

**CHAPTER 10**

**INTERJURISDICTIONAL AGREEMENTS AND STATUTES**

**Authority**

N.J.S.A. 2A:159A-1 et seq., 2A:160-6 et seq., 30:1B-6, 30:1B-10, 30:7C-1 et seq. and 30:7D-1; U.S.C. Const. Art. 4, Sec. 2, cl.2; and 18 U.S.C. App. Sec. 2.

**Source and Effective Date**

R.2003 d.325, effective July 14, 2003.  
See: 35 N.J.R. 1639(a), 35 N.J.R. 3559(a).

**Chapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 10, Interjurisdictional Agreements and Statutes, expires on January 10, 2009. See: 40 N.J.R. 1056(a).

**Chapter Historical Note**

Chapter 10, Inter-Jurisdictional Agreements and Statutes, was adopted as Subchapter 6, International Transfer, by R.1987 d.331, effective August 17, 1987. See: 19 N.J.R. 916(a), 19 N.J.R. 1650(c). Subchapter 3, Interstate Corrections Compact, was adopted as R.1991 d.586, effective December 16, 1991. See: 23 N.J.R. 2221(a), 23 N.J.R. 3756(b).

Pursuant to Executive Order No. 66(1978), Chapter 10, Inter-Jurisdictional Agreements and Statutes, was readopted as R.1992 d.310, effective July 9, 1992. See: 24 N.J.R. 1939(a), 24 N.J.R. 2731(b). Pursuant to Executive Order No. 66(1978), Chapter 10, Inter-Jurisdictional Agreements and Statutes, expired on July 9, 1997.

Chapter 10, Interjurisdictional Agreements and Statutes, was adopted as new rules by R.1998 d.135, effective March 16, 1998. See: 30 N.J.R. 5(a), 30 N.J.R. 1039(b).

Subchapter 4, Agreement on Detainers, was adopted as R.2002 d.66, effective March 4, 2002. See: 33 N.J.R. 3860(a), 34 N.J.R. 1030(a), 34 N.J.R. 1431(a).

Chapter 10, Interjurisdictional Agreements and Statutes, was re-adopted as R.2003 d.325, effective July 14, 2003. See: Source and Effective Date. See, also, section annotations.

Subchapter 7, Notification of Foreign Consuls when Foreign Nationals are Imprisoned, was adopted as New Rules by R.2005 d.306, effective September 6, 2005. See: 37 N.J.R. 1916(a), 37 N.J.R. 3374(b).

**CHAPTER TABLE OF CONTENTS**

**SUBCHAPTER 1. GENERAL PROVISIONS**

- 10A:10-1.1 Purpose
- 10A:10-1.2 Scope
- 10A:10-1.3 Definitions
- 10A:10-1.4 Forms
- 10A:10-1.5 Records
- 10A:10-1.6 Transfer of inmate property

**SUBCHAPTER 2. (RESERVED)**

**SUBCHAPTER 3. INTERSTATE CORRECTIONS COMPACT**

- 10A:10-3.1 Statutory authority
- 10A:10-3.2 Definitions

- 10A:10-3.3 Applicability of compact
- 10A:10-3.4 Eligibility criteria for interstate transfer consideration
- 10A:10-3.5 Riders to contracts
- 10A:10-3.6 Reasons for interstate transfer
- 10A:10-3.7 Processing consensual interstate transfers
- 10A:10-3.8 Classification summary
- 10A:10-3.9 Written notice of nonconsensual transfers
- 10A:10-3.10 Investigation of nonconsensual transfers other than emergency transfer prompted by order of the Commissioner
- 10A:10-3.11 Hearing on nonconsensual transfers
- 10A:10-3.12 Decision on nonconsensual transfers
- 10A:10-3.13 Interstate transfer by order of the Commissioner
- 10A:10-3.14 Review of requests from other state compact members for transfer of inmates to New Jersey
- 10A:10-3.15 Receiving state acting as agent for sending state
- 10A:10-3.16 Administration of conditions of confinement, hearings and administrative proceedings to which inmates are entitled
- 10A:10-3.17 Release/return of transferred inmate
- 10A:10-3.18 Rights of parents or guardians
- 10A:10-3.19 Escapees and transportation

**SUBCHAPTER 4. AGREEMENT ON DETAINERS**

- 10A:10-4.1 Statutory authority
- 10A:10-4.2 Definitions
- 10A:10-4.3 Eligibility criteria for the Interstate Agreement on Detainers
- 10A:10-4.4 Receipt of detainee
- 10A:10-4.5 Inmate request for transfer
- 10A:10-4.6 Request for temporary custody of an inmate
- 10A:10-4.7 Time for trial
- 10A:10-4.8 Service of sentence
- 10A:10-4.9 Failure to comply with the terms of the IAD
- 10A:10-4.10 Escape from custody
- 10A:10-4.11 Written procedures

**SUBCHAPTER 5. EXTRADITION**

- 10A:10-5.1 Statutory authority
- 10A:10-5.2 Request for extradition and related document handling
- 10A:10-5.3 Role of the classification officer
- 10A:10-5.4 Exceptions to the mandatory use of the Uniform Criminal Extradition Act

**SUBCHAPTER 6. INTERNATIONAL TRANSFER**

- 10A:10-6.1 Definitions
- 10A:10-6.2 Commissioner's authority
- 10A:10-6.3 Eligibility criteria for international transfer
- 10A:10-6.4 Role of the classification officer
- 10A:10-6.5 Role of the Administrator of the correctional facility
- 10A:10-6.6 Role of Office of Interstate Services
- 10A:10-6.7 Role of the Commissioner, New Jersey Department of Corrections
- 10A:10-6.8 Referral to the United States Department of Justice, Office of International Affairs
- 10A:10-6.9 Transfer of offender

**SUBCHAPTER 7. NOTIFICATION OF FOREIGN CONSULS WHEN FOREIGN NATIONALS ARE IMPRISONED**

- 10A:10-7.1 Statutory authority
- 10A:10-7.2 Notification of consular post
- 10A:10-7.3 Visits and correspondence with a foreign national inmate
- 10A:10-7.4 Appointment of a guardian or trustee
- 10A:10-7.5 Death of a foreign national inmate
- 10A:10-7.6 Written internal management procedures

## SUBCHAPTER 1. GENERAL PROVISIONS

**10A:10-1.1 Purpose**

(a) The purpose of this chapter is to:

1. Establish requirements for the interstate transfer of an inmate(s) for confinement in a correctional facility(ies);
2. Establish requirements for the interstate transfer of an inmate for the purpose of disposing of charges filed against the inmate in an out-of-State jurisdiction;
3. Establish requirements in accordance with the Uniform Criminal Extradition Act (see N.J.S.A. 2A:160-6 et seq.);
4. Establish requirements for the international transfer of an inmate(s) who is a citizen of a foreign country to the country of citizenship (see N.J.S.A. 30:7D-1); and
5. Establish provisions in accordance with the Vienna Convention on Consular Relations of 1963, Art. 36, 37 and 42 for the notification of a foreign consul when a foreign national is committed to the custody of the New Jersey Department of Corrections.

Amended by R.2002 d.66, effective March 4, 2002.  
See: 33 N.J.R. 3860(a), 34 N.J.R. 1030(a).

In (a), added 3.

Amended by R.2003 d.325, effective August 4, 2003.  
See: 35 N.J.R. 1639(a), 35 N.J.R. 3559(a).

Rewrote the section.

Amended by R.2005 d.306, effective September 6, 2005.  
See: 37 N.J.R. 1916(a), 37 N.J.R. 3374(a).

In (a)3, deleted "and" following "et seq.,"; in (a)4, substituted "; and" for "." following "30:7D-1"; added (a)5.

**10A:10-1.2 Scope**

(a) Unless otherwise stated, N.J.A.C. 10A:10-1 and 3 shall be applicable to the New Jersey Department of Corrections and State sentenced inmates transferred or being considered for a transfer.

(b) Unless otherwise stated, N.J.A.C. 10A:10-1 and 3 shall be applicable to inmates from contracting states who are transferred outside their state of conviction to the New Jersey Department of Corrections.

(c) Unless otherwise stated, N.J.A.C. 10A:10-1 and 4 shall be applicable to an inmate against whom a detainer has been filed by an out-of-State jurisdiction.

(d) Unless otherwise stated, N.J.A.C. 10A:10-1 and 5 shall be applicable to inmates extradited from another state to the State of New Jersey and to inmates extradited from the State of New Jersey to another state.

(e) Unless otherwise stated, N.J.A.C. 10A:10-1 and 6 shall be applicable to inmates having foreign citizenship who are transferred to their countries of citizenship pursuant to the treaty that exists between the United States and the foreign country.

(f) Unless otherwise stated, N.J.A.C. 10A:10-1 and 7 shall be applicable to inmates who are not citizens or permanent resident aliens (green card holders) of the United States and who are foreign visitors or illegal aliens who have been committed to the custody of the New Jersey Department of Corrections.

Amended by R.2002 d.66, effective March 4, 2002.

See: 33 N.J.R. 3860(a), 34 N.J.R. 1030(a).

Inserted new (c) and recodified former (c) as (d).

Amended by R.2003 d.325, effective August 4, 2003.

See: 35 N.J.R. 1639(a), 35 N.J.R. 3559(a).

Inserted a new (d) and recodified former (d) as (e).

Amended by R.2005 d.306, effective September 6, 2005.

See: 37 N.J.R. 1916(a), 37 N.J.R. 3374(a).

Added (f).

**10A:10-1.3 Definitions**

The following words and terms, as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Foreign national" means any person who is not a citizen or permanent alien resident (green card holder) of the United States and who is a foreign visitor or illegal alien.

"Legal rights" means State or Federal rights.

"Receiving state" means a state receiving an inmate transferred from a sending state.

"Sending state" means a state which is transferring to another state an inmate committed within the sending state's jurisdiction.

New Rule, R.2003 d.325, effective August 4, 2003.

See: 35 N.J.R. 1639(a), 35 N.J.R. 3559(a).

Former N.J.A.C. 10A:10-1.3, Forms, recodified to N.J.A.C. 10A:10-1.4.

Amended by R.2005 d.306, effective September 6, 2005.

See: 37 N.J.R. 1916(a), 37 N.J.R. 3374(a).

Added definition "Foreign national".

Amended by R.2007 d.127, effective May 7, 2007.

See: 39 N.J.R. 155(a), 39 N.J.R. 1730(a).

Deleted definition "State".

**10A:10-1.4 Forms**

(a) The following forms related to the Interstate Corrections Compact are available by accessing the Department of Corrections computer network (DOCNet). Interested individuals who do not have access to DOCNet may obtain copies of forms by contacting the Administrative Rules Unit, New Jersey Department of Corrections:

1. 822-I Inmate Request for Transfer Under Interstate Corrections Compact;

2. 822-II Inmate Agreement of Waiver Regarding Interstate Transfer;

3. 822-III Notice of Intent To Seek Nonconsensual Interstate Transfer;

4. 822-IV Notice of Decision Regarding Interstate Transfer;
5. 822-V Receipt for Inmate as an Interstate Transferee; and
6. 822-VI Notice of Emergency Transfer.

(b) The following forms relate to the Interstate Agreement on Detainers. Forms necessary for use by the correctional facility shall be available by contacting the Office of Interstate Services, New Jersey Department of Corrections:

1. Form 867-I Notice of Untried Indictment, Information or Complaint and of Right to Request Disposition;
2. Form 867-II Inmate's Notice of Place of Imprisonment and Request for Disposition of Indictments, Informations or Complaints;
3. Form 867-III Certificate of Inmate Status;
4. Form 867-IV Offer to Deliver Temporary Custody;
5. Form 867-V Request for Temporary Custody;
6. Form 867-VI Evidence of Agent's Authority to Act for Receiving State;
7. Form 867-VII Prosecutor's Acceptance of Temporary Custody Offered in Connection with a Prisoner's Request for Disposition of a Detainer;
8. Form 867-VIII Prosecutor's Acceptance of Temporary Custody Offered in Connection with Another Prosecutor's Request for Disposition of a Detainer; and
9. Form 867-IX Prosecutor's Report on Disposition of Charges.

(c) The following forms related to International Transfer are available by contacting the Office of Interstate Services, New Jersey Department of Corrections:

1. Form I—Transfer Inquiry;
2. Form II—Inmate Information Provided to Treaty Nation; and
3. Form III—Notice Regarding International Prisoner Transfer.

(d) The following forms related to notification of a foreign consul when a foreign national is committed to the custody of the New Jersey Department of Corrections are available by contacting the Office of Interstate Services.

1. 849-I Report of Imprisonment of a Foreign National; and
2. 849-IV Death of an Offender.

Amended by R.2002 d.66, effective March 4, 2002.  
See: 33 N.J.R. 3860(a), 34 N.J.R. 1030(a).

Added a new (b) and recodified former (b) as (c).  
Administrative change.  
See: 35 N.J.R. 1137(a).

Recodified from N.J.A.C. 10A:10-1.3 by R.2003 d.325, effective August 4, 2003.

See: 35 N.J.R. 1639(a), 35 N.J.R. 3559(a).

Amended by R.2005 d.306, effective September 6, 2005.

See: 37 N.J.R. 1916(a), 37 N.J.R. 3374(a).

Added (d).

Amended by R.2006 d.152, effective May 1, 2006.

See: 38 N.J.R. 99(a), 38 N.J.R. 1837(a).

Deleted (a)2; recodified (a)3 and 4 as (a)2 and 3, rewrote (a)2 and made a stylistic revision in (a)3; and recodified (a)5 through 7 as (a)4 through 6.

Amended by R.2006 d.419, effective December 4, 2006.

See: 38 N.J.R. 3226(a), 38 N.J.R. 5161(a).

In the introductory paragraph of (a), deleted "shall be reproduced by each correctional facility from originals that" preceding "are available" and inserted "by accessing the Department of Corrections computer network (DOCNet). Interested individuals who do not have access to DOCNet may obtain copies of forms" and ", New Jersey Department of Corrections".

### 10A:10-1.5 Records

The Administrator or designee shall ensure that the computerized inmate information recordkeeping system(s) is updated with information relative to the interstate or international transfer or extradition of an inmate.

New Rule, R.2003 d.325, effective August 4, 2003.

See: 35 N.J.R. 1639(a), 35 N.J.R. 3559(a).

### 10A:10-1.6 Transfer of inmate property

The disposition of inmate personal property shall be handled in accordance with the provisions set forth in N.J.A.C. 10A:1-11.7, Disposition of personal property when an inmate is transferred.

New Rule, R.2007 d.127, effective May 7, 2007.

See: 39 N.J.R. 155(a), 39 N.J.R. 1730(a).

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## SUBCHAPTER 2. (RESERVED)

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## SUBCHAPTER 3. INTERSTATE CORRECTIONS COMPACT

### 10A:10-3.1 Statutory authority

(a) N.J.S.A. 30:7C-1 et seq. established the Interstate Corrections Compact which provides that the State of New Jersey may enter into a contract with any other signatory state of the United States whereby prisoners from contracting states may be transferred between such states and confined in correctional facilities outside the state of conviction on a reciprocal basis or as otherwise provided for by the contract or a rider.

(b) The Commissioner, New Jersey Department of Corrections, is the designated Administrator of the Interstate Corrections Compact. The Commissioner may delegate this authority to an appropriate designee who shall have full authority to act on all matters pertaining to the Interstate Corrections Compact.

Amended by R.2003 d.325, effective August 4, 2003.  
See: 35 N.J.R. 1639(a), 35 N.J.R. 3559(a).  
In (b), rewrote the second sentence.

### 10A:10-3.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Administrator of the Interstate Corrections Compact” means the Commissioner of the Department of Corrections of the State of New Jersey.

“Consensual interstate transfer” means the interstate transfer of an inmate from the New Jersey Department of Corrections to a receiving state with the consent of that inmate.

“Nonconsensual interstate transfer” means the interstate transfer of an inmate from the New Jersey Department of Corrections to a receiving state without the consent of that inmate.

“State compact member” means any state having membership in the Interstate Corrections Compact.

Amended by R.2003 d.325, effective August 4, 2003.  
See: 35 N.J.R. 1639(a), 35 N.J.R. 3559(a).

Added “Administrator of the Interstate Corrections Compact”, “Consensual interstate transfer”, and “Nonconsensual interstate transfer”; deleted “Legal rights”, “Receiving state”, “Sending state”, and “State”.

### 10A:10-3.3 Applicability of compact

(a) The Interstate Corrections Compact is applicable to inmates under the jurisdiction of the New Jersey Department of Corrections, except those inmates sentenced under N.J.S.A. 2A:164-3 or 2C:47-1 et seq.

(b) The New Jersey Department of Corrections shall accept only adult state sentenced inmates from contracting states.

### 10A:10-3.4 Eligibility criteria for interstate transfer consideration

(a) Inmates considered for interstate transfer must be sentenced for a term of imprisonment such that the earliest parole or release dates are not less than one and a half years from the date of application for transfer. Exceptions to this rule shall be made on a case-by-case basis and may include:

1. Inmates in protective custody;
2. Inmates considered to be security risks;
3. Inmates who require special treatment; and/or
4. Consensual transfers.

(b) Inmates with detainers may not be considered for interstate transfer unless authorized by the Commissioner.

(c) Inmates who are sentenced to death pursuant to N.J.S.A. 2C:11-3 shall not be considered for interstate transfer.

(d) The types of inmates who may be considered for interstate transfers under the Interstate Corrections Compact are inmates:

1. Who are bona fide residents of the prospective receiving state to which transfer is desired;
2. Whose behavior constitutes a threat to the safety, security or orderly operation of any New Jersey correctional facility;
3. Whose continued presence in any New Jersey correctional facility poses a threat to themselves;
4. Who can demonstrate a substantial and bona fide reason for being transferred to another state; or
5. Who are residents of New Jersey and meet the classification and custody criteria of out-of-State correctional facilities where bed space is offered for lease or per diem costs by a state which is a state compact member of the Interstate Corrections Compact. Interstate transfer of inmates of this type shall be considered:
  - i. When an order is issued by the Commissioner, New Jersey Department of Corrections;
  - ii. In response to a correctional facility emergency, such as, but not limited to, overcrowding or a catastrophic occurrence; and/or
  - iii. In accordance with a court order.

Amended by R.2003 d.325, effective August 4, 2003.  
See: 35 N.J.R. 1639(a), 35 N.J.R. 3559(a).

Inserted a new (c) and recodified former (c) as (d).  
Amended by R.2007 d.199, effective July 2, 2007.

See: 39 N.J.R. 747(a), 39 N.J.R. 2537(a).

In (b), substituted “may” for “for open charges shall”, and inserted “unless authorized by the Commissioner”.

### 10A:10-3.5 Riders to contracts

(a) The three types of riders which may be affixed to authorized contracts between the New Jersey Department of Corrections and another state compact member are as follows:

1. A rider to extend the duration of the contract;
2. A rider to set forth the particulars of individual transferring arrangements or special care and custody; and
3. A rider mutually agreeing to a change or amendment to the original contractual terms.

(b) Riders shall be ratified by the signatures of the Administrator of the Interstate Corrections Compact or appropriate designee and the appropriate counterpart in the other state compact member.

(c) Year-to-year riders may be utilized to extend the original contract.

(d) A rider setting forth the particulars of an inmate’s transfer shall contain information regarding:

1. The inmate's identification;
2. The inmate's sentence;
3. Any specialized housing or programming;
4. Paroling arrangements; and
5. The method of exchange agreed upon in the inmate's case, such as:

the sending state to certain program assignments, such as work release);

4. Medical services; and
5. Psychiatric services.

(b) The fact of confinement in a receiving state shall not deprive any inmate so confined of any legal rights which said inmate would have had if confined in an appropriate correctional facility of the sending state.

(c) An inmate confined pursuant to the Interstate Corrections Compact may be entitled to any hearing(s) in accordance with the statutes of the sending state. The hearing(s) may be conducted by the appropriate authorities of the sending state or by appropriate authorities of the receiving state who are acting as agents of the sending state.

(d) The receiving state shall provide adequate facilities for such hearings as may be conducted by the appropriate officials of a sending state.

(e) In the event such hearing or hearings are held before officials of the receiving state, the governing statute providing for the hearing is that of the sending state. The nature and character of the hearing process is governed by the regulations and procedures administering such hearings in the receiving state.

(f) Inmates in the receiving state, pursuant to the Interstate Corrections Compact, shall be subject to the receiving state's rules and regulations governing discipline and disciplinary sanctions except that any sanction providing for the loss of commutation credits shall not affect the terms and conditions of the sending state's sentence in excess of the amount provided for by the laws and regulations governing disciplinary sanctions in the sending state.

(g) The record of the hearing or hearings, as requested by the sending state, will be made. Said record, together with any recommendations of the receiving state's hearing official(s), shall be transmitted forthwith to the sending state's official(s) before whom the hearing would have been held if it had taken place in the sending state. A final determination shall be made by the sending state.

(h) In any and all proceedings conducted pursuant to the provisions of this subchapter, the officials of the receiving state act solely as agents of the sending state and no final determination shall be made in any matter pertaining to the administration of the imposed sentence except by the appropriate officials of the sending state.

#### 10A:10-3.17 Release/return of transferred inmate

(a) Except as established in (b) below, a transferred inmate from New Jersey shall be returned to New Jersey for a court appearance in which the inmate is named as a defendant or plaintiff or when subpoenaed, and for the opportunity for a

reasonable amount of consultation with counsel in connection with such court proceedings.

(b) Court appearances may be arranged and provided through video conferencing (VTC) when equipment is available and operational and when the court is amenable to the use of VTC.

(c) Any inmate confined pursuant to the Interstate Corrections Compact shall be released within the sending state, unless the inmate and the sending and receiving states agree that the inmate will be paroled to a party who will provide supervision for the parolee under the Adult Compact for the Supervision of Parolees and Probationers.

(d) An inmate may be returned to the sending state at the request of the receiving state due to behavior which poses a threat to the safe, secure, and orderly operation of the correctional facility in the receiving state. In such cases where the inmate is not charged with a prohibited act by the receiving state due to the expedited nature of the inmate's return, the sending state may charge the inmate based on such written reports and/or affidavits as are forwarded by the receiving state.

(e) A disciplinary report shall be prepared by the Office of Interstate Services as soon as possible after the return, but in any case, within no more than five business days of the inmate's return.

(f) All disciplinary procedures as stated in N.J.A.C. 10A:4 shall be followed with the exception that appeals shall be forwarded to the Office of the appropriate Assistant Commissioner, New Jersey Department of Corrections.

(g) Except as established in this section, an inmate who has been returned to the sending state shall be released at the expiration of maximum sentence within the sending state unless the receiving state and the sending state agree, in writing, that the inmate may be released within the receiving state.

Amended by R.2003 d.325, effective August 4, 2003.  
See: 35 N.J.R. 1639(a), 35 N.J.R. 3559(a).  
Added (g).

#### 10A:10-3.18 Rights of parents or guardians

The parents, guardian, trustee or other person or persons entitled under the statutes of the sending state to act for, advise or otherwise function with respect to any inmate shall not be deprived of or restricted in exercising any power with respect to any inmate confined pursuant to the terms of the Interstate Corrections Compact.

#### 10A:10-3.19 Escapees and transportation

(a) An inmate who escapes from a correctional facility in which the inmate is confined pursuant to the Interstate Corrections Compact shall be deemed a fugitive from the sending state and from the state in which the correctional facility is located.

(b) In the case of an escape to a jurisdiction other than the sending or receiving state, the responsibility for initiating extradition or rendition proceedings shall be that of the sending state, but nothing contained herein shall be construed to prevent or affect the activities of officers and agencies of any jurisdiction directed toward the apprehension and return of an escapee.

(c) Authorized transportation officers of the sending state shall be permitted to transport inmates pursuant to the Interstate Corrections Compact through any and all United States territories or states without interference.

#### SUBCHAPTER 4. AGREEMENT ON DETAINERS

##### 10A:10-4.1 Statutory authority

(a) N.J.S.A. 2A:159A-1 et seq. sets forth the Interstate Agreement on Detainers (IAD). The Interstate Agreement on Detainers is intended to:

1. Encourage the orderly, expeditious disposition of an untried indictment, information or complaint, which has been lodged against a prisoner by any other state that is a party to the Agreement; and
2. Provide cooperative procedures for securing the transfer of an inmate to or from a receiving state.

(b) The Commissioner, New Jersey Department of Corrections, is the designated Agreement Administrator for the Interstate Agreement on Detainers. The Commissioner may delegate the responsibility and authority to administer the IAD to a Deputy Agreement Administrator.

##### 10A:10-4.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Detainer” means a notification filed with the correctional facility in which the inmate is serving a sentence, advising that the inmate is wanted to face a pending criminal charge in another jurisdiction. The detainer must be based on an untried indictment, information or complaint, an escape warrant based on an indictment, and must charge the individual with commission of a criminal offense. The detainer shall not include a charge for probation or parole violation, any matter related to the U.S. Immigration and Customs Enforcement (ICE), or any warrant to return an inmate to another jurisdiction solely for sentencing purposes.

“IAD” means the Interstate Agreement on Detainers.

“Receiving state” is the state in which the untried criminal charge(s) is pending. The receiving state may be the United States of America, the District of Colombia, or any State or

territory that has codified the Agreement on Detainers Act into its statutes.

“Sending state” is the state in which the inmate is incarcerated at the time either the inmate initiates a request for final disposition of a detainer filed by a receiving state or the request for custody of the inmate is initiated by the prosecuting authority in the receiving state. All references to “sending state” in this subchapter shall mean the State of New Jersey.

Amended by R.2003 d.325, effective August 4, 2003.

See: 35 N.J.R. 1639(a), 35 N.J.R. 3559(a).

Amended “Detainer”.

Amended by R.2007 d.199, effective July 2, 2007.

See: 39 N.J.R. 747(a), 39 N.J.R. 2537(a).

In definition “Detainer”, substituted “U.S. Immigration and Customs Enforcement (ICE)” for “Immigration and Naturalization Service”.

##### 10A:10-4.3 Eligibility criteria for the Interstate Agreement on Detainers

(a) The Interstate Agreement on Detainers may be utilized by an inmate in the sending state, or a prosecuting authority in a receiving state, provided the following criteria has been established:

1. A detainer from the receiving state has been filed with the correctional facility in which the inmate is incarcerated;
2. The inmate against whom the detainer has been filed is serving a term of imprisonment for a criminal conviction;
3. The inmate against whom the detainer has been filed is not adjudged to be mentally ill; and
4. The detainer is based on an untried indictment, information or complaint that charges the inmate with the commission of a criminal offense.

##### 10A:10-4.4 Receipt of detainer

(a) The following action shall be taken by the correctional facility upon receipt of a detainer filed by a receiving state:

1. The Administrator or designee shall advise the inmate of the right to dispose of the detainer(s) under the IAD, and shall ensure that an original and two copies of Form I Notice of Untried Indictment, Information or Complaint and of Right to Request Disposition, are provided to the inmate. A separate Form I shall be completed for each receiving state that has filed a detainer against the inmate;
2. The inmate shall sign Form I and indicate whether to dispose of the charge(s); and
3. The classification officer shall ensure that Form I is copied and distributed in accordance with the instructions printed on the form.