

CHAPTER 8: CLASSIFICATION

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CLASSIFICATION


Classification is the method by which DYS determines both the range of time (if any) which a youth, once committed to DYS, will spend in secure treatment facilities and residential treatment facilities, and the placement location itself. The purposes of classification are to estimate the degree of risk or danger posed by the youth, to estimate the violent or repetitive offender's ability to control his behavior, and to provide a placement that meets the youth's needs and protects the community.¹ Classification actually involves two steps: a staffing meeting and a classification meeting.


Referral for classification

At the end of the assessment period, DYS administrators from the DYS Regional Office will determine if a youth will be referred to the classification process for possible admission to a facility that can provide treatment in a secure setting.² If so, the youth is referred to the classification process and the classification panel, described below, will determine if he, in fact, needs to be placed in secure treatment.³

Notice of the staffing

DYS seeks to provide each youth's parents or legal guardians with notice of the date and time of the youth's staffing. However, DYS sometimes is unable to provide such notice if it does not have current parent or guardian contact information.

 **Tip for families:** In order to ensure that you receive notice of the staffing, send a letter to the DYS caseworker indicating that you plan to attend the staffing and that you would like to receive notice of the date and place of the meeting. Provide the DYS caseworker with current contact information for you and for your child's lawyer so that DYS can notify both of you. You and the lawyer should agree to tell each other immediately upon receiving any notice of the meeting. Your child's lawyer should be in touch with DYS if necessary to ensure that the staffing is scheduled for a mutually convenient time. Make every effort to attend the staffing.

 **Tip for families:** In preparation for the staffing, you or your child's lawyer should ask your child's caseworker or DYS clinician what the DYS clinician intends to recommend regarding time and placement. At this point, share appropriate information with the DYS clinician.


The staffing

The staffing is what DYS calls its formal case conferences. There are various types of staffings that a youth may experience. The purpose of all DYS staffings is to provide a forum for open discussion regarding a youth's service delivery plan.

One type of staffing is an initial staffing which occurs on newly committed youth at the assessment unit in order to determine the youth's service delivery plan. At the staffing, the youth's case history will be presented and the team will develop a recommendation for a range of time which a committed youth should spend in secure and residential treatment facilities and identify potential placement locations. The recommendation regarding duration of confinement is largely guided by DYS's classification grid, with consideration of risk to public safety and any other mitigating or aggravating factors.


This staffing is chaired by the youth's community caseworker and is attended by the youth's treatment team, which includes the caseworker, the district manager, the assessment staff, the youth, a parent or legal guardian (and personal representative if desired). The DYS education liaison, teaching coordinator and other involved community stakeholders are additional preferred participants. If the youth has a probation officer, Department of Children and Families worker or Guardian Ad Litem (GAL), those individuals also could attend.

Finally, there is a new requirement that the youth's court-appointed defense lawyer also must prepare for and represent the youth at the staffing.⁴ The lawyer may bring witnesses and other supporters.⁵ Further, after the youth's particular DYS Regional Review Team (RRT) considers the recommendation made at the staffing meeting and the RRT issues a decision, the lawyer must assist the youth in filing an appeal of the RRT's decision, if the youth desires to appeal.⁶


 **Tip for families:** Be sure to tell the DYS caseworker that you will be attending the staffing so DYS will know to wait until you arrive to begin the meeting.


Participants in the staffing have a right to attend the entire staffing meeting. However, DYS may ask that a youth be excluded from a portion of the staffing meeting so that sensitive information may be discussed.⁷ A DYS request to exclude the youth from the room for a portion of the meeting should be directed to the youth and his lawyer. If the youth chooses to honor the request, the rest of the participants, may remain in the room, and the lawyer should stay.

While all these parties can have input, the decision regarding length of confinement is largely controlled by DYS's classification grid, discussed below.


 **Tip for families:** In calculating your child's progress towards serving his period of confinement to DYS, this time assignment begins after the 30 to 45 day assessment period when your child is placed in a treatment unit.


Moreover, after the staffing, the recommendation these parties develop is presented to the RRT when they conduct the youth's classification, discussed below.

 **Tip for families:** It is essential for you and your child to attend and participate in the staffing in order to advocate for your child. A parent will likely have more knowledge about the youth than anyone at the table. Your child may want to also bring a person or persons who know him well, as well as any important records.


 **Tip for families:** To help your child feel comfortable participating in the staffing, which can be an intimidating experience, prepare him beforehand for what to expect. Explain that he will likely be asked to answer questions about the incidents that resulted in his commitment to DYS. (Of course, if your child is appealing his commitment order, he should not speak - during assessment, during the staffing, or during treatment - about the incidents leading to the charges against him.)

At the staffing, in addition to discussing the issues of placement and duration of confinement, the parties will draft a service delivery plan. The plan is aligned with the youth's risks. This plan should identify the youth's needs and how they should be addressed. All parties should participate in the development of this plan. The service delivery plan later will be used to draft the youth's individual treatment plan.

 **Tip for families:** The service delivery plan will cover DYS's provision of services while your child is in DYS custody and after he is released back to the community while still DYS- committed. The plan will be continuously updated during the course of the youth's commitment.

 **Tip for families:** In cases where a youth has special needs that cannot be met by existing DYS programs or services, DYS may be able to contract with outside entities to provide appropriate services. If you believe that your child has such needs, you should raise this concern during the discussion of the service delivery plan and in other appropriate settings.

At the staffing, parties also should identify a review date 90 days before the the youth is released from a residential setting if the youth hits all his benchmarks. (This 90-days before release date will trigger certain discharge planning.)

 **Tip for families:** After the staffing, it is helpful for parents to send a letter restating their main points regarding placement, duration and the service plan.⁸ This letter should be sent immediately after the staffing to the youth’s caseworker so that it can be submitted to the RRT for consideration at the classification meeting.

Classification grid

DYS uses a classification grid as a factor in determining, based on the type of offense, how long a youth will remain in secure and/or residential treatment facilities.⁹ The grid assigns, based on offense, a grid level (from 1 to 6), which correlates to a minimum and maximum recommended treatment time for every offense.¹⁰ DYS uses the most serious offense to determine treatment time.¹¹

DYS operates under detailed grids.¹² These grids have not been put into official DYS regulation or policy but, in practice, replace earlier grids that were promulgated in DYS regulation.¹³

The grid level time assignments are as follows:¹⁴

<u>Grid level</u>	<u>Time Assignment Range</u>
1	1 to 4 months
2	3 to 5 months
3	5 to 8 months
4	8 to 12 months
5	12 to 24 months
6	24 to 36 months

Most youth receive a time assignment that is consistent with the grid. However, the assigned time designated n the grid is actually only a guideline and DYS may deviate up or down one level depending on aggravating or mitigating factors. Thus, DYS could assign a shorter or longer period depending on the youth’s needs.

Classification

After the staffing meeting, DYS holds a classification meeting where an RRT reviews the recommendations regarding duration of confinement and placement developed at the staffing.¹⁵ While DYS regulation currently requires that this meeting take place within 30 business days of the youth's commitment,¹⁶ DYS is currently revising this regulation.¹⁷ In practice, the RRT convenes shortly after the staffing meeting, usually within one week.¹⁸

The RRT is composed of a group of DYS administrators from the youth's geographic region. The RRT usually consists of at least three of the following five individuals:

- the regional administrator;
- the regional clinical coordinator, the regional director of residential services;
- the regional director of community services; and
- the regional director of operations.¹⁹

At the meeting of the RRT, others may attend in addition to the RRT members. The youth's DYS caseworker and/or the caseworker's manager (i.e., the caseworker's supervisor) make a presentation about the youth at the meeting.²⁰ And, the youth's parents or legal guardian and the youth's lawyer also may attend.²¹

The RRTs review the recommendations for placement and duration of confinement made at the staffing meeting. Then, the team will either confirm the recommendations or modify them. In modifying them, the RRT may deviate up or down one grid level from that recommendation, which would result in a shorter or longer period of confinement.²² For example, a RRT may deviate up a grid level so that a youth can access a mental health treatment program that requires a certain minimum duration.²³

The RRT also has the ultimate say regarding the placement itself, taking into consideration a range of factors such as distance from home, therapeutic need and security issues.²⁴ The RRT may be helpful in arranging for a youth to be placed at a specialized program.

In general, in making its decisions, the RRT may consider mitigating and aggravating factors in reaching its decision.²⁵ For example, the RRT will consider as a negative certain serious behavior that a youth may have displayed while in detention, such as recruiting gang members.²⁶


Factors to be considered in classification

When classifying a youth, in addition to reviewing the grid, DYS must consider certain mitigating or aggravating circumstances when classifying a youth. Such factors include, but are not limited to:

- Whether the offense for which the youth was committed caused extensive property damage or serious bodily injury and whether it was cruel and sadistic;
- Whether the youth played a major role in the offense, whether the youth was pressured or coerced, and whether the youth committed the offense while on bail;
- An examination of the youth's history of offenses, with an assessment of whether there is an increasing pattern of violence and chronicity, particularly against special populations;
- Whether the youth took a leadership role in delinquent acts and whether the acts are directed toward people or property;
- The youth's ties to the community and level of support from family, friends and relatives;
- A determination of whether and why the youth has failed in previous placements.²⁷

Issuing a decision and other documents


Current DYS regulations require that the RRT issue a written decision regarding classification within five working days of the classification meeting.²⁸ DYS reports that, in practice, the RRT will likely issue this decision within one week of the classification meeting.²⁹ The decision need not be unanimous.³⁰ The RRT records its decision on a document entitled "Classification Form."


 **Tip for families:** You should request, and it's important to have, a copy of the Classification Form. In addition, you should request, if you haven't already obtained them, a copy of the documents completed at the staffing meeting, including the staffing notes and the initial service delivery plan.

Appeal of decision

If a youth believes his placement is wrong, he may appeal the decision by writing a letter to the DYS Deputy Commissioner in DYS's Central Office in Boston within seven business days of receiving notice of the RRT's decision.³¹ The youth's DYS caseworker is required to inform the youth of his right to appeal and, if the youth wishes to appeal, assist

the youth in writing the appeal request.³² The Deputy Commissioner must provide a written response to the appeal within 14 days of receiving the request.³³ Current DYS practice is that the DYS Legal Department, acting as designee for the Deputy Commissioner, writes this response.³⁴ The decision of the Deputy Commissioner on appeal is final.³⁵

 **Tip for families:** If your child wants to appeal, he should consider asking his lawyer for help in writing the appeal request. (While these are not formal appeals, the participation of a lawyer is not required, and you and your child may well be able to write your own, it nonetheless may be helpful to have the assistance of your child's lawyer in pursuing this option.) If you need further assistance, contact one of the organizations that provides legal representation listed in the Resource Guide at the end of this book.

 **Tip for families:** While DYS now tries to assign youth to placements near home, sometimes DYS still places a child in a facility that is far from home. While you are at the staffing, you may ask DYS to try to place your child somewhere close enough to your home that you may visit your child and attend meetings without too much difficulty. If transportation is an issue for you, make sure the placement is accessible to you. DYS does not have to place your child in a facility that is convenient for you, but you can ask them to do this. DYS values family involvement and may help provide transportation for visits. DYS may be able to provide telephone or video conferencing when you cannot get to the facility where your child is being held.

Endnotes

- 1 109 CMR 4.01.
- 2 109 CMR 4.04(1).
- 3 109 CMR 4.04(2).
- 4 Committee for Public Counsel Performance Guidelines Governing the Representation of Indigent Juveniles in Criminal Cases, VIII., J.8.5.g).
- 5 Committee for Public Counsel Performance Guidelines Governing the Representation of Indigent Juveniles in Criminal Cases, VIII., J.8.5.g).
- 6 Committee for Public Counsel Performance Guidelines Governing the Representation of Indigent Juveniles in Criminal Cases, VIII., J.8.5.g).
- 7 For example, DYS staff may want to discuss the topic of domestic abuse without the youth being present. 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).
- 8 A sample letter can be found in Appendix F of “From A Parent’s Perspective” found at <http://www.cfjj.org/Pdf/Handbook2.pdf>.
- 9 109 CMR 4.05; DYS Policy # 1.1.4(a), Policy Definitions (July 1, 2004) (definition of “classification”).
- 10 109 CMR 4.05; Department of Youth Services Classification Grids, in Hon. R. Marc Kantrowitz et al., Massachusetts Juvenile Delinquency & Child Welfare Law Sourcebook (MCLE 2006) at 729-762.
- 11 See DYS Policy # 1.1.4(a), Policy Definitions (July 1, 2004) (definition of “grid level”).
- 12 Department of Youth Services Classification Grids, in Hon. R. Marc Kantrowitz et al., Massachusetts Juvenile Delinquency & Child Welfare Law Sourcebook (MCLE 2006) at 729-762; see also DYS Classification Principles (draft dated June 5, 1997) in Hon. Jay Blitzman et al., Massachusetts Juvenile Court Bench Book, Mass. Continuing Legal Education, Vol. I, Appendix I-B (2003) at I.A-89-93.
- 13 109 CMR 4.05.
- 14 Department of Youth Services Classification Grids, in Hon. R. Marc Kantrowitz et al., Massachusetts Juvenile Delinquency & Child Welfare Law Sourcebook (MCLE 2006) at 729-762.
- 15 109 CMR 4.04(2); DYS Policy # 1.1.4(a), Policy Definitions (July 1, 2004) (area review teams decide the appropriate classification for committed juveniles under the classification grid).
- 16 109 CMR 4.04(3).
- 17 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 18 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 19 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); see also 109 CMR 4.03 (classification panel, consisting of three DYS representatives with equal votes, including one with clinical experience with adolescents, determines disposition of committed youth).
- 20 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); see also

- 109 CMR 4.04(6) (caseworker must attend classification meeting and be prepared to present and discuss the youth's current situation, case history and the regional office's recommendation for disposition).
- 21 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).
 - 22 DYS Handout, workshop entitled "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) at 4.
 - 23 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).
 - 24 DYS Handout, workshop entitled "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) at 4.
 - 25 DYS Handout, workshop entitled "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) at 4.
 - 26 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).
 - 27 109 CMR 4.06.
 - 28 109 CMR 4.07.
 - 29 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
 - 30 109 CMR 4.07.
 - 31 109 CMR 4.08(1).
 - 32 109 CMR 4.08(2).
 - 33 109 CMR 4.08(3).
 - 34 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
 - 35 109 CMR 4.08(3).