

CHAPTER 42B

MODERATE SECURITY UNIT

Authority

N.J.S.A. 30:4-25.13 et seq.; and P.L. 2006 c. 6.

Source and Effective Date

R.2008 d.295, effective October 6, 2008.
See: 40 N.J.R. 774(a), 40 N.J.R. 5803(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 42B, Moderate Security Unit, expires on October 6, 2015. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 42B, Moderate Security Unit, was adopted as new rules by R.2008 d.295, effective October 6, 2008. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS

10:42B-1.1 Purpose

Pursuant to N.J.S.A. 30:4-25.13 et seq., the purpose of this chapter is to establish a procedure for admission, retention and release of individuals in the Moderate Security Unit (MSU). The MSU is a treatment unit for men with developmental disabilities who have been convicted of a crime or who have engaged in criminal behavior, with therapeutic programs specializing in sex offender and arson-related treat-

ment. It is a locked facility used as an alternative to incarceration in a State or county correctional facility. The purpose of this chapter is to establish a procedure for admission, retention and release of individuals in the MSU.

10:42B-1.2 Scope

This chapter applies to all components of the Division.

10:42B-1.3 Definitions

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

“Assistant Commissioner” means the Assistant Commissioner of the Division of Developmental Disabilities.

“Division” means the Division of Developmental Disabilities.

“Individual Habilitation Plan” (IHP) means a written, individualized habilitation plan, consistent with the requirements of N.J.S.A. 30:6D-10 through 12, developed with the individual and/or his or her legal guardian, and the IDT.

“Interdisciplinary Team (IDT)” means a group that shall minimally consist of the individual receiving services, the plan coordinator, the legal guardian and/or the Division case manager. The IDT may include the parents or family member at the preference of the person served or guardian. In addition, members may include: advocates and friends, those persons who work most directly with the individual served, and professionals and representatives of service areas who are relevant to the identification of the individual’s needs and preferences and the design and evaluation of programs to meet them.

“Moderate Security Unit” (MSU) means a specialized institutional treatment facility authorized and established by the Assistant Commissioner of the Division, within the Department of Human Services, which is used as an alternative to detention in a correctional facility or as a residential requirement for probation and characterized primarily by physical security for the confinement of males, 18 years of age or older, who are adjudicated to be dangerous to self, others or property and in need of a highly structured therapeutic treatment program.

“Moderate Security Unit Admissions Review Committee” means a group of professionals who review all proposed court-ordered admissions to the MSU. The purpose of the review shall be to determine if the individual’s offending behavior(s) can be addressed within the range of services at the MSU. Committee members consist of:

1. The Director of the MSU or his or her designee;
2. The MSU Coordinator;

3. A representative of the Administrative Practice Office;

4. A representative of the Regional Assistant Director from the referring region; and

5. A representative of the Chief Executive Officer of the Developmental Center where the MSU is located.

“Moderate Security Unit Coordinator” means the individual designated by the Assistant Commissioner of the Division to be the contact between the MSU staff, Central Office, the referring Division regional office and the court system.

“Moderate Security Unit Director” means the individual who oversees the operations of the MSU.

SUBCHAPTER 2. ADMISSION TO THE MSU

10:42B-2.1 Admission to the MSU by court order

(a) An individual shall not be admitted to the MSU unless the admission is ordered by a court of competent jurisdiction pursuant to N.J.S.A. 30:4-25.14.

(b) An individual shall not be permitted to voluntarily admit himself to the MSU.

SUBCHAPTER 3. PROCEDURES

10:42B-3.1 Procedures prior to admission to MSU

(a) The following procedures shall be implemented prior to admission of an individual to the MSU.

1. If the Division is advised by a court of competent jurisdiction that an individual, who may be developmentally disabled, is involved in a criminal proceeding before the court, the Division shall determine whether the individual is eligible for functional services provided by the Division in accordance with N.J.A.C. 10:46.

2. If the Division determines that the individual is not eligible for services, the individual may appeal the ineligibility decision and request a hearing in the Office of Administrative Law in accordance with N.J.A.C. 10:48. The regional office shall advise the party making the referral to the MSU, in writing, and advise the court.

3. If the individual is determined eligible for Division services, or if the individual had been determined eligible for Division services prior to the filing of criminal charges, the Division shall request the MSU Director to determine whether the individual is appropriate for, and will benefit from, admission to the MSU and whether a vacancy exists.

4. The MSU Director will schedule a meeting with the MSU Admissions Committee to review the record to

determine if the individual will benefit from the services of the MSU. The MSU Director and the Admissions Committee may determine that an individual may not benefit from the services at the MSU because the individual has a severe psychiatric disorder or a low level of functioning or lack of communication skills, which would preclude him from participating in individual or group counseling.

5. If the individual is appropriate for, and will benefit from, admission to the MSU and a vacancy exists, the MSU Director shall advise the court and request an order to require the individual to be housed at and participate in the program at the MSU. Since admission to the MSU can only be made by an order of the court, the MSU Director or the MSU Coordinator shall offer to assist the court in drafting the order to the MSU.

6. If the MSU Director is not certain about the appropriateness of the admission of the individual, the MSU Director may recommend to the court that the individual be admitted to the MSU for a time-specified period to evaluate the individual's appropriateness for the program at the MSU. If the charges are dropped or, for any other reason, the court does not sentence the individual, the court shall notify the MSU Director and the individual shall be released pursuant to the specific directions in the court order or in the absence of specific directions in the court order, the MSU shall begin the transition process for the release of the individual to a less restrictive setting.

SUBCHAPTER 4. ADMISSION TO THE MSU

10:42B-4.1 Action of the court for admission to the MSU

(a) After the MSU Director advises the court that the individual may be admitted to the facility in accordance with the provisions in N.J.A.C. 10:42B-3.1, the court may order the individual be housed at and participate in the program at the MSU:

1. As a condition of probation;

2. Until disposition of pending criminal charges against the individual; or

3. Into the care and custody of the Commissioner of Human Services, in accordance with the provisions of N.J.S.A. 2C:4-6, if the court finds that the individual is unfit to proceed because it has been determined that he is unfit to stand trial. The Division will make every effort to restore the individual to competency to stand trial. Throughout this process, the individual's competency is periodically reviewed by a court of competent jurisdiction to determine if the individual shall remain a Class I commitment, pursuant to N.J.S.A. 30:4-25.1(b) or be treated as a voluntary recipient of Division services. When the court dismisses the charges, pursuant to N.J.S.A. 2C:4-6, the