

CHAPTER 6**INMATE ACCESS TO COURTS****Authority**

N.J.S.A. 30:1B-6, 30:1B-10 and P.L. 1986, c.141.

Source and Effective Date

R.1992 d.470, effective October 27, 1992.
See: 24 N.J.R. 2799(a), 24 N.J.R. 4390(b).

Executive Order No. 66(1978) Expiration Date

Chapter 6, Inmate Access to Courts, expires on October 27, 1997.

Chapter Historical Note

Chapter 6, Inmate Access to Courts, was adopted as R.1987 d.444, effective November 2, 1987. See: 19 N.J.R. 914(a), 19 N.J.R. 2057(a). Pursuant to Executive Order No. 66(1978), Chapter 6 was readopted as R.1992 d.470. See: Source and Effective Date.

See section annotations for specific rulemaking activity.

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SUBCHAPTER 1. INTRODUCTION**10A:6-1.1 Purpose**

- (a) The purpose of this chapter is to:

1. Establish policies under which inmates shall be provided with access to both State and Federal courts through the use of inmate law libraries and trained inmate paralegals; and

2. Establish procedures whereby the records of correctional facilities can be altered to reflect an inmate's new legal name.

10A:6-1.2 Scope

(a) Subchapter 2 shall be applicable to the Division of Adult Institutions.

(b) Subchapter 3 shall be applicable to the Division of Adult Institutions and the Division of Juvenile Services.

10A:6-1.3 Definitions

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

"Inmate law library" means a room within a correctional facility where legal reference materials are kept.

"Inmate paralegal" means an inmate who has been approved by the Institutional Classification Committee (I.C.C.) to render legal assistance to other inmates.

"Legal material" means papers or documents that are required to be filed with the court and served upon opposing parties. Legal material does not include papers or documents sought in the discovery process by the inmate. Legal material includes:

1. Orders required by their terms to be served;
2. Pleadings;
3. Written notices;
4. Written motions;
5. Demands, or answers to demands which the inmate is required to serve, such as, for production of documents, for interrogatories;
6. Offers of judgment;
7. Designations of records on appeal;
8. Briefs;
9. Petitions;
10. Summons; and
11. Complaints.

"Legal Services Coordinator" means a Department of Corrections Central Office staff person who coordinates the provision of inmate legal services by maintaining adequate legal materials in inmate law libraries and training inmate paralegals.

"Notary service" means service provided by a notary public authorized by law to certify or attest documents, take affidavits, administer oaths, and perform other services ordinarily performed by a notary public.

Amended by R.1992 d.60, effective February 3, 1992.

See: 23 N.J.R. 3268(a), 24 N.J.R. 467(a).

Revised definitions "legal material" and "notary service".

Amended by R.1992 d.470, effective December 7, 1992.

See: 24 N.J.R. 2799(a), 24 N.J.R. 4390(b).

Revised definition "Legal Services Coordinator."

SUBCHAPTER 2. INMATE LEGAL SERVICES

10A:6-2.1 Inmate access to courts

Inmates have a constitutional right of access to the courts. Prison authorities shall assist inmates in the preparation and filing of meaningful legal papers by providing inmates with adequate law libraries or adequate assistance from persons trained in the law.

10A:6-2.2 Inmate legal services

(a) Inmate legal services which permit inmates access to the courts shall include the following:

1. Establishment of an inmate law library and use of legal reference materials;
2. Use of a copying machine;
3. Opportunity to make legal telephone calls;
4. Provision of supplies, such as pens and paper, when needed;
5. Use of typewriters to the extent that they are available and/or operable;
6. Notary service;
7. Assistance of inmate paralegals; and
8. Payment of postage for indigent inmates.

Petition for Rulemaking.

See: 26 N.J.R. 505(a), 26 N.J.R. 861(c), 26 N.J.R. 1400(a).

Amended by R.1994 d.410, effective August 1, 1994.

See: 26 N.J.R. 2188(a), 26 N.J.R. 3178(a).

10A:6-2.3 Availability of legal services

(a) Inmate legal services are available to all inmates in the Division of Adult Institutions.

(b) Based on the availability of space and supervisory staff and the security needs of the correctional facility, the Superintendent shall determine which inmate may have direct personal access to legal reference materials and related services.

(c) Inmates who, in the Superintendent's discretion, may not have direct personal access to legal reference materials and related services shall receive legal reference materials and related services from assigned inmate paralegals.

10A:6-2.4 Inmate law library

(a) Each correctional facility shall be responsible for establishing and maintaining an inmate law library, and for developing regulations concerning the library's use and supervision. The regulations shall specify:

1. Law library hours;
2. Number of inmates who may use the library at one time;
3. Persons responsible for the supervision of inmates;
4. Limitation(s) on removal of legal reference materials;
5. Typewriter use; and
6. Any additional rules deemed necessary by the Superintendent, Assistant Superintendent or Supervisor of Education.

(b) Consideration shall be given to the following factors in use of the inmate law library:

1. Space and staff limitations;
2. Availability of supplies;
3. Security and orderly operation of the correctional facility; and
4. The need of certain inmates to meet time requirements for filing legal documents.

(c) The Legal Services Coordinator, Department of Corrections is responsible for initial purchases of legal reference materials.

(d) The initial purchase of legal reference material shall be consistent with law and correctional facility needs.

(e) The maintenance and updating of the inmate law library is not optional and is the responsibility of the correctional facility.

(f) Maintenance of the inmate law library includes:

1. Annual update costs; and
2. Replacement of lost or damaged volumes.

(g) As part of the annual budget request, the Superintendent shall include a specific request (line item) for budgeted funds to maintain the inmate law library. In the event the specific budget request is reduced or eliminated, the correctional facility shall assume the cost.

(h) Information concerning costs and sources of legal materials may be obtained from the Legal Services Coordinator. All purchases of reference materials shall be cleared through the Legal Services Coordinator's office.

Amended by R.1992 d.470, effective December 7, 1992.

See: 24 N.J.R. 2799(a), 24 N.J.R. 4390(b).

Revised (c).

10A:6-2.5 Legal photocopying services

(a) The Department of Corrections shall provide photocopies of legal material, as that term is defined in N.J.A.C. 10A:6-1.3, at no charge to the indigent inmate, in accordance with the following guidelines and limitations. Inmates who are not indigent shall be charged in accordance with N.J.A.C. 10A:1-1.3.

(b) Each correctional facility shall establish written procedures by which inmates are permitted to have legal material photocopied.

(c) At a minimum, inmates may submit legal material to be photocopied to a staff member designated by the Supervisor of Education, or an inmate paralegal under the supervision of a designated staff member, during the hours prescribed by the correctional facility. The original and photocopies of the legal material shall be returned to the inmate within four days of submission unless return of the legal material is prevented by exceptional circumstances. If the fourth day falls on a weekend or holiday, the legal material shall be returned on the weekday following the weekend or holiday.

(d) Only legal material which must be photocopied for a legitimate purpose, related to pending litigation, will be photocopied at the Department of Correction's expense. Such legal materials may include supporting documents, such as relevant prior correspondence and copies of receipts, which are to be attached to court documents. All other photocopying of legal material will be done at the inmate's expense, except as provided in (i) below. The legal material submitted for photocopying may be reviewed by the Supervisor of Education, or his or her designee, in order to determine whether the legal material:

1. Falls within the definition of legal material provided in N.J.A.C. 10A:6-1.3; and
2. Must be photocopied for a legitimate purpose related to pending litigation; or
3. Should be duplicated by typing instead of photocopying, as provided by (h) below.

(e) The Supervisor of Education, or his or her designee, has complete discretion in determining whether the criteria enumerated in (d) above are fulfilled. Photocopies will be limited in quantity to the number required by the court plus one photocopy for the inmate.

(f) Cases from judicial case law reporters found in the inmate law library are not contained within the definition of legal material provided in N.J.A.C. 10A:6-1.3. However, cases may be photocopied at the Department of Corrections' expense, but only in the following exceptional circumstances:

1. If the inmate is confined to a Close Custody Unit, a hospital, a farm or camp unit and does not have access to the inmate law library; or
2. If the inmate's work schedule precludes him or her from engaging in legal research in the inmate law library.

(g) In the instances cited in (f)1 and 2 above, the photocopied case will be signed out on a temporary basis and returned to the inmate law library within 14 days.

(h) If, in the discretion of the Supervisor of Education or his or her designee, the legal material which the inmate seeks to have photocopied should instead be duplicated by typing, the inmate himself or herself shall be required to type the duplicates and the correctional facility shall not provide photocopies.

(i) Exceptional circumstances may dictate that material other than those defined as "legal material" (see N.J.A.C. 10A:6-1.3) would need to be photocopied. The photocopying of such material is left to the discretion of the Supervisor of Education or his or her designee.

(j) The material referenced in (a) through (i) above will be copied at the inmate's expense unless the inmate is indigent.

Amended by R.1992 d.60, effective February 3, 1992.

See: 23 N.J.R. 3268(a), 24 N.J.R. 467(a).

Revised text.

Case Notes

Prison regulations entitled inmate to free copies of his medical file. *DeMarco v. Ginn*, D.N.J.1990, 137 F.R.D. 214.

10A:6-2.6 Legal telephone calls

(a) The Superintendent shall establish written rules and regulations by which inmate paralegals and/or professional staff members may place telephone calls to the following individuals or agencies requesting assistance in legal research or preparation of legal documents:

1. Office of the Public Advocate;
2. Office of the Public Defender;
3. Regional Legal Services;
4. Court Clerks;
5. Attorneys of Record;
6. Ombudsman;
7. Office of Hispanic Services; and

8. The Legal Services Coordinator, Department of Corrections.

(b) Legal telephone calls shall not be monitored, except to determine the identity of the party called.

Amended by R.1992 d.470, effective December 7, 1992.

See: 24 N.J.R. 2799(a), 24 N.J.R. 4390(b).

Added new (a)7; redesignated existing (a)7 as (a)8.

10A:6-2.7 Legal services

(a) Legal supplies such as paper, carbon paper, envelopes and pens shall be provided as needed to all inmates who request them for legal purposes. An inmate may be required to justify the need for unusually large amounts of legal supplies.

(b) Frequently used legal forms and applications shall be made available through the inmate law library.

(c) Typewriters to the extent that they are available and/or operable may be provided for inmate use in the inmate law library area and in Close Custody Units.

Petition for Rulemaking.

See: 26 N.J.R. 505(a), 26 N.J.R. 861(c), 26 N.J.R. 1400(a).

Amended by R.1994 d.410, effective August 1, 1994.

See: 26 N.J.R. 2188(a), 26 N.J.R. 3178(a).

10A:6-2.8 Notary public service

(a) Each Superintendent is responsible for ensuring that inmates have reasonable access to notary public services.

(b) Inmates shall not be permitted to be made notary publics.

10A:6-2.9 Inmate legal material

(a) Each inmate shall be permitted to retain personal legal material in his or her cell. This legal material shall be subject to contraband search only.

(b) The Superintendent may establish regulations which limit the accumulation of personal legal materials in an inmate's cell. Any limitation on the accumulation of personal legal materials should be based on the amount in relation to:

1. Security;
2. Sanitation;
3. Fire hazard considerations; and
4. Cell space available.

10A:6-2.10 Inmate paralegals

(a) The Superintendent or his or her designee shall be responsible for establishing:

1. Criteria for considering inmates to be assigned as paralegals;

2. Duties and responsibilities of inmate paralegals; and

3. Hours which inmate paralegals will be on duty in the inmate law library and available in Close Custody Units.

(b) Inmates with the following job titles are considered paralegals:

1. Law library clerk;
2. Legal assistant; and
3. Legal paraprofessional.

(c) The Supervisor of Education shall interview and evaluate each candidate for a paralegal position. The Supervisor of Education shall submit his or her written assessment and recommendation to the Institutional Classification Committee (I.C.C.) for approval.

(d) Upon approval by the I.C.C., inmates with any of the titles in (b) above may render legal assistance to other inmates.

(e) No inmate paralegal shall solicit or accept any form of remuneration or gift from any inmate for rendering legal assistance. Acceptance of remuneration in any form will result in disciplinary action and/or referral to the I.C.C. for reconsideration of program assignment.

10A:6-2.11 Inmate paralegal training

(a) The Legal Services Coordinator shall be responsible for training inmate paralegals.

(b) Inmate paralegals shall successfully complete an Introduction to Paralegal Functions course which includes training in:

1. Basic Legal Research including Locator Skills and Shepardizing;
2. How to Complete Legal Forms;
3. Basic Familiarity with Habeas Corpus Petitions;
4. Motions for New Trials;
5. Direct Appeals;
6. Civil Rights Actions;
7. Motions for Post-Conviction Relief;
8. Descriptions of the State and Federal Court Systems; and
9. Other actions pertaining to inmates' welfare.

(c) The course selections may be modified at the discretion of the Legal Service Coordinator.

(d) The Supervisor of Education and the Legal Services Coordinator may, at their discretion, determine that an inmate's experience, training and/or education in paralegal functions will serve as a substitute to the Introduction to Paralegal Functions course.

(e) An inmate may participate in the Legal Services Program on an internship basis with the provision that he or she completes the Introduction to Paralegal Functions course at its next offering date.

(f) Inmate paralegals, shall at all times, be subject to all search and security regulations. All material which the paralegal carries into Close Custody Units shall be subject to search for contraband. Legal material shall not be read nor seized unless contraband is found.

Amended by R.1992 d.470, effective December 7, 1992.
See: 24 N.J.R. 2799(a), 24 N.J.R. 4390(b).

Revised (a).

10A:6-2.12 General provisions

(a) Nothing contained in this subchapter shall preclude an inmate from obtaining legal assistance from any other inmate, except that only inmates designated as paralegals will be granted access to Close Custody Units.

(b) Nothing contained in this subchapter precludes any inmate from obtaining legal assistance from an outside attorney.

10A:6-2.13 Written policy and procedures

(a) Written institutional policies and procedures pursuant to this subchapter shall be established. These written policies and procedures shall be known as the Institutional Legal Access Plan and shall be incorporated in the Inmate Handbook. A copy of the written policies and procedures shall also be posted in the inmate law library.

(b) New and revised policies and procedures to the Institutional Legal Access Plan shall be posted in each housing area and in the Inmate Law Library. These revisions shall be incorporated into the next publication of the Inmate Handbook.

10A:6-2.14 Department Review

Written correctional facility policies and procedures regarding Inmate Legal Services and any new policies and procedures related to this subject shall be submitted to the Office of the Deputy Commissioner for review prior to implementation.

Amended by R.1992 d.470, effective December 7, 1992.
See: 24 N.J.R. 2799(a), 24 N.J.R. 4390(b).
Revised text.

SUBCHAPTER 3. RECORDING LEGAL CHANGE OF INMATE'S NAME

10A:6-3.1 Inmate responsibilities

(a) In order to have Department of Corrections' records altered to reflect a new legal name, the inmate must:

1. Legally change his or her name in accordance with N.J.S.A. 2A:52-1 et seq. and Rules of Court 4:72-1 et seq.;

2. Submit an authentic copy of the court order to the Superintendent's office of the correctional facility to which he or she is assigned;

3. Submit verification, to the Superintendent's office of the correctional facility, which documents that a copy of the judgment was published in a newspaper of general circulation in the inmate's county of residence within 20 days of the court judgment. The inmate's county of residence shall be considered the county of his or her last known residence as is reflected in the Department of Corrections' records, unless otherwise specified by a judge's order; and

4. Submit verification, to the Superintendent's office of the correctional facility, which documents that a certified copy of the judgment was filed with the Secretary of State within 45 days of the court judgment.

10A:6-3.2 Amendment of correctional facility records

(a) The Superintendent shall order that the correctional facility records be amended to reflect the inmate's new legal name after the requirements of N.J.A.C. 10A:6-3.1(a) have been satisfactorily fulfilled.

(b) Each department, within the correctional facility, which maintains a record of the inmate shall be notified in writing of the inmate's new legal name. The departments shall be instructed to show the original legal name as an alias.

(c) The Superintendent shall also notify the following of the inmate's name change:

1. The Offender Records Unit, Central Office, Department of Corrections;

2. The Correctional Information and Classification Services (C.I.C.S.) Data Base, Garden State Reception and Youth Correctional Facility; and

3. In the case of male inmates, the Reception Unit at the Garden State Reception and Youth Correctional Facility.

Administrative correction, effective January 27, 1989.
See: 21 N.J.R. 558(a).

Institutional name change.

Amended by R.1989 d.139, effective March 20, 1989.
See: 21 N.J.R. 11(a), 21 N.J.R. 766(b).

(c) Commissioner removed from list of those to be notified when an inmate changes his or her name.

Amended by R.1992 d.470, effective December 7, 1992.

See: 24 N.J.R. 2799(a), 24 N.J.R. 4390(b).

Revised heading; revised (c)1 and 2.

10A:6-3.3 "Common law" change of name

No correctional facility records shall be altered if an inmate decides to change his or her name through the "common law" practice, that is, on the inmate's own authority and without any legal court proceedings.

10A:6-3.4 Inmate handbook

The procedure whereby an inmate can legally change his or her name shall be incorporated into the Inmate Handbook.