

CHAPTER 128**MANUAL OF REQUIREMENTS FOR
CHILDREN'S GROUP HOMES****Authority**

N.J.S.A. 30:1-14 and 15 and 30:4C-4.

Source and Effective Date

R.1996 d.118, effective January 31, 1996.
See: 27 N.J.R. 4266(a), 28 N.J.R. 1379(c).

Executive Order No. 66(1978) Expiration Date

Chapter 128, Manual of Requirements for Children's Group Homes, expires on January 31, 2001.

Chapter Historical Note

Chapter 128, Manual of Standards for Group Homes, became effective pursuant to authority of N.J.S.A. 30:1-12, 30:1-14 through 30:1-16 and 30:4C-4, August 9, 1977, as R.1977 d.287. See: 9 N.J.R. 277(c), 9 N.J.R. 433(b). Chapter 128, Manual of Standards for Group Homes, was repealed, and a new Chapter 128, Manual of Requirements for Children's Group Homes, was adopted by R.1991 d.66, effective February 19, 1991. See: 22 N.J.R. 2916(a), 23 N.J.R. 476(a).

Public Notice: Annual certification of facility standards pursuant to the Keys Amendment to the Social Security Act. See: 24 N.J.R. 656(a).

Public Notice: Annual certification of facility standards pursuant to the Keys Amendment to the Social Security Act. See: 25 N.J.R. 603(a).

Pursuant to Executive Order No. 66(1978), Chapter 128 was readopted as R.1996 d.118, effective January 31, 1996. See Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL PROVISIONS

10:128-1.1 Legal authority

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

(b) Under N.J.S.A. 30:1-14 and N.J.S.A. 30:4C-4, the Department of Human Services is authorized to inspect, evaluate, and approve publicly or privately operated homes 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 homes 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 group homes, as defined in this manual, except homes 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 group homes, as defined in this manual, that serve children under the supervision of the Division of Youth and Family Services. As a condition of approval by the Department, such group homes shall be licensed, certified, or otherwise approved to operate in the state where the home is located.

(d) In order to be approved, a children's group home 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 manual.

(e) Responsibility for ensuring that these homes comply with the provisions of the statutes cited in (a) above and of this manual 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 homes, as described in N.J.A.C. 10:128-1.2(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 homes 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 manual 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.

10:128-1.2 Definition and types of children's group homes

(a) "Children's group home" or "home" means any public or private establishment other than a foster home that provides board, lodging, care and treatment services on a 24-hour basis to 12 or fewer children in a homelike, community-based setting.

(b) Children's group homes that are subject to the provisions of this manual are classified as follows:

1. Group home, which serves from six to 12 children with emotional, social, physical and/or behavioral needs who do not require a more restrictive facility for their own protection or that of others;
2. Supervised transitional living home, which serves 12 or fewer children who are 16 years of age or older, require minimum guidance from staff members in preparation to live independently, and demonstrate maturity to function with minimal adult supervision;
3. Teaching family home, which serves 12 or fewer children with emotional, behavioral or other disabilities and which is certified or in the process of being certified as a teaching family home in accordance with the standards of the National Teaching Family Association. Teaching family homes are used for children who require strong professional support and guidance to participate in the life of the community, but who do not require a more restrictive facility for their own protection or that of others; and
4. Treatment home, which is an agency-operated residence serving five or fewer children who are capable of community living but who need a small group environment and intensive supervision by staff members in order to ameliorate emotional, social and/or behavioral difficulties.

Law Review and Journal Commentaries

Municipal Land Use—Group Homes. P.R. Chenoweth, 136 N.J.L.J. No. 10, 57 (1994).

Case Notes

Use of former single-family residence as group home for girls would not impermissibly expand nonconforming use. *Institute for Evaluation and Planning, Inc. v. Board of Adjustment*, 270 N.J.Super. 396, 637 A.2d 235 (L.1993).

10:128-1.3 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.

“Agency” means an organization which has received a certificate of approval from the Bureau to operate more than one group home, treatment home, and/or supervised transitional living home.

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

“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 children's group home.

“Denial of a certificate” means the withholding by the Bureau of an initial certificate of approval for which a home or agency 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 a home.

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

“Exclusion” means the removal of a child to an area or room in the home where there is limited or no stimulation. This removal is 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 home serving adolescent mothers.

“Manual of Requirements for Children's Group Homes” or “manual” means the provisions contained in N.J.A.C. 10:128-1.1 to 10.25. These provisions constitute minimum baseline requirements below which no home 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.

“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 group home, teaching family home, supervised transitional living home, or treatment home.

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

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

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

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

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

“Shall” denotes a provision of this manual that a home or agency must meet to qualify for a certificate of approval.

“Should” denotes a recommendation reflecting goals towards which a home or agency is encouraged to work.

“Staff member” or “staff” means any person employed by or working for or at a home 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 home’s current certificate of approval to operate.

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

Amended by R.1996 d.118, effective March 4, 1996.
See: 27 N.J.R. 4266(a), 28 N.J.R. 1379(c).

SUBCHAPTER 2. APPROVAL PROCEDURES

10:128-2.1 Application for a certificate of approval

(a) No person shall operate a children’s group home 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 homes that are subject to licensing or regulatory approval pursuant to State law by any other New Jersey State agency.

1. Each group home and supervised transitional living home serving six or more children and each teaching family home regardless of capacity shall obtain an individual certificate of approval.

2. Each agency operating more than one treatment home or more than one supervised transitional living home serving five or fewer children shall secure and maintain a single certificate for all such homes in its program. The Bureau-approved agency shall ensure and document that individual treatment homes and supervised transitional living homes serving five or fewer children comply with the provisions of this manual.

3. A single treatment home or supervised transitional living home serving five or fewer children and that is not part of a network or agency shall receive approval from the Division’s Regional Office in the region in which the home is located.

(b) A home or agency 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. 10:128-4.1(a), (b) and (c), at least 45 calendar days prior to the anticipated opening of a home.

(c) A home or agency 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. 10:128-4.1(d), at least 45 calendar days prior to the expiration of its existing regular certificate.

Case Notes

Use of former single-family residence as group home for girls would not impermissibly expand nonconforming use. *Institute for Evaluation and Planning, Inc. v. Board of Adjustment*, 270 N.J.Super. 396, 637 A.2d 235 (L.1993).

10:128-2.2 Issuance of a certificate of approval

(a) The Bureau shall issue a regular certificate of approval to a home or agency that has achieved full compliance with all applicable provisions of this manual.

(b) If the Bureau determines that a home or agency is in substantial compliance with, but does not meet all applicable provisions of, this manual, 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 home or agency and indicate in writing the steps the home or agency 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 home or agency 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.

10:128-3.8 Records

(a) The home's or agency's records shall be open for inspection by authorized representatives of the Bureau, the Division's Institutional Abuse Investigation Unit (IAIU), the Division's contracting units and, provided that they may only secure information about children under the Division's supervision, Division case managers.

(b) The home or agency shall maintain on file the following administrative records until the expiration of its regular certificate of approval:

1. The following records shall be maintained in files located either at an agency's administrative office or at the home:

i. A record of comprehensive general liability insurance, as specified in N.J.A.C. 10:128-3.9;

ii. A record of performance of required monthly fire drills and/or evacuation drills, as specified in N.J.A.C. 10:128-4.5(c);

iii. A record of training sessions for staff members on evacuation procedures, the use of fire extinguishers, the location of fire alarms, and emergency medical procedures, as specified in N.J.A.C. 10:128-5.4(a)3;

iv. A copy of the home's or agency's vehicle insurance policy, as specified in N.J.A.C. 10:128-8.2; and

v. Transportation records, if transportation is provided to children residing in the home, as specified in N.J.A.C. 10:128-8.4.

2. The following records shall be maintained in files located at the home:

i. A current manual;

ii. A statement of purpose, as specified in N.J.A.C. 10:128-3.1 and 9.2;

iii. The Life/Safety and Program Inspection/Violation reports and Complaint Investigation Summary reports if applicable from the Bureau, as well as letters of enforcement or other actions taken against the agency or home if applicable, that cover the current certificate of approval period;

iv. The document providing information to parents, as specified in N.J.A.C. 10:128-3.3(a);

v. A record of each parent's signature attesting to the receipt of the information to parents document, as specified in N.J.A.C. 10:128-3.3(b)1;

vi. Documentation of the use of extermination services, if applicable, as specified in N.J.A.C. 10:128-4.3(a)7;

vii. Policies and procedures regarding behavior management, as specified in N.J.A.C. 10:128-6.13, 6.14 and 10.14;

viii. A record of in-service training conducted for staff members, as specified in N.J.A.C. 10:128-5.4 and 10.3;

ix. A record of all incidents and accidents, recorded on incident and accident report forms, noting all details of the incident and accident and any actions taken by the staff members, as specified in N.J.A.C. 10:128-6.13, 7.3(b) and 9.3(a) and (b);

x. A copy of the comprehensive health plan, as specified in N.J.A.C. 10:128-7.1, 10.15 and 10.16;

xi. Copies of menus of food served to the children, including special diets, as specified in N.J.A.C. 10:128-6.11 and 10.24;

xii. Aggregate statistical information on children served, including the date of each admission, date of each discharge, and reason for each discharge, as specified in N.J.A.C. 10:128-5.2(a)10;

xiii. A record of signed parental consent for children's participation in fund-raising, publicity, photography, or audiovisual activities related to the home, as specified in N.J.A.C. 10:128-3.2(a)11;

xiv. A copy of the children's grievance procedures, as specified in N.J.A.C. 10:128-3.2(d);

xv. A record of signed parental consent for medical treatment for each child, as specified in N.J.A.C. 10:128-3.6(b);

xvi. A daily log book, in which an on-duty staff member shall comment on the activities and events of each day and staff member response to those events, as specified in N.J.A.C. 10:128-5.2;

xvii. A daily log book, a separate log book or notation in the child's case record, in which all visits to the child shall be recorded, as specified in N.J.A.C. 10:128-5.2;

xviii. A copy of the staff members' work schedules and time sheets, as specified in N.J.A.C. 10:128-5.2;

xix. A medication log book, as specified in N.J.A.C. 10:128-7.4, 7.5 and 10.20;

xx. For group homes, a written daily schedule of planned recreational, leisure time and physical exercise activities, as specified in N.J.A.C. 10:128-6.8(b) and 10.11;

xxi. A record of pet vaccinations and the name and address of the licensed veterinarian providing care for the pets, as specified in N.J.A.C. 10:128-6.12;

xxii. A copy of the parenting education curriculum, as specified in N.J.A.C. 10:128-10.8;

xxiii. Documentation of the information received from the National Weather Service and park service, as specified in N.J.A.C. 10:128-9.1(o) and (p);

xxiv. A copy of the plan for emergency evacuation procedures, as specified in N.J.A.C. 10:128-9.2(a);

xxv. A copy of the plan for search and rescue procedures, as specified in N.J.A.C. 10:128-9.2(b);

xxvi. Copies of biking permits, as specified in N.J.A.C. 10:128-9.4(a);

xxvii. Documentation that permission was obtained to enter a cave from the owner or public authority, as specified in N.J.A.C. 10:128-9.6(c);

xxviii. Documentation on the care of horses, as specified in N.J.A.C. 10:128-9.8(c);

xxix. Documentation on the safety of ropes used in climbing, as specified in N.J.A.C. 10:128-9.9(d);

xxx. A copy of the plan for boating activities, as specified in N.J.A.C. 10:128-9.10;

xxxi. Copies of all permits, certificates or licenses for camping, as specified in N.J.A.C. 10:128-9.15;

xxxii. A copy of the policy for treating snake, animal and insect bites and ingestion or contact with poisonous plants, as specified in N.J.A.C. 10:128-9.17(c);

xxxiii. A copy of the plan and procedures that enable children to receive an emergency message, and send and receive mail, as specified in N.J.A.C. 10:128-9.20(c);

xxxiv. Documentation that children were permitted to make free telephone calls, as specified in N.J.A.C. 10:128-9.20(e);

xxxv. A copy of the policy for visiting and communication for parents, as specified in N.J.A.C. 10:128-9.20(g); and

xxxvi. A copy of the feed plan for horses, as specified in N.J.A.C. 10:128-9.8 and 9.16.

(c) The home or agency shall maintain on file the following staff records throughout a staff member's employment and for one year after the staff member has stopped working at the home.

1. The following records for the director and all staff members shall be maintained in files located either at an agency's administrative office or at the home:

i. Applications for employment, as specified in N.J.A.C. 10:128-5.1(b) and 9.18;

ii. References on the director and staff members, as specified in N.J.A.C. 10:128-5.1(b) and 9.18;

iii. A record of each staff member's signature attesting to his or her receipt of the policy statement on the disciplining of children by staff members, as specified in N.J.A.C. 10:128-3.3(b);

iv. A record of each staff member's signature attesting to his or her receipt of the information to parents document, as specified in N.J.A.C. 10:128-3.3(b);

v. Health information, as specified in N.J.A.C. 10:128-7.8; and

vi. A copy of a home study, as specified in N.J.A.C. 10:128-5.1(b)3.

2. The following staff records shall be maintained in files located at the home:

i. Current staff member attendance sheets;

ii. Reasons for discontinuance of employment, if applicable, as specified in N.J.A.C. 10:128-5.1;

iii. A full written disclosure of the director's and every staff member's background, previous work experience and criminal convictions, if any, as specified in N.J.A.C. 10:128-5.1(b) and 9.18;

iv. Documentation that every staff member received and reviewed a copy of the home's statement of purpose, grievance policy, children's bill of rights, fireplace policy and search and seizure policy, as specified in N.J.A.C. 10:128-3.1(b) and 3.3(b);

v. A written annual performance evaluation, as specified in N.J.A.C. 10:128-5.2; and

vi. Documentation of training received by staff members, as specified in N.J.A.C. 10:128-5.4 and 10.3.

(d) The home shall maintain on file the following children's records during the child's placement at the home or agency for at least three years following the discharge of the child.

1. The home or agency shall ensure the confidentiality of the following records for each child, in accordance with New Jersey State law:

i. Identifying information, as specified in N.J.A.C. 10:128-3.6(b) and (c);

ii. A copy of each treatment plan developed for the child, for group homes, teaching family homes or treatment homes as specified in N.J.A.C. 10:128-6.1; a copy of the case management plan for supervised transitional living homes, as specified in N.J.A.C. 10:128-6.3; and a copy of the case management plan for homes that serve pregnant and parenting adolescents, as specified in N.J.A.C. 10:128-10.4;

iii. Education records, as specified in N.J.A.C. 10:128-6.7;

iv. Reports of incidents, including, but not limited to, acts of aggression, violent or destructive behavior, discovery of contraband, suicidal threats, discovery of a weapon, inappropriate sexual behavior, involvement with the police and documentation of efforts made to locate runaways, as specified in N.J.A.C. 10:128-6.13, 6.14, 6.15 and 6.16;

v. Reports of accidents, as specified in N.J.A.C. 10:128-7.3 and 9.3(a) and (b);

vi. Documentation of the opening of a child's mail by a home staff member, as specified in N.J.A.C. 10:128-6.6;

vii. Medical records, as specified in N.J.A.C. 10:128-7.2 and 9.17(a) and (b);

viii. Explanations of medical treatment, as specified in N.J.A.C. 10:128-10.19;

ix. A discharge summary, as specified in N.J.A.C. 10:128-6.2 and 10.5;

x. An aftercare plan, as specified in N.J.A.C. 10:128-6.2 and 10.5;

xi. An infant's feeding schedule, as specified in N.J.A.C. 10:128-10.24;

xii. Documentation that an adolescent mother received life skills development training, as specified in N.J.A.C. 10:128-10.25; and

xiii. Documentation that a child received information on adventure activities, as specified in N.J.A.C. 10:128-9.1(c).

2. The home or agency shall ensure that all entries in the child's record indicate the entry date and the name and signature of the person making the entry.

10:128-3.9 Comprehensive general liability insurance

A home or agency shall secure comprehensive general liability insurance coverage and shall maintain on file a copy of the insurance policy.

SUBCHAPTER 4. PHYSICAL FACILITY REQUIREMENTS

10:128-4.1 Physical facility initial approval requirements for all homes located in New Jersey

(a) An applicant seeking an initial certificate of approval, as specified in N.J.A.C. 10:128-2.1, to operate a home shall comply with all applicable provisions of the New Jersey Uniform Construction Code, as specified in N.J.A.C. 5:23 and hereinafter referred to as the NJUCC.

1. For newly constructed buildings, for existing buildings whose construction code use group classification would change from that which it had been, or for existing buildings that require major alteration or renovation, the home or agency shall submit to the Bureau a copy of a Certificate of Occupancy (CO) issued by the municipality in which it is located, reflecting the home's compliance with provisions of the NJUCC, for one of the following use group classifications:

i. R-2 (Residential) for buildings accommodating children 2½ years of age and older for more than 30 calendar days and having a total occupancy of more than five and fewer than 13 children; or

ii. I-2 (Institutional) for buildings accommodating six or more children less than 2½ years of age.

2. For homes or agencies that are planning to construct a new building, the home or agency shall submit to the Bureau:

i. Preliminary architectural drawings for review and comment prior to beginning construction; and

ii. If applicable, revised architectural or final drawings containing all required items listed in the preliminary plan review for final approval from the Bureau before the home can open.

3. For buildings constructed after the adoption of the NJUCC (1977), whose construction code use group classification is already R-2 or I-2 and that have not had major alterations or renovations since receipt of the CO, the home or agency shall obtain the CO issued by the municipality in which it is located at the time the building was originally constructed or approved for use in the NJUCC's R-2 or I-2 use group classification. The home or agency shall submit a copy of the building's CO to the Bureau.

4. For existing buildings, whose use prior to the adoption of the NJUCC (before 1977) was and continues to be for a home and that have not had major alterations or renovations, the home shall obtain a Certificate of Continued Occupancy (CCO) or a letter to this effect, issued by the municipality in which it is located, reflecting the building's compliance with provisions of the municipality's construction code requirements that were in effect at the time it was originally constructed or converted for use as a home. The home or agency shall submit a copy of the building's CCO or letter reflecting the building's compliance to the Bureau.

5. The home or agency shall obtain a new CO issued by the municipality in which it is located, reflecting the building's compliance with provisions of the applicable NJUCC use group classification, and submit a copy of the new CO to the Bureau whenever it takes any of the following actions:

i. Changes the building's use group classification to one other than the one prescribed on its original CO;

ii. Makes a major alteration or renovation, as defined by the NJUCC, of the building or premises where the home is located;

iii. Increases the floor area or the number of stories to the building or premises where the home is located; or

iv. Relocates to another site.

6. Whenever a municipality grants a home a written variation from any of the requirements of the NJUCC, the Bureau may accept such variations as meeting the applicable requirements of this manual.

(b) An applicant seeking an initial approval, as specified in N.J.A.C. 10:128-2.1, to operate a home shall comply with all applicable provisions of the New Jersey Uniform Fire Code, as specified in N.J.A.C. 5:18, 18A and 18B and hereinafter referred to as the NJUFC. The home or agency shall obtain the building's fire safety inspection certificate issued by the municipality in which it is located, based on a fire inspection conducted within the preceding 12 months, reflecting the home's compliance with all applicable provisions of the NJUFC. The home or agency shall submit a copy of the building's fire safety inspection certificate to the Bureau.

(c) An applicant seeking an initial approval, as specified in N.J.A.C. 10:128-2.1, to operate a home shall comply with all applicable provisions of the State Sanitary Code, as specified in N.J.A.C. 8:24. The home or agency shall obtain a certificate or statement of satisfactory health approval issued by the applicable municipal, county or State health agency, based on a health inspection conducted within the preceding 12 months, certifying that the home complies with applicable provisions of local, county and State health codes and poses no health hazard to the children served. The home or agency shall submit a copy of the certificate or statement of satisfactory health approval to the Bureau.

(d) An applicant seeking the renewal of a certificate of approval to continue operating a home shall obtain and submit to the Bureau, copies of:

1. A current fire safety inspection certificate for the building; and
2. A current certificate or statement of satisfactory health approval for the home.

10:128-4.2 Physical facility initial approval requirements for all homes located outside of New Jersey

(a) A home located in a state other than New Jersey shall submit with each application documentation that the home meets the provisions of all applicable codes governing building, fire, safety and health requirements in the state, county and municipality in which the home is located.

(b) All homes located in a state other than New Jersey shall also comply with the physical facility and life-safety requirements specified in N.J.A.C. 10:128-4, with the exception of N.J.A.C. 10:128-4.4(c), (f)3, (g), (h), (i), and (l).

10:128-4.3 Maintenance and sanitation requirements for all homes

(a) The home shall maintain all indoor areas in a safe and sanitary manner by ensuring that:

1. The home is free of moisture resulting from water leaks or seepage;
2. All lally columns in areas used by the children have protective padding from the floor to a height of at least 72 inches;
3. Floors, walls, ceilings and other surfaces are kept clean and in good repair;
4. Stairways are free of hazards such as boxes, loose steps, torn carpeting or raised strips;
5. Carpeting is secured to the floor;
6. Garbage and food receptacles are:
 - i. Made of durable, leakproof and nonabsorbent materials;
 - ii. Covered in a secure manner;
 - iii. Emptied to the outdoor garbage receptacle when filled; and
 - iv. Lined and maintained in a sanitary manner;
7. The home is free of rodent or insect infestation. If there is evidence of rodent or insect infestation, immediate action shall be taken to remove such infestation. The home shall maintain on file a record documenting the use of extermination services in these incidences;
8. Toilets, wash basins, kitchen sinks, and other plumbing are maintained in good operating and sanitary condition;
9. All corrosive agents, insecticides, bleaches, detergents, polishes, any products under pressure in an aerosol can, and any toxic substance are stored in a locked cabinet or in an enclosure located in an area not accessible to children under six years of age;
10. Ventilation outlets are clean and free from obstructions, and filters are replaced when saturated;
11. Walls are painted or otherwise covered whenever there is evidence of:
 - i. Excessive peeling or chipped paint; or
 - ii. Heavily soiled conditions; and
12. All shelving is secured and not overloaded.

(b) The home shall maintain all outdoor areas in a safe and sanitary manner by ensuring that:

1. The building, land and outdoor play area are free from any hazards to the health, safety or welfare of the children;
2. The outdoor play area is graded or provided with drains to dispose of surface water;
3. The building structure is maintained to prevent:
 - i. Water from entering;

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 Bureau.

7. Substantiation of the child abuse and neglect allegation by the Division's IAIU shall not, in itself, automatically result in the termination of the accused director or staff member from his or her position in the home, but shall constitute grounds for possible termination if the person's continued employment at the home 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 and available.

(h) The home or agency 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 needs of the children for medical, dental, and psychological services are met; and
2. Be licensed to practice in the state where the staff member or community provider is located, if required by the laws of that state.

10:128-5.2 Staff qualifications

(a) Group homes, supervised transitional living homes and treatment homes shall have a full-time agency administrator or home director, social service workers and house parents or child care staff members, who shall meet the requirements in (c) through (e) below.

(b) Teaching family home programs shall have a full-time program administrator, teaching family consultants and teaching family parents, who shall meet the requirements in (g) through (j) below.

(c) The full-time agency administrator or home director 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;

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

iv. Meet the requirements for a licensed clinical social worker or a licensed social worker as specified in N.J.A.C. 13:44G-4.1 and 4.2 and have three years of professional experience in the human services field; or

v. Meet the requirements for a certified social worker as specified in N.J.A.C. 13:44G-4.3, have a bachelor's degree in social work, psychology or related field from an accredited college or university and have three years of professional experience in the human services field, one of which shall have been in a supervisory or administrative position.

3. Be responsible for implementing the overall planning, operation, and management of the home, including the home'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 personnel 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 member's 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;

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; and

11. If qualified under (c)2i, ii, or v above, not supervise a licensed clinical social worker, licensed social worker or certified social worker.

(d) A social worker or staff member who provides social services shall:

1. Be at least 21 years of age;
2. Provide at least two hours of service per week to each child, including, but not limited to, casework services, intake, treatment planning, family contacts, group work services, and maintenance of each child's record; and
3. Have one of the following qualifications:
 - i. Meet the requirements for a licensed clinical social worker, licensed social worker or certified social worker as specified in N.J.A.C. 13:44G-4.1 and 4.2 and

have a minimum of one year professional experience in the human services field;

ii. 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, except that any person who does not meet the qualifications in (d)3i above and provides services as specified in (d)2 above, shall:

(1) Only provide social work services in the course of employment with the home;

(2) Not provide psychotherapeutic counseling to residents;

(3) Not advertise or represent themselves as a licensed clinical social worker, licensed social worker or certified social worker; or

(4) Not use any title or name, the use of which is restricted by N.J.S.A. 45:15BB-4 of the Social Worker's Licensing Act; or

iii. A master's degree from an accredited graduate school in social work, psychology or a related field, except that any person who does not meet the qualifications in (d)3i above and provides services as specified in (d)2 above, shall:

(1) Only provide psychotherapeutic counseling under the supervision of a licensed clinical social worker or other State-licensed mental health professional;

(2) Not advertise or represent themselves as a licensed clinical social worker, licensed social worker or certified social worker; or

(3) Not use any title or name, the use of which is restricted by N.J.S.A. 45:15BB-4 of the Social Worker's Licensing Act; or

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

(e) The house parents or child care staff members 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. 10:128-6.1, 6.2 and 6.3; 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.

(f) Group homes and supervised transitional living homes may hire persons who do not meet the qualifications specified in (e)4 above, but who offer a background or life experience that demonstrate characteristics, skills and attributes that would enable them to work with children in a positive manner. The home or agency shall develop and maintain on file a policy that delineates the criteria for hiring staff members who do not meet the qualifications specified in (e)4 above. Such criteria shall include, but not be limited to, the following:

1. The person shall have life experiences that deal with raising a child, providing foster care, participating in volunteer activities with a child or adopting a child;

2. The person shall exhibit characteristics, skills and attributes that would enable him or her to work effectively and sensitively with emotionally disturbed or handicapped children in a group setting; and

3. The person, after he or she is hired, shall work together with an experienced staff member for an initial probationary period of at least six months unless terminated for cause prior to completing the six-month probationary period. After this initial six month period has ended, the home or agency shall review the person's work performance, document his or her ability to continue work without being supervised by an experienced staff member and may either:

i. Appoint the probationary staff member to fill the position as a child care staff member;

ii. Extend the initial six-month period to further evaluate the performance of the probationary staff member and continue to have the probationary staff member supervised by an experienced staff member; or

iii. Terminate the probationary staff member after the initial six-month period or any extension of the initial six-month period for failing to perform the job duties and responsibilities of the position.

(g) The teaching family home program administrator shall:

1. Meet the qualifications specified in (c)1 and 2 above;

2. Provide the Bureau with current listings of teaching family consultants and the homes to which they are assigned;

3. Ensure that the teaching family homes comply with all applicable provisions of this manual;

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

5. Be on call to assist the teaching family consultants in admissions, emergencies and personnel or other problems;

6. Be responsible for ensuring that all teaching family consultants receive an annual performance evaluation; and

7. Assist in the recruitment and training of teaching family parents.

(h) The teaching family consultants shall:

1. Be at least 21 years of age;

2. Meet the requirements of the State Department of Personnel for the position; and

3. Be responsible for ensuring that the teaching family parents perform the duties specified in (i) below.

(i) The teaching family parents and relief staff shall:

1. Be at least 18 years of age;

2. Implement the overall planning, operation and management of the home;

3. Maintain all staff members' work schedules, time sheets, and/or payment vouchers for relief staff;

4. Maintain a daily log book, separate log book or record in the child's case record of all visits to children;

5. Complete entries in the daily log book that reflect the activities and events of each day;

6. Maintain aggregate statistical information on children served, including the date of each admission, date of each discharge, and reason for each discharge; and

7. Meet all the requirements specified in (e) above.

(j) Teaching family home staff members shall meet staff training and certification requirements of the National Teaching Family Association.

Amended by R.1996 d.118, effective March 4, 1996.
See: 27 N.J.R. 4266(a), 28 N.J.R. 1379(c).

10:128-5.3 Staff to child ratios

(a) Group homes and supervised transitional living homes shall meet the following staff to child ratios:

1. The home shall have at least one staff member present in the home or reachable by telephone when the home is in operation but the children are not in the home on a particular day.

2. The home shall have at least one staff member for every 12 or fewer children when the children are awake and present in the home and when the children are participating in an activity organized by the home.

3. The home shall have at least one staff member on duty when there are 12 or fewer children in the home and the children are asleep.

i. In a single-sex home, the staff member may be asleep.

ii. In a coed home, the staff member shall be awake.

iii. An additional staff member shall be available to provide emergency in-person coverage within 30 minutes.

(b) Teaching family homes, supervised transitional living homes serving six or fewer children and treatment homes shall have:

1. One staff member on duty whenever a child is scheduled to be present in the home;

2. One staff member as identified in (b)1 above who is accessible by telephone or beeper at all times when the home is in operation and the children are not present; and

3. One staff member who can provide emergency in-person coverage within 30 minutes.

10:128-5.4 Staff training and development

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

1. The home's statement of purpose, as specified in N.J.A.C. 10:128-3.1;

2. The home's behavior management policy and search and seizure policy, if any, as specified in N.J.A.C. 10:128-6.14 and 6.15;

3. Emergency procedures, as specified in N.J.A.C. 10:128-4.5(a), (b) and (c);

4. Protocols for medication, as specified in N.J.A.C. 10:128-7.4 and 5;

5. Infection control procedures, as specified in N.J.A.C. 10:128-7.8; and

6. The home's techniques for safe physical restraint, if applicable, as specified in N.J.A.C. 10:128-6.13(e)6.

(b) The home 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 home.

(c) The home 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 12 hours of training each year in the following areas:

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

(d) The home's training plan may include in-depth discussions at staff meetings or attendance at workshops or conferences.

10:128-5.5 Volunteers and student interns

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

(d) The home shall require references, as specified in 10:128-5.1(b)2, for volunteers and student interns who provide activities or transportation to a child by themselves.

iii. Staff members representing the child care component;

iv. Staff members representing the administration of the home, if necessary;

v. Representatives from the child's responsible school district and/or current school district, if necessary;

vi. The Division's case manager; and

vii. The child's parents, if appropriate.

2. For teaching family homes:

i. Staff members representing the clinical component, if applicable;

ii. Teaching parents and any alternate teaching family staff members;

iii. The teaching family consultant who shall attend the initial treatment planning meeting and shall attend at least one subsequent meeting every year;

iv. Representatives from the child's responsible school district and/or current school district, if necessary;

v. The Division's case manager; and

vi. The child's parents, if appropriate.

(c) Group homes, teaching family homes and treatment homes shall document in the child's record that the Division's case manager or other placing agency, the child's therapist, parents or legal guardian and the child's responsible and/or current school district, if appropriate, were invited to participate as members of the treatment team and assist in the development of the treatment plan and all subsequent revisions.

(d) Group homes, teaching family homes and treatment homes shall develop the initial treatment plan within 30 calendar days following a child's admission, implement the treatment plan for three months and review or revise the treatment plan at least every three months thereafter.

(e) The treatment plan shall include the following information:

1. The name of the child;

2. The date of the child's admission;

3. Updated medical and dental examinations, as specified in N.J.A.C. 10:128-7.2;

4. The date when the plan is developed or revised;

5. The names and titles of all persons attending the development or review meeting;

6. The child's social, familial, emotional, behavioral, and academic strengths and weaknesses;

SUBCHAPTER 6. PROGRAM REQUIREMENTS

10:128-6.1 Treatment plan for children in group homes, teaching family homes and treatment homes

(a) Group homes, teaching family homes and treatment homes 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 that led to the child's placement.

(b) Group homes, teaching family homes, and treatment homes 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. For group homes and treatment homes:

i. Staff members representing the clinical component;

ii. Staff members representing the social work component;

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 each day 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 curtains, blinds or shades.

10:128-6.11 Food and nutrition for children

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

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

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

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

4. The home shall provide table service for children.

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

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

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

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

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

10:128-6.12 Pets

(a) The home shall ensure that pets kept by or located in the home, 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 home, 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 home 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 home shall ensure that all pet dishes, food and equipment used for pets are kept out of the home'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 home shall take corrective action that is approved by the licensing agency.

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

10:128-6.13 Restrictive behavior management practices

(a) Homes 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 home shall:

1. Obtain written approval from the Bureau for any restrictive behavior management practice that the home 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 home shall:

1. Explain to the parents, the child, 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 each restrictive behavior management practice from the child's parents.

(d) The home 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 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 home shall:

1. Refrain from utilizing the practice 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 other placing agency or through legal action, if necessary to protect the best interests of the child.

(f) The home 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 home shall send a letter to the child's parents and 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 treatment; and

3. Invite them to the treatment planning meeting to discuss the child's program and progress.

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

(i) Homes 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 only use physical restraint techniques and holds, such as the basket hold or restraining the child in the prone position and only when the child:

- i. Has received a medical examination that documents that the child is in good health; and

- ii. Does not have a documented respiratory ailment such as asthma, a spinal condition, fractures, seizure disorder or other physical condition that would preclude the child from being restrained, 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. The date and time of day the restraint occurred;

- iii. The name(s) of all staff members involved in the restraint;

- iv. Precipitating factors that led to the restraint;

- v. Other non-restraint interventions attempted;

- vi. The time the restraint ended;

- vii. The condition of the child upon release; and

- viii. A 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. If needed, discussed with the staff member involved in the restraint incident 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; and
- vii. Allowing other children to assist in the restraint.

(j) Homes 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 has no record of 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 10 minutes and is within hearing distance of a child when the child is removed from the group;

5. Ensure that the home does not utilize a closet, bathroom, unfinished basement, unfinished attic or locked room when excluding a child from the group;

6. Ensure that the exclusion of a child from the other children does not exceed 30 consecutive minutes, unless there is direct verbal contact by a staff member to assess if the child is ready to return to the other children prior to the end of the 30 minutes and a child is not excluded from the group for more than a total of two hours in a 24-hour period;

7. Document each exclusion of a child in an incident report that reflects the following:

- i. The name of the child;
- ii. The date and time of day the exclusion occurred;
- iii. The name(s) of all staff members observing the child;
- iv. Precipitating factors that led to the exclusion;
- v. Other intervention attempted;

vi. The time the exclusion ended; and

vii. The 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) The home shall not utilize mechanical restraint on any child, such as:

- 1. A straight jacket;
- 2. Leg irons;
- 3. A papoose board;
- 4. A rope;
- 5. Metal handcuffs;
- 6. Body wraps;
- 7. Body tubes;
- 8. Teflon handcuffs;
- 9. Blanketing; and
- 10. Four and five point restraint.

(l) The home shall not have a behavior management room, which is a room specifically designed and constructed for the isolation of children.

Amended by R.1996 d.118, effective March 4, 1996.
See: 27 N.J.R. 4266(a), 28 N.J.R. 1379(c).

10:128-6.14 Discipline and control

(a) The home shall develop house rules to help the children develop self-control and conform to acceptable patterns of social behavior.

- 1. The home shall put the house rules in writing.
- 2. The house rules shall include a rationale for such rules and delineate the consequences for infractions.
- 3. The home shall explain its disciplinary practices individually with each child at the time the child is placed in the home.
- 4. The house rules shall be maintained on file in the home and made available to parents, as specified in N.J.A.C. 10:128-3.3.
- 5. The house rules may be incorporated in the child's bill of rights, as specified in N.J.A.C. 10:128-3.2.

(b) The home shall assign responsibility for the discipline, control, and supervision of children to staff members and shall not delegate that responsibility to other children.

(c) The home shall not threaten discipline or administer discipline to a child for the misbehavior of another child or group of children.

(d) The home shall prohibit the following types of punishment from being used on a child:

1. Any type or threat of physical hitting or the use of corporal punishment;
2. Forced physical exercise or forcing a child to take an uncomfortable position;
3. Subjection to verbal abuse, ridicule, humiliation, or other forms of degradation;
4. Deprivation of meals, sleep, mail, clothing appropriate to the season or time of day, or verbal communication;
5. Mechanical or chemical restraint;
6. Assignment of overly strenuous physical work;
7. Exclusion from any essential program or treatment service, such as education or clinical treatment;
8. Refusal or entry to the residence;
9. Temporary suspension and return of a child from the home to a parent, relative, foster home, or shelter, unless approved by the placing agency; and
10. Seclusion in a locked room.

10:128-6.15 Search and seizure of weapons and contraband

(a) Homes may conduct searches for weapons or contraband, provided that they maintain on file in the home written policies and procedures that are consistent with the requirements of this manual.

1. The home shall define contraband to include illegal drugs, unauthorized property, stolen property or items otherwise obtained illegally.
2. The home shall explain the policy and distribute copies of the written policy to children and their parents upon admission and at least annually thereafter.
3. The home shall specify the actions that it will take when weapons or contraband are found.

(b) The home shall prohibit all staff members, consultants and volunteers from strip searching a child for any reason.

(c) The home shall permit frisk searches (surface searches of outer clothing) of a child only where there is reasonable suspicion that the child is in possession of a weapon.

1. The home shall prohibit staff members from reaching into a child's pockets unless the frisk search confirms the reasonable belief that the child is in possession of a weapon.

2. The home shall not frisk search a child who is suspected of possessing illegal drugs or contraband other than a weapon.

3. The home shall ensure that any frisk search is conducted:

- i. In the presence of two staff members, one of whom has supervisory or administrative responsibilities in the home; and
- ii. Only by staff members of the same sex as the child. If same sex staff members are not available, staff members shall provide one-to-one supervision of the child, until the search can be properly conducted.

(d) When the home has reasonable suspicion that a child is carrying illegal drugs or other contraband in a garment, pocket, purse, or other possession within the child's immediate control, the home shall ensure that the staff member:

1. Asks the child voluntarily to empty any garment, pocket, purse or other possession;
2. Inspects all such items that are in plain view; and
3. Summons a law enforcement officer to conduct a lawful search of the possessions within the child's immediate control whenever the child refuses a voluntary search by the home staff member.

(e) The home may conduct periodic, unannounced searches of a child's room and other possessions not within a child's immediate possession or control if:

1. The home has explained and documented this practice to the child and his or her parents, as specified in N.J.A.C. 10:128-3.3 and 3.6;
2. The search is conducted in the presence of two staff members, one of whom has supervisory or administrative responsibility; and
3. The home allows the child an opportunity to be present during a search. If the child declines the opportunity, the staff members may conduct the search in the child's absence.

(f) When unannounced room searches occur, as specified in (e) above, the home shall verify which child is responsible for any weapon or contraband brought into the home before imposing a consequence on the child.

(g) Before a home conducts a blood or urine screening on a child to determine substance abuse, the home shall ensure that:

1. Substance abuse screenings are conducted only under the following limited circumstances:
 - i. When screening is ordered by the court;
 - ii. When the home is specifically designated as a drug treatment facility; or

iii. When ordered by a physician who has determined that such screening is necessary; and

2. Substance abuse screenings are conducted only if:

i. The home has informed the child and parents, if available, beforehand about the screening;

ii. The home uses a licensed laboratory, clinic or an FDA-approved home drug screening/testing kit to conduct the screening, including drawing the sample and completing the analysis;

iii. The home ensures that the child has privacy when a urine sample is collected, unless the home documents that the child has a history of falsifying samples. If the child has such a history, the home shall request appropriate medical staff or a staff member from the home of the same sex as the child to witness or verify that the child is not falsifying samples; and

iv. The home verifies the accuracy of all positive tests through a second screening; and

3. Substance abuse screenings are discontinued whenever previous screenings result in three consecutive negative readings after the initial positive reading was documented, unless a court order requires continued screenings.

(h) The home shall maintain on file an incident report for every instance involving a frisk search of a child, a staff member's request for a child to empty a possession within the child's immediate control, a room search resulting in the discovery of weapons, illegal drugs or other contraband, and a blood or urine screening.

Amended by R.1996 d.118, effective March 4, 1996.
See: 27 N.J.R. 4266(a), 28 N.J.R. 1379(c).

10:128-6.16 Firearms and weapons

(a) The home shall not maintain any firearm, chemical or other weapon within or on the grounds of the home.

(b) The home shall prohibit any staff member or child to possess any firearm, chemical or other weapon within or on the grounds of the home.

(c) As an exception to the requirements in (a) and (b) above, treatment homes and teaching family homes that are not State-owned may maintain a weapon, if they meet the following requirements:

1. The treatment home parents and teaching family home parents shall provide documentation that all weapons in the home that are required to be registered according to State law have the proper license;

2. The treatment home parents and teaching family home parents shall sign a statement that they will not share or expose the weapon to the children in the home; and

3. The treatment home parents and teaching family home parents shall store all weapons in a Bureau-approved, locked, steel gun vault.

SUBCHAPTER 7. HEALTH REQUIREMENTS

10:128-7.1 Comprehensive health plan for children

(a) The home shall prepare and implement a comprehensive health plan to ensure that each child's medical, dental, and other health needs are met adequately and promptly.

1. The home shall identify a physician or health care organization who will assume responsibility for routine medical care of each child.

2. The home shall arrange for emergency, routine and follow-up medical care for each child.

10:128-7.2 Health care and medical treatment for children

(a) Within 72 hours after admission, the home shall ensure that each child receives a medical examination, as defined in (d) below, unless the child had received such a medical examination within 30 calendar days prior to his or her placement.

(b) When the home suspects that a child is ill or carrying a contagious disease, the child shall be examined by a physician prior to admission.

(c) When the home suspects that a child has been abused or neglected the home shall ensure that the child is examined by a physician immediately upon admission.

(d) The home shall ensure that each child receives an annual comprehensive physical examination and maintain a copy of this physical examination in the child's record.

1. The physical shall include, but is not limited to:

i. A measurement of height and weight;

ii. A determination of blood pressure;

iii. An objective vision screening which uses a Titmus or Snellen test, or equivalent;

iv. A hearing screening using an audiometer and, if indicated, tympanometry;

v. A hematocrit or Hemoglobin test, if indicated; and

vi. A urinalysis, if indicated.

2. The home may use vision and screening tests completed at the child's school if these tests meet the requirements specified in (d)1iii and iv above.

3. The home shall ensure that eye glasses, orthopedic apparatus or other equipment is available to each child who requires them.

4. The home shall ensure that all children 13 years of age and under receive a Mantoux test unless they have had tuberculosis, and ensure follow-up with the physician if test results are positive.

5. The home shall ensure that all children are appropriately immunized.

(e) The home shall ensure that each child receives a dental examination within three months following admission and at least semi-annually thereafter.

(f) The home shall ensure that children between two and six years of age receive developmental evaluations by a physician, nurse or other appropriate health official.

10:128-7.3 General medical practices

(a) The home shall ensure that any medical, dental, psychological and psychiatric treatment or medication administered to a child is explained to the child.

(b) When serious accidents or illnesses occur to a child, the home shall take necessary emergency action and notify the parents and the Division's case manager or other placing agency immediately. The home shall document these incidents in the child's record.

(c) When a child or staff member has a communicable disease, as specified in the table below, the home shall:

1. Obtain a note from a licensed physician treating the child or staff member, confirming the diagnosis and indicating that there is no risk to the child or staff member, or to others before the child or staff member participates in group activities;

2. Isolate the child or staff member posing a risk to others; and

3. Contact the New Jersey State Department of Health, the local health department or other appropriate public health authority when the child or staff member has a reportable disease, as specified in the table below.

TABLE OF COMMUNICABLE DISEASES

Respiratory illnesses	Gastro-intestinal illnesses	Contact illnesses
Chicken pox	Giardia lamblia*	Impetigo
German measles*	Hepatitis A*	Lice
Hemophilus influenzae*	Salmonella*	Scabies
Measles*	Shigella*	
Meningococcus*		
Mumps*		
Strep throat		
Tuberculosis*		
Whooping cough*		

* Reportable diseases, as specified in N.J.A.C. 10:128-7.3(c)3.

10:128-7.4 Medication other than psychotropic medication

(a) The home shall administer prescription medication to a child only when the medication is authorized by a physician.

(b) The home shall limit the dispensing of non-prescription over-the-counter medication to the following types of medicines, which shall be dispensed in accordance with the recommended dosage, age or weight of the child, as indicated on the label:

1. Antihistamines or decongestants;

2. Acetaminophens (or other age-approved aspirin substitutes);

3. Cough suppressants; and

4. Topical ointments.

(c) The home may permit the dispensing of non-prescription medication other than those listed in (b) above if the child's physician authorizes it in writing.

(d) The home shall maintain a medication log book that shall contain the following information:

1. The name of child receiving medication, whether prescription or non-prescription;

2. The type of medication, dosage, and intervals between dosages;

3. What to do if a dosage is missed;

4. The reason for medication;

5. The date and time medication was administered;

6. Possible side effects of the medication, if any; and

7. The signature and title of staff member dispensing medication.

(e) In supervised transitional living homes, self-medicating children may record this information specified in (d) above.

(f) The home shall encourage the self-administration of medication by properly trained and supervised children whenever their intellectual, emotional and physical capabilities make such practice appropriate and feasible. This shall be documented in each child's treatment plan.

(g) The home shall ensure that the following procedures for storage are followed:

1. Group homes, teaching family homes, and treatment homes shall keep all prescription and non-prescription drugs in a locked cabinet or container, or, as needed, in a locked box in a refrigerator. The home shall ensure that the keys to the locked cabinets, containers and locked boxes are adequately safeguarded and maintained by staff members and are kept out of the reach of the children;

2. Supervised transitional living homes shall keep prescription drugs in a cabinet or container, or, as needed, in a refrigerator;

3. All outdated stocks and prescriptions no longer in use shall be disposed of safely;

i. Liquid medication shall be poured down the drain, the bottles rinsed out and then disposed of in the trash; and

ii. Pills, tablets and capsules shall be flushed down the toilet before the bottle or packet is disposed of in the trash;

4. The telephone number of the regional poison control center shall be posted at all medication-dispensing stations and by each telephone; and

5. Staff members shall have access to medical supplies at all times.

(h) In situations where the home determines that an adolescent is capable of self-administration of prescription birth control-related supplies, the home may allow the adolescent to maintain prescription birth control-related supplies amongst her personal possessions provided that the home:

1. Provides a locked cabinet or box for storage; and

2. Documents in the treatment plan the rationale and arrangements for the adolescent to maintain prescription birth control-related supplies.

10:128-7.5 Psychotropic medication

(a) The home shall not administer medication to children as a punishment, for the convenience of staff members or as a substitute for a treatment program.

(b) The home shall ensure that a pre-treatment clinical assessment, based on behaviors exhibited by the child and observed by staff members, is conducted by a licensed physician before psychotropic medication is prescribed. This pre-treatment clinical assessment shall include at least the following information:

1. A comprehensive drug history, including consideration of the use of all prescription and non-prescription drugs by the child as well as a history of cardiac, liver, renal, central nervous system or other diseases, a history of drug allergies and dietary information;

2. A laboratory work-up, including, but not limited to:

i. A complete blood count (If the medication prescribed requires routine follow-up blood work, this blood count test shall be administered prior to the child's beginning his or her medication regimen. If the medication prescribed does not require routine follow-up blood work, a new blood count test is not required as long as the child has had a blood count test within one year of admission, unless the physician determines otherwise);

ii. Urinalysis;

iii. Blood screening to include an assessment of liver and renal functions, if indicated; and

iv. Cardiogram (EKG) and electroencephalogram (EEG), as indicated, on children with previous histories of cardiac abnormalities or central nervous system disorders; and

3. A written description of:

i. Non-pharmacological interventions that were considered or attempted to address the child's behavior;

ii. The purpose of the medication, the specific behavior(s) of the child to be modified and ways in which progress towards the treatment objectives will be measured;

iii. The dosage; and

iv. How possible side effects will be monitored and reported to the physician who prescribed the medication.

(c) Within two weeks after admission, the home shall ensure that all children already receiving psychotropic medication receive a clinical assessment by a physician, as specified in (b) above.

(d) The home may waive the regulations for a pre-treatment clinical assessment and informed consent for psychotropic medication other than long-acting drugs if the treating physician certifies in the child's clinical record that an emergency exists.

1. The initial decision to administer emergency medication shall be based on a personal examination of the child by a physician.

2. The initial administration of emergency medication may extend for a maximum period of 72 hours.

3. A physician may authorize the administration of medication for an additional 72 hours upon determination that the continuance of medication on an emergency basis is clinically necessary. This authorization may be given by telephone, provided that it is countersigned by the physician and certified as to the necessity in the child's clinical record within 24 hours. If this medication is then deemed necessary for the child's treatment while in the home, the physician shall complete the pre-treatment clinical assessment as specified in (b) above.

4. The home's staff members shall document on a separate reporting form that the psychotropic medication was administered in an emergency situation. The documentation shall identify possible side effects to be monitored as described in (b)3iv above.

(e) Before administering psychotropic medication, the home shall obtain written informed consent from the child's parent(s) or legal guardian, and from all children 14 years of age and older unless the home documents that the child lacks the capacity for informed consent. In cases where both a parent and legal guardian exist, the home shall seek written informed consent from the legal guardian.

1. A physician, registered nurse or staff member trained in administering psychotropic medication shall obtain written informed consent.

2. The person requesting written informed consent shall ensure that parents, guardians and children are informed about:

i. The behavior or symptoms which the medication is intended to modify;

ii. The dosage; and

iii. How possible side effects of the medication will be treated.

3. When a request for written informed consent is made by a staff member, the staff member shall inform the parent that a physician is available for consultation regarding the proposed medication.

4. The home may obtain verbal informed consent by telephone from the child's parents when the home, physician, registered nurse or staff member is unable to obtain written informed consent, provided that:

i. The home documents the telephone call in the child's record; and

ii. The home obtains the written informed consent from the child's parents or legal guardian within 24 hours of receiving the verbal informed consent.

5. If the home cannot obtain written informed consent or verbal informed consent, the home shall use certified mail, return receipt requested, and shall send the request to the parent's or legal guardian's last known address at least 10 calendar days before the proposed date for the commencement of treatment. The written notice shall specify:

i. The proposed date for beginning of treatment; and

ii. That a failure to respond by the proposed date for the beginning of treatment shall empower the director, after consultation with the Division's case manager or other placing agency to grant consent for the medication.

6. The home shall document all methods for requesting written consent in the child's record.

(f) When a parent, legal guardian or child refuses or revokes consent for medication, the following procedures shall apply:

1. The treating physician or his or her designee shall speak to the child or the parent or both to respond to the concerns about the medication. This person shall explain the child's condition, the reasons for prescribing the medication, the benefits and risks of taking the medication, and the advantages and disadvantages of alternative courses of action;

2. If the child or parent continues to refuse or revokes consent to medication and the physician or his or her designee still believes that medication is a necessary part of the child's treatment plan:

i. The director of the home shall advise the child and the parent that the matter will be discussed at a meeting with the child's treatment team and shall invite the child and parent to attend such meeting;

ii. The director of the home may suggest that the child and parent discuss the matter with a person of their own choosing, such as a relative, attorney, physician, or mental health clinician;

iii. The treatment team shall meet to discuss the treating physician's recommendations and the response of the child or parent; and

iv. The treatment team shall attempt to formulate a viable treatment plan that is acceptable to the child and parent;

3. If, after the treatment team meeting, the child or parent continues to refuse or revoke consent to medication and the treating physician still believes that medication is a necessary part of the child's treatment plan, the home shall obtain an independent psychiatric review. The psychiatrist conducting this independent assessment shall review the child's clinical record, conduct a personal examination of the child, provide a written report for the child's treatment team, and, if the parent or child is refusing or has revoked consent to medication, speak with the parent or child, respectively; and

4. If the child or parent continues to refuse or revoke consent to medication, and the home feels that the child can not be adequately treated without the medication, the home may initiate an emergency discharge, as specified in N.J.A.C. 10:128-6.2(b) and 10.5.

(g) The home shall administer psychotropic drugs in the following manner:

1. Psychotropic medication shall be dispensed only by licensed pharmacists and prescriptions shall always be labeled to reflect the following information:

- i. The name and address of the dispensing pharmacy;
- ii. The full name of the pharmacist;
- iii. The full name of the child;
- iv. Instructions for use, including the dosage and frequency;
- v. The prescription file number;
- vi. The dispensing date;
- vii. The prescribing physician's full name;
- viii. The name and strength of the medication;
- ix. The quantity dispensed; and
- x. Any cautionary information appropriate to the particular medication;

2. The home shall encourage the self-administration of medication by properly trained and supervised children whenever their intellectual, emotional, and physical capabilities make such practice appropriate and feasible. The child's capability for self-administration of psychotropic medication shall be documented in the child's treatment plan; and

3. The home shall ensure that psychotropic medication is stored as specified in N.J.A.C. 10:128-7.4(e).

(h) The home shall ensure that all children receiving psychotropic medication are monitored in the following manner:

1. Staff members directly involved with the child shall record daily progress towards treatment objectives and observed side effects which are identified in the pre-treatment clinical assessment;

2. Staff members shall notify the prescribing physician immediately, when side effects are observed;

3. The home shall ensure that:

i. The physician or his or her designee reviews the child's status, behavior, well-being and progress towards treatment objectives, side effects and reason for continuing the medication every 30 days;

ii. The review is documented in the child's medical record; and

iii. The home informs the child, parents, legal guardian, the Division's case manager or other placing agency about the outcome of the review.

(i) The home shall ensure that any staff member involved in administering psychotropic medication receive the following training:

1. Indications for drug use; and
2. Therapeutic and side effects.

(j) The home shall record all information about a child's psychotropic medication, as specified in N.J.A.C. 10:128-7.4(d), and the home shall ensure that the child's medication record is available to the physician for review when additional medication is prescribed.

10:128-7.6 Health education and physical care for children

(a) The home shall ensure that children receive training in personal care, hygiene, and grooming habits.

1. The home shall discuss the physiological changes experienced during adolescence with children in the home.

2. The home shall instruct children about sexually responsible behavior including how to protect themselves from pregnancy and sexually transmitted diseases including AIDS.

3. The home shall instruct all children about the health consequences of smoking tobacco products, smokeless tobacco, alcohol and drug abuse.

(b) The home shall ensure that children are provided with the following:

1. Individual towels and washcloths;

2. Soap and toilet paper; and

3. Hygiene supplies that are age appropriate for their needs, such as toothpaste, mouthwash, deodorant, razors, shaving cream and feminine hygiene articles.

(c) For children unable to provide for their own personal care and hygiene, the home shall bathe and groom them, and provide other personal hygiene services that are necessary to meet their needs.

(d) The home may permit residents to maintain over-the-counter cosmetics, acne preparations and personal hygiene supplies among their personal possessions.

(e) The home shall take measures to ensure that each child has a personal supply of adequate, clean, well-fitting, and attractive clothing appropriate to his or her age, gender, individual needs, community standards, and season.

1. The home shall ensure that each child's clothing is kept clean and in good repair; and the home may require children 13 years of age and older to do their own laundry.

2. The home shall not require children to wear any article of clothing that would explicitly identify them as a resident of the home.

10:128-7.7 Health requirements for staff

(a) Before working for a home, and every three years thereafter, each staff member who comes in contact with the children for the equivalent of eight hours a week or more

shall submit a written statement from a licensed physician indicating that he or she is in good health and poses no health risk to persons at the home. Such statement shall be based on a medical examination conducted within the six months immediately preceding such person's association with the home.

(b) Within one year prior to or upon beginning work or having contact with the children for the equivalent of at least eight hours a week at the home, each staff member shall take a Mantoux tuberculin skin test with five TU (tuberculin units) of PPD tuberculin, except that the staff member shall have a chest x-ray taken if he or she has had a previous positive Mantoux tuberculin test. The staff member shall submit to the home written documentation of the results of the test or x-ray.

1. If the Mantoux tuberculin test result is insignificant (zero to nine millimeters (mm) of induration), no further testing shall be required. The Bureau, home or agency may at any time require a staff member to retake the Mantoux tuberculin test, if there is reason to believe or suspect that the staff member may have contracted tuberculosis or if the State Department of Health recommends retesting.

2. If the Mantoux tuberculin skin test result is significant (10 or more mm of induration), the individual shall have a chest x-ray taken. If the chest x-ray shows positive results, the home or agency shall require that the staff member obtain a written statement from a physician certifying that he or she poses no threat of tuberculosis contagion before allowing the staff member to come in contact with the children. The home shall ensure that the staff member adheres to the recommended follow-up testing, if any, by the physician.

3. The home or agency shall prohibit any staff member who fails to submit satisfactory results from having contact with the children at the home.

(c) The home shall maintain on file the results of each staff member's:

1. Mantoux tuberculin test or chest x-ray when indicated; and
2. Physical examination.

(d) The home or agency shall exclude a staff member who appears to be physically, emotionally or mentally impaired or who appears to have a drug-induced or alcohol-induced condition that would endanger the health, safety and well-being of the children or other staff members. The home or agency shall document the action taken to exclude the staff member and maintain such documentation in the staff member's personnel record. The home or agency shall not permit the staff member to reassume duties until the condition is no longer present.

10:128-7.8 Environmental sanitation and staff hygiene

(a) Staff members shall use disposable rubber gloves, which shall be discarded after each use, when coming into contact with blood, vomit, urine, fecal matter or other body secretions.

(b) The home shall ensure that areas in the home, bedding, furniture, carpeting, and clothing, that come into contact with blood, vomit, urine, fecal matter or other body secretions are disinfected with a commercially prepared disinfectant that indicates it kills bacteria, viruses and parasites. This solution shall be used in accordance with label instructions.

(c) The following equipment items or surfaces shall be washed and disinfected after an incident, as specified in (b) above:

1. Toilet seats;
2. Sinks and faucets;
3. Mops that were used in the clean-up;
4. Washcloths, towels and sponges that were used in the clean-up; and
5. Thermometers.

SUBCHAPTER 8. TRANSPORTATION REQUIREMENTS

10:128-8.1 General requirements

(a) The provisions of this subchapter shall apply to any home or agency that provides or arranges transportation for children:

1. To or from their homes or other prearranged sites and the home; or
2. In connection with an activity (such as a field trip) conducted by or through the auspices of the home or agency.

(b) Any home, person or agency, as defined in (a) above, also shall comply with applicable provisions of New Jersey Division of Motor Vehicles law, pursuant to N.J.S.A. 39:1-1 et seq. and regulations promulgated thereunder, as specified in N.J.A.C. 13.

(c) The home or agency may authorize staff members to utilize their own private passenger vehicles to transport children from the home, to and from scheduled field trips or to transport children from the home to a hospital, clinic or office for medical treatment. However, staff members may be authorized to do so only if:

1. The vehicle has a capacity of eight or fewer persons;

2. The driver possesses a valid automobile driver's license issued by the New Jersey Division of Motor Vehicles, hereinafter referred to as the DMV;

3. The vehicle has a valid motor vehicle inspection sticker issued by DMV;

4. The vehicle owner possesses liability insurance at least at the minimum amounts required by the New Jersey State insurance law, pursuant to N.J.S.A. 17:28-1.1a;

5. The home maintains transportation records on every vehicle utilized for the above, as specified in N.J.A.C. 10:128-8.4; and

6. The home or agency ensures that the staff members apply the safety practices, as specified in N.J.A.C. 10:128-8.1(d) and (e).

(d) The home or agency shall ensure that all vehicles used to transport children:

1. Are maintained in clean and safe condition;
2. Have a maximum seating capacity that does not exceed the number of seat belts;
3. Have seats and back rests securely fastened;
4. Have all seats that are facing sideways or backwards bolted down;
5. Have seats upholstered with springs or foam rubber;
6. Have an operable heater capable of maintaining a temperature of 50 degrees Fahrenheit; and
7. Are equipped with:
 - i. A triangular portable red reflector device;
 - ii. All weather radials or snow tires from November 15 through April 1 (for New Jersey-based homes only); and
 - iii. A removable, moisture-free and dust-proof first-aid kit, which shall be located in the vehicle.

(e) The home or agency shall ensure that the following safety practices are followed:

1. A staff person is always present when an adolescent, child or infant is in the vehicle;
2. All passengers who are over one and one-half years of age are secured in an operable seat belt or car seat while the vehicle is in motion;
3. All passengers, who are one and one-half years of age or less are secured in car seats (child passenger restraint systems) that meet Federal motor vehicle safety standards in accordance with provisions of the New Jersey Motor Vehicles Law, pursuant to N.J.S.A. 39:3-76.2a;
4. All adolescents, children and infants are loaded and unloaded from the curbside of the vehicle;

5. Children are not permitted to ride in the back or beds of trucks; and

6. Children and staff members are not permitted to smoke tobacco products or use smokeless tobacco in the vehicle.

(f) When transporting more than six children below six years of age the home or agency shall ensure that one adult in addition to the driver remains in the vehicle.

(g) When transporting more than four infants without their adolescent mothers, the home shall ensure that one adult in addition to the driver remains in the vehicle.

(h) The home or agency shall maintain transportation records, as specified in N.J.A.C. 10:128-8.4.

(i) If the home decides to utilize a Type I School Bus, Type II School Bus or a Type II School Vehicle, the home shall:

1. Meet all appropriate Division of Motor Vehicles (DMV) rules, Department of Education rules and/or Department of Human Services rules; and

2. Ensure that the drivers of such vehicles possess a valid New Jersey Type I School Bus driver's license, or possess a valid New Jersey Type II School Bus driver's license, or an out-of-State equivalent license, as approved by the DMV.

(j) The home shall limit travel in program vehicles including cars, vans and wagon trains by:

1. Scheduling at least one full day of rest after every four days of travel;
2. Ensuring that no staff member drives for more than four hours without a 30-minute break; and
3. Prohibiting driving between 11:00 P.M. and 6:00 A.M., unless it is necessary to complete an emergency evacuation.

Amended by R.1996 d.118, effective March 4, 1996.
See: 27 N.J.R. 4266(a), 28 N.J.R. 1379(c).
In (e) added prohibition of smoking.

10:128-8.2 Vehicle insurance requirements

(a) The home or agency shall maintain vehicle liability insurance for bodily injury or death in minimum amounts of \$300,000 per person and \$500,000 per accident for every vehicle that is:

1. Owned or leased by the home or agency; and
2. Utilized to transport children residing in the home.

(b) If the home or agency contracts transportation services, the home shall ensure that the company maintains insurance coverage as identified in (a) above.

10:128-8.3 Additional requirements for transporting physically handicapped, non-ambulatory children

(a) Homes or agencies providing or arranging for transportation services for physically handicapped children who are non-ambulatory shall have a vehicle that has a ramp device or hydraulic lift with a lift minimum pay load of 600 pounds. Any ramp device that is installed shall:

1. Have a non-skid surface;
2. Be securely stored and protected from the elements when not in use; and
3. Have at least three feet of length for each foot of incline.

(b) If wheelchairs are used, the home shall ensure that:

1. All wheelchairs are securely fastened and face forward;
2. All wheelchair passengers are secured with a seat belt;
3. Arrangements for wheelchairs do not impede access to emergency and exit doors; and
4. Any aisle leading from a wheelchair position to the emergency or exit door has a minimum width of 30 inches.

10:128-8.4 Record requirements

(a) The home or agency shall maintain on file the following:

1. A photostatic copy of the driver's license of each person whom the home or agency has authorized to transport children;
2. A photostatic copy of the registration of each vehicle used to transport children;
3. A copy of the insurance policy for every vehicle owned, leased, contracted or utilized by the home or agency; and
4. The name and address of the lessor or contractor furnishing a vehicle to the home or agency, if relevant.

(b) The home or agency shall maintain transportation maintenance records for all vehicles used by the home for the transportation of children, including repair and inspection records, and shall retain them for the lifetime of the vehicles.

(c) The home or agency shall develop and maintain on file a log of all trips where the home's vehicles are used that documents:

1. The times each staff member drove;
2. The mileage covered; and
3. Incidents of the day.

SUBCHAPTER 9. ADVENTURE ACTIVITIES

10:128-9.1 General requirements

(a) The requirements of this subchapter shall apply to any home or any agency that provides or contracts for adventure activities that may include, but are not limited to:

1. Biking;
2. Canoeing, kayaking and tubing;
3. Caving;
4. Hiking;
5. Horseback riding;
6. Ropes and rock climbing;
7. Sailing and boating;
8. Snow skiing;
9. Solos;
10. Swimming;
11. Water skiing; and
12. Camping.

(b) All homes whose program consists primarily of adventure activities shall maintain on file a written statement of purpose that shall identify the following:

1. The home's philosophy, goals, and objectives;
2. Characteristics of the children to be served;
3. Types of adventure activities that a child may participate in and other treatment services provided to the children, including those provided directly by the home and those services that may be provided in cooperation with community agencies or outside individuals;
4. Procedures for implementing those services; and
5. Criteria for successful completion of the program.

(c) For homes whose program consists primarily of adventure activities, the home shall describe to the child and the parents prior to admission to the facility, the types of adventure activities in which the child will be asked to participate. This discussion shall include:

1. An explanation of the anticipated benefits of the activity;
2. A description of the potential risks of the activity, as well as an explanation of how the facility will take precautions to minimize risks; and
3. A clear statement that no child will be forced to do an adventure activity against his or her will.