

CHAPTER 10: OVERVIEW OF RIGHTS DURING CONFINEMENT

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OVERVIEW OF RIGHTS DURING CONFINEMENT

For youth in DYS custody, “the care, custody and discipline of the children . . . shall approximate as nearly as possible that which they should receive from their parents, and that, as far as practicable, they shall be treated, not as criminals, but as children in need of aid, encouragement and guidance.”¹ This requirement does not mean that a youth in DYS custody will have all the comforts of home, but he should be treated well


In addition to this right, youth in DYS run or contracted facilities will have additional rights. What rights a youth has depends on the setting in which he has been placed. Possible sources of rights include:


- Rights provided by the ***U.S. and Massachusetts Constitutions***. These rights apply in all settings of confinement.
- Rights provided by ***DYS statute and regulation***. These rights apply to facilities run by DYS or run by an agency that has contracted with DYS to provide services.
- Rights provided by ***DYS policies***. The policy itself typically indicates the settings and situations to which it applies.
- Rights provided by ***Department of Early Education and Care (DEEC) regulations***.
- Rights provided by ***Department of Mental Health (DMH) regulations***.
- Rights provided by the rules of a program. These rules should be described in a program’s Client Handbook.


This chapter discusses certain rights provided by the U.S. and Massachusetts Constitutions and by DYS, DEEC, and DMH legal provisions. It does not, of course, describe all the rights that DYS-involved youth have under these provisions.

Further, this chapter does not include many of the medical, mental health and education rights that these youth have. These rights are discussed in other subsequent chapters of this handbook. This chapter should be read in conjunction with these chapters.

In some cases, there is more than one source for the same type of right. For example, both DYS and DEEC have detailed provisions that regulate the use of restraint. It is possible that, in some cases, more than one set of rules on a certain topic will apply. This may be confusing, particularly if the rules do not seem to be consistent.

 **Tip for families:** Appendix A to this book provides a table listing many of the rights discussed in this chapter and provides the citations to DYS and DEEC legal provisions regarding those rights.

 **Tip for families:** It can be difficult to determine what rights your child has in a particular program. One simple step you and/or your child can take is to request a copy of the program's Client Handbook. Programs should provide copies to you and/or your child. If you or your child are having difficulty obtaining a copy of the program's Client Handbook, contact the program director, your child's DYS caseworker, or the DYS legal office.

 **Tip for families:** If you are having difficulty determining what other rights described here might apply, contact one of the organizations that provides legal representation listed in the Resource Guide at the end of this book.

U.S. Constitutional rights

Courts have interpreted the Fourteenth Amendment of the U.S. Constitution as providing confined persons with three critical rights. These are:

- the right to safe conditions of confinement;
- the right to medical care; and
- the right to freedom from unnecessary restraint.²

In addition, a number of courts have interpreted the U.S. Constitution to require a brief mental health screening upon admission.³

DYS regulations and policies

This section describes standards and rights established by DYS regulations and policies. (Standards and rights conveyed by Massachusetts General Laws Chapters 119 and 120, the statutes applicable to DYS involved youth, are described in other portions of this book.)

Different regulations and policies have different scopes (i.e. the range of persons and places that are required to comply with the provision). In general, the scope of the provision is described at the beginning of each of the following subsections.

This discussion of DYS regulations and policies does not apply to youth held in pre-arraignment detention facilities known as Alternative Lockup Programs (ALPs), perhaps with certain exceptions for youth in DYS-run ALP beds. For a discussion of the Department of Early Education and Care regulations that apply to certain other ALPs (all the non-secure ALPs as well as certain secure ALPs), see the section entitled “Conditions in pre-arraignment detention facilities” in the chapter entitled “After the Arrest.” Accessing DYS records

Accessing DYS records

Youth have rights under DYS regulations and policy regarding the records and information that DYS maintains or controls.⁴

A youth involved with DYS has a right to have his records kept confidential by DYS.⁵ DYS may only release the youth’s records to others in certain limited cases.⁶ In such cases, DYS must keep a record of who receives client information.⁷

DYS authorizes its caseworkers share verbal information that is specific to any youth, now or formerly in the care of DYS, with any authorized DYS employee, other state human services agency, criminal justice agency, law enforcement agency, or local educational authority (LEA).⁸ Only the DYS Commissioner (or designee) or DYS Regional Director (or designee) may approve verbal disclosure to other persons or groups.⁹

DYS also authorizes its caseworkers to share written information that is specific to any youth, now or formerly in the care of DYS, with any authorized DYS employee, contracted provider, or other state human services agency.¹⁰ Any written disclosure to other persons or groups is permitted only with 1) a release signed by the youth’s parent or legal guardian, 2) a signed interagency agreement, or 3) an approval in writing by the Commissioner (or designee) or the Regional Director (or designee).¹¹

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) established federal protection for the privacy of personal health information.¹² Under HIPAA, DYS and its provider agencies are required to protect any identifiable individual’s health related information from unauthorized outside access or internal misuse. Pursuant to HIPAA, DYS (and its contracted providers) must store a youth’s health-related information in a safe, secure manner, and DYS (and its contracted providers) must limit access to a youth’s health-related information to those specifically authorized to view it.¹³ Additionally, pursuant to HIPAA,


access to a youth's health-related information by anyone outside DYS or custodial providers is prohibited without written consent of the youth and/or parent or legal guardian or unless otherwise permitted by law.¹⁴

While a youth's record is confidential, the youth himself has a right to examine any records or documents created about him by DYS staff.¹⁵ Parents with legal custody, legal guardians, and lawyers representing such youth also have a right to examine such records or documents.¹⁶

Youth, parents and lawyers should make requests in person during normal business hours to the DYS Regional Director or by certified mail, return receipt requested, to the Keeper of the Records in DYS's Central Office in Boston.¹⁷ The Keeper of the Records, a person DYS designates to administer rules regarding records, must respond within five business days.¹⁸

The Keeper of Records may deny a request for access if the data is part of an investigation and permitting such access at that time would likely prejudice the investigation.¹⁹ In such a case, denial can continue only until the investigation is complete and any resultant proceeding commenced or one year has passed from the commencement of the investigation, whichever is sooner.²⁰

The Keeper of Records may set fees for copying records requested,²¹ and \$0.10 may be charged for photocopying per page.²²

 **Tip for families:** Parents and legal guardians seeking to access their child's records should address their request to the DYS Keeper of Client Records in the General Counsel's Office, 27 Wormwood Street, Boston, MA 02210. Record requests are routinely responded to by that office.

If information in such records is inaccurate, youth, parents, and lawyers also have the right to file an objection with the Keeper of Records.²³ The Keeper shall investigate the validity of the objection and provide a written decision to the youth within 30 days.²⁴ The Keeper shall correct any error and notify any recipient of inaccurate data.²⁵ If the objection is found to lack merit, the youth may still have his objection included in the file.²⁶ Decisions also may be appealed to the Commissioner within 30 days of the youth's receipt of the decision.²⁷ The Commissioner shall write a decision within 30 days of receipt of the appeal and notify the youth within seven days of writing it.²⁸ Any failure by the Keeper or Commissioner to render a timely decision during appeal will result in a favorable decision for the youth.²⁹ Parties may agree to extend time periods.³⁰ The Commissioner's decision may be appealed

to the Secretary of Human Services within 30 days of receiving the Commissioner's decision.³¹ The decision of the Secretary may be further appealed to a court of law.³²

Treatment plans

Youth in DYS-run or contracted residential or community programs have rights under DYS's policy regarding treatment plans.³³

Within one week of a youth's intake to a residential or community program (discussed below in the chapter entitled "Medical Services During Confinement"), the program in which DYS has placed the youth must develop a treatment plan.³⁴

The plan, written on a standard form, should contain an assessment of the youth's needs, measurable short and long term goals and objectives, and the methods to be used to reach these objectives at this program.³⁵ Program staff develops and implements the plan.³⁶ A licensed clinician must approve the plan.³⁷ Plans must be reviewed monthly and revised as often as needed.³⁸

Treatment plans must be signed and dated by the youth, the youth's parent or legal guardian and the person responsible for care.³⁹

Treatment team meetings

Youth in DYS-run or contracted residential or community programs have rights under DYS's policies regarding treatment plans and progress reports.⁴⁰

Each youth has a right to a monthly treatment team meeting at which his progress is discussed.⁴¹ The meeting is conducted by the DYS caseworker and attended by clinical and program staff. The youth has a right to attend the team meetings and participate in the development of the plan.⁴² Parents and legal guardians also have these rights.⁴³ A youth's lawyer may attend this meeting, but DYS does not routinely provide the lawyer with notice of the meeting. The lawyer may contact the caseworker for the dates of the meetings.

Staff must document meetings with progress reports.⁴⁴ These reports must be finished within ten working days of the meeting.⁴⁵ The reports are part of the youth's records – both at the program and at the DYS regional office.⁴⁶ DYS uses the information in the progress reports when assessing treatment needs and making extension of time assignment decisions, discussed below.⁴⁷

If the youth has not been meeting program expectations and DYS staff persons believe that a youth is not ready to re-enter society, team members at their meeting can make a recommendation to the RRT for a time extension.⁴⁸ If a youth has not had good behavior while in confinement, DYS may choose to hold the youth in the facility for a longer period of time.

Treatment team meetings are also the place where transition and aftercare issues are discussed. Meetings are conducted 90, 60, and 30 days prior to a youth's targeted release date from his program to his next placement. The DYS residential caseworker, if one has been assigned, must work with the DYS primary/community caseworker to develop a transition plan (which plans for the transition from the current program to the next placement) and an aftercare plan (which includes referrals to appropriate service providers in the community). (For further discussion regarding transition and aftercare planning, see the section "Transition Back to the Community" below.)

Room confinement

Youth detained by or committed to DYS have rights under DYS regulation and policy regarding the use of involuntary room confinement, defined as placing a youth in a locked or unlocked room, with authorization, where the staff decides when the youth may leave.⁴⁹

DYS regulation establishes basic standards. Room confinement only may be used to control seriously disruptive or dangerous behavior.⁵⁰ Room confinement may only be used with the authorization of the unit director or designee; if staff believe that immediate physical restraint is clearly necessary after they have confined a youth to a room, staff may initiate the physical restraint if they obtain authorization from a unit director or designee within 15 minutes.⁵¹ However, staff must try room confinement before resorting to mechanical restraint.⁵²

If a youth is confined, he has the right to be in a room that has appropriate heating, lighting, and ventilation and that contains a bed with a mattress, pillow, and sheets for sleep periods.⁵³

Staff must document any use of room confinement and visually observe the youth at least every 15 minutes.⁵⁴ To confine a youth for longer than two hours, staff must obtain special permission; the longer the period of confinement, the greater the extent of the authorization required.⁵⁵ If a youth is held for more than 12 consecutive hours, he must be visited at least once every three hours by administrators, counseling staff, or medical staff.⁵⁶

If a youth is confined to a room, he has the right to know why he is confined, to speak with a mediator about the situation, and to respond to the accusations within two hours of confinement.⁵⁷

Each facility must develop a policy that outlines the specific behavior which will result in room confinement and that requires the most limited and cautious use of room confinement.⁵⁸

DYS policy establishes additional standards. Staff may place a youth in individual room confinement only if certain conditions exist:

- the youth exhibits seriously disruptive or dangerous behavior, or a safety or security concern arises;
- less restrictive crisis intervention techniques have failed; and
- staff obtain proper authorization.⁵⁹

The room must have a window through which the youth is observable at all times, adequate light and ventilation, appropriate temperature and reasonable cleanliness, and a mattress, bed linens and pillow during sleep periods (unless removed in accordance with DYS Suicide Assessment policies or a youth is damaging or misusing these items).⁶⁰

Staff must:

- advise the youth of the reason for confinement and the behavior necessary for release;
- ensure youth have seasonally appropriate clothing;
- ensure youth may use a bathroom upon request at least once per hour, unless more frequent use is required due to medical status;
- ensure youth receive meals and fluids in the room on the same schedule as other youth in the program;
- ensure youth receive visits from a chaplain or clergy person;
- arrange for a visit at least every three hours by the Program Director, Assistant Program Director, Shift Supervisor, Clinical staff, or Medical staff;
- follow detailed authorization and re-authorization requirements described in DYS policy;
- attempt to engage a youth in individual room confinement in an exit strategy, once every 30 minutes (this applies to a staff not engaged in the initial incident);
- release the youth as soon as he is under control, and staff believe he is ready to rejoin the population safely.⁶¹

Staff may:

- provide youth with education material, reading material, and mail;
- remove youth for a break for a specific purpose, including exercise to gain control;
- allow a youth a supervised visit or call to help the youth gain control.⁶²

Staff may use unit-wide room confinement in these circumstances:

- during shift change, for up to 30 minutes (or longer with approval from the Program Director or during an emergency);
- during a unit shakedown (with prior authorization) for up to three hours;
- during other activities which leave only one staff on the unit (with prior authorization).⁶³

Staff must document all room confinements in the Unit Log, including total time in confinement and client name.⁶⁴ For individual room confinement staff must also complete a Room Confinement Observation Sheet.⁶⁵

Client monitoring requirements include:

- no room confinement for youth on Alert, Elevated, or Full Suicide Watch status;
- four minute checks during the first hour;
- monitoring after the first hour every 10 minutes (secure facilities) to 15 minutes (residential facilities).⁶⁶


Restraint according to DYS restraint policy

Youth in DYS-run or contracted facilities have rights both under DYS regulation and DYS policy regarding the use of restraint in such settings. The DYS Policy on Restraints and the Use of Force is DYS's leading source for current practice regarding restraint.⁶⁷ The policy is broader than DYS's restraint regulations and discusses physical escorts as well as restraint. This policy will be outlined first, in this section, and the regulation, second, in the next section.

Under this policy certain categories of youth have rights regarding restraints that occur in their programs:

- Youth in DYS-run programs (whether staffed by state or vendor

- employees);⁶⁸
- Youth in programs run by vendors who have contracted with DYS have rights regarding the documentation of restraint under this DYS restraint policy;⁶⁹
 - Youth in programs run by vendors who have contracted with DYS may have further rights if the program has adopted the whole DYS restraint policy.⁷⁰

 **Tip for families:** Note that in addition to the rights regarding restraint described in this sections, youth may have additional rights regarding restraint pursuant to DYS restraint regulations (discussed in the following section) and DEEC regulations (discussed later in this chapter). (DEEC regulations apply to DYS secure detention facilities and secure treatment programs run by providers or DYS.)

Restraint in state-run DYS programs according to DYS restraint policy

DYS policy discusses both mechanical and physical restraint. Mechanical restraint is defined as any physical or mechanical technique that includes the use of handcuffs to temporarily control behavior.⁷¹

Physical restraint is using physical holding to restrict freedom of movement.⁷² A physical escort, which is touching or holding a hand, wrist, arm, shoulder or back to have a youth who is acting out walk to a safe location, is allowed and is not a physical restraint.⁷³

For restraint to be used, the youth must be demonstrating by his actions that he is dangerous to himself or others and staff must have concluded that no other intervention has been or is likely to be effective in averting the danger.⁷⁴

Staff must try verbal counseling, point-system sanctions, room confinement, and direct warnings before using restraint.⁷⁵ An exception to this rule is if a youth attacks another person suddenly or without warning or presents an imminent danger to himself or others.⁷⁶

Staff may not restrain youth as punishment or for convenience.⁷⁷ Staff may not restrain for non-compliance with a program rule, staff directive or expectation alone.⁷⁸ Staff may restrain to protect program property, but only when staff reasonably believes that the safety of the youth or others is threatened.⁷⁹

Staff may not use: chokeholds; headlocks; sitting, kneeling, or putting substantial body weight on the youth (except in the process of the takedown); full or half nelsons; excessive twisting of limbs; hog-tying; use

of pressure points to inflict pain; striking or hitting; biting or scratching; any other similar, non-approved forms of contact; or use of chemicals including mace and pepper spray.⁸⁰

Staff must continuously monitor the youth's physical condition while in restraint.⁸¹

Staff must immediately release a youth who shows any sign of significant physical distress, such as difficulty breathing during restraint, and shall provide the youth with immediate medical help.⁸²

Staff must release the restrained youth at the first sign that it is safe to do so.⁸³

Any youth who is restrained more than five times in one week shall receive a review of clinical and behavioral needs by his caseworker and/or assigned clinician within three working days of the fifth restraint.⁸⁴ Any resulting change of services must be documented in the youth's service plan.⁸⁵

A restraint must begin with a take down.⁸⁶ If the youth is calm and under control, he must be released.⁸⁷ If the client remains a physical danger, staff may continue the physical restraint for up to five minutes (unless no mechanical restraints are available).⁸⁸

During that time, staff must do the mechanical restraint.⁸⁹ Staff handcuff the youth, roll the youth on the side and sit him up, making sure he can breathe.⁹⁰ When the youth is calm, he is allowed to stand.⁹¹ Then he is escorted to his room or another safe area before being released from restraints. The youth must remain in his room or safe area until staff believes that the youth is ready to return to the general population.⁹² If the youth is not calm and released within twenty minutes, staff must follow procedures for a longer-term mechanical restraint.⁹³

If longer term mechanical restraints are used, they cannot be attached to fixed objects.⁹⁴ Staff must always be with and supervising the youth.⁹⁵ The location manager or designee must reassess the need for mechanical restraints every twenty minutes to ensure their timely removal.⁹⁶ Staff may not use mechanical restraints for more than one hour unless the DYS Regional Administrator approves the use.⁹⁷

Restraint in any DYS or vendor-run program according to DYS restraint policy

Youth in programs run by DYS or run by vendors who have

contracted with DYS have the rights regarding documentation and reporting of restraint contained in DYS's restraint policy.⁹⁸

Programs must keep an operations log and monthly reports.⁹⁹ Programs must communicate to DYS Central Office regarding each restraint resulting in injury requiring medical treatment via telephone and via an electronic Serious Incident Report form.¹⁰⁰


Staff must report to Location Managers all violations of DYS policy on mechanical restraint that they witness.¹⁰¹

Location managers must file a report of suspected abuse or neglect (a "51A") with Department of Children and Families (DCF) if staff's use of force is reasonably alleged to be excessive and/or abusive.¹⁰²

If a 51A is filed, DYS must notify parents or legal guardians and medical staff (to perform a medical exam), among others.¹⁰³

Restraint in DYS-run or contracted facilities according to DYS regulation

While DYS policy is more detailed regarding the rights of youth involved with DYS with respect to restraint, youth in DYS-run or contracted facilities have rights under DYS regulation regarding the use of restraints in such settings.¹⁰⁴

 **Tip for families:** Note that in addition to the rights regarding restraint described in this section, youth may have additional rights regarding restraint pursuant to DYS restraint policy (discussed in the previous section) and DEEC regulations (discussed later in this chapter). (DEEC regulations apply to DYS secure detention facilities and secure treatment programs run by providers or DYS.) Restraint issues are sometimes difficult to address because of the many kinds of rules that may apply. It may be helpful to contact one of the organizations that provides legal representation listed in the Resource Guide at the end of this book. In addition, Appendix B to this book provides a comparison of DYS and DEEC restraint provisions.

DYS regulations on restraint are limited to a discussion of mechanical restraint. A mechanical restraint is a device used to limit a youth's movement, such as handcuffs, ankle cuffs, and security belts.¹⁰⁵ (Unlike other state agencies, DYS is allowed to use cuffs as restraints.) Mechanical restraints may not be attached to any fixed object, so restraint to a bed or board is not allowed.¹⁰⁶

These regulations state that mechanical restraints may only be

used when uncontrollable behavior presents serious threats to the safety of the youth or others and all reasonable alternatives including talking, room confinement, or use of minimum physical restraint have been attempted.¹⁰⁷ Any use of mechanical restraints requires the approval of the program director or the senior administrator on duty.¹⁰⁸ The restraints must be removed as soon as they are no longer needed.¹⁰⁹ Further, DYS may not use mechanical restraint for more than one hour.¹¹⁰ If conditions are sufficiently serious to require additional restraint, the staff must contact the DYS central administrator on call immediately for consultation.¹¹¹

Mechanical restraint during transport according to DYS's transportation policy

DYS's transportation policy establishes rules for DYS employees regarding the use of restraint during transport and during program interviews at a youth's prospective program.¹¹² DYS employees may use mechanical restraint in the following instances:

- transport to a hardware secure facility (including, at a minimum, handcuffs and leg shackles);¹¹³
- transport to a staff secure facility;¹¹⁴
- transport to or from a hardware or a staff secure facility for medical purposes (handcuffs and leg shackles), unless a decision not to use such restraints has been made and cleared through the location manager.¹¹⁵

When a youth in a hardware or staff secure facility attends a program interview, the youth's caseworker determines whether mechanical restraints are appropriate.¹¹⁶

During transport, DYS staff conducting the transport must personally apply any restraints they intend to use.¹¹⁷ They must ensure that blood circulation and breathing are not restricted.¹¹⁸ DYS staff may not restrain youth to a part of a vehicle.¹¹⁹ DYS staff also must comply with DYS's policy on the use of restraints.¹²⁰

"[C]ommunity transportation" or "transportation . . . to or from a community program" does not require the use of mechanical restraint.¹²¹ For such transportation, DYS personnel may use mechanical restraints at their own discretion.¹²²

Searches during transport

DYS policy also establishes rules for DYS employees regarding searches during transport.¹²³ Staff transporting youth to a hardware secure

facility will frisk search each youth for contraband prior to transportation.¹²⁴ Whenever possible, the search should be conducted by a staff of the same sex as the youth.¹²⁵ If staff suspect a youth of hiding contraband, staff will search the youth according to procedures outlined in DYS policies on searches, discussed in a separate section below.¹²⁶

Visits

Youth in DYS run or contracted residential programs have rights under DYS's visitation policy.¹²⁷

Residential programs must set specific weekday and weekend visitation times.¹²⁸ Staff must tell youth these hours and any visitation rules during intake.¹²⁹

Program staff also must notify the youth's parents or legal guardians of these hours and rules during the initial intake call whenever possible.¹³⁰ Staff must also send parents or legal guardians these hours and rules within three days of intake.¹³¹

Staff may end a visit if rules are not being followed.¹³² Staff must act appropriately and professionally when interacting with visitors.¹³³

Upon giving consent, visitors are subject to a screening process for weapons, drugs and other contraband.¹³⁴ Staff must use hand-held or walk-through metal detectors to screen all visitors.¹³⁵ In secure and residential facilities, staff may use pat searches by a staff of the same gender as the visitor if no metal detector is available, if the visitor has given written consent, and if there is a staff witness present.¹³⁶ Visitors may stop a search at any time, but must then immediately leave.¹³⁷

Visitors may bring objects, other than drugs, weapons, or contraband, into a facility at the discretion of the staff, but staff must inspect all packages and objects the visitor seeks to carry in.¹³⁸

Lawyers and clergy have an unlimited right to visit DYS youth, unless security could be compromised.¹³⁹

All visitors, except pre-teen children must present photo identification.¹⁴⁰ Visitors under age 18 must visit with an adult.¹⁴¹


Staff may not deny entry to parents or legal guardians during regular visiting hours unless there is documentation that the program's security may be compromised or that the visit will unduly impact the youth's well-being in a negative manner.¹⁴²

Programs will create an approved visitor list and a visitor log for each youth.¹⁴³

Staff will deny entry to any visitor who:

- appears to be under the influence of drugs or alcohol;
- is restricted from seeing the youth by a judicial order;
- is identified by the youth in writing as someone they do not want to visit with;
- is not on the current, approved visitors list;
- does not consent to be searched when asked;
- does not follow program rules on visitation; or
- is visiting a youth with “current treatment issues” or a youth who “has been acting out.”¹⁴⁴

Senior staff on duty must approve any denial of entry to visitors; in such a case, staff must complete an incident report and forward it to the location manager.¹⁴⁵

 **Tip for families:** This last basis for limiting visits to a residential program – that a youth has current treatment issues or has been acting out – is perhaps not as clear cut as the other bases for limiting visits. Visits should be limited under this basis if a youth’s behaviors raise concerns for the safety of the youth and the visitor. The mere fact that a youth has a mental health issue for which he is receiving treatment should not be a basis for restricting visits. Additionally, for acting out behavior to cause a restriction on the right to receive visitors, the behaviors should be serious and close in time to the visit. If you believe that visits are being wrongfully restricted for this or another basis, talk to the program director or contact one of the organizations that provides legal representation listed in the Resource Guide at the end of this book.

Location managers must designate suitable space in the program for visits.¹⁴⁶ Staff is required to monitor visitors at all times.¹⁴⁷ A youth and his parents or legal guardians are allowed to speak a foreign language during visits.¹⁴⁸

Parents and legal guardians may request that a location manager allow special visits for unusual or emergency circumstances.¹⁴⁹ Location managers or their designees may limit visits by extended family members if client treatment and behavior management issues justify such a limitation.¹⁵⁰

Telephone


Youth in DYS run or contracted programs have rights under DYS's telephone policy.¹⁵¹

Programs must ensure that youth are able to access a telephone.¹⁵² Programs should have a schedule and monitoring procedures.¹⁵³ Programs may impose limits on length and number of calls.¹⁵⁴ There must be enough phones to permit equal access to all youth.¹⁵⁵ Programs must inform youth of these rules.¹⁵⁶

Youth may make local or collect calls to parents, legal guardians, custodians and lawyers during scheduled hours.¹⁵⁷ Additionally, immediately after intake, new clients must be allowed to call their parents, legal guardian, foster parents, custodians and/or lawyers.¹⁵⁸ At a minimum, youth must be allowed one free long distance call to family per week.¹⁵⁹

A youth may phone his lawyer at any reasonable time, excluding weekends and holidays as often as they wish if the lawyer agrees to accept charges.¹⁶⁰ No time limits may be placed on these calls.¹⁶¹

DYS policy provides that staff will place and monitor all calls for appropriate language and subject matter.¹⁶² In addition, if the program staff thinks the call is being used to violate program rules or breach security, staff may directly monitor the call, but only after informing the telephone parties.¹⁶³

 **Tip for families:** This policy means that once DYS has ascertained that your child is speaking with appropriate language and regarding an appropriate subject matter, staff should afford him privacy in that conversation.

Youth may receive calls from court workers, social workers, police, lawyers, and DYS personnel at any time.¹⁶⁴ Youth may receive calls from others during scheduled times or at the program manager's discretion and these calls will be monitored.¹⁶⁵

While the DYS policy does not address cell phone use, DYS youth are not allowed to have cell phones on the units.¹⁶⁶

Mail

Youth in DYS run or contracted programs have rights under DYS's mail policy.¹⁶⁷

Youth have a right to send and receive any amount of mail.¹⁶⁸ Programs may censor mail for “contraband and inappropriate material in order to ensure program security and client rehabilitation.”¹⁶⁹ Programs must supply postage for two letters per week.¹⁷⁰ Programs may restrict access to writing tools that could be used as weapons.¹⁷¹

Letters to and from the courts, lawyers, the DYS Commissioner or Assistant Commissioner, and DYS Regional or Program Directors may not be opened by staff.¹⁷² Programs may open and examine all other mail for contraband.¹⁷³ Additionally, this incoming mail may be read, with the youth present, if “clear evidence justifies such action.”¹⁷⁴ All packages shall be opened and inspected, with the youth present, and contraband will be removed.¹⁷⁵

Programs may open outgoing mail if the location manager believes that there are concerns “for program security, client rehabilitation, or facilitates, encourages or instructs in criminal activity.”¹⁷⁶

Programs may withhold incoming and outgoing mail if it would “jeopardize security or rehabilitation, facilitates, encourages or instructs in criminal activity, or contains cash, checks or money orders over allowed amounts.”¹⁷⁷

If a program withholds mail, unless the mail is part of an ongoing internal DYS or law enforcement investigation, it must notify the youth and/or the sender of the reasons for the withholding and the appeal procedures.¹⁷⁸

If the program withholds any items from packages, the items must be inventoried on the youth’s property sheet and placed with the youth’s secured property.¹⁷⁹ Any monies withheld must be credited to the youth’s personal funds account.¹⁸⁰

Youth in programs have a right to have books, magazines, and newspapers unless the publication “jeopardize[s] security or rehabilitation, facilitates, encourages, or instructs in criminal activity, or depict[s] sexually explicit materials.”¹⁸¹

Special management

Youth in DYS run or contracted residential programs have rights under DYS’s special management policy.¹⁸²

A special management plan is a form of treatment plan that DYS uses to respond to youth who are:

- displaying serious behavioral problems as indicated by the program’s point/level system;
- failing to make behavioral progress; and/or
- disrupting program services and/or security.¹⁸³


The special management plan must have measurable goals that respond to the problem behaviors and help the youth return to regular program activities as soon as possible.¹⁸⁴

In some juvenile justice systems, special management plans result in youth being segregated from others on the unit. However, Massachusetts DYS has not outlined, in their regulation on special management plans or elsewhere, what the typical components of a special management plan are.

The plan must be developed by the program director or designee.¹⁸⁵ The plan must be written within 24 hours of a youth being placed on special management status.¹⁸⁶ The program director or designee must review the plan daily and adjust it for progress made.¹⁸⁷

If the youth hasn’t reached his goals within 72 hours, the program director or designee must contact the Regional Clinical Coordinator to review the situation.¹⁸⁸

While on a special management plan, the youth must receive hygiene, nutrition, medical, religious and legal services.¹⁸⁹ While on the plan, the youth also must receive educational and clinical services “unless the youth’s behavior does not allow them to occur.”¹⁹⁰

 **Tip for families:** Youth have fundamental rights to receive both educational and clinical services. Thus, it would only be in extremely rare situations that a program could limit access to these services due to a youth’s behavior. If you believe that a youth’s access to these services is wrongfully being limited, contact the program director or an outside advocate.

Program Advocate


Youth in DYS run or contracted residential programs have rights under DYS’s policy on program advocates.¹⁹¹ DYS assigns youth in these programs an advocate in addition to the DYS caseworker.¹⁹²

At intake, all residential programs must assign a direct care staff person to serve as an advocate to each youth.¹⁹³ Advocates must provide

services seven days a week, so advocates may have to substitute for one another some days.¹⁹⁴

Advocates are the main source of information regarding the youth's behavior and adjustment.¹⁹⁵ Advocates are members of the youth's treatment team.¹⁹⁶

Advocates must talk to their assigned youth daily to learn if the youth has any immediate needs for which the advocate could be helpful.¹⁹⁷ Advocates meet weekly for a more in-depth meeting with the youth to discuss adjustment, progress and needs.¹⁹⁸

 **Tip for families:** It is an advocate's job to communicate to the treatment team any needs that the youth presents, both at treatment team meetings and in between such meetings.

Passes to the community

DYS' goal is to make sure that each youth can be safely returned to the community when his period of confinement has ended. During a youth's stay in a residential program, he may become eligible to leave the facility for a short time by requesting a pass.¹⁹⁹ If he has behaved well, he may return home or elsewhere in the community for a day or overnight. This visit may be supervised or unsupervised.

Youth in DYS run or contracted programs have rights under DYS's policy on passes.²⁰⁰

Youth in secure treatment units or residential treatment programs may be eligible for passes to certain places.²⁰¹ However, youth in secure treatment units would only receive supervised passes.²⁰² Youth being held in a secure detention program or in DYS in lieu of bail cannot receive passes, except for family emergencies as authorized by a judge.²⁰³ Passes may be for up to 72 hours when given.²⁰⁴

Location managers, the DYS Regional Directors or designee of the youth's placement location, and the DYS Regional Director/designee of the youth's commitment must all approve an unsupervised pass.²⁰⁵ Youth fulfilling their initial facility time are ineligible for an in-state unsupervised pass.²⁰⁶

A youth in staff or hardware secure facilities is not eligible for a supervised pass until a month has passed, except for family emergencies.²⁰⁷

Any youth who completes one half of his minimum time assignment

in a secure treatment facility is eligible for a supervised pass, if progress in the program can be documented and the pass is consistent with post secure treatment plans.²⁰⁸ Youth in residential treatment programs are not eligible for a pass if minimum time and treatment progress, as outlined in the treatment plan, have not been met.²⁰⁹

Youth on unsupervised and supervised passes have to comply with additional rules to ensure that DYS has sufficient contact during the pass.²¹⁰ To receive a supervised pass, a request generally must be submitted seven days before the pass is to take place.²¹¹ To receive an unsupervised pass, the program usually must submit a request ten days before the pass is to take place.²¹² There are exceptions for emergencies.²¹³ DYS policy contains further rules regarding requesting and approving passes,²¹⁴ as well as other special situations involving passes.²¹⁵

DYS has a standard “Individual Pass Request Form” that it requires all DYS and private provider programs to use.²¹⁶

Behavior modification

Youth in DYS run or contracted residential programs have rights under DYS’s policy on behavior modification.²¹⁷

All DYS and private provider programs must have a behavior modification system that assesses youth’s behavioral progress.²¹⁸ The system must reinforce good behaviors and provide negative consequences for rule violations and anti-social behaviors and attitudes.²¹⁹ The system also needs to process bad behaviors and acknowledge progress.²²⁰ Rewards and punishments must be in proportion to the behavior at issue.²²¹

Youth, parents and legal guardians have a right to receive a written, easily understood copy of the program’s behavioral system upon request.²²² Staff must review the system with the youth at intake.²²³ A copy of the system must be made available in languages other than English when there are significant numbers of youth whose primary language is not English.²²⁴

Staff must process rule violations and consequences with youth as soon as possible.²²⁵ Staff must also provide youth with regular and frequent feedback regarding behavior.²²⁶

Programs cannot withhold food, sleep, medical care, bathroom facilities, or visits by clergy or lawyers as consequences for bad

behavior.²²⁷ Programs cannot use physical punishment, verbal abuse or uncomfortable physical positions in response to bad behavior.²²⁸

Staff interaction with youth

Youth in DYS run or contracted programs have rights under DYS's policy on youth and staff interaction.²²⁹

Programs must ensure that staff acts appropriately when interacting with youth.²³⁰ Staff must treat all youth fairly.²³¹ Staff must follow point level systems consistently for all youth.²³² Staff may not humiliate a youth when disciplining or correcting.²³³ Staff must be sensitive to a youth's issues and problems and may not demean or trivialize the youth's concerns.²³⁴

Language

Youth in DYS-run facilities have rights under DYS's policy on foreign languages.²³⁵

Except in certain circumstances described below, youth in DYS facilities must be allowed to speak their native language.²³⁶

Program staff may prohibit youth from speaking languages other than English if staff believe the safety and security of the location is being threatened.²³⁷ If program staff prohibits a youth from speaking a language other than English, staff must fill out an incident report at the end of shift with reasons for the denial.²³⁸ The report must be submitted to the program manager upon completion.²³⁹

Parents, legal guardians and lawyers are allowed to speak to youth in languages other than English during visits and telephone calls.²⁴⁰ Youth may write to these individuals in languages other than English.²⁴¹

Youth with television and radios shall be allowed to view and listen to programs and music in languages other than English.²⁴² Groups may view television programs and movies in languages other than English if the material is otherwise appropriate.²⁴³

Rules and orientation material must be posted in English and Spanish.²⁴⁴

Religious services

All DYS-involved youth have rights under DYS's policy on religious services.²⁴⁵

DYS-involved youth have a right to practice any recognized religious faith so long as such practice does not undermine safety or security.²⁴⁶ DYS staff must provide access to religious services or practices for those youth wishing to participate in such activities.²⁴⁷ Programs may not require that a youth participates in religious activities.²⁴⁸ Youth may also ask to see a chaplain at any time, so long as a chaplain is available.²⁴⁹ Programs also must make provisions for clients with religious dietary restrictions.²⁵⁰ Programs shall decide which religious medallions and ornaments are permitted.²⁵¹

Searches in facilities and programs

Youth served in or by

- secure facilities operated by DYS or by a provider under contract with DYS,
- residential facilities operated by DYS or by a provider under contract with DYS, and
- community programs that provide non-residential services (such as foster care, independent living, job corps, and casework or community supervision)

have rights under DYS's policies regarding searches in facilities and programs.²⁵²

These youth may be subject to searches to find weapons, drugs, contraband or other items that the youth could use to hurt himself or others or to engage in illegal or prohibited activities.²⁵³ Searches also are used to identify mental or physical health concerns.²⁵⁴ Searches may occur at a number of points during confinement. The types of searches that are allowed vary depending on the type of facility or program in which the youth is located.


DYS uses searches to ensure safety.

DYS provides several reasons for subjecting all DYS youth to a strip search upon initial admission. DYS check youth for:

- signs of abuse;
- piercings, which could be used as weapons;
- contraband, particularly to discourage outsiders from asking DYS-involved youth to act as couriers; and
- gang tattoos, as DYS uses gang affiliation when determining placement.²⁵⁵

Youth inside facilities may feel safer knowing that all youth have been searched before entry.²⁵⁶

Nonetheless, searches, especially strip searches, are humiliating. Additionally, they are particularly concerning when used on youth who have experienced sexual abuse and/or physical violence. Such history is common for many of the girls (and some of the boys) involved with DYS. Among precautions that are in place, searches should be conducted by a person of the same gender as the person being searched.²⁵⁷

 **Tip for families:** Advocates are extremely concerned about the use of strip searches on youth, as well as the use of searches as a routine practice. If you have concerns regarding searches, contact one of the organizations that provides legal representation listed in the Resource Guide at the end of this book.

DYS has three policies that govern the practice of searching youth confined in facilities and programs: Policy # 3.1.3(a) Searches in Secure Facilities, Policy # 3.1.2(a) Searches in Secure Facilities, and Policy # 3.1.4(a) Searches in Community Programs. DYS also has a policy, discussed in a separate section, that governs the search of youth prior to their being transported.²⁵⁸

Searches with metal detectors

Community programs may use walk-through or hand-held metal detectors to screen youth when they are entering the program for the first time or when returning from outside activities.²⁵⁹ If the alarm goes off twice, a youth may be pat searched, as described below.²⁶⁰ Eventually, youth who activate the detectors and don't reveal signs of metal may be transported to a facility to be strip searched, in accordance with DYS policy.²⁶¹

Pat searches

DYS may pat search when warranted according to its search policy; individualized reasonable suspicion is not required by the policy.²⁶² Reasonable suspicion means “sufficiently reliable information used to objectively reach a common sense conclusion that the client has engaged in conduct in violation of the law or DYS regulations or policies. . . . [t]he standard of reasonable suspicion does not require absolute certainty, but rather sufficiently particularized probability.”²⁶³ Pat searches must be conducted by staff of the same gender as the youth and in the presence of a witness.²⁶⁴

Strip and undergarment searches

DYS uses strip searches in *secure facilities* routinely upon initial admission without individualized reasonable suspicion.²⁶⁵ Unless staff have continuously observed the youth while away, DYS may also use strip searches in secure facilities without individualized reasonable suspicion after certain events: transportation from court, medical appointments, hospitals, residential programs or another state agency; a youth's liberty is revoked; an unsupervised pass; or a non-professional contact visit (such as by a family member).²⁶⁶ DYS also may conduct strip searches in secure facilities upon individualized reasonable suspicion that the youth has a weapon, drugs or contraband.²⁶⁷

Staff must be the same gender as the youth and there must be a staff witness (if the staff is a different gender than the youth, the staff cannot assist but can only observe the staff and not the youth).²⁶⁸ The area shall, whenever possible, be private.²⁶⁹ In a strip search, staff ask the youth to remove his clothing, inspect the clothing, and visually inspect (but not touch) the youth.²⁷⁰ Staff then completes a body map diagram, documenting notable details of the youth's physical condition.²⁷¹

In *residential facilities*, DYS may conduct an undergarment search (in which the youth leaves on his undergarments) for the same reasons and pursuant to the same rules as a strip search is allowed in a secure facility, although staff don't complete a body map diagram.²⁷² In residential facilities, staff only may do a strip search if there is individualized reasonable suspicion to believe that a particular youth possesses a weapon, drugs, or contraband.²⁷³ Strip searches must be conducted as they are in secure facilities.²⁷⁴

In community programs, staff may request a strip or undergarment search only when there is probable cause to believe that a particular youth: has a weapon, drugs, or contraband; or is engaging in self-injurious behavior.²⁷⁵ Probable cause means


information sufficient to establish an objectively fair probability that the client has engaged in conduct in violation of the law or DYS regulations or policies including, but not limited to being in possession of contraband, weapons or drugs or having engaged in behavior that poses a risk to the client or to others. The standard of probable cause does not require absolute certainty; probabilities are the factual and practical considerations of every day life upon which reasonable and prudent people act.²⁷⁶

The program manager or designee then must approve the search.²⁷⁷

Body cavity searches

A body cavity search is very intrusive and is not performed by DYS staff. In theory, it could include a search of penis, vagina, and/or rectum.

Youth in *secure and residential facilities* may be subject to a body cavity search only when there is probable cause to believe that the youth is in possession of a weapon, drugs or contraband and only after the youth has first been subjected to a strip search.²⁷⁸ If such probable cause exists, DYS must transport the youth to the nearest hospital emergency by ambulance where authorized medical personnel shall conduct the search.²⁷⁹ DYS or facility personnel may not perform a body cavity search.

 **Tip for families:** Body cavity searches can be traumatic experiences for youth. If you are aware that your child has undergone such a search, be sensitive to its effects. If you have concerns regarding such searches, contact one of the organizations that provides legal representation listed in the Resource Guide at the end of this book.

Room searches

In *secure or residential facilities*, staff may search rooms (with two staff present) at the discretion of the facility or program manager or designee without individualized reasonable suspicion.²⁸⁰ Each facility must have a written procedure for room searches and must document all searches.²⁸¹

Searches of common areas

DYS allows for searches of common areas. In *secure and residential facilities*, staff may search common areas without individualized reasonable suspicion to believe that a particular youth has weapons, drugs or contraband.²⁸² Each facility must have written procedures for such searches.²⁸³

In *community programs*, the program must have a written procedure for conducting such searches.²⁸⁴ Common area searches must be conducted at least weekly, as well as at the discretion of the Program Manager, without individualized reasonable suspicion.²⁸⁵

Unit shakedowns

DYS allows for unit shakedowns -- during which an entire unit may be searched -- in secure and residential facilities.²⁸⁶ Shakedowns may be

conducted at the discretion of the Facility Manager or designee without individualized reasonable suspicion to believe that a particular youth has weapons, drugs or contraband.²⁸⁷ A shakedown may be conducted at random times and without advance notice (although youth must be briefed as to what will occur immediately before the event).²⁸⁸ Facilities must have a written procedure for conducting searches during unit shakedowns.²⁸⁹ Searches of a youth's room during a shakedown must be conducted with at least two staff present.²⁹⁰

Personal property

Youth in DYS run or contracted residential programs have rights under DYS's policy on personal property.²⁹¹

All money and personal property in a youth's possession when he enters a DYS or privately-operated placement, which cannot be permitted on the unit, must be inventoried on a sheet, in the presence of the youth, and stored.²⁹² A copy of the inventory sheet must be provided to the youth at the time.²⁹³


Complaint process


DYS is developing a draft statewide Client Grievance Policy which will be issued in 2008.²⁹⁴ While DYS currently has no statute, regulation or policy outlining a complaint process for youth involved with the agency, there are various ways that a youth confined to DYS may complain about conditions, services, or care.

- During routine interaction between youth and their caseworkers, clinicians, treatment team members, teachers, program advocates, clergy, and others, youth may voice concerns.
- Concerns may be brought at other times:
 - to the program (through staff, a supervisor, or the director); or
 - to DYS (through the caseworker, the district manager, the Regional Director, or the Commissioner's Office, in that order).
- Every DYS program should have available Client Grievance Forms for youth to complete which are collected, reviewed, and acted upon by program staff.²⁹⁵
- Youth also may pursue certain appeals of various DYS decisions, as discussed in other sections of this book.

DYS staff may forward a complaint to the DYS Legal Office. The General Counsel reviews such complaints and, when necessary, assigns

them for investigation by Legal Office staff.²⁹⁶

 **Tip for families:** Concerns and complaints should be placed in writing. Keep a copy of all correspondence. Outline the concern and the response that you would like to see from DYS. If you are not satisfied with the response received, contact a person in a supervisory role or contact the DYS Legal Office. If your concerns or complaints are not adequately addressed, seek the assistance of a lawyer or outside advocate.

 **Tip for families:** In addition to the DYS grievance avenues described above, DEEC regulations, discussed below, require programs to have written procedures so that staff, parents, and residents may file complaints regarding a youth's care. Therefore, a youth in a program covered by this DEEC regulation has a complaint process available to him for issues related to the program's care.

Incident reporting

Youth in DYS run or contracted programs have rights under DYS's policy on serious incident reporting.²⁹⁷

DYS defines "serious incident" to include any of the following:

- death of a staff member or youth;
- serious injury or illness of a staff member or youth;
- escape by a DYS youth from a hardware or staff secure facility, on a pass, or in transport to or from a hardware or staff secure facility;
- major disturbance within any DYS funded location such as hostage situations, riots, natural disaster, bomb threats, emergency evacuations;
- police response to a DYS funded location;
- arrest of a DYS youth for a Grid Level 4, 5, or 6 offense or some other high profile offense;
- arrest of a staff member anywhere for any reason;
- sexual misconduct between staff and youth;
- sexual misconduct between youths;
- media involvement in a DYS incident or on DYS property;
- youth suicide attempt which results in emergency psychiatric screening or hospitalization;
- youth restraints which result in injury requiring medical treatment;
- work-related traffic accidents resulting in injury to staff or youth;
- allegations of youth abuse or neglect in a facility or community

program including any instance in which a 51A report is filed with the Department of Children and Families;

- medication loss which is suspicious or unexplained;
- medication occurrence resulting in medical treatment, illness, or death;
- discovery of illegal contraband or weapons in a program;
- workplace violence or domestic violence in the workplace;
- theft from a program;
- missing program keys;
- room confinement for twelve or more consecutive hours;
- use of a safety shield; or
- discrimination, harassment or retaliation by or against any DYS staff.²⁹⁸


When a serious incident occurs, a location manager or designee must notify DYS Central Office Communications Information Center by telephone as soon as possible and as soon as possible, but no later than the end of the next business day, must complete an electronic version of the Serious Incident Report form (and send it electronically to the Communications Information Center by the end of the shift, or as soon thereafter as possible.²⁹⁹

These contacts then signal a series of actions and notifications by the staff of the Communications Information Center and other DYS administrators.³⁰⁰

Department of Early Education and Care (DEEC) regulations


This section describes DEEC residential care regulations. These regulations apply to all secure programs (including detention, intake, assessment, treatment, and revocation units) and all residential programs – regardless of whether these programs are run by DYS or by a provider that contracts with DYS.

Those Alternative Lockup Programs (ALPs) that are licensed by DEEC as temporary shelter facilities also must comply with these regulations. For a further discussion of ALPs, see the section entitled “Conditions in pre-arraignment detention facilities” in the chapter entitled “After the Arrest.”

 **Tip for families:** If you believe that a program is not complying with DEEC regulations, you can ask DEEC to investigate.

Program case management/service planning

The program must assign to each youth in care more than 72 hours a staff person responsible for coordinating implementation of the youth's service plan and other services.³⁰¹ The program case manager is required to, among other things, meet with the youth on a regular basis to ensure that the child's daily needs are being met and participate in the youth's service planning, periodic review, and discharge planning meetings.³⁰² Service plans must be reviewed no less frequently than every six months.³⁰³

 **Tip for families:** It is reasonable to expect the DYS caseworker to meet with your child at least once per week.

Complaint process

A program must have written procedures so that staff, parents, and residents may file complaints regarding the youth's care.³⁰⁴ The procedure must include a mechanism to inform the complainant of the results of the decision.³⁰⁵ The program must distribute this written complaint procedure to youth and parents prior to admission.³⁰⁶

Incident reporting

A program must have a procedure for documenting unusual and/or serious incidents such as behavioral incidents, runaways, serious injuries or accidents, property destruction, medication errors, medical and other emergencies.³⁰⁷

Behavior management

A program must have a description of rules for behavior management.³⁰⁸ This description must include measures for positive responses to appropriate behavior and shall define and explain the use of behavior management procedures used in the facility.³⁰⁹

Thus, if a facility uses any of the following procedures, they need to be explained in the policy: a level/point system of privileges; restrictions for misbehavior; forms of physical restraint; behavioral interventions used as alternatives to restraint; the practice of separating a resident from a group or program activity; or denial/restrictions of on-groups program services.³¹⁰

Parents and legal guardians have a right to receive and should request a copy of the behavior management program for the facility in which a youth resides.³¹¹ Additionally, the program must notify the parents

or legal guardians and the youth of any significant changes in behavior management procedures.³¹²

Restraint

DEEC regulations provide detailed requirements regarding the use of restraint.³¹³ When DYS restraint regulations and/or policies also apply, these DEEC regulations should be read in conjunction with the DYS regulations and/or policies.

DEEC regulations forbid programs from using any type of restraint other than physical restraint unless the facility has obtained special permission from DEEC to do so.³¹⁴

Restraint may only be used when a youth's actions demonstrate that he is dangerous to him and there is no other way to protect the youth or others.³¹⁵ Restraint may not be used as punishment, for convenience, or for non-compliance with rules or directions.³¹⁶

Only staff trained in physical restraint may restrain a youth.³¹⁷

A designated on-site administrator must be notified immediately whenever a physical restraint is begun.³¹⁸ Further, after the first five minutes of each physical restraint, steps must be initiated to contact the on-call administrative or clinical staff.³¹⁹

Staff must use the least intrusive form of restraint possible.³²⁰ DEEC prohibits the use of choke-holds, wrestling moves, "hog-tying," or inflicting pain through pressure points.³²¹

If a resident needs to be restrained for longer than 20 minutes, staff must obtain approval from the chief administrative person or designee.³²² Such approval requires that the youth continues to display behavior justifying restraint.³²³

Staff must constantly monitor the restrained youth's physical condition.³²⁴ If the youth displays any sign of significant physical distress, he must be immediately released and provided any needed medical help.³²⁵

A restrained youth must be released as soon as it is safe to do so.³²⁶

Any youth restrained more than five times in any seven day period must receive a review of his clinical and behavioral needs by his case

manager or clinician within three working days of the fifth restraint.³²⁷
Changes in services must be documented in the youth's treatment plan.³²⁸

The facility must document all restraints.³²⁹

Time out

DEEC regulations provide detailed requirements regarding a youth's separation from a group or program activity (referred to here as "time out").³³⁰

Programs must have guidelines for time out which state who can do time out, how long time out can last, and the process for getting required approval from the chief administrative person or designee after 30 minutes.³³¹

Staff must be able to view youth in time out at all times and must always be close by.³³² Staff must directly observe the youth at least every 15 minutes.³³³


Time outs longer than 30 minutes must be documented with: length of time; reasons for time out; who approved it; and who directly observed the youth at least every 15 minutes.³³⁴

Usually, a time out room may not be locked, with one exception described in the following paragraph.³³⁵ Any room used must be physically safe and appropriate to the youth served by the facility.³³⁶

There is an exception to the rule that a time out room may not be locked. The room may be locked if a locked detention or treatment program which seeks and obtains special approval from DEEC.³³⁷ If the program receives approval, a locked time out room may be used only when necessary to protect the resident, other residents, or staff from immediate danger of physical harm.³³⁸ Locked rooms must meet all applicable state and federal regulations.³³⁹ Further, the use of the locked room may not exceed 15 minutes without approval from the chief administrative person or designee.³⁴⁰ Approval is required for each following 60 minute period.³⁴¹ Staff must remain close to the locked room at all times, must directly observe the resident at least every 15 minutes, and must take actions to assure the youth's safety.³⁴²

Corporal punishment

Programs may not subject youth to abuse or neglect, cruel, unusual, severe or corporal punishment.³⁴³

 **Tip for families:** You should immediately report any instances of corporal punishment to the Department of Children and Families, which investigates allegations of child abuse. You also should report such instances to DYS and to your child's lawyer. If your child does not have a lawyer, contact one of the organizations providing legal representation listed in the Resource Guide at the end of this book.


Visits


A program must have written policies that encourage and support family visits.³⁴⁴ Policies must seek to encourage healthy family relationships and individual growth and development.³⁴⁵ They also must protect the youth, staff and program from unreasonable and unsafe intrusions.³⁴⁶ Policies must be distributed to the youth, parent, and persons other than a parent with custody of the child, and parents prior to admission, when possible, or within 72 hours after admission.³⁴⁷

The program must provide opportunities and encourage residents to be visited by and otherwise communicate with family and other persons. The program must ensure reasonable privacy for visits.³⁴⁸ The program must establish visiting hours which meet the needs of the residents and their parents.³⁴⁹ The program also must create procedures for youth visiting outside the facility, when appropriate.³⁵⁰

Visits may only be restricted for the following reasons.

- Visits may be restricted by court order (only to the extent of the court order).
- Visits may be restricted by the youth's individual service plan for therapeutic reasons only. Such restrictions must be no greater than necessary to achieve the therapeutic purpose. Those persons whose visitation is restricted or denied should receive an explanation from the program as to the reasons for the restriction.
- Visits may be restricted due to a documented safety risk to residents or staff.³⁵¹

 **Tip for families:** This regulation means that programs should allow visits not only from parents, but also from grandparents, siblings, and other persons – related or not.

 **Tip for families:** If you or someone else is having difficulty visiting, talk to the DYS caseworker. If the caseworker is not helpful, contact the DYS caseworker manager/supervisor. If that fails, contact the DYS


Regional Director. If that fails, contact the DYS Commissioner's Office. You also can seek assistance from one of the organizations that provides legal representation listed in the Resource Guide at the end of this book.

Telephone

A program must have written policies that encourage and support telephone calls and other forms of communication with family, friends, or other persons.³⁵² Policies must seek to encourage healthy family relationships and individual growth and development.³⁵³ They also must protect the youth, staff and program from unreasonable and unsafe intrusions.³⁵⁴ Policies must be distributed to the youth, parent, and persons other than a parent with custody of the child, and parents prior to admission, when possible, or within 72 hours after admission.³⁵⁵

Programs may not monitor or unreasonably restrict telephone communications unless there are specific therapeutic reasons for such limitations. Such therapeutic reasons must be developed in the youth's individual service plan and must be no greater than necessary to achieve the therapeutic purpose.³⁵⁶ If phone conversations are monitored, the parties to the conversations must be informed.³⁵⁷ Communication with a youth's social worker, lawyer, or clergy person may not be prohibited, restricted, or censored.³⁵⁸

The DEEC regulation does not address cell phone use.


 **Tip for families:** If you or someone else is having difficulty communicating with a youth by phone, talk to the DYS caseworker. If the caseworker is not helpful, contact the DYS caseworker manager/supervisor. If that fails, contact the DYS Regional Director. If that fails, contact the DYS Commissioner's Office. You also can seek assistance from one of the organizations that provides legal representation listed in the Resource Guide at the end of this book.

Mail

A program must have written policies that encourage and support mail and other forms of communication with family, friends, or other persons.³⁵⁹ Policies must seek to encourage healthy family relationships and individual growth and development.³⁶⁰ They also must protect the youth, staff and program from unreasonable and unsafe intrusions.³⁶¹ Policies must be distributed to the youth, parent, and persons other than a parent with custody of the child, and parents prior to admission, when possible, or within 72 hours after admission.³⁶²

A youth has a right to open and send mail unread by staff with the following limitations.

- Any restrictions or censorship must be no greater than necessary to achieve the therapeutic purpose described in the individual service plan.
- Restricted or censored mail must be returned to the sender with the reasons stated.
- Staff may open and inspect a youth's mail for contraband but only in the youth's presence.³⁶³

 **Tip for families:** If you or someone else is having difficulty corresponding with a youth, talk to the DYS caseworker. If the caseworker is not helpful, contact the DYS caseworker manager/supervisor. If that fails, contact the DYS Regional Director. If that fails, contact the DYS Commissioner's Office. You also can seek assistance from one of the organizations that provides legal representation listed in the Resource Guide at the end of this book.

Grooming and hygiene

The program must provide youth, without charge, with grooming and hygiene articles necessary to meet his or her needs.³⁶⁴

Clothing

The program must ensure that each resident has adequate, clean, and seasonable clothing as required for health, comfort, and physical well being and appropriate to age, sex, and individual needs.³⁶⁵ Programs cannot require that a youth wear a uniform and must allow a youth to wear his own clothes (which the youth has participated in selecting).³⁶⁶

Searches

If the program has a practice of searching the youth and/or the youth's personal belongings, the program must have written policies and procedures for such searches.³⁶⁷ The program must provide youth with a copy of the written search policy within 24 hours of his admission to the program.³⁶⁸ The program must provide parents or persons other than a parent with custody of the child a copy of the written search policy within 72 hours of admission.³⁶⁹

Religious practice

The program must make religious opportunities available to youth upon request and must respect their religious preferences.³⁷⁰

Recreation

Programs that provide care for youth for more than 72 hours must have a written plan for meeting the youths' recreational needs.³⁷¹ Recreation must be appropriate to the age, interests and needs of each person.³⁷² Recreation includes providing for free, unplanned time for a youth to pursue individual interests.³⁷³

Mental health treatment

DEEC requires programs to adhere to certain standards regarding mental health treatment.

Programs must conduct a mental health assessment immediately upon admission.³⁷⁴ The assessment must look at potential emergency needs in the areas of medical, mental health, physical well-being, severe psychological disturbance, suspected drug overdose, alcohol intoxication and suicide risk.³⁷⁵ If necessary to address an emergency situation, the program must transport the youth immediately to a hospital or other appropriate facility.³⁷⁶

With respect to mental health services, the program must be able to access services 24 hours per day, seven days per week, including crisis intervention and access to hospitalization, when necessary.³⁷⁷ Programs must provide or facilitate the provision of social, psychological and psychiatric services, as needed.³⁷⁸

Any program serving youth for over 72 hours also has to have a plan for how it will provide a range of social, psychological and psychiatric services.³⁷⁹ These services must include, among others: crisis intervention; evaluation and assessment; therapy and/or counseling for individuals and groups; and clinical consultation with residents, parents or legal guardians and staff.³⁸⁰

Medical care

DEEC requires programs to adhere to certain standards regarding medical care.

The program must have a plan for meeting the medical needs of

youth. Medical care for emergencies must be available 24 hour per day, seven day per week.³⁸¹ Medical services must include: evaluation and diagnosis; treatment; consultation; and preventive health services.³⁸² At the time of placement, youth must be provided with emergency medical and/or dental care if needed.³⁸³ If a youth is placed in a program on an emergency basis but remains in care for more than fourteen days, the program must ensure that he has had a recent medical and dental examination, and obtain the results or schedule a new one if necessary.³⁸⁴ Except for youth placed on an emergency basis, the program must ensure that at the time of placement each youth has had a medical examination not more than 30 days prior to admission where possible or within two weeks after admission (unless the program has documentation of a physical exam, meeting certain guidelines, conducted less than one year prior to admission).³⁸⁵

In addition, the program must provide preventive health services for youth including routine medical and dental examinations, immunizations, family planning information and upon request of the resident (with any required consent of parent or legal guardian or placement agency), provision of or referral for family planning devices, medication and services.³⁸⁶

The program must ensure that medically recommended glasses, hearing aids, prosthetic devices, corrective physical or dental devices or any equipment recommended or treatments prescribed by the examining physician are provided to the youth.³⁸⁷

The program may not require any youth to receive medical treatment or screening when the parents object due to sincerely held religious beliefs. However, the program may seek a court order for medical treatment of a youth if it believes such medical treatment is in the youth's best interest.³⁸⁸

The administration of medication

DEEC requires programs to adhere to certain standards regarding the administration of medication, including specific requirements around the administration of antipsychotic medication.³⁸⁹

The program shall have written policies and procedures regarding the prescription and administration of all medication, including antipsychotic medication.³⁹⁰ Except in an emergency, the program may not administer antipsychotic medication unless informed written consent is obtained from a parent, if available, or unless judicial approval is received.³⁹¹ In addition, the program shall inform a youth age 12 or older, consistent with his or her capacity to understand, about the treatment,

risks and any potential side effects of such medication.³⁹² The program must have procedures to follow if the resident refuses to consent to administration of the medication.³⁹³

In an emergency situation, antipsychotic medication may be administered for treatment purposes without parental consent or prior judicial approval if an unforeseen combination of circumstances calls for immediate action and there is no less intrusive alternative to the medication.³⁹⁴ The treating physician must determine in his or her professional judgment that medication is necessary to prevent the immediate substantial and irreversible deterioration of a serious mental illness.³⁹⁵ If the treating physician determines that medication should continue informed consent or judicial approval must be obtained.³⁹⁶

Department of Mental Health (DMH) statutes, regulations and other provisions

A youth in DYS custody may be sent to a program run, licensed, or contracted for by DMH for mental health care. For example, he could be residing on a psychiatric unit providing acute care at a private hospital; such a unit would be DMH-licensed. He could reside at an IRTP, a program operated by a non-profit agency pursuant to contract with DMH. In such settings, a youth has additional rights pursuant to DMH statute and regulation. These include rights with respect to mental health admissions and commitments and basic civil rights enjoyed in such settings.

Mental health admission and commitment

In Massachusetts, an individual who is receiving treatment on a locked psychiatric unit does so pursuant to the state mental health statute and a particular civil admission or commitment status. It is important to know the legal status of a patient in order to understand his rights with respect to admission, confinement, and discharge. Parents (and a youth if he is age 16 or older) have decision-making authority at certain points in the hospitalization. These rights remain with the parents (and with a youth age 16 or older) and do not transfer to DYS upon DYS commitment because DYS assumes only physical and not legal custody of the youth.

If a youth is transferred to a locked psychiatric unit that is licensed by DMH (and almost all locked psychiatric units will be DMH-licensed), the following information is applicable. (These DMH-licensed units should be distinguished from secure DYS units that provide mental health services.)

Any individual, including any minor, may be involuntarily admitted to a psychiatric facility for up to three business days upon the application

of certain mental health professionals or a police officer.³⁹⁷ The application for this kind of admission is known by several names, including an “emergency admission,” a “pink paper,” or a “Section 12.” The standard for such an application is that, without hospitalization, the person would “create a likelihood of serious harm by reason of mental illness.”³⁹⁸ The youth has the right to an examination prior to actual admission.³⁹⁹

A youth may not be held against his will for longer than three days after being admitted on a Section 12 pink paper, unless, prior to the end of the third day, the hospital petitions for his involuntary commitment.⁴⁰⁰

At any time during these three business days, the hospital may discharge the youth or petition the district court for “involuntary commitment.”⁴⁰¹ At any time during the three days, the individual may apply to convert to “conditional voluntary” status.⁴⁰² This application may be completed by the parent or guardian with authority to admit from a probate court, or by a youth age 16 or older.⁴⁰³ If the youth is in the custody of the Department of Children and Families (DCF), DCF may sign a “conditional voluntary” application for admission for up to 90 days; after that time, DCF must seek judicial approval.⁴⁰⁴

As a conditional voluntary patient, the individual remains on this status at the hospital indefinitely, until the hospital decides to discharge the youth or the youth asks to leave by filing a “three day notice” of intent to leave.⁴⁰⁵ This notice may be completed by the parent or legal guardian of a youth, or by a youth age 16 or older.⁴⁰⁶ If DCF authorized the admission, DCF may sign the three day notice.⁴⁰⁷

If a hospital petitions the district court for involuntary commitment, the youth has the right to a lawyer (at the state’s expense if the patient cannot afford one) and a full adversarial hearing.⁴⁰⁸ The standard for commitment is that, *release would create a likelihood of serious harm to the individual or others, the individual is mentally ill and treatment cannot occur in a less restrictive placement.*⁴⁰⁹

If this standard is not met, the hospital must discharge the youth. If this standard is met, the first commitment is valid for up to six months.⁴¹⁰ Subsequent commitments are for up to 12 months.⁴¹¹ During the commitment, if the hospital determines that the youth no longer needs treatment and care, it must discharge him.⁴¹²

Admission and commitment to a locked psychiatric unit are serious events, resulting in a substantial loss of liberty and the curtailment of other rights. These restrictions of rights need to be considered when seeking appropriate mental health treatment.

Once a youth is discharged from a psychiatric facility, he will return to the placement designated by DYS.

Visits

A youth in a locked psychiatric unit has a right to receive visitors of their “own choosing daily and in private, at reasonable times.”⁴¹³ Visiting hours may be limited only to “protect the privacy of other persons and to avoid serious disruptions in the normal functioning of the facility or program, and shall be sufficiently flexible as to accommodate” the youth and the visitors’ individual needs and desires.⁴¹⁴

A facility may suspend this right only if there is a substantial risk of serious harm to the youth or others and less restrictive alternatives would be futile.⁴¹⁵ Any suspension must be documented in the youth’s record and may last no longer than the time necessary to prevent the harm.⁴¹⁶

Telephone

A youth in a locked psychiatric unit has the right to reasonable access to a telephone to make and receive confidential calls, unless making the call would be a criminal act or cause an unreasonable infringement of another’s access to the telephone.⁴¹⁷

A facility may suspend this right only if there is a substantial risk of serious harm to you or others and less restrictive alternatives would be futile.⁴¹⁸ Any suspension must be documented in the youth’s record and may last no longer than the time necessary to prevent the harm.⁴¹⁹

In addition, an individual has the absolute right to receive telephone calls from his lawyer or legal advocate, physician, psychologist, clergy member or social worker at any reasonable time, regardless of whether the youth initiated or requested the call.⁴²⁰

Mail

A youth in a locked psychiatric unit has a right to send and receive “sealed, unopened, uncensored mail.”⁴²¹ If the youth is present, staff may open and check mail for contraband, but may not read it.⁴²² The superintendent, director, or designee of the superintendent or director must document with specific facts the reason for opening the mail.⁴²³

Access to outside advocates

A youth in a locked psychiatric unit has the right to be visited (even

outside normal visiting hours) by his lawyer or legal advocate, as well as by his physician, psychologist, clergy person or social worker, regardless of who initiates the visit.⁴²⁴

A youth also has the right to have his lawyer (or legal advocate), with appropriate consent, access the youth's record, communicate with clinical staff, and attend meetings regarding treatment or discharge planning which the youth is entitled to attend.⁴²⁵

A youth also has the right to benefit from "reasonable access by lawyers and legal advocates, including those of the Massachusetts Mental Health Protection and Advocacy Project, the Committee for Public Counsel Services, and the Mental Health Legal Advisors Committee," so that they may "provide free legal services."⁴²⁶ Upon admission and upon request, facilities must provide the name, address and telephone numbers of these legal agencies and must assist individuals in contacting them.⁴²⁷ These agencies may conduct unsolicited visits and distribute educational materials at times the facility designates as "reasonable."⁴²⁸

Privacy

A youth in a locked psychiatric unit also has the right to a humane environment including living space which ensures "privacy and security in resting, sleeping, dressing, bathing and personal hygiene, reading and writing and in toileting."⁴²⁹ This provision does not mean that a youth has the right to a private bedroom.

Endnotes

- 1 Mass. Gen. L. ch. 119, § 53.
- 2 *Youngberg v. Romeo*, 457 U.S. 307 (1982); *Santana v. Collazo*, 793 F.2d 41 (1st Cir. 1986).
- 3 For a detailed discussion of the case law regarding this and other requirements in the care of mentally ill inmates, see James R. Pingeon and Daniel Crane-Hirsch, Center for Public Representation, Summary of Professional Standards Governing Mental Health Services in Prisons and Jails (1997), available at <http://www.centerforpublicrep.org/>. (The MAYSI-2 screening that DYS conducts, which is discussed in this booklet, would meet that constitutional standard.)
- 4 109 CMR 3.00 *et seq.*; DYS Policy # 1.7.2, Confidentiality of Client Records (Feb. 15, 1999).
- 5 109 CMR 3.00 *et seq.*
- 6 109 CMR 3.04, 3.05.
- 7 109 CMR 3.07.
- 8 DYS, Case Management Reference Guide (Aug. 2006) at 43-44.
- 9 DYS, Case Management Reference Guide (Aug. 2006) at 44.
- 10 DYS, Case Management Reference Guide (Aug. 2006) at 44.
- 11 DYS, Case Management Reference Guide (Aug. 2006) at 44.
- 12 Public Law 104-191.
- 13 DYS, Case Management Reference Guide (Aug. 2006) at 44.
- 14 DYS, Case Management Reference Guide (Aug. 2006) at 44.
- 15 109 CMR 3.04(1).
- 16 109 CMR 3.04(2).
- 17 DYS Policy # 1.7.2, Confidentiality of Client Records (Feb. 15, 1999), Procedure, D.1.
- 18 DYS Policy # 1.7.2, Confidentiality of Client Records (Feb. 15, 1999), Procedure, D.2.
- 19 DYS Policy # 1.7.2, Confidentiality of Client Records (Feb. 15, 1999), Procedure, D.4.
- 20 DYS Policy # 1.7.2, Confidentiality of Client Records (Feb. 15, 1999), Procedure, D.5.
- 21 DYS Policy # 1.7.2, Confidentiality of Client Records (Feb. 15, 1999), Procedure, E.2.
- 22 DYS Policy # 1.7.2, Confidentiality of Client Records (Feb. 15, 1999), Procedure, E.3.
- 23 DYS Policy # 1.7.2, Confidentiality of Client Records (Feb. 15, 1999), Procedure, I.1.
- 24 DYS Policy # 1.7.2, Confidentiality of Client Records (Feb. 15, 1999), Procedure, I.2.
- 25 DYS Policy # 1.7.2, Confidentiality of Client Records (Feb. 15, 1999), Procedure, I.3.
- 26 DYS Policy # 1.7.2, Confidentiality of Client Records (Feb. 15, 1999), Procedure, I.4.
- 27 DYS Policy # 1.7.2, Confidentiality of Client Records (Feb. 15, 1999), Procedure, I.5.
- 28 DYS Policy # 1.7.2, Confidentiality of Client Records (Feb. 15, 1999), Procedure, I.6.
- 29 DYS Policy # 1.7.2, Confidentiality of Client Records (Feb. 15, 1999), Procedure, I.7.
- 30 DYS Policy # 1.7.2, Confidentiality of Client Records (Feb. 15, 1999), Procedure, I.7.
- 31 DYS Policy # 1.7.2, Confidentiality of Client Records (Feb. 15, 1999), Procedure, I.8.
- 32 DYS Policy # 1.7.2, Confidentiality of Client Records (Feb. 15, 1999), Procedure, I.9.
- 33 DYS Policy # 2.2.1(b), Treatment Plans (Jan. 1, 1999).
- 34 DYS Policy # 2.2.1(b), Treatment Plans (Jan. 1, 1999), Procedure, B.7.
- 35 DYS Policy # 2.2.1(b), Treatment Plans (Jan. 1, 1999), Procedure, A.1, 4, 5, B.8.
- 36 DYS Policy # 2.2.1(b), Treatment Plans (Jan. 1, 1999), Procedure, B.6.
- 37 DYS Policy # 1.1.4(a), Policy Definitions (July 1, 2004) (definition of “treatment plan”).
- 38 DYS Policy # 2.2.1(b), Treatment Plans (Jan. 1, 1999), Policy section.
- 39 DYS Policy # 2.2.1(b), Treatment Plans (Jan. 1, 1999), Procedure, B.9.
- 40 DYS Policy # 2.2.1(b), Treatment Plans (Jan. 1, 1999); DYS Policy # 2.2.4 Progress Reports (Jan. 1, 1999).
- 41 DYS Policy # 2.2.1(b), Treatment Plans (Jan. 1, 1999), Procedure C.2.; DYS Policy # 2.2.4(b), Progress Reports (Jan. 1, 1999), Procedure, A.1.
- 42 DYS Policy # 2.2.4 Progress Reports (Jan. 1, 1999), Procedure, A.2; DYS Policy # 2.2.1(b), Treatment Plans (Jan. 1, 1999), Procedure, B.9.

- 43 See DYS Policy # 2.2.1(b), Treatment Plans (Jan. 1, 1999), Procedure, B.9.
- 44 DYS Policy # 2.2.4(b), Progress Reports (Jan. 1, 1999), Procedure, B.2.
- 45 DYS Policy # 2.2.4(b), Progress Reports (Jan. 1, 1999), Procedure, B.2.
- 46 DYS Policy # 2.2.4(b), Progress Reports (Jan. 1, 1999), Policy section.
- 47 DYS Policy # 2.2.4(b), Progress Reports (Jan. 1, 1999), Procedure, C.1.
- 48 DYS Policy # 1.1.4(a), Policy Definitions (July 1, 2004), Definitions (definition of “extension of time assignment”).
- 49 109 CMR 5.00 et seq.; DYS Policy # 3.3.1 (May 1, 2008); 109 CMR 5.03 (definition of room confinement); DYS Policy # 3.3.1 (May 1, 2008); Procedure A, Definitions.
- 50 109 CMR 5.01.
- 51 109 CMR 5.05.
- 52 109 CMR 6.04(1).
- 53 109 CMR 5.04.
- 54 109 CMR 5.07.
- 55 109 CMR 5.06.
- 56 109 CMR 5.04.
- 57 109 CMR 5.06(6).
- 58 109 CMR 5.01.
- 59 DYS Policy # 3.3.1 (May 1, 2008), Procedure B, 1.
- 60 DYS Policy # 3.3.1 (May 1, 2008), Procedure B, 3
- 61 DYS Policy # 3.3.1 (May 1, 2008), Procedure, B.2, 6, 7, 8, 11; Procedure E.4.c.; Procedure, F; Procedure, G.
- 62 DYS Policy # 3.3.1 (May 1, 2008), Procedure, B. 10, 12, 13.
- 63 DYS Policy # 3.3.1 (May 1, 2008), Procedure, C.
- 64 DYS Policy # 3.3.1 (May 1, 2008), Procedure, D.
- 65 DYS Policy # 3.3.1 (May 1, 2008), Procedure, D.
- 66 DYS Policy # 3.3.1 (May 1, 2008), Procedure, E.
- 67 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 68 DYS Policy # 3.2.8(d), Restraints and Use of Force (Apr. 10, 2000), Policy section. (This policy was designed to comply with DEEC regulations regarding restraint, 102 CMR 3.00 et seq., discussed in the section on DEEC below.)
- 69 DYS Policy # 3.2.8(d), Restraints and Use of Force (Apr. 10, 2000), Policy section & Procedure H.
- 70 DYS Policy # 3.2.8(d), Restraints and Use of Force (Apr. 10, 2000), Policy section.
- 71 DYS Policy # 3.2.8(d), Restraints and Use of Force (Apr. 10, 2000), Procedure, A.4.b).
- 72 DYS Policy # 3.2.8(d), Restraints and Use of Force (Apr. 10, 2000), Procedure, A.4.a).
- 73 DYS Policy # 3.2.8(d), Restraints and Use of Force (Apr. 10, 2000), Procedure, A.3, C.1.
- 74 DYS Policy # 3.2.8(d), Restraints and Use of Force (Apr. 10, 2000), Policy section.
- 75 DYS Policy # 3.2.8(d), Restraints and Use of Force (Apr. 10, 2000), Procedure, D.1.
- 76 DYS Policy # 3.2.8(d), Restraints and Use of Force (Apr. 10, 2000), Procedure, D.1.
- 77 DYS Policy # 3.2.8(d), Restraints and Use of Force (Apr. 10, 2000), Procedure, D.4.
- 78 DYS Policy # 3.2.8(d), Restraints and Use of Force (Apr. 10, 2000), Procedure, D.5
- 79 DYS Policy # 3.2.8(d), Restraints and Use of Force (Apr. 10, 2000), Procedure, D.6.
- 80 DYS Policy # 3.2.8(d), Restraints and Use of Force (Apr. 10, 2000), Procedure, D.7, G.1.
- 81 DYS Policy # 3.2.8(d), Restraints and Use of Force (Apr. 10, 2000), Procedure, D.8.
- 82 DYS Policy # 3.2.8(d), Restraints and Use of Force (Apr. 10, 2000), Procedure, D.9.
- 83 DYS Policy # 3.2.8(d), Restraints and Use of Force (Apr. 10, 2000), Policy section, Procedure, D.10.
- 84 DYS Policy # 3.2.8(d), Restraints and Use of Force (Apr. 10, 2000), Procedure, D.11.
- 85 DYS Policy # 3.2.8(d), Restraints and Use of Force (Apr. 10, 2000), Procedure, D.11.

- 86 DYS Policy # 3.2.8(d), Restraints and Use of Force (Apr. 10, 2000), Procedure, E.1.
- 87 DYS Policy # 3.2.8(d), Restraints and Use of Force (Apr. 10, 2000), Procedure, E.2.a).
- 88 DYS Policy # 3.2.8(d), Restraints and Use of Force (Apr. 10, 2000), Procedure, E.2.b), E.6.
- 89 DYS Policy # 3.2.8(d), Restraints and Use of Force (Apr. 10, 2000), Procedure, E.2.b).
- 90 DYS Policy # 3.2.8(d), Restraints and Use of Force (Apr. 10, 2000), Procedure, E.3.
- 91 DYS Policy # 3.2.8(d), Restraints and Use of Force (Apr. 10, 2000), Procedure, E.4.
- 92 DYS Policy # 3.2.8(d), Restraints and Use of Force (Apr. 10, 2000), Procedure, E.4.
- 93 DYS Policy # 3.2.8(d), Restraints and Use of Force (Apr. 10, 2000), Procedure, E. 5.
- 94 DYS Policy # 3.2.8(d), Restraints and Use of Force (Apr. 10, 2000), Procedure, F.2.
- 95 DYS Policy # 3.2.8(d), Restraints and Use of Force (Apr. 10, 2000), Procedure, F.3.
- 96 DYS Policy # 3.2.8(d), Restraints and Use of Force (Apr. 10, 2000), Procedure, F.4.
- 97 DYS Policy # 3.2.8(d), Restraints and Use of Force (Apr. 10, 2000), Procedure, F.5.
- 98 DYS Policy # 3.2.8(d), Restraints and Use of Force (Apr. 10, 2000), Policy section.
- 99 DYS Policy # 3.2.8(d), Restraints and Use of Force (Apr. 10, 2000), Procedure, H.1.a.
- 100 DYS Policy # 1.3.5(d), Serious Incident Reporting (Feb. 22, 2008), Procedures, A.1. Presumably, the requirement of DYS Policy # 3.2.8(d), Restraints and Use of Force (Apr. 10, 2000), Procedure, H.1.b., that all restraints be documented on serious incident reporting forms was superseded by DYS's newer incident reporting policy which has more limited reporting requirements regarding restraint.
- 101 DYS Policy # 3.2.8(d), Restraints and Use of Force (Apr. 10, 2000), Procedure, H.2.a. While DYS Policy # 3.2.8(d), Restraints and Use of Force (Apr. 10, 2000), Procedure, H.2.a. required that reports be in writing, on the Serious Incident Report form and while DYS Policy # 3.2.8(d), Restraints and Use of Force (Apr. 10, 2000), Procedure, H.2.b. required that the Location Manager begin an internal investigation as soon as possible and notify the DYS Area Director (who must notify the DYS Deputy Commissioner and the DYS General Counsel), these requirements appear to conflict with the more recent DYS Policy # 1.3.5(d), Serious Incident Reporting (Feb. 22, 2008), Procedures, A.1.
- 102 DYS Policy # 3.2.8(d), Restraints and Use of Force (Apr. 10, 2000), Procedure, H.3.a (incorporating requirements of Mass. Gen. L. ch. 119, § 51A).
- 103 DYS Policy # 3.2.8(d), Restraints and Use of Force (Apr. 10, 2000), Procedure, H.3.a.
- 104 109 CMR 6.00 *et seq.*
- 105 109 CMR 6.03.
- 106 109 CMR 6.04(4).
- 107 109 CMR 6.04(1).
- 108 109 CMR 6.04(2).
- 109 109 CMR 6.04(4).
- 110 109 CMR 6.04(4).
- 111 109 CMR 6.04(4).
- 112 DYS Policy # 2.1.2(b), Transportation (Jan. 1, 1999).
- 113 DYS Policy # 2.1.2(b), Transportation (Jan. 1, 1999), Procedure, B.1.
- 114 DYS Policy # 2.1.2(b), Transportation (Jan. 1, 1999), Procedure, C.1.
- 115 DYS Policy # 2.1.2(b), Transportation (Jan. 1, 1999), Procedure, D.2.
- 116 DYS Policy # 2.1.2(b), Transportation (Jan. 1, 1999), Procedure, B.2. (hardware secure), C.2. (staff secure).
- 117 DYS Policy # 2.1.3, Security and Safety Procedures for Transportation (June 1, 1999), Procedure, F.2.
- 118 DYS Policy # 2.1.3, Security and Safety Procedures for Transportation (June 1, 1999), Procedure, F.3.
- 119 DYS Policy # 2.1.3, Security and Safety Procedures for Transportation (June 1, 1999), Procedure, F.4.

- 120 DYS Policy # 2.1.3, Security and Safety Procedures for Transportation (June 1, 1999), Procedure, F.1.
- 121 DYS Policy # 2.1.2(b), Transportation (Jan. 1, 1999), Procedure, D.1.
- 122 DYS Policy # 2.1.2(b), Transportation (Jan. 1, 1999), Procedure, D.2.
- 123 DYS Policy # 2.1.3, Security and Safety Procedures for Transportation (June 1, 1999).
- 124 DYS Policy # 2.1.3, Security and Safety Procedures for Transportation (June 1, 1999), Procedure, E.1.
- 125 DYS Policy # 2.1.3, Security and Safety Procedures for Transportation (June 1, 1999), Procedure, E.2.
- 126 DYS Policy # 2.1.3, Security and Safety Procedures for Transportation (June 1, 1999), Procedure, E.4.
- 127 DYS Policy # 3.4.4(b), Visitation (Jan. 1, 1999).
- 128 DYS Policy # 3.4.4(b), Visitation (Jan. 1, 1999), Policy section.
- 129 DYS Policy # 3.4.4(b), Visitation (Jan. 1, 1999), Procedure, A.1.
- 130 DYS Policy # 3.4.4(b), Visitation (Jan. 1, 1999), Procedure, A.2.
- 131 DYS Policy # 3.4.4(b), Visitation (Jan. 1, 1999), Procedure, A.3.
- 132 DYS Policy # 3.4.4(b), Visitation (Jan. 1, 1999), Policy section.
- 133 DYS Policy # 3.4.4(b), Visitation (Jan. 1, 1999), Policy section.
- 134 DYS Policy # 3.1.2(a), Searches in Secure Facilities (June 1, 2006), Procedure, B.7.a); DYS Policy # 3.1.3(a), Searches in Residential Facilities (June 1, 2006), Procedure, B.8.a); DYS Policy # 3.1.4(a), Searches in Community Programs (June 1, 2006), Procedure, B.5.a).
- 135 DYS Policy # 3.1.2(a), Searches in Secure Facilities (June 1, 2006), Procedure, B.7.b); DYS Policy # 3.1.3(a), Searches in Residential Facilities (June 1, 2006), Procedure, B.8.b); DYS Policy # 3.1.4(a), Searches in Community Programs (June 1, 2006), Procedure, B.5.b).
- 136 DYS Policy # 3.1.2(a), Searches in Secure Facilities (June 1, 2006), Procedure, B.7.g, h); DYS Policy # 3.1.3(a), Searches in Residential Facilities (June 1, 2006), Procedure, B.8.g, h).
- 137 DYS Policy # 3.1.2(a), Searches in Secure Facilities (June 1, 2006), Procedure, B.7.c); DYS Policy # 3.1.3(a), Searches in Residential Facilities (June 1, 2006), Procedure, B.8.c); DYS Policy # 3.1.4(a), Searches in Community Programs (June 1, 2006), Procedure, B.5.c).
- 138 DYS Policy # 3.1.2(a), Searches in Secure Facilities (June 1, 2006), Procedure, B.7.d); DYS Policy # 3.1.3(a), Searches in Residential Facilities (June 1, 2006), Procedure, B.8.d); DYS Policy # 3.1.4(a), Searches in Community Programs (June 1, 2006), Procedure, B.5.d); DYS Policy # 3.4.4(b), Visitation (Jan. 1, 1999), Policy section.
- 139 DYS Policy #3.4.4(b), Visitation (Jan. 1, 1999), Policy section.
- 140 DYS Policy #3.4.4(b), Visitation (Jan. 1, 1999), Procedure, B.2.
- 141 DYS Policy #3.4.4(b), Visitation (Jan. 1, 1999), Procedure, B.4.
- 142 DYS Policy #3.4.4(b), Visitation (Jan. 1, 1999), Procedure, C.1.
- 143 DYS Policy # 3.4.4(b), Visitation (Jan. 1, 1999), Procedure, D.2.
- 144 DYS Policy # 3.4.4(b), Visitation (Jan. 1, 1999), Procedure, C.2.
- 145 DYS Policy # 3.4.4(b), Visitation (Jan. 1, 1999), Procedure, C.3. While DYS Policy # 3.4.4(b), Visitation (Jan. 1, 1999), Procedure, C.3 required staff to complete an incident report and forward it to the location manager, this practice seems to conflict with the more recent DYS Policy # 1.3.5(d), Serious Incident Reporting (Feb. 22, 2008), Procedures, A.1.
- 146 DYS Policy # 3.4.4(b), Visitation (Jan. 1, 1999), Procedure, E.2.
- 147 DYS Policy # 3.4.4(b), Visitation (Jan. 1, 1999), Procedure, E.3.
- 148 DYS Policy # 3.4.4(b), Visitation (Jan. 1, 1999), Procedure, E.7.
- 149 DYS Policy # 3.4.4(b), Visitation (Jan. 1, 1999), Procedure, F.1.
- 150 DYS Policy # 3.4.4(b), Visitation (Jan. 1, 1999), Procedure, F.2.

- 151 DYS Policy # 3.4.3(b), Telephone Use (Jan. 1, 1999).
- 152 DYS Policy # 3.4.3(b), Telephone Use (Jan. 1, 1999), Policy section.
- 153 DYS Policy # 3.4.3(b), Telephone Use (Jan. 1, 1999), Policy section.
- 154 DYS Policy # 3.4.3(b), Telephone Use (Jan. 1, 1999), Policy section.
- 155 DYS Policy # 3.4.3(b), Telephone Use (Jan. 1, 1999), Policy section.
- 156 DYS Policy # 3.4.3(b), Telephone Use (Jan. 1, 1999), Policy section.
- 157 DYS Policy # 3.4.3(b), Telephone Use (Jan. 1, 1999), Procedure, A.1.
- 158 DYS Policy # 3.4.3(b), Telephone Use (Jan. 1, 1999), Policy section.
- 159 DYS Policy # 3.4.3(b), Telephone Use (Jan. 1, 1999), Policy section.
- 160 DYS Policy # 3.4.3(b), Telephone Use (Jan. 1, 1999), Procedure, A.5.
- 161 DYS Policy # 3.4.3(b), Telephone Use (Jan. 1, 1999), Procedure, A.5.
- 162 DYS Policy # 3.4.3(b), Telephone Use (Jan. 1, 1999), Procedure, A.3.
- 163 DYS Policy # 3.4.3(b), Telephone Use (Jan. 1, 1999), Procedure, A.4.
- 164 DYS Policy # 3.4.3(b), Telephone Use (Jan. 1, 1999), Procedure, B.1.
- 165 DYS Policy # 3.4.3(b), Telephone Use (Jan. 1, 1999), Procedure, B.2.
- 166 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 167 DYS Policy # 3.4.2(b), Mail (Jan. 1, 1999).
- 168 DYS Policy # 3.4.2(b), Mail (Jan. 1, 1999), Policy section.
- 169 DYS Policy # 3.4.2(b), Mail (Jan. 1, 1999), Policy section.
- 170 DYS Policy # 3.4.2(b), Mail (Jan. 1, 1999), Policy section.
- 171 DYS Policy # 3.4.2(b), Mail (Jan. 1, 1999), Policy section.
- 172 DYS Policy # 3.4.2(b), Mail (Jan. 1, 1999), Procedure, A.
- 173 DYS Policy # 3.4.2(b), Mail (Jan. 1, 1999), Procedure, B.1.
- 174 DYS Policy # 3.4.2(b), Mail (Jan. 1, 1999), Procedure, B.1.
- 175 DYS Policy # 3.4.2(b), Mail (Jan. 1, 1999), Procedure, B.2.
- 176 DYS Policy # 3.4.2(b), Mail (Jan. 1, 1999), Procedure, B.3.
- 177 DYS Policy # 3.4.2(b), Mail (Jan. 1, 1999), Procedure, B.5.
- 178 DYS Policy # 3.4.2(b), Mail (Jan. 1, 1999), Procedure, D.1, 2.
- 179 DYS Policy # 3.4.2(b), Mail (Jan. 1, 1999), Procedure, D.4.
- 180 DYS Policy # 3.4.2(b), Mail (Jan. 1, 1999), Procedure, D.3.
- 181 DYS Policy # 3.4.2(b), Mail (Jan. 1, 1999), Procedure, C.
- 182 DYS Policy # 2.2.2(b), Special Management (Jan. 1, 1999).
- 183 DYS Policy # 2.2.2(b), Special Management (Jan. 1, 1999), Policy section.
- 184 DYS Policy # 2.2.2(b), Special Management (Jan. 1, 1999), Policy section and Procedure, B.4.
- 185 DYS Policy # 2.2.2(b), Special Management (Jan. 1, 1999), Procedure, A.1.
- 186 DYS Policy # 2.2.2(b), Special Management (Jan. 1, 1999), Procedure, A.2.
- 187 DYS Policy # 2.2.2(b), Special Management (Jan. 1, 1999), Procedure, A.3.
- 188 DYS Policy # 2.2.2(b), Special Management (Jan. 1, 1999), Procedure, A.4.
- 189 DYS Policy # 2.2.2(b), Special Management (Jan. 1, 1999), Procedure, B.2.
- 190 DYS Policy # 2.2.2(b), Special Management (Jan. 1, 1999), Policy section.
- 191 DYS Policy # 2.2.3(b), Advocate System (Jan. 1, 1999).
- 192 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 193 DYS Policy # 2.2.3(b), Advocate System (Jan. 1, 1999), Procedure, A.1, 2.
- 194 DYS Policy # 2.2.3(b), Advocate System (Jan. 1, 1999), Procedure, A.3.
- 195 DYS Policy # 2.2.3(b), Advocate System (Jan. 1, 1999), Procedure, A.4.
- 196 DYS Policy # 2.2.3(b), Advocate System (Jan. 1, 1999), Procedure, A.5.
- 197 DYS Policy # 2.2.3(b), Advocate System (Jan. 1, 1999), Procedure, B.1.
- 198 DYS Policy # 2.2.3(b), Advocate System (Jan. 1, 1999), Procedure, B.2.
- 199 Passes from secure programs are highly unusual. Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 200 DYS Policy # 3.2.25, Passes (June 1, 1999).
- 201 DYS Policy # 3.2.25, Passes (June 1, 1999), Policy section.

- 202 DYS Policy # 3.2.25, Passes (June 1, 1999), Policy section.
- 203 Communication of Edward Dolan, Department of Youth Services to MHLAC (Jan. 17, 2008).
- 204 DYS Policy # 3.2.25, Passes (June 1, 1999), Policy section.
- 205 DYS Policy # 3.2.25, Passes (June 1, 1999), Policy section.
- 206 DYS Policy # 3.2.25, Passes (June 1, 1999), Policy section.
- 207 DYS Policy # 3.2.25, Passes (June 1, 1999), Policy section.
- 208 DYS Policy # 3.2.25, Passes (June 1, 1999), Procedure, F.1.
- 209 DYS Policy # 3.2.25, Passes (June 1, 1999), Procedure, F.2.
- 210 DYS Policy # 3.2.25, Passes (June 1, 1999), Procedure, M.
- 211 DYS Policy # 3.2.25, Passes (June 1, 1999), Procedure, B, 1.
- 212 DYS Policy # 3.2.25, Passes (June 1, 1999), Procedure, D, 1.
- 213 DYS Policy # 3.2.25, Passes (June 1, 1999), Procedure, E.
- 214 DYS Policy # 3.2.25, Passes (June 1, 1999), Procedure, B, C, D.
- 215 DYS Policy # 3.2.25, Passes (June 1, 1999), Procedure, B, C, D.
- 216 DYS Policy # 3.2.25, Passes (June 1, 1999) (attached to the policy).
- 217 DYS Policy # 2.3.1(b), Behavior Modification (Jan. 1, 1999).
- 218 DYS Policy # 2.3.1(b), Behavior Modification (Jan. 1, 1999), Policy section.
- 219 DYS Policy # 2.3.1(b), Behavior Modification (Jan. 1, 1999), Policy section.
- 220 DYS Policy # 2.3.1(b), Behavior Modification (Jan. 1, 1999), Policy section.
- 221 DYS Policy # 2.3.1(b), Behavior Modification (Jan. 1, 1999), Policy section.
- 222 DYS Policy # 2.3.1(b), Behavior Modification (Jan. 1, 1999), Procedure, A.1, 3, 5.
- 223 DYS Policy # 2.3.1(b), Behavior Modification (Jan. 1, 1999), Procedure, A.2.
- 224 DYS Policy # 2.3.1(b), Behavior Modification (Jan. 1, 1999), Procedure, A.4.
- 225 DYS Policy # 2.3.1(b), Behavior Modification (Jan. 1, 1999), Procedure, A.7.
- 226 DYS Policy # 2.3.1(b), Behavior Modification (Jan. 1, 1999), Procedure, A.8.
- 227 DYS Policy # 2.3.1(b), Behavior Modification (Jan. 1, 1999), Procedure, B.2.
- 228 DYS Policy # 2.3.1(b), Behavior Modification (Jan. 1, 1999), Procedure, B.3.
- 229 DYS Policy # 2.3.2, Client and Staff Interaction (Feb. 15, 1999).
- 230 DYS Policy # 2.3.2, Client and Staff Interaction (Feb. 15, 1999).
- 231 DYS Policy # 2.3.2, Client and Staff Interaction (Feb. 15, 1999), Procedure, B.4.
- 232 DYS Policy # 2.3.2, Client and Staff Interaction (Feb. 15, 1999), Procedure, B.7.
- 233 DYS Policy # 2.3.2, Client and Staff Interaction (Feb. 15, 1999), Procedure, B.8.
- 234 DYS Policy # 2.3.2, Client and Staff Interaction (Feb. 15, 1999), Procedure, B.9.
- 235 DYS Policy # 3.4.6(b), Foreign Languages in Facilities (Jan. 1, 1999).
- 236 DYS Policy # 3.4.6(b), Foreign Languages in Facilities (Jan. 1, 1999), Policy section.
- 237 DYS Policy # 3.4.6(b), Foreign Languages in Facilities (Jan. 1, 1999), Policy section.
- 238 DYS Policy # 3.4.6(b), Foreign Languages in Facilities (Jan. 1, 1999), Policy section.
- 239 DYS Policy # 3.4.6(b), Foreign Languages in Facilities (Jan. 1, 1999), Policy section.
- 240 DYS Policy # 3.4.6(b), Foreign Languages in Facilities (Jan. 1, 1999), Policy section.
- 241 DYS Policy # 3.4.6(b), Foreign Languages in Facilities (Jan. 1, 1999), Policy section.
- 242 DYS Policy # 3.4.6(b), Foreign Languages in Facilities (Jan. 1, 1999), Policy section.
- 243 DYS Policy # 3.4.6(b), Foreign Languages in Facilities (Jan. 1, 1999), Policy section.
- 244 DYS Policy # 3.4.6(b), Foreign Languages in Facilities (Jan. 1, 1999), Policy section.
- 245 DYS Policy # 3.4.8(b), Religious Services (Jan. 1, 1999).
- 246 DYS Policy # 3.4.8(b), Religious Services (Jan. 1, 1999), Policy section; DYS Policy # 3.4.8(b), Religious Services (Jan. 1, 1999), Procedure, A.8.
- 247 DYS Policy # 3.4.8(b), Religious Services (Jan. 1, 1999), Policy section.
- 248 DYS Policy # 3.4.8(b), Religious Services (Jan. 1, 1999), Procedure, A.1.
- 249 DYS Policy # 3.4.8(b), Religious Services (Jan. 1, 1999), Procedure, A.5.
- 250 DYS Policy # 3.4.8(b), Religious Services (Jan. 1, 1999), Procedure, B.2.
- 251 DYS Policy # 3.4.8(b), Religious Services (Jan. 1, 1999), Procedure, B.4.
- 252 DYS Policy # 3.1.2(a), Searches in Secure Facilities (June 1, 2006); DYS Policy # 3.1.3(a), Searches in Residential Facilities (June 1, 2006); DYS Policy # 3.1.4(a), Searches in Community Programs (June 1, 2006).

- 253 DYS Policy # 3.1.2(a), Searches in Secure Facilities (June 1, 2006), Policy section; DYS Policy # 3.1.3(a), Searches in Residential Facilities (June 1, 2006), Policy section; DYS Policy # 3.1.4(a), Searches in Community Programs (June 1, 2006), Policy section.
- 254 DYS Policy # 3.1.2(a), Searches in Secure Facilities (June 1, 2006), Policy section; DYS Policy # 3.1.3(a), Searches in Residential Facilities (June 1, 2006), Policy section; DYS Policy # 3.1.4(a), Searches in Community Programs (June 1, 2006), Policy section.
- 255 DYS panel presentation, "What Happens to Your Client after Commitment to DYS? What is Your Role as an Advocate for a Client Committed to DYS?" Victims, Violence, and the Juvenile Justice System: What to Do When Problems + Solutions = New Problems, 8th Annual Juvenile Justice Conference (Boston, Nov. 10, 2006).
- 256 DYS panel presentation, "What Happens to Your Client after Commitment to DYS? What is Your Role as an Advocate for a Client Committed to DYS?" Victims, Violence, and the Juvenile Justice System: What to Do When Problems + Solutions = New Problems, 8th Annual Juvenile Justice Conference (Boston, Nov. 10, 2006).
- 257 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 258 DYS Policy # 2.1.3, Security and Safety Procedures for Transportation (June 1, 1999), Procedure, E.
- 259 DYS Policy # 3.1.4(a), Searches in Community Programs (June 1, 2006), Procedure, B.1.a).
- 260 DYS Policy # 3.1.4(a), Searches in Community Programs (June 1, 2006), Procedure, B.1.b).
- 261 DYS Policy # 3.1.4(a), Searches in Community Programs (June 1, 2006), Procedure, B.1.c).
- 262 DYS Policy # 3.1.2(a), Searches in Secure Facilities (June 1, 2006), Procedure, B.1.a); DYS Policy # 3.1.3(a), Searches in Residential Facilities (June 1, 2006), Procedure, B.1.a); DYS Policy # 3.1.4(a), Searches in Community Programs (June 1, 2006), Procedure, B.2.a).
- 263 DYS Policy # 3.1.2(a), Searches in Secure Facilities (June 1, 2006), Procedure, A.1.; DYS Policy # 3.1.3(a), Searches in Residential Facilities (June 1, 2006), Procedure, A.1.; DYS Policy # 3.1.4(a), Searches in Community Programs (June 1, 2006), Procedure, A.1.
- 264 DYS Policy # 3.1.2(a), Searches in Secure Facilities (June 1, 2006), Procedure, B.1.b); DYS Policy # 3.1.3(a), Searches in Residential Facilities (June 1, 2006), Procedure, B.1.b); DYS Policy # 3.1.4(a), Searches in Community Programs (June 1, 2006), Procedure, B.2.b).
- 265 DYS Policy # 3.1.2(a), Searches in Secure Facilities (June 1, 2006), Procedure, B.2.a).
- 266 DYS Policy # 3.1.2(a), Searches in Secure Facilities (June 1, 2006), Procedure, B.2.b), c).
- 267 DYS Policy # 3.1.2(a), Searches in Secure Facilities (June 1, 2006), Procedure, B.2.d).
- 268 DYS Policy # 3.1.2(a), Searches in Secure Facilities (June 1, 2006), Procedure, B.2.e).
- 269 DYS Policy # 3.1.2(a), Searches in Secure Facilities (June 1, 2006), Procedure, B.2.e).
- 270 DYS Policy # 3.1.2(a), Searches in Secure Facilities (June 1, 2006), Procedure, B.2.f). Staff may never use a "squat and cough procedure" during any search. Legal Advisory from DYS General Counsel to DYS and Vendor Managers, Direct Care Staff (Jan. 26, 2007). In addition, during a strip search or any other procedure, staff may never ask a male youth to lift his testicles or penis or ask a female youth to lift her breasts. Legal Advisory from DYS General Counsel to DYS and Vendor Managers, Direct Care Staff (Jan. 26, 2007).

- 271 DYS Policy # 3.1.2(a), Searches in Secure Facilities (June 1, 2006), Procedure, B.2.g).
- 272 DYS Policy # 3.1.3(a), Searches in Residential Facilities (June 1, 2006), Procedure, B.2.
- 273 DYS Policy # 3.1.3(a), Searches in Residential Facilities (June 1, 2006), Procedure, B.3.a).
- 274 DYS Policy # 3.1.3(a), Searches in Residential Facilities (June 1, 2006), Procedure, B.3.b)
- 275 DYS Policy # 3.1.4(a), Searches in Community Programs (June 1, 2006), Procedure, B.3.a).
- 276 DYS Policy # 3.1.2(a), Searches in Secure Facilities (June 1, 2006), Procedure, A.1.; DYS Policy # 3.1.3(a), Searches in Residential Facilities (June 1, 2006), Procedure, A.1.; DYS Policy # 3.1.4(a), Searches in Community Programs (June 1, 2006), Procedure, A.1.
- 277 DYS Policy # 3.1.4(a), Searches in Community Programs (June 1, 2006), Procedure, B.3.a).
- 278 DYS Policy # 3.1.2(a), Searches in Secure Facilities (June 1, 2006), Procedure, B.3.a); DYS Policy # 3.1.3(a), Searches in Residential Facilities (June 1, 2006), Procedure, B.4.a).
- 279 DYS Policy # 3.1.2(a), Searches in Secure Facilities (June 1, 2006), Procedure, B.3.b); DYS Policy # 3.1.3(a), Searches in Residential Facilities (June 1, 2006), Procedure, B.4.b).
- 280 DYS Policy # 3.1.2(a), Searches in Secure Facilities (June 1, 2006), Procedure, B.4.a), c); DYS Policy # 3.1.3(a), Searches in Residential Facilities (June 1, 2006), Procedure, B.5.a), c).
- 281 DYS Policy # 3.1.2(a), Searches in Secure Facilities (June 1, 2006), Procedure, B.4.b); DYS Policy # 3.1.3(a), Searches in Residential Facilities (June 1, 2006), Procedure, B.5.b).
- 282 DYS Policy # 3.1.2(a), Searches in Secure Facilities (June 1, 2006), Procedure, B.5.a); DYS Policy # 3.1.3(a), Searches in Residential Facilities (June 1, 2006), Procedure, B.6.a).
- 283 DYS Policy # 3.1.2(a), Searches in Secure Facilities (June 1, 2006), Procedure, B.5.b); DYS Policy # 3.1.3(a), Searches in Residential Facilities (June 1, 2006), Procedure, B.6.b).
- 284 DYS Policy # 3.1.4(a), Searches in Community Programs (June 1, 2006), Procedure, B.4.a).
- 285 DYS Policy # 3.1.4(a), Searches in Community Programs (June 1, 2006), Procedure, B.4.b).
- 286 DYS Policy # 3.1.2(a), Searches in Secure Facilities (June 1, 2006), Procedure, B.6.b); DYS Policy # 3.1.3(a), Searches in Residential Facilities (June 1, 2006), Procedure, B.7.b).
- 287 DYS Policy # 3.1.2(a), Searches in Secure Facilities (June 1, 2006), Procedure, B.6.a); DYS Policy # 3.1.3(a), Searches in Residential Facilities (June 1, 2006), Procedure, B.7.a).
- 288 DYS Policy # 3.1.2(a), Searches in Secure Facilities (June 1, 2006), Procedure, B.6.b); DYS Policy # 3.1.3(a), Searches in Residential Facilities (June 1, 2006), Procedure, B.7.b).
- 289 DYS Policy # 3.1.2(a), Searches in Secure Facilities (June 1, 2006), Procedure, B.6.c); DYS Policy # 3.1.3(a), Searches in Residential Facilities (June 1, 2006), Procedure, B.7.c).
- 290 DYS Policy # 3.1.2(a), Searches in Secure Facilities (June 1, 2006), Procedure, B.6.d); DYS Policy # 3.1.3(a), Searches in Residential Facilities (June 1, 2006), Procedure, B.7.d).

- 291 DYS Policy # 3.5.5, Storage and Disposal of Personal Property and Funds (June 1, 1999).
- 292 DYS Policy # 3.5.5, Storage and Disposal of Personal Property and Funds (June 1, 1999), Policy section.
- 293 DYS Policy # 3.5.5, Storage and Disposal of Personal Property and Funds (June 1, 1999), Policy section.
- 294 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 295 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 296 DYS panel presentation, "What Happens to Your Client after Commitment to DYS? What is Your Role as an Advocate for a Client Committed to DYS?" Victims, Violence, and the Juvenile Justice System: What to Do When Problems + Solutions = New Problems, 8th Annual Juvenile Justice Conference (Boston, Nov. 10, 2006).
- 297 DYS Policy # 1.3.5(d), Serious Incident Reporting (Feb. 22, 2008).
- 298 DYS Policy # 1.3.5(d), Serious Incident Reporting (Feb. 22, 2008), Procedures, A.1.
- 299 DYS Policy # 1.3.5(d), Serious Incident Reporting (Feb. 22, 2008), Procedures, B.1. a), b).
- 300 DYS Policy # 1.3.5(d), Serious Incident Reporting (Feb. 22, 2008), Procedures, B. 2-5.
- 301 102 CMR 3.06(1).
- 302 102 CMR 3.06(1)(a), (b).
- 303 102 CMR 3.05(5)(a).
- 304 102 CMR 3.04(3)(j).
- 305 102 CMR 3.04(3)(j).
- 306 102 CMR 3.04(3)(j)(1).
- 307 102 CMR 3.04(3)(h).
- 308 102 CMR 3.07(7)(a).
- 309 102 CMR 3.07(7)(a).
- 310 102 CMR 3.07(7)(a).
- 311 102 CMR 3.07(7)(e).
- 312 102 CMR 3.07(7)(f).
- 313 102 CMR 3.07(7)(j).
- 314 102 CMR 3.07(7)(j).
- 315 102 CMR 3.07(7)(j)1.
- 316 102 CMR 3.07(7)(j)2, 3.
- 317 102 CMR 3.07(7)(j)4.
- 318 102 CMR 3.07(7)(j)5.
- 319 102 CMR 3.07(7)(j)6.
- 320 102 CMR 3.07(7)(j)7.
- 321 102 CMR 3.07(7)(j)7.
- 322 102 CMR 3.07(7)(j)8.
- 323 102 CMR 3.07(7)(j) 8.
- 324 102 CMR 3.07(7)(j)9.
- 325 102 CMR 3.07(7)(j)10.
- 326 102 CMR 3.07(7)(j)11.
- 327 102 CMR 3.07(7)(j)13.
- 328 102 CMR 3.07(7)(j)13.
- 329 102 CMR 3.07(7)(j)14.
- 330 102 CMR 3.07(7)(k).
- 331 102 CMR 3.07(7)(k)1-3.
- 332 102 CMR 3.07(7)(k)4.
- 333 102 CMR 3.07(7)(k)5.
- 334 102 CMR 3.07(7)(k)6.

335 102 CMR 3.07(7)(l).
336 102 CMR 3.07(7)(m).
337 102 CMR 3.07(7)(n).
338 102 CMR 3.07(7)(n)(3)a.
339 102 CMR 3.07(7)(n)(3)a.
340 102 CMR 3.07(7)(n)(3)b.
341 102 CMR 3.07(7)(n)(3)c.
342 102 CMR 3.07(7)(n)(3)c.
343 102 CMR 3.07(7)(g).
344 102 CMR 3.07(9)(a).
345 102 CMR 3.07(9)(a)1.
346 102 CMR 3.07(9)(a)1.
347 102 CMR 3.07(9)(a)2.
348 102 CMR 3.07(9)(b).
349 102 CMR 3.07(9)(e).
350 102 CMR 3.07(9)(f).
351 102 CMR 3.07(9)(c).
352 102 CMR 3.07(9)(a).
353 102 CMR 3.07(9)(a)1.
354 102 CMR 3.07(9)(a)1.
355 102 CMR 3.07(9)(a)2.
356 102 CMR 3.07(9)(h)1.
357 102 CMR 3.07(9)(h)2.
358 102 CMR 3.07(9)(i).
359 102 CMR 3.07(9)(a).
360 102 CMR 3.07(9)(a)1.
361 102 CMR 3.07(9)(a)1.
362 102 CMR 3.07(9)(a)2.
363 102 CMR 3.07(9)(g).
364 102 CMR 3.07(5)(a).
365 102 CMR 3.07(4).
366 102 CMR 3.07(4)(a)-(c).
367 102 CMR 3.07(11)(a).
368 102 CMR 3.07(11)(b).
369 102 CMR 3.07(11)(c).
370 102 CMR 3.06(8).
371 102 CMR 3.06(7).
372 102 CMR 3.06(7)(a).
373 102 CMR 3.06(7)(b).
374 102 CMR 3.05(3)(c)1.
375 102 CMR 3.05(3)(c)1.
376 102 CMR 3.05(3)(c)1.
377 102 CMR 3.06(3)(a).
378 102 CMR 3.06(3)(c).
379 102 CMR 3.06(3)(b).
380 102 CMR 3.06(3)(c).
381 102 CMR 3.06(4)(a).
382 102 CMR 3.06(4)(b).
383 102 CMR 3.06(4)(c).
384 102 CMR 3.06(4)(d).
385 102 CMR 3.06(4)(e).
386 102 CMR 3.06(4)(g)1, 2, 4.
387 102 CMR 3.06(4)(h).
388 102 CMR 3.06(4)(i).

- 389 102 CMR 3.06(4)(k).
- 390 102 CMR 3.06(4)(k)1.
- 391 102 CMR 3.06(4)(k)3.d.
- 392 102 CMR 3.06(4)(k)3.e.
- 393 102 CMR 3.06(4)(k)3.e.
- 394 102 CMR 3.06(4)(k)3.f.
- 395 102 CMR 3.06(4)(k)3.f.
- 396 102 CMR 3.06(4)(k)3.f.
- 397 Mass. Gen. L. ch. 123, § 12(a).
- 398 Mass. Gen. L. ch. 123, § 12(a).
- 399 Mass. Gen. L. ch. 123, § 12(b).
- 400 Mass. Gen. L. ch. 123, § 12(d).
- 401 Mass. Gen. L. ch. 123, § 12(c), (d).
- 402 Mass. Gen. L. ch. 123, § 12(c).
- 403 104 CMR 27.06(1)(c).
- 404 *D.L. v. Commissioner of Social Services*, 412 Mass. 558, 566-567 (1992); 110 CMR 11.16(4), (5).
- 405 Mass. Gen. L. ch. 123, § 11; 104 CMR 27.06(5).
- 406 104 CMR 27.06(5), (7).
- 407 See 104 CMR 27.06(5).
- 408 Mass. Gen. L. ch. 123, § 5; 12(b); see Mass. Gen. L. ch. 123, §§ 7, 8.
- 409 Mass. Gen. L. ch. 123, § 8(a); *Commonwealth v. Nassar*, 380 Mass. 908, 917-918 (1980).
- 410 Mass. Gen. L. ch. 123, § 8(d).
- 411 Mass. Gen. L. ch. 123, § 8(d).
- 412 Mass. Gen. L. ch. 123, § 4.
- 413 Mass. Gen. L. ch.123, § 23(c).
- 414 Mass. Gen. L. ch.123, § 23(c).
- 415 Mass. Gen. L. ch.123, § 23.
- 416 Mass. Gen. L. ch.123, § 23.
- 417 Mass. Gen. L. ch.123, § 23(a).
- 418 Mass. Gen. L. ch.123, § 23.
- 419 Mass. Gen. L. ch.123, § 23.
- 420 Mass. Gen. L. ch.123, § 23(e).
- 421 Mass. Gen. L. ch.123, § 23(b).
- 422 Mass. Gen. L. ch.123, § 23(b).
- 423 Mass. Gen. L. ch.123, § 23(b).
- 424 Mass. Gen. L. ch.123, § 23(e).
- 425 Mass. Gen. L. ch. 123, § 23(e).
- 426 Mass. Gen. L. ch. 123, § 23(e).
- 427 Mass. Gen. L. ch. 123, § 23(e).
- 428 Mass. Gen. L. ch. 123, § 23(e).
- 429 Mass. Gen. L. ch. 123, § 23(d).

