females when in their sleeping quarters, shower areas, or other areas requiring privacy.

Q. There shall be a written plan for preventive maintenance of the physical plant with provisions for emergency repairs or replacement of equipment. This plan shall be reviewed annually and updated as needed. [8.14.14.12 NMAC - Rp. 8.14.14.12 NMAC, 01/01/2019]

8.14.14.13 SAFETY AND EMERGENCY:

A. The center shall comply with applicable state, federal, and local sanitation, safety, and health codes pertaining to fire, evacuations, emergencies, and safe, secure storage.

B. The center shall provide that a qualified fire and safety officer perform a comprehensive and thorough inspection of the center for compliance with safety and fire prevention standards annually and the center provides documentation of the inspection.

C. The center shall maintain fire alarms, an automatic detection system, and the availability of fire hoses or extinguishers at appropriate locations throughout the center.

D. Policies and procedures shall specify the center's fire prevention practices; evacuation of staff, juveniles, and visitors; a provision for an adequate fire protection service; a system of fire inspection and testing of equipment semi-annually; and an annual inspection by the state fire marshal or other qualified person(s) approved by the state fire marshal.

E. The center must be equipped with the following safety containers:

- (1) noncombustible receptacles for smoking materials and separate containers for other combustible refuse at readily accessible locations, and
- (2) special containers for flammable liquids and rags used with flammable liquids.

F. The center must provide space to securely store the following items readily accessible to authorized persons only:

- (1) restraining devices and related security equipment, and
- (2) all flammable, toxic, chemical, and caustic materials.

G. Center furnishings are purchased with proof of the fire safety performance requirements of the materials selected.

H. The center must have access to an alternate power source to maintain essential services in an emergency. Power generators and other emergency equipment and systems are tested at least monthly for effectiveness and shall be repaired or replaced as necessary. Documentation of tests shall be maintained.

I. The center shall provide for the prompt release of juveniles from locked areas in case of fire or other emergency, and a secondary release system shall be in place in the center. These release procedures shall be set out in the safety and emergency procedures.

J. The center shall have exits that are properly positioned, clearly, distinctly, and permanently

marked, in order to evacuate juveniles, staff, and visitors in the event of fire or other emergency. All housing areas and places of assembly for 50 or more persons shall have two exits.

K. The center shall have a written plan for evacuation in the event of fire or other emergency that is approved through the fire marshal.

L. The evacuation plan shall be reviewed annually, updated as necessary, and documented. The plan shall include the following:

- (1) location of building/floor plans,
- (2) use of exit signs and directional arrows for traffic flow,
- (3) location of publicly posted plans,
- (4) documented fire drills are conducted monthly, rotating drills between the shifts, and
- (5) documented evacuation drills conducted annually.

M. The center shall have written policies and procedures to provide for safe, appropriate response to and handling of the following emergencies:

- (1) active shooter,
- (2) bomb threats,
- (3) hostage taking,
- (4) riots,
- (5) natural disasters,
- (6) chemical leaks,
- (7) hunger strikes,
- (8) mass arrests, and
- (9) employee strikes and/or walkouts.

N. The center shall have written policies and procedures governing the control and use of all flammable, toxic, and caustic materials.

[8.14.14.13 NMAC - Rp. 8.14.14.13 NMAC, 01/01/2019]

8.14.14.14 SECURITY, STAFFING, AND CONTROL:

A. All centers shall submit a plan to the department within 90 days of beginning operations, which demonstrates the center's ability to provide adequate management, control, supervision, staff coverage, program activities, and security, and address at a minimum:

- (1) center structure,
- (2) population flow,
- (3) staff ratios,
- (4) adequate supervision during day time, lockdowns, room confinements, suicide prevention coverage times, and sleeping hours,
- (5) indoor and outdoor recreational activities,
- (6) staff training,
- (7) staff absence policy (e.g., sick leave, vacation, etc.),
- (8) policies and procedures to ensure juveniles shall be safe from physical and verbal assault, harassment, threats of violence, theft, intimidation, and sexual misconduct, including sexual harassment and sexual abuse, and
- (9) policies and procedures to safeguard against all sight and sound contact between juveniles and detained adults.

B. All centers shall maintain staff/juvenile ratios with a minimum of one juvenile detention officer for every eight juveniles during day and swing shifts, and a ratio of one juvenile detention officer for every 16 juveniles during sleeping hours.

C. Staff of the same gender as the juvenile shall be present when conducting strip (visual) and pat searches and monitoring shower and toilet areas, except in exigent circumstances. Additionally, there is no direct sight or sound contact between males and females in these areas or living quarters.

D. The center shall operate a control center which is staffed at all times.

E. The center perimeter shall be secured in such a way that juveniles remain within the perimeter and that access by the general public is denied without proper authorization.

F. The center shall have written policies and procedures requiring that all security perimeter entrances and exterior doors are kept locked except when used for entry or exit and in cases of emergencies.

G. The center shall have written policies and procedures to govern the availability, control, inventory and use of physical/mechanical restraints and include the following:

(1) restraints are only used for justifiable self-defense, protection of juveniles from hurting themselves, protection of others, protection of property, and the prevention of escapes;

(2) restraints are only used as a last resort after all other attempted less restrictive interventions have failed;

(3) following the intake process, staff consider the juvenile's medical condition and history of abuse when utilizing restraints;

(4) mechanical restraints shall only be applied by, or with the authorization of, the center administrator or designee, medical provider, or behavioral health clinician; and

(5) restraints shall be defined in policies and procedures as "the use of any physical intervention, mechanical device, or pharmaceutical used to restrict movement of a juvenile or the movement or normal function of a portion of an individual's body during isolated, serious incidents".

H. The center is responsible for training staff on the proper techniques for applying restraints, both physical and mechanical, and for properly monitoring juveniles who are in restraints. The center may not use restraints:

(1) as punishment or sanctions,

(2) for convenience of staff, or

(3) as a substitute for programs or activities.

I. Center staff monitor a juvenile placed in mechanical restraints at a minimum of every five minutes and record each of those checks in the juvenile's records.

(1) At the onset of a mechanical restraint, a medical provider must be notified. Within one hour of a mechanical restraint, a medical provider must assess the juvenile regardless of how long the restraint was in use. A mechanical restraint may not be in effect for a period longer than one hour for every 24 hour period without written authorization from the center administrator.

(2) The mechanical restraint devices used at the center must be manufactured and developed specifically for such use and, therefore, designed to cause the least possible physical discomfort and avoid physical injury to the juvenile.

(3) The only approved mechanical restraint devices are the following:

(a) handcuffs,

(b) waist chain/belts,

(c) foot shackles,

(d) safety helmets,

(e) spit guards,

(f) disposable/flexible cuffs, and

(g) soft restraints as defined by these standards.

(4) The use of all other mechanical restraint devices is prohibited.

(5) The use of restraint chairs is prohibited.

(6) The use of chemical/aerosol restraints is prohibited.

(7) The use of restraints in a courtroom is prohibited, unless ordered by the judge.

J. The administration of pharmaceutical restraints shall not be used except under the direction and authorization of a medical provider after all other efforts to manage behavior have failed.

K. Written policies and procedures shall provide for weekly inspection and maintenance of mechanical restraints devices.

L. All use of force incidents including physical, mechanical, and pharmaceutical restraints are reported (in writing) to and reviewed by the center administrator within 24 hours. Additionally, the following information shall be recorded in the log maintained for that purpose prior to the end of the shift on which the restraint occurred:

(1) the name of the juvenile,

(2) the date and time restraints were used,

(3) the type of restraint used,

(4) the name of the staff requesting use of the restraint,

(5) the name of the supervisor or medical provider authorizing the use of restraint,

(6) the name of the staff who actually conducted the restraint,

(7) the reason for the use of the restraint, and

(8) the date and time the juvenile was released from the restraint.

M. All use of force incidents including physical, mechanical, and pharmaceutical restraints and all serious incidents are reported to the local juvenile probation officer supervisor and the department's detention

compliance monitor within 24 hours of the incident or by the next business day via email or by fax if the report contains protected information.

N. The center shall have written policies and procedures requiring that staff inspect every area of the center daily and submit a written report to the center's administrator whenever deficiencies are noted. All such documentation shall be readily available to the department.

O. The center shall have a written policies and procedures to search staff, contractors, volunteers, student interns, juveniles, and visitors for contraband. Information on contraband and notification of searches are posted at the center's main entrance.

P. Strip (visual) searches shall be conducted without specific authorization only upon admittance or return to the center. At all other times, searches shall be conducted based on reasonable suspicion, and must be authorized by the center administrator or designee.

Q. The center shall notify the local juvenile probation officer supervisor and the department's detention compliance monitor of any suspension of services or center closure (temporary or permanent). The notification must be submitted 30 days prior to the change. A statement describing provision of essential services, continuation of client care, possible alternative placement, and a plan to restore normal operations shall accompany the notification.

R. Firearms are not permitted in the center except as defined by the center policies and procedures.

S. The center shall have written policies and procedures governing the control and use of keys and an accounting of all material related to the ingress/egress to the center.

T. The center shall have written policies and procedures governing the control and use of tools and medical and culinary equipment.

U. The center shall have written policies and procedures for handling escapes, walkaways, and unauthorized absences. The policies and procedures shall include documenting, investigating, and reporting to the department.

V. The center shall have written policies and procedures that provides for a communications system within the center, and between the center and the community, specifically in the event of an emergency.

W. The center shall have written policies and procedures governing the transportation of juveniles when transportation is provided by center staff.

X. The center shall have written policies and procedures to provide transportation in emergencies or evacuation from the center including all notifications to the public and to the department.

Y. The center shall have written policies and procedures governing the transportation of juveniles from one jurisdiction to another.

Z. The center shall have written policies and procedures prohibiting the admittance of children younger than the age limit identified in the Children's Code, status offenders, persons charged or previously adjudicated as delinquents or youthful offenders who are 18 years of age and older who have previously been detained with an adult population, and persons who are 18 years of age and older who are participating in a juvenile specialty court program serving custodial sanctions.

[8.14.14.14 NMAC - Rp. 8.14.14.14 NMAC, 01/01/2019]

8.14.14.15 FOOD SERVICE:

A. Food services shall comply with the applicable sanitation and health codes as promulgated by state, federal, and local authorities.

B. The center shall have written policies and procedures requiring that food service staff develop planned menus that are nutritionally balanced and approved by a state licensed dietician. In the planning and preparation of all meals, food flavor, texture, temperature, appearance, and palatability shall be considered.

C. A staff member, experienced in food service management, shall supervise food service operations, unless such food services are contracted with another agency in which case, the staff member shall monitor the contract for compliance.

D. The center shall have written policies and procedures that provide for special diets as prescribed by appropriate medical or dental health care providers and religious dietary laws.

E. The center shall have written policies and procedures that require food service providers to serve at least three meals, two of which are hot, at regular meal times during each 24-hour period. There shall be no more than 14 hours between the evening meal and breakfast. The center food service supervisor may allow variation, so long as the three meals provided within the 24-hour period meet the daily basic nutritional requirements and the 14-hour requirement.

[8.14.14.15 NMAC - Rp. 8.14.14.15 NMAC, 01/01/2019]

8.14.14.16 SANITATION AND HYGIENE:

- A.** The center must comply with applicable state, federal, and local sanitation and health codes.
- B.** The center shall take actions to prevent and control vermin and pests.
- C.** Hair care services shall be available to juveniles.
- D.** The center shall have written policies and procedures requiring that articles necessary for maintaining personal hygiene are provided to all juveniles, including toothbrushes, toothpaste, soap, shampoo, and feminine hygiene products.
- E.** The center shall have written policies and procedures that provide for suitable, clean bedding and linens: one sheet, one pillow and pillowcase, one mattress, and sufficient blankets to provide comfort regardless of temperature conditions; and linen exchange at least weekly or more often as necessary.
- F.** The center shall maintain a surplus supply of clothing, linens, and bedding for the center's maximum juvenile population.
- G.** The center shall clean, and when necessary, disinfect juveniles' bedding and clothing before storage or issuance.

[8.14.14.16 NMAC - Rp. 8.14.14.16 NMAC, 01/01/2019]

8.14.14.17 MEDICAL AND BEHAVIORAL HEALTH CARE:

- A.** The center shall have written policies and procedures that provide for the delivery of health care services, including medical, dental, and behavioral health care, under the control of a designated health authority. When this authority is other than a health care provider, final medical judgment rests with a designated, responsible, licensed physician. Arrangements are made with the health care provider in advance of need.
- B.** Medical, including psychiatric and dental, matters involving medical judgment are performed by a licensed physician and/or dentist respectively. The center's policies and procedures that are applicable to center staff are also applicable to health care providers.
- C.** The center shall have written health care policies and procedures approved by the responsible physician and/or health authority that provide for a regular schedule of examinations, emergency protocols, inventory of all medical materials dispensed, and medical record retention.
- D.** The center shall have written policies and procedures that shall address the management of serious, communicable, and infectious diseases.
- E.** The department of health shall be notified of any outbreak of an infectious disease.
- F.** The center shall enter into an agreement with a nearby medical service provider and/or hospital for all medical services that the center cannot provide.
- G.** Appropriate state and federal license, certification or registration requirements, and restrictions apply to staff who provide health care services to juveniles. Verification of current credentials and job descriptions are kept on file in the center and/or in the county where the center is located.
- H.** The center shall have written policies and procedures requiring that first aid kits are available. A medical provider approves the contents, locations, and procedure for periodic inspections.
- I.** The center shall have written policies and procedures that provide for medical examination of any staff or juvenile suspected of carrying a communicable disease.
- J.** At the time of a juvenile's admission, program staff shall be informed of juveniles' special medical, physical, and behavioral health conditions that might require additional attention, further evaluation, or safety monitoring.
- K.** The center shall have written policies and procedures requiring a medical and behavioral health evaluation be performed by medical providers and behavioral health clinicians on all juveniles, within 72 hours of arrival at the center. All findings and evaluations are recorded.
- L.** The center shall have written policies and procedures requiring that juveniles be informed orally and in writing of the process for accessing medical and behavioral health services.
- M.** Juveniles' medical and behavioral health complaints are monitored and responded to daily, or as needed, and are documented.
- N.** The center shall provide sick call for non-emergency medical service, conducted by a physician or medical provider.
- O.** Sick call is available to each juvenile at least weekly.
- P.** The center shall have written policies and procedures that provide for the prompt notification of a juvenile's parent/guardian/custodian in case of illness, surgery, injury, or death.
- Q.** The center shall provide access to 24-hour emergency medical and behavioral health care.

R. The center shall have written policies and procedures that provide for screening, care, and/or referral for care of juveniles who display behavioral health, developmental, or intellectual delay needs. When such juveniles are identified, proceedings are instituted pursuant to the Children's Code.

S. The center shall have written policies and procedures for detoxification services, performed under medical supervision, from alcohol, opiates, barbiturates, and other drugs. The center shall not provide detoxification services unless they are approved and staffed by medical providers.

T. The center shall have written policies and procedures that provide for proper management of pharmaceuticals and address the following subjects:

- (1) handling psychotropic medications,
- (2) medication receipts,
- (3) storage,
- (4) dispensing,
- (5) administration,
- (6) distribution,
- (7) inventory,
- (8) all controlled substances, and
- (9) syringes and needles.

U. The center shall have written policies and procedures that provide that all staff administering or distributing medication have training from a medical provider, and are accountable for administering medications according to orders. The administration of medications are recorded on a form approved by the responsible physician and/or pharmacist including the appointment of a treatment guardian ad litem as required under the Children's Code.

V. The center shall have written policies and procedures that provide that stimulants, tranquilizers, and psychotropic drugs that require intramuscular administration are prescribed only by a physician and are administered by a physician, registered nurse, or medical provider.

W. The center shall have written policies and procedures that prohibit the use of stimulants, tranquilizers, or psychotropic drugs for purposes of behavior management or experimentation and research.

X. The center shall have written policies and procedures that prohibit the use of juveniles for medical, pharmaceutical, or cosmetic experiments. This policy does not preclude individual treatment of a juvenile based on the need for a specific medical procedure that is not generally available.

Y. The center shall have written policies and procedures requiring that a health record be kept on each juvenile containing the following:

- (1) the completed receiving screening form;
- (2) health appraisal data forms;
- (3) all findings, diagnoses, treatments, dispositions, prescribed medications and their administration, laboratory, x-ray, and diagnostic studies;
- (4) signature and title of staff documenting the information;
- (5) consent and refusal for treatment forms;
- (6) release of information forms;
- (7) place, date, and time of health encounters;
- (8) health service reports, e.g., dental, behavioral health, and consultations;
- (9) treatment plan, including nursing care plan and progress reports; and
- (10) discharge summary of hospitalization and other termination summaries.

Z. The method of recording entries in the records, the form and format of the records, and the procedures for their maintenance and safekeeping are approved by the health authority.

AA. The center shall have written policies and procedures upholding the principle of confidentiality of the health record:

- (1) the active health record shall be maintained separately from the detention record;
- (2) access to the health record shall be controlled by the medical provider in accordance with HIPAA; and
- (3) medical providers and behavioral health clinicians may share with the center administrator information regarding a juvenile's medical and behavioral health management and ability to participate in programs.

BB. The center shall have written policies and procedures that provide when a juvenile is in need of hospitalization, security staff accompanies and stays with the juvenile at least during admission. If the juvenile is admitted, the center administrator notifies the court.

CC. The center shall have written policies and procedures to handle all behavioral health emergencies and all necessary services (including placement change) for any juvenile experiencing a behavioral health emergency. Juveniles are afforded access to behavioral health care and crisis intervention services in accordance with their needs.

(1) During any and all medical or behavioral health required observations, staff visually checks the juvenile every five minutes. Each check is documented, the juvenile's behavior described, and the reason for the juvenile to remain on observation noted.

(2) Juveniles placed on observation are visited at least one time each day by staff from administrative, supervisory, medical, behavioral health, or education. A log recording who required the observation, persons visiting the juvenile, the person authorizing the release, and the time of release is maintained and available for inspection by the department.

[8.14.14.17 NMAC - Rp. 8.14.14.17 NMAC, 01/01/2019]

8.14.14.18 JUVENILE RIGHTS AND RESPONSIBILITIES:

A. The center shall have written policies and procedures stating that juveniles are not subject to discrimination based on race, color, national origin, religion, sex (including pregnancy and childbirth) mental or physical disability, genetic information, marital status, sexual orientation, gender identity, serious medical condition, domestic abuse reporting status, and citizenship.

B. Any juvenile who is not a delinquent offender, but who is abused or neglected, and juveniles charged with status offenses, shall not be held in the center (exception: out-of-state runaways, mandated by state and federal laws as provided in an ICJ).

C. The center shall have written policies and procedures requiring equal access to programs and services for male and female juveniles.

D. The center shall have written policies and procedures requiring that supervision of juveniles be provided by trained staff, contractors, or volunteers.

E. A written grievance procedure shall be explained and made available to all juveniles. It must allow for at least one timely level of appeal. Release of a juvenile is not a remedy.

F. The center shall have written policies and procedures that provide for review of all disciplinary hearings and dispositions by the center administrator or designee.

G. The center shall have written policies and procedures that provide when a juvenile is charged with a rules violation that they are given a written copy of the alleged violation within 24 hours of the discovery of the violation.

H. The center shall have written policies and procedures that provide when a juvenile is charged with rule violations that they are scheduled for and receive a hearing within 72 hours of the incident. The center administrator may postpone a hearing for good cause.

I. The center shall have written policies and procedures that provide juveniles charged with rule violations are present at the hearing, unless they waive that right in writing or through unsafe behavior. Juveniles may be excluded during the testimony of anyone whose testimony must be given in confidence. The reason for the juvenile's absence or exclusion is documented.

J. The center shall have written policies and procedures that provide disciplinary hearings are conducted by an impartial person or panel trained in center policies and procedures. The staff charging the juvenile cannot serve as the hearing officer. The following is included in each disciplinary hearing:

(1) a record of the disciplinary hearing and a copy of the written decision is given to the juvenile with an explanation of the right to appeal;

(2) the juvenile may appeal a decision of the disciplinary hearing officer(s) to the administrator or higher supervisory authority; the administrator or higher supervisory authority either affirms or reverses the decision of the disciplinary hearing officer(s) within five days of the appeal; and

(3) how the juvenile is sanctioned for the rule violation is documented.

K. At least one hour of recreation shall be provided daily to juveniles and when the weather permits, outdoor exercise. A structured one-hour of leisure time activity shall be provided in addition to the recreation time. The center shall provide an appropriate range of daily indoor and outdoor recreational and leisure activities which meet the needs of juveniles of various ages, interests, and abilities.

(1) Recreational activities shall provide a balance of group play, competitive games, and quiet individual activity.

(2) The center shall provide the necessary equipment for conducting appropriate indoor and outdoor recreational program.

- L.** Juveniles shall be provided access to their legal counsel.
 - M.** Juveniles may make confidential contact with attorneys, authorized representatives, and advocates including, telephone communications, correspondence, and visits. However, attorneys, authorized representatives, and advocates are subject to the center's visitation search procedure.
 - N.** Juveniles shall not be transferred to a county/adult jail solely on the basis of turning 18 years old while in a juvenile detention center.
 - O.** The center shall have written policies and procedures permitting juveniles to participate in religious services and religious counseling on a voluntary basis, subject only to limitations necessary to maintain order and security.
 - P.** Juveniles are not subject to corporal or cruel punishment, humiliation, mental abuse, isolation, solitary confinement, or punitive interference with the daily functions of living, including eating, sleeping, personal hygiene, and physical exercise. Juveniles are not denied access to education or required medical and behavioral health care.
 - Q.** Juveniles are not required to participate in uncompensated employment unless the work is related to housekeeping, maintenance of the center or grounds, personal hygienic needs, or is part of an approved vocational or training program.
 - R.** Juveniles are permitted visitors, subject only to the limitations necessary to maintain order and security.
 - S.** Juveniles may communicate or correspond with families and friends, as well as with public officials, the courts, and their attorneys, subject only to the limitations necessary to maintain order and security.
 - T.** Juveniles may maintain the length and style of their hair, except if such style causes a risk to health and safety.
 - U.** Juveniles may maintain facial hair, except if such style causes a risk to health and safety.
 - V.** All written information is provided in a language that the juvenile can comprehend. Completion of orientation is documented by a statement that is signed and dated by the juvenile and placed in the master file.
 - W.** Library materials are available to all juveniles.
 - X.** Community and social service programs are accessible to all juveniles.
 - Y.** Juveniles are afforded access to behavioral health care and crisis intervention services in accordance with their needs.
 - Z.** The center shall have written policies and procedures to handle all behavioral health emergencies and to provide for all necessary services (including transportation or placement change) for any juvenile experiencing a behavioral health emergency.
 - AA.** Juveniles may access telephone services, subject to written policies and procedures.
- [8.14.14.18 NMAC - Rp. 8.14.14.18 NMAC, 01/01/2019]

8.14.14.19 RULES AND DISCIPLINE:

- A.** Rule violations, disciplinary procedures, and possible sanctions shall be posted in a conspicuous and accessible area. Information about the disciplinary process shall be given to each juvenile upon admission. The documents are translated into the language spoken by the juveniles within the community.
- B.** Each staff prepares a disciplinary report when a juvenile commits a reportable rule violation. Disciplinary reports include the following information:
 - (1) specified rule(s) violated,
 - (2) a formal statement of the charge,
 - (3) an explanation of the event, including who was involved, what happened, and the time and location of the incident,
 - (4) unusual juvenile behavior,
 - (5) staff and juvenile witnesses,
 - (6) disposition of any physical evidence,
 - (7) any immediate action taken, including the use of force (restraints),
 - (8) reporting staff's signature, and
 - (9) date and time report is made.
- C.** All documentation shall be kept in the juvenile's file and in the center's discipline file to document due process not for the purpose of accumulating disciplinary reports.
- D.** The center shall have written policies and procedures that govern room confinement:
 - (1) room confinement is prohibited for minor misbehavior,
 - (2) prior to room confinement, juveniles must have the reasons for the confinement

explained to them and have an opportunity to explain the behavior leading to the confinement, and

(3) during any and all room confinements, staff contact is made with the juvenile at a minimum of every 15 minutes; each check is documented, the juvenile's behavior described, and the reason for the juvenile to remain in room confinement noted.

(4) When a juvenile is confinement for the safety of others or to maintain the security of the center, the juveniles may be confined for a time period of up to 22 hours; if the juvenile's behavior improves, they are returned to general population as soon as possible; confinement lasting 22 hours shall be reviewed and approved by the administrator or designee not involved in the incident leading up to the confinement.

E. Juveniles placed in confinement are visited at least one time each day by staff from administrative, supervisory, medical, behavioral health, or education. A log recording who authorized the removal from regular programming, persons visiting the juvenile, the person authorizing the release, and the time of release is maintained and available for inspection by the department.

F. Whenever a juvenile is removed from the regular program, a supervisor reviews the action and documents approval of the action. The juvenile probation officer is notified within one business day of the removal.

G. Deprivation of food, exercise, sleep, hygiene, access to medical and behavioral health care, and education are prohibited.

H. Behavior management methods shall be designed to provide incentives for positive behavior and afford proportional measures of accountability. Incentives for positive behavior may include privileges:

- (1) special visits,
- (2) extra phone calls,
- (3) movies,
- (4) music, and
- (5) special events.

[8.14.14.19 NMAC - Rp. 8.14.14.19 NMAC, 01/01/2019]

8.14.14.20 ADMISSION PROCEDURES:

A. The center shall have written policies and procedures governing the intake and orientation of newly admitted juveniles including:

- (1) notification of assigned juvenile probation officer,
- (2) verification of legal authority to detain,
- (3) search and inventory of the juvenile and possessions,
- (4) disposition of clothing and personal possessions,
- (5) medical screening,
- (6) shower and hair care, as needed,
- (7) issuance of clean clothing, as needed,
- (8) notification of parent/guardian/custodian,
- (9) recording of basic personal data and information to be used for mail and visiting lists,
- (10) assignment to a housing unit, and
- (11) assignment of a registration number (booking number/file number).

B. If center medical providers or behavioral health clinicians determine that a juvenile needs to be medically or psychiatrically treated and/or cleared prior to admission, the center may deny admissions and direct law enforcement to transport the juvenile to a hospital for medical or psychiatric clearance. Law enforcement shall provide a copy of the medical or psychiatric clearance document(s) to the center upon return.

C. The center shall provide an orientation handbook containing programs, services, rules, and rights and responsibilities to juveniles upon admission. The orientation handbook is translated into the language spoken by the juveniles and their families.

D. The center shall perform functions necessary to utilize SARA for recording the admission of any juveniles entering the center. All admissions must be recorded in the format the detention center is trained on to input data into SARA. Once the admission is completed, it is the responsibility of center staff to continue recording any transfers into the center or releases from the center in the format the center is trained on to input data into SARA.

E. A written itemized list is made of all personal property in the possession of a newly admitted juvenile; a copy of this list, which notes all property that will be held until release, is given to the juvenile and maintained in center admission file.

F. All juveniles may make up to three telephone calls to parents/guardians/custodians and attorneys during the admissions process or at the first practical opportunity. Telephone calls are documented.

8.14.14.21 EDUCATION:

A. The center, in cooperation with the local education agency, develops and implements written policies and procedures which provide for the educational and instructional needs of juveniles, and complies with applicable state and federal educational standards. The center must maintain a current memorandum of understanding with the local education agency to provide educational services and testing for juveniles in detention. The memorandum of understanding contains mandatory attendance requirements, provision for special education testing and services, and transfer of education records to the juvenile's community school or to the department if the juvenile is committed. The memorandum of understanding sets forth the following requirements:

- (1) space allocation,
- (2) timing and identification of service provision for each teacher,
- (3) educational assistant and special education staff and support staff,
- (4) furniture,
- (5) training schedule,
- (6) length of the school year, days education is provided, and length of the school day,
- (7) supplies for consumables and texts, and
- (8) security coverage.

B. Technology is available to provide instruction and maintain education records, including telephone, faxes, and copiers.

C. A portfolio shall be developed for each student. The portfolio will be sent with the student when they return to their community school or if they are committed. Included in the portfolio are all relevant education records and the documentation of any records transferred.

D. Each center establishes an education curriculum and a process for selecting the curriculum for each juvenile, including high school equivalency track, credit recovery, post-secondary work, and standard high school credits. Each center documents how a juvenile receives an equal level of educational services compared with the student's community school setting.

E. Within 24 hours of the first school day, the following information is recorded:

- (1) name,
- (2) address,
- (3) parent/guardian/custodian,
- (4) last two schools attended,
- (5) attendance,
- (6) grade level,
- (7) special education status,
- (8) number of credits earned,
- (9) home/native language,
- (10) social security number,
- (11) date of last IEP (individualized education plan), and
- (12) the date of the last evaluation.

F. Within 24 hours of the first school day, the local education agency is contacted to verify the information provided by the juvenile. Incoming juveniles are evaluated to determine current grade levels for appropriate school placement and educational programming. All information and school records are documented in the portfolio.

G. An IEP is put in place based on all information received or a new IEP is developed and diagnostic evaluations are completed.

H. An individual curriculum based on the juvenile's identified needs is assigned and progress is recorded in the portfolio.

[8.14.14.21 NMAC - Rp. 8.14.14.21 NMAC, 01/01/2019]

8.14.14.22 RECREATION AND LEISURE PROGRAMMING:

A. The center shall have written policies and procedures requiring that juveniles have access to:

- (1) recreation activities and leisure time daily,
- (2) reading materials, and
- (3) culturally appropriate activities and services.

B. The center shall develop and implement a daily activity schedule inclusive of meaningful leisure

time activities to alleviate idleness and provide incentives for positive behavior.

[8.14.14.22 NMAC - Rp. 8.14.14.22 NMAC, 01/01/2019]

8.14.14.23 MAIL AND VISITING:

A. The center shall have written policies and procedures requiring that juveniles may communicate with their families.

B. There is no limit to the volume of letters a juvenile may send or receive, except when the center provides postage. In such cases, the center informs the juvenile of the quota which permits at least one letter per week.

C. Inspection of juvenile's mail may occur to safeguard the security of the center. Any letter from an attorney may not be opened.

D. The receipt and holdings of all money received/held for the juvenile are handled in a separate account or receptacle that may only be accessed by a supervisor.

E. All incoming mail is distributed by midnight on the same day it is received, and outgoing mail is held for no more than 24 hours, excluding weekends and holidays.

F. Visitors register upon entry into the center and are subject to search.

G. The center shall maintain mail and visitor logs setting out the above information.

[8.14.14.23 NMAC - Rp. 8.14.14.23 NMAC, 01/01/2019]

8.14.14.24 RELEASE PREPARATION AND TRANSFER PROGRAMS:

A. The center shall have written policies and procedures that provide for releasing juveniles including:

(1) verification of identity,
(2) verification of release papers,
(3) completion of release arrangements, including the person or agency to whom the juvenile is to be released,

(4) return of personal items,
(5) administrative resolution of any pending action, including disciplinary proceedings (and appeals), grievances, claims for damages, or lost possessions,
(6) medical screening and arrangements for community follow-up care,
(7) transportation arrangements, and
(8) instructions on forwarding the juvenile's mail.

B. Juveniles are only released upon receipt of a written release order signed by an appropriate authority.

C. The center does not accept the presence of a detainer as an automatic bar to release. The center determines the basis of any such detainer, and may release the juvenile to a detainer, if appropriate.

[8.14.14.24 NMAC - Rp. 8.14.14.24 NMAC, 01/01/2019]

8.14.14.25 VOLUNTEER INVOLVEMENT:

A. Volunteer involvement in programs, direct services, and cooperative endeavors for juveniles is encouraged.

B. Center staff provides supervision for all volunteers and volunteer programs.

C. Volunteers are screened and recruited from all cultural and socioeconomic segments of the community.

D. Volunteers are issued identification cards. Background checks are conducted on all potential volunteers.

E. Volunteers agree, in writing, to abide by all center policies, procedures, and rules.

F. The administrator may curtail, postpone, or discontinue services of a volunteer or volunteer organization for any reason.

[8.14.14.25 NMAC - Rp. 8.14.14.25 NMAC, 01/01/2019]

8.14.14.26 RECORD COMPLIANCE: Each center shall maintain documentation, including records, policies, and procedures required by these standards and shall make them available to the department. Paper and electronic records and files shall be maintained and managed per state records requirements.

[8.14.14.26 NMAC - Rp. 8.14.14.26 NMAC, 01/01/2019]

8.14.14.27 WAIVERS AND VARIANCES:

A. A waiver means the department refrains from enforcing compliance with a portion of these standards for a limited time period provided the health, safety, and welfare of the juveniles and staff are not in danger. Waivers are not favored and will be granted at the sole discretion of the secretary for emergencies or other exceptional circumstances. Failure to plan, negligence, or other such similar factors are not grounds for a waiver. A waiver must be requested in writing. The factors to determine if a waiver shall be granted are based on the following:

- (1) impact on the juveniles' health and safety,
- (2) impact on staff safety,
- (3) impact on any security measures in place, and
- (4) the best interests of the community.

B. Any waiver must be in writing and must specify the time period of the waiver.

C. If on the date these standards are promulgated, a center is providing services prescribed under these standards, but fails to meet all building requirements, a variance may be granted at the sole discretion of the secretary if:

- (1) the variance requested does not create a hazard to the health, safety, or welfare of the juveniles and staff,
- (2) the variance requested does not deny access to any disabled person who is otherwise qualified to receive services from or visit the center,
- (3) the building requirements for which variances are granted cannot be corrected without an unreasonable expense to the center,
- (4) the variance requested is not in conflict with existing building codes, and
- (5) the variance requested is recorded and made a permanent part of the center file.

D. Any variance granted continues to be in effect as long as the center continues to provide services pursuant to these standards; and these variances are not transferred to a different center or transferred/assigned upon the sale or transfer of the center from the current applicant.

E. If a new center is opened in an existing building, variances may be granted for those building requirements that the center cannot meet under the same criteria that the previous, certified center had been granted as set out above.

[8.14.14.27 NMAC - Rp. 8.14.14.27 NMAC, 01/01/2019]

HISTORY OF 8.14.14 NMAC: The material in this part was derived from that previously filed with the state Records Center and Archives under:

DOC 73-1, Facilities for the Detention of Children Minimum Standards, 6-29-73;

SIB 81-1, Local Facilities for the Detention of Children Standards, 4-1-82;

YA JFD 100, Legal Authority, Related Regulations and Definitions, 6-24-91;

YA JFD 400, Personnel, 6-24-91;

YA JFD 500, Staff Training, 6-24-91;

YA JFD 600, Juvenile Records, 6-24-91;

YA JFD 700, Physical Plant, 6-24-91;

YA JFD 800, Safety and Emergency Procedures, 6-24-91;

YA JFD 900, Security and Control, 6-24-91;

YA JFD 1000, Food Service, 6-24-91;

YA JFD 1100, Sanitation and Hygiene, 6-24-91;

YA JFD 1200, Medical and Health Care Services, 6-24-91;

YA JFD 1300, Juvenile Rights and Responsibilities, 6-24-91;

YA JFD 1400, Rules and Discipline, 6-24-91;

YA JFD 1500, Admission Procedures, 6-24-91;

YA JFD 1600, Programs, 6-24-91;

YA JFD 1700, Mail and Visiting, 6-24-91;

YA JFD 1800, Release Preparation and Transfer Programs, 6-24-91;

YA JFD 1900, Citizen and Volunteer Involvement, 6-24-91.

HISTORY OF REPEALED MATERIAL:

YA JFD 100, Legal Authority, Related Regulations and Definitions - Repealed, 7-31-01;

YA JFD 400, Personnel - Repealed, 7-31-01;

YA JFD 500, Staff Training - Repealed, 7-31-01;
YA JFD 600, Juvenile Records - Repealed, 7-31-01;
YA JFD 700, Physical Plant - Repealed, 7-31-01;
YA JFD 800, Safety and Emergency Procedures - Repealed, 7-31-01;
YA JFD 900, Security and Control - Repealed, 7-31-01;
YA JFD 1000, Food Service - Repealed, 7-31-01;
YA JFD 1100, Sanitation and Hygiene - Repealed, 7-31-01;
YA JFD 1200, Medical and Health Care Services - Repealed, 7-31-01;
YA JFD 1300, Juvenile Rights and Responsibilities - Repealed, 7-31-01;
YA JFD 1400, Rules and Discipline - Repealed, 7-31-01;
YA JFD 1500, Admission Procedures - Repealed, 7-31-01;
YA JFD 1600, Programs - Repealed, 7-31-01;
YA JFD 1700, Mail and Visiting - Repealed, 7-31-01;
YA JFD 1800, Release Preparation and Transfer Programs - Repealed, 7-31-01;
YA JFD 1900, Citizen and Volunteer Involvement - Repealed, 7-31-01;
NMAC 8.14.14, New Mexico Juvenile Detention Standards - Repealed, 01-01-2019.