

**LOCAL LAWS  
OF  
THE CITY OF NEW YORK  
FOR THE YEAR 2013**

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**No. 44**

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Introduced by Council Members Rose, Brewer, Eugene, James, Mendez, Vann, Williams, Dromm, Rodriguez, Gonzalez, Palma, Van Bramer, Foster, Lander, Nelson, Gennaro, Chin, Arroyo, Barron, Jackson, Mark-Viverito, Mealy and Wills.

**A LOCAL LAW**

**To amend the administrative code of the city of New York, in relation to requiring the administration for children’s services to publish demographic data and incident reports on youth detained and placed in its juvenile facilities, and to repeal chapter 2 of title 9 of the administrative code of the city of New York, relating to the department of juvenile justice.**

*Be it enacted by the Council as follows:*

Section 1. Chapter 2 of title 9 of the administrative code of the city of New York, as added by local law number 12 for the year 2010, is REPEALED.

§2. Chapter 2 of title 9 of the administrative code of the city of New York, as added by local law number 14 for the year 2010, is REPEALED.

§ 3. Section 21-901 of the administrative code of the city of New York, as added by local law number 20 for the year 2006, is amended to read as follows:

§ 21-901. Definitions.

Whenever used in this chapter, the terms set forth below are defined as follows:

*“Abused child” means a child or youth who has been subjected to “physical abuse,” “sexual abuse” and/or “psychological abuse” as defined in section four hundred eighty-eight of the New York state social services law while in the custody of ACS.*

[1.] "ACS" means the administration for children's services, or any successor agency

charged with operating the city's child welfare system.

*“Bias-based incidents” means incidents, including fights or altercations between a child and another child or staff, that arose in whole or in part due to a child’s perceived or actual sexual orientation, gender expression or gender identity, as reported by such child.*

[2.] "Case worker" means a diagnostic child protective specialist assigned to a zone.

*“Child” means “youth” as defined in this section.*

[3.] "Commissioner" means the commissioner of ACS.

*“Detention” means the temporary care and maintenance of youth held:*

- 1. away from their homes pursuant to article three or seven of the family court act; or*
- 2. pending a hearing for an alleged violation of the conditions of release from the New York state office of children and family services or ACS facility or authorized agency; or*
- 3. pending a hearing for an alleged violation of a condition of parole as a juvenile offender; or*
- 4. pending a return to a jurisdiction other than the one in which the youth is held; or*
- 5. pursuant to a securing order of a criminal court if the youth named therein as principal is charged as a juvenile offender; or*
- 6. pending a hearing on an extension of placement; or*
- 7. pending transfer to a facility upon commitment or placement by a court.*

*“Detention facility” means a facility, certified by the New York state office of children and family services, for the care of youth detained in accordance with the provisions of the family court act, regulations of the New York state office of children and family services, and the criminal procedure law.*

[4.] "Entry order" means an order entered pursuant to subdivision two of section ten

hundred thirty-four of the family court act to enter specific premises where there is probable cause to believe an abused or neglected child may be found.

*“Fiscal year” means the fiscal year for the city of New York.*

[5.] "IRT investigation" means an instant response team investigation conducted pursuant to the Administration for Children's Services and Law Enforcement Instant Response Teams Protocol dated February 1998 or any protocol hereafter promulgated that sets forth guidelines for the use of interdisciplinary instant response teams.

*“Limited secure placement facility” means a placement facility characterized by physically restricting construction, hardware and procedures which are less restrictive than the construction, hardware and procedures of a secure placement facility.*

*“Mechanical restraint” means the use of a mechanical device to restrict the movement or normal function of a portion of a child’s body, including but not limited to, handcuffs, leg cuffs, daisy chains or waist restraint.*

*“Neglected child” means a child or youth who has been subjected to neglect as defined in section four hundred eighty-eight of the New York state social services law while in the custody of ACS.*

*“Non-secure detention or placement facility” means a detention or placement facility characterized by the absence of physically restricting construction, hardware and procedures.*

*“Physical injury or impairment” means any confirmed harm, hurt or damage resulting in a significant worsening or diminution of a child's physical condition.*

*“Physical restraint” means the use of bodily force to limit a child’s freedom of movement during a physical confrontation or to prevent a confrontation.*

*“Placement” means the temporary care and maintenance of adjudicated youth held away*

*from their homes pursuant to article three of the family court act.*

*“Placement facility” means a facility, certified by the New York state office of children and family services, for the care of youth placed in accordance with the provisions of the family court act and the regulations of the New York state office of children and family services.*

*“Room confinement” means the confinement of a child in a room, including but not limited to the child’s own room, when locked or when the child is authoritatively told not to leave.*

*“Secure detention or placement facility” means a detention or placement facility characterized by physically restricting construction, hardware and procedures.*

*“Youth” means a person who resides in a juvenile detention or placement facility in the custody of ACS.*

[6.] "Zone" means one of no fewer than 13 divisions of ACS child protective services headed by a deputy director who exercises oversight over the work of child protective managers, supervisors and child protective specialists in a specific geographic area, or the Office of Confidential Investigations.

§ 4. Chapter 9 of title 21 of the administrative code of the city of New York is amended by adding a new section 21-905 to read as follows:

*§21-905. Demographic Data.*

*a. Admissions to Detention Facilities.*

*1. By September 30 of each year, ACS shall post a report on its website regarding the total number of admissions in the previous fiscal year to the following facilities:*

*i. secure detention facilities; and*

*ii. non-secure detention facilities.*

*2. The data provided pursuant to paragraph one of subdivision a of this section shall be*

*disaggregated by the following factors:*

- i. age;*
- ii. gender;*
- iii. race;*
- iv. zip code of residence, except that for a number between one and five admissions from one zip code, the number shall be replaced with a symbol;*
- v. for youth remanded to a detention facility by a court, the most serious charged offense on the court petition, complaint or indictment at the time ACS assumed custody; and*
- vi. for youth brought to detention by police, whether the top arrest charge was a misdemeanor or a felony at the time ACS assumed custody.*

*b. Demographic Data for Detention Facilities.*

*1. By September 30 of each year, ACS shall post a report on its website regarding the average daily population in the previous fiscal year in the following facilities:*

- i. secure detention facilities; and*
- ii. non-secure detention facilities.*

*2. By September 30 of each year, ACS shall post a report on its website regarding the number of youth admitted to a detention facility during the previous fiscal year who spent time either in non-secure detention only, secure detention only, or both non-secure and secure detention, disaggregated by the following factors:*

- i. age;*
- ii. gender;*
- iii. race;*
- iv. zip code of residence, except that for a number between one and five admissions from*

*one zip code, the number shall be replaced with a symbol;*

*v. for youth remanded to a detention facility by a court, the most serious charged offense on the court petition, complaint or indictment at the time ACS assumed custody; and*

*vi. for youth brought to detention by police, whether the top arrest charge was a misdemeanor or a felony at the time ACS assumed custody.*

*c. Admissions to Placement Facilities.*

*1. By September 30 of each year, ACS shall post a report on its website regarding the total number of admissions in the previous fiscal year to the following facilities:*

*i. non-secure placement facilities; and*

*ii. limited-secure placement facilities.*

*2. The data provided pursuant to paragraph one of subdivision c of this section shall be disaggregated by the following factors:*

*i. age;*

*ii. gender;*

*iii. race;*

*iv. zip code of residence, except that for a number between one and five admissions from one zip code, the number shall be replaced with a symbol;*

*v. youth who were detained at a detention facility immediately prior to being ordered to a placement facility by a court pursuant to the family court act;*

*vi. youth who were not detained at a detention facility immediately prior to being ordered to a placement facility by a court pursuant to the family court act;*

*vii. youth who were transferred to an ACS placement facility from the custody of the New York state office of children and family services in accordance with subdivision six of section four*

*hundred and four of the New York state social services law; and*

*viii. for youth ordered to a placement facility by a court, the most serious offense adjudicated against such youth by the court.*

*d. Demographic Data for Placement Facilities.*

*1. By September 30 of each year, ACS shall post a report on its website regarding the average daily population in the previous fiscal year in the following facilities:*

*i. non-secure placement facilities; and*

*ii. limited-secure placement facilities.*

*2. By September 30 of each year, ACS shall report on its website the number of youth admitted to a placement facility during the previous fiscal year who spent time either in non-secure placement only, limited secure placement only, or both non-secure and limited secure placement, disaggregated by the following factors:*

*i. age;*

*ii. gender;*

*iii. race;*

*iv. zip code of residence, except that for a number between one and five admissions from one zip code, the number shall be replaced with a symbol; and*

*v. for youth ordered to a placement facility by a court, the most serious offense adjudicated against such youth by the court.*

*e. Data on Transfers.*

*1. By September 30 of each year, ACS shall post a report on its website regarding the total number of youth who have been transferred during the previous fiscal year from:*

*i. a non-secure detention facility to a secure detention facility;*

- ii. a secure detention facility to a non-secure detention facility;*
- iii. a non-secure placement facility to a limited secure placement facility;*
- iv. a non-secure placement facility to a secure placement facility;*
- v. a limited secure placement facility to a non-secure placement facility;*
- vi. a limited secure placement facility to a secure placement facility;*
- vii. a secure placement facility to a limited secure placement facility; and*
- viii. a secure placement facility to a non-secure placement facility.*

*2. The data provided pursuant to paragraph one of subdivision e of this section shall be disaggregated by the following factors:*

- i. age;*
- ii gender; and*
- iii. race.*

*f. Interim Reports.*

*1. On or before September 30, 2013, ACS shall post a report on its website regarding the total population in non-secure placement facilities as of the last day of every month during the previous fiscal year.*

*2. No more than one year after ACS begins operating limited secure placement facilities, ACS shall post a report on its website regarding:*

*i. the total number of admissions to such facilities in the first nine months of their operation, disaggregated by the following factors:*

- (a) age;*
- (b) gender;*
- (c) race; and*



*(d) youth who were transferred to an ACS placement facility from the custody of the New York state office of children and family services in accordance with subdivision six of section four hundred and four of the New York state social services law;*

*ii. the total population in such facilities as of the last day of every month during the first nine months of their operation; and*

*iii. the number of youth admitted to such facilities during the first nine months of their operation who, during that period, spent time either in non-secure placement only, limited secure placement only, or both non-secure and limited secure placement, disaggregated by the following factors:*

*(a) age;*

*(b) gender;*

*(c) race;*

*(d) zip code of residence except that for a number between one and five admissions from one zip code, the number shall be replaced with a symbol; and*

*(e) for youth ordered to a placement facility by a court, the most serious offense adjudicated against such youth by the court.*

§ 5. Chapter 9 of title 21 of the administrative code of the city of New York is amended by adding a new section 21-906 to read as follows:

*§21-906. Incident Reports.*

*a. Quarterly Incident Reports.*

*1. Within sixty days after the end of each quarter of the fiscal year, ACS shall post a report on its website, based on data from the previous quarter, that shall contain the number of the following incidents:*

- i. use of physical restraint by staff on children;*
- ii. physical injuries or impairment to children as a result of the use of physical restraint;*
- iii. use of mechanical restraint by staff on children;*
- iv. physical injuries or impairment to children as a result of the use of mechanical restraint;*
- v. fights and altercations between children;*
- vi. physical injuries or impairment to children as a result of fights with other children;*
- vii. physical injuries or impairment to children resulting from any other means not previously mentioned;*
- viii. biased-based incidents as reported by a child; and*
- ix. the number of room confinements and the length of stay for each confinement.*

*2. The data provided pursuant to paragraph one of subdivision a of this section shall be disaggregated by the following factors:*

- i. each secure detention facility;*
- ii. non-secure detention facilities;*
- iii. non-secure placement facilities; and*
- iv. limited secure placement facilities.*

*b. Annual incident reports.*

*1. Within sixty days after the end of each fiscal year, ACS shall post a report on its website containing the following data:*

- i. the number of allegations made during the fiscal year that a child in a detention or placement facility was a neglected or abused child; and*
- ii. the number of findings made during the fiscal year by the New York state office of*

*children and family services substantiating allegations that a child in a detention or placement facility was a neglected or abused child, including findings that substantiated allegations made prior to the fiscal year.*

*2. The data provided pursuant to paragraph one of subdivision b of this section shall be disaggregated by the following factors:*

- i. each secure detention facility;*
- ii. non-secure detention facilities;*
- iii. non-secure placement facilities; and*
- iv. limited secure placement facilities.*

§ 6. This local law shall take effect immediately, provided that:

a. the requirement to report on admissions data regarding limited secure placement facilities described in subparagraph ii of paragraph one of subdivision c of section 21-905, as added by section four of this local law, shall take effect in the report due by September 30, 2015;

b. the requirement to report on the average daily population in non-secure placement facilities, as described in subparagraph i of paragraph one of subdivision d of section 21-905, as added by section four of this local law, shall take effect in the report due by September 30, 2014;

c. the requirement to report on the average daily population in limited-secure placement facilities, as described in subparagraph ii of paragraph one of subdivision d of section 21-905, as added by section four of this local law, shall take effect in the report due by September 30, 2015;

d. the requirement to report on the number of youth admitted who spent time either in non-secure placement only, limited secure placement only, or both non-secure and limited secure placement, as described in paragraph two of subdivision d of section 21-905, as added by section four of this local law, shall take effect in the report due by September 30, 2015;

e. the requirement to report on transfers, as described in subdivision e of section 21-905, as added by section four of this local law, shall take effect in the report due by September 30, 2014;

f. the requirement to disaggregate incident data by limited secure placement facilities, as described in subparagraph iv of paragraph two of subdivisions a and b of section 21-906, as added by section five of this local law, shall take effect in the report due by September 30, 2014;

g. the requirement to publish data regarding bias-based incidents that occur in detention and placement facilities, pursuant to subparagraph viii of paragraph one of subdivision a of section 21-906, as added by section five of this local law, shall take effect in the report due by September 30, 2014; and

h. the requirement to disaggregate data by youth transferred to an ACS placement facility, as described in subparagraph vii of paragraph two of subdivision c of section 21-905, as added by section four of this local law, shall expire three years after it shall have become a law.

Notwithstanding the preceding sentence, the requirement to report on limited-secure placement facilities shall not take effect until such facilities have been operational for a period of three months.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on May 22, 2013 and approved by the Mayor on June 6, 2013.

MICHAEL M. McSWEENEY, City Clerk Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 44 of 2013, Council Int. No. 981-A of 2012) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council and approved by the Mayor.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel.