

CHAPTER 127

MANUAL OF REQUIREMENTS FOR RESIDENTIAL CHILD CARE FACILITIES

Authority

N.J.S.A. 30:1-14 and 30:4C-4.

Source and Effective Date

R.1993 d.403, effective August 16, 1993.  
See: 25 N.J.R. 1716(a), 25 N.J.R. 3787(a).

Executive Order No. 66(1978) Expiration Date

Chapter 127, Manual of Requirements for Residential Child Care Facilities, expires on August 16, 1998.

Chapter Historical Note

Chapter 127, originally Manual of Standards for Residential Child Care Facilities, was adopted as R.1976 d.77, effective March 10, 1976. See: 8 N.J.R. 37(a), 8 N.J.R. 195(e). Chapter 127 was repealed and new rules were adopted as R.1983 d.393, effective September 19, 1983, but operative November 1, 1983. See: 15 N.J.R. 486(a), 15 N.J.R. 1597(a). Pursuant to Executive Order No. 66(1978), Chapter 127 was readopted as R.1988 d.456, effective August 26, 1988, with amendments effective September 19, 1988. See: 20 N.J.R. 1149(a), 20 N.J.R. 2387(b). Public Notice: Annual certification to Legislature of facility standards pursuant to Keys Amendment to Social Security Act. See: 24 N.J.R. 656(a); 25 N.J.R. 603(a).

Chapter 127 was repealed and new rules were adopted as R.1993 d.403. See: Source and Effective Date. See, also, section annotations for specific rulemaking activity.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 10:127-1.1 Legal authority
- 10:127-1.2 Definitions and types of children's residential facilities
- 10:127-1.3 Definitions

SUBCHAPTER 2. APPROVAL PROCEDURES

- 10:127-2.1 Application for a certificate of approval
- 10:127-2.2 Issuance of a certificate of approval
- 10:127-2.3 Denying, suspending, revoking or refusing to renew a certificate of approval
- 10:127-2.4 Administrative hearings
- 10:127-2.5 Complaints
- 10:127-2.6 Public access to the Bureau's licensing records

SUBCHAPTER 3. ADMINISTRATION

- 10:127-3.1 Statement of purpose
- 10:127-3.2 Rights of children
- 10:127-3.3 Information to parents and staff members
- 10:127-3.4 Community participation
- 10:127-3.5 Conflict of interest
- 10:127-3.6 Intake and admissions
- 10:127-3.7 Reporting requirements
- 10:127-3.8 Records
- 10:127-3.9 Comprehensive general liability insurance

SUBCHAPTER 4. PHYSICAL FACILITY REQUIREMENTS

- 10:127-4.1 Physical facility initial approval requirements for all facilities located in New Jersey
- 10:127-4.2 Physical facility initial approval requirements for all facilities located outside of New Jersey
- 10:127-4.3 Maintenance and sanitation requirements for all facilities
- 10:127-4.4 Additional maintenance and sanitation requirements for all facilities located in New Jersey
- 10:127-4.5 Emergency evacuation instructions, medical emergencies, fire prevention, first aid and equipment
- 10:127-4.6 Special requirements for staff members, children, visitors or family members who use tobacco products

SUBCHAPTER 5. STAFF REQUIREMENTS

- 10:127-5.1 General requirements for director and all staff members
- 10:127-5.2 Staff qualifications
- 10:127-5.3 Staff to child ratios
- 10:127-5.4 Staff training and development
- 10:127-5.5 Volunteers and student interns

SUBCHAPTER 6. PROGRAM REQUIREMENTS

- 10:127-6.1 Treatment plan for children in residential child care facilities
- 10:127-6.2 Discharge planning
- 10:127-6.3 Grouping of children within living units
- 10:127-6.4 Work and employment
- 10:127-6.5 Money and allowance
- 10:127-6.6 Visitation and communication
- 10:127-6.7 Education
- 10:127-6.8 Recreation
- 10:127-6.9 Religion
- 10:127-6.10 Rest, bedroom and sleep
- 10:127-6.11 Food and nutrition for children
- 10:127-6.12 Pets
- 10:127-6.13 Restrictive behavior management practices
- 10:127-6.14 Discipline and control
- 10:127-6.15 Search and seizure of weapons and contraband; substance abuse screenings
- 10:127-6.16 Firearms and weapons
- 10:127-6.17 Aversive conditioning procedures

SUBCHAPTER 7. HEALTH REQUIREMENTS

- 10:127-7.1 Comprehensive health plan for children
- 10:127-7.2 Health care and medical treatment for children
- 10:127-7.3 General medical practices
- 10:127-7.4 Medication other than psychotropic medication
- 10:127-7.5 Psychotropic medication
- 10:127-7.6 Health education and physical care for children
- 10:127-7.7 Health requirements for staff
- 10:127-7.8 Environmental sanitation and staff hygiene

SUBCHAPTER 8. TRANSPORTATION REQUIREMENTS

- 10:127-8.1 General requirements
- 10:127-8.2 Vehicle insurance requirements
- 10:127-8.3 Additional requirements for transporting physically handicapped, non-ambulatory children
- 10:127-8.4 Record requirements

SUBCHAPTER 9. ADVENTURE ACTIVITIES

- 10:127-9.1 General requirements
- 10:127-9.2 Plans for emergency evacuation and search and rescue
- 10:127-9.3 Reporting requirements
- 10:127-9.4 Biking
- 10:127-9.5 Canoeing, kayaking, and tubing
- 10:127-9.6 Caving

10:127-9.7	Hiking
10:127-9.8	Horseback riding
10:127-9.9	Ropes initiatives and rock climbing
10:127-9.10	Sailing and boating
10:127-9.11	Snow skiing
10:127-9.12	Solos (solitary activities)
10:127-9.13	Swimming
10:127-9.14	Water skiing
10:127-9.15	Camping
10:127-9.16	Requirements for wagon trains
10:127-9.17	Health and sanitary practices
10:127-9.18	Qualifications for staff supervising adventure activities
10:127-9.19	Staff to child ratio requirements
10:127-9.20	Special requirements for communication and visiting

## SUBCHAPTER 10. SERVICES FOR PREGNANT AND PARENTING ADOLESCENTS

10:127-10.1	General requirements
10:127-10.2	Staff and staff ratio requirements
10:127-10.3	Staff development and training
10:127-10.4	Case management requirements
10:127-10.5	Discharge planning requirements
10:127-10.6	Services regarding paternal involvement
10:127-10.7	Services to the adolescent's family
10:127-10.8	Parenting education
10:127-10.9	Infant stimulation
10:127-10.10	Infant toys and equipment
10:127-10.11	Recreation
10:127-10.12	Money and allowance
10:127-10.13	Visiting and communication
10:127-10.14	Behavior management
10:127-10.15	Comprehensive health plan for pregnant adolescents
10:127-10.16	Comprehensive health plan for infants
10:127-10.17	Comprehensive health care for adolescent mothers who are not pregnant
10:127-10.18	Care of sick infants
10:127-10.19	General medical practices
10:127-10.20	Medication
10:127-10.21	Environmental sanitation requirements for disinfecting
10:127-10.22	Personal hygiene requirements
10:127-10.23	Health education and physical care for adolescents and infants
10:127-10.24	Food and nutrition for infants
10:127-10.25	Life skills development

## SUBCHAPTER 1. GENERAL PROVISIONS

### 10:127-1.1 Legal authority

(a) This chapter is promulgated pursuant to N.J.S.A. 30:1-14 and 15 and 30:4C-4.

(b) Under N.J.S.A. 30:1-14 and 30:4C-4, the Department of Human Services is authorized to inspect, evaluate, and approve publicly or privately operated facilities that provide board, lodging, care and treatment services for children who are placed and/or financed by the Division of Youth and Family Services or any other New Jersey State agency.

(c) Under N.J.S.A. 30:1-14, the following facilities shall be subject to inspection, evaluation, and approval by the Department of Human Services, Division of Youth and Family Services:

1. New Jersey-based children's residential facilities, as defined in this chapter, except facilities that are licensed, approved or regulated pursuant to State law by the Division of Developmental Disabilities or the Division of Mental Health and Hospitals, both of the Department of Human Services, by the State Department of Health, by the State Department of Education, by the State Department of Corrections or by any other New Jersey State agency; and

2. Out-of-State children's residential facilities as defined in this chapter, that serve one or more children under the supervision of the Division of Youth and Family Services. As a condition of approval by the Department, such facilities shall be licensed, certified, or otherwise approved to operate in the state where the facility is located.

(d) In order to be approved, a children's residential facility shall demonstrate to the satisfaction of the Department of Human Services or its duly authorized agent that it complies with all applicable provisions of this chapter.

(e) Responsibility for ensuring that the facility specified in (c) above complies with the provisions of the statutes cited in (a) above and of this chapter is delegated by the Department of Human Services to the Division of Youth and Family Services, Bureau of Licensing. The Division is authorized to visit and inspect such facilities, as described in N.J.A.C. 10:127-1.2(a) and (b), to determine the extent of their compliance with such provisions.

(f) Under N.J.S.A. 30:1-15, the Department of Human Services is also authorized to visit and inspect publicly or privately maintained institutions or other institutions and noninstitutional agencies that:

1. Provide board, lodging or care for children who are not placed or financed by the Division of Youth and Family Services or any other New Jersey State agency; and

2. Are not subject to licensing or regulation by any New Jersey State agency.

(g) The Division of Youth and Family Services is authorized to visit and inspect such facilities as described in (f) above to assess the general health, safety, and well-being of the children and the care and treatment they are receiving, but cannot require their compliance with this chapter and must secure an order from a court of competent jurisdiction, pursuant to N.J.S.A. 30:1-16, to compel correction of serious deficiencies.

### 10:127-1.2 Definition and types of children's residential facilities

(a) "Residential child care facility" or "residential facility" or "facility" means any public or private establishment that provides room, board, care and treatment services for 16 or more children on a 24 hour-a-day basis.

(b) Residential child care facilities that are subject to the provisions of this chapter include:

1. Division-contracted or Division-operated residential child care facilities that serve children with emotional and/or behavioral problems and provide on-grounds educational programming;
2. Division-contracted or Division-operated residential child care facilities that serve children with emotional and/or behavioral problems who attend schools in the community; and
3. Division-contracted residential child care facilities that provide:
  - i. Drug and alcohol treatment services;
  - ii. Psychiatric services;
  - iii. Services to children with physical disabilities; or
  - iv. Adventure programs that serve children with emotional and/or behavioral problems.

#### 10:127-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings:

“Adventure activity” means a planned activity of a wilderness or athletic nature that requires specially trained staff members and/or special equipment that is utilized with children to assist in their development of self-confidence and insight.

“Bureau” means the Bureau of Licensing of the Division of Youth and Family Services, New Jersey Department of Human Services.

“Chapter” means the rules contained in the Manual of Requirements for Residential Child Care Facilities, as specified in N.J.A.C. 10:127-1.1 to 10.25 and reflect provisions that constitute minimum baseline requirements below which no facility that is subject to the authority of N.J.S.A. 30:1-14 and N.J.S.A. 30:4C-4 is legally permitted to operate.

“Child” means any person who is under 18 years of age and/or any person between the ages of 18 and 21 who is under the supervision of the Division in placement in a residential child care facility.

“Denial of a certificate” means the withholding by the Bureau of an initial certificate of approval for which a facility has applied.

“Department” means the New Jersey Department of Human Services.

“Director” means the on-site staff member responsible for the daily operation and management of the facility.

“Division” means the Division of Youth and Family Services, New Jersey Department of Human Services.

“Exclusion” means removing a child to an area or room in the facility where there is limited stimulation. This removal shall be a therapeutic intervention and a time for the child to reflect on his or her behavior in order to gain control so he or she can return to the other children.

“Infant” means any person who is under the care of his or her adolescent mother in a facility serving adolescent mothers.

“Parent” means a birth or adoptive parent, legal guardian, or any other person having responsibility for, or custody of, a child.

“Person” means any individual, agency, corporation, company, association, organization, society, firm, partnership, joint stock company, the State or any political subdivision thereof.

“Placing agency” means an agency that assumes responsibility for payment of room and board for a child placed in a facility.

“Refusal to renew a certificate” means the non-issuance of a certificate of approval by the Bureau to a facility after its existing certificate has expired.

“Regular certificate of approval” or “regular certificate” means a document issued by the Bureau to a facility indicating that the facility is in full compliance with all applicable provisions of this chapter.

“Restraint” means the holding of a child so that he or she cannot move all or part of his or her body.

“Restrictive behavior management practice” means the use of restraint, exclusion, mechanical restraint and a behavior management room as part of a comprehensive treatment plan to help the child develop self-control, to reduce maladaptive behavior, to protect the child and others from harm or to prevent serious disruption to the therapeutic environment.

“Revocation of a certificate” means a permanent removal of a facility’s current certificate of approval to operate.

“Shall” denotes a provision of this chapter that a facility must meet to qualify for a certificate of approval.

“Should” denotes a recommendation reflecting goals towards which a facility is encouraged to work.

“Staff member” or “staff” means any person employed by or working for or at a facility on a regularly scheduled basis. This includes full-time, part-time, substitute, volunteer, student intern, contract or consulting personnel, whether compensated or not.

“Suspension of a certificate” means a temporary removal of a facility’s current certificate of approval to operate.

“Temporary certificate of approval” or “temporary certificate” means a document issued by the Bureau, to a facility that is in substantial compliance with all applicable provisions of this chapter, provided that no serious or imminent hazard affecting the children exists in the facility.

## SUBCHAPTER 2. APPROVAL PROCEDURES

### 10:127-2.1 Application for a certificate of approval

(a) No person shall operate a residential child care facility that provides board, lodging, care and treatment services for children who are placed or financed by the Division or by any other New Jersey State agency without first securing a certificate of approval from the Bureau, except for facilities that are subject to licensing or regulatory approval pursuant to State law by any other New Jersey State agency.

(b) A facility applying to the Bureau for an initial certificate of approval shall submit a completed application form to the Bureau, including the documentation specified in N.J.A.C. 10:127-4.1(a), (b) and (c), at least 45 calendar days prior to the anticipated opening of the facility.

(c) A facility applying to the Bureau for a renewal of its certificate of approval shall submit a completed application form to the Bureau, including the documentation specified in N.J.A.C. 10:127-4.1(d), at least 45 calendar days prior to the expiration of its existing regular certificate.

(d) The application form referenced in (b) and (c) above shall include the following:

1. General identifying information;
2. Name(s) of the sponsors;
3. Names of members of the governing board;
4. A description of the agency’s program, including program philosophy, goals and objectives;
5. A list of staff members; and
6. A list of residents placed by the Division.

Administrative Correction.  
See: 25 N.J.R. 4932(c).

### 10:127-2.2 Issuance of a certificate of approval

(a) The Bureau shall issue a regular certificate of approval to a facility that has achieved full compliance with all applicable provisions of this chapter.

(b) If the Bureau determines that a facility is in substantial compliance with, but does not meet all applicable provisions of, this chapter, and provided that there is no serious or imminent hazard to the education, health, safety, well-being or treatment needs of the children, the Bureau shall issue a temporary certificate to the facility and indicate in writing the steps the facility must take to secure a regular certificate of approval.

(c) A temporary certificate may be issued for a period not to exceed six months. The Bureau may issue as many temporary certificates as it deems necessary.

(d) Each certification period, which may include the issuance of one or more temporary certificates or one regular certificate, shall be two years.

1. In determining the expiration date of the first regular certificate of approval, the Bureau shall compute the two-year approval period from the date of issuance of the first temporary or regular certificate.

2. In determining the expiration date of a renewed regular certificate, the Bureau shall compute the two-year approval period from the date on which the previous regular certificate expired. If however, the facility has ceased to operate for a period of one year following the expiration date of its previous regular certificate, the Bureau shall compute the date of expiration from the date of issuance of a new certificate.

(e) The certificate of approval shall be issued to a specific facility and shall not be transferable.

(f) The facility shall maintain its certificate of approval on file.

(g) No facility shall make claims either in advertising or in any written or verbal announcement or presentation contrary to its approval status.

### 10:127-2.3 Denying, suspending, revoking or refusing to renew a certificate of approval

(a) The Bureau may deny, suspend, revoke or refuse to renew a certificate of approval for good cause, including, but not limited to, the following:

1. Failure to comply with the provisions of this chapter;
2. Violation of the terms and conditions of a certificate of approval;
3. Fraud or misrepresentation in obtaining a certificate;
4. Refusal to furnish the Division with files, reports, or records as required by this chapter;
5. Refusal to permit an authorized representative of the Division to gain admission to the facility or to conduct an inspection or investigation;

iii. Any bedroom containing two or more single beds and occupied by more than one child shall provide a minimum of 70 square feet of floor space for the first child and 50 square feet of floor space for each additional child, including space that is occupied by furniture.

iv. Any bedroom containing bunk beds or any combination of single beds and bunk beds shall provide 50 square feet of floor space for each child, including space that is occupied by furniture.

**10:127-4.5 Emergency evacuation instructions, medical emergencies, fire prevention, first aid and equipment**

(a) The facility shall prepare and post on each floor written emergency evacuation instructions that include:

1. A diagram showing how the facility is to be evacuated in the event of an emergency; and
2. The location of fire alarms and fire extinguishers.

(b) The facility shall maintain the following information near a staff telephone or other accessible area for use in the event of a medical emergency:

1. The name, address and telephone number of the physician retained by the facility or of the health facility to be used in emergencies;
2. The location of written authorizations from parents for emergency medical care for each child;
3. The procedure for obtaining emergency transportation;
4. The procedure for obtaining substitute or on-call supervision, if needed;
5. The telephone numbers of the local police, fire department, ambulance service and poison control centers; and
6. The location of the first aid kit and any additional first aid supplies.

(c) The facility shall prepare written fire prevention instructions, which specify that:

1. The facility shall conduct fire drills at least once a month, which shall include all staff members and children, and shall inform all staff members and children of the procedures for leaving the building in an emergency situation;
  - i. Fire drills shall be conducted on all shifts; and
  - ii. Evacuations should be completed within three minutes. If evacuations are not completed within three minutes, the facility should contact its local fire official for assistance with improving its evacuation time.

2. The facility shall maintain on file a record of each fire drill, which shall include:

- i. The date and time of the drill;
- ii. The weather condition at the time of evacuation;
- iii. A notation of any problems encountered during the drill;
- iv. The number of participating children and staff members;
- v. The total amount of time taken to evacuate the facility; and
- vi. The signature of the staff members conducting the drill.

3. Each facility shall ensure that fire protection requirements, including those for boiler/furnace separation, electrical fire alarm systems, emergency lighting and exit signs conform to all applicable provisions of the NJUFC and the NJUCC; and

4. The facility shall ensure that all staff members are trained in the use and operation of fire extinguishers.

(d) The following equipment shall be placed in a location that is convenient and accessible to staff members:

1. A standard first aid kit, which is fully restocked within 24 hours of use; and
2. The American Red Cross First Aid Manual or its equivalent.

**10:127-4.6 Special requirements for staff members, children, visitors or family members who use tobacco products**

(a) If the facility permits the smoking of tobacco products or the use of smokeless tobacco, the facility shall designate an outside area where staff members, children, as identified in (d) below, visitors or family members may use tobacco products.

(b) The facility shall prohibit the smoking of tobacco products or the use of smokeless tobacco in:

1. All buildings used by children; and
2. All vehicles used by the facility when children are passengers, as specified in N.J.A.C. 10:127-8.1(d).

(c) The facility shall ensure that staff members comply with the provisions of N.J.S.A. 2A:170-51, which prohibits them from directly or indirectly selling, giving or furnishing to a minor under 18 years of age any cigarettes made of tobacco or any other matter or substance that can be smoked, or any cigarette paper or tobacco in any form, including smokeless tobacco.

(d) The facility may permit children who smoke tobacco products or use smokeless tobacco to continue to do so, provided that the following conditions exist:

1. The child shall only be permitted to smoke tobacco products or use smokeless tobacco in the designated area outside the building(s);
2. The treatment team shall develop goals that will direct, guide and counsel the child to stop smoking tobacco products or using smokeless tobacco; and
3. The child shall be provided with written and verbal information that outlines the health and social consequences stemming from smoking tobacco products or using smokeless tobacco.

(e) The facility shall not utilize tobacco products as a reward in its behavior management program or in any of its policies or practices.

## SUBCHAPTER 5. STAFF REQUIREMENTS

### 10:127-5.1 General requirements for director and all staff members

(a) The director and every staff member shall:

1. Be of good character and reputation;
2. Be in sufficient physical, mental and emotional health to perform his or her job duties satisfactorily; and
3. Possess skills, attributes and characteristics conducive to and suitable for operating a facility or dealing with children, as applicable.

(b) Prior to hiring or utilizing a director or a staff member who will be working at the facility, the facility shall secure and maintain on file:

1. A signed application for employment from each individual, indicating the applicant's name, address and telephone number, education and work experience, and disclosure of the presence or absence of criminal convictions. The employment application shall be updated to indicate the reasons for discontinuance of employment, if applicable; and
2. Two written or two verbal references on each individual. These references shall be secured from former employers or other persons who have knowledge of the individual's work experience or education and who can attest to the individual's suitability to work with children. The verbal references shall be documented in writing by the facility.

(c) Failure by the director or other staff member to comply with the requirements specified in (a) and (b) above, and/or any evidence demonstrating unfitness or unsuitability to fulfill the responsibilities and duties of his or her position or to serve or deal with children in an appropriate manner, shall constitute grounds for one or more of the following actions:

1. Removal of the director or staff member from his or her position by the governing board;
2. Reassignment to other duties that do not involve contact with children;
3. Termination from the facility; or
4. Denial, refusal to renew, suspension or revocation of the facility's certificate of approval by the Bureau.

(d) Evidence of conviction for crimes of violence, felonies, illegal substance abuse or child abuse and neglect shall be among those actions that are considered in determining an individual's suitability to serve as director or staff member in a facility.

(e) Evidence of conviction of a crime, in and of itself, shall not automatically preclude an individual from serving as director or staff member or from working in the facility and shall not automatically result in the removal or termination of a director or staff member. The facility shall submit a written justification to the Bureau, indicating and documenting why it feels the individual at issue should not be precluded from working or holding a leadership position at the facility. The Bureau, after assessing the facts on a case by case basis, shall make the final determination, in keeping with the provisions of the State Rehabilitated Convicted Offenders Act, N.J.S.A. 2A:168A-1 et seq., which provides that a person convicted of a crime may not be disqualified or discriminated against by a licensing authority unless the conviction relates adversely to the occupation, trade, vocation, profession or business for which the license is sought.

(f) The facility shall disclose to the Bureau, in writing, information about and circumstances surrounding any previous denial, suspension, revocation or refusal to renew a certificate of approval or a license to operate a facility either by the Bureau or by the licensing agency of another state. Evidence of a previous denial, suspension, revocation or refusal to renew a certificate of approval or license, shall not in and of itself result in an automatic disqualification of the prospective facility to secure a certificate of approval for another or the same facility, but shall constitute grounds for the Bureau to investigate the circumstances that led to the original negative action and make a determination as to whether to reject or process the new application for a certificate of approval.

(g) Requirements to prevent child abuse or neglect are as follows:

1. The director or any staff member shall verbally notify the Division's Office of Child Abuse Control or appropriate District Office immediately whenever there is reasonable cause to believe that a child has been subjected to abuse or neglect by a staff member, or any other person other than the child's parent or family member, pursuant to the State Child Abuse and Neglect Law (N.J.S.A. 9:6-8.9, 8.10, 8.13 and 8.14). This provision shall also apply to facilities located outside of New Jersey, notwithstanding the child abuse and neglect provisions of the state in which the facility is located;

2. The facility shall report any suspected abuse or neglect of the child by his or her parents or other family members to the Division case manager/supervisor assigned to the family;

3. When reporting to the Division as specified in (g)1 above, the facility shall also notify the parent(s) of the incident(s) reported which might indicate possible abuse or neglect involving the child. Such notification shall be made on the same day on which the incident(s) occurred. The facility shall maintain on file a record of such incident(s) and documentation that the parent(s) have been informed of them;

4. The Division, during the course of investigating an allegation of child abuse and neglect, may determine that immediate, corrective action is necessary to protect the children whenever:

i. The director or staff member has been found by the Division's Institutional Abuse Investigation Unit (IAIU) to pose a risk of harm to children;

ii. The director or staff member has committed an act of child abuse or neglect, as substantiated by the IAIU; or

iii. The director or staff member has been convicted of such acts;

5. Whenever the IAIU makes such a determination, the governing board or director shall carry out the Division's recommendation for immediate remedial action and long term corrective action. Such remedial action may include, but not be limited to:

i. Removal or suspension of the affected director or staff member from the facility or reassignment to other duties that do not involve contact with the children; or

ii. When the director or staff member resides at the facility, removal of the affected employee from the premises;

6. Such suspension, removal or reassignment, as specified in (g)5 above, shall remain in effect until the results of the Division's investigation have been determined, and a final decision in the matter has been rendered by the Division; and

7. Substantiation of the child abuse and neglect allegation by the Division's IAIU shall not, in and of itself, automatically result in the termination of the accused director or staff member from his or her position in the facility, but shall constitute grounds for possible termination if the person's continued employment at the facility would place the children at risk. Such determination shall be made by the Bureau after considering information provided by the agency, the director, the affected staff member, the IAIU and law enforcement authorities, as applicable.

(h) The facility shall utilize medical, dental, and psychological personnel serving children on either a staff or community provider basis who shall:

1. Be responsible for ensuring that the medical, dental, and psychological needs of the children are met; and

2. Be licensed to practice in the state where the staff member or community provider is located, as required by the laws of that state.

#### 10:127-5.2 Staff qualifications

(a) Residential child care facilities shall have a full-time administrator or director, social service staff, teaching staff members (if the facility provides an on-grounds educational program), medical and nursing staff, child care staff, a staff member(s) designated to plan and implement the facility's recreational program, a staff member(s) designated to direct and be responsible for food services, and staff who shall be responsible for daily housekeeping and maintenance.

(b) The full-time administrator or director of the facility shall:

1. Be at least 21 years of age;

2. Have one of the following qualifications:

i. A bachelor's degree in social work, psychology or a related field from an accredited college or university and four years of professional experience in the human services field, two of which shall have been in a supervisory or administrative position;

ii. A master's degree from an accredited graduate school in social work, psychology or a related field and three years of professional experience in the human services field; or

iii. For publicly operated facilities, meet the requirements of the State Department of Personnel for the position, if applicable;

3. Be responsible for implementing the overall planning, operation, and management of the facility, including the facility's recreational and food programs;

4. Designate staff members to be in charge at all times during his or her absence;

5. Be on call to assist the staff in admissions, emergencies, and/or other responsibilities;
6. Be responsible for ensuring that all staff members receive an annual performance evaluation;
7. Be responsible for ensuring that all staff members' work schedules and time sheets are maintained;
8. Be responsible for ensuring that a daily log book, separate log book, or the child's case record contains a written notation of all visits to children;
9. Be responsible for ensuring that on-duty staff members complete entries in the daily log book that reflect the activities and events of each day; and
10. Be responsible for maintaining aggregate statistical information on children served, including the date of each admission, date of each discharge, and reason for each discharge.

(c) The social services/clinical director of the facility shall:

1. Be at least 21 years of age;
2. Have one of the following qualifications:
  - i. A bachelor's degree in social work, psychology or a related field from an accredited college or university and three years of professional clinical experience in the human services field, one year of which shall have been in a supervisory or administrative position; or
  - ii. A master's degree from an accredited graduate school in social work, psychology or a related field and two years of professional experience in the human services field; or
  - iii. For publicly operated facilities, meet the requirements of the State Department of Personnel for the position, if applicable;
3. Ensure that any staff member or consultant that utilizes the title or designation of social worker, licensed clinical social worker, licensed social worker, certified social worker, medical social worker, social work technician or any other title or designation which includes the words social worker, or any abbreviations such as SW, LCSW, LSW, CSW or SWT, is certified or licensed pursuant to N.J.S.A. 45:15BB-1 (Social Workers Licensing Act of 1991);
  - i. All facilities located in a state other than New Jersey shall ensure that social work staff and social work supervisors are certified or licensed pursuant to that state's laws or requirements, if applicable;
  - ii. All facilities located in New Jersey shall ensure that staff members who function as social workers or social work supervisors and can meet the education and experience requirements to be licensed or certified, but are not currently licensed or certified, obtain the appropriate license or certificate within the time frames prescribed by N.J.S.A. 45:15BB-1 et seq.;

- iii. A facility located in New Jersey may require existing staff members who function as social workers or social work supervisors and who do not currently meet the education and experience requirements to be licensed or certified pursuant to (c)3 above, to obtain the appropriate certificate or license as a condition of continued employment; or it may retain such staff members in the same capacity so long as these staff members are not utilizing titles specified in (c)3 above; and

- iv. All facilities located in New Jersey shall ensure that all new staff members that are hired for the positions of social worker and social work supervisor are licensed or certified as specified in (c)3 above.

4. Be responsible for the overall treatment planning for children;

5. Provide support and technical assistance to the social services staff; and

6. Provide clinical supervision to staff and ensure that social services staff receive job performance evaluations.

(d) Each social service worker shall:

1. Be at least 21 years of age;
2. Provide services for children as outlined in the treatment plan; and
3. Have one of the following qualifications:
  - i. A bachelor's degree in social work, psychology or a related field from an accredited college or university and one year of professional experience in the human services field;
  - ii. A master's degree from an accredited graduate school in social work, psychology or a related field; or
  - iii. Meet the requirements of the State Department of Personnel for the position, if applicable.

(e) The child care director of the facility shall:

1. Be at least 21 years of age;
2. Have one of the following qualifications:
  - i. A bachelor's degree in the human services field from an accredited college or university and three years of professional experience in the human services field, two years of which shall have been in a supervisory or administrative position in a residential child care facility, group home or children's shelter;
  - ii. A master's degree from an accredited graduate school in the human services field and one year of professional experience in the human services field in a residential child care facility, group home or children's shelter; or

iii. For publicly operated facilities, meet the requirements of the State Department of Personnel for the position, if applicable;

3. Be responsible for the daily operation of the child care program; and

4. Ensure that all child care staff receive job performance evaluations.

(f) Each child care staff member shall:

1. Be at least 18 years of age;

2. Provide daily care and supervision of the children;

3. Inform the social service staff members or director of any incidents that may impact on the child's treatment planning, as specified in N.J.A.C. 10:127-6.1 and 6.2; and

4. Have one of the following qualifications:

i. A high school or high school equivalency diploma and one year of experience working with children in a group setting;

ii. An associate's or bachelor's degree from an accredited college or university in a field that is unrelated to social work or psychology and six months experience working with children in a group setting;

iii. An associate's or bachelor's degree from an accredited college or university in social work, psychology or a related field; or

iv. Meet the requirements of the State Department of Personnel for the position, if applicable.

(g) Each staff member designated to plan and implement the facility's recreational program shall:

1. Be at least 21 years of age;

2. Meet the qualification(s) for child care staff as specified in (f) above; and

3. Have at least three years experience in planning or implementing recreational activities for children in residential child care centers, group homes, children's shelters, children's camps or Boy Scouts/Girl Scouts.

(h) Education staff of the facility including administrative, supervisory and teaching staff shall comply with the staff qualifications, certifications, licenses and experience requirements of the New Jersey Department of Education or the equivalent agency in the state where the facility is located.

(i) Each physician, nurse, dentist, psychologist, speech therapist, physical therapist and occupational therapist employed by the facility or providing services on a contracted basis to the facility shall:

1. Be licensed/credentialed to practice in the state where the staff member or community provider is located, if required by the laws of that state; and

2. Be responsible for ensuring that the needs of the children for medical, dental, psychological, psychiatric or other services are met.

(j) Each staff member designated to direct and be responsible for providing food services shall:

1. Be registered or eligible for registration by the Commission on Dietetic Registration of the American Dietetic Association or meet the applicable requirements established by the state where the facility is located;

2. Meet the requirements of the Child Nutrition Program;

3. Have a bachelor's degree from a college or university with a major in foods, nutrition, food service or institution management, or the equivalent course work for a major in the subject area; and have completed a dietetic internship accredited by the American Dietetic Association or a dietetic traineeship approved by the American Dietetic Association or have one year of full-time, or full-time equivalent, experience in nutrition and/or food service management in a health care setting;

4. Have a master's degree plus six months of full-time, or full-time equivalent, experience in nutrition and/or food service management in a health care setting; or

5. Develop a plan approved by a dietician or dietary consultant who meets the qualifications specified in (j)1 through 4 above.

Administrative Correction.  
See: 25 N.J.R. 4932(c).

### 10:127-5.3 Staff to child ratios

(a) Each residential child care facility shall meet the following staff to child ratios:

1. The facility shall have a social services/clinical director when its capacity is more than 80 children;

2. The facility shall have a child care director when its capacity is more than 50 children;

3. There shall be at least one social services worker for every 20 children;

4. There shall be at least one full-time nurse at a facility that serves at least 35 children. A facility that serves fewer than 35 children shall have at least access to a part-time nurse;

5. There shall be at least one child care staff member for every six or fewer children during the waking hours;

6. During sleeping hours, there shall be at least one child care staff member in each living unit in the facility and at least one additional staff member awake and on-

duty for each 50 children or fraction thereof, in the facility; and

7. There shall be at least one child care staff member awake and on-duty in living units that are co-educational during sleeping hours.

(b) A facility that has a capacity of 30 or fewer children may utilize the administrator/director of the facility to serve as the director of one other program area, provided that such person meets the qualifications for that position.

#### 10:127-5.4 Staff training and development

(a) The facility shall develop a training plan and the director shall ensure that all staff members, upon employment, are trained in:

1. The facility's statement of purpose, as specified in N.J.A.C. 10:127-3.1;

2. The facility's behavior management policy and search and seizure policy, if any, as specified in N.J.A.C. 10:127-6.14 and 6.15;

3. Emergency procedures, as specified in N.J.A.C. 10:127-4.5(a), (b) and (c);

4. Protocols for medication, as specified in N.J.A.C. 10:127-7.4 and 7.5;

5. Infection control procedures, as specified in N.J.A.C. 10:127-7.8;

6. The facility's techniques for safe physical and mechanical restraint, if applicable, as specified in N.J.A.C. 10:127-6.13(i) and (k);

7. The facility's policy and procedures for utilizing a behavior management room, if applicable, as specified in N.J.A.C. 10:127-6.13(m); and

8. The facility's policy and procedures for utilizing exclusion, as specified in N.J.A.C. 10:127-6.13(j).

(b) The facility shall ensure that every new staff member is accompanied on his or her duties by an experienced staff member as part of an orientation, until the new staff member is familiar with daily routines and operations of the facility.

(c) The facility shall document in each staff member's record that all social service and child care staff members, including full and part-time staff members, receive a minimum of a total of 12 hours of training each year in the following areas:

1. The principles of behavior management;
2. Alcohol, tobacco and substance abuse;
3. Human sexuality and AIDS; and
4. Suicide prevention.

(d) The facility's training plan may include in-depth discussions at staff meetings, attendance at workshops, conferences or relevant college courses.

#### 10:127-5.5 Volunteers and student interns

(a) The facility may use volunteers or student interns to support the activities of regular paid staff members, but shall not use volunteers or student interns to substitute for paid staff members.

(b) The facility shall ensure that volunteers and student interns are briefed fully on any special needs or problems they might encounter while working with the children.

(c) The facility shall ensure that volunteers and student interns who have contact with children or parents receive an orientation to the facility's program and are supervised by paid staff members. Volunteers and student interns shall receive authorization from the facility prior to accompanying children off-grounds on trips, medical appointments and visits.

(d) The facility shall require an application, disclosure and references, as specified in N.J.A.C. 10:127-5.1(b)1 and 2, for volunteers and student interns who provide activities or transportation to a child by themselves.

### SUBCHAPTER 6. PROGRAM REQUIREMENTS

#### 10:127-6.1 Treatment plan for children in residential child care facilities

(a) The facility shall develop, implement and maintain on file a written individual treatment plan for each child. The plan shall delineate how to meet that child's needs and to remediate the problems and behavior in order to assist the child in completing the program.

(b) The facility shall form a treatment team that is responsible for the development of a treatment plan for each child. The treatment team shall consist of each of the following:

1. Staff members representing the clinical and social work components;
2. Staff members representing the child care component;
3. Staff members representing the administration of the facility, if necessary;
4. Representatives from the child's responsible school district and/or current school district, if necessary;
5. The Division's case manager; and
6. The child's parent(s), unless there is an explicit legal or medical basis to exclude them.

8. Children who are five years of age or older occupy a bedroom only with members of the same sex;

9. Each bedroom occupied by children has natural light and ventilation provided by one or more windows opening directly to the exterior;

10. An unfinished attic or basement is not used for sleeping purposes;

11. All rooms used as bedrooms are not used for any other purpose;

12. Each child is provided with a chest of drawers or some other permanent arrangement for storage of clothing and other personal belongings, including closet space or the equivalent;

13. Each child is permitted reasonable freedom to express his or her personal tastes in the decoration of his or her bedroom or bedroom area;

14. Each child has the opportunity for at least eight hours of uninterrupted sleep each night. Schedules for waking and retiring shall be adapted according to the ages, physical condition and characteristics of the children in each group;

15. The facility does not permit more than four children to occupy a designated bedroom space for sleeping. If partitions are used to designate a bedroom space, the facility shall ensure that the arrangement and height of partitions shall provide privacy for the occupants of the space;

16. Every bedroom is provided with a reading lamp or other means of artificial light for quiet activities; and

17. Every bedroom window is equipped with screens, curtains, blinds or shades.

#### 10:127-6.11 Food and nutrition for children

(a) The facility shall ensure that each child is provided with three nutritious meals daily, either in the facility itself or in the community.

1. The facility shall make daily snacks available for children who desire them, unless there is a medical reason not to provide them.

2. The facility shall select, store, prepare and serve food in a sanitary and palatable manner.

3. The facility shall prepare and date menus and keep the menus on file at the facility for a minimum of 90 calendar days.

4. The facility shall provide place settings and eating utensils for children.

5. The facility shall serve meals in a manner that makes mealtime a pleasant social experience.

6. The facility shall not force-feed or otherwise coerce a child to eat, except by order of a physician.

(b) The facility shall ensure that the daily diet for each child includes a balance of foods from the four basic food groups.

1. The facility shall ensure that each meal contains a sufficient amount of food for each child.

2. The facility shall make available, as necessary, an alternate choice of food for each meal served for children on special diets or children who because of religious beliefs, cannot eat particular foods.

3. The facility shall follow individualized diets and feeding schedules that are submitted to the facility by the child's physician or registered dietician.

#### 10:127-6.12 Pets

(a) The facility shall ensure that pets kept by or located in the facility regardless of ownership, shall be:

1. Domesticated and non-aggressive;

2. Free from disease;

3. Vaccinated, if applicable, as prescribed by law or as recommended by a licensed veterinarian. The record of the vaccinations shall be maintained on file at the facility, along with the name and address of the licensed veterinarian providing care for the pet;

4. If sick, removed from the area occupied by children, until the pet has been examined by a licensed veterinarian;

5. Effectively controlled by leash, command or cage; and

6. Prohibited from toilet facilities for staff members and children.

(b) The facility shall ensure that animal waste is disposed of in a manner that prevents the material from becoming a community health or nuisance problem. Accepted methods include:

1. Burial;

2. Disposal in sealed plastic bags; and

3. Utilization of:

i. A municipally approved trash removal system; or

ii. A sewage system for feces.

(c) The facility shall ensure that all pet dishes, food and equipment used for pets are kept out of the facility's food preparation and food serving areas when food is being prepared or served.

(d) If a pet poses a health hazard to children, the facility shall take corrective action that is approved by the licensing agency.

(e) The facility shall ensure that pregnant adolescents are not permitted to clean a cat's litter box.

#### 10:127-6.13 Restrictive behavior management practices

(a) Facilities that choose to utilize restrictive behavior management practices shall develop policies and procedures that assist children in gaining control of their behavior, protect the children from self-harm, protect other children or staff members, and prevent the destruction of property.

(b) The facility shall:

1. Obtain written approval from the Bureau for any restrictive behavior management practice that the facility plans to utilize prior to its implementation with children; and

2. Not utilize restrictive behavior management practices as a means of punishment, for the convenience of staff members, or as a substitute for a treatment program.

(c) Prior to the child's admission, the facility shall:

1. Explain to the parents, the child, and the Division's case manager or other placing agency any restrictive behavior management practice that is used, the circumstances under which it will be employed, and the possible risks involved; and

2. Obtain written consent for the use of all types of restrictive behavior management practices the facility uses from the child's parents.

(d) The facility shall ensure that the consent form is written in plain language and that either a translated version or an interpreter is available to explain it to non-English speaking or hearing impaired parents.

(e) Whenever the parents refuse to consent to a restrictive behavior management practice, revoke their consent for the practice, or cannot be located to give consent, the facility shall:

1. Refrain from utilizing the practice unless the child presents an imminent danger to self or others, and apply other, non-restrictive interventions until such consent is obtained; and

2. Request that the Division's case manager and the placing agency obtain the necessary consent, either through administrative action pursuant to an agreement between the parent, the Division and the other placing agency or through legal action, if necessary to protect the best interests of the child.

(f) The facility shall maintain a copy of all signed consent forms in the child's records.

(g) At least 10 working days before each staffing or treatment planning meeting, the facility shall send a letter to the child's parents and to the Division's case manager and other placing agency, which shall:

1. Inform them of the frequency and duration of any restrictive behavior management practice that was used with the child;

2. Describe how the child responded to the restrictive behavior management practice; and

3. Invite them to the treatment planning meeting to discuss the child's program and treatment status. If they do not attend the treatment plan meeting, the facility shall send the parents a written summary of the treatment plan meeting and a copy of the child's treatment plan.

(h) The facility shall develop and maintain on file in the administrative office a policy indicating which restrictive behavior management practices the facility uses.

(i) Facilities that utilize physical restraint with children shall:

1. Ensure that physical restraint is used only to protect a child from self-harm, or to protect other children or staff members, or to prevent the destruction of property when the child fails to respond to non-restrictive behavior management interventions;

2. Ensure that staff members use only physical restraint techniques and holds, such as the basket hold or restraining the child in the prone position. These techniques and holds shall not be utilized if the child has:

i. Not received a medical examination that specifically documents that he or she will not be adversely affected; or

ii. A documented respiratory ailment such as asthma, unless the physician authorizes such techniques;

3. Ensure that a child is released from restraint as soon as he or she has gained control;

4. Document each physical restraint incident in an incident report that reflects the following:

i. The name of the child;

ii. Date and time of day the restraint occurred;

iii. Name of all staff members involved in the restraint;

iv. Precipitating factors that led to the restraint;

v. Other non-restraint interventions attempted;

vi. Time the restraint ended;

vii. Condition of the child upon release; and

viii. Medical review by the nurse or physician if injury to the child is suspected;

5. Ensure that all restraint incidents are:
    - i. Reviewed by a supervisory staff member within one working day after the incident; and
    - ii. Discussed with the staff member involved in the restraint when the restraint is deemed improper within one working day after the incident;
  6. Ensure that staff members who are involved in the restraint of a child receive training in safe techniques for physical restraint; and
  7. Prohibit staff members from utilizing the following practices during a physical restraint:
    - i. Pulling a child's hair;
    - ii. Pinching a child's skin;
    - iii. Twisting a child's arm or leg in such a manner that would cause the child pain;
    - iv. Kneeling or sitting on the chest or back of a child;
    - v. Placing a choke hold on a child;
    - vi. Bending back a child's fingers;
    - vii. Intentionally shoving a child into walls and objects; and
    - viii. Allowing other children to assist in the restraint.
- (j) Facilities that utilize exclusion shall:
1. Inform staff members through written policy of the circumstances when exclusion may be utilized as a behavior management intervention, such as:
    - i. Disruptive behavior, including fighting, name calling and pushing;
    - ii. Increased agitation on the part of the child;
    - iii. Non-compliant behavior or failure to participate in the program; and
    - iv. Uncontrollable emotional outbursts such as crying, screaming and inappropriate laughter;
  2. Ensure that the child being excluded is not engaging in suicidal behavior;
  3. Prohibit more than one child from being excluded in a room or area at a time;
  4. Ensure that at least one staff member is responsible to make visual contact with the child every 15 minutes and is within hearing distance of the child when the child is removed from the group;
  5. Ensure that the facility does not utilize a closet, bathroom, unfinished basement, unfinished attic, locked room or other unapproved area when excluding a child from the group;
6. Ensure that the exclusion of a child from the other children does not exceed 30 minutes and a child is not excluded from the group for more than a total of two hours in a 24-hour period, unless there are circumstances documented in the child's treatment plan by a physician's written order extending the exclusion time;
  7. Document each exclusion of a child in an incident report that reflects the following:
    - i. The name of the child;
    - ii. Date and time of day the exclusion occurred;
    - iii. Name of all staff members observing the child;
    - iv. Precipitating factors that led to the exclusion;
    - v. Other interventions attempted;
    - vi. Time the exclusion ended; and
    - vii. Condition of the child upon release; and
  8. Ensure that the child is reintroduced to the group in a sensitive and non-punitive manner as soon as he or she has gained control.
- (k) Facilities that utilize mechanical restraint, in addition to taking the precautions listed for physical restraint in (i)1 through 7 above, shall:
1. Ensure that only leather restraints and soft handcuffs are utilized;
  2. Discuss with the facility's staff physician or consulting physician the appropriateness of utilizing mechanical restraints with the child and secure the physician's initial approval before utilizing such restraint for the child;
  3. Document in the child's treatment plan or record that other less restrictive practices have been considered and attempted before mechanical restraint was applied;
  4. Ensure that staff utilizing mechanical restraints have received training in the administration of these restraints;
  5. Instruct staff in the policies/procedures regarding the mechanical restraint, including the obligation to secure approval for each implementation of a mechanical restraint from the administrator and/or staff physician or consulting physician prior to implementing a mechanical restraint. Such approval shall be:
    - i. Documented in writing through signature by the administrator and/or staff physician or consulting physician; and
    - ii. Filed in the child's case record;
  6. Ensure that the child is protected and handled in a manner which avoids injury when applying mechanical restraint;
  7. Ensure that no more than one child is mechanically restrained in the same room or area at the same time;

8. Ensure that a staff member(s) remains at arm's length of the child and maintains visual contact at all times during the restraint or maintains visual contact utilizing a Bureau-approved television monitoring system;

9. Ensure that staff check the child's arms and legs every 15 minutes to prevent circulation problems;

10. Ensure that the child has access to toilet facilities;

11. Ensure that the child has access to all scheduled meals during the period restraints are being used;

12. Limit the use of mechanical restraint to no more than two consecutive hours and no more than four hours in a 24-hour period unless approval from a physician is obtained. The facility may request approval from the physician to exceed the time frame limitations for mechanical restraint when it appears that a child needs additional time to gain control of his or her behavior. A written copy of the physician's order to extend the time a child is placed in mechanical restraints shall be filed in the child's case record;

13. Have the child checked by a nurse or physician immediately afterward to ensure that the child has not suffered an injury. If a nurse or physician is not on grounds, the administrator on duty or staff member in charge shall immediately:

i. Contact the facility's on-call medical staff or the consulting physician; or

ii. Arrange a medical examination at the local hospital or clinic;

14. Explore other treatment options for a child whenever mechanical restraint proves ineffective or accelerates destructive/self-injurious behavior, including, but not limited to:

i. One-to-one staff supervision;

ii. Psychotropic medication, provided it is approved and prescribed by a physician; and/or

iii. Psychiatric hospitalization; and

15. Prohibit the use of the following types of mechanical restraints:

i. Straight jackets;

ii. Leg irons;

iii. Papoose boards;

iv. Ropes;

v. Metal handcuffs;

vi. Body wraps;

vii. Body tubes;

viii. Teflon handcuffs;

ix. Blanketing; and

x. Four and five point restraint.

(l) A facility that is accredited by the Joint Commission on Accreditation of Health Care Organizations (JCAHO) as a psychiatric hospital or facility and has a current contract with the Division may use four and five point restraint with a child. When the facility uses four or five point restraint, the facility shall comply with all the requirements for physical and mechanical restraint, with the exception of (k)15x above.

(m) A facility utilizing a behavior management room shall:

1. Ensure that the room:

i. Is unlocked at all times during its use;

ii. Is used for only one child at a time;

iii. Has floor space that provides a minimum of 70 square feet;

iv. Has a ceiling height of at least seven feet and six inches;

v. Has durable padded covering secured on the walls at least up to the six-foot level. The covering shall be made of a material that is fire retardant;

vi. Provides a minimum of 10 foot-candles of light in all areas of the room. All lighting fixtures shall have a protective covering to prevent tampering by a child;

vii. Has a door that is padded and equipped with a safety glass window to provide visibility of the room; and

viii. Has adequate ventilation that complies with local and state regulations;

2. Establish a written policy regarding the use of the behavior management room for children. This written policy shall specify:

i. Criteria for the use of this room, including those types of behavior that could result in the child's isolation;

ii. Those staff members who are authorized to place a child in the room;

iii. Procedures for ensuring the child's safety while confined in the room;

iv. Procedures for helping the child re-enter the group; and

v. Time frames governing a child's isolation in the room;