

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2017**

No. 168

Introduced by Council Members Dromm, Chin, Rose, Cohen and Kallos.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to requiring the department of education and the department of correction to report on educational programming for adolescents and young adults

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 9 of the administrative code of the city of New York is amended by adding a new section 9-151 to read as follows:

§ 9-151 Rikers Island education report. a. Definitions. For the purposes of this section, the following terms shall have the following meanings:

Adolescent. The term “adolescent” means any individual in the custody of the department who is 16 or 17 years old.

Assault. The term “assault” means any action taken with intent to cause physical injury to another person.

Department of education site. The term “department of education site” means any facility operated by the department of education that offers educational programming to incarcerated individuals, including but not limited to adolescents, and that is located on property under the control of the department of correction.

Department of education staff. The term “department of education staff” means any employee of the department of education assigned to work in a department of education site.

Educational programming. The term “educational programming” means any educational services offered to incarcerated individuals in the custody of the department of correction by the department of education.

High school equivalency diploma test. The term “high school equivalency diplomacy test” means any test offered by the New York state education department for the purpose of establishing the equivalent of a high school diploma, including, but not limited to, a general education development test or the test assessing secondary completion.

Individualized educational plan. The term “individualized educational plan” has the same meaning as is set forth in paragraph (1) of subsection (d) section 1414 of title 20 of the United States code and any regulations promulgated thereto.

Staff. The term “staff” means department of correction uniformed staff.

Use of force A. The term “use of force A” means a use of force by staff on an incarcerated individual resulting in an injury that requires medical treatment beyond the prescription of over-the-counter analgesics or the administration of minor first aid, including those uses of force resulting in one or more of the following treatments/injuries: (i) multiple abrasions and/or contusions; (ii) chipped or cracked tooth; (iii) loss of tooth; (iv) laceration; (v) puncture; (vi) fracture; (vii) loss of consciousness; including a concussion; (viii) suture; (ix) internal injuries, including but not limited to, ruptured spleen or perforated eardrum; and (x) admission to a hospital.

Use of force B. The term “use of force B” means a use of force by staff on an incarcerated individual which does not require hospitalization or medical treatment beyond the prescription of over-the-counter analgesics or the administration of minor first aid, including the following: (i) a use of force resulting in a superficial bruise, scrape, scratch, or minor swelling; and (ii) the forcible use of mechanical restraints in a confrontational situation that results in no or minor injury.

Use of force C. The term “use of force C” means a use of force by staff on an incarcerated individual resulting in no injury to staff or an incarcerated individual, including incidents where use of oleoresin capsicum spray results in no injury, beyond irritation that can be addressed through decontamination.

Young adult. The term “young adult” means any individual in the custody of the department who is 18, 19, 20 or 21 years old.

b. As set forth below, the department of education and the department of correction shall produce annual reports on educational programming in department of education sites. Beginning no later than 90 days after the final day of the 2017-2018 school year, and no later than 90 days after each subsequent school year, each such department shall post the reports on its website, and provide a link in each such report to the report of the other department.

c. The department of education report shall include, but need not be limited to, the following information, provided that no information that is otherwise required to be reported pursuant to this section shall be reported in a manner that would violate any applicable provision of federal, state or local law relating to the privacy of student information or that would interfere with law enforcement investigations or otherwise conflict with the interests of law enforcement. If a

category contains between 1 and 5 students, or allows another category to be narrowed to between 1 and 5 students, the number shall be replaced with a symbol. The student age as of the final day of school enrollment or attendance will be used to categorize the student as an adolescent or young adult, for the purposes of this reporting.

1. The number of adolescents enrolled in educational programming.

2. The number of young adults enrolled in educational programming, and the percentage of such young adults so enrolled. Such percentage shall be calculated by averaging the number of young adults so enrolled on the final school day of each month divided by the number of young adults in the custody of the department of correction on such date.

3. The number of hours of compulsory educational programming afforded to adolescents on each school day, and an identification of the curriculum subject areas included in educational programming.

4. The number of hours of educational programming afforded to young adults on each school day, and an identification of the curriculum subject areas included in educational programming.

5. The number of adolescents and young adults whose educational programming is designed for the regents diploma and the number of adolescents whose educational programming is designed for a high school equivalency diploma test.

6. The number of 17-year-old adolescents who graduated from high school, and the number of young adults enrolled in educational programming who graduated from high school.

7. The number of 17-year-old adolescents to whom a high school equivalency diploma test was administered, and the number of young adults to whom a high school equivalency diploma test was administered.

8. *The number of 17-year-old adolescents who passed a high school equivalency diploma test, and the number of young adults who passed a high school equivalency diploma test.*

9. *The functional levels of adolescents and young adults on tests such as the test of basic adult education or similar testing. The functional level may be calculated per the last test administered to the student each school year.*

10. *The number of incarcerated individuals enrolled in department of education sites, disaggregated by age.*

11. *The number and percentage of adolescents and young adults who are enrolled in educational programming for whom individualized education plans have been developed by the department of education. Such percentage shall be calculated by averaging the number of adolescents and young adults so enrolled on the final school day of each month divided by the respective number of adolescents and young adults in the custody of the department of correction on such date*

12. *The number of adolescents and young adults who have individualized educational plans and who are receiving special education services.*

13. *The number and percentage of adolescents and young adults enrolled in educational programming who are identified by the department of education as English language learner status as defined by the department of education. Such percentage shall be calculated by averaging the number of adolescents and young adults so enrolled on the final school day of each month divided by the respective number of adolescents and young adults in the custody of the department of correction on such date.*

14. *The numbers of teachers working at department of education sites, in total and disaggregated by those assigned to teach adolescents and young adults.*

15. *The number of department of education staff other than teachers assigned to work at department of education sites, in total and disaggregated by those working with adolescents and young adults.*

16. *The average class size for educational programming provided to adolescents by the department of education.*

17. *The number of adolescents participating in department of education vocational educational programming, the nature of such programming, and the number of such adolescents who complete such programming.*

18. *The number young adults enrolled in educational programming who are participating in department of education vocational educational programming, the nature of such programming, and the number of such young adults who complete such programming.*

19. *The average and median number of credits accumulated by adolescents enrolled in high school educational programming, and the average and median number of credits accumulated by young adults enrolled in high school educational programming. This paragraph shall only apply to those adolescents and young adults who had been in custody for a sufficient period during the reporting period to have earned credits, and the information in this paragraph shall be listed in total and by dividing the number of credits accumulated by the number of such adolescents and young adults.*

20. *The average and median rate of attendance in a department of education school for adolescent and young adults, upon their release from the custody of the department at six months and one year post-release.*

21. *The number of adolescents enrolled in physical education at department of education sites.*

22. *The number of unique assaults on department of education staff by incarcerated individuals.*

d. The department of correction report shall include, but need not be limited to, the following information, which shall be produced in a format that protects the privacy interests of inmates, including but not limited to those who have juvenile records and sealed criminal records or are otherwise protected by state or federal law. The student age as of the incident date will be used to categorize the student as adolescent or young adult, for the purposes of this reporting.

1. The number of departmental infractions issued to adolescents at a department of education site, and the number of departmental infractions issued to young adults at a department of education school site, in total and disaggregated by the type of infraction, as defined by the department.

2. The number of students prevented from attending educational programming by the department of correction because of a behavioral issue or an assault.

3. The number of assaults on staff at a department of education site, in total and disaggregated by whether such assault was committed by an adolescent or young adult.

4. The number of incidents of use of force A at a department of education site, in total and disaggregated by whether such use of force was used on an adolescent or young adult.

5. The number of incidents of use of force B at a department of education site, in total and disaggregated by whether such use of force was used on an adolescent or young adult.

6. The number of incidents of use of force C at a department of education site, in total and disaggregated by whether such use of force was used on an adolescent or young adult.

e. The report by the department of education shall include a report on plans, if any, to ensure the educational progress of students released from the custody of the department of correction.

§2. This local law takes effect immediately.

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 August 24, 2017 and approved by the Mayor on September 8, 2017.

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. 168 of 2017, Council Int. No. 1148-A of 2016) 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.

STEPHEN LOUIS, Acting Corporation Counsel.